



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT**

**NATIONAL ASSEMBLY**

**THE HANSARD**

**VOL. II NO. 75**

## THE HANSARD

Tuesday, 22<sup>nd</sup> August 2023

The House met at 2.30 p.m.

*[The Speaker (Hon. Moses Wetang'ula) in the Chair]*

PRAYERS

QUORUM

**Hon. Speaker:** Serjeant-at-Arms, we do not have Quorum. You may ring the Quorum Bell.

*(The Quorum Bell was rung)*

Hon. Members, we now have Quorum to transact business.

### COMMUNICATIONS FROM THE CHAIR

**Hon. Speaker:** Thank you, Hon. Members. I have two short communications. The first one is the recognition of staff from the National Assembly of the Republic of Namibia.

#### DELEGATION FROM THE NATIONAL ASSEMBLY OF THE REPUBLIC OF NAMIBIA

Hon. Members, I wish to introduce to you a delegation of staff from the National Assembly of the Republic of Namibia, who are seated in the Speaker's Gallery. The delegation comprises:

1. Mr. Immanuel Nehoya, Deputy Director, Table Office;
2. Ms. Carol-Ann Esterhuizen, Chief Legal Officer, Legal Services;
3. Ms. Linette Sawyers, Parliamentary Clerk;
4. Mr. Ian Van Wyk, System Control Officer;
5. Mr. Simon Shikudule, Chamber Officer; and
6. Mr. Benjamin Kandapaera, Chamber Officer.

The delegation is in the country to interact, learn and share experiences on best practices with their counterparts in the Directorate of Legislative and Procedural Services in the National Assembly. In fact, this afternoon, we allowed Mr. Immanuel Nehoya to attend our House Business Committee meeting as an observer. On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during the visit.

I thank you.

#### NATIONAL ASSEMBLY LEADERSHIP RETREAT

**Hon. Speaker:** Hon. Members, traditionally, the National Assembly, on an annual basis, holds leadership retreats. Such retreats are meant to bring the leadership of the House and Chairpersons of Committees to bond and share experiences, identify priority business for

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the House and candidly discuss critical matters. Such interactions have tended to guide the business of the House during a session as well as in a term of Parliament.

In keeping with this practice, the House Business Committee resolved to hold the Annual Leadership Retreat in September 2023. The retreat brings together the presidium of the House, the leadership of the Majority and Minority Parties, Chairpersons of the Committees, Parliamentary Service Commissioners, and the House Business Committee.

In this regard, I wish to notify the House that a three-day Leadership Retreat under the theme: “Building Synergy in Leadership: Enhancing the Legislative Agenda in the National Assembly”, has been planned to be held from Monday, 18<sup>th</sup> September to Friday, 22<sup>nd</sup> September 2023 at a venue to be communicated.

Hon. Members, the main objective of the Leadership Retreat is to provide the Leadership of the House an opportunity to take stock of progress made by the House so far, identify priority business for the House, share experiences and candidly discuss an array of substantial and critical matters. The retreat will further provide an opportunity for the House Leadership to chart a way forward with regard to the consideration and processing of business of the House in the current Second Session and into the Third Session.

The retreat shall be enriched by the consideration of various informative topics that are to be facilitated by experienced resource persons, panel discussions and interactive plenary. At the end of the retreat, the Leadership will identify possible areas of the National Assembly’s legislative processes that require re-engineering for improved efficiency in succeeding Sessions of the 13<sup>th</sup> Parliament.

Hon. Members, the Leadership of the House is, therefore, invited to the First Leadership Retreat of the 13<sup>th</sup> Parliament. Further details regarding the retreat will be communicated by the Office of the Clerk.

I thank you.

*(Hon. Kassait Kamket walked into the Chamber)*

Take the nearest seat, Hon. Kamket. What is your idea of the nearest?

## MESSAGE

### NOMINATION OF PERSONS FOR APPOINTMENT TO THE NG-CDF BOARD

**Hon. Speaker:** Hon. Members, I have a message from the Executive on nomination of members to the National Government Constituencies Development Fund Board.

Pursuant to the provisions of Standing Order 42(2), I wish to report to the House that I have received a message from the Cabinet Secretary for the National Treasury and Economic Planning regarding the nomination of persons to the National Government Constituencies Development Fund Board. In the Message, the Cabinet Secretary conveys that, in the exercise of powers conferred to him by Section 15(1)(e) of the National Government Constituencies Development Fund Act, 2015, he nominates the following persons as members of the National Government Constituencies Development Fund Board, and now seeks the approval of the House:

1. Hon. Olago Aluoch.
2. Hon. Janet Teyiaa.
3. Ms. Masitsa Naomi Shiyonga.

Hon. Members, Standing Order 45 provides that upon receipt of notification of a nomination for appointment, such nomination shall stand committed to the relevant Committee for consideration. In this regard, I hereby refer the Message from the Cabinet Secretary together

with the curriculum vitae and other testimonials of the nominees to the Select Committee on National Government Constituencies Development Fund for consideration. In considering the nominees, the Committee should take note of the provisions of Section 8 of the Public Appointments (Parliamentary Approval) Act, 2012, which requires the National Assembly to undertake the approval exercise within 28 days.

Conscious of the fact that the House is scheduled to proceed for recess this week, I hasten to clarify that the counting of the days with respect to the consideration of the nominees will cease during the recess period and resume when the House first sits upon resumption. The Committee is expected to forthwith commence the approval process and notify the nominees and the general public of the time and place for holding the approval hearings and, upon conclusion, table its report within the statutory timelines.

I thank you.

### PETITION

**Hon. Speaker:** Member for Loima, you have a Petition.

#### KENYANS CONVICTED IN UGANDA

**Hon. Protus Akujah** (Loima, UDA): Hon. Speaker, I rise to present a public Petition regarding 41 Kenyans court-martialed and convicted for eight to 40 years imprisonment in Uganda.

I, the undersigned, on behalf of concerned citizens in the Republic of Kenya, draw the attention of the House to the following:

THAT, 41 Kenyans were arrested, detained and hurriedly convicted for between eight to 40 years by a Moroto Third Division Military courts, after a cordon and search operation conducted by the Uganda People's Defence Forces (UPDF);

THAT, all 41 Turkana pastoralists were taken through a one-day court martial trial without legal representation or right to appeal, while the right to a fair trial is that every person should be presumed innocent until proven guilty;

THAT, a majority of those convicted are minors below the age of 18 years who were rounded up in their homes and alleged to be in possession of illegal arms and ammunition;

THAT, all those happenings were brought to the attention of the Kenyan Government but no action has been taken to secure the release of the unlawfully convicted Kenyans;

THAT, there is no clear information on which prison facilities these convicts are confined in or trace to prove they are still alive;

THAT, efforts made to the Kenyan Embassy in Uganda to address and follow up on the matter have not borne any fruits;

THAT, it is rational and patently absurd for the Kenyan Government to give a deaf ear to the plight of its citizens who are suffering and mistreated in a foreign country;

Therefore, your humble petitioners pray that the National Assembly, through the relevant Committee, make an inquiry into all matters raised in this Petition with a view to ensuring that:

1. The Government of Kenya acts with speed to secure the release of the 41 unlawfully convicted Kenyans whose whereabouts are unknown.

2. The Ministry of Foreign and Diaspora Affairs, through the High Commission in Uganda, makes requests for the extradition and surrender of the accused persons to Kenyan authorities for trials.
3. The Ministry of Foreign and Diaspora Affairs, together with the Ministry of East African Community, ASALs and Regional Development, hold talks with the Government of Uganda to strengthen and foster the diminishing peaceful relationship between the two States.

And your petitioners will ever pray.

**Hon. Speaker:** Thank you, Hon. Protus. If there is any Member who wants to buttress that Petition, I can allow you. If there is not, I commit the Petition to the Committee on Public Petitions. The Leader of the Majority Party, you have heard what Hon. Akujah is saying. Forty-one Kenyan civilians are arrested in the jurisdiction of our neighbour and court-martialed. We court-martial military personnel. You may have to engage the Ministry of Foreign and Diaspora Affairs to cross-check and find out why 41 Kenyans, some minors, have been arrested and court-martialed in a friendly neighbouring country without any recourse to our country in the usual bilateral manner. Do not just leave it to the Committee on Public Petitions.

Member for Turkana Central, go ahead.

**Hon. Joseph Emathe** (Turkana Central, UDA): Thank you, Hon. Speaker. The issue at hand is very critical. Our country should understand that over 40,000 Turkana are in Uganda in search of pasture and water. They have been staying there even without identity cards. We thank the Government of Uganda for its hospitality and for showing the spirit of the East African Community.

A court martial in Uganda was used to sentence Turkana who were caught in markets conducting their social activities. They were arrested and court-martialed the following day without the required trial or legal procedure. We have been able to meet officials of Uganda and asked them that sometimes they need to consider mediation and diplomacy, but up to date nothing has happened. We wanted the Kenyans to be handed over to our Government so that a lawful procedure is followed. Because Uganda is a friendly country and accommodates interests of Turkana in Uganda we, therefore, ask the Ministry of Foreign and Diaspora Affairs to intervene and provide us with the right procedure of handling this issue. We also ask the Government of Kenya to provide access to water so that areas in Turkana South and Turkana North that have pasture can be used to resettle Turkana from Uganda. That means we need to have dams like the ones that have been constructed by the Government of Uganda. We need that to be replicated in Kenya because there is no water for livestock belonging to Kenyan pastoralists. That is why people go to Uganda. This is a Petition whose time has come and should open a debate on the same.

I submit, Hon. Speaker. Thank you for giving me this opportunity.

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

**Hon. Opiyo Wandayi** (Ugunja, ODM): Thank you, Hon. Speaker, for your indulgence. This Petition by Hon. Akujah, who is my very good friend, raises very fundamental issues. I would like the Public Petitions Committee, when dealing with this matter, to look broader and not just focus on the issue of Turkana being court-martialed in Uganda.

It is a fact, Uganda is a friendly neighbouring country to Kenya and the two countries are like siamese twins. We cannot do without each other. I would like to see inculcation of brotherliness and friendly approach when it comes to dealing with issues that would arise from time to time. The boundaries that we have in this region and, indeed, in the entire Africa were created artificially by the colonialists. When you go to border counties like Turkana, Busia, Migori and Marsabit, there are people who belong to one identity who live across borders. Therefore, regional countries should be more humane when dealing with persons from neighbouring countries who encroach into their territories. My brothers from Kuria will tell

you that there is no difference between a Kuria living in Kenya and a Kuria living in Tanzania. Likewise, there is no difference between a Luo living in Nyatike or in Suna West and a Luo living across the border in Tanzania. The act of brutalising Kenyans when they venture into neighbouring countries needs to come to a stop. Does it happen because the Government of Kenya has been too weak? What is it really? What is it that necessitates Kenyans to suffer atrocities in the hands of our friendly neighbours?

Take the case of Migingo Island. It is a sorry state of affairs, Hon. Speaker. On a daily basis, Kenyans are terrorised by Ugandan security agents. In fact, many a times they are subjected to inhuman treatment. As we speak, the Government of Uganda has hoisted its flag on Migingo Island. I am sure, Hon. Speaker, you know the history of this island and the controversy around it having been a Minister for Foreign Affairs in the distinguished Government of President Mwai Kibaki. We must bring an end to this situation. It is unbelievable that tens of our brothers from the Turkana Nation can be court-martialed. From my little understanding of court martial, it is only applied on military officers. Civilians are not supposed to be court-martialed. There is no evidence that those Turkana are military people. They are basically citizens of Kenya going about grazing their livestock.

The Petition by Hon. Akujah needs to be treated with utmost urgency so that we get to understand really what needs to be done to address the plight of our citizens who are suffering in the hands of our friendly and sister neighbours.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Hon. Nicholas Ng'ikor. You have two minutes.

**Hon. Nicholas Ng'ikor** (Turkana East, JP): Thank you, Hon. Speaker.

The Petition that has been presented by my colleague from Loima, Turkana, Hon. Akujah is very serious. Turkana have suffered not only in Uganda, but also in the three neighbouring countries: South Sudan, Ethiopia, and Uganda. All this is because we are the only unlicensed military people who guard those borders. We want the country to come clear on this because since Independence, the Turkana people have been guarding the borders between Kenya and Uganda, Kenya and South Sudan, and Kenya and Ethiopia without being paid yet we pay tax. These people suffer because we do not have the military along those borders. The three neighbouring countries have deployed their military at the borders, but on our end there is none. What is Kenya doing about those three borders? Turkana have been guarding those borders since Independence. I will be going to the International Criminal Court soon to seek justice because our men are suffering along those three borders. The reason we are few is because our men are not doing their normal work.

*(Laughter)*

They are always at the border guarding the country. So, Hon. Speaker, very soon I will be going to court to petition the Government for not providing us security in those three borders and that explains why our people are court-martialed in Uganda. Last year, some people were arrested in South Sudan just because they were grazing their livestock there. Those countries have their armies at the borders, but we do not have security personnel on our side of the border. We need the Government to take note of that.

This Petition should not be taken lightly the way we normally take others. It is a Petition which talks about death; it talks about the way people are murdered and for some of them, it is not even reported because those areas are remote and there is no presence of the Government along those borders.

**Hon. Speaker:** Yes, Hon. Asinyen, Woman Representative for Turkana County.

**Hon. Cecilia A. Ng'itit** (Turkana County, UDA): Thank you, Hon. Speaker, for giving me this chance to add my voice to the Petition presented by Hon. Protus Akujah. The many

times we have tabled adjournment Motions in this House, I have always brought out the uniqueness of Turkana County. It is the only county in Kenya that borders three countries. Let me repeat: Turkana County borders South Sudan, Ethiopia, and Uganda. Surprisingly, in those three countries, we have people who speak the same language with us. In Ethiopia, we have the Donyiro people with whom we speak the same language without the requirement of a translator between us. We speak the same language with the Toposa in South Sudan. In Uganda, we speak the same language with the Karamojong.

The pastoralist lifestyle is very funny. Our cattle do not know boundaries. Even our pastoralists do not know boundaries. Turkana County is known for drought. When there is drought, our people will move in search of pasture and water. That is how they find themselves in Uganda. Some are in Ethiopia and others in South Sudan. Many inhumane and international humiliations have been reported during the many years they have resided in Uganda. They are meted on them by the military of Uganda.

In this case, the 41 Turkana have been subjected to that court martial process for over two months now. Even our Head of State is aware of this matter and he has done some action. He wrote a letter to the neighbouring country. I do not know why nothing has been done so far. Therefore, we beseech the Committee in charge of this matter to speed up this investigation and come up with the correct measures that will help our people get out of that court martial.

Apart from the court martial, our people lose many livestock to neighbouring countries. At times they even give livestock in exchange for pasture and water. We have pasture in Turkana. We only lack water. We plead with our Government to build mega dams in some areas. We can direct them where these mega dams can be located then our people will not be crossing borders.

As Hon. Ngikolong is putting it, our numbers are shrinking because our people have gone to neighbouring countries in search of pasture. In fact, we are in huge numbers in Uganda. Over 50,000 Turkana stay in Uganda. They are adults without identification cards. As he has correctly put it, we have been manning those boundaries without Government presence. It is high time the Departmental Committee on Defence, Intelligence and Foreign Relations and the Departmental Committee on Administration and Internal Affairs did their work. We need the Kenya Defence Forces (KDF) deployed along those boundaries so that our people can rest. We have manned Kenyan boundaries for many years. For that case, we might even need some compensation.

Thank you, Hon. Speaker.

**Hon. Speaker:** Now, even those who were not interested have become interested.

*(Laughter)*

Hon. Kitayama, you have two minutes. Give the microphone to him.

**Hon. Maisori Kemero** (Kuria East, UDA): The microphone is also marginalising me.

*(Laughter)*

Hon. Speaker, an injustice to any community that lives along the border is an injustice to all of us. The Kuria people live on both sides of the border of Kenya and Tanzania. What our brothers are going through is not unique to them. We have been suffering the same for a very long time. The only difference is that we have been able to find a way of living with this injustice and finding a way of talking to the leadership of the Tanzanian side so that our people get justice quickly.

However, that is not to say that the people of Turkana and Pokot should continue suffering these kinds of inhumane acts in a manner that cannot be handled by a Government

that we know is capable of doing it. Kenya is a regional leader in peace. We have done a lot of work in stabilising the region. For that reason, it would be unfair that we appear weak when our own is attacked. I sit in the Public Petitions Committee. I know very well that this matter is going to come before us. I want to assure my brothers and sisters that we will give this matter utmost urgency. We will deal with it in a manner that is conclusive because it is not that region only that has a problem. We have problems all over the country.

It is not only that. We have the International Boundary Alignment Committee. It tried to do some boundary alignment. A lot of land that belongs to Kenya has now been annexed to neighbouring countries. It is soon going to create a diplomatic tiff because that is being ignored yet we know very well that land is as emotive as it is. We have families whose graves are on the side of the Tanzanian border while some are on this side of the border. This problem needs to be handled holistically, not only for the about 50 Kenyans who are suffering in Uganda but also for the lives and property of our brothers and sisters along all Kenyan borders.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Raphael Wanjala, two minutes.

**Hon. Raphael Wanjala** (Budalang'i, ODM): Thank you, Hon. Speaker, for giving me this chance.

We live at the border and we suffer. For we who live along the lake, most of our islands were annexed to neighbouring countries. Nobody, not even the Government has resolved this matter. I have seen the former President and current President going to our neighbouring countries and talking to those Heads of States, but the issue of the people along the border has never been tackled. It is left at base and our people are being shot dead in the lake the same way the Turkana are being harassed on the other side. It is the same way the minority ethnic group of the Kuria are suffering on the other side. It is a problem living at the border.

Kenya is a sovereign state. Kenya has an army. Kenya has been going out there and it is very well known for being a very good peacekeeper. Why have they left their boundaries without safeguarding their country? We have taken all the navy officers and put them in the Indian Ocean. We have left Lake Victoria to the Ugandan Army which has taken over islands. It has almost taken over Rusinga Island. Our people have no place. You know that Lake Victoria is a shared resource, but the Ugandans have denied Kenyans access to the lake to do fishing. This is something a country like Kenya must now prioritise. Kenya should safeguard her boundaries the same way Tanzanians have safeguarded their country.

**Hon. Speaker:** Your time is up, Hon. Wanjala. You have made your point. Hon. Rozaah Buyu, we must bring this to an end.

**Hon. Rozaah Buyu** (Kisumu West, ODM): Thank you for giving me this opportunity.

We know that conflicts arising from boundary issues are very emotive. As we are talking about conflict this afternoon and other countries showing aggression towards Kenya's tribes, I am thinking about what is also happening internally arising from boundary issues. We know that we currently have conflicts at the borders of Kericho County and Kisumu County—the border between the Luo and the Kalenjin communities at Nyakach. Before we castigate our international friends, I think we need to show restraint. We need to show good neighbourliness even within our Kenyan borders. Young people are losing their lives for nothing else other than theft of livestock.

As we speak here today, we need to look on the inside first before we even go outside. This is because Kenyans are being killed by Kenyans before we even castigate other people. I ask that you pay attention to the emotive issue that is currently going on of young people continuing to lose their lives.

I thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. I will give the very last opportunity to Hon. Yusuf.

**Hon. Yusuf Adan** (Mandera West, UDM): Thank you, Hon. Speaker for giving me this opportunity. Coming from an area that borders other countries, I know this problem is happening everywhere. I sympathise with my friend from Turkana and it is only that, maybe, this part of the country is not being exposed so much. This problem is happening everywhere. It is particularly affecting the pastoralist communities who are forced to move from one place to another to look for better pasture and water. When we deplete ours, we go to Ethiopia or Somalia.

Recently, the Inter-Governmental Authority on Development (IGAD) developed a very important Transhumance Protocol which allows pastoralists free movement within the IGAD countries. Unfortunately, that Protocol has not been signed here in Kenya. It is with the Cabinet Secretary for Foreign Affairs. Most of our neighbouring countries have signed it, but our Cabinet Secretary for Foreign Affairs has not. As pastoralists, this Protocol will be a solution to our movement from one country to another as we look for pasture and water.

Through the relevant Departmental Committee, I ask the Cabinet Secretary for Foreign Affairs to ensure that this Protocol is signed and brought to Parliament for it to be endorsed so that we can have free movement, officially and legally. That way, the problems happening around the border areas will come to an end.

**Hon. Speaker:** Thank you. We will end there. I already directed the Leader of the Majority Party to get in touch with Foreign Affairs, and the Petition is committed to the relevant Committee on Public Petitions.

Hon. Members, before I call out the next Order, allow me to acknowledge students who are seated in the Speaker's Gallery. They are from Chemelil Sugar Secondary School, Muhoroni Constituency, Kisumu County. In the Public Gallery, we have students from Kanyaki Catholic Church from Chuka Constituency, Tharaka Nithi County. We also have pupils from Luuma Primary School, Tigania East Constituency, Meru County; Gatoori Primary School, Manyatta Constituency, Embu County; and St. James Liberio Primary School, Kapseret Constituency, Uasin Gishu County.

Hon. Members, on my behalf and that of the House, we welcome our guests to Parliament.

Next Order.

## PAPER

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

The Treasury Memorandum on action plans to revive and commercialise State-owned sugar companies from the National Treasury and Economic Planning.

Hon. Speaker, it is important to elaborate further what this Paper is all about. The National Treasury is submitting the memorandum on action plans to revive and commercialise the State-owned sugar companies requesting the National Assembly to approve. I was just elaborating it for Hon. Salasya. I can see that he is in the House and I wanted him to pay attention because we are talking about sugar companies.

This Paper seeks the approval of the National Assembly for the write-off of loans owed by the five public mills to the Government of Kenya and Kenya Sugar Board Commodities Fund amounting to Ksh65,778,448,646 as at 30<sup>th</sup> June 2023, and any other accrued interest as of the date of approval.

It seeks the approval of the National Assembly for write off of the tax penalties and interest amounting to Ksh50,144,801,608 as at 30<sup>th</sup> June 2023, and other accrued interest as at the date of approval. It also seeks the vacation of the privatisation model approved by

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Parliament in 2015, and leasing model for the five public-owned sugar mills; Nzoia, Chemelil, Miwani in receivership, Muhoroni in receivership, and the South Nyanza.

I wanted those Members from the sugar belt to take note of those approvals being sought through that memorandum.

**Hon. Speaker:** Hon. Members, that Paper is referred to two Committees: Departmental Committee on Finance and National Planning and the Departmental Committee on Agriculture and Livestock for urgent consideration and, in any case, to bring their report to the House within the next two weeks.

*(Hon. Opiyo Wandayi spoke off-record)*

We never debate Papers. Okay, a minute.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, some guidance from you will suffice on this matter. Sugar is a serious and extremely important matter, especially for the residents of western Kenya. I have heard you give the two committees two weeks.

**Hon. Speaker:** Yes.

**Hon. Opiyo Wandayi** (Ugunja, ODM): And yet, even as you speak, we have a Sugar Bill which is currently being debated in this House.

**Hon. Speaker:** There is no conflict.

**Hon. Opiyo Wandayi** (Ugunja, ODM): There could be, and do you know why? The Sugar Bill is the anchoring Bill. If passed and assented to, it will become the anchoring Act on all matters sugar in this country. I would have imagined that any policy direction that would come from the Cabinet or any other agency should be aligned to the Sugar Act, if and when it is passed and assented to. Could it be in order for you to pause action on this Paper, pending the determination of this House on the very important Sugar Bill which has been moved by my very good friend, Hon. Wangwe?

**Hon. Speaker:** Hon. Wandayi, having gone through the Sugar Bill, the Paper is buttressing what Hon. Wangwe is prosecuting. As a matter of information, I have directed the fast-tracking of the Sugar Bill so that it is concluded in Second Reading tomorrow and go to Third Reading on Thursday.

As a leader from the sugar region, I thought you were going to laud it. This is because when the Bill becomes law, the sugar factories will start off with nil balances on their balance sheets. Monies they owe is being erased from their balance sheets, that is, commercial loans, interest, and tax penalties. The Paper has no conflict with the content of the Bill. I hope that rests your mind.

*(An Hon. Member spoke off-record)*

Was he not listening? Is that Hon. Milemba? You normally sit here. Yes, go ahead. What is it?

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Speaker, for the direction that you have given. I have gone through the Sugar Bill and it is true that the Paper being laid on the Table will go a long way to help in actualising what the Sugar Bill wants to achieve. It is a milestone, especially for those coming from the sugarcane growing areas. For the longest time, what has been hurting those sugar factories are the debts.

For the first time, I want to thank the Kenya Kwanza Government for having decided to write them off. Indeed, that is a milestone for farmers in those areas. As we look forward to the Sugar Bill, this will go a long way in making sure that there are no debts nor any hanging rope on the mentioned sugar factories. Furthermore, it removes the burden of deciding to privatise sugar factories. Remember, the communities in those areas are still holding onto

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ownership of enormous land around the sugar factories. This is a very good Paper laid on the Table of the House. Let us all support the Sugar Bill and ensure it goes through. Hon Speaker, thank you very much for fast-tracking it for the sake of the many sugarcane farmers who are complaining and suffering. As we talk now, the sugar factories have been shut down.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Milemba. I think we can end there. The two committees... Is Hon Mutunga or Hon. Kimani in the House? You have two weeks to bring your Report back here. We will deal with the issues even during recess because we want this matter out of our way.

Next Order!

**Hon. Jared Okello** (Nyando, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Jared Okello. What is the problem? What is out of order?

**Hon. Jared Okello** (Nyando, ODM): Thank you very much, Hon. Speaker, for this opportunity. From the outset, allow me to welcome Chemelil Sugar Academy. On behalf of...

**Hon. Speaker:** We have already passed that.

**Hon. Jared Okello** (Nyando, ODM): It is on behalf of the Member for Muhoroni who is not in the House. The matter I want to raise and seek your direction and indulgence is that we cannot underscore the role played by Kenya Rural Roads Authority (KeRRA). With a lot of respect, some of the roads under their maintenance are much better than those done by county governments.

This morning, all Members of this House placed their eyes on a memo emanating from KeRRA that unilaterally reduced the amounts in terms of percentages to our constituencies. The 22 per cent usually administered to the constituency roads has been reduced to 15 per cent. Additionally, the 10 per cent usually run by KeRRA offices has been reduced to 6.8 percent. This year, the allocation for our rural roads ought to have been Ksh68 million but it has been brought down to Ksh44 million. A very classical example is Nyando, where I come from. Every financial year, we receive rainfall that creates flooding and sweeps away every road that has been done. So, every time we have to re-invent the wheel and start afresh. This kind of reduction, unilaterally done by KeRRA, affects all Members because the rural roads will be made impassable for the longest time.

Hon. Speaker, we seek your indulgence and direction on this matter. The leadership of the House should pick this up and have it addressed by KeRRA so that our roads can be maintained. We acknowledge what the Kenya National Highway Authority (KeNHA) is doing by coming up with tarmac roads. But, not all places can have tarmac roads. With annual maintenance, the murrum roads also go a long way in making our constituencies motorable.

Hon. Speaker, I seek your indulgence so that this issue can be addressed in good time without any further delay and ado. I thank you.

**Hon. Speaker:** Thank you, Hon. Jared. Leader of the Majority Party, have a look at the *Hansard* to see what Hon. Jared is saying and respond to it tomorrow.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you Hon. Speaker. Indeed, I was reading the memo here and what Hon. Jared Okello has said is true. That, for the Financial Year 2024/2025 they have been allocated Ksh42 million and the subsequent financial year, Ksh44 million, which is way below the amounts received in 2022/2023. Therefore, I will ask the Cabinet Secretary for Roads to clarify to the House the basis upon which they are reducing the amount of money going to KeRRA.

It is also true as Hon. Jared Okello has said that the money which goes to Constituency Roads Committees (CRCs) through KeRRA is the only one which our constituents can tell you does visible work. This is because Members of Parliament are able to oversee Government engineers from KeRRA implementing roads in their regions. It will be shocking if this money has been reduced so as to go to county governments.

Across the country, governors pretend to be rehabilitating and maintaining the same roads which Members of Parliament maintain through the Constituency Roads Committees. This is not unique to one county like Siaya or Kiambu, but it cuts across board in the whole country. In my own county, Kiambu, I have seen the Governor pretending to maintain a road maintained by KeRRA. It is the road from Nachu to Lusingeti, Ndacha, Mbomboini all the way to the SGR Station. He grades it and leaves the people suffering under a hail of dust. He also pretends to be excavating murram in the neighbourhood. Since time immemorial or during the colonial times when white settlers settled in Kikuyu white highlands, there has never been any discovery of murram. What they excavate from Kikuyu is soil that looks like murram which they pretend will maintain the roads.

This is a matter of concern not just to the Member for Nyando but to all Kenyans. They will tell you that they get no value for the money which goes towards maintenance of murram or non-bitumen roads in their backyards other than what they see KeRRA doing. Therefore, we must ensure that the Cabinet Secretary and, indeed, Director-General of KeRRA allocates more resources out of the Fuel Levy to the Constituency Roads Committees because this is where people get value for money.

Hon. Speaker, this happens because Members of Parliament are not implementers of these projects and have no executive authority. So, they are not able to offer real and meaningful oversight. It is unlike the situation for governors, who are executors and implementers of these projects. Therefore, they are keener on deriving kickbacks from contractors than delivery of services. Kenyans will tell you that Members of County Assemblies (MCAs) kneel before their governors so as to get deals to maintain murram roads. This must come to an end.

This morning, we had an engagement in the HBC on our role as Members of Parliament. So, the next time we ask the Cabinet Secretary to appear before this House, we must seek to know the classification of roads maintained by county governments in the counties, which ones are under KeRRA, and how much money goes towards maintenance of the murram roads. You will be shocked, in the last two or three months, close to Ksh11 billion has gone towards the maintenance of the roads. You can imagine how many kilometres of roads this money can tarmac. The other day, you heard the President speak about a lady who could not be moved from the Procurement Department in KeRRA. She was very powerful because of the corruption that pertains to the roads sector. I want to implore that as we seek to have more resources, please make sure, in your own counties and regions, you offer proper oversight so that people do not use soil in the pretext that it is murram road. Also ensure that people do not grade roads that have already been constructed and then pretend to be maintaining the same roads so that their constituents see the value of funds that that have been allocated to maintain those roads.

With that, I commit to pick this matter up with the Cabinet Secretary and the KeRRA. They will come and explain to us the reduction in road maintenance funds. The secret behind good roads is maintenance. If we do not maintain our roads, even the low-volume seal roads that we are currently constructing... Part of the funds that go to Constituency Roads Committees (CRC) are used to maintain low-volume seal roads that were constructed three years ago. You cannot tell whether roads that were constructed three or four years ago are tarmacked because of lack of maintenance. If we do not maintain our roads, we will waste money building new ones.

**Hon. Speaker:** Next Order.

## QUESTIONS AND STATEMENTS

### GENERAL STATEMENT

## ATTACK ON HON. NJERI MAINA IN KIRINYAGA COUNTY

**Hon. Speaker:** Women Representative for Kisii County, you sought permission to make a short Statement. I will give you three minutes.

**Hon. Dorice Donya** (Kisii County, WDM): Thank you, Hon. Speaker. I rise to share a tragedy that has happened to...

*(Hon. Dorice Donya spoke off-record.)*

**Hon. Speaker:** Can you use a working microphone?

**Hon. Dorice Donya** (Kisii County, WDM): Sorry, Hon. Speaker. I rise to inform Members that while one of us, Hon. Jane Maina, was attending a function in Kirinyaga County and addressing the people, she was attacked by goons who came in three Probox vehicles. She was rushed to Kerugoya District Hospital in a bad state. I went to see the Deputy Serjeant-at-Arms, Mr. Masinde, to request that she be evacuated to Nairobi by air, bearing in mind her situation. Unfortunately, she was not assisted. She came by road. She is currently being attended to by doctors at the emergency wing of Nairobi Hospital.

When I tried to ask the guy who called me what the issue was, he told me that she had gone to inspect a water project, which had been closed by the area Governor. The people who attacked her were *Kanjos*, as he explained. He said that they wanted to chase her away from that place. When they were unsuccessful, they called for more people to come and evacuate her, and in the process, she was badly injured.

I felt that I should share that information with Members because it is not good. That can also happen to us. It is very wrong.

**Hon. Speaker:** Thank you, Hon. Donya. Next time such a situation arises, do not tell the Serjeant-at-Arms; tell the Clerk. He has better capacity to airlift a Member compared to the Serjeant-at-Arms.

Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I thank Hon. Dorice Donya for raising that issue. I also got word of the attack on the Member for Kirinyaga County by some people in Kirinyaga. I got in touch with the Office of the Clerk just before the House Business Committee met. He instructed the Serjeant-at-Arms to get an ambulance from our medical service providers to pick her up. I confirm that the ambulance went to Kirinyaga to pick her up and the last time I checked, they were on their way to Nairobi.

I take this opportunity to thank the Clerk and the Chief Serjeant-at-Arms for the quick action to evacuate her. I am told that she is in stable condition. We wish her quick recovery. I hope that the police and other investigative agencies will bring to book those who may have attacked her.

**Hon. Speaker:** Yes.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I empathise with my colleague, Hon. Maina, and wish her the quickest possible recovery. However, arising from the remarks by Hon. Dorice Donya, without speculating, it would appear that Hon. Maina was attacked by goons who came in Probox vehicles, and that those goons were supposedly acting on behalf of the County Government of Kirinyaga, probably the Governor.

We must condemn violence in all its shades and forms. Violence is violence, whether it happens in Kondele or Kerugoya. This atrocity which has been meted out against our colleague by the Governor for Kirinyaga or her agents needs to be investigated expeditiously. Stern action should be taken against financiers and perpetrators of that heinous act.

Judging from posts on social media accounts, the young Member of Parliament, Hon. Maina, who is also my friend, is in very bad shape having been viciously attacked by goons

hired by the Governor. She was holding on to her head. That is unacceptable. We demand that the Governor of Kirinyaga be summoned by the Directorate of Criminal Investigations (DCI) so that she can record a statement, and if possible, be taken to court.

**Hon. Speaker:** Hon. Mukunji. Give Hon. Mukunji the microphone.

**Hon. Gitonga Mukunji** (Manyatta, UDA): Thank you, Hon. Speaker. I have talked to a fellow who is with Hon. Njeri in Nairobi Hospital. They have just arrived. She is being taken care of.

Having heard the explanation of what transpired, I just thank God that Hon. Njeri is alive and that she will recover. This House should have a serious conversation on the health of our politics when it comes to women. Many women in politics face violence. Hon. Njeri is a Member of the Kenya Young Parliamentarians Association (KYPA). I also urge the Leader of the Minority Party and the Leader of the Majority Party to condemn violence against women in politics.

It is a shame that Hon. Njeri, who has a small stature but serious brains, can be attacked by goons while doing her work as the Women Representative of Kirinyaga County. I take this opportunity to seriously condemn that attack. I call upon the highest investigative organs of this country to expedite investigations and give this House answers on what transpired. Anybody who was involved and who mobilised for Hon. Njeri to be attacked should be brought to book.

**Hon. Speaker:** Hon. Murugara.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Speaker. I wish Hon. Jane Njeri Maina, a Member of my Departmental Committee on Justice and Legal Affairs, quick recovery.

Secondly, I condemn that heinous act committed in Kirinyaga by some unknown or known persons. I believe that they are known because their identities appear to be in the public domain. As clearly stated by other Members, this country should not condone violence, whether it is meted out against women or men. Violence should never be part and parcel of our politics. Therefore, I urge investigative authorities to move with speed and bring everyone associated with this incident to book, however big or small, so that Hon. Jane Njeri Maina can get justice.

I wish her well.

**Hon. Speaker:** It is a Member of Parliament's affair. An attack on a Member of Parliament, regardless of their sex, is an attack on all of you. We should not reduce it to women affair. I want to end it there.

Yes, Hon. Toto. Is that Hon. Toto or Hon. Double N?

*(Laughter)*

**Hon. Pamela Njeru** (Embu County, UDA): Thank you, Hon. Speaker, for giving me the opportunity to also add my voice. Hon. Njeri is my neighbour because she comes from Kirinyaga County. I come from Embu County that is just across. If Hon. Njeri was attacked, then Embu County is just a stone's throw away. On behalf of all the women representatives in this House and Hon. Members, I wish to state that it is high time Government agencies or security agencies ensured that Hon. Members, irrespective of where they come from and the parties they belong to, are accorded the security that they deserve. Hon. Njeri Maina is a case study this afternoon. We pray for her quick recovery. The security agencies in Kirinyaga County, headed by the Governor, Her Excellency Waiguru, should reveal to this House the people in a Probox who meted out violence against Hon. Njeri Maina.

It is primitive for any sane person to attack a harmless woman. As I add my voice this afternoon, I wish to state that this is a primitive way of dealing with issues. She was going to

inspect a water project in Kirinyaga. That does not warrant the action that was taken against her by the people in the Probox. The Governor of Kirinyaga County should explain what happened and who did it.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Wamboka. You are the last person to speak to this. You have two minutes.

**Hon. Wanami Wamboka** (Bumula, DAP-K): Thank you, Hon. Speaker. First, I wish my colleague quick recovery. As we do that, to demonstrate that we are a very serious arm of Government and that you are, indeed, the third in command in this Republic, we must not leave any stone unturned.

*(Laughter)*

It happened to Hon. Njeri today but it will be me tomorrow. It will be someone else the next day. On that note, I wish to request that this House calls the Cabinet Secretary for Interior and National Administration to come and explain under what circumstances Hon. Njeri was attacked, beaten, and made to suffer. Moving forward, we may want to ask him questions. They must respect this House. You must also exercise your authority as the third in command in this Republic.

Thank you, Hon. Speaker.

*(Laughter)*

*(Several Members raised up their hands)*

**Hon. Speaker:** I can see too many hands, but I want to close this debate.

**Hon. John Kiarie** (Dagoretti South, UDA): Hon. Speaker, I speedily wish Hon. Njeri Maina quick recovery. This is a young rising star of this House. On behalf of the youthful Members of Parliament...

**Hon. Speaker:** Just go on.

**Hon. John Kiarie** (Dagoretti South, UDA): This is a very serious matter. I am a victim of political violence. The English say that when the debate is lost, the foolish people attack violently. When they saw that Hon. Maina Njeri was rising, they decided to mete out violence on her. There are levels of accountability. We are talking about the people in the Probox vehicle. However, we know that political violence is not an orphan. Every act of political violence is sponsored. As we dig to find out who the people in the Probox were, we also need to find out who sponsored them. The accountability has to go to the highest level of this sponsor.

They might break the bones of the Member for Kirinyaga County, but they will never break her spirit. She needs to keep rising as she has been doing. She is a political star in the making. Whoever is doing this ought to know that violence will not stop the sterling career of this very young legislator.

Thank you very much, Hon. Speaker, for giving me the opportunity to contribute.

*(Several Members raised up their hands)*

**Hon. Speaker:** Thank you. To all of you who are raising hands, I am sure those who have spoken have done it for you. We all condemn violence in whatever manifestations it comes and to whom it is meted out. Hon. Kimani Ichung'wah should communicate with the

agencies to ensure that speedy investigations are carried out and the perpetrators and those responsible for hiring them face the law.

*(Applause)*

Next Order.

## BILLS

### *Second Readings*

THE ANTI-MONEY LAUNDERING AND COMBATING OF  
TERRORISM FINANCING LAWS (AMENDMENT) BILL  
(National Assembly Bill No.35 of 2023)

*(Moved by Hon. George Murugara on 17.8.2023)*

*(Resumption of debate interrupted on 17.8.2023)*

**Hon. Opiyo Wandayi** (Ugunja, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** Yes, Hon. Wandayi.

**Hon. Opiyo Wandayi** (Ugunja, ODM): I am rising on several points of order today.

**Hon. Speaker:** One at a time.

**Hon. Opiyo Wandayi** (Ugunja, ODM): I have some concerns on this Order. To the best of my recollection, even though I must admit that I was not in the House on Thursday, I follow the proceedings of this House very keenly whether I am here or outside. The debate on this Bill was adjourned for it to continue at the convening of the House today. I am surprised to see that it is now being lined up for the Mover to reply. This is a very critical Bill. It is essentially a miscellaneous Bill. It has proposals that have far-reaching consequences or effects that require the House to get adequate time to debate and ventilate on them.

I may be wrong because I was not here physically. However, from the best of my recollection, we need to continue with the debate at the Second Reading stage of this Bill, so that Members can pronounce themselves appropriately and to the fullest possible extent on it. I have issues that I want to rectify at the Committee of the whole House stage in this Bill by proposing amendments. Even if by any chance the debate was concluded, I still plead with you to exercise your powers under Standing Order 1, to re-open it. It has happened before. It happened in the 11<sup>th</sup> Parliament when I was here. It also happened several times in the 12<sup>th</sup> Parliament. This is a Bill that we cannot just be seen to be rushing.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Wandayi. I have asked the Clerks-at-the-Table to confirm from the *Hansard* whether what you are saying is correct or incorrect. This matter came up in the HBC today where you were absent.

*(Laughter)*

We discussed it extensively. It was raised by Hon. TJ Kajwang' but there was no issue as to whether the debate was closed incorrectly. We agreed with the Leader of the Majority Party on how to share the remaining time he has. Hon. Members, the real legislation on the Floor of the House is at the Committee of the whole House stage. That is where when you have issues on any Bill, you can engineer amendments and bring them to the Floor of the House.

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Second Reading of a Bill is general debate. You highlight what you think is your view. You may not debate the Bill in Second Reading but still bring very far-reaching amendments at the Committee of the whole House stage. Those who have issues with this Bill, including Hon. Wandayi, so that we are not held back, should look at it and submit their amendments, if any, on the deep issues that they have to the Table Office.

Leader of the Majority Party.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I rise to reply but before I do that— with your indulgence— allow me to donate three minutes to the Hon. T J Kajwang'. I also take this opportunity to plead with all of us as Members of Parliament, including the Leader of the Minority Party, Hon. Opiyo Wandayi. As rightly said, he was not in the House on Thursday... He was also not in the House Business Committee this morning. The Order Paper is published 24 hours ahead of time. For example, the Order Papers for tomorrow morning and afternoon and a snapshot of Thursday afternoon are already published. Members should take time and interact with the Order Paper before. If your Bill is lined up for debate, make sure you are present. Otherwise, do not ask to re-open debate on what other Members already debated till late evening.

With that, allow me to donate three minutes to Hon. T J Kajwang'.

**Hon. T J Kajwang'** (Ruaraka, ODM): Hon. Speaker, three minutes are too little to persuade Members of this House to reject this Bill. This Bill should be rejected, first, on principles. The only way to get myriads of Acts of Parliament approved is through the Statute Law (Miscellaneous Amendment) Bill. This Bill calls itself an Act of Parliament but it is a Statute Law (Miscellaneous Amendment). This is very technical and only few people will understand.

Lawyers, accountants, and professionals in this House will suffer because this Bill will allow third parties to encroach on the fidelity of advocate-client relationships and the fiduciary relationships among the accountants. This will not only affect the lawyers and the accountants but all of you have lawyers whom you have confidence in. If this Bill passes, it will allow people to intrude into your accounts and know what you are discussing with your lawyer.

Three minutes is not enough for me to explain myself. The speed with which this Bill is moving shows that there is more than meets the eye. Foreign institutions should not infiltrate Kenya through this House. We have information that the foreign powers are using this House to bring their agenda. There are no comparative Acts to this in America and the United Kingdom (UK). However, we are being forced to pass legislation to open ourselves and our professionals to the world. Hon. Members, it is time for the Mover to reply but I urge you to keenly look at this Bill and vote wisely. If you do not do that, you are, in essence, playing to the West's gallery.

I thank you.

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

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I know many Members who were not there on Thursday want me to donate a minute to them. If I do so, I will give away all my time for reply. I ask them to allow me to reply.

Many Members spoke in support of this Bill on Thursday. I do not remember a single Member opposing this Bill during the debate. I take this opportunity to thank the Members and the Departmental Committee on Justice and Legal Affairs and the Departmental Committee on Finance and National Planning for their quick consideration of the Bill. Some of the reservations expressed by Hon. T J... If Hon. T J Kajwang' and a few other lawyers that I see here like Hon. Kaluma—who is begging for one minute—and the upcoming lawyer, Hon. Opiyo Wandayi, were here on Thursday, they would know that their concerns were highlighted by the Mover.

I am happy that Hon. TJ, Hon. Kaluma and Hon. Opiyo Wandayi were with me in the last Parliament when we vehemently opposed some of the provisions in the Proceeds of Crime and Anti-Money Laundering Bill, which eventually became an Act of Parliament. Lawyers, through the Law Society of Kenya (LSK), went to court over some of those provisions. When this Bill was published, the LSK engaged with the Attorney-General and they signed an out-of-court settlement. They are okay with the current provisions of this Bill. They raised issues on what information lawyers should share with... Even accountants like myself and many other professionals, who have their client's confidential information, are affected. All these issues have been taken care of in this Bill.

**Hon. TJ Kajwang'** (Ruaraka, ODM): On a point of order.

**Hon. Speaker:** Hon. TJ Kajwang' what is your point of order?

**Hon. TJ Kajwang'** (Ruaraka, ODM): Hon. Speaker, we are bound to truths in this House. One should verify their information. I know that the Leader of the Majority Party has more information that has not been divulged. Can he lay this court order on the Table for us to verify? I sit in a relevant Committee that is handling this matter and stakeholders, including the Attorney-General and the LSK have appeared before us. We have not seen an order which seems to agree to the dispossession of this dispute. Can he present the order to us?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker. I am not a Member of the Departmental Committee on Justice and Legal Affairs, but Hon. TJ is. He was present in the Committee when this consent was tabled before the Committee. The Chairperson of that Committee can confirm. Therefore, Hon. TJ, if you want me to table any document, just go through your committee's Report and you will find the documents.

**Hon. Speaker:** Give Hon. Chepkonga the microphone.

**Hon. Samwel Chepkonga** (Ainabkoi, UDA): Thank you, Hon. Speaker. I rise pursuant to Standing Order 83, as I always like to refer to the Standing Orders. We must learn to always quote the Standing Orders. I am a former Chairperson of the JLAC and Hon. Murugara is here to confirm what the Leader of the Majority Party is saying. I do not know why he is not saying anything. Can I donate my point of order to him?

*(Laughter)*

*(Hon. George Murugara stood in his place)*

**Hon. Speaker:** Order, Hon. Murugara. That donation is absolutely illegal.

Hon. Kimani Ichung'wah, *endelea*.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. People are becoming increasingly creative in this House. Now they are donating points of order. I know that Hon. Chepkonga was eager to hear from Hon. Murugara. Nevertheless, I have consulted Hon. Murugara about this. As diligent legislators, we need to sit through meetings, including Committee meetings. Hon. TJ might have signed in at the Committee and did the obvious.

*(Laughter)*

He might, therefore, have not had the opportunity to see the documents tabled before the Committee.

Those issues have since been addressed. Even accountants like myself had issues with certain provisions. I must thank the lawyers who stood with us because they were more than us, led by the Member for Homa Bay Town, Hon. Kaluma. We raised issues here and even when the Bill passed, they went to court. I am certain now that those issues have been adequately addressed.

Hon. Speaker, this Bill is good for this country. It is also true that anti-money laundering laws are not laws that are forced on any country by anybody. They are meant to protect our financial system against abuse. We cannot make Kenya a safe haven for criminals. It is, indeed, true that we have suffered the most, especially in terms of terrorism financing. Terrorists are financed by people who imagine that our financial system is porous that anybody can finance anyone to do anything. Before the enactment of the Proceeds of Crime and Anti-Money Laundering Bill of 2009, people were able to freely finance terrorists, who visited untold suffering on our people and caused many deaths. These will continue to be things of the past if this Bill is approved by this House and becomes an Act of Parliament because it seeks to strengthen the laws that already exist.

As I have mentioned, there are other issues that few Members raised on the issue of making anti-money laundering offences extraditable offences. That is also true. We have seen the Island of Jersey seeking to extradite a former Cabinet Minister and a former Chief Executive Officer (CEO) of a State corporation of this country so that they can face charges on crimes of corruption involving companies that were domiciled in the United Kingdom. Those are the kinds of provisions we are seeking to introduce in this law so that if you commit a crime today, you can be dealt with appropriately. When I was seconding Hon. Murugara, I gave the example of the title “Triton Energy Saga”. You remember people who looted billions of shillings in this country, after which they comfortably flew out and are living in other countries happily. Since we do not have a law that makes money laundering an extraditable offence, we cannot extradite back to the country anyone who has committed a money laundering crime.

We are speaking about corruption in our county governments. Tomorrow, it will be governors who may loot our country dry. We cannot extradite them. It will be like criminals who are engaging in acts of terrorism. This morning, I got a text message from somebody in Lamu pleading for help after terrorists and criminals attacked some village and burnt a church in that county. The people financing these criminals will always find some safe haven to hide if we cannot extradite them to this country to answer to their crimes. They will easily access money to fund terrorist to carry out such atrocities. Even those who are within our country financing terrorism activities or drug abuse will go scot-free. There is nobody who launders money that is legitimately made. Anybody who is involved in money laundering is a criminal. He is, in one way or the other, involved in criminal activities. As Hon. Members, we must rise to the occasion to protect our financial system. We must protect the integrity of our country’s financial system and join the league of world nations that have enacted laws that make money laundering a crime that is extraditable.

Hon. Speaker, let me take this opportunity to, once again, thank all the Members who have supported the Bill. I invite Members who may be having amendments to file them with the Table Office for consideration during the Committee of the whole House. Those Members who never got a chance to speak on the Bill can always avail themselves during the Committee of the whole House to seek a chance to comment on it.

With those remarks, I beg to reply.

**Hon. Speaker:** Hon. Members, I will now put the Question.

*(Question put and agreed to)*

*(The Bill was read a Second Time and committed to a Committee of the whole House)*

**Hon. Speaker:** Next Order.

THE CLIMATE CHANGE (AMENDMENT) BILL)  
(National Assembly Bill No.42 of 2023)

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move that the Climate Change (Amendment Bill) National Assembly Bill No.42 of 2023 be now read a Second Time.

Climate change is here with us. Many of us used to read about climate change and climate control. We used to watch feature stories about this phenomenon on Cable News Network (CNN) and other international news channels without relating those stories first-hand with the issues that confront us as people living in this world today. We have just come out from a drought season that was billed as the worst drought this country has ever had in the last 40 years. Many people in the space of climate change and environmental conservation will tell you that it has a lot to do with climate change and global warming.

Hon. Speaker, allow me to begin by thanking the Chairperson of the Departmental Committee on Environment, Forestry and Mining, Hon. Gikaria, and all the Members of this Committee, for expeditiously considering this Bill and listening to many players. The Bill touches on issues to do with carbon credits and carbon credits trading. I know it has attracted a lot of attention from many players in the civil society and environmentalists, who are keen on carbon credit trading. I must thank all the active players or stakeholders who have appeared before the Committee and gave their views. I also thank many others who honoured the Committee's invitation to the public participation exercise that was being conducted by the Ministry of Environment and Forestry. I also thank the Ministry of Environment and Forestry for having considered a lot of memoranda from members of the public and other stakeholders.

*[The Speaker (Hon. Moses Wetang'ula) left the Chair]*

*[The Temporary Speaker (Hon. Gladys Boss) took the Chair]*

Hon. Deputy Speaker, as I said earlier, climate control and climate change is governed around three key treaties to which Kenya is a signatory. One of those treaties is the United Nations Framework Convention on Climate Change (UNFCCC), which Kenya ratified in 1992. The objective of the Convention was to curb and stabilise greenhouse gas emissions into the atmosphere. The second protocol is the Kyoto Protocol, to which Kenya became a State party in 1997. One of the key distinctions between the Kyoto Protocol and UNFCCC is that while the UNFCCC encourages industrialised countries to stabilise greenhouse gas emissions, the protocol committed the State parties to operationalisation of the UNFCCC commitments by committing industrialised countries and economies in transition to limit and reduce greenhouse gas emissions in accordance with agreed individual targets.

The Kyoto Protocol, however, failed to stem the flow of global emissions. It further failed to equate emission reductions with economic opportunities and some countries grew to view mitigation as a very costly punishment. The Kyoto Protocol required only developed countries to reduce emissions.

Hon. Deputy Speaker, in 2015, the countries agreed on yet another legally binding climate treaty - the Paris Agreement - which recognises that climate change is a shared problem and calls on all countries in the world to set emission targets. Kenya was not left behind. As a country, we have set our own emission targets. At the heart of the Paris Agreement and the achievement of its long-term goals are what are called the Nationally Determined Contributions (NDCs). The NDCs embody efforts by each country around the world to reduce national emissions and adapt to the impacts of climate change.

The Paris Agreement, in Article 4(2) requires each State party to prepare, communicate and maintain successive NDCs she intends to achieve. Therefore, State parties are required to pursue domestic mitigation measures with the aim of achieving the objectives of such contributions. Kenya ratified the UNFCCC in 1994; the Kyoto Protocol in 2005, and the Paris Agreement in 2016, thereby signifying our determination to join the global community in combating the problem of climate change. In her commitment to work with the international community to combat climate change, Kenya has identified mitigation options in the areas of energy, transport, industry, agriculture, forestry and waste management sectors, which if well implemented, would achieve the twin objectives of sustainable development and greenhouse gas emission mitigation.

Hon. Deputy Speaker, those who listened to the United States Ambassador last week, while addressing congregants at the Devolution Conference in Eldoret, among the many things she said was recognition of the efforts our nation has made in terms of mitigation of climate change. While talking about green energy, she said that Kenya is among the leading countries in the world in terms of green energy production. Almost 100 per cent of our energy today is green energy from wind, solar and geothermal investments that we have made in Olkaria and Menengai, where the Chairman of the Departmental Committee on Environment, Forestry and Mining comes from in Nakuru. We have also invested a lot in wind energy where Hon. Chachu Ganya - a former Member of Parliament - and Hon. Naomi Waqo, come from. Hon. Chachu Ganya is a former Member of Parliament who was very keen on environmental matters. He hails from Marsabit County, where wind energy is one of the major sources of energy, powering big sections of our city and many other parts of our country.

It is these interventions in the energy sector and in transport, where about three weeks ago, His Excellency the President commissioned the green mobility, where our boda boda riders will now access cheaper motorbikes that are powered using electric energy as opposed to fossil fuel energy that degrades our environment. It is these efforts, including the other big efforts that are geared towards re-afforestation around our country that give Kenya carbon credits.

I must take this opportunity to thank Hon. John Kiarie, who at the beginning of this Session of Parliament, moved a Motion that required that as contractors build roads around our country, they make sure that they plant trees as compensation for the trees they destroy along the corridors where they undertake the road works. This should not just apply to road contractors but even to contractors building dams because they also uproot a lot of vegetation and trees in the course of their work. We should now make it compulsory for contractors who degrade the environment to plant trees. These are the efforts we are talking about in terms of reducing greenhouse gas emission and mitigation measures that the country has taken.

Hon. Deputy Speaker, Kenya was among the first African countries to develop a stand-alone climate change Act - the Climate Change Act, 2016 - which anticipated a horizontal integration through the National Climate Change Council to provide, among others, an overarching legal and policy framework for climate change. This framework also provides for a vertical integration that requires every sector and institution whose function impacts climate change to incorporate climate change into its regular assignments. However, the National Climate Change Council has not been operationalised since 2016 because of the process of how it was to be composed. There has also been several court cases since 2016 regarding who have been proposed to be members of the Council. Hon. Members are aware of many of the cases.

This Bill, in Clause 6, proposes an amendment to retain the composition of the Council from the various sectors, but it takes away the nominating powers of the representative bodies in the sectors. In a way, this will address the problem of sibling rivalry among players in the

various sectors, who took each other to court and made it difficult to operationalise the Climate Change Council. The proposed amendment to Clause 6 seeks to solve that problem.

Clause 7 of the Bill proposes additional roles for the Cabinet Secretary responsible for matters climate change to, among others, advise the Council on carbon budgets, authorise establishment of sector-specific registries of carbon markets, and to appoint a designated national authority for market mechanisms deriving from Article 6 of the Paris Agreement. We are required to have a registry of all our carbon credits and have this put under a designated national authority.

Clause 9 of the Bill replaces the Director of Climate Change Directorate with the word “Secretary” just to fit in with the Government nomenclature and designation of titles.

Hon. Deputy Speaker, Clause 23(a) to Clause 23(h) introduces a new part in the principal Act. This part is about regulation of the carbon market. That is why I said at the beginning that there has been a lot of interest, especially from people in the civil society and other stakeholders who are already trading in the carbon credit market and we must, therefore, be able to regulate this sector. Clause 23(a) to Clause 23(h) is a new part of this law designed to deal with the regulatory aspects of carbon markets.

As I mentioned earlier, the Paris Agreement anticipated that the Secretariat of the UNFCCC would work with State parties. Therefore, State parties are required to prepare, communicate and maintain what I referred to as NDCs in line with Article 4 of the Paris Agreement. All the State parties, including Kenya, are, therefore, required to designate a national authority for the mechanism of carbon markets - which is a mechanism under Article 6 of the Paris Agreement - and to communicate this designation to the Secretariat. The designated national authority anticipated by the Paris Agreement is carried in this amendment Bill, and will be appointed by the Cabinet Secretary as highlighted in Clause 7(2)(a).

Hon. Deputy Speaker, the functions of the designated national authority will be, among others, as contained in Clause 7(2)(b), to maintain a national registry. This is to ensure that Kenya meets its international obligations both on NDCs and under Article 6 on the mechanism. As I mentioned earlier, State parties are required to designate a national authority. This is one of the areas where there has been contention because there are interested non-State parties who wanted to be designated to maintain the registries for our carbon credits. However, in line with the provisions of the Treaty of the Paris Agreement, this is supposed to be a nationally designated authority and, therefore, private entities will not be the ones maintaining our national registries of carbon credit because people will trade with carbon credit at the expense of the sovereignty of the State and the people of Kenya. A national-designated authority will enable the Government to ensure that anybody trading in carbon credits does so in the interest of the country and not in the interest of private entities. Hon. Gikaria and the Vice-Chairperson of the Committee will tell you that there are many players who want to capture this sector. The sector is not immune to State capture or capture by other players out there. It is possible to have it captured by civil society organizations, or by environmental activists. As legislators, we are charged with the responsibility of ensuring that we protect national assets, including carbon credits - which have since become national assets. We should ensure that as people trade, they do so in the interest of the country, and that nobody takes advantage of them.

Hon. Deputy Speaker, those of us who have had opportunity to work with climate and drought resilience councils will tell you that even boreholes in our constituency backyards are capable of generating carbon credits, for which people can earn money. People in the villages do not know that they can earn money from the trees they have planted in their farms. People will take advantage of our people. It is important to have a national-designated authority to ensure that this does not happen.

I am over-emphasising that the proposed national-designated authority will be a public body, and not a private entity. It will report to the Secretariat of the UNFCCC on how Kenya’s

Article 6 engagement mechanisms, which is a carbon market framework, contributes to the country's sustainable development and helps us to alleviate poverty and how these activities, projects and any associated emission reduction contribute to our achievement of the NDCs and the long-term goals of the Paris Agreement. When you sink a borehole and you are earning carbon credits, through the national-designated authority, we should see how that impacts on alleviation of poverty among our people, and how it contributes to sustainable development of our country and the neighbourhood.

Hon. Deputy Speaker, Clause 23(a) of the Bill provides for policy direction on carbon markets. It includes carbon reduction credits that aim to reduce emissions from current sources through projects. It also indicates carbon credits that cannot be taken into account. Therefore, there is a distinction between carbon credits that you can trade and those that you cannot trade. Clause 23(b) provides for trading carbon markets whose main aim is towards a reduction of green gas emissions as per the prescribed carbon standards. The procedure and technicalities of trading will be more elaborate in the regulations.

*(Hon. Naomi Waqo handed a document to Hon. Kimani Ichung'wah)*

Thank you, Hon. Naomi. As I was saying, the Ministry will develop regulations, in line with the statute, which will come to this House for inclusion of a more elaborate provision on how we will trade in carbon credits.

Clause 23(c) of the Bill provides for participation in carbon markets, in line with Article 62 of the Paris Agreement or as a result of trading with private entities or in a voluntary carbon market under Article 64 of the Paris Agreement, which will require reporting to the UNFCCC Secretariat by the designated national authority. Clause 23(d) of the Bill provides for environmental impact assessment.

Clause 23(e) requires all projects to show the anticipated social, environmental and economic benefits, bearing in mind that the carbon markets framework is to help countries and State parties to achieve sustainable development and alleviate poverty.

Hon. Deputy Speaker, the reason why we need a national authority is to ensure that we meet the principal objectives of the Paris Agreement. Whatever projects a country engages in should be undertaken in such a way that its social, environmental and economic impacts are measurable. Whatever goes to the carbon market should be towards ensuring sustainable development in the country and the alleviation of poverty in our neighbourhood. It is important that the carbon credits market is well regulated. I hope the Ministry will make efforts to ensure that the regulations safeguard the people, who will be the ultimate beneficiaries of the carbon credit market, such that nobody trades in carbon credits at the expense of the people. Additionally, whatever money comes from the carbon credit markets should go towards alleviating poverty and ensuring sustainable development in our country.

Clause 23(h) provides for a dispute resolution mechanism in carbon market projects and activities. It sets out the National Environmental Tribunal as the court of first instance to deal with disputes in the carbon market framework. As I said, anything that has this kind of interest, from the public and private sector and even the civil society, is bound to have disputes. The Tribunal will have the requisite technical skills through its employees, right from judicial officers to judicial clerks with knowledge on environmental issues.

Hon. Deputy Speaker, the proposed amendment to the Climate Change Act of 2016 will not only help in institutionalising horizontal governance in climate action across the country, but will also help Kenya meet her international obligations reporting on NDCs through streamlined registries. It will also help in the furtherance of the long-term goals of the Paris Agreement to help parties achieve sustainable development and alleviate poverty by implementing the carbon market framework as contained in Article 6 of the Paris Agreement.

Once this Bill becomes an Act of Parliament, we will ensure that we have truly actualised the real intents of the Paris Agreement, especially Article 6 that speaks to great length on issues of sustainable development and alleviation of poverty. It will ensure that trade in carbon credits is done in line with the Paris Agreement and with the goal of ensuring sustainable development in our countries. The trade will also be done with the singular objective of alleviating poverty among our people and ensuring that nobody takes advantage of poor people, many of whom help us in conserving the environment and in reducing greenhouse gas emissions. They are the people planting trees in our backyards and school compounds.

Hon. Deputy Speaker, I must take this opportunity to commend the Government, especially the Ministry of Environment and Forestry, for its plans to roll out tree planting and development of tree nurseries in our schools. This will ensure that we train our children on how to safeguard the environment and to be environmental conservation and climate change advocates against the abuse of the environment.

In the next two weeks, we will be hosting the Africa Summit on Climate Change. It will be a big event that will be attended by over 20 Heads of State and Government and about 17,000 delegates, who are bound to descend on the City of Nairobi. Therefore, this Bill has been brought at a prime time. I hope and pray it will be enacted into law before the Climate Change Summit that will take place from 4<sup>th</sup> to 6<sup>th</sup> September 2023. Hopefully, His Excellency the President will assent to this Bill either just before the opening of the Climate Change Summit or at the Summit itself. The Summit will be a monumental opportunity for him to assent it into an Act of Parliament as he officially opens it.

Hon. Deputy Speaker, I wish to invite all Member of Parliament to take note of the Summit dates and make themselves available. I know we will be on recess, in line with our Calendar, and I urge the Members who will be in Nairobi to take time and attend the Summit and learn how to take advantage of tree-planting and sinking of boreholes in their constituencies, among other mitigation measures against climate change to earn money not just for themselves, but also for their constituents. Many Members of Parliament are also business people and, therefore, they can also take advantage because they have the means to engage in climate control mitigation measures that can earn them carbon credits and they can trade in and make a little more money for themselves, their families and constituents.

With those many remarks, I beg to move and request the Chairperson of the Departmental Committee on Environment, Forestry and Mining, the Member for Nakuru Town East, to second.

**Hon. David Gikaria** (Nakuru Town East, UDA): Hon. Deputy Speaker, I beg to second the Climate Change (Amendment) Bill (National Assembly Bill No.42 of 2023).

First of all, I take this opportunity to thank the Leader of Majority Party. He is the owner of the Bill. He moved it as though he was in our meetings for the last three weeks. I admit that the Leader of the Majority Party understands his work and is able to prosecute his responsibility in a very able way. I also thank the Office of the Clerk for availing the secretariat that enabled the Committee to undertake its mandate of scrutinising this very important amendment Bill. Most importantly, I thank the Members of the Committee for availing themselves throughout our deliberations on this Bill. Yesterday, a day that is not designated for Parliament to sit, almost 90 per cent of the Members of the Committee sat throughout the day, until late in the evening, and thus enabled the Committee to complete this very important exercise.

Hon. Deputy Speaker, I echo what the Leader of the Majority Party has said. This country is blessed to be the first in the world to host the African Climate Change Summit that will start on 4<sup>th</sup> and end on 6<sup>th</sup> September 2023. Over 20 Heads of State and Government will attend the Summit. As the Leader of Majority Party mentioned, over 20,000 delegates have

already logged-in, acknowledging their decision to participate in the African Climate Change Summit. At the same time, I would like to disagree with one of our local media houses, which has castigated our Head of State in an article they published recently claiming that the Summit is being propelled and engineered by foreigners for their own interests. They are wrong. I hope the media will attend the Summit from 4<sup>th</sup> to 6<sup>th</sup> September 2023 so that they can see the input of our Head of State and the interest he has for this country and Africa.

We consume the carbon emissions that are emitted by most of the developed countries but, of course, we cannot just sit, as the Head of State indicated, and complain. We must, as a continent and as a country, address the emerging issues on climate change and climate change mitigation. Of course, I do not want to remind Kenyans of the just-ended longest drought that this country has experienced since Independence.

Hon. Deputy Speaker, this amendment Bill seeks to facilitate participation in the mitigation of green gas emission by authorised public and private entities. It also seeks to ensure that carbon trading projects undergo an environmental and social impact assessment. For anybody who would like to enter into carbon market trading, they must undergo an environment and social impact assessment through the National Environment Management Authority (NEMA).

Thirdly, the Bill seeks to ensure that a land-based project is implemented through a community development agreement. This is key. Foreigners and investors from other countries have been disadvantaging our people. This Bill seeks to bring into force a community development agreement that will give birth to sharing of the proceeds that will be realised from our investment.

Lastly, the Bill provides a benefit-sharing mechanism to ensure that proceeds from carbon credit trading are shared between project proponents and the impacted communities in a fair manner. As the Leader of the Majority Party indicated, a designated authority will be formed by the Cabinet Secretary, and it will be in charge of all these aspects.

Hon. Deputy Speaker, my Committee undertook public participation. It placed an advertisement in the print media on 16<sup>th</sup> August 2023, requesting for comments and submission of memoranda from members of the public and other relevant stakeholders, pursuant to Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3). As the Leader of the Majority Party indicated, the advert attracted a number of stakeholders from the private sector, civil society organisations and individuals.

I would like to thank the Leader of the Majority Party for specifically mentioning Hon. Chachu Ganya, who came to the Committee meeting in person to give his side of the story because he has been at the forefront of carbon credit matters and climate change for a long time. Now that he is out of Parliament, he is able to prosecute that initiative. One of the issues Hon. Ganya brought to us to consider - which was missing in this amendment Bill - is that there are already players in the business of carbon market trading, who will be scared of the transition period once this Bill becomes an Act of Parliament and comes into force. He was scared because there was no specific transition clause to cater for the time they are accredited to do business to the time when this amendment Bill becomes law. Of course, as a Committee, we will be bringing an amendment to accommodate what Hon. Chachu Ganya proposed. Individual civil society organisations and players from the Private Sector Alliance, the Kenya Association of Manufacturers, the Kenya Climate Change Working Group, and the Kenya Wildlife Conservancy Association also came and gave their views on the amendment Bill. Other stakeholders who were in attendance included the Northern Rangelands Trust, the Nature Conservancy, the Nairobi Climate Network, the Academia Ban Manufacturing Company, the Tumua Innovation Limited, the Environmental Institute of Kenya, Kenbright, among others.

Hon. Deputy Speaker, an individual who is so resourceful in matters climate change, and whom we respect, appeared before the Committee to be vetted to become a member of the

National Climate Change Council. He is Prof. Outa. He also gave us so much input on matters relating to carbon credit and climate change. We thank Prof. Outa for being very candid on some of the issues he prosecuted yesterday.

The submissions by the stakeholders will be taken into consideration while crafting the final amendments of the Bill. That is key because it is not just a public relations exercise. The Committee takes public participation by the various stakeholders who appeared before it very seriously. It is important for us to take some of their opinions. Of course, without anticipating debate, as had been said, the Committee agreed with a few of the comments given by different stakeholders. We will be including those proposals through amendments during the Committee of the whole House.

Hon. Deputy Speaker, while considering the Climate Change (Amendment) Bill 2023, the Committee observed that, once enacted, the revised law will enable this country to comply with the Paris Agreement, which we ratified on 28<sup>th</sup> December 2016. The revised law will specifically comply with Article 6 of the Agreement, as has already been alluded to by the Leader of the Majority Party. It will enable carbon emission mitigation through the carbon credit market approach and other approaches.

The designated national authority is a very key component. When looking at it, we were a little bit confused as to whether we require it. The designated national authority is not an authority as such. The Bill says “designated authority” means the entity or organisation granted responsibility to authorise and approve participation in projects under the Paris Agreement on Climate Change. That is why we say this is not a money Bill. It does not attract additional public expenditure. We do not have to form boards for this authority because the Cabinet Secretary will be appointing one of the already existing authorities within the organisation to undertake what we are talking about. This is important because the registry will be domiciled at the authority. It is a key authority only with the national Government.

A few people felt that we should have taken the registry on carbon credit to the counties. Of course, Members know what will happen if we give the county government a slight window to have a say in this matter. The county governments will start licensing people, giving out conditions and charging other levies that are unacceptable, and which would hinder investors from coming to the country. Therefore, the proposed authority will be purely managed by the national Government in order to avoid what usually happens. I know this Bill concerns the counties at a certain level. Once the National Assembly approves, it will be forwarded to the Senate for concurrence. I hope the Senate will agree with us to fast-track this very important amendment Bill.

Secondly, the carbon market trading is not a locked thing like has currently been happening. Currently, carbon market trading is 100 per cent private sector dominated, without the involvement of the Government. Everybody is just doing their business. This Bill has come to regulate the market in very many ways. It does not stop private sector involvement as the market includes a bilateral agreement, a multilateral agreement and a voluntary carbon market where individuals can approach the ministry when they want to trade. Under the relevant regulations, they will uptake this very important business. What the Leader of the Majority Party has said is true. As we speak, many private sector players are earning carbon credits at the expense of Kenyan communities. When the Government takes charge through this Bill, our local communities will be the biggest beneficiaries.

I have talked about the national carbon registry, which is key. It will go a long way in trying to have a transparent and accountable registry. With a few recommendations from the private sector, we will have it opened in the law. We accepted that it should be opened so that you can easily request when you want to do a search and easily get the results you want.

One important issue is the share of the proceeds for the communities. This Bill is investor-friendly because the proposal on sharing will go a long way in inviting many investors

to come into the country and invest in carbon market trading. The percentages have been alluded to, for land-based carbon credit markets, there is a proposal of 40 per cent, and for non-land, it is at 25 per cent. That proposal is attractive to investors to come and invest in the carbon market trading.

Hon. Deputy Speaker, I want to echo what the Leader of the Majority Party has said about the nomination of members of the National Climate Change Council. Currently, we have two cases pending before the Court of Appeal and before the High Court. Since 2016, we have not operationalised the Climate Change Council. That is sad. In picking members to the council, you allow the largest organisation to bring a nominee. They are like two of them. If you pick from one, the other organisation goes to court and stops the process. This amendment Bill seeks to address that problem. It gives the appointing authority to the President of the Republic of Kenya, who will nominate a person from either of the organisations for appointment to the Council. Again, this will fasten the process. We will not have different organisations related to climate change matters going to court to stop the appointment of a member to the council.

We still have a case pending at the Court of Appeal about the nominees of 2016. After going through a difficult process of vetting, the two bodies are locked in a legal dispute to-date. This amendment Bill seeks to give the appointing authority leeway to pick a nominee from an organisation related to climate change and carbon credit, and the Kenya Association of Manufacturers. He can pick people from there. As a Committee, we have also agreed to increase the representation of the private sector in the council. The current arrangement is that the private sector has only one slot in the Council. We are considering providing the private sector with an additional slot because the sector plays a very big role in the climate change aspect.

As explained by the Leader of the Majority Party, green energy is key to climate change control in this country. We have already looked at the regulations with a view to cascading these issues to the countryside up to the village-level. We want to educate the people out there that they can, indeed, earn carbon credits on the aspect of commercial forests and make extra money for themselves. You can earn a lot of money by just planting trees and reducing carbon emission. For example, if a school was emitting five tonnes of carbon dioxide to the air through cooking their food in a day, such a school can decide to reduce its carbon emission into the atmosphere by using cooking gas instead of firewood. That switch over from wood fuel to cooking gas will result in a reduction in carbon emission into the atmosphere. Just by the act of such school using gas or something better to cook instead of timber, it will earn an amount of money commensurate to the amount of carbon credits it would have earned.

When our President came up with the idea of planting 15 billion trees, people thought that we were doing something for conservation. Our President has realised the amount of revenue that we can generate. As we speak, we are rated number eight in terms of the amount of money that we receive out of carbon market trading, which is a big business. However, carbon credit money has been going into the pockets of some individuals in foreign countries and to a few Kenyans. The revision of this law and the planting of 15 billion trees will boost our country's GDP by a big percentage from the proceeds of carbon market trading.

Hon. Deputy Speaker, I have already spoken about the transition of the existing players in the carbon trading market. We are critically looking at the proposal by Hon. Chachu Ganya with a view to introducing a transitional clause to cater for the already existing players in the carbon credit trading market. We want to give them time to transit into the Act once it comes into force.

Disputes are things we should anticipate when enacting the law on trading activities of any kind. It is, therefore, important to remember that the Community Development Agreement mechanism has a provision on how to address disputes that may arise. If you do not agree as

per the Community Development Agreement, you can take the matter to the Environmental Tribunal responsible for dealing with disputes.

Kenya is on the right track on matters of environmental management and climate change mitigation. As the Leader of the Majority Party said, Kenya is among the first African countries to enact a climate change law - which we did in 2016. We look forward to hosting a very robust conference that will address many issues. I thank the Head of State for the position he has taken as the Chairman of the Africa Climate Change Conference that is coming to Nairobi.

With those few remarks, I beg to second.

**Hon. Deputy Speaker:** Hon. Members, I wish to recognise the presence of students seated in the Public Gallery. They are students of Hermann Gmeiner Primary School from Nyali Constituency, Mombasa County, and Kanusin Boys High School from Bomet Central Constituency, Bomet County. We also have students seated in the Public Gallery. They are students of Yuraget Primary School from Tharaka Constituency, Tharaka Nithi County; Ayed Children Primary School from Nyali Constituency, Mombasa County; Lower Moiben Primary School from Soy Constituency, Uasin Gishu County; Kagumori Primary School from Manyatta Constituency, Embu County; and Blair Serem Primary School from Keiyo North Constituency, Elgeiyo Marakwet County.

On my own behalf and that of the entire House, I welcome you all to Parliament.

*(Loud consultations)*

I will give a chance to Hon. Nyikal. Let us first proceed with the debate.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Deputy Speaker for giving me an opportunity to contribute to the debate on this Bill.

**Hon. Deputy Speaker:** Hon. Nyikal, hold on. Let me propose the Question first.

*(Question proposed)*

*(Hon. Owen Baya rose on a point of order)*

Hon. Owen Baya, what is your point of order?

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Deputy Speaker, I suggest that as we begin this debate, we reduce the time for each Member to three or five minutes so that we can give chance to as many Members as possible to contribute to this debate.

I beg to request.

**Hon. Members:** Yes!

**Hon. Deputy Speaker:** I can see that Members are in agreement with Hon. Baya's request. Do we reduce the time for each Member to three minutes?

**Hon. Members:** Yes!

**Hon. Deputy Speaker:** You may proceed, Hon. Nyikal.

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you Hon. Deputy Speaker for giving me an opportunity to contribute to this Bill. This amending Bill is basically doing three things. First, it is trying to align the existing law with the Paris Agreement, which is a good thing. However, it is seeking to do two other things that makes me to oppose it. I oppose this Bill because it seeks to replace the directorate with the council, and then all the powers will be concentrated in the cabinet secretary.

In Clause 4, this Bill seeks to delete what I think is a very good arrangement for public participation although the provision has been relocated elsewhere thus diluting the public participation that is expected. Clause 6 seeks to remove the appointment of stakeholders by

stakeholders, and puts all of it in the hands of the President, which is okay. All the others are civil servants and, virtually, all the council members will be appointed by the President. We are trying to put a saving grace by saying that they will be brought to the National Assembly for approval. I have never seen a council or an institution where everybody is literally appointed by the President. Even the permanent secretaries and all the stakeholders will be appointed by the President. Even if they are brought to the National Assembly, we will be denying Kenyans opportunity to participate. Clause 7 takes every power of that council under the cabinet secretary. So, he will do everything like advising and directing. The best way is to just make the council a department of a ministry. We should not pretend that this Bill is creating a council. This is merely a department of a ministry.

Hon. Deputy Speaker, I oppose. In my view, this amendment Bill should not be approved. I see that we are hurrying to pass it before the conference. Who is forcing us to have a Bill that must adhere to the Paris Agreement before the conference? We cannot have important Bills in our country being driven from outside. So, my colleagues should reject this Bill and look at our existing Act after the conference. Maybe, we can borrow some ideas from the conference and incorporate them in this amendment Bill in a more organised manner. We should not hurry the passage of this Bill.

I have not had time to read through the Bill, but on those basic principles, I oppose it. These are about seven clauses and a majority of them are not in the best interest of this country.

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

**Hon. Deputy Speaker:** What is your point of order, Leader of the Majority Party?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Speaker, I appreciate that Hon. Nyikal has finished contributing, but I am surprised that he has opposed a Bill he has not even read. What a fallacy! He is a very seasoned legislator. He should have taken his time to read the Bill. It was not published this morning. It was published over two months ago. How can he oppose what he has not even read?

**Hon. Deputy Speaker:** Okay, you have made your point. Let us proceed, starting with the Member for Kwale County, Hon. Masito. Since Hon. Masito is not in, we can hear Hon. Charles Kamuren, the Member for Baringo South.

**Hon. Charles Kamuren** (Baringo South, UDA): Thank you, Hon. Deputy Speaker. I stand to support this Bill. First of all, we are not in a hurry to pass it for purposes of the conference as indicated by Hon. Nyikal. As a Committee, we are doing our work as expected. This Bill is long overdue compared to what is going on in the country concerning carbon credit trading. If the money coming into the country for purposes of development is not controlled and accounted for by the Government, it will be like we are allowing civil societies to overrun the Government.

As indicated in this Bill, there will be a register containing data on how programmes and projects will be run. Since the Government will be in control, communities that are unaware of what is happening will be made aware because the register will be availed to the public for everyone to see. So, this Bill is good for development purposes. I urge Members to find time and read it because it was published two months ago. I heard a Member say that it has just been published and I wonder where he has been. I urge Members to support this Bill and pass it for the sake of the development of our country.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** The Member for Turkana Central. Member for Mbeere North, Hon. Geoffrey Ruku.

**Hon. Ruku GK** (Mbeere North, DP): Thank you, Hon. Deputy Speaker. Before I make my contribution to this debate, I want to mention that I have been in the carbon credit trading business since 2009. I have registered carbon credit projects with the United Nations Framework Convention on Climate Change, Gold Standard and sold carbon credits. I have

consulted on carbon credit projects in South Africa, the Democratic Republic of Congo (DRC), Malawi and Madagascar. Therefore, I am an expert as far as carbon credit trading is concerned.

The carbon credit trading business involves quite a number of areas like energy, forestry, finance and foreign affairs. If you look at these amendments, they anchor all the carbon trading business under one ministry - the Ministry of Environment and Forestry. If we pass this Bill as it is, we will be completely out of the carbon credit trading business. This is because there are projects within the Ministry of Energy and Petroleum, the National Treasury as well as the Ministry of Foreign and Diaspora Affairs. This is because some of the international protocols or conventions agreed to are within the realm of the Ministry of Foreign and Diaspora Affairs. This amendment Bill makes the Ministry of Environment and Forestry the focal point when it comes to carbon credit trading.

**Hon. David Gikaria** (Nakuru Town East, UDA): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Member for Nakuru Town East?

**Hon. David Gikaria** (Nakuru Town East, UDA): Thank you Hon. Deputy Speaker. The Member has alluded to the fact that it is only the Ministry of Environment and Forestry that has been bestowed that responsibility. I request him to read the whole Bill and see the players therein. The National Treasury is there because a member of the Climate Council will be advising it. So, it is wrong for him to tell us that the Ministry of Environment and Forestry is the only one involved. The Ministry of Energy he is talking about is also...

**Hon. Deputy Speaker:** You have made your point. Proceed, Hon. Ruku.

**Hon. Ruku GK** (Mbeere North, DP): Hon. Deputy Speaker, it is also important that I mention...

**Hon. Owen Baya** (Kilifi North, UDA): On a point of order, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** What is your point of order, Deputy Leader of the Majority Party?

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Deputy Speaker, I would like to inform the Member that there are many players, including the Kenya Ports Authority (KPA), the National Treasury, the Ministry of Trade, Investment and Industry, the Ministry of Roads, Transport and Public Works, and the State Department for Shipping and Maritime Affairs - all of which have been put in one basket. Business happens that way. It cannot just be one ministry doing business. Many ministries come together to do business. Therefore, the Member is misleading the House.

**Hon. Deputy Speaker:** Thank you for the point of information. You may proceed, Hon. Member.

**Hon. Ruku GK** (Mbeere North, DP): Hon. Deputy Speaker, please allow me to make my contribution. Other Members will make their contributions. I spent the previous weekend looking at this amendment Bill with Hon. Lekuton, and we have a Carbon Trading Bill that is well structured.

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

**Hon. Deputy Speaker:** What is your point of order, Leader of Majority?

**Hon. Kimani Ichung'wah** (Kikuyu UDA): Hon. Deputy Speaker, the Member for Mbeere North is completely out of order. He cannot question the existence of this Bill on the basis of him and another Member having brought a Bill that deals with carbon credit trading. I want to ask the Member for Mbeere North, in line with Standing Order 90, to declare whether he has any interest in carbon credit trading in the country or elsewhere... He cannot use his position as a Member of Parliament to advance private business on the Floor of this House.

**Hon. Deputy Speaker:** Proceed, Hon. Ruku.

**Hon. Ruku GK** (Mbeere North, DP): Hon. Deputy Speaker, at the outset, I said I am an expert in as far as carbon trading is concerned. I have developed carbon credit projects not

only in Kenya, but also in South Africa, Malawi, Madagascar and the Democratic Republic of Congo (DRC). I have been in this game for some years. What I am saying is that if we pass this Bill the way it is, we will scare investors. If you look at clause...

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

**Hon. Deputy Speaker:** What is your point of order, Leader of Majority?

**Hon. Kimani Ichung'wah** (Kikuyu UDA): Hon. Deputy Speaker, the Member for Mbeere North did not listen to me. I asked him if, in line with our Standing Orders, he has any pecuniary interest. He has confirmed that, indeed, he has pecuniary interest. Therefore, he cannot contribute to this Bill. He is pretending to be opposing it. What is informing his contribution is the consultancy he is doing in the carbon credit market.

In line with our Standing Orders, it would only be in order, if he has any pecuniary interest, to first declare it. It is within his right to oppose the Bill, but even as he does so, people should know that he is opposing it because he has pecuniary interest in the carbon credit market. As the Chair said, he cannot continue to mislead the House. Hon. Baya also pointed out that he is misleading the House that the Ministry of Tourism and the Ministry of Environment are now amassing powers to themselves in the carbon credit market trade. I am not in any way saying that that is what he is doing. However, he looks like someone who is protecting pecuniary business interests. That is wrong and it is out of order. So, I beg that you ask the Member for Mbeere North to either declare his interest or cease further contribution to this Bill.

**Hon. Deputy Speaker:** Hon. Member, take note of Standing Order 90. It states, in paragraph (1) that a Member who wishes to speak on any matter in which the Member has a personal interest shall first declare that interest. Paragraph (2) states that personal interests include pecuniary interest, proprietary interest, personal relationships and business relationships.

Hon. Ruku, you may proceed and declare your interests, if any.

**Hon. Ruku GK** (Mbeere North, DP): Hon. Deputy Speaker, I have no business interest as far as this amendment Bill is concerned. I have only one interest - to ensure that the people of the Republic of Kenya benefit in totality in as far as the carbon credit business is concerned. I have seen project developers suffer in the Republic of Kenya. If we pass this amendment Bill as it is, we are going to kill many project developers in the Republic of Kenya. I know because I have been there. I have no personal interest in as far as this amendment Bill is concerned. My only interest is to ensure that...

**Hon. Deputy Speaker:** Your time is up. What is your point of order, Hon. Baya?

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Deputy Speaker, it is not fair for the Member to speak from both sides of his mouth. He said clearly that he has consulted in Malawi in carbon credit business, and that he has a business in carbon credit that earns him money. When he was challenged to declare his interest, he said he has none. He needs to withdraw both statements and declare that he has pecuniary interest. He is not fit to contribute to this debate and mislead the House.

**Hon. Deputy Speaker:** Let the Member respond. He needs to declare his interest.

**Hon. Ruku GK** (Mbeere North, DP): Hon. Deputy Speaker, I am fortunate to be an expert in carbon credit. This House should benefit from my experience in this trade.

*(Hon. Kimani Ichung'wah spoke off record.)*

Yes, it is a trade. Carbon business is a trade. Listen. Let me...

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

**Hon. Deputy Speaker:** What is your point of order, Leader of Majority?

**Hon. Kimani Ichung'wah** (Kikuyu UDA): Hon. Deputy Speaker, first, I want to ask the Member for Mbeere North to relax. He is my friend and it is in his own best interest to conform with our Standing Orders. Allow me to read for him. He did not listen to you.

Standing Order 90 says:

“(1) A Member who wishes to speak on any matter in which the Member has a personal interest shall first declare that interest.”

“(2) Personal interests include pecuniary interest, proprietary interest, personal relationships and business relationships.”

*(Hon. Ruku GK spoke off record)*

Pecuniary interest is something that earns one money. The Member has just confirmed on *Hansard* that he is a consultant in that area. He, therefore, makes money in that area. He has pecuniary interest. Other interests are personal relationships and business relationships, including consultancy. Therefore, it would have only been right if the Member for Mbeere North declared his interest before contributing to this Bill. However, he did not.

In line with our House procedures, I want to guide him and ask him to, please, declare his interest. Is it harmful to declare interest?

*(Loud consultations)*

**Hon. Deputy Speaker:** Order, Hon. Members. You cannot have conversations among yourselves. We shall move to the next Member.

*(Hon. Ruku GK spoke off record)*

I will only give you an opportunity if you will speak in compliance with Standing Order 90. I will not give you a chance to contribute because your time is up. Do you want to respond in compliance with Standing Order 90?

Proceed.

**Hon. Ruku GK** (Mbeere North, DP): Hon. Deputy Speaker, I have been a consultant and a project developer in carbon credit in the Republic of Kenya. On my contribution to this amendment Bill, I am doing it in good faith so that our nation can benefit from...

**Hon. Deputy Speaker:** Hon. Member, I asked you to respond in compliance to Standing Order 90 and declare if you have interest or not. You failed to declare interest at the beginning of your debate. Therefore, you need to withdraw your contributions and apologise then we proceed.

**Hon. Ruku GK** (Mbeere North, DP): Hon. Deputy Speaker, the Leader of the Majority Party is bullying me.

*(Laughter)*

I will not accept to be bullied by the Leader...

**Hon. Deputy Speaker:** Member for Mbeere North, I will not give you a chance to speak because you are not responding in compliance to Standing Order 90. You are using the opportunity I have given you to respond to your colleagues.

Member for Tharaka.

**Hon. George Murugara** (Tharaka, UDA): Thank you very much, Hon. Deputy Speaker. We are having a heated debate because as everybody knows, climate change has become an emotive issue. In fact, the current debate in the country is whether we should adapt

to climate change or mitigate it. We have all agreed that we should mitigate it because without it, adapting may not be easy. Climate change is natural. We may not have a way of controlling its course unless we mitigate it.

We have spoken about problems affecting the ozone layer for a long time. I remember the late President Moi was quite keen on environmental protection and conservation. He delivered a speech on the ozone layer in London. We may have said that we were being pushed by foreign powers, but if we had agreed to do what we were told to do at that time, maybe, the droughts and other climate change problems that we face today would not have occurred.

It is very important that we mitigate climate change so that we can revamp our water sources, which are now depleted. We may control the drought cycle, which seems to appear every now and then. Arid and semi-arid areas, including those in my Tharaka Constituency, may become better places to live in and may produce more food, which would benefit the country.

Hon. Deputy Speaker, the Bill seeks to establish a very important directorate, to which we will be going to seek services when it comes to matters climate change. We cannot leave it to the Ministry alone. In as much as the Ministry is supposed to mitigate climate change through that directorate, we require regulations that will be used to effect matters of climate change.

*[The Deputy Speaker (Hon. Gladys Boss) left the Chair]*

*[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]*

We must also note the issue of carbon credits, which are now being used in trade. It will be good for the country if carbon credits contribute to our revenue. Any lawful endeavour that puts money in the hands of Kenyans and improves their lives is important.

This is a good Bill, and we should support it wholeheartedly.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Mary Emaase. She is not in the House. Hon. Beatrice Elachi. She is also not in the House. Hon. Owen Baya, are you ready to proceed?

*(Hon. Kangogo Bowen spoke off-record)*

**Hon. Owen Baya** (Kilifi North, UDA): When did you become Baya? He stole my name.

Hon. Temporary Speaker, I would like to contribute to this Bill. Kenya is noted as eighth in the world in terms of carbon trade. This Bill is about adaptation, afforestation, reforestation and landscaping. Our forest cover has been degraded. We need to have 30 per cent forest cover in the country. We must practise reforestation as a mitigation measure against climate change.

Kenya is a signatory to the Paris Agreement. We seek to amend the Climate Change Act to ensure that we are still aligned with the Paris Agreement. However, we need to find a way to promote sustainable means which are consistent with our national laws and priorities in terms of ensuring that we have enough forest cover, and that this country does not continue to suffer the vagaries of climate change. The Paris Agreement allows countries to voluntarily cooperate with each other to achieve emission reduction targets set out in their nationally determined contributions.

Climate change is a global issue. Events in Tanzania or Uganda might affect us. Therefore, we must stand together as Africa in terms of managing climate change. There is a

lot of carbon trading in the country. Most times, communities engaged in that trade are exploited. A lot of money is lost in this country through carbon trading. Communities lose a lot of money. We need to anchor carbon trading in law so that communities can benefit. In my constituency, there are many organisations that deal in carbon trading and they make a lot of money.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gladys Boss, the Deputy Speaker and Member for Uasin Gishu County.

**Hon. Gladys Boss** (Uasin Gishu County, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to lend my voice to this important Bill. This issue is close to my heart. The title of my Bachelor of Laws (LLB) thesis was “Depletion of the Stratospheric Ozone Layer.” If we had taken action as a country back then, we would not be where we are today. We would not be suffering from the effects of climate change. I appeal to Members to support this Bill because we are taking action three decades late. We have seen the catastrophic effects of climate change.

Kenya has ratified various international instruments. Therefore, it is imperative that we align our domestic legislation with our international obligations. The instruments include the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Montreal Protocol on substances that deplete the ozone layer. This Bill is timely.

For that reason, I support it.

**The Temporary Speaker** (Hon. Peter Kaluma): Thank you, *Mwalimu*. Hon. Eric Muchangi, Member for Runyenjes.

**Hon. Muchangi Karemba** (Runyenjes, UDA): Thank you, Hon. Temporary Speaker, for giving me an opportunity to add my voice to the debate on the Climate Change (Amendment) Bill, which I support.

We have been told about carbon trading for a long time, but our people in the villages do not know how they can benefit from it. I walked around my constituency just the other day and met groups of people who were registering my constituents, especially farmers, as beneficiaries of carbon trading. I support the idea of having a climate change directorate within the Ministry of Environment and Forestry, which will be in charge of informing our people how best they can benefit from carbon trading. Most parts of our country receive sufficient rain. Our people can be told to plant more trees because by doing so, they are guaranteed to earn an income. That provides an extra opportunity for our people to earn an income.

Our rivers and swamps are drying up. Those are the effects of climate change. Droughts and floods in the country affect our farmers and people in arid areas, who are left without livestock.

This country experiences drought and floods, leaving our farmers and those from the arid areas without livestock. They are swept away by rainwater. All this effort of coming up with a Climate Change (Amendment) Bill is to mitigate the disaster that may come through drought or floods.

Hon. Temporary Speaker, I support the Bill. Thank you.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. (Dr) John Mutunga.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Thank you, Hon. Temporary Speaker, for giving me the opportunity to contribute to this Bill.

*(Loud consultations)*

*(Hon. Mugambi Rindikiri and Hon. John Kiarie consulted loudly)*

Hon. Temporary Speaker, I need your protection. There is a lot of noise from Hon. KJ.

**The Temporary Speaker** (Hon. Peter Kaluma): Order, Hon. Rindikiri. We have less than 20 minutes to debate this Bill. Can we listen to one another as we proceed? Actually, it is less than 15 minutes. Hon. John proceed.

**Hon. (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Speaker, let me take a few minutes to lay out this framework.

First, the UNFCCC discussed climate and said it was important to have the standards. The Kyoto Protocol defined the framework, but there were no commitments. Then, there was the Paris Declaration, which committed countries to reducing greenhouse gases. The nationally determined commitments are those to reduce greenhouse gases.

Climate is universal. You can intervene anywhere in the world. That is why there is money in this particular field. I want to discuss very briefly how this money comes in. The countries that pollute the environment have committed themselves to reducing greenhouse gases. However, you can intervene anywhere in the world. That is why they can come here and cause afforestation or forest growth or invest in clean energy. If there is a reduction of greenhouse gases through such investment, they can factor this into their commitment during the annual reviews of the UNFCCC, otherwise called the Conference of Parties (CoP).

Its 28<sup>th</sup> meeting will be in Dubai in the United Arab Emirates (UAE) this year. It will happen between 30<sup>th</sup> November to 12<sup>th</sup> December. These are called negotiations. They come in to try and see how they can figure out possible ways of reducing greenhouse gases. The reason they have to be reduced is because they increase the temperature of the earth. It has increased up to 1.54 per cent. If it reaches 2 per cent, nobody knows what will happen. The idea is to reduce pollution by ensuring that this temperature does not increase. Some countries like the United States of America (USA) are not very committed to reducing the use of pollutants like coal as a source of energy. Therefore, there is a need for us to partner with other countries to reduce greenhouse gases. That is why there is carbon credit or carbon market because other countries can allocate money here to cause the reduction of greenhouse gases. Therefore, they take this as their contribution. They can factor this into the negotiations. This Bill comes to regulate this market and the activities in this sector. It is important to have such a Bill regulating the...

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. John Waweru, you are the second last.

**Hon. John Kiarie** (Dagoretti South, UDA): Thank you very much, Hon. Temporary Speaker. A wise man says we do not inherit the earth from our ancestors. We borrow it from our children.

What we do with the earth while we are alive is important, especially at a time like this when the effects of climate change are apparent. They do not know borders. Whatever happens in Kenya has an impact on South America. Whatever happens in Europe has an effect in the Southern Hemisphere. We are aligning our laws with international obligations like the Paris Accord, which is critical.

Secondly, we all accept that the business of carbon credits will be big globally going forward. Aligning ourselves as a country to a place where our communities can benefit from climate change and carbon benefits allows me to support this Bill. I can see that a designated national authority will be created. There might be debate around it. However, when you read through the Bill properly, you understand that this is an authority designated to superintend over the registration of entities participating in this carbon credit business.

Finally, because time is of essence, a good environmentalist, Hon. Wangari Maathai, told us that if we had to do anything about this environment and our climate, we had to be like the hummingbird that did that little that it could. My little thing as a hummingbird in this Session of Parliament was to bring a Motion that suggested we plant trees along all our roadsides and reserves. We are building in excess of 600 kilometres of roads every year. If we

can only plant trees along the roads we make every year, we can do so much to mitigate the effects of climate change. We will reverse the adverse effects of climate change and beautify our country to a place where we can convert our bare roads into boulevards.

*[The Temporary Speaker  
(Hon. Peter Kaluma) left the chair]*

*[The Deputy Speaker (Hon. Gladys Boss) took the chair]*

Hon. Deputy Speaker, I am conscious about time because many other Members would like to contribute. I support the Bill. Thank you very much.

**Hon. Deputy Speaker:** Member for Kisumu East, Hon. Shakeel Shabbir.

**Hon. Shakeel Shabbir** (Kisumu East, Independent): Thank you very much, Hon. Deputy Speaker, for recognizing the agreement that we, as Independent Members of Parliament, had with the Hon. Speaker to give us some preference.

I stand to support some of the amendments in this Bill. It gives the national Government and county governments duties to mainstream climate change. I do not want to go through the whole Bill. There is a proposed amendment that civil society should be removed from the National Climate Change Council. I do not mind that, but I feel that under Article 10 of the Constitution of Kenya, we must have community representation, which is not civil society representation. We should amend that and particularly have representation from the Maa Community and other nomadic and marginalized communities suffering heavily from climate change.

Hon. Deputy Speaker, one of my colleagues, was talking too much about carbon credits earlier. I have never seen this country develop anything out of carbon credits. In collusion with Kenyan consultants, the foreign consultants take away our benefit of carbon credits, which are worth a lot of money.

Hon. Deputy Speaker, they take our carbon credits and throw them at the cost of nothing with foreign consultants and say: "You must allow us to do that. We are bringing benefits to Kenya." I have not seen any benefits in Kenya. I do not even know the level of carbon credits Kenya earns and has. I have no idea how many carbon credits Kenya has and what they are traded for. It is the same way that the colonialists came here. They gave us cowrie shells and took away our gold. Now they are giving us carbon credits and taking away our health. The carbon credit in this country is worth one-hundredth of the carbon credit in the United Kingdom. I dispute my colleague from Mbeere.

**Hon. Deputy Speaker:** Thank you. Member for Buuri, Hon. Mugambi. You are the last one.

**Hon. Mugambi Rindikiri** (Buuri, UDA): Thank you, Hon. Deputy Speaker. I am sorry, I was a bit agitated a few minutes ago, but I am now okay. I rise to support this Bill for the following reasons. By creating this authority, we will have a coordinated body that will look at the issues of climate change. I come from a large-scale farming community with a lot of chemical emissions and water pollution. I come from an area where the forestry business is relatively high. This Council will formulate the relationship that is going to exist between the economic planning of this country and climate change, which has been lacking for a long time.

The Council will be in charge of research, development, training of our community, and implementing the programmes the Government wants to put in place. There are too many communities that are not aware of the importance of climate change. We know this is the first time we have seen public and private initiatives entrenched in a Bill. To succeed in climate change, we cannot avoid the private sector. Through this Council that this Bill has brought, we see the initiative of private organizations being put in place. We will see the private sector's

contributions to the carbon credit business. This Bill also brings full support to public participation in managing the climate change sector.

I support.

**Hon. Njuguna Kwanjiku** (Kiambaa, UDA): On a point of order, Hon. Deputy Speaker.

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

**Hon. Njuguna Kwanjiku** (Kiambaa, UDA): Thank you, Hon. Deputy Speaker. I rise on Standing Order 95 and propose that the Mover be called upon to reply, considering how important this Bill is.

**Hon. Deputy Speaker:** Is that the mood of the House?

**Hon. Members:** Yes.

**Hon. Deputy Speaker:** Alright. The Mover may reply.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. I thank all Members who have contributed to this Bill and for their support. As I said, I hope we will all be keen to take maximum advantage of the carbon credits market and derive value for our constituents. Also, in line with the Paris Agreement, we should ensure that sustainable development and alleviation of poverty become a crucial cog as we get in the carbon credit market.

I take this opportunity to thank Hon. Ruku, who unsuccessfully attempted to oppose the Bill. I advised him that next time, the best thing will be to declare an interest, if any. I know other Bills from private Members like Hon. Ruku and Hon. Lekuton. We invite them to enrich their Bills with part of what has been said here and before.

I beg to reply.

*(Question put and agreed to)*

*(The Bill was read a Second Time and Committed to Committee of the whole House)*

**Hon. Deputy Speaker:** Next order.

THE WATER (AMENDMENT) BILL  
(National Assembly Bill No.33 of 2023)

**Hon. Deputy Speaker:** May the Mover move the Bill please. Leader of the Majority Party, I call upon you to move the Bill.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Deputy Speaker, I beg to move that the Water (Amendment) Bill (National Assembly Bill No.33 of 2023) be now read a Second Time.

Hon. Deputy Speaker, this Bill actualises what the President spoke to during the State of the Nation Address in September 2022 when he called upon the House to help the Government actualise the Public-Private Partnership (PPP) funding model for the water sector. Kenya is a water-deficient country. It is among the water-scarce countries in the world, with slightly above 40 million people who cannot access clean drinking water. We have challenges with sewer systems around the cities. I am happy the Member of Parliament for Nairobi County, Hon. Passaris, is in the House this evening. Nairobi is one of the areas where people not only lack clean drinking water in their residences but also experience sewer management problems. Sewer management is a problem in our cities and across the country.

The provision of water and sewer resources is a capital-intensive exercise. Governments around the world cannot fund clean drinking water and sewer services to their own people with their own resources. Over the years, governments have continued to borrow

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and finance water resources and sewer services through costly loans at times and limited the amount of work they can put in because of the inadequate resources.

This Bill, therefore, seeks to address some of these challenges to ensure that we have a sustainable mechanism to fund water and sewer services without necessarily borrowing huge loans. This Bill will help the Government attract new capital investment to bridge the funding in the water sector and ease the debt burden. As I said, Hon. Deputy Speaker, that has squeezed funds available to us for development projects in other areas. It has also increased capital in intensive water projects without relying on loans, and we will roll out more projects. This is not only about water but also food security. Water is also used in irrigation, which speaks to the food security agenda of the Government. Indeed, it is our desire for the people to have food security. We know that to irrigate millions of acres of land to ensure food security, we must have water. That can only be provided through dam construction, which, as I have said, are capital intensive.

Hon. Deputy Speaker, with our budgets, if we were to do the kind of dams that we need for irrigation across the country, we will need to finance this over a period of a minimum of 16 to 18 years to actualise the dams that we intend to build in this country, both for water provision and irrigation. If we were to wait for 18 years to be in a position to provide water to our people or irrigate land to ensure that we are food secure, then as leaders, we would have failed.

This is why this Bill is timely. It has come when we have just come from a terrible drought. We saw the need to have water, not just for drinking or irrigation, but even in our pastoral areas to provide for our livestock. This also includes our wild animals in the park. Remember that elephants, hyenas, lions, and even monkeys are dying in our parks, including even those monkeys to be relocated from Gatanga to elsewhere.

*(A Member spoke off the record)*

Hon. Deputy Speaker, somebody said that they will relocate monkeys from Gatanga to somewhere else. Those monkeys move to areas that people inhabit, and there are increasing cases of human-wildlife conflict because of climate change and the lack of water resources. It is, therefore, important that even in our parks, we have adequate resources to provide water to our wild animals, which are also resources to our country. We will only actualise this if we have a Water Purchase Agreement in line with our Public-Private Partnership Act 2021. We use this Act to generate electricity and provide electricity in our neighborhoods. We use models where we bring both the public and private sectors to generate electricity, then onboard that electricity to the transmission companies. It is in the same spirit that we now want to onboard water provision. County-based water service providers can get water in bulk from PPP projects and sell that water to our neighborhoods and our people, ensuring that they have clean drinking water.

Hon. Deputy Speaker, besides being capital intensive, this water sector also has its problems. Those in the Departmental Committee on Blue Economy and Irrigation will tell you that one of the biggest problems that all water service providers and all bulk water providers have to deal with is unmetered or non-revenue water. Resources are deployed to generate that water, but it is unmetered and, therefore, not generating any revenue for the National Government or our county governments. Part of the solution to the problem of non-revenue or unmetered water is to ensure that we bring in private-sector partners. Who will have a market-driven perspective to ensure that every drop of water that is generated, and every resource for water that we have in this country is metered and generates revenue for our county governments and the other players in the water sector?

We must reach a point where innovation, and Information and Communication Technology are factored in. I have compared situations in Kenya, particularly the city of

Nairobi, and a city like Sandton in South Africa. You find that every household in Sandton is metered, and they are paying. In fact, the City Government of Sandton gets revenue enhancement systems using the private sector, which collects all city water bill. Comparatively, in Nairobi, probably 60 per cent of the people here have their water unmetered. Probably only 40 or 50 per cent are paying out of the metered ones, and we have no systems. Therefore, we must deploy modern technology and innovative ways to increase the revenue we generate from our water resources and then ensure that we get all the money that is collectible from the water sector.

Hon. Deputy Speaker, we can only do this if we harness and tap into the resources and expertise in the private sector, lacking in the public sector. We could not do that without the provision of a Water Purchase Agreement. With the enactment of this water Bill, we shall actualise the PPP model in the water sector and have Water Purchase Agreements. This way, bulk water suppliers can now get bulk water provided by private entities that have invested their money without going back to our Exchequer to look for money to build or construct dams or sink all manner of boreholes in every neighborhood. If you go to Kilimani today, every other adjacent plot has a borehole. We are also draining our underground water. That would have easily been sorted out by getting Ruiru II Dam. I see the Member for Kipkelion, who had a very good paper on Ruiru II Dam, in the House. We will be able to generate more water resources from huge investments in this sector without necessarily going back to the Exchequer or our development partners to borrow money, which further strains or burdens our country with public debt.

Hon. Deputy Speaker, I do not want to say much in the interest of time. Let me take this opportunity to thank the Departmental Committee on Blue Economy and Irrigation, under the able chairmanship of Hon. Bowen Kangogo, who worked quickly to consider all the stakeholders who have made representations. I thank the many stakeholders who appeared and continue to appear before the Committee to bring their representations regarding what they would like to see in actualising these PPPs in the water sector.

With those many remarks, I beg to move and request the able Chairman of the Committee, Hon. Kangogo Bowen, to second.

**Hon. Kangogo Bowen** (Marakwet East, UDA): Thank you, Hon. Deputy Speaker. Thank you, Leader of the Majority Party, for an elaborate presentation, especially on this amendment of the Water Act, 2016.

The Leader of the Majority Party has summarised almost the entire input of this Water Amendment Act. I want to add a few things even as I second. In this Bill, the Water Act of 2016, which we seek to amend to operationalise the PPP, is the main reason. If you look at our debts as a country, you will find that the water debts are almost half because we have borrowed a lot of money to invest in dams and water infrastructure. The National Government borrows money and invests in infrastructure, and the water is supplied to counties through the water service providers.

You will find that the water service providers managed by the counties are facing serious challenges. One of the challenges is what we are calling the non-revenue water: the illegal connections that we are seeing across our slums and people who do not have metres. That is where we are losing revenue. Again, at the national level, the national Government, through the National Treasury, is struggling to pay the loans that were used to fund this infrastructure. With this amendment, this challenge will be addressed. The Bill seeks to amend ten clauses of the Water Act 2016. We have comprehensive amendments which will come to this House later.

As you have heard from the Leader of the Majority Party, the country does not have the capital to invest in dams. With PPP, we can increase water connection and distribution to our people.

Hon. Deputy Speaker, the Bill also seeks to increase efficiency in water distribution and management in the sense that when counties are supplied water in bulk, it is their responsibility to make sure that they make the last mile connection to the last person so that they can increase their revenue and pay loans which were used on the water infrastructure.

The Bill went through the First Reading, and we are now doing the Second Reading. It is good and important to say that today, a few minutes ago, the time for public participation elapsed, but we are still receiving some memoranda. By this evening, we had received ten memoranda, which the Committee has been considering. We met the Ministry, and they proposed some amendments. We have also received a number from water service providers, and their concerns were on bulk water supply. Many of them were concerned about whether we would have water development agencies as the water service providers. Let me make it clear that water development agencies will only develop water infrastructure, especially those that cut across two counties. They will develop and sign the agreement with private investors on behalf of the Government. We have water service providers in the counties, and this Bill concerns counties, so it will be taken to the Senate. The water development agencies are not after the last mile connectivity or to work as water service providers.

We are amending the Water Act 2016 to bring in the Water Tribunal in this Water (Amendment) Bill, 2023. All tribunals are now in the Judiciary. Yesterday, the Judiciary appeared before us and submitted that they want the Water Tribunal to be put under the Water Amendment Bill, 2023. Currently, what is mentioned in the Water Tribunal is only the chair without the membership. We are seeking to define the composition and the terms of the Tribunal members. The National Treasury also appeared before us because of the issue of PPP. The Attorney-General also appeared before us. The Ministry submitted some proposed amendments a few minutes ago.

With the passing of this Bill, we will increase water connectivity to the people of Kenya, especially through the last mile, and make sure we are not only developing dams for hydro alone but multipurpose dams so that they have hydro, irrigation, and domestic components. Many dams, like the one in Masinga or Turkwel, are only for hydro. We want to ensure that as we develop dams, they have three components: hydro, irrigation, and domestic.

I second the Bill. I ask my colleagues to support and pass this amendment Bill so that we make sure water, especially as provided for under Article 43 of our Constitution, is taken to every Kenyan in this country.

Thank you, Hon. Deputy Speaker.

*(Question proposed)*

**Hon. Deputy Speaker:** Let me give a chance to a few Members to contribute. Hon. Rozaah Buyu, you have the microphone. A microphone that is on is behind you. It seems like all the microphones have gone off. Go to the one behind you. Can we give you the portable microphone? Let us give you the portable microphone. It is working now.

**Hon. Rozaah Buyu** (Kisumu West, ODM): I thank you for this opportunity, even though there was a slight sabotage from my friend, Hon. Dorothy.

*(Laughter)*

First, I support this amendment. I am a Member of this Committee. I know that Article 43(d) of our Constitution states that every Kenyan has a right to clean and safe water in adequate quantity. At the first engagement with this amendment, I thought the government was trying to initiate this amendment Bill to abdicate its responsibility of ensuring every Kenyan had this safe and adequate water. After interrogation, especially when it was put to us, I

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discovered that this is just another model of ensuring that every Kenyan gets this safe water adequately. I agree fully and support this amendment.

We know that water is an issue. We know that water is inadequate even though we say 72 per cent of Kenyans or the country have some water. We also know that water is underfunded. Given that every Kenyan needs this water, we support it when the government looks for opportunities to ensure that water is as widespread as where Kenyans live. That makes me support this amendment.

Another point I looked at that made me a bit hesitant was the fact that water is devolved. I initially thought this amendment would bring the national and county governments to collision. Having interrogated the amendment, there is no way the national Government can usurp the powers of county governments in the provision of water or the function of water. The eventual distribution of this water to the end consumer will lie with county governments. In its role to ensure all Kenyans have water, the national government would only be producing water or enabling it to be produced in bulk so that county governments get water to distribute or sell to the people of Kenya.

My biggest worry was if we amend and introduce PPP, what would be the end cost to the consumer? I was worried that it would make water costlier than it is, just like our electricity is getting way beyond the Kenyan consumer. However, I was convinced that the water regulatory body would still be in place to regulate and ensure that the price of water is still kept within its limits.

For those reasons, as a Member of this Committee, I fully support this Amendment.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Geoffrey, proceed. Keep it brief.

**Hon. Geoffrey Wandeto (Tetu, UDA):** Thank you, Hon. Deputy Speaker. I would also like to support this Bill.

Sixty years after Independence, it is a shame that most Kenyans still do not have access to clean drinking water. They say insanity is doing the same thing and expecting a different result. We must start interrogating the model we have used for 60 years. Why has it not delivered the results that we have all been looking for? I support that we need a paradigm shift if we have to accelerate, create sustainability, save lives, mitigate conflict, and provide our people with enough water.

The next world war, as we have said many times, will most likely result from water shortage. We must start rethinking a new model of providing water. A PPP model serves this issue very well. It is a coincidence that we are discussing this Bill just after finalising the Climate Change Bill because the two issues are interlinked. These days, we see seasons of heavy rainfall, and all that water drains to the ocean. In the following season, we are dealing with a catastrophic drought. It is very important that we create a mechanism where we can build these mega-dams that we have been speaking about. Some of them have been in planning for 50, 40, and 30 years, but because of not having enough public funds, these dreams have been delayed, and our people continue to suffer.

I support this model. To give us history, if we had no PPPs, this country would still be power deficient. With the PPP now, we have seen what we can do with our roads, and the expressway is a perfect example. We must embrace this. I am happy that we have planned to develop two mega dams in my constituency: Gura and Muhoya. Both are going to be PPP dams. They will not only supply water to my constituency, but we also envisage that they can supply water to most parts of Nyeri and some of our neighbours like Muranga and Kirinyaga. We must embrace this model.

In our towns, we have aging piping and distribution systems. In Nairobi, for example, we cannot even afford to upgrade our systems because of limited public funds. With this model, we will start seeing investment in the distribution system. We will begin to improve billing. If

we succeed, this model should also be replicated in other areas of development where public funds have been under-invested.

As I conclude, it is also important to think about the many water companies we created because of an Act of this Parliament. Every county in this country has eight to 10 small water bodies, most of which are not economically viable. They cannot maintain their systems and invest adequately. I hope that the movers of this Bill can also, in their wisdom, see whether we can improve the current model.

Based on that, I fully support this Water Bill. We hope we have better days ahead in this country. Thank you.

**Hon. David Gikaria** (Nakuru Town East, UDA): On a point of order.

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

**Hon. David Gikaria** (Nakuru Town East, UDA): Hon. Deputy Speaker, this is a very important Bill. I rise under Standing Order 95...

**Hon. Members:** No! We need to be heard.

**Hon. Deputy Speaker:** Hon. Members, you are out of order. Let us hear the point of order.

**Hon. David Gikaria** (Nakuru Town East, UDA): Hon. Deputy Speaker, this is a very straightforward amendment, and all the Members who have spoken support this Bill. I rise under Standing Order 95 to ask that the Mover be called upon to reply.

Thank you, Hon. Deputy Speaker.

*(Hon. (Dr) Ojiambo Oundo stood in his place)*

**Hon. Deputy Speaker:** Is the Mover ready to reply? Hon. Oundo, I will not allow you to speak because you are grossly out of order. Sit down.

As we wait for the Mover to reply, you can speak.

**Hon. (Dr) Ojiambo Oundo** (Funyula, ODM): Hon. Deputy Speaker, the water issue is central to people's livelihood. Since Independence, we have been told water is life. We cannot treat such an important Bill casually. So, we cannot contribute and let the people know what we are talking about.

To understand, Article 43 of the Constitution made water one of the social and economic values or expectations of the people of Kenya. So, the Chairperson of the Departmental Committee on Environment, Forestry and Mining should be courteous, allow Members to ventilate, and let them go on record.

At Independence, we were told that the Government was supposed to provide water, yet 60 years later, water availability in this country is still deficient. People trek long distances in many constituencies, villages, and areas looking for water. I had an opportunity to go to North Eastern, and if you see the number of donkey caravans looking for water, it is heart-rending and a shame.

I come from Funyula Constituency, which borders Lake Victoria. Still, my constituency and Busia County are water deficient simply because the national Government and county government do not have adequate resources to invest in waterworks. That is why, from where I stand, I support this amendment that allows for PPP or even Public-Public Partnership (PuP) to ensure there is water that goes to the various Kenyan homes wherever they are.

A major concern is where a private sector provider is in it for business and profit, unlike a public sector. The only cause for concern is two things will arise: the tariffs for delivery to individual households might go higher and make the product unaffordable, but on the contrary, if the regulations are very tight, we will not get efficient Public-Private partnerships. We will still not solve the problem we are talking about here. That is why it is important that the committee, as they retreat to do their amendments, must look at both sides of the coin. How do

they ensure they attract credible service providers? How do they ensure they entice private practitioners or water works to invest without them cutting corners?

On the other side, we must ensure water is affordable. Some of the tariffs we are having currently... I want to give an example of an electricity project. There is the Kudura Power Project, which goes to many places in western Kenya as opposed to other parts of this country. Their tariffs are three times higher than Kenya Power's, yet people have taken them because they are better than nothing. Again, this is unaffordable and extremely expensive. Going through the Bill, as short as it is, we need to address a few curious issues. There is a very curious provision in Clause 4. I hope those in charge are listening. At the very end of Clause 4, the provision states: "provided that a national public water works shall not be transferable to a county government." We need further explanation. What does it mean that national public water works are not transferable to a county government? Water is a devolved function. What exactly are we saying? Are we infringing on the Constitution? Are we changing the way we do things? We need to be very clear. In any case, the section on definitions and interpretation does not define what constitutes "national public water works."

Is this another case of hurried drafting that cannot address the issue?

Another matter of concern is the issue of which body is authorized to abstract water. Clause 10 of the Bill tries to redefine or contextualise the matter but is unclear. You have heard of the quarrels between the people of Murang'a and those of Nairobi. They argue that water is extracted in Murang'a and transported to Nairobi, yet the people of Murang'a do not have water. The Bill is not very clear on the cure for that malady. I urge the Committee to re-look it and draw from experts in the water sector.

As we introduce PPPs, we need to be very clear to avoid conflicts, confrontations, and a lot of wastage. It is not always right to say that a private sector entity is the most efficient. It is not. Often, the public sector can be efficient if only we cure governance issues. Many public sector bodies make profits, while many private sector players perpetually report losses. At the end of the day, the common *mwananchi* must get clean, adequate water at a reasonable price.

I hope that there will be public participation during the setting of tariffs so that we do not exploit Kenyans to reward the private sector.

With those few remarks, I support the Bill.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Millie Odhiambo.

**Hon. Millie Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Speaker, for giving me a chance. From the onset, I support the Bill, but I will be very brief because I can read the mood of the House.

I support the PPP arrangement because we are talking about the accessibility of water in many areas. Even though almost 70 per cent of the country has access to water, most people do not have adequate water supplies. We need adequacy as well as accessibility of water.

I worked very closely on the Water Act in 2016 in mainstreaming human rights. One strong issue that came out was that we may have to consider PPPs to ensure accessibility to water. I want to encourage good governance because sometimes corruption sets in. You will find that only a few people can access water, a few are working on climate change, and others are working in different sectors. As an old Member, I see which direction we are headed to. I see the good intentions and also the funding intentions. I encourage that our funding intentions do not override the public good. As we move towards PPPs, remember that Kenyans need to access water.

I support the Bill.

**Hon. Julius M'anaiba** (Igembe North, UDA): Thank you, Hon. Temporary Speaker, for giving me this chance to contribute. The people whom I represent need to be heard.

At the outset, I have gone through the Bill, which has some grey areas that the Committee did not address. As I look at the mood of the House, just like what my colleague has said, there

are projects that exist. The law does not operate in retrospect. It operates from where it is formulated onwards. This Bill will affect those who have their interests and have invested independently. They have water in their homes. They have used pipes, which they bought through their investments. However, at the end of the day, they will be charged by the county governments for the water that they are using. Those are the areas that have not been addressed.

Water is a natural resource. We must be careful when making the law on it, for some cannot afford it. It is very good if we address issues affecting our towns like Nairobi, Meru, or any other place. People in rural areas cannot afford three meals a day or have bread on the table. We are talking about the Bottom-Up Economic Model. We should make sure that we uplift those who are down economically. We have returned to those down economically to charge them for a natural resource they have been enjoying from God. We are here today, and everybody is clapping that we need to start charging the common man in the village.

Even if it means standing alone, I stand to oppose this Bill because it is not well thought out.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. James Nyikal.

**Hon (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Speaker. I rise to support this Bill with a lot of caution.

Water is partly a devolved and national Government function. The bulk water is under the national Government. Between the national and county governments, many water Boards have not been highly efficient. County governments do not have enough bulk water to distribute, and the Boards are inefficient. In the end, people get very little water at the grassroots level.

The introduction of the PPP may support this. It will help in the middle-level distribution and partly the bulk water. I do not think there are private bodies that will take huge bulk water as the national Government. More importantly, we must look at water management at the county level in distribution at the grassroots level, considering the nature of our terrains and how our housing and villages are potted all over the place. It is extremely important. Sometimes, I wish we had communal living where living in towns or villages would be easy.

Although I support the Bill, I am concerned about the cost. Once the private sector comes in, we must be extremely careful about controlling the costs. From the experience in this country, every time the private sector comes in—despite having the Public Private Partnerships Act in place—it usually swallows the public sector. Ultimately, it is the private sector that works, and then the cost goes up, making it impossible to deal with. Look at what happened with the universities. When we relaxed and said we could support private and public universities, we had to reverse that situation because of what happened.

Hon. Temporary Speaker, I support this Bill. It will be very important for the tariffs and how water is charged to be strictly controlled. This should be both a national Government and county government function. We should also have ratings in other areas of revenue collection. This will protect the people. Otherwise, our people will start redirecting water from the rivers and set up small dams to sell the water to people without looking at the effects on the environment.

Therefore, Hon. Temporary Speaker, I support this Bill with a lot of caution.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Wanjiku Muhia.

**Hon. Wanjiku Muhia** (Kipipiri, UDA): Thank you, Hon. Temporary Speaker. Looking at the mood of the House, I will restrain myself to only two things. First, investors have shied away from getting into PPPs with the Government because there is no clarity on the roles and the costs for each party. I hope we will introduce a new clause in the Committee of the whole House, which will clarify the roles of each party. For instance, the investors can dig the dams, and the Government can distribute water. The infrastructure is important.

Finally, we have had dams in Nyandarua, Murang'a, and other areas without any form of revenue sharing. We have supplied water to Nairobi through the Sasumua Dam and received nothing in return. The worst thing is that the neighbouring communities to the water catchment areas do not benefit. Now, with the PPPs, as the residents of Nyandarua, we expect dams like Malewa and Pesi to supply water to the local areas.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Harrison Kombe.

**Hon. Harrison Kombe** (Magarini, ODM): Asante Mhe. Spika wa Muda, kwa kunipa nafasi ili niweze kuchangia Mswada huu.

Tangu tupate Uhuru, swala la maji limekuwa nyeti sana. Mpango huu mpya wa kuhusisha Serikali na kampuni binafsi utasaidia pembe zote za nchi kupata maji. Watu binafsi wakihusishwa katika uchimbaji wa mabawa, watasaidia kueneza maji kwote nchini. Mbali na hivyo, sehemu nyingi ni kame na hazina maji. Si kwamba maji hayapatikani; maji ni mengi chini ya ardhi, lakini namna ya kuteka maji haya na kuyaeneza kwa wananchi ni tatizo sugu. Ninatumai kuwa Mswada huu utasuluhisha matatizo hayo, na watu watapata maji kote nchini.

Kwa haya machache, asante, na ninauunga mkono Mswada huu

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Andrew Okuome.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you, Hon. Temporary Speaker. I want to add my voice to this important issue. As everybody else has said, water is life, but it is sad that we are still talking about this many years after Independence. I support the idea of using PPPs to get water to our people.

The PPPs can connect water to small-scale holdings, and the local communities can get water from dams and rivers. We need sources to sustain the water supply to the communities in need. At the same time, at the national level, the Government can use PPPs on a larger scale to cover larger areas. For small areas, we can use the locals in conjunction with the Government to join in PPP to get water for our people. Water is essential, and we need it. We need to strongly support a Bill like this one and take action.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Esther Passaris.

**Hon. Esther Passaris** (Nairobi City County, ODM): Thank you, Hon. Temporary Speaker, for allowing me to contribute to this Amendment Bill on Water. As you are aware, Nairobi is a county that struggles with water and has many water-borne diseases from typhoid and cholera. We also have something that goes on in our slums and informal settlements where women have to trade their bodies for water because they cannot pay the cartels and vendors at one point or another. In the end, it is sex for water. Having PPPs to provide water is a perfect and intelligent move by the Government so that we do not expose ourselves to further debt. What I would like is to ensure that we have control of price so that the people in the informal settlements can be able to pay for water at a lower cost because, believe it or not, right now, some people in the slums pay more for water and electricity than people in the posh areas of the county of Nairobi.

It is a good move. I support this Amendment Bill because water is life. Thank you.

**Hon. Owen Baya** (Kilifi North, UDA): On a point of order.

**The Temporary Speaker** (Hon. Peter Kaluma): What is out of order, Hon. Owen Baya, as Hon. Haika prepares?

**Hon. Owen Baya** (Kilifi North, UDA): Hon. Temporary Speaker, reading the mood of the House under Standing Order 95, we kindly request the Mover to reply.

**The Temporary Speaker** (Hon. Peter Kaluma): I will put the Question because I had nominated Hon. Haika to speak immediately after Hon. Passaris. I want to request the Members that this Motion must be replied to today. Thank you for returning to the House and requesting that you stay until Hon. Haika is done.

**Hon. Haika Mizighi** (Taita Taveta County, UDA): Asante sana Mhe. Spika wa Muda, kwa kunipatia fursa hii kuchangia hili swala la maji. Ni kweli maji yamekuwa donda sugu kwa sehemu nyingi za Kenya, haswa katika ile Kaunti yangu ya Taita Taveta. Akina mama, watoto, na wazee wanatembea sehemu mbali sana wakienda kutafuta maji. Mara nyingi wakienda kutafuta maji hayo, wanakutana na changamoto nyingi. Tumekuwa na kesi nyingi, hata zingine za akina mama wamepata kukutana na watu wakawatendea vitendo vya unyama hadi kuwabaka kwa sababu ya kutembea msituni kwenda kutafuta maji.

Ninaunga mkono kabisa swala hili ili maji yaweze kupata wepesi wa kusambazwa kila sehemu zote za kaunti na hata za nchi hii ya Kenya.

Asante sana Mheshimiwa Spika wa Muda. Ninaunga mkono.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Owen Baya stood at his place and asked that the Mover be asked to reply.

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

Mover?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I rise to reply and thank all Members who have supported this Bill. Indeed, only one Member, the Member for Imenti Central, has opposed this Bill.

*(Hon. Kangogo Bowen spoke off the record)*

I heard the Chairperson of the Departmental Committee on Blue Economy and Irrigation saying that the Member for Imenti Central opposed it because he had not read the Bill. I would be constrained to agree with the Chairperson because, had he read, he would know the people of Imenti Central are in dire need of water. The only way to guarantee the people of Imenti Central have water is to ensure that we have a PPP arrangement through the water purchase system or model of financing to actualise their dreams of having clean drinking water.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Leader of the Majority Party, is the Member for Imenti Central in the House?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): I think he just walked in, opposed, and then walked out. That is why I thank all these other Members of Parliament who have the patience to sit here and listen to each other enrich the debate, other than someone who just walks into the House, says that they oppose, does not know what they are opposing to then leaves, leaving his people suffering without water.

*(Applause)*

I want to assure all these Members and the country that with this new financing model, we will realise the dream of having clean drinking water for millions of our people who suffer without clean drinking water and also be able to roll out many projects around the country.

With that Hon. Temporary Speaker, I beg to reply.

*(Question put and agreed to)*

*(The Bill was read a Second Time and Committed to Committee of the whole House)*

**MOTION****NOTING OF REPORT OF KENYAN DELEGATION TO 146<sup>TH</sup> ASSEMBLY  
OF IPU AND RELATED MEETINGS IN THE KINGDOM OF BAHRAIN**

**The Temporary Speaker** (Hon. Peter Kaluma): Mover. Who is moving this Motion? Is Hon. John Kiarie moving it? You are the one moving? Then give Hon. John Kiarie the microphone to move.

He is the leader of the delegation.

**Hon. John Kiarie** (Dagoretti South, UDA): Thank you very much, Hon. Temporary Speaker. I beg to move this Motion that is a Report on the goings-on at the Inter-Parliamentary Union (IPU) 146<sup>th</sup> Assembly that took place in Bahrain.

The IPU is a Parliament that was established in 1889. It brings together 179 Parliaments from all over the World. There is an excellent reason to call the IPU the Parliament of Parliaments. This is a place where Parliaments can have worldwide dialogue. Out of this Parliament, great debates can be canvassed on the floor of the General Assembly and cascaded down to National Assemblies where necessary, and even escalated higher up when there is a need to escalate such debate.

The current membership of the IPU is now standing at 179 parliaments. As we speak, about 12 parliaments have associated themselves with the IPU. It works closely with the United Nations (UN) and other partners with similar ideals.

I want to let this House know that the IPU, in the format that it has been constituted, promotes democracy and the rule of law. It is a place that facilitates parliamentary debate, dialogue, and cooperation and is a good avenue for Members of this House to have an international platform where they can escalate the issues that we find being a bit more nagging locally and have cross-border implications. The IPU gives such an opportunity, and the premier assembly, the General Assembly, becomes the theatre of action whenever the IPU meets.

The IPU also assists parliaments in coping up with the changing international dynamics. Many issues are coming up, some of which are a real threat to democracy as we know it. Democracy, over hundreds of years old, is facing its biggest challenge in this generation. The IPU has been assisting parliaments across the World to be able to face these changing dynamics. That is why this Parliament prides itself on being a great member of the IPU.

The IPU's principal statutory body expressing its views and political issues is the General Assembly, which the delegation I was leading attended. This is the 146<sup>th</sup> Assembly of IPU and related meetings held in Manama in the Kingdom of Bahrain from 11<sup>th</sup> to 15<sup>th</sup> March 2023. When we were there, we could come together as parliamentarians to study emerging international issues and make recommendations that inform parliamentary and governmental action. As I will demonstrate shortly, there were great debates at the IPU, which seriously impacted how we canvass business locally as an IPU member.

During the 146<sup>th</sup> Assembly of the IPU, 136-member parliaments were represented. This is a spectacular representation. We ought to note that every General Assembly is organised in a different territory of member parliaments. As such, parliaments can see different cultural dynamics and emerging issues in different geopolitical areas, which make IPU a very important organization. In the 146<sup>th</sup> Assembly, seven associate members were represented. The Kenyan delegation was involved in deliberations that greatly enriched the meeting resolutions. The IPU statutory bodies and committees convened were all attended.

I would like to proudly, but also humbly report to this House that I am representing Kenya not only as a Member of the Kenyan delegation and IPU Delegation but also as the Chairperson of one of the major IPU committees – the Committee on Respect for International

Humanitarian Law. It is an area that I know you, Hon. Temporary Speaker, are very interested in and an expert in. You are also a teacher in humanitarian law.

On the agenda at the 146<sup>th</sup> IPU Assembly, we were able to elect the President of the 146<sup>th</sup> Assembly. Very importantly, and close to my heart as the Departmental Committee on Information, Communication, and Innovation Chairman, there was great debate on cybercrime and cyber-attacks. The IPU is moving towards developing a convention that will enable us to escalate issues of cybercrimes and cyber-attacks.

There are a few things that I want to note. One is that the delegation representing the African group made two proposals to amend the statutes. These were the proposals:

1. Introduction of an earlier deadline for the submission of emergency item proposals to allow the geopolitical groups adequate time for consultation.
2. The possibility for each Assembly to adopt two emergency item resolutions if members so decide.

At every General Assembly, the plenary has to pick an agenda to debate. What has been happening is that delegations, like the Africa Group, that do not have enough time to canvass their agenda shall appear before the floor. That is why the Africa Group made the two proposals. Following numerous recent disasters experienced and the ongoing crisis that the world was facing, parliaments were encouraged to follow the three tenets in their work. This was one of the progressive outcomes of this meeting. Parliaments were encouraged to lead by example by creating healthy, tolerant and respectful democracies. That is why it is a concern when a Member of Parliament is attacked while on duty, as happened this afternoon. This becomes a critical issue of concern, and I see champions for ladies in the House. I see the County Member of Parliament for Siaya. I see Hon. Millie Odhiambo, and I see Hon. Rozaah Buyu. When we were growing up, we knew that political violence was a preserve of men. Today, we see women orchestrating violence against women. This is a big shame. I want to go on record that the Report we have received of the attack on the Member for Kirinyaga County this afternoon while she was in the line of duty is truly unfortunate. Honourable ladies should not be the ones perpetuating the bad notion that women are their own worst enemies. This young Member was in the line of duty conducting her business. She is a rising star. Therefore, her star should not be dimmed, even worse, by another woman.

Hon. Temporary Speaker, another proposal passed was to ensure that parliaments are inclusive and fully representative of all society, and to create laws that uphold the rights and dignity of all. During the 147<sup>th</sup> Assembly, the Governing Council approved the list of future meetings and other activities to be funded by the IPU regular budget. The Committee I chair has already held not less than two events after the 146<sup>th</sup> Assembly, two of which were actually via Zoom. As we wait to go to Angola, Luanda, for the next 147<sup>th</sup> meeting, many other activities are going on.

Hon. Temporary Speaker, there are things that this House needs to note. Notably, the following Members of the National Assembly are currently holding positions in IPU committees and statutory organs. This House ought to be proud. As I said, yours truly, the Member for Dagoretti South Constituency, is a Member of the committee to promote respect for international humanitarian law. I am the President of this Committee.

*(Applause)*

The very esteemed and ranking Member, Hon. Millie Odhiambo, is a Member of the Committee on Human Rights of Parliamentarians, and she is, indeed, the Vice-President, proudly so.

*(Applause)*

Hon. Naisula Lesuuda is a Member of the Standing Committee on Sustainable Development and the African Group Representative. She is also a very able Member of the Young Parliamentarians at the IPU, doing a very impressive job. Hon. Rebecca Tonkei belongs to the Standing Committee on United Nations Affairs and is also an African Group Representative. Each of these has staggering terms that will expire at different times.

Finally, I would like to report on recommendations. As the Members of the Delegation to the IPU, we noted a number of things and made the following recommendations: This Parliament notes this Report and follows up on the implementation of the declaration and resolution of the 146<sup>th</sup> IPU Assembly and related meetings. As Members of the IPU delegations, we have also noted something that we may need to report to this House.

This Parliament is a member of many international parliaments: The Commonwealth Parliament, the Pan-African Parliament, the ACP-EU, the IPU, and so on. There is a need for institutional memory. It is critical for this Parliament to resolve that when we appoint a delegation to any of these parliaments, the delegations should be standing ones so that we hold these institutional memories. That is so that we do not start from scratch each time we attend these meetings.

I see the very esteemed and ranking Member, Hon. Millie Odhiambo, in the House. On her behalf and other Members of this delegation, I beg to move that this House notes the Report of the 146<sup>th</sup> IPU Assembly and related meetings as presented. The matters we discussed at the IPU have a regional bearing. We have to note that our participation needs to be consistent. As we speak today, the IPU will be electing a president. As an East African, I am proud to report that the Speaker of the United Republic of Tanzania is a forerunner to become the president of the IPU. That is an extremely esteemed global position. This is because the participation of the United Republic of Tanzania has been consistent. Their delegations are standing delegations that are consistent. I want to call upon this House to support a fellow East African to ascend to the highest position in the Parliament of parliaments—the IPU.

*(Applause)*

I throw my weight behind the lady from the United Republic of Tanzania who has presented herself for the position of President of the IPU. On behalf of the delegation from Kenya, I call upon this House to support her candidature. I want to call a Member who has a good understanding of regional matters, Hon. Wanjiku Muhia, to second. That is noting very well, and I understand that the Hon. Member from Mbita shall make her contributions to this Motion.

I beg to move.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Wanjiku Muhia.

**Hon. Wanjiku Muhia** (Kipipiri, UDA): Thank you, Hon. Temporary Speaker.

I second this Motion, happier knowing that the Speaker from the United Republic of Tanzania is the forerunner expected to take the seat. I am hoping that Members from East Africa—Rwanda, Kenya, Uganda, the United Republic of Tanzania itself, Burundi, the Democratic Republic of Congo, and any other member from this bloc—will be supporting her to be our candidate. The IPU is a parliament of parliaments. When these delegations are selected, I always request that this House's administration consider a Member from my Committee on Regional Integration. The main purpose of regional integration is to understand such eventualities.

I have represented Kenya in the East African Legislative Assembly (EALA). I served in Geneva and different countries when the IPU took place worldwide. The IPU enhances the role of parliaments in accelerating the achievement of Sustainable Development Goals (SDGs). Today, we are all speaking about climate change. Members must show the world their action

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in climate change mitigation. I hope the delegation from Kenya indicated to this IPU membership that Kenya is on an accelerated avenue to planting 15 billion trees. That is to showcase that Kenya is, indeed, doing or making what the IPU recommends.

It is also an avenue for networking and making stronger multilateralism for Members. It speaks more on women's rights. I am happy that Hon. Millie and others are there.

### ADJOURNMENT

**The Temporary Speaker** (Hon. Peter Kaluma): Order, Hon. Wanjiku Muhia. Order Hon. Members. Hon. Members, the time being 7.00 p.m., this House stands adjourned until Wednesday, 23<sup>rd</sup> August 2023 at 9.30 a.m.

The House rose at 7.00 p.m.

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