

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 7th December, 2017

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]

PRAYER

PAPERS LAID

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, we have a number of papers. We shall start with 1(a), which is the Report of the Joint Parliamentary Select Committee on Election of Members to the East Africa Legislative Assembly (EALA). I am informed that Sen. Dullo will be laying that Paper on behalf of those responsible.

REPORT OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON ELECTION OF MEMBERS TO EALA

Sen. Dullo: Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 7th December, 2017:-

Report of the Joint Parliamentary Select Committee on Election of Members to the East Africa Legislative Assembly (EALA).

(Sen. Dullo laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Let's move to the next Paper; Annual Report and Financial Statements of the National Police Commission for the Financial Year 2016-2017.

Sen. Dullo: Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 7th December, 2017:-

ANNUAL REPORT AND FINANCIAL STATEMENTS OF THE
NPC FOR FY 2016-2017

Annual Report and Financial Statements of the National Police
Commission for the Financial Year 2016-2017.

VARIOUS LAND REGULATIONS FROM THE EXECUTIVE

The Land (Extension and Renewal of Leases) Rules, 2017
The Land Regulations, 2017
The Community Land Regulations, 2017
The Land Registration (Registration Units) Order, 2017
The Land Registration (General) Regulations, 2017

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 12TH DECEMBER, 2017

The Business of the Senate for the week commencing Tuesday, 12th December,
2017

(Sen. Dullo laid the documents on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): How many Papers have you laid,
Sen. Dullo?

Sen. Dullo: Mr. Deputy Speaker, Sir, I have laid all of them.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Dullo, can you also lay the
business of the coming week, so that we dispense with it, although we normally combine
it with the actual statements? You can resume your seat. Traditionally, you lay the Paper
as you give the Statement.

Next Order!

NOTICE OF MOTION

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Dullo, please approach the
Chair. Normally, you wait to be called out; this is not a place that you can stam pede.

(Sen. Dullo consulted with the Chair)

ADOPTION OF REPORT OF THE JOINT PARLIAMENTARY SELECT
COMMITTEE ON ELECTION OF MEMBERS TO EALA

Sen. Dullo: Mr. Deputy Speaker, Sir, I beg to give notice of the following
Motion:-

THAT, pursuant to the provisions of Article 50 of the Treaty for the
Establishment of the East African Community and Rule 13(5) of the East African
Legislative Assembly Elections (Election of Members of the Assembly) Rules,

2017, and notwithstanding the provisions of Standing Order 49(6), this House adopts the Report of the Joint Parliamentary Select Committee on its consideration of the nominees for election as Members of the East African Legislative Assembly, laid on the Table of the House today, Thursday, 7th December, 2017, and further resolves that the election be held on Wednesday, 13th December, 2017.

STATEMENTS

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, we have two Statements on the Supplementary Order Paper. Both of them are to be issued by the Senate Majority Leader.

Let us start with Statement no. 3(a).

(Loud consultations)

Clerks-at-the-Table, some Senators do not have the Supplementary Order Paper. I am making that assumption because I heard some noises from some of them, which was unprocedural. Actually, I should not have heard.

What is it, Sen. Khaniri?

Sen. Khaniri: My apologies, Mr. Deputy Speaker, Sir. The noises were coming from these quarters; I should know better. I was just bringing to your attention that the Supplementary Order Paper that you are referring to is not in our possession. I heard you say 'some,' but nobody here has the Supplementary Order Paper. Therefore, we cannot follow.

*(The Supplementary Order Paper was
circulated to the hon. Senators)*

Mr. Deputy Speaker, Sir, the Supplementary Order Paper has now been supplied. Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): The Supplementary Order Paper has now been supplied. We will proceed with the Supplementary Order Paper all through. It was necessitated by a small adjustment on the election date of the Members of EALA; from Wednesday to Thursday.

What does the Senate Majority Leader have to say about Statement (a); the alleged delay by the National Treasury to release funds to the county assemblies? It was requested by the Senator for Machakos County.

DELAYED RELEASE OF FUNDS TO COUNTY ASSEMBLIES

The Deputy Speaker (Sen. (Prof.) Kindiki): Do you have the Statement?

Sen. Dullo: Mr. Deputy Speaker, Sir, I do not have the Statement. I request the Senator for Machakos County to give us up to next week to give that statement.

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The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Dr.) Kabaka.

Sen. (Dr.) Kabaka: Mr. Deputy Speaker, Sir, this is a serious matter. Last time, the hon. Senator requested up to today. Last time, he asked for two weeks but we generated down to today. The Members of County Assembly (MCAs) and the County Assembly of Machakos are suffering because His Excellency the Governor of Machakos has decided to punish them simply because they did not approve the County Executive Committee (CEC) Members. So, any delay will bring the business of the County of Machakos to a halt. Be specific on when you will deliver the Statement next week. Let us not prolong it. I am aware that you have prolonged the House up to 15th December, 2017. Indicate the date but if you can give your response latest by Tuesday, I will be satisfied.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order Sen. Kabaka. Are you saying that you are satisfied if the Statement can be issued next week on Wednesday?

Sen. (Dr.) Kabaka: Yes, Mr. Deputy Speaker, Sir. I know Tuesday is a public holiday.

The Deputy Speaker (Sen. (Prof.) Kindiki): That would amount to one week from today. Will you be satisfied?

Sen. (Dr.) Kabaka: Yes, Mr. Deputy Speaker, Sir, I will be satisfied.

Sen. Dullo: Mr. Deputy Speaker, Sir, I would request Sen. Kabaka to give me up to Thursday, next week.

Sen. Kabaka: I will help you by giving you documents.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Kabaka! Resume your seat. There is a difference between this process and all the other processes that we have out there. Sen. (Dr.) Kabaka, you will now have the microphone.

Sen. (Dr.) Kabaka: Mr. Deputy Speaker, Sir, I will help the Senator to get the information. She needs to meet with me so that can I give her the document. The money has already been released to the executive but he does not want to release the money to the County Assembly. That is why last time in that Statement, I requested that if the worst come to worst, we have power to summon the Governor of Machakos County to appear before the *Ad Hoc* Committee and show cause why.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Dr.) Kabaka, you appear to be attempting to issue the Statement. Sen. Dullo, you are lucky because the Senator who requested for the Statement is willing to support you. It is directed that the Statement be issued on Wednesday, 13th December, 2017. We proceed to Statement 1(b)

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 12TH DECEMBER, 2017

Sen. Dullo: Thank you, Mr. Deputy Speaker, Sir. Hon. Senators, pursuant to Standing Order No. 46, I hereby present the business of the Senate for the coming week.

Tuesday 12th December, 2017 will be Jamhuri Day and thus it is a public holiday. Therefore, there will be no sitting. As Kenya marks 54 years of Independence, it is a time to celebrate the milestones we have made as a country including our democratic system and adherence to the tenets of our Constitution which have been highly tested in the recently concluded electoral process. It is also a time to reflect on the challenges we

face as a country and how to overcome them as we strive better individually and collectively as a nation.

(Sen. Farhiya stood up in her place)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Farhiya. Proceed, Sen. Dullo.

Sen. Dullo: Mr. Deputy Speaker, Sir, the Senate Business Committee (SBC) will meet on Wednesday 13th December, 2017, to schedule the business of the Senate. Subject to the directions of the Committee, the Senate will continue with the consideration of the following business:-

(1) Division on the Motion for the Annual Report of the Controller of Budget on County Governments Budget Implementation Review for the Financial Year 2106/2017;

(2) Division on the Motion for adoption of Sessional Paper No.6 of 2016 on the National Urban Development Policy.

Further to this, if the House adopts the Report of the Joint Parliamentary Select Committee on the election of Members to East African Legislative Assembly (EALA) scheduled on the Order Paper for today, then the House shall proceed to elect Members of the Assembly in accordance with the EALA Elections (Elections of Members of the Assembly) Rules, 2017.

I request Senators to avail themselves for the division and election in order to conclude this important business.

On Thursday, 14th December, 2017, the Senate will consider business that will not have been concluded on Wednesday and any other business scheduled by the SBC.

Finally, hon. Senators, the Senate will proceed on recess at the rise of House on Thursday, 14th 2017, in accordance with the Senate Calendar. I ask that the commitment that you have exhibited in executing the business of the House remains unwavering as we come to the final week of the First Session of the Twelfth Parliament.

I thank you and hereby lay the Statement on the Table of the House.

(Sen. Dullo laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. We proceed to the next Order.

MOTION

ADOPTION OF REPORT OF THE JOINT PARLIAMENTARY SELECT COMMITTEE ON ELECTION OF MEMBERS TO EALA

Sen. Dullo: Mr. Deputy Speaker, Sir, I wish to move the following Motion:-

THAT, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly)

Rules, 2017, and notwithstanding the provisions of Standing Order 49(6), this House adopts the Report of the Joint Parliamentary Select Committee on its consideration of the nominees for election as Members of the East African Legislative Assembly, laid on the Table of the House today, Thursday, 7th December, 2017, and further resolves that the election be held on Wednesday, 13th December, 2017.

Mr. Deputy Speaker, Sir, as you are aware, there was a joint Committee between ourselves and the National Assembly. The EALA is established under Article 9 of the Treaty of Establishment of the EAC, as one of the key organs and independent institutions of the community.

Mr. Deputy Speaker, Sir, Articles 50 and 51 of the EAC Treaty provides for the elections of Members of the Assembly and the tenure of office of elected Members, respectively. Specifically, Article 51(1) provides that an elected Member of the Assembly shall hold office for five years and is eligible for re-election for a further term of five years.

By a letter dated 7th December, 2016, the Clerk of EALA wrote to the Speaker of the National Assembly informing him that the term of the third EALA was due to end on 4th June, 2017 and further requesting that the Speaker cause the election of the Members of the next Assembly in accordance with Article 50 of the Treaty, the relevant provisions of the EALA Act, 2011 and rules of the procedures relating to the election of Members of the Assembly.

The election process commenced in April 2017 but was not concluded before the end of the term of the Eleventh Parliament because of the Kenya general elections. Therefore, there is an urgent need to conclude the election process for the EALA and enable the commencement of the business of the Assembly as soon as possible.

Mr. Deputy Speaker, Sir, the Motion was adopted by the National Assembly and the Senate on 8th and 9th November, 2017 respectively. The Houses of Parliament established a joint Committee whose membership include:-

- (1) Hon. Katoo Ole Metito, MP
- (2) Hon. John Jane Kihara, MP
- (3) Hon. Jeremiah Kioni, MP
- (4) Hon. David Maanzo, MP
- (5) Hon. Florence Mutua, MP

Mr. Deputy Speaker, Sir, Members from the Senate include:-

- (1) Sen. Milicent Omanga
- (2) Sen. (Dr.) Abdulahi Ibrahim Ali
- (3) Sen. Aaron Cheruyiot
- (4) Sen. Rose Nyamunga
- (5) Sen. Mutula Kilonzo Jnr.

Mr. Deputy Speaker, Sir, the joint Committee was mandated to urgently conclude the election process for EALA and for this purpose, they are supposed to suggest appropriate timelines for purposes of notification, nomination and election of EALA members.

Secondly, they are supposed to consider nominees, to oversee the election process and report to the respective houses within the timelines stipulated in the election rules.

Thirdly, undertake any other function as contemplated under the EALA (Elections of Members of the Assembly) Rule 2017 within the timelines stipulated in the said rules.

Mr. Deputy Speaker, Sir, election timelines were set by the Committee and it convened its first meeting on Wednesday, 15th November, 2017 where it prepared a road map for the election of the Kenyan representatives to EALA. The proposed EALA elections timelines were adopted as shown on this table which I will read out.

(1) Presiding officer to advertise in two newspapers of national circulation and place the notice in the gazette calling for application for membership to EALA. Interested persons have seven days to submit their application. That was on 16th November, 2017. Close of application as per Rule 4 was 23rd November, 2017.

(2) Submission of nomination papers was done as per Rule 10 on 30th November, 2017 between 8.30 a.m. and 4.00 p.m.

(3) Public inspection of the documents and nomination papers for dully nominated candidates as per Rule 12 was done on Friday, 1st and Monday 4th December, 2017.

(4) Again, transmission of the names of newly nominated candidates to the joint Committee by presiding officers as per Rule 13 was done on Tuesday 5th December, 2017.

(5) The joint Committee to consider the nominees and present its report of Houses of Parliament as per Rule 13; Wednesday, 6th and Friday 8th December, 2017.

(6) Presiding officer to gazette the election dates as per Rule 15; this will be done on Monday 11th December, 2017 and the election date was set as per Rule 15 to Thursday 14th December, 2017. Initially, it was on 13th December, 2017 but we have amended this to Thursday 14th December, 2017.

Mr. Deputy Speaker, Sir, the Joint Committee considered the issues of entitlement of nomination slots under the rules. The Committee noted that under Rule (6) (1) - because it has to be clear how many slots are supposed to be considered per coalition-the number of candidates that each party shall be entitled to nominate for elections under these rules shall be three times the figure arrived at by multiplying the number of elected Members of that party by such number as the Joint Committee shall determine and dividing the results by the total number of elected Members of Parliament (MPs). These rules must be followed because these were contentious issues.

Further, under Rule Nine of the rules, a person intending to vie for election independent of a political party shall submit his or her dully filled nomination form in the format provided in the Second Schedule to a presiding officer in the manner specified in the notice published under Rule Four and in accordance with Rule 10.

Mr. Deputy Speaker, Sir, in accordance with the provisions of Rule Six, which provides for the number of candidates that each political party should submit for elections, the Joint Committee analysed what each political party should submit for elections in terms of the representation in the House of Parliament to determine the proportionate entitlement for each of the 20 political parties in the 12th Parliament. In this regard, the Joint Committee summed up the total number of Members in each political

party in both Houses as a proportion of the total membership of Parliament, which is 416 Members, and multiplied the resultant figure by nine.

The Committee, noting that a party also includes a coalition in Parliament of political parties as provided in EALA Rules and the Standing Orders of both Houses of Parliament, considered a letter from the Office of Registrar of Political Parties, which confirmed that there were only two coalition agreements deposited with the said office. The Committee learnt that five parties, namely the Orange Democratic Movement (ODM), Wiper Democratic Movement, Forum for the Restoration of Democracy Kenya (Ford-K), Amani National Congress (ANC) and Chama Cha Mashinani (CCM) had entered into a coalition agreement for the formation of the NASA Coalition. The second coalition agreement was by the two parties that is Wiper Democratic Movement and Muungano Party.

The Committee, therefore, having considered the relative strength of parties in Parliament and established the parties qualifying to nominate Members under the EALA rules, directed the Jubilee Party to nominate 15 nominees and the NASA coalition 12 nominees, in order to ensure adequate representation of political parties in membership of EALA. The Committee was also conscious of the fact that the 15 independent Members in both Houses of Parliament are, indeed, independent of one another and, therefore, could not be construed to be a political party. For purposes of completing the proportional entitlement for parties, the Committee, however, resolved that independent candidates be invited to submit their nomination forms in accordance with rule nine of the EALA Rules.

Pursuant to Rule Four of the EALA Rules, by an advertisement carried out in The Daily Nation and The Standard newspapers - it was published in the *gazette* on 16th November, 2017- Presiding officers invited interested qualified persons to apply for nomination as Members of EALA. The notice invited candidates from political parties to present their applications on or before 23rd November, 2017, and independent candidate to present their application on the nomination day set for 30th November, 2017. A copy of the advert is attached as Annex 3.

To qualify for nomination, it was obligatory for interested person to meet the qualifications set out under Article 50 of the Treaty, which provide as follows:-

“The National Assembly of each partner State shall elect not from among its 9 Members of the Assembly who shall represent as much as it is feasible ---”

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Dullo! Order!

If you proceed at that pace, you are going to take two hours.

Sen. Dullo: Mr. Deputy Speaker, Sir, okay. I will shorten it.

The Deputy Speaker (Sen. (Prof.) Kindiki): It is the position of the Chair that Senators already have a copy of this Report, because you tabled it as a paper. So, you would help this process by summarising the key findings and recommendations so that, then, the other issues can come out during the debate. I am sorry to interrupt you, but that

will help us move forward. We have to dispose of this agenda because it has been with us for a long time. So, see how you could try and give us an overview.

Sen. Dullo: Thank you, Mr. Deputy Speaker, Sir. I was trying to highlight this report for the purpose of members of the public who are listening, to understand the process that we have taken. But if you have ruled that way, then I can just give a summary.

Mr. Deputy Speaker, Sir, the members or individuals who have been nominated by the Jubilee Party for the purpose of this election are as follows:

1. Hon. Simon Ng'ang'a Mbugua
2. Hon. Adan Mohamed Nooru
3. Mr. Charles Ayako Nyachae
4. Hon. Lawrence Mpuru Aburi
5. Hon. Wanjiku Muhia
6. Ms. Elizabeth Wangui Njeeh
7. Hon. Abdul Aziz Ali Farah
8. Ms. Irene Cherop Masit
9. Ms. Flowrence Jematiah Sergon
10. Mr. Justin Nthiiri Bundi
11. Ms. Eunice Wanjiru Karanja
12. Mr. Jackson Kipkemoi Kosgey
13. Ms. Dorice Donya Aburi
14. Dr. Muriuki Joe Muriithi; and,
15. Ms. Julie Njeri Waweru.

The NASA Coalition nominees are as follows:

1. Hon. (Dr.) Oburu Oginga
2. Mr. Kennedy Musyoka Kalonzo
3. Mr. Norman Magaya Amugira
4. Hon. Fatuma Ibrahim Ali
5. Hon. Abdikadir Omar Aden
6. Ms. Beth Kalunda Mutunga-Syengo
7. Hon. Abubakar Zein Abubakar
8. Ms. Loy Mwandu Maviala
9. Ms. Angela Mueni Munyasia
10. Ms. Winfred Syonindi Mutua; and,
11. Ms. Jane Moronge Marwa

Independent candidates for the purposes of nomination are as follows:

1. Mr. Cheruiyot Kemei Tamogei
2. Ms. Hellen Makone
3. Mr. Eric Wanjohi Gatheru
4. Mr. Billy Baltazar; and,
5. Mr. Humphrey Kimani Njuguna

Those are the members who were actually nominated for the purpose of this election.

Then, Mr. Deputy Speaker, Sir, there is also the list of the unsuccessful independent applicants which I will rush through. There are reasons why they were not considered and they can be availed whenever required. They are as follows:

1. Mr. Willy Mukoma Munyuthe
2. Ms. Esther Wambui Miano
3. Mr. Tonny Peters Sifule
4. Mr. Ngotho Gichuru Eutyachus
5. Mr. Duncan Mwangi Ndegwa
6. Mr. Mohamud Sheikh Adan
7. Mr. Gideon Ledama Kobei
8. Mr. Lawrence K.K. Mangunda
9. Mr. Abdalla Kasim
10. Mr. John Peter Ndhune Onginjo
11. Ms. Lynette Wambui Mwangi
12. Ms. Christine Wekesa; and,
13. Mr. Kipkoech Evans Cheruiyot

Mr. Deputy Speaker, Sir, the following are the observations made by the Committee. The Jubilee Party and NASA coalition have complied with Rule Six of the EALA Rules and submitted three times the number of persons that they are entitled to nominate under the rules.

Noting the advice of the presiding officer, the statutes and the case law on the issue of resignation of state officers and public officers intending to vie for political or public office, they ought to resign at least six months before the election he or she intends to contest: Ms. Jully Njeri Waweru, being a public officer employed by the Kenya Youth Enterprise Fund did not, therefore, qualify to be elected as a member of EALA. Similarly, Winfred Syonindi Mutua, being a member of the Machakos County Assembly did not qualify to be elected to EALA in accordance with Article 50 of the EAC Treaty as read together with Article 99 of the Constitution. All the 31 candidates provisionally issued with nomination certificates were dully registered as voters.

Mr. Deputy Speaker, Sir, the following independent candidates did not qualify for nomination as independent candidates as they did not meet the conditions set out in section 33(1)(a) of the Elections Act, 2011, which provides, *inter alia*, that:

“A person qualifies to be nominated as an independent candidate for presidential, parliamentary and county election for purposes of Article 97, 98, 137, 177 and 180 of the Constitution if that person has not been a member of a political party for at least three months preceding the date of the election.”

These are as follows:

1. Mr. Cheruiyot Kemei Tamogei
2. Ms. Hellen Makone
3. Mr. Billy Baltazar; and,
4. Mr. Humphrey Kimani Njuguna

Mr. Deputy Speaker, Sir, there were several recommendations made by the Committee. Pursuant to the provisions of Article 50 of the EAC Treaty of qualification for election of Members of the Assembly as read together with Article 99 of the

Constitution of Kenya, Ms. Jully Njeri Waweru and Ms. Winfred Syonindi Mutua do not qualify to be elected as members of the assembly as they are unqualified to be elected as an MP in Kenya, being state officers.

In conclusion, Mr. Deputy Speaker, Sir, prior to the subsequent EALA elections, the member states considered a review of the EAC Treaty to unequivocally provide for the criteria for nomination of candidates independent of a political party. Consequently, the constitutive parliaments should undertake a review of their respective election rules in conformity to address the existing ambiguities. Therefore, this has to be corrected as required by law.

Finally, pursuant to rule five of the EALA Election Rules, 2017, election of the EALA Members will be held on 14th December. This report is already with all the Members. We are now free to contribute to it.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): You have not moved your Motion.

Sen. Dullo: I am sorry, Mr. Deputy Speaker, Sir. I would request The Senate Majority Leader to second---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Dullo! You have not moved your Motion. The reason you are called a Mover is so that you can move the Motion.

Sen. Dullo: Mr. Deputy Speaker, Sir, I think I said that earlier, but I beg to move and request The Senate Majority Leader to second.

Thank you.

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Deputy Speaker, Sir. I beg to second this Motion. I start by congratulating the Deputy Majority Leader for having done an exemplary job. I was listening to her as I was coming here and she has made a very good presentation.

Mr. Deputy Speaker, Sir, as we have said over and over again, we are the ones who are holding the EALA from proceeding in the manner in which it should because of the election timelines and the delays that we had because of our elections. Something needs to be done in the next general elections of 2022 so that we do not face the same situation again. It will be important that, after this process is done, that we consult with the EAC partners to be doing this perhaps after the August elections so that we do not have this problem.

This is because having the election some months to the general election is really a big problem because everybody is focused on whether they will survive or not. Many of them will have even lost interest in matters legislature and they are talking about being President, being in the Executive or even retiring from politics altogether.

Secondly, I would like to note that the rules that we passed here will also need to be revisited in future. This is because they provide room for independent candidates to be allocated a seat based on the number of elected independent persons. Independent candidates in Parliament are independent of each other. You cannot now come and form a political party called Independents because every independent candidate is independent of the other one.

Therefore, to assume that you would put the same status as a party like ODM, Ford-Kenya or Jubilee will be defeating the tenets and principals of what is independent. Once you come together and say that this is the group that is entitled to this because they are all independent, then you are assuming that the independents are of one mind and same spirit. That assumption is very dangerous because everyone contested independently. They did not want to be associated with the others.

Be that as it may, in this election, the Report captures that none of them presented the signatures required which is over 1,000. Most importantly, even when you do the calculations as per the law of allocation of the nine seats or use the rules as they are, it cannot enable independent candidates to be elected to the East African Legislative Assembly (EALA). Therefore, we should quickly prepare ourselves. The Report is very clear. The process has gone well. We should be ready to come here and have an election.

There is a warning that must be presented. A lot of civic education starts from today. There are two ballot papers that will be given. There will be a ballot paper written NASA with 11 candidates. In every NASA ballot paper, one will be required to tick four people. If one picks five, then it will be a spoilt vote. I can tell you that without proper civic education, there will be many spoilt votes out of the 416 votes. You will have another ballot paper in a different colour for Jubilee. I hope it will be red or something of that sort. That will depend on the how the returning officers here will present them. The ballot paper will have 14 names. One is required to only tick five. If one ticks six that will be a spoilt ballot paper.

Enough civic education starts now. Even though in the rules we have said that you may as well tick three or four out of the five because you may not like the remaining, however, if you exceed the five required for Jubilee or you exceed the four required for the NASA coalition, that becomes a spoilt vote.

I hope that through this discussion that we are having here and in the National Assembly, Members will start getting acquainted with the process. I hope that political parties will guide their Members as to who they are fronting. By law, we need 15 people. We are free to vote for the 15 people from Jubilee and the 11 people from NASA but it will not be easy for anyone to win. If it is left to free choice of the 416 Members of Parliament, it will be difficult to imagine who will emerge as No.1. This is because it is a list.

One can say that out of the 11 people, the first one will get 70, 80 or 100 votes. The other one can get 50 and so on. It will be a tight race unless there is political intervention in the middle of it, you cannot imagine - You will be in NASA side but your fate is determined by your colleagues in the Jubilee side. You will be in the Jubilee side but your fate is still going to be determined by voting Members in the NASA side. This is a very interesting exercise that we are going to do next week. However, it is important because when the people leave here, they will not leave as NASA or Jubilee but as Members of Parliament representing the best interests of the country in the East Africa Community (EAC).

The EAC is faced with many relationship challenges. You must have heard that some chicken were burnt in Tanzania. Some livestock were confiscated and auctioned despite the fact that the Masaai's of Kenya and those of Tanzania are one people. They

do not even know the boundaries. That is the same challenge in Kuria, which is on the other side of Isebania and Migingo Island where there is an issue. We have issues that relate to the EAC. These issues require that the people that we will elect to be keen and sober to lead us, guide us and foster good relationships within and among us as EAC Members.

With so many remarks, I beg to second the Report.

(Question proposed)

The Deputy Speaker (Sen. (Prof.) Kindiki): Is there no interest in this matter? There seems to be a technological issue, let us be patient for a while.

Sen. (Eng.) Mahamud: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. I thank the Joint Committee for doing a good job in such a short time. This matter has been pending for a long time. We should have had this election in June this year. We have been holding back the other states of the EAC. We are happy that our brothers from NASA have joined us by submitting the names as required. The problem then was that there was difficulty in submitting the names as per the Regulations and Rules of the Community. The Joint Committee has recommended the nomination of the persons listed on pages 27, 28 and 29. There are 14 Members from Jubilee Party and 11 Members from the NASA coalition.

This will be a running list where you choose five from the first ballot paper as the Senate Majority Leader has said. You will then choose four from the second ballot paper, which will be from the NASA Coalition. I know that the rules were different in the last elections held in 2012. Then, the candidates were put in various clusters where you could only pick on one person from each cluster. There were nine clusters.

I hope that when Members will be choosing from this list, they will make sure that there is equity and distribution across the regions and counties. It is not only any five or any four but it is a reflection of the face of Kenya so that when we send our people to EALA, we will have Kenyans who represent the full face of Kenya in all shades, gender and regional balance included.

With those few remarks, I support the Report of the Committee.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you Sen. (Eng.) Mahamud. Could we hear from Sen. Kihika?

Sen. Kihika: A point of order, Mr. Deputy Speaker, Sir. I would wish to move an amendment on this Motion that---

The Deputy Speaker (Sen. (Prof.) Kindiki): Then you should have pressed the right button, which you have not. Please, approach the Chair.

(Sen. Kihika approached the Chair)

Yes, Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Thank you, Mr. Deputy Speaker, Sir. I support this list on the understanding that our foreign relation with our neighbours is a very critical factor. Most of the issues that are emanating; either because of some level of misunderstanding,

some boundary disputes or trade disputes can be easily resolved within the body of EALA.

The EALA was formed with a purpose of assisting member states to be able to adjudicate on issues of trade, immigration and, of course, the common currency. If we see the genesis and evolution of this body, Kenya is at fault because we disastrously failed to honour our obligation by June, 2017. Albeit however late it may be, it is important that we act with speed and be able to do the elections as has been already proposed for next week, so that the EALA can be up and running.

There are many issues. Most of our trade is within the East African Community. About 60 to 70 per cent of Kenya's trade is with her neighbours. These are the people who are jumpstarting our economy and yet, we are not able to respond to a need of a political organisation in the name of EALA, which helps us assess some of these things. I am of a very strong opinion, having heard and experienced before, that even the Cabinet Secretary, who will be in charge of the East African Community, must be somebody who knows what the Community is all about.

We have gone through the evolution of this organisation. We need a concrete relationship between our neighbours and ourselves. That is the only way we can resolve some of the problems we have, such as the grazing problems. If this issue of nominations to the EALA had been resolved amicably, the headaches we are experiencing would be a thing of the past. The issue about who is carrying a particular goat across the border should not be a matter of concern at this moment of time in our political evolution. Therefore, I support this list and hope that when the time comes, I shall exercise my right to nominate or elect a candidate who will be representing the interest of this country.

I listened to the Senate Majority Leader saying that there will be colours of Jubilee – he hopes it will be red. That is the first indication of rigging, and we have gone beyond this rigging process. Let us have a list of men and women who will represent this country, knowing fully that we have an issue that we want to settle through the legislative process, through EALA. It reduces a lot of tension and infighting within member states.

In most of the cases, some of the tribes are straddled across the borders. If we talk of Luhyas in Busia, we have them both in Kenya and Uganda. If we talk of the Turkana people, they are both in Kenya and Uganda. If we talk of the Maasai, again we have them in both Tanzania and Kenya. We need to make their lifestyles easier by ensuring that the Members we will nominate and elect to the EALA will carry the flag of Kenya.

Mr. Deputy Speaker, Sir, I hope that at the time of voting, we will have an opportunity to look through the list again and see how it would be suitable for Kenya to have a very robust team representing us in the EALA.

With those few remarks, I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Yes, Sen. Wako.

Sen. Wako: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to speak on this very important subject. I regret a confusion that has been with my card. I have tried it in five different places, but it was not registering. Therefore, I thank you for having recognised my efforts to stand up and speak.

First of all, I want to commend this Committee for the excellent work that it did, which was very meticulous. The Report is very comprehensive, detailed and tells us how

they arrived at these names; the process that they went through, including the adverts to making sure that each candidate meets the criteria that is required and so on. I commend the Committee for a job well done.

Secondly, I want to just raise some concerns with the nomination process. The nomination process, I can see, had five independent candidates who fully met the qualifications, but for reasons explained by the Senate Majority Leader, they are not in the list for those to be voted for. This is an issue which we should relook at because some of the independent candidates could be very good candidates who are very committed to the ideals of the integration of East Africa and Africa as a whole.

I am also sure that in the nomination process, we included the issue of the commitment of the candidates to the ideals of the economic, social and political integration of East Africa and Africa as a whole. It is my considered opinion, for example, that when you come here as a Senator - and since the Senate is charged with the responsibility of guaranteeing devolution - you must be committed to the ideals of devolution. Similarly, I would urge that for somebody to be elected to the EALA, he or she ought also to be committed to the ideals of the cooperation of East Africa, in political, economic and social terms.

Mr. Deputy Speaker, Sir, I was the chairman, appointed by the Heads of State of East Africa, to make a report on how we can fast-track the federation. One of the things that we found to impede greater integration is that when people go and work either in the East African Community or are elected to go to the EALA, they go there and represent totally the interests of their countries, to the oblivion of the greater interest of the East African Community. There has to be a balance. As you represent the interest of your region, you should also be committed to the ideals, so that you can make the necessary adjustments to ensure that the East African Community works.

Therefore, I hope that in future when we are having this exercise, at least, somebody should write, in not more than 100 words, whether he is committed to the EAC. Maybe it was there on the application form, but if it was not there, it ought to be there. What is his commitment to EALA and the further integration of the economic, social, and political integration of East Africa? Those are the two comments I wanted to make on the issue of the nominations.

On the issue of voting, I hope that at least when we come to vote, we shall be given in advance a brief curriculum vitae of the people we are voting for. I do not know a number of them, although, I have heard about them. I may not know their qualifications and what they have done. Of course, I know Sen. Sakaja. I knew him before he was born, and he knows it.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Wako! Be careful.

Sen. Wako: Mr. Deputy Speaker, Sir, at least I can say without any fear of contradiction that I saw the mother expecting Sen. Sakaja because there is a very close friendship between our two families from the time of his grandfather, to my father, and so on. So, I saw the mother pregnant. Little did I know that the one who was being carried

will come out and really progress so fast that we shall be together in the Senate. I am pleased that he is here.

On the voting day, I would want the secretariat to at least give us some indication on the CVs of these people we are voting for so that we can make an informed choice on whom we are electing.

The second comment about voting; I heard the Senate Majority Leader say that there will be different colors for the different parties. If it is Jubilee, it only has five votes and National Super Alliance (NASA), four votes. At the end of the day, we want five representing Jubilee and four, NASA.

I do not know whether that is in the rules. I have not actually read the rules. I do not know whether we cannot adopt the United Nations (UN) system of voting when it comes to these issues. I have participated in the voting at the UN General Assembly quite a number of times. The last one was as late as November last year, when I was re-elected to the International Law Commission. There, each region is allocated the number. From Africa, I think we are seven, Europe, five, Asia, eight, and so on. However, when it comes to voting, they do not have a separate roll for each region for people to vote. All you know is that each country has the total number of votes as required.

In this case of International Law Commission, there are 36 members. So, each country has 36 votes. You vote just on one roll. There is no separation at all. When the vote is counted, they now take into account the five and the four. In other words, when the vote is counted, the top five from Jubilee and the top four from NASA will be elected. This is the way it is done. You do not have different colors for this purpose. You just have one, and people vote.

Normally, it happens that you can have two or three rounds of voting. Maybe in that first round, although, for example, Europe got its number, Africa did not. It may have not got its number because of the fact that each member elected must get more than 50 per cent of the votes cast. So, you go on repeating, but at the end of the day, each region has those candidates allocated to it.

I am wondering if the system of the voting is in the regulations, maybe it is too late; we shall have different colors. However, if it is not, I would urge the secretariat to try to read the UN practice and even the African Union practice on voting which takes into account that each region must have so many. Here, we will be saying that Jubilee should have five and NASA should have four at the end of the day. So, I would commend that to the secretariat to look into it.

As I said earlier, I am glad that this is now happening. I am glad that we had to postpone the adjournment of the National Assembly and the Senate for this very important item. Kenya has not been very good on nominating its candidates in good time. We have delayed the operations of the East African Community (EAC) because of this lateness. I hope that after this, the EAC will move ahead.

If I may mention something related to the EAC, I wrote to the Speaker, I would like you to convey to him, and particularly the man from Ingotse, to make sure that this is done. I had mentioned that we should have in this House an *ad hoc* committee which deals with EAC affairs. I noticed that many of the Bills that come from EALA normally just go to the National Assembly and are approved there. However, they do not consider

the Senate as being part of the Parliament of Kenya. In Rwanda, it also goes to the Senate for approval. I thought that if we had an *ad hoc* committee to deal with EAC affairs, it would be going into some of these issues.

Secondly, it will also be a liaison between the Senate, the EALA, and the National Assembly on issues relating to integration. I know as a fact that after all this is done, one of the first issues that will be dealt with by EAC as a whole will be further integration on the political front. This will require an input not only by the EALA, but even a greater input by the Parliaments of the Member States. At the end of the day, if you have, it may be up to five years or so, it is this Parliament; the Senate and the National Assembly, which will jointly have to amend the Constitution to take into account the federation of East African issues and so on.

I would want you and the House Business Committee to look into ways--- I wrote a long paper on it, just before we went into elections, and gave it to the former Speaker that we ought to have an *ad hoc* committee on East African affairs to deal with these matters.

With those few remarks, I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Wako. Sen. Kihika, proceed.

Sen. Kihika: Thank you, Mr. Deputy Speaker, Sir. I beg to move an amendment that:-

The Motion be amended by deleting the phrase “and further resolves that the election be held on Wednesday, 13th December, 2017,” and inserting thereof the phrase, “subject to amendment of Paragraph 6 at Page 29, thereof, by deleting the phrase, “13th December, 2017,” appearing on page 29 and inserting thereof the phrase “14th December 2017.”

Mr. Deputy Speaker, Sir, it is necessary that we have this amendment because after deliberation by the leadership of the House, it was agreed that this happens on 14th December as opposed to 13th December, 2017. As such, it would be important to amend the report so that it is in sync with the resolution of the House or what we are trying to pass this afternoon.

I beg to move and request Sen Cherargei of Nandi County to second the amendment.

Thank you, Mr. Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): It is the Senator “for” Nandi and not the Senator “of” Nandi.

(Laughter)

Order!

Proceed, Sen. Cherargei.

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir. I rise to second. In the same vein, I want to take this opportunity to thank the Joint Parliamentary Select Committee for the good work they did. I agree that the membership from Kenya has not been elected to the East African Legislative Assembly (EALA) because of timelines that

we have raised. It is very important because the EALA should be given opportunity to serve its mandate as envisaged by the East Africa Community.

Going forward, we have to ensure that they deliver on their mandate. In addition, there are many issues that EALA can deal with to ensure that we have a good and cordial relationship that can promote both integration and issues that are there, which is important as we move forward.

Among the people whose names have been submitted and will be voted on the 14th---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator! Restrict yourself to the amendment of the dates from 13th to 14th. You will, of course, have an opportunity, if you wish to contribute to the debate on the substantive Motion. For Sen. Kihika, the Chair can correct himself; he is actually the Senator “for” Nandi County and not the Senator “of” Nandi.

Senator, proceed and restrict yourself to the amendment.

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir. I rise to second the amendment. As agreed by the House Leadership, for convenience and to ensure that we amend the dates from 13th to 14th December so that it can give Senators an opportunity to have time and ensure that we vote and get the right people.

I beg to second.

(Question of the amendment proposed)

Is there any Senator interested?

Sen. Wako: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. Wako.

Sen. Wako: Mr. Deputy Speaker, Sir, I beg to support the amendment, of course, because I can see the reasoning of it. But I want to be told the reasons for the change. Only yesterday, we agreed on 13th December and if you may recall, I complained yesterday that I foresee that this would happen. After agreeing on 13th yesterday, today it has been changed to 14th and, maybe, on Tuesday we shall be told another day. Why are we postponing these dates by one day from Wednesday to Thursday? I just want to be told the reason.

The Deputy Speaker (Sen. (Prof.) Kindiki): So, who would you want to respond; is it the Mover of the amendment, the Chair of the Committee or the Leader of Majority?

Sen. Wako: Mr. Deputy Speaker, Sir, it is the Mover of the amendment, who is the former Speaker of Nakuru County.

The Deputy Speaker (Sen. (Prof.) Kindiki): You must be very specific; she is the Senator for Nakuru County.

Sen. Wako: Mr. Deputy Speaker, Sir, it is the Senator for Nakuru County and the former Speaker of the County Assembly of Nakuru County. I just want to be told the reasons; that is all. Otherwise, I support you.

Sen. Kihika: Thank you, Mr. Deputy Speaker, Sir. The reason that we are requesting to amend the date for the elections from Wednesday, the 13th to Thursday the

14th is, one, it is being done with the National Assembly and they have already set their date to Thursday, the 14th. In addition, due to the public holiday on Tuesday, the leadership thought it was prudent to probably put it on Thursday to make sure that everybody is in the House back from the counties.

So, those are few of the reasons as to why we are moving or amending the dates from 13th to 14th of next week. I hope you are convinced.

Sen. Wako: Mr. Deputy Speaker, Sir, I accept the reasons. But all I want to say is that it appears that we are just following the National Assembly; whereas the National Assembly should be following us. So---

The Deputy Speaker (Sen. (Prof.) Kindiki): Not quite! I think she gave two reasons. She did not talk about following the National Assembly, but said they need to synchronize the elections in both Chambers. But there was also a second reason; namely, Tuesday, the 12th being a public holiday, it is assumed majority of the voters, who are Members of the National Assembly and the Senate, might travel upcountry. Therefore, it can be tricky to have an election the following day.

Sen. Wako: Mr. Deputy Speaker, Sir, I understood that.

The Deputy Speaker (Sen. (Prof.) Kindiki): So, those were the reasons but the issue of following is your own conjecture, Attorney General, *Emeritus*.

Sen. Wako: Mr. Deputy Speaker, Sir, it is the process of restructuring and liaising and all these things. The National Assembly did it first and the Senate is now following on the issue of 14th. Whereas, really---

The Deputy Speaker (Sen. (Prof.) Kindiki): Your point has been noted, Sen. Wako.

Sen. Wako: It was on a light touch, Mr. Deputy Speaker, Sir.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you.

(Sen. Murkomen stood up in his place)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Murkomen, it was on a light touch and there is no need to prolong the matter.

Sen. (Prof.) Onger, do you want to speak on the amendment?

Sen. (Prof.) Onger: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): You have the Floor.

Sen. (Prof.) Onger: Mr. Deputy Speaker, Sir, I hope that there are no other games being played on the postponement of the date from 13th December to 14th December, because that falls on a Thursday and we are supposed to adjourn on that date. We do not want to hear another story later on that there is something else which has happened occasioning the postponement of these appointments to next year when the House again resumes in February. I want a tacit reassurance that that would take place on that day, on 14th of December.

The Deputy Speaker (Sen. (Prof.) Kindiki): Now, between Sen. Kihika and Sen. Murkomen, who wants to respond to that? This is because you are jointly and severally responsible by virtue of where you are sitting. The information I have is that it is Sen. Kihika was doing it on behalf of the Senate Majority Leader. But we can hear from both of you; you have 30 seconds each. Please, do not give a speech.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I hope that the Sen. (Prof.) Ongeru, being an experienced Parliamentarian, knows that there can be no games played without the approval of the House. So, if any changes were to happen, because we are doing it via a Motion, there is nothing that can be done until this House sits here to pass the Motion. So, it is not an administrative action that can be done outside the procedures of Parliament.

Secondly, is to confirm to the House that we consulted under the constitutional requirements and concurrently, the changes were made here as they are being made in the National Assembly. The reason is that it is one election in two polling stations. One polling station is the Senate while the other is the National Assembly. Unless there are serious reasons to postpone elections in one polling station, for example, serious “resistance”, nothing can stop this election from taking place on Thursday.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order Sen. Murkomen. Sen. (Prof.) Ongeru are you satisfied?

Sen. (Prof.) Ongeru: Yes, Mr. Deputy Speaker, Sir. If they take the concept that there are two polling stations, I will accept that position. I only wanted the assurance that we do not again fall in the same mistake that you found yourselves in, in June. I was not here when this had to be postponed, unfortunately, until after the elections.

I saw some of the write-ups from the Member States within the EALA complaining that Kenya has delayed the East African Community (EAC) in transacting major businesses that are required to be done by these nations. That is really the spirit upon which I am asking for this assurance; not for any other pecuniary gain.

It is important that we are all clear that, come 14th December, 2017 next week we shall be able to vote as required by law.

Thank you Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, I want to put the question on the matter of the amendment. I determine that this is not a matter affecting counties, so, we will vote in the way of “ayes” and “nays”.

(Question of the amendment put and agreed to)

(Question of the Motion as amended proposed)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators. We can now resume debate on the Motion. I see the request from the Senator who shares the name with this House, Senator Mary Seneta.

Sen. Seneta: Thank you Mr. Deputy Speaker, Sir, for giving me a chance to also contribute to this important Motion. From the onset I support the Motion with the amendment. I also commend the Joint Parliamentary Select Committee on three issues; for having tried to meet the timelines being aware that this important legislative assembly was supposed to be in place by June this year. As a Member State we were already late and so for them having sat within a very short time and come up with this important Report is commendable.

I commend them because having looked at the many applicants from all parties and the requirements that were to be looked into, it was quite a lot of work. I commend them because having briefly looked at the number of applicants; they have taken into consideration regional balance, gender and constitutional requirements. They have therefore done commendable work.

It is high time that we put in place this institution because as a member state we need to make sure that we continue with the relations of the EAC. Without this institution that is supposed to make policies, we may lag behind as a region.

I urge this House that when we are coming to elect these Members, we need to look into regional balance, gender and also consider interest groups like Persons with Disabilities (PWDs). I congratulate and commend the women who have finally made it to the list. I wish them all the best. We shall also look into how we can make sure that we have women being elected to also participate in the EALA.

I urge Members to look into competence when they are voting for Members to serve in this Assembly. This is an Assembly which will bring together Member States from all the East African countries. Therefore, we need Members who can interact and argue on matters that can push our interests forward as a country.

At the moment, we already have issues with our neighbouring countries like Tanzania which seem to have affected our---

*(Sen. (Dr.) Kabaka walked into the Chamber
and remained standing)*

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Kabaka. Have a seat. Proceed, Sen. Seneta.

Sen. Seneta: Thank you, Mr. Deputy Speaker, Sir, for protecting me. I was saying that this Assembly needs people who can look into the interests of Member States. This is because at the moment we already have a problem with Tanzania. As one of the Members of this House coming from Kajiado County, we are not enjoying good relations with Tanzania because of what happened recently. We need Members who can go there and chart the way forward in terms of how we relate socially and economically with Member States. This House, therefore, needs to look into electing people who have the knowledge and some background on how to look into these political interactions with other Member States.

Mr. Deputy Speaker, Sir, I totally support this Motion and urge my colleagues to make sure that we elect the right people to the Assembly.

The Deputy Speaker (Sen. (Prof.) Kindiki): Yes, Sen. Omogeni.

Sen. Omogeni: Mr. Deputy Speaker, Sir, I rise to support this Motion. First, I commend the Committee that was tasked to do the shortlisting. It is not an easy thing combing through Curriculum Vitae (CVs) of 208 people. I hope that this process has been transparent. I would have loved to have an annexure of all the 208 applicants. Perhaps, next time we give a task to a Committee of the House, it will be good, for transparency, to have the names of all the applicants.

As a country we should ensure that this becomes a learning experience for us. This process was initiated by the East African Community way back in December 2016. It has taken a whole year for Kenya to send its nominees to the East Africa Legislative Assembly (EALA). This is a trend we should not accept in future.

Mr. Deputy Speaker, Sir, professionals are the biggest stakeholders in the East Africa integration process. Because of the suspicion we have from our brothers and sisters in the other East African countries, we have never achieved some of the benefits we would have wished our professionals to enjoy. Being a lawyer, you know that we have never achieved the dream of having cross-border practice for lawyers because of the suspicion with which professionals from other East Africa member state treat Kenyans.

When I was Chair of the Law Society of Kenya we tried to push this agenda in Tanzania and the joke was: "If you allow lawyers from Kenya to practice in Tanzania, all insurance industries will close down because of ambulance chasing." We need to be very careful as we pick our nominees to East Africa. We should pick people who will improve our image as a country in East Africa.

I would plead with the hon. Senators that this is one opportunity we have to put behind us our party affiliation, ethnic backgrounds and pick the very best. This is because we are looking at the future of our own children and a process that can open the cross-border economic, political and social integration. I appeal to Members to give fidelity to Article 81 of the Constitution. When we engage in this exercise of electing our nominees, there should be no intimidation. I should not be intimidated by my party leader, and equally, I expect that our brothers from the other side will not be intimidated by the Jubilee leadership. That is the spirit of Article 81 of the Constitution.

Mr. Deputy Speaker, Sir, I have been confronted by a number of candidates who are already on campaign mode. I am sure that other Senators have encountered people within the corridors, campaigning. If this process is to be free and fair, there should be a platform for people to campaign and sell their policies. The ground should be fair and the people who want to campaign should be given access to the Senate and Parliament in general; of course, not inside the House but just within. That way, we can know them and when we come to vote on the 14th December, 2017, we will be voting for people we know.

Finally, we should be careful how we undertake this exercise. You will remember that there was a time this process attracted serious litigation. The Attorney General *Emeritus* will confirm that this country paid huge colossal sums in costs to advocates who sued this country, because the process was not done in a proper way. So far, we have proceeded well. We engaged the public, gave equal opportunity, ran an advert and now, we are just remaining with the final process of electing our nominees. It is my wish that

this process will be fair, there will be no rigging and we will pick our best women and men to represent us in the East Africa legislative Assembly.

I support the Motion.

Sen. Sakaja: Thank you, Mr. Deputy Speaker, Sir. First, let me commend this Joint Committee of both the National Assembly and the Senate for expediting this matter of nominees to EALA and filtering those who applied for these positions. We all note the importance of the EALA. This process has brought to light certain concerns.

Before I get to those concerns, I note and congratulate in advance all those who have been nominated. I see a number of young people who have made it to the list. Whether or not they make it through the elections is another issue, but this is a good spirit. Of course, we can see who has nominated more young people than the other. But I am glad to see people, starting with Musyoka Kalonzo Kennedy at 31 years of age being nominated. I really do hope he will get through - I am not campaigning for him. We also have Florence Chematia who is 37 years old and Elizabeth Wangui who is 30 years old.

If the thoughts around the EALA are to go on for generations to come, it will be important that EALA is not seen as a retirement home for former legislators. It should not become a place for retirement, but where serious legislation and the true spirit of the East African Community can then be prosecuted by those we choose to go to represent us. I am glad to see Doris Ndonga at 35 years. I saw somebody else in their 30s who has been nominated as well. I will support them not just because they are young - we do not advocate for leadership on the basis of age - but because for us to keep this dream alive, we will need to have a sense of continuity within EALA.

Mr. Deputy Speaker, Sir, in other parts of the world where we have similar blocs for political or economic integration, these issues are taken more seriously than we do. Today, if you walk outside there, get the first ordinary Kenyan you meet and ask them about EALA and if they are aware of the elections, they will tell you that they have no idea. If you go to Europe, the Members of the European Parliament are actually voted for directly by the people of Europe.

So, apart from the constraint that we already have overburdened elections in this country with six ballots; we should move to the level where Kenyans choose whom they want to go and represent them at the apex legislative assembly of the region. If we move down the road of real economic and political integration, that choice must be made by the people.

However, our Constitution is clear and delegated responsibility rests with us. It then begs the question: What is the true test of the people we are choosing to go there? We do not afford them an opportunity officially as Parliament to express themselves to the entire electorate, which is us, or even set aside a day where possibly all of those who have been nominated can come and get five minutes each to say what their thoughts are about the EALA, the East African Community and their experience. However, we further delegate that responsibility to a smaller Committee to filter out. Apart from looking at technicalities, they also look at suitability. Thereafter, all that is left is them bumping into you at tea time to give you a small card saying: "Please, vote for me."

We are doing a great disservice to the East African Community. What objective criteria do we use to vote in people? You will find Members voting for people just

because they know them or they were former colleagues or they designed a nice card yet we are sending them to represent Kenya and not necessarily specific regions. They are to represent Kenya in the entire East Africa Community (EAC). Moving forward, I hope that we can create systems through which we can have a more objective method of selecting the candidates. They can come and express themselves for us to have a more rigorous process so that the best can go there. That is before we give this mandate to the people.

We also need to amend the nomination rules of the political parties for them not to send us names from the same region. You will find that almost three or four people from one community are being nominated and many communities are left out. Of course, we have more than nine communities. Going forward, there should not be more than one nominee from the same community. They are going there to represent our country and as much as possible, we want – You have seen the state that our country is in. I think that every step and every effort that is made to increase the feeling of inclusivity and representation across board must be supported.

We also need to look at the matter of the term of office of EALA. It would make sense if we do not have all of the nominees have their terms expire at the same time. In these Houses, it will be easy to find former Members around who can give you some institutional history of what has been happening if an entirely new Parliament is elected in. It is very easy to follow what is going on in the National Assembly and the Senate. However, apart from the secretariat of EALA, if you have an entirely new team of Members in EALA, more often than not, the rest are from scratch. No one is able to carry on the tradition or the institutional memory of what has been happening there.

I look forward to us making a good choice. I will urge Members of the Senate and the National Assembly to stop looking at it purely because of political expediency. It should not be about the people who are being rewarded. For me, EALA should not be a reward. It is a task and a duty to represent your country. We must keenly look at these people. We can do our own research. Ideally, Parliament should provide more details about these people. I am not sure if it is there. I stand to be corrected if it is there. I would like to look at all their Curriculum Vitae. I would like to know what their experiences have been. I would like to see some of the utterances they have been making. If someone has been divisive in Kenya, you can imagine what they are going to do at EALA. That is the basis upon which I will make my decision.

I heard my colleague from Nyamira County asking his party not to intimidate him. I would like to tell him that fortunately for us in Jubilee, we are not intimidated. Intimidation is not part of our language. We consult as often as possible. I believe that each Member will make an objective decision, based on their conscience, on the people to support. I will urge Members to try and have a good mix of both young people, who I have seen on this list, as well as those who have experience.

I am glad that I have seen one member from Nairobi County, Hon. Samuel Mbugua. I will definitely support him having in mind that he is coming from my County. I foresee some people having a dilemma because they have more than one person from their general region even if they are nominated from different parties. Jubilee has nominated two people from Mandera and a number of people from counties that are so

close to each other that there is no difference. With those many remarks, I wish to support the Report.

I will, however, urge you, or we probably need to have a session on the English language. This is because I believe that I am both the Senator for Nairobi County, but in the possessive form of the proposition, I am also the Senator of Nairobi; the Senator who belongs to the people of the County of Nairobi. This is both in the possessive form of the proposition 'of' and also the representative proposition 'for'.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Sakaja. Very well, we are making good progress. We are almost there. We shall now listen to Sen. Okello. For avoidance of doubt, he is the Senator for Migori County.

Sen. Okello: Thank you Mr. Deputy Speaker, Sir, for giving me this chance. I stand to support the Report and thank the Committee for a job well done. I also want to say that even though they did a good job, what we have about the candidates is their age and regions. We are lacking a lot of information which can help us make informed choices as voters, come next week.

I will also want to remind my friend Sen. Sakaja of Article 27 of the Constitution which requires that we do not discriminate anyone on any ground. That includes their age. While rooting for the youth, he should note that age is not a requirement of any elective position in this country or EALA for this matter. We need to know these people well; we need to know their background. We need to be sure that they are going to do a good job while representing us in EALA.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it Sen. Sakaja?

Sen. Sakaja: Mr. Deputy Speaker, Sir, I like to correct the notion that while promoting representation of young people, I am also discriminating against the old people. I can see one particular gentleman who is older than the rest in the list. The same Constitution that says that we should not discriminate---

The Deputy Speaker (Sen. (Prof.) Kindiki): First of all, what is out of order?

Sen. Sakaja: Mr. Deputy Speaker, Sir, it is out of order for the Senator to insinuate---

The Deputy Speaker (Sen. (Prof.) Kindiki): Which Senator?

Sen. Sakaja: Mr. Deputy Speaker, Sir, Sen. Okello, who is the Senator for Migori County.

The Deputy Speaker (Sen. (Prof.) Kindiki): For purposes of process, Sen. Okello has already finalized his contribution. Technically, you cannot bring a point of order on a Senator who has concluded.

Sen. Sakaja: Mr. Deputy Speaker, Sir, I pressed my intervention before he sat down. With your kind indulgence and for the record of the House---

The Deputy Speaker (Sen. (Prof.) Kindiki): That is how you should have started.

Sen. Sakaja: Thank you Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): For that reason, you will be indulged.

Sen. Sakaja: Thank you Mr. Deputy Speaker, Sir. I would like to correct the notion that might be in the record of the House that promotion of young people in terms of representation is discrimination of the old and against the Constitution.

Article 27 is very clear. It states that indeed we shall not discriminate on matters of race, sex, pregnancy, marital status, age, disability or even religion. However, there is something called affirmative action where the same Constitution says that we promote the representation of those groups that have, previously, been marginalized from the political, economic and social spaces in this country. Article 55 for instance says that:-

‘The state shall take measures including affirmative action programs to ensure that youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life’.

Article 100 then puts a requirement and puts this to parliament, It states that Parliament shall - though Parliament has not been able to do it - it states that:-

‘Parliament shall enact legislation to promote the representation in Parliament of women; persons with disability; youth; ethnic and other minorities; and marginalized communities’

In as much as we should not discriminate against the aged, there is no single provision in the Constitution that asks us to promote representation by older persons. If anything, the Constitution mandates us and tells us in very certain terms that we must promote representation of women, young people and persons with disability. Given a choice where there is a list with young people and old people, especially old people who had numerous chances, I will promote the young people.

The Deputy Speaker (Sen. (Prof.) Kindiki): Point made. No Senator should speak on the same Motion twice. The concept of what you are engaged in is double contribution which is against the Standing Orders. Could we hear from Sen. Cherargei?

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir. I rise to support this report and say, as I indicated earlier, that it is very important as we move forward especially with the so many issues that EALA should handle. I want to agree with most of my colleagues who said that EALA has a mandate and should not be a retirement home but rather a place of duty and honour. This is because these people are not only members who are elected to EALA, but they are also ambassadors and, therefore, they are a brand for this country.

I hope these men and women who have gone through the nomination will rise up to the occasion and ensure that if they are given this honour and privilege to serve us, as the members of EALA, they do it with due diligence. They should also ensure that they execute the mandate that is there and ensure that we also have a proper integration that will promote the economy of the East African countries, as well as the political and the social aspects. Doing this will enable us to move forward as East Africa among, other regional organisations that we have in the world.

Mr. Deputy Speaker, Sir, I am happy and excited to see Sen. Sakaja of Nairobi County as a young person in this House. It is an honour to have quite a number of young people on this list. Whichever way we vote, it will show that we have confidence in the young people to perform this noble task of ensuring we promote the ideals of this country, which we will blend with those of the Eastern Africa member countries.

As it has been suggested, we should also look for a forum even as we look into the future where we will have a direct vote for some of these representatives to EALA. We should create a forum so that we can listen to some of these people who intend to be

members of EALA so that we also get to know what they understand about the East Africa Community; its ideals, vision and mission. Therefore, as we vote, we make an informed decision after knowing these people and understanding what they are up to so that they do not go there and represent ideals that we do not approve of.

Mr. Deputy Speaker, Sir, I want to laud the President who, during his swearing in speech, indicated that we are moving into ensuring that we have proper integration where if you want to move from one country to another, what you need is just an identity card (ID). That is the way to go so that we create more avenues and we ensure we interact both economically and politically. There are so many issues even as we talk. For example, in Tanzania, there are allegations that the government there is auctioning chicks and also cows. There are also some boundary disputes, like the one of Migingo Island.

So, we want to ensure that when these people are elected, they can go, sit down and ensure that they represent the interest of the country. They should also bring that harmonious neighbourliness so that we move forward as a country and as a region. As Senators, we will conduct due diligence to ensure that we get the right people for the job.

Mr. Deputy Speaker, I know because of time constraints and since we are also going for recess, we have agreed on the date when the elections will be done. But in future, we need to create a forum so that we get the position. However, going forward, we must agree in unison that we should have direct voting so that as we go for the general elections to elect Members of the Senate and the National Assembly, we also have them being voted for. This will ensure we get the right people.

Finally, Mr. Deputy Speaker, Sir, as we make this decision of sending these great people to EALA and in as much as I thank the Select Committee that worked on it for the meticulous and very good job that they did, I know there are various people who will be supported by various leaning coalitions. I hope that as we elect these representatives, let us blend them. Let us have young people, people living with disabilities as well as the old people being elected so that we get that *Solomonic* wisdom in the process.

Let us have all shades even from the various religions so that as we go there, we can represent the face of Kenya that is a mosaic, but has a unifying factor as a nation and which can promote our ideals and unique culture that we represent in East Africa. It is very important as make that choice to blend them and have everybody on board so that when they go there and make decisions, they have the whole picture, they understand issues and they can comprehend what is expected of them.

When we elect the right people, we will stop these issues of having inter-country boundary conflicts or frosty relationships among the countries that are members of East Africa. If we do that, we will allow the EALA to meet its mandate. On my part, I have gone through the list but fortunately or unfortunately, I do not have any member from my county. So, I might be the swing vote.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to support.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Cherargei, actually you are a voter; I hope you are not marketing your vote.

Proceed, Sen. (Dr.) Kabaka.

Sen. (Dr.) Kabaka: Thank you, Mr. Deputy Speaker, Sir. Let me take this opportunity to thank the Committee for doing an enormous job to come up with such a list which will be subjected to the election on Thursday. I wish to join the other Senators in contributing to this worthy debate.

First, I need to go beyond what they have said and touch on what I have shared with one of the outgoing members of EALA. He did raise some concerns as to their tenure of office in that they are not happy and they felt that they are getting a raw deal at EALA. They are not being compensated commensurate to the task which they have been given by the partner states.

In that regard, I am talking about matters finance because some member states are known – and we read from local dailies – for delaying in remitting their fair share of their membership contributions. That affects the performance of the duties of the members of EALA. I hope our country, Kenya, is up to date in its obligations.

Mr. Deputy Speaker, Sir, the other thing I need to mention or bring forth to this honourable House, as the Senator for Nandi County has said, is that the persons who are sent to EALA are more than Members of Parliament thereof. They are also diplomats and, therefore, we want persons who are not necessarily professors like you are; but we need persons who are endowed with enough academic background in areas of international law, diplomacy and finance. This will ensure that those matters which have been raised or those which are touchy like boundaries and those matters relating to harmonising the currency, they will be in a position to contribute comprehensively, to the benefit of the partner states.

So, when it comes to the day of election on Thursday, I implore and beseech my fellow Members to go beyond the call of duty and look at the candidates in terms of their qualifications. Regardless of the age factor whether such a person is old or young, let us get the best so that this country can be well represented.

I support.

Sen. Kihika: Thank you, Mr. Deputy Speaker, Sir. I also rise to support this Motion. First, I really commend the Joint Parliamentary Select Committee that worked very hard under very short timelines and gave us a good report. Having gone through it, I see from the membership that at least we have quite a bit of what we would expect from the representation so that it is quite representative of our country Kenya, be it geographic, gender and age.

On the face of it, everything appears very well done. However, I also join my colleagues in wishing that in getting this report, we would have gotten the resumes of the candidates that we will be voting for so that as we send them to that important House, the EALA, we look at their experience, qualifications and match them, based on the work that we will be expecting them to carry out at the EALA. Having said that, I am sure the Committee did a very intensive and thorough job. I also hope that as we come here on Thursday next week to vote, we shall send the right delegation from Kenya to the EALA.

I would have wished to see one Member at least from Nakuru County. However, I am also cognizant of the fact that we have 47 counties in this republic and there are only so many slots available. Having seen this, I know we are even going to shorten them a lot more to just about nine Members.

So, I support this Motion. I also urge that all the Senators be here on Thursday 14th December, 2017 next week so that we have quorum to carry out this very important task ahead of us. We know that as a country, Kenya has delayed in sending the membership to the EALA. Now that we have the opportunity to correct this, I am hopeful that every Senator will take this responsibility very seriously and be here on Thursday next week.

Thank you very much. I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Finally, Sen. (Eng.) Hargura.

Sen. (Eng.) Hargura: Thank you, Mr. Deputy Speaker, Sir. I would like to join my colleagues in supporting this Motion and urge the House to adopt the report. Being the largest economy in East Africa, and having some of our members of the EAC being our number one trading partners, for example, Uganda, we have a lot to benefit from this kind of a Community. We need to be serious when we deal with the legislative part of the EAC.

However, I would like to, maybe from memory, remind Members that actually in the last Parliament, this list was brought. However, Parliament could not proceed because one side of the House decided not to follow Rule No. 6 by bringing exactly four members instead of the required 12. That is why the last Parliament rejected the nomination list and it had to be returned back to the parties to bring the list as per the requirements of Rule No.6. So, the blame should not just be lumped on all Kenyans and Members of the last Parliament that we failed to pass the list. It was actually one party, specifically, one side of the House which by then did not give the right number for the House to select from.

However, for now, I can see there is compliance on that part. I would like to commend the Joint Committee for having gone through the nomination list within the short time, and also for the parties. We are told that there were 208 applicants. This list went to the parties which actually selected the nominees who we are supposed to vote on. That is why we need to stress that the parties should take into account diversity in terms of regions, skills, gender, and age so that when they present this list to us, we have that diversity to choose from. Otherwise, if we are limited by the parties when they select more people from one region, we will be constrained and we have to vote within the list they have given us.

I thank the Joint Committee for being thorough and making sure that when they disqualify someone, it is done according to the law. They had to write to the Independent Electoral and Boundaries Commission (IEBC) and the Registrar of Political Parties to confirm before they could disqualify somebody. We do not want to go into the situation which was alluded to by the Senator for Nyamira County that we had to go through a lot of litigations when the list was not submitted according to the law last time. I hope this time round, we have taken care of that. Come 14th December, 2017 we will have these elections through and our Members will attend the EALA.

I urge fellow Senator that when we will be electing, we have to take into account that these are people who are going to represent our country in the EALA. They will be our face. We have to select people whom we can trust to represent us outside this country. That is why we have to look beyond the party issues. We have to look at who is

qualified to represent this country. Who are you comfortable with to represent you where you are not there to articulate your issues?

We have issues within the EAC, for example, the issue of the cattle from Kenya that had to cross to Tanzania because of the climatic conditions. The spirit of the EAC would have been accommodative. However, we saw what our herdsman went through. These are the kinds of things we expect the people we will elect to the Assembly to address so that we create a better environment for our Kenyans who are incidentally more entrepreneurial than the other members of the EAC.

We should create more chances and favorable conditions for our people to operate within the EAC. That way, we have to get the right people to represent us at that level.

Thank you, Mr. Deputy Speaker, Sir.

(Sen. Kihika crossed the floor without bowing to the Chair)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Kihika! Shortcuts in life end up being costly. Once you arrive to your destination, sit down to allow the Chair to stand up.

(Sen. Kihika went to the bar and bowed to the Chair)

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

THAT, pursuant to the provisions of Article 50 of the Treaty for the Establishment of the East African Community (EAC) and Rule 13(5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, and notwithstanding the provisions of Standing Order 49(6), this House adopts the Report of the Joint Parliamentary Select Committee on its consideration of the nominees for election as Members of EALA, laid on the Table of the House today, Thursday, 7th December, 2017, subject to amendment of the Report at paragraph (6) of page 29, thereof, by deleting the phrase “Wednesday, 13th December, 2017” and inserting thereof the phrase “Thursday, 14th December, 2017.”

ADOPTION OF THE NATIONAL IRRIGATION POLICY, 2017

Sen. Kihika: Mr. Deputy Speaker, Sir, I beg to move the following Motion:

THAT, this House adopts the National Irrigation Policy laid on the Table of the House on Tuesday, 10th October, 2017.

Food production and sustainability is critical for human survival. Kenya's population at this point in time is about 45 million people. These people require not only healthy food, but accessible, affordable and quality food. Like a family, for a

government to become legitimate it must be able to provide or feed its people. Under Article 43 of the Constitution of Kenya 2010, every person in Kenya has a right to be free from hunger. As such, it is important for the Government to provide for its people.

Mr. Deputy Speaker, Sir, that brings us to the National Irrigation Policy 2017. In Kenya today a paltry 161,840 hectares of land is under irrigation, which is only about 12 per cent of the total potential area that we have in the country, which is about 1.3 million hectares. Therefore, I cannot overstate the urgent need that we have for a framework that allows the full exploitation and sustainability to increase food production.

Globally, as the population rises, so does the requirement to have more food production, and Kenya is not unique. As our population has risen, the demand for food production has become very high, but due to factors such as weather changes, the forest cover has diminished. The communities that used to farm have recently abandoned farming and productivity per acreage has dropped significantly. This has led to food shortage.

With all that, we seem to have a big shortage when it comes to this issue. Globally, only about 50 per cent of arable land is under cultivation, but in comparison, only about 30 per cent of it is under cultivation in Kenya. So, there is a need to have a better irrigation policy, so that we can cater for our population as a country.

We have also been experiencing shortages as well in the food basket counties. We have seen the acreage of land under production of food go down, be they for maize, wheat, beans, green grams, rice and different kinds of cereals. This has not helped as the population of our country has risen. Therefore, as a country, there is a lot that needs to be done. There is need to make sure that this National Irrigation Policy of 2017 works, so that we can still provide enough food for our population, despite the fact that we have failures in rainfall which is affecting the cultivation of crops. We have also seen this affecting pastures and grazing lands thus leading to drought. This has led to negative impact, resulting in the deaths of livestock as well as livelihoods of the population that depends on livestock.

Mr. Deputy Speaker, Sir, this National Irrigation Policy recognizes and upholds the participation of all the relevant stakeholders, including farmers and the communities in the implementation of the Policy on Irrigation Development and Management as a national value and principle of governance. It also recognizes and takes into account the fact that this will require the cooperation between the national Government as well as the county governments.

As you are aware, there are many counties that are in the process of constructing water dams across the country. The dams will be of various sizes and they will have a lot of water holding capacities to ensure that water availability for irrigation is sustainable as we move forward. For example, we have the Thiba Dam in Kirinyaga that was recently launched. We also have Kariminu Dam in Kiambu, Thwake Dam in Kitui County and Itare Dam in Nakuru County, among many others. This will help in water harnessing strategies that will boost irrigation across the country and counties.

With better irrigation technology, the farmers will have better production and this will lead to sustainable means to enhance food production across the country, given our very fast growing population. We have also had a rise in urbanization across the country.

With this irrigation policy we shall then continue with the construction of dams, rehabilitation of swamps and placement of dry lands under irrigation, specifically, drip irrigation mechanisms in a sure way of boosting food production.

Mr. Deputy Speaker, Sir, improving agricultural productivity and production in Kenya will obviously demand an expansion of the areas under irrigation, as well as an improvement in the technology used in the sector. Currently, irrigation is under the National Irrigation Board, which is under the Ministry of Water and Irrigation Development that has been transforming it. However, this policy seeks to develop new institutional framework for the subsector under the proposed National Irrigation Development Authority.

The formulation and implementation of this irrigation policy will, therefore, be at the two levels of government, in line with the spirit of the Constitution. Probably, counties may worry that the national Government will now become involved in this function, which has been with the counties, but I do not believe that there is anything to worry as this will help enhance the capabilities of the counties in being able to have better food production for their high rising populations.

A clear sharing of the roles and functions between the National and county governments will now require a lot of review under the very existing policies that we have. This National Irrigation Policy will go a long way in enhancing that, so that the country can get better at being able to feed its people.

With the involvement of all the stakeholders, the implementation of the National Irrigation Policy will be complemented by institutional and legal frameworks, sectoral strategies and county development strategies so that there can be an orderly and rapid development of the irrigation subsector and also to create an enabling environment for effective stakeholder participation in the country and within the counties as well.

The policy will also seek to further stimulate and guide irrigation and drainage development through the targeted technical support intensified in the sector, improved research and technology, extension services and capacity building for both staff and farmer organisations to assure development and sustainability of the subsector.

Mr. Deputy Speaker, Sir, this Policy will therefore pave way for employment of the necessary technology, strategies and mechanisms for sustainable food production, that is not then going to be subject to the ever-changing weather patterns across the country and climate change in general. Full implementation of the Policy will result in the placement of bigger land acreage under irrigation, more jobs for our population, more food and stemming of rural-urban migration.

It will also set up the related sub-sector income generation activities of agricultural tourism and fishing which further boosts the nutritional food quality and sufficiency; agro-based industries, Small and Medium Enterprises (SMEs) and cottage industries that will utilise the raw material obtained from irrigated land. These will ultimately serve to drive our country to high ratio of food availability per person. It will also help to attain vision 2030 and demands of the Constitution in meeting the basic needs for our citizens.

Mr. Deputy Speaker, Sir, I beg to move and request Sen. (Prof.) Ongeru to second.

(Sen. (Prof.) Ongeru walked to his place)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order. Are you done?

Sen. Kihika: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Let us have Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to second this Motion. It is so important that we need to know the genesis of why we are doing all these things.

First of all, when you look at the Fourth Schedule of the Division of Responsibilities between the National and county governments, it is quite clear from the outset that in order for us to have a comprehensive and all-inclusive policy, we must all of us be able to coordinate our functions and services at the National and county levels.

When I survey this nation, 84 per cent of the population or the landmass of Kenya is Arid and Semi-Arid (ASAL). Therefore, food production becomes a major issue and a major element that we need to take into account. Put together, when you look at the contribution of agriculture into the Gross Domestic Product (GDP), it only contributes about 25 per cent and yet, when you look at agriculture, it is the mainstay of the economy of our rural populations. Therefore, we need to invest more in irrigation schemes in order to up the game for irrigation, increasing the economic opportunities and the results that are likely to be attendant to it.

There are arrays of events that we stand to gain throughout this policy. Currently, the manufacturing sector contributes 27 per cent of our GDP and the rest of it really is contributed as a result of exports, some of which are agricultural.

What are we doing in this Policy? When you look through this, unfortunately, it is a Policy that has suffered so many sessional papers in the past. At the end of it, all these sessional papers have not been able to be put into a compact national strategy - policy sessional paper that encompasses irrigation.

Although irrigation looks like a very small language, in all intent, it encompasses the economic growth of a nation. More so, if you look at the rural populations, all of us represent counties which depend on agriculture for employment, food production, school fees, water provision, firewood, livestock, health and sanitation, care of the environment and the issue of climate change comes in. There is an array of events that our poor population cannot mitigate. This nation, therefore, requires a comprehensive National Irrigation Policy, first of all, aimed at increasing the amount of arable land; that is recruiting the amount of arable land to a level where we have sustainability in food production.

Let us talk about Israel which is virtually a desert and yet, their organisation and what they are doing when it comes to food production through their *Kibbutz*----. They have been able to harness the water resources to be able to produce enough food for themselves and for export to the European and African markets.

The fruits that used to come from Israel were a boon of everybody wanting to eat. They were later substituted by the fruits from South Africa. When you look at South Africa, part of it is virtually the Kalahari Desert, yet, they have been able to put in place

policies that are able to mitigate against these climatic hazards and are able to produce their food.

First, we need to produce enough food for our own consumption. We are a net importer of food. The maize situation is a classic example of how this nation is dying from hunger because we have been unable to produce enough food.

The Tana River Irrigation Scheme that one expected to produce a great tonnage of food has just come a cropper. We need now to revisit the policies and I am hoping that when this Sessional Policy Paper comes through this House, we should be able then to reassess the methodologies and engineering functions that we put in that place to be able to do effective irrigation.

If we take the case of Garissa Irrigation Scheme, it is an area where instead of harnessing water upstream towards downstream irrigation, it was the reverse. It therefore, became not only expensive but also notorious and a place where human beings were being consumed by crocodiles. I do not think we want to encourage this trend in this country where human loss is a result of our own resource; crocodiles, which we can tame once we have proper irrigation schemes.

So, then this Policy in a nutshell, is intending to look - and I think we should be able to understand this very well- that Sessional Paper No.4 of 1981 on National Food Policy was not able to address all the issues that came in. It was followed by Sessional Paper No.1 on Economic Management for Renewed Growth, which again was a cropper in the whole exercise. There then came Sessional Paper No.2 of 1994 on National Food Policy and the Economic Strategy Recovery and I remember we debated this extensively.

If you notice, between 1992 and 1994 is when the Bretton woods Institutions put a break on the resource flow to this nation in terms of borrowings and therefore, employment opportunities became difficult and diminished gradually. I happened to be the Minister for Technical Training and Applied Technology at that stage.

We were able to promote the informal sector and the *Jua Kali* sector to absorb a greater number of Kenyans to be employed. Otherwise, we would have gone into an unemployment glut in this country which would have burst our economic opportunities. We survived that period of the World Bank or the Bretton Woods institutions embargo on Kenya to borrow from their institutions. So, I am happy that we are now able to go beyond this.

What will it entail for this House to pass this Sessional Paper? First of all, we must look at the broad irrigation development strategies that work. Let us not invest money in things that have not been properly engineered, researched and done. I am now seeing mega dams being built in this country. I hope that environmental impact assessments have been done on these dams. If we do not do this, then just one break of the dam downstream can cause havoc in terms of human wastage. Therefore, we need to be critical in assessing to ensure that we have sound hydro-mechanical engineering designs that will contain that volume of water.

You know this is not a biblical example where the red sea was parted into two and the children of Israel crossed over to the Promised Land. Our promised land here is in our engineering prowess that will enable us to do proper dams that can contain volumes of water. When I was the Minister for Local Government, it was impossible to supply water

to Nairobi City because the Ndakaini Dam was getting overstretched and the environmental hazards then were very difficult. I had to visit the dam to assess the environmental concerns there.

If you go around that region, there are people staying around the dam and there was an onset of Mosquito, but those people never experienced mosquito bites. But, now, they live with the mosquito bites. Go to Mwea Irrigation Scheme for the rice growing region. One of the biggest problems we had to contain is the development of the health hazard in the name of schistosomiasis; this is bilharzia in other words.

So, when planning for these dams particularly in Ukambani and some of these arid and semi-arid areas, we should be concerned with other developments that may injure the health and the work force that we intend to employ in those irrigation schemes.

Yes, irrigation will increase the employment opportunities, our economic power and our Gross Domestic Product (GDP). In fact, the GDP will increase by almost by 400 per cent fold. Therefore, that is the area that we should focus on. Irrigation will recruit the land mass of Kenya, both in the arid and semi-arid regions that have not been catered for into full food production potential. Therefore, we have everything that is going for us, but we have to do it right. We have to get our legislation right – and I believe that legislation is going to come here – because the bulk of irrigation is going to affect our counties.

Therefore, we need to make the enabling legislation and see how the functions already assigned to county governments and to the ones assigned to the National Government, how that inter-governmental relations coordination is going to work out for us to get the full potential and the benefit both for counties and for also our National government.

Yesterday, I heard Sen. Sakaja saying – well I did say it also – that when you talk in terms of the GDP of this nation, 60 per cent of is contributed by Nairobi. He was, in fact, rooting that we should have more investments in Nairobi so that we can increase the GDP potential. I am against that kind of policy. We must actually start decentralizing some of this GDP. One area in which we are going to effectively decentralize this kind of increased GDP production is through agriculture. One way of doing effective agriculture is through the irrigated schemes.

First of all, irrigation schemes will help create job opportunities, so you stem off rural-urban migration. Two, they will help to increase the incomes of the families, there is food sufficiency and, therefore, they are robust in tilling their land. That is a benefit to us because their health is taken care of. The third element is that we will benefit from value addition of agricultural produce. When we start getting value addition, you are entering the realm of industrialization.

Therefore once industrialization is incorporated in our counties and in our rural settings, we are then able to increase our GDP more than Nairobi itself. Once we have a clear cut policy put together for all the 47 counties, we are then able to increase the potential of this nation. Therefore, we shall be a net exporter of food rather than a net importer of food.

Associated with this irrigation is the water catchment. I had some great difficulties when I was the Ambassador for United Nations Environment (UNEP) negotiating for the riparian states on the issue of River Nile waters. Now, 60 to 70 per

cent of Kenya's resource, that is water, flows into Lake Victoria and we harness zero out of that water resource. What happened? The Egyptian Government going by an old agreement, put in all the hydrologists in the Ministry of Water in Kenya and they are still there up to date, monitoring the water levels.

There was a time we attempted to create a dam at Timboroa level so that we can irrigate all those lands downstream and produce food. I have never seen a fierce fight in international organizations in the UN system than the one I faced during that period of time. If there is anything that will take this country into war, it would have been the use or the curtailment of water flow into Lake Victoria to go down to river Nile, joined by the Blue Nile from Ethiopia, to satisfy the populations.

But there was a condition then to the Egyptian Government that they should not expand any more settlement areas and cities. But what has happened since then? They have expanded. So, I hope that whoever is in the ministry of Water today – Hon. Eugene Wamalwa – should look at that one area because it touches on international waters. We should get an agreeable agreement or treaty which also satisfies our need for food production.

I can see that time is over, but this is an area that I would have gone on and on because it is an important subject. This is an area which will also create employment. If you see the number of youths hanging around in towns and cities, these are the people who cause problems of insecurity. So, unemployment is related to insecurity. Once we have robust irrigation schemes, we should sort out some of these problems that we are facing in this nation.

I am happy that I am in the Senate and I expect that as we contribute, it is going to be a bipartisan House. This must be a uniting House; a House of unity where we tackle National issues at this level because they concern everybody regardless of our party affiliations. We should put our parties in the closet now when we are in this august Assembly so that we discuss matters that will alleviate the problems of Kenyans.

Unemployment remains a very itchy point and, therefore, we must address it squarely; if not, we are going to face a social revolution in this country. One thing that can bring about a revolution is the stomach. If you do not satisfy your people in food production and employment, they will bring you a revolution. We have created an education system that straddles the whole country and, therefore, we must teach our children.

Agriculture is one of our most important subjects and I know this because my experience in education was that the children from rural areas performed better in Agriculture. If you look at the aggregates, they scored a grade 'A' whereas children in urban and city centres scored very low marks because they had nil application in agriculture. A rural child wakes up in the morning and the first thing he or she does is to go the farm. He or she does the same in the evening. Therefore, they are familiar with these things. That is why they are able to assimilate and relate to agriculture.

Let us go the Israel way where they turned a desert into a highly potentially productive region. Kenya can do it, even though more than 84 per cent of our land is arid and semi- arid.

When I was in the United Nations (UN), I moved a desertification convention with particularity to Africa. This was related to the question of food production in Africa because we are always net importers of food. Our foreign exchange earnings go to food importation. We need to clear this matter.

I thank you for giving the opportunity to second this Motion. I support it. All major dams that are coming up must be targeted in all arid and semi-arid areas and in water deficit areas so that every Kenyan enjoys the right of environment and clean air. We should take care of the environment, our health concerns and our educational standards within our regions because of the attendant diseases that may come along with some of these mega dams.

Mr. Deputy Speaker, Sir, with those few words, I second.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Thank you, Sen. (Prof.) Ongeru.

(Question Proposed)

Sen. Cherargei: Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion. I agree with what both Sen. Kihika, the Senator for Nakuru County and Sen. (Prof.) Ongeru have said. Listening to Sen. (Prof.) Ongeru is very inspiring because he has a lot of experience. He has powerful words and out of experience he has *Solomonic* wisdom which we should capture so that in a nutshell, we protect it for posterity and ensure that we move forward.

The National Irrigation Policy, 2017 is very timely. It is said that a healthy nation is a wealthy nation. One way of ensuring that we have sustainable food production in this country is by improving the poor irrigation infrastructure. As indicated in this Policy, less than 30 per cent of the country is irrigated but majority of 70 per cent of the population is not covered. This includes arid and semi-arid areas which are not viable for production because of absence of water.

We should also look at proper legal framework to ensure that arid and semi-arid areas are irrigated so that they can produce food and become sustainable. I agree that going forward, there has to be a multi-sectoral approach that will engage the national Government, county governments and the private sector. We should develop the culture of ensuring that when we have excess rains, we harvest the water and store it in water pans so that when we experience a drought or a dry season, we can still sustain the country.

In my own great county of Nandi, we have seen the projects that the Ministry has undertaken including the Keben Dam which is up-coming in Nandi Hills sub-county and other projects in Tinderet sub-county, Chemelil, and Chemase Wards, among other areas which are very critical. We should ensure that even as we experience climate change, we can still produce food.

As the Mover, Senator for Nakuru County, Sen. Kihika indicated, as the population grows, it is not only a privilege, it is an obligation of the State or the Government to ensure that the people of this country are well taken care of in terms of provision of quality food, so that we have a healthy and wealthy nation. This will allow us to prosper as a nation.

I agree that in as much as we are experiencing change of weather patterns in this country- especially in the region where I come from, which is referred to as the grain or Ugali basket - we need to diversify to ensure that we sustain and create a proper approach. Even as we adopt this Policy, we hope that the Ministry and the stakeholders will be in agreement so that Kenyans get the value for this Policy. We need to ensure that we develop the infrastructure both in the national Government and county governments.

It is important to note that most counties have been struggling to develop their infrastructure, capacity and the policies as they develop irrigation projects in their areas. This will be a guiding principle and a direction for the counties so that as they develop their irrigation programmes, it becomes a multi-sectoral approach and a partnership between the national Government, the county governments and the private sector.

As we adopt this Policy, we urge the Ministry to sit with the stakeholders to ensure that even as we practise irrigation, we should also ensure that we protect the environment. We need to avoid environmental degradation and ensure that in as much as we create dams, water pans and harvest water for irrigation, we also protect the flora and fauna of our country. At the moment, the country is affected by de-forestation. As we practise irrigation to ensure food sustainability, we should protect the environment from environmental degradation and ensure that our counties understand this.

This is a basis for the national Government, county governments, the private sector and other stakeholders to develop a strong national irrigation policy infrastructure that will allow our people to have sustainable food production. I know that it will create jobs for our young people and address the issue of unemployment. If it is implemented properly, it will create more opportunities for the young people in our villages and in our counties to access water for irrigation which will enable them to grow vegetables, rear chicken, dairy cows among others. This will enable them to sustain themselves economically.

It will also create opportunities to ensure the youth do not just depend on the county and national governments for employment opportunities. If we properly implement this Policy, we will create an avenue and an opportunity for the young people. We also have so many groups in our villages, sub-counties, counties and in this great country that will benefit from this Policy, for example, if they want to start a seedling project. This will enable them to earn a living and be self-employed.

Sen. (Prof.) Ongeru has said this Policy needs a lot of goodwill especially with the concerns of stakeholders. As we implement this Policy, we might not use money - as he had indicated - for just paper work. As we move ahead, we should bring an infrastructure that is affordable, practicable and that can be bought by the people. Article 43 on Economic and Social rights, as enshrined in the Constitution, is intertwined with such a Policy. We should also follow the tenets of Article 10 of the Constitution on National Values and principles of Good Governance in terms of public participation.

As the concerned stakeholders go to the villages, our people can borrow this idea. They can internalize and ensure that it is affordable, practical and the results can be seen. We should not use money for trial and error. If we fully implement the National Irrigation Policy fully, it will ensure that the main stakeholders take centre stage and our country moves forward. We should develop a proper infrastructure. I also want to thank the

Government for the many dams that have been constructed across our country. I hope that those dams will be used to supply water. We can also create irrigation avenues.

Finally, as we push and ensure that the National Irrigation Policy is in place, we need to urge our people to revolutionize our farming practices. When you go to some regions, you will see that people still practice conventional agriculture. We need to modernize our agriculture in this country. This will ensure minimum input and maximum output. As a farmer, I am so passionate about this because I know that it will ensure proper and sustainable food production. That will help us avoid the crisis that we normally have due to unpredictable food production. With irrigation whether it rains or not, we can still continue. Therefore, we look forward to the implementation of this policy.

It is important to also indicate that one of the tenets of Vision 2030 is to ensure food reliability and sustainability. We need to actualize this as early as possible, so that our people can gain. We want to invite counties and other private sector stakeholders to come together and ensure that we benefit from such.

I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you Sen. Cherargei.

Sen. Ben Oluoch, you have the Floor.

Sen. Okello: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to support the Motion, even though it is quite a challenge to talk on this subject after Sen. (Prof.) Onger. We normally say that agriculture is the mainstay of Kenya's economy, yet only 20 per cent of the land is arable. The remaining 80 per cent is either arid or semi-arid. The 20 per cent is also facing the challenges of climate change, which has now affected our reliance on rain-fed agriculture.

Recently we even imported maize from Mexico. We are becoming a country that is fond of importing. We even import *mitumba* shoes despite the fact that we have local hides and skins. We also import *mitumba* clothes after allowing our cotton industry to die. It is time that we came up with a policy on irrigation, which can sustain our agriculture for the benefit of this country.

In the past, this sector was left to rely on donor funding. That means that whenever donor funding was not available, the projects had to die. We have seen so many of them remaining dormant because of lack of funding. We do not put enough effort to follow up. In my County, Migori, the Kuja Irrigation Scheme was capable of supporting the whole county and even Kisii County, which is currently supporting us yet they have small farms.

I support this Motion because it will help us move from overreliance on rainfall and increase arable land. This will in turn increase employment opportunities for the youth. Currently, the 20 per cent arable land is able to support more than 60 per cent of the rural folk. At the same time, it contributes more than 30 per cent of the Gross Domestic Product (GDP). If we increase arable land, we will do better.

Mr. Deputy Speaker, Sir, I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you. Could we hear from Sen. Wario, the Senator for Tana River?

Sen. Wario: Asante sana, Bw. Naibu Spika. Ningependa pia kujumuika na wenzangu katika kuunga mkono Hoja hii ya *irrigation*. Mimi nimetoka katika Kaunti ya Tana River ambayo ina miradi mikubwa ya *irrigation*. Katika maeneo bunge yote tatu ya Kaunti ya Tana River kuna *irrigation schemes* kama Bura Irrigation Scheme, Hola Irrigation Scheme ambako ninatoka. Tuko pia na Galana Irrigation Scheme ambayo iko upande wa Galana-Kulalu na Tana and Athi Rivers Development Authority (TARDA) upande wa Garsen.

Sehemu ambazo ziko na miradi ya *Irrigation* zikifanya vizuri tutakuwa na chakula cha kutosha hata kuuza. Hii itawezekana tu *policy* hii ikifanya kazi vizuri na wenye kusimamia miradi hiyo wataziwezesha jamii hizo kufanya mambo ya *irrigation* vizuri.

Wanayofanya *irrigation* watapata mapato hata mvua isiponyesha kwa sababu kutakuwa na unyunyizaji wakati wowote. Mazoa yatapatikana hata bila mvua kunyesha. Mimi natoka sehemu hiyo na nimezitembelea miradi zote. Mimi pia ni mkulima na mfugaji. Sehemu ambazo zina miradi ya unyunyizaji maji zina *settlement areas*. Watu kutoka sehemu tofauti huja pamoja na *urban centres* huanza.

Katika hali hiyo, wale wanaokuja pamoja wanakaa kama jamii. Katika hiyo jamii utapata vikundi vya watu katika miji mbalimbali katika sehemu za *irrigation*. Wanapokuwa wengi, mambo ya siasa pia yanatokea.

Miradi ya unyunyizaji maji huajiri vijana ambao wanaishi huko na wengine ambao wanatoka sehemu mbalimbali. Wao hufanya kazi tofauti tofauti. Baadhi yao hufanya kazi za ofisi na wengine kazi zingine. Kwa sababu hiyo, Hoja hii inafaa kuungwa mkono kwa wingi. Sehemu ambazo *irrigation* inafanywa ni mbali na mto.

Katika Bura Irrigation Scheme, *canal* zimetoka mbali na maji yanaenda mbali. Katika hali hiyo, watu ambao wanaishi sehemu kame kabisa wanapata maji. Wanyama wa pori wako katikati ya hizo *canals* na wanapata maji. Mifugo pia wanapata maji katika hali hiyo. Hili ni jambo ambalo linafaa kuungwa mkono. Kwa sababu hiyo, nami pia ninaunga mkono. Utaona pia jamii zingine zinafanya uvuvi wa samaki katika yale mabwawa yanayopatikana yaliyo hapo. Hali hii inaongeza mapato ya jamii za wavuaji samaki.

Bw. Naibu Spika, tukijumlisha yote, utaona mambo ya jamii itakuwa hapa kwa sababu jamii wamekuja pamoja. Mambo ya siasa inakuwa hapo vizuri pamoja na uchumi au mapato yetu pia inaendeshwa vizuri na mambo ya *irrigation*.

Kwa sababu hiyo, nami pia ninaunga mkono hoja hiyo.

The Deputy Speaker (Sen. (Prof.) Kindiki): Asante sana, Sen. Wario.

Lastly, Sen. Seneta.

Sen. Seneta: Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to also contribute to this important Motion on adoption of the National Irrigation Policy.

I think this is long overdue because this country really needs to think of ways of feeding its growing population. When you look at the population of this country, majorly we buy food from urban areas and even import more. This is something which we need to think of because every household in this country needs food and we cannot depend on food imports and yet we have land which we can irrigate. It is high time we looked at

harvesting and using rain water so that we can increase the irrigation base areas. We also need to think of even irrigating more of our arid and semi-arid areas.

Today when you read from social media and listen to media, there is a huge outcry from the pastoralist communities, especially from my county of Kajiado and the rest. They are crying of hunger because of the long dry spells. As a country, we need to look at how to feed our population without relying on rain fed crops or rain fed production. As citizens of this country, we need to think of how to produce rather than just depending on service production alone. Today we see our young people running to urban areas and opening small kiosks for M-Pesa and Information Communication Technology (ICT) but we no longer see people selling food and doing production from farms.

I thank the Ministry of Education Science and Technology for having thought of putting emphasis on agriculture in the new curriculum, which I encourage the country to implement. It is because it is high time we made our children believe that food production or agriculture is also a very important sector for the growth of the country just like any other sectors. It is also a high time our population believed that they can be employed in farming.

When we were young, we used to produce foodstuff in our parent's farms. We would help them and there was adequate food and we never used to experience the hunger that is being experienced today. It is high time that as a country, we do more irrigation so that we employ our youth. We can also get sufficient food for the growing population and export rather than importing every now and then.

Mr. Deputy Speaker, Sir, as a country, we also need to look at putting a lot of funds in the Ministry of Agriculture, Livestock and Fisheries both in the national and county level. Now that agriculture is a county function, we need to encourage county governments, in conjunction with the national Government, to put a lot of funds in food production. This is also in terms of water because water and irrigation go together. Without water, we cannot irrigate. However, I believe that if we think critically as a country on how to harvest rain water, we can get sufficient water to irrigate our arid and semi-arid areas so that we can have food production.

It is high time this Policy was implemented and the national and county governments should follow up to make sure that we have strategies. We also need to zone our country into agricultural and industrial areas so that we can have all sectors growing. When you travel across Kenya today, you see many industries coming up but you rarely see people doing farming both rain fed crop production or even irrigation. We need to look into how to encourage the population to do farming, either rain fed or irrigation.

It is high time this House made sure that every county looks into which areas can be irrigated because the moment we have food being produced in Kajiado Makueni, Kitui and all other counties, we shall be able to feed the population. We will then end up with a healthy population that feeds well.

When you walk around our towns and urban areas today, you get many young people only eating chips, maandazi and cakes. This might also be the cause of all these ailments that we see today. Many people are sick and unhealthy because we no longer have fresh food from farms. Most of our population today feeds on vegetables that have

been refrigerated for long in the supermarkets until the nutrients get killed. We need to encourage the Kenyan population, especially counties, to look into how to produce enough food for themselves and to even feed the rest of the country.

In counties like Kajiado, we have areas like Nguruman and Loitokitok in Kajiado South, where we have permanent streams from Mount Kilimanjaro and also Nguruman. Those are areas where if we put a lot of attention as the national and county governments by providing funds and also putting strategies to make sure that we have empowered our people, we shall have our own food basket instead of importing yellow maize for consumption and even pasture for our animals.

During the dry season before it rains, I used to see pastoralists buying wheat and hay from Narok and other regions even as far as Kitale. If we could also encourage irrigation, then it means we can feed our families and livestock from farm products which are left after we have generated our own food. It is high time the Ministry implemented this policy. The national and county governments should support it and make sure that this policy and the National Irrigation Bill, 2016, are implemented so as to help this country.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): I call upon the Mover to reply.

Sen. Kihika: Thank you, Mr. Deputy Speaker, Sir. I beg to reply. I thank all the Senators for the very important contributions they have raised. Sen. (Prof.) Onger, I believe that was a wealth of experience that you have brought to the discussion of this Motion. It is important to note that, as we move forward and put together the Irrigation Policy and other policies and frameworks to help improve agricultural production in our country, I think you are one person who will be very helpful in bringing in your wealth of experience.

From your discussion, you gave some statistics on the 25 per cent GDP on agriculture. When you think about it, given that agriculture is the backbone of the economy of our country, if we are only doing it at 25 per cent, then that clearly shows that there is a lot of room for improvement. We can improve a lot of things and become better at providing for our population while at the same time creating jobs, which is very important.

As we traversed this country during our campaigns, I am sure you all realised that one of our greatest needs in the country is to provide more employment opportunities especially for the youth who make up a very big part of the population. So, if we do better in irrigation to improve agricultural production while at the same time creating such opportunities like jobs and reducing the rural-urban migration, which we have seen a lot of lately, and improving the health of our people, then I believe it will go a long way in creating a win-win situation for everybody in the country.

I also agree with you as far as the value addition to our agricultural produce is concerned. As we ponder over this Irrigation Policy and as we improve our agricultural production in the country, the only way we can become a developed country is when we move more towards industrialisation. So, value addition will be critical so that we also do not have our farmers doing so much in farming by putting so much energy in production with little returns.

For example, the potato farmers in my county of Nakuru produce a lot of potatoes yet they do not benefit from their efforts. As much as they put so much energy, time and basically their whole livelihoods into it, they barely get anything from it due to exploitation by the middlemen who come and buy the potatoes from them at throw-away prices. In addition to that, they also have an issue of using what they call a *dusra* in packaging of their potatoes.

For those of you, maybe, who are not from potato growing counties, it is a bag that is about twice my size which the middlemen use to measure the potatoes and hence the farmers are left without having added any value to their lives. They are just left at a very disadvantaged and impoverished state, yet they work very hard and they have been working hard since the day they became productive with their lives until the end of it.

They work constantly and continuously but they are very impoverished. So, if we can do better, then we shall really improve the livelihoods of our people in our counties and the country at large. Therefore, Sen. (Prof.) Ongeru, I really do appreciate the passion that you bring to this subject matter.

Even as we discuss these issues, we need also to focus on the big dams that we have talked about in this Irrigation Policy. We know that, as a country, rains have not been very consistent. Therefore, a lot of farmers cannot be very productive because no matter what they plant, the rains fail and there is nothing to harvest.

We have also seen the pastoral communities losing a lot of their livestock due to lack of rains and water. So, dams definitely become a big equation in this problem. But I completely agree with you that environmental assessments must then be done. I would be worried and shocked if they are not doing this, yet we hear that the cost for building these big dams is about Kshs 10 billion, Kshs 19 billion or Kshs 20 billion onwards and there are also smaller dams.

Therefore, I hope that there must be a requirement of environmental assessment. These dams must also be distributed across the country from the arid to semi-arid areas and all the areas of the country. This will ensure that every Kenyan is able to live in a place where, despite the harsh weather conditions, they are able to practice agriculture, leading to improved food production and have food for everybody in our country.

Thank you very much, Sen. Cheragei, for that very passionate discussion, especially on the employment angle to this Irrigation Policy. If we do it properly, we shall then be able to create employment opportunities for the youth and the people of our country. When everybody is self-reliant, we will have happy families and homes since everybody will be able to eat, have clothing, educate their kids, *et cetera*. It is in the big scheme of extremely important things which we are trying to do here.

It is also extremely important that we concentrate and do more on increasing the arable lands that we have in this country. We probably have not been able to even get--- Like we said from the statistics, we are probably at about 30 per cent and globally it is about 50 per cent. But if we are only at 30 per cent, it means that there is a lot of room for improvement so that then, as a country, we can have better food production for our very fast growing population.

There was the contribution from the Senator for Tana River County on the irrigation schemes that are in that area, which are extremely helpful. If we go in that

direction of ensuring that these irrigation schemes are working and the output is maximised, then as a county, it will help to feed the other counties and also create resources for your county as well as feeding the people in those counties. If it works well, then it is also something that should be done by other counties, which will ensure that we are using the areas we have, be they arid or semi-arid areas, to still have food production.

The Senators who have contributed have talked about other countries such as Israel, South Africa and others, which have a lot of their land mass in the desert, yet their food production is sufficient. These countries are actually exporting a lot of their products to other countries such as Kenya. It will be great if we do it properly. Then we will get to a category where we are not only feeding our own population but also exporting produce to other countries.

Mr. Deputy Speaker, Sir, I thank Sen. Seneta for her insight on the effects and lack of enough rains. When we are unable to irrigate or take advantage of that, then we have the problem that is facing the pastoralist communities. This issue would be better addressed or taken care of if we had better irrigation practices. This is what this Policy seeks to help make better across the country.

As the national Government as well as the county governments work together to do this, we shall not only provide enough food for our people but also for our livestock. We will be able to change and improve the living standards of our people. As Sen. Seneta mentioned, we will not have a population that is feeding on chai and mandazi only. As the Constitution states, they will get good, quality, accessible and affordable foods.

Hon. Senators, I thank you for the important contributions that you brought forward. I urge you all to vote for this Motion to pass.

Mr. Deputy Speaker, Sir, I beg to reply.

The Deputy Speaker (Sen. (Prof.) Kindiki): You beg to move.

Sen. Kihika: Mr. Deputy Speaker, Sir, I beg to move.

The Deputy Speaker (Sen. (Prof.) Kindiki): That is correct. Even when you are replying, you beg to move.

What is it Sen. Kihika?

Sen. Kihika: On a point of order, Mr. Deputy Speaker, Sir. I wish to request that pursuant to Standing Order 55(3) the putting of the question be deferred to a later date.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Kihika, you seem to have made a determination on behalf of the Speaker that this is a matter concerning counties. It is true that this Motion is a matter concerning counties because agricultural policy, what we are discussing here is a national Government function, but crop and animal husbandry to which this Policy relates, is a matter under the realms of the county governments in accordance with Part 2 of the Fourth Schedule of our Constitution. In that respect, I direct that the putting of the question on this Motion be deferred to Wednesday, 13th December, 2017.

(Putting of the Question on the Motion deferred)

Let us move on to the next Order.

ADOPTION OF SESSIONAL PAPER NO.2 OF 2016 ON
NATIONAL SLUM UPGRADING AND PREVENTION POLICY

THAT, this House adopts the Sessional Paper No. 2 of 2016 on the National Slum Upgrading and Prevention Policy, laid on the Table of the House on Tuesday, October 10th, 2017.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Kihika, you are on the Majority side. Are you ready with Order No.10?

Sen. Kihika: Mr. Deputy Speaker, Sir, I wish to request that we defer that Order as well.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Kihika, you are not ready?

Sen. Kihika: Mr. Deputy Speaker, Sir, I am not ready.

(Motion deferred)

The Deputy Speaker (Sen. (Prof.) Kindiki): Let us move on to the next Order.

AUDIT ON DISTRIBUTION OF TEACHERS IN ALL PUBLIC
SCHOOLS IN THE COUNTRY

THAT WHEREAS Article 43 (1)(f) of the Constitution of Kenya explicitly provides for the right to education for all;

AND WHEREAS it is the responsibility of the State to ensure that the right to education is enjoyed by all;

OBSERVING THAT that the Teachers Service Commission (TSC) is the constitutionally mandated body to handle matters of employment, deployment, remuneration and discipline of teachers in all public schools;

APPRECIATING efforts made by the national government through the Teachers Service Commission (TSC) to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

CONCERNED THAT currently there exists great disparities in the distribution of teachers in schools across the country, with major teacher shortage being experienced in rural and marginalized areas;

FURTHER CONCERNED that there is major inequality in the distribution and allocation of teachers among schools across the country leading to either oversupply or undersupply of teachers in some public schools;

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology in conjunction with TSC to conduct a countrywide audit on the distribution of teachers in all public schools across the Country and report to the Senate within three months.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, Sen. Khaniri had intimated that he would not be ready to proceed with Order No. 11 and the same case applies to Order No.12

(Motion deferred)

NATIONWIDE REGISTRATION OF ALL PLWDS

AWARE THAT the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

FURTHER AWARE THAT registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE THAT persons living with disabilities are estimated to be about 10% of any given population;

COGNISANT THAT for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

AWARE THAT medical services are now a devolved function;

CONCERNED THAT of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

FURTHER CONCERNED THAT without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED THAT owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for his category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society

(Motion deferred)

ADJOURNMENT

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, in that connection, we have exhausted the business on the Order Paper for today. There being no other business, the Senate stands adjourned until Wednesday 13th December, 2017 at 2:30 p.m.

The Senate rose at 6.05 p.m.