

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD****SPECIAL SITTING**

*(Convened vide Gazette Notice  
No. 9078 of 30<sup>th</sup> August, 2021)*

**Wednesday, 1<sup>st</sup> September 2021**

The House met at 2:30 p.m.

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

**PRAYERS****MESSAGE****PRESIDENT'S RESERVATIONS ON THE REFUGEE BILL, 2019**

**Hon. Speaker:** Hon. Members, you may recall that the National Assembly passed the Refugee Bill, (National Assembly Bill No.62 of 2019), that was sponsored by the Leader of the Majority Party. Following its passage, I did present the Bill for assent to His Excellency the President in accordance with the provisions of the Constitution and our Standing Orders.

However, in exercise of the powers conferred under Article 115(1)(b) of the Constitution, His Excellency the President, by way of a Memorandum dated 11<sup>th</sup> August 2021, has referred the Bill back to the National Assembly for re-consideration.

Hon. Members, in his Memorandum, the President has expressed reservations on the following clauses of the Bill:

(i) Clause 2 of the Bill, which defines the term "transit centre". The President recommends that the definition of "transit centre" be amended to also include a prison, immigration detention centre, police station, remand home or any other similar place that may be designated as a transit centre. Amongst the reasons for his reservations, the President notes that the effect of the omission of the proposed definition is in conflict with Sections 4 and 12(3)(g) of the Persons Deprived of Liberty Act of 2014, which provides that detention facilities may be used as holding centres for refugees and asylum seekers where there is need for humanitarian assistance.

(ii) Clause 8 of the Bill, which provides for the establishment and functions of the Commissioner for Refugee Affairs. His Excellency the President observes that the proposal does not provide for the empowerment of the Commissioner for Refugee Affairs to promote, in as far as possible and where applicable, the procurement or purchase of local products and services in support of refugee intervention and support programmes. This leaves room for importation of goods that would otherwise be locally available and, therefore, failing to benefit the local economy.

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(iii) Clause 18 of the Bill, which proposes that the Commissioner for Refugee Affairs may revoke the status of a refugee at any time after recognition as a refugee if the refugee has committed a war crime or a crime against humanity. In his reservations, the President observes that the clause, when read together with Clause 17 of the Bill, causes confusion as the revocation of refugee status is materially the same as the cancellation of refugee status.

(iv) Clause 28 of the Bill, which provides for rights of and obligations of refugees, does not take into account the Government's policy in which refugees from partner States of the East African Community (EAC) can benefit from an alternative immigration status which may allow them to obtain work permits. The new policy is intended to facilitate the full implementation of the 2010 East African Community Common Market Protocol and substantially reduce the refugee population in Kenya while, simultaneously, operating as a durable and more practical solution to the protracted refugee situations.

(v) Clause 31 of the Bill, which provides for the requirement for refugees to reside in designated areas, authorises the Commissioner for Refugee Affairs to require any refugee in one designated area to move to another designated area.

His Excellency the President observes that the clause fails to make any reference to refugees who may be residing outside designated areas and does not make any provisions regarding the Commissioner's control over them.

Hon. Members, having made his reservations, which are explained in more detail in his Memorandum to the House, His Excellency the President now requests the National Assembly to reconsider the Bill in accordance with the provisions of Article 115(2) (a) of the Constitution.

Standing Order No.154 (2) of the National Assembly Standing Orders requires the House to consider the President's Reservations within 21 days of the date when the House next meets upon receipt of the Memorandum. In this regard, His Excellency the President's Reservations, as contained in his Memorandum, now stand committed to the Departmental Committee on Administration and National Security for consideration. The Committee should table its report soonest to allow the House to consider the President's Reservations within the set timelines.

Hon. Members, may I, at this early stage, remind the House of the Speaker's Communication of 28<sup>th</sup> July 2015 concerning the consideration of the President's reservations to a Bill and amendments thereto. I particularly draw your attention to my guidance that, the voting threshold for the passage of amendments proposed by a Committee or an individual Member that have the effect of fully accommodating the President's reservations is a simple majority as contemplated under Article 122(1) of the Constitution as read together with Article 115(2)(a).

On the other hand, an amendment that does not fully accommodate the President's reservations or, indeed, one that has the effect of a total override over the President's reservations, including negating his proposed text, would require a two-thirds voting threshold to be passed in keeping with the provisions of Article 115(4) of the Constitution.

Hon. Members, I wish to further remind the House and the Committee that only Clauses (2), (8), (18), (28) and (31) of the Bill will be considered.

I, therefore, direct the Clerk to circulate the Memorandum of His Excellency the President to all Members, so that they can familiarise themselves with its contents.

I thank you.

## PAPERS LAID

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The 2020/2021 Annual Report to Parliament under Article 153 of the Constitution from the Ministry of East African Community and Regional Development.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2018, and the certificates therein:

- (a) Kiirua Technical Training Institute; and,
- (b) National Water Harvesting and Storage Authority.

Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2019, and the certificates therein:

- (a) Kenya Maritime Authority.
- (b) Communications Authority of Kenya - Universal Service Fund.
- (c) National Council for Population and Development.
- (d) South Nyanza Sugar Company Limited.
- (e) Kenya Industrial Research and Development Institute.
- (f) Kenya School of Government.
- (g) Agriculture and Food Authority.
- (h) Sports Kenya.
- (i) Chuka University.
- (j) Kenyatta International Convention Centre.
- (k) National Water Harvesting and Storage Authority.
- (l) Rural Electrification and Renewable Energy Corporation.
- (m) Kenya Water Towers Agency.
- (n) Kenya Bureau of Standards.
- (o) New Partnership for Africa's Development.
- (p) Kenya Leather Development Council.
- (q) Export Processing Zone Authority.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well.

Next Order!

## MOTION

### APPROVAL OF NOMINEES FOR APPOINTMENT AS MEMBERS OF THE TSC

**Hon. Speaker:** The Chairperson. Do you have a card?

**Hon. (Ms.) Florence Mutua** (Busia CWR, ODM): Yes, I have. Thank you, Hon. Speaker. I beg to move the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Education and Research in its Report on the vetting of nominees for appointment to the Teachers Service Commission, laid on the Table of the House on Wednesday, 1<sup>st</sup> September 2021, and pursuant to the provisions of Article 250(2)(b) of the Constitution, Section 8(8) of the Teachers Service Commission Act, 2012, and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of the following persons as members of the Teachers Service Commission:

- (i) Dr. Nicodemus Ojuma Anyang – Member.
- (ii) Ms. Christine K. Kahindi – Member.
- (iii) Ms. Sharon Jelagat Kisire – Member.
- (iv) Ms. Annceta G. Wafukho – Member.
- (v) Mr. Salesa Adano Abudo – Member.

Hon. Speaker, in keeping with the requirements of Standing Order No.42(2), on Thursday, 12<sup>th</sup> August 2021, you conveyed a Message from His Excellency the President to the House on nomination of five persons for appointment to the position of member for the Teachers Service Commission (TSC). The names of the five nominees and their curriculum vitae were referred to the Departmental Committee on Education and Research for vetting under the Public Appointments (Parliamentary Approval) Act, No.33 of 2011.

Conscious of the central role of the TSC in the education sector and noting the unprecedented nature of the early learning and basic education calendar for the years 2020, 2021 and 2022, the Committee was requested to expeditiously consider and conclude the matter within the stipulated timelines, which we have done.

Pursuant to the provisions of Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Clerk of the National Assembly placed an advertisement in the print media on Tuesday, 17<sup>th</sup> August 2021, inviting the public to submit memoranda by way of written statements on oath or affidavits on the suitability of the nominees in conformity with Section 6(9) of the Act. The advertisement indicated that the submissions were to be received by Tuesday, 24<sup>th</sup> August 2021, at 5.00 p.m. By close of the submission deadline, the Committee had not received any submissions in support or contesting the suitability of the nominees to hold the office to which they had been nominated for.

Further, in fulfilment of the provisions of Article 118(1)(b) of the Constitution, Section 6(4) of the Act and the Standing Order No.45(3), the Clerk of the National Assembly, on Tuesday, 17<sup>th</sup> August 2021, placed an advertisement in the print media notifying the public on the intention by the Departmental Committee on Education and Research to conduct the approval hearings of the nominees on Thursday, 26<sup>th</sup> August 2021, from 9.00 a.m.

To fulfil the requirement on personal integrity, the Clerk of the National Assembly, on Monday, 16<sup>th</sup> August 2021, wrote to the Directorate of Criminal Investigations (DCI), the Kenya Revenue Authority (KRA), the Ethics and Anti-Corruption Commission (EACC), the Registrar of Political Parties and the Higher Education Loans Board (HELB) to ascertain the nominees' good standing with the said Government institutions. The nominees were also required to submit clearance letters from the said institutions.

The nominees appeared before the Committee on Thursday, 26<sup>th</sup> August 2021 for approval hearings in accordance with the provisions of the Constitution, the Act and the National Assembly Standing Orders on their suitability or otherwise, for appointment to the position of member of the TSC. During the approval hearing, the Committee considered the nominees' duly filled questionnaires, curriculum vitae, candidates' academic credentials, professional training, experience, personal integrity and background, reports from the relevant authorities and oral submissions.

We made the following observations as a Committee:

That, Section 5(1) of the Teachers Service Commission Act, No. 20 of 2012, provides that the TSC shall consist of a chairperson and eight other members appointed in accordance with Article 250 of the Constitution. Currently, the TSC has only four serving commissioners who were

appointed in March 2020 and April 2021 after the terms of the previous commissioners expired on various dates between 2019 and 2021.

That, if the nomination of the five members is approved by this House and subsequently appointed by His Excellency the President, the TSC will ultimately be fully constituted with the chairperson and eight members being five men and four women in compliance with gender principle as set out in Article 27(8) of the Constitution.

That, if the nomination of the five members is approved by this House and subsequently appointed by His Excellency the President, the membership of the TSC will be compliant with the provisions of Article 232(1)(h) of the Constitution on representation of Kenya's diverse communities and Section 8(16) of the Teachers Service Commission Act, No.20 of 2012, on the principle of gender equity, ethnic and other diversities of the people of Kenya.

That, the procedure used to arrive at the nominees for the position of member of the TSC was adhered to by the Selection Panel in the identification and shortlisting of the applicants and forwarding names of the positions to the President as provided for under Article 250(2)(a) of the Constitution as read with Section 8(6)(a), (b), (c) and (d) of the Teachers Service Commission Act, No.20 of 2012.

That, the appointing authority has fully complied with the recommendation of the Departmental Committee on Education and Research in its Report of April 2021 on the vetting of the TSC chairperson and commissioners pursuant to Section 8(16) (a) and (b) of the Teachers Service Commission Act, 2012, which provides that:

“In nominating or appointing a person as a member of the Commission, the panel and the President shall:

- a) observe the principle of gender equity, ethnic and other diversities of the people of Kenya and shall ensure equality of opportunity for persons with disabilities; and,
- b) take into account the national values and principles as set out in Articles 10, 27 and 232 of the Constitution.”

The Committee made the following specific observations on the various nominees:

(i) Dr. Nicodemus Ojuma Anyang, PhD, nominee for the position of member of the TSC:

The nominee possesses a rich academic background. He holds a PhD in Education Administration from Moi University, a Masters of Education Degree in Education Administration and Planning and a Bachelor's Degree in Education from Kenyatta University.

The nominee has 29 year of experience in education management and training. He has served in various capacities as a classroom teacher, high school principal, district education officer and county director of education. Currently, he is serving as a Deputy Director of Education in the Directorate of Field Coordination and Co-curriculum Activities in the Ministry of Education.

Hon. Speaker, during the approval hearings, the nominee exhibited knowledge in matters relating to education and management, leadership skills and human resource management, qualities necessary for the position he is nominated to.

Ms. Christine Kahindi has a rich academic background. She holds a Master's Degree in Education and Administration from the University of Nairobi and a Bachelor of Education Degree from Kenyatta University. In addition, she holds a Diploma in Education Management from the Kenya Education Management Institute (KEMI). The nominee also holds a Diploma in Education Humanities from Siriba Teachers College.

The nominee has 36 years of experience in matters relating to education and training. She has served in various capacities as a teacher and a principal, until recently when she retired from the Teachers Service Commission.

During the approval hearing, she also exhibited knowledge in matters relating to education management and leadership skills, qualities necessary for the position she is nominated to.

Ms. Sharon Jelagat Kisire has a very rich academic background. She holds a Bachelor of Arts Degree from Kenyatta University awarded in 1993, Masters of Arts in Sociology from Kenyatta University and is currently pursuing a Doctorate Degree in Human Resource at Strathmore University. The nominee holds a Diploma in Human Resource Management from the Kenya Institute of Management, a Diploma in Executive Leadership Coaching and is a Certified Secretary examined and qualified by the Kenya Accountants and Secretaries National Examination Board (KASNEB) in 2004.

The nominee has experience in organisational behaviour and human resource professional with over 20 years-experience in the field of human resource management, governance and administration, having worked in senior positions in various reputable organisations both in the public and private sectors. Currently, she runs a human resource management consultancy firm as a lead consultant.

During the approval hearing, she also exhibited knowledge in matters relating to management, leadership skills, human resource management and qualities necessary for the position she is nominated to.

Ms. Annceta G. Wafukho has a rich academic background. She holds two Masters Degrees, Masters of Business Administration, Strategic Management and Masters of Education, Education Planning from the University of Nairobi. She also holds a Bachelor of Education Degree in Economics and Commerce from the University of Nairobi.

The nominee has 15 years' experience in the field of education and legislative policy and analysis. She currently serves as a parliamentary training officer at the Centre for Parliamentary and Training.

During the approval hearing, the nominee also exhibited knowledge in matters relating to training, leadership skills, policy analysis; qualities that are necessary for the position she is nominated to.

Finally, we have Mr. Salesa Adano Abudo. The nominee has a very rich academic background. He holds a Master's Degree in International Education Management from the University of Leeds, United Kingdom and a Bachelor of Education Degree from Kenyatta University.

The nominee is a seasoned education administrator with 36 years' experience on education policy formulation and implementation at various levels in the education sector, having started as a primary school teacher in 1985 rising through the ranks to the level of county director of education. He possesses skills in human resource and management, development of education policy, strategies and programmes to improve teaching and learning delivery.

The nominee experience comprises eight years of teaching in primary, one year as a tutor at Meru Teachers College in 1993 and 30 years' experience in education administration and management where he served in various regions in the country, in various capacities such as deputy district education officers and rising to the level of Deputy Director of Education and County Director of Education. Currently, he is serving as Director of Education in Kitui County.

The nominee also exhibited knowledge in matters relating to training, education and management, leadership skills and human resource, qualities necessary for the position he is nominated to.

Based on the oral submissions during the approval hearings, all the nominees demonstrated abilities, knowledge, understanding and experience, qualities necessary for appointment as

members of the Teachers Service Commission as prescribed under Article 253 of the Constitution, Section 6(1)(a)(b) and (c) of the Teachers Service Commission Act No.20 of 2012 and Sections 6(7) and 7(c) of the Public Appointments (Parliamentary Approval) Act No.33 of 2011.

Based on the evidence submitted during the approval hearing, all the nominees met all the constitutional and statutory requirements necessary for appointment as members of the Teachers Service Commission as provided for in Article 253 of the Constitution as read together with Section 6(1)(a)(b) and (c) of the Teachers Service Commission Act No.20 of 2012 and Section 7(b) of the Public Appointments (Parliamentary Approval) Act No.33 of 2011.

On recommendations, the Committee having conducted the approval hearings for the nominees pursuant to Article 250(b) of the Constitution as read with Section 8(viii) of the Teachers Service Commission No.20 of 2012, Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act No.33 of 2011, recommends that this House:

1. Approves the nomination of Dr. Nicodemus Ojuma Anyang', PhD, for appointment for position of member of the Teachers Service Commission.
2. Approves the nomination of Ms. Christine K. Kahindi for appointment to the position of member of the Teachers Service Commission.
3. Approves the nomination of Ms. Sharon Jelagat Kisire for appointment to the position of member of the Teachers Service Commission.
4. Approves the nomination of Ms. Annceta G. Wafukho for appointment to the position of member of the Teachers Service Commission.
5. Approves the nomination of Mr. Salesa Adano Abudo for appointment to the position of member of the Teachers Service Commission.

Hon. Speaker, I take this opportunity to recognise the push by the Departmental Committee Members to have all commissioners on board. I also thank His Excellency the President for the timely nomination.

Thank you, Hon. Speaker. I now call Hon. Prof. Tuitoek to second the Motion.

**Hon. Speaker:** Prof. Tuitoek.

**Hon. Daniel Tuitoek** (Mogotio, JP): Hon. Speaker, I beg to second the Motion that this House approves the nominees for appointment as members of the Teachers Service Commission.

As outlined by the Chair, the nominees have wide experiences in areas of education. Most of them have served as teachers most of their lives. For example, Dr. Ojuma Anyang has 29 years working in the education sector. Christine Kahindi, who is a retired teacher, has worked for over 36 years teaching several schools rising to the position of principal, until she retired in 2020. The nominee comes from the Coast and could add value to the issues concerning education in that area.

Sharon Kisire has worked in various senior management levels in various organisations such as Kenya Wildlife Service (KWF), the National Oil Corporation Kenya and Safaricom; dealing with matters human resource. Therefore, her experience will come in handy especially in human resource matters at the Teachers Service Commission.

Wafukho and Abudo have also worked closely with education officers. Abudo has worked in various areas as a district education officer and could come in handy in terms of handling matters education.

Given that at this particular time, many reforms are taking place in the education sector, especially touching on the Competence Based Curriculum (CBC) and various key policy matters like recruitment policies and de-localisation, it is important that we have a full house in the Commission.

I join the Chair in thanking the President for acting quickly, so that we have a full house as far as the Teachers Service Commission is concerned. I, therefore, call upon Members to approve these nominees today.

I beg to second.

*(Question proposed)*

**Hon. Speaker:** Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I rise to support this Report of the Committee.

Maybe, I will start by commending the Committee for the work they have done in going through the names that were forwarded to this House by His Excellency the President, ensuring they are in compliance with the law, taking them through the interviews, listening to all the stakeholders who appeared before them and eventually coming up with a rather convincing Report on why this House should approve the nominees.

The nominees are products of a process that began with the advertisement. From the Report of the Committee, we pick that there was a whole 299 people who expressed interest to serve as commissioners. At this point, allow me to also commend the Selection Panel that went through those 299 names and sieved them through to come up with 12 that were eventually handed over to His Excellency the President. It is with a very easy duty, with a very clear ranking and all the details that pick the five that you feel best represents the face of Kenya, the diversity, gender, and it also spreads in terms of the age profile, and the demographics. Some are in their 40s, some in their 50s and some in their 60s.

Today, I am a very happy person. When you look at the five nominees, you are seeing people who have gone to school. You see people who are not just going to superintend over the Commission that manages teachers, but also that they have received adequate education. We have done in this House appointment of members to commissions, members who have doubtful qualifications. Then, they go and superintend over others as commissioners. Today, I am happy. I really commend the panel that produced these names to His Excellency the President so that he is not straight-jacketed into choosing from a group that was not fitting.

This afternoon, we are called upon to obviously do our duty which has been made very easy by our Committee. I really thank the Chair. She has been very active. She kept me up to date in terms of what has been happening. Hence, I was very happy with the process. When we said they were to ensure we have this Report by the weekend, they delivered so that we can meet the deadlines today. Since the Report is very clear in terms of the processes, and is in compliance with the law, I do not want to get there. I am just happy to note that from the 299, we had 35 names which were then shortlisted to 12. Allow me to also recognise one of our own, from Parliament. I had the pleasure of working with her when I was in the Departmental Committee on Education and Research. To see her making it to that level gives me great pleasure. Indeed, all dreams are valid.

I met some people who were asking me, “How come so-and-so has been picked and not me?” I said: “Did you apply?” The person said: “No.” I asked: “Did you see the advert?” The person said: “No.” I asked: “Did you know there was an advert?” The person said: “No.” The question was: “How do you expect to win the lottery when you have not even bought the ticket?” So, for all the 299 applicants, I congratulate them first of all, for having the passion to serve, waiting to see the advert, responding to the advert and having the guts to pursue the advertised

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positions. Many Kenyans nowadays fear responding to adverts because they do not want to be taken through the rigmarole. For those who are daring enough, I really congratulate them. They have put all their details to scrutiny. It is only the brave who will be rewarded. As Shakespeare said, cowards die many times before their death. For those who fear to even apply, they can now come and say: “How come so-and-so was taken and I think I qualify?” You have not even applied. So, I congratulate Ann-ceta Wafukho for being daring enough. Having gone through Parliament and then faced the panel until the parliamentary one, now she is on her way to becoming a commissioner of the TSC. Indeed, when you look through all the others, you see people who have a passion for academia. You see the research they have done, the qualifications, the journals they have written and it just shows you that the future of the TSC is progressively getting into the right hands.

We do not just have a number of people who are there to fill the seats and leaving it almost to the executive within the organisation to do what they need to do and then we end up with all manner of things. I know the CEO, who is a great lady, and her team. But she will not be there forever. It is this institution that will need to grow so that even the next CEO who will come, however qualified, will at least have a good back-up team of a board that has passion for education.

If you look at one of the nominees, Ms. Sharon Kisire – and I have just picked one at random - in addition to her educational qualifications, she is a person who has excelled within the human resource management area. In 2011, she was runners-up in the human resource manager of the year competition by the Kenya Institute of Management. In 2010, she was in the first place of human resource management award. In 2009, she was in the first runners-up company of the year award. She has a Head of State Commendation and manager of the year in 2008 of the Kenya Wildlife Service (KWS). So, you are really looking at somebody who has not only managed people, but has also excelled and has been recognised by other people as an effective human resources manager. I highlight this because the role of TSC is to manage teachers. When you have that kind of resource, we believe TSC will be in the right hands.

I am so happy with the Report that the Committee has prepared. It has given us all the details. We do not even have to add up numbers. The facts speak for themselves, so I have absolutely no reason for not supporting this Report. I wish to ask Members to support it. The nominees represent regional diversity and if you add up the other three commissioners already in place, you will have the whole face of Kenya at the TSC. A good thing need not be over-advertised. I believe the Report speaks for itself and the people have spoken for themselves. I wish to support and ask Members to give the necessary support as soon as we can, so that we can go to the other weightier matter of elections that affects all of us. Much as teachers affect us, this looks like a straightforward matter that we can dispense with in a little time as possible.

Thank you, Hon. Speaker. I support.

**Hon. Speaker:** Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you very much, Hon. Speaker. I rise to support. I really wanted to talk to the issue of elections, but now that you have given me opportunity on the TSC matter, it does not matter.

One of the critical things about TSC is that it is an independent commission established under Article 237 of the Constitution, with the critical function of human resource. It is involved with matters to do with registration, recruitment, transfer, promotion, discipline and firing teachers. This is a human resource function. When I look at the CVs of the nominees, I have no doubt that they have what it takes. I have noted a majority of them have expertise in education matters but as we move forward, the critical matter is human resource management.

As the Leader of the Majority Party has mentioned, one of the important expertise I want to point out is that of Sharon Chesire. I happen to have known her personally. On matters of human resource, she has been in the corporate world, including in the academia. I have no doubt she is going to be a critical expertise in human resource management. The critical function of TSC is human resource management. I have looked at the CVs of the other nominees and I can see they have done very well in education matters. So, in terms of matching the job description with the individual qualifications, these nominees fit the bill.

I have looked at the representation of the face of Kenya based on regional balance and I can see Kenya is fairly represented. Teachers are spread across the board. You go to north eastern, there are teachers. Everywhere you go, you find teachers. I can see the Committee considered the face of Kenya. I want to thank the Chairlady, Hon. Florence Mutua, for work well done. I also thank the selection panel for giving us a very good list that represents the face of Kenya.

There are a lot of challenges with TSC. Right now we have the issue of delocalisation. As TSC does this, it should consider the age of a teacher. Old teachers should not be delocalised whatever the case. They should be as close as possible to their families. Sometime back there was a proposal by one of the legislators that the Commission should be comprised of critical stakeholders, like KNUT, KUPPET and parents' associations. It does not happen at TSC but it happens at the JSC, where commissioners represent key stakeholders. For instance, the JSC has representatives of magistrates, High Court judges, Court of Appeal judges, Supreme Court judges and even the Law Society of Kenya (LSK). When it comes to education, it is totally different. To heal that, we call upon the commissioners to work closely with the relevant bodies in education matters. These bodies include KNUT, KUPPET and the Parents Association. That is how the Commission can work in a harmonious way.

I want to salute the CEO of TSC, Dr. Nancy Macharia. She has tried to work under difficult circumstances. She and the director of staffing, Madam Rita, have done very well. I have no doubt these nominees are going to add value as far as the welfare of teachers are concerned in this country. I call upon Members to support this Motion so that we can pass it. Education is very critical. Nelson Mandela said that education is the most powerful tool that you can use to change the world. Right now there are a lot of changes happening. For you to bring changes to somebody who has gone to school properly is easier as opposed to people who are not well schooled. The latter tend to be resistant to change. As I support this Motion, I call upon us to conclude it quickly because it has no issues, so that we move to the IEBC matter. That is where the fire is. We need to move with speed so that the IEBC nominees can also be approved as quickly as possible so that there is a quorum to sit and prepare for the general election in 2022.

Thank you, Hon. Speaker. I support.

**Hon. Speaker:** Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. Let me also join my colleagues in praising and thanking the Committee for a job well done. I also thank the Chairlady of the Committee, Hon. Florence Mutua, who is a prominent member of my party. The way the Report has been drafted is orderly and very easy to read. I also want to thank the Clerk Assistant of this Committee for drafting a properly arranged Report. Sometimes we get reports that are very difficult to read, or which you really require time to make anything out of them.

I just want to say a couple of things. One, our role as an approving institution is to look at specific areas. We are not expected to interview the nominees afresh. That is not our work. Our work is to look at the qualifications to see if the nominees meet the minimum qualification requirements. That is clearly evident from the Report we have. Nicodemus has a PhD and the

others with master's degrees and in relevant fields. Four of them have solid education backgrounds and one has extensive knowledge in human resource and organisational behaviour, as my colleagues have rightly observed.

The second thing that we may need to look at is fairness in the entire process. The process began with applications from 299 Kenyans. Out of that, the panel shortlisted 35 qualified Kenyans, who were then interviewed and 12 names forwarded to the President. If you look at the list of the 12 names, you realise that the President has picked Nos. 2, 3, 4, 6 and 7. So the only people who scored high marks and have been left are Nos. 1 and 5. That is so because of regional balancing. You can see No. 1 is from Embu and No. 5 is from Murang'a. Already the Commission has representation from those regions. The fact that a Teso from Busia, who is qualified and has a PhD, is being considered is what we have been calling for. We should ensure that those from minority communities are given equal opportunity as the others from dominant communities. The fact that a Gabra, Mr. Adano Abudo is being considered, again from a minority community in Marsabit County, is laudable. We have Wafukho, who is a Luhya from Nairobi, Sharon Jelagat from Elgeyo Marakwet, a Kalenjin and of course there is Christine Kahindi, a Kamba from Kilifi. Therefore, the aspect of regional representation and inclusivity of the minorities that this House should be considering is well taken care of.

I want to state that the issue of gender is also well take care of because out of the five nominees, three are women. If that number is added to the commissioners who are in place, then we have a good mix. I do not have much to say but I want us to commend the TSC in terms of fairness especially in the recruitment of teachers. If you look at the recruitment that goes on in the country, the one by TSC is better. This is because there is a criterion. If you look at the recent recruitment, you will find that those who have been interns are given higher marks compared to those who have not. Those who also have many years outside in the field are given higher marks. I want to give credit to the Commission and the CEO. They have done a good job. We hope that other agencies which are also doing recruitment in this country like the military and the police exercise fairness in a manner that can be verifiable and that can be seen to be fair.

Hon. Speaker, I support.

**Hon. Speaker:** Hon. Chepkut Chirchir.

**Hon. William Chepkut** (Ainabkoi, Independent): Hon. Speaker, I rise to support the approval of these members: Dr. Nicodemus Ojuma Anyang, Christine Kahindi, Sharon Jelagat Kisire, Anncenta Wafukho, and Selesa Adano Abudo. This is a face of Kenya. When it comes to balancing probabilities, I support His Excellency. He has really balanced. I am happy. I want to talk about the role of the commissioners: One is to register and train teachers while others will handle recruitment, promotions, transfers and disciplinary cases. I want to salute Nancy Macharia in particular. She is doing a good job. With this team, when it comes to knowledge and experience, Dr. Nicodemus has 29 years.

Hon. Speaker, I want to talk about Sharon Kisire. She comes from my own constituency, Kapsunde Sub-Location, Chepkero Location. She is a very competent lady when it comes to measuring how public institutions conduct public affairs and manage public resources and recruitment. She is up to the task. Therefore, without further ado, I want to plead with all Hon. Members to approve this one and we move to the Motion on IEBC. In addition, tell his Excellency that we love him. He is the five-star general for appointing one of my constituents.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Matayos

**Hon. Geoffrey Odanga** (Matayos, ODM): Thank you, Hon. Speaker. I also want to state from the beginning that I support the Motion as laid before Parliament by the Chairperson of the Departmental Committee on Education and Research. Vetting is different from interviewing and when names of nominees are brought to the Committee for vetting, you are just required to confirm what has been brought from the nominating office. I want to confirm that we did that. There were quite a number of qualified Kenyans who would have been nominated as commissioners but we just had to get the few that we need for the time being and to have the face of Kenya and diversity. Diversity has been a problem in the last few years and you will remember that I had to lament on the Floor of this House because the Commission did not have enough commissioners. We really wished that the CEO started the process of nominating commissioners some few months before the lapse of the existing ones so that we do not have gaps existing as it has been before. This makes the services of the Commission to the teachers to lack the qualities that it requires. We are happy that we have at least moved to this level.

I know Dr. Anyang because he comes from Busia. I even went to school with him. He was a year ahead of me. He went to the seminary and thereafter joined me at Nambale Boys High School. He is very humble, articulate, effective and fair. He is someone that can be relied on and that is why he has taken his time to grow to the level he is serving at the Ministry. I have also known Anneta for the last two terms that I have served in Parliament because she served in the Departmental Committee on Education and Research. She is a very diligent worker. She is someone who can be relied on and I am sure she will help us get good services from the TSC. The other nominees also have a variety of qualifications like in Human Resource Management which is very critical because the TSC is about human management.

Hon. Speaker, I do not want to belabour so much but to urge the House to approve the nominees as forwarded here by the TSC.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Mbeyu.

**Hon. (Ms.) Gertrude Mwanyanje** (Kilifi CWR, ODM): Asante, Mheshimiwa Spika. Nasimama kuunga mkono Hoja hii ya kuchaguliwa kwa makamishna wa TSC. Nataka kuunga mkono kuchaguliwa kwa kina mama kama makamishna ili kuongezea ile idadi ambayo ipo kwa TSC.

Mhe. Spika, nataka tu kuzungumzia kamishna Madam Christine Kahindi ambaye anatoka Kilifi. Amekuwa mwalimu kwa miaka nyingi. Ameweza kuweka nidhamu kwa zile shule ambazo amefundisha na kuelekeza watoto. Ni mwalimu ambaye amekuwa wa hali ya juu na alikuwa mwalimu bora zaidi katika jimbo la Kilifi mwaka wa 2017. Isitoshe, katika zile shule ambazo amefundisha kama Jaribuni Secondary, Kilifi Township, Majaoni Secondary na Katana Ngala Girls, amekuwa mwalimu wa kike ambaye ameleta nidhamu. Hakuna wakati hata mmoja katika shule zake ambapo wanafunzi waligoma au kuchoma shule. Kwa hivyo, ni mwalimu mwenye taadhima na kwa sababu ya hilo, mimi naunga mkono kupandishwa cheo kwake. Akiwa mwalimu pale Majaoni na katika hali ya ugumu ya masomo Kilifi Kaunti, aliweza kutoa 'A'. Kwa hivyo, mimi naunga mkono.

Asante Mheshimiwa Spika. Sisi Wanakilifi tunafurahia kupandishwa cheo kwa mwalimu huyu. Tunamuenzi sana. Asante, Rais Uhuru Kenyatta.

Asante sana.

**Hon. Speaker:** Let us hear something from the Member for Laikipia North.

**Hon (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Speaker. *(Off-record)*

**Hon. Speaker:** Sorry.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Speaker. I also rise to contribute on this Motion. I, however, would like to register my reservations on the list of the nominees.

At the outset, our fellow colleagues of the Departmental Committee on Education and Research have done due diligence in vetting the nominees but, when I was listening to the Chairperson of this Committee, she said that many Members here have talked about the face of Kenya and consideration of the marginalised and minorities. I remember sometimes back when the Teachers Service Commission (TSC) advertised for these commissioners, a lady from my constituency who is a highly qualified career educationist applied. She was shortlisted and was ranked the best in the Rift Valley. Her name was forwarded to the President and when the names were brought to this House then, Rift Valley was not brought here simply because a Ndorobo, of all the people, was the best qualified in Rift Valley.

Hon. Speaker, when it was advertised the second time, she again applied and my guess will be as good as anybody else's. She was not shortlisted because the point was, she was not the one wanted for that job. I must say this because the first time I made it into this House was through a nomination as a representative of the minorities and the marginalised. For me it is a very sad day. I do not have anything to celebrate about. This is in contravention of the spirit of the Constitution that clearly says the marginalised and minorities must have their right and their share in the Government of Kenya today that is lead by the His Excellency Hon. Muigai Kenyatta. In all the constitutional commissions, in all the government departments even in these Ethics and Anti-Corruption Commission (EACC) jobs and commonly known jobs as DOs, there is not even one single Ndorobo employed.

Hon. Speaker, I cannot sit down here and clap with my colleagues who are happy that Members from their communities have been nominated while there is none from where I come from. Today I saw a nominee whom they even lowered the qualification in the name of giving the minorities and women an opportunity to be put in these positions but, here is a Ndorobo woman with two Masters Degrees, almost completing her PhD, being left out deliberately. It is a very sad thing for me as a Member of this House. I feel the oppression in this country is real. I must say this without fear of contradiction. Initially, we thought the handshake was a very good thing for this country and indeed it was. Eventually, it shook off all the minorities and the marginalised because even now after this, we are going to vet the Independent Elections and Boundaries Commission (IEBC) commissioners and we know which regions they come from. We will be told that is the face of Kenya. My question is: Where are the Sengwers of this country? Where are the Njemps of this country? Where are the Ogieks of this country? Where will the Ndorobos of this country get employed?

I know you are a minority and from where you sit you know that minorities do not disappoint. You have been one of the best Hon. Speakers in this House despite the fact that you are a Mbeere. What makes them think that Ndorobos cannot be TSC Commissioners? To me when people are killing you, they might think you enjoy dying unless you shout and throw your legs and hands in a manner to suggest that death is very painful. That is why today I must say this on the Floor of this House.

**Hon. Junet Nuh** (Suna East, ODM): On a point of order.

**Hon. Speaker:** Hon. (Ms.) Sara Korere, there is a point of order from Hon. Junet.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Speaker, it is not my intention to interrupt the Member as she is doing very well but, I just wanted to correct one notion that she has alluded to. She is saying that you are a minority. You are a whole spokesman of Mt. Kenya region? How can

you be a minority while you were inaugurated the other day here at the *Nyagatha wa Mukuru wa Ng'ang'a*?

*(Laughter)*

**Hon. Speaker:** Hon. Junet, that is not a point of order. Proceed Hon. (Ms.) Sara Korere

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Speaker. As I conclude, I must say...

**Hon. Aden Duale** (Garissa Township, JP): On a point of information.

**Hon. Speaker:** Hon. Korere, do you want to be informed?

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Yes Hon. Speaker.

**Hon. Speaker:** Yes Hon. Duale. You may inform Hon. Korere.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I want to inform my sister in the House, Hon. Sara Korere, that in 2013, it was the United Republican Party (URP) that nominated her to this House as a Ndorobo. Do not cry, bring me that CV in the next Government as we continue. We will employ all the Ndorobos.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Aden Duale.

Hon. Speaker as I conclude, I am talking from my heart which is very heavy. I only want to say that it is unfortunate that we are almost coming to the end of this term without a single person from the Ndorobo community in any of the commissions or anywhere in this Government. I want to tell our oppressors, probably one day when St Peter is calling their names, the Ndorobos will be the assistants of St Peter and they will not see heaven.

**Hon. Speaker:** What is your intervention Hon. Fatuma Gedi?

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Hon. Speaker, I rise on Standing Order 95, and looking at the mood of the House and every Member has contributed supporting the nominees to the TSC Commission, knowing that we have a heavy agenda before us, I request that you call upon the Mover to reply.

**Hon. Speaker:** Well, Hon. Members, it is every Member's right to invoke Standing Order 95. Unfortunately, if you look at the way it is couched, it is not the Hon. Speaker, it is the House, and so let me put the Question

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

Mover?

**Hon. (Ms.) Florence Mutua** (Busia CWR, ODM): Thank you, Hon. Speaker. I take this opportunity to thank Members for supporting the appointments of the five nominees as commissioners to the TSC. Thank you so much for the support. Now that the TSC is fully constituted, I am sure they are going to give us the best service more than they are doing currently.

I beg to reply.

**Hon. Speaker:** Order Members. I can see there is an element of excitement. There is a lot of movement. Is that the Member for Kieni standing? I saw somebody lanky and I thought that must be the Member for Kieni, he is a golfer. Can we finish this?

**Hon. Members:** The council of elders is consulting.

**Hon. Speaker:** The council of elders is consulting? Members, I will put the Question.

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Ochieng', what is this that you want to raise?

**Hon. David Ochieng'** (Ugenya, MDG): Hon. Speaker, if you allow me, because I know the next order is something really sensitive, I just wanted to raise a point under Standing Order No. 1 on Article 94 of the Constitution regarding the ongoing measures to combat COVID-19. This House in April last year, passed a number of Regulations to enable the Cabinet Secretary, Ministry of Health and that of the Ministry of Interior and Coordination of National Planning to enable them take measures to curb COVID-19. It is not more than 15 months since this happened. Our concern is, the almost weaponising of the room we gave to the Government to enable them combat COVID -19. I am referring to every 60 days, almost automatic renewal of these measures with no regard to the effects and implications of the same to the rest of the country. We have seen in the last about 40 days' gatherings happening; funeral and political gatherings happening but every time something small happens these measures are reviewed. So, I wanted to raise this issue with you so that you can give directions to the Chairperson of the Departmental Committee on Health, if she is around, to report to this House when this House resumes on 21<sup>st</sup> of September on the continued need for the placement of bans on gatherings and funerals, political meetings and weddings.

Secondly, the Committee should tell this House the measures that are being taken to ensure that there is widespread vaccination and when this country can be opened up for business and if there any exemptions. Could the Chairlady of that Committee tell us if there are any exemptions on those who can do public gatherings and those who cannot.

Finally, the High Court on the 17<sup>th</sup> of last month, made a finding that the orders be given by the various Cabinet Secretaries that is, the Cabinet Secretary in the Ministry of Health and that of the Ministry of Interior and Coordination of National Government, have weaponised this to the extent that some people are allowed to go on with their lives and activities without being disturbed but others are not being allowed these meetings. The court found that these orders that are being done especially without referring to this House under Article 94(5) and (6), are against Article 10 (2) (d) and Article 245 (2) (b) of the Constitution.

I thank you for granting me this opportunity.

**Hon. Speaker:** The Chairlady, Departmental Committee on Health is apparently not aware of today's special sitting.

That request is to be channelled through the office of the Leader of the Majority Party for the Chairperson of the Departmental Committee on Health to come and make some statement in the House with regard to the issues raised by Hon. David Ochieng. I think it is an important thing. We need to know the various issues that Hon. Ochieng' has raised.

Next.

## SPECIAL MOTION

### CONSIDERATION OF NOMINEES FOR APPOINTMENT AS MEMBERS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

**Hon. Speaker:** Chairman of the Departmental Committee on Justice and Legal Affairs.

**Hon. Clement Kigano** (Kangema, JP): Hon. Speaker, I beg to move:

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in its Report on the Approval Hearing for Appointment of Ms. Juliana Whonge Cherera, Mr. Francis Mathenge Wanderi, Ms. Irene Cherop Masit and Mr. Justus Abonyo Nyang'aya as Members of the Independent Electoral and Boundaries Commission, laid on the Table of the House on Wednesday, 1<sup>st</sup> September, 2021, and pursuant to the provisions of Article 250(2)(b) of the Constitution, section 7A of the Independent Electoral and Boundaries Commission Act, 2011 and section 8 (1) of the Public Appointments (Parliamentary Approval Act, 2011), this House approves the appointment of the following persons as Members of the Independent Electoral and Boundaries Commission:-

- (i) Ms. Juliana Whonge Cherera - Member;
- (ii) Mr. Francis Mathenge Wanderi - Member;
- (iii) Ms. Irene Cherop Masit - Member; and
- (iv) Mr. Justus Abonyo Nyang'aya - Member.

After rigorous vetting by the statutory selection panel of the Appointment of the Commissioners of the IEBC, the names of four nominees were selected and forwarded to His Excellency the President. The President in turn by a message dated 5<sup>th</sup> August 2021 sought the approval of this House for the nominees Ms. Juliana Whonge Cherera, Mr. Francis Mathenge Wanderi and Ms. Irene Cherop Masit and Mr. Justus Abonyo Nyang'aya as members of IEBC. Pursuant to its verdict and Article 124 (4) of the Constitution, the Clerk of the National Assembly having advertised in the print media on 10<sup>th</sup> August 2021, my committee carried out public hearings on the suitability of the nominees on the 24<sup>th</sup> of August, strictly as provided in the provisions of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011. Other than an advisory opinion by the National Gender and Equality Commission, no other memorandum was received by the Committee against any of the nominees.

The Committee therefore considered the question of gender in light of Article 250 (4) of the Constitution which states that appointment to commissions and independent offices shall take into account the national values referred to in Article 10 and the principle that the composition of the commission and independent offices be taken as a whole. I underpin that phrase, taken as whole. Members' attention is drawn to the qualifying rider. It alludes to the composition of the Commission and offices taken as a whole. So, I submit that it is the composite of the Commission taken as a whole; not one individual commissioner.

The Committee's attention was also drawn to the judgement on Petition No.4446 of 2016 in the matter of the National Gender and Equality Commission versus the Judicial Service Commission that was rendered on 12<sup>th</sup> May 2017, where the court stated that the Supreme Court then—with five men and two women—was properly constituted. This ratio, therefore, applies to the Independent Electoral and Boundaries Commission (IEBC), which when fully constituted after we supply the four commissioners, shall have a composition of five men and two women, just like the case in the Supreme Court.

Hon. Speaker, the Committee's attention was also drawn to a letter from the IEBC to the Clerk of the National Assembly, dated 26<sup>th</sup> August 2021, which is annexed in the Report; verifying and confirming that in terms of Article 88 (2) of the Constitution, none of the four nominees has held or stood for elective office as a Member of Parliament or County Assembly within the preceding five years.

All the four nominees, as Members may read from the Report, have impeccable academic qualifications as follows:



(i) Ms. Juliana Whonge Cherera was born in 1976 and brought up in Mombasa County. She has a Bachelor's Degree in Education and a Master's Degree in Leadership and Management. She is currently serving as Chief Officer in the Mombasa County Government.

(ii) Mr. Francis Mathenge Wanderi was born in 1953 and brought up in Nyeri County. He has a Bachelor's Degree in Education and a Master's Degree in Management Science. He has been the National Government Constituencies Development Fund (NG-CDF) Chairman for Kieni Constituency. He is currently the Chairman of the Export Processing Zone (EPZ).

(iii) Ms. Irene Cherop Masit was born and brought up in Elgeyo Marakwet County. She was born in 1967. She has a Bachelor of Arts and Bachelor of Law degrees. She also has a Master's Degree in Human Resources Management. She was a member of the defunct Boundaries Commission. She is currently serving as a Board Member of the NG-CDF.

(iv) Mr. Justus Abonyo Nyang'aya was born in 1957 and brought up in Homa Bay County. He has a Master's Degree from the University of London. He has extensive experience in Educational Management and Leadership. He is an acknowledged consultant in various bodies locally and internationally.

Hon. Speaker, I did not want to repeat the material that is in one of the annexures. The annexures in the Report sets out all their experiences.

We have received clearance reports on all the nominees from the Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), the Higher Education Loans Board (HELB) and the Registrar of Political Parties. All those are positive clearances.

The Committee, having vetted all the nominees and made the following general approval observations:

(i) All the nominees satisfy the qualifications and criteria as set out in Section 6 (2) of the Independent Electoral and Boundaries Commission Act, 2011.

(ii) None of the nominees is disqualified on the grounds set out under Article 88 (2) of the Constitution.

(iii) All the nominees satisfy the statutory requirements of Leadership and Integrity Act, having been cleared by the DCI, KRA's tax compliance, HELB, EACC and the Office of the Registrar of Political Parties.

(iv) None of the nominees has been convicted in a court of law for a criminal offence in the past three years.

(v) As stipulated in Article 75 (1) of the Constitution, all the nominees indicated that they have no potential conflict of interests and the Committee affirmed the same.

(vi) All the nominees satisfy the requirements of Article 77 (1) of the Constitution in that they do not intend to participate in any other gainful employment.

(vii) All the nominees do not hold office in any political party; hence they satisfy the provisions of Article 77 (2) of the Constitution.

(viii) None of the nominees has been dismissed from office under Article 75 of the Constitution for contravening Article 75 (1) on conflict of interest, Article 76 on financial probity and Article 77 on restriction of state officers and are, therefore, fit to hold office as members of the IEBC.

(ix) All the nominees have exhibited impressive knowledge, understanding and passion for the mandate of the IEBC.

It is evident that when these nominees are appointed, the new composition of the IEBC will be fully representative of the face of Kenya and regional balance. Each of the seven commissioners will, therefore, be drawn from each of the seven regions other than Nairobi.

Hon. Speaker, I wish to register my gratitude to all Hon. Members and staff of the Committee for their diligence in prosecuting and vetting the nominees for approval. I also thank you, Hon. Speaker, and the Clerk, for all the necessary facilitation.

In conclusion, in view of the recent ruling by the Court of Appeal, and in order to forestall any more courting of potential disorder, I urge Members to comprehensively read the Report of my Committee in order to fully appreciate and enrich the debate. I further urge Hon. Members to adopt the recommendations as set out in the Report of my Committee.

Therefore, I beg to move and call upon Hon. Jennifer Shamalla, Nominated Member of Parliament, to second.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Speaker. I rise to second the Report of the Departmental Committee on Justice...

**Hon. Speaker:** Hon. Shamalla, just one second.

Hon. Members, I wish to draw your attention to the fact that today is a Special Sitting, and I can see many of you are coming in and trooping out. After you contribute, do not walk out because there is the final aspect, which is the approval. It is immaterial that you speak and state that you support and then walk away. I will not put the Question if there will be no quorum. You cannot just say that you support. Even if you oppose, you must be in the Chamber to vote one way or the other. The Question will not be put unless there is quorum. Several Members have forgotten the rules of the House. I can see that some have gone for tea and others are going to the villages. Please, note that you came here for a Special Sitting.

Proceed, Hon. Shamalla.

**Hon. (Ms.) Shamalla Jennifer** (Nominated, JP): Thank you, Hon. Speaker. As I was saying, I rise to second the Report of the Departmental Committee on Justice and Legal Affairs on the approvals for appointment of the four candidates to the Independent Electoral and Boundaries Commission (IEBC).

The four candidates that I will not name because they have already been named demonstrated excellent combined extensive experience in law, public administration and management. One of the crucial things that came out during the approval hearings was the concern about spoilt votes. In a country which has an average of over 83 per cent literacy rate, this, indeed, is a deep concern especially because one of the mandates of the IEBC is to conduct civic education.

The question I would pose as a legislature and on behalf of Kenyans is: Why is there such a high percentage of spoilt votes? Is it due to lack of civic education? Is it due to illiteracy? It cannot be illiteracy. Could there be a possibility that it is deliberately done and may perhaps be a way of rigging? I do not have answers to that but I hope that in the event that this House approves these nominees, then they will provide these answers before the next general elections.

They demonstrated that they were patriots. A question of resignations of IEBC commissioners at very crucial times came up. As a country, we have experienced that kind of a scenario. They all assured us that they are aware that there are some situations where people may want to resign but for them, they are patriots and they will never leave the country and the people of Kenya in the kind of lurch that we saw in 2017. They assured us that they were ready to withstand the pressure of elections and see it through until the announcement of the results.

With those few remarks, I second.

*(Question proposed)*

**Hon. Speaker:** The Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I rise to support the Report of the Committee. I also want to commend the Departmental Committee on Justice and Legal Affairs for the dedicated hours they put into this process and the time they spent in ensuring that the names that were forwarded to the House and then forwarded to them have met all the legal and constitutional requirements. All that evidence of their work is contained in this very elaborate Report, which the Chairperson has so graciously presented before this House this afternoon.

I also take this opportunity to commend the Selection Panel that I believe received 669 applications when the advertisements were put up. The Teachers Service Commission (TSC) received 299 applications while the IEBC received 669 applications. This basically shows that so many Kenyans are keen to serve the electoral body and how the IEBC is rated.

Hon. Speaker, the Panel would also not have been constituted if it was not for the work of the Parliamentary Service Commission, which you chair. It midwived the whole of that process and I also record thanks for the work that you and the Commission did in facilitating the formation of the Panel and the Committee. Eventually, through His Excellency the President, we have the four names here.

We all know the importance of the IEBC as the referee in our elections. It is at the heart of success of elections. We have seen crisis during our elections. We have unfortunately seen violence. The worst kind of violence that has happened in this country is tied to the electoral cycles. Therefore, having a credible IEBC makes a lot of sense.

We have also seen what we were discussing this morning; the issue surrounding the Building Bridges Initiative (BBI) Constitution amendment, and everything seems to have just been brought down by the fact that the IEBC did not quorate. The IEBC is at the heart of everything. Like I mentioned in the morning, even the election for the Court of Appeal itself, the IEBC was right there and it was not quorate. We are even doubting whether the Court of Appeal itself is properly constituted. The IEBC has been there and it has been helping political parties. We have also held so many by-elections and if we really do not get the IEBC right, then we are going to be in a lot of trouble now that we only have 11 months to go.

After today, we believe they should have a quorum. I believe the reconstituted Independent Electoral and Boundaries Commission (IEBC) has a big role, first of all, to review the decisions that have been made by the portion that was declared non-quorate and make it right before it is presented to the courts and puts the whole electoral cycle in jeopardy. I believe that the critical thing they need to do is to recruit a CEO and fill up all vacant positions so that, as we move towards elections, we do not fight over whether they had the right people or will the commissioners be doing the work of management and end up with issues.

I have had discussions with people asking why we have brought the names so late in the day and why we did not bring them early in the year or even last year. There has not been any delay, at least, not from the Government side or from His Excellency's side. We had to wait for the legal framework on recruitment which we passed in this House early in the year and it is only the passage of that law that triggered the process of getting the panel leading to where we are today.

As we were discussing earlier today about the commissioners, the issue of regional balance seems to play emotionally. We will be looking at it even now. As much as we appreciate that the commissioners who have been appointed for IEBC and everywhere else come from different parts of Kenya and represent the face of Kenya, when they join a commission or a corporation, they do not agitate for regional interests. I want to disabuse this feeling because, perhaps, the emotions we get people feeling that they do not have one of their own is because there is an expectation that when you have one of your own there, he or she is going to agitate for your personal interest. Commissioners are there as individuals. Six hundred and sixty-nine people applied. None of them was sponsored by a tribe, none of them of them was sponsored by a village and none of them was sponsored by a grouping. They applied in their individual capacity. They went to school in individual capacity and were interviewed in their individual capacity. All the selection panel and the appointing authority have done is to ensure that the very best of them individually represent the face of Kenya. Collectively, when it comes to the Commission, we expect them to serve the great Republic of Kenya first. They must not start thinking about where they were nominated from, for example, from Mt. Kenya. That they must serve in the Commission, the interests of the Mt. Kenya Community. Or that one who was nominated from the Coast must serve the people of the Coast. We expect that all the commissioners, as they take their oath of office and as they serve, they will bear allegiance to the Republic of Kenya and not their regional interests.

I do not want to go into the individual nominees because the Report is very clear. The Chair has indicated why they picked them. They all qualified in their rights. I emphasise that, having read the Report, I have no doubt that the procedure that was arrived at was good and was adhered to. The constitutional and statutory requirements have been adhered to. The suitability of each of the candidates in terms of age and education has been sorted out. IEBC itself has confirmed the limitation on the people who have been in politics. By and large, I believe we now have four potential commissioners who I implore the House to approve so that immediately they get the appointment, we will cure the problem of IEBC being condemned on a daily basis that it does not have a quorum. IEBC has a big role to play.

In addition to the 2022 elections next year, the window of delimitation of boundaries is getting to the tail end. In 2010, we created the 290 constituencies in the Constitution and agreed that in the next review, the population quota would be rationalised, which is now in this review. I urge the new IEBC to take this matter seriously and if possible, to do it as early as possible, but not wait until the far end because it is going to be emotional. There are constituencies that will lose or will be scrapped because of the population quota.

The framers of the Building Bridges Initiative Constitutional (Amendment) Bill had foreseen this problem and had tried to save all this. Unfortunately, because of the politics of the moment, we do not seem to think of the unification of Kenya. So, some people will suffer while others will gain. IEBC unfortunately will be given the responsibility. In 2010, they did a very bad job out of it hence we ended up with more gerrymandering and constituencies such as Embakasi and Ruiru ended up with people three times their neighbouring constituencies have. Obviously, we have some tiny constituencies. This disparity is what causes tensions and inequality leading to people to feel that there is no equity and tensions around the elections.

Now that the BBI has taken a break - and I will not say that it is off the ladder rather has taken a break. During the break, can IEBC demonstrate to this country that they can ensure that there is equitable distribution of the voice of the people in the next review of the boundaries? If they can do that and show people, perhaps, the debate over the 70 constituencies will not even arise. If they can demonstrate equity in distribution of constituencies, the debate on how we should

be distributing National Government Constituencies Development Fund will not even arise because all that would have been factored within the situation. We like pretending or equating ourselves to the great democracy, the United States, where we borrowed the republican system or presidential system. Stability is anchored in the equality of the vote. The total population of the US is divided by a set number of seats in the House of Representatives. The electoral district boundaries are then drawn accordingly and they shift to make sure that they are as close as possible. There is splitting of the House into two so that a bedroom is on one side and the sitting room on another.

As close as possible, the population of the United States of America is distributed equally so that every person in the House of Representatives in the Congress represents the same number of people. Of course, on the States, it is a different ball game. Theirs is to protect the Union and so every State has two senators. But at the college at the presidential level, the college is weighted to represent the population. We borrowed that system and expected it to work here! We just brought the Constitution without replicating the equality that is required for democracy to have a voice. Votes must count.

I just want to re-emphasise that so that even as we get the new commissioners, it is not just another job we are giving them. It is not just so that they can feel their community is now represented in the IEBC. It is for them to know that they have a very serious job to do. The future of this country – the peace and stability post August next year – depends on the actions of the IEBC. If they can deliver a credible election, there will be peace. If they deliver a doubtful election, we do not want to contemplate what will happen. The ball is in their court.

I support the Report.

**Hon. Speaker:** Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I also want to support the Motion to approve the four commissioners to join the other commissioners. The courts have declared that this Commission is not properly constituted although, again, we ask fundamental questions as to whether a lot of illegalities have happened in this country as a result of that decision by the courts, but that is subject for another day. I think we have, as a country, been a bit careless and negligent by allowing ourselves to run for months or a very long period of time without a properly constituted commission.

The interviews for those commissioners were done in public and Kenyans watched. I think it attracted a lot of attention. Many people watched the interviews. Generally, I would say we are satisfied with the process. I think this is one thing that the panel did right, making the interviews public so that we avoid unnecessary speculations after people have been nominated. If today this House approves these names - and I pray that we approve the four names because I have no reservations on any of the nominees - we will have a Commission that can be relied on. While speaking at a public forum as a national leader, I said that the Chairman and the other two commissioners should stop some of the processes they had embarked on. They were making fundamental decisions touching on the elections of next year. That would put into question the integrity of the very elections. It is not right when you have four commissioners coming on board but major decisions, including the procurement of electoral materials, have already been done by the three commissioners.

Again, the courts have said it was not a commission. That matter is still disputed but as it is today, the decision of the Court of Appeal is that we do not have a properly constituted commission. I was wondering why Chebukati was rushing at this point in time when already four commissioners had been nominated and were just awaiting parliamentary approval to deal with

certain significant and major decisions, including staff realignment. I have information that a lot of staff realignment has taken place at the IEBC. We want these four commissioners to get on board the IEBC, sit down with the other three and correct any misdeeds that the three commissioners have probably done. If that is done, we will be happy with the process.

Something else that I wanted to point out to the four commissioners as they join the Commission is that the integrity of the election is important. The process leading to the election is as important for the integrity of the election as is the actual voting and declaration of results. Therefore, there should be as much transparency as possible. We do not want to see a commission that deals with matters in an opaque and secretive manner that would lead to a lot of speculation.

I am happy that the list has people of wide experience and knowledge. I want to single out Commissioner Justus. It is not just because he comes from Homa Bay. For the first time, we are going to have a Commissioner from Homa Bay, but that is not important. He is not going to work for Homa Bay. He is not going to work for any particular individual. These are Kenyans who have to come from specific regions. Justus, as we all know him, if you look at his CV and the Report about him, this is someone who has worked with various international organisations and delivered results. He is someone who has put a lot of his time on good governance in this country. Therefore, I expect that he does not disappoint when he gets to the Commission.

We have had cases where individuals have been appointed based on merit, based on their qualifications and based on their experience, but their performance becomes questionable when they get to those institutions. So, I want to just pray that we get it right this time round - we get commissioners who will put the country first. I pray that we have a commission that will not preside over an election and we end up with the kind of disruptions and chaos that we have witnessed in previous elections.

This country is on record as being one of the very few countries in the world where presidential election results have been annulled. It is not something to be proud of. It is something to worry us. Where did the rain start beating us? How come we could not get it right in 2007, 2013 and 2017? The only election results that were not contested in this country are those of 2002. The 1992 elections did not satisfy a majority of Kenyans. The 1997 election results were contested. The 2002 election results were the only elections where there was universal agreement across the country that it was properly conducted. I know some people will say people are not accepting the results. That is not the point. You are supposed to prove beyond reasonable doubt. People are supposed to have confidence in the way elections are conducted. The moment you leave any doubt; the moment you create suspicion; the moment you start talking about some results not being with you, and the moment you start saying that you are meeting challenges with the IT system; those are excuses that give rise to possible dispute. So, this should be avoided.

If there is any general election that generated so many disputes at the courts, it is that of 2017. You can see that for most of the cases that went to court, the courts found there were irregularities and a lot of them resulted into some kind of nullification of the outcome of elections. What saved this country is the internal "war" between the various levels of the Judiciary. Otherwise, we would have had so many by-elections in this country. I call it "war" because it was being said that the decisions of the High Court would usually not be upheld by the Court of Appeal. Also, the Supreme Court would always come in to change or overwrite the Court of Appeal. That is what saved us. Otherwise, if you looked at the results of those electoral disputes from the High Court, most of them were upheld in favour of the plaintiff. So, I want to just put it across that let us hope that the commissioners we are approving this afternoon will not disappoint Kenyans. I

hope they are going to get into this Commission and do a job that is transparent, work that will be verifiable, and work that Kenyans can support.

As to the fate of the other three commissioners, I know there are people who have said we have called for those commissioners to go home, et cetera. I chair a party. My party has not pronounced itself on what to do with those three commissioners. Probably we will, because I am not the sole decision maker. What I know is that if the outcome of an election that you preside over has been annulled by the Supreme Court—the highest court in the land—you should ask yourself hard questions. So, I leave it to the conscience of those three commissioners: Before you blame anyone, ask yourselves. You presided over an election that actually set a precedent on this continent. Do you think that, morally, it is justifiable for you to preside over another election? That is a question that these commissioners will have to answer. And it is something that we need to debate going forward. Even if we are going to allow them to preside over another election, they must convince us. They must show some kind of remorse.

Two, they must convince us that they are doing things differently. They cannot do things the same way they prepared for the 2017 elections, which created the problem that we are in. Being the first country in the continent where a presidential election was annulled speaks volumes. The three commissioners are in office. Please prove to Kenyans and demonstrate to us that there is something you are going to do differently in 2022. This country cannot again entertain what happened in 2017, especially after the Covid-19 pandemic. Our economy cannot be resilient enough to withstand disruption after the 2022 election. I want to plead with all of us to tone down our political rhetoric and concentrate on preparing for the 2022 election. If there is a place where the process seems to be wrong, we need to correct.

My final comment, again, is to IEBC. Problems with elections begin with party primaries. I know Kenyans have blamed our political parties for not managing party primaries well. I have been an active participant in party primaries and I have never faced an opposition having won my nomination unopposed. I have always competed, from 2007 to 2013 and 2017. In fact, I tell people that I am the only national chairman of a party who has faced party primaries in a serious party. That demonstrates democracy in my party. Political parties need time to conduct party primaries. You cannot give us one week or four days. What IEBC should wait for from political parties is the list of their candidates. They should not restrict us to four days. They should just tell us the date on which we need to provide them with the list of those who have been nominated. We can stagger nomination within four months.

As political parties, we do not have the machinery to conduct a general election. The party primaries we conduct in this country are like a general election. You cannot do that in four days as a political party, without even resources. The ODM as a party conducts nomination in 290 constituencies using Ksh400 million. It is not practical. What we are asking is, allow political parties to stagger their nominations so as to conduct them in a manner that is transparent and that would convince their members that the spirit of democracy has been lived up to. That is what I want to ask the IEBC. Please, on the timelines you have given, I want to ask that you drop the idea of conditioning political parties to four days of party primaries.

Hon. Speaker, with those many remarks, I support the Motion to approve the four nominees. Thank you.

**Hon. Speaker:** Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I rise to support the report of the Departmental Committee on Justice and Legal Affairs on vetting of the four nominees: Mr. Mathenge, Madam Irene, Mr. Obonyo and Mrs. Juliana. At least, one of the judgments given by

the courts will be fulfilled this afternoon, if this House agrees with the report. By the end of the day, IEBC will be fully constituted, if the House approves the Motion. I really want to ask the House to do that.

I am also happy that this Committee, for the first time, did not receive any memorandum touching on any of the four individuals. That translates into their integrity being above board. I hope they maintain that. This House failed to enact the law that would have set the ball rolling for the recruitment of the four commissioners. Now we are at the tail end and we have a Commission that will be fully constituted.

I was part of the 2007 general election. We knew what happened. We had many commissions and the Kriegler Report, which is now in many shelves. The IEBC and political players must relook at the recommendations given in the 2008 Kriegler Report. I am sure a lot of the recommendations will improve the management of the election system in our country. This House must go ahead and pass legislation to the effect that we do not give these kinds of jobs to cowards, so that when the seat is too hot you take the next flight. That should not be the case. Four commissioners resigned. One took off at the wee hours of the most controversial elections in 2017. The other three went to a hotel along Harambee Avenue and just resigned. If you are a commissioner, do not put the country in a crisis. You must uphold and protect the position given to you under the Constitution. I was so happy the Committee asked these nominees whether they would run away, and they all answered in the negative.

Let me come to a very critical point. The people of this country are being cheated that the Constitution gives the IEBC the power to conduct delimitation of boundaries, and the courts have upheld that position. It is not a group sitting at a corner and calling themselves the BBI. It is not the President as the head of the Executive. It is not the Judiciary. It is not Parliament. It is under Article 89(4) of the Constitution. It says delimitation will be done between eight and 12 years. Let me go on record. The Constitution says delimitation cannot be done one year to a general election. So, the current IEBC cannot conduct delimitation. They will violate Article 89(4) of the Constitution. There is this story of some constituencies disappearing. No constituency is disappearing. That matter can only be discussed when a review of boundaries is being done. The next review will be 12 years from 2012 when the last review was done. And that is 2024. All these 290 constituencies will exist. Do not go to court. Do not waste your time. Do not cheat the people. How do you delimit? You delimit constituencies using various parameters, namely: population, land size, poverty index, and infrastructure. There are people who are telling us in this country about population. Give us a break! We are not visitors. We belong to this country. We occupy 75 per cent of the land mass.

North Horr Constituency alone with one Member of Parliament is equivalent to the former Central, Western and Nairobi Provinces combined. We should tell the country the truth. You cannot tell us about unity, resource allocation and the money that goes to the devolved systems. We did not get it as a favour, but through provisions given to us in the Constitution. Why are we not discussing the 85 per cent of the money that remains with the National Treasury? The discussion about resources is a very healthy one. As we discuss the 15 per cent that goes to the counties, we should also discuss the 85 per cent that remains with the National Government. We must have an honest and candid conversation. Nobody is a visitor to another one. Everyone is in this House and in this country to defend his community.

I have no reason and apology to speak for the Somali community in this country. I have no apology. You should also speak for your community and we must all be defended by the Constitution. The Constitution gave everybody devolution. If you want resources and want us to



have that discussion, then you should bring the national cake, with 85 per cent, to the table. Where does that 85 per cent go to? Once we are clear on that, we can then discuss the 15 per cent allocated to counties.

Hon. Speaker, elections are very emotive. I want to urge the IEBC, going forward. The first chair in 2007 was the late Samuel Kivuitu. I was in this House with Hon. Millie, Hon. Kimunya, Hon. Mbadi, Hon. Keynan and Hon. Shaban. The next chair was Isaac Hassan. We now have Chebukati. Let us not discuss 3 commissioners against 4. Let these 7 commissioners move as one team and give this country free, fair, credible and peaceful elections. As political players, we must give them the support they need, both legislatively and budgetary. Let us not dent the credibility of the IEBC.

I want to agree with Hon. Mbadi that the IEBC must reconsider the 2017 General Elections that was annulled. The commission must know why that election was annulled because it was the referee. I am sure that in their 2017 Post-Election Evaluation, the IEBC must have seen where the problem was. That has shown the maturity of democracy and elections in our country.

Let us not talk about regional balance. Regional balance is not a favor. I want to ask my good friend, the Leader of Majority of Party, not to appoint women who are married in another region and call that regional balance. That is the game that is being played. We must talk about that. You must provide and protect the spirit of the Constitution on regional balance. I am happy that the former Prime Minister was misquoted when he went to Murang'a and made a statement on revenue allocation in the counties of Manderu and Kiambu. That was a very good discussion and in fact, the Prime Minister was right. After devolution, we must discuss the national cake which is 85 per cent. If we have that discussion, we will see a serious imbalance in this country:

In some regions, roads are not built, water is not available and hospitals are in poor conditions. We must allow the IEBC to do its work for us and have an election that is free and fair. Mr. Chebukati and his two colleagues are not going anywhere. I want to tell those who feel that they want to change them, that they are wasting their time. They will conduct the next election.

I beg to support.

**Hon. Speaker:** Member for Likoni.

**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): Asante sana, Mheshimiwa Spika kwa kunipa nafasi na mimi niweze kuunga mkono Hoja hii maalum ambayo imetuleta leo kuzungumzia wateuliwa wanne katika Tume ya Uchaguzi na Mipaka.

Naunga mkono kwa sababu wateuliwa hawa wamefuzu katika tajriba ya kielimu, uzoefu wa kikazi katika utawala wa umma, usimamizi wa sekta za umma na mambo ya kisheria.

Pia wateuliwa hawa hawakuwa na dosari katika mambo yoyote ya uhalifu ama kuwa na hoja ambayo ingebadilisha maadili yao ya kibinafsi. Tumeona ya kwamba Mheshimiwa Uhuru amezingatia jinsia; Ameweka kina baba wawili na kina mama wawili. Hivyo ni kutuonyesha ya kwamba kule tunakoelekea tutaweza kupata asilimia hamsini kwa hamsini katika uwakilishaji katika sekta zetu za kitaifa ama sekta zetu za umma.

Kwa muda mrefu, tumekuwa tukisema ya kwamba tume hii ya Uchaguzi na Mipaka imekosa akidi. Akidi ni *quorum*. Imekuwa haina kiasi cha makamishna ambao wanaweza kufanya kazi za Tume hii. Tutakapomaliza zoezi hili, tutaweza kuwa na akidi inayofaa kuendeleza kazi za uchaguzi na zile za mipaka.

Mheshimiwa Spika, katika wateuliwa hawa, kuna mama mmoja anaitwa Juliana Cherere. Mama huyu nilimjua kwa muda mrefu sana akiwa mwalimu katika kaunti yangu ya Mombasa. Ameweza kusomesha katika shule kadhaa na pia amefanya kazi katika sekta za umma katika mambo ya utawala wa umma na pia usimamizi. Ameonyesha tajriba ya hali ya juu sana katika kazi

zake na hatujawahi kusikia dosari yeyote ama uufisadi wa aina yeyote katika kazi ambazo amezifanya.

Mhe. Spika, ningependa kusema kuwa tunatakiwa kuweka sura ya Kenya kila tunapofanya uteuzi.

**Hon. Junet Nuh** (Suna East, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** There is a point of order from Hon. Junet.

**Hon. Junet Nuh** (Suna East, ODM): Hon. Speaker, I really did not want to interrupt Hon. Mishi. However, considering that this is a Special Sitting and this is a very important matter because there is no quorum at the IEBC, every Member who has contributed is leaving, including Hon. Duale who has just lectured us here on devolution and money. I beg to request your indulgence under Standing Order No. 95, if we can ask the Mover to come and reply so that we dispense of this matter. This is a Special Sitting.

**Hon. Speaker:** I will allow Hon. Mishi to conclude and then put the Question for the Mover to be called upon to come and reply.

**Hon. (Ms.) Mishi Mboko** (Likoni, ODM): Asante sana, Mheshimiwa Spika. Nataka nikubali ya kwamba ni wakati mwafaka kuweka sura ya Kenya katika uteuzi wetu.

Isitoshe, tunaposema tunataka kuweka sura ya Kenya, lazima tuzingatie ya kwamba kwa kihistoria kuna jamii au makabila ambayo yalikuwa yamesahaulika pahali pakubwa sana katika uteuzi. Hivyo basi, wakati Rais wetu anafanya uteuzi, ni muhimu afikirie na kuwapa nafasi nyingi sana makabila yaliyokuwa yametengwa na yale ambayo ni machache.

Hii ni kwa sababu hivi leo ukifika Pwani, kuna makabila ambayo yametengwa; Digo, Duruma, Pokomo, na Bajuni. Wako Pwani lakini wametengwa zaidi hata kule Pwani. Hata tukija huku Bara, sehemu ambayo Mheshimiwa Spika wetu ametoka kule Mbeere imetengwa zaidi. Kabila la Mbeere ni kabila ambalo katika ile hali ya kule kwao ni kuwa wametengwa zaidi. Wametengwa na wamewekwa kama kundi la wachache zaidi.

Kwa hivyo, ni wakati mwafaka hawa ndio wawe wakifikiriwa ili waweze kufikia yale makabila makubwa ambayo yamekuwa na nafasi kubwa katika katika Taifa letu la Kenya, ili kila mmoja aweze kuwa yeye pia aweza kupata ile keki ya taifa kwa njia ya usawa.

Tume hii ni muhimu sana na tunaamini hawa walioteuliwa wataweza kuonyesha maadili mema ambayo yataleta dhamani zaidi katika mambo ya uchaguzi na mipaka. Maadili ambayo yataweza kuzuia ghasia na michafuko ya kisiasa haswa wakati wa upigaji kura au wakati watu wanavyojiandikisha mambo ya kura.

Kwa hivyo, akina mama wenzetu mulioteuliwa pale, tunajua mama ni kiungo muhimu katika mambo ya Amani. Mama ni kiungo muhimu katika mambo ya kuunganisha. Mkiweza kuingia katika Tume ile mutafute njia ya kuondoa changamoto zilizoko sasa na kuweza kuleta atatuzi na kwamba kuwe na historia ya kwamba ifikapo mwaka 2022 tutakuwa na uchaguzi uliowahi, wa amani na wa haki ili Kenya iweze kusonga mbele kama taifa letu.

Ninashukuru sana hawa wote waliochaguliwa kwa sababu wote wanatajiriba na wanauwezo. Wameweza kuwa na uzoovu na mambo haya yote ambayo yataweza kuwe kwenye Tume. Kwa sababu ya wakati sitazungumza zaidi, nataka nishukuru na niunge mkono.

Asante sana, Mhe. Spika

**Hon. Speaker:** Hon. Junet must have been watching what is happening. You can see those are four Members out there and they are on their way. So, I just have to put the Question.

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

Let us have Hon. Kigano.

**Hon. Clement Kigano** (Kangema, JP): Thank you, Hon. Speaker. I wish to register my many thanks to Members for supporting the Motion. I have taken cognisance of two matters that were brought to the Chamber's attention.

Hon. Kimunya spoke about marginalisation. We have taken note that marginalisation can be effected in reverse when at times you have very qualified candidates and because their origin is not a minority, they are disqualified. In lieu thereof, we take some mediocre and unqualified candidates merely because they come from the so called marginalised communities. In effect you marginalise the majority when you disqualify a qualified candidate.

The second one was raised by the Leader of the Majority Party that there has been effort to reorganise the Independent Elections and Boundaries Commission (IEBC) Headquarters by urgently re-organising the office to forestall any efforts that may be made by the new incoming commissioners. We have taken note of that and will call for an urgent retreat with the commissioners so that they can reorganise with the commissioners on full board.

I thank you, Hon. Speaker and beg to reply.

**Hon. Speaker:** Hon. Members, as we go to the tail end of the 12<sup>th</sup> Parliament, there may be people who, as it happens 70 per cent do not come back. If you do not come back, it will be useful to the country. Remember we have the Center for Parliamentary Studies and Training (CPST). Those who have been here and took time to understand the process of Parliament become very useful partners at that training institute because we need to also train the new ones who would have replaced you and those in the county assemblies.

However, if you never learnt anything, it will become difficult. You will still be coming to the ones who will be here and it is not right. I have just wondered. We put the Question for the Mover to reply because Hon. Junet raised a possibility that we could be losing Quorum. Then as the mover is replying others are moving out. Surely, it also speaks volumes about understanding.

I will ask the Clerk, because this is a very serious business, it may appear to me that we quorate. Can I get from the Sergeant-at-Arms the exact number, so that when I put the Question and we approve these names? Nobody then goes to challenge the decision of the House on grounds of Quorum.

Quickly give me the number of Members around. Very well, Hon. Members, at least, the Clerk's office and Sergeant-at-Arms have confirmed that there is in the House a total of 58 Members. Therefore, we quorate. It is okay now for me to put the Question.

*(Applause)*

*(Question put and agreed to)*

**Hon. Speaker:** Hon. Members, that concludes business for today's Special Sitting.

### ADJOURNMENT

The time being 5.01 p.m., the House stands adjourned until Tuesday the 21<sup>st</sup> of September 2021 at 2.30 p.m.

The House rose at 5.01 p.m.