

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 26<sup>th</sup> September 2019

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Deputy Speaker:** Order, Members. We are well constituted and, therefore, business shall begin.

### COMMUNICATION FROM THE CHAIR

#### GUIDANCE ON CONSIDERATION OF FOUR SENATE BILLS

**Hon. Deputy Speaker:** Hon. Members, I have a Communication to make to guide us on consideration of the four Senate Bills that are before us.

Hon. Members, as you may recall, on 4<sup>th</sup> July 2019, I conveyed to the House a Message from the Senate regarding the passage of the following Senate Bills-

- (i) The County Roads, Walkways and Parking Bays Bill (Senate Bill No.18 of 2018);
  - (ii) The County Outdoor Advertising Control Bill (Senate Bill No.19 of 2018);
  - (iii) The County Law Compliance and Enforcement Bill (Senate Bill No.25 of 2018);
- and,
- (iv) The County Wards (Equitable Development) Bill (Senate Bill No.34 of 2018).

Hon. Members, following the First Reading of the four Bills on 30<sup>th</sup> July 2019, I undertook to pronounce my opinion with respect to the ‘Money Bill’ effects of the four Bills, pursuant to the provisions of Standing Order No.143(2), which provides as follows-

“Following First Reading, the Speaker shall, within reasonable time, pronounce his or her opinion contemplated under Article 114(2) of the Constitution.”

Therefore, I have made a determination that the four Bills do not fall within the meaning of a “Money Bill.” As such, they may proceed for Second Reading in the same manner as a Bill originating in the National Assembly as provided for under Standing Order No.143(3).

In this regard, the said Bills are hereby referred to the respective Committees for consideration as follows –

- (i) The County Roads, Walkways and Parking Bays Bill (Senate Bill No.18 of 2018) – the Departmental Committee on Transport, Public Works and Housing;
- (ii) The County Outdoor Advertising Control Bill (Senate Bill No. 19 of 2018) – the Departmental Committee on Communication, Information and Innovation;
- (iii) The County Law Compliance and Enforcement Bill (Senate Bill No.25 of 2018) – the Departmental Committee on Administration and National Security; and,

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(iv) The County Wards (Equitable Development) Bill (Senate Bill No.34 of 2018) – the National Government Constituencies Development Fund Committee

Hon. Members, I have deliberately referred the last Bill to the National Government Constituencies Development Fund Committee, pursuant to the provisions of Standing Order No.127 (6)(a) given the statutory mandate of the Committee and the proposals contained in the Bill.

## PETITION

### ESTABLISHMENT OF STATUTORY FUND FOR COMPENSATION OF VICTIMS OF DISASTERS

**Hon. Deputy Speaker:** Members, kindly take your seats. Order Members!

I would like to convey a public Petition regarding establishment of a statutory fund for compensation of victims of disasters.

Hon. Members, Standing Order No.225 (2)(b) requires the Speaker to report to the House any petition, other than those presented by Members. I, therefore, wish to report to the House that my office has received a Petition from Mr. Patrick Waturu Mwaniki of P.O. Box 530 Nyeri, calling for the establishment of a statutory fund to facilitate compensation of victims of natural and man-made disasters.

In his Petition, the petitioner highlights several disasters that the country has faced over the years, including the 1998 Nairobi Bomb Blast, the Sinai Fuel Spillage Fire Tragedy, the Sachang'wan Fuel Tanker Tragedy, the Solai Dam Tragedy, collapsed buildings, acts of terrorism, landslides, earthquakes, heavy rains and their resultant floods, among others. Whilst the Petitioner agrees that it is possible to obtain insurance payout or court awards following the aftermath of certain disasters, he is nevertheless convinced that this is not always possible in most cases. Here, he cites various natural disasters such as the Hells Gate Floods Tragedy where no particular person can be held responsible for acts of God, as well as some man-made disasters such as the Garissa University Terror Attack in which students and other victims had no insurance cover.

The petitioner is of the opinion that the mandate of the National Disaster Management Unit, under the Ministry of Interior and Coordination of National Government, is restricted to coordination of disaster management initiatives, public awareness of disaster policy and disaster preparedness and as such, the issue of compensation of victims of disasters is left unattended to.

It is on this premise that the petitioner seeks the intervention of this august House to establish a National Disaster Compensation Trust Fund to bridge the gap occasioned by lack of compensation for victims of disasters, who are neither awarded compensation by courts nor granted any insurance payouts.

Pursuant to the provisions of Standing Order No.227, this Petition therefore stands committed to the Departmental Committee on Administration and National Security. The Committee is requested to consider the Petition and report its findings to the House and the petitioner in accordance with Standing Order No.227 (2).

**Hon. Deputy Speaker:** Hon. Atandi, do you have an issue on this one?

**Hon. Samuel Atandi** (Alego-Usonga, ODM): Hon. Deputy Speaker, thank you very much. I wanted to comment on the Petition, which is very important and good. You are aware

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that there have been lots of victims of police brutality. Most of them have not been compensated. Therefore, part of what should be considered as man-made disasters should be victims of police brutality. I urge the Members of this House, especially Members of the Committee, to support this Petition because this time round, it has been Members from our community who have suffered from police brutality. I see a situation where next time, we might have more Members from that side - the *Tangatanga* side. Most of them will be victims of police brutality. I want them to take this Petition very seriously because you never know which side will be victims of police brutality.

**Hon. Deputy Speaker:** Very well. Let us have Hon. Tecla Tum.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Hon. Deputy Speaker, is it in order for the Member to say that there will be issues pertaining to this side? Does he know what will happen in the future?

**Hon. Deputy Speaker:** I do not see what was out of order with what Hon. Atandi said. When I gave you the opportunity, Hon. (Dr.) Tum, I thought you were interested in speaking to the Petition. In any case, you have raised a concern which escaped my mind. I did not see anything that was out of order. It was good enough for you to raise it.

Let me give a chance to Hon. Muturi Kigano. Do you want to speak to it or do you have an issue?

**Hon. Clement Kigano** (Kangema, JP): Thank you, Hon. Deputy Speaker. The matters in the Petition are long overdue. Whenever the occasion arises for us to formulate rules, regulations and legislation on disasters, we should not forget that we should get a very comprehensive definition of what 'disaster', under the circumstances, means.

Secondly, there will always be emerging disasters. It is not necessarily the ones occasioned by acts of God or manmade. A disaster is an emerging issue. In my area, there are landslides. Maybe, certain other areas have rain floods. Terrorism is a new form of disaster. Legislation is long overdue.

**Hon. Deputy Speaker:** Thank you very much. The last one will be Hon. Iringo Kubai.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Deputy Speaker for giving me an opportunity to comment on the Petition, which I support.

Disasters happen in this country and once they do, there is no fund or anywhere we can refer to so that we at least assist the victims. We end up sending individual support or the Ministry concerned or the Government says that it will support the families. At the end of the day, it takes quite a long time. If we had a fund of that nature, it would be very easy to go into that pocket, pick some money and assist disaster victims. The other day there was a disaster in a school in Dagoretti. We are currently trying to assist the bereaved families and those who were injured by coming up with a kitty from individual pockets. If there was a specific kitty, it would act like insurance.

**Hon. Deputy Speaker:** Lastly, because I see there is a lot of interest, let us have Hon. Mulyungi Mutemi.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Thank you, Hon. Deputy Speaker. I rise to support this Petition. That petitioner is thinking ahead of us. It is a very good Petition. I support it fully. Recently, we had a tragedy in Dagoretti at the Precious Talent School where some kids died and others were injured. If consideration of this Petition had been completed, those kids would have been compensated very fast. I rise to support this Petition and ask the Committee in charge to bring the Report very quickly to the House so that we can adopt it.

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**Hon. Deputy Speaker:** That marks the end of comments on this Petition. We will have more time to speak when the Petition is committed to the Committee.

Before we go to the next Order, let me recognise in the Public Gallery, students from Compuera Academy, Westlands Constituency of Nairobi County; Mumbi Primary School from Kiharu Constituency of Murang'a County; Daniel Oduor Primary School from Kibera Constituency, Nairobi County and Wamaiyu Secondary School from Mwingi Central of Kitui County. In the Speaker's Gallery, there is Kinungi Secondary School from Naivasha Constituency of Nakuru County.

### PAPERS LAID

**Hon. Deputy Speaker:** I am aware that the Chair of the Departmental Committee on Lands was supposed to lay a Paper. Last week, the Speaker indicated it should be done on 26<sup>th</sup> which is today. Let me hear what you have to say because you have a certain request which we want to consider.

**Hon. (Ms.) Rachael Nyamai (Kitui South, JP):** Thank you, Hon. Deputy Speaker. We have been able to finalise the Report, but it is being checked by the secretariat and the Office of the Director in charge of Committees to make sure that it is in the right form. I would like to request you to give us an opportunity to table the Report later in the day.

**Hon. Deputy Speaker:** It is good for us to be certain of the amount of time you require. Will you be comfortable with 5 O'clock?

**Hon. (Ms.) Rachael Nyamai (Kitui South, JP):** Yes, Hon. Deputy Speaker. The time of 5 O'clock is perfect.

**Hon. Deputy Speaker:** We accept that you lay it in the course of the sitting, at least before the end of the sitting today. We will be more comfortable with you tabling it at 5 O'clock. That will be in good order.

**Hon. (Ms.) Rachael Nyamai (Kitui South, JP):** Thank you, Hon. Deputy Speaker for the guidance and we will be ready at 5 O'clock.

**Hon. Deputy Speaker:** Push your clerks to move quickly. I think the notice is on the same issue. What you will do when you table the Report is to also give the Notice of Motion.

We will go to the next Order.

### QUESTIONS AND STATEMENTS

**Hon. Deputy Speaker:** We have both Questions and Statements. So, we will start with Questions. To start us this afternoon is Hon. Robert Gichimu Githinji, the Member for Gichugu. Is the Member not there?

*Question No.397/2019*

PROVISION OF WATER TO RESIDENTS OF GICHUGU CONSTITUENCY

*(Hon. Gichimu Githinji not in the Chamber)*

We will push it to the next Sitting.

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*(Question deferred)*

Let us the Hon. Obiri Momanyi, the Member for Bobasi. You have the microphone next to you. If you look at the microphone next to you, it is on.

*Question No.420/2019*

#### INTERDICTION OF HEAD TEACHERS IN BOBASI CONSTITUENCY

**Hon. Innocent Obiri** (Bobasi, PDP): Hon. Deputy Speaker, I beg to ask the Teachers Service Commission (TSC) the following Question:

(i) Could the Commission provide details why nine (9) head teachers in Bobasi Constituency were interdicted on 25<sup>th</sup> April 2019?

(ii) Could the Commission explain why these teachers were not granted an opportunity to be heard before the action of interdicting them was taken?

(iii) Could the Commission consider lifting the interdictions and allow them to return to their workstations?

**Hon. Deputy Speaker:** That one is due for a written reply by the Teachers Service Commission. Next is Member for Imenti Central, Hon. Nguchine Kirima.

*Question No.421/2019*

#### LAND ADJUDICATION IN KIAMURI B AREA IN CENTRAL IMENTI CONSTITUENCY

**Hon. Moses Kirima** (Imenti Central, JP): Hon. Deputy Speaker, I beg to ask the Cabinet Secretary for Lands and Physical Planning the following Question:

(i) When will the land adjudication on Kiamuri B area in Central Imenti Constituency declared in 2002 be carried out?

(ii) What action is the Ministry taking to address an overlap of the adjudication declared on Karocho Area in Tharaka-Nithi County and Kiamuri B area in Meru County which was already declared one year earlier?

**Hon. Deputy Speaker:** That will be replied to before the Departmental Committee on Lands.

*Question No.423/2019*

#### REPAIR AND MAINTENANCE OF RODI KOPANY-KARUNGU-SORI ROAD

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Deputy Speaker, I beg to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development the following Question:

(i) Is the Cabinet Secretary aware that the Rodi Kopany-Karungu-Sori Road that serves Rangwe, Ndhiwa, Gwasi, Uriri, Nyatike and Homa Bay Town constituencies in Homa Bay County and Migori County is still impassable, and has been in a state of disrepair for the past one year thereby impacting negatively on emergency evacuation, businesses and local commuters?

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(ii) Why was the Rodi Kopany-Sori Road transferred from Kenya National Highways Authority (KeNHA) to Kenya Rural Roads Authority (KeRRA despite the fact that it transverses Homa Bay Town, Ndhiwa and Nyatike constituencies, and what is the current classification of the road?

(iii) Could the Cabinet Secretary confirm which State Department is responsible for emergency repairs and maintenance of the said roads, provide a list of contractors and the amount of money disbursed to them for the said road from year 1990 to date, and finally confirm the timelines for repairing the road?

**Hon. Deputy Speaker:** That will be replied to before the Departmental Committee on Transport, Public Works and Housing.

What is it, Hon. Kaluma? Are you suggesting the Member is out of order?

**Hon. Peter Kaluma** (Homa Bay Town, ODM): He is very much in order. Hon. Deputy Speaker, that Rodi Kopany to Sori road comes from a place called Rodi Kopany. That was my people struggling to pronounce "Road Company".

I am standing to emphasise something about this road. This is the link road from the lake down to Nairobi. I do not know whether I can ask, as he will be getting the response from the Cabinet Secretary through the Committee, why the tarmac layer on that road cannot be scrapped off so that we go back to the murrum? That is because the situation we have is that I am losing not fewer than 10 people every week. Can they scrap off that tarmac so that we can go back to the mud that it was, as they look for a permanent solution?

**Hon. Deputy Speaker:** Hon. Kaluma, you know you are introducing a very new dimension to the asking of Questions. The Member has asked a Question on a personal initiative. The Member for Ndhiwa has done a personal initiative to ask a Question. I feel you, Hon. Kaluma. It is a serious thing when lives are lost. However, I would have been happy if you do one of these two things: One, you could ask a separate Question for yourself. Secondly, because the matter is before the House, you could attend the Committee. I will ask the Chair of the Committee to give some sign to Hon. Kaluma when they will be summoning the Member for Ndhiwa so that he can articulate those issues. It is serious when it is something that touches on lives. Members of Parliament are supposed to represent their people. Despite the fact that you did it wrongly, Hon. Kaluma, I think it is because of the attachment and the pain you have to your people. It is okay.

So, let us proceed. This one will be replied to before the Departmental Committee on Transport, Public Works and Housing. Let us also get a Question from the Member for Kabete, Hon. Kamau Wamacukuru.

#### *Question No.424/2019*

#### REMITTANCE OF HEALTHCARE FUNDS FOR ELDERLY PERSONS TO NHIF

**Hon. James Wamacukuru** (Kabete, JP): Hon. Deputy Speaker, I beg to ask the Cabinet Secretary for Health the following Question:

(i) Could the Cabinet Secretary explain when the Government is to remit healthcare funds meant for the elderly persons to the National Hospital Insurance Fund (NHIF) despite issuing them with NHIF Cards?

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(ii) What steps is the Ministry taking to address the above problem so as to ensure that elderly persons have access to healthcare services?

**Hon. Deputy Speaker:** That one will be replied to before the Departmental Committee on Health.

The last Question for today is by the Member for Nyeri, Hon. Mukami Wachira Rahab.

*Question No.425/2019*

STEPS TO ADDRESS REDUCTION IN TEA BONUS PAYOUT

**Hon. (Ms.) Rahab Mukami** (Nyeri CWR, JP): Hon. Deputy Speaker, I beg to ask the Cabinet Secretary for Industry, Trade and Cooperatives the following Question:

(i) Could the Cabinet Secretary explain the drastic reduction in tea bonus payout from Kshs50 per kilogramme to Kshs30 per kilogramme despite tea sales at the Mombasa Tea Auction fetching high rates exceeding Kshs200 a kilogramme?

(ii) What steps has the Ministry taken to address the challenge occasioned by the reduction in view of the fact that most tea farmers had already taken upfront loans at a rate of Kshs30 per kilogramme of tea in anticipation of tea bonus rate of Kshs50 per kilogramme?

(iii) What long-term plans does the Government have in sustaining the tea and coffee sector in view of the fact that farmers have already started uprooting their tea and coffee crops?

**Hon. Deputy Speaker:** Well. I almost overruled you, Hon. Mukami, because you said you want to ask three Questions. If you were to ask three Questions, you must ask them separately. What you asked is one Question in different parts which are going to get specific answers. Therefore, this will be replied to before the Departmental Committee on Trade, Industry and Cooperatives.

That marks the end of Question Time. We will go to Statements. I have a Statement request by the Leader of the Majority Party. It is the normal one. Let us start with the one of Hon. Jude Njomo. The Leader of the Majority Party will do his as a finality.

STATEMENTS

LAND OWNED BY DEL MONTE KENYA COMPANY LIMITED

**Hon. Jude Njomo** (Kiambu, JP): Thank you, Hon. Deputy Speaker. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Lands regarding land parcel ownership by Del Monte Kenya Limited in Murang'a and Kiambu counties. The company is alleged to be occupying land that is more than the allocated acreage. Together with Kakuzi, they occupy at least half of Murang'a County and a good area of Kiambu County. This has disadvantaged the residents. The local people were unlawfully and illegally evicted by the colonialist decades ago. It is against our Constitution as well as the National Land Commission Act which was enacted to end historical injustices in Kenya. It is further alleged that 7,400 acres of land that were surrendered to the Government of Kenya by their owners on 5<sup>th</sup> January 1973 are illegally occupied by Del Monte Kenya Limited.

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In the past, the company refused to co-operate with the county government bringing unbearable suffering and loss to the people of Murang'a and Kiambu, in particular the residents of Githanga. They have to traverse an extreme distance to Thika Town to get administrative and economic services due to lack of a passage within the property.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Lands on the following:

- i) What is the actual size of the land occupied by the Del Monte Kenya Limited?
- ii) Whether there is any land that is unutilised by the same company.
- iii) Whether the land allocated to Del Monte Kenya Limited is public land and how it was allocated.
- iv) What is the status of the neighboring parcels of land that we surrendered to the Government on 5<sup>th</sup> January 1973 in Murang'a and Kiambu counties?
- v) Whether there are measures by the Ministry to identify and recover land that is occupied by Del Monte Kenya Limited illegally.
- vi) Whether the Government has established the actual size of land that is not under utilisation for the last 90 years contrary to the terms and conditions of the lease.

Thank you.

**Hon. Deputy Speaker:** Very well. That stands committed to the relevant Committee. There are a few Members who want to make comments on this. Can we start with the Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, we must review all these leases of 99 years owned by big companies. You cannot have big companies holding large chunks of land when Kenyans who are living around them are squatters. What kind of independence are we talking about? Land is the issue. I do not want us to go the Zimbabwean way about land redistribution. There must be a way by which these companies settle the people around them in the excess land they have. Most of them work in their farms every day. They have no place to even bury themselves when they die. I am saying this on behalf of some Kenyans. Where I come from, land is in plenty and we do not bury our people where we live. We go to Lang'ata Cemetery. Del Monte and the big farms in Kericho... Today, Mumias Sugar Company has mortgaged the land belonging to small-scale farmers around Mumias. Now they are part of the receivership. Mumias Sugar Company used the title deeds of those few small-scale farmers around the Sugar Factory to get loans and now everybody in Mumias, including the local peasants, are in problems.

The Departmental Committee on Lands and the Government must find a way out. Every election, the political leadership makes it their business to offer a solution to the squatter problem. It becomes one of their key manifesto agendas. I saw a video clip of a politician – I do not know if it is true – promising, during his campaign, that he was going to build a bridge. After five years were over, he went back to the people to seek votes. They threw him in the river when he, again, told them that he would fix the bridge. That is how Kenya will be. We cannot promise to solve the squatter problem and then we do not solve it. I agree with the statement.

Del Monte has huge tracks of land. We are not telling them to settle Hon. Jude Njomo or Hon. Duale, but to give land to the people who work in their farms. They should give land to the people who live around them and solve the squatter problem. We cannot have Kenyans being squatters in a place where a foreign company owns large tracts of land. You cannot do that in Italy. A Kenyan cannot own land in Italy and next to him are some Italian squatters. That cannot

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happen. This is an important statement. The Chairperson of the Departmental Committee on Lands is here. You need to visit Del Monte, listen to Kenyans there and ask them how many years they have worked for Del Monte Kenya Limited. Also, seek to know where they live and where they bury their dead.

I support.

**Hon. Deputy Speaker:** Hon. King'ola.

**Hon. Patrick Makau** (Mavoko, WDM-K): Thank you, Hon. Deputy Speaker. I want to thank Hon. Jude. I know the pain he has. He is lucky he is talking of the colonial masters. I want to give a case... Three-quarters of Members of Parliament live in Mavoko. The land issue in Mavoko is emotive just as it is in other parts of Kenya. This statement is being sought at the right time. The Chairperson of the Departmental Committee on Lands has had many petitions from the people of Mavoko in Machakos County. The petitions are majorly on the issue of land ownership by big companies and expiry of leases. The companies sell the land upon expiry of the leases. It is high time we put the Land Act into practice. We should implement it accordingly. We cannot have companies owning land...

Most of us here had not been born when the East African Portland started to mine. To date, out of the 16,000 acres, they have mined 10,000 acres. All we are asking is for the East African Portland to surrender 6,000 acres to the residents. We cannot afford to have big companies owning land on leases and when the leases expire, they start selling the land after they have already mined them. We should advise the Executive. I know there are a few members in the Executive who are championing this matter and they are trying to get part of the chunk of land. The President should stand firm and put the Cabinet Secretary for Lands to task. We have so many cartels going round telling the companies not to give land to squatters but to them. Like for us in Machakos, the land is going away in the name of affordable housing. We agree we want affordable housing, but how do you sell land that was taken away from the locals and never compensated? That land made Kambas to shed blood! I stand in this House to request Members to help the residents of Mavoko. The East African Portland Cement Company, just like Del Monte Kenya Limited should give half of the 6,000 acres to the residents of Mavoko. We will have a reason to say that the Jubilee Government is mindful of the Kambas and the communities living in Mavoko. I am speaking at a time when the handshake...

**Hon. Deputy Speaker:** Hon. King'ola, you have had a lot of time. I just wanted you to make a comment or two. I am sure you have had more than your fair share, which is okay. I know you are very passionate about squatter issues. Let us move to the next Statement. Leader of the Majority Party.

#### BUSINESS FOR THE WEEK COMMENCING 1<sup>ST</sup> TO 3<sup>RD</sup> OCTOBER 2019

**Hon. Aden Duale** (Garissa Township, JP): Hon. Deputy Speaker, pursuant to the provisions of Standing Order 42A, I rise to give the following statement on behalf of the House Business Committee (HBC) following its sitting held on Tuesday, 24th September 2019:

On Tuesday next week, the HBC has prioritised the First Reading of the Constitution of Kenya (Amendment) (No. 4) Bill of 2019, the Public Fundraising Appeals Bill, 2019. Thereafter the House will consider a Motion on the Approval of Nominees for Appointment as Chairperson and Members of the National Land Commission. We will also consider the following business should we not conclude them today:

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1. Report of the Departmental Committee on Justice and Legal Affairs on the Ratification (Accession) of the Agreement for Establishment of the International Anti-Corruption Academy as an international organisation.
2. Report of the Departmental Committee on Labour and Social Welfare on a Fact-Finding mission on the Welfare of Migrant Kenyan Workers in the Kingdom of Saudi Arabia.
3. The Second Reading of the following Bills—
  - a) The Early Childhood Education Bill (Senate Bill No. 26 of 2018);
  - b) The County Governments (Revenue Raising Process) Bill (National Assembly Bill No. 24 of 2018); and
  - c) The Petition to County Assemblies (Procedure) Bill (Senate Bill No. 22 of 2018).

In accordance with the provisions of Standing Order 42A (5) and (6), I wish to convey that the following Cabinet Secretaries will appear before Committees next week:

1. The CS for Transport, Infrastructure, Housing and Urban Development and Public Works will appear before the Departmental Committee on Transport on Thursday, 3<sup>rd</sup> October 2019 to answer Questions by the following Members - And where Chairs are not available, they should allow the Vice-Chairs to take charge, because at times I have seen we are trying to adopt what the Senate does. If a Chair is not there then he cancels the meeting. If a Chair is not there, let the Vice-Chair preside. If both of them are away, let one of the Members chair.

- |                           |                              |
|---------------------------|------------------------------|
| a) Hon. Sara Korere.      | g) Hon. Oku Kaunya.          |
| b) Hon. Paul Nzengu.      | h) Hon. Kawira Mwangaza.     |
| c) Hon. Benjamin Mwangi.  | i) Hon. David Gikaria.       |
| d) Hon. Alfred Keter.     | j) Hon. Michael Muchira; and |
| e) Hon. Charles Njagagua. | k) Hon. Ayub Savula.         |
| f) Hon. Tindi Mwale.      |                              |

All these Members have Questions for the CS for Transport.

2. The CS for Interior and Coordination of National Government will appear before the Departmental Committee on Administration and National Security on Monday, 30<sup>th</sup> September 2019 to answer Questions from the following Members—

- a) Hon. Benjamin Washiali.
- b) Hon. David Sankok.
- c) Hon. Alpha Miruka.
- d) Hon. Joseph Manje.
- e) Hon. Nassir Ibrahim.
- f) Hon. Peter Masara.
- g) Hon. Sylvanus Maritim.
- h) Hon. Moses Injendi.
- i) Hon. Halima Mucheke.
- j) Hon. Ruweida Obo.
- k) Hon. Kamoti Mwamkale; and
- l) Hon. Beatrice Nkatha.

Finally, the HBC will reconvene on Tuesday, 1<sup>st</sup> October 2019, at the rise of the House to schedule business for the rest of the week. I wish to now lay this document on the Table of the House.

Thank you.

**Hon. Deputy Speaker:** What is it, Hon. Pukose?

#### NON-COMPLIANCE WITH COURT ORDERS BY PUBLIC OFFICERS

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Deputy Speaker, I rise under Standing Order 216 on the mandate of Departmental Committees as read together with the provisions of Article 95(2) of the Constitution regarding the role of the House in resolving issues of concern to the people. There have been concerns on failure of persons in public offices to comply with court orders. A case in point is the recent order on Hon. Sossion to resume his office as the Secretary-General of the Kenya National Union of Teachers (KNUT). Despite that court order, the Inspector General of Police has declined to enforce this lawful order yet he continues to occupy office and enjoy the privileges of the Office of Inspector General. This is just not one case alone. Even in my constituency, Endebess Farmers Investment got a court order that directed that the police were not to evict the occupants of that farm but the sub-county commander of police disobeyed the order and went ahead and demolished and destroyed those houses. The matter is before the Departmental Committee on Administration and National Security.

Hon. Deputy Speaker, would it be in order to ask you to order the Departmental Committee on Justice and Legal Affairs or that on Administration and National Security to inquire into these matters and others where the rule of law is not being respected by public officers? I seek your guidance.

**Hon. Deputy Speaker:** I am grappling to see what to do with the Statement that you are trying to seek. First, I do not know whether you are asking it on a specific case or generally. That is the first issue that I really want to understand from you. Secondly, I would want to know whether you want us to take any steps or otherwise. As far as I am concerned, if you are asking on a specific case, I would want to know the details, because some of these cases are probably live in court. Also, I know for sure there are avenues to resolve some of these matters outside of this House. If a court order is being disobeyed, the first port of call should obviously be to the specific court to seek redress, including taking somebody or a group for contempt of court. Since I am not very clear on what you are asking, I would give opportunity to a Member or two so that I am able to hear and then make a decision as to whether we really want to commit it to one of our committees or if we would like to ask them to pursue the matter in one of the relevant areas.

I see Hon. (Dr.) Otiende Amollo. Let us hear from him.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Deputy Speaker. The Statement sought by Hon. Pukose on a point of order stands to logic to the extent that this House as a House of Parliament has an oversight responsibility over State officers generally. To that extent, I think that it stands to reason to commit it to the relevant committee to consider that issue, but not so much on a specific case basis but on a principle basis because we have seen in this country that there are many times the courts issue orders but certain offices routinely disobey them. That is an issue of oversight. But I would be hesitant to have it committed to a Committee on a specific basis, because as far as I know the case cited by the Member is live in court. To the extent that it is live in court... Except that, Hon. Deputy Speaker, now you are not listening; you are being distracted. And you had sought to get one or two pieces of advice from some of us. If

Members could allow the Deputy Speaker to preside over the House, we would all be very grateful.

**Hon. Deputy Speaker:** I totally agree with you, Hon. Otiende Amollo.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): The Speaker has always guided that this guidance should be sought before we come to these sessions, not while we are here.

Hon. Deputy Speaker, the point I was making is that it is important for the Committee to consider the principle and make a recommendation to this House for adoption.

**Hon. Deputy Speaker:** Order, Hon. (Dr.) Otiende Amollo. These two Members who are Standing beside me have active cases in court.

(Laughter)

I would rather they sit there and wait for my ruling rather than come and canvas from where I sit.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Absolutely. Your guidance might assist them.

Hon. Deputy Speaker, I was suggesting that we commit it for a principled guidance but we avoid the mention of the specific case because if we do, we are also at risk of falling foul of Standing Order on *sub judice*. We might be taking up a matter that is actively before the court. However, I support the principle of seeking a principled guidance.

Thank you.

**Hon. Deputy Speaker:** I see a few other Members. Let us hear Hon. Wamalwa. Unfortunately, most of the Members who want to speak to this matter are to my left.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Deputy Speaker. It is true that Article 95 of the Constitution empowers this House to deliberate and resolve on any matter of concern to the people. As pertains to the KNUT, the case has been concluded and orders were given. I do not think it is active in court. Even if it is interim orders, it is the responsibility of the police to enforce those orders. With the police principle of *Utumishi Kwa Wote*, we do not see why the Inspector-General has not acted.

The Committee, headed by Hon. Koinange – unfortunately, most of the time he is absent from the House but Waluke is around – is the one that is responsible for these matters, but it has been sleeping on the job. We have complained on many issues. Many petitions have come to this House and were committed to that particular Committee but after 60 days, we got no report from the Committee. In any case, they always ask for extension of period.

The Leader of the Majority Party needs to crack the whip.

**Hon. Deputy Speaker:** Now that you have mentioned Hon. Waluke, who has also requested to speak, let us hear him out.

**Hon. John Waluke** (Sirisia, JP): Hon. Deputy Speaker, Hon. Wamalwa has lost the point. As a Committee, we are performing our duties as far as we are concerned. If he wants to contribute on the Floor of the House, let him proceed and do so but he should not trash the Departmental Committee on Administration and National Security. We have been working round the clock to ensure that it is well with this country. We do not sleep. We traverse this country, and that is why the security of this country is good.

**Hon. Deputy Speaker:** I hear what Hon. Waluke is saying. Hon. Wamalwa should have cited a specific matter. When you generalise and say that they sleep on the job, and Hon. Waluke says that he sleeps at home, it becomes a problem.

Another thing we must recognise is that, that particular Committee has a lot of work. So, at times they are overwhelmed. We should give credit where it is due. They do some reasonably good job. They might have some flaws here and there, which we can specify. For example, Hon. Wamalwa should have specified a particular flow but this one has not even been committed to their Committee. I was still grappling with the issue of which Committee to commit it to. Is it the Departmental Committee on Justice and Legal Affairs, which the Hon. (Dr.) has requested or it is the one which you have requested yourself? I am surprised, Hon. Wamalwa. You were alleging that the Committee responsible for security is sleeping on the job and at the same time making a request that it be taken to that particular Committee. I think you had finished making your point. On the issue of the Committee responsible for security, they are doing a good job.

Let us hear what you have to say in summary so that I give chance to one or two more Members.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Hon. Deputy Speaker, on that matter, it plays a very critical role as far as the welfare of the teachers is concerned, particularly at this time when schools are about to start administering national exams.

**Hon. Deputy Speaker:** What is the issue of teachers again?

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): I am trying to justify the importance of KNUT as it relates to the issue of absence of leadership. I passed by their office during lunch and saw that there were so many goons around that office. Hon. Sossion cannot even access it.

**Hon. Deputy Speaker:** I do not want you to go that direction. In fact, what Hon. (Dr.) Otiende Amollo brought out so well is the fact that it was a generalised thing. It is a matter of principle. If you touch on the issue of KNUT it becomes *sub judice* because it is a matter which is live in court. I am sure that Hon. Sossion, being a seasoned trade unionist who leads some trade union in Africa, knows all avenues in court that he can invoke and get something out of it. So, I do not think Hon. Sossion requires any help as far as I am concerned. He has been known for quite a long time to fight his battles. He does not need Hon. Members to fight on his behalf. He fights and many times he wins them. So, let us not bring the matter of KNUT here. However, we are doing it generally so as to particularly help the members of public who have no better connection like the one which Hon. Sossion enjoys. To enjoy a massive 349 membership is serious. So, he does not require that. It is not Sossion's case. His is active in court and we do not want to go that direction.

Hon. Kaluma, what is it? That should be the last one. I see there are other Members who want to speak to it. I will see to it.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Deputy Speaker, I have the honour of being the servant of the House in both the Committee responsible for security and the Committee on Justice and Legal Affairs. The matter of enforcement of court orders and respect for court orders is something that is currently of national concern. This is the extent to which...

**Hon. Deputy Speaker:** As you speak, I would like to pick from your mind as to which Committee would be the better Committee to handle this matter.

Proceed

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Deputy Speaker, a short while ago, we had the matter of Miguna Miguna, who found himself in the situation he was. It should not be lost from us that there was a time when that gentleman was somewhere as close as the airport in Nairobi. There were court orders that he be presented before court and he could not be presented. Instead, he was taken away.

Hon. Deputy Speaker, I was before the court as one of the lawyers observing what was happening. We may take it lightly but we see the desperation and misery that a judge goes through. Let us agree this way: We are separate arms of Government but there is a way in which the Judiciary also wants to relate with Parliament and the Executive. So, we have a case where the Ministry concerned, the police and everybody are looking at a judge in his face and they are not obeying his order. The judge does not want to commit them to jail. What does he do? This is why I agree with the suggestion that this matter be committed to a Committee to be investigated as a matter of principle not just a specific case. How many people petitioned the Committee on Justice and Legal Affairs, through this House, to investigate why court orders issued to them were not being enforced during the 11<sup>th</sup> Parliament? The time has come. It is not for no reason that the oversight mandate in this country is vested with this House. For you to be appointed the Inspector General of Police, you must pass through this House. We vetted the current office holder just the other day. For you to be appointed judge or Chief Justice or Deputy Chief Justice, there is a reason as to why Article 95(5) exists. These are matters which are addressed by the representatives of the people who are seated here. We may talk about *sub judice*, but we are talking about enforcement of orders. Once an order is directed at a thing it must be enforced. There can be no prohibition of discussion on whether the order is being obeyed is as much as the case could be there.

I request that because of what has been mentioned and the fact that there is a court order restoring an office and there are goons assisted by State agencies holding him. That, this matter be taken before the relevant Committee to deal with the agencies prohibiting compliance with the court order. In as much as it is a court order, I would request that in terms of right direction, this matter goes before the Departmental Committee on Administration and National Security. We can ask if the police were truly ordered to enforce the order, why they have not done so and why they are disobeying. This will be a quicker way of dealing with it.

**Hon. Deputy Speaker:** Next I will give the newly married Member for Emurua Dikirr whose attire has changed as a result.

**Hon. Kipyegon Ngeno** (Emurua Dikirr, KANU): Thank you, Hon. Deputy Speaker for that tickling statement. I think I am old and of course you know that matter has taken a long time.

**Hon. Deputy Speaker:** Order! Order, Hon. Pukose! You cannot tell the Hon. Member for Emurua Dikirr to send greetings to his spouse from the Chamber. You are completely out of order. So, Member for Emurua Dikirr proceed and do what brought you here. The greetings can be sent from elsewhere.

**Hon. Kipyegon Ngeno** (Emurua Dikirr, KANU): Thank you, Hon. Deputy Speaker. I would not wish to bring that matter here although maybe *Mhe*. Pukose wanted to pass his greetings to my wife and beautiful daughter who I am grateful to have.

I want to speak on the issue of court orders. Whenever there is an issue that deals with court orders, there are people who believe because of the positions they hold, powers they wheel or their connections to big people in the society they should not follow them. I think the law must be applied equally and equitably. So, for anybody who has done any wrong the law should not apply in a manner that suggests that some people are more equal than others.

Most importantly, when you listen to some of the people who hold some position, they wish to show the country that unless the court orders are from some powerful positions, they might not obey them. I wish to state that everybody from the police, people working in the public

service or State Office must obey orders regardless of where they come from. This is not negotiable. I can remember many cases where some people are meant to appear before courts...

**Hon. Deputy Speaker:** Member for Emurua Dikirr, please be brief so that I can give one other Member. I think you can wind-up on this one. I can hear you are building a case and it might take a long time.

**Hon. Kipyegon Ngeno** (Emurua Dikirr, KANU): Hon. Deputy Speaker, I stand guided. I do not want to build a case. I only wanted to support the fact that court orders must be followed regardless of who issued them or who they are issued against.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Akothee, sorry Hon. Akoth Odhiambo Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba South, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity. I want to correct that when you say Hon. Akothee, I think that is a name Hon. Sankok has acquired. Even though Akothee is my home name but in the House, it defines Hon. Sankok.

Hon. Deputy Speaker, you can never go wrong on principle and we must always be consistent with principles. That is why even the other time when Hon. Ndindi Nyoro was having problems, I supported him on principles and not politically because we are on different divides. But I will support his rights on principle. I am saying this because if the law is used against me today, I support and somebody else supports, it will be used against you tomorrow. For instance, as I was supporting Hon. Nyoro I said he was supporting when atrocities were committed against us. But, if he was against this, it would not have been used against him.

Therefore, because of this I want to urge that this matter be taken with the seriousness it deserves. It should go before the Departmental Committee on Administration and National Security and the Departmental Committee on Justice and Legal Affairs so that it is dealt with by the two Committees to show the seriousness. If we leave this trend to continue, next time it will not just be people outside Parliament, it will be visited upon MPs. So, to show the seriousness those two Committees should deal with it.

I would also want to urge that as the Committees deal, there are issues Members have raised which I think should be looked at against our Standing Orders and the Constitution. When we have interim orders, we should look at them against an ongoing case. If we let this to go on it means we are ceding our own oversight role. An interim order is an order and to that extent then the matter is determined for purposes of application. So, I would want the Committees to address themselves to the issue of an interim order so that if there is a stay order - well we cannot injunct the Government. But, if there is an order directing them to act in a given way, then they need to deal. I think this House needs to pronounce itself very strongly against Government agencies that are not following the law.

Hon. Deputy Speaker, I want your direction. I was standing on a point of order earlier on a different issue which Hon. Duale had raised. I do not know whether I can raise it now very shortly.

**Hon. Deputy Speaker:** Maybe later so that we do not mix-up the two issues. I want to finalise on this one. The reason why I gave a lot of time to Members to speak to this is because I wanted them to express themselves. Even, without having to put it before any Committee I am sure being representatives of the people...I see Hon. Sossion wants to speak and I do not want to go the direction of us personalising this. I will not give an opportunity to Hon. Sossion because as far as I am concerned, I did not want this issue to... Hon. Sossion, unless you are not going to

Speak to your specific case because you know where it is currently domiciled. Let us hear him briefly.

**Hon. William Sossion** (Nominated, ODM): Thank you, Hon. Deputy Speaker for granting me this opportunity. I am not rising to speak about my case and in fact, I did not anticipate it would be raised. We are talking about impunity creeping into public offices and this is just one of the many cases. We have several institutions like the TSC which has disobeyed close to 10 court orders and rulings. The Registrar of Trade Unions has blatantly disobeyed some court directives and rulings. The latest has been stated and the list is long.

What we are raising here is not about us as individuals, but we are talking about collective dignity and constitutional order in this country. The orders issued by the courts or rulings are not in vain. It is to ensure there is common order in the society for the good of everyone. If we have this litany of successful events of non-compliance, particularly of State officers then it is a sorry state. It does not make sense even for us to make any legislation here that will be violated. Therefore, I propose that this matter is extremely serious. If leaders who are protected can even fail to access their rights, what of the millions and millions of Kenyans who are getting these orders and they are not enjoying? It is our responsibility as representatives of the people to ensure that orders are obeyed.

Therefore, I propose that this matter should go to the Departmental Committees on Administration and National Security and Justice and Legal Affairs, and we get the report as soon as possible. Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Those are two different Committees, Hon. Sossion. I am really grappling with this matter. I do not think we need to go beyond this. We have really spoken to it for a long time now. I think expressing your concerns was good enough. I can see many Members even putting up their hands saying they should be the last one. Maybe the only person I will give the Floor to here is the Member for the Departmental Committee on Justice and Legal Affairs and the Member for Tharaka, Hon. Murugara.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Deputy Speaker. The rule of law principally is founded on obedience of court orders. In fact, first and foremost, it is not statutes; it is the court orders. If we disobey court orders, we are actually breeding anarchy. This is because whatever it is, you can breach the written law and do anything else but if you are taken to court and an order is given and you disobey, that is almost the end of it and we result to killing one another.

Therefore, it does not matter how high an officer is or how important that officer feels like: Court orders must always be obeyed and this is the statement that we are seeking. The right committee to deal with this is the Departmental Committee on Justice and Legal Affairs.

**Hon. Deputy Speaker:** That would obviously be expected from you. There will be no more Members speaking to this one. It is very interesting. From where I sit, it is the first time in a long time I see the Members of Parliament, the legislative arm of Government, and the Judiciary seemingly agreeing very seriously on this particular thing. Of course, your concerns have been aired. I am not going to refer it to any of the two Committees. What I am going to do is ask the specific Committees to do it on their own motion. In legal terms it is called *suo moto*. They can pick up specific ones that they feel are not *sub judice*. We do not need to direct Committees. They work on their own. They can pick topical items that are all over and they can work on them.

So, if Hon. Murugara and his team feel that there is something that needs to be done, you have mechanisms of doing it. You can summon any particular person you require. You have the

powers. It is the same for the Departmental Committee on Administration and National Security. What is most important is that you have expressed yourself. That is important. So, Members, I do not think I want to commit it to any of the two Committees but that is not to stop them from working. It is their business and the Standing Orders protect them. They can proceed.

Let us proceed to the next Order.

## CONSIDERATION OF REPORT AND THIRD READING

### THE FINANCE BILL

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** You can see we are grappling with the issues of the numbers and there is something very critical to be put. Let us hear what you have to say.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Deputy Speaker, for indulging me. This is very brief. I have just looked at the Bill tracker. I have three Bills pending before the House. Only one is in the Bill tracker and that is why I am putting it here. Is there another way that we can know because we have put in a lot of energy and effort in bringing Bills? Mine are complete and I do not know where they are.

**Hon. Deputy Speaker:** Are they Private Member's Bills?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes. One is on the Bill tracker. It has come for First Reading but then it has gone dead after that. Is there a way that the House Business Committee (HBC) could fast track Bills by Private Members so that our work is not in vain? I brought one of the Bills in the 10<sup>th</sup> Parliament, 11<sup>th</sup> Parliament and now it is in the 12<sup>th</sup> Parliament.

**Hon. Deputy Speaker:** That is noted. I will convey your sentiments. Order, Hon. Members! Let me put the Question. I can confirm that we have the required quorum.

*(Question put and agreed to)*

Hon. Members we will proceed in our normal order. We will go to the Mover, Hon. Limo, to move Third Reading.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Deputy Speaker, I beg to move that the Finance Bill (National Assembly Bill No.51 of 2019) be now read a Third Time. I also request Hon. Ndirangu, who is the Vice Chair to second.

**Hon. Deputy Speaker:** Hon. Ndirangu, Member for Roysambu.

**Hon. Isaac Ndirangu** (Roysambu, JP): I second.

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Deputy Speaker:** Having confirmed that the numbers are still there I proceed to put the Question.

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

Next Order!

### MOTION

#### REVISED SESSIONAL PAPER ON POLICY FRAMEWORK FOR REFORMING EDUCATION AND TRAINING FOR SUSTAINABLE DEVELOPMENT

THAT, this House notes the Report of the Departmental Committee on Education and Research on its consideration of the Revised Sessional Paper No.1 of 2019 on the Policy Framework for Reforming Education and Training for Sustainable Development in Kenya, laid on the Table of the House on Tuesday, 17<sup>th</sup> September 2019 and adopts the Revised Sessional Paper No.1 of 2019 on the Policy Framework for Reforming Education and Training for Sustainable Development in Kenya.

*(Hon. Julius Melly on 24.9.2019)*

*(Resumption of Debate interrupted on 25.9.2019 – Afternoon Sitting)*

**Hon. Deputy Speaker:** On this particular one, we have 30 minutes. So, I assume that the Members who have placed requests want to speak to it. Hon. Charles Kilonzo had a balance of three minutes. You can as well take advantage of that.

Proceed, Hon. Kilonzo.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Deputy Speaker. One of the recommendations of this Sessional Paper No.1 of 2019 is the issue of relevance. In particular, paragraph 6 speaks of emphasis on relevance of skills for industrial development. When I talk about relevance, those of us who did history in secondary school know that it was the most irrelevant subject. For example, we were taught about evolution of mankind. We were taught that mankind started with Australopithecus, Zinjanthropus, Homo Habilis, Homo Erectus to Homo Sapiens. I have never found the relevance of all those terminologies in my lifetime and I am yet to find the relevance.

We were told in primary school the first man to see Mt. Kenya. What is the relevance of first a man to see Mt. Kenya in somebody's life? So, as I support this, I also want to say that the cost of education is getting out of control. The National Rainbow Coalition (NARC) Government under the then President Mwai Kibaki promised us free primary education. However, today, there is no such thing as free primary education. Today, we have something called Parents Teachers Association fees to pay teachers who are employed by the parents. We have tuition fees which were banned. We have sports fees, activity fees and exam fees. If you visit your primary school, every day you will find kids being sent home to look for money. Indeed, the Government needs to allocate more money to secondary and primary education.

We also need to address the issue of those students who have completed Form Four education. It is because a very small number of them proceed to tertiary institutions or universities. We need to have more vocational training centres virtually in every ward. This matter should not be left to the county governments.

**Hon. Julius Melly** (Tinderet, JP): On a point of order, Hon. Deputy Speaker.

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

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Deputy Speaker. Is it in order for the Member to mislead the House that we have examination and tuition fees and yet all those are outlawed? The Government pays that fees. We passed an amendment in this House that said that all examination fees for Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary School Education (KCSE) should be paid by the national Government. So, I do not know which school he is talking about. Kindly verify.

**Hon. Deputy Speaker:** Hon. Mutavi, you should clarify that.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Deputy Speaker, it is very obvious that my good friend, Hon. Melly, is sleeping on the job. I had a meeting with the Ministry of Education to address this particular issue because payment of the fees is coming back through the back door. There is payment of tuition fee, which is illegal, but teachers still ask for it. There is exam fee in primary schools, which is also illegal.

**Hon. Omboko Milemba** (Emuhaya, ANC): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is it Member for Emuhaya?

**Hon. Omboko Milemba** (Emuhaya, ANC): Is it really in order for a Member to assert that the Chairman of the Departmental Committee on Education and Research is sleeping on the job when actually what has been said is very correct? We fought for examination fees not to be paid by parents. I am a member of a union where we actualised that. We want to thank the Government because there is no examination fee being paid. If there is any school that is charging examination fee, it should be brought to us so that we deal with it.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** This is fairly straight forward, Hon. Kilonzo. You have made an assertion that schools pay examination fee. As you have heard from the Chair of the Departmental Committee on Education and Research and a union member, the factual position is contrary to what you are saying. The best thing is for you to simply withdraw and proceed.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Deputy Speaker, this is a very serious issue. I want to invite the Departmental Committee on Education and Research to meet parents in some of the primary schools in my constituency. I will list what is being charged.

**Hon. Deputy Speaker:** Because you are insisting, how much examination fee is paid and to whom?

**Hon. Charles Kilonzo** (Yatta, Independent): Let me count, Hon. Deputy Speaker. There is Parent Teachers Association (PTA) fee which is Kshs2,400 per child in some of the schools. Two, there is tuition fee which is being paid in the primary schools. Three, there is class fee. Four, they introduced exam fee for mid-term exams. All these fees are illegal. I want to invite the Departmental Committee on Education and Research to come and meet parents from some of these schools.

**Hon. Deputy Speaker:** I have really restrained myself Hon. Kilonzo, for obvious reasons. You know that the ground you are treading on is fairly slippery. I am restraining myself because there are some things that can be done by other people and not necessarily the parents. I am sure you understand what I am saying. I do not want to go that direction. You have raised some concerns, yes, but examination fees are obviously not being paid. You have also talked of PTA fee - I do not know which parastatal the fee goes to. However, let me leave it there. Since this is a House of debate, I will give you leeway to proceed, but do not step on those very

dangerous grounds that Members will start asking you to substantiate things that are not necessary. Finalise, please.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Deputy Speaker, this is a matter which I have raised with the Ministry of Education.

As I conclude, we need to re-think whether we need the Teachers Service Commission (TSC) as an independent body or we need to take it back to the Ministry of Education. I am of the firm opinion that TSC has become a liability to the teachers. Ask those teachers who have retired; it is almost impossible for TSC to process their retirement benefits. They have to go to the national Treasury. It takes them almost a year or two for their dues to be processed. I want to invite the Departmental Committee on Education and Research to visit primary schools and talk to parents.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** I will give the chance to Hon. Mutua Barasa, if he wants to contribute. He is absent. I am trying to look out for Members to contribute. Let us give the opportunity to Hon. Shinali Masaka, Member for Ikolomani.

**Hon. Benard Shinali** (Ikolomani, JP): Thank you, Hon. Deputy Speaker. I want to support Hon. Charles Kilonzo on the matter of education.

**Hon. Deputy Speaker:** Sorry. Let me interrupt you for a minute because this has escaped us for quite some time. There are pupils and students who are in the Public Gallery. There is Mukalala Primary School from Yatta Constituency in Machakos County. I guess the Member of Parliament was speaking with a lot of passion because his students are here in the Gallery. There is also Iviani Preparatory School from Machakos Town which is also in the neighbourhood of Yatta Constituency. I can understand what happened to the Member this afternoon. He was very passionate about schools. There is also Mumbi Kiano Primary School from Kiharu Constituency, Murang'a County.

Proceed, Member for Ikolomani.

**Hon. Benard Shinali** (Ikolomani, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity to support Hon. Charles Kilonzo on matters of education. The way education is run and teachers handled cuts across the board.

**Hon. Deputy Speaker:** Which Order are you contributing to, Member for Ikolomani?

**Hon. Benard Shinali** (Ikolomani, JP): I am contributing to the Motion on the Revised Sessional Paper No. 1 of 2019.

**Hon. Deputy Speaker:** Be relevant to it, please.

**Hon. Benard Shinali** (Ikolomani, JP): We have two parallel administrations which manage education in the counties. We have TSC which performs supervisory functions in schools and the Ministry of Education. It is a duplication of roles and an expense to the Government. In case of discipline cases of teachers who head our schools, the Ministry of Education investigates and checks the quality of education and TSC does the same thing.

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

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

I wish this House can re-look at how the administration of education can be streamlined so that we have one command or line of administration. That way, things will move smoothly. The confusion that we see even in Dagoretti is because we do not have one command station

where teachers can be supervised and matters followed up for purposes of ensuring that our children are secure in schools and that the administration of education is reasonable.

Thank you, Hon. Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Mohamed Sheikh. He is not in. Is he here?

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD – K): I am in.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Wakhungu, you are not Hon. Sheikh. Since Hon. Sheikh is not there and we are on that side, I will give you the opportunity to contribute.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD – K): Thank you, Hon. Temporary Deputy Speaker. Sessional Papers are very important Papers in many jurisdictions that inform legislation. I want to thank the Departmental Committee on Education and Research and the Ministry of Education for coming up with a Sessional Paper. This has been done from an empirical study perspective. It says that the shoe-wearer knows where it pinches. These are the people in the profession. After they put it into practice, they realise where the gaps are. That is why sessional papers worldwide are respected.

Hon. Melly has done well as the Chairman of the Departmental Committee on Education and Research. In practice, sessional papers are supposed to be debated before implementation. This Sessional Paper is very good with its key aspect being the CBC. It is the best way to go. It is the best practice, but it has come when it has already been implemented. It is supposed to be the other way round. I do not know where the Committee was. Maybe they had tabled it, but the House Business Committee had not scheduled it for debate on the Floor of the House. That is what I am asking. It is good to look into the things my colleagues have been complaining about. It is important that when we debate a matter like this one, the relevant committee take notes, so that when it comes to reply, they respond to the concerns of the Members. These are the best practices worldwide.

I also humbly request the Departmental Committee on Sports, Culture and Tourism and the Departmental Committee on Defence and Foreign Relations to come up with sessional papers. We should encourage drafting of more sessional papers. There are people sleeping on the job in the ministries. We need them to do continuous research, so that there is continuous improvement. Continuous improvement can only be achieved if sessional papers are formulated.

I thank the Departmental Committee on Education and Research for what it has done. I humbly request other departmental committees to pull up their socks. The Chair of the Departmental Committee on Lands, where we have a lot of problems, has not brought sessional papers. Please, we want sessional papers so that we can debate from an informed perspective. We salute the Departmental Committee on Education and Research under Hon. Melly. We want other departmental committees to follow suit.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Igembe Central, Hon. Iringo Kubai.

**Hon. Kubai Iringo** (Igembe Central, JP): Hon. Temporary Deputy Speaker, I wanted to speak to the next Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have Hon. Abdi Yusuf.

**Hon. Yusuf Hassan** (Kamukunji, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Sessional Paper presented by the Ministry of Education.

It is important for us to invest in technical education in order to be an achieving nation, a country that can compete in the global environment. Having been away for many years, I was quite surprised when I was elected a Member of Parliament for Kamukunji to see the state of our schools. Having worked in war torn countries, I was surprised to see how dilapidated our schools were. I am also surprised to see how discipline and commitment in teachers had gone done. Many of the schools had leaking roofs, floors were gone and did not have enough desks in some of the classes. This was quite surprising given the fact that my constituency is in the Capital City of Kenya. It is important for the new Cabinet Secretary to put a lot of emphasis to turn around the Ministry of Education, so that it can become much more efficient and a performing ministry that can deliver the best education for our children and promote the interest and wellbeing of our teachers. This will ensure that they have confidence and are motivated to teach our children.

I would particularly like to emphasise the fact that the direction we are going of investing in technical and vocational institutions is the right way given the fact that many industrialised and competitive countries in terms of production went through the same route. These are countries like South Korea, Singapore and Japan. They invested in their cottage industries and gave their young people tools to learn the necessary industrial and technical skills that are required in today's world.

I also want to emphasise the fact that although it is important to put emphasis in technical skills that we require in certain traditional areas, we also must be mindful of the fact that we need to invest in new technologies in the digital, information, communication and technology industry. There is not, although the commitment is there and there is a lot of talk about it, enough investment at the local level to equip and give experience to our young people. I speak as a Member of an urban constituency with a very large number of unemployed young people who have been let down by our education system and have fallen into the cracks. They did not go to university, but were qualified. So, they do not have the necessary skills. Even now, some people who have graduated from universities, if you put them to work, many of them are not skilled and do not have the knowhow or the necessary training to do jobs that are required. That is why we need to put many of these unemployed youth, who are out in the streets back into training to get skills that are required for them to be productive citizens and to participate in making our country prosperous and advance economically.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, you notice that we are on a Motion which had already been debated. We were left with 30 minutes and we have to leave ten minutes for the Mover at the end of the debate to reply. We are already at the ten last minutes meant for the Mover to reply. Hon. Melly can plan for his ten minutes and donate part of the time.

Hon. Melly, you may now reply.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. Before I reply, I want to donate some of my time to two Members. First, I donate to my neighbour, Hon. Oyoo, who is my deputy in the constituency. We represent one another. I also give part of my time to the Member for...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): How many minutes are you donating?

**Hon. Julius Melly** (Tinderet, JP): I am donating only two minutes. I also donate two minutes to Hon. Tuwei. I will speak for four minutes.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. K'Oyoo, you have the Floor.

**Hon. Onyango Oyoo** (Muhoroni, ODM): Thank you, Hon. Temporary Deputy Speaker. I do not know whether I should extend my gratitude to my neighbour, Hon. Melly, or to you for giving me the opportunity. But because of the constraint of time, I want to speak in a hurry.

From the evidence that has emerged since this debate started, the Chair and his Committee should understand that there are problems in the Ministry that they need to address squarely more so pertaining to the issue of handling teachers' affairs by the TSC. There is also lack of provision of adequate physical structures in various schools and challenges in the 100 per cent transition. I hope he has taken keen interest and that Members have not just been making noise. I hope he has taken note of the challenges in the Ministry his Committee should address squarely for the betterment of education in this country.

Thank you very much. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Tong'i, you have two minutes.

**Hon. Richard Tong'i** (Nyaribari Chache, JP): Hon. Temporary Deputy Speaker and my colleague and friend, the Chairman of Departmental Committee on Education and Research, I appreciate the opportunity to speak to this debate.

From the outset, I am supporting the Sessional Paper because it addresses concerns which have been affecting Kenyans. Exams are extremely important, but they must be managed in a way that it does not disadvantage people who are gifted differently. Chemistry, for example, is a good course to do, but what has chemistry got to do with a student who is a musician? Some of the subjects we study in school are sometimes very important, but we should not make them benchmarks for defining what your life is going to be like. There are people who have succeeded tremendously in this world without passing exams. As Kenyans, we must be aware that people are gifted differently and appreciate as such. I am grateful that the Sessional Paper addresses that aspect by ensuring that children who are gifted differently are not condemned on account of failing one exam, which is probably what they are not gifted in. It is good to appreciate that French, for example, is a good course. It is good to know many languages, but it does not make one a genius. So, we should not condemn people on account of exams alone.

As I conclude, I must hasten to mention that teachers are hurting deeply because of the challenges they are facing with the TSC. Teachers are very integral and key people in our society. They define and make lives. Therefore, we should all support them. Some teachers retired many years ago, but have not been paid their retirement benefits. I have a friend, who is an elder in my community, who lives in Murang'a, but he has not been paid his pension despite retiring more than four years ago.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Two minutes for Hon. Tuwei.

**Hon. Vincent Tuwei** (Mosop, JP): Thank you, Hon. Temporary Deputy Speaker and the Chairman. I welcome this Sessional Paper because it addresses most of the concerns that we have as a country. As we try to implement the new programme and the curriculum that we have adopted as a nation, which has already been rolled out and Grade 3 pupils are being tested, it is my sincere request to the Committee, and the Ministry of Education, to consider that changing a curriculum is very expensive. We, as Members of Parliament, and all stakeholders, including parents, must be involved 100 per cent to especially capacitate schools in terms of infrastructure

and teachers, so that we can provide an enabling environment for the implementation of the program.

I support the Motion. This programme needs to be budgeted for. As you can see, the CBC is being rolled yet there is no budget for it. I wonder what will happen in the next two or three years when we shall be having junior secondary schools from Standard Six, if we will have no facilities. What will happen to us, as leaders? The crisis will face us and not just the Ministry. Two, who will teach in junior secondary school when we already have a challenge in primary and secondary schools? I have many secondary schools that have a capacity of 1,000 students yet they have only eight TSC teachers. I require 17 of them in school. Today, we are introducing a new system yet we have a challenge of shortage of teachers. I urge the Chair of the Committee to move with speed to rationalise this situation.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Melly, you have the Floor.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I thank the Members for their critique and the issues they have raised with regard to the Sessional Paper. In my presentation on the Sessional Paper, I recognised that the Committee had critiqued it and asked the Ministry to relook at it. They went back and reviewed it. That is why we have a revised version. On the same, the input of the Members in this Sessional Paper is very important. I thank the various contributions, specifically on teacher management issues. On teacher management, we have a serious shortage of about 100,000 teachers in this country. The only way to clear the teacher shortage is through budgeting. We cannot have enough teachers if we have no budget for them. This is something that we need to look at in future, so that we can address the issue once and for all.

On the issue of the CBC, though the Sessional Paper only handles CBC in Chapter IV, there are a number of issues that the Sessional Paper has addressed, for example, early learning and the role of early education to learners. It has also addressed the issue of university and technical education. This is an area where it is going to solve the issue of unemployment. This Sessional Paper has outlined clearly how the institutions are going to link the students with the labour market. As the Member for Kimilili has just said, a sessional paper is the spirit. It is the philosophy. It is the basis under which programmes and policies are implemented. The fact that we have a number of gaps does not stop the implementation of this Sessional Paper. The input of Members on the various issues they have raised is valuable. I thank the Members, especially on the issues they have brought up. They will enrich the Sessional Paper and the final document.

For record purposes, the 8-4-4 System was implemented in 1984 and there was no Sessional Paper. This is for record purposes. This is to indicate that the CBC that we have and the various Government programmes that are in place have started on the right footing. The Ministry of Education and all the stakeholders who participated in its development are on the right foot. On the financing of these issues - and this is very important - I remember that during the Presidential Address in March, the President asked the House to vote for enough resources for this sector.

With those remarks, I beg to move.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Melly, you are not moving, you are replying.

**Hon. Julius Melly** (Tinderet, JP): Yes, I beg to reply. Under Standing Order No.53, I beg that we defer voting to another day because of the numbers.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): That is in order, Hon. Melly. Putting of the Question to the Motion stands deferred until when this Order appears on the Order Paper again.

*(Putting of the Question deferred)*

Let us move to the next Order.

## **BILL**

### *Second Reading*

#### THE EARLY CHILDHOOD EDUCATION BILL

**Hon. Julius Melly** (Tinderet, JP): Hon. Temporary Deputy Speaker, I beg to move that the Early Childhood Education Bill (Senate Bill No.26 of 2018) be now read the Second Time.

This is a very important Bill for this nation. In my submission, I have looked at the Bill in various parts. The Bill seeks to provide a framework for the establishment of systems for administration of early childhood education within the counties. As I speak, we have no legal framework on early childhood education. You will realise that counties are running the early childhood education without any clear legal framework. This is a very important document which is going to guide the implementation and firm the early childhood education into the laws of this country.

Paragraph 9 of Part 11 of the Fourth Schedule to the Constitution provides that free primary education is a function of county governments. County governments are, therefore, conferred with the mandate of ensuring the implementation of early childhood education within the counties. Though the policy and the planning part remains at the national level, this Bill seeks to address and to put the law in place, so that early childhood education is done well by the county governments.

Part I of the Bill provides the preliminary provisions including the Short Title and the interpretation of terms as used in the Bill. The Part also sets out the objects and purposes of the Bill as well as the guiding principles that guide counties and other actors in the implementation of the Bill.

Part II of the Bill provides for the rights of every child to free and compulsory early childhood education. In public education centres, in order to realise that right, the Bill assigns various duties to county governments, parents and teachers that will facilitate promotion of the right to early childhood education. As you all know, education in this country as per the Basic Education Act is free and compulsory. However, on the early childhood education, it is structured in ways that parents have to play their role, the county government has to play its role and the teachers have their role, so that this right is ensured.

The Bill also obligates the County Executive Committee Member (CECM) to establish such infrastructure as may be necessary to ensure the access to this education by children with disabilities. Our Committee visited Kibos in Kisumu last week, a school for visually impaired. That institution was established at the dawn of Independence, in the early 1960s. It is one of such institutions in this country. I think they are only two or three. During those early periods, provision of education to the physically challenged was not there. The school's administration

has tried to improvise so that the physically challenged like those who have issues of mobility can use the facility well. This is something we have told all CECMs in charge of education to ensure that this is provided for.

Part III of the Bill provides for the establishment of registration and maintenance of early childhood education centres in county governments. The application for registration shall be submitted to the County Education Board (CEB) in prescribed form. In fact, this Bill seeks to look at the sector in a radical way. As we move forward, early childhood education centres shall not be established in the current form where churches, centres or even well-wishers can just bring children together and just ask for registration from the Government. They shall be required to put facilities in place first and ensure those facilities have been inspected, meet the requirements of the health officer and public works, so that we can stop the problem we saw the other day where students and teachers live and work in shanties in the name of schools. With this Bill, it shall be mandatory that before any centre is registered and known as an ECDE centre, it will have to meet those requirements. The students will come last.

In the current form, Hon. Temporary Deputy Speaker and Hon. Members, you will realise that even in our constituencies, we have pressure as Members of Parliament. You are at times told that “we have students up to Class Four in mud-walled classes”. The Member of Parliament is pressed to register them. There is nothing we can do because the students are already there. In this instance, we are asking the CECM to ensure that the structures, infrastructure and all the required facilities are in place.

The Bill, in Part III, provides for the substitutability and change of premises for an education centre as well as mobile schools which shall be established on requirements prescribed by the cabinet secretary. It has been known that some ECDE centres are mobile. You cannot change a mobile education centre or an ECDE centre into a form that is not guided by the Bill.

In Part IV, the Bill provides for the management of ECDE centres. It will be vested in the Board of Management (BoM). It provides for the establishment of BoMs for ECDE centres. This is a managerial area where the Bill seeks to establish BoMs in all ECDE centres. In areas where ECDEs exist alone or as what I call “stand-alone”, they shall have their BoMs. In areas where ECDEs exist with main schools, they shall be integrated and become part of the schools’ BoMs.

Part IV provides for the administration of ECDE systems. The Part provides for each county government to provide overall governance and management of ECDE centres. This is very important, especially the role of the CECM, the ECDE teachers and the county governments in management of the schools. It is purely a county government function. The Part also prohibits certain actions such as administration of exams of admission, holding back of pupils, expulsion from the centres and charging tuition fees in public ECDE centres. A few minutes ago, one of our Hon. Members said some schools are charging illegal fees. This has been talked about every other time in this House. You will find that some schools charge admission fees, tuition fees and all those charges. This Bill seeks to make sure those things are outlawed. The Ministry of Education, Science and Technology (MOEST), the Cabinet Secretary and the CECM in charge of ECDE need to take this very seriously, so that all ECDE centres do not charge those fees. The Bill is very clear. The law is very clear on that matter.

Part IV also provides that the Kenya Institute of Curriculum Development (KICD) shall be responsible for the development of ECDE curriculum, which will be applied in all counties. The section is very important to make ECDE standards across the counties. I know there are certain peculiarities on mother tongue, cultures and many other things. However, the curriculum

of all the ECDEs across the country shall be developed by the KICD in conjunction with the CECM.

Part V of the Bill provides for the accreditation of ECDE offering foreign curriculum by the CEB. An education centre shall submit an application for accreditation. We are talking about foreign curricula. We have certain ECDE centres in this case. They offer foreign curricula. Those which offer GCE or other type of curricula have to be accredited or approved by the CEBs. Most of those are very common in the City of Nairobi, where we have a number of educational institutions offering foreign curricula.

On the same note, the Bill provides that the certificate of accreditation shall be valid for five years and renewable subject to the education centre meeting the prescribed conditions. We are in this case talking about the Early Childhood Education Centre Accreditation.

It should also be noted that the Bill provides for the revocation of certificate where an education fails to comply with a standard of accreditation. The Part mandates the CEB to establish and maintain a register of accredited centres. This register shall be open to the public for inspection. That is a matter for quality assurance. That is very mandatory to quality assure the various centres across the country, so that every centre meets particular well established criteria for them to operate.

Part VII of the Bill provides for quality assurance. It enables the County Early Childhood Education Quality Assurance Committee (CECEQAC), which shall be in consultation with the County Education Standards Council (CESC) to ensure the maintenance of standards of education and implementation of guidelines and policies formulated by the council. This is a very important thing. I think it is going to ensure that all ECDE centres are established and run as required by law.

Part VIII of the Bill is on safety and protection of children in an education centre. Under this Part, Section 64(1) states:

The board of management in each education centre under this Act shall —

(a) maintain premises that meet the requirements of the occupational health, safety regulations and building standards;

(b) ensure the welfare and safety of the pupils, teachers, non-teaching staff and other persons within the institution; and,

(c) put in place fire-fighting equipment, first aid and other emergency equipment and non-prescription medicine as the county executive committee member may prescribe.

This is an important part, especially on safety of learners. We consider the fact that they are young. Most of them are defenseless. They cannot escape accidents easily. It is good that the Bill has clearly prescribed the following aspects about the safety of learners in terms of what the County Executive Committee member, the county government, the BoM and the teacher in charge of the ECD centre need to do. Every child in an ECD centre must easily be accounted for. The buildings and other structures that are put in place should not be done in a way that can injure a child in an ECD centre.

This Part also requires the Cabinet Secretary to prescribe minimum standards for the health and safety of pupils. It talks of a satisfactory environment for education. We know the health of these children is fragile. A number of them are susceptible to cold and communicable diseases. This Bill intends to ask the ECD centers to ensure that all the facilities in the centres are of high standards. The toilets and where the children stay and play are important places. We are talking about the formative stage of children and that is why, every other time, the health regulation standards are important. To ensure the safety of the learners as they grow, every ECD

centre should meet the requirements prescribed in the Bill. This is an area where, if we get it right, we shall have no issues at the level of secondary schools and colleges. Cases of collapsed buildings and fires will be a thing of the past.

The Bill also outlaws corporal punishment. Section 65 states:

(1) No teacher or any staff of an education centre shall administer corporal punishment.

(2) A child in an education centre shall not be subject to emotional or psychological abuse.

A few weeks ago, I stood before this House to issue a statement on a child who passed on. It was alleged that she was abused by a teacher. She was stigmatised and traumatised and she committed suicide. The Bill intends to ask head-teachers, teachers and handlers at the ECD centres not to subject learners to corporal punishment because it is illegal and a psychological abuse to the young ones. It is bound to injure them. A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding Kshs500,000 or to imprisonment for a term not exceeding four years, or both.

Part IX of the Bill provides for transitional provisions. It sets out a transition period of one year from the date of the enactment of the Act. These are consequential or transitional clauses that ensure the Bill is in tandem with the law. This Part also gives a transitional period of four years to persons previously employed as ECD teachers within which time they shall be required to obtain the necessary qualification for employment as ECD teachers under the new Act.

This Bill is explicit on the standards of officers, specifically the teachers. The teacher is required to comply, to be examined, and to be registered by the TSC. Every County Executive Committee member, in the Bill, is mandated to ensure that all the officers under him or her meet these requirements. The Bill seeks to entrench standards. You will find that in some counties, teachers do not have a certificate or a degree. You cannot go to the streets to pick any one to be a teacher of your child. The Bill seeks to standardise this by making sure that the teacher is registered, has the requisite documents, skills and understanding. The ECD learning has to be done as per the law.

In Part X, the Bill has miscellaneous provisions. It gives powers to the Cabinet Secretary to make regulations in consultation with the Council of Governors (CoGs). Additionally, the Cabinet Secretary shall, in consultation with the TSC and the CoGs, prescribe minimum standards relating to the schemes of service for ECD teachers within one year of enactment of the Bill.

We deliberated, as a Committee, on the issue of employment of ECD teachers. This is a function of the county governments, but we shall debate it. Early Childhood Development teachers are paid in a variant way. Some county governments pay them Kshs8,000. I want to thank the Governor for Kisumu County who pays them Kshs12,000. That could be the highest in the country. So, if one county is paying them Ksh8,000, others Kshs10,000 and others as they deem fit, we can look at that issue in this Bill. We can propose amendments to ensure that if money has been taken to the county governments, it is brought back and these graduates are employed by the TSC for standardisation, motivation and recognition. These are the people who we bestow our children at a tender age to. How do you give your child to a demotivated person, say, a person who wakes up in the morning and does not take tea because their salary is not enough? It is incumbent upon us to look into this matter and ask ourselves: What are we doing about it? That is open for discussion.

The First Schedule provides the criteria for determining the suitability of premises for the conduct of early childhood education. The Second Schedule provides for the conduct of affairs of the board of management of Early Childhood Education centres. This Schedule has clearly brought out how the ECD centres will be handled.

The Bill affects the functions of the county government. It concerns the counties for purposes of the Standing Orders. We are aware this is a Senate Bill, but we will debate and dispense with it.

On public participation and stakeholder participation, the Early Childhood Education Bill (Senate Bill No.26 of 2018) was published in the Kenya Gazette No.115 of 4<sup>th</sup> September 2018 and passed by the Senate with amendments on 2<sup>nd</sup> May 2019. The Bill was also read for the First Time in the National Assembly on 11<sup>th</sup> June. Thereafter, it was submitted to the Departmental Committee on Education and Research. We looked at it as a Committee.

I will comment on our recommendations: Our views were based on meetings that we did and public participation. We met the Ministry of Education, Science and Technology, State Department for Early Learning. We had input from the Kenya Law Reform Commission (KLRC), Kenya National Commission on Human Rights (KNCHR) and a memorandum from Mr. Daniel Okoth. These enriched the Bill. It gave us a wide perspective on the Early Childhood Education Bill.

This is an important Bill not only for the county governments, but for the running of education in this country. This House needs to debate it and enrich it further. The Committee considered all the proposed amendments by the stakeholders and incorporated amendments that were deemed valuable and admissible.

*(Technical Hitch)*

That is procedural. We shall later move certain Committee amendments, which were proposals from stakeholders and Members of the Committee. In conclusion, the Committee made a number of recommendations. The Committee recommends that the House approves the Early Childhood Education Bill with amendments. I beg to move and request Hon. (Prof.) Ogotu to second.

Thank you.

**Hon. (Prof.) Zadoc Ogotu** (Bomachoge-Borabu, Independent): Thank you, Hon. Temporary Deputy Speaker. I second the Bill that has been ably presented to us by my Chairperson. I have various reasons why I feel this Bill needs to be supported. First of all, it brings life to the Ministry of Education, Science and Technology, building a very clear link between early childhood and the other sectors of education. Early childhood education is one area that has been living like an orphan, being treated differently by individuals and by institutions and even by Government departments that handle the sector. The Bill brings light to this sector in different ways.

For one, it provides a comprehensive framework that should guide the running of early childhood education. It also gives provision on how quality should be improved in this segment of the education sector. It especially removes the abuses that the sector has been experiencing due to lack of a clear framework. As a nation, if we have to succeed, we must begin from the foundation that we give to our children. The Bill, therefore, provides a very clear foundation in terms of how our children can access education. This will remove the barriers that have been preventing the little ones from accessing education. It also clearly stipulates what it means for a centre to qualify as an ECD centre, both in terms of human resource and governance. It clearly

spells out what we will see in ECD centres that are standalone entities. We will also see ECD centres that are integrated within the primary school system. In each case, we will have clear governance structures that run the centres, so that they are not treated as by-the-way institutions.

The Bill underpins the partnership that is required to see the role of county governments clearly linked to the role of the national Government in terms of successful implementation and quality management of ECD centres. It also provides punitive measures against those who fail to deliver education at this level, both in private and public centres, with clear fines and punishment that will befall those who become victims of this situation.

The Bill further looks at the role of the county government, which is the main player in ECD learning, and tries to bring in other stakeholders that make it possible, so that the county government does not seem to be running ECDs alone. It makes it possible for local partnerships and for a close working relationship with departments of the national Government.

In view of the processes that this Bill has gone through and for the fact that it has brought a new face to the Ministry of Education, Science and Technology, I second it.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order Members. Order Hon. Kaluma. Take your seat, please.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Quite a number of requests. Let us start with Hon. Iringo Kubai, Igembe Central.

**Hon. Kubai Iringo** (Igembe Central, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to this Bill. Let me thank the Chair and the Departmental Committee on Education and Research for presenting the Bill, and for the fact that the Chair has said that the Committee will propose amendments, which I feel we need to enact. Despite the fact that the Ministry did its bit, I feel there are some grey areas in the Bill which need to be polished further, so that we can fine-tune it and give early childhood education its correct place in the country.

Early childhood education is the foundation and that is why the centres are even called nurseries. You find that even tree nurseries are tendered more neatly than where the seedlings are put at maturity. If you go to our schools today, you will find that nursery schools or the early childhood classes are neglected to the level that Standards One to Eight is where the focus and efforts are put, including infrastructure. Classes for nursery schools are dilapidated or are not there and some of the children learn under trees in some remote areas. The parents pick a lady in the village who has not been trained to teach their children. That is a very bad and poor foundation for our children. Therefore, if our children have to have a good beginning and a good future, we need to start by giving them the correct infrastructure, so that they can learn properly. They need to have qualified teachers to teach them. Teachers in early children classes are more important than teachers in secondary schools because they nurse the children from the word go immediately they start their learning.

Today, if you go to a school, you will find the head teacher of a primary school who is answerable to the TSC while the ECD teachers work on their own independently. They are never assessed. Nobody seeks to know their problems. Even if they have complaints, nobody will listen to them. They do not have any structure. This Bill should have a structure whereby the ECD teachers have their own union or are assimilated into the existing unions, so that they can have

some bargaining power. Across the country, you might find as many salary structures for ECD teachers as there are 47 counties.

We need to have a structure like that of the TSC, where we know that P1 teacher starts with salary scale 'A' and after such a period of time they move to salary scale 'B'. In the current situation, you find that an ECDE teacher earns only Kshs6,000 with neither annual leave nor work structure yet you find one teacher taking care of 50 children. This situation must be addressed. There should be a mechanism for linking TSC, the Ministry of Education and the county governments. In current structure, the Ministry of Education mans the administrative bit of school while TSC mans the teaching human resource. The county government is responsible for ECDE teachers. So, one institution has three big umbrellas on top and none of them sits to see how they can harmonise and coordinate the running of the system.

I went to a certain school in my constituency. We were to meet the teachers and the students to talk to them but the ECDE class was left out. So, I asked them why they were not coming. They told me that that was a county government class. I told them that they were also pupils of this school and they must come and listen to what we are saying. Therefore, that disconnect has been there. This Bill needs to cure that problem through amendments that will be brought during the Committee of the whole House.

Hon. Temporary Deputy Speaker, I agree with the idea of giving the county governments the onus of putting up structures such as classrooms, but the personnel should come from the TSC. If need be, even the classrooms need to be done in such a way that they are uniform across the county or school so that some are not done haphazardly, as is happening. The ECDE classrooms are poorly done in schools.

On the issue of opening schools, I appreciate that the Chair has indicated we will need to accredit schools. We will have to identify where to open schools and which school is ripe for opening. We need to ensure that we have the correct structures, and that safety matters have been taken care of. Health matters and all other issues that need to be looked into will have to be addressed before we open a school. Currently, ECDE classrooms are mushrooming all over. You find somebody residing behind a shop or a kiosk, or somewhere behind a church building, and he put up a structure with some furniture and you find children there. That is very wrong. We need to have structures. The children are delicate; they are vulnerable to diseases, abuse and injuries.

They need to be taken care of very carefully before they grow up and become strong enough to go out there and do their own things. More so, they need space for playing. Children do not require a football field; they need a place where they can play. There should be such facilities. That is the way we can model our children and bring them up knowing that they had a very good foundation.

Let me conclude by saying that ECDE teachers must be taken care of, respected and remunerated just like any other teachers because they lay the learning foundation of our children.

With those remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Well said. Let us hear Hon. Didmus Barasa, Member for Kimilili.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to support this very important Bill. My only worry is that so many laws are passed by this House as a lot of work is in the implementation stage. More specifically, we should be monitoring compliance to these particular laws. How I wish going forward, as a House, we can even demand that the agencies that are supposed to implement or monitor implementation of laws have a particular checklist that contains a matrix that can be measured.

These laws are passed for the sole purpose of improving the ECDE in this country. Without proper monitoring to ensure that ECDE centres comply with the requirements of this law, we would be passing these laws in futility.

I am happy that this law is also concerned with the safety of the children of this country – the ECDE pupils. Today we have mushrooming child care centres that have not even been approved by the Government. These kinds of centres breed diseases for our children but they do not comply with the regulations. I am happy that this Bill seeks to cure that problem. Education is a very important function. Early childhood development education is crucial because it sets the foundation for the career path for the children of this country. It must be a shared responsibility between the county governments and the national Government because at the end of the day, children must be given proper education even as they go to primary schools. Marching forward, we will be sure that we get good products from ECDE centres. The way a child of this country performs in primary and secondary schools depends on the foundation under which this child got during ECDE centres. As such, this Bill is very important.

Even as we support this Bill, the Committee on Implementation must also move with speed to ensure that the Bill is implemented. I am aware that this House has passed so many Bills. Unfortunately, after Bills are assented to by the President, some agencies do not implement them. Once a Bill has been assented to, the relevant agencies must move with speed and implement it. Our colleagues in the Senate take a lot of time to dispense of Bills originating in this House. This is a very important Bill. They should move with speed and approve it once we approve it and forward it to the Senate. This is because it touches on the mandate of the county governments directly. The Senate is the custodian of devolution in this country. I am hopeful that they will process this Bill as quickly as possible.

With these few remarks, I support his Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have hear the Member for Lamu County, Hon. (Ms.) Ruweida.

**Hon. (Ms.) Ruweida Obo** (Lamu CWR, JP): Asante sana, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi hii nami niuchangie Mswada huu. Elimu ni sekta muhimu sana. Nimekuwa hapa tangu saa nane na nusu nikingoja nami nipate nafasi nichangie. Nimekuwa na dharura muhimu; dadangu yuko hospitali katika chumba cha upasuaji lakini nimesema acha nikae hapa nami nipate hii nafasi. Hii ni kuonyesha umuhimu niliokuwa nao wa kuchangia Mswada huu. Ripoti nyingi za Kamati ya Elimu zikiletwa huzungumzia mambo mazuri sana.

Kamati ya Elimu na Utafiti huleta ripoti nyingi ambazo zinazungumzia mambo mazuri sana na mikakati mingi ya kuboresha elimu. Nimeipitia Ripoti hii na ina mambo mengi muhimu ya kuboresha elimu. Mwanzo, wanazungumzia majukumu ya Serikali, elimu kama haki ya kibinadamu na upanuzi wa nyanja mbalimbali katika elimu. Ninaunga mkono lakini kama nimeketi hapa, naona tunapitishia Wakenya wengine. Inaonekana kuna Wakenya bora zaidi wakuwekea hii mipango.

Ukiniruhusu kunukuu, wanasema kwa lugha ya kimombo *every child has a right to education*. Lakini ni masitikiko kwamba Kaunti ya Lamu kwa muda wa miaka mitano, shule nyingi zimefungwa. Hakuna shule za chekechea, msingi na upili. Huu Mswada ni mzuri lakini tunapitishia Wakenya wengine ambao ni bora. Masikitiko sio kwamba sijafanya kazi yangu kama Mbunge. Nimejaribu. Nimeuliza Maswali na nikajibiwa na niakambiwa nipitie kwa wizara na nimepitia huko mara nyingi. Nikienda, ninaambiwa suluhisho itatolewa Jumatatu. Siku hiyo nafika na kuambiwa suluhisho itatolewa jumafulani. Nimeenda mara nyingi lakini ni kama hawataki kutoa suluhisho. Nimeambiwa niandike maombi na nimeandika. Ni kama kuna sehemu

zingine ambazo zina Wakenya bora. Ingekuwa bora kama kungekuwa na *mobile school* ndio watoto wasome.

Hata mbinu za kisasa kama televisheni ama tarakilishi zingetumiwa ndio mtu akiwa Nairobi asomesha wale watoto. Jamii ndogo ya *marginalised community* iliyotengwa ya Basuba, Boni ana Aweer mpaka sasa hawana shule ya chekechea. Kila wakati nikienda kwa Wizara ya Elimu, Sayansi na Teknologia, nasukumwa kwa Wizara ya Usalama. Nimetafuta suluhisho na sipati. Simwoni mwenyeketi wa kamati lakini anajua shida zangu. Nimeng'ang'ana lakini sipati suluhisho. Sijui wamelengea nini hawa watoto maanake Katiba inasema lazima wapatiwe haki zao. Mimi nasikia uchungu nikiketi hapa kupitisha Mswada mzuri uende kwingine lakini kwetu haufiki.

Tunajua Lamu iko Kenya. Sijui kwa nini sheria hizi zipangiwe wengine lakini si sisi. Kuna mipango mizuri ambayo Serikali inafanya, kwa mfano watoto wa msingi wote waende sekondari, lakini hii haiwezi kufanyika Lamu. Inanipatia uchungu sana. Ninaomba Kamati ijue jambo hili na kutafuta suluhisho. Saa hii najipanga kuleta *petition*.

Asante, Mhe. Naibu Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Kama nimekuelewa vyema Captain Ruweida, unaunga mkono Mswada huu lakini uko na malalamishi mengine. Sijasikia kama umeenda mbele ya Kamati ya Elimu na Utafiti. Kama hujaenda ni vyema upitie kwa Mwenyeketi ili maswala haya umesema yaweza kupata suluhu.

Hon. Members, let us move on. We will interrupt the contributions on Order No.10 for a bit to give the Chairperson of the Departmental Committee on Lands a chance to lay a Paper which had been spoken to by the Deputy Speaker earlier.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Temporary Deputy Speaker. First of all, I would like to thank the Deputy Speaker for being considerate and giving the Committee an opportunity to lay this Paper and also give a Notice a Motion.

### PAPER LAID

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

Report of the Departmental Committee on Lands on the Vetting of Nominees to the Positions of Chairperson and Members of the National Land Commission.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Nyamai, it is my understanding that you also need to give notice of the same. Go ahead.

### NOTICE OF MOTION

#### CONSIDERATION OF REPORT ON NOMINEES FOR APPOINTMENT AS CHAIRPERSON AND MEMBERS OF NLC

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Hon. Temporary Deputy Speaker, I beg to give Notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Lands in its Report on the Vetting of Nominees for Appointment to the positions of Chairperson and Members of the National Land Commission, laid on the Table of the House on Thursday, 26<sup>th</sup> September 2019, and pursuant to Article 250(2) of the Constitution as read together with Section

12 of the National Land Commission Act, 2012 and section 8 of the Public Appointments (Parliamentary Approval) Act, this House:

(a) approves the appointment of the following persons to the National Land Commission:

- |                                 |   |                      |
|---------------------------------|---|----------------------|
| a) Mr. Gershom Otachi Bw'Omanwa | - | Chairperson          |
| b) Hon. Esther Murugi Mathenge  | - | Member               |
| c) Prof. James K. Tuitoek, PhD  | - | Member               |
| d) Ms. Gertrude Nduku Nguku     | - | Member               |
| e) Mr. Reginald Okumu           | - | Member               |
| f) Hon. Samwel Kazungu Kambi    | - | Member               |
| g) Ms. Hubbie Hussein Al-Haji   | - | Member               |
| h) Mr. Alister Murimi Mutugi    | - | Member; and further, |

(b) rejects the nomination of Hon. Tiyah Galgalo Ali as a Member.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuyu): Very well, Hon. Nyamai. We shall now have the Member for Emuhaya, Hon. Milemba Omboko.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker. From the outset, I thank the Departmental Committee on Education and Research for bring this Bill, which is a Senate Bill on Early Childhood Education. The Constitution defines education in the Education Act and makes a statement that is holistic and strong that basic education is free and compulsory. The Basic Education Act proceeds to define what basic education is. It defines it to include early childhood education and proceeds on.

I want to thank the Committee because this law acknowledges the need to align ECD into the Education Act properly, so it is part and parcel of the compulsory education that needs to be provided. I support this law because it recognises that the function of ECD is under the county government. But it proceeds to bring items which will strengthen this department like ensuring a legal framework is put in place for county governments to ensure that there is infrastructure for children living with disability. This has not been there and children living with disability have been discriminated upon when it comes to ECD. This has not been there and the children living with disabilities have been discriminated against when it comes to early childhood education. The ECD centres are quasi and spring up depending on the individuals themselves. Some of them are private.

It also streamlines the registration of ECD centres at the county level, which is very good for the general education framework. Furthermore, it puts a framework for facilities of these institutions to exist and even further creates a board that will manage them. The majority of the early childhood centres are managed by individuals and not by boards. So, I really support that input.

In Part VIII, the Bill protects the children from corporal punishment. This is a law that has been put very strongly within the primary school sector. It affirms it, so that any forms of punishment to the early learners is taken care of. It finally gives a transition period. I really thank that Committee because there is a transition period for our teachers to prepare and align themselves with the registration framework that will be required within four years, so that they can be mainstreamed within the TSC registration. That is very good.

I really laud and emphasise the issue of registration and employment of teachers. Currently, the way the teachers are being employed has been left to the county governments to do it haphazardly. There is no structure of employing these teachers systematically so that they go through an interview and we have the best getting the opportunities. So far, the employment of ECD teachers is treated as any other county employment which can easily be swayed to the

favours of those within the authority of county governments. This is one thing that should be flagged out strongly as this law moves on.

I also want to speak on the payment of teachers. The law needs to come up. I think we shall talk to the Chair for such amendments to standardise the pay for the ECD teachers so that it is not determined by how rich or poor a particular county is because the variation in payment is dependent on what the county government determines. Let us standardise their pay and curriculum so that all the ECD teachers have a standard pay and do not depend on how the county government decides.

Furthermore, there is the infrastructure question, which the Member for Lamu spoke about so sentimentally. It is an issue which again, together with the Chair and working close with the Committee, we should try to bring in this particular law, a standard way of funding infrastructure for the ECD centres. This can be done by the national Government giving a grant to county governments with specific instructions that this will be for infrastructure. This will bring up several good structures for ECD institutions within our schools. As it is, the ECD structures are dilapidated. They are not there. It is like it is not mandatory that county government should build them. It builds them when it wants and does not build them when they do not want them.

Finally, there is the issue of salaries for ECD teachers. We have realised that when it comes to salaries for the ECD teachers, nobody seems to care. We are proudly paying our gardeners far much better than those with whom we entrust the minds of our young children to, the ECD teachers. This is a question that I want to invite the House to deal with more strongly, so that we can get a structured way of paying the ECD teachers.

With those many remarks, I thank you for the opportunity.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Rachael Nyamai.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to start by stating that I support the Bill on early childhood education that has been ably moved by the Chair of Departmental Committee on Education and Research, Hon. Melly.

I have listened to the Bill being moved and I have realised that it is extremely important to put a framework for administration on matters of early childhood education in our counties. As we interact with education issues in our counties, I have seen children in dire state in schools which are not very well organised. It is at early childhood education that a child gets a base and the first interaction with others in the world beyond their parents. We need to give this a thought. The Committee has given it thought and introduced the Bill to ensure that our children in various counties get quality education. As much as we know that early childhood education has been devolved, it is important to consider children in all our counties as children of the Republic of Kenya. We need to be concerned about the quality of education that they get, the quality of teachers and the quality of structures they learn in.

It is important for the national Government to get concerned about policy. I have heard from the Chair and also read from the Bill that this Bill will ensure that the standards of education in schools in all the counties are maintained, including schools that may be registered as mobile early childhood centres. The policy and the standards will be the same. I believe this is extremely important.

I will go to the issue of structures. As much as county governments have a responsibility to construct early childhood education centres, it is important for the national Government to get concerned, so that children, especially in rural areas, access quality ECD education. Recently, we

have seen schools in the capital city where children learn in extremely dilapidated structures including the recent matter of the private school that is within the city of Nairobi which was being shown on television. It is important that this Bill is enacted and the issue of quality is ensured.

There is also the matter of quality of ECD teachers. We have cases where ECD classes are taught or run by people who have never been trained. This Bill is going to ensure that those who meet the children immediately they leave their parents are qualified. The children should interact with facilities run by people who know how to handle them and people who have gone through proper training.

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

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

There are skills for handling children. When the Chair was moving, he talked about cases of public and private facilities where we have teachers who are exposed to Montessori skills. The question of the ability to handle a child will be highly addressed in this Bill. Registration is extremely important. It is also important for teachers to know that as much as their payment comes from the county government, it is the national Government that ensures that there is proper monitoring and evaluation of the facilities. We have seen situations where counties do not want the national Government to monitor and evaluate. They should know that it is important to be open to monitoring and evaluation, so that the standards can be evaluated.

The link of the first training of a child at the early childhood level and the link between the early childhood and primary schools are highly recognised in this Bill. It is by enacting a law through a Bill like this that we will have teachers who know how to deal with extremely talented children. We have cases of children who are highly talented at the age of two or three. We have seen this happening in our country lately. This Bill can be used to ensure that people who meet children at the primary level or at the first point of training, are able to deal with exemplary and talented children. We should also have teachers who can ensure that the health of children is taken care of. It is at that facility that a teacher can talk to parents about matters of health and issues of vaccination because there are children who are below the age of five years. So, it is extremely important to enact this Bill. It goes beyond education because it is a link to other sectors of development where a child will get the best.

There are also matters of language. At what level is a child introduced to another language beyond his or her mother tongue in case of our counties? Children are encouraged to know that beyond the language that their parents speak, there are other languages. So, this is an extremely important Bill. I am happy to have got the opportunity to associate myself with it. I thank the Committee for coming up with the Bill. We hope that it will be an Act of Parliament soon. It will improve the quality of ECD education in our country.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well said. The Member for Suba North, Hon. Odhiambo, you have the Floor.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute. I support the Bill, which is timely.

As a country, we do not put a lot of effort in ECD education. So, when we get it wrong, then the children go wrong in their academia. I was very privileged to get very good grounding in ECD. I know the benefit. I recently heard one of my colleagues or age-mate saying that some of us are in a very good generation because we got a little bit of colonial era education and have been through every Government. I benefit a little from what was provided by the missionaries in my nursery school. If you look at the import that they put in ECD, it is very different from what we put now. We had very good infrastructure and excellent teachers. As a country, we are doing the opposite now. We devalue ECD education. It is the one that should have very highly trained teachers and excellent infrastructure. Instead, in most of the places which teach ECD education, we just pick anybody even those without qualifications. Sometimes, we pick people who only know how to play with kids. Therefore, children have very poor grounding. Because I know we do not have time, I have some concerns which I will raise with the Committee and I hope they will bring amendments.

We should have stronger terms in Clause 7, for example, a parent shall ensure that a child is enrolled in an education centre. We have put a punishment of Kshs10,000, which is too lenient. We should make it obligatory for parents to ensure their children attend ECD education centres. Clause 9 should be worded in a way that integrates children with disabilities in regular schools. This Bill implies that we will provide separate schools for children with disabilities when we should integrate them in our normal schools by constructing ramps. I have not heard that word. I am just hearing about equipment. Those are exclusionary words.

I wanted to talk about pre-registration in Clause 13, but I have seen it there. We have done a very good thing in registration. I wish we can also provide it in primary schools because currently, there are primary and secondary schools in my constituency that have been trying to be registered for more than a year. We need timelines, so that we do not register in perpetuity. We should not be too punitive when it comes to registration because most of the areas where we come from, you find that people start studying under trees because that is what they can afford and then they grow. Our counties are taking too long to build the centres. We should not punish children because of that. I know one area called Miyal where I built one class, but the little children had to walk for four kilometres to the nearest school. The parents wait until the children are older. There is one island where I built the first ECD class. It is not easy. I built it as a primary school class, but they use it as ECD class because they have to use a boat to the mainland. If we put these stringent guidelines in such a case, they may be excluded.

Clause 19(3) provides that the ECD education centres should have one acre of land. I am not very good in measurement, but I was told that this entire room is one-quarter of an acre. Most of our centres are not that big and land is scarce. So, we are basically saying that we will not be registering schools. We need to reduce that acreage.

Clause 21 talks about mobile ECD centres without saying under what circumstances we will be providing them. Under Clause 22, we have provided standards of occupational health for private schools only. We are not talking about it in public schools. Clause 27 provides ranking by talking about public and private schools, and putting private schools ahead. When you interpret, it means that we are giving more value to private schools than to public schools. To show that this is a public duty for the Government, public schools should come ahead of private schools.

I was concerned about the fact that there seems to be no uniform curriculum, but I have seen that it is provided. Most of our ECD education centres neither have a uniform curriculum nor standards of the teachers. I am happy because the Bill provides that. I suggest that the head teachers need to have higher qualifications than the teachers to make a difference not only in

experience, but also in education. If the teachers are in the diploma level, then the head teacher should have a degree. In Clause 30(6), the board should not co-opt other members because that is bringing people into the committee through the back door. Clause 35(c) is contradictory. The Bill talks of non-payment of fees, but Clause 35 suggests that we can pay fees.

In Clause 40(2), we need to add the word “sex” to discrimination because we are increasingly realising that we have children who are intersex who have been excluded. These are children who have two genitalia, both male and female. I was recently talking to some of them as part of the Parliamentarians for Global Action Kenya and what was evident is that when a child who presents two genitalia goes to school, the teachers do not know how to classify them. They do not know which toilet to go to and they get a lot of discrimination. One of them was sharing with us that they had to be undressed in public. So, the public was asking them whether they are male or female. At that level, we need to recognise that there are children who may have those characteristics.

The age of admission should be worded as a guide. I know that we provided an exception, but we should not give it to the teacher because in rural and marginalised areas, children start going to school very late for reasons which are beyond them. I have told you the case of Sukuru Island. Most of the children go to school late because they are in an island and the schools are on the mainland. When we say that the age will be four to six years, then it means, out of no fault of their own, they will be excluded from ECD education centres. We should say that in exceptional cases - but not leave it at the discretion of the teacher - those children can go to ECD education centres late so long as they get education.

Clause 49 talks about the teacher-child ratio, which shall be determined by the county or regulation. For us to hold those counties accountable, we should be the ones, by this law, to determine the ratio so that our Early Childhood Development Centres (ECDCs) have very good standards. I have a lot of issues I wanted to raise, but I will leave it there for now. I will propose amendments later and speak to them when I bring them.

With those few remarks, Hon. Temporary Deputy Speaker, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me now get the representative of the teachers. Hon. Sossion.

**Hon. Wilson Sossion** (Nominated, ODM): Thank you Hon. Temporary Deputy Speaker for granting me this opportunity. I rise to support the Bill before the House and thank the Departmental Committee on Education and Research for strongly concurring with the originators of the Bill - the Senate.

This is a very historic Bill particularly in the history of education and development in this country. The very strong foundation of education is in quality ECD. In the event of a nation running a poorly managed ECD system, then it progressively has challenges across the board in education. Looking at the history of the efforts the country has made, this Bill should have come immediately after the Constitution was promulgated because it was captured in Sessional Paper No.1 of 2005 to mainstream ECD by 2009. By 2009, indeed, there was in place a scheme of service for teachers. But after the promulgation of the Constitution, there has been a lot of push and pull on what to do with ECD. There has been a lot of injustice and, therefore, there is need to have this Bill fast-tracked and properly implemented.

There are a lot of challenges in the ECD sector. Quality comes out very strongly and everyone has talked about it. There cannot be quality ECD without quality teachers. Therefore, the Bill seeks to try to address that. Quality education is dependent on quality teachers. I believe after the enactment of this Bill, it will be legally clear on the minimum standards and minimum

qualifications to teach ECD. We have seen in the recent struggle between who to employ between the Teachers Service Commission (TSC) and counties. There have been different names assigned to teachers. When the county governments realised that the mandate was moving to the TSC, they changed names of ECD teachers to care-givers, babysitters and all manner of names. That is indignity. I believe that, upon the enactment of this Bill, the teacher teaching at ECD will be treated with dignity and recognised as a teacher.

The second aspect that needs to be addressed is quality learning resources. That is another key factor. About 16 years down the line, since the rolling out of the free primary education, capitation is assigned to every child in primary and currently to every child at the secondary level. But in 2019, there is no capitation assigned for learning resources in ECD. This is a matter that needs to be addressed as we work on this Bill so that capitation is across the board should be sufficient for teaching and learning resources per child at the ECD level.

The third aspect of quality ECD and education in general is quality infrastructure. We speak to this Bill at a time when we are smarting from a disaster that was uncalled for. Quality infrastructure at the ECD is a matter that needs to be addressed. This squarely rests with county governments to ensure that there are quality classrooms and other infrastructure in place.

Finally, I wish to speak to the rights of teachers teaching at the ECD. There has been a big debate and even at this point, there is no law that is specific on who employs ECD teachers. I wish to submit that - and I hope it comes through an amendment so that it is clarified - the Constitution is very clear in terms of the TSC as an independent constitutional commission. As an independent constitutional commission, the assumption that it only serves the national Government is wrong. As an independent constitutional commission, it serves the nation, and, therefore, it should employ teachers from ECD to tertiary institutions and manage them. It is not enough for the TSC to exercise the role of registration and disciplining without employing. You cannot regulate an employee who is not under your ambit in law. Even as we support the Bill, we seek consensus across the board in the Senate, Council of Governors, this House and the nation at large to agree that it is only fair and reasonable that the people of Kenya are sufficiently funding the TSC. It should take the full responsibility of registering, employing and managing teachers at the ECD.

I support the Bill and look forward to a very vibrant ECD that is properly managed. I believe that alongside this, we will have a clear national policy for early childhood education so that it can guide the operations of the sector.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Those are good insights. I am sure Hon. Members will be at liberty to propose amendments at the right time during the Committee of the whole House.

The Member for Igembe South is consulting. Let me have the Member for Nyaribari Chache, Hon. Tong'i Mogaka. I can see he is also consulting. Let us have the Member for Kitui West, Hon. Edith Nyenze.

**Hon. (Ms.) Edith Nyenze** (Kitui West, WDM-K): Thank you Hon. Temporary Deputy Speaker for giving me this opportunity to make my contribution to this very important Bill on ECD. First, I note that ECD is very important because it is the transition of the young ones from a home set up to school. This is their first encounter with the world and with different people. Therefore, it is very important. ECD schools should have a set up that is attractive for the children to fit comfortably as they move from a home set up to a school set up. So, those institutions should be made in a way that they are attractive and comfortable because they are the

start or the first impression the children get about school and learning. So, it should not be treated lightly like it is done in some cases. You find, especially in rural areas, few parents coming up with arrangements to start ECD schools and then get teachers from anywhere who have not even been trained and employ them. They put such delicate and fragile children in wanting structures. As I said, this is a transition from home and the first impression is very important. Those delicate children require quality education. Meals should also be considered. The Government should put in place measures to ensure that there are meals even in the arrangement of coming up with education facilities. Playing grounds should also be adequate. There should be space to play because at this age, they are used to jumping and shouting. So, they require safe and spacious grounds for them to play and continue growing up in an educational set up. I am supporting this Bill on early childhood education because it is catering for some of those things.

I have also noticed that it is taking into consideration children who are born with disabilities. This has been wanting, especially for children who are born with disabilities. We do not have institutions and classes. Such children do not enjoy their right to education because they stay with their parents. Some parents even hide them because they become a bother to them. This Bill takes into consideration children who are born with disability. For such children, they require quality education, which can only be offered by teachers who have quality education; not teachers who are demotivated. Some teachers have not been absorbed by the county governments. They are employed by parents, who give them very little money. Sometimes, the teachers go without pay and yet, those are the teachers who take care of such delicate children. This would affect their education.

The Ministry of Education, TSC and the county governments should be structured in such a way that they take into consideration early childhood education. Primary school teachers are well trained. Inspections are even conducted in primary schools to ensure that the curriculum is being followed. At early childhood education centres, such structures are lacking. So, we should have structures for early childhood education.

The teachers also need to have a scheme of service. There should be good structures on how they will be paid so that they are assured of getting a pay at the end of the month. They will know how much they will be paid because some of them get very little and are not even assured of getting that pay at the end of the month. Those teachers should also belong to a union that will take care of their needs like negotiating for their payments with the TSC and such things. They should have standardised salaries and belong to SACCOS. They should also have pensions so that they feel comfortable. When you ensure that teachers get quality training and are comfortable, at least, with the assurance that they will get paid and during retirement they will also get pension, then they will be motivated to take good care of our children. So, the Government needs to motivate the teachers by taking care of them. The TSC, which is in charge of registration of schools and remuneration of teachers, should also take charge of the teachers at early childhood education centres so that they are motivated enough to take good care of our delicate children.

With those remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Member for Kiharu Constituency, Hon. Ndindi Nyoro, you have the Floor.

**Hon. Ndindi Nyoro** (Kiharu, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support. I have listened to the sentiments from my colleagues. I side with most of them because this Bill seeks to improve early childhood education for our children. From where I sit, pre-

primary or ECD, whichever way you call it, is not just about learning. It is more about growing. I remember that during our time, going to nursery school, as it was called, was not a learning experience *per se*. It was not about doing examination and graduating to Class One. It was an experience of meeting your buddies. It was an experience of experiencing much more than the curriculum would offer.

Therefore, as we talk about improving early childhood education, it is important for us to focus on facilities that go beyond learning and promotes more of growing. Early childhood education is a period where perceptions are shaped. Of course, a lot of what we believe as adults is inculcated in us during our early childhood. Therefore, I hope most of it has been taken care of by this Bill so that we have much more facilities beyond classrooms. We talk about playgrounds and well-endowed facilities for children to participate in what children do better.

I am elated because for the first time, we are going to standardise the curriculum of early childhood education. Where I come from, any ECD centre teaches what they deem best. Children graduate to go and face another standardised curriculum from Grade One. Therefore, it is only better that we standardise our curriculum from ECD level so that we can have basic standardised material to feed our young children so that they can be in the same wavelength as they progress to primary school.

There is also the issue of teachers of ECD centres. I dare say that we have improved as a nation because previously, ECD teachers would just be picked from the village. After the proliferation of many colleges that prepare ECD teachers, we now have many more qualified people out there. What we need is thorough interviews even as we hire them to ensure that we engage people who are competently trained to handle, teach and prepare our young children.

I have noted in my constituency that we have many ECD centres located in places far away from normal primary schools. This week, I was at a place called Mjini in Murang'a Town, where we are trying to relocate the ECD. I believe this duplicate in so many other constituencies where it becomes very hard for the management of ECD centres, especially those that are located very far away from primary schools. We also need amendments to have those ECDE centres domiciled within primary schools so that we can take advantage of the head teacher, as the head of the primary school, other than having primary schools in different areas and ECDE centres flanked outside and far away from their counterparts who are in primary schools.

The ECDE is a main issue especially to parents. We have capitation and almost free primary education in public schools. We are paying a lot of money for students in high schools through capitation. But we do not take care of the parents who have those young ones in those learning institutions. It is very expensive in some areas and parents have to "cough out" something to supplement the county governments in employing more teachers. I am sure we will relook at this Bill so that we can improve it. Pre-primary children should be taken care of by the National Treasury through MOEST, so that they can partly or even be fully sponsored by the Government.

Something else that is very key is that those young, even beyond learning, need to be fed. It is said that a hungry man is an angry man. Some of those young ones come from families that can barely afford one meal. For us to have standards in those learning institutions, the Government should relook at standardising education beyond books. It should include meals, and especially lunch, that is taken by those young ones. It used to be there during our time. We used to eat porridge. As I said before, the mandate of the ECDE is not purely about those young ones coming out with flying grades. It is also an institution to grow those young ones to be responsible and energetic citizens. That can only happen if we also take care of their diet.

Lastly, we have a very good model especially through the TSC, but the problem we have in the health sector is duplicated in our ECDEs. The nurses and doctors in our health sector, for example, in the County of Nairobi, will resign to go and work in a different county. They have to seek fresh employment in the other counties. Those people go to the same colleges. The kind of work they do is the same, especially after standardising the curriculum. Going forward, we need to enrich our ECDE by having an equivalent of the TSC that will address the issue of standardising the salaries of ECDE teachers and flexibility of working conditions. That is so that a person relocating from one county to another will not need to be unnecessarily subjected to resigning from the other place to seek fresh employment in the different county. Flexibility of labour is one of the prerogatives of a growing economy, especially in an era where we are trying to change our curriculum and prepare our human personnel to be top notch.

With those many remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Let me have the Member for Taita Taveta County, Hon. Mizighi Mnene.

**Hon. (Ms.) Haika Mizighi** (Taita Taveta CWR, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to this very important Bill. Having learnt what it entails, I take this opportunity to congratulate the Departmental Committee on Education and Research and the Chair for work well done.

Most of the requirements and proposals in this Bill are very important. They are relevant in making our education system better, to upgrade our education sector and, most importantly, the ECDE. Having listened to most of us speak about this Bill, it is well articulated. It has touched most of the contentious issues in the education sector. Therefore, I support knowing that this Bill can change the lives of our children if it can be implemented. It will make the education sector and, most importantly the ECDE, a better place for our children.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): The Member for Nyaribari Masaba, Hon. Ombaki Machogu, you have the Floor.

**Hon. Ezekiel Ombaki** (Nyaribari Masaba, NAPK): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this very important Bill.

I would like us to understand where we are and where we want to go. One, Article 53 of the Kenyan Constitution clearly spells out that, indeed, basic education is compulsory and supposed to be free. Each and every Kenyan child is supposed to access education at that level. But what is happening in our various constituencies, including mine, is that this is not the case. Why is it so? It is because, as we all know, ECDE is critical if education is going to be the pillar of our development.

The way things are, when we came up with the new Constitution and distributed and allocated functions, all the other segments of basic education were given to the national Government and ECDE was given to our counties. I think counties have not embraced this idea that basic education is not only necessary, but also free and compulsory as enshrined in the Kenyan Constitution. Why do I say so? A number of our counties have not given priority to that very important area. You will find that there is no substantial allocation of funds that is made to that area that is so critical during any given financial year. That is why you find there is no infrastructure and facilities in our areas as required. Even paying teachers is a problem. In my constituency, I know of one ECDE centre where the parents are contributing and giving Kshs100

per term, in order to pay the teacher. That means the county which should have taken the responsibility has kind of abdicated its responsibility.

With the endorsement and passing of this Bill, I hope counties will come back to their senses and take this responsibility which is very key because it is at that first and initial impression that a child will get the foundation that will make him enthusiastic about education. If we do not make them enthusiastic at that level, it will affect their education when they join Standard One or Grade One and so on. I quite agree that the age given here of between four and six years is the best age for early childhood education. Once we make it compulsory, it means that all tiers of officials, including those of the national government like the chiefs, will entice parents to take their children to ECD centres at that particular age. Again, I think we should be able to give a ratio so that the county governments can allocate funds which will provide for the requisite infrastructure and employment of teachers. As of now, the teachers are employed by parents and guardians, which is not good enough. If we want a standard curriculum, then this particular aspect has to be looked into.

Finally, in order to harmonise and have standards, it is imperative that the SRC gives guidelines on the salaries that should be paid to each and every teacher. I know the lowest paid cadres of employees in the counties are teachers of ECD centres; the few who have been employed. Like in the county that I come from, they are paid Kshs13,000. Look at the work that they do – moulding the minds of those young ones at that particular stage. I think this should be looked into such that their remuneration is improved and we have a standard amount for all the counties in the country. We should also look at the size of land in those education centres. In some places where we come from, you will find a primary school hosting an ECD centre with hardly two acres. If we say the minimum acreage is going to be one, then that will be quite problematic in a number of areas, including where I come from.

With those few remarks, Hon. Temporary Deputy Speaker, I want to support this Bill and congratulate the Committee which has brought it.

**The Temporary Deputy Speaker** (Hon. Jessica Mbalu): Let us have the Member for Karachuonyo Constituency, Hon. Okuome Adipo.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Hon. Temporary Deputy Speaker, thank you for giving me this opportunity so that I can add my voice in support of the Bill. I, however, see quite a number of challenges in my constituency, as well as the other constituencies that I have visited. Let me start by saying something about the teachers. The teachers we have for ECD are, in a number of cases, just picked from amongst the population surrounding the centres. They are not well trained. Therefore, they are ill-equipped for the exercise they are required to undertake. When I say that, I mean there are certain variations. In some centres, there are well-trained teachers while others do not have. We are creating a difference in standards when we start our children off in education. Therefore, I would like a lot of emphasis to be put on the training the teachers who are going to start off our children for our future.

The other challenge is that the teachers we have in the centres are either very few or non-available for those institutions. Some of those institutions are closed because there are no teachers. Where there are teachers, they are very few in terms of what they are required to do. The other challenge is that some of the teachers do not have adequate education for that kind of work. I, therefore, feel that the right thing is that TSC should take them over. That is when we can have uniformity within the nation.

I want to also address the issue of the classrooms where the children are taught. I heard some of my colleagues say that some classrooms are dilapidated. That is probably generous in

comparison to the situation in a constituency such as mine. Some of the buildings the children are in are condemned. This does not apply to the ECDE classes alone. I have so many condemned classrooms both in primary and secondary schools. When I say this, I throw my mind back to what happened yesterday when the CS for education closed down a school within Nairobi. The classroom which caused that bad incident ought to have been condemned before. If our education is to continue smoothly and with some safety, I would urge very seriously that the Government checks the kind of classrooms that are in schools. The Government should give us money to take care of the condemned classrooms. First-timers like me have inherited condemned classrooms in our constituencies. This is causing us a hard time because much as I would personally like to sort out the issues of condemned classrooms, the demand from other areas is so much that if I were to concentrate on condemned schools, I would be ignoring some of the requests we get from the other areas of the constituency. I, therefore, would put much emphasis on classrooms.

For the children themselves, we need to take a serious step to ensure that they are enrolled. None of them should be left behind. That is a matter that this Bill is sanctioning. I am very glad that the children who are in ECD classes are benefitting, but I would like the benefit to cut across the board so that we are able to give adequate education to our children. Again, it is not clear as to whether they should pay fees or not. I know the Bill is trying to address that issue. It would be better for parents if the children are given education for free. I am aware that the county governments are responsible for ECD education although, practically, parents think that all those functions should fall within the responsibilities of the Member of Parliament.

Hon. Temporary Deputy Speaker, thank you very much for having given me the opportunity to talk about this important Bill. I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Members, if you are leaving, please, notify us. Hon. Tong'i left his card here and I cannot see him around. Hon. Member for Emuhaya, you have already made your contribution. Did you speak to this Motion? Let me have the Hon. Member for Chepalungu.

**Hon. Gideon Koske** (Chepalungu, CCM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to also add my voice to this very important Bill that touches on our young children.

Despite the growing importance of Early Childhood Development and Education (ECDE) especially in Kenya, it has faced a number of challenges. This has watered down the policy framework and its implementation for the sake of our children. If you look across Kenya, you will discover that there is less attention from the Government side in equipping young children during the development stage of education. If a successful ECDE program is rolled out for our young children, they will get quality foundation.

Hon. Temporary Deputy Speaker, we have challenges of inadequate teaching, lack of learning resources and poor salaries for ECDE teachers. It needs a lot of attention to change the life of a young child. Nursery and primary school teachers in Kenya should be paid at the same level as secondary school teachers because they give more attention to children.

There are many things that are required in ECDCs such as playing fields. Land is very important because those children need to play. ECDE should be a national Government function and not a devolved one. ECDE is very essential because it determines the future of this great nation. I request the Government to fully take over the payment of fees for our young children. It should be free because we want to educate all the children and ensure that the nation is moving forward.

With those very many remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well Hon. Member for Chepalungu for being considerate to others.

Hon. Members, I have 14 Members who have requested to speak to this. Let us have the Member for Mogotio.

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill on ECDE. The Bill is very important. We know that starting on the right footing for the young ones is always very critical. The young ones are fragile and most of the time, they are closer to their parents. So, having a good learning environment to start off their journey in education is very important.

However, in my constituency, the challenges which we see associated with ECDCs include land acquisition. Although this is a county function...

*(Loud consultations)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Hon. Member. Just address the Hon. Temporary Deputy Speaker and let me deal with them.

The two Hon. Members, you are disrupting the Hon. Member for Mogotio. Can he be heard in silence?

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker, for coming to my aid. As I said, in my constituency, the major challenge associated with ECDCs is land acquisition to put them up. ECDE is a county function but, most of the time, they approach me to assist them through the National Government Constituencies Development Fund (NG-CDF) to acquire land. This Bill talks about restricting it to one acre but, most of the time in my constituency, those ECDCs later become primary schools. So, they require more than an acre so that they can grow to become primary schools.

The other challenge is the distance of ECDCs. We all know those children are around four years old and they cannot walk for long distances. So, putting up several ECDCs is necessary but, most of the time, you find that county governments have abandoned that function.

When I visit those ECDCs, I notice that their infrastructure is poor. The floors are dusty and children learn in an environment that is not conducive. Access to clean water and sanitation is also a problem. Therefore, this particular Bill has tried to be as comprehensive as possible. It looks into the registration requirements and standardisation of ECDs curriculum countrywide. It talks of ECDCs having Boards of Management (BOM).

Poor payment of ECDE teachers is also a challenge and most parents have to chip in. As other Members have mentioned, fees payment is something that needs to be clarified well. County governments need to up their game in terms of managing those structures. We know that those ECDCs provide pupils all the way to primary schools and those in charge of primary schools need to work closely with them. I know most ECDCs are attached to primary schools and so their management need to work closely with sub-county education officials. We are moving to the Competency Based Curriculum (CBC) which is more skills-oriented.

Therefore, this Bill is very comprehensive and, hopefully, it will go a long way in bringing good education standards in ECD institutions. This will enable children to join primary schools in future.

With that, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): I will give the Floor to Hon. Gichimu Githinji.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute and add my voice in support of this Bill. Early childhood development education is the foundation of the entire education life of any child, just like a building. I thank the Departmental Committee on Education and Research for having gone through this Senate Bill and proposing amendments which I agree with.

One of the key issues this Bill seeks to provide is to align ECD with the Constitution under the provisions of Article 53 of the Constitution, where basic education is compulsory. Looking at the Bill under Clause 3, a lot of emphasis has been placed on quality, efficiency, infrastructure and the partnership between the two levels of Government, which is very crucial. Initially, ECD was wholly left to the county governments. Even now, the responsibility still lies with the county governments, but provides an avenue for partnership under the current Act. If you look at Clause 3, it provides that under the objects and purpose of the Act.

When it comes to infrastructure of the ECD centres, I have gone around my constituency addressing issues affecting primary schools. I have seen that most of the ECD centres are in a pathetic situation. This is an area that the counties need to look into very seriously because, sometimes, we are also tied by the National Government Constituencies Development Fund (NG-CDF) Act. Our kids are suffering but we cannot do anything and yet, the counties are responsible. I am happy this Act is coming into place. This is because it places that responsibility squarely on the county governments and they cannot escape from it. I believe this area should be looked into very seriously.

Clause 4 of the Bill is about the principles and aligning it with the Constitution and other aspects. I associate myself with the sentiments of my learned senior Hon. Millie-Odhiambo, that it is limiting to say that every education centre must have, at least, one acre of land. In towns like Nairobi, land is very expensive and this will limit our kid's access to education. I think this needs to be reviewed in a manner that towns or urban centres be exempted from this so that we can have as many education centres as possible to cater for early childhood education.

I am happy about the First Schedule which gives the guidelines about the infrastructure development to be in place in terms of sizes. Not more than 40 children should be accommodated in a classroom. We have seen some learning centres having a class of over 50 children. Some are seated while others are standing in a pathetic and crowded situation. Clause 19 gives all the requirements and makes it mandatory by providing a legal framework. Whoever flouts this can face the consequences of the law. Initially, it had been left for any learning centre to do whatever infrastructural development they wished at their convenience. This has been removed by this Act.

Clause 24 provides for suspension of education centres where pupils are at risk. Recently, we saw the unfortunate event that happened at Precious Talent Academy, where a building collapsed. This Act provides that our kids at that early age should be protected in law so that if the County Education Board finds an institution that is exposing the children to risks, then they can suspend it. Proceeding to Clause 25, this can lead to cancellation of a licence to operate. Clause 26 gives the learning centres an opportunity to appeal against any decisions that they may find *ultra vires* or going beyond the law. I am happy about Clause 37 which places the sole responsibility of the management of those learning centres to the county governments.

Clause 38(2) standardises the remuneration of the ECD teachers. It is enshrined in mandatory terms that the remuneration shall be determined by the ministry in consultation with

the Salaries and Remuneration Commission (SRC). This gives the national Government and SRC an opportunity to standardise pay for the teachers who work very hard. People might think that ECD teachers do very little, but they do a lot. This standardisation will give them comfort. Free admission under Clause 39 is good to avoid a situation where a county might wake up one day and decide to start charging fees to parents of children who are joining ECD centres.

Non-discrimination of whatever form has been provided in the Act in Clause 40. More importantly, the teacher-child ratio has been enacted. It will prevent a situation whereby one teacher will be teaching more children than required. So, the teacher-child ratio shall be determined by the CS, education, in consultation with the TSC and this will improve the quality and efficiency of those learning institutions. The age of four to six years removes a situation whereby baby care or children who are of very minor age are also admitted in ECDs. So, baby care centres have already been cut off from this Act.

With those many remarks, I support this Bill. Of course, other amendments will come in due course.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Next is the Member representing the people of Igembe South, Hon. Paul Mwirigi.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

According to the Constitution, every child has a right to free and compulsory education in this country. This Bill has come at the right time when there is no law which is governing early childhood education. So, it means that every child will be catered for. During the implementation, every child will benefit.

Since early childhood education is managed by the county governments, it is good to note that in most of the early childhood education centres in our constituencies – and this is happening all over the country – the infrastructure which is in place is in a pathetic condition. It is the right time for the county governments to take this seriously since this Bill is explaining clearly that this is an activity that should be carried out by them to ensure that those children have a good environment for their studies.

Secondly, I would like to take note of special needs cases. Most of the infrastructure down there is not friendly to children who live with disabilities. It is the right time, as this Bill provides, for the county governments to take this initiative and build facilities that are favourable to those cases since they have a right to education.

Thirdly, it is good for the county governments to ensure that all those centres which are registered comply with the framework laid by the Ministry, so that quality education is offered there and the children who go through it get quality education. All of us know that early childhood education is the start of everything as far as education is concerned. When a kid starts with the right foundation, he or she will go very well in the rest of the levels without any complications. It is good for the county governments to ensure that all institutions qualify to be registered.

Also, when recruiting teachers who are supposed to take care of those small kids, it is good for the board which is involved to ensure that teachers who are recruited have the capability and competence to take that programme, so that we can nurture a good crop of our children. I also would like to task the county government to provide...

As the Bill indicates, the centres should occupy a one-acre piece of land. It is good to set aside a big piece of land since those early childhood centres will grow into primary schools

where no public primary school exists. So, it is also good for the county governments to take this seriously and provide enough land for those institutions.

The Ministry concerned should work hand-in-hand with the county governments to ensure that this Bill has been implemented fully. When we pass these laws, they are not taken seriously. It is high time for the Government to be serious on this because these Bills will help us to ensure that education in the Republic of Kenya is of good quality. In some of those early childhood centres, there is no seriousness in the implementation of the laws. You will see some children undergoing corporal punishment and emotional and psychological torture which contributes to some of them taking away their lives. It is high time for the Government to be serious with teachers who do that to our small children. Serious action should be taken so that, that can be prevented in our learning institutions.

The remuneration of the teachers who take care of the children should be taken care of. In our 47 counties in this Republic of Kenya, the salary which those teachers are paid is not standardised. Every county pays their teachers the way they want. It is good for the law to be set so that when those teachers are recruited, there is a framework which is set to guide the payment.

Lastly, the curriculum that is being used in those early childhood education centres should be standardised. According to the Bill, every county should use the same curriculum. The curriculum should be centralised so that children who undertake learning can be equipped in a uniform manner throughout the counties.

With that, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Very well, Member for Igembe South. Let us have Hon. Oduol Adhiambo.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to speak on this important Bill.

At the outset, I support the Bill. I thank the Departmental Committee on Education and Research and the Chair. As we have heard a number of Members mention, it is extremely important that we have a law or Bill that will set out standards and give clear procedures or principles that must be followed when we are dealing with an area that is as important as early childhood education. It is clear, as we have seen in the Bill that we will have a situation where there will be clear standards of ensuring that there is commonality on areas that deal with registration, the age of children when they go for early childhood education and issues of the teacher-student ratio. Looking at the issue of space in terms of early childhood education, we do not only want to have land for infrastructure and classrooms, but we also want to have facilities where those children would be able to play and also have infrastructural arrangements such as kitchens and staff who are engaged.

One of the key reasons why I support the Bill is because it is setting out standards. The standards touch on very key issues of remuneration, curriculum, and in particular, issues that touch on governance so that we do not leave the early childhood education system or programmes to the whims of county governments and, sometimes, to the very difficult innuendos of political organising.

I would also like to draw the attention of the House and of the Departmental Committee on Education and Research that it is useful for us to remember that we need a law to help us set standards, procedures and principles. We need a Bill because we can enforce it. As early as 2006, we already had, in our country, a national early childhood development policy framework. We would be doing a disservice if our roles as Members of Parliament that span from legislation to oversight to representation are heavily bent on legislation and fail to take into account the lack of

awareness or implementation of those policy areas. I say this because Member after Member has spoken about it.

As we look at the manner in which the legislation will help us address issues of standards, we see that there are glaring challenges. There is lack of properly ventilated classrooms. We do not have suitable spaces for children to play. There is not so much focus on materials. We have also failed to recognise that, at this age, a key factor is nutrition. Many children do not do well in cognitive development because they might not have enough food where they come from. It is also clear that there are significant reductions in Government funding and, therefore, as we come up with these standards, we will meet a wall because we will not have sufficient funding.

I support the Bill to the extent that it accomplishes what it sets out to do. We need standards and procedures. We need to ensure that everybody knows what they want to do. I would like to tell the Departmental Committee on Education and Research that the policy that has been in place for more than 13 years actually needs some degree of revision. I am sure it is that framework that was used to come up with the Bill. The policy has a very clear indication that calls for definition of roles of different players. We are aware, from the Bill, that we will have players from the Ministry of Education, county governments and the TSC. The legislation should be very clear and anchored on policy particularly on definition of roles, responsibilities and partnerships. We should ensure that we view parents as key partners in ECD education. Research has shown that where parents are not engaged or involved in the education system of their children, particularly at that early age, teachers are unlikely to bring their cognitive development to the desired level.

I support the Bill. I want to urge the House, particularly the Departmental Committee on Education and Research, that legislation is one of our roles. It is really important that, as we legislate and provide the framework that will allow us to standardise the ECD education, we have a common set of procedures across the country. We must also ensure that those who do not follow this legislation, including parents who do not take their children to ECD centres, are dealt with. We must remember that we have very clear policies. It is important that we understand that if we do not look at the policy, we will not be clear on what we hope to achieve. It is the policy that will give us a clear definition of what we, as a country, want to achieve in ECD education. It is the policy that will define the methods that we will use to enforce what we legislate. It will allow us to have a relationship among different players and stakeholders.

Hon. Temporary Deputy Speaker, I conclude by saying that when we want to change and we know that we have a challenge, as speaker after speaker has indicated, it does not begin with an institution but with individuals. I am a bit concerned at the way we are addressing this Bill on ECD education. We will talk about capacity, curriculum, training of teachers and their remuneration. I am not so sure that we have addressed the issue of teachers, parents and members of communities at the individual level adequately. They need to embrace and understand the significance of ECD education. I, therefore, urge that we, as the representatives of the people, begin to think of using public participation and any other fora that we have to touch individuals. If individuals change, as teachers, Members of County Assemblies (MCAs), Members of the County Executive Committees (CEC), members of the community and parents we will, indeed, end up changing our institutions for the better.

With those remarks, I support the Bill and agree that it is extremely important. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Thank you, Hon. Adhiambo. The Member for Butula, Hon. Oyula Maero.

**Hon. Joseph Oyula** (Butula, ODM): Thank you very much, Hon. Temporary Deputy Speaker for giving me this chance to also contribute to this important Bill. For a long time, ECD education has not been covered by any Act of Parliament. So, this Bill is very timely. It needs to be passed by this House. There are various areas that this Bill will help Kenyans. The standards will be improved and we will have regulations and rules governing the operations of the ECD centres very well. I thank the Committee for coming up with a very comprehensive Bill that covers all the areas, including infrastructure, health of the young children and the curriculum for the ECD centres.

Hon. Temporary Deputy Speaker, you will note that because of lack of a legal framework, many stand-alone ECD centres were constructed by people who did not have any idea of education. They did that because they wanted to make money and were idle in their homes and wanted a place where they could play around with kids. So, not much attention was paid to ensure that the ECD classes are properly constructed. I believe that with this Bill, the stand-alone *mabati* classrooms will be demolished so that we can have proper and standard classrooms. In public primary schools, county governments provide only one classroom for ECD and yet, the population of the ECD children is very high. One classroom can have over 100 children. That is not reasonable. I am sure that with this Bill, there are going to be a lot of changes in the ECD education. We need to make sure that we have inspectors who go around ensuring that the regulations as set out by the Bill are followed to the letter.

I believe that this Bill is going to bring a lot of changes and we are going to ensure that compounds where kids play are also taken care of very well. In some places, the space available is very small. A child who just sits in class without playing does not change. Children know that when they go out there, there are going to be playing facilities. The one-acre piece of land that is proposed as the minimum for setting up an ECD centre should be adequate, apart from the urban areas where getting land is not easy.

I believe that, as this Bill is debated and passed, the county governments will also realise that they need to pay teaching staff properly. In some counties, ECD teachers are paid as little as Kshs5,000. There is no standard remuneration of ECD teachers. I believe it is covered in the Bill and, therefore, there will be standard remuneration and operational rules. I believe that the Bill will bring in the TSC. If it is not brought in, then we will have different operations in different counties. Standardisation is very important so that we can have proper learning facilities for ECD children.

With those few remarks, Hon. Temporary Deputy Speaker, I thank you for giving me the opportunity. I support the Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Mwangi Gichuhi.

**Hon. James Gichuhi** (Tetu, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this important Bill.

Having looked at some of the provisions of this Bill, I am very sure that once it becomes an Act of Parliament, and if well implemented, it will be a milestone remembering that Article 53(1)(b) of the Constitution defines the right to education as a basic right. For quite some time, this right has not been properly exercised as per Article 53(1)(b) of the Constitution. Looking at international instruments, there are several definitions regarding the interests and rights of the child. For example, we have the African Charter on the Rights of the Child. Article 20 of the African Charter on the Rights of the Child stipulates that the interests of the child are paramount

and must be taken into consideration. We have the African Convention on the Rights of the Child. All those international instruments clearly recognise the right to education as a basic international right. Those are inherent rights.

I have looked at some of these provisions. I can say that they resemble the provisions for mobile schools, and there are also penalties to parents. Since this is a free and compulsory right that is granted to our children, parents and teachers have an obligation to ensure that those rights and provisions are met. I have also looked at the obligations of the county governments in promoting the right to child education. There are several obligations on the county governments because this is a devolved function. There are obligations like providing programmes and plans on how to implement policies for the realisation of those important rights, and also on how to implement, of course, in consultation with the relevant stakeholders.

This Bill also gives a chance for public participation so that the public can provide their input on how those rights are going to be realised. Of course, it has captured the marginalised, the vulnerable and those who are disadvantaged.

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Order, Member for Tetu. I must appreciate that this Bill has generated a lot of interest. Hon. Mwangi Gichuhi, because I have interrupted your contribution, you will have five minutes when debate on this Bill resumes.

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 7.00 p.m., the House stands adjourned until Tuesday, 1<sup>st</sup> October 2019, at 2.30 p.m.

The House rose at 7.00 p.m.