

**PARLIAMENT OF KENYA**  
**THE NATIONAL ASSEMBLY**

**THE HANSARD**

**Wednesday, 13<sup>th</sup> October 2021**

The House met at 2.30 p.m.

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

**PRAYERS**

**MESSAGE**

**PASSAGE OF SENATE BILLS**

**Hon. Speaker:** Hon. Members, pursuant to the provisions of Standing Order 41, I wish to report to the House that I have received Messages from the Senate notifying the passage of the following five Bills in the Senate:

- (i) The County Governments Grants Bill (Senate Bill No.35 of 2021);
- (ii) The Mental Health (Amendment) Bill (Senate Bill No.28 of 2020);
- (iii) The Basic Education (Amendment) Bill (Senate Bill No.4 of 2021);
- (iv) The County Licensing (Uniform Procedures) Bill, 2019 (Senate Bill No.32 of 2020); and,
- (v) The Salaries and Remuneration Commission (Amendment) Bill (Senate Bill No.31 of 2020).

Hon Members, the first Message relates to the passage of the County Governments Grants Bill and conveys that the Bill seeks to provide for additional allocations to county governments for the 2021/2022 Financial Year; spells out the responsibilities of the national Government and the county governments, pursuant to such allocations; and for connected purposes.

The second Message is in respect to the passage of the Mental Health (Amendment) Bill, which seeks to amend the mental health Act to provide for the prevention of mental illness; to provide for the care, treatment and rehabilitation of persons with mental illness and to provide for the procedures of admission, treatment and general management of persons with mental illness.

The fourth Message relates to the County Licensing (Uniform Procedures) Bill. The Bill seeks to establish standard uniform procedures for licensing by county governments and for connected purposes.

The fifth Message is in respect of the passage of the Salaries and Remuneration Commission (Amendment) Bill, which seeks to amend sections 7 and 9 of the Salaries and Remuneration Act No.10 of 2011 to provide for the notification of the expiry of the term of commissioners in the gazette and to provide for timelines for the filling of vacancies in the commission upon the expiry of the term for commissioners, amongst other provisions.

Hon. Members, having considered and passed the five Bills, the Senate now seeks concurrence with the National Assembly on each of them. The Standing Orders require the Speaker to cause a Bill received from the Senate to be read the First Time upon conveyance of the Message. It is for that reason that the House Business Committee scheduled the five Bills for First Reading in today's Order Paper. After the First Reading, the Bills will stand committed to the respective Departmental Committees as follows:

The County Governments Grants Bill (Senate Bill No.35 of 2021) will stand committed to the Budget and Appropriations Committee, pursuant to the provisions of Standing Order No.127 (6). The Mental Health (Amendment) Bill will stand committed to the Departmental Committee on Health. The Basic Education (Amendment) Bill will stand committed to the Departmental Committee on Education and Research. The County Licensing (Uniform Procedures) Bill will stand committed to the Departmental Committee on Trade, Industry and Co-operatives. The Salaries and Remuneration Commission (Amendment) Bill will stand committed to the Departmental Committee on Finance and National Planning.

In considering the Bills, the said Committees will be expected to, among other things, apply themselves to provisions of Articles 109(5) and 114 of the Constitution relating to origination and definition of a money Bill and make appropriate recommendations to the House as, indeed, required by the Constitution and in line with my Message to the House issued on Tuesday, 5th October 2021.

For clarity, may I remind the House of the existence of Bills similar to the Mental Health (Amendment) Bill (Senate Bill No. 28 of 2020) and the Salaries and Remuneration Commission (Amendment) Bill (Senate Bill No. 31 of 2020) which are currently before the House and which originated in the Senate and have been undergoing consideration in the National Assembly. In this regard, the Departmental Committee on Health and the Departmental Committee on Finance and National Planning are required to recommend to this House which versions of the said Bills that are now active in the House should be prioritised for consideration.

As I guided in a similar message to the House last week, reports of the respective Committees shall guide the House with respect to the next stages and prioritisation of the said Bills. I, therefore, request the Committees to prioritise consideration of the said five Senate Bills in their respective agenda.

I thank you.

## PAPERS LAID

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

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

Report of the Auditor-General and Financial Statements in respect of the Capital Markets Authority for the year ended 30<sup>th</sup> June 2021 and the certificate therein.

Annual County Governments Budget Implementation Review Report for Financial Year 2020/2021.

Report of the Auditor-General and Financial Statements in respect of the Technical University of Mombasa Enterprise Limited for the year ended 30<sup>th</sup> June 2019 and the certificate therein.

The Annual Report and Financial Statements of Tom Mboya University College for the year ended 30<sup>th</sup> June 2019

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Report of the Auditor-General and Financial Statements in respect of the Technical University of Mombasa Enterprise Limited for the year ended 30<sup>th</sup> June 2018 and the certificate therein.

Report of the Auditor-General and Financial Statements in respect of the Technical University of Mombasa Enterprise Limited for the year ended 30<sup>th</sup> June 2017 and the certificate therein.

Report of the Auditor-General and Financial Statements in respect of the Technical University of Mombasa Enterprise Limited for the year ended 30<sup>th</sup> June 2016 and the certificate therein.

Report of the Auditor-General and Financial Statements in respect of the Technical University of Mombasa Enterprise Limited for the year ended 30<sup>th</sup> June 2015 and the certificate therein.

Report of the Auditor-General and Financial Statements in respect of the Technical University of Mombasa Enterprise Limited for the year ended 30<sup>th</sup> June 2014 and the certificate therein.

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

- (a) Kitui Rural;
- (b) Yatta;
- (c) Mwingi West;
- (d) Chuka/Igambang'ombe;
- (e) Kibra;
- (f) Westlands;
- (g) Mathare;
- (h) Dagoretti North;
- (i) Rabai; and,
- (j) Maara.

Thank you, Hon. Speaker.

**Hon. Speaker:** Just to make an observation that the people of the first constituency, which is in a rural county called Kitui, nevertheless chose 'Kitui Rural' as the name for their constituency, as the most rural within Kitui.

*(Laughter)*

Everybody considers Kitui to be a rural county, but the constituents chose the name 'Kitui Rural', more rural than the county, I think.

Next Order.

## NOTICE OF MOTION

### REPORT ON PUBLIC PETITIONS REGARDING PRICES OF PETROLEUM AND PETROLEUM PRODUCTS

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

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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 regarding amendments 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, 12<sup>th</sup> October 2021.

I thank you.

### QUESTIONS AND STATEMENTS

**Hon. Speaker:** The first Question is by the Member for Maragua, Hon. Mary Wamaua.

*Question 369/2021*

#### RATIONALE FOR CHARGING FEES FOR INTERIM DRIVING LICENCE

**Hon. (Ms.) Mary Njoroge** (Maragua, JP): Thank you, Hon. Speaker, for giving me this chance to ask Question 369 of 2021 to the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works:

- (i) Could the Cabinet Secretary explain why the National Transport and Safety Authority charges Kshs750 for issuance of interim driving licences?
- (ii) Could the Cabinet Secretary also explain why the Authority has not been issuing interim driving licences despite collecting the said fee?
- (iii) What is the rationale for compelling applicants to pay and obtain interim driving licences and require them to also obtain smart driving licences?
- (iv) When will the Authority harmonise the process of application and issuance of interim driving licences with that of issuance of the new smart driving licence?

Thank you, Hon. Speaker.

**Hon. Speaker:** Question will be replied to before the Departmental Committee on Transport, Public Works and Housing. Next Question is by the Member for Laikipia North, Hon. Sara Korere.

*Question 413/2021*

#### UTILISATION OF ADC MUTARA RANCH IN LAIKIPIA

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Thank you, Hon. Speaker. I rise to ask Question 413 of 2021 to the Cabinet Secretary for Agriculture, Livestock and Fisheries:

- (i) What is the total size in acreage of the Agricultural Development Corporation (ADC) Mutara Ranch in Laikipia County?
- (ii) Could the Cabinet Secretary state whether the Government has been utilising the Ranch and, if so, list the major activities which take place there?
- (iii) Could the Cabinet Secretary provide details of all individuals and companies to whom the Corporation has leased this farm to, size of acreage and the period of lease by each entity?
- (iv) Are there plans by the Government to utilise ADC Mutara Ranch to assist the local pastoral community in improving their breeds and in range management practices?

Thank you, Hon. Speaker.

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**Hon. Speaker:** That Question will be replied to before the Departmental Committee on Agriculture and Livestock.

Next is by the Member for Kiambu County.

*Question No. 414/2021*

RELIEF FOOD PROGRAMME IN KIAMBU COUNTY

**Hon. Speaker:** You do not have a card?

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): I have, Hon. Speaker.

**Hon. Speaker:** Why not press the intervention button? Yes, that one.

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Devolution the following Question:

- (i) What is the total amount of relief food that has been allocated to the vulnerable population including persons with disabilities in Kiambu County from May 2020 to date?
- (ii) Could the Cabinet Secretary explain the criteria used by the Ministry to select the beneficiaries of the relief food programme?
- (iii) What measures has the Ministry put in place to cushion the vulnerable population including persons with disabilities in Kiambu County from the effects of the COVID-19 Pandemic, famine and drought being experienced in most parts of the Country?

**Hon. Speaker:** That Question will be replied to before the Departmental Committee on Administration and National Security. Last Question is by the Member for Endebess, Hon. Pukose.

*Question No.415/2021*

BENEFICIARIES OF RELIEF FOOD IN ENDEBESS

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Devolution the following Question:

- (i) Could the Cabinet Secretary clarify whether 300 bags of rice, which were part of relief food dispatched *vide* letter Ref No: MDP/SDSP/9/11Vol.1(37), dated 11<sup>th</sup> May 2020 addressed to the Deputy County Commissioner, Endebess and copied to the area Member of Parliament for Endebess Constituency, were delivered and distributed to the intended beneficiaries?
- (ii) Could the Cabinet Secretary provide a list of all beneficiaries of the said relief food?
- (iii) Could the Cabinet Secretary provide a breakdown of all the relief food that was distributed in Trans Nzoia County in 2020 indicating its estimated cost, details of all beneficiaries in the County indicating their sub-locations, locations and sub-counties?

**Hon. Speaker:** That Question will be replied to before the Departmental Committee on Administration and National Security as well.

The next segment is Request for Statements; Hon. Duale.

**REQUESTS FOR STATEMENTS**

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## STATUS OF PUBLIC DEBT/ALLOCATION FOR DEVELOPMENT PROGRAMMES

**Hon. A.B. Duale** (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request a Statement from the Chairperson of the Budget and Appropriations Committee regarding the status of public debt in Kenya and the national Government's budgetary allocations for development programmes per county from financial years 2013/2014; 2014/2015; 2015/2016; 2016/2017; 2017/2018; 2018/2019; 2019/2020; 2020/2021 and 2021/2022.

According to The National Treasury, the nominal public debt stock stood at Ksh7.74 trillion, which is equivalent to 69.07 per cent of Gross Domestic Product (GDP) as at the end of June 2021. This comprises Kshs4.04 trillion external debt and Kshs3.70 trillion domestic debt attracting a punitive high average interest rate of 11 per cent, per annum. It is notable that the guaranteed debt stood at Kshs158.78 billion mainly to Kenya Airways, Kenya Ports Authority, Kenya Power and Lighting Company, Kenya Electricity Generation Company Plc Ltd and Kenya Railways Corporation.

The total debt stock has risen from approximately Kshs2.1 trillion in 2013 to Kshs7.74 trillion presenting a total nominal growth of Kshs5.64 trillion or accumulative growth of 368 per cent representing a total nominal growth of Kshs5.64 trillion. Further, as at the end of June 2021, the total loan commitments - disbursed and undisbursed debts - stood at Kshs9.04 trillion. The total loan commitments, therefore, exceed the public debt ceiling of Kshs9 trillion as approved by Parliament and, more so, this House in 2019, contrary to Article 211 of the Constitution as read together with Section 50(2) of the Public Finance Management Act, 2012, meaning that the Minister for National Treasury has borrowed outside the law and the approval of this House.

The huge loan commitments have been due to borrowing by the national Government to repay loans for recurrent operations, including salaries and payment of loan commitment fees. The use of borrowing to finance recurrent operations violates the provisions of Article 201 of the Constitution and Section 15(2)(c) of the Public Finance Management Act, 2012. More so, the inefficiencies in drawdown borrowing by the implementing Government agencies have led to the loss of public funds, imprudent and irresponsible use of public money contrary to the principle of public finance as stipulated in Article 201(d) of the Constitution.

The development expenditure by the national Government is to promote an equitable development of the country, including making special provisions for marginalised groups and areas. However, there is no approved criterion in the allocation of development expenditure programmes in various counties. Today, the public debt per person stands at Ksh165,000 regardless of which part of Kenya you live in and so, each Kenyan is paying Kshs156,000 regardless of whether you live in the North, Rift, Central or any other part of the country. All of us are paying this debt.

Hon. Speaker, I remember you ordering the Budget and Appropriations Committee to have a sub-committee on debt management. It is against this background that I seek a Statement from the Budget and Appropriations Committee to address the following:

- (i) Could the Chairperson state the actual total loan commitments (disbursed and undisbursed debts) to date, including a breakdown by lender and terms of repayment?

We want to know how much we are getting from China and other bilateral organisations.

(ii) What is the total public guaranteed debt including dormant loans by State owned enterprises and action taken by the National Treasury for recoveries?

(iii) Could the Chairperson provide a list of all Ministries, Departments and Agencies that failed to drawdown their loan balances on time leading to utilisation of public funds for payment of commitment fees totaling to Kshs1,657,544,758.23 as of 30<sup>th</sup> June 2021?

(iv) Could the Chairperson explain steps taken by the National Treasury for the imprudent and irresponsible use of public money contrary to the principle of public finance in Article 201(d) of the Constitution and section 15(2)(c) of the Public Finance Management Act, 2012?

(v) What is the total national Government's budgetary allocations and actual expenditure for development programmes per county for the financial years 2013/2014; 2014/2015; 2015/2016; 2016/2017; 2017/2018; 2018/2019; 2019/2020; 2020/2021 and 2021/2022, including the list of development projects and costs incurred by the national Government?

Hon. Speaker, that will tell us whether everyone who pays for this debt also gets the benefit of the loans.

(vi) Could the Chairperson explain the criteria used by the National Treasury in the allocations for development expenditure programmes to various regions of the country from Financial Year 2013/2014 to current Financial Year 2021/2022?

Hon. Speaker, outside this request for Statement, so that you can give direction, I raised the matter of the Independent Power Producers (IPPs) and you directed the Chair of the Departmental Committee on Energy to conduct an inquiry. Since then, as the Committee is conducting inquiry, so many things have been done by the Executive.

First, the same evening that I raised this matter, the President formed a taskforce to deal with it. Secondly, once the taskforce gave in the Report, one of the recommendations was the suspension of the negotiation of the IPPs. Many reshuffles were done within that Ministry and, unfortunately, the Government has now purportedly taken over the Kenya Power and Lighting Company (KPLC). However, it cannot take over KPLC, which is a listed company in the Stock Exchange.

Hon. Speaker, I want to ask you to direct the Committee to give a status report to inform us if they are taking too long. The House cannot act in vain. The Committee has called all the IPPs and it is very good that the Executive seems to be trying to fix the problem.

However, the elephant in the room in this matter is: The disclosure of the owners of those IPPs. Two, since the IPPs began, each one gets close to Kshs200 million per month. One company called Rabai Power Plant received in the Financial Year 2019/2020, Kshs2.4 billion for not supplying power.

Hon. Speaker, this is a matter of great national importance. We need to tell the Departmental Committee on Energy that every time we raise a matter here, the Executive rushes to sanitise the problem.

Therefore, I really want you to ask the Committee to give us a status report of that inquiry which is now over two months old.

**Hon. Speaker:** The Chair, Budget and Appropriations Committee. Has he forgotten the Calendar of Parliament? Does he have a Vice? Who is the Vice-Chair of the Budget and Appropriations Committee?

**An Hon. Member:** Hon. Shinali?

**Hon. Speaker:** Who? Shinali?

*(Laughter)*

Majority Whip, you are a member of the Budget and Appropriations Committee. Can you stand in for them?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. The matter raised by Hon. Duale has a lot of statistics and I want to respond both as a person who understands numbers and as the Majority Whip. That is a detailed Statement and it requires serious answers. It will enlighten the country and the public on where we stand because we are paying and every Kenyan is going to pay. In line with the Calendar of the House, we will be going on recess next week and I would want to request Hon. Duale to allow the Committee to come with a Statement the first week after recess.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. The Chairman, Departmental Committee on Energy. The Member for Nakuru Town East has become a very rare face here these days. Does he have a deputy? Who is the Vice-Chair? Hon. Duale, you are in trouble. It seems like you are seeking Statements from the rocks. Certainly, Hon. Sankok does not sit in the Departmental Committee on Energy.

Majority Whip, can you convey the message to Hon. Gikaria? We actually need a status report because they purported to carry out some hearings at some point. Let them give us an update. They cannot keep everything in the fridge. Let them give a progress report next week on Wednesday.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Much obliged, Hon. Speaker.

**Hon. Speaker:** The next request is by the Member for Mvita, Hon. Abdullswamad Sherrif.

The Member for Mvita has a request for a Statement, but he has chosen not to be present and so his request is dropped.

*(Request for Statement by Hon. Abdullswamad Nassir dropped)*

No one else can do that. Even if you wanted to do that, it must be officially communicated. Hon. Members, the reason I do not allow a Member to just rise in their place and claim to ask a Question or to seek a Statement on behalf of another Member without officially communicating to the Speaker is to avoid a situation where a Member will later on come and say that they never told the person to do so. We do not want to put the Speaker in an embarrassing situation. I do not have a way of knowing who has communicated with who and in which manner and environment. This is because an environment where communication happens is very different and the Member could come and say that they were under duress.

**Hon. Josphat Kabinga** (Mwea, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Kabinga, what is your point of order?

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Speaker, you have just given a ruling on a Statement to be responded to by Wednesday next week, which is a holiday. This year's Mashujaa Day will be celebrated in Mwea. I take this opportunity to welcome Members to see how green the rice growing region is. Thank you.

**Hon. Speaker:** The Member for Mwea is notifying us where this year's Mashujaa Day celebrations will be held. I suspect he may not be the one making official invitations because I have seen a list of those who have been invited and it does not include all Members. Member for

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Mwea, if all Members turn up, then it is up to you to show them where they will be accommodated. This is because some other people are the ones doing invitations. I know you do not mind visitors and like them.

**Hon. Josphat Kabinga** (Mwea, JP): Hon. Speaker, I wanted to clarify that there are official invitations to the stadium and there are informal invitations to our facilities like the good hotels we have. People can book themselves in for a day or two and, as you know, our people are the best in this Continent.

**Hon. Speaker:** Then, I think the Chairman of the Members Service and Facilities Committee should lead everybody else because Hon. Kabinga is inviting people to go and sample facilities.

Member for Nakuru Town East who is the Chair of the Departmental Committee on Energy, the House sits at 2.30 p.m. It is now 12 minutes past 3.00pm. You are required to give an update on the Request for a Statement by Hon. Duale.

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Speaker, I am sorry for coming late. You had looked for me earlier on and I am sorry I was not here on time. My apologies for coming late.

Hon. Speaker, it is true you directed that we do a public inquiry, which we did and are done with all the 19 Independent Power Producers (IPPs) and also the Solicitor-General. The only frustration we got and have resolved as per the Standing Orders is to summon the National Treasury because it also plays a part in these agreements. In fact, we were to meet with them yesterday but, again, they wrote a third letter asking for the meeting to be rescheduled. So, in our Committee meeting tomorrow we have resolved to summon the National Treasury.

Two weeks ago, we were to retreat and write a report but, again, the National Treasury failed to show up. But we are done with all the 19 IPPs and all other people involved, including the Ministry. The National Treasury is the only one that has not given evidence and so far, has refused to come. The first time they asked to be given two weeks. Then they asked for an additional two weeks which they were given and yesterday, they said they are not available. That is why we have not completed the report. By tomorrow, we are hoping to summon them to appear before us so that we can finalise. We are very sorry for having taken quite some time to finalise on this.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members and Committee Chairs, it cannot be that people are invited to appear and they do not. Proceed to apply the law on those who fail, refuse or neglect to appear. Even Committee Members have other things to do. So, when they fail to appear, just apply the law and when it becomes extreme, report it here and we will deal with them.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** Hon. Ichung'wah, not on this one because you are not involved.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Speaker, thank you for your indulgence. I honestly sympathise with Hon. Gikaria, the Chair of the Departmental Committee on Energy. As the Majority Whip has said, if you listened to the issues Hon. Duale has raised in his Request for a Statement today, some are very weighty matters. I can tell you having served as the Chair of the Budget and Appropriations Committee over the years that Hon. Duale is requesting for the development expenditure. My good friend Dr. Makali will bear me witness that what the Leader of the Majority Party emeritus is asking for is opening a Pandora's Box.

The fact is that the National Treasury is unable to appear before the Departmental Committee on Energy. I want to beg in line with your view, the Committee moves to apply whatever measures needed legally to get the Cabinet Secretary, National Treasury to appear before

them. The issue of IPPs as mentioned by Leader of the Majority Party is a scandalous process that has happened in this country close to over 30 years. More importantly, since they are yet to meet the National Treasury, I want to request the Chair of the Departmental Committee to tie that up with what Hon. Duale has called the takeover. Indeed, this was described as making Kenya Power a special project.

They should ask the National Treasury why when Uchumi Supermarket was taken over by the Government as a special project, trading of its shares in the Nairobi Stock Exchange was suspended. We want the Chair of the Departmental Committee on Energy to establish this from the National Treasury because an inter-ministerial committee involving the National Treasury has been formed to deal with the energy issues and IPPs. Have they suspended trading of Kenya Power shares at the NSE? It is important we protect, not just our national assets, but also private equity and it is a fact that Kenya Power has private equity shareholders.

We would also want the Departmental Committee on Energy to get from the CS, National Treasury, who are the majority private equity shareholders in Kenya Power. So, even as we expend public resources to rescue Kenya Power, we should know the other hidden beneficiaries of this process. So, we do not use Government to rescue a company listed at the NSE. Maybe, with trading ongoing, nothing stops me today, from walking to the NSE and buying Kenya Power shares at about Ksh1 knowing that the Government is using public money to rescue this firm. Then, maybe, in another six months as a turn-around, I cash in.

Hon. Speaker, these are very weighty issues to do with how we manage and govern issues of public assets and parastatals. Therefore, I want to agree with you that the CS, National Treasury must take the issues of Kenya Power and IPPs more seriously than he is doing. Also, the issues raised by Hon. Duale today are very weighty and the CS, National Treasury cannot afford to take the House for granted.

**Hon. Speaker:** Very well. I am sure Hon. Gikaria has heard that. Do you want to say something and give us a proper update by Tuesday next week?

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker. I hear you and also what Hon. Ichung'wah has said. On matters audit, my Committee had requested for a special audit on Loiyangalani-Suswa Transmission Line. I am yet to get a report from Public Investments Committee to understand the outcome of that. As we speak, we still owe some individuals claims amounting to almost Kshs5 billion. We have directed that no money should be paid to that contractor or line until a special audit has been done by the Auditor-General. It took almost seven months or one year for us to get a special audit.

**Hon. Speaker:** When Committees used to do what they are supposed to do, if you order for a special audit, you do not give the Auditor-General an open cheque. Hon. Gikaria, a special audit should be conducted within a period of either 30 days or 45 days, and not two years so that, if they do not, then you report them here. The Auditor-General is an officer of Parliament. That office reports to Parliament. In fact, it is a technical arm of Parliament as far as financial matters, especially those to do with expenditure of public resources, are concerned. You can ask Hon. Wamunyinyi and he will tell you that when he used to chair that Committee, that is what used to happen. You do not give orders which are open-ended. A special audit must be conducted within a specified period of time.

Hon. Duale also took leave because as this was happening, I saw the Member for Ikolomani, whom all of you shouted to be the Vice-Chair of the Budget and Appropriations Committee, stroll into the House almost one hour after the House started. The Member for Ikolomani, Hon. Shinali, the House starts at 2.30 p.m. just in case you may have forgotten. There

was a request from Hon. Duale. Get in touch with the Whip of the Majority Party. He will brief you because it will take a long time if we begin explaining to you now. Next is a general statement by Hon. Dennitah Ghati.

## GENERAL STATEMENT

### HOSTING OF INAUGURAL COMMONWEALTH PARLIAMENTARIANS WITH DISABILITIES (AFRICA REGION) CONFERENCE

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): Hon. Speaker, I wish to issue a General Statement concerning the Inaugural Commonwealth Parliamentarians with Disabilities (Africa Region) Conference to be held on 14<sup>th</sup> to 18<sup>th</sup> October 2021 in Nairobi, Kenya.

Hon. Speaker, on 21<sup>st</sup> September 2021, you communicated to the House my election as Chairperson of the Commonwealth Parliamentarians with Disabilities Network and I was humbled by the congratulatory messages and offers of support from my honourable colleagues. The Commonwealth Parliamentarians with Disabilities Network is one of the special programmes of the Commonwealth Parliamentarians Association (CPA) and was established to facilitate activities and programmes geared towards championing and increasing representation of persons with disabilities in Commonwealth parliaments. Further, the Commonwealth Parliamentarians with Disabilities Network seeks to develop mechanisms for mainstreaming disability considerations in all CPA activities and programmes. As Chairperson of the Commonwealth Parliamentarians with Disabilities Network, it is my pleasure to inform the House that the Parliament of Kenya is scheduled to host the Inaugural Commonwealth Parliamentarians with Disabilities (Africa Region) Conference from 14<sup>th</sup> to 18<sup>th</sup> October 2021 at the Nairobi Serena Hotel under the theme “Mainstreaming Disability in Legislative Agenda in the 21<sup>st</sup> Century”.

The main objective of the Conference is to create a platform for Members of Parliament with disabilities within the Africa Region to discuss issues of mutual concern and to chart a path to mainstreaming disability into the activities of the regional association and beyond.

The Conference is expected to bring together parliamentarians with disabilities from 12 countries in the Commonwealth (Africa Region) including the hosts Kenya, Tanzania, Uganda, Rwanda, Nigeria, Sierra Leone, Botswana, Zambia, Lesotho, Namibia, South Africa and Mozambique. Delegates will participate physically and virtually with key speakers from both the public and private sectors including the CPA International, the National Council for Persons with Disabilities, the National Gender and Equality Commission, the Office of the Registrar of Political Parties, among other partners.

Hon. Speaker, as we embark on this very important meeting, I wish to thank you for your unwavering support to this course both here in Parliament and at the regional level as the Chairperson of the CPA Africa Exco. I also wish to take this opportunity to invite the Hon. Deputy Speaker to the conference and particularly to host the welcome dinner for the conference participants.

Hon. Deputy Speaker, the CPA fraternity values your wits and parliamentary anecdotes and will be most grateful if you could find time to be with us.

Last but not least, I would also like to thank my colleagues and the general CPA fraternity for standing with us in this endeavour as we seek to mainstream disability considerations in the legislative agenda.

I thank you, Hon. Speaker.

**Hon. Speaker:** I suspect the Deputy Speaker may not have heard that special invitation to come and host the welcoming dinner on Thursday evening. Is that so, Hon. Dennitah? Is the invitation for Thursday evening?

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): The invitation is for Friday.

**Hon. Speaker:** To the Deputy Speaker?

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): Hon. Speaker, the Deputy Speaker is invited to host the dinner.

**Hon. Speaker:** Hon. Rozaah Buyu, do not distract the Deputy Speaker. He has to take note that it is on Friday evening. He is supposed to host that dinner. I am now sure that he has heard. Next Order!

## BILLS

### *First Readings*

THE CHILDREN BILL

THE COUNTY GOVERNMENTS GRANTS BILL

THE BASIC EDUCATION (AMENDMENT) BILL

THE MENTAL HEALTH (AMENDMENT) BILL

THE COUNTY LICENCING (UNIFORM PROCEDURES) BILL

THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL

*(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)*

## MOTIONS

**Hon. Speaker:** Who is moving this Motion? Hon. Wangwe, the Majority Whip?

### FURTHER CHANGES TO COMMITTEE MEMBERSHIP

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. On behalf of the Chair, Committee on Selection, I beg to move the following Motion:

THAT, further to the resolutions of the House of Tuesday, 5<sup>th</sup> December 2017, Wednesday 15<sup>th</sup> July, 2020, 11<sup>th</sup> February 2021 and 4<sup>th</sup> May, 2021 appointing Members to various Committees and pursuant to the provisions of Standing Order 173, this House further approves the appointment of the following Members to the respective Committees specified hereunder—

- (i) The Hon. John Munene Wambugu, MP, to move from the Justice and Legal Affairs Committee, to the Departmental Committee on Administration and National Security;

- (ii) The Hon. Daniel Kipkosgei Rono, MP, to be appointed to the Justice and Legal Affairs Committee;
- (iii) The Hon. Gathoni Wamuchomba, MP, to move from the Departmental Committee on Transport, Public Works and Housing to the Departmental Committee on Agriculture and Livestock;
- (iv) The Hon. Moses Malulu Injendi, MP, to move from the Committee on Regional Integration to the Departmental Committee on Transport, Public Works and Housing;
- (v) The Hon. Benjamin Gathiru Mwangi, MP, to move from the Select Committee on National Cohesion and Equal Opportunity to the Committee on Regional Integration;
- (vi) The Hon. George Ndung'u Koimburi, MP, to be appointed to the Select Committee on National Cohesion and Equal Opportunity;
- (vii) The Hon. John Njuguna Wanjiku, MP, to be appointed to the Select Committee on Implementation;
- (viii) The Hon. Mohammed Lokiru Ali, MP, to move from the Departmental Committee on Energy to the Departmental Committee on Education and Research; and,
- (ix) The Hon. Pavel Oimeke, MP, to be appointed to the Departmental Committee on Energy.

Hon. Speaker, the Chairperson of the Committee on Selection is not in the country and he has asked that I step in for him, which I hereby do. These changes were necessitated to realign committees. Some of them were to be realigned because of Standing Order No.177 which provides for a maximum number of committee members. A committee should not have more than 23 Members and in some committees, Members were more than 23. We therefore had to realign one or two Members. At the same time, we realigned some Members because of the requests that were made.

We also looked at the issues of professionalism. Most of the times, we have seen in this House that some Members work well based on their backgrounds. We for instance, considered the Member for Seme, Hon. (Dr). Nyikal serving better in the Departmental Committee on Health. He plays a key role in that Committee. We put Hon. Oimeke in the Departmental Committee on Energy because of his background in the area of energy. We felt that it is important we allow him to serve in that Committee.

With that in mind, I wish to request Hon. John Mbadi, the Leader of the Minority Party to second.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I rise to second this Motion which is basically realigning or assigning Members to other new assignments. There is no Member who has been de-whipped or removed completely from a Committee as it has previously happened in certain instances.

From my side, the Minority side, there are only two changes, where we have moved, Hon. Ali from the Departmental Committee on Energy to Departmental Committee on Education and Research and placed Hon. Oimeke who is, let me say, a new Member in the House. He has not been assigned any committee before. So, the MP for Bonchari is now going to have a substantive Committee where he is going to sit. I want to apologise to him and the other new Members from the Jubilee side that it took us a little longer to assign them committees. This is largely because we

were trying to juggle around and find the best placement for these Members so that no one complains.

So, with those few remarks, I second the Motion.

*(Question proposed)*

**Hon. Speaker:** Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. I just want to lend my voice to the changes that are being made to our departmental and select committees. I have listened to the reasons being given by both the Whip and the Leader of the Minority Party. Whereas I agree with the Leader of the Minority Party that nobody from the Minority Party is being de-whipped *per se*, the case is not the same on the Majority side. If you look at the people being moved around, you can tell that the real intent by the Majority Party is to de-whip Hon. Gathoni Wamuchomba from being the Vice-Chair of the Departmental Committee on Transport, Public Works and Housing and that is why she is being moved from the Committee. Whereas it is within the rights of any parliamentary party to move Members, being a Member of the Members' Welfare Committee, we have a role in ensuring that we protect parliamentary democracy. We must stand out as much as my lone voice this afternoon may not change this list.

I have particular concerns with the movements within the Majority Party. When we move Hon. John Munene Wambugu to the Departmental Committee on Administration and National Security, we must ensure that our Committees reflect regional balance and that there is representation across the country. If I am not wrong, the Vice-Chair of that Committee is the Member for Mwea, who is just walking in. Maybe he is just a Member of the Committee. The Vice-Chair was changed to Hon. Gedi. However, if you look at the representation from Kirinyaga County, for instance, considering that the Principal Secretary in the Ministry of Interior and Coordination of National Government comes from Kirinyaga County, we must ask whether if we flood this Committee with Members from Kirinyaga County, we are not...

**Hon. Josphat Kabinga** (Mwea, JP): *(Spoke off-record)*

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Speaker, please, protect me from the Member for Mwea, who is just shouting without knowing what I am talking about. He should have the patience to just sit, listen and then respond in a mature way. We do not shout in this House. I understand he is a new Member of Parliament, but you may advise him. I have mentioned him, therefore, he has the right to respond and not shout from behind me.

We must ensure that our Committees also reflect regional balance and offer meaningful and actual oversight over Government ministries and departments.

Allow me to also go to the Minority Party in a small way. Hon. Pavel Oimeke is being appointed to the Departmental Committee on Energy. We had a sitting yesterday and you remember that the matter was raised by the Leader of the Minority Party. One of the arguments that was advanced by many Members from the Minority Party was that the Member for Saku could not table a Petition in the House and then seek to amend it. The issue of conflict of interest was very well-articulated in the House. We must now throw it back to the Leader of the Minority Party and the Minority Party.

Before his election as a Member of Parliament, Hon Pavel Oimeke served in the Energy and Petroleum Regulatory Authority or a similar body within the energy sector. That is the body in charge of regulating the pricing structure of petroleum products within the energy sector. He also has an active case in court, which I do not want to dwell on. We must ask ourselves the

question: Having served within the energy sector, would Hon. Pavel Oimeke be the most perfect person to oversee the same sector? Will there not be a conflict of interest in having him sit on the Departmental Committee on Energy? I am just throwing this out there to jog our minds.

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

**Hon. Kimani Ichung'wah** (Kikuyu, JP): That one is allowed.

**Hon. John Mbadi** (Suba South, ODM): Hon. Speaker, I know Hon. Kimani Ichung'wah is assuming his new role of opposition to Government, but he should do it within our Standing Orders and with respect to other Members of Parliament. As far as I am concerned, there is no conflict of interest regarding Hon. Oimeke coming into the Departmental Committee on Energy, because he no longer works in the energy sector. He is now a Member of Parliament. All of us have worked in various places before.

By the way, departmental committees oversee continuous activities of ministries, not the audited accounts, which is the work of the PIC and the Public Accounts Committee (PAC). If he was in one of the watchdog committees, you could say that he may land on some information touching on his work during those days. Going forward, he will oversee the Ministry and parastatals within the Ministry as well as the programmes, operations and activities. I do not see any conflict of interest.

I think Hon. Kimani Ichung'wah is out of order to discuss a Member. The matter has no relationship with the Member being in the Committee. Hon. Kimani Ichung'wah has worked elsewhere before. I have worked in the University of Nairobi (UoN). Who says I cannot sit on the Departmental Committee on Education and Research? Who said I cannot sit on the PIC? As a matter of fact, I sat on the PIC and the University of Nairobi appeared before my Committee in the 10<sup>th</sup> Parliament. I had served in the finance department of that University for seven years. Let us respect other Members.

The matters in court will be canvassed there. In fact, if Hon. Kimani Ichung'wah had a problem with a Member of Parliament who has a case in court being in this House, he knows what he should have done. There are other examples. Hon. Waluke sits on PAC, and has an active matter in court. Let us not be selective in dealing with other Members and trying to scandalise them.

Hon. Kimani Ichung'wah is out of order. Let him discuss the list and tell us what he feels. For instance, the case he had highlighted of Hon. Wamuchomba could make sense, and this House could listen to him. It is not fair for him to digress and start bringing in other extraneous matters.

**Hon. Speaker:** The Majority Whip also seems to want to weigh in.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. Maybe with his permission, I just want to inform Hon. Ichung'wah that he referred to Hon. Rasso regarding yesterday's issue. Hon. Rasso is a Colonel. He is a long-serving military officer. I would like to report to this House that he is one of the best Members of the Departmental Committee on Defence and Foreign Relations having served in the military. He is now going against Hon. Oimeke, who has been in the energy sector and is now joining the Departmental Committee on Energy. I believe it is double speak.

**Hon. Speaker:** Member for Mwea, you appear to be agitated.

**Hon. Josphat Kabinga** (Mwea, JP): Yes, I am, Hon. Speaker. I think my brother, Hon. Ichung'wah, has a bad habit of always referring to us as first-timers in this House. He assumes that some of us have nothing to say in this House.

Hon. Ichung'wah wrongly referred to me as the Vice-Chair of the Departmental Committee on Administration and National Security. He went ahead and said that we have flooded the security sector in this country. I want to state clearly that there is only one proposed name in this House.

There is no other Member from Kirinyaga in the Departmental Committee on Administration and National Security. If Hon. Ichung'wah has a problem with Kirinyaga, as a county, let us square it somewhere else and not in the House.

He knows very well that he comes from a county that has representation in various committees. He knows very well that when he was a Chairman, there were many chairpersons from Kiambu and nobody complained. Now that a small change for Kirinyaga is being proposed, he has problems with Kirinyaga. We shall square that outside somewhere else. Let him not bring it here.

Further, let him not continue referring to us as first-timers. We have been here for four years doing our work and some of us doing it even much better than he did when he was the chairman.

**Hon. Speaker:** Hon. Wambugu was mentioned. Let me also give him a chance to say something before we proceed.

**Hon. Munene Wambugu** (Kirinyaga Central, JP): Thank you, Hon. Speaker, for giving me this chance to also add my voice.

First of all, I take exception to Hon. Ichung'wah saying that we are populating the Departmental Committee on Administration and National Security. In fact, previously, this was a disservice to the people of Kirinyaga because I was in the Departmental Committee on Justice and Legal Affairs and my neighbour, Hon. Gichimu, was in the same Committee. So, we had two Members from the same county in the same committee and he never complained then. I do not know why it is an issue now that I have been taken to the Departmental Committee on Administration and National Security, where my brother was. I think he only wanted to mention the name of Principal Secretary Kibicho, who comes from Kirinyaga County. The fact that PS Kibicho comes from Kirinyaga County does not mean that he made me a Member of Parliament. I am here by my own right. I am entitled and I have the ability to serve in any Committee of this House. If Hon. Ichung'wah is obsessed with PS Kibicho and Kirinyaga, he might as well say it.

**Hon. Speaker:** We can now go to debating the Motion. Hon. Ichung'wah, you only have two minutes.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Thank you, Hon. Speaker. While I may not have the time to respond to some of these other issues, it is good to advise the Member for Mwea that I have tremendous respect for all Members of Parliament including first-timers. However, that respect must be two-way. When Members are on their feet, you do not shout at them. You should behave in a mature manner like the Vice-Chairperson of the Departmental Committee on Administration and National Security who has advised that the Member for Mwea was, indeed, moved from that Committee to another one.

The question I am raising is the perception we create as a House, where there is no regional balance and where we use the movement within committees to de-whip Members. I mentioned the Majority Party and you can see they are even concerned to respond to that. They are responding to the issue of Hon. Oimeke. I want to tell Hon. John Mbadi that Hon. Oimeke has a right to serve in that Committee, but we must ask ourselves the moral question. Given that he has a case relating to that energy sector and having served immediately before his election as a Member of Parliament in that parastatal, would he offer meaningful oversight?

In my view, the most important thing is the misuse by the Majority Party of the movements within Committees to de-whip Members based on their political affiliations. Today, the Chair and the Vice-Chairperson of the Budget and Appropriation Committee were nowhere to be seen during the Questions segment because they were busy out there with other issues. As I contribute to this



debate, you can see the Chair, Budget and Appropriation Committee is walking in after finishing his business at the Serena Hotel.

As a lone voice and for the sake of our parliamentary democracy, I oppose this list.

**Hon. Speaker:** Let us have the Member for Nyando.

*(Loud consultations)*

Hon. Members, remember that you can only reject the entire list. Those are our rules.  
Hon. Okelo.

**Hon. Jared Okelo** (Nyando, ODM): Thank you very much, Hon. Speaker. I think longevity in this House creates a semblance of order. I really relish Hon. Jimmy Angwenyi, Hon. Adan Keynan and Hon. (Dr.) Naomi Shaban. They are people who have been in this House for long, but they treat new comers with a lot of respect and not the disdain that my friend, Hon. Ichung'wah, continues to exhibit on us.

I remember that you gave a ruling here last year when we brought our friend, Hon. David Ochieng' on the chopping board, and we were going for his blood because we thought he was not aligned to our persuasion. In your ruling, you said that every individual in this House, regardless of their political persuasion, has a right to be in a Committee. That really deflated us. I have believed, since day one, that Committees in this House are on a linear position and there is no Committee that is more superior than the other. When we make noises about the reorientation of political parties to their Members from one Committee to another, I do not think there is any need for us to be on top of our voices. Otherwise, we are going to belittle certain Committees to the detriment of their performance. I believe we are fine, equal and all Committees serve the interest of the Kenyan people.

Hon. Speaker, for those of us who are aligned to parties, we serve in Committees at the pleasure of those political parties. Therefore, they have the latitude to change Members as and when they wish to do so. Unless someone does not want to go by the dictates of political parties, then you can come to this House as an independent Member, where you can be in a Committee forever.

Finally, as I support this Motion, it will be incumbent upon all of us to have absolute respect for one another. We should not make statements that have the potential to create divisions. We want to move. We have less than a year in this House and new Members will be coming in and I will, of course, be joining them. It is, however, important that when we make pronouncements in this House, we must respect every person without mentioning names in a manner that belittles them. This is a national House and the media is here capturing our transactions live. When a Member rises to belittle the other, then you can only imagine what happens out there in the eyes of our electorate, who hold us so dearly and so high.

Thank you for this opportunity.

**Hon. Speaker:** Nominee 001.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Speaker. First of all, I am a Member of the Committee on Selection. We met and all the changes that were made were well conversed.

Some people pretend to know English more than us. I must also confirm that I am the prefect of all the first-timers. We are the majority at 70 per cent. In any case, Hon, Ichung'wah should talk to us because we are the majority in this House. Being their prefect, I do not want anyone to demean any of us because we are here legally. In fact, some of us have been more active

than those who have stayed here for long. I do not know whether it is because they have grown weary.

Hon. Ichung'wah raised a very pertinent issue about the perception that is created out there. When it comes to Hon. Wamuchomba's issue, it is in public domain that she just visited Karen and supported the Deputy President of this Republic. She has been moved from a Committee where she served as a Vice-Chairperson and that, in itself, amounts to being de-whipped. We have no problem with that because the party has all the powers to move a Member from one Committee to another one.

I still hold the world record for having served for the shortest time ever in the Select Committee on National Cohesion and Equal Opportunity. I served for only two months and 13 days, but I did not complain because that is a world record held by none other than Nominee 001. I am proud of my record. Hon. Wamuchomba should be proud because at the end of the day, our Standing Orders give the parties all the powers.

During a meeting of the Committee on Selection when the proposals of these movements to committees were made, I supported them despite the fact that I belong to the hustler movement, and I saw it as de-whipping of Hon. Wamuchomba. We said that it is their time and we will have ours. Our time is coming. We will enjoy the Committees that we will be moved to. We will also enjoy the de-whipping. We have no problem with it because there are people who have the luxury of that time. We will also have our own time and we will de-whip them. Hon. Mbadi is a very good friend of mine, and I will probably consider him when we form the next government. I will not leave him outside.

Hon. Speaker, I support and urge all the Members to support the proposed movement from one Committee to another one. Let us support the de-whipping and the promotions so that we can move forward. Elections are just ten months from now and so, there is no problem. The *Mzee* of the House has reminded me that elections are in nine months' time. I did not want to sound like I want to leave Parliament. I also want to stay a bit longer, but we support.

Hon. Mbadi's proposed changes are good. There is nobody he has de-whipped and there is nobody he has promoted. He is very fair in what he does as the Leader of the Minority Party. We respect him. I hope in the next Parliament, he will be promoted to a Cabinet Secretary. I will be the Leader of the Majority Party.

Thank you very much, I support you.

Hon. Speaker, thank you very much for being here for us. I know that every change comes through you. Even though you are very busy in your presidential campaign, you have always made sure that you attend to our needs. I remember when I was de-whipped, I came to you and told you that it was okay. You are very considerate of me despite the fact that you are very busy out there campaigning. Most of these Members, especially the ones being referred to as new Members like Hon. Kabinga, are your real supporters including some of us. You have 70 per cent of the House because most Members support you in your presidential bid.

Thank you very much. Even *Mzee wa* House supports you. Thank you very much, Hon. Speaker, our future President.

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

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker. This is a straight forward Motion. I am here to support it. More importantly, when it comes to placing Members in Committees, it adds a lot of value, as Hon. Wangwe said, if the job description matches your qualification. For instance, if somebody is going to the energy sector and he has

more information as far as matters energy are concerned, he will add a lot of value in the Committee.

It is important to note that as they place Members in Committees, there must be the aspect of equity in the sense of political parties. We raised this matter last time, that whereas there are Members who are Members of one Committee, we have others with five Committees. They know themselves. Others are in four Committees. I find this greedy, because as we go towards elections, where will they get time to add value in the Committees? Let them ask themselves that. However greedy they are, if they are in four Committees, how will they add any value to them? That is the question we should be asking. From our conscience, that is very important. We support that people who have certain qualifications should be placed in a Committee where they will add value. Sometimes there is the aspect of interest. Otherwise, this is a straight forward Motion. I do not see why we should dwell much on it. Looking at that situation as it is, for some of us who have been here, towards elections, even getting quorum in Committees is going to be difficult. So, whoever has been de-whipped, I would like to tell them that I was de-whipped from being a Whip, but I became stronger because I got an opportunity to contribute and legislate.

We are all equal here in Parliament. I have seen first-timers who have come out very well in terms of legislative proposals. They have done very well. We have had people who have been here even for four terms, but you would not know if they are doing their fourth term or their first term. Respect should be across the board irrespective of the number of terms a Member has served. The value in contribution should be demonstrated from legislation.

Hon. Speaker, I thank you and support the Motion.

**Hon. Speaker:** Do we need to debate this?

*(Loud consultations)*

**An Hon. Member:** Put the Question!

**Hon. Speaker:** Is it the desire of the House that I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

Next Order.

ADOPTION OF REPORT ON SESSIONAL PAPER NO.1 OF 2021  
ON THE NATIONAL WATER POLICY

**Hon. Speaker:** Hon. Kareke Mbiuki.

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Speaker, I beg to move the following Motion:

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, 4<sup>th</sup> August, 2021 and further approves Sessional Paper No.01 of 2021.

Hon. Speaker, the National Water Policy, 2021, was tabled in the House on 8<sup>th</sup> June 2021, and the Speaker committed it to the Departmental Committee on Environment and Natural Resources for review and report to the House pursuant to the provisions of Standing Order No.127(1). The Paper aims at building on the achievements of the water sector reforms over the

years and moving it to the next level of development in order to contribute to the national goals and realisation of the Sustainable Development Goals (SDGs).

The National Water Policy builds on the successes, challenges and lessons learnt from the previous policy framework, including Sessional Paper No.1 of 1999, Sessional Paper No.10 of 2012, and the provisions of the Kenya Vision 2030 on water conservation and management.

Water plays a significant role in the national development of our country. With respect to socio-economic and development spheres, it is a social and economic good, which is critical for the sustainable development of the country.

In line with the Constitution of Kenya 2010, water is constitutionally linked to human rights since the management of water resources is integrated with human rights to clean drinking water and to reasonable standards of sanitation. There is apparent need by the Government to review the water sector policies to align them to the achievement of the fundamental human rights in accordance with the constitutional provision under the Bill of Rights.

The Sessional Paper on National Water Policy, 2021 forms the basis upon which the national Government and county governments will prepare their policies and strategies to effectively and efficiently discharge their respective mandate on water service delivery.

The development of the National Water Policy 2021, is anchored on the implementation of the various policies, regulatory and legislative frameworks that guide the water sector towards enhancing its role in social and economic development in the country. These policies, regulations and legislative frameworks include the following:

1. The Sessional Paper No.1 of 1965 on African Socialism and its application to planning in Kenya, which identified three development priorities for the country, including ending poverty, ignorance and disease. The Policy underpinned the importance of water through conservation and protection of water sheds from destruction.
2. Sessional Paper No.1 of 1999 on National Policy on Water Resource Management and Development, formulated to promote the sustainable development and management of the water sector through institutional arrangement and financing.
3. The Water Act, 2002, which focuses on the decentralisation of water services and separating water policy formulation from the management of water resources and provision of water and sanitation services.
4. Further to the enactment of the Constitution in 2010, it represented a milestone in the water sector reforms through the introduction of the various human rights that integrated it to the water sector, including the right to clean and healthy environment and the right to reasonable standards of sanitation under Articles 42 and 43 respectively.

Formulation of the Water Policy is a panacea to the threat and challenges facing the sector as it provides contemporary, effective and efficient water resource delivery and sanitation. The policy framework aims to accelerate the reengineering of the water sector by providing clarity on the mandate and consolidates the laws of the various sector actors, including the national Government and county governments.

The development of the Water Policy is informed by new developments in the sector as well as the need to align the sector's legislation to the Constitution of Kenya 2010 and other policies, including the Vision 2030 and review of the Water Act, 2002.

The Committee undertook various public participation exercises in keeping with the Constitution. The Committee conducted public participation pursuant to Article 118(1)(b) of the

Constitution and Standing Order No.127(3), and received written memoranda and oral submissions from the Ministry of Water, Sanitation and Irrigation. The submission by the Ministry acknowledges the need for a structured framework for developments supporting legislation and a regulatory framework for the water sector to maximise resource use and enhance value addition in the implementation of water regulation and management measures. Therefore, the Committee is seized of the proposals in the National Water Policy 2021, and has made its recommendations accordingly.

What does the Policy seek to resolve? The Sessional Paper on the Water Policy purposes to mitigate the challenges and threats facing the water sector by ensuring that coordination and accelerated partnerships are mainstreamed in the management and provision of water resources to enhance protection of watersheds and other catchment areas in the country.

The Policy focuses on critical components of water resource management and the exploration framework that inspires confidence and captures the aspirations of Kenyans and the responsibility of everyone in protecting water catchment areas. The Policy seeks to guide the achievement of sustainable management, development and use of water resources in Kenya. It provides a framework for sustainable management and financing of water resources, water harvesting and storage for equitable, efficient and universal access to water supply and reasonable standards of sanitation for domestic and economic use, as well as the ecosystems' sustenance.

Further, the Policy seeks to align the water sector to the Constitution of Kenya, especially with respect to the establishment of mechanisms to guide intergovernmental and institutional coordination for better delivery of respective functions. Additionally, the Policy seeks to put in place a strengthened implementation framework for effective and efficient delivery, monitoring, evaluation and reporting on the progress of implementation of the Policy, taking into account the fact that the water function is shared between the national Government and county governments.

The Policy proposes to align management and administration of the water sector to the Constitution and addresses inherent water sector challenges which include the following:

- (i) Regulation and management of the water sector;
- (ii) Low access to improved water and sanitation services;
- (iii) Weaknesses in water resource management; and
- (iv) Limitation in water harvesting and storage against the sector target and expectations.

The Committee was also seized of the issues to do with the legal and institutional framework.

This Policy builds on the current legislative framework governing the promotion of water resource management and use in Kenya. In the foregoing, it is important to note that there have been extensive legislative reforms in the water sector geared towards greater efficiency and effectiveness in the management and use of water resources in the country.

Aware that county governments have the mandate to undertake provision of water and sanitation services and to implement specific national Government policies on natural resources and environmental conservation, including soil and water conservation, the Policy will provide a structured engagement with service providers. Chapter 11 of the Constitution and the County Governments Act, 2012, allow the assignment of functions to county governments, whereas Part II of the Fourth Schedule serves to prevent the functions and enhances the resourcing to implement the functions thereof.

In consideration of the Policy, the Committee made the following key observations that are critical to its approval:

- (i) The Policy is focused on improving management and water resource use and enhances generational transfer of benefits through local community participation and private sector involvement.
- (ii) It provides for the mechanism to reduce water conflicts while harnessing the benefits accruing from the water resource collectively.
- (iii) It appreciates the emerging issues of climate change, innovation and technological advancement. That, in effect, promotes the development of adaptability measures to preserve the water resource as a social and economic good.
- (iv) It seeks to align the legislative framework on water resource management and use to the Constitution of Kenya 2010, Vision 2030, international conventions on water and SDGs.
- (v) It provides partnerships and collaborations while adhering to international obligations on the water resource, as well as addressing disparities in water supply and management of sector conflicts and disaster risk reduction.
- (vi) It endeavours to create a pool of resources to support water conservation, management and use through structured funding with a logical strategy in monitoring, review and reporting on progress. Investment and financing remain critical to the success of the progressive achievement of the human right to water and reasonable standard of sanitation as provided for under Articles 42 and 43 of the Constitution.

Having done public participation and made the observations which I have articulated, the Committee made the following recommendations:

- (i) THAT, the House approves Sessional Paper No.1 of 2021 on the National Water Policy thereof without amendment, the enactment of which will reengineer investment and financing requirements of the water sector while enhancing water resource management in the country and guaranteeing minimum levels of sanitation; and,
- (ii) THAT, following the adoption of this Policy by this honourable House, all proposed legislations and regulations on water sector-related matters should be guided by the provisions of the National Water Policy.

I take this opportunity to thank your office, the Office of the Clerk, the Members of the Departmental Committee on Environment and Natural Resources and the entire membership of the House for the support they gave us when we were interrogating this matter.

Having said that, I beg to move and request Hon. Sophia Abdi Noor, the Vice-Chairperson of the Committee, to second the Motion.

**Hon. Speaker:** Let us have Hon. Sophia.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you, Hon. Speaker. I beg to second the Motion.

The National Water Policy, 2021, was tabled in the House on 8<sup>th</sup> June, 2021. This Policy document was committed to the Departmental Committee on Environment and Natural Resources to review and report to the House, pursuant to the provisions of Standing Order No.127(1). The Sessional Paper aims at building on the achievements of the water sector reforms over the years and moving it to the next level of development in order to contribute to the national goals and realisation of SDGs.

When the Committee was dealing with this, we looked at all the challenges that the sector has gone through, including the current challenges that the sector is facing in the northern region.

This will be a very important policy document that will address the current challenges that people are facing in any part of this country, including what is being faced in my own constituency of Ijara.

As I said earlier, the National Water Policy builds on the successes, challenges and lessons learned from previous frameworks that exist in all our documents, including the Kenya Vision 2030. Water plays a very significant and crucial role in the development of our country in respect of social, economic and environmental aspects. It is a social and economic good that is crucial for sustainable development. In line with our Constitution 2010, water is a human right. Being a human right, we need to link water to human rights. Linking human rights to water, then we will align this policy document to the Constitution, specifically Article 43 that critically talks about human rights issues pertaining to water. Clean drinking water is an integral part of human rights and reasonable standards of sustainability.

Therefore, Sessional Paper No.1 of 2021 on the National Water Policy forms the basis upon which county governments will prepare its policies and strategies to discharge their respective mandates within the water services agencies. The development of water policies is an important implementation of various policy regulations and legislation frameworks that will guide the water sector towards enhancing the role of socio-economic development of the country. The policy document will allow partnerships between key stakeholders in trying to advance delivery of water. This will be a tool for monitoring, evaluation and to check on the deliveries and targets that we give ourselves as a country. This policy document will achieve all this in order to have proper management of our water sector, which has a lot of challenges today.

The water policy is to mitigate the threats that we feel today. There are a lot of threats that I mentioned a while ago. The threats we are facing today in northern Kenya, if we had this Policy Paper that clearly defines the roles of...

**Hon. Speaker:** Hon. Sophia Noor, you have one minute to conclude seconding.

**Hon. (Ms.) Sophia Noor** (Ijara, PDR): Thank you so much, Hon. Speaker, for giving me one more minute to conclude. The National Water Policy is purposed to address the challenges and the threats we are facing today as a country. Three quarters of our country's landmass feels threatened. It is suffering because of challenges under the water sector. With this partnership, we are bringing everybody on board. There will be a lot of collaboration and resources being put in one pool. This will address the challenges we are facing today.

I second and thank you very much for giving me the one minute to conclude.

*(Question proposed)*

**Hon. Speaker:** Member for Kisumu.

**Hon. (Ms.) Rozaah Buyu** (Kisumu CWR, ODM): Thank you, Hon. Speaker, for this opportunity.

From the outset, I would like to say that I support the Report from the Committee, of which I am a Member. Indeed, water is life. A lot of the development of our country depends on the availability of water. In the 2010 Constitution, every Kenyan has a right to clean water. This is what the policy seeks to do. It seeks to ensure that every citizen, no matter where they are, have access to clean water. The policy is cognisant of the fact that Kenya is a water-scarce country. Because of scarcity of water, a lot of conflicts arise in various parts of the country. This policy seeks to enhance different mechanisms in which water can be conserved and shared equally.

We know, especially in parts where they experience droughts like in North Eastern, we have had numerous conflicts of neighbours who have otherwise lived well and in peace. However, because of the scarcity of water, they have had to fight and affect the peace of the country. This policy is trying to encourage or enhance the way different water bodies can work together in order to ensure that water supply and delivery to the people of Kenya is enhanced.

We know that water is devolved, but we also know that the national Government has a role to play in ensuring that its citizens have water. The policy comes up with different ways in which the national Government and the county governments can work together to ensure that service delivery in relation to water is equitable and efficient.

With those remarks, I support.

**Hon. Speaker:** Member for North Horr.

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Hon. Speaker. I support the Motion on adoption of Sessional Paper No.1 of 2021 on the National Water Policy.

Water plays an integral role in the development of any nation. Water is a social and economic good which is critical for a country to realise its development agenda. This Sessional Paper will enable both levels of government, namely, the national Government and the county governments, to prepare their policies and strategies to effectively and efficiently deliver on their respective mandates as far as water service delivery is concerned. Our Constitution guarantees every Kenyan a right to clean water, a healthy environment and a reasonable standard of sanitation. This policy will guide this nation in realising this fundamental mandate.

The National Water Policy aims at strategic reengineering of the water sector by providing clarity and mandate and consolidating the various water sector actors, so that they can collectively deliver on their mandate, spearheaded by the both levels of government. The policy also provides a framework, particularly for enabling the nation to realise sustainable management and financing of water resources. It also provides a framework for water harvesting and storage.

Lastly, it provides a good framework for equitable, efficient and universal access to water for all Kenyans. The Sessional Paper seeks to address various challenges that are faced by the water sector in our country. Among those challenges is the inherent weaknesses in water resource management. The other challenge is the limitation to water harvesting and storage. Low access to improved water and sanitation services for most Kenyans. The policy provides mechanisms to manage water conflict while harnessing the benefits accruing from water resources collectively for all Kenyans.

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

*[The Temporary Deputy Speaker  
(Hon. Patrick Mariru) took the Chair]*

The Sessional Paper appreciates emerging issues in the water sector such as climate change innovations and political advancement in this particular sector. The Sessional Paper once adapted by both the National Assembly and the Senate will provide a sound policy framework for the development of other sectors in this country for decades to come.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Odhiambo Akoth.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. My apologies, I was consulting with my uncle, Hon. Kaluma. I wish to support



this Policy Paper. It is in line with the Constitution of Kenya, especially on socio-economic rights. Water is life and it is important, especially for women. I want to thank the Mover. In moving, he mentioned certain important principles. However, I was concerned that he has not primed the issue of equality and equity in provision of water. Sometimes we presume that in the areas that we come from, like in Suba North, we have water yet we have people who have to travel distances to reach a water source. We have many people who travel kilometres to get to the lake.

One of the things that I want would like us to look at when changing the law to conform to the policy is the issue of equity in provision of water. Another issue that is of concern to me, which I am glad that the Mover mentioned, is the impact of climate change and our responsiveness as a nation in dealing with the impact of climate change. Water can be both a good resource and a bad resource. Because of climate change in my area, we are now facing another crisis which is flooding. Water has become unstable. Wildlife is getting agitated. You can find hippopotamus walking in daylight in people's home destroying crops. One of the things we must address is the emerging issues with climate change that are increasing human-wildlife conflict and causing displacement like what we saw in Baringo. We saw schools submerged in water because of this.

In terms of how we manage our water resources, we must ensure that we find a way of balancing places that have too much and places that do not have. Yesterday we were discussing here areas in northern Kenya where people are dying of drought because they cannot get water yet a few days ago, we had people drowning in my place because of the issue of water. So, that is one of the issues that is of grave concern to me.

Finally, the other issue that I am glad that the Member has talked about is the issue of public participation in terms of access to resources. On that, I want to encourage mainstreaming gender in this issue because the people who are impacted more by water resources are women. I support.

**Hon. Hassan Hulufu** (Isiolo North, KPP): Thank you, Hon. Temporary Deputy Speaker. I support the adoption of this Sessional Paper on the National Water Policy. As a country, we are water scarce. We have a situation where at times we have torrential rains with floods causing a lot of damage and at other times, we have drought emergency like what we are going through at the moment. We find ourselves in a situation where almost 80 per cent of Kenyans are water insecure. This policy is trying to address the challenges of water provision as a basic human right to the citizens of this country. It also addresses the need to provide reasonable access to sewerage and non-sewerage sanitation in rural areas.

This Policy Paper aligns provisions of water and water resources, and development of the same with the provisions of the Constitution of Kenya, 2010. It enables the relevant ministry and agencies to implement the provisions of the Water Act, 2002. As a country, you will realise that this policy is going to help to develop the water sector. Other Members who have contributed have indicated that water is life. Water is an enabler of development in all other sectors. If you look at, for example, the Big Four Agenda, food security cannot be attained without water. We have water for irrigation. We need a healthy workforce to cultivate their land, grow crops and provide food.

The Sessional Paper provides a clear implementation matrix in terms of how the Government intends to achieve provision of clean and portable water to the population and how it can provide sanitation. This particular sector has suffered from under-resourcing. Unfortunately, if that trend continues, with the climate change that is worsening the weather situation in the country, we are likely to find ourselves in a precarious situation.

This paper is going to help us to resource this sector adequately, so that provision of water as a basic right is attained. The Arid and Semi-Arid Lands (ASAL) areas of this country are water

scarce. We have a lot of inequality and inequity in terms of sharing of resources in the water sector. This policy is going to address the challenges of inequity. There are places in this country where water is readily available. There are places in this country where over 90 per cent of the population has access to piped water yet 80 per cent of the population of this country has no access to even unclean water. I hope that when this policy is fully implemented, these challenges will be addressed. The challenges of underfunding infrastructure for harvesting water, storage facility for harvesting storm water and service run off will also be addressed. Therefore, I support the adoption of this Report and thank you for the opportunity to contribute to this Sessional Paper No.1 of 2021 on the National Water Policy.

**Hon. Daniel Rono** (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to weigh in on this water policy that is long overdue. One time, when we were handling irrigation, we talked about the issue of water. I am glad the Committee has come up with a policy.

As my colleague has rightfully said, water is life, and there is no doubt about it. I am glad we are going in the right direction by taking the issue of water seriously. It is very saddening that we are still talking about water 60 years after Independence. In some countries, water is not an issue. We had a chance to visit the United States of America (USA) the other day, where water flows everywhere. They focused on that matter and took it seriously. We cannot operate without water if we are to achieve food security. Our landmass is so big, but a good portion will require irrigation to farm. Our communities are farmers. Over 80 per cent of communities in Kenya are farmers. Without water, we will never move an inch. So, we need to take this matter seriously. We must see to it that this water policy is implemented. If this Government does not implement it, I can promise this House that the United Democratic Alliance (UDA) Government will certainly implement it. We will not play around with this water policy in our next government.

I am glad this policy has also addressed water harvesting. It is a very key element in this policy. We want every corner of this country to have water. I do not even know why we have not had a Motion saying: ‘Let there be a borehole in every village’. Why should we have our brothers in North Eastern and Turkana crying over water for their livestock day in, day out, and yet we can sort it out here? We have the brains and the resources. It is only that our priorities are upside down. The Government of today and tomorrow needs to take the water issue seriously at all times.

As I conclude, the issue of equity in delivering water to the entire country is a key issue. The water policy has touched on it. Let there be equity. You do not segregate the country. Let water be distributed equitably. There should be no politicisation of water issues, particularly dams. You realised that Kimwarer and Aror dams were politicised and dehumanised in such a way that we lost dams that would have irrigated 5,000 acres of land. That would have sorted out the issue of food insecurity.

So, I support this policy and commend the Committee and the Chairman, who has enumerated all the issues covered in the National Water Policy.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wetangula Wanyonyi.

**Hon. Tim Wanyonyi** (Westlands, ODM): Thank you, Hon. Temporary Deputy Speaker. Water is life. If we do not take care of our water catchment towers, very soon this country is going to run into trouble. Most of our water towers have been destroyed by human degradation. People have wantonly destroyed forests. Not long ago, we had rivers bursting with clean water. You could drink that water without treatment. You could just go to the river and drink the water. This has been completely destroyed. Some rivers have dried up. For example, when you look at the Mara

and Mau areas, you do not see any hope. Unless we make some great intervention, we are going to face a lot of problems. This Sessional Paper addresses issues of life and human rights. There are some countries that do not even have rivers, but they have clean water that runs in their taps without any problem. For example, desert countries like Israel and Egypt have water. Egypt depends on the Nile whose water comes from East Africa, and they have better use of water than we do.

In Nairobi, most of the water goes to waste. People do not have access to clean water many years after Independence. Water is a devolved function that should be dealt with at the county level. County governments should also come up with policies on water usage. All citizens of this country should have access to clean water. I support this policy because it is long overdue. We should all support it. The policy will make sure that water provision is enhanced so that people have clean water. The environment will also benefit when we have adequate water supply.

Thank you, Hon. Temporary Deputy Speaker, for giving me a chance.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Bunyasi John.

**Hon. Sakwa Bunyasi** (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker. I rise to contribute to this very important discussion on the Sessional Paper on the National Water Policy. Indeed, as we say, water is life. Water is also the environment. Climate management also depends on the kind of water policy that we have. I fully appreciate the issue of perennial scarcity of water in large parts of this country and the seasonal shortages we experience in almost of all parts of the country with few exceptions.

There is also the issue of excess water on a seasonal basis. We know what happened in West Pokot about two years ago. We also know what happens in Budalang'i in Busia twice a year. We need to manage excess water, so that it is not a source of destruction. To do that, we will need to have a long-term plan, so that we can create dams that do not just store water, but also act as checks. Lower areas should not get more than they need. You can regulate that. When you do that, you can produce power and create areas for fishery.

You can also create facilities for holidaying and sports. Of course, they will have a challenge of diseases and so on but they can be managed if they are well looked after. If we do that, we will improve the supply and save in areas where water is scarce. Where we have excess water, we can save it and use it during times of shortage. It is almost a crime to let our water run down to Lake Victoria and into the Indian Ocean as we suffer from drought. We are currently suffering severe loss of livelihoods, including livestock. We should review our commitments, particularly in the western part of this country where most of that water ends up in Lake Victoria, from where it flows down to Egypt based on treaties that were entered into 100 years ago by our colonial regimes. We even went through a phase during which most of the water advisers in East Africa came from Egypt. In essence, they had sent people upstream to ensure that people upstream did not do anything that, in their view, could compromise their supply but we first have to protect our citizens. We can do so within the existing treaties or begin to push for the treaties to be re-negotiated. The most important thing for our country, as enshrined in our Constitution, is to provide enough clean water to the citizenry.

It is a shame that in certain parts of this country people are dying because of floods while in other areas people and livestock are dying because of drought. We must find equilibrium. We must be able to take care of our citizens by protecting them from those two extreme situations. In areas where people are currently dying of drought, a lot of water flows into the Indian Ocean untapped during the rainy season yet it is not our responsibility to fill the ocean with fresh water to the extent that we deny our own citizens access to clean water.

As we manage our water resources well, we must also manage our land resources well. We can build big dams and store water during the rainy season for future retrieval and use. We are at a very detrimental level of water shortage but with time we should be able to catch up with South Asian countries, which are largely dry but do not have water problems. Agriculture is still striving there because they manage their water resources well.

Hon. Temporary Deputy Speaker, I commend the effort of developing Sessional Paper No.1 of 2021 on the National Water Policy because it is a big step in the right direction.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Tuitoek, Member for Mogotio.

**Hon. Daniel Tuitoek** (Mogotio, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to support this Report on Sessional Paper No.1 of 2021 on the National Water Policy.

The water situation in this country is still not good. Out of a population of about 50 million, only about 59 per cent receive clean water. That means 41 per cent of the population is yet to receive clean water. Only 29 per cent of our population has good sanitation while almost two-thirds lack sanitation. Sessional Paper No.1 of 2021 on the National Water Policy should address the issue of access to clean water by guiding the country to develop adequate water resources.

The Departmental Committee Chairperson talked about water harvesting. He also talked about the issues surrounding the policies which the national Government will employ to make sure that we develop these water resources. Water is a devolved function. At the same time, the national Government is partly responsible for developing water resources in Kenya. When it comes to building major dams that are inter-county in nature, the national Government has spent a lot of money on dams like Chemususu, Thwake and Thiba, among others which are currently being developed. We expect the county governments to take up the aspects of last mile connectivity to take the water to the households. In Chemususu, the national Government has done a good job. It has been developing infrastructure pipelines to take the water to major towns in Mogotio, Ravine and Rongai areas. However, the county governments are not working hard to make sure that the last mile connectivity is done in terms of water supply to households. This paper will go a long way in outlining and aligning the roles of the national Government with those of the county governments so that we all join forces in making sure that we develop these water resources and carry them to the people.

One of the major issues in development is water access. I know we are looking at developing dams, boreholes and managing our rivers effectively because they are the main sources of water for many communities. We especially have the issue of northern Kenya, which also needs special attention. We have a serious drought ravaging northern Kenya right now. We should have had policies to develop water resources in those areas. We need to look at investing more in those areas because we want to open them up. There was a big water source in Lotikipi, Turkana County, which up to now has not been developed adequately. There was an idea that it was a bit sidelined because the salinity was high but we now have technology for making saline water fresh. So, access to water in many towns and cities is crucial if we have to develop as a nation.

With those remarks, I support the Report on this particular Policy Paper because it will go a long way in addressing the current perennial water problem.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mwangi Mburu. He seems to have taken leave. Let us have Hon. Shadrack Mose.

**Hon. Shadrack Mose** (Kitutu Masaba, JP): Thank you, Hon. Temporary Deputy Speaker for giving me a chance to also contribute on this very important Sessional Paper No. 1 of 2021 on the National Water Policy, and thus say “water is life”.

Water is a social and economic good which is critical for any country to realise sustainable development. Despite the fact that water is a devolved function, one would appreciate that it is applied in both levels of government – the national Government and the county governments. This Sessional Paper provides for those frameworks upon which both levels of government come and prepare their policies and strategies to effectively and efficiently deliver on their mandate of water service delivery.

Water is a problem in this country. We experience diverse situations and unfortunate scenarios because like now, if you go to the western side of the country, like Kisii, rain is causing a lot of havoc. Floods are right now killing people in Trans Nzoia and the adjacent areas. On the flipside, northern Kenya is experiencing a terrible drought. This calls us to manage our water resources. When it is raining and we have abundant water, what do we do to ensure that we tap that water resource? Sessional Paper No.1 of 2021 on the National Water Policy provides a good framework upon which we can deal with the aspect of water.

Hon. Temporary Deputy Speaker, as I said earlier, water is life and our Constitution guarantees every Kenyan the right to clean water, a healthy environment, and reasonable standards of sanitation. If you look at our schools, how prepared are we in providing clean water to our children? On a number of occasions, you find that schools are not equipped with boreholes and tanks to harvest clean water. Therefore, this Water Policy is really an integral component in ensuring we provide clean water to our people.

The National Water Policy also aims to accelerate the re-engineering of the water sector by providing clarity on the mandate and consolidate the roles of various sector actors including the national and county governments.

Hon. Temporary Deputy Speaker, this Sessional Paper also provides a framework for sustainable management and financing of water resources. It also provides a need for water harvesting and storage, equitable, efficient and universal access to water supply.

I understand that there are various challenges that arise and therefore, as I conclude, this is a policy in the right direction and we should move with speed and approve it as a House for purposes of effecting the same.

Hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oduor Ombaka.

**Hon (Dr.) Christine Ombaka** (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I want to support this as well because we all know the importance of water and without water, we cannot be alive. Even animals cannot be alive. It is a very good policy. We know that we have had problems with water in this country. When we have water, it can be excess. People suffer during floods. That is the kind of water that needs to be collected and protected. It should not be seen to go to waste. Somehow, we always just let it go and people drown in the floods. People suffer because we do not use that water or collect it to use it later. I think the first thing here is to ensure that the water that goes to waste is always collected and preserved for future use. I think that is one good area that we need to consider and the policy really speaks on that as well.

The second part is where people do not just have water at all. We know that we have ground water and, therefore, drilling of boreholes is very important. The policy looks at how we can get

resources, where we can get water, how we preserve and utilise it. I think all these sections are very important in the way we are looking at this policy.

Therefore, I support it because it takes care of every aspect of how water can be protected, cleaned and how it can be utilised by everybody in this country. I support.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Chelule, Member for Nakuru proceed.

**Hon. (Ms.) Liza Chelule** (Nakuru CWR, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to support this very important policy on water. We all know that water is life and now that this policy has come to the Floor of the House, as women, we need to support it. We all know that the water being used in Egypt comes from East Africa and one of the sources is Lake Victoria, a lake in our country. It is very shameful that other countries are benefiting from our water and yet in our country, we do not have adequate water.

Hon. Temporary Deputy Speaker, we are now battling COVID-19 and most schools lack water. I believe this policy is going to address the issue of water harvesting. You understand that lack of water is the cause of conflict in some parts of this country. This is a natural resource and I believe this policy is going to address it. I do not know why Kenyans do not have clean and adequate water. We have always heard about floods in many parts of this country killing people. We now have adequate rains and once they stop, within another two months, we shall be in trouble because of lack of water. It is indeed shameful because this shows that we do not have proper policies for protecting and harvesting our water.

Hon. Temporary Deputy Speaker, most schools are built with iron sheets and they cannot even harvest their water. Therefore, it is my plea that in this policy, farmers of this country will be assisted to harvest water. There are other related matters with the issue of water and that is forest cover. Farmers of this country should also be assisted to ensure that parts of their farms are under forest cover and protection of riverbanks. I want to believe that there are policies that speak about protection of rivers but it is unfortunate that you will find most people doing farming on river banks. I have not seen a policy that protects our rivers.

It is my plea that this policy speaks about protection of our rivers and wetlands. It is high time we trained our children on water conservation and planting of trees. I am sure many people are ready to plant trees especially during this rainy season but they do not have seedlings. It means the Government is not even ready to provide seedlings for those people who are ready to plant trees either in their farms or in public institutions. We all need to be responsible as Kenyans. The relevant ministry should ensure that it provides adequate seedlings and adequate training to target women and youths of this country. I want to believe that each item mentioned under this policy will be undertaken and implemented.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Jeremiah Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker. It appears that there is no one near me. I also want to take this chance to support this Policy Paper, No.1 of 2021, and thank the Ministry for having come up with it. It is important to mention that when we devolved water, this was one of the requirements of the Constitution that a water policy be developed so that the national Government and the county governments can manage this resource. This is because the county government cannot and could not have been able to manage this resource without the involvement of the national Government.

This Water Policy is timely because it helps us deal with issues of water management as a resource like harvesting, storage, supply services, sewerage, education, training and research in this sector. It also addresses issues of climate change, disaster risk management, education, mainstreaming of gender, provision of water to vulnerable groups and youth, planning, mobilisation and financing among many other issues.

I think it is important to mention that I come from Nyandarua County and we provide water to Laikipia, Nakuru, Nairobi and Nyeri counties. Also in our county, there are very many residents without water. So, as we manage this resource, if there is a lot of water where you come from, before it being transported or taken to other places, it is only fair that those who are near are also supplied with water. I come from Ndaragwa and in areas like Kanyagia, Simbara, Shamata and the whole of Pesi area, the last time they saw piped water was in 1974. This was done by J.M. Kariuki through a project referred to as Kirima Water Project. Children in these areas do not know how piped water looks like yet, we supply other counties with water.

As we think through and celebrate the passing of this Water Policy, it is important for those in the Ministry of Water to understand that there are areas which require the kind of attention that is given to other areas. I applaud them for what they have done, but they need to ensure they become alive to the needs of the people of Ndaragwa and greater Nyandarua. Ndaragwa is the home of the only fresh water lake in Mt. Kenya region and for many who do not know it is referred to as Lake Olbolosat. Even if we have this freshwater lake, very little management of this resource is evident. I believe with this policy, we should see better management of the lake and ensure those near it also benefit.

Let me thank the National Irrigation Board (NIB), I think this is how we still refer to it. Sorry, it is the National Irrigation Authority (NIA) and within the last two or three years, they have demonstrated the kind of change they can bring to this country. They have done water pans in my constituency and many others. The livelihoods of the individuals who have benefited from those water pans have changed drastically. Some have even bought new vehicles from their farm produce yet, they produced nothing before. I want to thank the Chief Executive Officer (CEO) Bwana Mugambi, under the leadership of the CS, PS and engineers. As I conclude, I ask that we all agree to adopt this Report and let me appeal without doubt that an area called Ndaragwa has been forgotten by Kiragu and Company.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Murugara Gitonga.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. Allow me to add my voice to the debate on the National Water Policy, the Sessional Paper we are discussing today with emphasis on the fact that water is a source of our livelihood, our livestock and agriculture. Therefore, the country needs a very sound water policy so that there is equitable distribution of water to all communities and people in all counties in the Republic.

As we speak today, there are areas in Kenya that are fully watered which means every household enjoys piped water, while there are other areas where water is scarce as we can imagine. In fact, in those areas you find they are still in the stone age where they dig shallow wells in dry riverbeds to collect water and the mode of transport is water jerrican and donkeys. I think as an independent country 50 or 60 years down the line, we should be moving away from this with a clear-cut policy that every household in Kenya should be provided with clean piped water.

Allow me to express a case of Tharaka Nithi County and Tharaka Constituency. It is vitally important we have a paradigm shift in this country so that we have water in my constituency. We have several rivers traversing through my constituency emanating from Mt. Kenya, Nyambene

Hills and other highlands. In the recent past we have seen these rivers drying up purely because of climate change and sometimes what is called illegal blockage of water channels by people living upstream. The net effect of this is the people living downstream suffer acute water shortage and if this is not managed well, it can lead to conflict.

The Government needs to put in place a policy which will ensure that those upstream are able to share water equitably with those downstream. This is the case in Tharaka Constituency *vis-à-vis* the neighbouring upstream Meru County and other places. I am happy to know the Chairman of the Departmental Committee on Environment and Natural Resources, Hon. Kareke Mbiuki who is my neighbour. I want to ask him that as he deals with water, to make provisions for a water chapter for Tharaka Constituency. I know this is in the pipeline and the able Chairman will do this, so that my constituency is also equitably served with water like other areas of this Republic. As a nation, let us harvest all the water available whether rain water, rivers or fresh water lakes. Let us put this into use by constructing mega or small dams, dykes and others.

The county government of Tharaka Nithi must also play its role because as we speak, we are still waiting for the short rains to set in. I am told many areas in my constituency including Tharaka North, South and others do not have water. Let the county move with speed to provide schools with water through water bowsers or any other means to ensure children have sufficient water.

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

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Oundo.

**Hon. Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to join in the debate concerning Sessional Paper No.1 of 2021 on the National Water Policy.

We grew up knowing and being told that water is life. At Independence one of the social goals of the Government of Kenya was to have piped water all over the country in all homes and villages. I think we were supposed to have piped water by the year 2010 which came and passed without us achieving this object. Also, it is indicated in the provisions of Article 43 of the Constitution of Kenya on the economic and social rights which places a lot of emphasis on clean and safe water in adequate quantities. It also talks about protection of the environment, clean and safe environment which invariably involves water.

At this particular time in our age after almost 50 years of Independence, it is everybody's expectation that there should be enough water to cover all the human needs both for domestic, animals and agriculture. The fact on the ground is that that has not been achieved and we are progressively having cases where there is inadequate water supply even compared to a few years ago. Literature review indicates there are quite a number of issues that have continued to really result in this undersupply of water. Obviously, climatic change has often been cited as one of the reasons. Rising population is another reason but most likely it has been just poor governance, poor management of water harvesting and storage and water management in terms of the reticulation, cost recovery and the rest.

Therefore, it is the hope that this policy being put forward today, once approved by Parliament, will help address these challenges that have continually denied us access to clean and safe water. Sessional Paper No. 1 of 1999 on the National Policy on Water Resource Management and Development rejigged the water management sector completely. It was hoped again this will enable efficient distribution, production, reticulation and distribution of water. There have been hits and misses and successes and challenges. It is also hoped that this policy, with the



implementation matrix that has been placed and the policy shift that has been recommended, will address those issues that have come forward.

Hon. Temporary Deputy Speaker, there is the issue of environmental protection. This country has got several water catchment areas or catchment towers. There have been very many controversial decisions and actions in terms of protection of these water towers. Because of the politics of the day and rivalry of some nature here, we have continually degraded these water catchment towers to the end result being that Kenya has got one of the lowest water per capita in this world. It is surprising that we have fairly big water catchment areas. We have Lake Victoria and the Indian Ocean. It beats all logic that Kenya still remains a water deficient country yet we have all these issues. The regulatory framework brought about by devolution where parts of the water function was devolved to the reluctant county governments has made it to be practically impossible. Many of these water agencies are unable to collect water, distribute it, recover the costs and maintain those facilities. As I speak, my constituency of Funyula, despite the many billions we have received under devolution, Busia County has got the lowest water reticulation. Unfortunately, because water is devolved, there is little we can do.

With those few remarks...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Waluke, Member for Sirisia.

**Hon. John Waluke** (Sirisia, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me a chance to also contribute on the National Water Policy. It is important for us, as a country, to take this issue of water seriously. We have a lot of water that goes to waste from all the rivers that drain into Lake Victoria. Lake Victoria receives water from Rift Valley and Western yet the people surrounding the areas like where we come from do not get it. As I speak, my constituency of Sirisia does not have water but we are surrounded by very big rivers like River Nzoia, River Lwakhakha and River Malakisi. They are big rivers but there is no water. People cry about water every day. Women go to look for water even in the night. They wake up at 3.00 a.m. to look for water and yet the water is there. It passes us and goes to Egypt.

The three countries in East Africa, that is Tanzania, Uganda and Kenya provide water to Egypt, and there is no payment but we pay dearly for the little water that we use here in Nairobi and in our homes. We buy water and water goes to waste. The Egyptians plant oranges and then they export them back to Kenya that gives them water for free. People of North Eastern have suffered for a very long time. People fight and kill each other in North Eastern. I have been there. They just fight over water because there is scarcity of water. People from North Eastern fight over water. They kill each other because of water and there is River Tana that passes there. We were in Garissa the other day. A lot of water flows into the Indian Ocean and the Government has never taken any initiative to make sure that River Tana serves the people of North Eastern.

Our water towers have been destroyed in this country and if it goes that way for the next maybe 10 to 20 years, this country will become a desert due to lack of forest cover. The forests are owned by influential people. The land grabbers grab the forests and that is the forest cover that contributes to the water towers. This country is in danger in a few years to come if the Government will not take initiatives and harsh measures to protect forests from grabbers.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Naomi.

**Hon. (Dr.) Naomi Shaban** (Taveta, JP): Thank you, Hon. Speaker for giving me this opportunity to also add my voice to Sessional Paper No. 1 of 2021 on the National Water Policy.

I just want to point out that water is life. By having a policy such as this, the Government would have had one of the most important steps towards realizing our goal.

If water is life, then it means most of the diseases that Kenyans are suffering from are as a result of not getting clean water. Most of our people access whatever form of water and because of the long distances they have to travel to get this commodity, sometimes they have to make do with a little dirty water that is found around areas where they live and that has been the cause of many health problems that we have in our country.

Travelling to other countries like in Europe, you will realise that you can even collect water from a river and just take it and it will not harm you because it is clean water. In our country, you are not even so sure of what our people are taking because it is at the same place our livestock go to, where all our water coming from uphill go to without having any check dams. It is the same place where very unclean and infected water is washed downstream. It is not enough for us to be having good sessional paper if we are not going to put it into practice. I know we have two levels of government; the national and the county governments now in this policy. The National Water Policy is spelling out how best they can even engage with the second level of government, so that our people can realise the goal of having clean drinking water.

The year 2020 came and passed, and our people are still crying out that they do not have water. There is a policy on affirmative action and in it, emphasis has been put for people with disabilities, youths and women. However, you know where there is no water, it is women who carry the burden. It is difficult for us to talk about water and not talk about women in this country. People walk for kilometers. That time would have been spent doing other useful economic development projects which will empower women in our country. It is not good enough to look at water as just one bit and leave out the rest. Like I said, there is a connection between water and life, water and health, water and agriculture and water and livestock. All those things rely on water for their survival including human life.

Most of Tsavo National Park is in Taita Taveta County. The biggest problem we have is lack of water. Most of the human-wildlife conflict there is because wild animals cannot access water so they come out to look for water where people live. In the process we have conflict between wildlife and people and in the end, the people die. The Kenya Wildlife Service (KWS) really takes care of wildlife while people are left without anybody to take care of their problems. Wildlife come out to look for agricultural produce. They come to harvest our food crops like they were the ones that planted them. In the end, major conflicts arise. They fight for water. We do not only have that conflict but we also have conflict between people who fight over water.

I beg to support this Sessional Paper. It is very important because it goes a long way in assisting our people access water.

Thank you.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Washiali Jomo.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. Allow me to join my colleagues who have supported Sessional Paper No.1 of 2021 on the National Water Policy. It is embarrassing that after 60 years of Independence, we are still talking about how to manage our natural resources including water. Yesterday, our colleague, Hon. Aden Duale, came up with an Adjournment Motion to address issues of drought in the Eastern and North Eastern parts of Kenya. This tells you that besides the number of sessional papers, frameworks and the policies we have had, we still have a big problem in this country in terms of implementation. If you had an opportunity to go to a country like Israel where the rainfall is too low compared to what we receive as a country, you will be embarrassed that it is a country that

has enough food for its citizenry. Therefore, I think it is very important that we address this Sessional Paper, but as we do so, it is important that we implement whatever framework we are coming up with.

I had an opportunity to go to Rwanda where we have the headquarters of an aquifer of the East African Community (EAC). We have the largest aquifer, underground water between the boundary of Kenya and Uganda. If we were to explore an underground aquifer which is like Lake Victoria, we can use that water many years without having to look for any other source of water. What is lacking in this country is the implementation part. God has favored us with resources, especially water. We should maximise it.

We came up with a project in Kakamega, the Kakamega Bulk Water Project. This was a very unique project such that, a river would generate power that would pump the same water to a hill and that hill would then by gravity supply water to not less than 13 constituencies. Up to date, that project is still gathering dust in the Ministry of Water, yet the people down there are suffering from lack of clean water and the animals do not have enough water. The irrigation aspect of it has also gone down with it. Therefore, it is very important that as we support this Sessional Paper, we also go ahead and make sure that this policy is implemented.

As you may be aware, the supply of water is a role that is now shared. Part of it is also with the county governments and part of it is with the national government. I am sure this framework has addressed all that. I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): To my left now, Hon. Obara Akinyi.

**Hon. (Ms.) Eve Obara** (Kabondo Kasipul, ODM): Thank you very much Hon. Temporary Deputy Speaker for giving me the opportunity to speak on this matter. At the outset, let me appreciate the ministry for coming up with this National Water Policy that will allow us deal with the many issues that have been affecting the water sector. I will make reference to my constituency, Kabondo Kasipul Constituency where we have been victims of skewed policies and regulations that we had over a period of time.

In 1976, there was a water project in my constituency that was then Kasipul Kabondo, called Atemo Water Project. In this project, the water was domiciled in my constituency but serving the largest town in the area. Since 1976, water has been piped directly to Oyugis Town, but the area itself did not have water. You question how it was possible for that to happen for all those years yet nobody within the ministry ever bothered to see how best the community that was holding the water could be sorted out. It did not happen until last year.

Currently, there is a big water project worth Kshs1 billion, namely, the Oyugis Water Project. Even in the mapping of that project, it was not serving the area before I became the Member of Parliament. The project started before I was an MP. I came in and our area of Kabondo Kasipul was not being served by the water that was coming from the constituency. Those are the challenges that we are talking about that this policy will finally address, so that it never happens again.

Listening to my colleagues, everybody seems to have a similar challenge in their constituencies. I am happy that it is timely. We say that water is life. Finally, we will have a policy within which we can hold the ministry, Government and counties to account.

I once again support the Motion.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Wambugu Munene.

**Hon. Munene Wambugu** (Kirinyaga Central, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this chance to also add my voice to Sessional Paper No. 1 of 2021 on the National Water Policy.

We all know and appreciate that water is life. We also know that in our Constitution, we have embraced the fact that water is life. We have said that every Kenyan has a right to clean and adequate water.

This is the most important policy that the 12<sup>th</sup> Parliament is discussing because without water, life stands still. Why do I say so? When we wake up in the morning, we drink water; when we want to shower, we use water; when we want to cook food, we use water; when we go to help ourselves, we use water. We may not have good roads, but we will survive; we may not have good electricity connectivity, but we will survive as long as we have water. With water, you have something to drink, grow enough food and also feed your animals.

We would not be speaking about what is happening in the arid and semi-arid areas in Kenya if we had been implementing proper water policies in this country. That is why after a very short drought of less than six months, we are now being forced to go into our pockets and State coffers to try and ameliorate the suffering of the people in those areas because of lack of water.

I believe that in as much as water is a scarce commodity, we have enough. The only issue is that we have not been able to harness it properly, from the drinking water to water for irrigation. If we can do that and implement this Water Policy, that would be the best way to go.

We receive rain, sometimes even torrential rain. Sometimes the rain kills people because of floods, but what do we do? We allow that water to flow to the Indian Ocean and other lakes. If we were able to harvest that water and keep it for a rainy day, Kenya would become a country which has enough water to even last several years.

Sometime back, I heard about an aquifer somewhere in Turkana. It was said that that water can sustain this country even for the next 70 years. Since then, what have we done about that aquifer which was discovered yet we know that Turkana is one of the water-scarce areas?

Coming closer home, where I come from in Kirinyaga County, we have many rivers but up to date, half of the county does not have clean drinking water many years after Independence. We have too many rivers but with time, we have seen them shrink and the water volume dwindling.

We have also not conserved our forests properly. The ravages of the weather and lack of proper forest cover has led to water becoming scarcer than what was there before. If we go on like that, we will find that with time, even areas where we think there is a lot of water will become water-scarce like some other parts of this great country.

Hon. Temporary Deputy Speaker, it is high time we came up with good policies. It is my prayer that the Sessional Paper No. 1 of 2021 will be implemented and Kenyans will demand that the policy be implemented because in the Constitution, they are entitled to enough drinking water and water for irrigation.

With those few remarks, I support the policy.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Kilonzo, Member for Yatta.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Temporary Deputy Speaker.

More than 50 years since Independence, we are still talking about shortage and lack of water for our people and livestock. When we experience drought, we lose livestock and money. When there is drought, we lose wildlife, which essentially means we are losing on tourism.

On 22<sup>nd</sup> March 2000, more than 50 years after Independence, *The New Humanitarian* magazine quoted what was reported in the local media. This was the heading in the *Daily Nation* then:

“Ten villagers were injured and eight monkeys killed in a two-hour fight over water relief delivery at Takaba Trading Centre in Mandera.”

That was picked from our daily media. This was after tankers from El Wak took water to that trading centre. There were human beings and monkeys fighting over water which clearly shows that we lack clear-cut policies when it comes to management of water. As I support this Sessional Paper No.1 of 2021 on the National Water Policy, I agree that we need to work hard. There is a lot to be done.

You will be surprised to know that I attended a function somewhere in Kitui where a girl was getting married. The in-laws-to-be were asked, “Do you have donkeys where our girl is going?” We were curious to know what the donkeys were for. They said that their daughter would not be used to fetch water. So, if there were no donkeys in the homestead she was going to, they would not accept. Many years after Independence, that shows you how our people waste a lot of manpower going to fetch water instead of doing other things.

I liked part (iii) in the policy which states very clearly, among other things, “To promote development of water harvesting and storage infrastructure.” The other day, I was very impressed by the National Irrigation Authority because of what they are doing in my constituency. They come to an individual homestead and construct a water pan. They move to another one and do the same. During the rainy seasons, those who have land can harvest water in their homesteads to use during the dry spell. This has also been done in the private sector. I want to quote two gentlemen. One of them is Bishop Titus Masika who started a similar programme in an area called Makutano in my constituency. People came together and started doing water pans in every homestead. Even during the dry spell, they have enough produce. They grow their own food, vegetables and they can support themselves. Another gentleman known as Cosmas Mwanzia did the same. He dug wells along streams.

The biggest question is: Where are our governors? We give them money but they go to do other mega projects like airstrips, offices and major roads. They do not address simple things that affect our people. As we talk about this National Water Policy, we need to train our own leadership within the counties and other areas.

The National Water Policy also talks about something that relates to the delivery of sewerage and non-sewerage sanitation. We are slowly urbanising. Most young people no longer prefer residential areas in the villages and agricultural areas. They are moving to the market centres. These centres have grown and they do not have sewer passages. They require sewerage passages. Time has come for us to say that we need to see this document put into good use. This country is known for coming up with good policies but very weak on implementing them.

I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Kirima, Member for Central Imenti.

**Hon. Moses Kirima** (Central Imenti, JP): Thank you, Hon. Temporary Deputy Speaker. I hereby stand to support Sessional Paper No.1 of 2021 that pertains to water as a natural resource for our people. We have been experiencing a very serious shortage of water especially in the Mount Kenya region. As we speak, we are waiting for this season's rain as our rivers have dried up and what we remain with are dry waterbeds. What used to be rivers are now dry valleys.

If you look at the intakes where water used to be tapped from, the water flowing through them is way below. However, many Kenyans have failed to realise this point: During the Kibaki Government, there was a Minister for Environment known as the late John Michuki who told us the eucalyptus trees have made Kenya a dry country instead of one with adequate water. We have been told by scientists that a mature eucalyptus tree uses 95 liters of water per day. You will find these trees in thousands of rows in these regions that I am talking about. They have thus ended up making our rivers dry completely. The downstream areas like North Eastern, parts of Kitui, Machakos and all parts of the lower Eastern have greatly been affected. This is because the rivers which used to flow from Mount Kenya are no longer there. We have encouraged growing of eucalyptus trees.

This is a big problem. When the late Michuki talked about it, it was taken seriously and people started cutting down the eucalyptus trees. But now, we have scientists who came with the idea that these trees do not dry up rivers. If you look at our old mothers, they used to plant these trees to help minimise water in the water-logged places for them to grow crops. Those small areas which used to be *chemichemi za maji* have dried up. Unless a step is taken, we are going to suffer because we are too academic and ignoring the real facts.

Institutions such as the Water Resources Management Authority (WARMA) and National Environment Management Authority (NEMA) which are charged with the responsibility of seeing that the environment is conserved and there is no interference with water catchment areas do not do their work. They just watch from a distance. Theirs is just to come and demand money if there is an ongoing activity like building or cultivation along the river. This is not the right thing. Can we have policies that are going to regulate growing of these eucalyptus trees, and how we are going to use our rivers, to save the next generation? If it remains as it is, we will be remembered that at one particular time, we stood here just to chat in Parliament as the country went to the dogs.

That is all, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mbithi, Member for Masinga.

**Hon. Joshua Mwalyo** (Masinga, WDM-K): Thank you, Hon. Temporary Deputy Speaker for this opportunity to air my views on this Water Bill.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): It is Sessional Paper No.1 of 2021 on the National Water Policy.

**Hon. Joshua Mwalyo** (Masinga, WDM-K): Sorry, I came in late. I am still learning. I want to state that water is life and we need to do everything to make sure that the country has a lot of water by trying to come up with policies and laws to help our people. Recently, we were in Uganda for a prayer breakfast event and we interacted with Members of Parliament from there. They told us that there are very many rivers and there is a lot of water in Uganda and everybody is able to farm.

This taught me a lesson. If we can have water in this country, then famine would be a thing of the past because everyone will be able to till part of their land. Kenyans are very hardworking and they know how to farm. If you walk along Tana River in my constituency, with the little water, people have done tremendous work. They have planted a lot of tomatoes, fruits and vegetables and they are selling them all over. That tells me that if water can be available and the Government takes it as its first priority, then there will be no famine in this country. The drought that we see from time to time would be a thing of the past. It is going to rain soon and we shall be saying that our rivers are flooding, our livestock are being carried by water and our roads have become impassable. But within another two months, we shall then be talking about drought in

those areas. We have not prioritised water harvesting and stored it in dams for irrigation and our livestock. I support this idea of becoming water sufficient and for us to be able to tap all the water that is available.

I also want to talk about water harvesting. We have a lot of rain water that falls on the roofs of our houses that goes untapped. It is very important for us, as families, to start a culture of water harvesting and keeping the water for a dry season.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Melly.

**Hon. Julius Melly** (Tinderet, JP): Thank you, Hon. Temporary Deputy Speaker for allowing me to speak on the Sessional Paper No.1 of 2021 on the National Water Policy.

Water is a very important natural resource. This Sessional Paper is trying to build on the previous water policy frameworks that have been developed over the years. Since 1963, the founding Government of Kenya had planned to fight three ills in our society, namely, poverty, disease and ignorance. We realise that in order to fight poverty and disease, water is a resource that plays a role. The various policy documents that were developed after 1963 intended to ensure that Kenyans have enough clean water and safe for drinking.

The various Government policies and programmes that have been put in place over the years have tried as much as possible to provide water to Kenyans. However, the implementing agencies and the programmes that have been put in place have not borne any fruit. As I speak, over 70 per cent of Kenyans do not have clean drinking water. The Sessional Paper is a very good document. It is trying to look into how to harness water as a resource, to protect it and to ensure that future generations benefit. It is a resource that has been dwindling over the years. A number of rivers are drying up.

In my constituency of Tinderet, a number of big rivers such as Ainabng'etuny or what we call the Nyando River in the lower areas is almost drying up because of poor protection. Even the marshlands which are home to many species of animals have already dried up. A number of rare animals such as the waterbuck do not have enough habitats because farmers have resorted to going to the wetlands and destroyed them by farming.

The policy paper before us is trying to address these kinds of issues. Even after the 1980s, the Government decreed that people should live 50 metres away from the rivers. At that time, the Government was trying to tell farmers not to farm close to rivers. However, up to now, we have no officers who superintend or look into these issues. As much as we have the National Water Policy, water programmes and the water frameworks that are before us, water officers responsible for taking care of the wetlands do not take their roles seriously. One of the biggest problems that the world will face is fight over water because it is a very important resource.

As much as I support the Sessional Paper, I urge the relevant Government agencies to implement it properly. This policy should be implemented through action plans that are achievable in order to make our country a better place to live in.

With those remarks, I support this very important Sessional Paper.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall now have Hon. Ngugi Nduati, Member for Gatanga.

**Hon. Joseph Nduati** (Gatanga, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me a chance to make my contribution. Having read the Report, I realise that this is a good policy that will sort out some of the problems we have in most of our constituencies.

Hon. Temporary Deputy Speaker, being my good friend, you know I come from Gatanga Constituency, which provides Nairobi with about 70 to 80 per cent of the water that Nairobi people

drink. When the project was done, it was a multimillion shilling project. It was done many years ago and was financed by the World Bank. The big dam that was constructed there created a big problem for us in terms of climatic change. Our children and mothers became sick. In fact, most of the young ones from the area suffer from asthma. It is as a result of what was done there.

Even though the project was located in Gatanga, which is a big area, we were not given water. Not even a hospital was built. There is no public facility that was ever put up there. All the water was pumped to Nairobi.

Hon. Temporary Deputy Speaker, you know I am a marathoner and when we go to participate in the Ndakaini Marathon, as we start the marathon, there is no water to drink. When we finish, we still have to come back to Nairobi to shower because there is no water. I consider that to be very unfair. That is a very unfair way of working. I support my colleague, Member for Kasipul. I see the Chair of the Departmental Committee on Environment and Natural Resources here. This is my day to bash him a bit.

A new project is being done, namely, the famous Northern Collector Tunnel which gets water from Kigumo. A tunnel is being done there. The water is then pumped to Ndakaini Dam. Because we do not have adequate facilities to treat water when it gets to Nairobi, the Government has recently done a new treatment plant called the Kigoro Water Treatment Plant. The total value of the projects, if I am not wrong, is more than Kshs6 billion. Again, if you go to Ndakaini today, there is no water. For us to get a project worth Kshs500 million was a big challenge and we have to plead.

I thank the Chairman because recently, they agreed to do a project worth Kshs300 million, which will not provide adequate water. We have been pleading with them because our people need water. Gatanga has four wards in the upper part. In the lower zone, we have Ithanga and Kakuzi, which neighbour Masinga, which do not have water. It is a big problem. Imagine almost 100,000 people going without water despite the fact that so much water is drawn from their constituency and directed to Nairobi.

Therefore, as we discuss this policy paper, we should support our people. Otherwise, it is really bad when a multi-billion water project is done in your area, but your people have no water.

I thank the Government because recently, they started doing water pans for us. The water pans have brought a big change to our people because they can store water in their farms. With the water, they can grow vegetables and even stock the water pans with fish. In fact, people in Gatanga are growing big like me because of eating fish. These are some of the things we should be doing.

As I conclude with our local matters, I encourage Kenyans wherever they are to support water harvesting. Let us not allow any new construction in Nairobi...

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Ngugi, your time is up, but I agree with you that when the Ndakaini Marathon is done, there should be a place to shower because the people of Nairobi get water from there. I have participated twice and so, I confirm what you have said. Let us have Hon. Maanzo.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity. I thank the Cabinet Secretary, Hon. Sicily Kariuki, the Principal Secretary, Mr. Irungu, together with all the engineers in the Ministry and the many stakeholders who have worked on this matter. I also give special thanks to the Committee dealing with water, led by my good friend, Hon. Chairman. They have done very well. This is a game changer for the world. I believe the Chairperson of this Committee will follow up on the implementation. He has really helped this country.



Water is very important. We are dealing with it in the context of a devolved system under our new Constitution where water is handled by the counties. That has been provided for in this particular policy. Water is life and we have a lot of it in Kenya. As Hon. Nduati from Gatanga said, a major part of this policy is that all Kenyans should participate in water harvesting, in one way or another. On every single small river in your farms around the country, there should be a small dam to stop water from flowing back to the Indian Ocean. I am sure some agricultural activities will follow. We should install gutters on every roof in homes to harvest rainwater whenever there are rains.

There are major dam projects in this country. I happen to be very lucky that Thwake Dam, which is a big dam, will provide water to Kitui, Makueni, Kajiado and Machakos counties. It will also supply water to Konza City. It is now at 60 per cent completion. We have a very serious contractor there and he is working.

The other major water project was the High Grand Falls Dam in Hon. Murugara's constituency. Some took cases to court and brought a lot of nonsense here and there. That was a major Vision 2030 project that President Kibaki really wanted to implement in those days. I am sure Hon. Gitonga will come back as a Member of Parliament and will see to it that the High Grand Falls Dam is done. That will control all the flooding we see in Garissa. It will also supply water to the north eastern region and Tharaka. If it is pumped to the hills, it will supply water to the northern part of Kitui and change our country.

There are other constructions of many other dams going on all over the country. They are even constructing small water pans. We should focus on water harvesting in the country, so that it becomes a major thing.

The current challenge is the distribution of water. One time, I constructed a borehole sponsored by the breweries in Makueni, which happened to have a lot of water and has supplied water to my village within a circumference of 10 kilometres. When I was in school, we used to go very far to fetch water. Now, children have piped water in my village.

The biggest challenge is how the counties manage water. Sometimes they charge a small fee, but do not bank the money. It disappears somewhere. When a borehole breaks down, there is no one who knows how it should be repaired and they have to again come back to the Member of Parliament to provide a solution. On the issue of boreholes or wherever water is being sold, county governments have really failed. We need a policy so that we can know what county governments should do when that arises.

The other great risk is water pollution. During the construction of Thwake Dam, we realised that water from Nairobi is really polluted. Recently, when the President visited Thwake Dam, he insisted on how we could clean up all the water sources, so that the water going through towns like Nairobi and many other places arrive downstream while clean and we do not get polluted water in Thwake Dam. The Athi River goes all the way to Malindi yet the poisoning in Nairobi goes downstream. We need to come up with a solution.

I support the policy. This is a great initiative.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Let us have Hon. Kiai.

**Hon. Anthony Kiai** (Mukurweini, JP): Thank you, Hon. Temporary Deputy Speaker. I am happy about this Sessional Paper No.1 of 2021 on the National Water Policy. This policy is about equitable distribution of water to all citizens of this country. It is about water for irrigation and safe drinking water to all the citizens of this country. It is also about how to conserve water sources and make sure that water is not polluted.

It is true. I have been to Ndakaini and can assure you that the several times I have run there, we have not had water, not only to drink, but also to shower. Kenya is a country of extremes. There are places which receive excess rainfall and have excess water and there are other places which have a dearth of water. The reason we need this National Water Policy is to come up with mechanisms on how places that have excess water can benefit those areas that do not have water at all, or make sure that those who live in arid areas also receive water from areas that receive excess rain or have excess water.

For a country and any economy for that matter to develop, even historically, those great civilisations put a lot of emphasis on water usage, conservation and how to get water. Water is a natural resource. It is an asset and has always been a bone of contention between many people because of its scarcity. That is happening even now in places where there are people who keep large herds of cattle. There is always human-wildlife conflict, as well as conflict between herders and owners of large tracts of land where they go to graze during famine and drought.

If you look at countries like Israel and Egypt, almost 90 per cent of their lands are desert, yet they have become a bread basket for their citizens. In Kenya, if water is used properly, I am sure we will feed and provide water to all our citizens without necessarily having to go through the cycle of famine and water shortages every now and then.

There is an issue that we should be talking about. We are fascinated by mega dams all over the country. The key factor should not be the mega dams, but those small water pans that will provide water for irrigation to small families in a number of homesteads. At the end of it all, we have heard stories about Ndakaini, Aror and Kimwarer dams and such other mega projects. The key factor should be emphasis on those small dams and water pans.

In Kenya, we also have to make sure that the existing water towers are conserved. Of late, you have seen the destruction of huge sections of the Mount Kenya Forest, the Mau Forest and the Aberdares Forest. Those are critical water towers. If we continue doing that, the whole country will become a desert. Therefore, water will become a very scarce resource which will bring a lot of friction between communities that have forever lived side-by-side without any issue, but now, due to shortage of water, they have to fight for that resource.

As I finish, we have to make it a policy that whoever is putting up a new building must make sure that there is a water harvesting system. We must also ensure that the water is fit for consumption. The Thwake Dam, however big it is, stands to lose massively because of water pollution given that the main source of Thwake Dam is Nairobi River which is highly polluted. So, the policy as it is, is good. I believe we are walking the talk and we shall implement this policy as soon as possible.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Were.

**Hon. Charles Ong'ondo** (Kasipul, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to talk a little on the Sessional Paper No.1 of 2021 on the National Water Policy.

If you look at the overview, it is really due as it has addressed the mitigation challenges in the water sector. It also has critical focus on the component of water management and exploration. It has also aligned the water sector to the Constitution in line with devolution. Why this policy? It has addressed regulation and management of water as a sector. It has also addressed the low access to water, fresh water and sanitation. If you critically looked at the policy, the ministry has only comprehensively addressed the fresh water issues, yet the issue of sanitation has been quite wanting, especially in urban centres. It has also addressed the weaknesses in water resource management and also limitation in water services and management.

Water is a human right. Every person has a right to get fresh water and sanitation in line with the Constitution. The main issues that the Sessional Paper No.1 of 2021, addressed comprehensively is about the challenges within the water sector. One, it has addressed security. For example, if you go to countries like Morocco where it takes even five years without rains, their dams are well secured. There is even a department of police which handles water issues.

The other challenge which has also been addressed is the issue of climate change. It has comprehensively addressed conflicts and disputes in areas where water is a necessity. If I take most of the conflicts within northern Kenya as an example, most of the problems are about water as a resource. This policy has comprehensively addressed how conflicts and disputes in regard to water can be handled. The Sessional Paper has also addressed issues of research, trainings and innovations which had been lacking before the policy. It has also addressed the capacities and lack of coordination, inadequate investment and financing within the water sector. Actually, financing is a real challenge that the policy has addressed. The Sessional Paper has also addressed the challenges of low sewerage coverage, especially in urban centres. Lastly, it has addressed issues of low harvesting and storage.

On issues of water supply especially in Kasipul, we are very happy to receive the services of the Oyugis Water Supply and Sanitation which has come as a game changer within that region. I also want to report that Kasipul is strategically placed and water coverage is 75 per cent addressed. With this policy, if we reach 100 per cent coverage, my constituents will be very happy.

With those few remarks, thank you. I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the next person here, as per my list, is Hon. Rindikiri Murwithania. Now, we must bring this item to closure by 6.35 p.m., namely, in the next 10 minutes. The Mover should have 10 minutes. But Mover, you can be gracious enough to donate to Hon. Murwithania, who is next. You have your 10 minutes, but if you are gracious enough, Hon. Murwithania has been very patient in this House. But that is upon you. I cannot compel you, Hon. Mbiuki. You have the Floor.

**Hon. Kareke Mbiuki** (Maara, JP): Thank you very much, Hon. Temporary Deputy Speaker. As I appreciate the overwhelming support from Members, I donate my five minutes to the Members who want to contribute for around one or two minutes, so that they can air their support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Could you mention them by name?

**Hon. Kareke Mbiuki** (Maara, JP): I can see Mheshimiwa Jonah behind there and Hon. Mugambi from Buuri is also there.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): How many minutes per person? What is your donation? We want to go with your timing.

**Hon. Kareke Mbiuki** (Maara, JP): Each Member can have two minutes; the two of them.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Okay. Hon. Murwithania.

**Hon. Mugambi Rindikiri** (Buuri, JP): Thank you, Hon. Temporary Deputy Speaker. Thank you, Hon. Chairman, for your kind donation.

I support this Sessional Paper No.1 of 2021 on the National Water Policy, on the understanding that Kenya is purely an agricultural country. Everything in our economy revolves around agriculture. Agriculture heavily depends on the availability of water. In Kenya and specifically my constituency, which borders Laikipia, water has been a major source of conflict, yet it is at the same time the main source of our wealth. We do dairy farming and all activities because of the availability of water. This Sessional Paper has highly addressed all the issues

pertaining to water. I urge the Government to revise its Big Four Agenda and consider water as one key agenda of this country.

With this paper which the ministry has put together in consultation with our Committee, it has catered for all those aspects that relate to availability, distribution, sustainability and equity, in as far as this resource is concerned.

Therefore, this is a very important paper and I hope and believe that the ministry will, together with the Government, enact its implementation so that Kenyan citizens can benefit from the water resource.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Jonah Mburu.

**Hon. Jonah Mwangi** (Lari, JP): Thank you, Hon. Temporary Deputy Speaker. I also want to thank the Chairman, Hon. Mbiuki, for donating to me those two minutes.

I am in support of this Sessional Paper No.1 of 2021 on the National Water Policy, more so, coming from a constituency that is a big water catchment area, namely, Lari Constituency. But the biggest thing that I want to consider is the conflict that comes when this policy is not well implemented. We produce a lot of water in Lari. We are the catchment area of Nairobi and we have the Ruiru Dam. We are now constructing Kinale Dam, but the biggest thing is that the people of Lari have to benefit from the water they have. When water is flowing downstream, all the people concerned should benefit. Let people not be seeing pipes passing by their homes and farms coming to Nairobi, yet they are in need of water.

So, all the things that have been considered in this Sessional Paper, like the security of water, just like in other countries that are deserts, have to be implemented. Water has to be given what is called “critical infrastructure status” so that when a road is being constructed and a pipe is destroyed, the contractor is required to fix it as soon as the road is completed. Therefore, I support and hope that the county governments will align their operations with this policy framework so that the many issues of water that are supposed to be managed by the county governments can become a no conflict area. Today, we have water in a dam in Lari going to Limuru and the county is not solving it as soon as possible. I hope this Sessional Paper will solve all these problems.

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Chair, you can have your six minutes.

**Hon. Kareke Mbiuki** (Maara, JP): Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to thank the Members for the overwhelming support they have given to this Motion on the Sessional Paper No.1 of 2021 on the National Water Policy.

Members have alluded to quite a number of issues while they were supporting this Sessional Paper. The first issue is the provision of equity in terms of provision of water across the entire country. The issue of equity is properly addressed in this Sessional Paper to ensure that all parts of the country are well taken care of. The effects of climate change have been alluded to by Members more so on the issue of the eucalyptus trees. As you are aware, the celebrated Cabinet Secretary, Hon. Michuki, championed the eradication of eucalyptus trees.

The other issue is the protection of water towers in the country. Our key water towers are the source of water in this country. We have a challenge of communities living downstream not benefitting from the extraction of water upstream. In counties around the Aberdares, Mount Kenya and the rest of the region, water is extracted from upstream and the people downstream do not benefit.

We also have the issue of storage arising from over extraction of this critical resource called water. We have seen serious over-extraction of water. For us to address the issue of over-

extraction, we need to construct serious storage facilities upstream. My neighbour, Hon. Murugara, alluded to the challenges they have in Tharaka, which is downstream. My constituency is upstream. Tharaka is served by more than nine rivers, but unfortunately, during the dry spell like now, they get no water. Even if they do piping, the pipes remain without water. Through serious storage both upstream and downstream, the people downstream will benefit from the water resource.

I want to appreciate the support Members have given to this Motion. I assure them that as a Committee, we are going to follow up with the Ministry of Water and Sanitation to ensure its full implementation. As we talk of clean water, this Sessional Paper also talks of sanitation. We cannot divorce clean water from sanitation. I want to thank the Government because it has invested heavily in sanitation. As I speak, more than 28 counties are being covered by clean domestic water and sewerage systems so that issues of sanitation can be taken care of.

The other issue is that of storage coming from big dams being built across the country. This policy will articulate how we harvest water across the country and ensure that there is value for our money and avoid politicisation of construction of dams.

Finally, we are all aware that water management is a shared function between the national and county governments. Sometimes we have serious conflict between the national and county governments. It is not logical for the national Government to go all the way to the countryside to drill a borehole whereas that is the function of county governments. The national Government needs to concentrate on serious water storage and main conveyance lines. County governments should take care of the last-mile connectivity. This Sessional Paper will address the issue of duplication of functions.

With those many remarks, I wish to thank Members for their overwhelming support to this Motion. I assure them of full implementation of the policy through the Ministry of Water and Sanitation.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): We shall pend putting the Question on the Motion to another time.

Next Order.

*(Putting of the Question deferred)*

#### RATIFICATION OF BILATERAL AIR SERVICES AGREEMENTS

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on the 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, laid on the Table of the House on Tuesday, 28<sup>th</sup> September 2021, and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Ratification of: -

- (i) the Bilateral Air Services Agreement between the Republic of Kenya and the Republic of South Africa; and
- (ii) (ii) the Bilateral Air Services Agreement Between the Republic of Kenya and the Republic of Botswana.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Chairperson of the Departmental Committee on Transport, Public Works and Housing. Hon. Pkosing was here earlier in the day. Did he take early leave? That item is deferred now that the Chair is not in the House.

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*(Motion deferred)*

Next Order.

RATIFICATION OF BILATERAL AIR SERVICES AGREEMENTS  
BETWEEN KENYA AND THE RUSSIAN FEDERATION

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on the Ratification of the Bilateral Air Services Agreement between the Government of the Republic of Kenya and the Government of the Russian Federation, laid on the Table of the House on Thursday, 30<sup>th</sup> September 2021, and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Ratification of the Bilateral Air Services Agreement between the Government of the Republic of Kenya and the Government of the Russian Federation.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): That is by the same Chair. It is also deferred for the same reason.

*(Motion deferred)*

Next Order.

CONSIDERATION OF PETROLEUM LEVY (AMENDMENT) ORDER, 2021

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Chairperson of the Committee on Delegated Legislation, Hon. Kamket. At least you are here. You have the Floor.

**Hon. Kassait Kamket** (Tiaty, KANU): Yes, I am present, Sir.

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

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, 29<sup>th</sup> 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.

The Petroleum Development Levy (Amendment) Order, 2021 was made by the Cabinet Secretary for Petroleum and Mining on 13<sup>th</sup> May 2021. The Order seeks to amend the Petroleum Development Levy Order, 2020 (Legal Notice No.124 of 2020), with the effect of inserting automotive gas oil (AGO) or diesel to legally incorporate it in the First Schedule of the Order.

The justification was that the Order was published and approved in February 2021 and that it had been discovered later that diesel had been erroneously omitted from the First Schedule to the Order. The Ministry now seeks to insert a new row to correct the omission.

The Committee on Delegated Legislation is expected to consider in respect of any statutory instrument whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant laws. We examined the Amendment Order 2021 against the Constitution and the Interpretations and General Provisions Act. Cap.2, the Petroleum

Development Fund Act, 1999, and the Statutory Instruments Act No.23 of 2013, and the Committee made the following observations:

On timelines, the Petroleum Development Levy (Amendment) Order was published in the Gazette on 13<sup>th</sup> May 2021 and submitted to the National Assembly on 10<sup>th</sup> August 2021. Therefore, it contravenes Section 11(1) and (4) of the Statutory Instruments Act, 2013 which provides as follows:

11. (1) Every Cabinet Secretary responsible for a regulation-making authority shall within seven (7) sitting days after the publication of a statutory instrument, ensure that a copy of the statutory instrument is transmitted to the responsible Clerk for tabling before Parliament.

(4) If a copy of a statutory instrument that is required to be laid before Parliament is not so laid in accordance with this section, the statutory instrument shall cease to have effect immediately after the last day for it to be so laid but without prejudice to any act done under the statutory instrument before it became void.

The Ministry indicated in their submission documents that they had inadvertently omitted diesel in the Legal Notice No.124 of 2020. The error of omission on the record is that the statutory instruments ought to have been rectified by way of a corrigendum. This is one of the observations of the Committee, and not an amendment order since this invites the Committee to subject it to all the statutory tests set out in the relevant laws.

On the matter of public participation, Articles 10 and 118 of the Constitution and Sections 5 and 5(a) of the Statutory Instruments Act require a mandatory conduct of public participation by all regulation-making authorities before publication of statutory instruments. This particular Amendment Order is a statutory instrument on its own published under a different Legal Notice No.77 of 2021 and with the implications on the rates of levy chargeable on diesel, hence the Ministry ought to have conducted public participation as required under the Constitution and the relevant laws. It is not chosen to ride on public participation conducted for Legal Notice No.124 of 2020, which did not contain diesel in the Schedule.

Therefore, having examined the Petroleum Development Levy (Amendment) Order 2021, Legal Notice No.77, against the Constitution of Kenya, the Interpretations and General Provisions Act, Cap.2, the Petroleum Development Fund Act, 1991, the Statutory Instruments Act, 2013 and the Petroleum Development Levy (Amendment) Order 2021 pursuant to which they are made, the Committee recommends that the House annuls in entirety the said statutory instruments as it contravenes Section 11(1) and 11(4) of the Statutory Instruments Act and for other aforementioned reasons.

Hon. Colleagues, this is fairly straightforward. I beg to move and ask Hon. Murugara to second.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Murugara Gitonga.

**Hon. George Gitonga** (Tharaka, DP): Thank you very much, Hon. Temporary Deputy Speaker. I associate myself with the remarks made by the Chairman of the Committee on Delegated Legislation regarding the reasons these statutory instruments are being annulled. It is very important to state that all regulation-making authorities must comply with the law. First and foremost, they must comply with the Constitution followed by the parent Act and finally the Statutory Instruments Act. Failure to do so is fatal. It is also important to subject the regulations to public participation and this is mandatory under our Constitution.

Finally, the regulation-making authority must observe the timelines set, otherwise, their work would also be a nullity. In view of this Order that we are debating today, it has failed the test

set out in the law and the only remedy available to the Committee is to actually annul the instrument in its entirety.

For these reasons, I beg to second.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order, Hon. Eseli.

*(Question proposed)*

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion. I am one of the Members of the Committee on Delegated Legislation. As it has been said by the Mover and from the Report, the Constitution has to be followed wherever any regulations are to be made in this country.

Secondly, the law under that particular regime and the regulations thereunder must also be followed. The moment any regulation-making body does not conduct sufficient and proper public participation, their activity automatically becomes null and void.

The matter of petroleum is very serious. You know how prices have been skyrocketing and I am hoping that today oil prices will be reduced. All the matters surrounding petroleum have not been consultative from the stakeholders to the users and many other people dealing with that.

When it comes to petroleum stake holding, it touches on many people. Therefore, there is no way there will not be public participation where consumers and dealers do not participate and you end up with a proposal or publish regulations to deal with the levy. It becomes outrageous and it is high time that regulatory bodies follow the Statutory Instruments Act, the Constitution and the relevant law, before making any regulations.

Regulations are very important in dealing with matters and there cannot be shortcuts about them. It is now mandatory that Parliament either approves or disapproves and on this particular one, it has to come to the Floor of the House. Therefore, it has to be clearly known for the sake of Kenyans, that laws are made to cure mischief, especially in trades such as petroleum. So, it is important for the regulation-making body to follow the law as required so as to serve Kenyans better.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Chachu, Member for North Horr.

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Hon. Temporary Deputy Speaker. I support this Report of the Committee on Delegated Legislation on the Consideration of the Petroleum Development Levy (Amendment) Order, 2021 published as Legal Notice No.77 of 2021.

I have listened to the Chair of the Committee as he moved this amendment which is straightforward. The legislation is dealing with an issue that is of national interest and trying to annul some of the levies which were earlier published under different legal notices. It is very clear to me that the Committee has considered all aspects of this legislation. They have given the necessary scrutiny on the impact of this decision on the Kenyan society at large and also in terms of the revenue that the State needs to collect for it to manage this country. There is a balance in terms of their deliberations and recommendations. I am in agreement with the Committee's recommendations and in light of this, I support the Committee.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Wafula Wamunyinyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I have looked at the Report of the Committee on Delegated Legislation and it is very unfortunate that we have seen instances of abuse in this country without any action being taken or



corrective measures taken. Therefore, I want to applaud the Committee for the work they have done.

First of all, in consideration of the matter, they established that the law was contravened. In particular, the Petroleum Development Levy (Amendment) Order, 2021 was published in the Gazette Notice on 13<sup>th</sup> May and submitted to the National Assembly on 10<sup>th</sup> August 2021. This completely contravenes Section 11(1) and (4) of the Statutory Instruments Act, 2013 which has very clear provisions and requirements on what needs to be done.

The Committee has made very clear recommendations so that abuse does not take place and all Government officials, namely, the ministry and every person, must know that when you contravene the law, there must be some remedial steps. So, the recommendation by the Committee of the House is to annul in entirety the said statutory instrument as it contravenes Section 11(1) and (4) of the Statutory Instruments Act, 2013, and for other aforementioned reasons.

I think we should agree with these recommendations and adopt the Report, so that corrective action is taken by the Ministry. It is usually not easy for such administrative actions to take place. We have seen a recommendation from the House. You will recall sometime ago when there were regulations being made and the Ministry deliberately disregarded the law to be followed thus the regulations were not even referred to Parliament. It appears like the other arms of Government are forgetting that Parliament is key and it has an important responsibility.

We must protect the power that the Constitution has given to Parliament. We should not, as Parliament, give away what is ours. This must be protected and we must ensure that the other arms of Government follow the law and comply with the requirements of the law. I wanted to add my voice on this and state that we should be strict about our powers as a House. In future, we should ensure that everybody complies with the law.

With those few remarks, I support the Committee's recommendations. The Report should be adopted, so that we can take corrective action.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): There is clearly no other Member who wishes to contribute to this debate. In the circumstance, Hon. Kamket, please, reply. You have a maximum of three minutes, if you must finish today. If you need more time, then it will have to go to the next sitting.

**Hon. William Kamket** (Tiaty, KANU): Thank you, Hon. Temporary Deputy Speaker. I thank the Members who have contributed to this Motion, starting with my able colleagues in the Committee, Hon. Murugara, who seconded me, Hon. Chachu, Hon. Maanzo and Hon. Wafula Wamunyinyi.

As my colleagues have said, it is important that Government departments adhere to the law strictly. I thank those who came up with the idea of establishing this Committee. These are institutions where the Executive takes advantage of its citizens. You can imagine the impact of making an amendment to such a very serious matter by including diesel. It is just a little amendment without public participation and following the other legal processes that are required. The only major problem we have is that sometimes we make very serious findings and recommendations as a Committee and the National Assembly and then we have the problem of the Senate. One of the major problems of the current Constitution, and the biggest impediment to legislation, is the Senate.

Moving forward, Members of this House and Kenyans should appreciate that there is duplication of roles in the two Houses of Parliament. We make very serious recommendations here in terms of the law and then the Senate just goes and does its own things. One of the biggest mistakes that were made during the process of making the current Constitution was the creation of

a bicameral Parliament without spelling out a very clear mandate for the Senate. They just have to duplicate what we do and take a lot of time thus taking us in circles. Anyhow, that is a story for another day. I thank the Committee and appreciate the work done to this statutory instrument.

With those remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, we shall pend putting of the Question on the Motion listed as Order No.18 to a subsequent time when we have the requisite numbers.

*(Putting of the Question deferred)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, the time being exactly 7.00 p.m., the House stands adjourned until tomorrow, Thursday, 14<sup>th</sup> October 2021, at 2.30 p.m.

The House rose at 7.00 p.m.