

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 24th July, 2013

The House met at 2.30 p.m.

[The Deputy Speaker (Hon. (Dr.) Laboso) in the Chair]

PRAYERS

PAPERS LAID

The following Paper was laid on the Table:-

Report of the Truth, Justice and Reconciliation Commission, Volumes I, IIA, IIB, IIC, III and IV

(By hon. A.B. Duale)

Hon. A.B. Duale: Hon. Deputy Speaker, I would like to ask you to allow the Report to be posted on the parliamentary website since hard copies are not available.

Hon. Deputy Speaker: Hon. Members, you have seen what a voluminous document it is. So, please, do not go looking for it in Room 8. It shall be posted on the website. If you need to read it, please, read it on the parliamentary website.

Next Order!

REQUEST FOR STATEMENT

GOVERNMENT PREPAREDNESS TO IMPLEMENT COMPUTER LAPTOPS PROGRAMME

Hon. Bosire: Hon. Deputy Speaker, pursuant to Standing Order No.44(2)(c), I rise to request for a Statement from the Leader of Majority Party regarding the state of preparedness by the Government to implement the contentious Computer Laptop Programme in our schools. The implementation of the programme is dependent on several factors, including availability of electric power connection to schools, training and capacity building of teachers and adequate staffing, provision of security and storage facilities for the vital and expensive equipment.

We are aware that teachers have constantly complained of lack of Information and Communication Technology skills and inadequate staffing necessary for the implementation of the programme. The Leader of Majority Party should inquire into and clarify the following:-

- (i) the Government's state of preparedness to implement the programme;

(ii) the criteria used to identify the best machine suitable for procurement for our children;

(iii) what methods will be employed by the Government for monitoring and evaluation to establish how sustainable the programme will be in the economy;

(iv) whether the Government undertook any feasibility study based on expert advice for the success of the programme;

(v) assurance of Kenyans on availability and continuity of strategic back-up arrangements for the programme; and,

(vi) assurance of Kenyans that this project is a break from similar previous ambitious programmes in the education sector, notably the Nyayo School Milk Programme and the 8-4-4 System of Education, which were driven by the whims of politicians, with the aim of gaining political mileage, and without consideration of any safeguards---

Hon. Deputy Speaker: Hon. Bosire, are you still on your request for Statement? I do not know the relevance of your last three or four statements to the Statement you are seeking.

Hon. Bosire: Hon. Deputy Speaker, they are a back-up to the main Statement request.

Hon. Deputy Speaker: Hon. Bosire, you will do that when you seek clarifications once the request has been responded to. For now, just state the issues you want responded to.

Hon. Bosire: Hon. Deputy Speaker, the example I was giving, of the Nyayo School Milk Programme, which was discontinued---

Hon. Deputy Speaker: Hon. Bosire, I have just guided you on that one. Please, leave the examples for when you will be seeking clarifications.

Hon. Bosire: Hon. Deputy Speaker, the main points are in place. I was just expanding on them.

Hon. Deputy Speaker: Hon. Bosire, the Statement has not yet been given.

Hon. Bosire: It is okay, hon. Deputy Speaker. I have made my points. I seek the same from the Leader of Majority Party.

Hon. Deputy Speaker: Hon. Shebesh, do you have an intervention?

Hon. (Ms.) Shebesh: Yes, hon. Deputy Speaker. I thank hon. Bosire for giving us an opportunity to explain to the country about the Computer Laptops Project. As the Leader of Majority Party gives the Statement, could he expound on the laid down plans for electrification of schools, training of more teachers and, more importantly, explain whether the laptops will, at any point, be assembled within Kenya and whether they will be creating jobs for the young people of this country?

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Leader of Majority Party, do you want to indicate when the response to the request will be given? Will it be by you or by the Chairperson of the Departmental Committee on Education, Research and Technology?

Hon. A.B. Duale: Hon. Deputy Speaker, I seek your indulgence. In the last bit of the request, hon. Bosire seems to have mixed intentions. So, we now know his intention.

Having said so, let me acknowledge the fact that this is a very heavy Statement request. Therefore, it should go to the Departmental Committee. It is not something very urgent. The Committee can summon the Cabinet Secretary for Education, Science and

Technology and other stakeholders. It is not a very urgent matter for the Leader of Majority Party to intervene. So, I suggest that the request be responded to by the Chairperson of the Committee.

Hon. Deputy Speaker: Indeed, when the request was brought, I marked it to the Departmental Committee, so that they can bring a comprehensive report. I hope that the Committee Chairperson will invite the Member. At the time you will be calling the Cabinet Secretary, let the hon. Member also be there, so that he can seek any further clarification on the matter. The Committee will then decide whether to bring a report to the House at an appropriate time. Please, take into consideration all the other matters that have been raised by both hon. Bosire and other hon. Members by referring to the HANSARD.

Let us hear the Chairperson of the Committee.

Hon. (Ms.) S.W. Chege: Hon. Speaker, I accept the responsibility. It is something that the Committee has been working on. The hon. Member will be invited next week, when we will be having a stakeholders' meeting with the Ministry of Education, Science and Technology, the Ministry of Information and Communication, and the Ministry of Energy. I would like him to give me his contact, so that I can call him.

Hon. Ababu, are you on a point of order?

Hon. Ababu: Hon. Deputy Speaker, in fact, I am so glad that the response to the request will come from the Chairperson of the Committee. As you can see, she has actually moved to the right side of history. So, I believe that there is going to be a very honest response.

Hon. Deputy Speaker, in that response, the Chairlady should also clarify that the 8-4-4 System of Education is certainly not a failure. When I look around this House, I can see that it is packed with products of the 8-4-4 System of Education including her who, certainly, does not look like a failure. When we talk about the 8-4-4 System of Education, we are, certainly, not talking about failure. We are talking about very successful products, including many of us, hon. Members. Am I correct?

An hon. Member: Yes, we can confirm that one!

Hon. Ababu: Hon. Deputy Speaker, even the galleries of this House are full of young Kenyans who are products of the 8-4-4 System of Education. I certainly believe that they are on the road to success. That includes the Deputy Speaker.

Hon. Deputy Speaker: Oh, no! I am not a product of the 8-4-4 System of Education

(Laughter)

Hon. Ababu, do not include me in the team of the 8-4-4 System of Education. I am not disrespecting it but I just want to clarify that I am a little older than the 8-4-4 System of Education.

I have a lot of requests for points of order. Hon. Cheboi, is your intervention on the same matter?

Hon. Cheboi: Hon. Deputy Speaker, I pressed the button by mistake, but I was particularly interested in the bit on the defunct Nyayo School Milk Programme. As a

member of Kenya African National Union (KANU), I should have been allowed to respond to that particular bit.

(Laughter)

Hon. Deputy Speaker: Hon. Cheboi, you will when a report comes to the House, and if that bit will be included in it.

Hon. James Wandayi, do you want to seek a further clarification?

Hon. Wandayi: Yes, hon. Deputy Speaker. When hon. Bosire cited examples of failed projects, he failed to mention the Nyayo Pioneer Car project, which I wanted to mention.

Thank you.

Hon. Deputy Speaker: Hon. Wandayi, that project was not in the docket of the Ministry of Education, Science and Technology.

Hon. Members, let us move on. With that request for a Statement, the Committee members already have their hands full. Please, bring a report that covers the issues that are of concern to the Committee on Education, Science and Technology.

Hon. Gumbo, I can see your request for intervention.

Hon. (Eng.) Gumbo: Hon. Deputy Speaker, I had actually made the request earlier on, when hon. Namwamba was on the Floor. I just wanted to remind him that, as a student of engineering, I know that 8-4-4 is equal to zero, but I do not want to invite debate.

Hon. Deputy Speaker: Okay, let us not go there for now. Hon. Members can ventilate the matter further on the day the Committee will bring us a report.

Hon. Njagagua, have you placed a request for a Statement?

Hon. Njagagua: Hon. Deputy Speaker, mine was just a clarification about the report that was laid on the Table by the Leader of Majority Party. He said that the same should be posted on the website of Parliament. I have just realised that many Members of this House are of the analogue age. Will they be able to follow the debate?

Hon. Deputy Speaker: Well, I would count myself one of those in the analogue age, but I can assure you that I am very literate and I can read from the website.

Leader of Majority Party, I think you have a response to a Statement request.

STATEMENT

RAMPANT INSECURITY IN MWALA

Hon. A.B. Duale: Hon. Deputy Speaker, last week, the Member for Mwala, hon. Vincent Musau, requested for a Statement on rampant insecurity. He sought clarification on the measures that the Government is taking to avert crime in that area. He also sought information on the number of vehicles that have been assigned to police officers for patrol in the constituency. Finally, he sought to be informed on the preventive measures that the Government has put in place to avert crime, as opposed to taking action after the crime.

Hon. Deputy Speaker, this is a matter which we felt was urgent---

Hon. Deputy Speaker: Leader of Majority Party, hon. Abongotum seems to be on a point of order. What is not in order, hon. Abongotum?

Hon. Abongotum: On a point of order, hon. Deputy Speaker. Standing Order No.216 says that some of the functions of the Departmental Committee on Administration and National Security include security, police service, home affairs, *et cetera*. So, I want you to give us guidance because, in some special circumstances, the Leader of Majority Party can speak on any matter touching on any Committee. At what stage is he supposed to have the powers of certain committees? We want clarity, so that we do not duplicate efforts. It is very clear that the Leader of Majority Party has a lot of work. So, we want guidance, particularly on this matter, so that we do not duplicate efforts. Is he the one who is supposed to be handling matters of security, or is it my committee that is supposed to be doing so? We want clarification, so that we do not get confused along the way.

Hon. Deputy Speaker: Hon. A.B. Duale, you have the Floor.

Hon. A.B. Duale: Hon. Deputy Speaker, I want to be very categorical that the last thing I want is to make Statements on the Floor this House. But on the communication made by the Chair, I do not know whether the hon. Member was in the House. Matters which are very urgent are the communications of the Speaker, including the one on the sacking of the National Social Security Fund (NSSF) Managing Trustee, which I am to deliver very comprehensively. There is also the one on the Kshs6 billion for women and youth funds, which hon. Chris Wakhungu is waiting for

Hon. Ng'ongo: On a point of order, hon. Deputy Speaker.

Hon. A.B. Duale: I have not finished. You can relax.

So, hon. Deputy Speaker, once in awhile, those are matters of urgency but if hon. Members want to hear the Statement from the chair in charge of security committee, I can still hand it over straightaway and he can read it out and hon. Members can interrogate it. At the direction of the Chair, I can hand over to the Chair.

Hon. Deputy Speaker: What is your point of order, hon. Ng'ongo?

Hon. Ng'ongo: Thank you, hon. Deputy Speaker. I think the issue that has been raised by hon. Abongotum is a fundamental one and there was a time I raised the same issue. I think we need to be very clear on Standing Order 44. The Statement that the Leader of Majority Party is just about to deliver was requested under Standing Order 44(c). It relates to matters under the mandate of the Committee and it states that the Speaker may appoint a day for the issuing of the Statement or direct that the Statement be issued on the same day. So, those requests for Statements are supposed to be directed to committee chairpersons.

The Leader of Majority Party or Leader of Minority Party can only issue statements under Standing Order 44(b) but what kind of statements are they supposed to issue in this House? It is the Leader of Majority Party or the Leader of Minority Party, as the case may be, or their designees, who may make statements relating to the responsibilities in the House or the activities of a committee. So, those are general statements as opposed to the specific statements that we seek in this House. I think we need to realize that Statements requested under Standing Order 44 (c) should be directed to committees.

Therefore, I agree with hon. Abongotum that this Statement should have been delivered by his committee, bearing in mind that it is his committee that has a mandate to

summon the Cabinet Secretary, who will then give answers to questions and then the Statement is relayed to this House.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Yes, I think the Leader of Majority Party was also very magnanimous. He has not said that he must be the one to read the Statement. I think the Speaker made a ruling on this specific matter and indicated what is urgent. Apart from what you have stated, which is in our Standing Orders, the Leader of Majority party or Leader of Minority Party, will only handle urgent cross-cutting issues but not specific ones. I think if we are to follow our rulings, traditions and customs, as hon. Ababu reminded us, since this matter is very specific to the Chairman of Administration and National Security Committee, hon. A.B. Duale can allow him to read the Statement and then respond to requests for clarifications from hon. Members.

(Hon. Ababu and Hon. Abongotum consulted loudly)

Order, hon. Ababu!

Hon. Abongotum: Hon. Deputy Speaker, I have been a manager before, and what I know is that on reports or statements, one must acquaint himself or herself and internalize them. I have two recommendations to make. At least for today, I want us to allow our Leader of Majority Party to continue reading the Statement. Secondly, I can be given time to read it tomorrow, so that I will be able to respond to clarifications.

Hon. Deputy Speaker: It is all right. Hon. Abongotum, since this is your docket and you raised the matter, I want to direct that you read the Statement tomorrow after acquainting yourself with it. The hon. Member who had requested it can hold on up to tomorrow. He will be able to get information by consulting with the Leader of Majority Party.

Hon. Abongotum: That is fine. I will also consult the relevant Ministry.

Hon. Deputy Speaker: Okay, that matter is now left to rest until tomorrow. You will get further clarifications then. We have very clearly marked Speaker's ruling on this matter. Only matters of national scope, cross-cutting and urgent in nature will be responded to by the Leader of Majority Party. Everything else that belongs to specific departments will be responded to by the chair of the committee.

Hon. Musyoka, are you on a point of order?

Hon. Musau: Thank you, hon. Deputy Speaker. I know that something cannot be out of order if it is directed from the Chair but I think a simple matter of procedure cannot keep my people waiting. Given that this matter is an issue to do with security, I will not really wait for the security of my people to be compromised just because somebody does not want the Leader of Majority Party to read the Statement.

Hon. Deputy Speaker, given the urgency of this matter--- If this reading of a Statement is anything to go by, then all the statements that the Leader of Majority Party has given before this House were actually out of order. On the basis of our Standing Orders, I would request that the Leader of Majority Party reads the Statement today, so that I can be in a position to interrogate it. The matter is really urgent.

Hon. Deputy Speaker: I appreciate your concerns hon. Musau, but I have given the ruling. Let us give the Chair of the Committee time, he will give you the Statement exactly as it is. Did you not hear the Leader of Majority Party say it himself?

Hon. Musau: I did, hon. Deputy Speaker.

Hon. Deputy Speaker: He would also prefer that the Chair of the Committee reads the Statement. It is not a matter of national importance. The period between today and tomorrow, surely, does not make much of a difference.

Hon. Musau: Hon. Deputy Speaker---

Hon. Deputy Speaker: Order! Order, hon. Musau.

Hon. Ababu: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, hon. Ababu?

Hon. Ababu: If you know how much respect I have for both the Chair and for yourself--- I had really hoped to catch your eye before you made the ruling. I do not, by any stretch of imagination, want to seem to be challenging your ruling. It is a ruling which binds all of us but then this also goes to the procedure on how reports are prepared and, therefore, their coming to the House. I do believe that delivery of a report to the House is not just a question of someone reading it and then internalizing it. It is a report that it prepared in a certain context; it is dependent on a certain level of consultation.

Hon. Deputy Speaker, I know the Leader of Majority Party is a thorough man. I want to believe that before he prepared to deliver this report here, he must have engaged in some very wide ranging and deep consultations. The Chair of this Committee may not have been privy to the manner in which the report was prepared. So, perhaps, for the purpose of moving forward, the ruling needs to stand. Any matter that properly falls within the purview of Standing Order 44 should go to the chairs of committees; those matters are different from general matters as indicated in Standing Order 44 (2) (b).

For this particular report, and without seeking to challenge your ruling at all, I would believe that, perhaps, it will be best if the offer--- I am using the word "offer" for lack of a better English word. The author of this report, who is the Leader of Majority Party, would be best placed to deliver it to the House. He has the background and understanding of how this report has landed in the House.

With due respect, I do not know whether merely reading the report on the face of the record, will sufficiently prepare the Chair of the Committee to deliver the report and handle interventions from the House.

Hon. Deputy Speaker: Thank you, hon. Ababu. Your sentiments have been taken and I want to say let my ruling stand. I am sure those are very able Members. The information came from one Government. It did not come from different sources. The Leader of Majority Party indicated that in the beginning. I am not saying something that is out of tune. He is very willing to let the Chair--- This means that he is willing to give him the information as to how he has arrived at the report. That is my understanding. So, hon. Members, let us leave that matter to rest and allow the two gentlemen to agree.

Hon. Kinyua: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: What is your point of order, hon. Kinyua?

Hon. Kinyua: Thank you, hon. Deputy Speaker. With your indulgence, I will probably just get your guidance on this. Request for Statements is a process that does not just end by the Statement itself. It is a process that is also guided by the Chair and we know that very well. I remember when the hon. Member for Mwala was requesting his Statement, I was also asking for mine on the same issue of security with regard to the Closed Circuit Television (CCTV) cameras, but his had to be brought forward because of

its urgency; it had to go to the Leader of Majority Party. It came on Wednesday. Mine had to wait for Thursday, according to the guidance that was given.

Hon. Deputy Speaker, we have the process which requires approval of the Clerk and reference to who will give the Statement. For example, we have just heard hon. Bosire requesting for a Statement from the Leader of Majority Party, which was approved by the same Office of the Speaker as a request to the Leader of Majority Party. I think it would be like double standards if a Statement has been sought in good faith by the responsible person through your guidance and then again we have this kind of confusion on the Floor of the House. I think it might not be really in order. In my opinion, it needs to be captured from the source irrespective of when he will give the Statement.

Hon. Deputy Speaker: I understand your sentiments, hon. Members. What I am saying is that guidance was given. Communication was given here by the Speaker on what was going to be answered by the Leader of Majority Party. I am not changing anything. It is not that you will say I want the Leader of Majority Party to answer this one or not. Is it not so, hon. Leader of Majority Party?

Hon. A.B. Duale: Hon. Deputy Speaker, I think I totally agree with Members that we are living in confusion. The Speaker made a ruling through a communication about one month and a half ago, but Members of this House do not want to follow that ruling. That is number one.

Number two, the seeking of a Statement originates from the Member to the Speaker's office. It is for the Speaker to direct that Statement either to the Leader of Majority Party or to a chairperson of a committee. If the Speaker in his opinion feels that, that Statement is urgent, then it must go to the Leader of Majority Party. The majority coalition in this House is the one that is in Government, and the Leader of Majority Party is the one who represents the Government both in the Chamber and even in the House Business Committee (HBC). He ensures that Government business is fast-tracked. Now, if a Statement was approved by the Speaker and it was directed to the Leader of Majority Party, at what stage does a chairperson again take over that Statement?

Hon. Deputy Speaker, I do not want to challenge your ruling but I think what the chairperson sought was out of order. He cannot claim a Statement at the point of delivery, and when we have not even "cooked" it. It was the Speaker, in his wisdom, who decided that the Statement sought by the Member for Mwala was urgent and had to go to the Leader of Majority Party. It is wrong for a chair of a committee, particularly from the Jubilee Coalition that I lead to come to the Floor of the House and demand Statements that are not his. As a leader, I seek your guidance and I will go by your ruling.

(Applause)

Hon. Deputy Speaker: Hon. Members, I want to bring this matter to a close. Hon. Members, let us bring this matter to a close. I have heard all your sentiments and I know exactly what you are saying and where you are coming from.

(Hon. Musau stood up in his place)

Order, hon. Member for Mwala! You cannot be upstanding when the Chair is upstanding. However urgent the matter may be, you must respect this House; we must conduct ourselves with decorum.

So, hon. Members, I really think, as I have clearly said, a ruling was made here in the House on this matter. The ruling was made about what Statements are going to be answered by the Leader of Majority Party and what Statements are going to be answered by the committee chairs. All that I am saying is that there was an anomaly because we do not normally indicate when we are approving Statements which Statement is to be answered by the Leader of Majority Party and which one is to be answered by the committee chairs. However, due to the ruling that was given by the Speaker, which stated clearly about national cross-cutting matters - there were three factors and this one is specific - I am saying let us rectify this anomaly. I thought the two gentlemen were friendly to each other. They were sitting next to each other. There is a way in which they can then decide on their own between now and tomorrow which one of them will respond to the Statement request, so that we do not go on and on with this matter. We can then later get another clear communication again.

If we need a second communication we need to talk to the Speaker, so that it is very clear when we are approving a Statement whether we direct to the chair of a committee, or to the Leader of Majority Party. At this moment, that is not the practice. On this matter, let us not go on and on. Clarifications are going to help us, but we want to have a system which is clear and structured on how Statements are going to be answered in the House. As you are aware, a lot of the chairs are also complaining that they have so many Statements that they are unable to bring to the House. That is why we are saying let us prosecute most of the Statements in the committees so that we do not have too many of them coming to the House.

So, in the interest of moving forward I want us to leave it to the two Members of the Jubilee Coalition, the chair and the Leader of Majority Party and I am sure they will be able to sort out the issue. It is only the Statement sought by the hon. Member for Mwala which will be answered tomorrow. I am not saying it is going to be answered next week. Tomorrow you will get a response to your Statement request. This matter now rests there.

Hon. Nyenze: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Let us hear the point of order from hon. Nyenze and then we will hear the one from hon. Nkaissery.

Hon. Nyenze: Thank you, hon. Deputy Speaker. I think the confusion we see will continue to be seen so long as the committee chairpersons, who are given the responsibility of interrogating issues and summoning Cabinet Secretaries are not given a chance to come and issue Statements. I think Standing Order No.44(c) is very clear. The Leader of Majority Party and the Leader of Minority Party can make Statements, but as to issues touching on Statements that Members require, hon. Kamama is right; committee chairpersons are the ones who are entitled to give responses because they have cross-cutting powers.

Hon. Deputy Speaker, the earlier ruling that was given will still continue to cause conflicts because the chairmen of committees, not only hon. Kamama, will have the same problem. There will always be conflict between them and the Leader of Majority Party. I

want us to interrogate this issue further and another ruling be given, so that committee chairpersons will have a say over this because it falls within their mandate.

An hon. Member: There is no insubordination!

Hon. Nyenze: There is!

Hon. Deputy Speaker: All right, the Leader of Minority Party.

Hon. (Maj-Gen) Nkaisery: On a point of order, hon. Deputy Speaker. In leadership, one of the most important principles is flexibility. This is a security issue; the Statement is in the House and research has been done. In the pecking order, the Leader of Majority Party is senior to the chairperson and the chairperson cannot come and challenge a Statement by the Leader of Majority Party. The people of Mwala are waiting for this Statement. I want to plead with you that flexibility is a principle of leadership. Let the Leader of Majority Party deliver a Statement for the benefit of the people of Mwala.

Hon. Deputy Speaker: Thank you, hon. Nkaisery, for your advice, but Members, I intend to stay with what we agreed on, namely to wait up to tomorrow. Please, let us leave this matter. If you have any more clarifications, you can seek them tomorrow.

Next Order!

MOTION

ADOPTION OF REPORT ON VETTING OF NOMINEES FOR APPOINTMENT TO TEACHERS SERVICE COMMISSION

Hon. (Ms.) S.W. Chege: Hon. Deputy Speaker, on 8th July, 2013, pursuant to Article 8(7) of the Teachers Service Commission Act, No.20 of 2012, His Excellency the President forwarded the names of nominees to the Teachers Service Commission (TSC) to the National Assembly. The nominees were Dr. Salome Wanjiku Gichura and Mrs. Saadia Abdi Kontoma. Pursuant to Standing Order No.216 (5) (f), the Departmental Committee on Education, Research and Technology has been mandated to---

Hon. Deputy Speaker: Order, Chair of the Committee! Please move by reading out what is on the Order Paper.

Hon. (Ms.) S.W. Chege: Hon. Deputy Speaker, I beg to move the following Motion:-

THAT, pursuant to Section 8(8) of the Teachers Service Commission Act (No.20 of 2012), this House adopts the Report of the Departmental Committee on Education, Research and Technology on the Vetting of nominees for appointment to the Teachers Service Commission, laid on the Table of the House on Tuesday, 23rd July 2013, and approves the appointment of Dr. Salome Wanjiku Gichura and Saadia Abdi Kontoma as Members of the Commission.

On 8th July, 2013, pursuant to Article 8(7) of the Teachers Service Commission Act of 2012, His Excellency the President forwarded the names of nominees to TSC to the National Assembly. The nominees were Dr. Salome Wanjiku Gichura and Mrs. Saadia Abdi Kontoma. Pursuant to Standing Order No.216 (5)(f), the Departmental Committee on Education, Research and Technology is mandated to, among other things, vet and report on all appointments where the Constitution or any law requires the National Assembly to approve appointments under Standing Order No.204.

The Committee, therefore, undertook the vetting of the nominees on Thursday, 18th July, 2013. The TSC is an independent constitutional commission established pursuant to the provisions of Article 237 of the Constitution and the appointment of the chairperson and members of the commission is provided for under Sections 5 and 8 of the TSC Act, No.20 of 2012. The positions of the chairperson and three members of the Commission fell vacant due to the expiry of their terms.

Section 8 of the TSC Act gives the guidelines as to the procedure for nomination and appointment. First of all, the nominees went through an interview process that was conducted by the selection panel, where each of the candidates was examined and their qualifications, knowledge and experience, among other things, checked. The details of each of the candidates are annexed to this report. This shows how they were interviewed. The Committee was guided by Chapter 6 of the Constitution of Kenya on integrity, Public Appointments (Parliamentary Approval) Act, No.33 of 2011 and the Standing Orders of the National Assembly.

From the outset, let me thank all the Members of the Committee for their input and valuable contribution during the deliberations and vetting of the nominees. The first nominee, Dr. Salome Wanjiku Gichura, holds a PhD in Education Management, a Master's Degree in Education Administration and a Bachelor of Education Degree. Currently, she is the Director of Higher Education in the Ministry of Education, Science and Technology. Having spent 35 years in the education sector, she has vast experience in teachers' management. Her curriculum vitae is attached to this report. She comes in when the damning report, namely the Uwezo Report 2012, has just been released and this report touches on the dwindling quality of education. Those findings have painted a gloomy picture of the state of education in Kenya. As a country, we ought to ask ourselves very serious questions as to what has changed in our education sector.

In the 1980s and 1990s, it did not matter where your children were, whether in public or private schools; they all competed fairly. Currently, we are seeing a trend where children in public primary schools have continued to perform dismally. Among the causes of the decrease in the quality of education is the fact that teachers have not been taking their work seriously, and most of them have been absenting themselves from classes. Since the TSC is the body charged with the responsibility of the teachers' management, Dr. Salome Wanjiku Gichura brings in management skills that will transform the Service.

On the case of Ms. Saadia Abdi Kontoma, she appeared before the Committee on Thursday, 18th July, 2013. She holds a Master's Degree in Early Childhood Education and Bachelor of Arts Degree in Sociology from Kenyatta University. She is currently pursuing a PhD in Early Childhood Education in the same institution. This nominee has worked even in the most marginalized areas in this country and she understands the challenges faced right from the lowest levels to the highest levels of administration. Having worked as an ECD tutor, rising through the ranks to become a lecturer, it shows that she has determination to become better. The nominee will bring her experience in early childhood education.

With those remarks, allow me to invite hon. Okoth, who is a member of this Committee, to second this Motion.

I thank you.

Hon. Okoth: Hon. Deputy Speaker, I rise to second the approval and nomination of Dr. Salome Wanjiku Gichura and Ms. Saadia Abdi Kontoma to serve as commissioners in the Teachers Service Commission. The Committee did its work with due diligence. We had a robust debate internally and arrived at a consensus in this approval. I am honoured to second this Motion today.

We supported those nominations because the nominees are qualified. They have the requisite broad experience. They have the capacity and competence. In our Committee, despite the misgivings that were raised we agreed that those two are good enough to be approved. We, therefore, give them our full support and wish them success in the job.

However, we raised some concerns which I hope later on we will bring here for consideration by this House. The youth of this country are crying. They feel left out. Serving in the TSC demands a minimum of 15 years continuous experience in the education sector. A young graduate from any of our universities, the earliest they could qualify for such a job is at the age of 40 years based on such requirement. We realize that there is some sense of discrimination and we look forward to a time when we will adjust the requirements, so that more young people can get a shot at leadership positions in this nation. That is very important to us.

As we support those two names, we know that those opportunities do not come quite often. The TSC, therefore, needs to provide leadership at the highest level of education in this country. We need young and talented Kenyans to get a chance in order to bring in digital mindset. Other issues like regional balance and so on could be considered in future appointments. It is hard to do Committee work realistically when you get names presented one at a time. We will be looking at how to work with the Executive, so that the TSC, when fully constituted, will reflect regional diversity that shows the face of Kenya and the competencies required.

With those few remarks, I thank members of the Committee for their hard work. I also congratulate Dr. Salome Wanjiku and Ms. Saadia Abdi Kontoma. We wish them well in their service to this country. We hope their leadership will have an impact.

(Question proposed)

Hon. Njagagua: Thank you, hon. Deputy Speaker. I am also a member of the Committee on Education, Research and Technology. I wish to support this Report by the Committee. The two candidates appeared before us. They are people who are well read. They have served in the Ministry, especially Dr. Gichura, who has risen through the ranks from the position of an education officer to a Director of Education. Ms. Saadia was a P1 school teacher and now she is pursuing her Master's Degree.

The two persons represent the face of Kenya. One lady comes from Nyeri and the other one from Wajir.

I beg to support.

Hon. Huka: Thank you, hon. Deputy Speaker. The two nominees are people who are experienced in the area they have been nominated. I am a member of that Committee. We realized that those are people who have gone through challenges to make it in life. Their CVs speak volumes. We had no doubt that the two measure up to the challenges that face the TSC.

When you look at the challenges they faced, the exposure, experience and their education in comparison to what they are supposed to do we have no doubt that they will make a great contribution to the TSC. The two nominees are going to be resource persons in the area they have been nominated.

I support the nomination of the two candidates, so that they are approved. The House should take the shortest time possible, so that we move on to other business. We have checked those two candidates and we confirm that they are within the legal requirements, especially Chapter 6 of the Constitution.

I support the Motion.

Hon. Nyenze: Hon. Deputy Speaker, I rise to support this Report because it comes from the Committee. The nominees seem qualified. I support this Motion with a rider that all appointments have to show the face of Kenya. If you look at most of the appointments that have been done since Jubilee Coalition came to power, they favour Central, Rift Valley and parts of North Eastern. The rest of the country is not getting a fair share of representation in Government. Sometimes when we ask we are told that this is a presidential system and that the winner takes it all.

Hon. (Ms.) Shebesh: On a point of order, hon. Deputy Speaker. Could the Leader of Minority Party substantiate his remarks? He should not always raise issues that bring division to this country. He does it very casually and always gets away with it. This is the National Assembly and Kenyans are watching us. He should clearly tell us what Jubilee Coalition has done in terms of appointments that do not show the face of Kenya. This is becoming too much and a bit careless on the part of hon. Nyenze.

Hon. Nuh: But that is the reality!

Hon. Nyenze: Hon. Deputy Speaker, I do not want to get into that. You know hon. Shebesh is a lost sheep. She was part of us, but we donated her. The only problem is that 70 per cent of the Cabinet positions are occupied by people from one region, yet we have to show the face of Kenya. I have a reason to support---

Hon. Murungi: On a point of order, hon. Deputy Speaker. I seek your indulgence on this issue. The chairpersons of those committees present their reports to the House and we debate them. There is a time the substantive Speaker gave a ruling that reports should be available in time, so that we are able to interrogate them and give our contributions. What I have before me is only the Order Paper for today. Somebody is circulating the Report only now on the other side of the House.

I do not understand why the reports are circulated only on one side. No wonder it is only the Committee members who are contributing. No wonder the Speaker gives all this work to the Leader of Majority Party because he is competent!

Hon. Deputy Speaker: Hon. Kathuri Murungi the reports have been at the reception area from yesterday when the Chairperson of the Committee laid it on the Table.

Hon. Nyenze: Thank you, hon. Deputy Speaker. Kenya is a great country and we want to build it together. This country has 42 tribes and we have qualified people from those tribes. That is from Turkana to the Coast and from western Kenya to the eastern part. It will be failure for the ruling Jubilee Coalition not to look at every corner, so that we have balanced appointments.

If you look at the recalling of the ambassadors and the sackings that are taking place, you will realize that they are skewed against areas where the minority comes from.

Those are things that create instability. We will help the Jubilee Coalition to rule this country if things are done fairly and not when the leaders of the Opposition are denied VIP treatment in VIP lounges. This can also not be done when leaders of the Minority Party are not paid their entitlement and are told to renounce politics in order for them to be paid what is rightfully theirs.

Hon. Deputy Speaker, we can only work towards a cohesive country if we look at the other side and we do not appoint from only two or three tribes and think that, that is the face of Kenya.

I support this Motion although I have a right to oppose, but because those are qualified people I will support. However, I want the appointing authority to always look at the other side in order for unity, stability and love to prevail in this country. We will not get very far when you trash the leaders of the Opposition, who are by far the largest in terms of geographical cover of this country, and who are by far more than Jubilee.

Hon. Deputy Speaker, while we support this and we have faith that we will work together in future, this presidential system has come so soon that leaders do not practise fairness in appointments. It is not the winner takes it all because even where the Opposition controls, when it comes to appointments, the Jubilee Coalition Government picks the people who have been rejected by the voters. Those are the ones who are rewarded.

(Applause)

What does that tell us? We will refuse to support you in future appointments and it will be like yesterday when we refused to support you. We would like to tell you that you cannot manage two-thirds without us. We need each other; so long as we do not play ball together, we will also try to make sure that you do not move.

(Applause)

However, we will move together if you show consideration. We will beat you in the game any time you try to play James Bond.

Hon. Deputy Speaker, with those few remarks, I support the Motion. Thank you.

Hon. A.B. Duale: Thank you, hon. Deputy Speaker. It is good the country has heard a very desperate speech from the Leader of Minority Party, urging Jubilee to consider them. The Report on vetting of nominees, namely Dr. Salome Wanjiku Gichura and Ms. Saadia Abdi to the Teachers Service Commission is of the National Assembly of Kenya; it is not a report of the Jubilee Coalition Government.

(Applause)

From the outset, I also want to make it very clear that the coalition that the Leader of Minority Party represents has 11 Members in that Committee. If he had any issues on regional balance and other issues, his 11 Members should have raised them.

What is in the House today is whether this House will agree with the Departmental Committee on Education, Research and Technology on the two nominees in line with Article 237 of the Constitution on the appointment of TSC---

(Hon. (Ms.) Odhiambo-Mabona consulted loudly)

Hon. Deputy Speaker, I want you to protect me from hon. Millie Odhiambo because I am not in a fish market; I am in the National Assembly of the Republic of Kenya.

(Laughter)

Hon. Deputy Speaker, the Committee drew the procedure of appointing Commissioners to the TSC from Article 237. I had the privilege to enact TSC Act, No.20 of 2012, because the people of Dujis at the time had given me a chance. They have given me another chance in a different constituency. Again, this Committee drew its power from Sections 5 and 8 of that TSC Act to recommend the two Commissioners.

Today is a great day for Kenya and for the TSC. This is because we are appointing two qualified ladies. If you look at the CV of Dr. Salome and that of Saadia, who is a current PhD student at Kenyatta University, and is from a marginalized community in Wajir North---

(Hon. Saney nodded his head)

I can see that the Member for Wajir North, my good friend Ibrahim Saney, is happy. For the first time, no integrity issue has been raised against those two ladies. There are also no issues with regard to their qualifications.

(Applause)

In the last Parliament, we rejected names. I remember we rejected the name of the nominee for the Chair of TSC two times. We also rejected three other names, but today I want to thank the Departmental Committee on Education, Research and Technology which is chaired by the very able Member for Murang'a County. Whether she sits on that side or on this side, she is a staunch Jubilee supporter. I want to put that on record. I want the House to listen to me.

From the desperate speech of the Leader of Minority Party, I think there are people out there who want retirement benefits and we have no problem with that. We have given retirement benefits to the former President, Mwai Kibaki. We did the same thing to former President Daniel Toroitich arap Moi. Retirement is totally different from losing an election. When you lose an election, you do not retire.

(Applause)

So, if their leaders have agreed to retire---

Hon. Members: On a point of order, hon. Deputy Speaker!

Hon. Deputy Speaker: What is your point of order, hon. Arati Simba? Let it be a point of order.

Hon. Simba: Hon. Deputy Speaker, is the Leader of the Majority Party in order to be pulling his trouser around whereas---

Hon. Members: Under which Standing Order?

Hon. Simba: Under Standing Order No.1.

(Laughter)

I would like to know whether the Leader of Majority Party is debating the Report we have on the Floor or retirees, who in his perception are outside this House.

Hon. Deputy Speaker: Is that a point of order? Order! Try and wind up so that we can continue with the debate.

Hon. A.B. Duale: Hon. Deputy Speaker, I want to confirm, as I said yesterday, we are ready for tutorials. Standing Order 1 gives the Speaker powers to make rulings where there are no provisions by the Standing Orders. So, we need to teach some hon. Members.

I talked about Dr. Salome Gichura and Saadia Kontoma. The benchmark for vetting is on Parliament and they have no integrity issues. On qualifications, First Class, PhD Student and Dr. Salome led. I want the Leader of Minority Party to lead his troops, so that they give me a chance.

Hon. Deputy Speaker: What is your point of order Leader of Minority Party?

Hon. Nyenze: On a point of order, hon. Deputy Speaker. Is the Leader of Majority Party, hon. Aden B. Duale, in order to say that those two nominees are First Class PhD students? Is he in order! There is no such classification.

(Loud consultations)

Hon. Deputy Speaker: That seems to be a genuine point of order. PhDs are not qualified in terms of First Class or Second Class.

Hon. A.B. Duale: Hon. Deputy Speaker, age goes with hearing problems. The Leader of Minority Party, despite his age, did not hear well. I said that they had First Class in their first degrees, they have master's degrees and they have PhDs.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members! I think you have had your moments.

Hon. A.B. Duale: Hon. Deputy Speaker, Section 1 (a) and (b) of the Teachers Service Commission (TSC) Act and Standing Order 45--- I had even read Sections 7 and 8---

I want to say that a combination of analogue and age produces complete disaster. I beg to support.

(Loud consultations)

Hon. Deputy Speaker: Hon. A.B. Duale, you are not helping us to progress in the House.

Hon. Opiyo: Thank you, hon. Deputy Speaker. I rise to support the nomination of the two very able ladies, Dr. Salome Wanjiku Gichura and Ms. Saadia Abdi Kontoma. Those two people are actually very qualified Kenyans. I am a Member of the Committee on Education, Research and Technology and I did participate in their vetting.

However, there are certain fundamental issues that you will allow hon. Members of this House to think over. I did raise an issue that whenever appointments are made to whatever positions in this country that require the vetting of this august House, it is incumbent upon us, as hon. Members, to insist that we are given a full list. We all know that the total number of Commissioners at the TSC is supposed to be above eight, and we were presented with only two nominees. If they are appointed, we shall have only three Commissioners at the TSC. We insist, as a House, that for us to do our job well we must be presented with a package. I think that must happen if we do not want to be a disgraced House that acts as a rubber stamp. There are several other considerations that are supposed to be taken apart from merely thinking of their qualifications. We have gender, regional balance, minorities and people living with disability. All those considerations can only be made when we are presented with a package of appointments.

Hon. Deputy Speaker, while I support the nomination of the two very able ladies, I want that point to be made. Indeed, hon. Ken Okoth also raised the issue of the youth. Many a times we are presented with the appointments piecemeal, and after passing that we realize that our youth have not been considered in the appointments.

I support this nomination, but with that rider.

Thank you.

Hon. Deputy Speaker: Hon. Gikaria, you have the Floor. You look surprised. You were not ready to contribute?

Hon. Gikaria: Hon. Deputy Speaker, I wanted to contribute to the issue that has been raised by my Chairman of Committee on Administration and National Security, but that has been overtaken by events.

So, I rise to support the appointment of the two nominees to be members of the TSC. As the immediate speaker and hon. Ken has already indicated, I think it is important for us to think about the young people when we are doing appointments. This is because most of the people that they are going to be handling at the TSC are young teachers who are coming into the profession and they need to be having some people who can consider their interests at the TSC.

Hon. Deputy Speaker, Sir, I do not want to repeat the qualifications as they have been stated by the Leader of Majority Party, but I want to say that it is important that the Leader of Minority Party talks about regional balancing, and what Jubilee is supposed to be doing. As the Leader of Majority Party has just said, it is important that this Committee has 11 hon. Members from the Minority Party side. I want to thank the speaker who has just spoken that they have raised those issues in their Committee and they felt that this needs to be considered, not only because they come from the minority, but because it is going to assist this country to go through the healing process, so that we can have a cohesive and united nation.

I rise to support.

Hon. Anami: Thank you, hon. Deputy Speaker. I would like to join those hon. Members who observed that the late arrival of those reports does not give us the opportunity to read and understand the processes that have been undertaken. I think we must endeavour to correct this situation. Defending ourselves when we have not done what we are supposed to do is not going to help us.

In contributing to this Motion, I would like to support the appointment of those two ladies, especially given that they have the qualifications required and are ladies. I would like to really support them. As a National Assembly, we cannot run away from the cardinal responsibility of creating an enabling environment for our citizens, and an atmosphere for harmonious co-existence of our people. That is why the Constitution talks about equity. It talks about equity in regional representation. If we continue the way we are going, very soon we will find that we are not helping in this responsibility of harmonious co-existence amongst our people. There is a lot of discrimination when it comes to appointments. Let us not play down this factor.

(Applause)

It is very important that we look across the country and create the face of the Kenyan society when dealing with appointments like those. We have many appointments that are coming and Kenyans out there are expecting fairness. They are watching. They would like to see inclusion. We should have inclusion in those appointments. We should not leave some communities outside the fold.

The TSC is a very important institution. It is a constitutional commission and has high responsibilities. While creating this harmonious co-existence, the TSC should underline the responsibility to not only appoint teachers but to retain them and to give them opportunity to work well. We do not want to see interference like we saw coming from Sarah Serem's quarters directing that teachers should not be paid their July salaries.

(Applause)

That creates animosity and while supporting the appointment---

Hon. Musau: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Order, hon. Anami. There is a point of order by hon. Vincent Musau.

Hon. Musau: Thank you, hon. Deputy Speaker. I am just a bit concerned by the double talk that we are getting from Members of Parliament because one rises to support and then in the entire time he or she talks about the negatives of the appointments. So, I am a bit concerned. I seek your direction, hon. Deputy Speaker on that.

Hon. Deputy Speaker: No. That is not a point of order, hon. Member. It is a Motion under debate.

Hon. Members: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Order, hon. Members. Please, allow the Member to complete.

Hon. Abongotum: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: On what? On what he is saying?

Hon. Abongotum: On what he is alleging. Hon. Deputy Speaker, is my good friend in order to actually mislead this House by saying that there is discrimination in appointments while this Government, especially in the appointments done by the President he has actually looked into North Eastern Province? Wajir people voted for Coalition for Reforms and Democracy (CORD). So, are you against it? This is not discrimination. So, we have actually given positions to everybody. We have given positions to both Jubilee and CORD.

Hon. Deputy Speaker: Order, hon. Members. Hon. Kamama, I think your point has been made.

Proceed, hon. Anami.

Hon. Anami: Thank you, hon. Deputy Speaker. I do not want to delve into that because we cannot go discussing what is on the wall. We have seen a lot of lopsidedness and skewed appointments. Let us not argue about it. Let us deal with it. Let us solve this problem. It is an eyesore which we must address. Running away from it makes the situation only worse.

Hon. Deputy Speaker, we would like the TSC to get down to business and I am very happy that the appointment of those two ladies is going to add value to the work of the TSC. I would like to request that they address the issue of teachers so that they can settle down to teach our children. Children who are constantly back and forth from school need to be prepared to provide the future that we are looking for.

I support the appointment of those two ladies. Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Wanjiku Muhia, Lady Member from Nyandarua.

Hon. (Ms.) Muhia: Thank you, hon. Deputy Speaker. I stand first to recognise the Members of the County Assembly (MCAs) from Nyandarua County who are here this afternoon. We had another team in the morning which went to the Senate.

(Applause)

Hon. Deputy Speaker, I wish to support but first I hope I am in order to go back to my colleague who has just said that appointments should reflect the face of Kenya. I wish someone could clarify what the face of Kenya means because those positions only need two candidates. When there are two candidates and you have 42 tribes, so what is the face of Kenya?

Hon. Deputy Speaker, as ladies we are grateful for those two ladies. We can show the country that ladies are learned. One of them is a holder of a PhD degree. They do not have any integrity issues. The whole process taken by this Departmental Committee on Education, Research and Technology is clear and so to say the face of Kenya, Jubilee and all those other stories, I think is irrelevant. We only need to support the Motion or oppose it.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Geoffrey Makokha Odanga.

Hon. Odanga: Thank you, hon. Deputy Speaker. I stand to support. I am also a member of the Departmental Committee on Education, Research and Technology and when we looked at the nominees we found that they met the qualifications. We gave them a clean bill of health. We also found that they had no integrity issues and we also gave them a clean bill of health.

Hon. Deputy Speaker, the TSC is a body corporate. It is an independent commission that was established under the Constitution to manage teachers' affairs. It is charged with registering of teachers and maintaining the register. It is charged with recruiting teachers, disciplining, promoting them, removing them from the register if they are errant and also handling matters of remuneration. Such a body is a very important one because we realised that the teaching force is well spread in this country and, therefore, issues that Members are really articulating here are very very important and should not be wished away at all.

As a Committee, we did not just rubber stamp. We considered all that. We discussed but we said that those Kenyans are really qualified and we are all Kenyans. This country belongs to all of us. We want this country to forge ahead. We want this country to heal very quickly and we need national cohesion. For that, we made our own recommendations and I will say them here that for the rest of the five commissioners, we would like them to come in one package. We do not want them to come in piecemeal, so that we meet issues of regional balance and ethnicity. We cannot run away from ethnicity. We want ethnic balance.

Hon. Deputy Speaker, last year, I found a lot of fault with the composition of the panel that interviewed those candidates in October last year. When I looked at it I found out that the second largest community in this country if not first – the Luhya community – was not on that panel. There was not a single member and yet some communities had three to four and others none. Those are issues that we must address. We cannot run away from them if we want a united Kenya.

I stand to support the nominees, hon. Deputy Speaker.

Hon. Kabando wa Kabando: Hon. Deputy Speaker, I rise to support this Report by the Committee. It is good to appreciate that good strides have been made in all the areas. As has been posed, the face of Kenya is quite a rhetorical question which may not beg immediate answer. However, it is also good to be sensitive and appreciate that those concerns are important and legitimate. We are here representing constituencies which are listening. So, we should not be jittery, itchy or worrying that the Members are rising to raise the concerns. Primarily, your constituency that produces you is what matters.

The TSC, like other constitutional commissions, for example, the Parliamentary Service Commission, the Public Service Commission and the Police Service Commission, are very important commissions, whose leadership is expected to steward the renewal and growth of the sectors under their supervision. I expect that the TSC, which I know has a very able Secretary, Mr. Olongoiboni, has the onerous task of restructuring the management of the education sector in this country. The reports that have come out are worrying us on the performances in some areas. Therefore, the questions of quality assurance, supervision in counties and districts, staffing and hardship allowances are important issues that need the institutionalization by this Commission.

Therefore, this country is awake, and we are awake being the representatives of the people, to the fact that it is important, even as we vet and interrogate those issues, that Kenyans who are qualified are given the job. You can say that names are coming from this or that region. They may even come from your constituency, but the actual representation is the ability of that person. In fact, we do not expect that people appointed to those commissions represent their communities. They do not and somebody should be ashamed to say that you represent a community because you are a Cabinet Secretary,

Principal Secretary or Commissioner. You represent the nation. Even when you are nominated to this Parliament, you represent the interests across board. If it is a person with disability, you do not represent Jubilee or CORD, but you represent a sector that needs representation. Therefore, those two gracious ladies deserve our support. They deserve our endorsement.

Finally, the Members of Parliament, after every five years, are vetted, voted out, in or back. It is important to tell teachers that we need performance contracting for teachers in this country. I have seen head teachers who are doing very well in my constituency remaining in the same position. I have seen teachers whose schools have fallen being promoted because meritocracy has not been entrenched. Therefore, performance contracting is one issue that we expect the TSC to address fundamentally, so that institutions that have issues are strengthened and are able to be audited professionally without any malice. Therefore, I wish the TSC the very best as they seek to do their work.

In conclusion, everybody in this country must respect constitutional offices. The moment we start criticizing the Judicial Service Commission, the Independent Electoral and Boundaries Commission (IEBC), the TSC and the Parliamentary Service Commission, we miss the point. It is good to tell Kenyans who are listening because of the hostility that was here recently because of the Office of the Members of Parliament, that the PSC, just like the TSC, the Judicial Service Commission and the IEBC are institutions that deserve our respect. Therefore, those who are outside and are leaders of political parties, be they in Jubilee or CORD, must understand that the moment you start making statements in funerals, weddings and churches that are tantamount to discouraging the institutionalization of this regime, you start declaring instability. Destabilization starts with your careless statements.

We respect everybody and I personally respect the leadership of the House from the Jubilee side to the CORD side, but this is the National Assembly that requires unity, sanity and determination of purpose in order to take this country to the next level.

I strongly support the appointment of those nominees because they deserve. Next time, I expect that the face of Kenya is not about North Eastern, Central Province, Nairobi or Nyanza. When I look at all those names, I do not see somebody from a province because there is no province. I will ask: Is there somebody from Mukurwe-ini? And so, next time, I will be lobbying harder so that when I have two other names coming here, it is not about them being women. By the way, men must also be worried because you are also soon likely to become a minority if you do not take care. You should be worried. I stand here to support those nominees, not specifically because they are women. I am a father of girls only, but I know there are fathers of boys only and boys deserve a chance also. I support those nominees because they are sufficiently capable. They are adequately qualified and are entitled to those appointments, but we are also overplaying the issue of being minority and marginalized.

Some of the people who are saying they are marginalized are in big positions in the Government. They could even be the majority. Some of the genders that you say are marginalized, you could find that even in Parliamentary Committees, there is no tokenism. Women are achieving like hon. Wanjiru Chege from Murang'a County. She is achieving and was duly elected by her Committee to lead issues of education in this country. First and foremost, she is a qualified Kenyan and a human being. The issue of being a woman is secondary, in my perception of her ability.

Therefore, hon. Deputy Speaker, like I said recently, your leadership in the Organisation of African, Caribbean and Pacific (ACP) States and European Union, made the whole of Europe and the ACP countries recognize that Kenya can produce somebody not just because she is a woman or because she has a PhD, but because she is able to hold her audience spellbound and deliver. Then when they see that it is an African from Kenya, the country that is being stigmatized from elsewhere, they say that that is good. Then when they hear that she is from Sotik, they say that is even better. First of all, let us see the qualifications of those individuals because they deserve. So, the ladies who are in this House, issues of tokenism are not going to sustain leadership.

Hon. Kajuju is reminding me of her leadership on the *miraa* issue in Meru and her hosting the most memorable and historic meeting that has never been seen since Meru was created. It was not because she is a woman from Meru, but because she is a Kajuju who has a lot of *jujus* with solutions.

I beg to support.

Hon. (Eng.) Mahamud: Thank you, hon. Deputy Speaker, for giving me a chance to contribute to this Motion. The gracious ladies before us are persons who are qualified academically and have a lot of experience in the education sector. Their CVs speak for themselves. In fact, they will add value to the TSC. One lady is my age mate because we did Form Four, A-Level and university the same year. Our schools and universities were of high quality those days, unlike what they are today. She is that qualified and can lead this Commission to higher heights. Mrs. Saadia Kontoma comes from Wajir and she deserves the appointment with her qualifications in the education sector. The fact that she comes from that community that is marginalized is a good thing because the Constitution requires that we have equity in all appointments.

The appointments of those two ladies have no acrimony and I am happy they have crossed the bridge and have been approved to be appointed to those positions. The TSC has a very important role to play in this country, namely, teaching our children, providing quality education, disciplining teachers and giving promotions. We need to have commissioners who understand that sector well and those two ladies will contribute a lot towards advancing the course of the TSC. I wish them success and I hope that this House will approve their appointments, so that they can start their work quickly.

With those few remarks, I beg to support.

Hon. K.K. Kinyanjui: Hon. Deputy Speaker, I rise to support the appointment of the two very qualified ladies. I would like to take this opportunity, with your permission, to recognize the Leader of the Majority Party of my county, Mr. Gichuki Mwangi and County Assembly Member for my ward and the rest of the county assembly members for Nyandarua County. Welcome to the 11th Parliament.

I would like to seek your indulgence that it should be noted that as and when a Kikuyu name is seen on a list, there is no face of Kenya. Honestly, nobody chose to be born from Tribe “A” or “B”. Whenever a list has an appointee from the Kikuyu tribe, it is said that it does not have the face of Kenya.

It should be appreciated that Kikuyu is among the 42 tribes of this country. We are proud to have been born in that community. We are all Kenyans. We are not special. We are just like you and we need to be appreciated and respected as fellow Kenyans. We contribute to the wellbeing of this country and we are for the unity of this nation.

As a tribe we have so many stakes in this country. If there is any tribe that would like harmony and unity in this country for posterity then it is that tribe which when mentioned, it does not look like it represents the face of Kenya.

Dear brothers and sisters, this country is for all of us. We are all equal stakeholders. Let us live in harmony, unity and for prosperity for the sake of the future generations. I support the appointment of those two great ladies of this nation.

Hon. Nuh: Thank you, hon. Deputy Speaker. I rise to support this Motion on the appointment of the two ladies to the TSC. We know that TSC is a very important commission in this country. It handles over 200,000 Kenyans as a human resource for the Commission. It is important to fill those positions so that work continues. The education sector is too important to be neglected.

Having said that, I would like to draw the attention of the House to this--- I support fully the appointment of the two ladies to the TSC. However, I would like to bring to the House's attention the issue of appointments in general. The Jubilee people here have reduced appointments in this House to be a conveyor belt. The Leader of the Majority Party collects everything from the Executive and brings it here. It is then passed without any proper vetting, starting from the Cabinet Secretaries to the Principal Secretaries to all kind of nonsense.

Hon. (Ms.) Shebesh: Hon. Deputy Speaker, I am really begging. As I said before, we are the National Assembly and the nation is watching us. We should not allow comments that cannot be substantiated to continue being raised on the Floor. Members of the CORD Coalition sit in all committees that have been vetting all the appointments that have been done so far. Is the hon. Member in order to purport that the appointments so far done have been used as conveyor belt? That reflects on the whole House and not one side of the House. Is he really in order?

Hon. Deputy Speaker: Hon. Junet Nuh, yes, I agree with the sentiments of hon. Rachel Shebesh. If you have not been a Member and you have said "anybody" and also said that "anything is brought here," hon. Junet, withdraw that statement and continue with your contribution.

Hon. Nuh: Hon. Deputy Speaker, I withdraw, but---

Hon. Deputy Speaker: No buts.

(Loud consultations)

Hon. Nuh: Hon. Deputy Speaker, I was just trying to interrogate the whole process of appointments in this Parliament. We have to get serious on this issue. In the last four months we have been in this House, we have not rejected any single name. It is a fact that every name presented to this House for vetting has gone through. It is a fact!

Hon. Muchai: On a point of order, hon. Deputy Speaker. Is the hon. Member in order to disrespect the order of the Chair that he withdraws his remarks? In fact, instead he is seeking to engage the Chair on a matter that has already been ruled.

Hon. Deputy Speaker: Hon. Junet, they did not hear you withdraw. Could you, please, withdraw so that everybody hears?

Hon. Nuh: Hon. Deputy Speaker, you heard me. I said that I withdraw. I was just interrogating the whole process of Parliament and I have a right to do so. This is a debating chamber. We want to discuss things here properly. In the last four months we

have approved more than 50 names here. However, none of them has been rejected. That happens because of the tyranny of numbers.

(Loud consultations)

Hon. Deputy Speaker: Order, hon. Members!

Hon. A.B. Duale: Hon. Deputy Speaker, the Speaker made a Communication on how the House should behave. This is a House of dignity. We should not misuse the Floor. Parliament has a fundamental role. When it comes to matters of the Appointments Committee, hon. Deputy Speaker you are a member of that Committee and both sides of the House have membership there. Even the Report we are debating today is from the Committee on Education, Research and Technology and in that Committee both sides of the House are represented.

In my contribution, I said that the Committee that brings the Report here gets the mandate from the Constitution. Read Article 227 and the Teachers Service Commission Act. This is not a market place. Is he in order to say that all the appointments that have been in this House--- If that is true then the integrity of this House is in question. It is the integrity of the 349 Members plus the Speaker that vetted in their respective committees and the plenary.

He had a right to reject this Report. If hon. Junet is worth his salt and feels that this House is a conveyor belt then he is part of the conveyor belt. He has the right to reject any appointment. Is he, therefore, in order to mislead the House and the nation?

Hon. (Ms.) Odhiambo-Mabona: Hon. Deputy Speaker, I wanted to raise a similar point of order, but because you had ruled I let it go. However, now that hon. Duale has raised an issue on a matter that you have already ruled on I would like you to indulge me because he has reopened debate on it.

Hon. Deputy Speaker, I agree that this is a debating House. I am concerned at the way we have been moving of late. We seem to be gagging people. I have, as hon. Millie Odhiambo, Member of Parliament for Mbita stood here to say that I believe that the way we are moving we have become a conveyor belt. That is a matter of personal opinion which may be very well different from that of hon. Rachel Shebesh. However, I do not think it is in order for me to be forced to have the same opinion as Rachel Shebesh. I do not. That is why she moved. She read Genesis Chapter 31 and moved to Jubilee Coalition. I remained with Genesis Chapter One in ODM.

With regard to debate in this House, yes, sometimes people say things which make us sound excitable but so long as they are within the general confine of decency, debate, decorum and respect we allow. On a matter of difference of opinion, I cannot really be out of order.

Hon. Deputy Speaker: Thank you, hon. Millie Odhiambo. The reason I asked hon. Junet to withdraw was not because he said anything. The issue of calling Members here “anything” is what I was asking him to withdraw and it was not the question of debate. Nobody is gagging anybody because we are a debating Chamber and you are allowed to have your opinion. Nobody is stopping you from having that opinion so long as you say it respectfully and you do not impute improper motive on anybody that is not able to answer himself or herself.

Hon. Ng’ongo: On a point of order, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Mbadi, we really need to move on. Is it different from what we have? Allow hon. Junet to finish his contribution. Hon. Junet, confine yourself to the debate before the House.

Hon. Nuh: Hon. Deputy Speaker, I would like to thank my senior, Millie Odhiambo for coming to my defence because the Leader of the Majority Party was trying to terrorize me using his---

(Laughter)

I support the Motion as I said earlier on. We must tolerate other people's views and opinions. I was trying to draw the attention of the House to the whole process of appointment and vetting. I was trying to tell it that we need to get more serious than we are at the moment in order for Kenyans to get value for their money. That is why we are here. We are supposed to check the Executive. We are supposed to play an oversight role against the Executive. However, some of us in this House feel that they are part of the Executive. They feel like they are holding brief for the Executive in this House and yet we are the Legislature.

We are the third arm of the Government and we do not belong to the Executive or the Judiciary but we belong to this House. You are a Member of Parliament because you represent a constituency and your work and primary duty is to play an oversight role against the Executive. However, we lose sight when we hold brief for the Executive in this House.

(Hon. A.B. Duale nodded his head)

That was the point I was trying to put across to the Members now that the Leader of the Majority Party is nodding his head. It is like he has accepted my suggestion. Let us now reject names here.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: I will give this chance to hon. Saney who must be a Member of Parliament for one of the candidates.

Hon. Saney: Thank you, hon. Deputy Speaker. I just want to take this House back a bit. On 1st June, 2013, I requested for a Statement with regard to the appointment of two Commissioners to the Teachers Service Commission. It has been a tough process. What is before this House today is the culmination of the entire process.

(Applause)

The baby has been delivered and I would like to thank the Departmental Committee on Education, Research and Technology lead by our able lady, hon. Sabina and the entire House. I am overwhelmed because both the CORD and the Jubilee side are in support of this Report.

Today is a turning point to me for two reasons. First, this is the first time that a person from Wajir North Constituency has got an opportunity to be appointed to serve in a national office. Being a minority, I would like to absolve the Jubilee Government that they do not always use the tyranny of numbers.

(Applause)

I, being a CORD Member, and Wajir North Constituency having supported an ODM Member of Parliament, they took a firm position to, at least, nominate Saadia Abdi Kontoma who is from a minority community. As much as I respect my party and my CORD side, I would like to say that the Jubilee side is rational at times. They looked at the face of this country and, indeed, I should say that I am grateful.

Secondly, the female gender has come a long way. Gender mainstreaming has taken a very hard course and I feel that by two women Commissioners being on the verge of being appointed is itself worth celebration. We feel that we have come from gender mainstreaming and I am overwhelmed.

I am very much elated and grateful to every Member of this House, whether from CORD or from the Jubilee side for supporting this Motion. To me, this is the first delivery being a new Member of Parliament. The appointment of Ms. Saadia Abdi Kontoma who comes from Wajir North Constituency as a Commissioner to the TSC is something I should be grateful to this House, the Leader of the Majority Party and the Leader of the Minority Party.

Hon. Deputy Speaker, thank you and I support this Motion.

Hon. (Ms.) Mathenge: Thank you, hon. Deputy Speaker. I wish to join my colleagues in supporting those two ladies. I want to disagree a little with Hon. Kabando wa Kabando. When women are appointed to a position, it is time to celebrate because it is not often that we get those positions.

After looking at the CVs of those two women I have no doubt in my mind that they are capable of delivering to this country.

On indiscipline in schools, if you look at the Report, you will find that the two ladies are very articulate as to the measures they will take. I particularly like the report on Saadia. She talks about sexual abuse in schools and what she plans to do. We know this has been a menace in our schools but she already knows how she will approach this issue. I think that we did not make a mistake. I want to thank the Chairperson and the Members of this Committee. They know that where there is a woman, there is light. I can assure you that the TSC will change because we, as mothers, know how it feels when our children suffer.

We also know that the majority of teachers are women and they need to be looked after by somebody who has a caring heart. It is for that reason that I want to support the two ladies' appointments. I hope that we will terrorize men a little when the other list comes so that we can have more women Commissioners at the TSC. Those should especially be the youth. We will do what needs to be done if we appoint the youth to the TSC.

Hon. Deputy Speaker, I wish to support this Motion.

Hon. (Ms.) Ombaka: Thank you, hon. Deputy Speaker, for giving me this opportunity which I have been looking for. I am a Member of this Committee and I want to say that the two ladies were very impressive and had very strong CVs. Their education was impeccable.

Dr. Salome is currently the Director of Higher Education and she has a distinguished experience. We found her to be the right person for that position. However,

what is regrettable about Dr. Salome is that she has only two years to retire. This means that the experience that she is coming with will not be felt at the TSC. This is because she will be going home within two years. Otherwise, Dr. Salome is highly experienced because she has served in very many capacities within the education sector.

Ms. Saadia was also very impressive because she comes from a very humble educational background. She was actually an Early Childhood Education or nursery school teacher. She got her first degree and then a Master's degree. She is now a PhD candidate or student. It was very impressive because for many women from the minority communities, that kind of progression is not very easy and she has achieved it. So, she turns out as role model to many people. Those are the reasons we felt that she deserved that position.

Hon. Deputy Speaker, I just want to take this chance to congratulate the two ladies because they were extremely impressive. I am crying that the retirement age of 60 years should be reviewed because some people still appear very young at that age. For example, Dr. Salome appears very young but she has two years to go home. This means that we will lose her within a short time and look for somebody to replace her.

Otherwise, I support this Motion and hope that the whole House will lend them a hand. Thank you, hon. Deputy Speaker.

Hon. Dido: Thank you, hon. Deputy Speaker, for giving me this opportunity. I rise to support the two nominees and thank the Departmental Committee on Education, Research and Science for their very comprehensive Report.

I would like to say that we have to separate the issues of competence, efficiency and qualification from politics. Any attempt to bring politics into those issues does not make much sense. This also demonstrates the Jubilee Government's commitment to identify people who are qualified but who, in normal circumstances, would not have been seen. Ms. Saadia Kontoma falls in such category. The two ladies are very qualified. They also fall within the realm of the education sector. Therefore, they are going to fare well within the Commission.

Hon. Deputy Speaker, the fact that the TSC has been without Commissioners for a while means that there has been disruption in terms of promotion of teachers, staffing, discipline and ensuring fair play within the Commission. The appointment of the two Commissioners will fill up the gaps that exist. I would like to urge the Committee to ensure that the appointment process of the remaining six Commissioners is fast-tracked to ensure that the Commission has the full number of Commissioners to enable it carry out its mandate effectively. The Commissioners are responsible for policy making and efficient running of this large body responsible for about 300,000 teachers. Therefore, the full Commission should be in place sooner rather than later.

With those remarks, I beg to support.

The Deputy Speaker: Yes, hon. Mbadi.

Hon. Ng'ongo: Thank you, hon. Deputy Speaker, for giving me the opportunity to also support this Motion.

In supporting the nomination and the approval of those nominees, I want to, first, say that I am delighted by the fact that we are approving only two names, both of who are ladies. There is the tendency of thinking that one-third gender representation means that one-third has to be women and two-thirds has to be men. When we have a situation where women dominate, we should support them. I believe that the TSC is supposed to

have eight Commissioners. I want to see a situation where when all the eight Commissioners are appointed, for the first time, we have two-thirds women and one-third men.

Secondly, I want to support the sentiments of the Member for Wajir North. There are certain marginalised communities in this country, which need to be considered for public appointments. That is not a luxury but rather a requirement of the Constitution. Therefore, when we see nomination from a marginalised community, we should give it full support. I am still waiting for the time when a list of nominees containing a name from the Suba community will be brought here for approval. I will appreciate and celebrate. I want to remind this country that the Suba people have good brains. If you want to attest to that fact, just look at the two Suba Members of Parliament, namely, hon. Millie Odhiambo and John Mbadi. You will agree with me that the Suba community has brains. I am, therefore, appealing to those in the appointment panels and the President to consider giving appointments to the very good brains from the Suba community.

[The Deputy Speaker (Hon. (Dr.) Laboso) left the Chair]

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

Hon. Temporary Deputy Speaker, I want to remind hon. Members that the equivalent of the National Assembly in the United States of America (USA) is the US Congress. In the United Kingdom, the equivalent of this House is the House of Commons. However, the Kenyan people, deliberately, chose the title “Members of the National Assembly” because we are supposed to be national in nature. As opposed to the county governments and the Senate, whose memberships are delegations from the counties, we are Members of the National Assembly. Article 95(1) talks of this House representing the people of Kenya. If you read downwards, you will see that Sub-Article 3 talks about this House legislating, on behalf of the people of Kenya, and dealing with issues that are of concern to the people of Kenya.

Therefore, I would urge that when this House transacts any business, we should be guided by the principle of nationalism. We should take the pragmatic approach of nationalism. We should not confine ourselves to tribal and community cocoons. We can talk on behalf of our constituencies, but we should choose our language. This country is still reconciling. Let us remember what happened in 2008. None of us would want to see the same happen again. Therefore, we need to be careful with our speeches and show some level of responsibility. I am speaking to both sides of the House. I want to speak to the Jubilee side and the CORD side.

Hon. Temporary Deputy Speaker, I want to proceed and say that the President of the Republic of Kenya has a very heavy and tiring responsibility. Therefore, he needs help from everybody. When we criticize him, we should do so with respect. When we criticize him, his friends should also understand and appreciate that criticism can help one grow, in terms of carrying out his responsibilities. If we do not criticize, it will be too late for our country. I remember that one of the key promises that the Jubilee Government made to Kenyans is promotion of national unity. National unity can come about if we

reason together. It can come about if we accept positive criticism. I am not talking about negative criticism. As the President of the Republic of Kenya, hon. Uhuru Kenyatta has to be very careful.

The drafters of the Constitution were deliberate in providing that public appointments must not be done by one person but rather through a process. It was believed and expected that the product that would come out of that process would have been vetted properly. Therefore, from the appointment panels, we need to see what we call the face of Kenya. If that does not happen, we need to ask the President to make sure that it happens. He is in his fourth month of leadership. We cannot criticize him so much, but we want to tell him that he needs to show commitment towards ensuring political inclusivity in this country. I want to remind this House something I said sometime back. North Korea is not as developed as South Korea yet the two countries share a boundary. Why is Mexico not as developed as the USA? Why is Zimbabwe not as developed as Botswana yet the two countries are in the same region? It is because of the culture of fighting political and economic inclusivity. The President needs to bring people from all areas of this country into his Government, so that we do not have a country that is divided. In my view, that is very important.

Hon. Temporary Deputy Speaker, I wish I spoke when the Leader of the Majority Party was in the House. I wanted to remind him that in politics, there is nothing like retirement. God forbid but if he loses his seat at the end of this term, he will be entitled to pension not because he will have retired from politics but because he will have lost an election. So, it is hurting and dishonest for one to demand that certain politicians should completely retire from politics as a condition for them to be paid their pensions. It is like denying someone his political rights.

Hon. Temporary Deputy Speaker, if there is a chapter that the people of Kenya protected it is the chapter on the Bill of Rights. The Bill of Rights is one of the very few chapters that, if you have to amend it, you have to take Kenyans to the referendum---

Hon. Gikaria: Relevance!

Hon. Ng'ongo: This is very relevant and I want to remind my good friend from Nakuru that he is learning fast, but he has not reached my level yet. I want just to brief him that, when you are making a contribution of this nature, there are certain fundamentals that you can put forward without just talking about TSC. We know TSC's job and really those guys have a serious job ahead of them. We want to reform the education sector.

Hon. Temporary Deputy Speaker, it was unfortunate when we were battling with the Salaries and Remuneration Commission (SRC) over our salaries. I did say that the people of Kenya will realize that this Commission is very incompetent; this Commission is thoroughly incompetent. If you look at the responsibility and the functions of SRC, it is to set salaries for State officers. Two, it is to advise the Government on the level of salaries and remuneration. Sarah Serem has no moral authority; she has no powers in the Constitution, whatsoever to tell the Government not to pay teachers any salary, whether July or whatever salary. She has no capacity. That is not within her mandate. If we allow those commissions or any office to start behaving rogue, to start commenting on everything and purport to issue instructions, you will hear Sarah Serem saying: "Hon. Members should not be paid August salary because they have gone on recess". We do not want this kind of behaviour and we must speak on some of those things.

Hon. Temporary Deputy Speaker, I will only advise that TSC should ignore some of those comments and the so-called letters and act professionally. Teachers went on strike and they enjoyed their democratic rights as enshrined in the Constitution - the right to picket and the right to withhold labour. It is provided for in the Constitution and you cannot take it away from them. The court has administered justice and you cannot again subject them to----

Hon. ole Ntutu: Thank you hon. Temporary Deputy Speaker, for giving me this opportunity. I also rise to support the appointment of the two nominees. I do not want to talk a lot about other things, but I just want to say that two nominees fit the Bill. I think other hon. Members have talked a lot about them and I just want to say that they are well educated and they should be given the opportunity to serve this country. I also want to mention that they are very experienced. When I went through the Report, I found that those ladies are very well experienced, they have worked in many sectors and they have what it takes to reform the Teachers Service Commission.

Hon. Temporary Deputy Speaker, one thing that I want to say is that when you look at what has been happening in our country, we have just finished with the teachers strike. We need those two ladies to get there and really work very hard to reform the TSC. We should not expect---

(Loud consultations)

Hon. Temporary Deputy Speaker, I think hon. Members are consulting a bit loudly and they are not listening, particularly hon. Kajuju and her colleague.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Kajuju, could you please ask your colleague to sit next to you and consult quietly.

Hon. ole Ntutu: Thank you hon. Temporary Deputy Speaker for protecting me. This Motion is very important and the rest of Kenyans are watching and we should not take it for granted. I just want to say that as we continue to reform our Commission, we should not lose as a country. Our children are looking after us and we should put people who are experienced to take care of their business.

Otherwise, I support and want to congratulate my friend who has just spoken about one of the ladies. I just want to tell him that the Jubilee Government will continue to support other Kenyans and also nominate them to various positions. We have not finished, we are still going on with the parastatals and my friend who has just walked out, I am very sure hon. Millie Odhiambo, the super ladies are also going to be given the opportunity like any other Kenyan. Just wait and relax, do not complain a lot and you will get one of the nominees.

Thank you so much, hon. Temporary Deputy Speaker.

Hon. (Ms.) F.I. Ali: Thank you, hon. Temporary Deputy Speaker. I stand to support the nomination of those two great ladies. I feel proud and I want to confirm, as a Member from the CORD Coalition, that the Jubilee Government is keen to appoint people who belong to other parties. I want to confirm that Ms. Saadia comes from Wajir County which overwhelmingly supported CORD during the last general elections and she deserves this appointment.

Hon. Temporary Deputy Speaker, I think sometimes we need to support the Executive where they do appropriate things like today because of balancing in their

appointments. I have no doubt because I have interacted with those two exceptional ladies that they will transform the TSC if those appointments are approved by this House. I beg hon. Members to support the appointments because those two nominees who are women are exceptionally qualified and meet all the criteria needed.

Hon. Temporary Deputy Speaker, I want to say that sometimes when hon. Members are debating about marginalization and bringing on board marginalized communities and groups, there is misunderstanding about it. When hon. Members see three or two names, or the faces of three persons from the marginalized communities, especially from northern Kenya, they feel that is enough and there is no marginalization.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Just give me a minute. I can see many points of order from Kenneth Odhiambo Okoth, Ahmed Ibrahim Abass and so on. What is out of order, hon. Kenneth?

Hon. Okoth: On a point of order, hon. Temporary Deputy Speaker. Since we sense the mood of the House, can I ask the Mover to reply and we put the Question?

Hon. (Ms.) Odhiambo-Mabona: It will not be in order. On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Millie Odhiambo, give me a minute. I have so many requests. There are very many interventions, you are probably the fifth. There are very many points of order that have been raised. I would like to put the point of order that has been raised by hon. Ken Odhiambo Okoth to the Floor of the House because those who were asking through interventions are over 22 requests. Therefore, I would like the mood of the House to determine whether we put the Question or not.

Hon. (Ms.) Odhiambo-Mabona: But we need to be heard. Follow the orders as they were brought in.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Millie Odhiambo, I have heard you. There are five interventions here and yours is the fifth one. I will give the next person who had asked for the intervention to place the order that you have brought up which is, of course, a relevant and correct order. If only you could do it with a bit of decorum, hon. Millie.

Hon. Ahmed Ibrahim, the Floor is yours.

Hon. Sane: Thank you, hon. Temporary Deputy Speaker. Judging by the mood of the House, would I be in order to request you to put the Question?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I will use the same procedure I had used before. I have said I have 22 requests from Members who want to contribute to this Motion. If that Member who has spoken had not risen before, I will ask the Clerks to confirm then I will ask the House whether---

Hon. A.B. Duale: When Fatuma finishes.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I will allow Fatuma to finish. Hon. Leader of Majority Party, I know my work on this Chair. Once the Question has been put to the Floor I will allow the Member on the Floor to complete but I want to know whether we want to complete this debate or we want to continue with interventions and maybe reduce time.

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

Hon. Fatuma, complete and then the Mover will be asked to reply.

Hon. (Ms.) F.I. Ali: Thank you, hon. Temporary Deputy Speaker. I want to confirm that I am supporting the Motion and I was on the issue of misunderstanding about the issue of marginalization. I was saying that some Members were alluding that some communities are no longer marginalised and I think that perception is wrong. I think I need to draw their attention to Article 56 and Article 260 of the Constitution for their interpretation of what marginalised communities and minorities mean.

Hon. Temporary Deputy Speaker, it is very unfortunate when Members see three names or two faces from northern Kenya then they think that this country has dealt with marginalization. I think it is lack of understanding on how to deal with marginalization. I am very sad sometimes when people see faces and they say that we have enough people from North Eastern or communities from northern Kenya who are fully represented in this country. I think we need to fully understand what it means to deal with marginalization.

Hon. Temporary Deputy Speaker, the other thing I want to say is that I think we need to support the Government where it is due and I want to say as a Member of Parliament from Wajir County that although we did not vote for Jubilee, we have secured appointment of Ms. Saadia to the TSC. I think we need to congratulate the Government for that move and also the Leader of Majority Government in fast tracking some of the communication from the Executive.

Hon. Temporary Deputy Speaker, I want to end by saying that people of Wajir will appreciate the Government in the appointment of those two great ladies. Personally, I know the two ladies and they are exceptionally qualified and experienced and I support this Motion in their appointment.

Hon. Ochieng: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. David Ouma, what is your point of order?

Hon. Ochieng: Thank you very much, hon. Temporary Deputy Speaker. My point of order is on a very simple issue. We have been given two very qualified ladies but you know when we start ethnicising every other appointment, it looks bad on us. This lady called Saadia Abdi Kontoma---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Please tell us on what Standing Order you are standing and what is out of order.

Hon. Ochieng: Hon. Temporary Deputy Speaker, the point of order is that we are trying to tribally, as it were, classify the nominees here who are qualified in their rights as Kenyans. That is my point of order. If we are talking about those nominees here---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): That is a point of argument. It is not a point of order, please. Can the Mover now reply, the Chair of the Departmental Committee on Education, Research and Technology.

Hon. (Ms.) S.W. Chege Thank you, hon. Temporary Deputy Speaker. I have 10 minutes to go, so I would like to request that I donate a few of my minutes. Two minutes to hon. M'ruaki who is a member of my Committee, two minutes to hon. Kajuju and two minutes to hon. Millie and then I will respond. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Please, go ahead in that order. Hon. Chair of the Committee, can you repeat the Members you have given time.

Hon. (Ms.) S.W. Chege: Hon. M'ruaki; two minutes, hon. Kajuju; two minutes, hon. Millie; two minutes and to congratulate hon. Dalmas for getting a third wife, one minute.

(Laughter)

Hon. M'uthari: Thank you, hon. Temporary Deputy Speaker. I rise to support those two ladies and it is important that we are also filling those---

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Leader of Majority Party, what is your point of order? We really have a short time for this reply.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, you heard what hon. Sabina said. Is the marriage of hon. Dalmas Otieno part of this Report?

Hon. (Ms.) S.W. Chege: Yes.

Hon. A. B. Duale: Are we discussing his marriage?

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, please go ahead and please look at the time that we have.

Hon. M'uthari: Okay. Thank you, hon. Temporary Deputy Speaker. I rise to support this Report. I am a member of this Committee and it is important also that we are taking this step given the importance of TSC in this country and that we have had a deficit in those commissions. We know the challenges that the education sector is facing in Kenya. So, I hope that by having those commissioners they are going to work out and restore some discipline and work with teachers towards improving the standards of education of this country. It is going to also improve the leadership with those two ladies who are well qualified. It is also important for this House to note that when an appointment is made, it is made for the Republic of Kenya. We should not try all means to trivialize them or to make everything ethnic because by doing that sometimes we are dividing this country.

So, I rise to support those appointments and they are going to be of help, as I said, towards improving the standards of education in this country.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Next Member please.

Hon. (Ms.) Kajuju: Thank you, hon. Temporary Deputy Speaker. I would like to thank the Mover of the Motion and the Committee for this Report that they have tabled before the House. I support the nominees and specifically Dr. Salome. I have looked at the report and I find that this is a lady who is extremely qualified and also in her life she has been awarded a Head of State commendation. That in itself speaks volumes and I believe that this is a lady who is going to ensure that they streamline the TSC as per the Constitution of Kenya.

A look at the other lady Saadia and you will find that this is a lady who schooled at Meru Teachers College and, therefore, you can see the products that come from Meru starting with the person who is making her contribution. So, I support those ladies and note that Saadia is a lady who is really determined to ensure that ICT works. The ICT in the Jubilee administration is everything because we are going to ensure that laptops get to

our kids in school. I believe that this is the vision that Saadia has for our students as she comes on board in the TSC.

I support and support. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you. Next Member please, hon. Millie.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I want to thank the Chairperson for giving me this opportunity and donating to me two minutes. I just want to say that she is a nice girl because she knew that if time was not donated to me I would have really hit out at the Jubilee Government but because she has donated her time to me, I will be kinder.

So, hon. Temporary Deputy Speaker, first of all I want to say that I support and in doing so, I want to thank hon. Duale for associating me with fishing. I am a very proud Member of Parliament of the fishing community. So, I want to thank hon. Duale for saying that this is not a fish market because I am proud to be associated with fishing.

I want to say that I want to thank hon. Fatuma for acknowledging that we always misrepresent the issue of marginalization, like hon. Duale keeps on saying that he is marginalised but he is the Leader of Majority Party. How can you be marginalised and you are the Leader of Majority Party? I want to say that, indeed, we need to relook at that. Look at the Sixth Schedule as read together with Article 27 of the Constitution and you will see marginalization has to do with women, youth, persons with disability and people like me, the Subas.

I want to encourage this Government to be more inclusive. If the whole list of seven had been brought, we would not be second-guessing. So, do not bring us two. If you bring me two, I will see one person from northern Kenya and another one from Central. But if you brought to me seven, I would see the face of Kenya. If you bring me two, I will be judgmental. So, do not make me to be judgmental. Bring the seven on the list and because I do not know where the other five come from, please, be more proactive. The Leader of the Majority Party, please, teach those guys so that they can do their work well. Again, because the Leader of the Majority Party said that he is the representative of the Executive in this House, he should advise the Executive. I do not know whether it is right or wrong, I am really not bothered at this point.

Hon. Anyango: Hon. Temporary Deputy Speaker, let me begin by thanking the Chairperson, hon. Sabina Chege for donating one minute to me. I appreciate and congratulate her. First, I wish to clarify that under Chapter 15, all the Commissioners serve for a six-year fixed term. So, it does not matter your age as long as you come in.

Secondly, I want to emphasize that we have done so well since the last Government in the application of the gender principle, but we are lost somewhere in the application of the ethnic diversity principle. The region and ethnic diversity principle is under Chapter 15. Article 250(4) - and I wish the Leader of the Majority Party could note this - requires that all commissions as a whole shall fully reflect and apply the regional and ethnic diversity. All appointments have been coming in piecemeal from the last Government up to now, before any other appointment is brought to the House. We now require a report from the Government on all the appointments under Chapter 15. All the 12 commissions and independent offices plus the Ethics and Anti-Corruption Commission, all put together, before you bring in the next lot of appointments subject to Chapter 15, we want to seek regional and ethnic diversity. For the first time, regions

should be defined because when we did this in the Constitution, we had intended to have regions. We could not have regions and we ended up with counties.

But even if we use the counties as the regions, we need a report of whether the application of that diversity principle is being complied with.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Anyango, there is a point of information from hon. Sakaja. Are you willing to take some information?

Hon. Anyango: Hon. Temporary Deputy Speaker, I only have one minute through the kind donation of the Chair of the Committee and the Leader of the Majority Party has heard me. We need to have a report updating us now before any other appointments are considered.

Hon. (Ms.) S.W. Chege: Hon. Temporary Deputy Speaker, I would like to make it clear that I am still in the Jubilee Government. I am very happy to be on this side today to show that in the Jubilee Government, we are friends and we are encouraging unity. So, I have not defected. I am still in Jubilee and in this House we are free to sit at any place.

I want to thank Members of my Committee and the House at large for supporting this Report. I have not heard any rejection. I also want to thank His Excellency the President for considering the two candidates. It is good for this House to know that those two candidates were actually interviewed last year. We are carrying forward the work of the previous Government because it was not completed. It is also good for this House to know that we are also expecting to receive five more commissioners and the position of the chair, which is still vacant. Currently, we only have three TSC Commissioners and I would like to urge the Government to speed up the process. Already, interviews have been done and the report on the chairperson and the five other commissioners can be done together.

I would also like to thank the Committee members for the support they gave me. Looking at somebody like Dr. Salome Wanjiku Gichura, despite her age, she brought in a lot of experience from the Government. For Saadia who has come a long way from being a P1 Teacher and now doing her PhD, merit is what we should look at. Let us all appreciate that we are Kenyans and we should not discriminate against anyone based on where they come from. I urge this House to adopt our Report.

Under Section 8(7) of the TSC Act, No.20 of 2012 and Standing Order No.45, I urge this House to approve the following two nominees for appointment by His Excellency the President as members of TSC: - Dr. Salome Wanjiku Gichura and Ms. Saadia Abdi Kontoma.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I confirm that we have quorum for us to put the Question.

(Question put and agreed to)

BILLS

Second Reading

THE CAPITAL MARKETS (AMENDMENT) BILL

(Hon. Langat on 18.7.2013)

(Resumption of Debate interrupted on 18.7.2013)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, we had already started discussing this Bill and hon. Junet had a balance of four minutes. Are you still interested in completing your four minutes?

Hon. Nuh: Hon. Temporary Deputy Speaker, I was contributing on this Motion on Thursday and I supported the amendment to this Bill. The capital markets, together with the money markets, form the most important elements of the financial system in this country. The financial system is the grease which keeps all other components of the economy running smoothly.

A good capital market is ready to ensure that long-term financial resources are mobilized to allow Kenyans to finance its development agenda without too much reliance on foreign interventions. If our capital markets are facilitated to expand at a faster rate, the Government will be less dependent on donor funding and commercial banks, which will in turn force commercial banks to competitively lend to other Kenyans. At the moment, the Government is borrowing from commercial banks and donors. So, if the capital markets are expanded, they will allow commercial banks to lend more money to Kenyans to expand the economy. Once you expand the economy, the Government will collect more revenue. That will bring about less taxation because the economy will be big.

There is little doubt that we need to expand our capital markets by opening it up to more market players, more listing, more products and better market discipline. All that must be looked at holistically. The growth of the capital market has been very slow since Independence. The Nairobi Stock Exchange (NSE) is almost 60 years old and there are only 60 listed companies and 20 stock brokers. That is a very slow growth if you compare to other countries in Africa. For example, Nigeria has 200 listed companies and over 300 players; South Africa has 350 listed companies with 300 players and Ghana has 35 listed companies. We need to create environment conducive for companies to list at the NSE.

Hon. Temporary Deputy Speaker, the principal Act we are amending today is in tatters, having been amended over 80 times since its inception. The current amendments are carried on 84 pages which are more than the principal Act, which has 75 pages. The proposed amendments will negatively impact on the current capital market business and even make it difficult for new entrants. The proposed amendments will completely discourage even new listings. The futures markets which those amendments are introducing, once established, will be easier to implement because there are more regulations that are being laid for the futures markets. I believe it is good if the regulations can come after the futures markets have been put in place. For example, if regulations were put before the M-Pesa came into being, I am sure it would not have been as vibrant as it is today. I would suggest that the regulations come into place after the futures markets have been put in place.

Hon. Temporary Deputy Speaker, I will be proposing amendments in the Third Reading, for example, that we retain the current position because the futures commodities market cannot be dealt completely by new players. South Africa, which has the largest

futures market in Africa started by opening the market to all first. If we pass those amendments as they are, our futures market will be run by foreigners and it might actually not take off because of the regulations we are trying to impose.

If Clause 2(1) is passed, the investment banks will be excluded from privatization projects, thus opening the door for foreign-based firms to take over our capital markets. Those are the amendments that I would be bringing at a later stage. The CMA has gazetted regulations to bar NSE from participating in the development of futures exchange, paving way for the proposed futures market to be operated by foreign operators. That is under Clause 2(k) (a) and (b).

Clause 3 of the Bill defines the term “associate”. It also defines an individual as a spouse, son, adopted son, step-son, son-in-law, daughter, adopted daughter, step-daughter and daughter-in-law. This definition includes all in-laws as part of an individual. This is not necessary in the African context. A person cannot be held responsible for the actions of in-laws. This amendment is trying to say that an individual will be held responsible for all the things done by his in-laws. That will be dangerous to the individual in terms of business.

Section 11 of the principal Act is amended. The amendment in Clause 11(1)(d) states that while futures markets in other regimes may be operated in separate ways, participants from other related sectors are not denied participation. In South Africa, where the largest security exchange in Africa exists, they operate the equities, bonds and futures markets. It is largely self-regulated and is rated the best in the world in terms of investment protection.

It is less costly to have two layers as is the current position in CMA. It is proper to have powers to issue regulations, rules and guidelines with the approval of the Minister. Those detailed regulations should not be in the main Act, but should be gazetted by CMA with the approval of the Cabinet Secretary responsible, in the event that they are found wanting - which is likely to be the case. The amendments come with a lot of regulations leaving no room for CMA and the Cabinet Secretary in charge to bring regulations in the market. It will be easier to amend them, but once they are in the Act, only Parliament can amend them. That is why I am saying there is so much regulation being done. The simpler the law, the easier it is to enforce and manage. When you bring a lot of regulations, companies will shy away from listing. The regulations should be simple and easy so that companies can list easily at the security exchange.

Under Clause 34(a) penalties are provided for various offences. Market participants in issuance of securities should not constantly feel that they should be penalized with fines as high as Kshs30 million or be jailed for five years or both. Those proposed fines and penalties are not in line with the rest of the Kenyan law and there is danger of potential abuse. Really, Kshs30 million is on the higher side.

Clause 34(b) deals with compounding of offences under the Act. The matter which this Bill purports to address can be addressed through the Penal Code. It does not need to be addressed through this Act.

This is an issue that requires a lot of consultations with stakeholders, especially regarding Article 108 of the Constitution, which requires that Parliament should facilitate public participation and involvement in the legislative business of Parliament and its committees. I propose that the Committee ensures that there is enough stakeholder---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Your time is up, hon. Junet.

Hon. Kang'ata: Thank you, hon. Temporary Deputy Speaker. I rise to support this proposed amendment. When you look at the capital markets, it is clear that presently, it is a forum where the public is able to effect transactions. For the last period, we have been able to see positive progress in the capital markets. For instance, trading is now online. Trading is now real time. Previously, people used to congregate on the second floor of Nation Centre but now, people can do transactions online.

I am, therefore, of the view that capital markets need to be strengthened. We need to expand them so that we have cross-border listing. Presently, Kenya is negotiating a treaty with East African Community (EAC) members. I am of the view that once we have EAC in place, our capital markets are going to be very strong to the extent that more corporates are going to list in our capital markets.

Another view which I hold is that micro-finance or small entities ideally ought to be listed in the capital markets so that they can mobilize more funds. We need to rope-in the co-operative societies. We have big co-operative societies in this country. When you go to the Central Business District of Nairobi, you will realize that most buildings are owned by co-operative societies, which have a lot of money. However, they are unable to mobilize more funds because they cannot access the capital markets. We need to have a situation where those who are managing the capital markets are brought before this Parliament for vetting purposes. We had a very successful Chief Executive Officer of CMA but, on the other hand, it is not a position that would require the would-be occupiers to come before this House for vetting. The appointment is made by the Minister for Finance. I am of the view that we need to involve this House in the appointment of the CEO.

With regard to Capital Markets Authority, I would like to say that it is the kind of money or liquidity that is required by companies which are listing in it. That money, in my humble opinion, is too much. I propose that we reduce it so that we have more and more middle income companies listing in the CMA. I think this amendment is good because it expands the economy of this country.

Hon. Temporary Deputy Speaker, the Jubilee Government has really performed. Within four months, we have seen a stabilized macro-economic environment. We have also seen the share index stabilize. In fact, I foresee a situation where after five years of the Government of Uhuru Kenyatta and hon. William Ruto, we shall cross the double digit economic growth rate. I also foresee a situation where the unemployment rate will be reduced drastically. This is the only Government that has been able to come up with very good principles to face the trade unions, something we have never witnessed for very many years. I foresee, for instance, the demands of the teachers being addressed in full or will be completed next year, so that we do not have teachers going on strike again. I also foresee the economy of this country booming with the good presidency of Uhuru Kenyatta and hon. William Ruto.

I read an article by the Deputy President in the *Sunday Nation* and I understood the arguments he was making. They were very cogent particularly on the issue of wage bill. So, I can see that this is a Government that looks at the bread and butter issues. It is not a Government that is politically minded. I think that was the problem that we had in

the last regime because it was a coalition. That Government was concentrating on politics. Every newspaper discourse was about a partner fighting the other partner.

This is a Government where the relationship between the two top people is very good. Therefore, we may see more focus on the economic and policy issues that will uplift the majority of our people.

We have a situation where our youths are being ignored. Those people have been unemployed for a very long time. Probably, the unemployment rate will come down when we have a digital Government that comprises of young people. This is a Government that will focus more on economic issues rather than politics. Therefore, capital markets and other macro-economic matters will be addressed. We will move forward and I foresee a reelection of the Jubilee Government come 2017.

Hon. Temporary Deputy Speaker, with that, I rest my case.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Yes, hon. Mwaura.

Hon. Mwaura: I abdicate, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I am not sure you know the meaning of the word that you have used. You may want to use another word.

Hon. Mwaura: I meant exactly that, hon. Temporary Deputy Speaker. I abdicate from this discussion.

Hon. Lati: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill. I am in the Finance Committee that is dealing with this Bill. This Bill provides a good and clear framework for the establishment of futures markets in our country. Standardization in the market will help stabilize prices and work against market fragility. This will, for example, help our farmers have an edge over market risk. It will also help them buy machinery, say in Brazil, before they harvest their crops.

This Bill will also help our investors by cushioning them against all market risks. It is time that our country engaged in those kinds of markets. More importantly, it will put Nairobi in its rightful place as the regional hub of this part of Africa. It will also put our country in a clear and special place in the financial engineering of the world. I think we will put our country on the map as one of the countries in the frontier of the financial markets.

Hon. Temporary Deputy Speaker, that said there are a few things that I want to mention about this Bill. As it has been written, it is a collection of the existing CMA or Securities Act and many details are not included. However, this will probably be determined later on by the regulators.

The other thing that we can see from this Bill is that brokers across East Africa are mentioned for the first time. That is important but there are things that must be looked into as far as this Bill is concerned. If there are conflicting roles between the three East African countries, it should be made clear that Kenyan rules take precedence for the stability of our markets here at home.

The other important thing is that if you look at USA, which is one of the greatest markets for futures, there are separate groups of brokers who deal with futures and stocks. There is a minor overlap and there are different regulators. If you look at the security exchange of the USA, you will find that it is very different from the futures exchange. I am not sure that we have done the separation here because the only regulator we have is CMA. I think there will be some conflicts in terms of trading in the market.

For example, if our clients will be running short of futures, then it will mean that in case of loses, the stocks will provide the way to pay oneself out of the shortcoming. However, if it is one, I think it is a bit difficult.

Hon. Temporary Deputy Speaker, Sir, there are also issues with regard to clearing houses. Who is the clearing house here? Is it the Nairobi Stock Exchange? Those are the things that need to be clear.

I tend to believe that people who will be dealing with the futures market are the same brokers that will be dealing with the security markets. In most countries, those brokers are somehow separate. There are issues that the regulators can look at so that we do not get ourselves into some pyramid schemes.

Hon. Temporary Deputy Speaker, overall, I support this Bill because it is taking our country to the rightful place that we belong in this world.

Thank you.

Hon. Iringo: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to support this Bill. I happen to be a Member of that Committee and before we brought this Bill to the House, we had deliberated on it and found it to be worthy presenting to this House. I support the same.

This Bill will strengthen the CMA and make it cope with the current dynamics of the world, given the fact that we are in the digital age. At the same time, we are moving towards East African integration, where we want to encompass the five sister states. This Bill will assist CMA to expand its tentacles to those countries in order to have a smooth trading and economic integration with our sister states.

Hon. Temporary Deputy Speaker, this Bill will also remove the face of bourgeoisie management of the CMA, which has been run by individuals who have money or big companies. It will open the markets to smaller investors especially with the introduction of the asset securities because many investors will come into the market. It will also assist Central Bank of Kenya (CBK) to regulate the economy and other financial institutions.

This Bill has come at the digital age. We are now transacting our businesses in our offices and from our homes electronically. This Bill will tighten up the controls. As one of my colleagues has said, instead of looking at one place, we can transact business across the country. Therefore, we should have a new framework which will address the issues and bring in systems and controls as far as trade is concerned.

The appointment of the Chair of CMA Board was initially taking a lot of time because of a lot of bureaucracy, but it will now be faster and easier. The Cabinet Secretary to the Treasury will be able to do it fast enough. There will be no lapse of time. At the same time, it will hasten the operations of the capital markets.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Yes, hon. Sakwa John Bunyasi.

Hon. Bunyasi: Thank you, hon. Temporary Deputy Speaker. I rise to support the Bill.

Hon. Temporary Deputy Speaker, the financial sector is one of the most crucial sectors of any economy. What drives it are the capital markets. Therefore, the regulatory regime of the capital markets is extremely important. The regulatory institution is the one which guides the development of the capital market. This Bill seeks to allow room for

new instruments that have evolved in the capital market sector across the world, including the futures markets. Those instruments are not fully provided for in the existing laws. This amendment, therefore, will bring Kenya's capital market in line with other markets across the world.

It is also important because it will play an oversight role over all other institutions, including existing institutions like the NSE. An hon. Member commented about the need to allow them to be self-regulating, but let us face the truth. One weakness with the NSE is that it has been turned into a club of a few people, whose word is almost law. The idea is to now put them in line and institutionalize them. That is what is going to help create confidence, both domestically and elsewhere, so that we can increase the flow of capital into our country. People will have confidence that what they are told about Kenya is what they will find when they come over. Prospectuses and the reporting systems will be accurate. If they are not, the penalties will be extremely heavy. I look at the weight of the penalties as a big plus in this Bill because there are big risks that people can get away with crimes that almost carry the same weight as murder. I find the fact that responsibility is in the hands of the CMA *vis-a-vis* all other institutions is a major positive move and a clear signal to other institutions. They have to begin operating within the rules, which provide for transparency and accountability.

Hon. Temporary Deputy Speaker, this is a very timely amendment. We need it to move us to the next level in capital markets development.

With those remarks, I beg to support.

Hon. Gaichuhie: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to support the Bill.

This Bill seeks to bring about futures market, which is something new to our market. We need to expand NSE. So, it is a very good Bill as it seeks to make NSE competitive in Africa. The Bill also seeks to give powers to the Cabinet Secretary for Finance to appoint the CEO of CMA. Right now, the CMA does not have a substantive CEO. The appointment process of the CEO has taken a very long time. If it were to be done by the Cabinet Secretary, it would have been much faster.

There is also the issue of free movement of capital and services across the borders of East Africa. Since we are integrating into one region, it is good when one can deal in Nairobi, Uganda or Tanzania, without having a lot of hurdles. We know that there are lots of unclaimed assets in banks and other financial institutions. This Bill seeks to make it mandatory for all unclaimed dividends and assets to be taken to the Unclaimed Financial Authority that we created the other day, instead of them remaining with the stock brokers or the listed companies.

We have talked to very many stakeholders who are still complaining that they were not consulted by the CMA. Since the Bill is in the Second Reading stage, I would wish that CMA takes on board the views of all the stakeholders before it gets to the Third Reading stage, so that their amendments can be incorporated into it. The Committee is also trying to do this but we also want to ask CMA not to bring very stringent measures when it comes to the futures market, like saying that 85 per cent should be owned by foreigners. We are mortgaging our locals. We want them to reconsider that bit and make sure that we also allow our local people to take part in the futures market.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Yes, Member for Kandara.

Hon. (Ms.) Wahome: Thank you, hon. Temporary Deputy Speaker. I rise to support this timely Bill.

We have had instances where the futures market has not been vibrant. As hon. Members who spoke before me said, we have seen restricted market movement, which has ended up reducing the capital base of our country. Investors and members of the public, in particular have continued losing money because of a weak regulatory framework in that area. The proposed amendments are, of course, geared at strengthening the regulatory framework, which is very essential. I hope that with this amendment, we will be able to address the issue of losses relating to guarantees given to investors by the Government. The common public has lost money.

Hon. Temporary Deputy Speaker, I have in mind the case of Nyaga Stock Brokers, about which I keep on receiving complaints and requests to raise it in the House. Of course, there is a case of negligence, but we cannot follow up the matter properly if the regulatory framework also has gaps that do not help when it comes to dealing with people who are intent on stealing from members of the public. This Bill has addressed such challenges. I hope that the necessary discipline will come with this Bill because we have also seen lack of discipline in the industry. We would want the regulatory framework to fill up the gaps very quickly, so that members of the public do not continue to lose money.

More importantly, the Asian tigers rely heavily on financial services. There is a lot of movement of capital. Economic growth in those countries is faster than countries in our region because they have broad-based investors who feel secure and cushioned. Of course, the legal framework is also able to provide the required protection in this particular area. We are talking about money investment. Therefore, there is need for a very clear regulatory framework. If we do away with the unnecessary cumbersome details that we have continued to uphold in this country, we will encourage investment. We will then be able to compete regionally.

Hon. Temporary Deputy Speaker, with the Jubilee digital Government in place, we expect to continue to lead in this region. Our legal framework has been a draw-back in this particular area. The management must rein in on people in some of those areas. Although we are talking about not making it necessary for licences to be renewed yearly, the necessary regulatory framework must have benchmarks and tight systems, so that the loopholes that have been used to defraud members of the public can be sealed through the regulatory framework.

With those remarks, I would want to see a more vibrant capital market in our country. We do not want the same names in the markets. We want more to be brought on board and this is likely to happen with this Bill. That is because we are broadening the network in the futures market. I think this is the way to go by encouraging more people to come on board.

I support the Mover of this Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Gladys Nyasuna, the Floor is yours.

Hon. (Ms.) Nyasuna: Thank you, hon. Temporary Deputy Speaker. I rise to support the Capital Markets (Amendment) Bill of 2013. This is a highly specialized area

and, therefore, people might imagine that this does not affect the lives of ordinary Kenyans but in my review, it actually does. The power to regulate the markets that has now been enhanced by Capital Markets Authority is very welcome, particularly in view of the protection it gives to investors who are ordinary Kenyans.

Hon. Temporary Deputy Speaker, CMA under this amendment has powers to intervene in the operations of securities and futures exchanges. This is highly workable because we have seen securities sinking with monies belonging to Kenyans. A case in point is Discount Securities that sunk with huge monies from the National Social Security Fund (NSSF). The NSSF money is from all Kenyans and, therefore, we welcome a regulatory framework that will be able to give Kenyans greater security because we would like Kenyans to invest and get good returns from CMA and, therefore, assist in the growth of the economy. If the economy is going to double digits, it is only going to grow with strengthened financial sector.

Hon. Temporary Deputy Speaker, we have had proponents of self- regulation who, perhaps, say that self-regulation is probably cheaper and easier. What we must also note is that the cost of regulation of markets is underwritten by the markets. Therefore, we welcome regulation in markets such as ours. They increase stiffer penalties for market abuses. It is very welcome because we do not want to see people going free after abusing markets and sinking with monies from Kenyans or stealing from Kenyans. I welcome the greater penalties so that people are deterred from engaging in market abuses such as not only insider traders, but several other market abuses that occur.

Hon. Temporary Deputy Speaker, regulation is not only about licences. I think this amendment recognizes that even with monitoring licensing every year, still you cannot regulate effectively because licences, sometimes, are the introduction of bureaucracy that discourages people. I also do welcome the removal of licensing but stiffer regulations of those markets should be maintained.

I thank you for giving me this chance to contribute to this very specialized Bill. The Chairperson of the Committee on Finance, Planning and Trade was walking around here and said: "Please, say something." I really felt I should contribute to this Bill.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Thank you hon. Member. If the Chairperson of your Committee told you to say something, you have really done a good job by saying something.

Hon. G.W. Omondi: Thank you, hon. Temporary Deputy Speaker. It is obvious that the capital market is the driving force of any successful economy in any part of the world because commercial banks, as they are constituted, find it very difficult to raise money to lend to the economy. It is also true that in our drive to industrialize by the year 2030, it is important that we strengthen our markets and sources of finance.

It is also true that there are lots of risks in operating capital markets. As we all know, the meltdown of the American economy started from the capital markets because there is insufficient regulation. There are people who call themselves financial engineers and they will come with some securitized inventions to sell to the public and that carries a lot of danger.

Hon. Temporary Deputy Speaker, I, therefore, support those amendments because, as we will be going to the market to look for funds to invest, we must also be realistic about the dangers that are there and stop those who will play with people's funds

to create very risky investments which they will claim to have very high returns. What really happened and the experience we can gather from America is that the Bush administration reduced the regulations of the capital markets in America and brought in everybody.

Recently, because of insufficient regulation, we saw what happened to our own CMA over here. It is, therefore, important that we support those amendments because they will strengthen the market as we look at industrialization by 2030, and also shield those who will find it proper to put their money in the capital markets.

With those few remarks, I support.

Hon. (Ms.) Gathecha: Thank you, hon. Temporary Deputy Speaker. I rise to support this particular amendment. When you look at the capital markets and the great debacle that happened in Wall Street, a lot of the issues that came up are because of the loose way that financial activities are transacted.

When we look at the growing economy and the emerging petroleum and mineral resources, they will also attract all kinds of people. Organizations will attempt to come and say that they are going to finance particular investments. When you look at those particular sectors, the investments entail high cost and very high capital.

When you look at the debacle that happened within North America, they were able to package a lot of housing loans with very poor infrastructure and constructions. Places where people did not have the capacity to buy homes, they were able to actually go out and apply for a loan or mortgage and be able to do so. All that was done because people came in as supposed financial experts or doctors and they were able to sell packaged loans to other countries. If you take a look at what has happened within North America and the collapse of the economies, it has been nothing more than that; a loose application of financial implementation of structures.

Hon. Temporary Deputy Speaker, in order for us to support a growing economy, this particular Bill will help us to raise funds from various organizations that will help us develop our country. If we are not able to strengthen and tighten those particular areas or ways in which we are able to raise our funds, we could find ourselves engaged similarly in areas where we are not able to come out, when we look at who will come in and the structure of some of those loans.

Therefore, when I look at the particular amendments that we have added, we will not only protect our economy we will, as well, protect the small investors. They will also encourage saving among the young people within the economy so that we develop a saving culture within this country, which is extremely important if we are going, as a country, to be able to finance our own investments and growth. We cannot do that if we are not a country that saves. We cannot be a country that is spending more than it is saving.

Hon. Temporary Deputy Speaker, I rise to support those amendments and hope that they will strengthen our financial institutions.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I can see there are no further requests. The Chair has done a good job of urging hon. Members to contribute. While Chairing, I am thoroughly impressed by the contributions of hon. Members, especially the ladies who have contributed.

I, therefore, want to ask the Chair to reply and when you are doing so, for the sake of the new Members, could you explain who those strangers in the House are? That is because I heard earlier Members asking who they are and what their role is.

Hon. Langat: Thank you, hon. Temporary Deputy Speaker. First of all, let me introduce the team in the House. That is the team from the Capital Markets Authority (CMA). That is the Acting Chief Executive Officer (CEO) and the other staff of CMA. They have come here to follow up their Bill. I think it seems like they are really looking forward to its enactment.

Having said that, hon. Temporary Deputy Speaker, I want to say that I am very happy that the few minutes I spent campaigning for Members to really speak to this Bill have really born some good fruits. I think I have got quite a number of Members who may not have spoken but, due to my campaigns, they have managed to say something about the Bill. They have said good things. I want to say thank you to hon. Members who have spoken to this Bill.

I know this Bill is very technical in its nature. Actually, it requires Members to be taken through some of the definitions in it because it is really very technical. However, despite that challenge, I think Members have risen to the occasion and I am very proud of what they have said. In fact, I am sure that the team from CMA will have captured some few things. I can also tell you that before we go to the most critical stage, we are going to consider all the issues which the Members have raised so that we make this Bill more inclusive of all the comments that have come from the Floor. We will make sure that we include them where it is possible. Even as we go on, we are still consulting with the other stakeholders. The CMA is the regulator. Subsequently, we have also consulted the players who are the Nairobi Securities Exchange and the Association of Investment Banks which we talked to.

Hon. Temporary Deputy Speaker, I want to also urge the CMA to be inclusive because this is not the end. This is just the end of one very important stage, but it will also mark the beginning of a very important stage, which is actually the Third Reading which requires now serious engagement in terms of the amendments which will come through. I would want them in their own volition to be inclusive because what came out when we consulted with the other stakeholders is that it appeared they were a bit taken by surprise because they said that some of those things were not discussed with the market players. I want to urge CMA to ensure that there are consultations amongst all the stakeholders. Otherwise, even if they do not do so, my Committee will organise a joint meeting with the players and CMA. We want to arbitrate and ensure that on the issues that CMA and the marketers are raising, a middle ground must be found so that this Bill is generally acceptable to the players and the regulator at the same time.

Hon. Temporary Deputy Speaker, on the issue of the futures market which the Members have spoken about--- We are talking about the futures market for the financial products and the futures market for the commodities market where, for example, we can have futures arrangements for oil or any other commodity for that matter. I think somebody has said that the CMA has moved ahead of the market in terms of really developing a law before the products are developed. So, we are going to look at our middle ground. So, because the CMA has preceded the market, we will want them to ensure that the rules which come should not be as stringent as to really discourage the market from growing. In fact, a good example which has been given is the M-pesa

product in the other sector. As we speak right now, there is no law which really says that this is how M-pesa should be done. The rules of the game are there and everybody knows. So, I am going to urge the CMA when we meet before the Third Reading to ensure the rules are less stringent for the market to really comply. In fact, when we call this meeting, we will want the stakeholders to also have a say and make sure that when they say you listen to them, we want to find a law that gives the regulator powers to do the job. We do not want a law which will inhibit companies from doing business in this country. I think that is the spirit of this House and, in fact, my Committee. I am very proud to have very good members in my Committee. I hear hon. Sakaja saying he is one of my members. He is one of my good members. I see hon. Iringo, Bunyasi and many other Members in the House and it is their first year, of course.

So, I am only saying we are really going to listen to everybody and get a middle ground so that a law is there for everybody and for posterity. I promise that we are going to bring some amendments in the Third Reading, which we will have discussed with CMA. I want to say to the Members, thank you very much. I look forward to seeing you at the Third Reading stage of this Bill.

With those few remarks, I want to move and request that this Bill be read a Second Time. Thank you, hon. Temporary Deputy Speaker

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I am going to use Standing Order No.53 (3) to defer the putting of this Question to tomorrow and ask that the next Order be read.

(Putting of the Question deferred)

Second Reading

THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL

Hon. Langat: Hon. Temporary Deputy Speaker, I wish to seek your indulgence that we defer this Order and the subsequent Order because it is also with my Committee. We should defer all the Orders that concern my Committee, so that we can deal with them in the next Sitting or as and when they will appear on the Order Paper again. We have quite a difficult time in my Committee because we are looking at many Bills at the same time, and there is one that has really attracted a lot of public participation which has really occupied us. I seek your indulgence that we defer those Orders until the next Sitting or next week.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): So, it is my understanding that you would like us to defer Order Nos.10, 11 and 12?

Hon. Langat: Yes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): It is granted because you have done a very good job on the Bill that we have just discussed. You have also explained clearly that you have a huge workload. We want good work done by the Committees and so, we will defer those Orders.

THE MICROFINANCE (AMENDMENT) BILL

THE INSURANCE (AMENDMENT) BILL

(Bills deferred)

MOTION

FINANCING OF TRAINING IN POLYTECHNICS
AND INSTITUTES OF TECHNOLOGY

THAT, aware that a majority of the residents of Kenya are youth under the age of 30 years, whose numbers are being increased in the ranks of the unemployed every year after completion of primary and secondary school; further aware that the Government has invested a lot of money in them through free primary and secondary education; also noting that the revenue collected by this economy is in excess of Kshs.1trillion, and that the country has immense opportunities available to create employment for the said youth who will contribute to the realization of Vision 2030, this House urges the Government to consider spending 1 per cent of its revenue to finance training in applied sciences in village polytechnics and institutes of technology within the country through soft, repayable loans that will be channeled through the Constituencies Development Fund (CDF), similar to how the Higher Education Loans Board (HELB) finances university education.

(Hon. Njenga on 24.7.2013)

(Resumption of Debate interrupted on 24.7.2013 –Morning Sitting)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Looking at Order No.13, it is a Motion that had been concluded. Therefore, I wish to ask whether the Mover of Order No.14, hon. Francis Kigo Njenga, is in the House. Is the Member in the House? I understand that the Member is not in the House. Therefore, we will not transact business on it.

(Motion deferred)

Before I adjourn the House, I would like to advise hon. Mwaura. Hon. Mwaura, please, give me your attention for two minutes. For the sake of decorum in this House, when you change your intention to contribute or to debate after you have already pressed the intervention button, the best term to use, which is parliamentary, is either to withdraw or abstain. I say that because when we use terms that are a bit hard and they are recorded in the HANSARD, they could be used against you. I am just advising, as the Chair, that you could say that you withdraw your intention to debate or you wish to abstain.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Members, we have come to the close of business for today. The House stands adjourned until tomorrow, Thursday, 25th July, 2013, at 2.30 p.m.

The House rose at 6.05 p.m.