

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

THE HANSARD

Thursday, 14th October 2021

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. Speaker: Chairman, Departmental Committee on Labour and Social Welfare.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Labour and Social Welfare on its consideration of the Community Groups Registration Bill (National Assembly Bill No. 20 of 2021).

Hon. Speaker: Next Order.

NOTICE OF MOTION

Hon. Speaker: Hon. Rahab Mukami, the Member for Nyeri.
Well, next Order.

QUESTIONS AND STATEMENTS

Hon. Speaker: The first Question is by the Member for Kisumu West, Hon. Olago Aluoch

ORDINARY QUESTIONS

Question No.424/2021

MEASURES TO STOP FREQUENT ACCIDENTS ALONG KISUMU-KAKAMEGA HIGHWAY

Hon. Olago Aluoch (Kisumu West, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 424 of 2021 directed to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) What steps is the Ministry taking to stop the frequent accidents occurring at the Mawembe Mbili, Riat, Kona Mbaya and Coptic Roundabout sections of the Kisumu-Kakamega Highway, situated between Kiboswa and Coptic Church in Kisumu West

Constituency, taking into account the steep incline of the highway at a section known as Riat Hills, the amount of traffic and the poor design of the said road?

- (ii) Could the Cabinet Secretary provide details of all the road accidents that have occurred along the said highway since it was opened to the public, indicating the nature of the accidents, dates and names of victims who may have died or been injured as a result?
- (iii) Are there plans by the Ministry to have the road redesigned to make it safe for motorists and members of the public?

Thank you, Hon. Speaker.

Hon. Speaker: The Question will be replied to before the Departmental Committee on Transport, Public Works and Housing. Next Question is by the Member for Kajiado North, Hon. Manje.

Question No.425/2021

STEPS TO ADDRESS MISTREATMENT OF KENYANS WORKING IN MIDDLE EAST

Hon. Joseph Manje (Kajiado North, JP): Thank you, Hon. Speaker. I beg to ask Question No. 425 of 2021, directed to the Cabinet Secretary for Labour and Social Protection:

- (i) What action is the Ministry taking to address cases of mistreatment and harassment of Kenyans working in Middle East countries, particularly Saudi Arabia and Qatar?
- (ii) What steps is the Ministry taking to safeguard the welfare of Kenyans and improve the services offered to them in these countries, particularly in Saudi Arabia and Qatar?

Hon. Speaker: The Question will be replied to before the Departmental Committee on Labour and Social Welfare. Next Question is by the Member for Nakuru Town East, Hon. Gikaria.

Question No. 426/2021

STATUS OF COMPENSATION TO FAMILY OF JOHN MUNYIRI WAIKWA

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Speaker. I rise to ask Question 426 of 2021, directed to the Attorney-General:

- (a) What is the status of payment of compensation for the loss of life which was awarded by a Nakuru Law Court vide Case No.11540F2019 to the family of the late John Munyiri Waikwa of ID No.11474127, who passed on following a tragic road accident at Kikopey, Nakuru County, on 22nd March 2019 after a trailer rammed into a 2NK Sacco *matatu*, killing all passengers on board?
- (b) When will the said compensation be paid to the dependants of the deceased?

Hon. Speaker: This Question is for a written reply, which the Attorney-General will reply to the Questioner.

The next Question is by the Member for Kirinyaga Central, Hon. John Wambugu Munene.

Question No. 429/2021

MEASURES TO BRIDGE DIGITAL LITERACY DIVIDE AMONG LEARNERS

Hon. Munene Wambugu (Kirinyaga Central, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

- (i) What measures has the Ministry put in place to urgently bridge the digital literacy divide among learners, particularly in public schools across the country and specifically in Kirinyaga Central Constituency considering that digital literacy is one of the core competencies to be attained by learners under the Competency-Based Curriculum (CBC)?
- (ii) What challenges has the Ministry been facing in the implementation of digital literacy in the education curriculum in both the 8-4-4 and CBC systems?
- (iii) What steps has the Ministry taken to ensure there are continuous in-service training programmes on digital literacy to all teachers to ensure they are equipped to meet the needs of the education curriculum?

Hon. Speaker: That Question will be replied to before the Departmental Committee on Education and Research.

The next Question is by the Member for Kitui Rural, Hon. Mboni Mwalika, who has informed me that he asked that Question last week. It appears on the Order Paper by mistake and is accordingly taken out.

(Question No. 434/2021 removed from Order Paper)

The next segment is on Requests for Statements. The first Request is by the Member for Mvita, Hon. Abdullswamad Nassir. He is not in.

The next Request is by Hon. Githua Wamucukuru, Member for Kabete.

REQUESTS FOR STATEMENTS

DESIGN FLAWS ON WESTERN BYPASS ROAD PROJECT

Hon. James Wamucukuru (Kabete, JP): Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding design flaws in the Western Bypass under construction in Kiambu County.

The ongoing construction of the Western Bypass is set to cut through Kabete Constituency, passing through several centres. The said areas hold a population of over 95,000 people. In addition, the area hosts other public institutions and facilities, including educational institutions, health facilities, police stations, churches and children's homes, among others.

While the community in the area welcomes and appreciate the move by the national Government to construct the said bypass, which they observe presents immense economic benefits to the residents, they are concerned over the flaws in the design of the project as follows:

- (i) The bypass lacks adequate service lanes from Gitaru to Karura.
- (ii) The only exit solution for the residents of Kibiku, Kirangari, Gikuni and Nyathuna villages is at Kihara Centre, more than 1.5 kilometres away.
- (iii) There is no provision for drainage to address storm water in most areas, for instance, at Kanjeru and Rukubi areas.

- (iv) There is a dead-end of the service lane Number 12 from Kihara Exchange to Kirangari Bridge. This renders the service lane almost useless in terms of socio-economic impact for the area residents.
- (v) There lacks an underpass at Kibiku, Gathiga, Njathaini junction to serve the residents of Marugu area, pupils from Kibiku Primary School and Caroline School, and police officers from Kibiku Police Station. The section poses a major security threat to pedestrians, including school-going children attempting to cross either side of the bypass.
- (vi) There is no designated *matatu* and bus stops along the bypass for use by the residents who live along the bypass.

In addition, persons who were displaced to pave way for construction of the said bypass are yet to be compensated four years down the line. Persons affected by a Government project should be in a position to retain their lifestyles if not better, and should thus not be made to make undue sacrifices which leave them suffering in the name of saving on cost by the contractors. From the foregoing, the said bypass will lead to destruction of the residents' economic activities thus increasing poverty in the region.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing to address the following issues:

- (i) What factors are normally taken into account while designing a bypass and in this case of the Western Bypass, what dynamics were considered?
- (ii) Could the Chairperson provide the original design of the road and the Bills of Quantities and explain the variations in the current design?
- (iii) Was public participation carried out prior to the designing of the said bypass and when variations were effected?
- (iv) Which were the spur roads and connector roads that were factored in the design?
- (v) When will the persons who were displaced to pave way for the construction of the said bypass be compensated, and will inflation be taken into account?
- (vi) Could the Ministry consider redesigning the road to ensure that the above concerns raised by stakeholders are addressed as the design currently undermines the socio-economic and security wellbeing of the area community?

Hon. Speaker: Member for Kiambaa, what is your intervention?

(Hon. John Njuguna rose on a point of order)

Hon. John Njuguna (Kiambaa, UDA): Hon. Speaker, I rise on a point of order under Standing Order No.44 (2)(c). On Tuesday, 17th August 2021, I requested for a Statement from the Departmental Committee on Transport, Public Works and Housing with regard to the Western Bypass. I want to state that up to date, we have not received any communication from the said Committee with regard to the same. I would like the Chair of the Committee to take this matter a little bit seriously because the project is almost 70 per cent complete. We are approaching the completion of the project, but the residents of some of the townships in Kiambaa, like Ndenderu and Karura cannot access their homes. School-going children are forced to walk five kilometres to their schools. Therefore, I request the Chair of the Committee to take this matter seriously, so that he can give us a solution before the completion of the project. Some of the issues...

Hon. Speaker: That is enough. You are asking when he is going to give a response. It is not a debate. Your point has been made.

Chair of the Departmental Committee on Transport, Public Works and Housing, when will you respond? Member for Kiambaa, when you want to rise on an intervention, do not rise to debate. Do not take too long to learn. There is not much time. Where is Hon. Pkosing, the Chairperson of the Committee?

(Hon. Abdullswamad Nassir put up his hand)

You are not the Chair. First of all, you came late. So, you should be the last one to do what you are doing, namely, shouting “point of order” when you have come late after you have skipped your request.

Majority Whip, take up that matter. It is the same issue that the Member for Kabete has raised. The requests for Statement by the Members for Kabete and Kiambaa have made the point that in some date in August, they raised the same issue and there has not been any response. It is not right for the Chair of the Committee to drag his feet.

Hon. Members, you cannot just raise up your hand. Majority Whip, take up that matter. You have no point. You are not the Chair to be dealt with. I have noticed some tendency here of Members thinking they will speak by raising up their hands.

I had approved a Request for a Statement by the Member for Kamukunji. Where is your card for intervention?

ESCAPE OF SUSPECTED SERIAL KILLER FROM JOGOO POLICE STATION

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Speaker for giving me the opportunity to raise a grave matter as stated above.

Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the disappearance of Wanjala Masten, a suspected serial killer who had been detained at Jogoo Police Station.

On Wednesday 13th October 2021, we were shocked to learn of the escape from custody of Masten Wanjala, a man who was facing charges of murder, and who was due to appear in court yesterday over the suspected murder of 14 children, three of whom were from Kamukunji Constituency. Parents of the deceased children who were meant to testify in the court of law against Mr. Wanjala were left in shock when they found out that the dangerous criminal was no longer in custody of the police. Such a dangerous killer is now on the run and poses real danger to our children and the public at large.

It is against this background that I seek an urgent Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

1. Could the Chairperson explain what led to the escape of such a dangerous alleged killer?
2. Could the Chairperson further explain what measures are being taken to quickly apprehend the wanted criminal, who is now on the run?
3. Could the Chairperson explain what measures are being taken to give protection to parents and other witnesses who were to testify against Mr. Wanjala?

Hon. Speaker: I believe the Statement will be for the Chairman of the Departmental Committee on Administration and National Security. Let us have the Vice-Chairperson, Hon. Fatuma Gedi.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Speaker, this is a shocking Statement and it is very sad. I beg your indulgence that we come back to this House after two weeks, if it is okay with the Member.

(Loud consultations)

Hon. Speaker: What is out of order, Members? When a Chair of a Committee says that they would want to be given time to come with a Statement after some given period, it is the Member requesting who can express either satisfaction or displeasure. However, you should not make it look like everybody's business. I actually will look with disfavour at anybody who wants to intervene when another Member is raising a Request for a Statement, because that is not an opportunity for debate.

Hon. Hassan, are you satisfied?

Hon. Yusuf Hassan (Kamukunji, JP): I am happy that the Departmental Committee is taking it up, but I want them to take it up with the urgency it needs. There is a dangerous person who is prowling freely on our streets. He could kill another child, attack and rape or seek revenge against any of the witnesses. So, I want to know immediately whether any action has been taken by the National Police Service to protect the witnesses while they are going about looking for this dangerous criminal

Hon. Speaker: Hon. Hassan, you know it is quite possible that the Chairperson could come here even on Tuesday with a Statement that the police have mounted a manhunt for the escapee. That would be a Statement. It will be a response if they say they have mounted a search for the fellow who has escaped, since the Committee is not going to be the one going to hunt for the criminals, fugitives or people who have escaped from police custody or remand.

Hon. Fatuma, you can bring the response even on Tuesday or Thursday.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Speaker, as a matter of urgency, I will bring the Statement on Thursday, but in the meantime, I will have a discussion with him on how we can administratively intervene immediately.

Hon. Speaker: Does he know where the criminal is?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): We can have a discussion on that. He can give us more information.

Hon. Speaker: Obviously, I am advising you as a person who has some knowledge about the operations of the police when such a situation arises. If it is somebody who has escaped, it is a matter of public notoriety. People must be in the know, unless there has been a system to escape. What you are saying, Hon. Hassan, is quite true, that such an escaped suspect could even harm other citizens. However, Hon. Fatuma Gedi wants to have *tête-à-tête* with you about how the matter can be handled. Nevertheless, proceed, you can do it.

For the second time, Member for Mvita.

MANDATORY REQUIREMENT BY GOVERNMENT ON USE OF STANDARD GAUGE RAILWAY
FROM MOMBASA TO NAIROBI INLAND CONTAINER DEPOT

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Speaker. I am requesting for a Statement regarding the mandatory use...

Hon. Speaker: Hon. Member for Mvita, I will just remind you, because I suspect you know, but if you do not know, then let me remind you. When you arrive in the House and your business had been called out and you were not there, you begin by apologising to the House. You do not just rise in your place and start going through things. Surely, you owe the House an apology for coming late.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Speaker, I profusely apologise. Over the last eight years as Member of Parliament, I do not think this is a trend that I have had. So, I apologise and hope that the House, through your leadership, can indulge me in that.

Hon. Speaker: Proceed.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the mandatory requirement by the Government on the use of the Standard Gauge Railway (SGR) from Mombasa to Nairobi Inland Container Depot (ICD) by importers and traders.

The Kenya Government is unconventionally imposing reforms that are against the free market economy model. In the recent past, importers and traders with a Kenya Revenue Authority (KRA) Personal Identification Number (PIN) that has been registered in Nairobi have been compelled to collect their goods from the Nairobi ICD, whether they need them in Mombasa or elsewhere for that matter.

Hon. Speaker, this underhand practice not only increases the cost of goods and services, but is also killing the economies of counties within the Coastal region led by Mombasa, whose gross county product according to the Kenya National Bureau of Statistics (KNBS) is the transport and storage sector at 27 per cent, manufacturing sector at 14 per cent, real estate at 11 per cent, construction at 11 per cent, and trade and motor vehicle repair at 11 per cent, which have also been negatively impacted by these measures. This is counterproductive to the Government's objectives of supporting the common *mwananchi* and making life bearable to its citizens.

Hon. Speaker, it is against this background and the resolution of this House of November 2020, on a matter that I earlier sought, that I seek a Statement from the Chairperson of the Departmental Committee on Finance and National Planning on the following:

- (i) Could the Chairperson explain why traders with KRA PIN registered in Nairobi and working in Mombasa or having business interests in Mombasa are barred from freely clearing and transporting their goods?
- (ii) Could the Chairperson further explain who gave these orders of barring the Nairobi KRA PIN holders from trading freely in Mombasa?
- (iii) Could the Chairperson explain measures taken by the Government to ensure that the economy of Mombasa County is protected from these illegal and non-constitutional practices that force traders to use the SGR or the Meter Gauge Railway (MGR)?
- (iv) Could the Chairperson further explain what punitive measures the Government is taking against those instituting the formation of illegal and unconstitutional directives?

Hon. Speaker: Sorry, your request is directed to the Departmental Committee on Finance and National Planning. Hon. Wanga, how soon do you think you can respond to this?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Speaker. We should respond in the next three weeks, if that is okay.

Hon. Speaker: Hon. Abdullswamad?

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Speaker. I do not doubt the capacity and capability of the Departmental Committee on Finance and National Planning, but considering that this House will be going on recess, I would strongly request the Chair to try and push it. As every single day goes by, more and more businesses are shutting down in the county I represent. This is a simple matter because they are asking people with KRA PINs from Nairobi not to clear their goods in Mombasa, and this is shutting down the storage and transport sector. So, it is just one element. The others are supplementary issues on the same matter.

Hon. Speaker: Would you not have a complete answer?

Hon. Abdullswamad Nassir (Mvita, ODM): I would rather have a complete answer. I will liaise and work with my sister, so that we can push this to about two weeks, if that is okay with her.

Hon. Speaker: Very well.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Speaker, we will consult with Hon. Abdullswamad, but without pre-empting, the House calendar shows that we will be going on recess next week. So, we will deal with it and be ready by the time we get back. We will begin action as we feel the pressure of his constituents.

Hon. Speaker: Very well. Can we get a Statement from the Majority Whip?

STATEMENT

BUSINESS FOR THE WEEK COMMENCING 19TH TO 21ST OCTOBER 2021

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give a Statement on behalf of the House Business Committee (HBC), which met on Tuesday, 12th October 2021, to prioritise the business for consideration.

Hon. Speaker, I wish to reiterate the call by the Leader of the Majority Party that we need to expedite business pending before committees to allow sufficient time for consideration by the House as we hit the close of the year.

Hon. Speaker, on Tuesday, 19th October 2021, the House is scheduled to undertake the Committee of the whole House on the WAQF Bill 2019, and Second Reading of the following Bills:

- (i) The Mediation Bill, 2020.
- (ii) The Community Groups Registration Bill, 2020.
- (iii) The Kenya National Commission on Human Rights (Amendment) Bill, 2020.

The House will also consider Committee Reports on the following:

- (i) Ratification of the Bilateral Air Services Agreements between the Republic of Kenya and the Republic of South Africa, and between the Republic of Kenya and the Republic of Botswana.
- (ii) Ratification of the Bilateral Air Services Agreement between the Government of Kenya and the Government of the Russian Federation.

Hon. Speaker, in accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the following Cabinet Secretaries are scheduled to appear before departmental committees:

- (i) The Cabinet Secretary for Tourism and Wildlife is scheduled to appear on Tuesday, 19th October 2021, before the Departmental Committee on Environment and Natural Resources to respond to the following:
 - (a) Question No.005/2021 by Hon. Paul Katana, MP, regarding human-wildlife conflict in Kaloleni Constituency.
 - (b) Question No.346/2021 by Hon. Faith Gitau, MP, on human-wildlife conflict in Nyandarua County.
 - (c) Question No.367/2021 by Hon. Mwalyo Mbithi, MP, regarding human-wildlife conflict in Masinga Constituency.
- (ii) The Cabinet Secretary for Sports, Culture and Heritage is scheduled to appear on Tuesday, 19th October 2021, before the Departmental Committee on Sports, Culture and Tourism to respond to the following:
 - (a) Question No.115/2021 by Hon. David Gikaria, MP, regarding the Kenya Premier League Match-fixing and Betting.
 - (b) Question No.181/2021 by Hon. Christopher Omulele, MP, regarding the funds collected under Sports Arts and Social Development Fund.
 - (c) Question No.213/2021 by Hon. Malulu Injendi, MP, on the comprehensive insurance for national team players and their dependants.
 - (d) Question No.202/2021 by Hon. Gideon Keter, MP, regarding the rehabilitation of Kenya National Archives.
 - (e) Question No.300/2021 by Hon. Marwa Maisori, MP, on protection of indigenous languages.
- (iii) The Cabinet Secretary for Public Service, Gender, Senior Citizens Affairs and Special Programmes is scheduled to appear on Tuesday, 19th October 2021, before the Departmental Committee on Labour and Social Welfare to respond to Question No.344/2021 by Hon. Catherine Waruguru, MP, on the *Inua Jamii* Cash Transfer Programme and its enrolment in Laikipia County.
- (iv) The Cabinet Secretary for Interior and Coordination of National Government is scheduled to appear on Thursday, 21st October 2021, before the Departmental Committee on Administration and National Security to respond to the following:
 - (a) Question No.372/2021 by Hon. (Dr.) John Mutunga, MP, regarding insecurity in Tigania West Constituency.
 - (b) Question No.373/2021 by Hon. (Dr.) John Mutunga, MP, on the production, sale and consumption of illicit brew in Tigania West Constituency.
 - (c) Question No.384/2021 by Hon. Josphat Kabeabea, MP, regarding the deployment of staff to new administration locations and sub-locations in Tigania East Constituency.
 - (d) Question No.373/2021 by Hon. Safia Sheikh Adan, MP, regarding discontinuation of police reservists programme.
 - (e) Question No.400/2021 by Hon. David ole Sankok, MP, regarding the details of land ownership by the Deputy President.
- (v) The Cabinet Secretary for Lands is scheduled to appear before the Departmental Committee on Lands on Thursday, 21st October 2021, to respond to:
 - a) Question No.343/2021 by Hon. Simba Arati, MP, on the ownership details of parcels of land occupied by Milimani and Kileleshwa primary schools in Nairobi City County.

- b) Question No.350/2021 by Hon. Moses Kirima Nguchine on the demarcation of boundaries between Tharaka Nithi and Meru counties along Central Imenti and Tharaka constituencies.
- c) Question No.353/2021 by Hon. Babu Owino, MP, regarding the ownership status of parcels of land numbers 334 and 4422, which had been set aside for public use in Embakasi East Constituency, but which have since been illegally acquired by a private developer.
- (d) Question No.420/2021 by Hon. Godfrey Osotsi, MP, regarding the ownership status of parcels of land within Mautuma Central Settlement Schemes in Lugari Sub-County, Kakamega County, that were allocated to land owners from Vihiga County as compensation following the compulsory acquisition of their land by the Government in 2001.

Hon. Speaker, the HBC will reconvene on Tuesday, 19th October, 2021, to schedule business for the rest of the week. I now wish to lay this Statement on the Table of the House.

(Hon. Emmanuel Wangwe laid the Document on the Table)

Hon. Speaker: Member for Rarieda, you have intervention.

Hon. Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. On 30th September, with your special permission, I posed Question No.004/2021 as a Question by Private Notice regarding disappearance of one of my constituents, Mr. Francis Oyaro. With your direction, you rendered it to the Departmental Committee on Administration and National Security with direction that they respond within seven days. On 7th October, I was invited to attend the Committee's hearing with an indication that the Cabinet Secretary and his team would be attending to respond to that particular Question, but then I was shortly advised that they were not ready. When we came here and raised a point of order, the Chair sought more time and indicated that he would be giving that answer this week on Tuesday. I was here on Tuesday, but no response was given, and no extension of time was given. Today, I have listened keenly to the Whip of the Majority Party indicating some of the Questions that will be responded to, and my Question was still not mentioned.

Hon. Speaker, when a Member has asked a Question under urgency and you directed, and yet two weeks later there is no response, there is neither indication nor any explanation, then our Questions become superfluous.

Hon. Speaker, I would need your direction in terms of what then a Member is supposed to do under those circumstances.

Hon. Speaker: Let us have the Vice-Chair, Hon. Fatuma Gedi. It is true that it was a Question by Private Notice. I reminded the House that in ordinary circumstances, previously, that Question would be responded to within three days. There must be some response. It better be inadequate, but there must be a response. So, what is your position?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Speaker, I accept that. We received the reply, but it was not satisfactory. I beg to bring the response on Tuesday afternoon. We were not satisfied with the response because it was shoddy work. Anyway, we will bring it on Tuesday.

Hon. Speaker: Hon. Otiende Amollo.

Hon. Otiende Amollo (Rarieda, ODM): Hon. Speaker, with tremendous respect to the Vice-Chair, this is information that is strange to me. I have even spoken to the Chair severally, including this morning, and there has not been any indication to me that there has been any

response at all, adequate or inadequate. Certainly for me, I have not seen any. So, the indication is that there was some shoddy work which was returned. I am a stranger to those statements.

Hon. Speaker: So, what was inadequate?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Speaker, it is the responsibility of this Committee to bring, on behalf of the Cabinet Secretary, statements that satisfy Members.

Hon. Speaker, you remember the issues that we had previously. We decided, as a Committee, to receive the responses and go through them. What they did was not really good work, and that is why we asked for more time. I want to assure you that we will bring it on Tuesday, so that the Member can interrogate it.

Hon. Speaker: You know the issue is that this is not a request for Statement. It was a Question by Private Notice. Even the entire Executive is supposed to know that this is how Parliament works. When there are Questions by Private Notice, they require answers urgently. What your Committee ought to have done is to immediately get in touch with the relevant Cabinet Secretary and tell him the answer to this Question is required within three days. That is the tradition, even when they used to sit here, and it has not changed. In fact, in some jurisdictions, a Question by Private Notice is responded to within 48 hours. It is not a question of you bringing the answer here. It is when Hon. Otiende Amollo can appear before your Committee alongside the Cabinet Secretary. There should be somebody. You can schedule a meeting on Tuesday. It does not have to be here, because this has been pending for a long time. Hon. Fatuma, can you schedule a meeting on Tuesday for the Cabinet Secretary to appear and respond to the Question by Hon. Otiende Amollo?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Okay, Hon. Speaker. I will do that on Tuesday at 10.00 a.m.

Hon. Speaker: Hon. Otiende Amollo, they will tell you where they will be having the sitting. There are so many of you who have placed requests. I am sorry, there is a screen here which I have to follow. The first one on the screen is Hon. Mohamed Sheikh, Member for Wajir South.

Let us have Hon. Okello.

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon. Speaker. Mine is unrelated to the matter at hand.

Hon. Speaker: What is it? Is it a point of order?

Hon. Jared Okelo (Nyando, ODM): Yes, Hon. Speaker. I seek your indulgence, because I ought to have made it formally, but due to the dictates of time, I could not.

Hon. Speaker: No! Points of order must be points of order.

Hon. Jared Okelo (Nyando, ODM): Kindly, indulge me, Hon. Speaker.

Hon. Speaker: What I will be doing very frequently is that when you have pressed the intervention button and I give you a chance to speak, and you start giving some story, I will just shut you out so that points of order should be points of order. You say it is. Proceed.

Hon. Jared Okelo (Nyando, ODM): I thank you once again. Hon. Speaker, this relates to the offices that are facilitating us in the constituencies, together with those from the Senate. There has been a directive by KRA lately that in case of delay to remit taxes due from our offices, which is usually occasioned by delays by the National Treasury to remit money to the Parliamentary Service Commission (PSC), there is a penalty to be paid. The KRA is a department within the National Treasury and, therefore, we do not understand why they go ahead to proffer very heavy penalties to our officers. I am privy to some information.

Hon. Speaker: Hon. Okelo, if we make the Floor of the House a place for rumours... When you say that you are privy to some information, you might have picked the information from

very interesting quarters. That is a matter that affects everybody. It is a matter that you ought to come up with a request for a Statement and we direct that the response be given as early as Tuesday. But if you speak about it here, there is nothing for us to take to the KRA or the National Treasury. That is something that Hon. Wanga should address.

Please, Hon. Okelo, bring a request for a Statement. In fact, bring a Question by Private Notice and since we will not sit on Wednesday, by Thursday, we will need a response. It is good you have raised it, because I am sure it affects every Member.

Hon. Jared Okelo (Nyando, ODM): I undertake to do that, Hon. Speaker. I will do that on Tuesday.

Hon. Speaker: Thank you. Member for Kitui South.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Speaker, I had wanted to speak when Hon. Fatuma Gedi was on her feet responding to the issue of a Question being asked and the Committee realised that the response was not satisfactory. I thought it was good that the Committee was able to go through the document and after realizing that it was not satisfactory, made a decision to send it back to the person who had given it. I had wanted to support her on that. That is why I wanted to rise on a point of order.

Hon. Speaker: Let me advise. Hon. Nyamai, you are a Chair of a very busy committee. Chairpersons of committees, before whom these functionaries appear, if they bring insufficient responses that even a pedestrian on the streets can tell is inadequate, give it back to them, direct and order them. You do not have to come here. When you are sitting on the chair as the Chair of the Committee, you exercise the functions and powers of the Speaker, please. I now donate them orally to you. You have them in the Standing Orders. When a Cabinet Secretary or any such functionary appears before you and gives you a shoddy answer, and even the Member raising the Question can tell you this one cannot even convince a rat, just return it to the sender and give them specific timeframe within which to come with a proper answer. It is courteous that the Member who has asked the Question or sought a Statement be informed, so that he can tell you whether what has been proffered makes sense or not. But as a Chair, and the committee in general, you can exercise your mind as to the answer given and make a determination whether that answer is befitting or not. So, do not come to lament on the Floor. You have immense powers, especially at this time when the 9th August is drawing closer. Exercise those powers. Do not let off people who are not giving you satisfactory answers. Whoever is raising these issues is doing so on behalf of other Kenyans. I agree with you, Hon. Nyamai.

Hon. Fatuma, please, as we have agreed, on Tuesday. Did you want to say something?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Speaker, just to report back that I have secured a meeting on Tuesday at 10.00 a.m.

Hon. Speaker: Great. So, Hon. Otiende Amollo, the ball is on your court. Prosecute the matter. This is good. Active Vice-Chairs.

Let me listen to the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Speaker, on 1st July 2021, I asked a Question concerning the Kenya Transport and Logistics Network. Sometimes about early August, the Vice-Chair of the Committee of Finance and National Planning undertook to get back to me as soon as possible. Indeed, sometimes last week, I was invited to go and attend a meeting where the Cabinet Secretary was to be present. Unfortunately, when we went there, the Cabinet Secretary did not appear, but sent the Chief Administrative Secretary, who had no clue and had no answers at all. So, I am seeking your indulgence and direction. Now that the substantive Chair is around, I would like her to give us an indication on when those responses to Statements will be

available. To the best of my understanding, a request for a Statement is read on the Floor, and I have been waiting for that. Now that the substantive Chair is around, can I get any indication when the response will be ready?

Hon. Speaker: Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Speaker. Hon. Oundo is right that we invited the Cabinet Secretary to come and respond to several Questions and statements, but he sent the Chief Administrative Secretary. Some of the answers given were inadequate, while some Questions were not responded to. So, we have invited the Cabinet Secretary once again to appear possibly on Tuesday next week, so that we can have a response. We were together with Hon. Florence Mutua this morning at the Committee and she also has a petition of a similar manner. So, we agreed that the Cabinet Secretary should appear on Tuesday to give comprehensive responses after which we will bring the response to the Statements. We do not want to come here with a response to Statements only for the Member to rise and say that it is inadequate. It is better for us to sort out all our issues in the presence of the Member in the Committee, so that when the response comes, we are all on the same page. You have said severally that we are just conveyors of this information. If the Member is able to interrogate some of these issues, then we come here as one. When the Cabinet Secretaries come to respond to Questions, they can also speak to the request for Statements.

Hon. Speaker: So, on Tuesday?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Yes, Hon. Speaker.

Hon. Speaker: Hon. Oundo?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Speaker, I will gladly wait for the formal invitation as they normally do through the Clerk. Nevertheless, I will hover around here on Tuesday waiting to be told of the venue.

Hon. Speaker: You want to hover around here?

Hon. Sankok?

Hon. David ole Sankok (Nominated, JP): Hon. Speaker, the absenteeism of Chairs in this House is wanting. They attract extra allowance so that they can be dedicated here. It is good that you have even advised them and told them that they have powers, and you have donated your power as the third in command, so that when a Chairperson is interrogating a Cabinet Secretary, he is third in command. Apart from Hon. Kabinga Wachira, Hon. Gladys Wanga and Hon. Nyamai, the absenteeism is too much from the other Chairpersons. The absenteeism is too much! Hon. Florence Mutua is also here. We have over 20 Chairpersons and over 20 Vice-Chairpersons of committees. That is a total of almost 50 Chairpersons and Vice-Chairpersons, who are all supposed to be here. They are even supposed to give us quorum, but when they are absent, what will happen to their flock? You should look for a way to whip them or advise political parties to de-whip them, so that some of us who are dedicated can get these positions. I seek your indulgence.

Hon. Speaker, I come here before you and I leave after you. If I was a Chairperson, all the Questions directed to me would have been answered. I am not campaigning for myself.

(Laughter)

When Hon. Kimani Ichung'wah was the Chairman of the Budget and Appropriations Committee, he used to be here the entire time, but the current Chairpersons, Hon. Kanini Koru or rather Kanini Kega, is rarely here. We need these people to be here.

Hon. Speaker: You have now brought in debate. Hon. Members, from where I sit, I am able to see some Chairpersons who come in and purport to be greeting everybody, sign in and walk back. I noticed that when they are walking back, they make sure that they are not anywhere near my sight. They walk on the sides. Many of them have a habit of getting into the room from the right, so that they can quickly disappear. We shall leave that to their respective conscience.

I want to recognise the presence of Hon. Gikaria, Hon. Abdullswamad, Hon. Florence Mutua and Hon. Rachael Nyamai. Hon. Kabinga is regularly and permanently here together with the Member for Chepalungu and Vice-Chairman, Hon. Korei. I can always single out that the Member for Kitui South, Hon. Rachael Nyamai, is permanently in the House.

(Applause)

Hon. Gikaria, I think you had some time off to the constituency. There was a time you were very rare. Now that you are back, let us hear from the Member for Kikuyu. He had an issue.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. Mine is also related to the Departmental Committee on Administration and National Security.

Last week, the Chairman of the Departmental Committee on Administration and National Security indicated that he will be giving a response to my request for Statement. He indicated that he would bring us the report on the withdrawal of the Deputy President's security detail this week on Tuesday.

Hon. Speaker, as you are aware, I mentioned this to you and after consultations, and he indicated that he would do that yesterday, but he came in very late. He indicated that he would give a report this afternoon. I am afraid he may be planning to sneak in the answers to my Statement at the time when I am not there on Tuesday afternoon, because I had mentioned to him that I might not be there on that day. I beg your indulgence that you direct him and the Committee, through the Vice-Chairlady, who is quite diligent, to respond to my request either on Wednesday or Thursday afternoon.

Hon. Speaker: They will be in Hon. Kabinga wa Thayu's constituency on Wednesday.

Hon. Kimani Ichung'wah (Kikuyu, JP): Sorry, Hon. Speaker. I had forgotten that Wednesday will be Mashujaa Day. They can then do so on Thursday afternoon.

More importantly is a Question by Private Notice by Hon. Otiende Amollo. The issue that Hon. Otiende Amollo raised is not a matter to be taken lightly. I remember that it concerned a ranger from the Kenya Wildlife Service (KWS) who was abducted from a *matatu* as he travelled from somewhere in Laikipia to Nairobi by people who were said to have been in a Subaru. I followed that particular story in the news.

In the same week, Hon. Aden Duale will tell you that 16 bodies were discovered in River Tana downstream in Garissa. All those bodies had certain characteristics like being put in sacks and weighed down with heavy stones so that they do not float, and they only float downstream towards Garissa where the river slows down. It is, indeed, worrying for families to have their loved ones disappear, especially in the hands of people who are suspected to be policemen. The Departmental Committee on Administration and National Security, and more so the Chairman, need to appreciate that the issue raised by Hon. Otiende Amollo does not just concern his constituent, but many other Kenyans.

This Committee must not be held captive by the Cabinet Secretary for Interior and Coordination of National Government. That is a danger that we are staring at, that we have a Committee that is held captive by the Executive. I have spoken at length on the question of

parliamentary democracy and our independence as a House. If we allow our Committees to be held captive by the Executive, then we render our work as the people's representatives absolutely irrelevant. I want to ask the Vice-Chairlady, who seems more diligent than the Chairman, to take up those matters, especially the issue raised by Hon. Otiende Amollo with greater weight than it has been handled.

Hon. Speaker, I agree with you that a Question by Private Notice by a Member ought to have been replied to. I took keen interest and I was not even in the House - I was streaming live as I drove to the House - when Hon. Otiende Amollo raised that Question. I was happy that he raised it because I had just watched it in the news the night before and got perturbed, especially having seen the reports from Garissa. The Committee might need to raise that issue with the Cabinet Secretary for Interior and Coordination of National Government. We cannot have a country where extrajudicial killings become normal, where bodies just pop up in Tana River and Athi River and there are no answers as to how the people died.

I beg you to direct that my Question be answered on Thursday afternoon, because I may not be available on Tuesday.

Hon. Speaker, with your indulgence, I want to mention something under Standing Order 40(2). Please help us to reorder the Order Paper to have the Third Reading of the two Bills that are listed to come in after the Motion by the Departmental Committee on Finance and National Planning. Many of these Members are very eager to debate the Motion on the fuel price hike. I also wanted to rise on a point of order to request you to consider reordering the Order Paper, so that you may give the Members an opportunity to debate that particular Motion.

Hon. Speaker: Vice-Chairlady, indeed, what Hon. Ichung'wah has said is factual because they came to consult me jointly with the Chairman. The Chairman undertook to bring that Statement yesterday in the afternoon. He has a habit of arriving here between 4.00 p.m. to 4.30 p.m. Has he become a part of the Executive? These days, he is not available as he used to be when he was chairing the Departmental Committee on Labour and Social Welfare.

Hon. Fatuma Gedi, you can give the undertaking to bring that Statement on Thursday.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Thank you, Hon. Speaker. Indeed, it is true and I am aware that there was a discussion between Hon. Ichung'wah and the Chairman. I take the responsibility for Thursday. I will also pass the message to the Chairman.

Hon. Speaker: Very well. Member for Teso North, why are you raising your hand?

Hon. Oku Kaunya (Teso North, ANC): Thank you, Hon. Speaker. I was raising my hand because I had pressed the intervention button, but you did not see.

Hon. Speaker: I had to follow the discussion.

Hon. Oku Kaunya (Teso North, ANC): Sorry, Hon. Speaker. I was rising on a point of order. Is it in order for the Member of Parliament for Kikuyu to say that a Committee of the House is being held captive without laying evidence? It would be fair for the Member to lay any substantive evidence he may have in the House. It is not proper to say that a Committee is being held captive by a Cabinet Secretary. This House conducts its business on the basis of law and Standing Orders. I wanted to clarify that bit.

I also asked a Question directed to the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works. The Question was to be answered this morning in the Mini Chamber, County Hall. I went there but did not find anybody. The Question concerns a road constructed between Busia and Malaba. There are serious potholes, construction is incomplete yet the period for construction is over. Already, there are several accidents that have been witnessed on that road. That is what I really...

Hon. Speaker: Hon. Oku Kaunya, are you saying that the Question was scheduled to be replied to today?

Hon. Oku Kaunya (Teso North, ANC): Yes. It was scheduled to be replied to today. I was in County Hall, but there was no one.

Hon. Speaker: Not even the Committee Chairperson?

Hon. Oku Kaunya (Teso North, ANC): There was no one. My worry is that the road will cause more accidents.

Hon. Speaker: How is that so? Even the Members of the Committee were not there? What time did you arrive?

Hon. Oku Kaunya (Teso North, ANC): Hon. Speaker, the meeting was supposed to be at 10.00 a.m. I was there at 10.00 a.m. and did not find the Chairperson of the Departmental Committee on Transport, Public Works and Housing.

Hon. Speaker: Majority Whip, take up that matter. When Questions are prioritised to be responded to on a particular date and time, it is only fair that, if, for whatever reason, the Committee is unable to sit, they notify the Members to avoid a situation where a Member shows up and there is no one. Let us understand what happened on Tuesday, so that Hon. Kaunya can get some reasonable expectation.

Let us have the Member for Samburu North.

Hon. Alois Lentoimaga (Samburu North, JP): Thank you, Hon. Speaker. Mine is on a Statement I sought from the Departmental Committee on Administration and National Security. I have been to the Table Office several times and have been told that the request for Statement has not been approved by your office.

Hon. Speaker: Not approved?

Hon. Alois Lentoimaga (Samburu North, JP): No, it has not been approved. It has been four weeks now.

Hon. Speaker: What do you mean?

Hon. Alois Lentoimaga (Samburu North, JP): You have not approved the request for Statement.

Hon. Speaker: I cannot approve that which has not been brought to me. Hon. Lentoimaga, you know my practice. There is no way I would leave anything in my entry tray unless it comes after I have left.

Hon. Member: I am your witness.

Hon. Speaker: Hon. Lentoimaga, go back to the staff and let them tell you when they brought the Statement to me. It may well be that they read it and found it not worthy of being brought to me. Maybe they found a polite way of telling you that I had not approved it. Even the staff also read through the requests. If they see that what a Member is requesting is something that can be dealt with in the village, they do not bring it to me. Maybe that is what happened. You better go back to them. However, if you think that it is something that is worthy of my attention, look for a way of bringing it to me.

Hon. Alois Lentoimaga (Samburu North, JP): Thank you very much, Hon. Speaker.

Hon. Speaker: Hon. Members, let us now deal with business. Next Order.

PROCEDURAL MOTION

EXEMPTION OF BUSINESS FROM THE PROVISIONS OF STANDING ORDERS

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Hon. Speaker: Let us have the Chairperson of the Departmental Committee on Finance and National Planning.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Speaker.

Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order No.256 relating to exemption of business from the Standing Orders, this House resolves to exempt the Report of the Departmental Committee on Finance and National Planning on Public Petition No.39 of 2021 regarding review of abnormal increments in prices of petroleum and petroleum products in the country; and Public Petition No.40 of 2021 regarding amendment to the Finance Act, 2018, in order to address the drastic increase in prices of petroleum and petroleum products, laid on the Table of the House on Tuesday, 12th October 2021, from the provisions of Standing Order No.227 (2) (Committal of Petitions), so as to allow debate on the Report of the Committee.

Hon. Speaker, this is a straightforward Motion which seeks to exempt business on the very important matter of fuel prices. It is only in order that those petitions are debated by the House and it pronounces itself on the important matter of fuel prices that Kenyans are waiting for with bated breath. That is the reason for this Motion.

As Members are aware, Standing Order No.227 requires that reports on petitions will only be sent to the petitioner and not debated on the Floor of the House.

I beg to move the Motion and ask Hon. Stephen Mule, Member for Matungulu, to second.

Hon. Speaker: Let us have Hon. Mule.

Hon. Stephen Mule (Matungulu, WDM-K): Thank you very much, Hon. Speaker. I rise to second the Procedural Motion to allow Members to pronounce themselves on the Report which has taken a record time of less than 21 days on a matter which concerns all of us regarding fuel in the country.

As a House, we need to move with speed to cushion Kenyans from high fuel prices and also provide a lasting solution. Without further ado, I urge the House to move with speed and conclude this business today, so that the necessary legislations can be put in place and take effect to safeguard Kenyans.

Thank you, Hon. Speaker.

Hon. Speaker: Are you seconding?

Hon. Stephen Mule (Matungulu, WDM-K): I second.

Hon. Speaker: You went on a tangent.

(Several Hon. Members walked into the Chamber)

Please take your seats. You can sit anywhere.

(Question proposed)

Hon. Members: Put the Question.

Hon. Speaker: Do I put the Question?

Hon. Members: Yes.

(Question put and agreed to)

Hon. Speaker: Next Order.

MOTIONS

SESSIONAL PAPER NO. 1 OF 2021 ON NATIONAL WATER POLICY

THAT, this House adopts the Report of the Departmental Committee on Environment and Natural Resources on Sessional Paper No. 1 of 2021 on the National Water Policy, laid on the Table of the House on Wednesday, 4th August 2021, and further approves Sessional Paper No. 01 of 2021.

(Hon. Kareke Mbiuki on 13.10.2021)

(Debate concluded on 13.10.2021)

Hon. Speaker: Hon. Members, debate on this Motion was concluded yesterday. What remained was for the Question to be put which I hereby do.

(Question put and agreed to)

Hon. Members, again, I want to make an observation because we are going to put the Question for another business. It is really irresponsible, and when Committee Members were serious, they would just go and eject Chairpersons and Vice Chairpersons from their positions. You cannot have presented business here and it is going to be voted on but you are nowhere. It shows how lacklustre the Chairpersons are. Where is the Chairperson and the Vice Chairperson of the Departmental Committee on Environment and Natural Resources? Both are absent. So, the House is voting on their business but they are nowhere.

Hon. Member: And it is in the Order Paper.

Hon. Speaker: It is in the Order Paper. Should you as a Chairperson or a Vice Chairperson not feel very guilty that there is nobody to even represent you or explain your inability to be present? The responsibility to censure them falls on the Members of those Committees.

Next Order.

CONSIDERATION OF THE PETROLEUM DEVELOPMENT LEVY (AMENDMENT) ORDER 2021

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Petroleum Development Levy (Amendment) Order, 2021, laid on the Table of the House on Wednesday, 29th September 2021, and pursuant to the provisions of section 18 of the Statutory Instruments Act, 2013 and Standing Order 210 (4)(b), annuls in entirety the Petroleum Development Levy (Amendment) Order, 2021, published as Legal Notice No. 77 of 2021.

(Hon. Kassait Kamket on 13.10.2021)

(Debate concluded on 13.10.2021)

(Hon. (Ms.) Peris Tobiko stood in the gangway)

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(Hon. Adan Keynan spoke off-record)

Hon. Speaker: Take your seat, the Member for Kajiado East. Member for Eldas, relax and be in the House. If you are in the House and participating, you will know when to do what you are doing.

Again, Members, just as I have said, I am sure the Chairman and the Vice Chairperson of the Committee on Delegated Legislation, most likely could be out there telling stories. I leave it to you, Members. If Committee membership were serious, they would go and deal with the Chairpersons. For the Whips, when this kind of thing happens, they should take note and call the Chairpersons. What do they think when they know their business is on the Order but choose to go and politic out there?

Hon. Member: That should be the agenda of the Liaison Committee next week.

Hon. Speaker: The Liaison Committee, stay put next week. Hon. (Ms.) Soipan is here. These Chairpersons, particularly these ones, should be summoned to appear before you to come and explain. The House expresses its displeasure with their conduct. This is not conduct becoming of a leader of a Committee.

Debate on this Motion was concluded yesterday. What remained is for the House to make a determination by way of question voting.

(Question put and agreed to)

Hon. Members, I wish to get the mood of the House before we go to Order No.11. The Member for Kikuyu stood in his place and requested that I re-organise the business on the Order Paper so as to bring the Motion appearing as Order No.12 before the business appearing as Order No.11, Committee of the whole House.

Hon. Members: Yes.

Hon. Speaker: Is that the feeling of the House?

Hon. Members: Yes.

Hon. Speaker: Both businesses belong to Hon. Wanga. Hon. Wanga, at the request of the peers and with concurrence of the House that preference be given to business appearing as Order No.12 after which then you will go to business appearing as Order No.11, it is so ordered.

Next Order.

REVIEW OF INCREMENT OF PRICES OF PETROLEUM
AND PETROLEUM PRODUCTS IN THE COUNTRY

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on the Public Petition No.39 of 2021 regarding Review of Abnormal Increments in Prices of Petroleum and Petroleum Products in the Country, and Public Petition No.40 of 2021 seeking Amendment to the Finance Act, 2018 in order to Address Drastic Increase in Prices of Petroleum and Petroleum Products, laid on the Table of the House on Tuesday, 12th October 2021.

(Subject to exemption from S. O. 227(2) under Order No. 8)

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The Departmental Committee on Finance and National Planning undertook an inquiry into the cause of increase in prices of petroleum and petroleum products in the country following two Petitions: Petition No.39 of 2021 by consumers of petroleum and petroleum products across the country regarding review of abnormal increment in prices of petroleum and petroleum products in the country which was presented by Hon. Stephen Mule, MP for Matungulu Constituency on 21st September 2021 and Petition No.40 of 2021 by Mr. Anthony Manyara and Mr. John Wangai seeking to amend the Finance Act of 2018 in order to address drastic increases in prices of petroleum and petroleum products presented to the House by the Hon. Speaker on 21st September 2021.

While presenting the Petition to the House, you directed that the two Petitions be considered by the Departmental Committee on Finance and National Planning, and that you expected us to table a report within 14 days in view of the urgency of the matter notwithstanding Standing Order No. 227.

You also directed that we attach a draft Bill to the Report for the Speaker's approval for publication, proposing legislative interventions as sought by the petitioners, which we have done. We were also to undertake general and targeted inquiry to confirm whether there exist other reasons beyond taxation leading to drastic rise in the cost of petroleum, which we have also done.

Pursuant to Article 118 of the Constitution which requires Parliament to facilitate public participation, and I am saying this for the record, the Committee placed an advert in the media on Friday, 24th September 2021, inviting members of the public to present their views on the Petitions. We also met with several stakeholders at County Hall for two days.

Allow me to mention the members of the public who have been very consistent in their participation in our Committee's affairs. One of them is Mr. Ernest Muriu and the other one is Mr. Njoroge Waweru, who is an advocate for a better tax environment. Let me also make a special mention of Eng. Lawrence Oloo whose contribution was a big eye opener to the Committee.

When fuel prices rose, the whole matter was laid squarely on the doorstep of Parliament. Everybody ran away from this responsibility and Kenyans, wherever you found them, said that it is the Members of Parliament (MPs) who had caused the rise in fuel prices because of the taxes and levies that were applied to petroleum. This is why it was imperative that, as per your direction on the Petition, Parliament moved with speed to make whatever recommendations we thought were reasonable. I am sure that Hon. Members of the House have already looked at the Report of our Committee.

If you look at the current rates obtaining in fuel as at September 2021, you find that, for Super Petrol, the landing cost is Kshs60.35 including demurrage. The taxes and levies come to Kshs58.81 in total. On these taxes and levies, for the information of the House, excise is Kshs21.95, the road maintenance levy is Kshs18, the Petroleum Development Levy is Kshs5.40, the petroleum regulatory levy which is the amount that goes to the Energy and Petroleum Regulatory Authority (EPRA) for purposes of its operation is Kshs0.25, the railway development levy is Kshs1.16, the merchant shipping levy is 0.03 per cent, the import declaration fee is 2 per cent which contributes to Kshs2.4 and the Value Added Tax (VAT) contributes to Kshs9.98. All these result into Kshs58.81 in taxes and levies.

The other issue is the salient question as to what led to the sudden increase in the price of petroleum and petroleum products. As we spoke to the stakeholders, one of the key issues that emerged is that the global oil prices have risen. In October 2020, the landing cost of super petrol was Kshs36.23 while in September 2021, the landing cost was Kshs60.35. The landing cost of diesel was Kshs33.89 in October 2020 and in September 2021, it was Kshs53.88. Therefore, the

rising global prices of crude oil has led to a sharp increase in the cost of petrol at the pump. This must be noted because people might ask why it was too low recently and too high right now. I also want that to be noted. It is also because COVID-19 had resulted into very low or shut down of activities globally but, now, activities have begun to rise.

It is also important to note that there is almost a 50 to 50 share between landing cost and taxes and levies as I have listed them. It is for this House to wonder whether it makes sense that there is a 50 to 50 share of landing cost and taxes and levies per litre of fuel.

I would like to state that the Committee reviewed these issues one by one and covered all the issues that were raised within the Petition. We reviewed all the taxes and levies individually and we have made a raft of recommendations. I just want to give a sneak preview of those recommendations before I go through them one by one as to how we got to them and how we are moving forward with them. At this point, I would like to mention that if this House approves this Report with the recommendations that have been made by the Departmental Committee on Finance and National Planning, we are likely to reduce the pump price of fuel by approximately Kshs12 per litre.

The proposals we have made, from the outset, will also result in a loss in revenue, for instance, a reduction of Kshs22 billion to Kshs4.6 billion of VAT on liquefied petroleum gas (LPG). The other loss is in the Petroleum Development Levy of Kshs11 billion.

The first recommendation we have made is a reduction of VAT by 50 per cent from the current 8 per cent to 4 per cent. The second one is a reduction of the Petroleum Development Levy from the current Kshs5.40 to Kshs2.50. The third one is a freeze on inflation adjustment on any fuel and fuel products. Those are some of the recommendations among several others that will ensure that the consumer is protected.

The Petroleum Development Levy, up to June last year, was Kshs0.40 per litre. After June last year, it was increased to Kshs5.40. The Committee noted that this increase was too steep to be increased at once. That is why the recommendation was made to revise it downwards so that it increases gradually. However, even before our Committee's Report is adopted, I have seen that the Select Committee on Delegated Legislation has annulled the entire regulation that puts in place the Petroleum Development Levy that was fixing the Petroleum Development Levy on diesel and has proposed amendments to it. That means, right now, Petroleum Development Levy on diesel hangs in the balance because the House, just now, by voting, has annulled that Regulation.

Hon. Speaker, one of the things the Committee noted and Members had also noted here during debate is that this Regulation that was increasing Petroleum Development Levy from 40 cents to Kshs5.40 was done by this House but it did not really come from the Floor of this House because it was done at the Committee on Delegated Legislation. The Statutory Instruments Act states that if the Committee on Delegated Legislation is approving a Regulation, then there is no need for it to come to the Floor of the House. This does not work well for the House. Therefore, the Departmental Committee on Finance and National Planning is proposing that any legal instrument that relates to taxes or levies must be brought to the Floor of the House whether it is accepted or annulled by the Committee on Delegated Legislation. That way, the whole House can take responsibility for whatever increases or reductions we make to our taxes and levies.

The other key issue was on application of the Petroleum Development Levy. After we increased the Petroleum Development Levy from 40 cents to Ksh5.40, Ksh25 billion was collected in the last financial year. Therefore, the expectation was that now that the global prices were increasing, there would be money available for stabilisation. But when we asked why the prices were not stabilised in the month of September as it had been in the months of July and August, the

Ministry of Petroleum gave us evidence that they had written to the National Treasury to request money for stabilisation. When we called on the National Treasury, it said that it did not have the money for stabilisation. So we asked where the Ksh25 billion that was supposed to act for stabilisation went. We were told that Ksh1.6 billion out of that money had been used for stabilisation, Ksh2.2 billion had been given to the Ministry of Energy and Kshs18.1 billion had been given to infrastructure. Already, there is Ksh18 per litre that is meant for infrastructure, for roads — the Roads Maintenance Levy. For the National Treasury to have used Ksh18.1 billion on infrastructure was, definitely, misapplication of the Petroleum Development Levy. When the money was needed for stabilisation, it was not available.

We do not want to leave this at the level of lamentation. What the Committee has proposed is to move the Petroleum Development Levy and the purposes for which it is used from Regulation into the Act so that we clearly outline and tie it up and say that these are the purposes for which the Petroleum Development Levy will be used, the circumstances and the purposes. It will no longer be in Regulation. It is going to be in the Act. This is what we have proposed and we have included it in the amendment Bill that we are calling the Petroleum Products Taxes and Levies (Amendment) Bill which is attached to the Report.

In addition, and we want to see, even when the levy is applied, a clear and accountable process for application of the levy across the board. There has to be an order of application and accountability on how that levy is applied.

I have already mentioned that this House must debate every regulation that relates to taxes and levies. Therefore, in those amendments, we are also proposing an amendment to the Statutory Instruments Act to ensure that any regulation that touches on money, taxes or levies comes to the Floor of this House for debate and approval.

The Committee also established that demurrage charges are paid according to the size of a vessel. You will find that most of the vessels that come to this country are long-range vessels of between 80,000 metric tonnes and 159,000 metric tonnes for which, a payment of USD45,000 is paid per day. If you look at the number of days that are sometimes spent by vessels here at our port, there is an urgent need for us to deal with the issues of efficiency and effectiveness at the port. It is because money for every extra day that a ship spends at the port is passed on to the consumer. So, there are two things that are happening and the Committee has also been to Mombasa to see the development of the Kipevu Oil Terminal 2 (KOT2). It will now have capacity to offload four vessels at the same time rather than just one which is what is happening with the current situation. So, one of the key recommendations by the Committee is that completion of that jetty should be fast-tracked.

Secondly, we do not want this demurrage to be a matter that is decided just by an individual somewhere. We want this to be part of the formula for calculation of the fuel price. We want it to be limited to a certain number of days beyond which the importer of the oil will have to deal with the issue of demurrage on their own. This needs to be restricted.

Hon. Speaker, to the actual issues that were raised in the Petitions, it is important that I mention them and also mention what the Committee spoke to. On the issue of the costs, we have already spoken to it largely. I want to speak to the issue of LPG because there also has been a huge outcry on the issue of LPG. This was also raised in the Petition. Here, the Committee proposes that we reduce the VAT on LPG from 16 per cent to 8 per cent to give relief to the consumers. With the proposal, the prayer, to urgently review relevant laws so as to cause a reduction on retail prices of petroleum and petroleum products, including VAT, the Committee looked at all the taxes and levies. We have made the proposals, as I mentioned earlier, of reduction of VAT from 8 per cent

to 4 per cent, reduction of Petroleum Development Levy from Ksh5.40 to Ksh2.50, reduction of VAT on LPG from 16 per cent to 8 per cent, freezing of inflation adjustment on any fuel taxes and levies.

There was another prayer on the issue of strategic reserves. As we listened to the ministries and the Kenya Pipeline Corporation, we were told that this country only has reserves enough to carry us for seven days. If something were to happen, God forbid, this country would run out of fuel in seven days. Therefore, the Committee proposes that this should be immediately taken up by the Departmental Committee on Energy. I am sure they are dealing with the issue of reserves. There are regulations that are awaiting gazette. The regulations on strategic reserves should be gazetted. The issue of storage capacity should be looked at, so that we can have a reserve of 30 to 60 days. In case of a global pandemic like the one we have experienced, we will be able to survive.

The Committee Members looked at this matter, not just as legislators, but as representatives of the people. The Departmental Committee on Finance and National Planning struck a balance. As legislators, we were looking at our fiscal framework but...

Hon. Speaker: Hon. Wanga, should I give you three or five extra minutes?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Three minutes.

Hon. Speaker: I will give you a maximum of five minutes.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon Speaker, I was saying that we looked at this from both perspectives. If you look at Part IV of our Report, there are various scenarios that the Committee has given. If you reduce the VAT to zero, what will be the scenario in terms of reduction in price and loss of revenue? If you reduce it to 2 per cent, what will be the scenario? If you put it at 6 per cent, what will be the scenario? We did that so that as Members debate, they are well-informed on the impact of any reduction we make as far as our fiscal framework is concerned.

We are concerned about our people and the cost of living. The National Treasury made the point that after we make those reductions, we should be prepared to do a supplementary budget to adjust expenditure. We said that the power of the purse lies with this House. We have the power to make, increase or reduce the budget. As we debate, let us do so holistically and look at the best way we can salvage our people and keep the country going.

I would like to thank your office, the Office of the Clerk, Members of the Departmental Committee on Finance and National Planning who went out of their way, the petitioners who not only brought the Petition to us, but also stayed with us the whole time when we were meeting with stakeholders on this matter, and Members of the House for their support throughout this process.

I beg to move the Motion for adoption of the Report and ask Hon. Emmanuel Wangwe, who is the Majority Whip, to second.

Hon. Speaker: Let us have Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I rise to second this Report...

Hon. Speaker: Sorry, Hon. Members. Before Hon. Wangwe speaks, as you prepare, so that everybody knows which areas to tackle, if you go by the resolution of the House relating to debate on Motions on reports of Committees, this Report is to be considered for a maximum period of two-and-a-half hours, with the Mover having 20 minutes to move and five minutes to reply. Every other Member speaking is limited to five minutes. So, when you contribute, do not spend a lot of time greeting people and expressing condolences to others. Just go to the Report because you will only have five minutes.

(Laughter)

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I had seconded the Motion. I appreciate the Departmental Committee on Finance and National Planning. It has really dissected the entire petroleum stream, from upstream to downstream. I appreciate that in this Report, the Committee is addressing the issues of demurrage and procurement. If the House approves this Report, we will look at the margins which are referred to as the premium in the costing report. If we can handle that as detailed in the Report, we will definitely cure the escalating prices

The downstream perspective of the Report looks at the issues of pricing at the pump as enumerated in the Report. On the issue of the Ksh12 per litre as the margin that we give to dealers, the Committee recommends that we reduce it from Ksh12 to Ksh9, a downward shift of Ksh3 per litre, which I still feel is important. It will cushion our people from suffering and that is the way to go. Let us all approve this Report so that our people can enjoy that price reduction.

In the Report, the Committee has looked at the efficiency of the Port of Mombasa. There is also the comparison between the Kipevu Oil Terminal (KOT) *vis-a-vis* how the offloading is done in Mombasa. If we go as per the recommendation to perfect the Kipevu Oil Terminal, we will definitely be efficient and not have to incur the demurrage cost and load it onto the pricing.

In the same Report, the Committee recommends that we look at the demurrage on the side, not as it is being done today where it is loaded onto the costing. If we adopt that, the price will definitely go down.

On the issue of taxes on LPG, looking at the reduction from 16 per cent to 8 per cent that the Committee is proposing, the only way we can be fair to Kenyans is to reduce the price and make LPG available. As stated in the Report, let us lower the price of LPG by reducing that 16 per cent to 8 per cent.

I submit and second the Report.

Hon. Speaker: Member for Mandera North and Member for Gem, please take your seats.

(Question proposed)

Hon. (Dr.) Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Speaker, for this opportunity.

Petroleum cuts across the economy. Hon. Wanga has tried. Unfortunately, when you reduce it to Ksh12, it is insignificant. We know that in our budgets – and this has been proven by the Auditor-General – almost 30 per cent goes to waste. The Petroleum Development Levy was 40 cents and was increased to 550 cents. I do not see why the Committee decided to reduce it to 250 cents. They should have reduced it to where it previously was, namely, 40 cents. Those are the opportunities we are looking at. If you reduce the levies across the board, the cost of fuel will go down.

The cost of fuel cuts across the entire production chain. Many jurisdictions that are doing well have tried to subsidise fuel prices. Even though the Committee has tried, Ksh12 is still unbearable. I wish they tried Ksh30. We heard from the media that they were trying to reduce it further. For example, when you look at the issue of demurrage – and you mentioned it very well – it is something about efficiency in those particular sectors.

The Chair explained very well that the Ksh18 billion that was to be used for price stabilisation cannot be accounted for. We need to understand where this money went to. The Cabinet Secretary or the person who was responsible should take responsibility. This money has been wasted. We cannot claim that it was used for improvement of infrastructure and yet there is already a provision for that. I would wish to know from the Committee the proposal they have made in terms of recovery of the Ksh18 billion. That is very critical in their highlights. We need to know the Cabinet Secretary who was responsible, particularly at this time of the pandemic, so that he is surcharged. We cannot let the issue go away.

In many countries, it is the responsibility of the State to ensure the security of its citizens is enhanced. It is very embarrassing to note that we have a strategic reserve for only seven days. I was reading about the United States of America and learnt that they have reserves to last them however long the catastrophe will take. I am not anticipating any war after the boundary ruling by the International Court of Justice (ICJ). We support His Excellency the President that we should not cede even an inch of our territory. Suppose anything happens and we are told we have strategic reserves for only seven days, what is likely to happen? The question is: Is it because of capacity or why is it we have reserves for only seven days? We need to look for ways of improving the reserves.

When I look at the amendments of the statutory instruments, this is something I had raised with you sometime back, and I do agree with the Committee. Any regulation that touches on taxes and levies must come to the Floor of the House. This House has veto powers. We cannot allow that a regulation approved by the Committee does not get to the Floor of the House. As outlined in Article 95 of the Constitution, we are here to deliberate on and resolve any issue that affects this country. I support some of those recommendations, but it would be nice to reduce the prices by up to Ksh30. That will be a bit significant in cushioning Kenyans during this difficult time.

I thank you, Hon. Speaker. I support.

Hon. Speaker: Member for Nakuru Town East.

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Speaker, for giving me this opportunity to give my input in this very important Motion. First of all, I want to thank you for the urgency with which you took the concerns of Kenyans when this matter was brought here by the two petitioners. You gave a timeline of two weeks, of course with an additional one week. We want to thank you most sincerely for that concern. I also want to thank the Chair and members of the Departmental Committee on Finance and National Planning on the effort they made to address this issue.

If you look at the Report, stakeholders like the Kenya Association of Manufacturers, the Kenya Private Sector Alliance (KEPSA) and the Petroleum Institute appeared before the Committee to give their input. These are major players. They play a very big role in terms of pricing. They are the ones who consume most of the petroleum products. I was looking at where the Committee met with the *matatu* people but I did not see. They are the other major consumers of petroleum products. The stakeholders took note of the process of procuring oil into the country. All the stakeholders praised our tendering system, the open tender system. This has not only assisted Kenya in stabilising petroleum prices but it has also provided predictability of the prices within the one-month period when the review is done. I want to thank the Ministry.

On the one part, the OTS is a system that has been taken over by not less than seven African countries because of its stability in pricing and how it works. That is a very good gesture for Kenya. The aspect of fuel pricing is about the tax regime. This was brought up clearly by the stakeholders. If you look at the landing cost *vis-à-vis* the taxes that we charge at 47 per cent, it is a huge element

in our tax regime. We hope that soon the Committee will bring a Bill to actualise what this Report recommends.

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

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

In the international market, pricing varies because of various aspects. One of the issues is international oil prices. The prices do play a huge role. Again, we are disturbed to find out that the USA plays a big role in international oil prices yet Organisation of the Petroleum Exporting Countries (OPEC) is the institution that produces millions of barrels of oil. Secondly, there is transport and storage charges. This is where Kenya Pipeline Corporation comes in.

In the last Supplementary Budget, our Committee did approve Ksh1.6 billion which had already been spent, of course over and above the Ksh7 billion that had been spent, for us to stabilise prices. It is also important to note that as we look at prices, most of the budget for the Ministries of Petroleum and Energy depend on petroleum levy. So, I beg to support the Report and hope that soon the Committee will bring a Bill so that we actualise its recommendations.

Thank you.

Hon. Speaker: Hon. Aden Duale.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. This Committee has made a number of recommendations, from reducing petroleum levy to reducing VAT on petroleum products and LPG to reducing the gross margin for oil marketers. In my opinion, this Committee has tried its best to undertake this task within the shortest time possible but I want to raise fundamental issues.

The proposed recommendation on reduction of petroleum levy from Ksh5.4 to Ksh2.9 fails to address the question of whether our country needs fuel pump standardisation or subsidisation programme and whether Kenyans should be burdened by that through payment of a petroleum levy. Secondly, this Committee has failed to address how much of the proposed Ksh2.9 of Petroleum Development Levy is for development of petroleum infrastructure and how much is for fuel pump subsidy. That distinction must be made clearly. If we do not do that, we will expose the funds collected to abuse like in the current situation where the National Treasury has used Ksh18 billion meant for development of petroleum infrastructure to pay for roads.

On the reduction of VAT on petroleum from Ksh8 to Ksh4, I expected this Committee not to make a cosmetic attempt at addressing taxation of petroleum products. This House expected this Committee to take a bold move and agree with what we did last time – where we said we totally remove VAT on petroleum products. Uganda charges a single tax regime, which is excise duty. You pay Kshs78 in form of levies and taxes for every litre of petrol, diesel and kerosene you buy in this country. You cannot come here and tell us that you can only reduce it to Kshs12. There is no way. When the Bill comes, we will remove VAT and make petroleum products zero-rated. We must go the ways of Uganda, Ethiopia and Tanzania.

On the reduction of the gross margin of oil marketing companies from Kshs12 to Kshs9, the Committee's proposals are punitive on hard working Kenyan businessmen who employ very many people. Why should they pay for it? They invest in the infrastructure of petrol stations. This is not a measure to encourage them. It is a measure which is very punitive. This Committee cannot convince this House that out of the several parameters within the petroleum price calculating

formula, the solution they found was to cut the margin of the oil marketers. A recommendation should have come of a complete restructuring of the wholesale and retail petroleum fuel pump prices formula to ensure that all taxes and levies do not exceed 30 per cent of the pump price.

I want the House to listen to me. When the Bill comes, all the levies and taxes that we are going to charge petroleum products must not exceed 30 per cent of the sale price. They are now over 50 per cent. We must reduce VAT on LPG to zero. Liquefied Petroleum Gas must be zero-rated. It was only done in the last Finance Bill.

Hon. Temporary Deputy Speaker, I am shocked, and this is a matter for the Committee on Procedure to look at. A Committee of this House has made a self-action recommendation where it is telling the National Assembly to amend the relevant laws, including the Petroleum Development Levy. Who is the National Assembly? Is it not us? To be more specific, the Departmental Committee on Finance and National Planning is the relevant Committee of this House. In my view, self-actions and recommendations are keen to talking to ourselves. Let us not play to the gallery. Let us not listen to the International Monetary Fund (IMF). We must reduce levies and taxes on petroleum products by 30 per cent.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, we have slightly under one-and-a-half hours to go. Let us not be so anxious. I have many requests and everyone should be able to say something. The time allowed is five minutes for each Member speaking. So, if we utilize the time well, each one of us should be able to speak.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Speaker. Indeed, this is a very critical moment in the history of this Parliament. This is one of those occasions when the National Assembly is being called upon to rise to the occasion when there is a problem affecting the lives of Kenyans.

We would not be where we are today if the prices of petroleum products were not increased by the regulatory authority that has been tasked with the responsibility of continuously coming up with prices. However, I want to thank the Member who first brought this Petition to the House, Hon. Mule. I want to also thank the Departmental Committee on Finance and National Planning, which has held several meetings. Most of their meetings were held in public and Kenyans were able to see some of the reasons being advanced for the drastic increase in prices of petroleum products.

The Committee has done its job and has already brought a Report to the House for debate. I am happy that this House has allowed debates on the Report of the Committee on a Petition, which is really not the tradition. I know we are going to discuss the various proposed legislations that are meant to reduce various taxes which, of course, will help in addressing this problem. I, however, have a few comments to make.

We need to ask ourselves fundamental questions as a country on why the oil sector and petroleum market cannot be competitive. Why does it have to be regulated? In any market where regulation is allowed, there is always bound to be distortions. Even if we take the measures that we are taking today, at the end of the day, if there is no discipline in this sector, and we do not remove corruption in this sector, we will come here another afternoon or another morning to debate on how to help cushion Kenyans.

A number of suggestions have been made, and there are areas where I fundamentally agree with the Committee. One of them is that probably, the Petroleum Development Levy is too high for us as a country to impose on petroleum products to be used to stabilize prices in cases where there are issues, distortions or there is international increase in prices. The question we need to ask is whether the international increase in prices is still going to be a factor.

Hon. Temporary Deputy Speaker, just allow me a minute to conclude. I agree with the suggestions made, and I do not agree with the immediate former Leader of the Majority Party. When we make decisions, we must take responsibility. The immediate former Leader of the Majority Party and I supported the 8 per cent VAT increase on petroleum products, and we cannot run away from that fact and say it is bad. When we were supporting it we were people of sound mind. We were adults and Members of Parliament. I still believe we need to tax petroleum products but when that tax increases the prices, we can reduce the tax or even remove it for the period we are seeing that high increase. However, I do not agree that we do not need taxes in this country. We still need taxes. Let us not play populist politics. The only problem we have today is that those taxes have led to an increase in an essential commodity. Right now we are recommending drastic tax cuts. We still need development in the country. So, let us just agree that there is a problem which we are addressing today but let us not complain about the taxes which we championed. The immediate former Leader of the Majority was at the forefront and I supported him.

Hon. Temporary Deputy Speaker, I support the Committee. We will discuss more when the Bills are brought to the House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Chepalungu.

Hon. Gideon Koske (Chepalungu, CCM): Hon. Temporary Deputy Speaker, from the Report of the Committee, there are new terms that have come to be known today. There is something called “global oil prices” that has gone up. The simple question is: Are Uganda and Tanzania not part of the global community? Why is it that in Kenya petroleum products cost three times higher than they do in Uganda and Tanzania?

Secondly, the landing costs and taxes contribute to 50 per cent of the retail price. There is also storage cost and a new term called “sizes of the vessels” which are in metric tonnes. There are some things that Kenyans want to know. All these are cosmetics. Kenyans want to know how we are going to bring down the retail prices of fuel, and not the wholesale prices. They do not care about wholesale but retail. Are we able to bring down the pump price of, say, diesel to Kshs100 per litre? The high cost of fuel has affected the manufacturing and transport industries. Manufacturers and transporters have transferred the high cost of fuel to Kenyans and yet, Kenyans are facing challenges of high costs of living. The contractors who have major projects in this country are on a go-slow because they cannot make the expected profit margins.

Hon. Temporary Deputy Speaker, life is currently a struggle in Kenya. The cost of everything is high. Is it possible to remove all mandates from regulators, bring them to Parliament and change them to be Acts of Parliament so that we can control the prices of essential goods and services to Kenyans?

I beg to support and tell the Committee that we will appreciate if there is a way they can bring down the cost from Kshs137 to Kshs100. That will give Kenyans back their businesses and make profit from what they are doing.

Thank you, Hon. Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Nassir.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Temporary Deputy Speaker. This is a House of records.

About seven months ago, I raised this matter in this House. I indicated that the time world prices will be going high, we will be in a danger. Our fuel prices are amongst the highest in our region. As a country, 40 per cent of the pump price is attributed to taxes and levies. Members right now are stating otherwise, but I just want to say it on record, in the *Hansard* of this House. When we wanted to zero-rate fuel in terms of VAT, we were very bitterly fought. In fact, that amendment

was brought by the Minority Whip, Hon. Junet. I seconded that amendment that we should not have VAT on fuel. I remember the current Chair of the Departmental Committee on Finance....

These are matters that can be substantiated in the *Hansard* records. I do not need to mention names, but those who pushed for fuel prices to go higher in this country know themselves.

Hon. Temporary Deputy Speaker, I have concern on two issues. First, I have a problem with the Petroleum Development Levy Fund, because of regulations that the whole House did not go through. Those prices were scaled up from Kshs40 cents to Kshs5.40. I agree with the recommendations that any such levies need to come to the Floor of this House, so that they can be debated and not just passed onto consumers without passing through the Floor of this House.

Equally, you will notice that there is one particular levy that is here: The Railway Development Levy Fund. I want to assure you that this is a danger that will come to the same Floor of this House. Through an omnibus Bill, the miscellaneous amendments, certain Members here approved and we faulted it saying that the Railway Development Levy Fund can be used for purposes of operations of the Standard Gauge Railway (SGR), but not for paying debt. That is exactly what is happening. The Petroleum Development Levy Fund was set aside so that it can cushion Kenyans. Now, the truth has come out! The amount of money that was used to cushion Kenyans was less than Kshs2 billion. Every other money which was collected was in the region of Kshs30 billion, but it was used for purposes of development. I am worried and hoping that the Special Funds Account Committee can start looking into the Railway Development Levy Fund to confirm. I will bring a separate statement on that as well. We need a confirmation of how much money will pay the debts because we thought we were paying taxes for purpose of cushioning ourselves in times of need.

I can see that the light is not in my favour and there is much interest here. I want to congratulate my colleague, Hon. Gladys Wanga; you have truly made Kenyans proud. We are now waiting for the Bill. We are looking forward to the amendments for those who were saying that they want to have such amendments on those Bills. I want to congratulate you as well on the issue of LPG. It is high time we controlled the state of our environment as well by reducing taxes on reusable energy.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Nyamai.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

First of all, I thank the Chairperson, Departmental Committee on Finance and National Planning, Hon. Gladys Wanga and her Committee for doing a good job. They have not only dealt with those two Petitions; they have gone to the media to improve the image of Parliament. It is not because of this House that the prices of fuel have gone high. Clearly, the Report has indicated thus. I thank the Committee for focusing on the Acts that need to be amended in order to reduce the cost of fuel, but Kshs12 is still on the higher side. Now, it is Kshs130 for petrol and even if you go down by Kshs12, it is still high. This afternoon, I have seen that the Energy and Petroleum Regulatory Authority (EPRA) has reduced fuel price by Kshs5. I think that price is still unaffordable to most Kenyans.

I would like to focus on the matter of LPG and reiterate that the 16 per cent VAT on LPG is a serious matter. Besides, in our villages, we have not been seeing as much charcoal as we are seeing today. Those who represent rural constituencies will tell you that there are heaps and heaps of charcoal that we have not been seeing before because our constituents cannot afford clean energy because the prices have gone up by about Kshs800. I thank the Committee for focusing on

reducing VAT on LPG, but the matter of legal notices and other regulations that come to this House need to be looked into seriously. The ownership of a cylinder that people use to refill gas is a serious matter that needs to be brought to this House. Kenyan citizens buy cylinders from a company and suddenly it turns out that the cylinders do not belong to them, but to the company. This matter needs to be looked into as it is a regulation that was passed by this House. Clearly, there was no proper public participation and I believe Members of Parliament who are seated in this House may not even have information that this is a serious matter that needs to be looked into.

Our own Government has failed to get involved in LPG. We have been discussing fuel, but the issue of LPG having a very limited source where people can purchase gas is a matter that needs to be looked into. I can see the immediate former EPRA CEO, walking to pick water. This is a person who can tell you what goes on in this House concerning the matter of LPG. If anything happens to the source of LPG in this country, it will be a challenge because the source of LPG in this country has been left in the hands of the private sector. Our Government needs to do something and get involved in sourcing for LPG in terms of import and ensuring that distribution is properly done.

The issue of failure to fund the State Department for Petroleum properly for fuel stabilisation is a matter that also needs to be discussed. I would like to ask this question: Could it be sabotage because the Kshs3.4 billion was not made available to them? Or is it a fact that money is being misused in this area? Is it sabotage to Kenyans? This is a matter that needs to be looked into.

In as much as we are looking at stabilisation of fuel prices and ensuring that financing is properly done, we also need to focus on emphasis. When those finances are availed for stabilization, do they trickle down to *wananchi*? It is interesting that the issue of additional funding has not been looked into. When I look at the light on my end, I would like to say that this House; the Speaker and the Committee should highlight issues and show that this House is highly concerned. I look forward to a situation where this House gets involved and ensures that we reduce the price of petroleum products, especially petrol and diesel, by over Kshs20. This is the only way we will be saving Kenyans.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Nguna Ngusya. He is not in the House? Dr. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I will make some observations because of time. I want to start by saying that when fuel prices went up, most of the blame was pushed to Members of this House. This was because Kenyans believe that there is no taxation without representation. So, since we represent the people, it is obvious for them to think that when anything goes up in terms of taxation, we must be part of it.

That is why I want to thank Hon. Wanga and her team for the recommendation that in future, all regulations proposing increase of taxes or levies must be brought to this House, whether they are being approved or annulled. To me, this recommendation is very important.

The second point is the issue of the Petroleum Development Levy. You know this is supposed to be a stabilisation fund and it is very unfortunate that this levy can be misapplied to other sectors. As a House, we need to come up with very strict rules or regulations that this money can only be applied when we need to stabilise our prices. This is very important because this sector is regulated and when you have a regulated sector, forces of the market do not come into play. So,

on the issue of demand and supply, we cannot benefit when global prices go down because they are regulated.

This being a stabilization fund, we must be very strict on how the money is used. The other point is the issue of petrol outlets like the petrol stations which are mostly owned by locals, small-scale in nature and employ locals. But looking at what is happening, they are not benefiting from any tax exemption, either VAT or Withholding Tax.

It is important for us to go the extra mile and ensure that Kenyans in this sector, to some extent, are given fair treatment. They are not treated like multi-nationals that are importing oil, and in this case, benefiting from economies of scale. Our small-scale petrol stations are just selling to Kenyans. As we look at this Report, this is an area we must look into and ensure that petrol station owners are given fair treatment.

Another point is the cost of fuel which is determined through a formula which is very complicated and has a number of valuables. That is why they are talking about weighted cost. You can play around with those valuables to bring down the cost. While the Committee has tried their best to bring the cost down, I want to agree with those saying that Kshs12 per litre drop is not good enough. As a House, we should push that down to around Kshs110 which is about Kshs30 per litre drop as Hon. Duale has said. One of the valuables is called demurrage, which is paying for inefficiency. That is, if an institution is not efficient enough, then Kenyans are being called upon to pay for inefficiency. As representatives of the people, we cannot agree that every Kenya pays for inefficiency of a specific institution. So, this is a matter we will be looking into and one of the areas we will be pushing the percentage to zero or if not so, Kenyans are not ready to pay for inefficiency.

With those remarks, I want to thank the Committee. I agree with those who are saying the price of gas should go down. We are all talking about protecting our forests and if we have to do so, we need to ensure gas is affordable so that people do not cut down trees for firewood.

Hon. Temporary Deputy Speaker, with those remarks, I support.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The Member for Kikuyu. Hon. Members, I just want to inform you that if you are really serious about this business, stick to the end so that we can conclude it. Do not just speak and walk away.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Temporary Deputy Speaker. I hope the clerks have noted the one minute you have taken after I got the microphone.

I also rise to support the Report by the Departmental Committee on Finance and National Planning. I really want to thank the Chair, Hon. Gladys Wanga and the Committee for the quick time they took to look into the two Petitions by Hon. Mule and the other gentleman who had petitioned the House.

Even as I support all the recommendations by the Committee without enumerating them, I hope very soon we will have an opportunity to debate the Bill itself and, in actual sense, amend some of these proposals. I have particular interest on the VAT on fuel. This is because the House has been accused of having imposed the 8 per cent VAT on fuel. In actual sense, it was the President who legislated through a Memorandum and the House was unable to raise the two-thirds majority. Many of us who were in this House that day will remember me opposing strongly the imposition of 8 per cent VAT on fuel.

I also support the view expressed by a number of Members that VAT on fuel should be zero-rated or at zero per cent, same to LPG. I want to encourage the Committee, even as they draft the Bill that this should not go down from 16 to 8 per cent, but they should zero-rate it again. As

the Leader of the Minority Party has said, this does not mean we should not tax people, but we must be cognisant of the times we are living in. Many of our constituents are still bedevilled by the COVID-19 pandemic and so, it is only right that we further defer the taxes on LPG and fuel probably to the year 2023 and 2024.

You will recall the time when VAT on fuel was being debated in this House, we were made to believe there was commercial exploration of oil by Tullow Oil in Turkana and eventually the cost of crude oil would go down in this country. I have seen people on social media asking sarcastically whether *mafuta ya Turkana ilikuwa ya kujipaka*. Kenyans are asking themselves heavy questions like, whether the oil in Turkana was some lotion. This is because we are yet to see its impact in terms of bringing down the cost of crude oil prices.

More significantly, is to note that the cost of crude oil is not likely to go down. As the world economies reopen, the price of crude oil is only expected to rise. Therefore, the only respite we have for our people is to deal with the issues before us to do with taxation and levies. On the question of demurrage, if you read the Committee's Report, it is shocking that people are paid demurrages ranging from US\$25,000 to US\$45,000 per hour courtesy of inefficiencies at the Kipevu Oil Terminal.

I have seen the Committee being optimistic that by December the second oil terminal will be completed. However, again, these are costs that the Government should not pass on to Kenyans. The inefficiencies by Kenya Pipeline Corporation in Mombasa are occasioning huge demurrage charges – costs which are then being passed on to Kenyans. The Government should be able to absorb those demurrage costs so that they are not passed on to Kenyans through oil pricing.

Hon. Temporary Deputy Speaker, on the question of the Railway Development Levy, Hon. Abdulswamad has brought a petition on the question of the Standard Gauge Railway (SGR) on Kenyan businesspeople being forced to use SGR. I hope the Committee in charge will also be looking into these things. The question of Fuel Development Levy is also something the Committee needs to look into.

My time is running out and the last thing is the question of profit margins for oil marketers. There is absolutely no reason why the Government should be controlling the level of profit margins and operational costs by oil marketers. This is a classic case of state capture. Maybe, the Committee should have gone to an extent of interrogating these things. After late Hon. Biwott left this world and left Kenol/Kobil, who are the current owners of Rubis? Who are the current owners of Vivo Energy or Shell and what is their role in Government today?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Finish, Hon. Ichung'wah.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Temporary Deputy Speaker. It is because you had taken about a minute of my time. It is high time the Committee went and dug deeper into the question of oil marketing companies and the profit margins and operational costs. This is because the operational costs of Vivo Energy, Rubis, Ichung'wah Oil Marketers Limited and other small businesspersons are not the same. Therefore, you cannot give them the same margins. We should allow a liberal and free market economy to thrive so that people can compete and offer the best prices of petroleum products and other fuels for Kenyans.

I support the Committee. Indeed, when the time comes I will be moving amendments to the Bill, particularly on VAT on petroleum fuel and LPG to zero-rate them. On the question of profit margin, we will reduce it further from Kshs9 to at least Kshs6 or allow a liberal free market. We will also look at ways of dealing with the problem of state capture within the oil industry.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Mwakuwona Mwashako.

Hon. Danson Mwashako (Wundanyi, WDM-K): Ahsante, Mhe. Naibu Spika wa Muda, kwa nafasi hii. Kwanza, nataka kuunga mkono Ripoti ambayo imeletwa na Kamati ya Fedha ya Mipango ya Kitaifa, ikiongozwa na Mhe. Gladys Wanga. Ripoti hii imetuonyesha kwamba katika Kenya hii, asilimia 50 ya bei ya mafuta inategemea bei ya dunia nzima na pia tumeona asilimia 50 nyingine ni ushuru ambao Kenya yetu inatoza bidhaa ya mafuta. Linalonitia wasiwasi ni kuwa tumekuwa katika kipindi kigumu cha COVID-19 ambacho Wakenya wamekuwa na changamoto chungu nzima.

Mwaka jana, tuliona Serikali ikijitokeza kidete na kusema kwamba itaanzisha mpango wa kupunguza gharama ya maisha kwa wananchi lakini bidii hiyo yote Serikali imeweka imeweza kupotea kwa sababu bei ya petroli ilipopanda mpaka Kshs136 na mafuta ya taa kufika Kshs10, Wakenya wengi wamepatikana katika hali yakuwa maskini zaidi. Wameshindwa kufanya biashara zao katika hali ya kawaida. Waendeshaji wa *boda boda* leo hii wanashindwa hata kupandisha bei ya usafiri kwa sababu Wakenya wanakosa pesa ya kuwawezesha kusafiri wanavyotaka.

Kamati hii imetujulisha mambo mengi lakini la msingi ambalo latakikana Kenya na Wakenya wote wajue ni kwamba tunapofanya bidii yakushukisha mafuta, lazima tuangalie ushukishaji huo usiwe kama kupamba Wakenya tu au kuwapaka Wakenya mafuta kwa mgongo wa chupa. Ie pesa ambayo yasemekana mafuta yatashuka ni karibu Kshs10 peke yake. Kwa kweli Kshs10 ni asilimia ndogo sana kuangalia vile bei ya mafuta ilivyo sasa. Mimi binafsi na wale Wakenya ninaowasililiza wanasema kama kweli sisi ni wawakilishi wao na tuna uchungu wanaoupitia Wakenya; lazima Bunge hili la Taifa lisisitize kwamba bei ya mafuta ni vyema ishuke kwa zaidi ya asilimia 30 au ikiwezekana asilimia 40.

Kuna wakati bei ya mafuta ilikuwa Kshs70. Wakati ule, Wakenya walikuwa wanaweza kufanya biashara zao bila wasiwasi. Sasa kutoka Kshs70 imeenda karibu mara mbili hadi Kshs136, halafu tunasema ipungue tu kwa Kshs10 au Kshs12. Kweli tutakuwa hatujafanya la msingi ambalo Wakenya wengi wanatazamia.

Kuna jambo lingine tena limeibuka kuwa huu ushuru tunaotoza mafuta uko mwingi sana mpaka Wakenya wanaofuatilia masuala haya wanashindwa ni vipi *product* moja ambayo ni mafuta inaweza kutozwa ushuru wa viwango tofauti. Sasa tunasema ingewezekana kama ni VAT, tulisema katika Bunge hili na wengine wametaja miaka miwili iliyopita na Mhe. Naibu Spika wa Muda ulikuwa umeketi katika Kiti hicho... Tulipiga nduru sana katika Bunge hili ili mafuta yawe *zero-rated*, lakini ikabidi kwamba lazima iwe asilimia 8. Kamati imesema kwamba iwe asilimia 4. Tunasema kuwa twende asilimia 4. Mbona tusiende *zero* kule ambapo Wakenya wengi walikuwa wametarajia?

Mwishoni, ni mambo ya gesi ya kupikia. Tunaongea sana katika Kenya hii kwamba tunataka kupunguza uharibifu wa misitu na mambo kama hayo. Leo hii, tuna wasukuma wananchi wetu wasitumie kuni kupika kwa sababu gani? Tumeendelea kupandisha bei ya gesi ya kupikia.

Naunga mkono Ripoti hii na ushuru kwa gesi unatakikana ushuke na ushuke kwa asilimia ambayo wananchi watasikia kweli tumesikia kilio chao.

Ahsante, Mhe. Naibu Spika wa Muda.

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

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Let me take this opportunity to thank my colleague, Hon. Mule, and also the two Kenyans who brought in this Petition. Again, let me thank the Committee for having done this job very fast. They came up with at least a primary report which I believe will be the basis of preparing the Bill. After building the Bill, we can agree on the way forward.

Let me say that on this issue of fuel prices going up, we are blamed by the public as Parliament because we are said to be the ones who opened up this Pandora's Box. I believe this was being done intentionally by some people outside there, especially in the Executive. When this issue was brought here in Parliament, it was really fought hard and Members really wanted to remove the VAT on petroleum products. But the same people who are here who have already started saying today we remove the VAT are the ones who were going in the corridors, toilets and everywhere, pushing Members to pass the same.

Let us not be like chameleons. Today we are saying this and tomorrow we are saying that. Once we agree, we should agree and we should not be saying that it is not us who did it, but it was done because some people were working in cahoots with the Treasury and the Executive to have this Pandora's Box opened. Now that this issue is here and there will be a Bill, let us all work together as a House and make sure we make these changes to save the Kenyan people. The people are suffering outside there.

After listening very well to the Chair, Hon. Wanga, when she was moving this Report, I have come to discover that most of these monies go to waste. Either the money is stolen or used in a corrupt way. There are a lot of inefficiencies in the offices which are supposed to handle these things, especially at Kipevu, which is the oil terminal. If a ship can stay there for three days, and we are talking about Kshs5 million per hour, and this is taxpayers' money, what are we saying? We are talking of Kshs18 billion which cannot even be accounted for. Treasury can also tell us that. That is why the Public Accounts Committee (PAC), Public Investments Committee (PIC) and all the departmental committees charged with investigating these things should move with speed and get to know how those misappropriations have been done. It means that the fuel prices are increased for the purpose of gathering some shortages or to pay some people somewhere who are not known and the common man is left to suffer.

I strongly support it and urge that when the Bill comes, we will need to refine it further so that, at least, we can see those prices go down to Kshs100 or below. The oil which is used in Kenya is the same that Tanzania and Uganda uses. It comes through the same route and from the same country. What criteria do they use? What miracles do they have that they can manage those prices and yet, fuel goes further into their countries? The common man does not know about the stream of levies that we have. There are about seven streams of levies. Let us look for ways of freezing those streams to one levy so that we do not hoodwink Kenyans with a lot of levies and this money will go to waste through corruption.

I support the Report. We are waiting for the Bill with more amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, I notice that most of you do not have your masks on. Please, put on your masks. You are supposed to be masked throughout the session. So, do not put your guard down.

Let us have the Member for Matungulu, Hon. Mule.

Hon. Stephen Mule (Matungulu, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity. As a petitioner, I want to thank the Departmental Committee on Finance and Planning and all Members who are supporting this Report. We have one goal; to reduce the price of fuel in Kenya. I have been in this House for seven years. This is the first time a report of a committee has come with an attached Bill. I believe that by next week, we will start deliberating on the Bill and deliberate on all the amendments.

I want to give some few observations that we made during the hearing of this Petition. There is something we must deal with as a House when we are dealing with the Bill. This is the Withholding Tax for the local marketers. The international marketers received their tax waivers

last year in July. The international marketers are enjoying a tax exemption for two years and yet, our own Kenyans who have invested in petrol stations, pumps and in this business are not given that latitude to enjoy that exemption of tax. I want to urge Hon. Members that, when we will be bringing amendments on Withholding Tax for the local marketers, we will ensure that we pass it without a blink. There is no way we can allow foreigners to enjoy a tax exemption and Kenyans cannot enjoy that tax exemption. At this hour, this House will be very serious on this issue.

There is the issue of demurrage. If you look at this Report, it is very saddening how the demurrage is impacting on the cost of fuel in this country. There is one ship which, once it docks at the Mombasa Port, it takes about 22 days without off-loading fuel. They are paying US\$45,000 per day. If you look at that annex, there are colossal amounts of money which is going to demurrage. I want to tell Members, if demurrage on fuel is dealt with in this country, we will reduce the price of fuel by Kshs 40 per litre. We must rise to the occasion as Members of Parliament. I am very sure we will move with speed. I have seen that EPRA has just reduced the price of fuel this afternoon by about Kshs5. Next week, through this Parliament, we are going to reduce this price further to Kshs100 because we are the people who are making law. We are the people in charge of making changes to the taxation regime in this country.

We cannot continue doing business as usual. I have heard people say that we need to balance the equation. It is true. We still need taxes to build this country. I thank the Committee because they agreed with me instead of scrapping the entire VAT; we should reduce it to 4 per cent for fuel and 8 per cent to LPG. The purpose of this is to make sure that when the price goes down internationally, the price of fuel in this country will go down as well.

As a country, we cannot afford to lose the Petroleum Development Levy. Petroleum Development Levy is the only cushion we need as a country when international prices go up. I want to agree with the Committee that we just need to define what goes to EPRA out of the Kshs2.90 and what goes to the Fund and ring-fence that money to make sure that no CS or nobody in this country can take that money to roads or to the Ministry of Energy. That money belongs to Kenyans and must be used to stabilize prices for Kenyans without any diversion.

I support and want to urge Members that we get united to deal with this Report this afternoon and by Tuesday, we work on the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Wajir South.

Hon. Mohamed Mohamud (Wajir South, JP): Thank you very much, Hon. Temporary Deputy Speaker. If you may allow me, I really want to appreciate the fact that the petitioners and the Committee worked hand in hand. I am a Member of the Departmental Committee on Finance and National Planning. We have gone through the Petition and the Report that we had. We have looked at all angles to see to it that we have fairly examined the Petition and the issues that are in the Report. We realized that there have been injustices that have been happening to Kenyans. This has been happening simply because of the astronomical and abnormal prices of petroleum and petroleum products. That has really resulted in serious economic challenges in this country. As poverty goes higher, it means that many Kenyans are losing wealth on the basis of poor management of petroleum and petroleum product prices. Let me put it this way: The astronomical increase is not because of the fluctuating oil prices across the globe.

(Loud consultations)

It is as a result of systems that have not been put in place properly. If you may indulge Members to consult in low tones, I seem not to even hear myself.

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The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, consult in low tones. Let the Member for Wajir South finish his submissions.

Hon. Mohamed Mohamud (Wajir South, JP): Thank you, Hon. Temporary Deputy Speaker, for your indulgence on that.

The reality here is that we are actually on an exaggerated level of the prices of fuel. Recently, I went to Ethiopia - and I have given this example before - and realized that the price of diesel and petrol is about Kshs50 equivalent to Kenya. Ethiopia is a landlocked country that does not even have an opportunity to produce oil on their own. There is so much dishonesty in the management of the oil sector in this country. That is why we feel for our communities as we reel from the issue of Coronavirus and poor economic position.

During our discussions, we realised that there are laws that have not been revised over the years and, in particular, Section 3 of the Petroleum Development Act of 1991 that gives exclusive powers to the Cabinet Secretary over the Petroleum Development Levy. This House, which has the watchdog capacity and the role to oversee Government affairs, should be given the prerogative to be taking that decision. Therefore, it is important that we revise those laws that seem to be outdated. It is because of those gaps that Kenyans are petitioning this House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Ochieng, what is out of order?

Hon. (Ms.) Pamela Ochieng (Migori CWR, ODM): Thank you, Hon. Temporary Deputy Speaker.

I rise to appeal to the goodwill and the conscience of Members. Given the magnitude of interest on this and the demand that is out there for our people, it appears that majority of us are actually repeating ourselves. I think it is important to appeal to Members to reduce the time of talking so that as many Members as possible can contribute and then we dispense with this matter. I know you cannot do it from your Chair, but I want to request Members to exercise their goodwill.

I thank you.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Members. Hon. Pamela is only requesting if Members can reduce their talking time. I cannot enforce that because it is not procedural. So, if Members are benevolent enough, you can speak for two minutes so that you can allow other Members to also say something on this matter, which is of public interest.

Member for Wajir South, you have a minute or less to finish.

Hon. Mohamed Mohamud (Wajir South, JP): That is unfair on the part of this request. I know my timing and I should not be interrupted on that matter. However, I was almost concluding. It is unfortunate that Members seem to not read the Standing Orders. It is my prerogative to stand here and contribute.

We found out that the demurrage is the black cash milked by ghosts that have long hands. Someone seems to be paid for not doing their job.

That is where I will conclude despite having my time being interrupted. It is important that Members understand the Standing Orders and do not interrupt other Members on their timing. However, I do appreciate that the Hon. Member wanted to have the opportunity to contribute to this and in that case, it is in order.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Kilome, Hon. Nzambia.

Hon. Thuddeus Nzambia (Kilome, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Report. I congratulate the Committee for coming up with this Report in record time to save Kenyans.

The bottom line of this Report is that we have to do whatever is necessary to reduce the prices of fuel and petroleum products. It is very possible to have the cost of one litre of petrol at Kshs100. There are so many formulas being used here for fuel levies and Value Added Tax. It is very possible to reduce tax on LPG from 16 per cent to, at least, 5 per cent and not 8 per cent.

It has been very difficult for Kenyans. The cost of living has been unbearable because of the rise of fuel prices. As legislators, we have the capacity to do whatever is necessary to reduce the price of fuel. The issue of demurrage is not actually the one which has led to the increase in the fuel prices. Something has to be done to cushion all these levies to ensure that fuel prices are affordable to Kenyans.

Lastly, the cost of living has been unbearable for Kenyans. It is only us, the Members of Parliament, who can review the taxes and the VAT. This is possible and I know that in the next two or three weeks, all will be well for Kenyans to live affordable lives through reduced fuel prices. Once again, I congratulate the Committee for moving very fast and Hon. Mule for bringing up this Petition to salvage Kenyans.

I thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Kiharu.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity.

In my view, the Report from the Committee is a bit shallow and frivolous. One, it is not far-reaching in its recommendations. In the same measure, I bemoan that today the EPRA came out and purported to reduce the fuel prices in Kenya, especially around Nairobi, by Kshs5. Kenyans expect more than just Kshs5.

I also have to say that we need to remove politics from the entire matrix of fuel. We saw one of our politicians last week purporting to have directed that the fuel prices come down. We need to look at this issue objectively because it is about the cost of living, the lives of the Kenyan people and the efficiency of our economy. Our economy relies on fuel. Most of our industries operate on fuel, that is diesel and petrol. To some extent, generation of electricity in this country is done through diesel. Therefore, we need to take this matter with the weight it deserves.

It is on the same measure that I request that since this Motion has two-and-a-half hours, we should exhaust that time because this is an important matter and it should not be rushed. We should not be seen out there like we are playing to the gallery and yet, the Motion has enough time for Members to deliberate and ventilate.

Hon. Temporary Deputy Speaker, we need to correct some of the issues peddled out there and especially on several platforms, that it is this Parliament that increased VAT on fuel products. Kenyans deserve to know that this House stood by the wishes of Kenyans. In 2018, this House was for zero-rating of the fuel products in this country. It is the President of Kenya who went against the wishes of Kenyans by sending a Memorandum to this House and imposed an 8 per cent VAT on fuel products.

The fuel prices in Kenya, the taxes and levies account for 55 per cent of the pump prices. If you look at the global oil prices in terms of crude prices, they have not significantly changed this year. The prices have been stable.

Hon. Elisha Odhiambo (Gem, ODM): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Gem, what is out of order?

Hon. Elisha Odhiambo (Gem, ODM): Hon. Temporary Deputy Speaker, please, ask the Member to sit down. More importantly, is it right for the Member to conclude that the increase in prices of fuel in this country was done by the President? No! It was done by the Jubilee administration which the Member is part and parcel of. I refuse him to accuse the President. He is part of the Jubilee administration.

Hon. Ndindi Nyoro (Kiharu, JP): Hon. Temporary Deputy Speaker, these “handshake characters” must not waste my time. It is because of the handshake that the cost of living in this country is so high. There is no opposition to check the excesses of this regime. Therefore, I should be allowed time to ventilate without undue interruptions.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Ndindi. I will let you finish, but let us hear the point of order from Hon. Angwenyi. You also need to clarify what the Member for Gem has said. Let us have Hon. Angwenyi.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Hon. Temporary Deputy Speaker, the laws of this country are legislated by this House. You cannot blame the President. If we fail to do what we are supposed to, we cannot blame the President. He should not bring politics into this arena. The politics between *Tangatanga* and *Kieleweke zisiletwe hapa*.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Ndindi, just finish your submissions and clarify your statement.

Hon. Ndindi Nyoro (Kiharu, JP): Hon. Temporary Deputy Speaker, my time has been...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I will give you two minutes to finish.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker. I want to clarify that in 2018, this House sided with Kenyans and stood for zero-rating Value Added Tax on fuel products. It is the President who sent a Memorandum to this House. Therefore, the increase of VAT on all petroleum products is purely because of that Memorandum.

I will say this and I have said it before: The EPRA should stop playing to the gallery. They purported to reduce fuel prices by Kshs5 for petrol and Kshs7.28 for kerosene this afternoon. Kenyans expect more than a Kshs5 decrease. Kenyans expect a drastic decrease in the pump prices of fuel products.

Our economy is pegged on fuel. Our transportation is purely based on fuel. We need to be serious as a House and zero-rate fuel products, especially the LPG. We cannot tell Kenyans out there not to cut trees to derive fuel from them and, at the same time, place LPG out of reach to ordinary Kenyans.

As I finish, we have to interrogate the role of the National Oil Corporation of Kenya (NOCK). It was established to be a stabiliser on fuel prices. However, currently, NOCK is now part of the cartel. It is no longer playing the role for which it was established. The reason why we have prices being set by the Government is a clear testimony...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Who is on a point of order? Is that Hon. Ogotu?

Hon. (Prof.) Zadoc Ogotu (Bomachoge Borabu, Independent): Thank you, Hon. Temporary Deputy Speaker. Going by the discussions that I have heard in the House, we now

tend to be repeating what has already been said. It is on that basis that I request that we go by Standing Order No.95 and vote on this particular item.

Hon. Members: No!

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Did you cite Standing Order No.95?

(Loud consultations)

Order, Members! Hon. Ogotu, did you cite Standing Order No.95?

Hon. (Prof.) Zadoc Ogotu (Bomachoge Borabu, Independent): Yes, Hon. Temporary Deputy Speaker.

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

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Speaker, I am on the Floor.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, if he cited Standing Order No.95, we will have to put the Question. Do not worry about it. Let us have Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, you need to be cognisant of the fact that this Motion has a timeline. You have to look at the timeline *vis-à-vis* Standing Order No.95. Have we consumed the time?

Hon. Members: No!

Hon. Aden Duale (Garissa Township, JP): There are Members who want to speak. Just because some of us have spoken, it is very unfair. This is a very serious matter. This Motion is ending at 6.30 p.m. I am waiting for the next Bill. If you can give each of these Members 20 minutes, all of them can speak. All of us will wait. We should be considerate of our colleagues. You need to be very fair to the House.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I was on the Floor.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order Members! You know we are guided by the Standing Orders. Once a Motion under Standing Order No.95 has been cited, I have to put the Question. The only option you have is to vote to defeat it. Let Hon. Oundo finish his contribution and then I will put the Question based on Standing Order No.95.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. Today, we stand here debating this Report because of price regulations. Price control all over the world creates a distorted market. We are here because of lack of foresight and because we went for a controlled regime.

I have perused through the recommendations by the Committee. As much as they look very wonderful and could be populist, the truth of the matter is that we are failing to address the fundamental issue which lies in the Act that sets the formula. Price control regimes anywhere in the world lead to market distortion. Global prices fluctuate depending on the season, climatic condition and how high the economies all over the world are operating. I would have expected the Committee to draw a more predictive system on how oil prices change in the world.

Today, we are talking about Kshs130; tomorrow, it will be Kshs120. Probably, the trend will change. I urge my colleagues that when considering the Bill, the focus should be on the

petroleum price stabilisation fund which stabilises the prices. Prices will keep on fluctuating beyond our control.

Secondly, at any given time, we must allow free market economies to come into play. We cannot control the margins. Let the markets set the margins. Let the players in the market set competitive prices based on the estimated throughput sales. We cannot continue setting margins for private players.

On the issue of LPG gas, we have no choice but to remove the VAT. The alternative is to continue decimating and destroying our forests which have very serious consequences on climate change.

I do not want to belabour the point, but I want to make two things clear. It is this Parliament that makes laws. We are the ones who increased the VAT from 0 per cent to 8 per cent. Those who are currently pontificating were in this House when that happened and did nothing. They are the same people who moved and marshalled Members to change this thing. Since it is politically expedient, we look for easy punching bags who are innocent Kenyans who suffer because of the kind of actions that we made.

Issues of inefficiency in the oil sector need to be addressed. I invite the Departmental Committee on Energy to sit with the Ministry of Energy and other stakeholders and deal with demurrage and system losses and other issues that continuously contribute to high fuel prices in this country.

I come from the border of Busia. It is cheaper to buy fuel in Busia, Uganda, than it is in Kenya. We keep asking ourselves why. Doing the cosmetic changes the Committee has proposed will be populist and will bring down the fuel cost but, at the end of the day, we will not have addressed the issue. We need an in-depth analysis of the cause of these issues before we proceed. But it is politically expedient for us and we will ride on tide and make small changes that, at the end of the day, one year from today, we will be back in the same situation.

I support the Report but, obviously, at the point of making the Bills, we will have to amend to solve this problem once and for all.

Thank you, Hon. Temporary Deputy Speaker.

(Loud consultations)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order Members. We all need to understand the role of the Chair at this point. I cannot make a decision for the House. It is for Members to make the decision on whether we proceed or we bring this to a close.

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

Order, Members. Member for Njoro. If you were to go by the request by Hon. Odhiambo, you can speak for fewer minutes.

Hon. (Ms.) Charity Chepkwony (Njoro, JP): Hon. Temporary Deputy Speaker, thank you very much for giving me an opportunity to contribute to this fantastic Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kathambi, just a minute. The Chair of the Departmental Committee on Finance and National Planning and Members, we only have 37 minutes before the elapse of time for this Motion. So, we can still

achieve the objective we intend to, if we stick around and have as many Members contribute by limiting our time and conclude.

Hon. Kathambi.

Hon. (Ms.) Charity Chepkwony (Njoro, JP): I promise to take the shortest time because I want my colleagues to contribute.

I support the Committee in relation to the review of the abnormal increment of prices of petroleum and petroleum products. I support because currently, the country has been hit by different matters.

(Loud consultations)

I wish my colleagues would relax so that I can make my contribution.

I support the review of the abnormal increment in the prices of petroleum and petroleum products. Kenyans are undergoing very hard moments. The COVID-19 Pandemic has hit the country and we have seen businesses collapse and Kenyans have suffered very much. When prices of petroleum and petroleum products rise, we should remember the first victim is the *matatu* sector which ferries the biggest number of people in this country. Any time the price of fuel is raised, it affects all the other related sectors.

With the rise of the price of LPG, it is high time, as Parliament, we stood firm and zero-rated LPG. Currently, we do not use clean fuels in cooking in this country. Therefore, when we raise prices of LPG, forest cover decreases because majority of Kenyans use firewood and charcoal. All these things affect households.

After listening to Hon. Wanga keenly, I heard her mention the pipeline. She confirmed that the pipeline reserve can only last probably seven days. It was also raised that any time a ship docks in Mombasa, it takes about 18 days before it is offloaded. The Committee should think how to reduce all the expenses. We request the Committee to find out the best practices in relation to other countries in East Africa. Let them find out what they do to have low fuel prices in relation to Kenya.

I commend the Committee because they have taken a very good action. When we take it this way, we will save our country and Kenyans who have undergone a lot of challenges in the current situation.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Gem.

Hon. Elisha Odhiambo (Gem, ODM): Hon. Temporary Deputy Speaker, thank you very much for giving me this opportunity.

I would like to bring to the fore just a few issues in the shortest time. More importantly, as Members of Parliament, we should actually apologise to Kenyans because the burden we bear is because of decisions that were made in this House.

I congratulate the Chair of the Departmental Committee on Finance and National Planning for having been brave to recommend the reduction of prices. But, more importantly, is the recommendation to reduce VAT from 8 to 4 per cent.

Secondly, is the recommendation to reduce the petroleum levy. The only thing the Chair of Departmental Committee on Finance and National Planning did not do is to tell Kenyans that in reducing VAT to 4 per cent, what the implication of that cost reduction will be. If the 4 per cent is monetised, how much does it translate to in times of the Kenya shillings? This is a conversation in the country.

We all remember that last year when the ML Lorraine was stopped from docking at the KPRL in Mombasa because of the bravery of the current Managing Director of the Kenya Pipeline Company, who realised that Lorraine did not have the percentile quotient required in terms of the quality of the oil, it cost the country some money. I have argued many times in the Departmental Committee on Energy that what the country requires, which is important, is to ensure that NOCK is protected. It should ensure that NOCK as a national utility is developed to the level of the Zambian Oil Company where we can have oil that can take care of the interest of the country for as long as six months. I argued this in the Departmental Committee on Energy. Of course, the Ministry rejected it.

On the LPG, I argued in the Committee that LPG should sit at the National Oil Corporation of Kenya, and not at the Ministry because the Ministry has no role in the distribution of LPG. The reason LPG was mooted for Kenyans was to protect our environment. It rests upon us Members of Parliament to ensure that Kenyans remember us for posterity. We can do that by ensuring LPG is taken back to NOCK and the specifications redefined. The NOCK which has distribution outlets in the country, should distribute the LPG and not the Ministry of Energy. We must stop the cartels at the Ministry from interfering with this precious oil.

As I conclude, I want to congratulate Hon. Nyasuna for doing a good job, not for herself, but for the people of Kenya.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Gikaria.

(Loud consultations)

Has Hon. Gikaria spoken?

Hon. Members: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Ijara.

Hon. (Ms.) Sophia Noor (Ijara, PDR): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. First and foremost, I take this chance to thank and congratulate the Committee under the able leadership of the Chairperson, Hon. Gladys Wanga. Secondly, I want to congratulate the petitioner who brought this matter to the House. Thirdly, I want to echo what my fellow Members who spoke before me said that this House is in-charge of legislation: it made a mistake and it is now correcting it.

The Ministry of Energy acted very inhumanely and insensitively in their recent action of increasing petroleum prices. They have failed to safeguard the basic rights of Kenyans by ignoring the situation that we are in. We are struggling with our economy, COVID-19 is still around, we are experiencing drought and people are really suffering. We have also lost almost 80 per cent of the livelihoods of the people of northern Kenya which is the backbone of the economy. The Ministry did not take cognisance of the fact that we are facing all those problems but just sat and decided that this is the time to increase the prices of petroleum and petroleum products. It was very wrong and we thank the Committee for going round and coming up with a report in record time because Kenyans expected us to stand with them at this very difficult moment.

The high prices of fuel have infringed on the rights of every citizen in this country because there are Kenyan citizens who are now unable to travel or move from their homes to the workplaces. They can neither use the *matatus* nor the *boda bodas*. They now leave their homes

before daybreak to walk to their workplaces. That amounts to infringement on the rights of that citizen.

The other thing is that due to the rise in fuel prices, food prices have also gone up. Due to the production cost of food and cost incurred in transporting it from Nairobi to Hulugho, the furthest end of my constituency neighbouring Somalia, no one can now afford to pay for it there because of the high prices. This has resulted in hunger and starvation to the people of this country. The problems that we are facing have reduced the confidence and self-esteem of Kenyans.

In terms of business, local Kenyan manufactures cannot compete with foreigners who import their goods from foreign countries like Egypt, China, India, *et cetera*, because of the fuel problems. In the interest of time and because I want to give a chance to my sisters and brothers who are seated here, let me say that since the VAT is already charged on fuel, it is very wrong and immoral to add VAT on petroleum and petroleum products.

Finally, I will be here on the day that the Bill will be moved to support this Committee and the Chairperson so that we can make another history of supporting Kenyans so that they do not continue suffering.

Thank you.

(Applause)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Sirisia.

Hon. John Waluke (Sirisia, JP): Thank you, Hon. Temporary Deputy Speaker, for also giving me a chance to contribute to this. I thank Hon. Wanga, the Chairperson of the Departmental Committee on Finance and National Planning, and the Committee for bringing this Report on the fuel issue that has affected the whole country. The people that we represent are suffering because of the increased fuel prices.

I want to pose a question and ask Hon. Wanga and the Committee to carefully interrogate the regulations that the Authority used to hike the prices without the involvement of Parliament or the Government. I thank Hon. Wanga and the Committee for highlighting and showing us the areas that caused this increase like the demurrage. When the Bill comes to this Floor, we are ready to reduce the VAT to zero because one of the areas that is making the fuel prices to go up is demurrage. The KRA should also be looked into.

This country belongs to all of us. We want to know where the oil from Turkana goes because I still see trucks carrying oil. The Government has spent taxpayers' money to drill the oil in Turkana with the intention of reducing the fuel prices in this country. Therefore, the Government should show us how and why the Turkana oil is not fixing the deficiency of oil in this country.

It is good for us, as a House, to interrogate all levies as the Chairperson, Hon. Wanga, has highlighted to see whether we can remove the VAT, demurrage and everything else that makes *wananchi* to pay more for the LPG and fuel.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Kitui Rural.

Hon. David Mboni (Kitui Rural, CCU): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to say something on this Motion. It is important to note that the recent petroleum prices increment in the country is because of two things: increase in crude oil prices due to increased demand after partial opening of the economy and lack of money in the Petroleum Development Levy Fund.

In the Financial Year 2020/2021, Ksh25.88 billion was collected, out of which only Ksh3.8 billion was used for the intended purposes. A sum of Ksh2.2 billion was given to the Ministry of Energy, Ksh1.6 billion was used for stabilisation, and Ksh18.1 billion was used for infrastructure. The question is: what were we stabilising in infrastructure? If there is anybody or institution which should be blamed for the recent fuel prices, it is the National Treasury because they misapplied this money. When the Ministry of Petroleum requested for over Ksh5 billion, the balance which was there was only Ksh3.4 billion. So, it is very important that we ring-fence some of these special funds so that they can be used for the intended purposes.

Hon. Temporary Deputy Speaker, it is important to note that petroleum prices in this country are the highest in the region simply because of high taxes and levies. In total, we have nine taxes and levies which account for 40 per cent of the total petroleum pump prices. So, it is important to review the prices. Some people think the higher the taxation, the higher the revenue we will collect. It can work in the opposite. In most cases, it does not work like that. It is because high taxation contributes to high prices. High prices reduce demand for goods and services. Therefore, production also goes down. Lower prices will encourage consumption. Consumption will encourage production. When people are consuming, they are also paying taxes. So, the mentality that we should tax everything highly may not work. Our neighbouring countries do not tax fuel highly. When the prices of petroleum products in Kenya became very high in the recent past, people in Western Kenya were going to Uganda to fuel their vehicles. Therefore, we were also losing tax revenue in the process.

I want to talk about LPG. This House should know that we have a monopoly in the importation of LPG. We have only one big importer who imports over 90 per cent of the total LPG which is consumed in this country. So, the prices of LPG may not be driven by VAT but by the monopoly which is trying to maximise profits. It should be noted that many countries have applied to be licensed to import LPG and they have not been granted their wish. The Kenya Pipeline Company applied to construct a facility whereby anybody can import through that facility but that licence has not been provided. The Kenya Pipeline Company has money and land. They should be given licence to construct storage facilities so that the country can use the open tender system the way petroleum is being....

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member of Lari.

Hon. Jonah Mwangi (Lari, JP): Asante sana Mhe. Naibu Spika wa Muda kwa kunipa nafasi ndiyo pia nchangie. Kweli nilikuwa nimetulia sana. Nilikuwa nadhani sitapata hii nafasi lakini nimeipata.

Kwa kuunga wengine mkono na hasa yule ameongea saa hii, kweli amesema mambo mazuri. Katika huu mjadala, namuunga mkono Gladys Wanga ambaye ameuleta ndiyo tupunguze hii bei ya mafuta lakini pia tuangalie zile sababu za kichinichini ambazo zaleta hizi shida za bei za mafuta. Kwanza, kuna hiyo ambayo inaitwa *demurrage*. Kuna uhusiano gani kati ya yule analipa *demurrage* na yule yualipwa? Kama kila siku yualipa milioni tano, lazima pale pawe na uchunguzi tujue kama ni njia nyingine ya kupata faida juu. Labda ile ni njia nyingine ya kupata faida kwa zile *demurrage* kwa sababu sioni sababu yoyote mafuta yawekwe pale bandarini kwa siku kumi na nane kabla hayajatolewa. Pia, lazima ile Kamati ya *Energy* ipatie shirika la Pipeline pesa ili ijenge yale mabwawa ya kuweka yale mafuta ndiyo mafuta yakija yapakuliwe mara hiyohiyo na yawekwe kwenye mabwawa. Hivyo, *demurrage* itaisha.

Tuongee yale mambo ya fomula. Katika hii nchi, hakuna biashara nyingine leo hii isopokuwa biashara ya mafuta ambapo yule mwekezaji wa mafuta yuapata faida kila siku hata kama amelala kwa sababu fomula imempea *guaranteed return*, ati lazima atapata faida. Yeye faida

yake imewekwa palepale na fomula. Kila siku yuapata faida, siku mbaya ama nzuri. Hiyo ni tabia gani katika hii nchi? Kampuni zote zafanya kushindana ndiyo mwingine apate biashara—leo wapata biashara, kesho wapata hasara, kesho wapata faida. Lakini pale twaona mafuta watu wapata faida kutoka Januari mpaka Disemba.

Kule kwetu raia wananung'unika kila siku, wamekatazwa leseni za kuvunja kuni kule msituni. Kila siku wanalia, "Mheshimiwa tusaidie tuvunje kuni". Kwa nini tusipunguze ule ushuru wa LPG uwe *zero* ndio *tuencourage* nchi yetu kuwa na *clean gas*, tuwe tunapika na hewa safi, tunapika na ile hewa ambayo inakuwa *imported*? Na pia, kwa yule mtu ambaye *yuaimport*, ile soko ifunguliwe tusikuwe ati ni mtu mmoja tu 90 per cent ambaye *yuaimport* zile LPG. Hii nchi yetu ni kubwa sana. Wawekezaji ni wengi. Kwa hivyo, lazima tupunguze.

Sababu ingine ya kupunguza bei ya mafuta ni nini? Kila siku twaambiwa stima yetu iko ghali kwa sababu ya gharama ya mafuta. Kwa nini tusipunguze ile *tax* ya mafuta ndio stima yetu ikuwe bei rahisi na wawekezaji waendeleo kuja Kenya, waendeleo kuweka viwanda, nao watumizi wakuwe wengi? Watumizi wakitumia twapata *tax* kwa njia nyingine ambayo itakuwa nyingi tena zaidi. Mimi nahuzunika. Mimi nasononeka nikiona jinsi mwananchi yuaumia kila siku. Mwananchi yuaumia juu ya nini? Ni kwasababu tunakosa kuwapea maadili mzuri ya kufanya kazi ya mafuta.

Kwa hayo mengi na machache, Mheshimiwa mwenzangu hapa amelia sana ati hajapata nafasi. Ni Mheshimiwa kutoka Samburu West. Nakuombea nafasi tafadhali. Nashukuru *Madam Spika* lakini umsaidie huyu Mheshimiwa. Nashukuru *Madam Spika* na *ninasupport* ule mjadala.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You are out of order, Hon. Mwangi. That is not your work. Let us have the Member of Siaya, Hon. Ombaka. You have two minutes.

Hon. (Dr.) Christine Ombaka (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I am a Member of this Committee.

We also observed that there are too many taxes – nine of them. I want to just mention a few of them. We have nine taxes just for petrol. We have excise duty, VAT, Road Maintenance Levy, Anti-Adulteration Levy, Petroleum Development Levy, Petroleum Regulatory Levy, Railway Development Levy, Import Declaration Fee and Merchant Shipping Fee. These nine taxes add to 35 per cent of taxation on petrol. So, we need to remove some of these. We also noticed that the cost of petrol in other countries is much lower than in Kenya because we have too many taxes and levies that we charge on petrol. That is why the prices are very high in Kenya. So, there is need to remove some of these taxes.

We also observed something on the Petroleum Development Levy, whose objectives and purpose are not very clear. It is a bit murky. It is not clear. It is controlled by just a few individuals. Therefore, it is also subject to abuse. Although we realise that the prices are high, the issue is our country. The structure of business in this country is complicated and there is unexplained taxation that needs to be removed. That is why we recommend that some of those taxations should be done away with.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Wanga, the timeframe for the debate has lapsed. I will allow you to donate your 10 minutes.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. Should I donate now?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Yes. Allocate your time. You can donate to Hon. Odhiambo. She has been on my neck.

Hon. (Ms.) Gladys Wang (Homa Bay CWR, ODM): Hon. Temporary Deputy Speaker, I will donate the 10 minutes in this manner: one minute to Hon...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You must leave yourself with one minute to reply.

Hon. (Ms.) Gladys Wang (Homa Bay CWR, ODM): I will donate nine minutes to nine people. I will donate one minute each to Hon. Pamela, Hon. Oimeke, Hon. Nyikal, Hon. Tobiko, the Member for Tigania West, Hon. Mutunga, Hon. Gichimu, the Member for Runyenjes...I am considering those who came early. I will also donate to Hon. Waruguru and Hon. Lentoimaga. Are the minutes finished? Are those nine Members?

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Odhiambo, you have one minute.

Hon. (Ms.) Pamela Ochieng (Migori CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I thank the Members for agreeing to speak for two minutes.

To sum this up, we agree that there is a problem in our country concerning petroleum. The important thing is for my Committee to remove the demurrage charges and all the other charges, and zero-rate petroleum.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Oimeke.

Hon. Pavel Oimeke (Bonchari, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance. I feel that the system here may be unfair. I have been sitting in this House from 2.30 p.m. and I did not get a chance.

Let me first thank the Committee chaired by Hon. Gladys Wang. They have done a fantastic job. However, whatever they have proposed is not sufficient. I am an expert in both energy and petroleum having worked with the regulator. I will pick a few areas that I feel they need to concentrate on.

First is the structure of the stabilisation fund. We should change the name from the Petroleum Development Levy Fund to the Stabilisation Fund and ensure that it is properly anchored in law. A stabilisation fund must be a control; it is like a speed regulator. If we do not do that, the fund will be abused.

Second, on the proposed advisory committee members, we need to bring in consumers and the *Matatu* Owners Association of Kenya so that this can be safeguarded.

The issue of demurrage and the Petroleum Development Levy Fund needs to be reviewed downwards to a limit that can allow us to operate as a country. There are other levies and taxes that need to be keenly looked into.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Tobiko, you have one minute.

Hon. (Ms.) Peris Tobiko (Kajiado East, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Motion.

Kenya is one of the countries with the highest levels of taxation in the world. Currently, all our neighbours have lower petrol costs. Prices are down in Tanzania, Uganda and Ethiopia and that is why Kenyans are going to those neighbouring countries to get petrol.

This House should work towards zero-rating petrol and petroleum products. Hon. Wang's Committee has worked well. This is something good. However, we must remember that Kenyans are suffering because of COVID-19. Most businesses are down and the Government needs to be sensitive to the needs of its citizens. This House can go into the history books by completely zero-rating petrol and petroleum products.

I thank Madam Wang...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. (Dr.) Nyikal, you have one minute.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker. I thank the Committee. However, one important issue that has come out is that when we discuss issues regarding the welfare of this country as a House, we must stick to the welfare of the people regardless of our political parties. We should not make decisions that hurt people then later on turn around and blame each other. Even if it is a Presidential Memorandum, we must come out, get the numbers and reject it. That is the only way we will serve Kenyans.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Mutunga, you have one minute. Give him the microphone.

Hon. John Mutunga (Tigania West, JP): Thank you, Hon. Temporary Deputy Speaker, for the opportunity. I want to say three things. One, we know where we came from, we know what happened and we need to correct it. I am happy that the Chair of the Committee, Madam Wanga, has come up with a proposed legislation to correct what we did.

Secondly, we can reduce the cost along the supply chain. The Kenya Pipeline Company requested the Cabinet for authority to invest in storage. They have the capacity, money and know-how to construct. They have not been given that authority as at now, but they have been told to go through Public-Private Partnerships (PPP). Before you can get a PPP project through, there will be a problem.

Finally, we can also increase...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Gichimu, you have one minute.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to convey the concerns of the people of Gichugu where I was before I came to the House this afternoon. They are in support of the various proposals to amend the various laws that are captured in the Report. The people of Gichugu told me that they would like the fuel prices to go even lower than the ones that have been recommended by EPRA this afternoon. When the price was between Ksh90 and Ksh100, this country was still running.

We will support the Committee's Report and when the Bills come to the House, we will support them and make the necessary amendments for the people to benefit.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Runyenjes.

Hon. Eric Njiru (Runyenjes, JP): Thank you, Hon. Temporary Deputy Speaker. I thank the Committee led by Hon. Gladys Wanga for a job well done. I support the Motion that we reduce the price of fuel. This is because the cost of living in the country has skyrocketed. Our brothers, the millions of young people who engage in the *bodaboda* businesses, can no longer do it as they were before.

I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Waruguru.

Hon. (Ms.) Catherine Waruguru (Laikipia CWR, JP): Thank you, Hon. Temporary Deputy Speaker. Thank you, Hon. Wanga, for donating two minutes to me.

From the outset, I support the Committee's work as a Committee Member. I will speak a little bit about EPRA. I have seen that they have posted the recently revised schedule of oil prices starting from tomorrow. I want to tell them to stop being ambulance chasers. Since the day there was an outcry, EPRA has been quiet. Since the date these petitions were brought to the House, EPRA has been quiet. I would be right to say that EPRA has acted simply because they knew this

matter was coming up for discussion this afternoon. I want to tell them that they live in this country and they need to understand better.

Finally, the question around Petroleum Development Levy is a question of many government organisations and company CEOs who have the ability to have money to spend.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Lentoimaga.

Hon. Alois Lentoimaga (Samburu North, JP): Thank you, Hon. Temporary Deputy Speaker. I thank the Committee for a job well done. Instead of blaming the President, this House would have overturned that memorandum through two-thirds majority. Secondly, we need to reduce the price of fuel to below Ksh100. It hurts our people. Prices of goods and services have gone up. The Government should look for another alternative of raising revenue to finance the Budget.

Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Chair, it is your time to reply.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I do not know if I can give half a minute to the Member for Tinderet, Hon. Melly. Please.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Melly.

Hon. Julius Melly (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker. I just want to say that the petitioners did very well on behalf of Kenyans. This House has the responsibility to ensure that every time we pass laws that are pro-people. The government needs to know that we are not supposed to rely on taxes to make our economy grow.

I support, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. Members' views have been heard. The Bill is coming up next. We hope that Members will be here to contribute to it as well, even those who did not contribute to the Report. I beg to reply. I thank Members very much.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Having ascertained that we have the requisite quorum, I put the Question.

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Next Order.

COMMITTEE OF THE WHOLE HOUSE

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

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Patrick Mariru) in the Chair]*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order Members. We still have a small business here at the Committee of the whole House. These are fairly short Bills. We shall start with the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No. 10 of 2021).

THE CENTRAL BANK OF KENYA (AMENDMENT) BILL

(Clause 3 agreed to)

Clause 4

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have an amendment by the Chair of the Departmental Committee on Finance and National Planning.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 4 of the Bill be amended—

(a) in the proposed new clause 33R by—

- (i) deleting paragraph (b);
- (ii) deleting paragraph (c);
- (iii) deleting the words “and business models” appearing in paragraph (d);
- (iv) inserting the following new paragraph immediately after paragraph (c) —
(ca) determine parameters for pricing of digital credit;

(b) in the proposed new clause 33S —

(i) by inserting the following new subsection immediately after subsection (2) —

(2A) An application under subsection (2) shall be accompanied by—

(a) a copy of the certificate of incorporation under the Companies Act;

(b) a certified copy of the applicant’s memorandum and articles of association;

(c) a notification of the company’s registered address;

(d) a certificate of issued pursuant to section 19 of the Data Protection Act;

(e) a statement as to compliance with the provisions of Part VII of the

Consumer Protection Act; and,

(f) such other documents as may be prescribed by the Bank.

(2B) Without prejudice to subsection (2A) (e), an applicant shall provide the terms and conditions applicable to the digital credit and which must be accepted by the borrower before activation of a mobile loan account.

(2C) The Bank may grant or reject an application for a license by written notice addressed to the applicant within sixty days from the date of receipt of an application.

(2D) A license granted under this section shall remain valid unless suspended or revoked by The Bank in accordance with this Act, but upon expiry of the prescribed period may be renewed.

(2E) The Bank may suspend or revoke a license by written notice to the holder of the licence, if —

(a) the licensee does not meet the conditions prescribed by The Bank;

- (b) the licensee is in breach of subsection (2A) or the conditions of the Data Protection Act or the Consumer Protection Act;
- (c) the licensee is found to have given false information during the application;
- (d) the licensee goes into liquidation or an order for winding up is issued;
- (e) the licensee carries out activities outside the scope of the licensed activities;
- (f) the licensee is in breach of any of the provisions of this Act and the regulations made thereto relating to digital lending.

(2F) Without prejudice to subsection (2D), an applicant may apply for renewal of the license at least three months before expiry of the license.

(2G) The Bank shall cause to be published in the Gazette and The Bank's website –

- (a) before the thirtieth day of March in each year, the names and addresses of all licensed digital lenders under this section;
- (b) within thirty days of suspension or revocation of a license, the name and address of the digital lenders whose licenses have been suspended or revoked.
- (c) by inserting the following clauses immediately after the proposed new clause 33S-

33T. The Bank shall consult with other regulators including but not limited to-

- (a) the Office of the Data Protection Commissioner; and,
- (b) the Communications Authority.

33U. Notwithstanding the provisions of this section, a digital lender shall disclose any positive or negative information of its customers to the licensed credit reference bureaus, where such information is reasonably required for the discharge of the functions of the digital lenders and the licensed credit reference bureaus.

Hon. Temporary Deputy Chairman, this is essentially to remove capital adequacy requirements and minimum liquidity requirements for digital lenders because they are not deposit-taking. So, the risks are not there.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 4 as amended agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order, Members, the Chair at the very least should vote. I will go on and put the Question again.

(Clause 5 agreed to)

Clause 6

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 6 of the Bill be amended –

(a) in subsection (3) by –

(i) deleting the word “registration” appearing in paragraph (a) and substituting therefor the word “licensing”;

(ii) deleting paragraph (b);

(iii) inserting the following new paragraph immediately after paragraph (h) –

(ha) dispute resolution mechanisms;

(b) by inserting the following new subsection immediately after subsection

(3) –

(4) Without prejudice to the generality of subsection (3) (i), The Bank may, in regulations, prescribe penalties to be paid by digital lenders who fail or refuse to comply with the provisions of this Act and the regulations made thereunder relating to digital credit, which penalties shall not exceed five hundred thousand shillings, and may prescribe additional penalties, not exceeding ten thousand shillings in each case for each day or part thereof during which such failure or refusal continues.

Hon. Temporary Deputy Chairman, this amendment sets the limit for penalties that maybe set in regulations to comply with the Statutory Instruments Act.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 6 as amended agreed to)

Clause 7

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 7 of the Bill be amended in the proposed new clause 59 by deleting subsection (2) and substituting therefor the following new subsection –

(2) Any person who before the coming into force of this Act was in digital credit business and is not regulated under any other law, shall apply for a license in

accordance with section 33S, within six months of publication of the regulations under subsection (1).

This amendment provides for a transitional clause for registration of digital credit providers within six months so that they have time within which to come into regulation.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Clause 7 as amended agreed to)

(Clause 2 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are done with the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No.10 of 2021). We shall now move to reporting.

Mover, proceed.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Chairman, I beg to move that the Committee does report to the House its consideration of the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No.10 of 2021) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we shall proceed to The Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No. 23 of 2021).

THE TRUSTEES (PERPETUAL SUCCESSION) (AMENDMENT) BILL

Clause 3

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairlady, you have an amendment to Clause 3.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 3 and substituting therefor the following new clause-
Amendment of
section 3 of Cap. 164.

3. The principal Act is amended in section 3 by -

(a) deleting subsection (1) and substituting therefor the following new subsection-

(1) Any person or body of persons who have lawfully constituted themselves for the purpose of forming a trust may apply to the Principal Registrar for a certificate of incorporation.

(b) deleting subsection (2) and substituting therefor the following subsections-

(2) The Principal registrar shall within sixty days of receipt of an application for incorporation of a trust grant or reject the application.

(2A) Where an application is rejected, the Principal registrar shall give written notice to the applicant and the notice shall state the reason for rejecting the application.

(2B) Where an application for incorporation is approved by the Principal registrar, he may grant a certificate accordingly, subject to such conditions or directions.

This amendment is to give the Principal Registrar power to approve an application within 60 days and further to provide for giving reasons where an application is rejected.

I beg to move.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 3 as amended agreed to)

Clause 4

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 4 of the Bill be amended—

(a) in the proposed clause 3B (2) by deleting paragraph (b) and substituting therefor the following paragraph-

(b) the objects are beneficial to the general public or section of the public;

(b) in the proposed clause 3C (1) by inserting the words “non-charitable” immediately after the word “A”;

(c) in the proposed clause 3D in subsection (2) -

(i) by deleting the words “other than the settlor” appearing in paragraph (a);

(ii) by deleting the word “multiple” appearing in paragraph (b);

(d) in the proposed clause 3E -

(i) in subsection (2) by inserting the words “beneficially or” immediately before the word “legally”;

ii) in subsection (3) by inserting the word “title” immediately before the word “better”;

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- (e) in the proposed clause 3F by—
- (i) renumbering the second subsection (4) appearing after subsection (5) as (6);
 - (ii) inserting the following new subsection immediately after subsection (6)-
- (7) The provision of subsection 2(b) do not apply to a trust established under section 3C.
- (f) in the proposed clause 3J -
- (i) by deleting subsections (1) and (2) and substituting therefore the following new subsections-
 - (1) An enforcer may be appointed in accordance with the terms of the trust.
 - (2) The functions of an enforcer shall be to-
 - (a) enforce the terms of the trust;
 - (b) inquire into the status of implementation of the trust;
 - (c) require the trustee to take remedial action, where there is breach of the terms of the trust;
 - (d) report to the settlor or the beneficiaries any financial or other breaches by the trustees;
 - (e) pursue legal actions against the trustees, whether criminal or civil.
 - (2A) The enforcer may act in the place of the trustees during the hearing and determination of any suit under subsection (2).
 - (ii) by inserting the following subsection immediately after subsection (7)-
- (8) The trustees shall notify the Principal Registrar, in writing, of any change of enforcers at least thirty days from the date of the notice under subsection (7).

The amendment is to recognise that a charitable trust may be for the benefit of the general public or a section. There are also other amendments that are for cleaning up the Bill but also amendments to ensure that a settler can be a beneficiary of a trust, which means if I am the one forming the trust I can also be included as a beneficiary of the trust.

I beg to move.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 4 as amended agreed to)

Clause 5

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporry Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 5 and substituting therefor the following new clause-

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Amendment of
section 6 of Cap. 164

5. Section 5 of the principal Act is amended –

(a) by deleting the word “Minister” and substituting therefor the words “Principal Registrar” wherever it appears;

(b) in subsection (1) by deleting the words “or by any conditions or directions inserted by the Minister under subsection (2) of section 3; and

(c) by deleting subsection (2).

The amendment is to remove the “Minister” as the person registering trusts and replace him with the “Principal Registrar”.

I beg to move.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 5 as amended agreed to)

(Clauses 6, 7 and 8 agreed to)

Clause 9

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting clause 9 and substituting therefor the following new clause –

Amendment of
section 16 of Cap. 164

9. Section 16 of the principal Act is amended -

(a) by deleting the word “Minister” wherever it appears and substituting therefor the words “Principal Registrar”;

(b) in subsection (2) by deleting the words -

“whereupon any land vested in it shall escheat-

(a) if the land is trust land, to the county council in whose are of jurisdiction the land is situated;

(b) if the land is not Trust land, to the Government:

Provided that this shall not apply where such corporate body is wound up under the provisions of section 33 of the Societies Act (Cap.108).”

This is simply to replace the “Minister” with the “Principal Registrar” and further to delete reference to trust land held by county councils as county councils no longer exist.

I beg to move.

Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 9 as amended agreed to)

(Clause 10 agreed to)

Clause 2

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, you have an amendment to clause 2.

Hon. (Ms.) Gladys Wanga (Homa Bay (CWR), ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 2 of the Bill be amended –

- (a) in the definition of the term “enforcer” by inserting the words “or replaced” immediately after the word “appointed, and by inserting the word “of” immediately after the word “benefits”; and
- (b) in the definition of the term “family trust” by deleting the expression “section 3C” and substituting therefor the expression “section 3D”;

The amendment is to provide that an enforcer may be appointed or replaced by the settler.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members we are done with the Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No.23 of 2021). We shall report.

Hon. (Ms.) Gladys Wanga (Homa Bay (CWR), ODM): Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Trustees (Perpetual Succession) (Amendment) Bill, 2021 and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

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

REPORTS

THE CENTRAL BANK (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us start with the Central Bank (Amendment) Bill and I call upon the Chair to report.

Hon. Patrick Mariru (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No.10 of 2021) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I call upon the Mover to move agreement with the Report, Hon. Wanga.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I also request Hon. Gedi to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Deputy Speaker, I second.

(Question Proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, for obvious reasons, I will not proceed with putting of the Question.

(Putting of the Question deferred)

THE TRUSTEES (PERPETUAL SUCCESSION) (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): We can now move to the next Bill, the Trustees (Perpetual Succession) (Amendment) Bill. I call upon the Chair to report to the House.

Hon. Patrick Mariru (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No.23 of 2021) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I call upon the Mover to move agreement with the Report.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Report of the Committee of the whole House on its consideration of the Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No.23 of 2021).

I request Hon. Kandie to second.

Hon. Joshua Kandie (Baringo Central, MCCP): Hon. Temporary Deputy Speaker, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, once again, we will defer putting the Question for a good reason. We can move on.

(Putting of the Question deferred)

MOTION

ADOPTION OF REPORT ON LACK OF ACCESS TO CITIZEN REGISTRATION SERVICES

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its consideration of a Public Petition by residents of Wajir and Garissa counties regarding lack of access to citizen registration services, laid on the Table of the House on Wednesday, 11th August 2021.

Hon. Temporary Deputy Speaker, the Petition was submitted to the National Assembly on 23rd March by Hon. Aden Duale on behalf of the residents of Garissa and Wajir counties. The Petition was subsequently committed to the Departmental Committee on Administration and National Security.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Gedi, I beg your pardon. Just to guide you, we have seven minutes before we finish the sitting and you have 15 minutes to move the Motion. So, it is up to you to organise your thoughts. If you do not finish, you will have a balance of eight minutes when the Motion gets back to the Order Paper. So, you are at liberty to do whatever you wish to do with your time but for now you have six minutes. Do not rush yourself.

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Hon. Temporary Deputy Speaker, I will just proceed. I know I can continue next week.

The Petition says that despite the clear provisions of Articles 1 (1), 2 (1) and 12 of the Constitution of Kenya, Kenyans residing in Garissa and Wajir counties have been denied identification documents, and this has in essence rendered them stateless. On account of being denied this critical registration document, most Kenyan citizens residing in Garissa and Wajir counties are unable to access Government services, including healthcare and education services. They have further been denied their political and economic rights, including voting, access to banking services and formal employment.

In consideration of the Petition, the Committee received submissions from Hon. Duale MP, on behalf of the residents of Garissa and Wajir and the Cabinet Secretary in the Ministry of Interior and Coordination of National Government. The determination of the Committee's recommendation was based on their submissions.

I will quickly move to the observations. The observations arose from the submissions of the Petition's stakeholders. The Committee observed that Kenya hosts a total of 515, 466 refugees from various countries including Somalia and South Sudan. The estimated number of persons with multiple registration is 40,000 according to the United Nations High Commissioner for Refugees (UNHCR) records out of whom, 19,272 had applied for regularisation of their registration status. The multiple registration of refugees arose as a result of registration of some refugees spread across various counties including Garissa, Turkana Wajir and Mandera for ease of free movement, business and job opportunities, access to education, acquisition of citizenship and voting rights among others. The double and multiple registration has hindered Kenyans whose details appear in the refugees' database from being registered because there have been issues with identification documents including national identity card. That lack of registration and identification documents has hindered Kenyan citizens from accessing Government services including education services, health facilities and employment opportunities.

The Committee recommends that the Cabinet Secretary in the Ministry of Interior and Coordination of National Government expedites the vetting of registration of citizens living along the Kenyan borders to enable them access Government services. The Cabinet Secretary in the Ministry of Interior and Coordination of National Government does expedite the adoption of the report on the vetting of the double registered persons, which was conducted through a committee comprising of members drawn from Immigration Department, National Registration Bureau, National Government Administration officers and elders to ensure regularisation of the status of the vetted persons.

The Committee has since received preliminary report on this exercise which I can share with the petitioner and with your permission. Upon conclusion of the regularisation process, the Cabinet Secretary in the Ministry of Interior and Coordination of National Government facilitates registration of persons who have been vetted and determined to be Kenyan citizens in accordance with the requirement of Registration of Persons Act, Cap. 107.

With those few remarks I beg to move and request Hon. Makali Mulu to second. I thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Did you finish?

Hon. (Ms.) Fatuma Gedi (Wajir CWR, PDR): Yes, I did. I beg to move and ask Hon. Makali Mulu to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Makali Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker. I rise to second this important Motion. This Petition by Hon. Duale was presented to the Committee as the Mover has said and was more of the issue of access to identification documents by the people of Garissa and its environs. Having interacted with the petitioner and Government departments, it was very clear to us as a Committee that there has been a bit of challenge in accessing these important documents. Since the residents of these two areas have not been accessing documents easily, they have also faced challenges in terms of accessing important Government services. What has been a thorn in the flesh has been the issue of vetting. It is a requirement that before you get your identification documents, you must be vetted.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Mulu, time is up. I will cut you short. Just hold your thoughts right there and then you can pick up when we resume debate on this.

Hon. Makali Mulu (Kitui Central, WDM – K): I do not know whether I will remember.

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You can start all over again with three minutes.

Hon. Makali Mulu (Kitui Central, WDM – K): I will have to read the Report again.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You have your balance of three minutes intact.

Hon. Makali Mulu (Kitui Central, WDM – K): Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order Members!

Hon. Makali Mulu, you have a balance of three minutes and the whole debate on the Report has a balance of one hour and thirteen minutes.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 700 p.m., this House stands adjourned until Tuesday, 19th October 2021, at 2.30 p.m.

The House rose at 7.00 p.m.