

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

Tuesday, 21st September 2021

The House met at 2.30 p.m.

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

PRAYERS**COMMUNICATION FROM THE CHAIR****ELECTION OF HON. DENNITAH GHATI AS CHAIRPERSON OF COMMONWEALTH
PARLIAMENTARIANS WITH DISABILITIES NETWORK**

Hon. Speaker: Hon. Members, I take this opportunity to welcome you back after the recess of one month. Despite the fact that Committees continued to operate during the recess period and you also continued to carry out your roles as representatives of the people, it is my hope that you have also found some time to rest and refresh as this last part of the Session is likely to be quite busy.

Hon Members, during the recess period, the National Assembly continued engaging in parliamentary diplomacy and its usual inter-parliamentary affairs at regional and international levels. In this regard, I am glad to notify the House that Hon. Dennitah Ghati, MP, was elected the Chairperson of the Commonwealth Parliamentarians with Disabilities (CPwD) Network.

(Applause)

Hon. Members, the Commonwealth Parliamentarians with Disabilities Network is a forum within the wider Commonwealth Parliamentary Association, which facilitates activities and programmes to champion and increase representation of persons with disabilities in Commonwealth Parliaments. It also works towards the mainstreaming of disability considerations in all CPA activities and programmes. The network supports elected representatives with disabilities in parliaments and legislatures across the Commonwealth and ensures that issues of persons with disabilities are brought to the fore in parliamentary debates and in legislative matters.

The Hon. Dennitah Ghati, MP, succeeds the first CPwD Chairperson, Hon. Kevin Murphy, the Speaker of the Nova Scotia House of Assembly in Canada. Following her election, Hon. Ghati will lead the network's engagement with the Commonwealth Parliamentary Association Executive Committee and the Commonwealth Parliamentary Association Headquarters Secretariat and liaise with Commonwealth Parliaments on behalf of the network.

On behalf of all Members and staff of the National Assembly and, indeed, on my own behalf, I wish to take this opportunity to congratulate Hon. Dennitah Ghati following her election and wish her the best as she takes up her new role.

On my part as the Chairperson of the Executive Committee of the Commonwealth Parliamentary Association (Africa Region), I reassure her of my commitment to supporting her and the activities of her new office, including the proposed Conference on Commonwealth Parliamentarians with Disability (Africa Region), which is scheduled to take place in Nairobi before the end of the year.

Congratulations Hon. Ghati.

(Applause)

It looks like somebody wants to say one or two words. Hon. Makali Mulu, the senior regional representative.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you very much, Hon. Speaker. I join you and the rest of the Members in congratulating Hon. Dennitah Ghati for this important appointment or election. I remember one time early in the year we also informed the House on our appointment as the champion for Africa Region. Most Members might be aware that we have nine regions. So, she has been appointed as a champion for the Africa Region. She is now the chair of the other nine champions, which is a big honour to this country. Bearing in mind, Hon. Speaker, that you are the Chairperson, Africa Region, I am a senior representative in the same organisation and now Hon. Dennitah Ghati is joining us at that high level. We wish her well and we will be supporting her in whatever she will try to do for the sake of Members of Parliaments with disabilities all over the world under the Commonwealth banner.

We wish her well and we rally behind her. Congratulations, once more. Thank you.

Hon. Speaker: Does that look like Hon. Pukose who wishes to say something?

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. I happen to be with Dennitah Ghati in the Special Funds Account Committee. As a colleague, I testify that she has what it takes to be the president of the association of people with disabilities within the Commonwealth. She is a very dedicated Member of the Committee, always contributing and always active even in the field. We go with her to many field excursions that involve the Committee. I am proud that she has been honoured by being given this position. I join my colleagues to wish her well in her new responsibilities.

Congratulations, Hon. Dennitah Ghati.

Hon. Speaker: Hon. King'ola.

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Speaker. Allow me to join my colleagues in congratulating Hon. Ghati. When I look at her, she reminds me that all able-bodied persons in this House are potential candidates of being PWDs. Her nature and stature are that of a serious debater. I know how she articulates issues. I have no doubt in my mind that she is going to do a great job at the Commonwealth. I am sure she is going to initiate legislation that is going to assist all PWDs. I wish her all the best. Congratulations. I know she is a great woman and a great leader. I know she is going places.

Thank you so much, Hon. Speaker.

Hon. Speaker: We could end it there, but let us listen to Hon. Gitonga Murugara.

Hon. George Gitonga (Tharaka, DP): Thank you very much, Hon. Speaker. Allow me to join the rest of the House in congratulating Hon. Dennitah Ghati. This is an honourable position

she has won. She is one of possibly the best performing legislators we have in this House. In fact, if you listen to her debating, you would not think that she has any disability until you see her. This is evidence that disability is not inability and we must always strive to ensure that those of us who are disabled are accorded the very best of positions in the society. I congratulate her.

Thank you very much.

Hon. Speaker: Member for Alego Usonga.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Speaker. I also join my colleagues in congratulating my sister, Hon. Dennitah Ghati, following her appointment as the president of the Commonwealth disability office. Hon. Dennitah Ghati is a very strong Member of the ODM Party Disability League, where she has outperformed herself and done tremendously well, even beyond our expectations as a party. I am confident that this new responsibility is going to push her ability and efforts forward and in a way that the Commonwealth body will appreciate her work.

She is also one of the Members of Parliament who have a strong voice on matters of disability. Unlike my friend, Hon. Sankok, who in most cases digresses to discuss matters that do not touch on disability, the arm that brought him to this Assembly, Hon. Dennitah Ghati focuses herself on fighting for the rights of PWDs in this country. I would like to urge my friend, Hon. Sankok, that in future, if you get another opportunity to be in this House, please, focus on the role you are assigned. Do not jump up and down, fighting for political irrelevancies.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Kubai Iringo.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker, for giving me this opportunity.

Hon. Speaker: Who is that? I meant Member for Igembe Central.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Speaker, for giving me this opportunity. Hon. Sankok, do not expect that because you have been mentioned, you have to respond immediately. You have to be patient.

Hon. Speaker, let me add my voice to this matter and congratulate my colleague, Hon. Dennitah Ghati for being elected as the president of the Commonwealth disability office. The selection panel picked the right person. I have known Hon. Ghati since we joined this Parliament in 2013, when she was normal before she got involved in an accident. She was astute, a very good debater and a serious legislator for that matter. Even after the accident, she did not lose focus or her mind, thank God. She continued to do her work diligently, fighting for the class she belongs to now. Currently, she has taken her position so seriously that she articulates issues of the disabled eloquently. She will not let us down. She will live up to our expectations.

Congratulations, *Mheshimiwa* Dennitah Ghati.

Hon. Speaker: We will leave it at that. Hon. Ghati, I saw you flying into the Chamber. Hon. Sankok, take one minute.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Speaker, for giving me this opportunity. Let me start by congratulating my colleague in the disability movement for this important honour. I must thank you, Hon. Speaker, because it is you who identified her and made sure she was part of the Commonwealth Parliamentary group. She deserves that position. When she became a PWD through a road accident, I was a board member of the National Government Affirmative Action Fund while she was a Woman Representative and I interacted with her. I saw her zeal. Immediately she became a PWD, she accepted that disability and moved on to become an advocate of PWDs more than some of us.

Lastly, I will not respond to sideshows from people who are not PWDs and who divulge their ignorance to the disability movement. I thank you so much, Hon. Speaker, for giving me this opportunity.

Congratulations once again, my sister and colleague.

Hon. Speaker: Next Order.

PETITIONS

Hon. Speaker: Hon. Mule

REVIEW OF PETROLEUM PRICES IN THE COUNTRY

Hon. Stephen Mule (Matungulu, WDM-K): Thank you so much, Hon. Speaker. I rise to present Petition No.39 of 2021 regarding review of abnormal prices of petroleum and petroleum products in the country.

On behalf of all Kenyans who are consumers of fuel and other petroleum products across the country, I draw the attention of the House to the following:

THAT, the Energy and Petroleum Regulatory Authority (EPRA) and the Ministry of Energy acted excessively and insensitively in the recent historic increment of petroleum prices by between Kshs7 to Kshs12, and failed to safeguard the basic rights of Kenyans by ignoring the dire economic struggle that bedevils a majority of low-income earners who live below the poverty line and are still recuperating from the shock of COVID-19

THAT, the high fuel prices have infringed on the rights of every citizen to move freely, occasioning restrictive fare hikes by public service vehicles such as *matatus*, buses, motorbikes and taxis.

THAT, Kenyans have further been denied the right of access to adequate food of acceptable quality due to prohibitive cost of transport from the production point to markets and homes and, therefore, subjecting them to hunger and risk of starvation, which infringe on their right to life contrary to Article 26 of the Constitution in addition to the prevailing drought and famine facing several parts of the country.

THAT, the cost of medical services has skyrocketed beyond the acceptable parameters of universal health programme on account of rising energy cost, whereas the overburdening taxes on fuel and other petroleum products have contributed immensely to job cuts that have led investors to shift to neighbouring countries having favourable trade incentives.

THAT, it is ironical and illogical for the Government to set fuel prices at a higher rate than the neighbouring countries of Rwanda, Burundi, Ethiopia, Somalia, Eritrea, Tanzania and Uganda, some of which are landlocked and import their fuel through Kenya.

THAT, the skyrocketing energy costs in the country have reversed the initial gains that have been realised through the Government's Economic Stimulus Programme, and the Big Four Agenda, and has resulted in wastage of taxpayers' money that occur every five years.

THAT, efforts by the citizens through various groups and institutions, to have the escalating energy costs put under control by the national Government have been futile.

THAT, the matters raised in this Petition with regard to review of the abnormal fuel price increment ranging from Kshs7.58 per litre of super petrol, Kshs7.94 per litre of diesel and Kshs12.97 per litre of kerosene are not pending in any court of law in Kenya to the best of my knowledge.

Therefore, we humbly petition and pray that the National Assembly, through the Departmental Committee on Energy, does the following:

(i) Conducts a public inquiry into reasons behind the high increase of petroleum products in Kenya, including Liquefied Petroleum Gas (LPG) that includes the importation process, overhead refinery costs per litre/per barrel, volume of exported crude oil mined locally and amount of revenue collected from the petroleum products;

(ii) Urgently reviews the relevant laws to cause a reduction of the retail prices of petroleum and petroleum products, including the Value Added Tax law, the Income Tax law, the Tax Procedures Act and the Miscellaneous Fees and Levies Act, among other statutes;

(iii) Causes the relevant State agencies and the regulatory-making authorities to review the relevant regulations relating to petroleum products with a view to reduce the retail cost of petroleum and petroleum products, including that of LPG;

(iv) Consider annulling the relevant petroleum-related regulations until such a time the regulatory-making authorities complies with a view of bringing down the cost of fuel in the country; and

(v) Makes any other recommendations on legislative intervention aimed at reducing the retail price of fuel and LPG.

And your humble petitioners will ever pray.

REPEAL OF FINANCE ACT 2018 TO ADDRESS INCREASES
IN PRICES OF PETROLEUM PRODUCTS

Hon. Speaker: Hon. Members, as you all know, Standing Order 225(2)(b) requires the Speaker to report to the House any petition other than those presented by an Hon. Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation.

In this regard, I wish to report to the House that my office has received a Petition from one Antony Manyara and one John Wangai of P. O. Box 17586, Nairobi, calling for urgent repeal of Section 13 of the Finance Act, 2018 in order to address drastic increases in prices of petroleum and petroleum products through abolition of the currently prescribed 8 per cent Value Added Tax.

Hon. Members, in their Petition, the petitioners decry the passage of Section 13 of the Finance Act, 2018, which amended Section 5(2) of the Value Added Tax, 2013, that introduced a Value Added Tax of 8 per cent on petroleum and petroleum products, which had previously been tax exempt. This taxation rate was pegged at the taxable value of petroleum and petroleum products exclusive of excise duty, fees and other charges.

The petitioners aver that all taxpayers and consumers of petroleum and petroleum products have been adversely impacted by the law which they term as “draconian.”

The petitioners seek the intervention of this House to consider repealing Section 13 of the Finance Act, 2018 in order to address the sharp increase in prices of petroleum and petroleum products through abolition of the currently prescribed 8 per cent Value Added Tax. This is in view of its overarching and substantial impact on taxpayers and consumers of the said products, which they have listed as petroleum oils, oils from bituminous minerals, motor vehicle fuel, spirits, kerosene-based jet fuel, illuminating kerosene and natural gas in gaseous state.

Hon. Members, this is a matter that squarely and exclusively falls within the authority and mandate of the National Assembly as espoused in, at least, five provisions of the Constitution, the first of which is Article 95(2), which provides:

“The National Assembly deliberates on and resolves issues of concern to the people.”

Secondly, Article 119(1) states:

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation”.

Further, Article 114(3)(a) mandates the National Assembly to enact laws pertaining to taxation, while Article 210(1) provides that:

“No tax or licensing fee may be imposed, waived or varied except as provided by legislation.”

As, indeed, observed by the petitioners, both in their submissions as well as in their prayer, the legislative authority of the Republic, which is derived from the people, is exercised at the national level by Parliament in line with Article 94(1) of the Constitution.

Hon. Members, you will agree with me that this is a current matter which is of great concern to the people. Indeed, in addition to this Petition as well as a similar Petition by the Member for Matungulu, Hon. Stephen Mule Mutinda, I have received requests for Adjournment Motion from the Member for Dagoretti North, Hon. Simba Arati and Nominated Member, Hon. Wilson Sossion, seeking adjournment of the House so as to deliberate on this very issue.

I have determined that the best avenue for resolving it as indeed provided for in Article 95(2) is not a Motion for Adjournment under Standing Order 33, which as you all know is a debate that has no resolution, but rather to proceed by way of tackling the legislation. It is on the same basis that I have declined to approve requests for Statements and Questions from several other Members on this matter because this Petition, as prescribed, addresses the issues much more conclusively than could Questions and Statements.

Hon. Members, pursuant to the provisions of Standing Order No.227(1), this Petition stands committed to the Departmental Committee on Finance and National Planning for consideration, for it is the relevant committee which deals with matters to do with taxation.

In addressing the concerns and prayers of the petitioners, the Committee shall be expected to:

(i) table its report within 14 days in view of the urgency of the matter and in consideration of the effects it has on the populace, notwithstanding the period of 60 days prescribed under Standing Order No.227;

(ii) attach a draft Bill to the report for any approval for publication proposing legislative intervention by this House as sought by the petitioners; and

(iii) undertake general and targeted inquiry to confirm whether there exist other reasons beyond taxation leading to the drastic rise in the cost of petroleum and petroleum products with a view to proposing administrative and other legislative measures for addressing those concerns.

Hon. Members, although Hon. Stephen Mule requests that his Petition be referred to the Departmental Committee on Energy, you will all agree with me that the solution to the matter at hand lies in addressing the issue of taxation and related measures. Therefore, it is only prudent that we consolidate the efforts therein in one organ of the House. Subsequently, the Petition by Hon. Stephen Mule will also be considered by the Departmental Committee on Finance and National Planning.

(Applause)

Finally, pursuant to the provisions of Standing Order No.195(1), Members of the Departmental Committee on Energy and any other Member of this House are at liberty to attend the sittings of the Departmental Committee on Finance and National Planning and make their submissions on the matter as necessary.

I thank you, Hon. Members.

(Applause)

Hon. Members, in view of the obviously emotive nature that I have seen in addressing this matter, I will allow a period in excess of the prescribed 30 minutes so that, among others, Hon. Simba Arati and Hon. Sossion will have an opportunity to ventilate as they would have were the House to engage in the usual Motion for Adjournment, which will not have any resolution.

Let us have Hon. John Mbadi.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. First, allow me to sincerely thank you very much for bringing the Petition that was forwarded to you by concerned Kenyans and also allowing Hon. Mule to bring a Petition. I thank Hon. Mule for taking up this matter. It is a clear demonstration that Hon. Mule knows what to do. I have seen many of my colleagues addressing this matter outside the precincts of Parliament even though we were on recess. The right place to deal with this matter is on the Floor of the National Assembly, not in funerals. Mourning and complaining with Kenyans is not helping them at all.

I want to say a few things regarding this matter. It is true that Kenyans are really overburdened. By the way, all of us who have some background in economics and finance know very well that the moment you touch energy costs, it has a spiral effect on the economy and the overall cost of living will go up. That is what Kenya is facing at the moment.

You are right to direct this matter to the Departmental Committee on Finance and National Planning as opposed to the Departmental Committee on Energy. The matters that we will deal with are about the pricing of the commodity which has a lot to do with some levies and taxes that go into it. I would like that Committee to be very careful and answer to certain issues.

When you just talk about taxation, many Kenyans and even the petitioners are attributing the rise in the cost of fuel to the Value Added Tax, which is just a small portion of the cost. If you look at what 8 per cent would contribute to the overall cost of one litre of fuel, it is not so much. It is 8 per cent of the cost of petroleum products less levies such as the Petroleum Development Levy, excise duty and others. You will find that the 8 per cent is just on a figure of about Kshs50 or Kshs40 per litre. Therefore, the Committee must answer as to why the prices of fuel have risen in recent days.

The VAT has been levied on petroleum products from 2018 to date. Therefore, the recent rise is attributable to other things. One of them is the depreciation of the shilling. The depreciation of the shilling has not been causing the rise because we have been supplementing or using the Petroleum Development Levy Fund, which has been like a reserve fund, to cushion consumers and it has been depleted. The question that Kenyans need to ask and this House will resolve is why we use the Petroleum Development Levy Fund to cushion Kenyans. Why not remove that levy from the cost of fuel, so that it is brought down? Those are the questions we expect the Committee to deal with.

The Committee should not be lazy in just looking at the superficial VAT. They should go deep into all the levies that go into the fuel products and see if we need all of them. Some are

necessary. We need them for the development of our roads. That is a fact. However, it could be that we are putting some petroleum levy funds somewhere to use when the fuel prices go up or the shilling is depreciating and the dollar is becoming stronger against our local currency. In that sense, the levy may not be necessary as part of or as a component of the cost of petroleum products.

Hon. Speaker, this is a matter which the Committee needs to deal with urgently, and bring the report to the House. If there will be any amendment, which I suppose will be there, we can deal with it, so that Kenyans are cushioned. They do not look at this House as an irresponsible people's representatives House.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, because I can see there is a lot of interest, I will have to limit the time. Let us have the Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. I thank the Members for raising the issues in the House and also thank you for having directed that this matter be looked at in a systematic way through the framework of the Committee that will be digesting the matters, so that we do not lose out the merits and demerits of the matter through politicking. It is a very emotive issue. We are also affected. We all have vehicles. We can feel the cost.

As the Committee looks at the matters, I would like them to look at the following items: First, I reassure the House that it is within our mandate to deliberate and impose any taxation. No Member needs to feel guilty as we have been made to feel on television shows and people out there trying to blame Parliament saying that we are insensitive and are the ones who pass these laws. No Member needs to feel uncomfortable because as Parliament, we are being bashed. Even as we work on the issues surrounding this matter, let the Committee not be driven by a feeling of guilt that Parliament imposed a tax and the solution is for Parliament to remove it to look popular.

First of all, I would like to ask the Committee to look at the global trends. Last year, when COVID-19 hit in March 2020, production ceased in China and other countries. Therefore, the cost of fuel per barrel globally fell to almost US\$9, the lowest ever in history. Even here, fuel costs fell almost to the floor and since last year, activities have been reinvigorated across the world. As of last month, the indicative cost per barrel was US\$73.

So, from US\$9 last year to US\$73, plus the decline in our exchange rates from Kshs101 to now Kshs111, the combination of all these means that the cost before you in my own estimate, is about Kshs86. There is nothing we can do about this. The balance is obviously the fuel levy which we use in our constituencies to do the roads. The Petroleum Development Levy is used to subsidise the VAT on fuel, which is projected to generate Kshs29 billion in the budget and the money has been allocated by this very House towards financing education, roads and other issues.

Even as the Committee looks into this, they also need to look at the impact of global prices which are escalating going forward. The projections are that pricing will go up anyway with or without us changing the VAT. Another thing that I want the Committee to look at and advise on is the impact of changing our taxation, especially VAT. When we remove Kshs29 billion from the budget, what other items will need to be sacrificed because this amount will be lost anyway?

The other thing is that in the last two reviews when fuel prices were going up and this was done by the authority set up by Parliament, the only reason why fuel prices were not so high is because the Petroleum Development Levy Fund was used to subsidise the cost. I have indication that there is active consideration for further subsidies going forward. Of course, this can only be done within the framework of the next review because this is what the law says. Petroleum pricing can only be done on 15th. We passed this law and the people dealing with petroleum are bound by

it. At the next review, there could be possibilities of reintroducing some subsidy to cushion on a temporary basis while watching the global prices and the foreign exchange rate movement.

I would like them to look at this and also the impact on roads maintenance programme. Each of the constituencies through the Constituency Roads Committee have a certain budget already allocated to them for maintenance of their roads from the Road Maintenance Levy Fund. If we make any adjustments to the fuel levy, it means that the Kenya Roads Board will obviously receive less and every constituency will be allocated less money for maintenance of roads. The choice then has to be between driving on a dilapidated road and having cheaper fuel or having expensive fuel and a smoother road.

These are issues that I am asking the Committee to consider, and as we move forward, perhaps, they should look at the trends in other countries towards changing the energy mix. Progressively, it has become that fossil fuels are not sustainable and there is a drive towards electric cars and bicycles. This is happening even in Pakistan and Japan. Why can we not do this in Kenya? What policy incentives do we need, for example, to convert the two million motorbikes currently using fuel to battery power as is happening in Pakistan? The cost of a motorbike is exactly the same, but the operational costs are at 25 per cent.

Perhaps, the Committee should look through all these things, so that we do not look at a temporary situation with temporary solutions, but get a long-term solution because as long as the world continues demanding oil, the prices will continue rising. As long as the geopolitics within the other nations are the way they are, oil production will still be a challenge. By getting the right energy mix, we will shield our people especially the *boda boda* riders and farmers from the escalation going forward.

I just want to throw these issues to the Committee to consider, so that Parliament is not blamed for having passed VAT or the Government for executing what we passed as Parliament. I am looking forward in terms of other options to shield Kenyans from this global phenomenon.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, I can see the requests are very many. Do not raise your finger because it might seem like some political party symbol especially one finger only. Hon. Sossion, three minutes.

Hon. Wilson Sossion (Nominated, ODM): Thank you, Hon. Speaker. I wish to thank the petitioners, namely, Hon. Mule and a citizen, who has written to you. I also wish to thank you for giving a clear direction to the Departmental Committee on Finance and National Planning to investigate the matter and report within 14 days. This will give us a better opportunity to address this further.

There is no doubt that in this country, the recent fuel increases have caused a lot of uproar. Looking at the microeconomic levels, I agree with the Leader of the Majority Party and the caution from the Leader of the Minority Party on the need to be very cautious when treating this matter. It is common knowledge, and you do not need to be an economist in this country to know that revenue collection is so weak and very easy for the Executive and the Government to collect revenue by targeting fuel prices.

The Committee will have to be honest and look at a way of extricating Kenyans from the effects of fuel prices. Kenyans are aware that the fuel prices in the neighbouring countries like Uganda and the rest are far much lower than ours. What is the explanation? Indeed, there is need to review the prices downwards as we wait for the report. At the micro-level, as I stated, upon increase in prices, the *boda boda* industry and general transport system has almost collapsed. This

might even call for review of workers' commuter allowances. It has caused a lot of economic burden to Kenyans.

It is also common knowledge that the cost of agriculture and farm inputs has gone up. It will be impossible for the Government to implement the Big Four Agenda in terms of food production and sustainability with the high prices. The high prices are not justifiable whatsoever and they need to be brought down to allow the economy to progress and also to allow the citizens of Kenya to have a decent living. The fuel prices have pushed up the cost of living not only for ordinary Kenyans but for all Kenyans. So, the Departmental Committee on Finance and National Planning should table a report that should resolve the fuel prices and address the cost of living once and for all.

Hon. Speaker: Hon. Kanyuithia.

Hon. John Mutunga (Tigania West, JP): Thank you, Hon. Speaker, for the opportunity to add my voice to this issue of fuel price rises. I wish to thank Hon. Mule for bringing it to this House as a Petition and also for your guidance in response to the petitions brought to you by Kenyan citizens. A rise in fuel prices, including kerosene which has actually increased even more than all the others, is punitive to the Kenyans. It is not just costly but it will increase the costs of living across the board. It will increase the cost of transportation and the cost of travelling or commuter cost. It will also increase the cost of land preparation for farmers and all the other implements that are trailed by tractors. It will disable the small businesspeople who are using *boda boda* and others. It will be punitive to this country and it is at the wrong time. Everyone is aware that this country, among others, has suffered as a result of COVID-19 and businesses have not been fully opened. The sources of living are limited.

Therefore, I would like to spot the direction that you have given that this matter be transferred to the Departmental Committee on Finance and National Planning so that it can be given the correct attention. Even as we look at this particular issue, we should look at alternative means of raising revenue. We should not focus on the easiest way which is just fuel. Even if it is development, in a situation where there is crisis like now, we should not look at how much more we can pressurise the people. We should look at how we can relieve the people by looking at alternatives. I do not think it is really wise for us to go to the direction of increasing the fuel prices but we should look at the other alternatives. We could also look at what can be stayed or staggered and what we can do on long term instead of rushing to increase the prices of fuel at a point when Kenyans are suffering as a result of COVID-19 and others. We even have drought. People are suffering from hunger. People are dying. Therefore, they cannot even move. This is going to create a crisis in this country and it should be opposed in the highest level. Thank you, Hon. Speaker.

Hon. Speaker: As I had indicated, Hon. Simba Arati had written to request for adjournment of the House. So, I give him a chance.

Hon. Simba Arati (Dagoretti North, ODM): Thank you, Hon. Speaker. Hon. Speaker, you know when I wrote to you yesterday on this issue of an Adjournment Motion, I got overwhelming calls from all over from people asking us to throw away this thing. My worry was what we are throwing away. If you remember very well, this is an Act that we enacted in Parliament in 2018 and we should not have had a blame game. This is because I saw some of my colleagues saying it is *Kieleweke* or *Tangatanga*. It is not about *Kieleweke* or *Tangatanga*. It is about our people. If it is a blame, it should be a blame for all of us as a country.

Hon. Speaker, the high prices have badly damaged the image of Parliament and how I wish it was to be seven days and not 14. This is because the 14 days can even be a whole month and then EPRA will again announce another increase or decrease. Therefore, if it were possible for

Parliament, we could have this business done within seven days because it is what we have here. The Departmental Committee on Finance and National Planning should sit down and look into it and then deliberation will be done. There is what was introduced in 2016 as *Mwananchi* Gas Project. I am particular on this issue that in another one week, I will be bringing a petition to cushion those poor *mamas* in *kibandas* in Kawangware and everywhere, especially in Nairobi. It is unbearable. All the *boda boda* boys in Kawangware have nowhere to run to. My people in my constituency are not hustlers. They are only hardworking Kenyans. Somebody was distracting you a bit there. My plea is that I wish it could have been seven days. We would have saved the country. This is because in another seven or 10 days EPRA will either increase or decrease the prices. Therefore, they will beat us in our own game. It is my plea that you give direction that within seven days this Committee has to come up...

Hon. Speaker: Member for Mwea.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Speaker, for giving me a chance to contribute to these very important petitions, the petition by Hon. Mule and the petition that was brought through you by the Kenyan citizens. These petitions are very important. They are coming at a time when this country is already suffering from other pandemics and any increase to the fuel will have a spill over to other areas and thus increasing the burden that is already with Kenyans.

Last weekend, I was with some youth group in a place called Viva and they had a serious cry over the increases of fuel especially the *boda boda* operators. Because we have discussed this issue over time, the ruling you have given today could never have come at a better time. It is high time the Committee came up with a report that will comprehensively look at why the cost of fuel goes up and down every time. We have been given reasons especially on the international cost. We have been given reasons on VAT but if you look at the cost of fuel in other countries especially the neighbouring countries, you realise that this could not have been the actual problem. It is high time this Committee now goes deeper to look at the real reasons and come up with recommendations and out of those recommendations, we now look at a possibility of having some subsidy or some fund that could be used any time there is an attempt by EPRA to increase the cost of fuel. It will be very important that the Committee acts very fast. Fourteen days are sufficient. We should not have an increase of even a day so that our people who are watching out there may now start having hope in this House. Let them believe that whenever we have this kind of an issue, we can take it seriously and come up with recommendations that should also be implemented immediately by the Executive.

Above all, now that we are already there, we hope that the Executive can look at alternative ways of subsidising the young men who are now going to lock down their *boda boda* business because of this cost of fuel. I submit.

Hon. Speaker: I do not seem to see the Chairperson of the Departmental Committee on Finance and National Planning. The Vice-Chair is there. Hon. Waihenya, not now. I just wanted to confirm. It is good because there are a lot of issues that are coming up from the contributions and I think it is only fair that at least the Chair or the Vice-Chair are present to take them on board. Next is Hon. Sharif Nassir.

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you very much, Hon. Speaker. On 25th March this year, I raised this matter in this House. When I raised it, the fuel then had shot to a nine year high of Ksh122. I raised this matter and every single Member who was here applauded in one way or the other in support because the cost of transport, manufacturing, food and every other aspect of life had gone up. You gave a ruling that the Committee on Delegated Legislation together with the Departmental Committee on Energy, provides a report within 30 days. From that

day, the only time that I was called for an online meeting was on 13th April this year. March, April, May, June, July, August and September; seven months, and now we are back to the drawing board because the price has risen up to Kshs132.46 in Mombasa and Kshs134.72 in Nairobi. These are the prices that have been set aside by EPRA.

Let us not call a spade a big spoon. Hon. Speaker, I will request you to indulge me because this is something that I had raised. The Leader of the Majority Party has indicated that the problem is the cost of fuel worldwide. In this country, when fuel prices were at Kshs122, the excise duty on petrol was at Kshs12.95; kerosene and diesel were at Kshs11.37 and about Kshs18.00 was for the Road Maintenance Levy Fund. An amount of Kshs5.40 was for the Petroleum Development Levy Fund, Kshs0.25 for the Petroleum Regulatory Levy and Kshs0.95 for the Railway Development Levy.

Hon. Speaker: Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Nashukuru, Mhe. Spika, kwa kunipa fursa hii ili niweze kuchangia Ombi hili ambalo limeletwa na Mhe. Mule na wale Wakenya wenzetu.

Hili jambo la bei ya mafuta kupanda linakera Wakenya wengi sana. Gharama ya maisha inaenda juu. Ukilinganisha bei ya mafuta katika nchi yetu ya Kenya na nchi jirani kama Uganda, Tanzania na Rwanda, iko juu sana hapa nchini. Nilimsikiza Kiongozi wa Walio Wengi akiongea na nilitaka kujua kwa nini bei ya mafuta Kenya iko juu kuliko bei ya mafuta katika nchi zingine. Inamaanisha kuwa nchi zile zingine hazina ushuru ama wao wanafanya nini? Tunatoa mafuta mahali pamoja. Hayo mafuta yanapitia Kenya yakipeleka Uganda. Uganda inatumia gharama ya juu kupeleka mafuta nchini mwao kutoka Kenya. Kwa nini bei ya mafuta Uganda iwe chini kuliko bei ya mafuta hapa Kenya? Kule Uganda, lita moja inauzwa Ksh110 wakati lita moja hapa Kenya inauzwa Ksh135. Hilo ndilo swali ambalo watu wanajiuliza. Kwa hivyo, vile ulivyotoa amri, tunataka Kamati ambayo inaongozwa na Mhe. Wanga, ingawa hayuko hapa, na ninatarajia mahali alipo anafuatilia mjadala huu, ilete ripoti katika wiki mbili ambazo umewapa na Bunge hili liweze kujadili ili tuone kama tunasimama na Wakenya ama la. Wakenya wanalia sana. Walituchagua ili tuwakilishie. Sisi kama wawakilishi wa Wakenya ni lazima tupate suluhisho ambalo litaleta gharama hii chini ili Mkenya wa kawaida aweze kuendelea na maisha yake ya kawaida.

La muhimu zaidi ni sisi kama Bunge hili tufanye uamuzi wa busara ambao utatupeleka mbele kama Wakenya.

Asante Bw. Spika, nashukuru.

Hon. Speaker: Member for Makueni.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker for giving me an opportunity to support the two Petitions. The EPRA, being one of the regulating bodies, must follow the Constitution of Kenya and the Statutory Instruments Act when making regulations.

In the last about four months, EPRA had not increased the prices of fuel and no reasons were given at all. The day these prices were raised, there was a quick consultation with a few suppliers and within an hour or so, a decision was made. That was an attempt of public participation which is mandatory in the Constitution. I believe every other time EPRA increases fuel prices, it must consult a few Kenyans who are the consumers and generally get a view from the experts on the best thing to do on behalf of Kenyans. From this Petition, this did not happen. I believe EPRA must consult and even make an announcement publicly so that people can write to them and give their views. I am sure the country has sufficient experts who can advise them appropriately such that no sector suffers.

I want to agree with the petitioners that this is a matter that this House must resolve in one way or the other and direct EPRA on how it should be dealt with. I believe they can reduce the

prices accordingly having reviewed the situation. It is within their capacity while this House acts and deals with the matter as you have directed. I believe a solution will be found and they have to bear in mind the consequences of what they have already done. I am sure they can re-assess the situation, listen to the cries of Kenyans and balance the matter and we could have a way forward even before the House does its business. At the same time, I believe the Committee will also conduct a quick public participation because of the duration you have given. I believe, in your wisdom, you found it appropriate to give two weeks. It should be sufficient because of public participation so that experts in this sector can advise and Kenyans and Parliament can come up with the best solution.

I thank you, Hon. Speaker.

Hon. Speaker: Member for North Imenti.

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Speaker. I want to join the petitioners, Hon. Mule from Matungulu and the other petitioners. I remember the issue of prices of fuel came to the Departmental Committee on Finance and National Planning when I was a Member of the Committee, and as a Committee we had declined the 16 per cent VAT. We had said that it should have been zero-rated. Due to a memorandum, it was reduced from 16 per cent to 8 per cent. We need to rethink the memorandums that are brought to this House because we cannot overturn any law. Getting two-thirds is very difficult. We only got two-thirds when we were voting for the Building Bridges Initiative. Otherwise, we have never been able to do anything prior to that.

On 14th October 1968, the price of fuel was Kshs15 for five gallons. That time, we did not have fuel in the country. We do not have it now because what we are getting from our oil fields cannot be commercially extracted. I think the money we have put into Tullow Oil is a waste. If that oil cannot be extracted to get fuel, then there is no point in having it. We need to bring the taxes down. You have given an order that within 14 days, the Departmental Committee on Finance and National Planning should bring a report, and a draft Bill, to the House. After bringing a draft Bill to the House, it will still have to go through public participation. So, it will not assist what we are doing. We need to ask the National Treasury, together with the Ministry of Energy, to use the Petroleum Levy Fund to compensate and reduce the fuel prices. We also need to ask the National Treasury not to implement the Excise Duty coming at the end of this month which will again raise the prices of fuel. We need to move fast before the end of this month because the 14 days will end in two weeks and, at that time, the Kenya Revenue Authority (KRA) will implement the Excise Duty on fuel. The fuel prices will go up again and whatever we are talking about today will come to naught. We need to reduce the price of fuel as soon as tomorrow.

Hon. Speaker: Let us have the Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker for giving me this chance. I rise to support the two Petitions. What has happened in terms of the increase in prices of fuel is a very serious matter that will require both immediate and temporary solutions as we work on a permanent solution.

The increase in the prices of fuel and petroleum products is actually comparable to the spiralling increase in prices in France in 1779 during the French Revolution. This is an extremely serious matter because it affects the common *mwananchi* - the local person. It can lead to a revolution. Even those in Government should not be happy as we speak about this. People are getting agitated every hour and every minute because it has a multiplier effect on the prices of food in the country. Therefore, we need to move with speed like you have directed. I support your direction that within 14 days, this matter should be addressed in form of a Bill.

As the Committee looks at this, there are two levies. The first is the Petroleum Development Levy. This was supposed to have been a buffer that cushions Kenyans any time there are fluctuations in the prices of petroleum products in the world market. The second one is the Fuel Levy that the Leader of the Majority Party has talked about, and which we generally use to maintain our roads. The immediate levy that must be removed is the Petroleum Development Levy because, whereas it was supposed to cushion prices, it is not doing so. Why do we still have it when, at the same time, it cannot cushion Kenyans? That is one area that the Committee should address and remove that particular levy immediately as an immediate measure, so that the prices can go down.

Otherwise, as it is now, the country is resting on a very small margin because people are affected by COVID-19, hunger and drought and yet, we are now increasing the fuel prices. I support the Petitions.

Hon. Speaker: Let us have the Member for Samburu East.

Hon. Jackson Lekumontare (Samburu East, KANU): Thank you, Hon. Speaker for giving me this opportunity to add my voice to these Petitions.

Kenyans are really suffering. Prices of fuel in other parts of the country are very high. I hear Members talking about Kshs131 but in some parts of Kenya, the fuel price is Kshs140. The direction you have given will really help the people because the country is almost coming to a standstill. It is high time that we save the people because they are crying.

Look at the *boda boda* and *matatu* people. Those who want to travel are not able to do so because the prices of fuel and fare have gone up and people have nowhere to go.

The Committee should look at the Petitions because this is a serious issue. Everybody can see that it is an issue which affects everybody. People are not even able to purchase goods because they have lost their purchasing power.

These are very important Petitions. I support them. We have to take serious measures to deal with this.

Hon. Speaker: Let us have Hon. Godfrey Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Speaker for giving me this opportunity to also support the two Petitions.

The issue of increasing the fuel prices is serious because it will directly affect many parameters in the economy. I thank you for forwarding this matter to the Departmental Committee on Finance and National Planning, so that they can extensively look at it and give proper directions to this House.

One of the major contributing factors for the fuel price increase is the many levies that are put on fuel. We have the Excise Duty, Value Added Tax (VAT), Road Maintenance Levy, Petroleum Development Levy, Petroleum Regulatory Levy, Railway Development Levy, Anti-Adulteration Levy, Merchant Shipping Levy and Import Declaration Fee. That is excessive. That is what we call multiple-taxation! When the Committee members sit down, they need to look at all those levies and determine their value addition, so that those which do not make sense such as the Anti-Adulteration Levy are removed. That is the function of the Energy and Petroleum Regulatory Authority (EPRA). They cannot go on charging levies and, at the same time, they also charge the Petroleum Regulatory Levy. The Committee has a lot of work to do.

Most importantly, I have had the benefit of working for the Energy Regulatory Commission in my employment before they took over the petroleum docket. With the introduction of petroleum as a docket to EPRA, there is a lot of information which needs to come out on how they calculate the pricing of fuel. The Committee should look into this in detail to determine what

happens because this opaque and unpredictable manner of setting fuel prices is unacceptable. We expect the Committee to tell us about the whole process of coming up with fuel prices and also the international component, namely, fuel price fluctuations which also affect the pricing of fuel and the Stabilisation Fund. At a time like this when we have the Corona virus and all those challenges, it was the moment for them to lift the Stabilisation Fund so that they can cushion Kenyans from high fuel price increases which they did not. A lot has to be done.

Hon. Speaker: Let us have the Member for Tharaka.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Speaker. I also rise to support the two Petitions and agree with my colleagues that the 14 days given may be relatively more than what we need as a matter of urgency. Maybe, seven days should have been sufficient for us to address the problem at hand which threatens to cripple our country.

We must also have an investigation into why the price of fuel has suddenly gone up in spite of the fact that the VAT at 16 per cent was passed in 2018, is now being implemented and no explanation whatsoever has been given. We recently possibly agreed on the Petroleum Development Levy rising slightly to cushion inflation. However, that cannot be the reason why we have such a high price coming up at a time when the country is reeling from the effects of COVID-19, drought and other pandemics that we need to look into.

The Fuel Levy has always been there. Therefore, the Leader of the Majority Party should not tell us that if we remove some of those levies, we will not get money to maintain our roads. It is not true. The Fuel Levy is there. That is where we get our money through the roads boards to maintain our roads. Therefore, we should be thinking of what urgent measures we should take into consideration to ensure that the price of fuel goes down, citizens are relieved and we are able to help those ones down there - we call them hustlers - who have difficulties in getting their daily livelihoods. If we continue to burden them, what are we doing for the country? What value is this to anyone in the country? As we look at this, we are told the country is reeling in debt. Possibly, this has a correlation and must be looked into, whether there is a problem with our debt and whether we are looking at fuel as part of the money we need to service the debt.

I support.

Hon. Speaker: Hon. Makalu Mulu.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Speaker. I appreciate your direction on this matter because it is very serious.

The Committee has a job well cut out for them. They need to move with speed so that they look at pricing of petroleum products. It has been said - and I do not need to repeat - that the pricing is a function of many variables and VAT is just one of them. Actually, the levies are more than the VAT. What we need to do is let the Committee take time and looks at specific levies and sees which ones make sense and the ones that do not; more so, bearing in mind the current situation that we are in. It is unfortunate that the prices are increased when we have COVID-19 in town; when we have drought in most parts of the country, when people are dying of hunger and when many other things are not working as they should be.

To cushion Kenyans against what is happening, the Committee needs to work very fast. I like your proposal, Hon. Speaker, that even as they bring their report to this House, where possible, let them have a draft Bill on what needs to be changed so that, as a House, we can immediately work on this matter and have it behind us. We represent the people and we know what they are going through.

I plead with the Vice-Chairman, who is here and I hope he is taking notes, and Members of the Committee that the matters that have been raised by Hon. Members in this House are taken

into consideration as they do their report. I will be looking forward to the report to be tabled in the House as soon as possible so that we do justice for the benefit of Kenyans.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much Hon. Speaker for giving me this opportunity. Let me start by thanking you because you are a true *mtetezi wa wanyonge*. You directed us that we should not debate in burials and *barazas* but bring the Motion in the right place and we have done that. You directed that we should not do it as a Motion of Adjournment but as a Petition that will be addressed as soon as possible. The 14 days period is a lot. We need to make it seven. Hon. Speaker, no wonder, you are a presidential candidate and ahead of most of the other characters.

(Laughter)

We should not at all, in this time when we have COVID-19, when we have drought and when we have problems as a country, justify with anything the suffering of Kenyans. The Departmental Committee on Finance and National Planning should examine the landing cost plus the transport cost of petroleum. If it is Kshs60, let us charge it to Kenyans for the next six months or one year to cushion them because we have cash transfers to the vulnerable where we are cushioning Kenyans from the effects of COVID-19. If there is something that will cushion Kenyans, it is the reduction of the price of petroleum products.

As a House, we should go further and look at the corruption that happens. Probably, the wastage of public funds might have brought this issue. I heard my President saying that corruption had reduced in his second term. I beg to differ. I think the “eyes” that normally point out corruption - the Opposition - are in the pocket and, therefore, they are no longer pointing at corruption in this country. Corruption in the country has brought the problem of increase of prices, especially of fuel.

I do not know what happened to the oil in Turkana. I do not know if it was cooking oil or fuel for our vehicles. If it is for vehicles, then we should be seeing reduction in prices, lower than Uganda which ships its products through Kenya. Their transport cost is higher than ours. Wastage of taxes in non-priority areas like the Building Bridges Initiative should be looked into so that we channel money into proper use.

Thank you, I support.

Hon. Speaker: Member for Kinangop.

Hon. Zachary Thuku (Kinangop, JP): Thank you Hon. Speaker for giving me this opportunity to give my thoughts on the two Petitions. First of all, I thank you for your wisdom in committing them to the Departmental Committee on Finance and National Planning with a timeline of 14 days because many Petitions have been brought to this House, but we have never known what becomes of them because they are not time bound. On this one, it is very specific and I salute your wisdom.

Petroleum prices is a serious national crisis and of concern to us as Members of Parliament. Indeed, it should be known by the National Treasury that they should not just go for easy targets when they want to raise revenue. I listened to the Leader of the Majority Party and he tried to justify the taxation to be maintained. I believe that there is a time we need to be very sensitive not just to what we have planned or what we want to achieve as a Government in development, but we have to put into consideration the lives of the millions of Kenyans who are taxpayers and many of them who live on less than a dollar in a day. Increasing petroleum prices has a serious impact

on the people. We know the fortunes of the people we represent are dwindling every day because of the non-performing economy.

Given the kind of debt we have as a country, it is high time we sat down as a House and got into business and consider the kind of loans we get from China and elsewhere, whereby a lot of money that we borrow does not trickle down to the economy. It goes back to China. We should consider some of these issues as a House and pronounce ourselves on them and even re-evaluate the Finance Bills that are presented to this House so that at the point we debate and pass them, we should not be under any duress or undue influence to pass Bills that are very punitive to our people.

I support the two Petitions. I pray that the relevant Committee will expedite them and come up with a Bill that will reverse the taxes that are imposed on petroleum products so that our people can continue to enjoy their lives. Thank you, Hon. Speaker.

Hon. Speaker: Member for Rarieda.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Speaker. I join my colleagues in commending Hon. Mule and other public spirited Kenyans who have brought the petitions. I also agree that the question of prices of petroleum products is a very weighty matter and it is properly on the Floor of this House. As you pointed out, Hon. Speaker, under Article 95(2), this House must not just deliberate on issues of concern, but it must deliberate and resolve. I urge the Committee, as they take upon this weighty matter, to have focus on the resolution that will not be just for present purposes, but also for future purposes.

When the Energy and Petroleum Regulatory Authority (EPRA) was formed, it was supposed to protect the citizens from the dealers but now, we have come to a situation where, as the protector, the citizens must be protected from EPRA itself, and that is a very delicate and dangerous situation to be in. I accept your guidance of 14 days to the Committee. I urge the Committee to treat the 14 days not as the mandatory period they must take, but as the outside limit so that, as some Members have said, if they are able to prosecute this and return to us in three of four days, it is much better.

As they prosecute the matter, I urge the Committee to use its wisdom. I am alive to the fact that the Senate has commenced a parallel and similar inquiry through their Committee on Energy. Properly speaking, this is the kind of matter that squarely sits in this House, and not in the Senate. To the extent that the Senate has chosen to prosecute it at the same time, the Committee must be wise enough to ensure that, that does not become a reason for delaying the inquiry. I think we must find ways of working together.

Lastly, it is important to understand that we put the regulatory framework in place. The prices were not adjusted despite that framework. So, the fact that the prices have suddenly shot up means it is not about the law. It is some policy decision that must be examined and reversed. It is not about blame games. We all must take the blame where necessary and resolve the issues for the sake of the people of Kenya.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Kitui South.

Hon. (Ms.) Rachel Nyamai (Kitui South, JP): Thank you, Hon. Speaker, for giving me the opportunity to also make a comment on this Petition. First of all, let me thank Hon. Mule and the other two Kenyans who have brought a Petition to the House through you.

Matters fuel affects all sectors of the economy, from the common *wananchi* in our constituencies to the macro and micro economies all over the country. There is so much hue and cry in our constituencies because *matatu* fares have already gone up. The *boda boda* sector is also feeling the heat. We can also feel it through lighting our houses, to the level of a bigger economy

where we are talking about operation of factories. We also feel the impact at the level of the food that we put on our tables. This affects all Kenyans at all levels. This matter must be addressed with the urgency that you have directed.

Hon. Speaker, I would like to thank you very much for the guidance that you have given that this matter does not go before the Departmental Committee on Energy, where they would deliberate and invite so many stakeholders, but would not give us the solution we are looking for. You have also guided the Departmental Committee on Finance and National Planning to make sure that, as they bring a report to this House, they also attach a proposal for the House to pass. So, we would like to thank you very much for your wisdom in the direction that you have given.

Our country gets a bad image. Normally, it is others coming to Kenya but now it is Kenyans near the borders that run outside the country to get fuel at lower prices. This matter needs to be handled because we need our image. We are the bigger brother within the region. As Hon. Nassir enumerated, the Committee needs to go through all the stated levies and identify the unnecessary ones so that Kenyans can be shielded from the impact that we feel right now. This is the solution that this august House can provide to Kenyans.

Thank you so much, Hon. Speaker.

Hon. Speaker: Member for Kikuyu.

Hon. Kimani Ichung'wah (Kikuyu, JP): Thank you, Hon. Speaker. I rise to also support the Petition by Hon. Mule and the one by the other petitioners, although I do not want to join in the chorus of giving excuses for ourselves. First, we must begin by asking ourselves as a House whether it is not time to amend Article 115(4) of the Constitution that gives the President the powers to legislate through the backdoor. You remember it is on record in the *Hansard* that this House voted to defeat the infamous 8 per cent and 16 per cent VAT on fuel.

However, through veto powers that the President enjoys under Article 115(4), that vote was defeated because we could not raise the two-thirds majority. We must begin to ask ourselves whether it is not time to amend that Article of the Constitution so that, at least, on matters that touch on the people that we represent, the President cannot legislate. A simple majority should suffice to defeat his memorandum.

I have listened to submissions by the Leader of the Majority Party. He served in the Kibaki regime. In July 2008, when Hon. Kimunya was in the Kibaki regime, he knows that was the time when the price of crude oil was at the highest in the history of the world — at \$147 per barrel. Fuel in Kenya then was at Kshs71 to Kshs73 per litre. Today, the cost per barrel is only \$72 while fuel in Nairobi is at Kshs135 per litre. That tells you it is not a question of the cost per barrel but other underlying factors. We need to ask ourselves: Why is it that EPRA is even setting margins that oil marketers should enjoy? We must get back to a regime where competitive or free-market economy is operational. We must begin asking ourselves: Is it not time the Committee suspends the operationalisation of Road Levy, Road Maintenance Levy, VAT and Excise Duty on fuel? Probably through legislation, this House should consider reducing the levies.

Hon. Speaker: Hon. Members, you know we are not an island. We know that veto powers do exist in very many jurisdictions. We should ask ourselves: Why is it that, where the Constitution has given this House the leeway to override a veto, we are unable to raise 233 of ourselves out of 349? Remember you are 349; I am not part of the membership. You are the ones who vote. You are 349 but you cannot raise 233. Even today when we are discussing this issue, let me not castigate a particular class of the membership, but it is obvious that, other than Hon. Rachel Nyamai, going by the requests, there are people who represent whole counties and they are not making requests to speak. So, who do they represent?

Hon. Ogolla, Member for Bondo.

Hon. Gideon Ochanda (Bondo, ODM): Thank you, Hon. Speaker. We are at a time when as a country we may have to look at how a single commodity can be taxed 100 per cent. Could the Committee check again which other commodities are taxed to this level? That is what is going to help us as a country. What is happening in the energy sector that there are problems with power, gas, gasoline and many other products? What is happening that the whole target is only the energy sector? As the Committee looks at this matter as you have directed, I want to believe that the Committee may want to check what other commodities are taxed this much. What is the effect of these other commodities on the economy compared to energy or fuel? We need to compare the effects of increasing fuel prices with the effects of increasing prices of other commodities that would attract closer tax as that of fuel. I think the Committee needs to go beyond what you have directed so that it helps this House in checking the extent to which other commodities can also be considered for taxation. So, there is quite a bit that the Committee needs to do for purposes of making sure that we bring this country back to its feet.

Thank you.

Hon. Speaker: Hon. Duale.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, thank you very much. This House must rise to the occasion. Let me be very clear and tell the country that this House rejected the increase in price and imposition of VAT on petroleum products, but the President used his powers under Article 115.

Hon. Speaker, that is provided for in the Constitution in order for the President to protect the Constitution from possible excesses of the Legislature. I have looked at other jurisdictions and realised that the former President of the United States of America (USA), Mr. Barrack Obama, during his eight-year tenure, used the veto power four times. President Kenyatta has used it more than any other President – a total of over 35 times. The country must know that it is not Parliament. In fact, we need to go to Judges Odunga and Joan Ngugi for them to interpret for us Article 115 of the Constitution.

On the matter of fuel, for every litre of petrol you buy, Kshs78 goes to taxation. I want to tell the House that Excise Duty is Kshs15 per litre; Kshs18 goes to the Road Maintenance Levy Fund; Kshs7 goes to the Petroleum Development Fund and Kshs2 goes to the Petroleum Levy Fund. Value Added Tax (VAT) is Kshs12 for every litre of petrol and Kshs8 for every litre of diesel. Cumulatively, out of the Kshs145 you pay for a litre of petrol, Kshs78 goes to taxation. It is factual. It is in the books. This House must rise to the occasion. We must bring a Bill. You have the powers. Give us that waiver. You want to become a candidate in the next election and this is good for you. Let us not wait for Hon. Wanga and the Chairperson of the Departmental Committee on Energy. The House was on recess. She should have prepared a Bill. The President cannot use Article 115 to harass Kenyans. The whole thing is about IMF, who said we must charge VAT. The President is using his powers to make innocent hustlers in Kenya suffer.

(Applause)

This House cannot just sit and debate. Please, allow a private Member to bring a Bill tomorrow. Allow him a waiver on the pre-publication period so that by Tuesday next week, the Bill goes to the President for assent. If he vetoes it, we raise the two-third majority and disagree with him. Each and every Member here must rise to the occasion. It should not be business as usual. We must reduce the Kshs78 taxation on a litre of petrol and other levies.

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Hon. Speaker: Hon. Nyikal, Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Speaker for giving me this opportunity.

Let me thank Hon. Mule for bringing this Petition, and Hon. Arati for asking for a Motion of Adjournment. That signifies the importance of this matter. I also thank you, Hon. Speaker, for directing on three things – that the Petition goes to the Departmental Committee of Finance and Planning, they look at the reasons for the rise other than taxation and come up with a Bill so that we move forward and make a difference. They should also look at the Energy Petroleum Regulatory Authority (EPRA). I know the Authority has the mandate to regulate the prices. The Authority's role is only regulating the prices using some formula to arrive at figures and publish them without looking at the impact of those prices on the economy and advising the Government accordingly. Ordinarily, if the Authority finds that the formula and the policy it is using are hurting the system, it would be its duty to also advise the Government – that, at this rate, we will go to this level of pricing and this will be the impact. Do we do it or not? I think we also need to look at the role of EPRA and if we need to amend some laws to give it that mandate, so be it. They are the first people to come into contact with the increase. There are some days of the month when dealers decline to sell their stocks of petroleum products in anticipation of price increases. Sometimes, they even seem to know in advance the new prices that are coming.

Another thing that EPRA should do is to regulate the pump prices against the landing costs. However, in between, nothing happens. What has happened to small businesses in the petroleum sector? The importers of petroleum products, who are multi-national corporations and other big companies, actually deny the small businesses any profit margin so as to create monopolies in the petroleum industry to ensure that only the big operators thrive. The big operator monopolies tend to control the system in all sorts of ways. If EPRA could also regulate the retail prices so that we have a large number of retailers, it would also be important. We need to look at EPRA's mandate. If they do not have a proper mandate, we will give it to them.

Lastly, let me also comment on the issue of the presidential veto powers. The buck stops with us. We need 233 Members, which we can raise. I am surprised that Hon. Duale can actually now say the things that he has said. When those many things were going on, he was the Leader of the Majority Party.

(Loud consultations)

Hon. Speaker: Member for Samburu North.

Hon. Alois Lentoimaga (Samburu North, JP): Thank you, Hon. Speaker for giving me this opportunity. Today I am very happy that we are making noise and raising many complaints because of the high prices of fuel. For us in northern Kenya, this is a usual thing. As we speak, the price of diesel has gone up to Kshs135 per litre. In Baragoi, a litre of petrol retails at Kshs150. Beyond Baragoi, it retails at Kshs160 and yet, we are being ravaged by drought, COVID-19 and banditry. So, the price of every item on the market is very high in that part of the country.

Secondly, there is no competition in that area when it comes to transport services provided by *matatu* operators, motorcycle operators and people who sell food commodities. The pricing of those services are not determined by competition at all. We, in northern Kenya, are happy that today other Kenyans, including Members of Parliament, are making a lot of noise about the increase in the prices of petroleum products. I look forward to the Committee rescuing those of us who have for long been considered to be non-Kenyans. Kenyans in that region go to Uganda,

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Ethiopia and Somalia to buy fuel and foodstuffs because those commodities are very expensive in the Kenyan side of that region. So, as the Committee looks at these issues, I would also like them to find a way of regulating the prices of fuel across the country, and not just in Nairobi and other big cities, leaving greedy merchants to exploit Kenyans in other parts of the country. Everything, including school fees, has gone up as a result of the high cost of fuel. Parents are unable to pay school fees.

Hon. Speaker, I thank you for bringing this matter up to speed even though I think the period for consideration of the Petition by the Committee should have been seven days and not 14 days. However, since we have put 14 days in the Standing Orders, so be it. We need to carry out amendments to the relevant laws to reduce the cost of fuel. It is also fair, if we are going to invite other people to come and make presentations before the Committee, to at least give them a seven-day notice.

So, even as we talk about three or four days, we would not want to set up ourselves for failure.

Hon. Speaker: Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Speaker for giving me an opportunity. Let me add my voice in support of the petitions. One of the problems we are facing in Kenya is that we have the highest fuel prices in the region. Kenyans are asking why. Is it only in Kenya where we incur high costs of landing of petroleum products, considering the global market of petroleum products? These price increases have badly affected our citizenry and, more so, at the village level. The high cost of fuel has not just affected *matatu* operators and *boda boda* riders. It has also affected the *mama mboga* who, at the end of the day, has to buy kerosene to prepare a meal for her family. Every other Kenyan is affected, including us parliamentarians. I am happy that we now have an opportunity as parliamentarians, as we had indicated. Our voices during the recess were also necessary to show Kenyans that we are also concerned. We promised to address this matter once when we come back to Parliament.

I support that the Petroleum Development Levy that was passed by this House be used to cushion Kenyans against any price increases at the global level. Additionally, the regulations that give EPRA the powers to unilaterally increase the prices should be amended. We shall do that as Parliament so that any change in prices that affects Kenyans financially and negatively should be brought before the House through the relevant Committee for debate, so that we can scrutinise it, pass any increases in prices and protect the Kenyans that we represent in this House.

The period of increment of those prices should not be monthly. Six months would be better, so that we do not have an increase in prices every month.

Hon. Speaker, I support the petitions.

Hon. Speaker: Let us have the Member for Wajir East.

Hon. Rashid Kassim (Wajir East, WDM-K): Thank you, Hon. Speaker for giving me an opportunity to give my input to the Petition by Hon. Mule. Thank you very much for your address over the weekend where you challenged Members of Parliament to rise to the occasion and challenge the increase of the cost of fuel in the country. That is very commendable and true to your word, you have allowed this session to continue, so that we can debate on this matter. Thank you very much.

The rise of the cost of fuel is as a result of the increased levies which have been imposed on Kenyans. Kenya happens to be the country with the highest taxation rate in the world. If you compare regionally in terms of fuel prices, we have much higher prices than Tanzania and Uganda and yet Kenya - which is still a transit point for fuel to Uganda and Tanzania - still happens to have

the highest cost of fuel. Therefore, we basically attribute this to the Executive which has imposed levies on all the products we use in terms of fuel and other things.

The fuel price in Nairobi is about Kshs139 for petrol and Kshs132 for diesel. However, you find that in Wajir where I come from, it has gone up to Kshs155 and Kshs165 in Mandera. You can understand the impact that it will have on the transportation of food and people. Sincerely speaking, it has affected all of us and all the sectors of the economy.

I attribute this problem to Members of Parliament of this House who have not availed themselves to address this matter. I also blame the handshake which has allowed both the Jubilee Party and the Opposition to come together to pass the VAT and all the other levies. We have been unable to challenge His Excellency the President and the Executive as required. I blame the handshake for most of these problems. We have been unable to challenge the Executive. We have underrated ourselves as Kenyans and let down our electorate. That is basically what has happened. Now that it is late in the day and we are soon facing the electorate, we are coming to defend them. It is false. We should have done our responsibilities much earlier. Nevertheless, this is the time when we can raise 233 Members to avert all those things.

Hon. Speaker: Let us have the Member for Buuri.

Hon. Mugambi Rindikiri (Buuri, JP): Thank you, Hon. Speaker. I rise to support the Petition by Hon. Mule. One of the things that is disturbing all of us is that there is something seriously wrong with the ministries of Energy, Petroleum and Mining and the National Treasury. They have indicated and shown signs of insensitivity because the cost of fuel, electricity and gas is going up and yet, the country is suffering from COVID-19. The country is undergoing many issues of insecurity and yet, the Government is increasing the cost of fuel.

I come from a large-scale farming community. Currently, many large-scale farmers have started laying off employees as a result of the increase in fuel. The Government needs to be sensitive to the common person. The Government is only interested in executing its mandate through the President. If the President was sensitive to the needs of the people of this country, he would know that this is not the time to continue increasing the prices affecting the common hustler nation people. The timing is seriously wrong and it shows a Government that is not committed to the welfare of Kenyans. We have many issues concerning the economy and transport. The continued adamancy of the Government will be faced with a lot of resistance from many Kenyans.

Currently, even the police security unit cannot afford fuel. I do not even know how they operate. When the Government increases the price of fuel, it also needs to know that even the police department is unable to operate. The Executive needs to come out very clearly. We are the consumers and are feeling it.

Hon. Speaker: Let us have the Member for Luanda.

Hon. Christopher Omulele (Luanda, ODM): Thank you, Hon. Speaker for giving me an opportunity to add my voice to this.

I have listened to my brothers and sisters speak to this. However, we need to look at the real causes as to why the prices are escalating the way they are. When the Committee investigates this, it needs to do a systemic audit of the system we use to bring fuel to this country.

It is a fact - and I want to stand here and state this - that at the point of discharge between the ship and the Kenya Pipeline, there is something called demurrage. When ships come to dock at Kilindini, Mombasa to discharge fuel into the Kenya Pipeline tankers, there is always a demurrage charge that is raised. I have knowledge and information that every month, we use a total of seven vessels which discharge fuel at Kilindini into the Kenya Pipeline storage. On average, each one of those ships exceeds its time by 48 hours. For every hour that those ships

spend discharging fuel at Kilindini, we pay Kshs4.5 million to Kshs5 million. When you look at it, each one of those vessels takes away in demurrage charges alone Kshs200 million in two days. Every one of those vessels! There are seven of them every month which totals to about Kshs1.5 billion every month. When you compute that for the whole year, we are looking at in excess of almost Kshs15 billion that is lost on this one item alone and which is factored into the cost of fuel in the country. If that one item alone is taken care of - and this is through carelessness and collusion between the agencies that are mandated to do that job...

I can see my time has run out but this matter needs to be thoroughly investigated.

Thank you, Hon. Speaker, for giving me an opportunity.

Hon. Speaker: Hon. Wangwe.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Speaker. I want to join my colleagues in supporting the Petition by Hon. Mule and other Kenyans. However, I want to take a different dimension. Whereas we would want to look at the issues of taxation, I would like to recommend the Committee to consider the procurement side. I want to speak as a former employee of the industry. I understand the open tender system and importation of petroleum products in the country. There is a big disparity when it comes to the citing of the quotation price overseas as quoted on the price *vis-a-vis* the out-turn prices.

I would like to ask the Committee to look at the arithmetic in between to see when trading on the upstream, it tends to give more margin than those dealing in the downstream. Therefore, with that parity, if at all Energy and Petroleum Regulatory Authority (EPRA) is giving prices, let it also consider what is happening between the purchasing price and the out-turn price in Mombasa.

The Departmental Committee on Finance and National Planning should handle this element together with the Departmental Committee on Energy. We should not just look at what is happening in terms of taxes alone but from where we get the product holistically until the pump price. Finally, this is a true situation because prices have affected Kenyans. It is important that the House rises to the occasion and resolves this situation.

With that, I support.

Hon. Speaker: Member for Bonchari.

Hon. Pavel Oimeke (Bonchari, ODM): Thank you, very much, Hon. Speaker. I have been privileged to serve in the kitchen where these prices are computed. I support the move taken by the House to look at the specifics that make the prices go up. The entire issue of levies and taxes is wrong because we gave immense powers to the Cabinet Secretary to tax as he wishes. For example, take the Petroleum Development Levy, the CS and PS single-handedly decided to raise it from 40 cents to Kshs5.40. Therefore, the Departmental Committee on Finance and National Planning needs to critically look at the framework and structure of taxation to ensure we have a sustainable system.

I want to be on record to say that the current trend is worrying. Hon. Ichung'wah said that in July 2008, the price of crude oil was about \$147.5 per barrel. We are in 2021 and the price of crude oil is about \$70 per barrel. What will happen to this country when we hit about \$100 or \$120 per barrel? This is a challenge to the Ministry, National Treasury and the Departmental Committee on Finance and National Planning. We need to find sustainable ways of ensuring we do not unfairly burden Kenyans. We have many ways of taxing Kenyans and we know the Government needs money to run this country and also give the county governments money for roads. However, I challenge this because I have realised that, at times, over 50 per cent of the current price of petroleum products is because of taxes. Therefore, we have a reason to worry as a country.

I also want to challenge the Departmental Committee on Finance and National Planning to specifically look at the Petroleum Development Levy. I was in the organisation called EPRA and the regulatory framework does not provide subsidy...

Hon. Speaker: Member for Soy.

Hon. Caleb Kositany (Soy, JP): Thank you, Hon. Speaker for giving me this opportunity. I think we are discussing a very serious matter and it is important to note that you have directed that it goes to the Departmental Committee on Finance and National Planning. We expect this Committee to act expeditiously the way they acted illegally when they were investigating an issue of a businessman who had accompanied the Deputy President to Uganda.

A colleague has mentioned that these are the times when Kenyans miss having an opposition in this country. If we had an active opposition playing its role, some of these checks and balances would have been looked into. I say so because I come from a farming community and we will be harvesting very soon. We hope that these issues will be addressed because our farmers will suffer. It will also be good for the Committee in their findings to inform us about the money raised during the illegal fuel increase. They should find a way of ploughing it back to cushion the business people, Kenyans and hustler nation from the burden that they have to bear.

As a country, it is important that our Government is sensitive, irrespective of the burden of debts they have and duties to discharge. Their priority should be focusing on what is best for Kenyans. At the moment, from where I stand, the best for Kenyans is not increasing fuel prices. This morning, I came from Mombasa and we know Mombasa Road is notorious for traffic jams. But there was no traffic jam. This is because Kenyans have decided to park their cars at home and either walk to work or use other alternative means. It is important for our Government to know they would rather have more cars on the road consuming more fuel than less cars consuming less fuel, whether the prices are high or not.

Hon. Speaker, I rise to support.

Hon. Speaker: Member for Tharaka-Nithi.

Hon. (Ms.) Beatrice Nyaga (Tharaka-Nithi CWR, JP): Thank you, Hon. Speaker. I stand to support the Petition by our two colleagues. What you have heard is very true that, on the ground, things are very different. When fuel prices rise, everything goes up including food, school fees and transport. As you have heard, university students are now rioting because of increased school fees. This is because the Ministry of Finance is not taking Kenyans seriously.

They just wake up one morning and raise fuel prices. The common people are now unable to feed their families because of this rise and everything is automatically going up. The CS, Ministry of Finance should give notice at least five or six months earlier before increasing fuel prices instead of waking up one morning and telling Kenyans that fuel has risen by Kshs7 or Kshs10. This is very unfair because families cannot buy food or pay school fees. How would one think of increasing fuel prices at this particular time, when we have the pandemic with us and our economy is in the Intensive Care Unit (ICU)? Then, you tell people that they should contribute so as to build the economy. This is not possible.

The Departmental Committee on Finance and National Planning should do something very fast so as to curb this situation in this country. On the ground, mothers are crying because they do not have food. There is drought in this country at this particular time and yet, the CS Ministry of Finance can dare raise fuel prices at this particular time. It is very unfortunate to have people who are not thinking about the Kenyans or what the children are going to eat the following day and yet you hear they are sitting in the office very comfortably. I support and say that the Government should do something today and not tomorrow.

Hon. Speaker: Member for Central Imenti.

Hon. Moses Kirima (Central Imenti, JP): Hon. Speaker, I stand to support the Petition by my colleague, Hon. Mule. We had looked at that Petition. It raises serious issues as pertains to what has been happening from the time the fuel prices were raised.

Look at the countries around us as it has been suggested earlier by my colleagues. When we were in Uganda the other day, we found that a litre of petrol was Ksh70, and that fuel passes through Kenya. One wonders why it becomes very expensive now when it comes to Kenya and we are the ones who are supplying Uganda. It is supposed to be more expensive in Uganda than Kenya. As it has been insinuated by my colleagues earlier, if the Government takes it seriously and considers the common man, whoever is being called *mama mboga* or the hustler, and reduce those taxes which are being levied here now and then by this body which has been given the authority to regulate the fuel... I believe this body is a cartel and this money does not reach the destination which it is meant to reach. It must be enriching very few. It is only few Kenyans, the cartels, who benefit from these taxes. It is not every Kenyan. If it is so, then we could be having a lot of money from the fuel levy or from these taxes levied on fuel. How come when we hear that fuel prices per barrel in the world market have just risen, the following day you find that in our petrol pumps, the prices have gone up. When is that fuel imported from the world market? Is it imported overnight? You find that the fuel prices in the pumps have risen but when it goes down, it does not affect the fuel pumps immediately.

Hon. Speaker, I support this Petition but I am praying that this House, through you, reduces the dates you have given from 14 to be less than seven. Things can be done on emergency basis because the moment it is going to be implemented and it starts working, it means that we will be unable to undo the same and the common man is going to continue suffering for no reason. I hereby support the same. Thank you.

Hon. Speaker: Member for Kiharu.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you very much, Hon. Speaker. I rise to support. By the way I have already written to your office proposing that we amend the VAT Act, the Excise Duty Act and also the Fuel Levy Fund Act so that we try to bring the prices of fuel lower. The recent increase in fuel product prices is not just insensitive but it is very inconsiderate to the people of Kenya. At such a time that our economy is at its knees it was despicable to see our Government increasing the cost of life to Kenyans. Our economy runs on fuel products across. Even a big proportion of our electricity is generated from diesel. Therefore, an increment in fuel prices of petrol, diesel and kerosene and recently the LPG gas is a very despicable act.

I want to tell this Government, especially EPRA that sets these prices, that the prices of fuel products in Kenya must fall. As we sit in this House, we are going to do whatever it takes like what I have already done in proposing the amendments in three Acts of Parliament. We are also going to do even extra actions so that this Government can really understand the pain of the people that we represent. 55 per cent of the pump prices is actually money that goes to our Government through taxes and levies. We have an accumulation of nine different taxes and levies that account to over 55 per cent of the fuel prices. The landing cost of fuel in Kenya per litre currently is below Ksh55. Therefore, the Government must rescind the appetite for taxation so that we can pass the benefit to the consumers of fuel by lowering the current prices especially of diesel, petrol and kerosene.

As we amend the VAT Act, we must also amend it in terms of the LPG gas. This is because even as we talk about the pump prices in terms of the liquid, even the LPG gas has skyrocketed to

an all-time high in this country. As it was said earlier, the global prices of crude oil has remained constant for the last six months. Even at the highest point in 2008...

Hon. Speaker: Member for Igembe South.

Hon. John Paul Mwirigi (Igembe South, Independent): Asante sana, Mhe. Spika. Pia nami naungana na wenzangu kuunga mkono Ardhihali hizi mbili. Ukweli wananchi wameweza kuumia sana wakati ule ambapo bei ya mafuta ilipanda. Wakati huu wananchi wamekuwa wakipitia magumu sana. Ni wakati ambapo wameathiriwa na ugonjwa wa corona. Bila serikali kuwajali, ikaenda mbele kuongeza bei ya mafuta.

Mhe. Spika, bei hii ambayo imeenda juu kwa wakati huu imeathiri pia bei ya chakula ambacho wananchi walikuwa wanataabika kutafuta pesa ili waweze kuweka mezani. Kwa sasa kuna shida nyingi kupata chakula kwa sababu mafuta ndiyo hutumika saa zingine kusaga au kutengeneza chakula na vilevile pia kukipeleka sokoni au pia wakati watu wanaenda sokoni kununua bidhaa hizi na wakati bidhaa zinapokuwa *processed*. Kwa hivyo ni jukumu letu sisi viongozi ambao tunawaongoza wananchi tuweze kuhimiza bei hii iweze kuenda chini na ushuru upunguzwe ili wananchi waweze kuyakidhi mahitaji yao. Hii ni kwa sababu wakati wa *curfew* haujaondolewa na wakati huo wananchi huwa wanasumbuka sana kujaribu kutafuta hela lakini kwa sasa hakuna muda wa kutosha wa kutafuta hela. Kwa hivyo ni lazima tuungane hapa tuweze kushughulikia jambo hili ili mwananchi aweze kusaidika. Vilevile, nashukuru sana kwa zile siku ambazo umepeana. Siku 14 sio nyingi sana. Jambo hili litaweza kushughulikiwa kwa haraka. Asante sana.

Hon. Speaker: Member for Mandera West.

Hon. Yussuf Adan (Mandera West, EFP): Hon. Speaker, thank you for this opportunity. I also echo what my colleagues are saying that increasing fuel prices haphazardly means increasing the whole life and livelihood of Kenyans. Fuel is everything. It is the driver of all the economy. Today morning as I was driving along Mombasa Road, it was very unusual indeed in that there was no traffic. This is because most of the Kenyans today morning could not afford to drive themselves to work which means they take a walk and take a long time to reach their work places. They spend a lot of time on the way and that means we lose a lot in the economy.

There was this lady who was using kerosene to prepare and sell tea. At the end of the day, she would maybe make about Kshs200 to feed her children. It was in the media yesterday that she was now going to look for firewood. We are going to destroy our vegetation. That will mean that we will be polluting our environment. We will not even get oxygen. All this is as a result of this haphazard increase of fuel prices. The period that we review fuel prices - which is monthly - is just too short. The petrol stations come with big supplies of fuel. By increasing the prices, we are doubling prices at the expense of the rural Kenyans and others including me and you. Therefore, this is our obligation as a House to ensure that we intervene on anything that affects the *wananchi* negatively, by bringing amendments to some of these laws and ensure that *wananchi* do not suffer. That is our primary responsibility.

Therefore, I am happy that we have all debated and we are still debating on this but what we need is for the relevant departments to come up with those amendments as soon as possible. Fuel price reviews should be done maybe by...

Hon. Speaker: Hon. Prof. Oduol.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Speaker for giving me this opportunity. I would also like to support the Petition because it is indeed clear that this cost that was raised is the highest in ten years. It is unsustainable. It is understandable that we need,

in the context and circumstances, to balance policy decisions. But there is a clear way given the impact and repercussions of those decisions.

Since today is also the international day of peace, allow me to indicate that this is a wake-up call to ensure that we speak for all the citizenry. However, it is a bit disheartening that even on the day of peace, we sometimes seek to bring divisions among us and not rise up to take responsibility to help us make decisions. Therefore, as I support the Petition, I am glad that we can get the Departmental Committee on Finance and Planning to deal with it. I would also like to remind all hon. Members that, as legislators, we be truly united and there should be ways in which regardless of whether there were handshakes or earthquakes or other issues happening outside this august House, when we step in here, we should take responsibility, provide solutions and speak for the people instead of scapegoating and theatrics.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. Hon. Members, from my Intervention Box, I have allowed every Member who pressed their intervention button to speak. We are through now. We must come to an end. This is not about *bonga* points. Remember I promised everybody who knows how to operate the machines that they will get a chance. Now it is over. The Petition is referred to the Committee. I can hear the Vice-Chairperson of the Departmental Committee on Finance and Planning. Take the least time

Hon. Isaac Ndirangu (Roysambu, JP): Thank you very much, Hon. Speaker for allowing me this opportunity to acknowledge and appreciate the Member for Matungulu, Bw. Mule for bringing this Petition. The Petition was brought on behalf of Mr. Manyala and the two other Members, Hon. Sossion and Hon. Simba Arati, who expressed the desire to know what is happening in the petroleum sector. As you have guided, our Committee will move with speed in the 14 days to carry out the investigation and establish the reasons for the hiking of oil prices. Our terms of reference have been clearly stated by you and the Members of Parliament who have spoken here. Among others, what I have detailed is that we must investigate the fuel Stabilisation Fund, the role of EPRA in setting prices, the open tender system for fuel importers and I would request that we also bring in the Ministry of Mining officials particularly the Principal Secretary, who have a big role to play in the open tender system for fuel importers.

We have also been charged to investigate the demurrage charges for ships docking at the Kilindini Port when they are discharging fuel. We will also need to ask ourselves questions considering our national oil strategic reserves. This country only retains two weeks' worth of fuel which means that if there is an international problem and we cannot have ships docking with oil at the Kilindini Port, our country will come to a standstill. This country should develop sufficient storage facilities to cater for fuel storage for up to five months like the way we do for our foreign currency, where we have a buffer stock of about six months.

So, on behalf of the Committee, we undertake to do those investigations and bring a report. We look forward to the cooperation of the Departmental Committee on Energy.

Hon. Speaker: In doing that, do not be limited in the number of people that you may wish to invite to come and shed light on some of the issues. Do not be scared of any person out there, be they PSs, CSs or any other person. You talked of, 'you might require'. Hon. Waihenya, feel free to invite anybody that you think has any role to play. You are doing it on behalf of Kenyans.

Next Order!

PAPERS LAID

Hon. Speaker: The Leader of the Majority Party.

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

Legal Notice No. 7 of 2021 relating to the National Youth Council Election Council Members Regulations of 2021 and Explanatory Memorandum from the Ministry of ICT, Innovation and Youth Affairs.

Sessional Paper No. 3 of 2021 on the National Action Plan on Business and Human Rights from the Office of the Attorney-General and Department of Justice.

The Performance Report for the period of July-December 2020 from the Independent Policing Oversight Authority (IPOA).

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

Report of the Cabinet Secretary for Lands and Physical Planning to the National Assembly on Achievements and Progress Made in the 2020/2021 Financial Year;

Annual Status Report on Water Sanitation and Irrigation from the Ministry of Water, Sanitation and Irrigation;

Annual Report for the 2020/2021 Financial Year from the Ministry of Interior and Coordination of National Government;

The Second Quarterly Report of the Ethics and Anti-Corruption Commission (EACC) covering the period from 1st April 2021 to 30th June 2021; and,

Reports of the Auditor General and Financial Statements in respect of the following institutions for the year ended 30th June 2019 and their certificates therein:

- (a) the Kenya Rural Roads Authority;
- (b) the Tana and Athi Rivers Development Authority;
- (c) the Godoma Technical Training Institute;
- (d) the Jeremiah Nyagah Technical Institute; and,
- (e) Lands Limited.

I thank you, Hon. Speaker.

*(Hon. Amos Kimunya laid the documents
on the Table of the House)*

Hon. Speaker: Very well. Next is the Chair of the Committee on Delegated Legislation.

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, I beg to lay on the Table of the House a Report of the Committee on Delegated Legislation on its consideration of the following:

(i) the Public Finance Management (Biashara Kenya Fund) Regulations (Legal Notice No.55 of 2021);

(ii) the Public Finance Management (Uwezo Fund) (Revocation) Regulations (Legal Notice No.56 of 2021);

(iii) the Public Finance Management (Women Enterprise Fund) (Revocation) Regulations, 2021 (Legal Notice No.57 of 2021);

(iv) the Public Finance Management (Youth Enterprise Development Fund) (Revocation) Regulations, 2021 (Legal Notice No.58 of 2021); and,

(v) the Public Finance Management (Sinking Fund) Guidelines, 2021 (Gazette Notice No.5085 of 2021).

(Hon. Kassait Kamket laid the documents on the Table of the House)

Hon. Speaker: Very well. Next Order.

NOTICES OF MOTIONS

ADOPTION OF REPORT ON VARIOUS DELEGATED LEGISLATIONS

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, I beg to give notice of the following Motions: -

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Biashara Kenya Fund) Regulations, 2021; the Public Finance Management (Uwezo Fund) (Revocation) Regulations, 2021; the Public Finance Management (Women Enterprise Fund) (Revocation) Regulations, 2021; and the Public Finance Management (Youth Enterprise Development Fund) (Revocation) Regulations, 2021, laid on the Table of the House on Tuesday, 21st September 2021 and pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013, annuls the Public Finance Management (Biashara Kenya Fund) Regulations, 2021 published as Legal Notice No.55 of 2021; the Public Finance Management (Uwezo Fund) (Revocation) Regulations, 2021 published as Legal Notice No.56 of 2021; the Public Finance Management (Women Enterprise Fund) (Revocation) Regulations, 2021 published as Legal Notice No.57 of 2021; and the Public Finance Management (Youth Enterprise Development Fund) (Revocation) Regulations, 2021 published as Legal Notice No.58 of 2021.

ADOPTION OF REPORT ON PUBLIC FINANCE MANAGEMENT (SINKING FUND) GUIDELINES, 2021

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Sinking Fund) Guidelines, 2021, Gazette Notice No.5085 of 2021, laid on the Table of the House on Tuesday, 21st September 2021; and, pursuant to provisions of Section 13 of the Statutory Instruments Act, 2013, annuls the Public Finance Management (Sinking Fund) Guidelines, 2021 published as Gazette Notice No.5085 of 2021.

I thank you, Hon. Speaker.

Hon. Speaker: Very well. Next Order.

QUESTIONS AND STATEMENTS

Hon. Speaker: On Question No.343/2021 by the Member for Lamu West, Hon. Stanley Muthama has written to request that the Question be deferred. The request has been acceded to. Therefore, the Question is deferred.

Questions No. 343/2021

MEASURES TO MITIGATE EFFECTS OF FAMINE IN LAMU WEST CONSTITUENCY

(Question deferred)

Hon. Speaker: Next is Question No.344/2021 by the Member for Laikipia County, Hon. Catherine Waruguru, who has similarly written to request that the Question be deferred. The request has been acceded to. Therefore, the Question is deferred.

Question No.344/2021

UPDATING OF INUA JAMII CASH PROGRAMME REGISTER

(Question deferred)

Hon. Speaker: Next is Question No.346 by the Member for Nyandarua County, who is in the Chamber.

ORDINARY QUESTIONS*Question No.346/2021*COMPENSATION FOR VICTIMS OF HUMAN/WILDLIFE
CONFLICT IN NYANDARUA COUNTY

Hon. (Ms.) Faith Gitau (Nyandarua (CWR), JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Tourism and Wildlife the following Question:-

- (i) What steps has the Ministry taken to stop hippopotamuses from straying into farms and homes near Lake Olbolosat in Oljororok and Ndaragwa Constituencies in Nyandarua County, terrorising the area residents and destroying crops and livestock around the lake?
- (ii) When will the victims of human/wildlife conflict in Nyandarua County, who lodged claims for compensation as far back as 2013, get compensation; particularly those who have suffered injuries and farmers who have lost crops and livestock due to attacks by hippopotamuses?

I thank you, Hon. Speaker.

Hon. Speaker: The Question will be replied to before the Departmental Committee on Environment and Natural Resources.

Next is Question No.349/2021 by the Member for Nandi County, Hon. (Dr.) Tecla Tum, who has requested that the Question be asked on her behalf by Hon. (Ms.) Halima Mucheke.

Question No.349/2021

MEASURES TO ADDRESS FINANCIAL CHALLENGES

IN PUBLIC UNIVERSITIES

Hon. (Ms.) Halima Mucheke (Nominated, JP): Thank you, Hon. Speaker. I rise on behalf of Hon. (Dr.) Tecla Tum to ask the Cabinet Secretary for Education the following Question: -

- (i) What plans has the Ministry put in place to harmonise disparities among universities on the mandatory retirement age for lecturers who are holders of Doctor of Philosophy (PhDs)?
- (ii) What steps is the Ministry taking to address financial challenges currently facing public universities in the country, which have led most universities to institute unusual austerity measures such as suspension of promotions and deferment of new hiring and putting embargo on engagement of lecturers serving on contract terms?

I thank you, Hon. Speaker.

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

The last Question is by the Member for Central Imenti, Hon. Moses Kirima.

Question No.350/2021

DEMARCATON OF BOUNDARY BETWEEN
THARAKA NITHI AND MERU COUNTIES

Hon. Moses Kirima (Central Imenti, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Lands the following Question: -

- (i) When will the disputed boundary between Tharaka Nithi and Meru Counties, along Central Imenti and Tharaka Constituencies, be demarcated as recommended by the Interim Independent Boundaries review Commission – known as the Andrew Ligale-led Commission – in its Report dated 27th November 2010 as well as contained in the Zachary Ogongo-led Task Force Report?
- (ii) Could the Cabinet Secretary undertake to cause the marking of the boundary points between Imenti Central and Tharaka Constituencies as recommended by the Ogongo-led Task Force Report?
- (iii) Why are the residents of Kiamuni B area in Central Imenti Constituency yet to be issued with title deeds despite all preliminary procedures having been concluded in 2003, and could the Cabinet Secretary indicate when the said title deeds will be issued?

Hon. Speaker: The Question will be replied to before the Departmental Committee on Lands.

We have no request for Statements, so we proceed to the next Oder.

MOTION

SESSIONAL PAPER NO.4 OF 2020 ON THE NATIONAL COOPERATIVE POLICY

Hon. Speaker: Chairman of the Departmental Committee on Trade, Industry and Cooperatives.

Hon. Ali Adan (Mandera South, JP): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Trade, Industry and Co-operatives on Sessional Paper No.4 of 2020 on the National Co-operative Policy on Promoting Co-operatives for Socio-economic Transformation laid on the Table of the House on Thursday, 19th August 2021, and further approves Sessional Paper No.4 of 2020.

Hon. Speaker, Sessional Paper No.4 of 2020 on National Co-operative Policy on Promoting Co-operative and Social-economic Transformation was laid on the Table of the House by the Leader of the Majority Party on 24th September 2020 and thereafter stood committed to the Departmental Committee on Trade, Industry and Co-operatives for consideration.

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

[The Temporary Deputy Speaker (Hon. Christopher Omulele) took the Chair]

Co-operatives have played a significant role in social-economic development of nations for centuries and are a reminder to the international community that it is possible to pursue both economic viability and social responsibility. It is against this background that the United Nations declared the year 2012 as the international year of cooperatives.

The objectives are fairly comprehensive. The objectives that guide Kenya's development agenda were first established in Sessional Paper No.10 of 1965, on African Socialism and its application to planning in Kenya. This Paper promoted africanisation in all spheres of the economy through political equity, social justice, human dignity including freedom of consciousness, freedom from want, disease and exploitation. Equally, it promoted creation of opportunities and a high growing per capita income, which is equitably distributed. One of the outcomes of the Sessional Paper No.10 of 1965 was the enactment of the Co-operative Societies Act No.39 of 1966. It accelerated the formation of co-operatives that facilitated transfer of land to indigenous Kenyans, marketing of agricultural produce, and formation of financial institutions to support the co-operative movement.

The Constitution of Kenya 2010 brought about the fundamental changes in the management of public affairs. The Constitution established two levels of Government: the national and the 47 county governments. The National Cooperative Policy aims at aligning the changes in the governance structure in the country as well as the socio-economic environment.

The functions assigned to the county governments under the Fourth Schedule include: cooperative development and regulation that was unbundled by the Transitional Authority through Legal Notice No.137 of 9th August 2013. One of the objectives of devolution is to promote social and economic development and provisions of easily accessible services throughout Kenya under the Constitution in Article 174. In doing so, all actors will be guided by the principles and values espoused in Article 10 of the Constitution. The policy review has been necessitated by change in the governance structure of the country as well as the socio-economic environment. The Constitution established two levels of government, that is, both national and county governments. The Government of Kenya has over the years demonstrated its commitment to the development of co-operatives and governance structure to enhance co-operative growth through robust legislation and sustained allocation of resources to the sector. However, despite substantial allocation of resources and the notable achievement attained, the sector still faces major challenges. Some of the challenges relate to lack of uniform or standard regulations, insufficient capital for investment,

corruption, and mismanagement of resources among others. It is against this background that the National Co-operative Policy, 2020 on Promotion of Co-operatives for Socio-economic Transformation was developed to reinvigorate and re-align the sector to the Constitution of Kenya 2010.

In addition, it is desired to address the administrative and management issues within the sector while enhancing the realisation of members' common bond. As a consequence to the National Co-operative Development Policy, the Ministry of Agriculture, Livestock, Fisheries and Cooperatives will develop sector legislation and regulations that will provide a comprehensive framework and support the co-operative oversight.

A brief objective of the Policy is as follows:

1. Accelerate the growth and development of the co-operative sector through legal and institutional reforms.
2. Promote co-operative production access to shared resources and values addition and marketing.
3. Enhance financial deepening and investments through co-operatives.
4. Establish and institutional framework for enhancement of co-operation, consultation and co-ordination of co-operative management.
5. Promote governance in co-operatives.
6. Develop the capacity of co-operatives through training education and research.
7. Promote adoption of ICT in co-operatives.
8. Mainstream issues related to climate change, special interest groups, and human rights in co-operatives.

The Committee researched in other jurisdictions with similar co-operatives movements in a bid to enrich the Policy and address the gaps identified. The jurisdictions included Brazil, the Philippines and South Africa. The findings on the operation of co-operatives in these countries are highlighted in the Committee's Report.

On public participation and stakeholder engagement, Article 118(1)(b) of the Constitution provides that Parliament shall facilitate public participation involvement in legislative and other business of Parliament and its committees. Consequently, despite the State Department for Co-operatives demonstrating that it carried out adequate public participation while developing the Policy, the Committee, too, through the office of the Clerk of the National Assembly placed advertisements in two local dailies, *the Nation* and *People Daily* on 11th February 2020 calling for submissions of memoranda on the subject matter. The Committee did not receive any written submission on the Policy following the advertisement in the dailies. The Committee held consultative meetings with the State Department for Co-operatives, the Co-operative Alliance of Kenya, the county governments, Council of Governors, and the Kenya Union of Savings and Credit Co-operatives Limited (KUSCCO) where members pointed out gaps existing in the National Co-operatives Development Policy, 2020.

The Committee further identified and invited key stakeholders for a physical meetings. We invited the Co-operative Alliance of Kenya, Kenya Union of Savings and Credit Cooperatives Limited, Sacco Society Regulatory Authority, National Co-operative Housing Union and the Council of Governors.

At its sitting held on 29th July 2021, the Committee considered Sessional Paper No. 4 of 2020 on the National Co-operative Policy and unanimously resolved that it should be adopted by the House. At this juncture, the Committee wishes to thank the offices of the Speaker and the Clerk

of the National Assembly for the support accorded to Members in fulfilment of the Committee's mandate. Further, I wish to express my own appreciation to the members of the Committee for their commitment and valuable contributions during the sittings to deliberate on the policy and the writing of the report. I commend the Committee secretariat for exemplary performance in providing technical and logistical support to the Committee.

Upon consideration of Sessional Paper No. 4 of 2020, the Committee made the following observations. I will run the House through a synopsis of what those observations are:

1. The national co-operative policy provides a framework for accelerating the growth of Kenya's co-operative sector in a dynamic and competitive global environment. It replaces Sessional Paper No. 6 of 1997 on co-operatives in a liberalised economic environment, which is anchored on the Co-operative Societies Act (Cap. 490), the Co-operative Rules and Regulations, 2005, the Sacco Societies Act, 2008 and the Sacco Societies Regulations, 2010. The policy provides for a new structure that stratifies the co-operative movement by establishing a federation and strengthening the apex organisation in a bid to promote integration and enhance self-regulation as opposed to regulation per se.
2. The national co-operative policy aims to accelerate the growth and development of the co-operative sector through legal and institutional reforms to promote co-operative production, access to shared resources, value and marketing, enhance financial deepening and investment through co-operative, establish an institutional framework for enhancement of cooperation, consultation and co-ordination of co-operatives, develop the capacity of co-operatives through training, education and research.
3. The policy seeks to re-align the existing legal and regulatory framework with the Constitution. Article 186 of the Constitution and the Fourth Schedule delineate the mandate and functions of the national and county governments. In this case, the policy seeks to uphold the sanctity of cooperative values and principles and functional delineation as a way of enabling the growth of co-operative enterprise in the nation.
4. The policy also provides for the involvement of the youth, women and non-State actors, both as key policy framework implementers and in pulling resources to bolster livelihoods through co-operative society movement.
5. The policy proposes measures that will structure the office of the commissioner for co-operatives.
6. Remittance of members' contributions and deductions lacked an alternative approach to ensure that employers remit what is owing to employees to cater for lost opportunities to persons whose funds were not remitted.
7. With regard to impact assessment, there have been many changes. Members wondered whether impact assessment was carried out prior to formulation of this policy. Concerns were raised on whether saccos were ready to implement the new policy.
8. Audit function and impact assessment have been apportioned to county governments whose capacity is limited and, therefore, the national government shall provide technical support to realise optimum bargain.

The final observation made by the Committee was that the government is aware of international trends in co-operative development and notes that intergovernmental forums are critical in the cooperative sector to facilitate growth while keeping abreast with the trends to the extent possible whilst having regard to any particular local circumstances that must be taken into account from time to time. To this end, the government will, in consultation with all stakeholders, continually review the policy and cooperative development. The Committee therefore recommends as follows:

1. That the House adopt this report and approves Sessional Paper No. 4 of 2020 on the national cooperative policy on promoting cooperatives for socio-economic transformation; and
2. The Ministry of Agriculture, Livestock and Fisheries fast-track the implementation of Sessional Paper No. 4 of 2020 in order to put in place an institutional and legal framework to accelerate the growth and development of the cooperative sector.

I beg to move and request Hon. Wangari to second the Motion. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Wangari.

Hon. (Ms.) Wangari Mwaniki (Kigumo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second the Motion. This policy aims at creating a vibrant co-operative sector that will develop or be a vehicle for economic transformation of our country, particularly in the rural areas. This House may recall a time when we had a very powerful commissioner of co-operatives. What this Paper seeks to do is to align the old co-operative legal mechanism with the Constitution.

Under the Fourth Schedule of the Constitution, the co-operative sector was devolved to the county governments. However, you realise there are huge co-operatives like the Mwalimu Sacco, the Police Sacco and the Harambee Sacco that may not necessarily belong to one county as such. There is also SASRA that provides mechanisms for regulating financial co-operatives. So, the policy that this House seeks to adopt will create a mechanism where the national government will collaborate with county governments. There will be mechanisms for consultations and re-aligning areas where the national government will create policy and oversight mechanisms. Promotion of development in the rural areas will be done by the county governments, so that even the special circumstances within which those co-operatives operate under can be taken into account.

Hon. Temporary Deputy Speaker, the Chair who has just moved that Motion gave examples of Brazil and South Africa, where the Ministry visited to kind of bench mark. However, I would like to give an example of Germany. At a time when there was a biting recession in the world, Germany's economy remained intact because of a strong Sacco movement where the base was sufficiently sensitised to save money. So, whenever there is recession, the people in Britain hold the money. The impact of global recession has not affected the Germany economy. That is why in the 1970's, when our county had not been shaken by the effects of liberalisation, the cooperative sector supported our economy and it remained strong. So, we need to strengthen our cooperative movement. The cooperative movement was hardly hit by the liberalisation policies then but it is now time to enhance it and make it stronger as a vehicle for economic transformation.

I also want to give an example of Japan. It has used a similar model as our cooperative sector. They have driven industrialisation. Various small segregation of equipment is then brought together and assembled to make a car like Toyota. Corporations like Mitsubishi are producing components that are used to make Boeing air planes in the USA. Seventy per cent of Boeing's components are made of small aggregates equipment produced by similar organisations equivalent to our cooperative societies in Japan. So, once passed, this policy will provide an enabling

environment for the sector to thrive. It will also sensitise the base to develop a saving culture and hold the money so that it can be brought together and used as a vehicle for economic transformation.

With those few remarks, I second.

(Applause)

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Speaker (Hon. Christopher Omulele): The first contribution will be from the Leader of the Majority Party, Hon. Amos Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Speaker. I rise to support the Report of the Committee and call upon the House to support the approval of this Sessional Paper on the cooperative movement. This is a sector that most of us in this House have probably come to know and become part of as an integral part of their lives. We are talking of farmers' cooperative societies and credit and savings cooperative societies – the whole essence of people coming together and harnessing the power of unity of small farm holders or small savers and creating a bigger pool from aggregation of their small investments. We are talking of small farm agricultural producers enjoying the benefits of economies of scale and translating this into better prices and better marketing opportunities. Be it farmers, fishermen or all manner of people engaged in small-scale production; in their disaggregated state will never be able to succeed. However, when these groups of people are aggregated through the cooperative movement, they are able to enjoy the benefit of economies of scale plus the quality controls that come with it.

This is something we know since the cooperative movement has been with us since 1908 even though this Report has not mentioned it. It is something that has actually been with us for more than 100 years. Lessons have been learnt in the operations of the cooperative movement. I believe Kenya is among the first countries to embrace the cooperative movement in Africa. Most countries, including South Africa, have learnt from Kenya. Even some countries across the world learnt from the operations of the cooperative movement in Kenya. It evolved from the original socialism of “Let us put together” and “I am because we are. So, let us work together for the common good rather than individualistic operations.”

I am happy that with this policy, we will be able to streamline the cooperative movement in Kenya and align it with the relevant constitutional provisions, especially taking into account the scheduling of functions within the Constitution. A number of these things were taken to the counties. Some have been left at the national level. However, the dividing line is usually vague. This policy aims at refining what has remained at the national level and what has gone to the county level so that people can take responsibilities for what needs to be done where. The cooperative sector is something we need to save.

Hon. Speaker, you may remember that the cooperative movement in Kenya was initially a success story but towards the late 1980's and parts of the 1990's, the sector was invaded by all manner of buccaneers and thugs; and people who had no idea how the sector operated were appointed to run it. So, they invaded the cooperative sector and ripped it apart. Following its death, most farmers became hopeless. Small-scale farmers in agricultural subsectors like dairy and pyrethrum were aggrieved. Small-scale traders in these subsectors ended up losing out. I hope we

will never get into that kind of situation again because when you look at it, the cooperative sector is real and is the vehicle that will empower our people. Forget about the sloganeering that we hear. This is the viable empowerment strategy for our people. The real bottom-up empowerment strategy is the kind of policies that we are embracing to ensure that we consolidate farmers at this level. Anything else you hear is mere sloganeering. We need to get the cooperative movement revamped. We need to congratulate His Excellency President Uhuru Kenyatta for the effort he has made in reviving the agriculture sector. This is the bedrock of the economic transformation of this country, especially through promotion of the ---

The Temporary Deputy Speaker (Hon. Christopher Omulele): Leader of Majority Party, are you done? I will give you an extra minute to wind up.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I hope this House will give this not only the attention it deserves but also the push it needs. When it comes to considering the regulations that will be developed, we should be able to look at them and ensure that we anchor them into law so that, together with the policy, they provide a legal framework that will empower farmers, small scale traders, *jua kali* associations and saccos. A thriving success story is *Harambee* Cooperative House, which is owned by office messengers, police officers and other low cadre workers within the Office of the President. We would like to see the cooperative movement aggregating *matatu* owners to own trains and a motorbike factory in Kenya. That is the kind of development I hope to see in future as we implement Sessional Paper No.4 of 2020.

I could go on and on, but I support.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, I wish to remind you that on 10th February this year, you decided that all contributions on Sessional Papers shall be for five minutes for all Members speaking, including the Leader of the Majority Party. So, the second chance goes to Hon. Maanzo Gitonga, Member for Makueni, who has a deep interest in this area.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this very important matter. At one point, I was an administrative secretary in the Ministry of Co-operatives Development and Marketing immediately after the promulgation of the Constitution of Kenya, 2010. I was on the team which framed this Policy and I can see a number of improvements have been made since I left.

So as to get Members thinking, *Harambee Sacco*, which is close to us, is bigger than most banks in Kenya. The main contributors to it are Government officers in the Army and the Office of the President. Fifteen million Kenyans belong to the co-operative movement. We have a number of national co-operative associations, including the New Kenya Co-operative Creameries (KCC) and the Co-operative University that has been set up. It used to be the Co-operative College when I was there. We have the Kenya Union of Savings and Credit Co-operatives (KUSCCO) which is an umbrella body for all Saccos. We have the National Co-operative Housing Union (NACHU) and the Sacco Societies Regulatory Authority (SASRA) which is the regulatory body. We have the Co-operative Bank which we all know and the Co-operative Insurance Company (CIC). We now have farmers' cooperatives. We also have coffee and tea in that area.

However, many Saccos and co-operatives which do well are the land-owning co-operatives and the people under NACHU. Many Kenyans are familiar with that. We already started a project for Members to own houses. That is how many Kenyans get to own houses. You remember the savings co-operative in Parliament.

Although policy informs the laws to be made, there has been a proposal from Senator Zani, in the Senate, to come up with a new co-operatives law. However, the question begs - and I think

this is very good for the Leader of the Majority Party - when you come up with an Act of Parliament, which has financial implications, should it not have been started in this House? It has serious financial implications. We have many Saccos such as those in the transport sector and the *matatus* you see. There is the auditing of co-operatives which I have been talking about whereby the national Government is making an effort to ensure that that is followed.

Co-operatives begin from the village and have their apex bodies which even go up to the counties. That is why under the new Constitution, they are managed by the county governments because of the need to promote co-operatives at the grass-root levels. There are also national bodies like the Co-operatives Alliance of Kenya (CAK) and KUSCCO. There are also international co-operatives. KUSCCO now belongs to an international body called the World Council of Credit Unions (WOCCU) and the International Co-operative Alliance (ICA) which is where the Co-operative Alliance of Kenya belongs. Kenya is a leader in Africa and usually vies on the world stage.

Kenya has done well in the co-operative movement. The national savings are in billions and that begins with ourselves. You know what our own sacco does for us. That is what saccos are doing for many Kenyans. The challenge has been that counties have been slow in remitting to the saccos at the county level. That has really been a challenge. We have the Co-operative Tribunal whereby a presiding officer at the level of a magistrate sits there. When there are disputes like the one I mentioned of people who do not want to remit or where there are disputes within co-operatives, it deals with that.

There is also something called co-operation of co-operatives. For example, with regard to the CIC, we were assisted to set it up by a co-operative in Canada. The credit unions of the United States of America (USA) have really helped their economy. There are many co-operatives in Europe. Even in Dubai, all that construction you see is done by co-operatives. In Israel, they have the Moshav and the Kibbutzim for farming and marketing their crops. There are many examples in the world where a lot has been done.

We want to encourage co-operatives in the country and that is why we are coming up with this Policy. I support it and beg Members to support it. It is a great idea. The earlier we pass it, the better. It is so that it can guide the legislation in this regard.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well done, Hon. Maanzo. Let us have Hon. Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to support this very important Sessional Paper No.4 of 2020 on the National Co-operative Policy on Promoting Co-operatives for Socio-Economic Transformation.

There was something that caught my attention when the Chairperson was moving the Motion. He said the Committee did not receive any memorandum. If that is so, there must have been something very wrong in how they called upon the stakeholders. This is a very important discussion. The Sessional Paper on co-operatives ought to have attracted all Kenyans because most of us belong to one or two cooperative societies that have assisted us in overcoming the socio-economic challenges in our country.

I also welcome the Leader of the Majority Party who said that when well-organised, co-operatives are actually a bottom-up economic model. Thank you very much. I welcome you to have that particular conversation.

We know that what killed co-operative societies in this country in the 1990s was the trickle-down economic model where, apart from investing resources, we invested a lot of laws in

protecting monopolistic individual and private companies at the expense of the co-operatives. If I can give an example, we had killed KCC – it was a co-operative by farmers and was assisting them - in order to promote, through legislation, monopolistic private industries like Brookside and others. At times, they end up buying milk at a low price. Sometimes they buy milk at Kshs22 or even less than Kshs30 a litre. They skim the milk. They remove the ghee and butter, package and then sell to us the skimmed milk, which is almost water, at Kshs60 for half a litre! That is robbery without violence!

There are many advantages of having co-operatives. In co-operatives, though the members in their individual capacities have very few resources, when they pool their resources together, they can market their products even internationally. When they harness their resources together, they can have a value addition chain. I can give an example. If we had very strong co-operative societies in our pastoralist regions, we could easily harness our resources, have bigger tanneries within our regions and change hide and skin into shoes, wallets, and jackets. In that value addition, we will be able to earn a lot more. In Kenya, we currently import 25 million pairs of shoes. If the 25 million pairs of shoes were made from our hides and skins, the pastoralists would be selling hides and skins more expensively than meat. I can go on and on and even talk of Kenya Breweries Limited, which is a monopolistic kind of industry owned by cartels and big individuals. If it was owned by farmers, we would have breweries owned by barley farmers and they would have value for their products.

I support the Sessional Paper.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Rono Kipkogei, Member for Keiyo South.

Hon. Daniel Rono (Keiyo South, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to weigh in on the issue of co-operatives. Earlier on I had queued to discuss the matter that was before the House on fuel, unfortunately I did not get an opportunity. I will pass the points I had to the Departmental Committee on Finance and National Planning, especially on removal of the formula used by the Energy and Petroleum Regulatory Authority (EPRA), so that competition can be left to reign in the industry.

The co-operatives sector, as we have heard from the Members who have contributed, is very important. We have heard Hon. Maanzo rightfully saying that Kenya is doing quite well in the co-operatives sector and can do better. For example, countries like Brazil and Indonesia are quite ahead in the co-operatives movement. You will find their farmers pulling resources together. They have been raised economically because of co-operative movements.

Counties in Kenya need to take co-operative issues seriously. This is because agriculture is devolved and it can do very well if we promote co-operatives. For example, rural economies can only do well when resources are pooled. When farmers A and B collect their milk together, they are able to get better prices. When the Brookside of this world and Kenya Co-operative Creameries (KCC) collect milk, they always prefer to give better prices where they collect a big quantity of milk. The only place in a rural economy where you can collect a good quantity of milk is in a co-operative. So, there is no way our farmers will benefit if we do not encourage and promote co-operative movement.

For example, there are co-operatives which used to do very well in the 1970s and 1980s. Some collapsed but they had to be revived and are doing very well at the moment because people have known the goodness of co-operatives. Hon. Sankok commended the Leader of the Majority Party for actually mentioning the bottom-up economy, which stems from co-operatives. We will promote this sector through the bottom-up economy. There are those who almost lost the journey

of co-operatives like Mwalimu National Savings and Credit Cooperative Society (SACCO) when they went into banking and forgot how they became big. That is why they are facing problems.

As I conclude, we need to strengthen co-operatives for marketing purposes and better prices for our goods like tea, milk and coffee. This way, we will build Kenya's economy in a better way. I support this Report on co-operatives. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Prof. Oduol Adhiambo.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to the debate on Sessional Paper No.4 on co-operatives. I support this Sessional Paper because it is clearly based on the best practices and there is evidence that the co-operative movement's growth and organisation is in line as we can see from the Report of the Committee. This is a key factor in not only addressing and enhancing socio-economic development, but also in helping us make progress from the kind spirit and direction we had in Sessional Paper No.10 of 1965 on African Societies and its application to planning in Kenya.

When we speak of the co-operative movement, we are truly speaking of how it is. As we all know, even with regard to our fingers, there is no way the thumb, no matter how big it is, it can lift a glass or make a desired result. The sum total of what we can do when we pull together far outweighs what would be done by any individual, be it in agriculture or trade, as reflected by women groups and organised categories that never had economic power or voice.

I support this Sessional Paper because it allows us room to concretise and provide a framework. It will enable us create a common agenda of those who are like-minded and would like to contribute to the economy. Also, it helps us with the re-alignment of county governments and the national Government. This will ensure county governments, because their purpose was to be closer to the people, to translate what in the past would be merry-go rounds that would be seen for entertainment and Christmas into what can be economically viable.

I hope we can see clearly from this Sessional Paper that as legislators we need to rise to the challenge of looking at how we can take figures and begin to build on how to appreciate the successes and outputs that have come so far.

Thank you, Hon. Temporary Deputy Speaker. I support this Sessional Paper and hope as we continue to debate, we will look into the interest of pulling together interest groups and not necessarily our own interests.

The Temporary Deputy Speaker (Hon. Christopher Omulele): The contribution by the Hon. Prof. reminds me of a great saying by the great Mandela Rolihlahla, who said, "If you want to go quickly then you go alone, but if you want to go far, then go as a group." Thank you, for your contribution.

Hon. Luyai Amisi, Member for Saboti.

Hon. Caleb Luyai (Saboti, ODM): Thank you, Hon. Temporary Deputy Speaker for allowing me to also add my voice to this very important debate. In fact, this debate is palatable in the sense that it has come at a point where there are different economic models being discussed by various leaders in this country. At least it is a serious one, and not like the fake models. That we are holding a discourse about this serious matter, is a major milestone. I come from an agricultural county, Trans Nzoia, which is often referred to as the bread basket of the Republic.

Cooperatives were started a long time ago by the colonialists. In fact the colonial governments came up with this specifically for marketing purposes but cooperatives, as it is envisaged in this policy, are going to be expanded into value chain and marketing boards coming together for different economic progress. We have cooperatives even in real estates and

cooperatives in various sectors of our economy as opposed to when it was just for the marketing segment.

So, from an agricultural point of view, cooperatives play a key role when farmers come together to put resources together so that they can reach the required market and they can also be able to advance in value chain. This is because these are areas that need resource mobilisation. As you rightfully put that you cannot walk alone, you have to put resources together for you to advance rapidly. If you look at the economies that have been given as an example like Brazil, South Africa and Philippines, you can clearly see these are the economies that have advanced. They have been facing the same scenario like our country. They do not have the natural resources. They do not have the oil and gas but they have come up with economic models that are conducive for economic progress. This is where our country should go. This is the conversation us Kenyans should be having.

We must actually look at an economic council aside from our political promises and pledges or political blueprint. We need to look at an economic council specifically to revamp our economy. We should look at the overall structure. We reengineer our economic models so that this country is on a trajectory. This is because we have mixed economy and politics and we have gotten it wrong. If we have an independent economic council that is specifically looking at revamping the overall economic structure of our country, then we will put ourselves on the right trajectory just like other countries have done like Singapore and South Korea, which were at par with our nation. These are some of the things that have helped them improve and actually make our country an attraction to the economic flow of income. If you make a nation stable with right models of economy, you are attracting the global flow of income. We will have industries set near because we have the right policies and economic models in place conducive enough to attract the global flow of income. This is the direction our nation needs to go.

I applaud the Committee for this wonderful report. I have read that they undertook several examples from various countries, compared them and came up with right policies that will govern the economic model of our nation going forward.

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

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Mabonga Mwambu, Member for Bumula.

Hon. Mwambu Mabongah (Bumula, Independent): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to air my views on this Sessional Paper No. 10 on the National Cooperative Policy. Many things are happening in this country and we can all agree with the poverty index that we had just the other day in this country that almost a half of Kenyans are living below the poverty line. It is a challenge that today most of the developing countries are struggling to see how to pull the people who are at the lowest point of the pyramid. However, the way they do it may not be right. This policy paper is coming at the right time and many policies have been formulated but the problem is the implementation and the timeframe of it. If we can be serious with the things we discuss here and follow it up to be put in place for action, we shall be dealing with many of the problems that Kenyans are facing today.

I had opportunity to interact with some Asians when I was in Malaysia and you realise that most of them who are in business today are being supported by the cooperative movement. There are Asians who have been sent in this country who are doing business but you realise that even their empowerment is coming right from their cooperative society from their country. When can we reach here? The intention of the cooperative movement was to accommodate the small scale holders. It is not for the billionaires club but it is unfortunate that when the cooperatives started

picking up, the same fellows who were up there joined the cooperatives to frustrate some of them. It is true we may be doing well but it is true again we have to agree that we have left quite a number of people away. If this policy is followed to the latter, you will realise that it is going to actually solve this problem of employment.

Today in the entire world we have millions of people who are in very good jobs because of the cooperative movement. We are talking of even food security in this country but today you go back with this policy and do civic education to the very small people on the ground especially the *mama mbogas* we discuss every day and the *bodabodas*. Just be sensitive enough that the culture of saving can save quite a number of them. You will be shocked that at the end of the day, definitely some of those fellows can easily own these big buildings you are talking of in this country.

Today we are talking of gender imbalances and some of the things we are struggling with here. If you go just to Rwanda, things that began like table banking and turned into CBOs which most of our people are trying to do at home right now have been formulated back to cooperatives and most of nonworking people in the villages have been accommodated in the cooperatives. You find people are very busy now doing very productive engagement like farming, poultry and all those things which are doing very well in our villages and even getting market outside the country.

This is a very important policy document and policy report that the Committee has worked on. If only we can be serious and make sure that it is implemented to the latter, most of the challenges that Kenyans are struggling with today are likely to be captured. I agree with the Leader of the Majority Party that we are not here to outdo each other but we are here to pull our community together so that the nation moves together. We do not go on struggling and punishing some groups of people while promoting the other people but we want to see the nation moving in one direction accommodating everybody because everybody has the idea to move this country forward. I thank you, Hon. Temporary Deputy Speaker. I support this Report.

The Temporary Deputy Speaker (Hon. Christopher Omulele): There being no further interest in this, I call upon the Mover to reply.

Hon. Ali Adan (Mandera South, JP): Hon. Temporary Deputy Speaker, I thank you for giving me the opportunity to reply. Before I do so, I wish to thank all Members who have contributed to this important Sessional Paper. I just want to make it clear that when the advertisement was run requesting for memoranda, indeed it is true that we never received written memoranda. However, a lot of stakeholders purposed to appear before the Committee and we have accommodated those sentiments and they have been captured in the Report. I also want to thank my committee members and my able deputy for actually staying the whole time to be able to prosecute this very important matter.

I beg to reply. Thank you.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well. I direct that the Question for this particular business be put when the matter is next set down on the order paper. I direct that we move to the next Order.

(Putting of the Question deferred)

BILL

Second Reading

THE HEALTH LAWS (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. In our House Business Committee today, we had planned for this matter to come on the Order Paper subject to the Report of the Committee having been tabled. It has not been tabled hence I would like to ask that we step it down to allow the Committee to table the Report and then we can process it.

The Temporary Deputy Speaker (Hon. Christopher Omulele): I accede to the request by the Leader of the Majority Party. I direct that this business be stepped down.

(Bill deferred)

Next Order.

BILL*Second Reading*

THE SOCIAL ASSISTANCE (REPEAL) BILL

The Temporary Deputy Speaker (Hon. Christopher Omulele): The Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the Social Assistance (Repeal) Bill, be now read a Second Time, this being National Assembly Bill No. 16 of 2020. As you know, social assistance broadly refers to both actions of transferring resources by government or by non-government actors. It is transferring resources to people whose vulnerability warrants such transfers as part of affirmative action or assistance. We have seen that happen since the commencement of the Cash Transfer Programme. The pilot programme was started in 2004 and it has been since scaled up. It was started with a few households and lessons were learnt. I think only 500 people participated in the first phase. Remember, at the time, we did not have other mechanisms of transferring money except by actually paying them. Mpesa came in in 2007. So there were lots of challenges at that point, but at least the programme started.

It was scaled up and covered a different variety of people. It started with the elderly, the orphans, vulnerable children and then eventually moved to the older persons and people with severe disabilities. By and by, it has increased from the initial 500 to an estimated 1.2 million in all the constituencies. Right now, every Kenyan who is older than 70 years is actually entitled to be on the programme. I know there have been some late registrations and there are people who were 65/66 years during the last registration who have now hit 70 years. It is something that has proved popular and has helped people, especially when you look at the challenges that have come with the onset of the COVID-19 pandemic, where people are being rendered jobless and our social protection in this part of the continent is mainly through the working populations who take care of the elderly. Now, when the working population were rendered jobless, then the social protection through this cash transfers has come in handy to protect the elderly and vulnerable people especially within the rural areas and even within the urban areas.

Social Assistance Act was promulgated in 2013. It was supposed to help sort out the mechanisms of identifying who is vulnerable, modalities of identifying how the money will be disbursed, and even increasing the money and the transfer mechanisms. This was pursuant to Article 43 (1) (e) of the Constitution, which provided for this assistance to the people. This Act went on to even create a Social Assistance Authority and, like I said, the criteria for determining who benefits and all that. The fund that was created was never operationalised because of inconsistencies with other laws particularly, the Public Finance Management (PFM) Act, which basically sets out how funds may be created. So, we have an Act, the National Social Authority, the Social Assistance Act all purporting to create a fund, yet those funds are supposed to be done through the PFM Act. Despite the good intentions, that fund has never been operationalised because of inconsistencies in the law. Looking through various bottlenecks that have been identified, the question begs: how do you transfer challenges? So long as you are touching on the PFM Act, you end up with other challenges.

We need to now establish a fund that is consistent with the law and complies with the current government policy that all national public funds should be established under Section 24(4) of the Public Finance Management Act of 2012, which is anchored on the provisions of the Constitution. The fact is that the social assistance Act of 2013 is not harmonised with the existing national policy on social protection. Also, it has some inherent flaws which were assigned in terms of the roles or regulation policy formulation standards to an authority, yet those roles are already assigned to the sector ministry. Because of all these inconsistencies, it becomes prudent that the best thing to do is, first of all, to remove this law from our statute books to cure the inconsistencies that are there and the conflicts that it is creating. It is not adding any value anyway because it is inconsistent with the other laws!

So, this Bill seeks to basically do a very simple yet very important exercise which is to repeal that law that was created with a good intention of facilitating the social systems programme, but, perhaps, without a lot of thinking in terms of what should have been done. No blame for those who did it. However, in trying to create the vehicle for propagating social assistance, we seem to have hit more headwinds than what we were supposed to do. Hence, when we repeal this one, we then end up continuing with what is happening with partial operationalisation through regulation of money flowing through in accordance with the PFM Act and the other issues that will continue through the Ministry. So, we actually do not need a social assistance authority because since 2004 to now, everything is working. It is said that if it is working, do not fix it. Let us not create more barriers though some bureaucracies that basically stifle the progress of the delivery of the social assistance programme. We are, therefore, urging that we pass this law, which in effect repeals the Social Assistance Act of 2013.

The Bill also provides for the transitional mechanism to ensure that the repeal does not leave any legal gap. Again, it is a really straightforward matter. It identifies that this issue is a matter for the national Government, so we do not have to consult the counties. It does not occasion any additional expenditure because we are basically repealing the law. In fact, it should lead to savings because we do not need an authority when the ministry can do all the work that is being done. Most importantly, we will not have a situation where laws passed by this House conflict with each other especially on matters finance.

Hon. Temporary Deputy Speaker, I rest my case. It is a straightforward matter. I urge the House that we team up and clean our legal books through the repeal of the Social Assistance Act.

I beg to move and ask the Chairman of the Departmental Committee on Labour and Social Welfare, Hon. Josphat Kabinga, to second.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Let us have Hon. Josphat Kabinga.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to second the Second Reading of the Social Assistance (Repeal) Bill (National Assembly Bill No.16 of 2020) sponsored by the Leader of the Majority Party.

As stated by the Leader of the Majority Party, this particular Bill simply seeks to repeal the Social Assistance Act that is currently in existence to pave way for the creation of an Assistance Fund as advised by the Cabinet Secretary for the National Treasury.

The Leader of the Majority Party alluded to the fact that there have been many challenges in the implementation of the Social Assistance Act. In fact, it has never been implemented since it was put in place. This particular Act was sponsored by the late Hon. Joyce Laboso and it has not been implemented since then due to various challenges, some of which I would like to highlight.

First, it was realised that the Social Assistance Act was not aligned to the broad policy recommendation and encapsulated in the National Social Protection Policy.

Secondly, Section 34 of the Act does not provide for the National Social Assistance Fund to receive funds from Exchequer. Therefore, the Fund has not been operationalised since its passing.

Third, there have been inherent challenges in operationalising the Board of Management as it has both functions of oversight and implementation. The mandate of the Social Assistance Authority Board of Management established in Section 3 of the Act is not clear. It is not known whether it should be involved in the direct provision of social assistance or whether it would only be the regulator of the social assistance programme. That negates the spirit of good governance which recognises that an institution cannot oversee its actions since accountability would not be ensured.

For those three reasons, the Social Assistance Act has not been implemented. Because of that, there has not been any framework that could have provided assistance to the current Social Assistance Authority, especially to the elderly through the Inua Jamii Programme which has been implemented successfully but with a lot of challenges. Some of the challenges include the budget. Currently, the budget for the Inua Jamii Programme is about Ksh28 billion. They require about Ksh32 billion. That is a deficit of Ksh4 billion which means that there are many elderly people out there who are over 70 years old and qualify to be supported but cannot because of budget constraints. The creation of the Fund is meant to address some of those challenges by opening it up to other players, including donors, who would then be able to find a legal framework through which they can also make contributions to support the elderly.

Listening to Members around, nearly all constituency Members have challenges back home where they have elders who may not be currently registered as Inua Jamii beneficiaries or are registered but are not receiving assistance. It is for that reason that as a Committee, we moved out there, listened to various stakeholders and the Ministry of Labour and Social Protection and felt that there was an urgent need for the creation of the Fund. By repealing this Act, the Ministry will then be able to prepare regulations that can find their way into this House. Once approved, the regulations will pave the way for the creation of the Fund. Under the Public Finance Management (PFM) Act, the two cannot go together. You cannot have an existing Act and then you come up with regulations that are independent of that Act yet the Act itself is active.

That is why the Ministry, through the Leader of the Majority Party, had to come up with this very simple Bill to repeal the current Act, so that the Fund can be created. I urge Members to move with speed to approve this Bill, so that we give a chance to the Ministry that has occasionally

told my Committee that there are challenges with the current Act. If the current Act is repealed, they will be able to have the regulations, open up the Fund and attract funds from elsewhere, so that all senior members of our society who are old and qualify to receive the Inua Jamii funds can do so. I, therefore, urge that we approve this Bill without any amendment.

The Committee will move with speed to ensure that the regulations are also completed because nearly every month, we have a Question related to this particular matter. There was one just today and in the morning, the Ministry attended to two Questions that were related to the Social Assistance Authority. Once the Act is repealed and the regulations are put in place, the Ministry will have no choice but to move fast enough to ensure that all our senior members of the society receive the assistance that is meant for them.

As I conclude, I wish to take this opportunity to thank you and the Clerk of the National Assembly for providing the technical and logistical support to the Committee. I also commend the Committee Members for their devotion and commitment to duty during the consultations on this Bill. We went for three rounds of public participation to fully understand what the challenges are in as far as social assistance in this country is concerned. It is a very noble idea but presents many challenges especially to us, Members of Parliament. Whenever we go home, elders come to us with registration cards yet they are not receiving funds. I hope and believe that once this is repealed and the regulations are put in place, that problem will be a thing of the past.

I also hope that the Cabinet Secretary for the National Treasury will find it necessary to ring-fence funds meant for the social assistance programmes because if not, we will have challenges as we pass every budget because of the underfunding we have been having.

Hon. Temporary Deputy Speaker, I beg to second this Bill.

(Question proposed)

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, I see interest in this but we have been caught up with time. So, the Members who have an interest in discussing this will have another opportunity.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the time being 6.30 p.m. this House stands adjourned until Wednesday, 22nd September 2021 at 9.30 a.m.

The House rose at 6.30 p.m.