

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th November 2015

The House met at 9.30 a.m.

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

PRAYERS

QUORAM

(The Division Bell was rung)

Hon. Deputy Speaker: Hon. Members, settle down. We can start business.

BILL

Second Reading

THE BASIC EDUCATION (AMENDMENT) BILL

Hon. (Ms.) S.W. Chege: Hon. Deputy Speaker, I beg to move that the Basic Education (Amendment) Bill, National Assembly Bill No.35 of 2014, be now read a Second Time.

From the outset, I want to thank the Members of the Departmental Committee on Education, Research and Technology for a job well done in scrutinising the Basic Education (Amendment) Bill, 2014. On 14th October 2014, the Basic Education (Amendment) Bill, 2014 was published and read the First Time. Thereafter, it was committed to the Departmental Committee on Education, Research and Technology for consideration pursuant to Standing Order No.127.

(Hon. Kang'ata spoke off record)

Hon. Deputy Speaker, protect me from Hon. Kang'ata.

In processing the Bill, the Committee invited comments from the public by placing advertisements on the *Daily Nation* and *The Standard* newspapers on 25th October 2014. The Committee received several memoranda from various stakeholders, including the Ministry of Education, Science and Technology, the Kenya Catholic Episcopal Conference of Catholic Bishops, the Kenya National Association of Parents, Transparency International Kenya and the Kenya Private Schools Association among others as contained in the main body of what we are

going to discuss today. The views of these various stakeholders were taken into consideration and debated. We came up with a report that we tabled in this House.

I just want to mention a few things that are important in this Bill. The Basic Education Act excluded Members of this House from participation in education, yet education is a national duty. Members of Parliament normally participate even in building of the schools. We had the former District Education Board that was scrapped, and it is important for the Members to note that they were not included anywhere to participate in education. So, we have Clause 4 that proposes to include Members of Parliament at the sub-county level, to participate even in the appointment of members boards.

We also have a clause that wants to establish a Sub-County Education Board that was missing in the main Bill. Its role is to represent the County Education Board and co-ordinate all education related matters at the sub county level. In this Bill, we propose to empower the Teachers Service Commission (TSC) to assign teachers to institutions of basic education and training used for conducting pre-primary education. This is a matter that has made some of the teachers' unions to go to court. The Constitution empowers the TSC and gives it a mandate to employ teachers; it also gives the duty of pre-primary education to counties. We had to make it clear that the county governments can deal with pre-primary education, child's care facilities, home craft centres and village polytechnics in infrastructure, but on employment of the teachers, the Constitution gives that power to the TSC.

On the same, we are also proposing to amend the Act, so that we can empower the Cabinet Secretary (CS) to, in consultation with the National Treasury, develop and gazette regulations for provision of financial assistance to children learning in public or sponsored schools, who on account of financial hardship, experience difficulty in paying fees and other charges levied in such schools. This should be limited to an amount that would not increase the cost of education of such a child in a public school. Many children are not able to join Form One after Class Eight. Some corporates come in and assist these children, but it is also a right of every Kenyan child to enjoy basic education. This does not end at Class Eight.

This Bill ensures that we have almost a 100 per cent of our children joining secondary schools. It also makes it a responsibility of the head teachers, the CS and the County Education Board to make sure that they maintain a database of the children who join Form One, so that we, even as Members of Parliament, do not have to dig deep to find out which child did not join Form One, because they lacked school fees. They should have a database that we can access. This will also avoid duplication where you have one child benefiting from the CDF, from some corporate that come in and the governor's kitty, because they are able to present their cases. We are proposing to have a database to show us the number of children who have benefited from these kitties, and those who are still at home, so that we can reach out to them and make sure that they join high school. We seek to amend this Act, so that our children are not denied admission to public schools as long as they meet the criteria prescribed by the CS for admission to public schools.

We also seek to delete some provisions. The original Act had proposed that we should give our children incentives to learn. That became a point of discussion and the question was what incentives we have to give to our children, so that they can complete the basic education. We want to further amend the Act to ensure that no students shall be held back in any class or expelled except with the concurrence of parents or guardians. We have heard schools taking advantage, just expelling students and telling the parents to just take their children and go home.

We also have some schools that have been discriminating students because of their religion. Some say that they cannot admit some students in their schools because they are *Wakorinos* or Muslims. We want to make sure that once a student is admitted in any public school, it is their right to stay in that school despite the school rules. They should enjoy being in public school.

We also want to ensure that the CS puts measures in place to ensure that students who are ranked in the first quarter by constituency in the Kenya Certificate of Primary Education (KCPE) examination and are admitted to a public secondary school, but fail to complete education due to inability to pay school fees are supported to complete their secondary school education.

Hon. Kang'ata is seated next to me. He came to the Committee and we had this discussion. This was warranted because of the many students who join Form One and do not complete their education. We also seek to amend the composition of the board of management. The number was huge. We had many people representing one body like the sponsors. So, we decided to amend that. In the same Bill, we have the Parents Teachers Association and a body called the National Parents Association. The latter is already going through our schools asking for money from the headteachers. It purports to be a national parents' body. As a Committee, we saw this as a duplication of duties. We already have the Parents/Teachers Association. So, we seek to remove the National Parents Association and maintain the initial Parents/Teachers Association that has been there before.

Hon. Deputy Speaker, we also seek to amend the Act to ensure that the curriculum, which is developed or approved for basic education in Kenya, is examined by the Kenya National Examinations Council (KNEC). All public examinations should be conducted as provided for by the KNEC Act only in institutions of basic education, whose curriculum is registered by the KNEC. We have some of the schools that have come in, but have not been approved by the Ministry of Education. As a result of that, students do not sit for the Standard Eight national examination.

I would like to urge the hon. Members of this House to support the Committee to ensure that our schools and students are well taken care of. It is a right of every child in this nation to access education and, therefore, we should ensure that children not only access education, but quality education.

I would like to ask Hon. Injendi to second. I can see that Hon. Kang'ata is agitated but he can contribute after the Bill has been seconded.

Hon. Deputy Speaker: Hon. Injendi has been given the honour to second the Bill. Please allow him to do that. Anybody else can contribute once the Bill has been properly proposed.

Hon. Injendi: Thank you, Hon. Deputy Speaker. I rise to second these amendments. After going through the Act, which is as a result of the new Constitution, we realised that we rushed to adopt the existing Constitution. We have so many loopholes in the Constitution, one being the Education Act. Members of Parliament (MPs) have completely been sidelined in the education sector. This amendment seeks to ensure that MPs are part of the process of education of this country by being at the level of decision making both at the levels of the County Education Board and the Sub-County Education Board. This Act had locked them out, as pointed out by the Mover of these amendments.

When it comes to education, we are talking of devolution, and we must have decisions made at the local level. According to this Act, when it comes to decision making, that role has been removed from the devolved unit of the district to the county level. That makes decision

making difficult. When a school has a problem, it has to bring it to the County Education Board, skipping the district level, within which the school exists.

Looking at this Act, I do not know the intention of the persons making it. In Kenya, the church has played a big role in establishing schools. The new Act completely excludes the church from the functions of schools. Therefore, partly, these amendments seek to ensure that the position of the church is restored in terms of spiritual nourishment and decision-making. The church will also be involved in the appointment of principals and headmasters of schools, in consultation with the Teachers Service Commission (TSC).

Hon. Deputy Speaker, we also realised that many of our bright students miss opportunities to join national, provincial and county schools. In this Act, we want to ensure that anyone who meets the criteria for joining national, provincial or sub-county schools is given a chance to join that particular school. This will ensure that our bright students get the kind of education that is right for them.

On the membership of the school boards of management, the Act talks of election of six members by parents. That is not clear. Who conducts the elections? The issue of six members constituting the board is also not clear. Are the six members going to be parents who have students in the school, or are they going to be elected by parents irrespective of whether they have children or not in the school? Who ensures valid outcome of the elections? The proposed amendments will partly make these issues very clear. The formation of BOMs in our schools has been a challenge because of this problem. Six members is a big number. We are proposing to reduce the number to four members.

I have been a chairman of a school board. According to the Act, the membership of the board must include a teacher elected by fellow teachers. That means the principal cannot be a member of the board. These amendments also seek to ensure that school principals automatically become board members and secretaries of their respective boards.

The new Act has come up with the New Kenya National Parents Association. I do not know how I can term that new association. Before it even gained ground in the system, we realised that these people were collecting a lot of money and not representing parents as expected. We would like to amend this Act to have what we had before: the Parents/Teachers Associations.

There are many other amendments which I have not mentioned, but hon. Members can look at them and give their input.

With those remarks, I beg to I second.

(Question proposed)

Hon. Mulu: Thank you, Hon. Deputy Speaker, for giving me the chance to make my contribution to the Basic Education (Amendment) Bill, 2014.

I would like to thank the Departmental Committee on Education, Research and Technology for taking time to look at this Act and making the necessary amendments. It has been confirmed through studies that provision of education to the citizenry provides the shortest exit from poverty. Any country which takes education seriously is likely to reduce the levels of poverty among its citizenry. In my view, this is the right direction.

The amendments are timely, even though they have taken a bit of time before being brought to this House. In most of our constituencies, the education sector has suffered because of

lack of BOM in schools. Most schools have survived without BOMs. Very few members of the BOMs have been left to make serious decisions relating to the education sector. In situations where you have members of BOMs who are not trustworthy, management of school has suffered. As I support, I would like to appeal to this House to fast-track the passage of these amendments.

I would like to talk about the amendments in terms of the way they are structured in the Bill. In the proposal to amend Section 2, they are defining a sponsor. This Bill defines a “sponsor” as a person or institution that owns land or property on which an institution of basic education is erected.

Hon. Deputy Speaker, we need to be very careful with this definition as Members of Parliament. In most of the areas where we come from, the land on which most public institutions stand was donated by community members. Either an individual or a group of community members donated land. It has become very tricky just because you are a sponsor in the name of a church, you come and take that land and then you claim its ownership. In the future when the community wants to put up another community project on it, accessing that land becomes impossible. Some of these sponsors have actually, to some extent, blocked any further development on such land while the development is supposed to benefit the community. In that case, we need to define a sponsor very clearly and make sure we have a provision, so that in a situation where land was donated by a community, that community has the right to say: “We want this land because we want to build a secondary school, or we want to put up a technical school here since the land is adequate.” Some even have 40 acres. The community can go ahead and get that land to put up another institution. When defining “sponsor” there is need to have a provision that the community also has a right where they provided land.

The other area which I want to comment on is where a Member of Parliament is supposed to sit either at the county level or at the sub-county level. When I look at the wording it says: “A Member of Parliament from the respective sub-county or county may attend the meetings of the County Education Board, but shall have no right to vote.” This means that if you are not there as a Member of Parliament then even your representative cannot be allowed to sit in that meeting. We all know that we are busy as Members of Parliament. We do many things. We might not always be there. It is important we make a provision for representation. As you are aware, the Member of Parliament is the one charged with the responsibility of taking care of secondary schools and colleges as a member of the national Government. In a situation where you leave out the Member of Parliament, or his representative, it means that when it comes to meeting the budget, we are funding all secondary schools in terms of infrastructure. It is important that we know what is happening, so that we can actually come in. We need to make an amendment to make provision for representation of the Member of Parliament. This is important at the county and sub-county levels. That is the other area we might need to do something about.

When I look at the responsibility of the sub-county, there are quite a number of interesting things that we really need to support. One of the very attractive tasks which this Committee must undertake is where it says: “Put measures in place to ensure that all children and youth of school-going age within the sub-county attend and stay to complete basic education.” That is a very important responsibility. It makes this amendment very attractive, because in our areas of representation, we have a lot of challenges. The money we set aside for the bursaries is not enough to get most of the needy students through education. So, we are doing partial support or partial sponsorship. What is happening is that you give a child Kshs10, 000 and the school fees is about Kshs19,000 and immediately you pay the Kshs10,000, the child is sent out of

school in second term. What happens then is that this intelligent brain of this country drops out of school. This amendment is important because this responsibility should be taken very seriously when it is brought.

On amendment to Clause 25(c) there is the issue of renewal of terms of service for the members. While it is clear that the chairperson can only serve for four years which can be renewed once, it is not clear for the members. So, members will be serving for three years and after renewal, it does not say whether it will be renewed once or they can be there forever. It is important that even this is also fixed. We can actually peg it at either once or twice, so that in the long run, we also get new people coming into these boards and giving new ideas in the board, so that we do not have people overstaying in them. Overstaying has caused problems where people start developing kingdoms as they are the authority and what they say becomes the law. They do not allow new ideas to come on board. This is another area we need to support.

The other area we need to support is the Teachers Service Commission (TSC) being charged with the responsibility of recruiting all the teachers at the pre-school level, polytechnic level or even the regular school level. We know the Constitution gives the mandate to recruit teachers and register them to the TSC. For purposes of harmonisation, standardisation and quality assurance, it is important that the teachers we sent to these institutions are, to some extent, quality assured by the same organization, so that we do not have children who come from some parts of this country getting lower grade teachers while others are get high grade ones. This idea of having TSC doing all the recruitment is important, but then there will be the question of who will pay the salaries. I see that becoming a contentious issue because we are aware that the Constitution gives the mandate for pre-primary schools and polytechnics to the county governments. I do not know whether the TSC can hire and the payment be done by the county government. That should come out clearly; who will take care of the payment of salaries between the county government or the national Government.

I see that time is really against me. The other point I want to bring out is the consultation between the Cabinet Secretary in charge of Education and the Cabinet Secretary, Treasury, to make sure that enough resources are set aside for bright students to go through the education system. This is an excellent amendment. We are saying that it is not fair in this country, that since you are born in a poor family you cannot go through your education even when you are an excellent student. We need to identify excellent students in this country and make sure that they go through their education, whether funded by the parents or the Government. These are the brains we need in future to develop this country, the brains we need to give us doctors, engineers and the brains we need to have everybody who is important in this country. This amendment is very important.

I thank the Committee for coming up with it.

Hon. Deputy Speaker: Okay. I know you are passionate; I believe everybody here is passionate about this particular Bill, as it affects all of us.

In the interest of being fair, if I were to follow exactly the way the list is, we would have only one coalition. So, the next one from the other coalition is Hon. Irungu Kang'ata. That is the first Member on my list.

Hon. Kang'ata: Thank you, Hon. Deputy Speaker. I rise to support this amendment. I proposed an amendment to this law which I see has been captured. My idea was that we need to protect poor and bright students. We invest in them and then the Government also comes up with a mechanism to give them some money.

I have seen several proposals along that line; we shall have a situation where all those children in public schools, who are top students amongst the first quartile---“A quartile” means the first quarter of any list. Let us say that in county “x” from number one up to let us say number 25, assuming the students are 100, they are going to be selected and the list is taken to the relevant office and then there is scrutiny as to who is supposed to get funding from the Constituencies Development Fund (CDF), the county or Equity Bank, if you are not amongst those, the Government will come up with a mechanism for ensuring that you get supported to complete your secondary school education.

The rationale of that amendment is that we need to protect young and bright students who are unable to go through our public secondary schools. I have noted that, indeed, when you go to any constituency, you will find even top students in a public school failing to go to top notch schools. I have noted that secondary schools like Mangu High School and Alliance have now been privatised in a sense. Rarely will you find a sufficient number of students from public primary schools joining those secondary schools. To that extent, I support this Bill. I will seek the guidance of the Chair at the appropriate time.

I am doubtful as to whether the key issues which bedevil our public education at the secondary and primary school levels have been addressed by this Bill. I have always noted that we allocate almost Kshs200 billion of our national Budget to education. About 90 per cent of this allocation goes to salaries. A very small component goes to the children, who are the actual beneficiaries of the education system. I had proposed that we provide free food to every primary school student in our public schools. The rationale is that, first is the need to increase the retention of children in our public schools. Secondly, we need to ensure that we give standardised nutritional food to our school children. Thirdly, we should ensure that we give an incentive to children to attend school. This will also ensure that a bigger portion of the Kshs200 billion allocated to education goes to our children. I understand that teachers are good people and we need to support them. But it is also scandalous that a vast portion of the Kshs200 billion education budget goes to adults. Let us not forget the students. I will bring that amendment at the appropriate time. I will ask the Departmental Committee on Education, Research and Technology to support me when I bring that amendment to ensure that our children do not fail to go to school for lack of food. It is something that happens universally. Without exception, all progressive jurisdictions ensure that they give food to students attending public schools at the primary level.

I have heard one of my colleagues cite studies, which I support. The more you invest in education, the better the returns for our society. The question has always been at what level we should invest. Is it at the university level, the primary school level or the secondary school level? The studies affirm that priority should be given to primary schools followed by secondary schools. Even if a person does not progress to the university level, at least he acquires very crucial skills at the primary school level, which help that person in making crucial decisions after leaving school. I ask this House to embrace the idea of funding more items in our schools.

Another aspect which this Bill fails to address is inspection of schools – an aspect which has budgetary implications. In every county education office, we have people we call inspectors. In Kiharu, when I interact with education inspectors, I find that they are understaffed and underfunded. When I asked them when they last went out to inspect schools, they told me that they had stayed for a whole term without inspecting schools. When they do, they inspect very few schools. Therefore, inspection of schools may be a budget item that we need to consider.

Those people do not have a union. It is very easy for us to forget them. But they perform the important role of inspecting schools, coming up with reports and ensuring that teachers do a productive job. I will see how that can be integrated into my amendments in order for us to help our inspectors ensure that our schools are inspected on a regular basis.

Recently, I was analysing results in my constituency. I felt that something needed to be done. I found out that in a whole ward, only one or two schools managed to get an average of 250 marks. The rest got below 250 marks. That is in Kiharu, in Murang'a. So many schools were unable to reach the minimum threshold. That means a vast majority of the students do not transit to secondary school. They simply get out of school and become social deviants. Therefore, I ask my colleagues to consider those two issues: Firstly, introduction of school feeding programme, and secondly adequate funding of school inspectors. We need to see how that idea can be recast in this Bill, so that we can boost the quality of education in this country.

Another aspect of this Bill, which is progressive, is that the views of religious leaders have been incorporated. I have noted that there has been a move towards secularisation of our education sector. I do not belong to that school of thought. I have made my own observations, though not scientific. I have come to the conclusion that the more religious a school is, the better the results it produces. Looking at our high schools, the top notch schools are all religion-based. Examples are Alliance Girls High School and Strathmore School. They both have that correlation with religion. We must resist the notion of secularisation of education. That is why I have seen several clauses in this Bill which appear to give religious institutions a say in the running of our education institutions. I am very happy.

On that note, I take this opportunity to castigate those people who are trying to introduce comprehensive sex education in our schools. Those people are trying to sexualise our young people. I ask the Committee to guard against those people who are trying to sneak in child pornography through the notion of comprehensive sex education. By allowing the church to have a bigger say in our education system, we will ensure that we counter-check those people who are trying to deceive us with that programme. We have seen that the more religious a child is, particularly at the primary and secondary school levels, the higher the probability of that child finishing school and getting good marks. Even if that child becomes "*mkora*" after form four or university, at least it is fine at that level. At the basic level, it makes sense for us to integrate religious institutions into our academic life.

With those remarks, I beg to support the Bill and ask hon. Members to support the two amendments that I have proposed.

Hon. Deputy Speaker: Hon. Daniel Maanzo!

Hon. Maanzo: Thank you, Hon. Deputy Speaker for giving me an opportunity to contribute to this very important amendment to the Basic Education Act.

Education is very important for our country. It is the only tool, or mechanism, that gives each Kenyan an equal opportunity. When it comes to basic education, these amendments are very important. First, we needed to align the current law to the new Constitution. This is a good attempt by the Departmental Committee on Education, Research and Technology to align the old statute with the new Constitution. This is a very important constitutional requirement.

There are a few things which we need to look at carefully. For example, the new definition of "sponsor" is a person or institution that owns land or property on which an institution of basic education is situated, who provides foundational objectives to the institution and ensures that educative and non-curriculum objectives of the institution of basic education are

met. Recently, I had an opportunity to start a new girls' school in Makueni County. The school was sponsored by the African Inland Church (AIC); they donated so much land next to the Church. As Hon. Kang'ata alluded to, we expect that that particular institution will take care of the spiritual well-being of the children.

With regard to this amendment, if a school is sponsored by an Islamic institution, then *Madrassa* classes will be instituted.

(Loud consultations)

Hon. Deputy Speaker: Order, Hon. Members! The consultations are too high. Please find a place where you can consult.

Hon. Maanzo: Thank you. You will find a place like *Madrassa* and other pastoral centres such as a Catholic-sponsored school giving spiritual education to children. If an individual is the sponsor of that institution and children going to that institution are from the public, there has to be a mechanism on how to make this better and specific. If the sponsor is a church or institution, their roles should be defined. If the sponsor is an individual who donates a piece of land to a school, then it should be clear that they part with it to the school or the community for good. This will help in clearly defining a sponsor. Other than sponsor, we could introduce a legal mechanism for ensuring that once a sponsor donates land, he or she should part with the title deed of the piece of land, and a new title is issued to the school. There should be a distinction. Currently, it is unclear and a sponsor could attach his or her interests to the school and eventually create problems.

On the issue of the constitution of the board, there should be a good attempt to be all inclusive. I have seen that the Kenya National Union of Teachers (KNUT) and Kenya Primary Schools Head Teachers Association (KEPSHA) are represented. These are the elected leaders in the sector who will rightfully sit in these boards. The role of Members of Parliament in the school needs to be understood. Under the Constitution, the Member of Parliament is the one who takes care of education from the national to the county level. The counties are responsible for nursery schools and the polytechnics. It should come out clearly in this law, so that there will be no problems of interpretation or conflict of roles as to what the county will do and what the national Government will do at the basic level to ensure that our children get education.

There are other issues that touch on children. The law should target the interest of the children more, despite the fact that there are other Acts of Parliament that do so; when it comes to education, the law we are making should cover it. We should make sure that facilities of the school are proper and protected by law, so that children are safe in premises where basic education is given. Additionally, we should ensure that clean piped water is supplied to schools. In case there is no clean piped water, there should be a policy of ensuring that every school has clean roofs just as most of us, Members of Parliament. For instance, I am currently renovating schools and changing their roofs. That notwithstanding, there should be a more compelling provision in this law, so that in cases where there is no piped water in schools the school, in collaboration with the county, harvests water, so that all schools have clean water. Children who are thirsty and are not well fed, are not likely to perform well at school even if they are bright. We, therefore, need to ensure the nitty-gritty is provided for in this law. This will best come in during the Committee of the whole House stage. We should ensure that provision of free basic education to students in this country is achieved.

There are several other clauses which have been given and the most interesting one is found towards the end of this Bill. I would like to look at some of the clauses and get better explanations at a good time. For instance, an amendment is needed about a sponsor who is in possession of a title deed prior to the commencement of this Act. What happens to the previous transactions? Sometimes the law is not applied retrospectively. What will happen to those who had title deeds after the new law since we need to secure the institution?

How long should the boards serve? If a president and a chairman of the board serve for two terms, why are we allowing other persons to serve for more than two terms? If they are elected at their respective levels by KNUT or KEPSHA, then they should rightfully sit in the board. But it is also good that there be a change of the chairman, so that schools can be managed properly, and we do not have individuals owning institutions.

In Clause 95 the Bill is amended by inserting the words “in consultation with the relevant sponsors” immediately after “appropriate curriculum”. This will enable schools to run in consultation with the communities. We have heard of imposters posing as the ones responsible for managing or inspecting schools. What is the role of inspectors? Some of these issues are administrative and may not be sufficiently legislated on. How do you ensure that schools are regularly inspected? What happens to holiday tuition and corporal punishment? Some schools are still practising very serious corporal punishment, with cases of children injured while in school. When the matter is arbitrated, the child does not get justice.

We need to look at this Bill carefully, particularly at the Committee of the whole House stage, so that we advise the Committee properly to ensure that we have a law which serves the interests of children of this country as far as basic education is concerned. Education is what will bring equity to the future of this nation. We are not making this law for today’s generation but for the future generation too.

Hon. Deputy Speaker, it was a great move and I support. I look forward to making it better at a later stage.

Thank you

Hon. Deputy Speaker: Hon. Joseph Limo

Hon. Limo: Thank you, Hon. Deputy Speaker for giving me this opportunity to contribute to this important Bill; the Basic Education (Amendment) Bill. This Bill is long overdue. I am one of the people who have been waiting to debate this Bill, but it has been overtaken by events, particularly on the issue of appointment of board members. This is a calling to this House that whenever a Bill which touches on the lives of Kenyans is in the list, the House Business Committee (HBC) should prioritise it and ensure that it comes at the right time.

When I look at Clause 2, which talks about management of schools, it is important that we look at the impact of the definitions which we give. The definition that has been given to a sponsor is not clear. If we define a sponsor as a person who owns land, the real situation on the ground is that most sponsors of schools are not the owners of the schools. In most cases, sponsors in the society are churches or religious organisations. Their aim is to guide the schools and the children in line with religion and ensure the norms in the society are as per their religious beliefs. Therefore, if we define a sponsor as a person who owns land or property, how will we define those institutions which participate in purchasing land, building of schools and assisting schools for public good? Such institutions are very few because most sponsors who own land will run them as private schools. There are very few who will offer their schools to the public. There is a delicate balance here. Therefore, I propose that during the Committee of the whole

House stage we move an amendment to the definition of “sponsor” so that it takes care of religious organisations that do not own any land, but offer free services to ensure that schools are guided as per the beliefs of those religious organisations.

Clause 3 talks about the County Education Board (CEB) while Clause 5 proposes the establishment of a Sub-County Education Board to represent the CEB. We have a big problem. Whereas the Constitution brings services closer to the people, the Basic Education Act takes away that benefit from the people. Currently, there are a lot of unregistered schools. Why? Because whereas the national Government devolved the responsibility of registering schools to the county level, the responsibility of determining whether a school should be registered or not was moved away from the people.

Whereas the national Government, through the Ministry of Education, moved services to the local level, at the local level all the services of registration of schools were moved from the sub-county level, which is a district or constituency, to the county level. Therefore, justifying the need for registration of a school is a difficult task, because most people at the local level do not even know whom to approach, so that their schools can be registered.

Therefore, I support the establishment and strengthening of Sub-County Education Board. In fact, I do not see the role of the CEB. All the roles should be taken to the sub-county or constituency level, bearing in mind that education is not devolved; it is a national Government function. Most education issues are tackled at the constituency or sub-county level. Therefore, I propose that instead of having the two boards, we should have only one board, which will collect all information and take it to the Ministry of Education. Having so many boards on the ground will make management of educational matters very difficult.

The other issue we need to make very clear, and which has been causing confusion, is the National Parents Association.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, please lower the level of your consultations. We cannot hear Hon. Limo’s contribution.

Hon. Limo: Thank you, Hon. Deputy Speaker, for that intervention. The consultations were too high.

There are amorphous bodies being formed in this country. One of them is the association led by someone called Ndunda, which has been causing a lot of confusion. At some point they take over a school and ask people to elect parallel boards. We want a situation where parents and teachers have one voice. We have seen a calculated move to kick teachers out of management of schools. If you kick out teachers, you will have a lot of trouble. We currently have a lot of trouble employing enough teachers in this country. Therefore, teachers should have a voice in deciding how schools should be run. In fact, teachers should work hand in hand with parents to identify additional teachers to be engaged by the Parents/Teachers Associations (PTAs). Now that teachers have been removed from the association, it is no longer PTA but Parents Association (PA). This is because of Ndunda and his amorphous team. We even wonder whether they have students in schools, or they are just appointing themselves. This Bill should make it very clear that there should be PTAs, and they will elect their representatives in the various schools. It is not important to have an amorphous body directing schools on how to run, yet it has no stake in schools.

The other thing is the composition of the boards. This Bill makes it clear how the boards should be composed. The Bill should be improved further to make it very clear how the boards should be constituted in order to make education management very easy.

What I oppose in this Bill is the attempt to over-legislate. We have seen a lot of pieces of legislation which do not make sense. We should not stop schools from conducting tuition. We are not equal. There are schools with enough teachers. There is unfairness in the distribution of teachers. Some schools in the rural areas have very high student enrolment, but teachers are few. Do we tell such schools not to conduct holiday tuition? We should not be legislating even on where to keep tea cups in schools. We should leave those matters to ministerial regulations. They should be managed by this House's Committee on Delegated Legislation. Therefore, I oppose the inclusion of the clause on holiday tuition.

On the issue of limiting the term of the chairperson of the board, we should be realistic. In rural areas, there are very few people who can become chairpersons of school boards. You cannot say that a person who has been a chairperson for two terms is ineligible to be appointed chairperson. Let us leave the issue of electing board chairpersons to the owners of the schools, who are the people who actually have interest in those schools.

Hon. Deputy Speaker: Hon. Chris Wamalwa, the Deputy Whip of the Minority Party.

Hon. Wakhungu: Thank you, Hon. Deputy Speaker, for giving me this opportunity. At the outset, I support this Bill. I thank the Committee for a work well done, though this Bill has been long overdue.

Wednesday morning is normally time for private Members' Bills. I was just wondering how come we are debating this Bill. It is supposed to come in the afternoon. In view of the fact that the Access to Information Bill by Hon. Nyokabi is also on the Order Paper, I do not know how we are going to go about that.

Education is very critical to the success of every society. Article 43 of the Constitution stipulates clearly that every Kenya citizen has a right to education. In the Maslow's hierarchy of needs, education is one of the critical basic needs that one requires. Education has a correlation with the improvement of welfare. At Independence, this country was fighting ignorance, poverty and disease. Right now we still have a lot of diseases, poverty and ignorance. It is through education that we are going to improve the state of this country and move forward.

For the first time in the history of this country, we have had a very bad teachers' strike. We have never had this before. As we debate this Bill, I hope that the Teachers Service Commission (TSC) has paid teachers their September salaries.

I have seen the role of the church as a sponsor. The church has played a very critical role in as far as the quality of education in this country is concerned. I congratulate the Catholic Church, the Anglican Church of Kenya (ACK) and the African Inland Church (AIC). These churches have played a critical role as far as the management and quality of education in this country are concerned. As one hon. Member mentioned, in the performance of schools, the top schools most of the time are those sponsored by the church.

However, when it comes to management, it is unfortunate that the enactment of the Basic Education Act was rushed. The churches were excluded from the running of schools. You can find a convent in a school, yet the Catholic Church has no particular role as far as the running of that school is concerned. So, I congratulate the Committee for developing this Bill through a wide consultative manner, in line with Article 118 of the Constitution, which says that all stakeholders must be involved in the legislation process. It is, indeed, important that the church is

included in the appointment of school principals. When you talk of consultation, it does not necessarily mean concurrence but as critical stakeholders, they must be involved.

Hon. Deputy Speaker, another thing is about the boards. It is important that a Member of Parliament, as the representative of the people, is included. This is because at the constituency level, the buck stops with the Member. The health function has been devolved, but as a Member, if you go to your constituency, you will find people coming to you. So, indeed, the Member of Parliament must be involved as far as the board is concerned. He will ensure issues of oversight and quality are observed. In case anything goes wrong, the buck stops with the Member.

We had the education regulations in terms of who should be the chairperson of the board. The regulation says that the chairperson of the board of a secondary school must be a graduate with a degree. As we move, we should amend that part. How many Members here do not have degrees? Chairpersons of boards do not necessarily have to be graduates. Even a diploma is adequate.

In my constituency, I had a very good chairman of a board, but because of the new regulation he could not get that position. We must amend and, at least, put a diploma and not a degree. We know very well that some Members of Parliament do not have degrees. There are others who do not even have diplomas. We know it. So, why is it that at the board of a school you provide that members must be degree holders? Where are you going to get these chairpersons?

Another issue is about the TSC. The Teachers Service Commission Act is very clear that they are responsible for recruitment, firing and the management of teachers. If you read the Fourth Schedule of the Constitution, you will find that matters of polytechnics and Early Childhood Development Education (ECDE) are under the county governments, but it is the responsibility of the TSC to employ those teachers. When it comes to the payment of salaries, the county government should pay the ECDE and the polytechnic teachers. In terms of secondary and primary school teachers, the national Government is supposed to be responsible. We should not be confused about this issue. The Fourth Schedule of the Constitution is very clear that county governments are the ones which are supposed to pay the ECDE and polytechnic teachers. However, when it comes to recruitment, hiring and firing, the responsibility should be left to the TSC.

As I move on, there is the issue of private schools. Private schools are run like any business enterprise. They should be allowed to charge admission fee. The Government has no responsibility to control how private schools are run. Their only responsibility is in the public sector. We know private primary schools have done very well in this country. That is why we hear about Makini Schools and others, but they have many overheads. It is their responsibility to assess the overheads and see how they are going to handle them. So, the Government has no business whatsoever to say that private schools should not charge admission fee. That should be left to the owners because these are private entities and not public institutions. Indeed, it is key for us to do that.

Clause 11 proposes to delete the provision that requires people to be given appropriate incentives. Appropriate incentives are subject to availability. When I went to school, there was milk during the Nyayo era. If the Government is struggling with the wage bill, how do you expect it to provide food in schools? It is not possible. If the economy improves, so be it. We must legislate and speak the reality. I know it is a wonderful idea, but when you are struggling to pay teachers, how will you manage to buy food for the pupils to attend school? It is a wonderful

idea, but in this case, I support what the Committee has said. We should not put any incentives for the pupils to complete basic education, but instead we must make basic education compulsory. If someone drops out in the village, the chief must be answerable. He or she should explain why the pupil is not going to school. Many children are not going to school but instead are being radicalized and that is why we are having problems.

Education is a critical element in the success of an individual. It does not matter who your mother or father is, or your background. If you excel in education, you will get a job. You can be a doctor, an engineer or anything. Basic education must be compulsory. The Government is giving a lot of money for Free Primary Education (FPE). Right now, there is also a provision for free tuition for secondary education. It is the responsibility of the parent to ensure that his child goes to school. I do not see why the issue of incentives should be there.

I am happy with Clause 13 which makes it a duty and the responsibility of the principal and the head teacher of a public primary or secondary school to develop and submit a list of students who are ranked in the first quartile. This is the ranking I have been talking about. As we move on, I will bring a Bill to amend the Kenya National Examinations Council (KNEC) so that schools must be ranked. They can be ranked in a structured manner. We can have the county schools and national school, so that we can know the schools that have performed well for purposes of mitigation or motivation.

Clause 13 is very important. As provided under Article 43 of the Constitution, every Kenyan has a right to education. We have issues of scholarships and bursaries either through the county or the CDF. It is important that bursaries are only given to the pupils and students who have performed well in class.

(Loud consultation)

Hon. Deputy Speaker: Order! Order! Hon. Members, the consultations are really too high.

Hon. Wakhungu: Thank you, Hon. Deputy Speaker. Clause 13 is key in terms of ranking students because bursaries should be given to those students who fall within the first quartile. This money is meant for poor children who cannot afford school fees, but are bright in school. You cannot fund somebody because he is poor, but he is number last. This is because he is not going to add value. We want this ranking to be made compulsory so that this can be submitted to the County Education Board for it to know the bright and intelligent children from needy backgrounds. This will ensure that when the Government allocates bursaries, whether through the county, the CDF or the national Government, they are channeled to students in the first quartile as far as ranking is concerned. I call on Members to support my Bill on ranking schools in a structured manner, whether they are national, village or county schools. Ranking is key. You are here as a Member of Parliament because you were ranked number one.

You can imagine if there was no ranking, Hon. Waititu, a number four will come here and say that he has won the elections. So, ranking must be everywhere. That is why I am happy with this Bill. I wish to thank the Committee on Education, Research and Technology for doing good work. This Bill is long overdue. Where was Hon. Sabina Chege? She has done good work, but this should have come long time ago. This Bill should have been prioritised. Education is key to success and this Bill should have come yesterday.

(Hon. (Ms.) S.W. Chege spoke off record)

I do not want to listen to what Hon. Chege is saying, but she has done good work.

The last thing that I want to talk about is on the categorisation. Clause 14 proposes to amend the categorisation of basic educational institutions which include the sponsored and others.

(Hon. (Dr.) Pukose spoke off record)

I still have some time, Hon. Pukose. You know Hon. Pukose is my neighbour. He should listen to what I have said, so that we avoid repetitions.

Thank you, Hon. Deputy Speaker. I support this Bill.

Hon. Deputy Speaker: Yes, Hon. Cyprian Iringo.

Hon. Kubai Iringo: Thank you, Hon. Deputy Speaker for giving me this opportunity to support the Basic Education (Amendment) Bill.

From the outset, I thank the Committee for what they have brought to the Floor of this House. We need to support the Bill because education is the backbone of any developing country or community. In Kenya, education has not been taken seriously as it should. We are losing a lot of manpower especially by neglecting bright and needy students to the extent that they drop out of school because of the structures and the systems which we have in our education sector.

Hon. Deputy Speaker, I support the Bill because it spells out some rules which are going to be binding especially to the parents. Sometimes, parents are ignorant, negligent or they do not care about the education of their children. This is especially parents who have never gone to school in the rural areas and have not been exposed to understand the importance of education.

I support the Bill, especially Clause 40, which mandates the principals and head teachers to find out where the children who drop out of school go and the causes of dropping out. The principals are charged with the responsibility of making a follow-up with the parents and giving a report to the Sub-County and County Education Boards for the purposes of making sure that a particular child is traced wherever he or she went and taken back to school.

We are losing many bright children in the villages because of lack of counselling, school fees and follow-up. Parents should be liable for the failure to see that their children are in school. I support that clause in totality. There are parents who wish their children are not admitted to public schools, so that they are not burdened by the demands and requirements which go with education. Parents should be cautioned so that they understand that if they do not provide for their children, the law will take effect. Once they hear they are going to be fined Kshs500,000 or they will serve two years imprisonment, they will become more proactive as far as education is concerned.

Hon. Deputy Speaker, I support the establishment of boards at the sub-county and county level. They will be responsible for keeping a database of all the bright children in that particular county. It is becoming a norm that children from rich families are the ones who continue with education despite them being bright or not. However, most bright students from poor families end up not finishing their education. That is why the transition rate in most of our schools especially in the rural areas is very high.

A Standard One class starts with 100 children and ends up with about 20 pupils or less in Standard Eight. The others just drop out along the way and nobody traces them or finds out why

they dropped out of school. On top of that, it should be found out whether they were bright students who could have been assisted to become part of the workforce in this country.

From the database, when the transition rate comes down, it will be up to the Sub-County Education Board and County Education Board to ask where the children are going. Bright students who cannot afford school fees should be catered for through the bursaries under the CDF or the Ministry of Education, Science and Technology.

On that note, I will mention the Ministry's bursaries which used to assist our children. For the last two years, we have not had this money and the Ministry of Education, Science and Technology is not telling us what happened to this Fund. The Fund used to help many needy children. These days, it has become the burden of the CDF to assist these children. Therefore, the Ministry should tell us what happened to this money, whether it was struck out or if it is still there. Somebody somewhere is sleeping on his job because he or she is not disbursing this money as required. As a result the children who need this money cannot access it. The bursaries are not provided and the Ministry should explain that.

I will oppose Clause 37 on holiday tuition. We are amending the Act and there are some things which we do not need to put into law. Tuition is something which can be done through a memo from the Ministry or even from the sub-county or county office. Each area should be looked at in its own merit. Some schools are over-staffed either because of their locality or because of the ties the head teacher or principal may have with the TSC.

In the marginalized areas like North Eastern, there is a shortage of teachers. Parents employ teachers and they cannot cope with the hours which are set in the curriculum to meet all the demands of the children given the teacher to children ratio. Therefore, holiday tuition should be left to the individual schools and the boards should look at the merits and demerits and see if it is going to benefit the children or not. We should not slap a ban on tuition because it might affect some parts of our community especially in the rural areas. I, therefore, call for an amendment to Clause 37.

There is the issue of limiting the term of the board of management of schools. Some areas, especially in the rural areas, have very few wise men who are mentors in these schools. You will find a school is started and the people who are mentoring the students are three, four or five. Most of the time, they are relied on for the progress and development of that school. If we limit the term in areas where we have only five or 10 people who have attained O-Level education, then we are going to kill some of these schools. If somebody is capable and the community realises that the person can do the job and he has been doing it--- Let us give leeway for the community to choose its leaders or the people to carry the mantle of running their schools. If we limit the term, we will be barring some very important and able members of our society who can help our schools grow. At the end of the day, we will get people who might run down the schools to the detriment of the community.

Finally, there is the issue of classification or categorisation of schools and I had even queried this with the Departmental Committee on Education, Research and Technology. Schools in the same geographical area need to be categorised the same, so that in the distribution of teachers, there is no skewed way of doing it. You will find that one school is categorised as being in the marginalized area where hardship allowance is paid but another one does not fall under the marginalized area and therefore, the hardship allowance is not paid. These teachers end up seeking to be transferred to where there is more money and as such some schools are left without

teachers. I call for equitable distribution of teachers geographically, so that some schools do not suffer while others are benefiting from more teachers.

With those few remarks, I support the Bill.

Hon. Deputy Speaker: Hon. Cecily Mbarire, press the intervention button.

Hon. (Ms.) Mbarire: Thank you, Hon. Deputy Speaker for giving me an opportunity to contribute to the Basic Education (Amendment) Bill. From the outset, I congratulate the Departmental Committee on Education, Research and Technology that sat down to look at these important amendments.

Hon. Deputy Speaker, I support the reconstitution of the County Education Board and the proposal to bring on board a Sub-County Education Board. In particular, I am looking at what used to happen in the past which worked and which was good. We had District Education Boards where all the Members of Parliament used to sit. The work of the District Education Board was important in terms of ensuring that education was done well and that all schools came together to improve the quality of education given to our students. I, therefore, feel that there is need to continue doing so and to devolve this further down to the sub-county level because we know that counties are big and sub-county levels will make work even easier in the area of education.

The only concern I have is that although this amendment proposes that Members of Parliament should sit in the committee, I do not like the wording. In terms of the membership to the County Education Board and the Sub-County Education Board, Clause 5(4) says:-

“A Member of Parliament from the respective Sub-County may attend the meetings of the Sub-County Education Board but shall have no right to vote.”

I have concern with that wording because we are leaving the membership to the Sub-County Education Board and County Education Board for the Member of Parliament to be a “by the way”. It is up to you to see whether you want to attend as a Member of Parliament or not. I personally feel that the Member of Parliament should be a substantive member of the board and should have a right to vote. Why do I say so? I say so because currently we know that almost 90 per cent of all development infrastructure for schools is done by Members of Parliament. The Member of Parliament is a key stakeholder of the education in his constituency in the county. Therefore, I want the wording, and I hope that the Committee is taking note of this, to be changed to: “A Member of Parliament shall be a Member of the County Education Board and will attend meetings or his or her representative.” The same should apply at the sub-county level so that Members can sit there knowing they are there in their own right as Members of Parliament and they are not “by the ways”. It should be the case all the time. In the absence of the Member of Parliament for any reason, a representative can sit there as advised by the Member of Parliament. That should be the case.

The reason I also say this is because we had a very big challenge at the time we constituted the school management boards. I do not know the experience of most Members here, but the County Education Board made it look like it was a privilege to request us to make a proposal on who should sit in the boards of the schools.

In the past, Members of Parliament were greatly involved in the constitution of the boards. This time, we were made to feel that we had no role other than to sit and vet. That for me was a big challenge. Let it come out very clearly so that the role of the Member of Parliament in the constitution of the school management boards can also be clear.

The other thing that I noticed and used to happen with the District Education Board is that financial support for the activities of the boards was not forthcoming and when it did, it was

not adequate. I hope that is also considered so that we do not have boards that just sit there but boards that work and deliver on their mandates.

I want to support the Committee in assigning teachers of pre-primary child care and village polytechnics to Teachers Service Commission (TSC). While I agree that it is the role of counties to oversee the management and running of polytechnics, polytechnics are suffering a great deal. In my constituency, for example, instructors have come to see me because they go for many months without salaries or because they are underpaid. You will find that one county pays these instructors Kshs5,000, another one pays them Kshs8,000 and another county pays them Kshs10,000. There is no standardisation and recognition of the level of education of those instructors. Therefore, it is important that they are all paid by the TSC so that they are paid equal salaries and those that have gone for further studies can be promoted and recognised. This will improve on the quality of training that is offered at our village polytechnics. Right now, little is happening in the village polytechnics. I do not think counties take them as priority areas of support.

I want to support Clauses 11 and 13 that seek to ensure that every child has a right to education as enshrined in our Constitution. I have a problem when bright students or any child whatsoever who has done the Kenya Certificate of Primary Education (KCPE) reports to a school and is denied admission on the basis that he or she has no school fees. Therefore, I support the idea of every secondary or primary school giving data to the County Education Board or Sub-County Education Board so that we are able to know the bright students who have passed examinations but are unable to pay school fees so that they can continue with their education.

The Ministry of Education, Science and Technology had a bursary fund which has since died. That fund would assist because the CDF is not able to give all the students the money they deserve to continue with their education. What I know is that currently, many students do not get bursaries. There is no linkage between what the county and the CDF are doing in terms of bursaries. So, there is likelihood that there are students who are either double funded because the county and the CDF give bursaries to the same student. There is need to have that point of convergence where we share this information to ensure that every needy child gets the bursary he or she deserves and that there is no double award of bursaries to students.

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

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

Hon. Temporary Deputy Speaker, I am happy with the composition of the board of managements as it will reduce the number of parents' representatives from six to four. We forget that for these meetings to be convened, the school has to pay them a sitting allowance. Therefore, the reduction of the representatives to four is a good idea. I also support the idea of the principal becoming the secretary to the board instead of having another teacher. What happens when a teacher who is under the principal goes to the board and they cannot agree on a matter? That is very important.

Finally, I want to support something very important that Hon. Kangara said earlier on, that there is need for this Bill to relook at the whole issue of inspection of schools. It is no longer happening because of lack of funding and capacity. Mobility of school inspectors has become very difficult and they cannot move from one school to the other. I hope that the Committee will look into that issue so that we can improve on the quality of education. If this is done it will enable us to have a feedback system that is non-partisan, balanced and we can know what schools need. Where there are challenges we can respond to them relying on the reports that come from the inspectorate.

With those few remarks, I beg to support.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Abidkadir Omar.

Hon. Aden: Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this Bill, which I support. I concur with my colleagues that, indeed, the passage of this legislation is long overdue. Nevertheless, the opportunity is now for us to do some justice to it and ensure that we give our country a well-structured education system.

From the outset, I would like to say that the input of any nation in terms of good quality education usually manifests itself as output in terms of productivity as a nation. For that reason, the more we perfected our education system, the more we ensured good plans for a future Kenya whose output will be of high value and that which competes with other nations in the world.

This particular Bill speaks to a number of important issues. There is an important clause that empowers the TSC to ensure that it deploys teachers and ensures that all schools are staffed. This amendment will make things very clear and ensure that the TSC has teeth to implement this task.

I come from a region where almost all schools are nearly being closed because there are either no teachers or where they are there they are very few compared to the number of students in a school. It is an urgent matter that the TSC should take as an emergency.

Recently, some teachers were posted to some parts of my constituency and they refused or failed to show up in those schools. If you find out from the TSC, you will realise that there are challenges in terms of instructing teachers well or removing those who do not comply with instructions. This empowerment is very important.

The TSC also needs to adopt the spirit of devolution. Sub-counties should have TSC branch offices. It is very important. We have TSC offices only at the county headquarters and yet some of our constituencies are very vast. The ones in the northern region are far away from the headquarters.

In my case, Balambala Constituency sits far from the headquarters, which is Garissa town. This is the case and yet there is no TSC sub-office in Balambala Sub-County, where there are many primary and secondary schools. For that reason and as a matter of urgency, the TSC needs to go down and devolve these offices. If they do that, they will do their jobs better as they are constitutionally supposed to do. This will ensure properly staffed schools and the quality of education is met as per the required standards.

This Bill proposes sponsoring of poor children. The Cabinet Secretaries (CSs) for the National Treasury and that of Education, Science and Technology, through consultation, can provide provisions for financial assistance to needy students. This is very important. A number of times, we Hon. Members have been forced to sponsor needy students personally from our own

pockets. There are very bright students but unfortunately they do not have the ability to continue with their education. This particular proposal will ensure that any Kenyan child who is bright will not be allowed to drop out of school because of lack of fees.

The other very important thing I would like to talk concerning this Bill is the right for a child to be admitted to a school. Sometimes, children who do not obtain 250 marks in their final exam find themselves in a very difficult situation because they are not admitted to schools. The right to basic education is a fundamental right under our Constitution. For that reason, this Bill implements that right and ensures that from now on, any child who has been through his or her primary education gets an automatic admission to secondary school.

The issue of reducing the number of representatives of the parents in the school management boards is okay. However, when it comes to the representatives of the parents, we should have an exception on the issue of educational qualifications. This applies to both primary and secondary schools. Sometimes you have very useful elders in the village. Some of them are former civil servants like chiefs who might not necessarily be educated, but they are very important persons to the society. Their sitting in school boards enriches them with advice and provides guidance. At the Third Reading of this Bill, we need to consider that and give exception to the representatives of the parents in terms of their educational qualifications.

On the proposal on examinations, I just want to say that the Kenya National Examinations Council (KNEC) should not make Kenyans go through what we have been through lately. The last examination which ended a few weeks ago was very painful for both parents and students. This Bill should propose mechanisms and ways in which the KNEC should be forced not to act like they did this time. They blatantly refused to cancel the examinations or even change the papers when leakages were detected. They have that leeway. They can delay the examination of a particular subject and bring another substitute paper when leakages are detected. We need to do some justice to the KNEC with regard to the way they do their work.

There is another important issue that this Bill touches on. I think this is the first time this is coming on. This is the issue of *Madrassa* education being integrated into the formal education system. For a very long time, those students who come from northern and coastal regions---

In our societies, when a child attains the age of six or seven years old, he or she is put through what Christians call Bible School for them to learn the Bible. While this is done in churches, within the Islamic society, they have a formalised curriculum which the child goes through. Sometimes, in the rural places, parents prefer to put their children into this system of education. The result is that that child aged seven and is supposed to be in Standard One, is still in that school.

What this Bill now says is that a curriculum will be drawn. The drawing of a curriculum and integration will help because for a very long time, the Government has not understood what is being taught in *Madrassa*. A lot of misconception has been created about how these institutions are being used to radicalize or do a lot of other things. Integrating them and giving them approved curriculums and ensuring that the children while attending *Madrassa* can also get their formal education in nursery and Standard One is a step in the right direction. I welcome it. For the first time, *Madrasas* and *Duksi* are defined by the law. This is very important for us to understand as a nation.

I will say something on school property. There is a mention here of the institutions and their land. There are many challenges in this country when it comes to the land owned by

institutions. Even in rural places in my own constituency, securing of school land and property is a big challenge. This law has good proposals and I like it.

Finally, I believe that secondary education should be made free for all Kenyan children. As a nation, we should do everything possible to make sure that education is paid for every child who goes to secondary school. That will enhance this nation's level of education and stop the many dropout cases from schools. As I have said earlier on, we will become a productive nation which has well educated youngsters if we develop this.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Justice Kemei.

Hon. Kemei: Thank you, Hon. Temporary Deputy Speaker. I join my colleagues in supporting this Bill. I am sure this Bill will reform the education sector in areas that really matter. Much of what I had to say has already been expounded by my colleagues, especially Hon. Cecily Mbarire.

The inclusion of Members of Parliament in the Sub-County Education Board is a crucial matter in terms of our responsibility of representation. We represent the people who elected us in all facets of life including education. Increasingly, some of us are beginning to feel that MPs are now an endangered species. We are being removed from the CDF Committees and education boards. Soon we might be endangered. Therefore, let me congratulate the Committee for a noble job in terms of bringing us to the Sub-County Education Board. However, I oppose the fact that we will be there without a vote. It seems we will be in those boards as inferior members. We must be there and exercise full rights in representing our people in those boards.

I would like to ask the Committee to clearly define the responsibilities of the county governments in matters of education. There are pupils who pass the KCPE but are unable to get secondary education. We must make it more or less mandatory for the county governments to provide them with the necessary tuition to continue with their post primary education. What I like most about this Bill is the fact that it provides an avenue through which pupils will transit from primary school to secondary school. After that they will access training in polytechnics and other tertiary institutions.

Lastly, we need to harmonise the disbursement of bursaries from the CDF, county governments and NGOs. We need to harmonise them so that those children who are in dire need of bursaries get them. We should ensure that those who reach MPs, MCAs and governors do not get more than their share in terms of disbursements.

At the moment, there is a problem with registration of schools. I want the Committee to make sure that registration of new schools in our constituencies is done in a pragmatic manner.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. (Eng.) Nicholas Gumbo.

Hon. (Eng.) Gumbo: Thank you, Hon. Temporary Deputy Speaker for the opportunity. I congratulate the Departmental Committee on Education, Research and Technology that is led by Hon. (Ms.) Sabina Chege for bringing this amendment. I think it is due.

I do not want to go to the issues that Hon. Members have spoken about. However, allow me to start by looking at Clause 3 which proposes to provide additional functions to the County Education Board to maintain data bank of students ranked in the first quarter of the constituency in the KCPE, who due to inability to raise school fees failed to get entry to Form One.

This is very good but maintaining the data bank alone is not enough. Part of the reason why some of us are in this House is because of the kind of activities we have been doing in the education sector. I know that maintaining a data bank alone is not enough. In addition to identification of these students, they must be given both financial and parental guidance. Any of us who has run a bursary scheme knows that part of the problem that you get after you provide the service - without guardian support – is that it becomes an exercise in futility particularly to the orphaned girl-child. Most of them end up dropping out of school due to pregnancy and other related problems.

However, this is a noble initiative. I have done my own calculations and I believe that it should be possible to provide access and assistance to the 200 students per constituency with the amount of money that we now have in the counties. If you work out this, you will realise that all that we need is no more than Kshs10 million per constituency to be able to assist these children per year. This, therefore, means that the average per county is about Kshs 100 million per year. This will be the path to realizing very decent education for all our deserving children.

I have looked at Clause 8 which seeks to empower the CS, Education, Science and Technology in consultation with the CS, National Treasury to develop and present regulations for the provision of financial assistance to children learning in non-public or sponsored schools, but who on account of financial hardships, are experiencing difficulties.

Hon. Temporary Deputy Speaker, I am just wondering if this provision of Clause 8 is not an admission of failure of public education in Kenya. In the years some of us went to school, of course, those years are long gone, going to private schools was an admission of lack of mettle and backbone to compete with the rest of everybody. I think we should put more emphasis on providing quality education in our public schools as opposed to this diversion and tactics of trying to subsidize what is basically private enterprise.

On Clause 10, I have no idea what it intends to achieve. It states as follows:-

“Section 34 of the principal Act is amended by inserting the words “as long as the child meets the criteria prescribed by the Cabinet Secretary for admission to the public school.”

This looks very good on paper, but why are we being insincere to ourselves? We have seen the problems in the education sector in Kenya and I have said this before on the Floor of this House. The CS in Kenya, today, seems to be completely powerless before the principals of public schools. I have said it and I have no regrets about it. The current CS has become more of a crying Minister than somebody who is supposed to lead from the front in helping Kenya to realise its goals in basic education.

Therefore, it is time we drew a clear distinction. Our CS holds the title of “Professor”, but looking at his performance and this is my opinion, it is high time we drew a distinction between learned people and people who are educated. To me he is a classic example of somebody being very learned, but with very little education and incapable of helping us at all.

The provisions of Clauses 12 and 13 are very good, but these provisions can only be better, if they are followed by honest vetting and dutiful implementation. In our country, we have reached a point where we have to say that the problem that we have is not lack of laws or regulations, but it is about follow up. How do we follow up so that we make sure that the good things that we have on paper, that is in our statutes and regulations are implemented to the letter?

I do not understand the meaning of Clause 15 because it proposes to amend the Act to enable private schools to allow different curriculum and not necessarily one. Were we saying

that we are introducing segregation in instructions that our children are getting in our schools? In my view, if that is the intention, then it would be wrong.

As I conclude, I have said it here before and I want to say it again that the first route taken by countries that seek to succeed is the path of education. This is the path that has been followed by Singapore, China, India and Taiwan. Indeed, it has been shown that there is both scientific and empirical correlation between the average number of years citizens of a country spend in a school with the average wealth of that country. This is something scientific and can be proven. The longer your people spend in school, the more the average wealth of that country is.

Even as we discuss the Bill, this House as the representative of the people of Kenya must express its gravest concern to the plummet in quality of education in Kenya. As we speak today, we should ask questions for example, to what extent can our national examinations be considered to be globally competitive, when exam leakages have become the norm other than the exception, whether it is the KCPE or the KCSE?

Hon. Temporary Deputy Speaker, this is a personal opinion that things were bad up to two years ago, but they have become worse since the man in charge of education, who in my view, only seems to specialise in banning everything took over. First, we had the ban on remedial teaching, rankings and then on mocks. We are wondering what he is going to ban next. Will it be exams or education in Kenya in general? We have to speak about these things frankly. I want to say, with humility, that we have many problems in Kenya, but the four top problems in the education sector are, first, Prof. Jacob Kaimenyi, second, Prof. Jacob Kaimenyi, thirdly, Prof. Jacob Kaimenyi and fourthly, Prof. Jacob Kaimenyi.

With humility, I want to submit to the President that any extra day that Prof. Kaimenyi spends at Jogoo House is a vote for taking our education as a country to the South Pole. It should be condemned by this House. He may be learned, but I doubt if he is an educated man.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Kathuri Murungi.

Hon. Murungi: Thank you, Hon. Temporary Deputy Speaker. I was rising on a point of order. It is through the consultation of the Committee on Education, Research and Technology with Prof. Kaimenyi, who sits in the Ministry of Education, Science and Technology, that Hon. Gumbo is able to discuss this Bill which is coming up at the right time to empower the education sector.

That notwithstanding, I want to support this Bill. For the first time, I want to congratulate the Committee for the good job that they have done through the Chair, who is here with me. We have been grappling with these issues since we came to this House.

Clause 3 is very attractive. It provides for the development of a data bank for the pupils who fail to join Form One. This should not only be on quartile basis, but should be done for all the students who fail to join Form One after the KCPE. They are very many. One may not be in the quartile, but is halfway of the students and due to the conditions of the family, if this student is empowered, he can become number one. On many occasions, students become number one at the KCPE and score dismally in Form Four. We should capture all the pupils who fail to join Form One, so that they can be empowered to continue with education.

Empowering the TSC to take over pre-primary teachers and polytechnic instructors is a good idea. However, we give a lot of money to the county governments so that they can pay these teachers to ease the burden on the national Government. If they do not pay the teachers and

the tutors in polytechnics, where will the money go? In my constituency, there are schools which have received pre-primary teachers. Therefore, I can say that the county government has employed, at least, five or 10 teachers in my constituency. This is just a negotiation between the TSC and the county governments to see the best system to use to know who is supposed to pay the teachers.

Clause 8 proposes - through the regulations that will be done by the CS, Education, Science and Technology, in conjunction with the CS, National Treasury - to finance students in private institutions. Many churches and NGOs have started schools. In my constituency, several schools are run by churches which are unable to finance their students. Some of them pick orphans from the streets and villages and keep them in these schools. They are unable to get financing for infrastructure development and the hiring of teachers because they are not described as public institutions. This is a good amendment because these schools will get support from the Government.

In the recent past, we have seen students being stopped from moving to the next class. When there was ranking in the KCPE, students were forced to repeat schools, so that the head teacher or the principal could get a good mean score. This is a good amendment because there will be no holding back of students in classes.

I have a problem with Clause 11 because it provides that no student will be expelled from school except with the concurrence of the parents or guardians. There are some cases of indiscipline and I do not think the parent will accept his or her kid to be kicked out of school. Therefore, head teachers should be given some leeway to expel undisciplined students where possible.

There is also the role of the Government. The Bill emphasises that needy students should be provided with public funds to continue with education. Under this clause, there is no indication that the national Government is supposed to provide funds. This clause should provide that it is the responsibility of the national Government to make sure that all bright and needy children are funded.

I can see that Members want to contribute to this important Bill, but I want to pinpoint that the qualifications of the members of the County Education Board should be reviewed. When we were vetting the Board of Governors for a secondary school, we found that the minimum requirement for the chairman was a degree and a diploma for primary school. In terms of the minimum requirement of the County Education Board members, the Committee has suggested it should be a secondary school certificate. There should be some amendments to this. You cannot say that a chairman should be a graduate or a diploma holder and then you go ahead and say that members of the County Education Board should have inferior qualifications. That is not possible. In both cases, we can put the minimum requirement as post-primary and post-secondary education. However, members of the County Education Board should have a minimum of a diploma. These are the overseers of education at the county level. They should be at a higher level of education than the people they oversee. The number of these members is bloated. We are supposed to have 17 members in the CEB. The Government is grappling with public spending and wastage of resources. So, a board of 13 members can provide leadership at the county level.

Lastly, I want to talk about holiday tuition. This should be allowed depending on the circumstances. For example, during the term that has just ended, there was a national strike by teachers. If we condemn tuition 100 per cent, students will be unable to finish their syllabus. Under special circumstances, holiday or evening tuitions should be allowed.

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Ferdinand Wanyonyi.

Hon. F.K. Wanyonyi: Hon. Temporary Deputy Speaker, I would like to thank you for this opportunity. My father passed on and left us a very big piece of land – almost eight acres. The only thing he did was to educate us. Our grandchildren and his grandchildren can only rely on education, and not land. Land was relied on in the past, but not now. It is good that this Bill is here. During the Third Reading, we will introduce amendments. I would like to talk about some of the issues that we need to address in this Bill.

I would like to look at the Board. As you know, MPs are very important at the sub-county level. In my case, I am everything. Apart from dealing with education, I deal with all the social problems in my sub-county. It is important that MPs are involved at all stages. Therefore, I take great exception. We should bring some amendments during the Third Reading so that an MP can personally, or through effective representation by either his manager or somebody he feels is educated enough, can be represented in the board.

Clause 5 talks about an MP who just sits there and observes. The Member may make a contribution but may not be taken seriously because he does not have the voting power. We may be very busy attending those meetings but we should be represented and take part in decision making. The Member may contribute but since he does not have the voting power, it will be as good as saying nothing. It will be a talking shop. We must exercise our full rights because we are everything when it comes to education.

On qualifications, I quite agree with the previous speaker. The qualification is wanting. We cannot have somebody who does not have post-secondary education as a member of the Board. Some of them are quite good. You will find the person without the necessary qualifications suffering from inferiority complex because one will be dealing with people with a higher level of education. That will result in one's contribution being treated as less important. The qualification of the members of the Sub-County Education Board should be amended to ensure that they have post-secondary school education.

The role of the Board is very important. The last examination at the secondary and primary level was marred with leakages. At this stage, I think I should hold the KNEC wholly responsible for the mess we had in the previous examinations. The Board should play its role so that we do not have a repeat of what we had this year. I talked to one headmistress and I was very amused. She told me that as they were coming up with topics for revision, one student raised his hand and said that they did not want to be taught a certain topic. That means students knew the kind of questions in the examination.

The Committee, through their able Chair, who is here, should hold the KNEC wholly responsible for the leakages in the national examinations. I am told that those students who were expelled and went back to school to sit the examinations will do better compared to those who were in school. The boards should be more responsive. We should give them more powers so that anybody with examination leakages can be punished.

We have shortage of teachers and the Board should be involved in employing teachers. We now have the PTA. This is very bad because schools do not have teachers. In Kenya, we have a shortage of 80,000 teachers but the Government is not able to employ even 5,000

teachers. Some teachers are employed by parents. The boards should employ qualified teachers to raise the standards of education in this country.

Hon. Temporary Deputy Speaker, we should encourage children to go to school. In my sub-county, we have large farms. Because of the poverty index, most pupils would prefer going to work on the farms instead of going to school. I do not agree with the Member who said that we should provide food to students. The boards should remove barriers to quality education.

Hon. (Dr.) Pukose will agree with me that we have a problem in our county because of the large farms. This is because students prefer going to work in the farms in the afternoon. Students should be encouraged to go to school to read and avoid labour.

I would also like to talk about remedial studies. We do not have qualified teachers because we have a shortage of teachers. Facilities are also not equally distributed. During the Third Reading of the Bill, we should introduce remedial studies so that students can take part in evening classes as it is now illegal for teachers to carry out remedial studies. We should introduce an amendment to re-introduce remedial studies in schools to make up for deficiencies and inequitable distribution of facilities in our schools.

Hon. Temporary Deputy Speaker, several schools that have been sponsored by the Catholic Church and African Inland Church have done very well. Maseno School, Alliance High School, Yala School and Kibati School, where I attended as well as Kamusinga, St. Monica and St. Josephs in my county are sponsored by churches. We cannot remove the churches from the management of education in our sub-counties. We should give room to churches in the management of education in our sub-counties. That aspect should come out strongly during the Third Reading of this Bill.

With those few remarks, I support the amendment Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. (Ms.) Jessica Mbalu.

Hon. (Ms.) Mbalu: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity---

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

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

Hon. Mwaura: Hon. Temporary Deputy Speaker, I rise under Standing Order No.95. Listening to the contribution by Members, I feel that we are repeating ourselves. I, therefore, request that the Mover be called upon to reply.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon Mwaura, your request seems not to have the support of the Floor. Let me gauge the mood of the House.

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

So, we continue with the debate. Hon. Jessica Mbalu.

Hon. (Ms.) Mbalu: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to add my voice to the debate on the Basic Education (Amendment) Bill No.14 of

2013 of the Laws of Kenya. I know it is a Bill that most Members have contributed to. It is an area of interest to all Members of Parliament in this 11th Parliament. It is very important. I am impressed with Clause 4. I thank my very good friend Hon. Julius Melly, who has done a very good job in the Departmental Committee on Education, Research and Technology. The Bill has been sponsored through the Chair, but by Hon. Julius Melly who was the acting Chairperson. That is what is written.

Clause 4 proposes to include Members of Parliament to the membership of the County Education Board. This is a very welcome clause. It is important because Members of Parliament play a very big role in the promotion of education in our areas.

Clause 5 proposes to establish the Sub-County Education Board whose role is to represent the country education boss to coordinate all education-related matters at the sub-county level. With devolution and counties having representatives, it is a very welcome clause. I support it.

Clause 9 proposes to amend the Act to allow private schools to charge admission fees while admitting a child. It is important to promote the business of people who have interest in promoting education in this country. The inclusion of admission fee in the private schools will promote education in this country.

Clause 10 seeks to amend the Act to ensure that children are not denied admission to public schools as long as they meet the criterion prescribed by the Cabinet Secretary (CS), for admission to a public school. This will ensure that all pupils in our country receive basic education. Denial of admission to public schools by the admission board is denying students their basic education. Clause 10 seeks to take care of that.

The duty of the CS has been put very well in our amendment. It puts measures to ensure that students who are ranked in the first quartile in the constituency by the Kenya National Examinations Council (KNEC) and fail to gain entry into secondary schools due to inability to pay school fees are supported to complete their secondary school education.

Given the purchasing power of most sectors of this country, most of the students are not able to get money from their parents and Members of Parliament through bursaries. We are not in a position to ensure that all of them get basic education. So, Clause 10 will go a long way in supporting them to complete their secondary school education.

All said and done, these clauses are to promote the education of our students. I fully support this Bill with the few amendments that will come in the Third Reading. I thank the Departmental Committee on Education, Research and Technology. This Bill should have come a long time ago. Education is the key to development. It is important for all Members to consider Bills that are going to touch on the sectors that really promote education in this country.

As we promote basic education, we should not forget to talk on behalf of the teachers. We may do very good Bills to promote education, but when our teachers are not paid, they are not happy. They are not given the morale to teach, even with the good Bills that we are introducing in the National Assembly. We will be losing one arm of the education sector. A teacher who is not motivated, even though we sugar-coat and bring these nice Bills, will not do well. Even the output from the students will not be the best. I still urge the Departmental Committee on Education, Research and Technology and the CS in the Ministry, as much as they bring the Bills, to ensure that our teachers are paid. In every constituency, polling stations and in every five or eight kilometres, we have teachers who give education to the students we are

catering for. I urge the Chair Hon. Sabina, even as we meet in our Committee where she has done a very good job, teachers must not be forgotten.

Much has been said and I know Members want to contribute on the same. It is a Bill that is unanimously accepted by all Members of Parliament, apart from the few amendments that will come in due process when we will be doing the Third Reading.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh: I now give the Floor to Hon. Robert Pukose.

Hon. (Dr.) Pukose: Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute to the Basic Education (Amendment) Bill, 2014. At the outset, I want to thank the President for having seen it wise to have TSC, Kenya National Union of Teachers (KNUT) and Kenya Union of Post Primary Teachers (KUPPET) sit down and resolve the issue that is affecting teachers. When we met many of the teachers out there, they were feeling very frustrated. But their morale is now up and we hope that they have received their salaries and things will be normalised. The three bodies will sit down and come up with a Collective Bargaining Agreement (CBA) that is agreeable for them so that education in this country is not interrupted.

Looking at the amendment to Clause 6 in this Basic Education (Amendment) Bill, the TSC is now mandated to assign teachers to the public institutions of basic education and institutions used for conducting pre-primary education, child-care, home craft and village polytechnics. This is going to remove the doubt which was there on who should employ pre-primary education teachers. Some counties are trying to change the names so that the county governments can recruit them. We are aware of a case pending in court - and which has actually stagnated for a long time - after KNUT went to court to prevent the county governments from employing pre-primary teachers. Once this law comes into effect, it will be mandatory, through regulations, that the county governments are able to give the TSC the number of teachers they expect and assist them to recruit. This is going to assist us to end favouritism and employ people who are competent without favouring the one who is from your community or your voter. The calibre of employees that we have seen in the county government is not up to standard. At times, it is very difficult for them to offer or implement services. We have seen that in the e-procurement system where the Integrated Financial Management Information System (IFMIS) is becoming a problem in implementing. You find that governors want to give tenders to their buddies who do not meet the required regulations. You must feed the correct information in the IFMIS for it to give you the necessary procurement process.

The other issue I want to oppose is Clause 11 which proposes to delete the provision that requires pupils to be given appropriate incentives to learn and complete their basic education. Students used to be given *Nyayo* milk. In some areas, that was not just an incentive; it was a basic requirement. As my colleague Hon. Ferdinand Wanyonyi has said, in some of our constituencies, we have rural slums. In a rural slum in my constituency children who go to a school like Cholim School at times have to leave school to engage in child labour to get food. This is an area that I would urge the Departmental Committee on Education, Research and Technology, whose Chairperson is here, to look at. There is need to introduce school-feeding programmes that will look at areas that are disadvantaged within this community. If you have a child in Kalwenge who goes to school and he knows there is no food at home, how is that child going to compete with another child in the city or in other areas, who will go back home and be

fed? I wrote to the Ministry of Education to look for ways of how children from rural slums can be provided with a school feeding programme. It is a basic need, it is not an incentive. It is something that will make the child stay in class and get education without thinking of how they will get food.

This Bill will also assist us in elimination of child labour. This will help several schools that are bordering areas around the Agricultural Development Corporation (ADC). Issues of ADC fall within my constituency and it is important to note that it has taken so many years for the Government to pay salaries to workers. The previous Governments had backlogs of more than 10 years. The people who have worked in ADC without being given a salary are individuals who have worked for more than 20 years and now they live in squalid conditions. They are only given food and *nyama* to feed their families. When you cannot get basic salary to educate your child and do the necessary things, then it becomes very frustrating.

Clause 9 proposes to amend the Act to allow private schools to charge an admission fee while admitting a child. We were interfering with private institutions. They should be allowed to charge whatever fee they want. It is a person's choice to take their child to a private school, if he or she feels able to do so. We will be interfering with the rights of private institutions if we tell them not to charge an admission fee. They are engaging in business. They are entitled to charge an admission fee at whatever cost they desire.

Clause 15 which proposes to amend the Act to enable private schools to follow different curriculums and not one necessarily approved by the Ministry of Education is also a key amendment. A private institution might want to offer a programme of their choice, such as the British system, American system or a system from a different country. They are entitled to that. Why should we inhibit them from providing a system that they feel they are comfortable with, and which they feel is marketable for them as an institution? That is a good amendment.

Clause 18 proposes to amend the Act to ensure that public examinations are conducted as provided for under the Kenya National Examinations Act only by institutions of basic education, whose curriculum is registered as examinable by the Kenya National Examinations Council (KNEC). We should even go a step further and gazette those centres so that they are known. We have Kenyans who have been duped into registering for examinations in certain institutions, but when time comes for them to do their exams, they find that they were actually not registered. This is a good amendment.

Clause 19 proposes to amend the Act to ensure that the Cabinet Secretary is involved in making regulations for integration of *Madrassa*, *Duksi* and pastoral programmes. This will allow the Cabinet Secretary and the Ministry to monitor what we are preaching in our institutions so as to avoid the issue of radicalization. Otherwise, you will find that the *Madrassa*, *Duksi* and pastoral classes will be preaching radicalism within those institutions because the curriculum that they are covering is not regulated. We need to have that regulation.

I agree with Hon. Gumbo on the issue of the County Education Board having a data bank of the university students from each constituency. That should also be funded. If you have a data bank but you do not have funds, how are you going to ensure that those children complete their studies? The Committee should work hand-in-hand with the Budget and Appropriations Committee and the National Treasury to make sure the County Education Board is funded.

With those few remarks, I thank you Hon. Temporary Deputy Speaker for giving me this opportunity.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Andrew Mwadime.

Hon. Mwadime: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Mwadime, give me a minute. What is your point of information, Hon. Ganya? You are not being captured on the microphone.

Hon. Ganya: Is it in order to request the Members to reduce the time for contribution from 10 minutes to three or five minutes? There is an immense interest in the Bill and we would all like to contribute.

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): We will reduce the time to five minutes.

Hon. Mwadime: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

These amendments are in line with our new Constitution. They meet the current challenges we are facing such as school fees. These amendments give roles to Members of Parliament, although the roles should be mandatory. Members of Parliament, more than anybody else, are better positioned to address all the problems within the constituency. It should be mandatory at the county level.

Keeping data on students is very important as it enhances planning. Once you have data, it is easier to plan and implement. For example, it is important to have data on school fees for students who are going to secondary schools and universities. It is very important to have data. These amendments have captured it. Mwatate Constituency is a hardship area. Interestingly, there is a ward in my constituency which is even worse off than all the others. They are not receiving hardship allowance. That is because the former Act without these amendments could not address the problems. I have gone to the Teachers Service Commission (TSC) and different education offices several times to address the problem of hardship within my constituency, especially in Rong'e Ward. I have been going to their offices in vain. Sponsors have been given authority to make decisions in appointing head teachers or principals. This is good because, at times, the Teachers Service Commission (TSC) just posts teachers without the community or the sponsors knowing their history.

There are several amendments that have been mentioned and one of them says that there should be consultations and agreement between teachers and guardians or parents before students are expelled. In my opinion, the job of the teacher is being taken away by guardians and parents. Some amendments should be done on that.

When we talk about regulations for financial assistance and the provisions for students who are unable to afford school fees and are in private schools, it is a good proposal. We do not have enough public schools in some areas and so, it is only private schools that can accommodate candidates who have finished Class Eight.

With those remarks, and since most of the items have been covered by my colleagues, I support the amendments.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. James Nyikal.

Hon. (Prof.) Nyikal: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to support this Bill. Education is the single-most important agent of social mobility. It is actually the only social equalizer in the society. Therefore, this Bill has come at a most appropriate time. Clause 7 of this Bill strengthens the role of sponsors in our education system. I support this and it is very important to empower them. Sponsors, particularly the religious-based sponsors, have done a very good job. However, the definition of “sponsor”, which includes the possession of land, needs to be looked at and reviewed because that can bring clashes in some places. I know that there are schools that have sponsors, but the land was contributed by the community. In my view, we should not have many classifications for schools. We should have private schools and public schools. To a larger extent, schools that have sponsors are performing and operating more like public schools and should be entitled to all the benefits that public schools get.

Clauses 12 and 13 intend to support bright children who have done very well and cannot continue with school. This is something we need and I support. In fact, any society that does not support those needy bright children is digging its own grave. Eventually, what we need is free education. If we were to root out corruption, we would have enough money in the system to have free education, at least, up to the secondary school level.

Clause 8 includes sponsorship for children in private schools. Whereas they are Kenyans, their parents also pay school fees. We need to look at this carefully because people will decide to take their children to private schools and then come to seek sponsorship. Maybe, there are circumstances like death of a parent and that can be considered. But if you say they can be supported to the extent to which they would have been supported in a public school, everybody will be paid for. In addition, those who are rich can now pay more so that their children can get better education. We should look at that. In any case, it can be abused.

In Clause 3, we are providing a database for children who cannot transition. This is an extremely important and supportive provision. As was said, we need to finance it because it can be put in place and we cannot finance it.

Clause 12 seeks to prohibit holding back of kids in school because of performance or any other reason. This is extremely important. We have had problems in this country, particularly in private schools, where teachers decide that a child is not performing and, therefore, is not moving to the next class. All children will never perform the same. Therefore, children must be allowed to move within their ability. By bringing this, we will be helping many parents. Recently, there was a case where a kid threatened to commit suicide. We should not allow that to happen.

Clause 16 talks to the membership of boards of schools. The reduction is okay but I do not agree that teachers will be represented in the boards by their principals. Those who have been in school know that, sometimes, teachers bring out issues that principals may not bring out. That is something that we should not accept.

On curriculum, it is important that they are examined by the examining body. But I do not accept that we should allow schools to have a curriculum of their choice. The best is to have one curriculum for a country, unless there are people who intend to have their kids continue with education outside the country.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Barua Njogu.

Hon. Barua: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this important Bill, the Basic Education (Amendment) Bill of 2014. I would like to say that I support the Bill because it attempts to improve education management both at the county and the sub-county levels.

The Bill is good in several ways but the most conspicuous things that I would like to propose for consideration is in the formation of the county and sub-county boards. I have seen that the provision of the amendment Bill puts the Members of Parliament as mere observers. Even the Non-Governmental Organizations (NGOs) and child rights movements have been given an opportunity to appoint their representatives. The county executive of education has also been given an opportunity to appoint a representative. The way I know even from the Constituencies Development Fund (CDF), we as Member of Parliaments, are key actors in terms of education in our respective constituencies and by extension, sub-counties and counties. I, therefore, propose that we have an amendment to ensure that the Member of Parliament is either made a substantive member of the board or have a representative in the board. Otherwise, if you have the Bill passed the way it is, it will bring a lot of confusion within the constituencies and yet, it is a fact that a Member of Parliament plays a central role in the management of education.

This Bill provides for children in the first quartile in terms of performance both in primary and secondary schools to be supported to successfully complete their education. This is a very positive aspect because it means that we are going to nurture, promote and support the best brains that we have in the country. This will be good for the country's economic and sustainable development initiatives.

There is an omission which I have noticed. In this country, we support what we call holistic education, which means that children with skills other than academic skills can also play a very important part in the development of this nation, especially in terms of innovation and other non-academic initiatives. So, I would bring an amendment to provide that children with unique skills and innovation abilities that require support are identified and put in a database. The nation should put in place a mechanism for promoting those innovative skills further.

Support to those disabled children and whose parents are not economically empowered is very good. This is because I am a product of community initiative. When I was in primary and secondary school, my parents could not afford to pay school fees. The then county council gave me a bursary for both primary and secondary school fees. That is how I managed to go to the university and stand here as a peoples' representative. So, I would support this initiative to ensure that no child with the right academic skills should drop out of school.

The other thing that I support in this Bill is the bringing of the Teachers Service Commission (TSC) into the management of pre-schools, especially their involvement in the recruitment of teachers. This is a positive intervention which will remove the aspect of nepotism that is being practised by the county governments.

As I conclude, I would like to congratulate the President, his deputy and the Government of Kenya for accepting to pay teachers their September salaries. As a representative of the people, I would like to ask the Government to find a lasting solution to the teachers' strike once and for all, so that teachers can be paid what they deserve.

With those remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I give the Floor to Hon. Nicholas Ngikor.

Hon. Ngikor: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to contribute to this Bill. I will start by raising my concern on the Committee's definition of sponsors of schools. "Sponsor" is defined as "a person or institution that owns land or property on which an institution of basic education is instituted, and who provides foundational objectives to the institution and ensures that the educational and non-curricular objectives of the institution of basic education are met."

This definition will bring confusion or conflict in our schools. In a school where the sponsor has not given land, what will be the interpretation of the sponsor by the other stakeholders? I am saying this because in my county, most of the land is given by the community. The sponsors only come in when the land has already been given. So, I would like the Committee to re-look at the definition. The definition should give the sponsor, the community and the school their right partnership.

On the membership of the County Education Board or Sub-County Education Board, the Bill says the Member of Parliament may attend the board's meetings. The Bill does not say the Member of Parliament is a member of the board. It must be made clear when it comes to the composition of the boards. One should attend either as an *ex-officio* member or as an appointed member. The Committee must make that clear. You cannot just say the Member of Parliament may attend the meetings of the board. It is not about the meetings. We want the status of the Member of Parliament in those boards to be clear. We represent people and not just things.

I have seen many committees and boards shying away from our involvement because we are elected to represent the people. It is not about removing someone from a committee for unclear reasons. For example, you Hon. Temporary Deputy Speaker as the Member of Parliament for Nairobi City County, you know more about Nairobi than the people who will be given the mandate to be in that board. That is why I am saying the Committee must be clear about the membership of the boards.

On the issue of representation of parents and other stakeholders or interested groups in the boards, the parents must be given more numbers, unlike the proposal to reduce their number. This is because it is the parents who have a lot of interest in the schools, given that their children go to those schools. The Bill proposes to have three representatives of the sponsor on the board. It would be good enough to have only one representative of the sponsor on the board so that the number of parents' representatives can be increased. The parents will present issues affecting their children. Teachers also need to be represented in the boards so that they can give progress reports of the school and highlight challenges that the school is facing.

There is the issue of motivating children to go to school. In semi-arid areas of this country where children have no food, the Government needs to provide food so that the children are motivated to continue learning.

With regard to the term of office for the members of the boards, three or four years are long. The term of office should be two years so that members can do their work to achieve the set goals instead of giving them more years while they cannot perform as expected.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Philip Rotino.

Hon. Rotino: Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to join my colleagues in supporting this very important Bill. As my colleagues have

said, basic education is very vital. It is a constitutional right for every Kenyan to have basic education.

It is very important to provide incentives to children from remote areas. Many of our children do not go to school because they do not have food in their homes. When food is provided in school, they go to school. So, I want to propose that these incentives must be put in the Bill. Food should be part of the incentives so that our children can go to school. Many children drop out of school because of lack of food. I believe that provision of food in schools is going to help the situation.

Schools are really head teachers. When there is a good head teacher in a school, the school prospers. So, the appointment of head teachers in consultation with the sponsor is very important. The Sub-County Education Board should consult with the sponsor of a school in the appointment of a head teacher. Many times, TSC directors appoint heads of schools without consulting the sponsors of the schools, which leads to big problems. It is very vital that, that particular element is entrenched within the Sub-County Education Boards so that school sponsors are involved in the appointment of head teachers.

Nowadays, there are rampant cases of indiscipline in schools. Schools are not the same schools that we knew long time ago. There is a lot of indiscipline in schools because of the head teachers and principals of schools. Many of the school principals have no experience. Many of them are appointed because they are friends of the TSC directors or the sponsors or they are people of the same religion as the sponsors. Such head teachers never stay in school. Several times, when I inspect schools in my constituency, I find that principals and head teachers are not in schools. They leave the schools to be run by deputy head teachers or chairmen. The county boards should take charge. They should be given authority to discipline teachers when they do not go to school.

I want to talk about chaplains in school. We know that religious-based schools are doing very well in this country. Those are schools that are run by religious organisations. They perform well because of the discipline that is instilled in the students. The sub-county boards must put a lot of pressure on this so that head teachers, together with TSC directors, are appointed in consultation with teachers. It is important that we put emphasis on this.

We have a perennial problem of shortage of teachers in our areas. You will find a school with 800 children has only five or six teachers. This Bill should address this perennial problem of shortage of teachers. We have problems with under-staffing. Otherwise, we are going to constantly remain with this problem of shortage of teachers. If this is not addressed by the sub-county boards, we are really going to have a problem. We cannot provide education to all while some schools do not have teachers.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Isaac Mwaura.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Speaker. I rise to contribute to this Bill. First, I want to say that the Bill is very good. It seeks to help, for example, bright students to get an opportunity to go to school. When you look at the provision that seeks to provide for this opportunity for a quartile---

Hon. Lati: On a point of order.

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

Hon. Lati: On a point of order, Hon. Temporary Deputy Speaker. I was seated in this House when Hon. Mwaura thought that there was no need to debate this Bill any more. It is just very unfair that he is allowed to speak on the same thing that he saw no reason for debate to continue.

(Applause)

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Go on, Hon. Mwaura. There is no such provision in the Standing Orders.

Hon. Mwaura: Thank you very much, Hon. Temporary Deputy Speaker. At least, this is not Hon. Lelelit's Bill. I wanted us to proceed to the next one.

If you look at these provisions, the Committee wants to ensure that needy students get an opportunity to go to school. That is very important. But the Bill fails to provide a proper mechanism. It calls for the CSs for the National Treasury and the Ministry of Education, Science and Technology to come up with regulations to achieve the same. It would have been more prudent to allocate such a function to any of the funds, either bursary or the CDF, so that then it is not just a matter of conjecture and speculations.

There is also the issue about the school sponsors being consulted when a school that they sponsor requires a head teacher or a deputy head teacher. I beg to differ. This is going to create lot of confusion. In fact, I want to imagine that this is unconstitutional. Why? They will want to have one of their church members to be the head teacher obviously because of professing the same faith. Therefore, that will be discrimination based on religion. When a school has requested the Government of Kenya to provide for teachers, this should be left to the TSC because this is public money.

I am a product of a school where this was the case. The sponsor kept on saying that they were not consulted and they would not accept a certain teacher, thereby creating a lot of mismanagement. The other thing is the issue of chaplaincy. The amendment that has been proposed is that chaplains be provided, but then at their own cost. So, I wonder whether the Government is supposed to pay for the costs or the fees of a chaplain of a school. This needs to be looked at again.

I know this is a Bill concerning the counties and the legislation here seeks to ensure that the TSC provides for teachers at pre-primary level. If I am not wrong, early childhood education is a devolved function. So, I wonder where again, through this legislation, we are conferring a national body a function or a role that is supposed to be primarily that of county governments. We may want to look at that.

The other thing is the issue of Members of Parliament sitting in the County Education Boards and Sub-County Education Boards. First, I commend the membership. For special interests, there is a person with disability representing persons with disabilities there. That is very good. But in terms of the structure of the Government, can you have a Member of Parliament sitting in an executive board? Is it constitutional? We also need to look at the constitutionality of such a provision. Otherwise, it flies in the face against the separation of powers.

The Bill is good. I am of the opinion that in some instances, it seeks to over-legislate. Some of these things can be solved administratively.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Julius Melly.

Hon. Melly: Thank you, Hon. Temporary Deputy Speaker. First of all, I want to thank the President for what he did for the teachers. It had become a very big issue in this country that the teachers were not paid the September salaries. The issue of their CBA also needs to be re-looked into. The President did something which is commendable.

I want to support the Bill. This Bill seeks to put education in line with the Constitution.

Hon. Onyango: On a point of order, Hon. Temporary Deputy Speaker. It is in the knowledge of everybody that the teacher's dispute went to court and the court made a ruling that the teachers---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): That is not a point of order. It is a point of argument. Hon. Melly, please, continue. Please, do not take advantage of a point of order. You are out of order.

Hon. Melly: Thank you, Hon. Temporary Deputy Speaker. The Member is completely out of order. What was done publicly, for the good of this nation, is for the benefit of the teachers of this country.

I want to support the Bill. This Bill is meant to rectify a number of issues that are not working well in our education system. By developing a data bank, it will enable us, as representatives of the people, to know which students have problems in the sub-counties. We shall know the bright and needy students. In some areas, we have a number of bursary funds from the CDF, the county bursary and even the Ministry of Education, Science and Technology. That data bank will capture everybody. The Members who have spoken before me have alluded to the fact that they are also included in this. We went to school through the support of a comprehensive or organised bursary system. That data bank is very important.

Two, we have the issue of the membership of the County Education Boards. I want to differ with Members who have said that Members of Parliament should not be members of the board. They are members by the fact that they play a key role in the development of infrastructure in those schools. Apart from doing oversight, Members of Parliament represent people. The fact that Members of Parliament participate in the County Education Board does not take away their legislative and oversight roles. In fact, they sit there in their capacity as patrons of CDF, which is the leading provider of infrastructure in schools and many other areas.

You will also realise that Clause 8 proposes to empower the CS, in consultations with the CS, National Treasury, to look for funds. On this one, I am looking at alternative education especially in slums and in areas where the Government cannot provide education. You will realize that in slum areas, there are so many providers of education like bridge schools. For us to move ahead, let us provide certain funds so that children who cannot afford to pay for fees are assisted. They can go to school and pay for their needs like any other child in public schools.

There is also the need to develop and assist the sponsor. We are agreeing that the sponsor plays a key role, but we have also put it very clearly that the sponsor needs to be protected so that the land and property in a particular institution is registered. That is what Clause 21 seeks to provide. All the immovable property; land and buildings need to be registered.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to Hon. Bishop Mutua.

Hon. Bishop R. Mutua: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this very important Bill. First of all, I want to congratulate the Committee for coming up with the Basic Education (Amendment) Bill, 2014. I want to raise about three points.

First, with regard to the sponsor, I have realised from the Bill that we are suggesting a change so that chaplains are not appointed at the expense of the sponsor. What is the alternative that will meet the expenses of the chaplaincy? Indiscipline in schools has become very rampant. One of the reasons is because we are not taking enough interest in the moral development of our children in schools. Therefore, removing chaplains from sponsored schools is tantamount to killing moral initiatives in the schools. This must be taken care of. We cannot remove chaplaincy from schools and expect to produce responsible citizens from those schools. This is one of the things that we are doing without knowing. We must retain chaplaincy in schools. In fact, we need to spread it to all the national schools and have a mechanism of identifying the chaplains to serve in those schools. For Muslim schools, we should have Muslims taking care of them.

Secondly, we need to ensure that quality education is given to the students and pupils. However, I have not seen an important component of system devices to the students who require them. Those students cannot access quality education unless they are comfortable in the learning institutions. We need to expand that a little bit and ensure that children with disabilities are also taken care of in this particular Bill. The only mention that is there is the inclusion of persons with disabilities in the committee. That alone is not enough. We need to provide some resources towards the enhancement of the capabilities of students with disabilities both in primary and secondary schools.

Thirdly, and this is quite important and commendable, is the issue of ranking, so that we can identify the bright and needy students at the county and sub-county levels. That is quite positive. It is going to be easy to address the gaps that have been there. Resource gaps in this country have caused inequalities. Inequalities begin right at school when children in one region can access quality education and children in another region get very poor quality of education. That is how inequalities are sustained in this nation. It is important that every county is charged with the responsibility of ensuring that bright and needy students are given priority and the correct support to continue with education.

The last one is the issue of incentives. This means different things to different people. To some, incentives are the support system that is awarded to the students to continue going to school. It does not mean hand-outs. It means that the systems that are put in place make it conducive for the students to continue learning in schools. This is very important. So, we cannot do away with incentives. Different counties will require different types of incentives to make sure the students continue with education.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Floor to the last speaker, Hon. Abdul Dawood.

Hon. Dawood: Thank you, Hon. Temporary Deputy Speaker. I would like to support the Committee's Report. However, I have a few observations which the Vice-Chair has talked about. Sponsor schools are the ones that are sponsored by churches and Muslim organisations. We have had a problem with some of our Muslim schools in the country where mosques cannot afford to maintain the schools. So, they decided to build schools and get teachers from the Government. When they got teachers, it is like we gave away everything to the Government, including our land. I appreciate what the wise Chair has talked about, that Clause 21 would make it mandatory for the schools to be registered in faith-based organisations or the sponsors' names.

We may need to amend Clause 27(2)(f) regarding the sponsors' role in appointing head teachers. It is very important that the sponsors are consulted and there is concurrence. In a national school which used to be Garbatulla High School, there is a problem because the board of

management will not accept the sponsor's nominee, which is the Methodist Church of Kenya. That is wrong and they have a problem in running that institution. The institution has now dropped from national stature. It is not even a county school any longer.

Let me speak to Clauses 3, 12 and 13 on developing a database of students who cannot afford to go to secondary schools, even though they have passed exams. It is a tragedy in this county that we have bright children who cannot move forward with education because they cannot afford to pay fees. As I speak, there was a school fees guideline by the CS for national schools. Unfortunately, national schools have not adhered to it. They are still charging more than what they are supposed to. So, I wish the Committee could take that into consideration.

Hon. Angatia: On a point of order.

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

Hon. Angatia: Hon. Temporary Deputy Speaker, I am just seeking guidance on the issue the Hon. Member on the Floor is talking about. That is about the county sponsors being consulted on appointment of head teachers. The Constitution has given---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Savula, what has he said that is out of order?

Hon. Angatia: What is out of order is that boards of management be consulted in appointing head teachers. The Constitution has given express mandate of managing teachers' affairs to the TSC. So, they do not need to consult anyone. They need to follow the law.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Dawood, go on. You can respond.

Hon. Dawood: Hon. Temporary Deputy Speaker, I will not respond to that because it is there. He just wants to say something. Regarding the kitty which will be there for the poor students, we would want it done in such a way that we can even run it. Regarding curricular, Bridge Academy is one of the institutions which would require that kind of help. We need to encourage those sponsors to help us in the slums and all the other places.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): I now give the Mover a chance to reply. Hon. Chairperson of the Committee, you have 10 minutes.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Speaker. With your permission, I had requests from Hon. Anami, Hon. Gatobu, Hon. Richard Makenga, Hon. Tonui, Hon. Letimalo and Hon. Manje to give them a chance. Because I have 10 minutes, I want to give each one of them one minute so that I am left with four minutes to conclude.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Who would you start with?

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

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Anami.

Hon. Anami: Thank you, Hon. Temporary Deputy Speaker and my Chairperson. I would like to support this amendment Bill and highlight with emphasis the situation we are in this country. The education sector is in a deep crisis. I support this Bill because it makes provision for inclusiveness in the appointment of members of the County Education Boards. We can only hope that the board will deal with serious issues like shortage of teachers. The shortage of teachers is addressed not only in the Constitution, but in the rights of children. So, it is important that we support this Bill and even come up with express---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Your minute is up. Who was the next one?

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

Hon. Kinoti: Thank you very, Hon. Temporary Deputy Speaker. I also thank the Chairperson of the Departmental Committee on Education, Research and Technology for giving me this chance. Mine is to sincerely thank the Committee and also thank God because in the year 2013, I moved this as a Motion in this House seeking to establish a data bank for needy students. The reason is that before I came here, I was a volunteer teacher in my village. Over nine years, I was empowering children. Very many children came from very poor families. It was very painful to me as a teacher to see them not going to high school because of the poverty levels in their families. Now, this is a milestone in our country where we will have a data bank of the needy children who do not go to high school.

In addition, Clause 8 gives a suggestion that the Cabinet Secretary (CS) for Education, in partnership with the CS for the National Treasury, should develop a fund to see how the children who do not go to high school or complete high school are catered for.

Sincerely, I thank this House for taking into consideration the needy children of this country. Thank you and God bless you.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Next is Hon. Makenga.

Hon. Makenga: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I also want to thank the Chairperson of the Departmental Committee on Education, Research and Technology for moving this very important amendment Bill.

At the outset, I want to say that this Bill is very important. Once it is assented to by the President, there will be some celebration because some of the very important amendments are very key to our society, particularly the ones touching on the bright and needy students who fail to gain admission into schools that they have qualified for and end up joining day schools. This is a move where the country is going to empower a very important part of the society with knowledge.

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

Hon. Tonui: Thank you, Hon. Temporary Deputy Speaker. I support this Bill with reservations on some clauses. One such clause is Clause 7 which talks of the Teachers Service Commission (TSC) consulting the sponsor in appointing the head teachers, the deputy head teachers and the principals. I believe that this will cause a lot of discrimination based on religious background or allegiance. I believe this is unconstitutional because TSC is an independent commission which should not take direction from anybody, especially when the issue of sponsors is not very clear. Some sponsors are by name as they only bring politics to schools without providing any tangible assistance.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Your time is over, but you have made your point.

Let us hear from Hon. Letimalo.

Hon. Letimalo: Thank you, Hon. Temporary Deputy Speaker. I thank the Mover for donating one minute to me. I just want to touch on the national examinations. This is my appeal to the Committee; our system of education is exam-oriented to the extent that unless a child passes examinations at every given stage, one may not be able to pursue education to the highest limit.

It is important for personnel in the Ministry of Education, Science and Technology to be facilitated by the Ministry and TSC to ensure that they inspect and assist teachers. I appeal to the Departmental Committee on Education, Research and Technology to demand from the Ministry of Education, Science and Technology that every sub-county education officer is given transport so that he or she can operate freely.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Manje, you have the Floor.

Hon. Manje: Thank you, Hon. Temporary Deputy Speaker. Today in the morning, Tunaweza Civil Society launched a research on literacy and numeracy in our schools as per county.

I congratulate Kajiado County because it was position two. I want to emphasise on the ranking of students who perform well, but do not get chances to go to good schools. Those are the people who can make this country. If we give them a chance to learn, we are going to uplift our country. That is a very good point.

Another point is on the establishment of sub-county boards. In my view, this was an oversight in our Constitution. How can you manage a constituency without the board? These amendments will properly entrench that aspect in the Bill.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Sabina Chege.

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Speaker. I thank this House for the great support it has shown towards the amendments that have been proposed by my Committee. Several things have been raised and I have been taking notes. I would like to clearly state that the role of county governments in education is clearly stated in Section 26 of the Basic Education Act No. 14 of 2013. J

Just for clarification and record purposes, I would like to refer this House to Article 235 the Constitution of Kenya, where the staffing of county governments is indicated. There was the issue about the TSC and the county government employing teachers. This Article 235 (1) states as follows:-

“A county government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for—

- (a) establishing and abolishing offices in its public service;
- (b) appointing persons to hold or act in those offices and confirming appointments; and,
- (c) exercising disciplinary control over and removing persons holding or acting in those offices”

Article 235 (2) states as follows:-

“Clause (1) shall not apply to any office or position subject to the Teachers Service Commission.”

I want that to be noted very well.

Article 237 (1), deals with the role of TSC. Sub-Article (2) enumerates functions of the Commission as follows: -

- “(a) to register trained teachers,
- (b) to recruit and employ registered teachers; and,

(c) to assign teachers employed by the Commission for service in any public school or institution.”

Public schools or institutions include Early Childhood Development (ECD) centers.

It is also good for me to mention that some of the teachers who teach in the ECDs have gone to the level of PhD. We cannot just allow county governments to employ them and not even have any kind of standards on how they are employed.

I thank Members. We also noted, with a lot of concern, the issue about Hon. Members being fully involved. We have taken care of that. We have noted it and we thank the House and the Committee for a job well done.

Thank you, Hon. Temporary Deputy Speaker.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, we will not put the Question at this time for obvious reasons.

The time being 1.00 p.m., this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.