

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 27<sup>th</sup> September 2017

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** It has been confirmed that we have quorum. Therefore, I can start.

### COMMUNICATION FROM THE CHAIR

**Hon. Speaker:** I will be making some Communication at some appropriate time.

### PAPERS LAID

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

**Hon. A. B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Report of the Auditor-General on the Financial Statements of the Agriculture, Food and Fisheries Authority for the year ended 30<sup>th</sup> June, 2015.

Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2015:

- (i) Salaries and Remuneration Commission
- (ii) University of Nairobi Press.
- (iii) Consolidated Fund Services Pension and Gratuities.
- (iv) Kenya Yearbook Editorial Board.
- (v) Ministry of Education, Science and Technology.
- (vi) Youth Enterprise Development Fund.
- (vii) Transition Authority.
- (viii) Small Enterprises Finance Company Limited.
- (ix) Cooperative University College of Kenya.
- (x) Kenya National Assurance Company (2001) Limited.
- (xi) University of Kabianga.
- (xii) Kenya Marine and Fisheries Research Institute.
- (xiii) Kenya Water Institute.
- (xiv) Kenya Agricultural and Livestock Research Organisation.
- (xv) Taita Taveta University College.
- (xvi) Kenya Ferry Services Limited.
- (xvii) Pyrethrum and other Industrial Crops Directorate.
- (xviii) Kenya Tourism Board.

(xix) Kenya Technical Trainers College.

(xx) Kenya Rural Roads Authority.

**Hon. Speaker:** Leader of the Majority Party, are you ready with the Notice of Motion?

### NOTICE OF MOTION

#### ESTABLISHMENT OF AN AD HOC COMMITTEE ON SUPPLEMENTARY ESTIMATES

**Hon. A. B. Duale:** I beg to give notice of the following Motion:

THAT, aware that the country is proceeding to a fresh Presidential Election on October 26, 2017; further aware that this process requires a realignment of available resources to finance various election-related facilities; noting that such reallocation of resources may only be achieved in accordance with the provisions of Article 223 of the Constitution relating to Supplementary Appropriation; cognisant that the Supplementary Estimates for the Financial Year 2017/208 have since been laid on the Table of the House; also noting that the Budget and Appropriations Committee that would ordinarily examine such budget-related matters is yet to be established; further noting the urgent need to consider and conclude with the matters in time for the Presidential Elections; pursuant to the provisions of Standing Order 218, this House resolves-

(a) to establish, an *Ad Hoc* Committee to be known as the *Ad Hoc Committee on the Supplementary Estimates*, to undertake the functions of the Budget and Appropriations Committee as contemplated in the Standing Orders in relation to the Supplementary Estimates, in particular the Supplementary Estimates for the Financial Year 2017/2018 and any legislation related to those Estimates;

(b) That, the Committee comprises of the following Members-

1. Hon. Joseph K. Limo, MP – Chairperson.
2. Hon. Ruth W. Mwaniki, MP.
3. Hon Benard Masaka Shinali, MP.
4. Hon. Fatuma Gedi Ali, MP.
5. Hon. (Dr.) Naomi Shaban, MP.
6. Hon. Alois Lentoimaga, MP.
7. Hon. Moses Lessonet, MP.
8. Hon. Kimani Ichung'wah, MP.
9. Hon. Khatib Mwashetani, MP.
10. Hon. Qalicha Wario, MP.
11. Hon. Sarah Paulata Korere, MP.

(c) That, the quorum of the Committee be the Chairperson and four other Members; and,

(d) That, the Committee considers the matters under its mandate and reports to the House on or before Tuesday, October 10, 2017.

**Hon. Speaker:** Very well. Next Order.

**Hon. Wakhungu:** On a point of order, Hon. Speaker.

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

**Hon. Wakhungu:** Thank you Hon. Speaker. I rise on a point of order to seek your direction in relation to what the Leader of the Majority Party has just said. He is coming up with

an *ad hoc* Committee to look at the Supplementary Estimates. I was listening keenly. It seems the composition is only from the side of the Majority. The Minority is not there. We know Supplementary Estimates are very critical, particularly when it comes to checks and balances. It will be proper for the Minority side to be included in such an important activity.

I seek your direction. I thank you.

**Hon. Speaker:** Clarification.

**Hon. A.B. Duale:** I have contacted the only Member of the Minority who is recognised as a leader, namely, Hon. John Mbadi. To my knowledge, the Minority has not submitted the names of the deputy to Hon. Mbadi. They have not submitted names of the whip and the deputy whip of the Minority Party. Out of goodwill, I spoke to Hon. Mbadi in the morning and asked him to submit the names.

The problem is when you refer me to *Baba* on critical legislative matters, that does not help this House. So, Hon. Mbadi is still looking for *Baba* at Capitol Hill or Okoa Kenya or at the other office. Now that I have just given Notice of Motion, if the Minority can talk to their leader, Hon. Mbadi, and he submits the names as required through a letter through your Office, I am ready to do the amendments tomorrow morning when I will be moving this Motion. Out of goodwill, it is good for the membership of this Committee to be drawn from both sides. They were here yesterday because I brought a very strong Motion for Adjournment. They had to come back. So, I have to do something to bring them back every now and then. If Hon. Chris Wamalwa and the other leaders can go and talk to Hon. Mbadi and we get the names this evening, I will move that Motion in an amended form and we will have them on board. But this House will not wait for people who want to do consultation from quarters which are not recognised by the Standing Orders.

**Hon. Speaker:** Hon. Members, you have mentioned some name. I was going through the list of the 349 Members elected to the National Assembly and I have not come across the name of any Hon. Member known as *Baba*. That must be some name existing in the minds of some people. When Hon. Mbadi has to consult some other creature by that name, it becomes a bit tricky. Are we dealing with human beings or phantoms?

Hon. Savula, do you also want to tell me about a similar name?

**Hon. Angatia:** Hon. Speaker, I want to make it clear to the Leader of the Majority Party that an official communication was done to the Clerk of the National Assembly appointing the leadership of the Minority side. I am aware that during the forum that was held at Intercontinental Hotel, the Leader of the Minority Party, Hon. Mbadi, declared that Hon. Ayub Savula is the Deputy Leader of the Minority Party. I am the Deputy Leader of the Minority Party. Things are not going to change. We have communication. I wish the Leader of the Majority Party gives us more time to consult further and give him the names by today evening.

**Hon. Speaker:** Hon. Savula, just look at Standing Order No.20 about what you are supposed to do. I have no quarrel with who becomes leader of anything, but if you do not comply with Standing Order No.20, it becomes tricky. Those Standing Orders, as you will recall, were adopted by the 11<sup>th</sup> Parliament to which you were a happy and active Member in June before the House went on recess *sine die*.

Hon. Savula, I can assure you that will be acted upon by my Office within two minutes and we will not have any problems. However, appreciate that the Standing Orders provide for a membership of up to a maximum of 23 for select committees, and more so *ad hoc* committees. What the Leader of the Majority Party has done is to give the names to which he will be entitled. Please, feel free to do the communication. Let us act as a House that is in control of its own

calendar of events. If you start referring me to some other creatures which are not known to the law and the House, I am unlikely to even hear or see. Hon. Savula, I am sure you know this. It should be very easy. As you said, you have expressed a desire to be the deputy. Is it that you know it has been decided? I can see Hon. Kizito is happily occupying the position of the Leader of the Minority Party.

*(Laughter)*

I would urge that we resolve that matter so that we can operate as a House. What Hon. Wamalwa has said is correct. This is a matter to do with Supplementary Estimates. It would be the desire of the House to see that both sides of the House are included and that Members actively participate in scrutinising the Supplementary Estimates while we await the formation of the Budget and Appropriations Committee.

Just before the Leader of the Majority Party moves his Motion, since we have a sufficient number for the Communication, let me give it.

### COMMUNICATION FROM THE CHAIR

#### BUNGE SPORTS CLUB

**Hon. Speaker:** Hon. Members, the Parliament of Kenya has endeavoured to provide an all-round favourable working environment for Members of Parliament and staff. In doing so, the institution has put in place various mechanisms intended to promote professional and personal wellbeing of Members and staff of Parliament. The Bunge Sports Club is one such mechanism.

Bunge Sports Club is as old as the Parliament of Kenya. The objective of the club is to enhance sporting activities in Parliament. The club was established out of the realisation that sporting activities offer a much-needed platform for Members of Parliament to interact with one another and the wider public away from the rigours of the legislative business of the House.

Additionally, sports accord participants innumerable health benefits ranging from overall wellbeing to general physical fitness.

The Parliament of Kenya, through Bunge Sports Club, often participates in various sporting activities nationally as well at the regional level, where the various legislatures of the member states of the East African Community (EAC) compete against each other through the auspices of the East African Legislative Assembly (EALA). In this regard, the Parliament of Kenya has participated in and emerged as the overall best team in different disciplines during the East African Community (EAC) Games over the years.

Kenya had the privilege of hosting the most recent edition of the East African Community Games in Mombasa in December, 2016. The event recorded unprecedented success attracting corporate partners, local as well as international media.

Hon. Members are invited to take part in the various sporting activities planned by Bunge Sports Club. Details regarding Bunge Sports Club can be obtained from the Health Club, Continental House, Parliament Buildings.

Thank you.

*(Applause)*

Let us have the Leader of the Majority Party.

### PROCEDURAL MOTION

#### RESOLUTION TO HOLD SITTING ON THURSDAY MORNING

**Hon. A.B. Duale:** Hon. Speaker, I beg to move a Procedural Motion:

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold a Morning Sitting on Thursday, 28<sup>th</sup> September 2017 commencing at 9.30 a.m. for purposes of considering specified business.

Hon. Speaker, I am referring to specified business, which in the English dictionary can also mean “specific set of business.” Looking at the calendar that we approved this morning, we are going for an 11-day recess beginning tomorrow afternoon, if the House agrees with the Adjournment Motion that will be brought.

We have two important businesses, among many others. One is formation of the proposed *ad-hoc* committees. Without anticipating debate, we intend to introduce the Election Laws (Amendment) Bill tomorrow. If the House agrees, we will form the proposed two *ad-hoc* committees so that as we proceed for the 11-day recess, those committees can look at the Supplementary Estimates, 2017/2018, and the Election Laws (Amendment) Bill. We will make some clarifications in as far as the judgement that the Supreme Court made is concerned. The Supreme Court, in both the majority and the minority judgements, urged the Legislature to consider making certain legislative changes to the election laws. Due to that and other important issues, we realise that we cannot only have the afternoon session tomorrow. We do not want to call for a third sitting as we used to do during the 11<sup>th</sup> Parliament when there was so much business on the Order Paper.

Hon. Speaker, that is the genesis of this proposal as sanctioned by the House Business Committee (HBC) that sat under your chairmanship last night between 7.30 p.m. and 9.00 p.m.

Since this is a Procedural Motion, I beg to move and ask Hon. Pukose to second.

**Hon. (Dr.) Pukose:** Thank you, Hon. Speaker. I second the Motion. As ably put by the Leader of the Majority Party, this is time for all of us, as the National Assembly, to stand up and be counted. When it comes to the two Bills that we have to deal with tomorrow, it will be important that we process them before we go on recess. That is why we have been elected by our constituents to be in this House to make laws and also act responsibly.

With those few remarks, I second.

**Hon. Speaker:** More importantly, the House will be complying with Article 118 of the Constitution in terms of enabling the *ad hoc* committees to conduct public participation meetings in consideration of the Supplementary Estimates, 2017/2018 as well as the amendment Bill on the elections laws.

*(Question proposed)*

Let us hear the Member for Kiminini.

**Hon. Wakhungu:** Thank you, Hon. Speaker. I rise to oppose this Procedural Motion. In line with Standing Order No.33(b), obviously when such a Motion comes before the House, there must be some logical justification in terms of convincing the House. The Leader of the Majority Party has just said that the word ‘specified’ is the same as ‘specific’, which is not the case. “Specified” is a verb and “specific” is an adjective. So, it is good for him to be informed with regard to proper English.

The election law is very critical and we look at it when it comes to running of elections. We are going through an extraordinary time in Kenya and we need some extraordinary measures to enable this country to move forward in a cohesive manner. We are not in any rush. We know very well of the Supreme Court’s judgement that we should repeat the presidential elections in this country. In case somebody finds themselves on the wrong side, they can always go back to the Supreme Court.

The laws which guide the Supreme Court are the Constitution and the Elections Act. It is my humble request that we wait. There is no need to rush. My friend, the Leader of the Majority Party and the Member for Garissa Township, we want to move together as a House and also as one Kenya. We do not want to raise the temperatures in this country. I understand, in line with Article 118, that we need public participation, but for heaven’s sake, I oppose this. We need to wait till maybe after the repeat election of the President of Kenya is held. We know the right person to be elected as the President of this country, therefore, we need to move together as a team. For now, this is suspect because the Jubilee side has been meeting and they even threatened the Supreme Court. I believe this is not going to be moved in good faith. My humble request is that we allow Members to debate this matter because ours is a House of debate. We do not want to come here and just rubberstamp issues. So, the Member for Garissa Township, as a leader, must provide proper direction and not seek to divide this country.

I oppose.

**Hon. Speaker:** It is your right to oppose. Indeed, in the old days, you would be known as the Opposition. Many years before you joined this House, I used to happily occupy your position, Hon. Wamalwa. You have a right to oppose and nobody can deny you that right. Are there any more contributions? Hon. Kangogo.

**Hon. Bowen:** Thank you, Hon. Speaker. I stand to support the Procedural Motion of holding a sitting tomorrow morning. Hon. Wamalwa has referred to the Supreme Court’s

judgement which was very clear on the need to hold another election within 60 days. The IEBC has already indicated that the election will be held on 26<sup>th</sup> October 2017. Tomorrow's morning sitting is very important because we want to put some measures in place, including discussing the Supplementary Appropriations Budget in order to fund the forthcoming elections. We cannot be held to ransom by NASA, which is still dwelling on the Supreme Court judgement. We are very sure that on 26<sup>th</sup> October, elections will be held and Uhuru Kenyatta will be elected as the President of the Republic of Kenya. I support.

**Hon. Speaker:** The Member for Funyula.

**Hon. Oundo:** Thank you, Hon. Speaker for giving me this opportunity. I rise to oppose this Motion on the ground that after strictly listening to the judgment of the Supreme Court, I realised that it ordered the IEBC to conduct repeat election in compliance with the law. I do not remember hearing them say we need to change the law. I imagine that the election date of 26<sup>th</sup> October 2017 was set in compliance with the existing law. I feel that the so-called amendments to the law are suspicious, mischievous and generally meant to divide this country further than it stands now.

**Hon. Speaker:** Can I give you some direction because the only business which has been put forth is the Supplementary Appropriations Budget, which was tabled in the morning? You are opposing that we should not consider it. Is that so? Some of your colleagues have been saying, "Give us time because we also need to participate in it". When are you going to bring the names? If it is just a chorus you have heard, then, please, try to listen to its meaning. You are pleading for time to bring the names for the *ad hoc* Committee to look into the Supplementary Appropriations Budget. This committee must also engage the public and this is not just routine. On one hand, you want to be given time to bring the names and on the other, you do not want to have a sitting tomorrow morning. Member for Funyula, do I understand you to be in that kind of frame of mind?

**Hon. Oundo:** Not really, Hon. Speaker. Probably we have not done adequate consultations on the truth of this matter, but when I read the minds of the Members on the other side, it seems there is a need to rush and ram into the throats of Kenyans some specific objectives. I cannot understand the need for tomorrow's morning session. If it is to only consider membership of the *ad hoc* Committee, then this is not a matter which will require a full session to do the same. I stand to oppose and be guided.

**Hon. Speaker:** The Member is right and has said he reads mind. You need to consult him because he is a mind reader. Hon. Cheptumo.

**Hon. Cheptumo:** Thank you, Hon. Speaker. What is before the House is a Motion seeking a sitting tomorrow morning in accordance with Standing Order No.33(b) and not about the contents to be discussed tomorrow. If it is allowed, then tomorrow, the consideration of specified business will be moved by the Leader of the Majority Party. That is the time when Members will either oppose or support. It needs to be made very clear that the Leader of the Majority Party is only seeking to hold a sitting tomorrow morning. It is not in order at this point

in time to anticipate debate and assume tomorrow's discussion will either be legal, illegal or touching on the Supreme Court's ruling.

I stand to support this Motion and request Members to allow this Motion to pass so that Hon. Wamalwa, a good debater on the other side, gets a chance. But for a Member to imagine that he can read the minds of the Members on this side, that is improper. Otherwise, I support and ask us to allow for a sitting tomorrow morning.

**Hon. Speaker:** Finally, the Member for Bonchari.

**Hon. Oyioka:** Thank you, Hon. Speaker. I stand to support the Motion. As my able colleague said, we are only seeking permission to discuss specific or specified issues tomorrow. We are still waiting to see what will be tabled by the Leader of the Majority Party then.

I support.

**Hon. Speaker:** I assume that the Member for Bonchari was seated on the right side. Let us have the Nominated Member, Hon. Godfrey Osotsi.

**Hon. Osotsi:** Thank you, Hon. Speaker, for giving me this opportunity to contribute to the Motion. I stand to oppose the Motion because of the determination that has been exhibited by our colleagues on the other side of the House to reverse the gains that this country has made in terms of observance of the dictates of the Constitution and the rule of law. Tomorrow's proposed morning sitting will be used to reverse the gains that we have made in that regard. The Supreme Court made a decision that we need to conduct a repeat presidential election.

**Hon. Speaker:** The sitting of tomorrow morning has nothing to do with the Supreme Court, please. You can actually stand and oppose.

**Hon. Osotsi:** Hon. Speaker, I seek your protection from Hon. Duale and others. I stand to oppose this Motion which seeks the permission of this House to hold a sitting tomorrow morning. The House should not discuss the Motion that Hon. Duale is referring to.

**Hon. Speaker:** He is not making a maiden speech. I watched him make his maiden speech. When you hear Members claim to want to rise on a point of order, do not get scared, Hon. Osotsi. You know the reason as to why your party nominated you. It is because they thought you are brave. Do not be scared when people rise and claim to want to raise points of order. You are within your right to oppose the Motion.

Hon. Savula, do you want to say something?

**Hon. Angatia:** Hon. Speaker, I think this Procedural Motion has been brought in bad faith, considering that the NASA Coalition made a resolution that its Members should not attend the sittings of the National Assembly. You know majority of them have not been in Parliament for the last five or six sittings. The intention is to have them kicked out since they will have missed the seven sittings, so that we can have parliamentary elections in the NASA zone. We should shelve this idea until further notice.

**Hon. Speaker:** Hon. Members, we can go to the substantive business. This is a Procedural Motion. Let me just dispose of it. Of course, Hon. Members, it is only fair that every one of us is alive to the provisions of Article 103 of the Constitution. More specifically, the word "consecutive", which used to be in the previous Standing Orders, is no longer there. Therefore, if somebody misses three sittings and then at some other time they miss another three sittings without written permission from the Speaker, and is unable to offer satisfactory explanation for being absent, there are certain things that the Speaker can take judicial notice of. For instance, if you are incarcerated in police cell for committing crimes, that is excusable. Hon. Savula, you

notice that several Members may have been coming to do what was in the 6<sup>th</sup> Parliament known as “technical appearances”. Nevertheless, they know the law. Maybe, hopefully, they will offer some satisfactory explanation when the session is not over. Of course, this morning the House did adopt its calendar, which runs up to February. Let us dispose of this Motion because it is procedural.

I will put the Question.

*(Question put and the House divided)*

**Hon. Speaker:** It has been confirmed that those in Opposition have the requisite numbers to occasion a Division. Therefore, I direct that the Division Bell be rung.

*(The Division Bell was rung)*

Order Members! Members, resume your seats. Even those who are thirsty now have to go back and sit. Hon. Members, take your seats.

Hon. Members, I now direct that the Bars be drawn.

*(The Bars were drawn)*

*(The Doors were closed)*

For the new Members, it means that you can now not go out. Look at your Standing Orders. Those that are doing other business outside can also not come in even if you invite them by whatever means.

Hon. Members, I have also been informed that quite a number of you do not have cards. Did I see Hon. Odanga nodding in appreciation that he does not have a card? I expected Hon. Odanga to have a card. Anyhow, that notwithstanding, I know a number of you have not quite come back to business properly so you have every reason to sometimes misplace your card. For the new Members, it is advisable that every time you make your way to Parliament, you remember your card. Very soon, instructions will be issued that whenever there will be any voting, if you do not have your card, you will lose your opportunity to vote and even contribute. Since I know there are some Members who have not had their cards activated and others like Hon. Odanga, who appear to have forgotten theirs, they are excused for today. It means, therefore, that we will have manual voting and electronic voting for those that have their cards and know how to use them.

For those that have their cards, just look at the gadget in front you. It has “Yes” and “No” buttons. Depending on how you wish to vote, you will press the appropriate button. Those that do not have cards are advised to come to either the left or the right of the Speaker upfront. I will give you one minute. I will take the Chair and give you one minute to make your way here.

*(Loud consultations)*

Hon. Members, if you do not have a card or if yours has not been activated, you may come up here. Are all the standing Members the ones who have no cards like the Member for Kiharu? Do you not have a card?

*(Several Members stood up in their places)*

Hon. Members, I do not understand whether those who are standing intend to make their way up here to vote manually or are merely doing some exercise. I can see Hon. Odanga had forgotten he does not have his card. Hon. Members, once I stand, you will not be allowed to say you do not have a card. You either have a card and you are willing to vote when you are seated there or you come up.

*(Loud consultations)*

Hon. Members, I can see some of you have not waited to understand the procedure. If you claim to have done anything here, please, you better go back. Voting has not started. Those without cards should come up. I have not said you vote. I know many of you have been busy campaigning and have forgotten this procedure.

Hon. Members, I assume that all those who are not up here have cards and know how to use them for purposes of voting. Before we go on, those with cards, please, log out. I should not see names here. I can see the name of Hon. Tuwei. You cannot vote before I put the Question. I need to explain this with your cards out. When I tell you to log in, you will have 60 seconds to vote.

Hon. Members, you have 60 seconds. You can now log in. The screens should show. That is why I am not telling you to vote. The one that is here is showing the total number of Members present is 353, but the House has a total number of 349 Members. This is the problem of technology.

*(Laughter)*

Hon. Members, you may vote now.

## DIVISION

**Hon. Speaker:** Order Members! These are the results: For those who voted electronically, the Ayes, 61; Nays, 31; and Abstentions, nil. For those who voted manually, the Ayes, 22; Nays 6; and Abstentions, nil. The total is: Ayes 83 and Nays 37. Abstentions are nil. Therefore, the Ayes have it.

*(Applause)*

*(Question carried by 83 votes to 37)*

**ELECTRONIC**

**AYES:** Ms. Leshoomo, Mr. Lessonet, Ms. Lesuuda, Mr. Limo, Ms. Chelule, Messrs. Cheptumo, Ekomwa, Mariru, Maritim, Ms. Emanikor, Ms. Mizighi, Messrs. Muchira, Mugambi, Ganya, Gikaria, Gitau, Murgor, Murugara, Mutai, Mutunga, Muturi, Ms. Rehema Hassan, Messrs. Jonah Mwangi, Ibrahim Abdi, Kubai Iringo, Nakuleu, Nanok, Eric Njiru, Ms. Kihara, Ms. Njoroge, Messrs. J. M. Nyaga, Ms. Nyamai, Messrs. Nyoro, Bowen, Nzioka, Kiai, Ms. Obo, Ms. Kibeh, Messrs. Melly, Kihara, Ogutu, ole Lemein, Ms. Chebaibai, Messrs. Kipyegon, Kisang, Kitayama, Kones, Hillary Kosgei, Oyioka, Dr. Pukose, Robi, Kositany, Tongoyo, Tuitoek, Ms. Tuya, Ms. Florence Koskey, Messrs. John Wambugu, Koyi, Lekumontare, Yussuf Adan, Mwambire,

**NOES:** Ms. Adagala, Messrs. Ondieki, Angatia, Baya, Ms. Kasalu, Messrs. Kimilu, Lomorukai, Maanzo, Masara, Ms. Muhanda, Messrs. Mukhwana, Mulu, Mulyungi, Mwale, Ms. Mwanyanje, Messrs. M'mbaya, Nzengu, Obiri, Odege, Odhiambo, Oduor, Oluoch, Omuse, Osotsi, Ouda, Oundo, Owino, Seroney, Wakhungu, Ms. Wamuchomba and F. K. Wanyonyi,

**ABSTENTION:** None

**MANUAL**

**AYES:** Mr. Gaal, Ms. Kihara, Messrs. Koech, Rono, Ms. Halima Yussuf, Mr. Kamket, Ms. Shamalla Jennifer, Ms. Adan, Ms. Korir, Messrs. Githinji, Gideon Koske, Qulacha Wario, Kingara, Ms. Tum, Messrs. Hassan Kulow, Mohamed Abdikhaim, Joseph Wachira, Sankok, Dr. Shaban, Ms. Shollei, Messrs. Washiali and A.B. Duale.

**NOES:** Messrs. Haribae, Nyamita, Ms. Nzambia, Messrs. Kiti, Oyula and Wangaya.

**ABSTENTION:** None

*(Applause)*

You can now open door.

*(Loud consultations)*

Next Order.

Order Members! Order, those who are withdrawing! No shaking of hands. Those who are withdrawing, go to the villages or wherever you want to go to. Order Members! There is still more business to be transacted.

**MOTIONS****RATIFICATION OF THE NILE BASIN COOPERATIVE FRAMEWORK AGREEMENT**

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

**Hon. A. B. Duale:** Hon. Speaker, I beg to move the following Motion:

THAT, cognisant of the Report of the Select Committee on Regional Integration of the 11<sup>th</sup> Parliament on the Ratification of the Nile Basin Co operative Framework Agreement, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, this House approves the Ratification of the Nile Basin Cooperative Framework Agreement.

Hon. Speaker, you have seen that there are those who have been elected as Members just to come and vote and walk out. They are told by their party leader not to come to Parliament, but still defy him and come to the Chamber. It is good today they have tasted the will of the people, that is, the Jubilee tyranny. It is from the people. It is not us. We were hardly 160 Members, but now we are 216 Members. We did not put a gun on any voter's head. The people, in their wisdom on 8<sup>th</sup> August 2017, walked to polling stations and formed long queues, notwithstanding rain and sunshine and they decided to give Uhuru Kenyatta the required numbers to run this country.

This approval came through a memorandum to your office on 3<sup>rd</sup> May 2016 and pursuant to Article 27(2) of the Treaty, the Cabinet Secretary for Foreign Affairs and International Trade requested this House and more specifically requested the National Assembly. I want to inform the new Members that this is the only House that has the powers to ratify a treaty. You should know the difference between the Senate and the National Assembly. So, the ratification of any treaty from the Ministry of Foreign Affairs and International Trade and the Executive can only be done by the National Assembly. That is why the approval of this House is required today to ratify the Nile Basin Cooperative Framework Agreement and give directions to the Ministry to deposit the instruments of ratification with the African Union. We want to do it better in the 12<sup>th</sup> Parliament as a majority coalition.

I want to ask our Members that every time they get the Order Paper and pick on any Bill or Motion, please, they should pass by my office and get the required reports to come and debate in the House. We want to serve the people of Kenya. We do not want to serve, as the Speaker said earlier, people who are not recognised by the Standing Orders.

There are various treaties on the Nile that have been ratified by countries that are along the Nile. There was the Nile Treaty of 1902, the Nile Treaty of 1929 and the Nile Treaty of 1959. All of these treaties relate to the use of the waters of River Nile. These treaties say that no country should use the river in a way that disadvantages other countries. The Nile Treaty covers Kenya, Uganda, Sudan, Democratic Republic Congo (DRC), Egypt, Burundi, Eritrea, Rwanda and Tanzania. All these countries in one way or another are covered by the Nile Treaty. Every treaty that was done must not disadvantage any of the countries. The Nile is the longest river in the world. It extends to over 10 African countries. As I have said, it needs its management. How do you manage the water of the Nile? What was the rationale? What was the objective of this protocol? This protocol was handled by the Regional Integration Committee of the 11<sup>th</sup> Parliament and they have tabled their report. I am sure that the report the Members have is of the

11<sup>th</sup> Parliament under the able leadership of the former Meru County Woman Member of Parliament, Hon. Florence Kajuju.

What were the objectives and rationale of this protocol? The first one was to build confidence among member states through various regional programmes and projects. The regional countries and states have a number of programmes and projects along the River Nile. Secondly, the objective was to negotiate the cooperative framework agreement called the Cooperative Framework Agreement. Thirdly, it was to establish a permanent institution of the Nile Basin that every country can refer to. The ratification of the CFA will, therefore, enable the basin states of the River Nile to achieve all the objectives. There was signing, ratification and implementation of the protocol. According to Article 43 of CFA, the agreement shall come into force on the 6<sup>th</sup> day following the day of the deposit of the instruments of ratification or acceptance at the African Union. That is a function of the Ministry of Foreign Affairs. Once we approve those instruments on behalf of the Government of Kenya and on behalf of President Uhuru Kenyatta, the Cabinet Secretary for Foreign Affairs will deposit that instrument with the African Union, so that the Nile Basin Commission can become operational. Ultimately, they want to build a Commission. This is established under Article 15.

So far, this agreement has been signed by only six-member states. Those states are Kenya, Uganda, Ethiopia, Burundi, Rwanda and Tanzania. All the six countries have ratified the agreement. It is a very emotive issue. In some countries, it is huge. In some countries, it is the backbone of their economy. In some countries, they are at the tail end of the river from where they get water. So, it is a complex called the Nile Basin Initiative (NBI). The NBI is funded and supported by member countries through the support of several multilateral and bilateral development partners, including the African Development Bank, the Global Environment Facility, the World Bank, UNDP, Canada, Denmark, Finland, Germany, among others. All these are consortiums of European nations.

It is good because this is a House that is mandated by the Constitution to deal with budgetary issues. So, what is Government of Kenya's annual subscription to the NBI? As of now, it stands at US\$224,000. This is an addition to continuous in-kind support that provides resources to the NBI. To give Members time, what are the recommendations? What did this Committee say?

The Regional Integration Committee of the 11<sup>th</sup> Parliament is asking this House to approve the ratification of the Nile Basin Cooperative Agreement by the Republic of Kenya. This is one of the gains in the new Constitution of 2010. Previously, Ministers used to sit in their offices and sign any agreement with any Tom, Dick and Harry and any state. This House, under Article 95(2), represents the interests of the people of Kenya. If there is an interest that touches on your constituency or your county, then you have an opportunity to take Members back. I hope the Member for Samburu West, Hon. Naisula, the Member for Samburu East, and the Members from Laikipia are here. The most difficult agreement that this House passed was the Kenya/United Kingdom Defence Agreement. It was very difficult. It was called British Army Training Unit Kenya (BATUK). For the first time, I realised that as the Member of Parliament

for Garissa Town, I have so much power that I can tell the Britons to come and discuss such pacts with us. They used to come to my office and ask why the process was not getting anywhere and I would tell them that the people's representatives were dealing with the matter.

*(Hon. (Ms.) Mbalu walked in)*

Thank you, Hon. Jessica. Congratulations for being appointed and approved by the House to serve on the Chairman's Panel. That is why Jubilee is good. We saw the talent in you, which your coalition did not see. We saw the talent in Jessica. Thank you, Hon. Speaker, for appointing Jessica and Hon. Omulele. Jubilee sees talent even in the Opposition. The Opposition does not see such talent in their midst.

Another purpose of this Report is to direct the CS for Foreign Affairs to deposit the instruments of ratification with the African Union (AU) as provided in one of the recommendations. The last recommendation was to direct the CS for the National Treasury to avail the funds for Kenya's annual subscription in the NBI. You can see three key recommendations. The first one telling the National Treasury to fulfil the obligations of Kenya in paying the subscription. The second one is asking the CS for Foreign Affairs to deposit these instruments with the AU. The third recommendation is the one that will build confidence among the member states through various regional platforms. I have finished.

*(Hon. Bowen interjected)*

Hon. Speaker, Hon. Bowen is out of order. I am sure you do not wish to be in the Opposition. I am sure the only office you want to aspire for is the Office of the Leader of the Majority Party. You are only sitting there because the owners of those seats have decided to abdicate their constitutional responsibility of representing, legislating and overseeing as per the Constitution. Because I want as many new Members of the Jubilee to contribute, I ask the Member for Mandera East, Hon. Omar, to second. I found him earlier and told him to do research on this matter.

**Hon. Speaker:** Member for Mandera East.

**Hon. Hassan Omar:** Thank you, Hon. Speaker. I rise to second. So far, there have been three treaties regarding the Nile Basin, namely, the Nile Treaty of 1902, the Nile Treaty of 1929 and the Nile Treaty of 1959. Kenya signed the CFA on 19<sup>th</sup> May 2010 and in view of the Regional Integration Committee that was tasked to do this Report, there is every advantage for Kenya to ratify this CFA in respect of sharing water resources across the region. So far, six countries have signed this Agreement. Kenya is one of the countries that really require water as a resource for its socio-economic development; I, therefore, wish to urge the House to ratify this CFA. It is also important to note that Article 39 binds the National Assembly to pass this Agreement without any reservation.

I second.

*(Two Hon. Members consulted loudly)*

**Hon. Speaker:** Hon. Members, including the Member who is pinching. I wish I knew your names. Now, what is that room she has gone into? The older Members, please, do not treat

the new Members those... Now when they start pinching you like that on your cheek, it is not good. And then she dashes into some place! I do not know what message she may be passing to you by pinching your cheek.

*(Question proposed)*

I assume that Members whose names appear here are desirous of contributing. Member for Wundanyi? Is he here? Member for Nakuru Town East.

**Hon. Gikaria:** Thank you, Hon. Speaker for giving me this opportunity to support the ratification of this very important CFA. As has been said by the Leader of the Majority Party, it is important to ratify the CFA. Historically, we have had three treaties: one in 1902, another in 1929 and the third one in 1959. If you look at the 1959 Treaty, it never considered other countries that were supposed to benefit from River Nile. The treaty that was signed in 1929 had given some restrictions in the use of... This has created a problem, not only on River Nile, but even locally. I think this treaty will bring a lot of socio-economic value to the country. The 1959 Treaty included Sudan and Egypt. It was specific on the volume of water to be used. Kenya is one of the countries that have signed the ratification. It is important to note that some of those provisions will improve, particularly on equitable and reasonable utilisation. Kenya will benefit so much from the utilisation of the waters of the Nile River in an equitable and reasonable manner. This is important because that was not there. But now it is going to improve the dry areas of this country and of course increase the usage of water within.

The other thing is the obligation not to cause insecurity. Kenya has a responsibility to protect and conserve the Nile Basin eco-system. Of course, there is the issue of regular exchange of data which comes in very handy. The countries along River Nile will have an opportunity to exchange data on the usage of the waters of River Nile.

Going by what the Leader of the Majority Party has just moved, the use or ratification as has been indicated under the... The recommendations in the Report will assist this country. One of the recommendations is to build confidence among member States through various regional programmes and projects. For me, that is critical. The second one is to negotiate the Co-operative Framework Agreement. The third recommendation is about the establishment of a permanent institution of the Nile Basin. These are very critical observations.

As Hon. Duale has said, we had a problem in the last Parliament with the San Marco Agreement concerning the use of information received from satellites. We never had a proper agreement in place. However, when the San Marco agreement was signed between the Kenyan and the Italian governments... Under the Constitution, as the Leader of the Majority Party has just indicated, those agreements and treaties, it is mandatory that they are brought to the National Assembly so that Members can debate the importance of such treaties. Out of that, Kenya will benefit from the San Marco agreement, which is almost the same as what we have here.

One of the recommendations is that the House approves the ratification of the Nile Basin Co-operative Framework. This should involve the Cabinet Secretary in charge of Foreign Affairs because all these things are under the docket of international trade. The instrument of ratification has to be deposited with the African Union (AU) Commission.

Lastly, the national Treasury should avail funds for the annual subscription to the Nile Basin Initiative. That is very crucial for us, as a country. As we approve the ratification, the relevant Ministries should play their part. For instance, the Ministry in charge of foreign affairs should deposit the instrument of ratification as required by law and the National Treasury should

avail finances. After ratification, we are bound by the treaty to pay subscription fees. The National Treasury should ensure that we are paid-up members of the Nile Basin Initiative.

With those few remarks, I support.

**Hon. Ekomwa:** Thank you, Hon. Speaker, for giving me this opportunity. I stand to support this Motion on Approval of the Ratification of the Nile Basin Cooperative Framework Agreement. As the Leader of the Majority Party has stated clearly, Kenya is a sovereign State. While it has analysed the impact of this Agreement to the Kenyan citizens which it deems fit, water is a very important component. I expected the NASA team to be the most active in this Agreement because, if you analyse it very well, this Nile originates from Lake Victoria, and most of these NASA Members originate from Lake Victoria. I do not know how they will represent their people if they fail to support this Agreement. Anyway, we pray for them. We will work for them and we will be blessed. Let them waste their time in the streets.

This Agreement is very important. I want to note the importance of River Omo in Lake Turkana. If Kenya would not participate in such agreements, some other states will decide for them. So by signing this Agreement and giving it an okay, it means that the Government of Kenya will always participate in issues that are so critical about the Nile; issues that actually affect Kenyans and issues that will affect our marines. That is why as a leader of this nation, I support this Agreement. We have even delayed. We need to sign it immediately for us to start benefitting from the impact of this Agreement. When we sign this Agreement, Kenya will also be recognised as a nation that respects agreements because we do not know what will come next. We do not want to suffer from the fear of the unknown. We want to be a responsible nation where we consider issues that are so important for our citizens.

I also support this Agreement because if we look at the first treaties, they were not fair to Kenyans. This one is more favourable to us. That is why as the Parliament of Kenya, we have a role to ensure that these articles are very important to us because we will be there, we will make decisions that are very important to our nation. Someone else will not decide for us. The Nile is part of our nation. We always want to be there and make decisions that assist our people. So I support this Agreement.

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

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

Hon. Temporary Deputy Speaker, I also want to take this opportunity because my learned friend from Turkana North, who has been the Vice-Chairman of the Committee on Integration, did a very good work to ensure this Agreement has been drafted well. I ask the Speaker not to forget to consider Hon. Nakuleu because he is well loaded with facts about this Agreement.

I support. Thank you so much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I now give the Floor to the Member representing the people of Wundanyi, Hon. Mwashako. He is not there? The Member for Igembe Central.

**Hon. Kubai Iringo:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Motion. Before I make my comments, let me congratulate you on your election today. As I said, you are up to the task. I am looking forward to good working relations with you and the rest of your team.

I stand to support this Motion that we ratify the same and let our Ministry sign it because we are part and parcel of this process. More so, having our country included would make us benefit more from our great river. When we received this Agreement in the last Parliament, which I had the privilege of being a member of the Committee on Regional Integration, we had a lot of problems when we went to Tanzania. We wanted them to accept it and they supported us. But the problem was with Egypt and Sudan. Sudan and South Sudan had not been included. I hope they will be included in the treaty because they are part of us. The Nile Treaty covers the countries that are already listed here and South Sudan.

Therefore, we saw no reason why Sudan and Egypt wanted the monopoly of controlling the Nile Basin whereas we all know that the waters of the Nile originate from East Africa. There are many rivers flowing from Rwanda, Burundi, Tanzania and Kenya into Lake Victoria, where River Nile originates. If it were not for these rivers, then we would not be having the fresh water in River Nile. Therefore, the argument was that because these treaties have been renewed years over, they have always been favouring Egypt. Therefore, when we went for the last conference, it became a big bone of contention. Egypt insisted that they have to remain with this clause. I quote:

“Except with the prior consent of the Egyptian Government, no irrigation works shall be undertaken, no electricity generation installed along the Nile and its branches nor the lakes from which it flows if these lakes are situated in Sudan or in countries under British administration, which could jeopardise the interest of Egypt.”

This means the Egyptians wanted to make the waters of the Nile theirs because they say that is where their livelihood comes from. But the argument is that these waters - and water in general - should be used by everybody. That is why the British Government came in to protect their colonies and put in these measures so that the other East African countries and other countries can benefit from the waters of the Nile. Once that was refused, the numbers which accepted were more than those that refused. With the changes that were being made, we were not making drastic changes in the 1929 treaty; there were only amendments which the Egyptians have refused. Fortunately, our Kenyan Government is ready to accept. Once we accept and pay to the CFA and other countries pay, they will be binding. This Parliament is bound by Article 39 that once we pass as a Parliament, our country will be bound by it. We shall pay the dues. We shall be members of this Agreement and we shall reap the benefits, with Sudan or Egypt agreeing to it or not.

I urge those governments because they have no otherwise. The same arm should be extended to South Sudan and be included in this treaty, so that they can also start contributing to the same. In case we need to use the waters of River Nile, we shall have the leeway and Egypt should not stop us or bring problems and, therefore, I urge other governments to come by. Tanzania was also reluctant, but I know they will be coming in. Uganda is ready to do the same. Therefore, this Motion should go uninterrupted and the Ministry should pay the dues. Once Parliament has passed it, there will be no question about it.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Allow me to introduce myself to you, especially the new Members in this august House. My name is Hon. Jessica Mbalu representing the people of Kibwezi East Constituency. I am serving my second term. I am also serving my second term in the Speaker's Panel. Thank you for your approval during the nominations. I will conscientiously deliver more so to you Hon. Members.

Allow me to give a chance to the Member for Kiharu. Congratulations.

**Hon. Nyoro:** Thank you very much Hon. Temporary Deputy Speaker and congratulations for being a member of the Speaker's Panel.

I am very challenged as a new Member by the fact that we have to keep learning and reading so widely because there is nothing we can delegate to the people out there. Therefore, whether we are economists, lawyers or from any other professions, it behooves all of us to debate all manner of things, including water, even if we do not have it where we come from. That is our obligation as Members of Parliament.

Hon. Temporary Deputy Speaker, I have been doing some research on what has been tabled today and the treaties there before, especially from the 1891 when the Anglo-Italian Treaty was signed and so many others. However, I am taken aback listening to the Member who has just spoken before me especially, when he was referencing on the treaty that was signed in 1929 which gave Egypt almost veto power on all the nations upstream of the River Nile. I think the treaty that we are ratifying today, being a replacement of others that have been there before, serves very well even for our country and for our neighbours, especially the 10 countries that share the riparian area in terms of River Nile.

Water being a natural resource like many other, is infinite. Therefore, any person that shares the resource of River Nile has an obligation, as nations and countries, to protect and preserve that resource of water because we know we will depend on this resource for many years to come, and we will be punishing the generations to come if we fail to preserve the resource of water that flows into River Nile.

Water is used in many areas and failure to utilise that resource well may bring about so many things to do with inter-relations in terms of countries. I want to reference the construction of the Grand Renaissance Dam. There were a lot of politics in Ethiopia in 2013 where there was grandstanding between Egypt and Ethiopia in so far as the construction of that dam was concerned. It was being constructed to generate electricity. A treaty being the primary document we have in terms of international relations, it behooves us as Members of Parliament especially who have perused the treaty, to pass and support it because it serves our nation and our coexistence with our neighbours, and especially those who share the riparian area of the River Nile.

I beg to support. Thank you very much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Well spoken. The Member representing the people of Kitui South, Hon. (Ms) Nyamai Kaki.

**The Member for Kitui South** (Hon. (Ms.) Rachael Nyamai Kaki): Thank you very much Hon. Temporary Deputy Speaker. Let me start by congratulating you for getting elected for a second term in a community where people believe in the power of women.

Two, I congratulate you again for being in the Speaker's Panel. We are proud of you. I would also like to take this opportunity to thank the people of Kitui South for electing me for a second term to this House. In Kitui South, people are elected once and so I am really appreciative to them.

Hon. Temporary Deputy Speaker, before I go to the Motion, I would like to say that I am really concerned when I see Members from the National Super Alliance (NASA) Coalition who are brand new Members of this House coming in and walking out. They have not even been fully oriented into the House, have not understood the rules and the Standing Orders and they have just come from a gruelling election period and promised their supporters that they are going to represent them and check the budgets and ensure that the projects they promised them are being implemented. It is really a shame.

Hon. Temporary Deputy Speaker, thank you for giving me this opportunity to support this Report on the Ratification of the Nile Basin Cooperative Framework Agreement.

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

**Hon. Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order! Member for Kitui South, there is a point of order from the Member for Kwanza. Order! I want to let Members know that there is a free sitting in the House. Therefore, any Member can sit in any side of the House. I can see some Members from Opposition sitting on the other side. Members can fill seats in the Jubilee side and vice-versa.

**Hon. Wanyonyi:** On a point of order, Hon. Temporary Deputy Speaker. I did not take the remarks kindly from the Hon. Member because when we come to this House, first, we have to debate and do a bit of consultations out there in various ministries. So, I do not know why she should be concerned that we are not here. I am here and it is wrong for her to come to this House to tell us ---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member for Kwanza, you are not a first time MP. Every time the Speaker is speaking, you must observe some order. Hon. Member, that is why I made a Communication that everybody can sit anywhere. She is making a maiden speech. I know you have a very valid point. She needs to ---

**Hon. Wanyonyi:** I apologise.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you for apologising. She needs not to be interrupted. So, with my communication and being a second term serving Member, you are aware of the rules and procedures. So, carry on.

**The Member for Kitui South** (Hon. (Ms.) Rachael Nyamai Kaki): Thank you, Hon. Temporary Deputy Speaker for protecting me. I would also like to say that I am not addressing him. I am addressing those who come, sign and walk out. It is a shame and I am not going to apologise for that. I know that it is not their will that they come in and walk out of the House. It is because they have been instructed to do so. In this country, we do not have an individual with Solomonic powers where you say that if I am not in the House, I am going to shake it until it falls. So, I have a right to say this because I have been elected to speak and I am paid to do so.

Hon. Temporary Deputy Speaker, I would like to go to today's Motion. I would like to thank you very much for giving me this opportunity to support this important Report on the Approval of Ratification of the Nile Basin Cooperative Framework Agreement. At the outset, I

would like to congratulate Hon. Kajuju, a former great Member of this House for going through and coming up with a very good Report that we are asking the House to pass today.

This is a very important agreement for our country. As a country, we will have an opportunity to make use of water from River Nile. Making use of a natural resource comes with a lot for responsibility. We ought to have this Report passed easily so that the National Treasury can provide funds for it and ensure that we take our responsibility seriously as a country. It also gives us an opportunity, as Members of this House, to go through treaties before they are implemented. I encourage the new Members on the importance of going through this Report. The Nile water is being used by many other countries through which the river passes. It is important for us, as a country, to get involved. Making use of a natural resource, which if not taken care of can become extinct, comes with so much responsibility. We need to use this resource in a sustainable way.

It also comes with the responsibility of proper management. This is why we have been asked to participate in coming up with the Commission, which will obviously require funding. It is important that we pass it easily. The provisions of this Agreement encourage co-operation between countries. In the process of making use of the water resource, we will have an opportunity to interact with other countries benefitting from it. I believe that in the process, we will also have an opportunity to discuss other development projects that will be complementary.

It is important to note that this Agreement calls for protection and conservation. Since we have done it with many other natural resources in this country, it is important to note that we will also be taking responsibility for protection and conservation. This will bring about exchange of data and information on areas beyond the usage of water.

The Agreement encourages member States to conduct environmental impact assessments and audits. This will concern health matters. As a country, we will have an opportunity to not only share beyond the water resource, but also go towards health impact assessments and ensure that the water of the Nile is used in a safe way. This Agreement will expose Kenya to a resource of economic value where we can engage in agricultural activities which can be of value to our country.

As I support, water resource goes beyond River Nile. We have many other rivers locally. The way this Agreement is going to be implemented needs to motivate us to think about other resources that we have so that we can make use of them in a sustainable way.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members on second term, you made your maiden speeches. It is the first term Members who are making their maiden speech. Let us have the Member for Mosop.

**The Member for Mosop** (Hon. Vincent Kipkurui Tuwei): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the debate on the approval of Ratification of the Nile Basin Cooperative Framework Agreement.

I am happy and privileged, as a Member of the 12<sup>th</sup> Parliament, to contribute and ratify this Agreement emanating from a treaty signed in 1929 and 1959, which has caused harm to

many countries. At the outset, I thank the Chairlady of the Committee, Hon. Kajuju, for what she did; especially in liaising with all the stakeholders to have this treaty before us today.

As we all know, River Nile is the longest in the world and its source is in Kenya. The environment that we are enjoying around the Mau Forest is the main source that makes it very important to us as a country. A few years ago, we had many conservators who had seen this as a major threat to the lake. We have been called upon, as Members of Parliament and as a country, to look at the sustainability of our natural resources as we discharge our responsibilities and commit ourselves to agreements and treaties. The treaty we are debating and approving today is a milestone in the development in the region. First, it will help other countries through which the river passes to enjoy the resource that God gave us.

It is quite unfair that the drafters of the treaty have taken Sudan and Egypt as the only beneficiaries of the waters of River Nile and yet, many other countries have the same river passing through their land. Ratifying this Agreement will enable us to conserve our environment, and use and develop the resource that is very vital to us in Africa.

I take this opportunity to state that the provision of not allowing anybody to interfere with the water or even have a structure of any economic activity along the river, or even interfering with the volumes of the river, was in itself unkind to what God had provided to the world.

I ask the Sudanese and Egyptian Governments to look into this matter critically and be party to this initiative by signing this treaty. Going through this document, you will find that there is a reservation that they have a disclaimer that, unless an article is added, they were not going to be party to it. It is my considered opinion that they should consider this and find it a resource that we all must share for the good of humanity.

With time, we must evaluate the basis of treaties in Africa. We must even evaluate the treaties that we have ratified, as a country, especially those relating to our resources. There is no way that, in the world we live in today, some nations can enjoy resources alone; resources which are supposed to be enjoyed in totality by other nations. That has also been provided for in the CFA. Again, countries cannot develop if they do not conserve, preserve and utilise resources for the good and betterment of mankind. It is my humble prayer that we ratify this treaty. I support it and let it be done during our time so that we can all benefit as Africans and countries with a common interest.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Member representing the people of Lari Constituency, Hon. Mwangi Mburu.

**Hon. Jonah Mwangi:** Thank you, Hon. Temporary Deputy Speaker and congratulations for being chosen to be in the Speaker's Panel. I am here representing the people of Lari and I beg to support this Motion.

There were some dictatorial tendencies in the earlier treaties between the British colonies like Ethiopia, Sudan and Egypt. Those treaties did not consider us because we were not yet in existence. The last treaty was signed in 1959. The ratification of this treaty and the putting in place of an integrated management system of the Nile will provide sustainable use of water and

prevention of harmful tendencies in Lake Victoria and its environs. When we ratify this new treaty, we are bound to get equitable use of the water in Lake Victoria. We will effectively do away with the punitive treaties which barred us from utilising the waters of Lake Victoria and River Nile. For instance, in Uganda, the people could not use the waters of River Nile to do irrigation because it was not allowed. By ratifying this treaty, we will be putting in place a good framework that will help us prevent and mitigate harmful occurrences, for example, the water hyacinth. Assume there is war in East Africa, who will protect the Lake basin? I think ratification of this treaty will help us in that regard.

We have a good regional organ, that is, the East African Community (EAC) which comprises of among others, Heads of State and technical committees. The EAC creates a sense of co-operation, unity and involvement. As Kenyans, we will feel we are involved in the management of our waters. We, therefore, need to utilise the resource wisely together with all the countries that are mentioned in the treaty. From now on, we will not have a feeling that our water is being misused. This is contrary to what our colonial masters, the British, ratified.

I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): We have 23 requests from Members who want to speak on this Motion. From where I sit, we are non-partisan and we balance the request list. Members, just know you are all equal before the Speaker and, if time allows, you will all speak to Motions, Bills or Reports. I take this opportunity to give the Floor to the Member for Marakwet East.

**Hon. Bowen:** Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to congratulate you for your appointment to the Speaker's Panel. I also want to congratulate you for being elected for a second term. I was with you in the 11<sup>th</sup> Parliament and I am happy to see you back in the same seat as the Temporary Deputy Speaker.

I want to support the ratification of this treaty. Indeed, it has come at the right time because many of the countries forming the EAC and the Sub-Saharan region should share resources to enhance co-operation and development. The treaties of 1902, 1929 and 1959 gave Egypt almost the entire monopoly of the use of River Nile. The source of River Nile is in my constituency in Cherangany, Embobut Forest. Those waters then flow all the way to Lake Victoria and then to Sudan and Egypt. Those of us at the source do not benefit at all because the colonial treaties favoured Egypt. Now that we have countries like Rwanda, Kenya, Uganda and Ethiopia coming together to sign a treaty on how to utilise the water, we will benefit in a great way.

It is important at this stage for Egypt and Sudan to recognise that water is a natural resource which does not belong to anybody and has to be shared in order to benefit everyone. This treaty is going to create stability in the region. When Ethiopia constructed its hydro-dam some two years back, there were many issues between them and Sudan. I hope by us ratifying this treaty and Sudan and Ethiopia signing it, we will not see such commotion again.

The basis of ratification by this House is to allow the Cabinet Secretary (CS) for Foreign Affairs to deposit the ratification instruments with the African Union. It will also allow our CS

for the National Treasury, on behalf of the Government, to pay the subscription fees, which all the Member states are required to pay so as to implement this treaty. Africa has been faced with several challenges, including insecurity and political instabilities, and it is all because of lack of such treaties. As Members of this House, we should approve this ratification and ask our colleagues in other member states to follow suit. That way, we would be creating a united Africa.

With those many remarks, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let me now give the nominated Member, Hon. Sankok.

**Hon. ole Sankok:** Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to congratulate you for having been appointed to the Speaker's Panel. We are especially proud of you and Hon. Soipan Tuya, a renowned lawyer. From the Jubilee side, we believe in gender sensitivity. We know that our ladies can do a marvelous and better job. That is why we supported and approved your names.

May I, first of all, remind us of the Treaty of 7<sup>th</sup> May 1929 between the Great Britain, Anglo-Egypt and Sudan. It was a very pathetic treaty that gave Egypt the monopoly of all the waters of River Nile. It is important for us to be part of the waters that originate from East Africa, specifically from Mau Forest in Kenya, which is in the county that I come from. If all countries that are involved are brought on board, it will bring a lot of impact in terms of geographic, hydrographic, hydrological, climatic, ecological and other factors of nature that affect the waters of River Nile. As a country, we have not been able to manage Lake Victoria. I can give an example of a lake that is in Geneva, which is one of the world tourist attraction destinations but, for us, if you go to Kisumu today, you may be forgiven to come back from Kisumu without actually enjoying the natural breeze or the nature of Lake Victoria. It is sympathetic that the Members of Parliament who were elected from those counties from the Lake region went out in protest I do not know for what, instead of sitting here and debating on this crucial treaty that affects them directly. We have some rules like the Helsinki rules on the uses of waters of international rivers. This particular treaty incorporates all those rules and it is very important for us. We know we have the menace of the water hyacinth. We also have the menace of losing many water spaces for animals. It is important for us to be brought on board as a country to preserve this very important natural resource.

So, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Member for Mwingi North.

**The Member for Mwingi North** (Hon. Paul Musyimi Nzengu): Thank you, Hon. Temporary Deputy Speaker. First, let me take this opportunity to congratulate you for being selected into the Chairperson's Panel. I also want to take this opportunity to thank the people of Mwingi North for electing me as their Member of Parliament. I know there is a lot of expectation on my side and I am up to the task. As Members, we have allegiance to many different institutions, including our constituents, parties and party leaders. So, those of us who have remained in the Chamber, there was no specific mission why we had to walk away. So, I stayed on because I have an interest in this cooperative framework. As an engineer of water, it is of interest to listen to what is being passed.

Looking through the Cooperative Framework Agreement (CFA), I found that it is true that Egypt and Sudan have sort of refused to ratify this Agreement, which is a bit of a pity because they form the countries that are actually sharing the longest part of the river. That includes South Sudan. It is also a pity that South Sudan is not listed as a member of this Agreement. So, as we seek to approve this Agreement, we must also seek ways of involving South Sudan. The legal position of this Agreement is also in question when some countries have not signed. It is also a question that I am throwing back to the Committee that was looking at the treaty. What does it mean if Egypt or Sudan does not honour any part of this Agreement? Looking at the time when the discussions on this Agreement started in 2009, a number of years have passed. Looking at the existing treaties that we are now using like the Treaty of 1929, I think it is important that we actually approve this ratification with those questions in mind. This is because, otherwise, then we will continue operating under the 1929 and 1959 treaties which deny most of the countries the right to do any project on the River Nile systems. I seek to have this Agreement approved but, of course, with those questions.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Narok, who is also a member of the Chairperson's Panel. Congratulations and welcome to the leadership.

**Hon. (Ms.) Tuya:** Thank you, Hon. Temporary Deputy Speaker. Allow me to take this first opportunity to congratulate you for your re-appointment to the Chairperson's Panel and, of course, your re-election by the people of Kibwezi for a second term. Congratulations. I also take this opportunity to thank the Speaker of the National Assembly, the leadership of the Jubilee Party in this House and, indeed, the entire membership of the 12<sup>th</sup> Parliament for the honour they have bestowed on me this morning - together with you and two other colleagues - by being approved and appointed to the Chairperson's Panel. As the First Chairperson, I say thank you. Mine is to promise a non-biased, open and ardent service to the 12<sup>th</sup> Parliament in that position.

As I go to speak to the Motion, I wish to support the Motion on the Approval of the Ratification of the Nile Basin Cooperative Framework Agreement. This particular process where Parliament has an opportunity to ratify international instruments before they can actually become law in this country is one of the benefits that we have, not just as Members of Parliament of the National Assembly, but for Kenyans to actually internalise, interrogate and be able to understand

the gist, the benefits and even the cost-benefit analysis of some of these regional and international treaties and agreements before they can actually become law in this country. This is because, as we know, the process of ratification leads to domestication of these laws which has the effect of having some of these provisions become local law for Kenyans. This is one of those regional agreements which are very critical and important to the people of Kenya. Indeed having the National Assembly going through this before the ratification is approved is very important so that we can know the benefit for the people that we represent in this House.

When it comes to the issue of conservation and protection of critical water resources, basically, we are talking about livelihoods and the basic rights of Kenyans. When we talk about the Nile Basin initiative---

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order! Hon. Millie Odhiambo, I know you are a senior Member. You have just walked in. We appreciate that you may have a point of order, but can you have some decorum even in its expression? What is out of order?

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Speaker, I do not think it is in order to proceed like things are normal, when this country is under a police state. The President has decided to make this country a police state. We have spent the whole day in court following the rule of law ensuring that Hon. Babu Owino is released. I am standing on a point of order. If you give me a chance, I will explain to you what the point of order is all about.

*(Loud consultations)*

This is not a police state. If you give me a chance, I am here to tell you that this is not a police state. I am here to tell you---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order, Hon. Millie Odhiambo! You have made your point. She may have a point to express, but it is important to carry ourselves with decorum. She has communicated her point of order, but she has walked out before I made the ruling. Order, Members!

Members, we can proceed. These are some of the issues you will see in the House. I can tell you that we must have decorum in this House.

**Hon. (Ms.) Tuya:** Back to sanity, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order! Wait! The Speaker is still speaking, Hon. Member.

**Hon. (Ms.) Tuya:** Sorry, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, we are still learning and Millie is a senior Member. She did not communicate anything that could endanger the House. In future, as we learn, it is important that every time anything is out of order, we quote the Standing Orders. I am sure this was communicated by the Speaker when we were at the induction. She expressed herself. Let us carry on.

**Hon. (Ms.) Tuya:** Thank you, Hon. Temporary Deputy Speaker. Let us go back to order and sanity. I was just making a very important point to the effect that a discussion touching on the protection, conservation and preservation of the River Nile Initiative is very important and critical to Kenyans. Like a Member who spoke earlier said, as we go through this Motion on the protection of the River Nile, it is an opportunity to think critically of some of the critical and primary resources which are very close to us which need to be guarded and protected with

utmost security to make sure that our natural resources, which contribute and build into the livelihoods of Kenyans, are taken care of.

In my own Narok County, we have the very critical and important Mara River. The Mara River originates from a very unassuming source within the Mau Forest. The Mara River Basin is one of 10 which actually drain into Lake Victoria. That makes the Mara River, therefore, become functionally and ecologically related to the socio-economic activities of Lake Victoria and eventually the River Nile. That makes Kenya even more important of a partner in this River Nile Basin protection considering that we are part of the critical source of the River Nile and also noting the number of millions of individuals - persons from different countries - who are beneficiaries of the River Nile Basin.

With the ratification of this Agreement, come a number of rights and responsibilities. Some of the obligations that have been spoken of in this Report of the Committee on Regional Integration include regular exchange of critical information for conservation purposes. It is obligations that do not cause significant harm, among other rights and responsibilities. Therefore, this makes this particular piece of Agreement very critical and important for the Kenyan people.

As we speak to the responsibilities that come with the ratification of such an Agreement, we must also look at what is in it for Kenya as a state beneficiary to this particular obligation. Some of the issues spoken to in terms of the rights for irrigation and other recurring rights and benefits that may accrue from being party to some of these agreements are very critical and important for us to look into, so that we can make sure that we are also reaping maximum benefits from laws that we process for eventual domestication in this country.

I beg to support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Let us have the Member for Ijara, Hon. Sophia Noor.

**The Member for Ijara** (Hon. (Ms.) Sophia Abdi Noor): Thank you, Hon. Temporary Deputy Speaker. I will take this chance to congratulate you for being appointed to the Speaker's Panel. Congratulations Madam. I want to congratulate you for being elected for the second time by your constituents.

I would like to take this golden opportunity to thank the people of Ijara. I feel very honoured and privileged that the people of Ijara decided to give a chance to a woman to represent them in this august House for the first time in North Eastern Province. I want to thank them very much. I take the responsibility and, as I promised them during the campaign period, I will be their servant-leader.

Water is a very crucial and important natural resource. As a country, there are many arid and semi-arid lands (ASALs) in this country that face a lot of water problems - my constituency being one of them. I would like to talk about the Agreement on the Cooperation Framework on the Nile River Basin. The Nile River is the longest river in the world, flowing for more than 7,000 kilometres. The River Basin extends to more than 10 countries in Africa. It is very crucial and important and, therefore, to have co-operation between the member-states on sustainable use and management of the river resulted in the establishment of Nile Basin Initiative in 1999. It was an inter-governmental initiative which addressed the short-term and looked into the future to create a long-term agreement that would address and bring together the member-states. Its main objective was to establish a permanent institution and negotiate with member-states on a framework that will address the needs, sustainability and development of the Nile Basin. The Agreement, among others in the preamble, states and affirms the importance of having integrated

management, sustainable development and harmonise the utilisation of the natural resources of the River Nile.

Hon. Temporary Deputy Speaker, management and sustainable development are words I believe in. If you manage your resources properly, then those resources can be used properly by the 10 member states. If they adhere to the Nile Basin Cooperative Framework Agreement that we are discussing now, then we will use the resources properly.

Water is very crucial. It is, therefore, very important for us to look at the development, protection, conservation and management of the Nile River. There are various terms that are used in the Nile Basin Cooperative Framework Agreement. There is provision of protection, use, conservation and development of Nile River Basin. There is co-operation among the 10 member states so that they will understand, share information, plans, discuss and co-operate among themselves. It is key in the Agreement. The terms “sustainability” and “development” are in the framework. Natural resources like Nile River will be used to address issues of sustainability. This will be key in the Nile Basin Co-operative Framework Agreement.

Equitable resource utilisation is something which is very important in the Agreement. Equitable resource allocation and sharing provides for utilisation of Nile River in equitable and reasonable manners where partner states take relevant circumstances such as geographical and natural resources, among others. Protection and conservation of the Nile water is very important. It is a responsibility among the Member states to look at the protection and conservation of the Nile River. We have seen many rivers which have problems with protection and conservation. If we do not take responsibility as nations, then it will be a problem.

Water is a human right. It is a basic right for every human being in the world. Information sharing is a very important thing for the 10 member states. We will share information among ourselves, so that we know where the problem is, and how fast we will address problems that affect the 10 member states. When we are given such a framework of information sharing among the 10 member states, it is important to address issues.

There is also the issue of community of interest. As a country, we have an interest and stake in the Nile water. It is a natural resource which had some restrictions before but, with this framework that we are discussing, we will use the Nile water without restrictions. We will use it properly for our irrigation system. That is crucial.

I have already talked about exchange of information and data. Environmental impact assessment will help us monitor and look at the environmental issues that affect the Nile River and then we respond properly and quickly to them.

Water has social and economic values. We all know water has social and economic values. Water has social importance in the society. As the women of this nation and as a woman who was elected from a constituency that is suffering and has a problem with water, water has a social impact on the women, children and the families. We know that. Because that has also been covered in the Nile Basin Cooperative Framework Agreement, I feel that this is a holistic document which has touched even on social matters of water within the society. We know the economical values that come up with water. Economical values address holistically issues of agriculture, livestock, human beings and wildlife. Those are economical values that are enjoyed when you have water within close reach, either in your constituency, country or in given geographical areas like the 10 member states. I agree and support this framework 100 per cent.

I conclude by telling my country and the relevant organisations and authorities that are concerned with management of water and environment in this country that we are facing global

warming. It is not only in this country but also the whole world. We are affected equally as a country. In my own constituency, there was a time that we never saw anything...

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Your time is over. Please give her one minute to conclude.

**The Member for Ijara** (Hon. (Ms.) Sophia Abdi Noor): Thank you, Hon. Temporary Deputy Speaker, for giving me an extra minute. I was just saying that in my own constituency, Ijara, there was a time people had never known anything called drought. But people have suffered for the last 10 years. We have lost a number of people and our resources like livestock. We have had wildlife-human conflict. We have lost more than 30 people to wildlife in my constituency because we do not have water. I am just requesting the authority concerned to look into the water issue in Ijara Constituency.

Thank you, Hon. Temporary Deputy Speaker, for giving me the extra minute. I support the approval and ratification of the Nile Basin Cooperative Framework Agreement.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, this is just a reminder. We are debating on the Approval of Ratification of the Nile Basin Cooperative Framework Agreement. I added the Member a single minute because she was on point.

Hon. Members, before I give the opportunity to the Member for Mathioya, allow me to give the opportunity to the Member for Laikipia West, Hon. Mariru Kariuki. The Members did not know you very well, and they were eager to see you. That is one of the nominees of the Chairperson's Panel and much was spoken about him in the morning.

**Hon. Mariru:** Thank you very much, Hon. Temporary Deputy Speaker. I thank you for that kind introduction. My name is Hon. Patrick Mariru. I was the subject of discussion this morning when I was nominated and appointed as a member of the Chairperson's Panel. Thank you very much Members for that vote of confidence. I also say congratulations to you as well. We shall serve with diligence.

I will be brief on this particular matter. I want to support the Motion. I have had occasion to read the treaty in question. This Nile River business has been there for a long time now. I remember when I was younger, I used to hear about this discussion around the countries of Uganda, Kenya, Sudan and Egypt, and the exclusive right that Egypt had on the Nile River water and the contention around it. When I was reading the Report of the Committee on this matter, I was very happy to learn that, actually, the countries around the River Nile are in agreement that there needs to be a review of the historical framework that was giving Egypt the exclusive rights to use the River Nile.

I also noted that up to now Egypt has a strong sense of entitlement over this river and has refused to agree to sign this treaty. I think it is because it still holds on to the Treaty of 1908, which had given it exclusive rights. Therefore, it has refused to ratify this one. However, Kenya, Uganda and other countries have to be bold enough to say: "There comes a time when these historical frameworks have to be reviewed for the benefit of the people."

I am in total support of this. We need to ratify this treaty as a country. It is very encouraging that according to our new Constitution this Parliament is given an opportunity to engage and ratify some of these protocols. The Treaty Making and Ratification Act of 2012 is very clear that the National Assembly has the sovereign responsibility of approving ratification of treaties. I would ask myself four questions: Did the Cabinet approve this CFA, at that time, before it came to this place? I saw documents and even memoranda from the Cabinet showing that it had approved the CFA and required this National Assembly to pass it. The second one: Were Kenyans involved?

Section 8 of the Treaty Making and Ratification Act is very clear that it is not just this National Assembly that is mandated to pass and ratify, but also the Kenyan public needs to get an opportunity to engage and look at the text. I saw from the Report of the Committee that it facilitated a very elaborate public participation process where Kenyans gave their views about this treaty and approved it.

The third question: Does approval of this have an implication to the new Constitution? Some of these treaties could actually necessitate an amendment to our Constitution. I realise that there is no amendment of the Constitution that is necessitated by this CFA.

The fourth question: Are there specific obligations social, political or economic with regard to the CFA? I realise, from the Committee's report that there are no major or specific social, political and economic obligations that are being raised by this treaty.

For that reason, and in line with the new Constitution and the Treaty Making and Ratification Act of 2012, I support that we have this Report adopted by Parliament.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Well spoken and congratulations once more. The Member representing the people of Mathioya Constituency, Hon. Kihara Kimari?

**The Member for Mathioya** (Hon. Peter Kimari Kihara): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. First of all, I congratulate you on your appointment to the Chairperson's Panel. This being my maiden speech, allow me to start by thanking God for giving me an opportunity to serve this great nation. I would also like to thank the people of Kenya for coming out in large numbers during the general elections on 8<sup>th</sup> August 2017 to vote. We witnessed many people queuing to vote more than ever before and it was peaceful. I would also like to thank my people of Mathioya. *Ahsanteni sana* for giving me an opportunity to serve you in the 12<sup>th</sup> Parliament.

It is our duty as Members of Parliament to ensure that this country remains peaceful. We should continuously pray and preach peace in our nation because we will be having a presidential election in the coming month. It is important for all of us to make sure we preach peace and not spread seeds of discord amongst our supporters. Kenya is for all of us. If Kenya faces any problem, all of us will be affected. Therefore, let us all preach peace. Let us not be hatemongers. We do not want to see the kind of things we even witnessed here this afternoon.

I, therefore, support the Motion before us because it has a lot of salient issues that are really important to this nation. It will also be very critical to our people, especially those living in the Lake Victoria region. It is mindboggling to see that the people who represent that region are not here to debate this Motion and yet it is very critical for their people. I have gone through the document and I would like to point out some of the salient issues in it.

The CFA seeks to bring about cooperation amongst our nations. It talks about equitable and reasonable distribution and utilisation of the resources. It has provisions even for conservation, which are very significant to this country. It talks about the right of the Nile Basin states to use the water within their respective territories. I think that is extremely important. We know water is scarce and so many parts of our country do not have enough of it. The protection of the Nile waters and the rivers that feed into the River Nile is extremely critical at this stage.

Thank you very much, Hon. Temporary Deputy Speaker, I beg to support the Motion as it is.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Tigania West.

**Hon. Mutunga:** Thank you very much Hon. Temporary Deputy Speaker. Congratulations for securing that position for a second time and also for having been re-elected by your electorate for a second time. It means you did a good job.

I note the importance of this treaty. It is important because it seeks to guide us in the management of water resources, that is, from the East African nations all the way to the Mediterranean Sea. The CFA provides principles of management of the water resource without which we would basically mismanage that particular resource and, therefore, not utilise it adequately. It is, indeed, consistent with the Sustainable Development Goals (SDGs) passed by the United Nations two years ago that environmental resources need to be managed properly for effective use presently and even for generations to come. Our children should also have the opportunity to enjoy the resource.

Hon. Temporary Deputy Speaker, the use of River Nile water has been restricted to two countries for a very long time. I remember one time in this House Hon. Martha Karua said that there are no specific restrictions in place. She said that if we wanted to use the River Nile water, then we could. The treaties of 1920's were signed, not by ourselves, but by others on our behalf. I am happy we are speaking about management of these resources ourselves as Kenyans. We would like to utilise the resources of the Nile Basin in a good way and leave them in the best form of use to our descendants.

I believe even though Egypt and Sudan have not signed the treaty as at now, they were a party to the discussions that led to this Agreement. Therefore, they will eventually sign and adhere to the principles making the agreement itself. Those who have already been using this water know the benefits. I spent some time in Jinja. I looked around the touristic resources. I went to the banks of the Nile and found a structure there and some people around the structure. Upon inquiry, I was told that those were the Egyptians measuring the levels of the Nile at any one time and reporting directly to Cairo. I wondered why our resources have got to be managed by people from North Africa yet we are not using these resources. This Agreement will open up the water of the Nile for use by Kenyans. Kenyans will have no excuse for not using the water of the Nile, but we must make sure that we use it very sustainably. This particular water resource basically comes from one of our richest water basins – the Lake Victoria Basin, which is fed by two other basins, namely; the Lower Basin and the North Rift Basin.

I believe that we shall not only be able to manage this water better now, but we shall also utilise it better. What happens in Budalangi quite often? The flooding in Budalangi is caused by the Nile Treaty of 1922, which restricts us from putting upstream dams to conserve the water for other use. That treaty requires us to release the water to Lake Victoria to flow along the Nile. I believe this particular Agreement will give us sufficient guidelines on water use and provide sufficient guidelines in terms of protection and preservation of the Nile Riverine areas.

This Agreement offers Kenyans an opportunity to use the Nile water. The Nile water is fresh and, therefore, suitable for irrigation. We know that you cannot irrigate with salty water from the sea but we have an opportunity to irrigate with the water of the Nile. The Agreement basically will enable us to participate in the utilisation of this resource through upstream damming and irrigation, among other forms of use.

The Agreement not only gives us user rights but also obligations to protect and preserve the Nile. It also gives us the benefits therein. That is why I support the Motion to ratify the Nile

Basin Cooperation Agreement aware that unless we are guided by agreements, we may not relate well with our neighbours, and we may not be able to manage the natural resources better.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Butula.

**The Member for Butula** (Hon. Joseph H. Maero Oyula): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to present my position on this Motion. This being my maiden speech, I want to congratulate you for having been elected, among the others, in the Speaker's Panel. I also want to take this opportunity to thank the people of Butula for electing me to this august House. I am grateful for this opportunity.

Turning to the Motion on the Floor of the House, I come from the Lake Basin Region and I know the havocs that we have had in areas like Budalangi because the people were not allowed to harvest water through dams. With this treaty, the people of western Kenya should be able to utilise the waters from the rivers. We have about four to five rivers flowing into Lake Victoria. The treaty that was signed with Egypt did not allow Kenyans to even construct dams in which they could preserve water and therefore, leaving all the water to flow into the lake and causing havoc to the people staying around the lake. The ratification of this Agreement was overdue. I hope it will now give Kenya the authority to utilise the natural resources without any hindrances. The treaties that we had in the past, as has been mentioned earlier, had a lot of prohibition to the people of Kenya. That is why I am saying that this ratification was overdue. I thank you for this chance.

I support the motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Kigumo, Hon. Mwaniki.

**Hon. (Ms.) Mwaniki**: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. I want to join the previous speakers to congratulate you on your appointment early this morning in the Chairperson's Panel and also wish to congratulate you on your reappointment as the Member of Parliament for Kibwezi East. When I wanted to make my maiden speech a week ago, I ran out of time. So, I want to take this opportunity to thank the Kigumo electorate for having faith in me and electing me to represent them in this august House.

I rise to support the Motion for the approval of ratification of the Nile Basin Cooperative Framework Agreement. Before I make this speech, I wanted to just say that I have been a public servant in the past and that Kenya is a water scarce country and water is a key factor for the Jubilee Administration to realise their transformative agenda and to realise the Vision 2030 development agenda. Unlike oil which we can, of course, get alternatives water cannot be replicated. You can use authentic water to drink, irrigate or do other things. There is the socio-economic aspect that makes water a very key ingredient to our development agenda.

I know that a lot of effort was made by those who were heading the water docket. Some hon. Members have mentioned Hon. Martha Karua. It became impossible for Kenyans to utilise waters from rivers flowing into the Lake Victoria Basin for irrigation and development of areas that those rivers transverse. I am very pleased this afternoon as I contribute to this Motion because I know the ratification of this Agreement will help us access some of these benefits. Some Hon. Members who spoke before me talked about the skewed nature of the previous agreement. This Agreement gives us a platform of an integrated approach regarding the manner in which the Lake Victoria Basin waters should be utilised by member states for equitable

distribution. On top of that, it will provide avenues of ensuring sustainability and ensuring management of water, including mitigating the harmful effects which others have talked about like the water hyacinth. There are many other water pollution aspects. Recently, the business community was taken aback when we insisted on stopping the use of plastic bags, which have gone a long way in harming the waters in the oceans and the rivers. Some of these issues will be canvassed under this treaty to ensure that waters are properly utilised.

I want to join those who have spoken before me in support of this Motion. Indeed, it will go a long way in helping our development agenda and ensuring that those areas that, for example, require irrigation do get water. Previously, some rivers could not be utilised, but now they are going to be utilised.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The former Speaker of Baringo County, I know you do not have a card. It is your turn now.

Hon. Members it is important to know that if you do not have your card with you then you should register with the Clerks-at-the-Table. They are here to help us.

**Hon. Kamket:** Thank you, Hon. Temporary Deputy Speaker for this opportunity to speak to this very important document. At the outset, I would like to say that I support this Motion. The framers of our Constitution in Article 71 did this Parliament a lot of good by stating that:

“A transaction is subject to ratification by Parliament if it –

- (a) involves the grant of a right or concession by or on behalf of any person, including the national government to another person for the exploitation of any natural resource of Kenya”.

These kinds of documents, for a while now, have always been signed by bureaucrats sitting in Government offices without the benefit of the elected representatives of the people having a chance to look at them. So many documents have been signed and resources of the people of Kenya have been committed without the approval of the elected representatives of the people. Now that we have this chance, we have to utilise it properly.

On the matter of the Nile waters, we have this chance as the Republic of Kenya to have a say on the usage of the waters of the Nile. It is important that we do it. We cannot allow Egypt and the other countries downstream to continue dictating to us how we shall use the waters that come from our land. I must emphasise here that the agreements that were there before were signed by colonial powers. We do not have the chance as the indigenous governments of this region to look at those documents. Now we have the chance. I have studied this document and I believe that the work that has gone into it is good for the Republic of Kenya.

However, I only have one issue with this document. I can see that Egypt and Sudan have not ratified or agreed to it neither have they signed it. It is important to note that Sudan now is divided into two countries. I do not know what the position is of the Republic of South Sudan and Sudan.

I want to state categorically that I support this very important document. It is, therefore, important that this National Assembly approves it. I have had the opportunity to work in the East African Community and I know that even the East African Legislative Assembly supports this document.

I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): For record purposes, he is Hon. Kamket, the Member representing the people of Tiaty Constituency.

Member for Molo.

**Hon. Kimani:** Thank you very much. I would like to congratulate you for two things: one, for a second term – in my constituency you can only get one term and so when I hear people getting more than one term, they become role models. Secondly, for your appointment to the Speaker's Panel.

With regard to my contribution, I am looking at Article 7 of this treaty. It talks about sharing information and more specifically sharing information about the levels of water at any particular time. It states that when the authorities need to find out how much water is available, then that information should be made available immediately. I find this to be a good practice and I wish other agencies of our Government could borrow the same. At any particular time when you want to know how much inventory you have in any institution in terms of resources, then that information should be availed.

When I think about the environment and natural resources, I am reminded of the late Prof. Wangari Maathai. She said that there is a relationship between natural resources and peace and conflict resolution. By making sure that natural resources are well utilised and all ambiguities surrounding them resolved, then we would be living in the words of Prof. Wangari Maathai. In fact, we would be ensuring that her great works on research in environmental conservation endure.

I was also looking at the Article about equitability in terms of sharing this natural resource. To use a better example that is closer home, we have rivers in our country that traverse a number of counties. Do we have laws that govern the usage of the waters from those rivers so that one county or constituency does not use the water for irrigation at the expense of another county or constituency? In as much as we agree that we should adopt this document – it is well prepared - we should borrow its contents and use them in other areas of our economy.

As I finish, this treaty is also supposed to ensure that there is no scarcity of water. One person said that you would not realise the value of water until you miss a drop. Since you do not want to miss a drop, we need to realise that now and ensure that this treaty is ratified, adopted and every measure possible taken to ensure that our water is protected.

Thank you very much and God bless you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Kimilili Constituency, Hon. Mutua Barasa.

**Hon. Didmus Mutua:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this CFA, which is very important. Let me also begin by congratulating you for being nominated to that position. I want to support this Motion because Kenyans had been given an opportunity to draft it as opposed to what happened very many years ago. Agreement is key to regional integration. Apart from ensuring that the natural resources in the Nile River are utilised, this CFA indicates that despite the fact that the member states have different cultural diversities, they are able to come together with a framework to protect and utilise River Nile.

It is in the same spirit of this Agreement that I will urge Kenyans and Members of Parliament that despite our different ways of doing things, despite the fact that we come from different political parties, we can always agree through some kind of framework that is important for this country. It is for those very reasons that a committee of Parliament involves Kenyans in making such recommendations.

I support this Motion and thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Gitonga.

**Hon. Murugara:** Thank you, Hon. Deputy Speaker. It has taken quite a bit of time for your gadget to capture me, but I am grateful.

First and foremost, I congratulate you for being appointed to sit in the Speaker's Panel. We heard many accolades this morning regarding your credentials and the reason we believe we have the best team. Congratulations also for being re-elected by the people of Kibwezi East. I am a new Member of Parliament and, therefore, some of these processes are new to us.

Be that as it may, I now go to the Motion that is before the House, which is on Approval of Ratification of the Nile Basin Cooperative Framework Agreement to regulate the use of the water of the Nile Basin. When the Nile is mentioned it does evoke some historical feelings, especially when it comes to Egyptians who notably have not signed this Agreement. Right from the biblical days when possibly they were using the Nile, when they held the Israelites in bondage, made them to fetch water from the Nile, made blocks which they used to build pyramids and those pyramids are their greatest tourist attraction, Egyptians have been benefitting from the Nile to the sole exclusion of other people.

This Agreement which we are ratifying today so that it forms part of our domestic laws is good. We, Kenyans, together with the Rwandese, Burundians, Ugandans, Tanzanians, Ethiopians and if the Sudanese come to the flock, we can all agree on how to share the use of the waters which belong to the Nile Basin. Kenya may say that the Nile does not flow through our country, but we are part of the basin that feeds Lake Victoria with water, and that water is what flows out through the Nile all the way to the Mediterranean Sea.

The other point I wish to state is that once we domesticate this law, we will be walking out of the 1959 Agreement which was not good as it gave almost exclusive rights to Egypt to use the water. We will now have a domestic law which is binding on us and on which we can rely on when the Egyptians come to us to try and cite the old treaties. Therefore, I support that we ratify this cooperative framework and we should put it into use as one of our domestic laws.

Water is very important. It is also vitally important that I have a discussion regarding water, especially for my constituency of Tharaka. Having looked at this framework, I am convinced that once we domesticate it, we can make use of it through the devolved system of government.

The Tharaka Nithi County Assembly can come up with a framework similar to this, in which we would protect the rivers that flow from the upper riparian regions into the lower regions, into the Tana River and eventually into the Indian Ocean. If we do this, then we will have a framework where those citizens who reside in the upper riparian sections of the rivers do not use unorthodox methods of irrigation, like furrow irrigation, which are not authorised in the process draining away all the water from the permanent rivers and the lower zones. Basically this leads to my constituency of Tharaka ending up without water. Here we are called upon by our institutions like the National Environment Management Authority (NEMA) to ensure that all the water regulations in the country, including the Water Resources Management Authority (WARMA), the authority that regulates the use of water, are observed so that every citizen of the country enjoys the use of water.

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

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

It is a fundamental right for every citizen to enjoy water from whatever source, and especially from rivers that traverse counties. I would thus urge my county assembly of Tharaka Nithi to come up with a framework similar to this law which we are domesticating today and possibly take it to the counties of Embu and Meru for ratification. We can then have a framework which the three counties can use as regards water which serves my constituency of Tharaka.

With those few and many remarks, I support the approval of this cooperative framework agreement and it should be executed by our republic to form part of our domestic laws.

I beg to support.

**The Temporary Deputy Speaker** (Hon. Mariru): Thank you very much. Again, my name is Patrick Mariru. I want to take this opportunity to say thank you very much for the appointment this morning to the Speaker's Panel. We hope to serve with diligence and commitment. Once again, thank you very much.

Next we shall have Hon. Wachira Kabinga, the Member for Mwea.

**Hon. Josphat Wachira:** Thank you very much, Hon. Temporary Deputy Speaker. Congratulations are in order. I have had an opportunity of interacting with you and no doubt I am sure this 12<sup>th</sup> Parliament will benefit a lot from you.

I stand to support the ratification of this Nile Basin Cooperative Framework Agreement. The use of the Nile waters has been an issue in this region for a long time. It is an issue that has had a potential to bring war into this region. Therefore, having a cooperative framework that will enable us as a region correct the anomalies, the historical problems we have had with the 1902 Agreement is something we need to support.

It is unfortunate that our brothers from the lake who stand to greatly benefit from this framework, or who are touched by this framework, are not with us today. I congratulate the few who are with us.

I also take note that majority of them are rushing into the House to bring issues that are outside the House. I am worried that as a new Member of Parliament, some of our older Members of Parliament are actually teaching us bad manners in terms of not participating in very important Motions like this one, but only rushing to the House to come and make news and then go out.

Hon. Temporary Deputy Speaker, ---

**The Temporary Deputy Speaker** (Hon. Mariru): Order Member. What is your point of order?

**Hon. Nakara:** On a point of order, Hon. Speaker. That is not parliamentary language. Could the Hon. Member withdraw that statement of bad manners? We do not use such language in this House. Let him withdraw and apologise to the old Members of this House.

Thank you.

**The Temporary Deputy Speaker** (Hon. Mariru): Let us be a bit gracious. He is a new Member, but I am sure he now knows the parliamentary language.

Please, proceed.

**Hon. Josephat Wachira:** Thank you, Hon. Temporary Deputy Speaker. I will check my dictionary to see whether this is really not a language to be used.

I take note that Egypt and Sudan have not signed this framework citing a revision of Article 14(b) of the same. It is a clear indication of the fact that Egypt and Sudan... I do not know which Sudan we are referring to as one of the past speakers have noted because they have been benefiting and have been holding us captive because of the Agreement of 1902. I have had a chance to participate in a number of activities in this region. I know this has been a great problem or a potential problem in this region.

Hon. Temporary Deputy Speaker, one of the speakers who have spoken before me mentioned that there is need to domesticate this kind of framework. I take note that the body given the responsibility of managing water resources in this country, WARMA has something to learn from this.

I come from Mwea Constituency that makes use of rivers downstream and they have been overexploited upstream making us not have sufficient water downstream. I believe that if WARMA can take note of this kind of a framework where people can sit and agree on the best way to use our resources that would be very good.

I also take note that other than these frameworks that pertain to water, there are other sectors in our region that would require and benefit from such frameworks. I am in particular referring to the security sector. Having participated in conflict management in this region, I know we have a lot of gaps in terms of management of conflicts, peace and security in this region. If we could adopt this kind of framework as a country, I am sure we would do much better.

I support the ratification of this framework. I urge those that are charged with responsibilities of managing the same from our country to ensure that we as Kenyans benefit from the establishment of the Lake Basin Commission that will come out of this framework in terms of getting jobs for our people, ensuring that activities that would be supported alongside this framework by various donors, as we have noted in the framework are beneficial to Kenya and we are able to take full advantage of the same.

In the same way, I urge especially the Ministry of Foreign Affairs to ensure our full participation so that we can be strong as we can. This goes even to other establishments in the region. When I look at institutions like East African Community (EAC), Intergovernmental Authority on Development (IGAD) and the Common Market for Eastern and Southern Africa (COMESA) in the region, our full participation is still wanting. I believe that we need to move with speed to ensure that we take the rightful position in this region so that our people can benefit.

Finally, I note that most of the times when we ratify these frameworks and agreements in the region, a number of times it is just in the books and not in action. Therefore, I believe and hope that once this is ratified, the body that will come out of it will have full powers to execute its mandate. I am worried when I see some of the inter-governmental organisations in the region that have got very impressive objectives are unable to execute the same. This is because the very countries and member states who ratify agreements that establish them do not respect their proposal and actions. Most of the time they revert to the sovereignty of their countries and they quote that as a reason not to ratify most of the proposals coming from these bodies. Therefore, I

am hoping, moving forward, we shall start seeing bodies that can actually implement activities in peace and security that can be beneficial to our countries and the member states around us. Therefore, I stand to support the ratification of this cooperative framework and hope that WARMA is hearing us and will do something on the usage, especially on the main river that feeds Mwea Constituency and that is Thiba River. This river has been overexploited upstream leaving the people of Mwea who grow rice that contributes a lot to this country without water.

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

**The Temporary Deputy Speaker** (Hon. Mariru): Very well. We shall now have Hon. Njiru Muchangi, the Member for Runyenjes.

**Hon. Eric Njiru:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this Report. Before that, I wish to congratulate you for being selected to be among the Members of the Speaker's Panel together with Hon. Jessica Mbalu. It is a message of confidence that together we are going to work well so as to serve this great nation.

Going back to the Motion on the Ratification of the Cooperative Framework Agreement, I wish to state that water is life. We are all aware of the conflicts that emanate from various areas where water is scarce. I wish to thank the Committee that was led by Hon. Kajuju that came up with all these reports. It is important to note that water is an important resource that may cause conflict, if it is not well utilised. On the same note, I wish to commend countries like Rwanda and Tanzania who have gone ahead and ratified this CFA and South Sudan that has already indicated its willingness in ratifying the same. On the same note, I wish to condemn countries like Egypt who are selfish and have a historic monopoly of the resource which is not okay for the world and for this region.

Hon. Temporary Deputy Speaker, it is important to note that Kenya has shown its willingness for regional peace. This is because by willing to ratify this CFA, it means we will not have conflicts with other countries around the Nile Basin. Again, going through the Report, I have noticed that the Nile member states have committed themselves to equitably and reasonably utilise the water resources. This will not give us areas of conflict when countries agree on how to share this very important resource.

As I conclude, I have noticed that the Nile member states have agreed to take appropriate measures to protect, preserve and rehabilitate this important water resource.

I support this Motion.

**The Temporary Deputy Speaker** (Hon. Mariru): We shall now have Hon. Ekamais, the Member for Loima Constituency.

**The Member for Loima Constituency** (Hon. Jeremiah Ekamais Lomorukai): Thank you, Hon. Temporary Deputy Speaker. Before I contribute to this very important Motion, I want to recognise the people of Loima Constituency who have at different levels elected me to political positions for about four times, starting with the defunct Turkana County Council position, when they elected me twice and subsequently as a Member of the County Assembly (MCA). I was the Leader of the Minority Party of Turkana County Assembly. I am now a Member of the National Assembly representing my constituency. That is an important recognition to me. In this House, we have some senior ranking Members. I have as well served for a number of years, but in a growing manner.

Having listened to contributions from Members, the ratification of this treaty will not only be important to Kenya but also to all the riparian countries. The 10 countries will have

common resources to share and common issues to arbitrate on how they relate to matters of international cohesiveness. Having read something about the Nile Basin, which I also visited some years ago, there are so many resources that can be shared by the 10 riparian countries that have formed this treaty.

There is potential for geothermal energy, which can be shared by these countries. Water resources range from the ecosystem arrangements in terms of aquatic and the terrestrial ecosystems that exist within the Nile River Basin.

However, before signing this Agreement, certain issues ought to have been put in place. There are so many other agreements between Kenya and Tanzania that are in conflict. An example is the 26 trucks that were supposed to ferry wheat to Kenya. This is a bigger treaty and we need to harmonise the agreement.

All Members ought to support this treaty because it touches on resources. A resource that is shared is very important. It should not be considered to be a political issue. All Members ought to come together so as to discuss this issue because this will benefit the 10 riparian countries.

With those few remarks, I beg to support.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Members, we will all get a chance to speak. We have requests and each one of us will get a chance within the time frame that we have. We are just using a rota but we shall all get a chance.

Let us have Hon. Jenniffer Shamalla.

**Hon. (Ms.) Shamalla Jennifer:** Thank you, Hon. Temporary Deputy Speaker. May I first take this opportunity to congratulate you, and more specifically the two gracious ladies; the Hon. Members who were today appointed to the Chairperson's Panel.

With regard to this Motion, civilisations have been centred and grown around large rivers. That fact is buttressed by the civilisations that are found around the Nile, the Euphrates and the Indus Rivers. Therefore, it is by no mistake that Egypt is described as a gift of the Nile. The great Pharaonic civilisations owe so much to the Nile. Indeed, they depended on the Nile.

Today we welcome Article 14(b) because it specifically states that it will not significantly affect the water security of any other Nile Basin State. Indeed, water security is so important for all the member states. I state this because within it is anchored food security.

I also wish to state that the reasons for Sudan and Egypt to refuse to concede to this ratification are untenable when they say that they require their current use rights. This is because these historical rights lie in the 1902, 1929 and 1959 Nile treaties.

I hope that in the fullness of time, Egypt and Sudan will appreciate that all of us must access the waters of the Nile River and sustain it. It is because of this that it behoves us as a nation to support this Motion. The Constitution says that we must be respectful of the environment which is not created by us but by the Almighty *El-Ohim*. It is our heritage and our duty to sustain it for future generations.

I beg, therefore, to support this Motion for ratification of the Nile Basin Cooperative Framework Agreement. Thank you, very much.

**The Temporary Deputy Speaker** (Hon. Mariru): We shall have Hon. Risa, Member for Kajiado West.

**The Member for Kajiado West** (Hon. George Risa Sunkuyia): Thank you, Hon. Temporary Deputy Speaker. I would like to take this opportunity to thank the people of Kajiado West for having elected me to this House. This is my first time here. They elected me thrice as their councilor in those years, then Member of the County Assembly (MCA) and Deputy Speaker. I would also like to take this time to congratulate you for your appointment to the Speaker's Panel.

The Constitution in Article 71 on agreements relating to natural resource states:

“(1) A transaction is subject to ratification by Parliament if it-

- (a) involves the grant of a right or concession by or on behalf of any person, including the national government, to another person for the exploitation of any natural resource of Kenya.”

Article 71(2) states thus:

“(2) Parliament shall enact legislation providing for the classes of transactions subject to ratification under clause (1).”

We have an opportunity to ratify this Agreement so that the people of Kenya can benefit. There was an argument whether ratification will take place in this House. Our people will benefit because water is life. It will also enhance co-operation and sustainable development leading to equitable and reasonable utilisation of resources. Water has social and economic value to our people. We should, therefore, benefit from the resources around us. I support.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Joyce Kamene.

**The Woman Representative for Machakos County** (Hon. (Ms.) Joyce Kamene): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. First, I want to make my maiden speech.

I want to thank the Almighty God for having brought me this far. I am graciously honoured to be here and thank the people of Machakos County for bestowing upon me the honour of being in this august House. I want to see what I can do to improve and bring change for the betterment of the people of my community and Kenya at large. I also congratulate members of the Chairperson's Panel who were elected today.

I wish to support the ratification of the Nile Basin Agreement. I am sure it will go a long way to enhance the good cooperation among states on the basis of sovereign equality and also territorial integrity and mutual benefit and good faith in order to attain maximum utilisation and adequate protection and conservation of the River Nile Basin. With the joint efforts of these states, it will go a long way to achieve social and economic development in all the surrounding states.

With this, I beg to support this Motion. Thank you.

**The Temporary Deputy Speaker** (Hon. Mariru): Let us have Hon. Mabonga, Member for Bumula.

**Hon. Mabonga:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Motion. Just before I do that, I wish to take this opportunity, first of all, to thank the Almighty God who has given me this great honour through the people of Bumula who elected me to serve them for the next five years. I also wish to take this opportunity to congratulate you for being appointed to the Chairperson's Panel and the entire team that was appointed this morning.

I have listened to the previous speakers. As new Members of Parliament, honestly, we are here to learn. We have been listening from our senior members some things you may not admire but all the same we have all the democratic space to air our views. This is a very important treaty. It is a very important step in life and as we argue why Egypt and Sudan have not done their bit, we need also to understand what we have not done as a nation. With such a framework, you realise that Nile River Basin is going to establish a commission where all countries are going to have their representatives. Some of the things we have been fighting as a nation like security and peace will be captured once this treaty is domesticated. Through this kind of treaty, we will have a shared vision and we will be able even to realise some development that we are actually seeing in countries like Egypt. If we domesticate these kinds of treaties, I have no doubt that food production will be realised as well as energy and even water supply. As a House of honour that Kenyans have bestowed to us, we will enhance international relations and definitely we will achieve things we are lacking as a nation through this kind of interaction. That is why when I heard my colleague from Mwea raising an issue with our colleague from the other side, I agreed with him.

We must all rise and support the things that touch the lives of common Kenyans in this nation, regardless of our party affiliations. It is at times very annoying when people walk in and are given an opportunity to speak. We have been sitting here for many hours, those people make their remarks - whether they are acceptable or not - and they walk away. It is important to take note of this. I support this great Motion that will benefit the common *mwanaanchi* and bring development to this great nation.

I beg to support this Motion.

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

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

First, I would like to congratulate you for your nomination. Being on the Speaker's Panel is an honour. I thank you for giving me this opportunity.

I would like to speak about the ratification of the Nile Basin Cooperative Framework Agreement, especially in line with the protection of the rivers. This treaty says that we need to protect the water so that it is not polluted and other foreign species are not introduced into that river making it inhabitable. In the same breath, I would like Kenyans to see our rivers which have been reduced to rocks being brought to their original positions so that water can flow freely when there is rain. In protecting these rivers, you will improve the water levels. You will even improve the purity of the water because when there is sand, the water level comes up. Otherwise, there has been a lot of sand harvesting, especially in my constituency, and the rivers have been left without any water because of many people benefitting themselves by buying the sand and selling it in the city and other towns. Therefore, as we speak about protecting and conserving the Nile River, we also need to think of our own rivers in our own constituencies so that we can pass some bylaws and prevent the so-called sand harvesters from reducing the water to rocks.

Therefore, I would like to support this Motion of the Cooperative Framework Agreement so that we can pass it and join the other countries that have ratified the Agreement.

I beg to support the Motion.

**The Temporary Deputy Speaker** (Hon. Mariru): Let us have Hon. Wamuchomba Gathoni.

**Hon. (Ms.) Wamuchomba:** Thank you, Hon. Temporary Deputy Speaker. First, I want to thank you for spotting me. I have been waiting since the beginning of the session but I thank God that you have been able to find it worthy for me to contribute to this Motion.

Secondly, I want to congratulate you for the honour to serve in the Speaker's Panel. I believe that based on your past experience in Laikipia County, you will do your best in this august House. I also want to take this opportunity to thank the great people of Kiambu County for giving me an opportunity to serve as a woman leader.

I recognise that water is very key to our economy. To be specific, in Kiambu County, water is a catalyst to most of the formal and informal businesses that we have. It is also good for me to note as a woman that water is such a key ingredient for most of the women, especially when it comes to our family units. To refer to Kiambu County, it is also good for me as a woman leader to recognise that we have quite an acute shortage of water, especially when it comes to domestic water use in the urban areas of residency. Therefore, it is to my interest to discuss matters that revolve around this very valuable commodity, so that we can see how we can ensure that the provision of the same benefits our people.

In reference to the treaties that we are discussing today in support of this Motion to ratify the Nile Basin Cooperative Framework Agreement, I want to note that the treaties that are in discussions are historical, dating back from 1902, 1929 and 1959 amongst others. It is also important for me to note that these treaties as historical as they may be, much has changed geographically, demographically and even economically. Therefore, this necessitates that we review the treaties and come up with a unified way of looking for solutions that are emanating from the increased demography and economic activities.

It is also important for us to review the same, so that we can stop the agricultural dependency of our country on the First World countries, when it comes to the food supply and also ensure that we have freedom to make use of the water that originates from our land. It is also important for us to really give weight to the treaties and ratifications therein, so that we can stop the neo-colonialism which binds us from developing the water resource that is naturally endowed to us. To be specific, I am talking about the waters of River Nile.

I also want to look at the principles of community of interest. This brings into play the historical unfairness that demands that sustainable and equitable uses of the river...

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Wamuchomba, I have to interrupt you because you remember that this House passed some resolutions on the timing for such Motions. The House agreed that such Motions will take three hours. That time has come now. We need to call the Mover to reply.

Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, having said that and with the precedent that we set in the 11<sup>th</sup> Parliament, I want you to indulge me that I give two minutes to Hon. Wamuchomba. She is the Woman Representative for Kiambu where our party leader comes from. So, she is a very special lady. I will also give my deputy, Hon. Jimmy Angwenyi, two minutes; my good friend, Member for Kuria East, two minutes; Hon. Moroto, two minutes

and the gentleman behind me, two minutes. That is about 10 minutes. If you allow me, start with Hon. Wamuchomba.

**The Temporary Deputy Speaker** (Hon. Mariru): Thank you, Leader of the Majority Party for being gracious. Hon. Wamuchomba, you have the two minutes.

**Hon. (Ms.) Wamuchomba:** Thank you for being gracious enough. I hope I will get my flow of the Motion. I was explaining that the ratification is purely justified because we require a common platform so that we stop the idea of having a big brother in the management of the affairs of the Nile Basin. We also need a common platform where we can have a common flow of information within the 10 treaty nations. We need concerted efforts in conservation and protection of the water and waterlines that exist in the beneficiary countries. We need to promote cohesive exploitation of the Nile Basin efforts. It is also important for us to have a platform where we can exchange ideas on the future projects that will be invested in this region, which are geared towards the overall development of the region.

Therefore, I support this Motion of ratifying the Nile Basin Cooperative Framework Agreement for the benefit of our people.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Angwenyi, you have two minutes.

**Hon. Angwenyi:** Thank you, Hon. Temporary Deputy Speaker for giving me a chance to contribute to this important Motion. The Nile River should serve all the states that contribute to its waters. Kenya is a major contributor. Remember all our rivers that get into Lake Victoria contribute towards the Nile River waters. We have taken steps in the Mara, Sondu, Kuja and Chachani Rivers to preserve and protect them. People who use the waters of River Nile the most are Egyptians and Sudanese. They should contribute some resources for the protection and preservation of these rivers for them to use that water. Otherwise, we can decide to use the water and they will miss it.

This should also give us an idea how we can preserve our rivers in the country. For example, I understand the Ewaso River is about to dry. The Government should invest in it so that it continues being there.

With those few remarks, I support.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Marwa.

**Hon. Kitayama:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Motion, but before I do that I would like to congratulate Madam Temporary Deputy Speaker and yourself for being appointed this morning to the Chairpersons' Panel. I know Hon. Jessica Mbalu very well. I worked with her in Itange and Kibwezi. I know how passionate she is. I am also happy that Hon. Soipan got this position. It seems like the position of Speaker is slowly moving towards Kuria. Hon. Soipan is my neighbour. We will have it, I think in the 13<sup>th</sup> Parliament.

The people of Kuria have now an opportunity to tap into the conversation of the Nile Basin through this Motion. We have rivers that flow into Lake Victoria in my constituency. Small rivers like the Gahitwa and Tebesi and others that nobody talks about run the risk of drying up. There are a lot of issues that need to be addressed so that we protect them. Now that this conversation has got to the centre stage, we will be part of it.

Unfortunately, my two minutes are up but I support and thank you very much for giving me the chance.

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

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

**The Temporary Deputy Speaker** (Hon. (Ms. Mbalu): Hon. Moroto.

**Hon. Chumel:** Thank you very much, Hon. Temporary Deputy Speaker. I also thank the Leader of the Majority Party for giving us some few minutes to join colleagues in appreciating the efforts made by the Lake Victoria Nile Basin. As Kenyans, we are the main contributors.

As Hon. Jimmy said, we also need to benefit because our people are suffering. They cannot even do cultivation using this water. The water is needed even to go to the lake and down to River Nile.

It is just like what is happening in Lake Turkana. Lake Turkana is now getting dry because the Ethiopians are building their electricity generating power thus making us suffer. Others also should appreciate. I know there are talks between Kenya and those people over what is happening along River Omo. I know that one will help us. Equally in my constituency in Kapenguria, we have the Turkwel Dam. All the way from Mount Elgon, Suam River to Turkwel, the people around there are not getting anything. So, we need to do something about that. But my concern is that as we pass this Motion, we also need to be very concerned about our people. I know the current Government is good and it is there to take care of the people. Otherwise, I support.

In my culture, we are not there to appreciate. There is a sex that I am not supposed to congratulate but I thank you for being appointed. The other one we will preserve to the later stage.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Nasra.

**The Nominated Member** (Hon. (Ms.) Nasra Sahal Ibrahim): I want to congratulate you for the nomination to the Speaker's Panel. I thank the Almighty God for allowing me to be in the 12<sup>th</sup> Parliament. I also want to thank my party leader and the entire fraternity of the Forum for the Restoration of Democracy (FORD)-Kenya for this opportunity.

I come from a small community that has never got a Member of Parliament since Independence. So, you can imagine how that is an honour to me and my community. Serving the great nation of Kenya has been my long dream. I stand to work for the people of Kenya. Having gone to Egypt, I saw how Egyptians were using the Nile water for irrigation and tourism. We need to rectify the framework of the Nile water so that we can also benefit from the water. I stand to support the Motion.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you and congratulations Hon. Nasra. Hon. Kiai, you have two minutes from the Leader of the Majority Party.

**Hon. Kiai:** Thank you, Hon. Temporary Deputy Speaker. First, I want to congratulate you for being selected in the Speaker's Panel. My name is Anthony Kiai, MP for Mukurweini. I stand here to support the Motion on Nile Basin CFA.

First, because water is a very scarce resource and as we move on, it is becoming scarcer by the day and therefore a source of conflict between the communities and even the nations, I am here to support it. Kenya is the largest catchment area for River Nile yet it has the least resource in terms of utilisation of water that is generated by River Nile. Egypt generates the least, but it benefits the most. What we have here is a ratification of CFA that will enable equitable use of that water, equitable distribution of water as a resource between all the riparian states that share the Nile Basin catchment area.

I also want to say that it is very unfortunate that Atieno in Nyanza cannot use water to irrigate her land because there is a restrictive treaty in place. We are here to ratify that CFA to ensure that Atieno is able to use that water without that restriction.

I support the Motion.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thanks to the Leader of the Majority Party for his philanthropic move. Leader of the Majority Party, your minutes are over but using my own discretion, I will allow you two more minutes.

**Hon. A.B. Duale:** Since I donated my minutes, I think it is common knowledge that you also allow me two minutes.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I donated using my discretion.

**Hon. A.B. Duale:** Thank you. You know I served with you in the 11<sup>th</sup> Parliament and I have seen the potential in you. I want to congratulate you and thank the people of your constituency for electing you back. I also want to thank my constituents for electing me and all those who survived the voters' onslaught - Only 123 of us survived, which is about 32 per cent of the House membership. I am sure that was a better performance than in the 10<sup>th</sup> Parliament.

Hon. Temporary Deputy Speaker, I want to thank Members for their contribution to this Motion. I have been watching the debate from my office. Many Members have contributed to this important Motion which, in essence, was a Report done by the Committee on Regional Integration of the 11<sup>th</sup> Parliament.

As the Member for Mukurweini has said, it is true that Egypt and Sudan have not signed this Agreement because there is controversy on Article 14 of the Cooperative Framework Agreement. These two countries wanted specific provisions to be put in this Agreement that gives them specific status on the usage of the waters of the Nile River. I am sure that when the instruments of ratification will be deposited with the African Union, it will be able to resolve that volatile matter.

The other thing is that Article 39 of this Agreement binds the National Assembly to pass this Agreement, or any other agreement, without any reservations. That is one thing that the former Committee checked.

Lastly, this Agreement does not provide for South Sudan as a signatory. We know part of the White Nile passes through South Sudan. I am sure if the House approves this Motion, the ball will now go to the Executive, that is, the Cabinet Secretary for Foreign Affairs, Madam

Amina Mohamed. She will be required to deposit this instrument with the African Union so that our country can be part and parcel of the Nile Basin Commission.

Thank you, Hon. Temporary Deputy Speaker. I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members I am not in a position to put the Question to this Motion. I order that the Question will be put in the next appropriate time as it will be decided by the House Business Committee (HBC) or directed by the Speaker.

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

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, just take your time to learn. When the Speaker is on her feet and after the Leader of the Majority has replied, you cannot rise on a point of order.

Next Order!

RATIFICATION OF PROTOCOL TO OPERATIONALISE  
EXTENDED JURISDICTION OF EAST AFRICAN COURT OF JUSTICE

THAT, cognisant of the Report of the Select Committee on Regional Integration of the 11<sup>th</sup> Parliament on the Ratification of the Protocol to Operationalise the Extended Jurisdiction of the East African Court of Justice, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, this House approves the Ratification of the Protocol to operationalise the Extended Jurisdiction of the East African Court of Justice.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, with your indulgence, this is a very important matter on the extent to which the jurisdiction of the East African Court of Justice can go. Looking at the time remaining, I would be very happy that I move this Motion when the House is full. I am happy to do it tomorrow afternoon.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Quite in order, Hon. Members. It is going to record that the business appearing as Order No. 10 is deferred.

*(Motion deferred)*

Next Order.

APPROVAL OF RATIFICATION OF EAC PROTOCOL  
ON PRIVILEGES AND IMMUNITIES

THAT, cognisant of the Report of the Select Committee on Regional Integration of the 11<sup>th</sup> Parliament on the Ratification of the East African Community Protocol on Privileges and Immunities, and pursuant to Section 8 of

the Treaty Making and Ratification Act, 2012, this House approves the Ratification of the Protocol to operationalise the East African Community Protocol on Privileges and Immunities.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): The Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, the same story. This is another very important Motion. Members want to know what privileges and immunities they enjoy within the East African Community. So, I want to request you that we deal with this matter tomorrow, so that the majority new Members can follow up on the immunities and privileges enjoyed in the confines of the EAC. It is a very important matter. I am sure the Members for Kuria East and Kajiado West, whose people crisscross, want to know what the immunities and privileges are. It will be very good if they are discussed when the House is full.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, the business appearing as Order No. 11 stands deferred.

*(Motion deferred)*

#### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Order Members! There being no other business on the Order Paper and the time then being 6.53 p.m., this House stands adjourned until Thursday, 28<sup>th</sup> September 2017, at 9.30 a.m. It is so ordered.

I thank you from the Speaker's desk for your cooperation.

The House rose at 6.53 p.m.