

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

Tuesday, 17<sup>th</sup> August 2021

The House met at 2.30 p.m.

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

#### PRAYERS

**Hon. Speaker:** We can start. Proceed.

#### COMMUNICATION FROM THE CHAIR

##### DEMISE OF NOMINATED SENATOR VICTOR PRENGEI

**Hon. Speaker:** Hon. Members, this morning, the nation woke up to sad news regarding the untimely demise of nominated Senator Hon. Victor Prengei. The Hon. Member passed on last night, Monday, 16<sup>th</sup> August 2021, after being involved in a fatal road accident in Nakuru.

The late Senator Prengei was a budding youthful legislator who attended his post-secondary education at Maseno University where he earned a Bachelor of Arts Degree in Economics. He later pursued and successfully completed a Master's Degree in Business Administration (Strategic Management) at the Jomo Kenyatta University of Agriculture and Technology in 2017.

Hon. Members, at the time of his death, the late Senator Prengei was serving his first term as a Member of Parliament, having been nominated by the Jubilee Party to represent the youth in the Senate. He was an ardent and resourceful Member of the Senate Standing Committee on Energy, the Committee on Devolution and Inter-Governmental Relations and the Powers and Privileges Committee. As a youthful legislator, the late Senator will also be remembered for his active membership in the Bunge Sports Club.

Prior to his brief political career, Senator Victor Prengei had previously served as the Chairperson of the Nakuru Land Management Board and a board member of the Betting Control and Licensing Board.

It is notable that in the history of Kenya, the late Senator Prengei was the first parliamentarian from the Ogiek community, one of Kenya's indigenous minority communities whose participation in national leadership has been rare. Without a doubt, the youth of this country, the fraternity of Parliament and the nation at large have lost a vibrant, pragmatic, and dedicated leader who had a bright future ahead of him.

Hon. Members, we will be informed in due course about the arrangements towards according the fallen legislator a decent send-off. In honour of our departed colleague, the late Senator Victor Prengei, I request that we all stand in our places and observe a moment of silence.

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*(Hon. Members observed a moment of silence)*

May his soul rest in peace.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, indeed, it was a sad evening. I take this early opportunity on behalf of the Jubilee Party, to send our condolences to the family, friends and the entire Ogiek community on the sad demise of Senator Prengei who, as you rightfully described, was a budding and youthful Senator whose life has been cut short by that tragic accident.

In keeping with our traditions as Parliament, I would like to inform Members that we will be authorising on your behalf, our usual contributions whenever a Member of Parliament passes on. I expect your usual cooperation as we do our bit as the National Assembly in solidarity with the Senate. It is something we do as Parliament not as Houses, so that we can at least help to mitigate some of the costs for the family and all the people who were depending on the young legislator.

In the meantime, we condole with the family. We pray with them and hope that the good Lord will keep his soul in eternal peace.

Thank you, Hon. Speaker.

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

**Hon. David ole Sankok** (Nominated, JP): Hon. Speaker, it is a sad day for Kenyans. We pray that God removes this cloud of death above us. In this Parliament we have lost our colleagues and we would wish to finish this journey of the 12<sup>th</sup> Parliament together in peace.

Hon. Prengei Victor is from the Ogiek community, a minority tribe which has been known to conserve especially our Mau Forest. It is a sad day. On my own behalf, my family and that of the 6.5 million Kenyans with disability that I represent in this House, may I tender my heartfelt condolences to the family, the people of Nakuru and the Ogiek community because I know it was their first time, as you have rightly put it, to get a Member of Parliament but it has been cut short. The Jubilee Party tried as much as possible to balance by mostly nominating youthful leaders including myself, Hon. Keter and the late Hon. Prengei.

So, may his soul rest in eternal peace and may Jubilee remember the Ogiek community at this trying time.

I thank you, Hon. Speaker.

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

**Hon. William Kisang** (Marakwet West, JP): Thank you, Hon. Speaker. On behalf of myself, my family and the people of Marakwet West, I wish to take this opportunity to send my sincere condolences to the family of the late Sen. Victor Prengei, who was a very young upcoming leader from the Ogiek community. In Marakwet West, a percentage of our people are Ogiek.

Therefore, on behalf of the people of Nakuru, I say *pole sana* for the loss of our young Senator. May the Almighty God rest his soul in eternal peace.

**Hon. Speaker:** Hon. (Dr.) Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. This is a very sad day. On my own behalf and that of the people of Endebess Constituency, Trans-Nzoia County, I send the message of condolence to the family and relatives of Senator Prengei and the people of Nakuru, specifically the Ogiek community.

May his soul rest in eternal peace.

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

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Speaker. On behalf of the people of Tharaka Constituency, allow me also to convey my very sincere condolences to the family of the late Sen. Victor Prengei. Kenya has lost one of its most astute Senators and legislators, youthful and well-meaning to the country. Therefore, it is a big loss that we are going to experience for a long time, but in view of the fact that we must accept God's will, mine is to convey the condolences to the family, the people of Nakuru, the small community of the Ogiek and the entire Republic of Kenya.

May all be condoled and may his soul rest in eternal peace. Thank you.

**Hon. Speaker:** Let us have the Deputy Speaker.

**Hon. Moses Cheboi** (Kuresoi North, JP): Thank you, Hon. Speaker. On my behalf and that of my constituency of Kuresoi North and Nakuru County, I wish to give my sincere condolences to the family of the late Sen. Prengei. The late comes from a place called Mariashoni in Nakuru County. Initially before he came there, he was a resident of a place called Chebara in Kuresoi South which I represented between 2002 and 2007 as Kuresoi Constituency. He also went to a local secondary school there called Moi Secondary School, Amalo. So, he is a person whom I can associate with, other than being a person from Nakuru County.

Hon. Speaker, the late Sen. Prengei has left behind a very young family. This year has been very heavy for Parliament. We have lost a number of people because of many issues, including COVID-19. It is an unfortunate situation that happened yesterday. So, I take this opportunity to give my condolences. He comes from an indigenous community, the Ogiek. These are the people who were settled recently in particular lands in parts of Tinnet, Kipchororo and Kiptunga Mariashoni area. The person who issued titles to that community was none other than the Hon. Leader of the Majority Party, when he was still a powerful Minister for Lands during the Kibaki Government. So, on behalf of the entire region we pass our condolences and pray to the family that they may sustain these difficult times they are going through.

I thank you very much, Hon. Speaker

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

**Hon. Wilson Sossion** (Nominated, ODM): Hon. Speaker, I join the rest of my colleagues in conveying condolences to the family of the late Sen. Victor Prengei. I remember about a week ago, I shared a table over lunch together with Hon. Chelule and as has been stated, this is the first indigenous Member of Parliament from one of the greatest ethnic minorities, the Ogiek. We indeed note that it is a blow to this community that was beginning to enjoy the provisions of the Constitution of affirmative action through representation.

So, may the good Lord rest his soul in eternal peace.

I thank you.

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

**Hon. Josphat Kabinga** (Mwea, JP): Thank you, Hon. Speaker. On my own behalf and that of the people of Mwea Constituency that I represent, I would like to convey my sincere condolences to the family, the youth, the people of Nakuru and the Ogiek community, following the death of this youthful Senator. I did not know him very well, but the picture in front of me shows a young man whose future was bright.

It is sad that death has robbed us a very youthful man.

May the Almighty God rest his soul in eternal peace. I thank you.

**Hon. Speaker:** Let us have Hon. Majimbo Kalasinga.

**Hon. Majimbo Kalasinga** (Kabuchai, FORD-K): Hon. Speaker, this afternoon I join my fellow friends and Members to condole with the family of our able Senator. This Senator was my

personal friend. When I was running for the Kabuchai Constituency seat in 2017 on a Jubilee ticket, he came to my support. I take this opportunity on my behalf and that of the people of Kabuchai, whom I represent to condole with the family.

May his soul rest in peace.

**Hon. Speaker:** Let us have the Member for Nandi County.

**Hon. (Dr.) Tecla Tum** (Nandi CWR, JP): Thank you, Hon. Speaker. On my own behalf, the people of Nandi, Nakuru and the youth of Kenya, I wish to convey my condolences to the family of the late Senator Victor Prengei.

He was representing youth issues selflessly. He was not only representing the Ogiek, but used to highlight issues of the needy of this country. He passed on at only 35 years. Hon. Speaker, my prayer is that the youth of the Ogiek community be remembered in this nation because he was the first Member of Parliament from that community.

We know the devil has killed him. The Bible says in the book of John 10:10 that the devil comes to kill, steal and destroy. He has destroyed his life through a road accident. I also pray that our roads be in good shape so that we will not lose many people through road accidents.

It is painful to lose one of our youths in this nation.

**Hon. Speaker:** Let us have the Member for Siaya County

**Hon. (Dr.) Christine Ombaka** (Siaya (CWR), ODM): Thank you Hon. Speaker for giving me this opportunity to convey my heartfelt condolences to the family of Victor Prengei who represented Nakuru County. He was a young man whom I recently met and it is unfortunate we did not have much time to discuss the many things which brought us to this House. I believe he was a good person and will go to heaven like all of us will. I pray that his soul rests in eternal peace.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Igembe South.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Speaker. On behalf of the people of Igembe South Constituency and the youth of this Republic, I want to convey my sincere condolences to the family and friends of our departed brother Hon. Prengei. May the Almighty God rest his soul in eternal peace.

Thank you.

**Hon. Speaker:** Member for Kiambu.

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): Thank you, Hon. Speaker for giving me an opportunity to join the rest of the nation. On behalf of the great people of Kiambu, I want to send my sincere condolences to the family of the fallen star of the Ogiek community. I want to confirm that the late Senator was the light of that community. He represented them boldly, strongly and was an advocate of the youth in the Senate. We would want to join the great people of Nakuru in mourning the young Senator. We pray that God gives them peace even as they mourn the loss of the wonderful great Senator. Thank you.

**Hon. Speaker:** Member for Ganze.

**Hon. Teddy Mwabire** (Ganze, ODM): Thank you very much, Hon. Speaker. On my behalf, that of the great people of Ganze and the entire Coast region, I take this opportunity to convey our heartfelt condolences to the family and friends of the late Senator Victor Prengei. He was a friend and also a colleague in the Kenya Young Parliamentarians Association. We shared a lot and from where I sit, I highly believe it was not the right time for him to go, but because God's will cannot be subverted, I join others in praying for his soul to rest in eternal peace.

**Hon. Speaker:** Hon. Dennitah Ghati.

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): Thank you very much, Hon. Speaker for giving me the opportunity to join the rest of the Members and Kenyans in mourning Senator Victor Prengei. I did not have an opportunity to know him much, but I share a lot with him. This is because as you will remember in 2014 just a year after elections and my joining this House, I equally suffered a road accident that left me in this wheel chair. It is very painful for a small community to lose the only hope they had in this august House. I, therefore, hope that for the sake of wiping the tears of that community, Jubilee will be fair enough and enable a member of the same community to complete the Member's job.

I can remember very well that I also share something with the Member. I am also the first ever elected woman from my community, the Kuria. So, I know what it means to be a minority and small community. Therefore, I join the people of Nakuru and the youth of Kenya in mourning their Senator. I equally ask that we continue to observe traffic rules and wear our safety belts because we continue losing Kenyans on the highways and roads. Therefore, allow me this opportunity to send my sincere condolences and sympathies to the people of Nakuru and the family of Senator Victor Prengei.

May his soul rest in eternal peace.

**Hon. Speaker:** Member for Kamukunji.

**Hon. Yusuf Hassan** (Kamukunji, JP): Thank you, Hon. Speaker for giving me this opportunity to express my sincere and heartfelt condolences to the family of our colleague the late Senator Victor Prengei. I would like to send my regards to the people of Nakuru. I remember him as the first person to represent a minority community that had no opportunity in our power and democratic system. As a young person, he represented the face of the future Kenya we want that is multicultural and multi-ethnic in which no small community is left out of the power equation.

As a young person he represented the majority of our population given the fact that about 60 per cent or more of our population are young people like him and others. Let me take this opportunity to wish the people of Nakuru County, where he comes from and his family well during this difficult time. Our prayers and thoughts are with them. May his soul rest in peace.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ODM): Thank you, Hon. Speaker for giving me this opportunity. On my own behalf and my family, I also want to pass my sincere condolences to the family of Senator Victor Prengei, who was a good friend of mine. I have known him as a very quiet, soft-spoken person and someone who had a big vision as a leader in this country. I happen to have shared experiences with the late Senator when he had problems with his party Jubilee, on how to navigate the challenges. This is because as you are aware, I went through the same challenges with my party and I succeeded. I am happy he listened to me and has died being a Senator. I pray for him and his family. I hope Jubilee party will consider getting a replacement from the same community. This is because Victor was the very first Member from the Ogiek community. I think it will be nice to return the same favour to that community.

Thank you, Hon. Speaker. I pray that the Almighty God rests his soul in eternal peace.

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

## PAPERS LAID

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

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

The Petroleum Development Levy (Amendment) Order, 2020 and Explanatory Memorandum from the Ministry of Petroleum and Mining.

The List of Nominees to the National Government Constituencies Development Fund Committee for Bonchari Constituency.

The Final Audit Reports of the Office of the Auditor-General for the Financial Years 2016/2017 and 2017/2018 from PKF Kenya LLP.

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

- (a) The Auctioneers Licensing Board;
- (b) Jomo Kenyatta University of Agriculture and Technology Noodles Limited; and,
- (c) The Kenya Medical Practitioners and Dentists Council.

Thank you, Hon. Speaker.

**Hon. Speaker:** On behalf of the Chairperson of the Special Funds Account Committee, let us have Hon. Pukose.

**Hon. Robert Pukose** (Endebess, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The 10<sup>th</sup> Report of the Special Funds Account Committee on its consideration of Audited Financial Statements for the Local Authorities Provident Fund, the Unclaimed Assets Trust Fund, the National Environment Trust Fund, the Land Settlement Fund and the Petroleum Development Fund.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next is the Chairperson of the Select Committee on National Government Constituencies Development Fund (NG-CDF).

**Hon. Omar Mohamed** (Mandera East, EFP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Select Committee on National Government Constituencies Development Fund on:

- (i) Stalled or incomplete projects initiated through the NG-CDF, but falling under the county government functions; and,
- (ii) Electrification of schools in constituencies.

Thank you, Hon. Speaker.

**Hon. Speaker:** Next is the Vice Chairperson of the Committee on Delegated Legislation.

**Hon. Charles Njagagua** (Mbeere North, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Committee on Delegated Legislation on its consideration of the Draft Election Campaign Financing Regulations

**Hon. Speaker:** Next Order!

## NOTICES OF MOTIONS

**Hon. Speaker:** Hon. Mwathi, you can only do that after Order No.8 has been sorted out. Hon. Pukose.

ADOPTION OF THE 10<sup>TH</sup> REPORT OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE

**Hon. Robert Pukose** (Endebess, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the 10<sup>th</sup> Report of the Special Funds Accounts Committee on its consideration of Audited Financial Statements for the Local Authorities Provident Fund, the Unclaimed Assets Trust Fund, the National Environment Trust Fund, the Land Settlement Fund and the Petroleum Development Fund, laid on the Table of the House on Tuesday, 17<sup>th</sup> August 2021.

Thank you.

**Hon. Speaker:** Next is the Chairperson of the Select Committee on National Government Constituencies Development Fund.

## ADOPTION OF REPORT ON STALLED/INCOMPLETE NG-CDF PROJECTS

**Hon. Omar Mohamed** (Mandera East, EFP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Select Committee on National Government Constituencies Development Fund on stalled or incomplete projects initiated through the National Government-Constituencies Development Fund, but falling under the county government functions, laid on the Table of the House on Tuesday, 17<sup>th</sup> August 2021.

**Hon. Speaker:** Next Order!

## ORDINARY QUESTIONS

**Hon. Speaker:** The first Question is by the Member for Kisii County, Hon. Janet Ong'era.

*Question No. 276/2021*

## STEPS TAKEN TO END GENDER-BASED VIOLENCE

**Hon. (Ms.) Janet Ong'era** (Kisii CWR, JP): Hon. Speaker, I rise pursuant to Standing Order No.42A(5) to ask the Cabinet Secretary for Public Service and Gender the following Question:

- (i) What steps is the Ministry taking to end gender-based violence cases, which have significantly increased during the period of the COVID-19 Pandemic, despite a presidential directive to stem the vice?
- (ii) What steps is the Ministry taking to ensure that victims of gender-based violence are protected and that they have access to counselling and other support services, particularly during the period of the COVID-19 Pandemic?
- (iii) Could the Cabinet Secretary provide details of the gender-based violence protection centres available in the country and indicate whether there are plans to establish more such centres, at least, in every constituency?

Thank you.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Labour and Social Welfare. The next Question is by the Member for Kibra, Hon. Benard Okoth Imran.

*Question No.295/2021*

SETTLEMENT OF COURT AWARD TO SHABAN OPIYO KASSIM

**Hon. Benard Okoth** (Kibra, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Lands and Physical Planning the following Question:

- (i) Could the Cabinet Secretary provide the status of settlement of the award granted by the Environment and Land Court (Kisumu) on 9<sup>th</sup> June 2021 to one Shaban Opiyo Kassim of ID No. 24865553, following a judgment under Petition No. 94 of 2019?
- (ii) When is the Ministry expecting to settle the payment as awarded by the court?

Thank you, Hon. Speaker.

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

The next Question is by the Member for Soy, who has requested that Hon. Pukose asks the Question on his behalf.

*Question No. 299/2021*

ISSUANCE AND RENEWAL OF PASSPORTS  
AND ID CARDS IN THE DIASPORA

**Hon. Robert Pukose** (Endebess, JP): Hon. Speaker, on behalf of the Member for Soy Constituency, Hon. Caleb Kositany, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

Could the Cabinet Secretary outline the measures put in place to ensure that issuance and renewal of passports and National Identification Cards to citizens of Kenya in the diaspora is done promptly?

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

The next Question is by the Member for Kasarani, Hon. Mercy Gakuya, who has requested that the Question be asked on her behalf by Hon. Benard Okoth Imran.

*Question No. 305/2021*

MEASURES TO MINIMISE RIVER POLLUTION IN TOWNS AND CITIES

**Hon. Benard Okoth** (Kibra, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Environment and Forestry the following Question on behalf of the Member for Kasarani, Hon. Mercy Gakuya:

- (i) What steps is the Ministry taking to stop the use of waste water and effluent from the sewerage system in Nairobi for food production, considering that the practice

is alleged to account for production of more than 20 per cent of the total food consumed in Nairobi City County, particularly vegetables and legumes?

- (ii) Could the Cabinet Secretary explain the measures put in place to minimize river pollution, particularly in towns and cities across the country?

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

The next Question is by the Member for Kabuchai, Hon. Majimbo Kalasinga

*Question No.308/2021*

STEPS TAKEN TO ADDRESS CASES OF MISSING  
MARKS IN PUBLIC UNIVERSITIES

**Hon. Majimbo Kalasinga** (Kabuchai, FORD-K): Hon. Speaker, I rise to ask the Cabinet Secretary for Education the following Question:

- (i) What steps is the Ministry taking to address the cases of missing marks in public universities, where students are not awarded marks, forcing them to apply for special exams or retake the courses in order to graduate?
- (ii) Could the Cabinet Secretary explain the rationale behind the requirement of settlement of all fees as a condition to sitting university exams in public universities?
- (iii) Could the Cabinet Secretary provide details on statues of Government funding to students in technical and other middle level colleges?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Education and Research. The next Question is by the Member for Awendo, Hon. Walter Owino.

*Question No. 309/2021*

OPERATIONALISATION OF ADMINISTRATIVE UNITS IN AWENDO

**Hon. John Owino** (Awendo, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

- (i) Could the Cabinet Secretary explain why the following administrative units, which were established in Awendo Sub-County in Migori County on 21<sup>st</sup> June 2017 vide Gazette Notice No. 5853, are yet to be operationalized- Miriwa Division; Waundha, Wawire, Kanyamgony, Kadera Kwoyo, and Kabondo locations; West Waundha, Waware Central, Wanga, Nyarago, Waora, Wawire North, Kamaure, Kadera Kwoyo East, Kwe and Waundha sub-locations?
- (ii) Could the Ministry consider operationalizing the said units during the 2021/2022 Financial Year to bring administrative services closer to the people?

**Hon. Speaker:** That question will be replied before the Departmental Committee on Administration and National Security.

Next question is by the Member for Subukia, Hon. Samuel Gachobe.

*Question No. 311/2021*

## CRITERIA USED IN ALLOCATION AND DISBURSEMENT OF SCHOOL INFRASTRUCTURE FUND

**Hon. Kinuthia Gachobe** (Subukia, JP): Thank you, Hon. Speaker for giving me the opportunity to ask Question No. 311 of 2021 to the Cabinet Secretary for Education:

- (i) Could the Cabinet Secretary explain the criteria used in allocation and disbursement of monies under the School Infrastructure Fund in the country?
- (ii) Could the Cabinet Secretary provide a breakdown of the disbursement of the funds to primary and secondary schools in Subukia Constituency during June 2017 to June 2021 period?
- (iii) Could the Cabinet Secretary provide the timelines for the disbursement of the funds for the current Financial Year 2021/2022 in Subukia Constituency?

Thank you, Hon. Speaker.

**Hon. Speaker:** That Question will be replied before the Departmental Committee on Education and Research. The next Question is by the Member for Teso North, Hon. Oku Kaunya.

*Question No. 313/2021*REGULARISATION AND STANDARDISATION OF  
THE COST OF SCHOOL UNIFORMS

**Hon. Oku Kaunya** (Teso North, ANC): Thank you very much, Hon. Speaker. I rise to ask Question No. 313 of 2021 to the Cabinet Secretary for Education:

- (i) Considering the high cost of school uniform in the country, which has in turn significantly led to the increased cost of learning in schools, could the Ministry consider regulating and standardizing the cost of school uniforms to make them affordable?
- (ii) What measures is the Ministry putting in place to ensure that children are not denied an opportunity to join school, learn and complete their education for lack of uniform?
- (iii) Could the Cabinet Secretary consider the use of existing institutions such as the National Youth Service, RIVATEX East Africa Limited, Kenya Prisons Service workshops or such other established institutions for production of school uniform at subsidized prices that the majority of parents can afford?
- (iv) What is the Ministry's policy regarding the provision of other items required of pupils and students as part of tuition, boarding and core curriculum materials?

I thank you, Hon. Speaker

**Hon. Speaker:** That Question will be replied before the Departmental Committee on Education and Research. The next Question is by Nominated Member, Hon. Godfrey Osotsi.

*Question No. 326/2021*MANUFACTURERS AND DISTRIBUTORS OF  
ILLEGAL ALCOHOLIC DRINKS IN KENYA

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Speaker. I rise to ask Question No. 326 of 2021 to the Cabinet Secretary for the National Treasury and Planning:

- (i) Could the Cabinet Secretary provide a detailed list of licensed alcoholic drinks manufacturers in Kenya, indicating the names of the firms or persons, respective production costs, selling price, Excise Duty payable, Value-Added Tax (VAT) payable and recommended retail price of all liquor brands of 250 ml?
- (ii) Could the Cabinet Secretary provide details on the amount of Excise Duty and VAT collected from the said products in the Financial Years 2017/2018, 2018/2019, 2019/2020 and 2020/2021?
- (iii) Could the Cabinet Secretary indicate the total number of Excise Duty Stamps sold by Kenya Revenue Authority (KRA) to each of the licensed alcoholic drinks manufacturers during the period 2017/2018, 2018/2019, 2019/2020 and 2020/2021?
- (iv) What measures has the Ministry taken to deal with manufacturers and distributors of illegal alcoholic drinks who continue to engage in illicit and uncompetitive business practices leading to loss of tax revenue and putting consumers at risk?
- (v) What measures has KRA taken to deal with its staff who are involved in abetting the illicit trade by aiding and protecting illegitimate manufacturers and distributors of alcoholic drinks?

Thank you, Hon. Speaker.

**Hon. Speaker:** That Question will be replied before the Departmental Committee on Finance and National Planning.

The next segment is a request for Statement. There is a request by the Member for Kiambaa, Hon. John Njuguna Wanjiku.

## STATEMENT

### COMPENSATION FOR RESIDENTS AFFECTED BY CONSTRUCTION OF NAIROBI-WESTERN BYPASS ROAD PROJECT

**Hon. John Njuguna Wanjiku** (Kiambaa, JP): Thank you, Hon. Speaker. Pursuant to Standing Order No. 44(2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing, regarding the Nairobi Western Bypass Road Project.

The Nairobi Western Bypass was commissioned in March 2019. The Bypass which is a 16.6 km dual carriage, is part of the link road around Nairobi which links the Northern, Southern Eastern and the upcoming Western bypasses. The said bypass starts at Gitaru through Wangige and Ndenderu and terminates at Ruaka. The Construction of Nairobi-Western bypass was intended to not only decongest the Northern Corridor but also to enhance the socio-economic development in both Nairobi City and Kiambu counties. Contrary to the expectation of the residents of Kiambaa Constituency, the project has had negative implications to the community, as it has led to the destruction and demolition of properties to pave way for the construction of the bypass that has had minimal benefits to residents. The contractor has failed to engage the youth from the area in the project. Additionally, the project has led to the displacement of traders at the Ruaka Market whose stalls have been demolished without any compensation or provision of alternative parcel of land for the establishment of a market.

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It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing on the following; -

- i. How many residents especially the youths from Kiambaa Constituency are engaged in the Western Bypass Road Project specifying their job description?
- ii. What measures are in place to ensure provision of access in link roads in particular, connecting Karura and Ndenderu Shopping Centre; Gacharage and Ruaka Towns respectively to the Western Bypass?
- iii. What plans are in place to acquire an alternative piece of land for reallocation of Ruaka Market?
- iv. When will the residents affected by the project be compensated?

Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** The Chairman, Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing. He is not in. Does he have a Vice Chair? Hon. Wamuchomba.

**Hon. (Ms.) Gathoni Wamuchomba** (Kiambu CWR, JP): Thank you, Hon. Speaker. On behalf of the Committee in charge of Transport, Public Works and Housing we undertake give a comprehensive response to the Member in about two weeks.

**Hon. Speaker:** Very well. I will detail Hon. David ole Sankok to go round to where many Members are, so that he can teach you how to press the intervention button. I noticed that many of you are having difficulties in locating the intervention button. Hon. David ole Sankok is an expert, so feel free to go and educate a few of your colleagues. No. Hon. Sankok, it is not a licence to start praising yourself.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Speaker for recognising that I am very active. I want to inform Members that I will teach you, but it is not free of charge. It will only cost Ksh5,000 each.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Sorry, let us have Hon. Abdullswamad Nassir before Hon. Peter Mwachhi.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Asante sana, Mhe. Spika. Naomba usaidizi kutoka kwako na pia utoe amri. Tarehe 16 Juni 2021, niliinuka katika Jumba hili baada yako kuweka sahihi na kupeana idhini ya kutuwezesha kuulizia hatma ya wafanyikazi wa Shirika la Bandari ya Kenya yaani Kenya Ports Authority (KPA).

Mambo yalikuwa ni matatu. Kwanza, ule mkataba uliokubaliwa wa nyongeza ya mishahara. Pili, kando na yale ambayo washakubaliana, ni njia gani ambayo wataanza kuzungumzia habari ya makubaliano mapya? Tatu, wale wafanyikazi 247 waliofutwa wanaofaa kuregeshwa.

Nilielekeza Swali hilo kwa Kamati inayohusika na mambo ya usafiri lakini chini ya amri yako, ukasema iende kwa Kamati ya Leba. Walidokeza kuwa kwa muda wa wiki moja, wataweza kutupa jawabu. Leo hii, tumemaliza miezi miwili ya Juni na Julai. Tuko mwezi wa Agosti. Nilipokuwa naingia hapa, niliambiwa kuwa kuna jawabu ambalo limetolewa na Waziri Ukur Yatani. Ukiangalia hali ilivyo, tulielezewa kuwa Julai mwaka huu, uchumi wa nchi hii ulipanda kwa asilimia 6.44. Haijawahi kufika hivyo katika miezi kumi na saba. Juni mwaka huu, ilipanda kwa asilimia 5.87.

Katika mwezi wa Novemba 2019, lile Shirika la KPA lilipeana shilingi bilioni 18.7 kwa Serikali kama faida na kulipa ushuru wa shilingi billioni 6. Hizo ni pesa ambazo haziwezi kuundwa ikiwa sio wale watu.

Sasa hivi, tukichelewa sana, nasikia wanajaribu kukata mambo ya *bonus* na *overtime*. Naomba Kamati ya Leba, kama ile ya Uchukuzi iliyokwenda Mombasa na kukaa na wachuuzi wa Mama Ngina na Public Beach, walichukulie swala hili kwa haraka inavyowezekana. Hawa wafanyikazi wakivunjika moyo, itakayopoteza ni nchi nzima, sio Mombasa peke yake. Tunakubali kuwa watu wa Mombasa ndio watakaoumia, lakini nawakumbusha kuwa kidole kikiumia, ni mwili mzima utakaoumia.

Asante.

**Hon. Speaker:** Mwenyekiti wa Kamati, hata wewe inuka. Mhe. Nassir alisema kuwa aliinuka tarehe 16 Juni 2021. Sasa Mwenyekiti naye ainuke.

**Hon. Josphat Kabinga** (Mwea, JP): Asante sana, Mhe. Spika. Hata mimi nainuka kusema kuwa tumechukulia swala hilo kwa uzito sana. Tumekuwa tukifuatilia na Wizara ya Fedha. Kila wiki, tunaahidiwa ya kwamba tutapata jawabu lakini hatujalipata. Ningetaka usaidizi wako kwa sababu naelewa kuwa kazi ya *Kenya Ports Authority* iliwekwa katika Wizara ya Fedha hivi juzi. Kwa hivyo, labda wako na changamoto ya kutupa jawabu lakini hiyo si sababu ya kutolileta.

Namuelewa sana Mheshimiwa na uzito alio nao kutoka kwa wafanyikazi wa Bandari. Kwa hivyo, ningetaka usaidizi wako ili Wizara husika iamrishwe na Bunge kuja mbele ya Kamati kwa lazima. Sisi pia hatungetaka wafanyikazi wafe moyo na bado tuko na tunataka kuwafanyia kazi katika Bunge. Kwa hivyo, tuko tayari kama Kamati ya Leba na *Social Welfare*. Ni Wizara husika ambayo *inatulet down*.

Asante.

**Hon. Speaker:** Kwa hivyo, suluhisho ni kumualika Waziri. Aandikiwe barua na Katibu wa Bunge aje mbele ya Kamati aelezee ni kwa nini hajapeana jibu kwa hayo mambo. Asipokuja ndipo utakuja kutafuta usaidizi zaidi. Kwa sasa, mualike Waziri siku yoyote ambayo mnetaka kama Kamati na pia mumjulishe Mhe. Abdullswamad awe katika kikao hicho.

No, there is no debate on this now. Hon. Abdullswamad Nassir, it cannot be that...

**Hon. Abdullswamad Nassir** (Mvita, ODM): Mhe. Spika, hatujadiliani. Langu lilikuwa ni ombi tu. Nirai. Pengine litakuwa wazo njema ikiwa watakubali kukutana na Waziri na yule Mwenyekiti ama wasimamizi wa KPA pale pale Bandarini. Itakuwa vizuri pia wakutane na wale wafanyikazi. Ukiangalia, nimetumiwa jawabu robo kabla siajingia hapa kwa sababu walijua kuwa nina nia ya kuyaleta hayo mambo. Kwa hivyo, ili lile gurudumu liwekwe *oil* kwa haraka, yasiwe mambo ya huyu anasema hivi na yule anasema vile, wote waitwe pale pale katika Bandari ya KPA ili wajibu na kueleza ...

**Hon. Speaker:** Sio lazima Kamati iende kule. Haya mambo ya kwenda kila mahali na kurandaranda, kuna COVID-19. Hakuna haja ya kwenda Bandarini. Waziri na wale wengine wote waitwe katika Bunge. Wakati mnaenda kule, nyinyi wenyewe ndio mnaonekana kama watalii tu. You must be somewhere where you carry the authority of the House. When you start moving all over, you will be putting shades under trees and then you never know. You may find other things happening in those areas.

Let us have Hon. Josphat Kabinga.

**Hon. Josphat Kabinga** (Mwea, JP): Asante, Mhe. Spika. Mpango wetu ulikuwa kwanza kukutana na Waziri na pia mhusika ambaye ni mwenzetu Mhe. Nassir. Tukimsikiza Waziri na tuone hatuna suluhisho la maneno hayo, tutaona kama kuna haja ya kuwaita wale kutoka Mombasa ama sisi kwenda kule. Hili ni swali nyeti ambalo ni la uzito sana. Kwa hivyo, singetaka kusema

ya kwamba hakuna haja ya kwenda ama wao kuja. Kwanza tungetaka kukutana na Waziri na Mheshimiwa ili tuone kama tunaweza kutatua hilo tatizo tukiwa hapa Nairobi.

Asante.

**Hon. Speaker:** Absolutely. Next Order. Order No. 8.

## PROCEDURAL MOTION

### EXEMPTION OF BUSINESS FROM PROVISIONS OF THE STANDING ORDERS

**Hon. Peter Mwathi** (Limuru, JP): Hon. Speaker, I beg to move the following Procedural Motion:

THAT, pursuant to the provisions of Standing Order No. 256 relating to Exemption of business from Standing Orders, this House resolves to exempt the Reports of the Departmental Committee on Administration and National Security on the Public Petitions listed hereunder, laid on the Table of the House on Wednesday, 11<sup>th</sup> August 2021, from the provisions of Standing Order No.227(2) (Committal of Petitions) with respect to debate—

(i) Public Petition regarding insecurity in Saku Constituency and the Larger Marsabit County;

(ii) Public Petition by Residents of Wajir and Garissa counties regarding lack of access to Citizen Registration Services; and,

(iii) Public Petition regarding Recognition of the Pemba People of Kenya as Citizens of the Republic of Kenya.

Hon. Speaker, you rightly pointed out when we laid the Petitions on the Table of the House that they had quite weighty issues therein therefore this gives an opportunity to Members of this House to debate the issues arising from the Petitions and specifically the one on insecurity in Saku Constituency by looking at animosity between the Borana and Gabra which are contained therein, the skewed distribution of resources including county government jobs and opportunities, cattle rustling, scramble for water and pasture, possession of illegal arms and the long porous border of Ethiopia among others. Members will also be able to see the recommendations of the Committee and comment on them.

Regarding access to citizen registration in Garissa, the Committee has also made recommendations. We found that there are people who do not get vital documents therefore they cannot access essential services including political and economic rights, they cannot vote and have no access to banking services.

On the one on Pemba people recognition by the Republic of Kenya, Members also will be able to look at the recommendations of the Committee specifically in regard to how they miss out on education and health services since they are not registered at birth, how they are excluded from employment, they cannot register businesses and, of course, access to banking and such other services.

These are the issues contained in the three Petitions. I move and with your indulgence, hereafter, will give Notices of Motion to discuss the Petitions.

I beg to move. I ask the Leader of the Majority Party to second.

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

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to second this Motion.

It is a straightforward matter. Ordinarily, once Petitions is heard, results are given to the petitioner and the matter ends there. But when a matter is of significance, and I believe we have

precedents in this when we discussed the issue of the Royal Suburbs, the land in Roysambu when the matter was brought here for Members to have a bigger picture. Of course, this cannot happen unless we exempt it from Standing Order that dictates that the matter should be given to a Member and the matter ends there. So, it is a straightforward matter. I agree with the Chair that such matters require the entire House to seize them because they have a significance beyond the constituencies where Members have petitioned. There could be lessons learnt that affect other constituencies. Indeed, I hope Members affected by these Petitions are in the House today. We could be discussing their matter but they may not be here. I see two already. It is good that we will discuss when the stakeholders are here. It is a straightforward matter.

I ask Members that we do not even need to debate a lot on it. Let us give the go-ahead that is required so that the Committee can bring the Reports to Members to debate to come up with national solutions to the issues contained in the Petitions.

With those few words, I beg to second.

*(Hon. (Dr.) James Nyikal, Hon. Onyango Oyoo  
and Hon. Abdullswad Nassir consulted loudly)*

**Hon. Speaker:** Member for Muhoroni and the Member for Seme, be in the House for a while and the Member for Mvita.

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Speaker:** It is the desire of the House that I put the Question.

*(Question put and agreed to)*

Hon. Mwathi.

## NOTICES OF MOTIONS

### INSECURITY IN SAKU CONSTITUENCY

**Hon. Peter Mwathi** (Limuru, JP): Hon. Speaker, with your indulgence, I beg to give notice of the following Motion;

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its consideration of a Public Petition regarding insecurity in Saku Constituency and the larger Marsabit County laid, on the Table of the House on Wednesday, 11<sup>th</sup> August 2022.

**Hon. Speaker:** August 2022?

**Hon. Peter Mwathi** (Limuru, JP): Sorry, Hon. Speaker, thank you for the correction. It is 11<sup>th</sup> August 2021.

### LACK OF CITIZEN REGISTRATION SERVICES FOR RESIDENTS OF WAJIR AND GARISSA COUNTIES

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**Hon. Peter Mwathi** (Limuru, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its consideration of a Public Petition by residents of Wajir and Garissa counties regarding lack of access to citizen registration services, laid on the Table of the House on 11<sup>th</sup> August 2021.

#### RECOGNITION OF PEMBA PEOPLE AS KENYANS

Hon. Speaker, I beg to give Notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its consideration of a public petition regarding recognition of the Pemba People of Kenya as citizens of the Republic of Kenya, laid on the Table of the House on Wednesday, 11<sup>th</sup> August 2021.

Thank you, Hon. Speaker.

**Hon. Speaker:** Order, Members! Hon. Members, before we move on with the consideration of business as listed, I direct reorganisation of the Order Paper so as to have the business listed as Order No.10 to come up as Order No.9 and after its conclusion, we will then go to business listed as Order No.9, which will now be Order No.10, namely, the Committee of the whole House on consideration of the Foreign Service Bill (National Assembly Bill No.8 of 2021). So, that will come as Order No.10. This is because I am told the next business has been sufficiently conversed.

Let us move to the next Order.

#### BILL

##### *Second Reading*

#### THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL

*(Hon. Emmanuel Wangwe on 4.8.2021)*

*(Resumption of Debate interrupted on 12.8.2021)*

**Hon. Speaker:** Who was on the Floor? Yes, Hon. Sabina Chege.

*(Hon. Speaker consulted the Clerk-at-the-Table)*

No, let us have Hon. Pukose first.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Speaker, I am standing under Standing Order No.95. This Bill has been debated very extensively. So, I move that the Mover be now called upon to reply.

**Hon. Speaker:** Very well.

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

Let us have the Mover, who is the Leader of the Majority Party.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. Let me begin by thanking the Majority Party Whip, Hon. Wangwe, who moved the Bill on my behalf. I also commend the Members of this House and, indeed, Members of the Departmental Committee on Health, for the consideration of the Bill and the contributions they made. Very good ideas have been prosecuted on the Floor of this House, and I am sure it will be clear when we go through it in the Committee of the whole House in terms of some of the amendments that will be coming to actualise some of these ideas.

This is a critical Bill to anchor the Universal Health Coverage, which is one of the Big Four Agenda items. As I said, the key issue on the Bill is to expand the scope of membership from what is covered in Section 18 of the current Act, which is for salaried employees, to make it mandatory for every Kenyan. As we all know, Members have raised some issues on this aspect, but when you give options to people, obviously, the people who pay are the ones who believe they are at risk. We see this happening. For instance, you find that when one has fallen sick, he or she will go and pay and then wait for three months to go to hospital. This condition, the so-called adverse selection, kills the whole intent of insurance.

Making it mandatory for everyone means that those who are healthy will pay for those who are likely to be sick. Those who can afford will pay for those who cannot afford and the Government will pay for the indigents and the vulnerable. So, everyone will be catered for. I believe this is what we want, to ensure that universal health coverage is achieved. I do not want to highlight those who said what and who did not, but I specifically want to just explain something because Hon. Nyenze seemed to give the impression that Section 18 of the current Act makes it mandatory for everyone. It only makes it mandatory for those who are employed. This amendment Bill seeks to bring everyone on board.

There are some issues that were raised in terms of the mandatory matching contributions by employers. If you look at the Committee's Report and the Bill, it is not clear and we will make it clearer. The intention is that in a situation where an employer has private cover for their employees, they will not be obligated to pay the matching contribution because they have already gone beyond the situation and covered their employees separately. That aspect will become clearer when we do the fine tuning.

The other issue that was raised is about having both the National Hospital Insurance Fund (NHIF) and private cover, which means that you are double insured. When you go to hospital, who pays the first bill? Currently, there has been confusion on that and some hospitals insist on having your NHIF card first before they can take the private cover. So, the Bill is making it clear that when you have a private cover, it will be the first to be charged in terms of having the first responsibility for paying a bill. For inpatients, the NHIF will pay the rebates, and if your private cover has not covered you adequately, then the NHIF will top up your private cover up to some limit that will be set up to ensure that the money does not get exhausted on only a few people. So, there is some clarity on that aspect. Members wanted to know.

On the last item, the global practice is obviously to make sure that the Government pays for those who are vulnerable. This is well covered within Clause 10, where it is clear that the Government will pay for the vulnerable. It may cost the Government between Kshs5.8 billion and Kshs6 billion to pay for those who cannot pay, or the so-called 'indigents' and 'vulnerable.' So, those are already taken care of and nobody should have the feeling that the youths will not be taken care of.

Just for clarification, the current Act only addresses people up to the age of 18 years, but this Bill expands the scope of coverage. So, up to the age of 21, those who are not working and are still in school, will be considered as beneficiaries as part of those benefiting from their family members. For those who are in school and are not earning, the age has been set up to 25 years. So, people of ages of up to 25 years and still in school will not be required to pay their direct share. They will be covered within the family cover, which is an improvement of what is in the current Act. There is also some confusion on that aspect.

On another item, it is very rare that I would agree with Hon. Kimani Ichung'wah, but he raised an issue that the NHIF needs to focus on. The core mandate of the NHIF is basically to provide insurance cover and not to engage itself in equipping hospitals. I concur and I have consulted on that, and I will bring an amendment to remove that provision on the NHIF getting involved in procurement of equipment and building of hospitals. We do not want a situation where Kenyans lose faith in the Fund because instead of the money being used to cover patients, it is used on other non-core activities. I will bring an amendment to delete the entire Section 34 as it exists, which seeks to allow the NHIF to start equipping hospitals. That is the mandate of the county governments and the national Government. The NHIF should concentrate on provision of insurance cover, and nothing else. Then we will have faith in it.

I believe the other comments that some Members made, like Hon. Maanzo saying that it should cover groups, do not work in terms of insurance. I have already mentioned it in compulsory contribution. These are some of the things I thought I needed to highlight by way of response. I would ask Members that we create some time tomorrow, so that we can actualise this dream of ensuring that no Kenyan will have to sell their land or be made poor forever, because of hospital bills. We have seen this especially with the situation of COVID-19 and some of these complicated cases. Let us ensure that we speed up the realisation of this dream of the universal health coverage. The faster we move, the earlier we are going to save our people from being impoverished by the misfortune of getting sick. It should not be the reason for people to suffer forever.

So, I thank Members for their contributions. I thank the Committee for its consideration. I urge those who have any amendments to harmonise them between now and tomorrow, so that we can have a smooth sail in the Committee and the Third Reading tomorrow in the afternoon. Then we will take it to the Senate. Hopefully, we will speed it up there so that Kenyans can have this dream of the universal health coverage attained. A key pillar of the Big Four Agenda will be realised as we actualise the journey towards achieving the SDGs under which health is critical. Remember, the whole point of the SDGs is that nobody should be left behind. No poor Kenyan should be left behind in the provision of affordable and quality health which is what this Bill is hoping to achieve.

With those few remarks, I beg to reply.

**Hon. Speaker:** Well, Hon. Members. I have confirmed that we have the necessary quorum for me to put the Question. I proceed to do the same.

*(Question put and agreed to)*

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

The Chair of the Departmental Committee on Health.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Speaker.

I beg your intervention. We have just finished with the NHIF Bill. My Committee has several Bills that it is dealing with. There is one Bill for which we ask your direction, namely, the Kenya Food and Drug Authority Bill of 2019. It was Read the First Time on 2<sup>nd</sup> May 2019 and committed to our Committee for consideration. The Bill was seeking to repeal and amend several existing laws, both in health and agriculture, and was brought in as a Private Member's, by Hon. Pukose. It was seeking to amend or repeal 10 laws within the health sector, eight within the agricultural sector and two within the trade sector. I am bringing this to your attention because the Committee called for memoranda from the public and various stakeholders which returned with overwhelming response from the public. The Government asked for the withdrawal of the Bill to enable the Executive to come up with one that is in line with Government policy and international best standards.

On July 2019, the Ministry of Health wrote to the Departmental Committee on Health requesting that the Bill as sponsored by Hon. Pukose be withdrawn to allow consultation aimed at developing a comprehensive Bill. We also convened a meeting between the Ministry of Health and the Ministry of Agriculture, Livestock and Fisheries, together with the sponsor of the Bill, who is Dr. Pukose, on Thursday, 27<sup>th</sup> August 2019, and it was resolved that the Executive works with Hon. (Dr.) Pukose to harmonise many issues that the Bill had and present a unified Bill within 90 days. During the meeting that was hosted by the then Leader of the Majority Party, Hon. Aden Duale, the Ministry of Health and the Ministry of Agriculture, Livestock and Fisheries reported that they had already formed a taskforce that had come up with a draft Bill due to fine-tuning before presentation to the Committee.

The Committee acknowledges the critical nature of the Bill as it speaks to quality and safety of food from farm to fork as well as safety in medicine and health products imported or manufactured in the country, among other provisions. The Second Schedule to Standing Orders provide that the mandate of the Departmental Committee on Health is in regard to matters related to health, medical care and health insurance. To this end, the Departmental Committee on Health has the mandate to consider the aspects of the Bill providing for the regulation of drugs, chemical substance and medical devices. On the other hand, the Departmental Committee on Agriculture and Livestock is in regard to the matters related to agriculture, livestock, irrigation, fisheries, and development, production and marketing. The Departmental Committee on Agriculture and Livestock has the mandate to consider the aspects of the Bill providing for their regulation.

After several communications with the Ministry, we received a communication which came in a few days ago. I am asking for your intervention because what we have received as a Committee is totally a new Bill. We would like to just get your direction on the way forward and how we should handle the matter. Now that two ministries have come up with a totally new Bill, the Bill has a new name. I want to get the name and read it to you. We know it was initially the Kenya Food and Drugs Authority Bill, a Private Member's Bill, National Assembly Bill No.31 of 2019, but what we have now been given by the ministries is a Bill called the Food Safety Control Coordination Bill of 2021. This is an Act of Parliament which may be cited as the Food Safety Control Coordination Act, 2021. So, when we met as a Committee this morning, we were at a dilemma on how to proceed. Whether, one, we allow you to communicate to the Committee on who to handle the Bill. Secondly, what do we do with the Private Member's Bill of Hon. Pukose for which we had received contribution from stakeholders? We had almost done with our Report. We were only waiting for the bit of the contribution from the ministries on our way forward. Now that we have been given a totally new Bill, how do we handle Hon. Pukose's Bill? You will bear me witness that he has been here. He is asking about his Bill and the way forward every day. We,

as a Committee, committed that we would table a report in Parliament. Now that what has come from both ministries as a joint Bill is a totally different Bill, how then do we handle Hon. Pukose's Bill, which was the original Bill?

Thank you, Hon. Speaker. I just beg for your intervention.

*(Hon. David Ochieng' raised his hand)*

**Hon. Speaker:** Why are you raising your hand up and there is nothing for debate, Hon. David Ochieng'? Every Member and the House has a constitutional mandate to legislate, among other functions and roles. I have always tried not to frustrate individual Members' efforts, as much as I do not frustrate those efforts or initiatives at doing legislation that come from the Executive. Therefore, it is not right for the Executive to sit for two years and then come to purport to trample down on the efforts of a Member. Hon. Pukose has been consistently raising his Bill. Quite apart from this, if you remember, the previous Committee also made an attempt at a similar Bill. If the Executive wants to bring a Bill, they know the procedure. They will write through the Office of the Attorney-General and the Office of the Leader of the Majority Party and then it will pass through me for approval. Now that Hon. Pukose has waited for so long, it is unfair that he be treated this way. In fact, the House Business Committee sat this morning and decided that Bill No.31 of 2019 by Hon. Pukose be placed on the Order Paper starting tomorrow.

*(Applause)*

It is not right for any Member to be treated in the manner that the two ministries are treating him. If they desire to propose legislation with similar provisions as those in Hon. Pukose's Bill, they are at liberty to do so. The House will make a determination one way or another. I do not think it is right for anyone out there walking in the streets, in some offices or on some taskforce, to do this. No wonder things do not move. You are told that people are on a taskforce and are developing a white paper or a green paper and then they come up with. Is this one a black paper? I do not know what kind of paper this one could be that proposes to trash what Hon. Pukose has so fervently applied himself to just to be told to withdraw. It is not their place to direct how Members do their work here, particularly in the area of proposing legislation. They cannot command or direct anyone to withdraw their work.

Since the House Business Committee has already made a determination that the Bill be on the Order Paper, let it be. The Committee should table its report. The two ministries are at liberty to go meandering wherever they want because the route they have used is not the correct one. To write to the Committee that this is what they intend to do is a waste of time. That is wasted effort unless you want that as a Committee. You are supposed to table a report on Hon. Pukose's Bill. You can take the other one back to them. Return to sender...

*(Applause)*

That is the way it should be, anyway. You can return to sender or take it to some garbage bin. What can you do if people choose not to understand processes and respect them? If they had any issues with regards to the Bill by Hon. Pukose, they should write to the Committee, raise their objections and the matter will be determined by the House and not themselves. It will be the House

to make a determination. If the House is convinced and persuaded to go by the proposals from Hon. Pukose, so be it. If the ministries' arguments carry the day, again, in equal measure, so be it.

For now, Hon. Sabina, it is good that you have reported. We will proceed with the Bill by Hon. Pukose. I am sure that other one is good reading material. I saw you reading it on your phone. Maybe you can share it with other Members of the House who may also want to entertain themselves and know what the two ministries are saying. It has not come the right way. You can advise them to go and consult the Leader of the Majority Party. He will explain to them what they should do. They ought to know the way. It is not their first time. That one is good literature, but we proceed with the Bill by Hon. Pukose.

Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

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

### IN THE COMMITTEE

*[The Chairman (Hon. Moses Cheboi) took the Chair]*

#### THE FOREIGN SERVICE BILL

**Hon. Chairman:** Order, Members. Please, take your seats. We are now proceeding to the Committee of the whole House to consider the Foreign Service Bill (National Assembly Bill No.8 of 2021). It is a fairly straightforward Bill and, therefore, we will move pretty fast.

#### *Clause 3*

**Hon. Chairman:** Hon. Chair, do you have an amendment to this particular one? I think so.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, Clause 3 of the Bill be amended—

(a) by deleting sub clause (2) and substituting therefor the following new sub-clause —

“(2) The Foreign Service shall be headed by the Cabinet Secretary.”

(b) in sub-clause (3) by inserting the words “, international law and customs of diplomatic practice” immediately after the word “Constitution”.

The justification for those amendments is that it is difficult to establish who are political staff and who are not as earlier indicated in the Bill. We are seeking to delete that and give a new definition.

In Clause 3, we are also seeking to ensure that their service is guided by international law and customs of diplomatic practice in line with best international practices. That is the justification for proposing the amendments.

*(Question of the amendment proposed)*

*(Question, that the words to be left out)*

*be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 3 as amended agreed to)*

*Clause 4*

**Hon. Katoole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 4 and substituting therefor the following new clause—

Composition of the Foreign Service.

**4.** (1) The Service shall comprise officers serving at the headquarters and in Missions, who shall include—

- (a) high commissioners, ambassadors and diplomatic and consular representatives;
- (b) Special envoys;
- (c) Honorary Consuls;
- (d) foreign service officers; and,
- (e) any other officer as may be designated by any written law or by the Cabinet Secretary in writing.

(2) The composition of the Service shall reflect the gender, regional and other diversities of the people of Kenya.

This is to clarify the officers who serve at the headquarters in Nairobi and those who serve in missions abroad. That was the clarity we were making as well as to define the officers who are under the foreign service from ambassadors, high commissioners and special envoys. That is the justification.

*(Question of the amendment proposed)*

**Hon. Chairman:** I only see Hon. Sankok interested in this one. Yes, Hon. Sankok. Do you want to contribute to this one?

**Hon. David ole Sankok** (Nominated, JP): Yes. Of course, I support. Let us go to the next one.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 4 as amended agreed to)*

*Clause 5*

**Hon. Chairman:** I am sure you can now see the mood of the House. Many Members seem to have read your proposed amendments. Hon. Chairman, move faster

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, these amendments are fairly straightforward, as you said. They are all mostly from the Ministry of Foreign Affairs and practitioners in the Foreign Service.

Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 5 and substituting therefor the following new clause—

Functions of the  
Foreign Service

5. In addition to any other responsibilities designated in writing by the President to the Ministry, the Service shall—

- (a) be responsible for the development and management of Kenya's foreign policy;
- (b) conduct and coordinate the international relations and cooperation of the Republic at bilateral, regional and multilateral levels;
- (c) enhance protection of Kenya's sovereignty and territorial integrity;
- (d) enhance national, regional and international peace, security and stability;
- (e) protect, promote and project national interests globally;
- (f) establish and maintain good relations between the Republic and other countries, and international organisations;
- (g) manage the Republic's Missions;
- (h) serve and promote the legitimate interests of Kenyans living abroad;
- (i) administer diplomatic privileges and immunities;
- (j) administer all foreign representations in the Republic;
- (k) be the primary interface between the Republic and foreign states and international organisations or entities;
- (l) facilitate negotiation and conclusion of international treaties and agreements in consultation with relevant ministries;
- (m) maintain custody of ratified international treaties and agreements;
- (n) facilitate the integration of Kenya's foreign policy in national security;
- (o) coordinate, monitor and report on the implementation of the Republic's international obligations;
- (p) coordinate and provide protocol services to designated foreign and national dignitaries as prescribed;
- (q) provide consular services as prescribed;
- (r) coordinate relevant agencies in emergency evacuation of distressed Kenyans abroad; and,
- (s) perform any other function as may be necessary for the discharge of its mandate as prescribed by any written law.

Hon. Chair, this is to summarise and simplify the functions of the Foreign Service and align them with the Constitution, international treaties that Kenya has ratified, the Defence White Paper and more diplomatic practice.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 5 as amended agreed to)*

*Clause 6*

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 6 and substituting therefor the following new clause—

Powers and  
functions of the  
Cabinet Secretary

6. In addition to any powers or functions designated in writing by the President, the Cabinet Secretary shall—

(a) be the principal advisor to the President on matters relating to foreign policy;

(b) provide strategic leadership and policy guidance to the Service;

(c) consult and advise the Public Service Commission on appropriate officers to be appointed to the Foreign Service;

(d) ensure that the Service and Missions pursue the foreign policy objectives of the Republic, in coordination with other ministries and agencies in the Republic;

(e) advise the Cabinet on the establishment of Missions of the Republic;

(f) provide policy advice to the Government on matters relating to foreign policy;

(g) establish such consultative coordination mechanisms as may be necessary for the effective implementation of this Act;

(h) conduct and coordinate communications between the government of the Republic and governments of other countries and intergovernmental organisations and agencies;

(i) oversee and implement directives by the President relating to the appointment or recall of high commissioners, ambassadors and diplomatic and consular representatives;

(j) administer, manage and develop the capacity of the Service;

(k) issue guidelines on the coordination and alignment of matters relating to foreign affairs to National and County Governments;

(l) approve the accreditation of a high commissioner, ambassador, diplomatic or consular representative to serve more than one country or jurisdiction; and,

(m) ratify international agreements on behalf of the Republic subject to approval by the National Assembly.

Hon. Chair, this is to align the Bill with the Treaty Making and Ratification Act and the Vienna Convention on the Law of Treaties.

I thank you, Chairman.

*(Question of the amendment proposed)*

**Hon. Chairman:** Hon. Mutua Barasa.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you Hon. Chairman, I support. However, some of these things are very straightforward. I am wondering why the Chairman is doing them at such a time, but because I know he is a man of integrity, I will support. Otherwise, I would have opposed for fear of other underlying issues which may not be of interest to this country.

So, I support.

**Hon. Chairman:** Hon. Barasa, never mind the integrity of the Chairman. Scrutinise the particular clauses and proposed amendments. Feel free to oppose, support or propose some amendments, if time allowed.

Yes, Hon. Nominee 001.

**Hon. David ole Sankok** (Nominated, JP): This is a very important amendment. It is important for us to align the Constitution with international treaties that we are supposed to ratify. Hon. Katoo ole Metito and our Departmental Committee on Labour and Social Welfare intends to rectify the African Protocol on the Rights of Persons with Disability and the Rights of Older Persons. I urge this House that when it comes, let us fast-track it because it will not have any added burden to this country. So, this is very important so that we can fast-track all those protocols.

**Hon. Chairman:** Hon. Oyoo, on that particular one?

**Hon. Onyango Oyoo** (Muhoroni, ODM): Hon. Chairman, I believe this is a very important amendment. So, the Chairman should go slightly beyond what he has written so that we get to know exactly what it is. Some of us have not had the benefit of reading the amendments in full. So, he should go beyond mentioning the African treaties.

**Hon. David ole Sankok** (Nominated, JP): Why are you here if you did not read?

**Hon. Chairman:** Hon. Oyoo, I do not agree with you at all. I am convinced that the Chairman is giving the brief explanations that are required. Actually, on your part, you need to look at the Order Paper yourself and if you have an issue, you can raise it quickly. So, I think the Chairman is moving on very well.

I will now put the Question.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 6 as amended agreed to)*

Hon. Nominee 001, you are completely out of order. You are making a vote using your microphone. So, it expands your decibels giving your vote undue influence to the ears. I am not going to allow you to do that anymore.

Next.

*Clause 7*

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, for the benefit of Members, as you have clearly put it, the amendments are in the Order Paper, but nowadays we do not have the hard copy. So, I am just giving the justification as to why the amendments have been brought here.

Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 7 and substituting therefor the following new clause—

Functions of the  
Principal  
Secretary

7. The Principal Secretary in the Ministry responsible for matters relating to foreign affairs shall be responsible to the Cabinet Secretary and shall –

- (a) provide administrative supervision to the Service;
- (b) co-ordinate the performance management of the Service;
- (c) oversee implementation of programmes;
- (d) provide foreign policy advice to the Cabinet Secretary;
- (e) be the principal accounting officer and ensure efficient utilisation of funds and other public resources;
- (f) act as the point of contact for the Service;
- (g) advise the Cabinet Secretary on human resource matters; and,
- (h) perform any other functions as delegated by the Cabinet Secretary.

Hon. Chairman, this is about human resource in the Foreign Service. We are just aligning it with the Public Service Commission (PSC) because all staff under the Foreign Service are under the PSC. So, we are just aligning it so that there is streamlining or consultation between their service and the PSC.

I beg to move.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 7 as amended agreed to)*

*(Clause 8 agreed to)*

*Clause 9*

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, Clause 9(1) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—

“(ba) providing legal advice and handling compliance matters;”

This is to provide the office at the headquarters with legal advice on handling compliance for matters that are important in guiding the Ministry well.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 9 as amended agreed to)*

**Hon. Chairman:** Let me be clear on that one. Let me repeat it for the benefit of Members.

*Clause 10*

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Chairman. I beg to move: THAT, the Bill be amended by deleting Clause 10 and substituting therefor the following new clause—

Establishment  
of Missions of  
the Republic.

10. (1) The Cabinet Secretary may recommend, and upon approval by Cabinet, establish a Mission in accordance with the provisions of the Vienna Convention on Diplomatic Relations, 1961, the Vienna Convention on Consular Relations, 1963, and the provisions of treaties and conventions establishing intergovernmental organisations and agencies.

(2) In recommending the establishment of a Mission and any office of the Foreign Service abroad, the Cabinet Secretary shall be guided by the Kenyan foreign policy.

(3) The Cabinet Secretary shall, with the approval of Cabinet—

- (a) prescribe the territorial accreditation boundaries of a Mission;
- (b) amalgamate two or more Missions; or
- (c) close or downgrade a Mission.

Hon. Chairman, at times, we open new missions abroad. In diplomacy, they say that you cannot close down a mission, but you can down scale it. So, for those two purposes of opening and downscaling, the cabinet secretary needs to get approval at the Cabinet level since it is a function of the national Government.

I beg to move.

**Hon. Chairman:** Very well explained.

*(Question of the amendment proposed)*

*Question, that the words to be left  
out be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 10 as amended agreed to)*

**Hon. Chairman:** Order, Hon. Nominee 001. Your voting must be in an organised manner even if it is in terms of decibels. You put it in an organised manner that can be picked as a vote. You are, however, doing very well.

Let us proceed to the next level.

*Clause 11*

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 11.

This was listing the functions of the mission and then we realised they are also enlisted in Clause 5 as functions of the Foreign Service. So, this is a repetition. I beg to move.

*(Question of the amendment proposed)*

**Hon. Members:** Put the Question.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 11 as amended agreed to)*

**Hon. Chairman:** Let me confirm something. Order, Hon. Sankok! Keep your peace.

*PART IV – TITLE*

**Hon. Chairman:** Hon. Chair.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, the title to Part IV of the Bill be amended by deleting the words “STAFFING AND CONDITIONS OF SERVICE” and substituting therefor the words “MANAGEMENT OF THE SERVICE”.

This part is dealing with matters of staffing and conditions of service. So, we are just changing the heading.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Part IV - Title as amended agreed to)*

*Clause 12*

**Hon. Chairman:** Hon. Chair.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 12 and substituting therefor the following new clause—

- Recruitment. 12. (1) The Cabinet Secretary shall, in consultation with the Public Service Commission —
- (a) determine the terms and conditions of service for members of the Service; and
  - (b) establish a Foreign Service Personnel Scheme which shall guide the criteria relating to the recruitment and career progression within the Service.
- (2) A person shall not be recruited into the Service unless the person—
- (a) is a Kenyan citizen; and
  - (b) has undertaken and passed Foreign Service Examinations administered by the Academy.
- (3) Recruitment and promotion in the Service shall be conducted through a competitive process to determine the competence, fitness and aptitude of candidates to serve in the foreign service.
- (4) The Public Service Commission shall, in consultation with the Cabinet Secretary, recruit—
- (a) suitably qualified officers to execute the functions of the Foreign Service; and
  - (b) service staff to provide technical and support services to the Service.
- (No.1A of 2015) (5) The recruitment and appointment procedure under this Act shall comply with the values and principles of Public Service enshrined in the Constitution and the Public Service (Values and Principles) Act.

This is just to professionalise the Foreign Service and ensure candidates picked to serve have the competency, fitness and aptitude required.

I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 12 as amended agreed to)*

*Clause 13*

**Hon. Chairman:** Hon. Chair.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:  
THAT, Clause 13 of the Bill be amended by deleting sub-clause (3).

The reason we are deleting this clause is because it deals with allowances of those who serve in the Foreign Service. We realised this is a constitutional mandate of the Salaries and Remuneration Commission (SRC) and there is no need of having it in this Bill.

**Hon. Chairman:** I thought in this particular one, you are deleting sub-clause (3). Please, check again if you are okay with what you have explained. You do not have the microphone.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, the deletion is only in clause 13(3) and sub-clauses (1) and (2) remain.

**Hon. Chairman:** Okay, that is clarified.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

**Hon. Chairman:** On this one, I will put the global Question because whereas we are deleting a small section, there is a part remaining which is still part of the Bill.

*(Clause 13 as amended agreed to)*

#### Clause 14

**Hon. Chairman:** Hon. Chair.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, Clause 14 of the Bill be amended by deleting the words “Principal Secretary” appearing at the beginning of the clause and substituting therefor the words “Cabinet Secretary”.

This is removing the words “principal secretary” and replacing it with the words “cabinet secretary”. We are dealing with posting and secondment of staff to the Foreign Service and we realised that this is a function of the CS as per the Constitution.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 14 as amended agreed to)*

#### Clause 15

**Hon. Chairman:** Hon. Chair.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 15 and substituting therefor the following new clause—

Deployment of officers

to Missions.

15. (1) The Cabinet Secretary may, with notification to the Public Service Commission, assign any officer of the Service to any Mission.

(2) The Cabinet Secretary may extend or terminate any overseas assignment under subsection (1), and require an officer to return to headquarters.

(3) Any officer of the Ministry assigned overseas shall, in addition to provisions under his or her employment contract, continue to be bound by the regulations governing the public service.

(4) The Cabinet Secretary may recall an officer assigned to serve at a Mission prior to the end of his or her term as prescribed in regulations.

The justification is that we had initially proposed...

**Hon. Chairman:** Order! Who are those two Members directly in front of the Chair? Take your seats. Proceed.

**Hon. Katoo ole Metito** (Kajiado South, JP): Thank you, Hon. Chairman. Initially, we had proposed that those posted to serve in a Foreign Service sign a deployment contract form. We realised that these are public servants who already have a contract with the Public Service Commission. So, we are proposing that instead of signing a contract form, they sign an administrative clearance form since they already have a contract with the PSC.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 15 as amended agreed to)*

Clause 16

**Hon. Chairman:** Hon. Chair, who should I give? Hon. Mutavi.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 16 and substituting therefor the following new clause—

Training.

16. (1) The Cabinet Secretary shall ensure that all officers receive appropriate diplomatic and other training relevant to their rank under the personnel scheme.

(2) The training and capacity building of officers shall be undertaken by the Academy and such other institutions as may be authorised by the Principal Secretary.

This amendment seeks to provide that the CS at a policy level ensures that officers receive relevant diplomatic training. Also, it seeks to provide for training at the academic institution established under the Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 16 as amended agreed to)*

**Hon. Chairman:** Actually, Hon. Sankok is proving to be very useful.

*Clause 17*

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move...

**Hon. Chairman:** Just a minute, Hon. Kilonzo. I am working on something here. By the way, please, keep your microphone on because you will be moving the amendments and be silent after you have spoken, so that we can proceed faster. Let me confirm something.

On good advice, Hon. Kilonzo, since you are operating on delegated powers, it means you will be operating temporarily as the Chair of the Committee as you move the amendments. It will look like a specific Member moving the amendments. I just noticed you are not doing this on your own because these are Committee amendments and the Chair is supposed to move. In absence of the Chair, any other Member who has been delegated powers will act as the Chair of that Committee for that opportunity.

So, I am rescinding even the previous one which I had made look like it is you who moved the amendment and putting it in the proper place on record that it is the Chair of the Committee and it is a Committee amendment.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, thank you for that temporary promotion to be the acting Chair.

Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 17 and substituting therefor the following new clause—

Secondment of officers  
from other Ministries.

17. (1) The Public Service Commission may, with the concurrence of the relevant Cabinet Secretary and the Cabinet Secretary, second staff from any other ministry to any Mission. (2) Where a person is seconded to a Mission under subsection (1), the Cabinet Secretary and the relevant Cabinet Secretary shall agree on the employment and financial conditions that shall apply for the duration of secondment.

This is to ensure that the Public Service Commission consults with the cabinet secretaries of the relevant ministries before they post their officers as attaches.

*(Question of the amendment proposed)*

**Hon. Members:** Put the Question.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 17 as amended agreed to)*

*Clause 18*

**Hon. Chairman:** Hon. Chairman, how we are going to proceed on this particular one is that since you have a series of amendments, we deal with each separately and then the global Question will unify it eventually. So, let us deal with the specifics. I think they are three of them. We can start.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, Clause 18 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words “including obtaining criminal records and relevant qualifications and references from previous employers”;
- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—  
“(3) The terms and conditions of employment of locally engaged staff shall be in accordance with the labour laws of the host country”;
- (c) by deleting sub-clause (4);
- (d) by deleting sub-clause (5).

These clauses basically deal with the issues of the terms of employment and recruitment which are best left to the regulations that set the terms of employment for staff.

**Hon. Chairman:** Hon. Chairman, what I want you to do is that since you are proposing a deletion to sub-clauses (2) and (3) and a substitute to that one and then you are also deleting sub-clauses (4) and (5), so that Members can be with you, I think it will be proper if you did it that way. It will be tidier. What you have just done is correct, but the other one would really give Members an opportunity to deal with each.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, Clause 18 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words “including obtaining criminal records and relevant qualifications and references from previous employers”.

**Hon. Chairman:** You have done the first one. Let us deal with one.

*(Question of the amendment proposed)*

**Hon. Chairman:** We will be dealing with that, then we come to the next one. It is still the same Clause 18. You will explain the sub-clause.

*(Question, that the words to be left out be left out, put and agreed to)*

**Hon. Chairman:** Now let us go to sub-clause (3).

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, Clause 18 of the Bill be amended—

- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) The terms and conditions of employment of locally engaged staff shall be in accordance with the labour laws of the host country”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**Hon. Chairman:** Now let us go to sub-clause (4).

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, Clause 18 of the Bill be amended—

(c) by deleting sub-clause (4);

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

**Hon. Chairman:** Now let us go to sub-clause (5).

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, Clause 18 of the Bill be amended—

(d) by deleting sub-clause (5).

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

**Hon. Chairman:** Hon. Members, now we do the global Question, which will accommodate all the deletions and amendments.

*(Clause 18 as amended agreed to)*

#### *Clause 19*

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, Clause 19 of the Bill be amended by—

(a) renumbering the existing provision as sub-clause (1);

(b) inserting the following new sub-clauses immediately after sub-clause (1)—

“(2) A person who abuses any privilege or immunity granted under this section shall be subjected to disciplinary action as appropriate. (3) A person shall not waive the privileges and immunities granted under this section without the express approval of the cabinet secretary.”

Hon. Chairman, one is by renumbering the existing provisions in sub-clause (1) and then inserting the new clauses as provided for in the Order Paper. This is to ensure that the privileges and immunities only facilitate the execution of the roles of officers who are posted in the diplomatic missions and not to allow abuse as we saw somewhere in South Africa when Members of a friendly State entered into selling alcohol.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 19 as amended agreed to)*

#### *Clause 20*

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:  
THAT, the Bill be amended by deleting Clause 20.

Hon. Chairman, the justification for this is that Article 210(3) of the Constitution provides that no law may exclude or authorise exclusion of a tax officer. This particular clause was providing that when diplomats return home, they are excluded from paying taxes, which is against the Constitution.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 20 deleted)*

#### *Clause 21*

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:  
THAT, Clause 21 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “independent contractors” appearing immediately after the words “officers and” and substituting therefor the words “service staff”;

(b) by deleting sub-clause (2).

Hon. Chairman, the justification is for clarity purposes and to leave the prescription of the code of conduct from details of the law. Details of the code of conduct and the penalties shall be included in the code of conduct itself.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place)*

*thereof be inserted, put and agreed to)*

*(Clause 21 as amended agreed to)*

*Clause 22*

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 22.

Hon. Chairman, this was dealing with issues of confidentiality, which are to be left and handled in the code of conduct itself.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 22 deleted)*

For a deletion, I do not think we need to put any global Question. So, we proceed.

*Clause 23*

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I will be going one by one.

**Hon. Chairman:** What is it, Hon. David ole Sankok?

**Hon. David ole Sankok** (Nominated, JP): Hon. Chairman, I think I heard you propose the Question that Clause 23 be part of the Bill. You should propose that it be amended and then later you propose that it be part of the Bill.

**Hon. Chairman:** Hon. ole Sankok, that is why you are sitting there and I am sitting here. I am a person who knows how to run that particular issue.

*(Laughter)*

Hon. Sankok, we are moving on just fine. I know you are getting a little tired. You have been very active this afternoon. The first proposal is to make it part of the Bill. The Chairman will move the amendment, I propose for you to make any decision in terms of contributing and then I put the Question. That is the position. I am very happy that you are very keen. You are actually a fast learner. You are a first-term Member of Parliament and have been very active. Let us proceed.

As you deal with Hon. Mutavi Kilonzo, in 2003, he was here together with the Chairman of that particular Committee. They have learned the ropes. You can imagine that in a short while, you have been able to move that fast. You are a good student.

**Hon. David ole Sankok** (Nominated, JP): Hon. Chairman, I have been monolising monos. They do not know that I am a mono.

**Hon. Chairman:** Proceed, Hon. Chair.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Chairman. It is very important that Hon. ole Sankok knows that in 2003 when I joined Parliament, he was probably looking after cattle somewhere.

Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 23 and substituting therefor the following new clause—

- Appointment. 23. (1) The Office of a high commissioner, ambassador, diplomatic or consular representative shall be a State office for purposes of Article 260 of the Constitution.
- (2) Pursuant to Article 132 (2) (e) of the Constitution, the President shall nominate, and subject to the approval of the National Assembly, appoint high commissioners, ambassadors and diplomatic or consular representatives.
- (3) A nomination under sub-section (2) shall reflect—
- (a) a fair balance between career diplomats and other appointees; and,
  - (b) the gender, regional and other diversities of the people of Kenya.
- (4) A person nominated for appointment under sub-section (2) shall be—
- (a) a citizen of Kenya; and,
  - (b) of a reputable character and standing.

This is where we have specifically stated that the office of a high commissioner, ambassador, diplomatic or consular representative shall be a State office for purposes of Article 260 of the Constitution. We all know the issue we had with one of the nominees who had dual citizenship. This is meant to clarify that issue and solve the problem once and for all.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted put and agreed to)*

**Hon. Chairman:** Now, Hon. Chairman, we want to proceed to the New Clause 23A.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Chairman.

**Hon. Chairman:** Just a minute. Let me put the global Question, so that it is tidier.

*(Clause 23 as amended agreed to)*

*New Clause 23A*

**Hon. Chairman:** Let me call the Mover to move the Second Reading of the new Clause.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after

- Head of mission
- Clause 23—  
23A. The Head of a Mission shall—
- (a) actively pursue the foreign policy objectives of the Republic in the host country;
  - (b) act as the personal representative of the Head of State in the host country;
  - (c) act as an official representative of the Republic at official functions in the host country;
  - (d) be responsible for the management and administration of the Mission and all members of the Foreign Service located at the Mission, including the locally engaged staff in the Mission;
  - (e) be accountable for any expenditure of the Mission and ensure that the budget of the Mission is administered in accordance with the Public Finance Management Act, 2012 and all other applicable laws and regulations.
- No.18 of 2012
- (2) A Mission may have more than one person designated to serve as ambassador or high commissioner.
- (3) Where a Mission has more than one ambassador or high commissioner, the ambassador or high commissioner designated as ambassador extraordinary and plenipotentiary shall be the Head of Mission.

**Hon. Chairman:** Very well.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

I see no interest in this particular one.

*(Question, that new clause be read a Second Time, put and agreed to)*

Hon. Members, I have jumped the gun. Let me redo it.

*(The new clause was read a Second Time)*

Is there any Member who want to speak to it?

*(Question, that the new clause be added to the Bill, put and agreed to)*

*Clause 24*

**Hon. Chairman:** Order, Members. No Member should come between the Chairman and the Member contributing. Who is that Member who has just walked in? Okay, proceed anyway, Hon. Kilonzo.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:  
THAT, Clause 24 of the Bill be amended by deleting sub-clause (4).

*(Question of the amendment proposed)*

**Hon. Chairman:** No. We are deleting sub-clause (4). It is not the deletion of the entire Clause.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 24 as amended agreed to)*

Clause 25

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Chairman, I beg to move:  
THAT, Clause 25 of the Bill be amended by deleting sub-clause (2).

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 25 as amended agreed to)*

*(Clause 26 agreed to)*

Clause 27

**Hon. Chairman:** The Chairman of that particular Committee is doing what we call division of labour, which is actually a good thing.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Chairman. I beg to move:

*(An. Hon. Member walked along the gangways)*

**Hon. Chairman:** Order! Who is this again? Order, Hon. Member. Take your seat if there is any there. Very good. Proceed, Hon. Rasso.

**Hon. Ali Rasso** (Saku, JP): Hon. Chairman, I beg to move:

THAT, Clause 27 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) Each Honorary Consul shall report directly to—

(a) the Head of Mission responsible for that country; or

(b) where there is no Head of Mission, to the Cabinet Secretary.”

This is just to clarify the reporting channels where there is no head of mission within a country.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 27 as amended agreed to)*

*Part VI – Title*

**Hon. Ali Rasso** (Saku, JP): Hon. Chairman, I beg to move:

THAT, the Title to Part VI of the Bill be deleted.

This has already been previously included in the part of ambassadors, high commissioners, diplomatic and consular representatives in Part II of the Bill.

**Hon. Chairman:** Very well.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Part VI-Title deleted)*

*(Clause 28 agreed to)*

*Clause 29*

**Hon. Ali Rasso** (Saku, JP): Hon. Chairman, I beg to move: -

THAT, Clause 29 of the Bill be amended by—

(a) deleting subclause (2);

(b) deleting subclause (3).

This is basically what had been proposed. It is both descriptive and restrictive. This is to make the Bill flow without any overt prescription.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 29 as amended agreed to)*

*Clause 30*

**Hon. Ali Rasso** (Saku, JP): Hon. Chairman, I beg to move: -

THAT, the Bill be amended by deleting Clause 30.

This is basically to clean up the Bill for its logical flow throughout.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 30 deleted)*

*(Clause 31 agreed to)*

*Clause 32*

**Hon. Ali Rasso** (Saku, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 32 and substituting therefor the following new clause—

Functions of the Academy

32. The Academy shall—

- (a) be the principal institution for training and capacity building of members of the foreign service;
- (b) undertake foreign policy consultancy, research and analysis for the Service, Government and clients in the private and public sector;
- (c) develop and conduct periodic evaluation of training programmes to ensure relevance, quality and effectiveness;
- (d) undertake continuous foreign service training and other programmes to enhance skills, capacity and professionalism of Officers;
- (e) offer induction courses to all newly employed persons to help them transition into a career in the Service;
- (f) administer entry and promotional examinations within the Service;
- (g) undertake training of members of the Service before deployment for a tour of duty;
- (h) conduct examinations for the grant of such professional and academic awards as may be prescribed;
- (i) develop and maintain a repository of research resources on foreign policy and related issues;
- (j) develop linkages and collaborations with institutions of learning, professional organisations, private sector and other similar institutions across the world;
- (k) control the publication and use of research findings of the Service; and
- (l) perform all other acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

The reason for this amendment is informed by functions of other foreign service academies and also represent international best practices.

*(Question of the amendment proposed)*

**Hon. Chairman:** Hon. Sankok

**Hon. David ole Sankok** (Nominated, JP): Of all the amendments that we have done, Hon. Chair, I really support this one because the heads of missions and the ambassadors are our face outside there. This basically deals with training and ensuring that they can form linkages and collaborations with other countries, now that we are gearing to have foreign exchange from immigrant workers (Kenyans working abroad). We have had problems with those who are working in Saudi Arabia. I think training our ambassadors and heads of missions will be very important. So, this is a very important amendment. Thank you. I support.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 32 as amended agreed to)*

*Clause 33*

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Chairman. I beg to move:

THAT, Clause 33 (1) of the Bill be amended—

(a) by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) three persons competitively recruited and appointed by the Cabinet Secretary, one of whom shall be a person who teaches diplomacy or international relations in a university recognised in Kenya;”

(b) by deleting paragraph (e);

(c) in paragraph (h) by deleting the words “and secretary to the Council” appearing immediately after the words “ex officio member”;

(d) in sub clause (3) by inserting the words “appointed under subsection (1)(d)” immediately after the words “members of the Council”.

This is just to align this Bill with the constitutional requirement of Public Service in Article 232(1) (1) of the Constitution.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 33 as amended agreed to)*

*(Clauses 34, 35 and 36 agreed to)*

*Clause 37*

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Chairman. I beg to move:

THAT, Clause 37 of the Bill be amended in subclause (1) by deleting the words “by the Cabinet Secretary, on recommendation” appearing immediately after the word “appointed”.

This is because the appointing authority in this case, is the council as opposed to the Cabinet Secretary. This is in line with Mwongozo Code of Governance as practised in our country.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 37 as amended agreed to)*

*Clause 38*

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Chairman. I beg to move:

THAT, the Bill be amended by deleting Clause 38 and substituting therefor the following new clause—

Functions of Director-General

38. The Director-General shall be—

(a) the accounting officer of the Academy; and,

(b) responsible for—

(i) implementing the decisions of the Council;

(ii) efficient administration of the Academy;

(iii) preparing annual reports on activities of the Academy;

(iv) the day-to-day administration and management of the affairs of the Academy; and

(v) the performance of such other duties as may be assigned by the Council or as may be prescribed by this Act, or any other written law.

This is to align this Bill with Mwongozo Code of Governance and as well as to provide clarity on who is the accounting officer in the academy and also to enhance the functions of the Director-General.

*(Question of the amendment proposed)*

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*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 38 as amended agreed to)*

*New Clause 38 A*

**Hon. Katoole Metito** (Kajiado South, JP): Hon. Chairman, allow me to call my delegated powers and authority. I beg to move: -

THAT, the Bill be amended by inserting the following new clause immediately after Clause 38—

Corporation  
Secretary.

38A. (1) There shall be a Corporation Secretary of the Academy who shall be the secretary to the Council.

(2) The terms and conditions of service of the Corporation Secretary shall be determined by the Council in consultation with the Salaries and Remuneration Commission.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be  
read a Second Time, proposed)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to  
the Bill, put and agreed to)*

*(Clauses 39, 40, 41, 42, 43, 44 and 45 agreed to)*

*Clause 46*

**Hon. Katoole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:  
THAT, Clause 46(2) of the Bill be amended by deleting the opening statement and substituting therefor the following—

“Within a period of three months from the end of each financial year, the Council shall submit to the Auditor-General the accounts of the Academy together with—”

This is to align it with the provisions of the Public Audit Act of 2015 that says:

“After every three months from the end of the financial year, the council shall submit to the Auditor-General the accounts of the academy; that is, the statement of income and the balance sheet.”

I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be instead in place  
thereof be inserted, put and agreed to)*

*(Clause 46 as amended agreed to)*

*Part XI - Title*

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, the title to Part IX of the Bill be amended by inserting the word “PROVISIONS” immediately after the word “MISCELLANEOUS”.

The amendment seeks to insert the word “provisions” immediately after the word “miscellaneous” to complete the title.

**Hon. Chairman:** Let me confirm if Part XI is the title. Give me just a minute. Allow me to avoid the part of the title because this is actually a sub-title.

*(Question of the amendment proposed)*

*(Question, that the word to be inserted  
be inserted, put and agreed to)*

*(Part XI – Title as amended agreed to)*

*(Clauses 47, 48 and 49 agreed to)*

*New Clause 49A*

**Hon. Chairman:** Let us have the Mover to move the Second Reading of the new Clause.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 49—

Diplomatic reporting,  
notifications and  
communications.

49A. (1) Unless otherwise directed by the Cabinet Secretary—

(a) all diplomatic or official correspondences sent directly to the Republic’s Missions shall be forwarded to or channelled through the Ministry headquarters;

(b) all diplomatic or official correspondences originating from Embassies within the Republic to any Ministry or agency in the Republic shall be forwarded or channelled through the Ministry headquarters; and,

(c) all diplomatic or official correspondences originating from domestic Ministries, agencies, or Missions and international organisations that are channelled through Ministry headquarters shall, where appropriate, be forwarded to relevant Embassies for their information.

(2) The Head of a Mission or his or her designate shall be the first point of contact for a Mission of the Republic.

(3) The Principal Secretary shall be the first point of contact for the Ministry headquarters.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

#### *Clause 50*

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, Clause 50(1) of the Bill be amended by inserting the following new paragraphs immediately after paragraph (b)—

“(ba) procedure for administering foreign service examinations, including written, oral, physical, foreign language, and other examinations for appointment to the Service;

(bb) procedure for termination or recall of officers assigned to Missions;

(bc) the terms and conditions applicable to a special envoy;

(bd) the provision of protocol services to designated foreign and national dignitaries;

(be) the provision of consular services;”

This is to expand the scope of the regulations that may be made by the Cabinet Secretary for administration of this Act. There are issues that the Cabinet Secretary may make regulations on.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 50 as amended agreed to)*

*(Clause 51 agreed to)*

*(Schedule agreed to)*

*Clause 2*

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Chairman, I beg to move:

THAT, Clause (2) of the Bill be amended—

(a) in the definition “attaché” by deleting the word “mainstream” appearing immediately after the words “other than a”

(b) by deleting the definition “dependant child” and substituting therefor the following new definition—

“dependant child” means a biological offspring or a legally adopted child who is not married—

(a) and is under the age of twenty-two years;

(b) is in school and is under the age of twenty-four years; or

(c) has special needs and is wholly dependent on an officer

(c) in the definition “locally engaged staff” by deleting the words “abroad or within the Republic” appearing at the end of the definition;

(d) by deleting the definition “Mission” and substituting therefor the following new definition—

“Mission” means a Kenyan Embassy, High Commission, Consulate-General or a duly accredited representational office abroad or within the Republic;

(e) by deleting the definition “Officer” and substituting therefor the following new definition—

“Officer” means a Foreign Service officer;

(f) in the definition “spouse” by inserting the words “and recognised under the Marriage Act” at the end of the definition;

(g) by deleting the definition “tour of duty” and substituting therefor the following new definition—

“tour of duty” means the period of time between—

(a) when an appointed Officer reports to a Mission; and

(b) when the Officer is recalled to Ministry Headquarters”

(h) by inserting the following new definitions in proper alphabetical sequence—

“career diplomat” means an Officer of the rank eligible for appointment as a high commissioner, ambassador, diplomatic or consular representative;

“Headquarters” means the administrative centre of the Service in Kenya;

“Honorary Consul” means an official representative of one country in the territory of another and does not include a career diplomat;

“Service” means the Foreign Service of the Republic of Kenya established under Section 3;

“service staff” means persons recruited to offer technical and administrative support to the Service other than foreign service officers;

“special needs” means a physical or mental condition which necessitates special care for a dependant child.

This is about the interpretation. So, it is more of the definitions of several terms used in the Bill like “attaché”, “dependant” and “child”, among others. All are to conform with the existing laws.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 2 as amended, agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**Hon Chairman:** Hon. Members, congratulations! We have come to the end of this particular Bill.

What is it, Hon. Sankok?

**Hon. David ole Sankok** (Nominated, JP): Our gadgets have problems.

**Hon. Chairman:** Which ones? Which gadget, Hon. Sankok?

**Hon. David ole Sankok** (Nominated, JP): Hon. Chair, our gadgets only go up to Clause 50. I have been following keenly but it only goes up to Clause 50. I did not follow whatever you said after Clause 50.

**Hon. Chairman:** Probably, your gadget is faulty. Mine is not. Which gadget are we talking about?

**Hon. David ole Sankok** (Nominated, JP): I am told I should use the phone but are these machines called laptops, I-pads or lollipop?

**Hon. Chairman:** I am sorry. I think you are using the Order Paper which takes you up to Clause 50. That is the only clause that has an amendment. There are a few which are behind with no amendments. So, they do not need to be put in the Order Paper. The only clauses we put in the Order Paper are those with amendments.

**Hon. David ole Sankok** (Nominated, JP): Thank you. I am guided.

**Hon. Chairman:** The last three Clauses do not have any amendments. That is a good observation, obviously. It is good when I notice that some Members are following very keenly. We can proceed.

Hon. Members, I now call the Mover to move reporting.

**Hon. Katoo ole Metito** (Kajiado South, JP); Hon. Chairman, I beg to move that the Committee doth report to the House its consideration of the Foreign Service Bill, (National Assembly Bill No.8 of 2021), and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT

### THE FOREIGN SERVICE BILL

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Chair.

**Hon Moses Cheboi** (Kuresoi North, JP); Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Foreign Service Bill, (National Assembly Bill No.8 of 2021), and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have the Mover.

**Hon. Katoo ole Metito** (Kajiado South, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Charles Kilonzo to second the Motion for agreement with the Report of the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. Kilonzo.

**Hon. Charles Kilonzo** (Yatta, Independent): Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

**Hon. Members:** Put the Question!

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, I direct that the Question will be put at such other time when the matter will again be set for consideration.

*(Putting of the Question deferred)*

I direct that we move on to the next business.

## BILL

### *Second Reading*

### THE IRRIGATION (AMENDMENT) BILL

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

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker.

Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Irrigation (Amendment) Bill, (National Assembly Bill No. 12 of 2021), be now read a Second time.

This is a critical Bill that seeks to update and streamline some provisions of the Irrigation Act of 2019 which, as you recall, was to make provisions for the development, management and regulation of irrigation as part of supporting sustainable food security and socio-economic development.

The House will recall that His Excellency the President has undertaken some specific pillars that are critical to ensuring development of this country, as well as protecting people at the lower end of the pyramid - the very vulnerable groups - by ensuring that people have sufficient food.

Just this afternoon, Members will recall that we passed the Second Reading of the NHIF (Amendment) Bill which anchors the health of human beings. We want a healthy nation, but we also want people to have adequate food as part of the realisation of Article 43 of the Constitution on the right of people to have adequate food. To get adequate food, you need to have adequate food production.

We know that 80 per cent of the land mass of this country is either arid or semi-arid. For people living in those areas, if we will not change the way agriculture takes place by introducing proper irrigation methods, we will have 80 per cent of the land mass of this country being unusable and, hence, will affect food production and security.

As a country, we are over-dependent on rain-fed agriculture. That is perhaps one of the reasons why every time there is a small drought, we run all over announcing to the world that we have food scarcity. Just a week or two weeks ago, we had a Motion to discuss the disaster that would come because the rains are failing and yet, with proper irrigation, we have seen countries in the deserts even having surplus food.

One of the things that I picked up in our recent educational trips abroad is that the United Arab Emirates (UAE) is in the desert, but has a forest. Beyond that, they are now creating rice plantations to supply the world with rice that is grown in the desert. For them to do that, they have to import soil. We have the soil. What we do not have are the proper irrigation methods and mechanisms. This Bill is trying to streamline the sector, so that we do better in terms of irrigation.

The principal objective of this Bill is to amend the Irrigation Act of 2019, expand the administration and management of irrigation matters by the National Irrigation Authority and ensure adoption of best practices in irrigation, as well as sustainable development of irrigation infrastructure, investment in the same and financing.

The Bill intends to consolidate the provision, management and administration of land, both in national or public irrigation schemes, as well as the inter-county schemes for public use. It also intends to amend Section 13 of the Act with the aim of harmonising the provisions of the Irrigation Act, the Water Act and the Water Resources Management Act, so that the three pieces of legislation have some level of consistency.

The Bill further seeks to amend Section 22 of the Act to make provisions for the financing of potential development of irrigation infrastructure as well as how we finance irrigation services and advisory support.

I am just highlighting a few things. It is a very simple Bill that we should be able to dispense of even with the Members who are in this House.

The amendment Bill seeks to amend Section 34 of the Act to empower the Cabinet Secretary (CS) to make regulations to provide for the objects of the Bill. These include development of irrigation in terms of infrastructure, water storage and to provide for multi-agency consultation and coordination.

To streamline the management of the National Irrigation Authority, the Bill also empowers the CS - with justification - to remove a member of the board who conducts himself or herself in a manner that is undesirable as a director, carries themselves in a way that puts the organisation into disrepute, as well as violates the standard provisions within the Leadership and Integrity Act and the Constitution. For anyone who flouts the provisions of Chapter 6 of the Constitution, there will now be that provision for action to be taken as long as they are members of the management of the National Irrigation Authority. This is for emphasis because we know it is already in the Constitution. However, because people seem to forget the Constitution and look at the law that appertains to them, there is no harm in repeating some of those things for abundance of caution as you say in your profession.

I also note the contribution of the Committee. I am sure the Chairperson or the Vice-Chairperson of the Committee will be taking us through. I have seen the work you have done. I thank them for having gone through this and tabling a Report earlier this month, especially knowing that this Bill only came to the House not too long ago. The Committee members took it upon themselves to look at it. They are also making some suggestions on some amendments which I have looked through. I am in concurrence because I believe that they are all intended to make the Bill better. They are the ones who carried out public participation and have introduced some of those things that are required to ensure that the noble intention of the Bill is to support what we all need in this country and ensure that come rain or shine, we shall have food in this country.

This country has 582,000 square kilometres. There is absolutely no reason why we should be looking for food from outside the country just, because we rely on only 20 per cent of that land. Less than 100,000 square kilometres is what we use for agriculture. The rest is left to God. If there is rain, let us have something; if there is no rain, we are all struggling to look for food from other places. Yet, we know that we have water that we can harness. Our rivers are flowing into the ocean. We have so much underground water. Just by harnessing all that water resource and converting it, we can provide food.

Hon. Temporary Deputy Speaker, if you travel from Nairobi towards Nakuru, all that area from Maai Mahiu all the way to Nakuru used to be dry land. When you go through there today, you will see it is all green. When you look at Naivasha, most horticultural products that are consumed in Europe come from there, courtesy of irrigation and yet, the whole of that area had been abandoned as range land. If you go to Kieni and all those areas where the weather is so good, only water is required to apply to the soils which are so fertile. Obviously, with modern technology, even the soil's fertility can be sorted out. They are able to get food from those dry lands. If you look at Ukambani, Taita and those areas, we are now getting good produce from those dry lands.

So, it is just a matter of us, as a nation, re-focussing on what we want to do to ensure that the 45 million Kenyans who are living in Kenya and who are expected to grow perhaps to 70 million in the next 20 years due to that exponential growth of people, will find that we have put in place structures and systems to ensure that they have enough food not just for ourselves, but also for export. People will continue having food. One of the things COVID-19 has shown us is that it

does not matter whether or not you are isolated. It does not matter what happens. Human beings will need to eat. So, the future is heavily dependent on people who are able to provide food for themselves and for export. It is because food will always be required. Technology will always be required. People will need to live in houses.

There are some things even our youth should now be looking at. I see most of them finishing university and all they are doing is looking for white collar jobs, instead of looking at how to get into efficient food production, processing and making a business out of it. People will always eat. In most of the other countries, that is what is sustaining those economies - food production. For us at this point, if we can create the systems that are required to support irrigation, we would have gone one step in ensuring that this country can produce food for itself, for the neighbourhood and for the commercial markets, from arid and semi-arid areas that the good Lord bestowed on this country. We have beautiful weather and constant temperatures between day and night. It is good for food production. We do not have severe winters. We do not have severe summers. All we need is to harness the fertility of our soils and the water that we have and we have food produced.

So, this Bill is basically trying to help by putting all that and streamlining the Irrigation Act of 2019 to bring it up to speed to respond to the current challenges so that Kenya can become a food-secure country.

With those remarks, I beg to move and ask Hon. Chachu Ganya, the Vice Chairperson of the Committee that has this huge mandate on water, environment and natural resources, to second.

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

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Leader of the Majority Party. Hon. Temporary Deputy Speaker, I beg to support and second the Irrigation (Amendment) Bill of 2021. The Irrigation Act was assented to in 2019 to repeal the archaic Irrigation Act Cap 247 of the Laws of Kenya. As with other sectors, the irrigation sector was highly affected after the 2010 Constitution was promulgated. As a result, a number of legislations had to be aligned with the new Constitution. In particular, to conform and embrace devolution.

The Act of 2019 was meant to streamline the development, management and regulation of irrigation and to support sustainable food security and socio-economic development in Kenya. The Act outlines the respective roles of the national and county governments in facilitating the irrigation sector in our country. The Act also embraced multi-sectoral and participatory approach to irrigation development and management. It fully recognises private sector involvement as well as other non-state actors in irrigation development and management for improved sustainability. Additionally, it strengthened and enhanced many other institutions. For example, the formation of the Irrigation Water Users Association and umbrella water organisations to give them autonomy, self-reliance as well as proper governance structures and the necessary requisite legal status for them to enter into agreements with the national Government, county governments, private sector institutions or any other institutions. The Act has expanded the mandate of the National Irrigation Authority and provided for its board composition, in line with the principles of corporate governance.

Though progressive, this piece of legislation has brought about positive albeit gradual reforms in the irrigation sector. Certain gaps and inconsistencies have been identified. It will ultimately require some minimal amendments in order to ensure effective and seamless implementation of the Act. Some of the areas of concern are as follows:

One, omission of the key terms from the definition even though these terms have been widely referred to in various sections of the Act.

Secondly, it has lack of flexibility by the appointing authority in terms of board appointments in order to meet the threshold of Article 6 of the Constitution and the *Mwongozo* Code of Governance for State corporations as well as other governing regulations.

Thirdly, there is need for harmonisation with the provisions of the Water Act of 2016 and later regulations like Water Resource Regulations.

Fourth and last, is the extension of the time for publication of regulations owing to extensive stakeholder consultations involved in the water sub-sector.

Arising from this background, the Regulations (Amendment) Bill (National Assembly No. 12 of 2021) which was published on 16<sup>th</sup> April 2021 and read a First Time on 18<sup>th</sup> June 2021, was thereafter committed to the Departmental Committee on Environment and Natural Resources pursuant to Standing Order 127. The principle of the Bill is to amend the Irrigation Act to expand the administration and management of irrigation matters in Kenya. To achieve those aspirations, the Bill seeks to amend various sections of the Act to ensure adoption of best practices in irrigation as well as to enhance sustainable development of irrigation infrastructure, investment and financing.

Following the placement of an advert in the print media on 11<sup>th</sup> June 2021 requesting for comments on the Bill from members of the public and stakeholders, pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee received memoranda from the Council of Governors (CoG). The Committee also invited the Ministry of Water, Sanitation and Irrigation for a meeting on the Bill which was held on Wednesday, 21<sup>st</sup> July 2021 at Windsor Golf Hotel and Country Club.

The outcome of deliberations between the Ministry and stakeholders resulted in proposed amendments to the Bill. The amendments have been taken into account while determining the final proposed amendments as contained in the Committee's Report. The Committee will be proposing amendments to the Bill during the Committee of the whole House to clean up the Act to avoid inconsistencies such as the use of the term 'irrigation projects' to refer to 'irrigation schemes' as proposed in the Bill. Further, the Committee will be proposing to amend the qualifications of the chairperson of the board, as well as the composition of the members of the board, among other areas, to enhance best practices in the irrigation sector.

As I conclude, we noted that there exist issues in the administration of the board, particularly regarding the structure and management of the organisation. As a Committee - and in consultation with the Ministry of Water, Sanitation and Irrigation - we would have proposed amendments to rectify the issue, especially as relates to the titling of the Chief Executive Officer of the National Irrigation Authority. He or she should be named the Director-General. However, we note that Standing Order No.133 (5) provides that, that amendment should not necessarily expand the scope of the Bill. In this regard, we implore the Leader of the Majority Party to consider the proposed amendment in the Statute Law (Miscellaneous Amendments) Bill which will be forthcoming in the near future.

Finally, on behalf of the Committee, I thank the Office of the Clerk and the Office of the Speaker for the logistical and technical support that they accorded us during our sittings as we considered the Bill. As a Committee, we thank all the stakeholders who participated in the consideration of the Bill. I wish to express my appreciation to my colleagues who sat for long hours to ensure that the Bill becomes a reality.

Thank you, Hon. Temporary Deputy Speaker. I beg to support and second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, allow me to propose the Question.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I see interest from Hon. ole Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to support the Bill. I thank the Leader of Majority Party and the members of that Committee because this is a very important Bill that takes into account our President's Big Four Agenda. Part of the Big Four Agenda is what we have just discussed in the National Hospital Insurance Fund (Amendment) Bill on universal healthcare. We are now in the second pillar of the Big Four Agenda, namely, food security that relies on our ability to irrigate our land.

About 80 per cent of our land mass is either arid or semi-arid. Those people need food. Where does the food come from? It is from the other 20 per cent land mass of Kenya. It is a huge burden for the 20 per cent to carry the 80 per cent. Our agriculture has been solely dependent on rains. With all the climatic changes, it is becoming difficult to support even the 20 per cent, if it can produce enough food. With the increase in our population and our land shrinking to the point of a person owning a quarter of an acre where you build a house, a pit latrine and probably a small *boma* for the chicken or goats and the land is depleted, you will not get a place to produce food. We have to move and utilise the remaining 80 per cent semi-arid and arid land in our country.

We are very lucky as a country. I remember when I was the President of the Student Organisation of Nairobi University (SONU) at the University of Nairobi, I sat with my cabinet and gave a proposal of how we can tap the water above with the rain that we have as a country. Most of our arid and semi-arid areas are lowlands with continuous erosion. Very fertile soils have been deposited in those lowlands which are arid and semi-arid. Mt. Kenya is a source of water and is more than 4,800 metres above sea level. Mt. Longonot, Mt. Elgon, Mt. Kilimanjaro and the Aberdare Ranges are more than 2,000 metres above sea level. Some of our lowlands are as low as 100 metres above sea level. A difference of 2,000 metres above sea level will make water run using gravity to all those lowlands. If we can just tap the water above from Mt. Kenya and let it flow, not to the Indian Ocean, but to Wajir, Garissa and Isiolo, we will not need any pumping; we will only need gravity. The only thing that we have to do is piping.

In my cabinet at the University of Nairobi in 2000, we did some calculations. If I can apply those calculations to our current situation, we have 246,757 kilometres of Government roads in the entire country. We can put plastic pipes of 18 inches each along those roads. They are called polypropylene pipes (PPRs). Piping using 18 inch-pipes will cost Kshs75,000 per kilometre multiplied by 246,757 kilometres. That will only translate to Kshs18.5 billion to pipe all Government roads in the entire country, whether murrum or tarmac. We will only require Kshs18.5 billion. Putting Pegler taps at intervals of 50 metres would require 20 taps per kilometre multiplied by 246,757 kilometres of road. That will translate to Kshs10 billion. With Kshs28.5 billion, you have installed 18-inch PPR pipes along all Government roads, whether murrum or tarmac, that will drain water from Mt. Kilimanjaro, Mt. Kenya and the Aberdare Ranges, all the way to our lowlands that will not require any pumps - only gravity.

This will ensure that the Tana River does not have to flow to the Indian Ocean because there is already enough water there. The Athi River will not have to flow to the Indian Ocean

because there is already enough water there. There will be water flowing along all our Government roads and the work of the citizens will just be to connect some pipes to their farms. The water flowing through those pipes will be courtesy of gravity and will be available for 24 hours a day because Tana River has never stopped flowing. It is still flowing. If you want to irrigate your farm or rangeland for use by your livestock, you do not have any expense. With approximately Kshs50 billion, we will be able to pay for services, labour for our youths, irrigation and make water flow to all our rangelands and farms.

The money we require is not a massive amount. We will have clean water. Water coming from the Aberdare Ranges, Mt. Kilimanjaro and Mt. Kenya is not dirty and is, therefore, good for drinking and irrigation. It is known that when you put PPR pipes under the ground, they do not rot. They will exist for a long time with minimal repairs.

Hon. Temporary Deputy Speaker, it is up to us to sit down and think as a country. This irrigation Board is very important. I remember in 2000 when I was the chairman of the Students' Organisation of Nairobi University (SONU). Hon. Irungu Kang'ata, the Senator, was my Deputy and there were other leaders in that cabinet. We took this proposal to the then Kenya African National Union (KANU) Government. At that time, it was costing Ksh13 billion, but they never listened to us. It is high time we ensured that some of those proposals that are beneficial not only to individuals but to the whole country are embraced.

You cannot imagine the magic that Kshs50 billion will do. Capital intensive infrastructure like the Nairobi Expressway which is only 21 kilometers of tarmac road has cost Kenya more than Kshs60 billion, but here we are talking of Kshs50 billion that will benefit 50 million Kenyans. This Nairobi Expressway will only benefit Kenyans who are going to the airport. How many Kenyans use that airport? How many will use the water? Piping and ensuring there is water to all citizens will only cost us Kshs60 billion.

As I said earlier, our highlands receive rain and we depend on them for agriculture. However, because of continuous soil erosion, the fertile soils from those highlands have been eroded and deposited in the fertile lowlands. You may not need to use fertilizer in food production. We have seen the Galana Irrigation Scheme. The hon. Leader of the Majority Party has given an example of how productive Naivasha is. However, remember they are still producing food with the use of machines such that they have to pump water to their farms. Here, we are talking of water moving by gravity down to the farms and so, we do not have an extra expense for the machines or electricity but just a pipe that water will flow in. You can even open a tap throughout the night, 24 hours, seven days in a week and the whole year and water that is flowing like River Tana will never dry.

With those many remarks, I support this Bill but, as a House, we have to go further, dig deep and know what will be profitable to all of us. Libya was turned around despite the fact that it was pumping water against gravity. For us in Kenya, it will be gravity assisting us to bring water to our doorsteps.

I support.

*(Applause)*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Sankok, I believe that is revolutionary idea. You are speaking to natural reticulation of water across the country and that is very important. Thank you for your contribution.

Let us have Hon. Oduor Ombaka, Member for Siaya County.

**Hon. (Dr.) Christine Ombaka** (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill which I highly support. This country is blessed with water resources including Lake Victoria, which is one of the fresh water lakes in the world and it is not being utilised well when it comes to irrigation. This country suffers a lot from hunger. Children, women and people in dry areas suffer from hunger during drought and sometimes the whole world gets concerned and sends food and money to support the people who are suffering in this country.

Therefore, irrigation is a solution to some of the problems that we have especially where there is no food. We have never utilised irrigation very well. I know that we have water resources all over as has already been mentioned. There is water in the mountains in central Kenya. We have hilly areas where we can get water. We have many trees also growing in the Rift Valley. So, if you are looking for water in this country, you can get it. It is only that we have never utilised it very well. So, irrigation is key to the issues of hunger, poverty and nutrition. I support this highly because we have manpower and people who can help us. Israel is a desert but has been transformed into a very fertile country. It produces food and is self-sufficient. I think we can get to that level when we learn from them on how they do it so well.

This country can learn from other countries that are currently using irrigation, are self-reliant and can feed their own citizens. Time has come for us to change tact on how to have food and look after our citizens so that we avoid this annual hunger that we have and the whole world sympathises and pities us. It is like we cannot make it. Time has come to move above that. I have nothing much to say over this for now, but I believe that this is the right direction. It is a very good Bill that we should move fast with and ensure it is implemented. The authorities behind this implementation should also be empowered to do so effectively.

Otherwise, I support the Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kimani Kuria, Member for Molo.

**Hon. Kuria Kimani** (Molo, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Irrigation Bill. I will start by quoting Mahatma Gandhi who said: "To forget how to dig the earth and to tame the soil is to forget ourselves."

This piece of legislation that we are discussing here today speaks to the backbone of the economy of the country and the world. It speaks to an issue of human rights; the access to food. In 2021, it is such a shame that, at times, we have seen our people die of hunger even when we have good weather in this country. In some places, you can just throw seeds and they germinate and flourish and we get food and yet, we still have people going hungry. This Bill is very timely because it seeks to create irrigation infrastructure that will create an investment around the irrigation sector and the financing of those projects.

This Bill proposes to set up an irrigation board. I would like to put that board on notice. If you do an audit of the number of boards that we have in this country, you will realise that there are so many of them and now, we have the National Irrigation Board. We need to ask ourselves how they operate. When you compare their recurrent expenses, the amount of money they pay on salaries, their mortgage, cars and daily expenses, how does that compare to the amount of money that goes directly to the projects and the mandates that those particular institutions are supposed to do? I was privileged to host one institution in my constituency yesterday called Bid Africa. I was surprised that such a big institution with many projects in the country has only a staff complement of eight employees. They gave us an ICT lab and a chemistry lab. They are doing several other projects in Nakuru and across the country with staff of only eight people. They do not have a board

and all those ranks of CEO and other positions and yet, they do such great work in this country. However, when it comes to Government institutions, they are big on names and strategic plans, but lack everything when it comes to actions on the ground and to matters that matter.

My appeal as I support this Bill is that we are going to have an Irrigation Board that looks at the needs of Kenyans. I am not just thinking about those big irrigation schemes such as Galana-Kulalu, but about how we can empower that farmer in Molo to farm along Molo River. How do we ensure that, that farmer in Mukinyai or Mitima can farm along Mau River because that is water that can be used for irrigation?

So, we do not need to spend billions of shillings on mega projects that become an opportunity to steal. How do we make those projects go down to where the people are? Across the country, there are very many water pans and dams. But how is that water utilised? Yet, you find ourselves seated here talking about a big plan on how we will irrigate, while the small water resources we have in our constituencies and homes are not properly utilised. This is water that has freely been given to us by God.

We need to have a conversation as a country about our land use. Every time you fly around the country, you find we are slowly becoming a concrete jungle. We have sub-divided all our land and everyone owns a 50 by 100 plot where we fence, build a house and no land is left for agriculture. As a result, we are saying there are no jobs and food. This is because agricultural land meant for farming is now being used to build houses. I am not saying it is wrong to build houses but how do we achieve a balance between ensuring we have land left for us to do agriculture and accommodate people?

In properly planned countries and states, I have seen people living in an estate and leaving the rest of the land for agriculture. When this happens, you find it is easier to provide infrastructure such as schools, stadia, electricity and social amenities for those people. This is because they live together as a community and leave the rest of the land for agriculture. As I wind up, I need to re-emphasise that the Irrigation Board needs to go down to the people and do projects that matter to them. Not just make money for buying cars, servicing mortgages and funding officers in their offices.

COVID-19 has shown us something; that out of all sectors in the economy, the one sector that continued to grow across the world has been agriculture. This is because even during times of lockdown and curfew, people are still eating. Therefore, any investment in agriculture and growing food can never go wrong. If we do this, as we think on how to survive past COVID because it will not be with us forever, investment in this sector will be the solution for youth unemployment and growth of the economy because this has been proven during these testing times, to have continued growing.

With those remarks, I would like to end by passing my condolence message for the loss of Sen. Victor Pregei. He was one of my constituents, a great man and farmer. We have lost a hero as a constituency and Nakuru County. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Great contribution. Hon. Bady Twalib, Member for Jomvu.

**Hon. Bady Twalib** (Jomvu, ODM): Ahsante sana, Mhe. Naibu Spika wa Muda kwa kunipatia nafasi hii pia mimi niunge Mswada huu mkono. Huu Mswada ni muhimu sana kwa sababu hii ni moja ya *pillar* zile muhimu za Serikali hii. Ya kwanza, nikiangalia ni *pillar* ya kueleza viwanda ambayo ni *industrialisation*, matibabu poa ni jambo kubwa ambalo tumelizungumzia wakati huu ambao ni *affordable health care*, makao bora ambayo tunasema kwa kimombo ni *affordable housing* na lishe bora ambayo ni *food security*.

Tukiangalia tarakimu, takribani asilimia 80 ya nchi hii ni sehemu kame. Vile vile, tunategemea asilimia 20 peke yake ili kuweza kukimu mahitaji ya lishe katika nchi hii. Kwa wakati huu mgumu, lishe ni lazima kwa kila mwananchi ndiyo asipate shida ya kukosa chakula. Hali hii haiwezekani katika nchi hii ikiwa sehemu kubwa ni kame. Ndiyo tunaona Serikali inajizatiti kwa wakati huu tukiangalia *projects* kama Galana Kulalu kule Tana River, ili kuweza kuinua wananchi wake waweze kupata chakula. Kitu kidogo ambacho mimi nitaweza kusema ni kulikuwa na kiongozi marehemu ambaye aliitwa Thomas Sankara. Aliwaambia watu wake kwamba yule ambaye anakupatia chakula kwa mdomo basi ataweza kukutawala ama kuwa *colonise*. Hivyo basi, akawahimiza wananchi wake lazima wafanye mambo ya kilimo ili kuweza kujilisha katika nchi ile. Iiioneka maajabu kwa sababu nchi ile iliweza kubadilika na mengi hivi sasa yanachukuliwa kama mfano mkubwa sana wa wakati ule.

Leo nachukua fursa hii nikiwa Mjumbe wa Jomvu, kuunga mkono Mswada huu. Hii ni kwa sababu tukiangalia hatuwezi kufanya mengine na makubwa ikiwa matumbo yatakuwa na njaa. Lakini pia vile vile, kando na kuweka mikakati hii ya unyunyuzaji maji, ilikuwezesha mambo ya kilimo, ni muhimu kuwa na haki bora ya kimsingi ambayo kwa kizungu tunasema *fundamental rights*, kwamba ni lazima kila mwananchi aweze kupata maji katika sehemu yake.

Tukiangalia wakati huu wa korona, unyunyizaji maji kwa mashamba tunaosema, watu wakipata maji wanaweza kufanya ukulima katika sehemu wanazoiishi. Tumeona hivyo katika sehemu za Nairobi na zingine. Lakini nikisema kuwa ni haki ya kimsingi kila mmoja kupata maji, leo nashangaa kwa sababu kuna sehemu tangu tupate Uhuru mpaka leo, bado tunalia kuna shida ya maji. Mfano ambao nitatoa katika jambo hili ni sehemu yangu pale Jomvu. Wiki iliyopita kulikuwa na maadamano makubwa sana katika sehemu inayoitwa Bangladesh. Vile vile, watu hawana raha katika sehemu inayoitwa Ganahola. Mpaka leo tangu tupate Uhuru, wananchi hawa wanapata maji kupitia kwa mfadhili ambaye ni Mombasa Cement. Hili ni jambo ambalo haliwezekani na ni lazima kama Serikali tusimame kidete kuhakikisha kwamba haki hii ya kimsingi kwa kila mwananchi ipatikane.

Kwa hivyo, nachukua fursa hii kusema tumetolewa mfano hapa na ndugu Mhe. *Majority Leader*, Kimunya. Ni kweli kabisa leo ukienda Dubai, ilikuwa nchi kame. Lakini jangwani kumekuwa na maajabu. Leo kule Dubai kuna soko kubwa sana la matunda ambalo nina hakika pengine unalijua Mhe. Naibu Spika wa Muda. Hii ni kwa sababu ni soko maarufu na lina *supply* matunda katika kila sehemu. Dubai hivi sasa wanataka kukuza mchele ambao watatumia na vile vile kufanyia biashara. Hivi sasa ukifika huko, unatumia maji na ni jangwani na hii ni mfano wa kuigwa. Lakini jambo nzuri ambalo ningependa kusema ni kwamba si bora kama viongozi katika nchi hii kutoa mifano ya Dubai na kwingineko. Inatakikana kama Kenya tuwe mfano wa watu wa sehemu zingine. Wakituona wanasema: “Angalia vile Kenya imeweza kuwa!”

Katika Mswada huu naangalia kama bodi hii itaweza kudhibiti na kusimamia maswala haya ili asilimia 80 ambayo ni sehemu kame iweza kuipunguza. Na kama nchi itaweza kulishwa na asilimia 20 iweze kupanua sehemu hizi ziweze kuzalisha, basi hatutakuwa na shida. Leo mimi nataka kutoa mfano mzuri sana wa hapa Uganda. Wana shida za mambo mengine lakini si chakula. Wanatoa chakula mpaka hivi sasa hawajui chakula kile watakipeleka wapi. Kwa hivyo tusitoe mifano ya mbali. Mifano ya hapa karibu ndiyo ya kuigwa. Tukitumia mifano hiyo, sisi tunaweza kuupitisha Mswada huu. Mhe. Sankok amesema kuwa leo ameishi katika ndoto. Kwamba alipokuwa katika chuo kikuu, aliona jambo kama hili litakuja kutokea. Leo hii amekaa hapa akiwa kiongozi kuona kuwa jambo lile alilolishauri wakati ule kama lingefanyika kwa pesa kidogo, leo katika kulifanya, litagharimu pesa nyingi. Si kuwa nchi haina pesa. Kuna miradi mikubwa ambayo inafanyika, kwa mfano, *Expressway*. Tunaona kilomita 21 ya barabara nzuri inaweza kubadilisha

asilimia kubwa ya nchi ambayo ni kame na ikawa inaweza kuzalisha chakula. Mambo haya ni ya kimsingi. Nimepeana tu mfano mmoja.

Hii ni mara yangu ya pili kuhudumu katika Bunge hili. Mhe. Naibu Spika wa Muda, mara yangu ya kwanza ilikuwa mwaka wa 2013, tukiwa pamoja na wewe humu Bungeni. Tulifanya tena kampeni mwaka wa 2017 tukawa na haki ya kimsingi katika maeneo yetu. Nakumbuka siku moja nikifanya kampeni nilisema nitajenga shule katika sehemu fulani ambayo haikuwahi kuwa na shule tangu uhuru. Aliinuka kijana mmoja akaniambia: “Beba shule yako uende nayo kwa sababu hatuna chakula hapa.” Kwa hivyo, masuala ya chakula ni muhimu kila mahali. Ikiwa hatutaweza kuwapatia watu wetu lishe bora, basi watu hawa watageuka kuwa watumwa wa watu wengine ambao tutakuwa tukiwapatia chakula cha misaada. Kenya yetu haiwezi kuwa na watumwa ndani yake. Tuna uwezo wa kuwapatia watu wetu chakula bora ili wakaishi maisha bora.

Mwisho kabisa, nataka kuchukuwa fursa hii kuungana na wenzangu. Sikupata nafasi kuomboleza kwa niaba yangu, familia yangu, na wananchi wote wa Jomvu, kifo cha ndugu yetu Victor. Watu wote wa Nakuru, tunawaambieni pole kwa yale ambayo yalitokea.

Naunga mkono Mswada huu na kusema niko na imani Kenya yetu itaenda mbele na wananchi wetu wataondokewa na njaa. Asante, Mhe. Naibu Spika wa Muda, kwa kunipatia fursa hii.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Kipyegon Ngeno, Member for Emurua Dikir. He is not in the House. The next one on my list is Hon. Ibrahim Abdisalan, Member for Wajir North.

**Hon. Ibrahim Ahmed** (Wajir North, ODM): Thank you, Hon. Temporary Deputy Speaker. I also join my colleagues in supporting the Bill. First and foremost, we are in a very difficult period of drought. This drought would not have been realised had we used the skills of irrigation effectively, especially in the arid and semi-arid counties. You realise that we receive lots of rainfall during the rainy season but then storage of the rain water is always a problem. As a result of that, there is now a high mortality rate of livestock. As we are speaking, we are already at the alert level of the drought. I think this would not have happened had we put in place an effective irrigation system in this country.

There is perennial food shortage in this country, especially in the arid and semi-arid areas. Of course, one of the agenda in the Big Four Agenda is food security and nutrition. However, the necessary actions have not been put in place to ensure that food insecurity in this country is minimised. Indeed, if we had water pans and big dams in the arid and semi-arid parts of this country, I have no doubt, we would reduce food insecurity and improve the nutrition status of both the aged and the young ones. As we speak, the malnutrition level in the arid and semi-arid parts is very high. There is acute water shortage. In fact, they only depend on milk because food production is low. The milk is not there now because of the existing drought. As a result, there is malnutrition. I am sure if we had good policies and a multi-agency or multi-sectoral approach in the way we conduct issues, no doubt, this problem would not be there.

That notwithstanding, in our budget-making, we also have very big gaps. Indeed, it is important that in the Budget we allocate money for dam construction and small-scale irrigation in the northern parts of this country. This has not been happening. We have struggled to get few pans. Let me congratulate the National Irrigation Board. At least they have tried their best to ensure that pans are done in parts of this country, including my own constituency. I have no doubt the horticulture that is produced as a result of those small pans has improved nutrition, especially in the most remote parts of this country.

That said, I think we need to change our way of doing things. In terms of budget-making, we must make sure that the right budget is allocated to this sector such that we improve the food security in the arid and semi-arid parts of this country.

Secondly, we must make sure that there is multi-agency or multi-sectoral approach in how we carry out this thing. You will find that besides the Government, there are different actors on the ground supporting these kinds of activities. However, there are cases of duplication of resources in some areas. You may go to a centre and find three or four pans yet there are areas where, say, schools were closed down as a result of lack of water. You may find that the malnutrition level in a small village is extremely high because of lack of water. Most villages do not have water storage facilities that can help harvest rain water during the rainy season. So, there is a lot of duplication of resources as well as waste of resources because there is no multi-agency and multi-sectoral coordination of the small resources that we have. I think we need to improve this if at all we have to realise improvement of food insecurity in this country.

Let me congratulate the Kenya Red Cross Society because they have carried out a number of food security projects, of course, some of them integrated both with water and sanitation components, food security *et cetera*. That way, they have supported people in arid and semi-arid counties. I think this House should have gone a notch higher to allocate some money in the Budget for the Kenya Red Cross Society. Indeed, most of the countries in the world allocate resources to their Red Cross societies. How I wish we could do the same. Given the much I have known about Red Cross, I have no doubt that in terms of efficiency and effectiveness, they are far much ahead.

That notwithstanding, I think, as a country, once again we need to get out of this relief dependency syndrome and support sustainable water projects that will improve food security, especially in the northern part of Kenya. It is high time we came up with multi-agency and multi-sectoral coordination organs that can bring the county governments, the national Government and other non-State actors to pool resources together. We can have, say, two or three projects in every constituency that are purposely meant for improving food security as well as minimising the malnutrition level that is extremely high. I am sure if we change our ways and do things right, that is, from the making of the Budget, issues of coordination, and networking between the different actors giving special priority to issues of food security, then we will do well. We also have problems in terms of priority ranking of our needs.

We say food security and nutrition is one of the Big Four Agenda items yet nothing tangible has been done as at now. I think there are projects that the Government has initiated in terms of food security. In my constituency, I have a dam called Bute that was initiated about four years ago. Unfortunately, the project has not kicked off yet because of so many bureaucracies. As we speak, it is at the final stage; the Cabinet approval stage. Thereafter, the project was to kick off. I think the Government ministries and departments that are in charge of these issues should move a bit faster so that we can reduce these bureaucracies that are delaying service delivery and by extension, causing unnecessary pain to the population in various parts of this country. It is high time projects of high value that would improve the lives and livelihood of vulnerable populations, especially in the northern part of Kenya, were given special consideration.

I was wondering, if a small pan that was constructed by the National Irrigation Board can give us large production that has improved food security in Bute Town, why then do we take so long and delay important projects that would have improved the lives and the livelihood of the entire population of North Eastern? If the mega pan of Bute is realized, I have no doubt that food supply in Wajir North, Wajir West, Mandera, Isiolo and Marsabit would improve because it is strategically located. The Government departments involved in such important projects, and are

delaying them, must come out of their comfort zones and ensure that projects are delivered at the right time. That way, issues of bureaucracies will be reduced and service delivery will be provided at the right time.

Hon. Temporary Deputy Speaker, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): On health grounds, I will allow, Hon. Ochieng Awuor, to have this chance.

**Hon. (Ms.) Pamela Ochieng** (Migori CWR, ODM): Thank you very much, Hon. Temporary Deputy Speaker. Thank you, again, for your consideration concerning my health.

I rise to support this amendment Bill on irrigation. It is very interesting that as early as in primary school, we keep teaching our children that Kenya is an agricultural country. We tell them that food is a basic need for any living human, animal or plant. With that knowledge that food is a basic need, it is interesting that even today as we stand here, there are some Kenyans who cannot have food on their table. On that note, I would like to reiterate that among all the basic needs, or even the rights that we know all Kenyans have, the most important concern should be food. Therefore, it is important that we look for a way of encouraging our Government to give priority to food production in Kenya.

As fellow colleagues have said, we have watched a pattern of happenings in Kenya. There is a time that we have plenty of rain, there is a time when in certain parts of this country people and animals literally died because of lack of it. Yet, year in, year out we do nothing tangible or sustainable to make sure that the water that is sometimes destructive is kept to be utilised when the drought comes. I want to support that our Government should actually dedicate a significant sum of money to make sure that all the farmland in Kenya... In Migori County where I come from, much of the land is agricultural including Nyatike which is actually semi-arid. Along the lake basin, it is usually very dry but the land there is fertile enough. I am glad that there was some irrigation scheme and rice plantation was introduced there. If we can do this in the manner that I heard my friend, Hon. Sankok describe, then we can do a lot of horticulture. We can also do a lot of fruit farming and all sorts of farming. Even the goats that survive well in semi-arid areas, need water at some stage, at least, to wet their throats as they chew their cud.

So, the need for this planned and carefully installed irrigation system in the entire country cannot be overemphasised. It is timely. It should have been done many years ago and this is the right time coupled with the fact that our Government of today has highlighted the need for food and food security as one of the key pillars. It is my prayer that President Uhuru Kenyatta and team make sure that it happens before next year's general election. That way, we shall really know that, indeed, we want Kenya to be food secure.

Kenya is blessed with suitable climate for food and crop production almost throughout the year. It is a shame because as I stand here... I know history holds it that at one stage we had to import yellow maize from America. In America, the yellow maize is fed to animals but Kenya had to import it. At some stage we were talking about some infected maize from South Africa. This is sacrilegious if I may use that religious term. Kenya can produce all sorts of foods: grains, vegetables, and fruits of all nature. Therefore, it only calls for us to do the right thing. The right thing is to make sure that when it rains we make use of the rain water. Even when the rains are not there, we can turn on our taps and our fields will still remain green and produce food.

It is a tragedy according to me. When you visit a country like Canada, you will see the kind of extreme cold conditions that they have, but they can manage to weather that and actually produce food not only enough for Canadians, but also for other people in other parts of the world.

It is important for Kenyans to know that we are naturally blessed with a suitable climate for food production. With proper use of our resources like water, we can be a blessed food-secure country.

Economic growth is part of the goal of every Government. In Kenya it is difficult. Much as people talk of two digits economic growth, let me put it to this House and to the nation, that there is no country that can grow economically when her population is hungry. In the interest of boosting steady and sustainable economic growth in our country, we need to make sure that at least every household can produce enough food to feed that family and then have excess to share with the neighbour, either by way of donation or by way of selling it.

We know that our young people lack jobs. However, from a small experiment done in Migori County, I know that today if our Government decided to provide water and then provide green houses for our young people, we will all go farming and we will produce enough tomatoes, vegetables and flowers and these guys will become rich overnight and they will not be loitering in our streets looking for jobs, which are not forthcoming. Some of our universities like Jomo Kenyatta University of Agriculture and Technology have extensively expanded their agricultural curriculum.

We have agri-business people and horticultural technicians. All these people are in the streets of Nairobi looking for jobs. If all our counties could have piped water and other sources of water, those young men and women would not be beggars on the streets of Nairobi; they would be self-employed. I have experimented with it in Migori County using the National Government Affirmative Action Fund (NGAAF) that I get and have seen it work. Those people are excited about those kinds of projects.

It is sad to say - and let it not be misunderstood - that we do not recognise what the kitty called Special Funds can do for our nation. The wonder is why we have to wait for the tragedy to occur before we call upon those funds, which sometimes do not even reach everywhere there is disaster in our country. As we talk about the Budget and allocating more money to support well-orchestrated and planned irrigation schemes in our country, we can consider using some of those funds to avert the calamity before it happens. How can that be? I have heard my colleagues from North Eastern say that sometimes it rains very heavily there until there are floods. Why do we not build some mega dam around that region that can hold that water instead of wasting it and then when the dry spell comes, it is pumped out and distributed to the locations where it is required?

We can speak forever but let us reconsider redistribution of our resources. The issue of food should take the first priority. Our children can only get meaning from schools when they are fed. Even doctors will not give medication to their patients without food in their stomachs. Preachers of this nation cannot hold any meaningful services on Sundays, Saturdays or Fridays unless there is food in the congregation's stomachs. Food is central.

I support the Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. George Koimburi, Member for Juja.

**Hon. George Koimburi** (Juja, PEP): Thank you, Hon. Temporary Deputy Speaker. Let me also take this opportunity to support the Irrigation (Amendment) Bill. It is a very crucial Bill.

As we all know, we did not have enough rain this year in our country. I urge the Government to allocate more money to our farmers to enable them to do some irrigation, buy pipes and irrigation machines and also build greenhouses. Juja is a very dry area, but we have the Athi River. We can empower our farmers with pipes, greenhouses and fertilisers to make sure that we get enough food. We can also export that food to our neighbouring countries.

I support Nominee 001, Hon. David ole Sankok, who said that we can harvest water from hills and our nearest rivers, so that our farmers can do irrigation much better than what they are currently doing.

I support the Bill. If possible, we should put some money in the pockets of our farmers to enable them to do irrigation and ensure that we get more food in our country.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. Adhiambo Oduol.

**Hon. (Prof.) Jacqueline Oduol** (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this Bill.

I support the Bill because it clearly seeks to address a very important issue of administration and looks at ways in which to include management and regulation of irrigation matters in Clauses 3, 4 and 5. In Kenya today, we have irrigation schemes in Ahero, Bunyala and West Kano in Western Kenya. We also have irrigation schemes in Mwea, Hola, Bura and the Galana Kulalu Project. As we look at those irrigation schemes, given the potential that they can provide in terms of performance, a major area of concern and a problem that is facing irrigation farming is poor management and maintenance of the schemes. It is on record, and is something that has been pointed out, that the challenge is with the low performance. So, when we look at this amendment Bill that clearly seeks to address the very issue which has been indicated to be a challenge, it is something that we must support.

The same amendment Bill seeks to provide for appointing and nominating authorities in line with the Constitution. As has been indicated by a number of Members, we have a tendency in our country to sometimes not ensure that institutions are delivering at their optimum. We do not take into account the minimum requirements that relate to the Constitution and other legislative parameters.

Looking at Clause 8, I am happy that the amendment Bill recognises that there needs to be harmonisation, particularly when we have different Acts that overlap. Looking at the Irrigation Act, the Water Act and the Water Management Rules, 2007, this amendment Bill recognises the need to ensure that we harmonise and avoid wastage or ignorance of certain fundamental issues.

As has been noted by other Members, it is important that as we consider the management, administrative and key issues that would enable us to address issues of food security and the manner in which irrigation farming is done, we take note of the possible negative impacts of irrigation such as when we have expansion and intensification of irrigation, and pay attention to the potential challenges that could result through soil erosion.

I am satisfied with the manner in which the amendment Bill seems to have picked up on what could be seen to be major gaps. It is targeting areas that would enable us to ensure that we get maximum output, including ensuring that stagnant water that we find in canals and fields that breeds pests that lead to malaria and other diseases will be handled with adequate management and regulations that the amendment Bill provides.

With that, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Let us have Hon. Thuku Kwenya, Member for Kinangop.

**Hon. Zachary Thuku** (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker for this opportunity to add my voice to the Bill.

I wish to state from the outset that I support the amendment Bill that will operationalise the National Irrigation Authority (NIA). At the outset, it is good to go back to history and see where

we are coming from as a country. Today the only land in Kenya that is arable is just 10 per cent, which may not necessarily depend on irrigation. It can naturally be cultivated and bring about produce depending on natural weather patterns. The rest of the country is either arid or semi-arid.

Forty-eight per cent of our land is arable. If only we put our heads together and have a body that will irrigate the difference of about 38 per cent that is semi-arid, we will then be sure of operationalising the NIA and ensure that we are food secure. Having access to food is a basic human right that is enshrined in the Constitution. Article 43 of the Constitution articulates very well the issues of economic and social rights, which include the right to food security and adequate supply of food. When His Excellency President Uhuru Muigai Kenyatta was re-elected for the second term, he came up with a very ambitious transformational vision. He stated that he wanted to deal with four issues only, which were christened the “Big Four Agenda.” Top on the list was food security. In order to ensure that we are food secure, and that hunger and famine become a thing of the past, we are now on the right trajectory by bringing to life the NIA. We need to make this Authority operational and proactive by funding it well and ensuring that it is people-driven. It should be people-driven in the sense that people need to identify the areas that need to be irrigated or where irrigation schemes are supposed to be established.

I get disappointed with the kind of investments that I see initiated by the National Irrigation Authority. At times I am persuaded to think that they are just merchant-driven. They are not driven by the need to transform and bring about food security as envisaged in the Constitution. Their programmes and projects are designed to deal with the merchant at the end of the day. A case study is the Galana-Kulalu Irrigation Scheme in Tana River. A lot of money has been sunk in that project but what value for money do we get from it? Even as we support this Bill for it to be passed and become an Act of Parliament, we need to have an Authority that has the interests of the people at heart right from the Chief Executive Officer to the Board Chairman and its directors. Going forward, the Board of Directors of some of these organisations should be former Members of Parliament who have the interest of the people at heart because they know what is needed. At times we are very harsh on ourselves. We form these bodies but we do not think about people who have served the communities, who have vision and purpose to transform the areas they have represented. These are people who have been tested, only that such a provision will be seen to be discriminatory! Some of the Board members should be former Members of Parliament because I believe in their capacity.

We do not have shortage of water and land in this country. We do not have shortage of manpower. We lack goodwill from the people responsible for the budget-making in the Ministry of Agriculture and at the National Treasury. These are the people who plan for this country. We should sink money into the backbone of this country’s economy, which is agriculture. We should put money where it matters. I can tell for sure that we will feed not just this country but even our neighbours. For instance, in Kinangop Constituency, I have a total of eight wards. Four wards can do very well without irrigation. However, the other four wards need irrigation as a catalyst. Our soils are fertile and well-drained. They can retain water for some time. We will have a very efficient irrigation scheme that will increase productivity of our land, secure jobs for our young people, secure the future of our farmers and feed this country and beyond. We need to make use of the available resources.

I was impressed by one of the farmers from Kipipiri, the Leader of the Majority Party’s constituency. He took a video of a farmer who got a water pan from the NIA. The farmer confessed that since the water pan was dug, he has been able to feed his family and pay school fees for his children. We do not need to be given handouts. The worth of the water pan is known. It is not

anything above Ksh50,000 but it has brought about transformation for a whole household. It has also affected the lives of the people who live in Nairobi because they now buy cheaper food because there are people who grow the same.

This is an Authority that touches where it matters: The hearts of people. If well-managed, we are going to have more than we can handle. In fact, we need to take this a notch higher so that we allow the National Irrigation Authority to prepare places where we can store food. It is happening today in my constituency. Potato farmers suffer. They do not have a market for potatoes because there is an oversupply of potatoes. The harvest is bounty. If we had a way of storing potatoes, we could wait for the market to normalise and have the same produce sold so that farmers can get value for their work. The NIA should not just think of how we are going to increase food productivity but also how we will store the same for use when we do not have adequate supply. I thank the NIA because they have a project in my constituency. For the first time, we have an irrigation project called Upper Gitwe Irrigation Scheme. I happen to have visited it yesterday. I was impressed with the amount of work that has already been done but bureaucracy, and especially decision-making, is slowing down its implementation. We would want to have an efficient system where decision makers are fully aware that whatever project is being implemented is for purposes of improving the livelihoods of our citizens.

I also have another project called Mutonyora C Irrigation Scheme that has stalled. There is a dam that was constructed a long time ago by our colonial fathers. I am ashamed to say that our colonial fathers should have stayed around for quite some time. Maybe, we would have moved faster than we are moving. How come the dams have been left for cattle grazing? We take our cattle there to drink water yet the vision and purpose of the dam was that they would be used for irrigation to make sure that we do not suffer the shame of hunger. It is high time we woke up and lived the dream of our founding fathers. *Tupambane na njaa na tupambane na ujinga*, as Mzee Kenyatta said. This is the time. If we do not do so now, a time will come when it will be too late.

With those remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I agree with you, Hon. Thuku. There is no dignity in hunger.

Hon. Kipyegon.

**Hon. Kipyegon Ng'eno** (Emurua Dikirr, KANU): Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to the debate on the National Irrigation Authority (Amendment) Bill. I support the Bill in totality because of several reasons.

Irrigation is meant to make a country food secure. Tackling food insecurity in any country is the most dangerous undertaking. Remember, even the most serious revolutions in other countries like France, which had one...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Just hold on, Hon. Kipyegon. Hon. Koimburi seems to have a point of order. Proceed, Hon. Koimburi.

*(Hon. George Koimburi spoke off-record)*

Wait for the microphone. Can you key in the intervention so that we can find you? Proceed.

**Hon. George Koimburi** (Juja, PEP): Thank you, Hon. Temporary Deputy Speaker. In this country, we know that COVID-19 is very high yet the Hon. Member just removed his mask.

Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): You are absolutely right, Hon. Koimburi.

Hon. Member for Emurua Dikirr, kindly just maintain your mask on.

**Hon. Kipyegon Ng'eno** (Emurua Dikirr, KANU): I will do that, Hon. Temporary Deputy Speaker. Remember, the reasons around vaccinations and social distance all surround the question of: are you close enough to infect your neighbour? All the same, I will abide by your direction.

I was talking about countries that faced very serious uprisings because of food insecurity. They include France and Ukraine. In Ukraine, they had one of the most severe famines called the Holodomor. It was caused purposely. There was lack of food. It was referred to as an artificial famine because some parts of the country wanted to starve others. They wanted to arm-twist them to believe in their ideology.

Food is a very fundamental thing in our lives. People cannot go to work, school nor come to this House to make laws when they are hungry. Like my brother said, it is, maybe, only 10 per cent of our land which is arable. But, around 50 to 60 per cent of this country can be irrigated to produce enough food for our citizens and even for exportation. We have had issues to do with irrigation. The reason I am supporting this particular amendment is this: I think that the introduction of the National Irrigation Authority will go a long way in ensuring the management of the irrigation schemes that we have in this country so that we can have a food secure nation.

We have had irrigation schemes in the country that have collapsed or failed in one way or another. There are those which have succeeded and those that have failed. The major failures in the country include the Galana Kulalu and Bura irrigation schemes. We put billions of monies in these schemes expecting that they will produce enough food for our citizens. The introduction of this authority, through the amendment, is meant to ensure that irrigation is done according to the law.

The situation we have today in our country of so many unemployed youths, people begging, and many 'hustlers' who are working day and night to put food on their table is because we have not sat down as a country. Our country was once referred to as an agricultural country. When you look at what the Government is doing towards making the country food secure, it is absurd! We hope that successive Governments will dwell much on how to bring back this country into the agricultural country we used to know. It should also dwell on how it can bring back the counties which we used to know as the bread baskets of this country. Those other counties which may not even be good producers of food, through the National Irrigation Authority, can be made to produce enough food for our country.

Many people have said that if we were to introduce irrigation methods of farming in counties like Narok, Bomet, Kwale, Baringo and other such like areas in this country, we would be food-secure. We could produce enough food for local consumption and at the same time export to other countries. It is absurd that we are importing maize, wheat and even rice from other countries that have a lower percentage of arable land than ours. It may not even be a quarter of Kenya! We are importing food from those countries simply because of poor management in Kenya. We are unable to put our feet on the ground to ensure that whatever money we invest in irrigation schemes, we are able to deliver what our country wants.

It is also absurd because when we talk about irrigation, we need to first know where we are going to fetch the water. Are we going to tap the water from rivers, rain, dams, or boreholes? We must also be genuine in our wish to have water for irrigation. Remember there are so many dams in this country that have stalled. Some of the dams which have stalled in this country include the Bosto Dam in Bomet, Itare Dam in Nakuru, Kimwarer Dam in Elgeyo Marakwet, Arror Dam and many others. When you look at the reasons why these dams have stalled it is neither because of money being stolen nor anything to do with management, rather it is because of politics. The Itare

Dam, which I have visited, is half complete. This dam was going to serve almost the whole of Nakuru County including the neighbouring counties. However, because of our useless political undertakings, these dams have stalled and we have nothing to tell our generations why they have stalled.

I hope that the introduction of this National Irrigation Authority will make some of these dams fall under it so that it takes responsibility of the drilling of boreholes and construction of dams. It should not be left to the political class as it is right now. If we do not reverse the situation, we will be exposing our country to irreversible famine. It is only that many people right now have nothing else to do but farming. Otherwise, if people were to move from the agrarian system to communication, nobody would be farming in this country and we would be ravaged by famine. Let us relook at this.

I support this particular Bill. We will also be proposing amendments because we believe that if we make all these dams which have stalled to fall under the Authority, then it is going to help this country move forward.

I support. Thank you.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Musimba.

**Hon. (Dr.) Patrick Musimba** (Kibwezi West, Independent): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to this amendment Bill. From the outset, I support. There are key points in the contributions made by Hon. Sankok, which Hon. Temporary Deputy Speaker, you also echoed. This is an idea whose time has come. I urge Hon. Sankok to immediately initiate what will otherwise be known as the Sankok Initiative by starting an online Petition to gather close to 50 million signatures, if it were possible, including those of our children, to expand his constituency from the 6.5 million to the entire Kenya. The petition will be directed to the Budget and Appropriations Committee to ensure that we earmark and ring-fence those funds as we begin the next Budget cycle. It is a tradition we have established as a House when we seceding part of our Budget towards the COVID-19 campaign. We ably did that and ring-fenced the funds for PPEs and allocated funds to the referral hospitals. I think this is very possible.

As a person who comes from the semi-arid area of Kibwezi, I understand the need to have water available to everyone. It is part of the goals of the SDGs where we talk about availability of portable water within two kilometres. This will go a long way to alleviate water shortage. We, as a country, speak ably about last mile initiatives, being for power provision. This is more impactful to the lives and livelihoods that many of my colleagues have spoken about. It is about articulation of our Chapter Four rights of both the economic and social aspects. Water provision really protects the dignity of our people. It will help spur the bottom part of our economy and help grow our able country.

I cannot emphasise enough that adopting the Irrigation (Amendment) Bill is a good thing. I am urging Hon. Sankok to be on the frontline. We will help you. You already have my signature as the first petitioner towards getting this done. It will restore a lot of things. We will be able to monitor it as soon as it is adopted by the Budget and Appropriations Committee and passed here to be given the funds that it requires. We will ensure that the Committee on Implementation follows it up to see this milestone across the entire country. That will be for us to look at what is traditional and expand the scope of having water turbines to pump water through rivers three kilometres into the hinterland to combat things which we have sort of left. We can have agriculture projects irrigated using water from Lake Victoria and one of the largest water bodies that has ever been discovered in the known world, which is in Turkana. How do we accomplish that? These are things which are even bigger than the discovery of oil within our nation.

A closer look of the Bill reveals three major things that come out of it. The Leader of the Majority Party, who is the Mover of the Bill, needs to really look at these things. The wording is important.

Hon. Temporary Deputy Speaker, you are a lawyer. You understand this: they say that “the Authority will be charged with looking at all levels of irrigation” and then somewhere in the small print, I think in sub-section (j), they say “the Authority will be in charge of licensing”. In a different charter they speak about “the Authority will be the one charged with all initiatives of water harvesting”. It will control water harvesting initiatives and the manner in which it will be done and the instrumentation. We are walking closely towards having the bureaucracy that is a big fear to people who are running personal community initiatives. That is where they want to have a tank which is to store, maybe, two or three million litres of water to distribute in their locality and we are talking about them having to seek permission to do so. We will be lost in this sort of bureaucracy.

The third aspect within the Bill, which caught my eye, is that no one can proceed with irrigation unless they get a licence as soon as this Bill has been ratified into law. These are very slippery waters. It means we will go on a standstill by saying we cannot undertake or deal with people on the ground in provision of food or initiatives of capturing water like in our rice growing areas and places which are confronted with dykes and water flooding. They will never be able to put mitigating measures in place unless an Authority, which is possibly being domiciled in Nairobi, goes to act in places like Budalangi, Nyatike and Nyando. This will be an area of concern. So, this is to direct or request the Leader of the Majority Party to look at these provisions with a view to removing them from the Bill.

The fourth aspect which I want to bring to the attention of the House is that irrigation goes hand-in-hand with soil improvement. We have to see how to improve soils and soil qualities around the country. We speak about siltation or silt being carried by our rivers to the Indian Ocean. This is very rich soil but we do not talk about what is happening upstream in terms of loss of top soils. How do we get the Authority to also be charged with looking at the quality of soils around the country and looking at mitigation measures? They talk in the Bill about them being able to offer, on a commercial basis, the technical expertise to help people with coming up with irrigation designs but this is one salient aspect because it is a causal effect of irrigation. It is important that soil improvement, as an impact of irrigation, is also captured in the Bill as one of the Authority’s mandates.

All in all, this is an idea whose time has come. We, as Parliament, should take the lead in ensuring that we ring-fence the funds. Hon. Sankok spoke about Kshs50 billion. I think we can enhance it because of time and value for money from when this Bill is proposed to that date. Even on those PPRs, how can we manufacture them here locally? How can we get industry into it? If we are already doing automobiles and the Big Four Agenda, why can we not talk about these end components being done from here?

With those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): I agree with you, Hon. Musimba. If we give water to our people, we will give dignity to them.

Hon. Odhiambo Akoth, Member of Suba North.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity.

I hope you can use your discretion under one of our Standing Orders to enable me speak. Otherwise, I am seeing our time is gone. I hoped to come earlier, but unfortunately I lost a very

dear friend of mine called Violet Wakeyo Wasuna. We were holding her funeral service today. That is why I was not able to come earlier. Otherwise, there are issues of interest to me in the Foreign Services Bill that I would have wished to speak to.

I wish to indicate that I support this Bill that seeks to amend the Irrigation Act. The amendments that are proposed here are fairly minor. It is not anything major. They are amendments that seek to bring cohesion and logic to ensure effective implementation of the Act.

With climate change, we need long lasting interventions. Irrigation is the way to go. I come from a semi-arid area in Suba North. Irrigation will be very beneficial to us, especially with the dwindling stocks of fish in Lake Victoria. It will enable us to diversify into agriculture. There are areas in my constituency where people have started small-scale irrigation but they are competing with wild animals. So, human-wildlife conflict is one of the things we need to seek a way of dealing with. Hippos roam around homesteads. For the first time, when I went to my mother's and father's home, I found footprints of hippos that are now living as though they are part of human life.

Irrigation will also enable us to enhance food security. That is one of the Big Four Agenda items of the President. Sometimes most of us leaders may be well-intentioned. You may have an excellent vision but if you do not have people who share the same vision with you, it becomes very difficult for you to realise your goals. One of the things that irrigation does is to revegetate disturbed soil in dry areas like mine. It also has such uses as frost protection, suppressing weed growth...

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon Akoth, I know you asked the Speaker to use his discretion to extend time, but he does not have too much leeway in that. You will allow me to stop you, so that I allow you to finish your contribution when this matter will again be set down for consideration, hopefully tomorrow. You will have a balance of six minutes when it is considered again.

With regard to the funeral you attended, I am aware of the Wasunas. They are people I know very well. I was in school with one of the children from that family. It is one of the very serious families from the Maseno area, just next to my place. I am really sorry for their loss. You were attending to a good cause. You were not out of Parliament for a bad cause; it was a good one.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Wednesday, 18<sup>th</sup> August 2021, at 9.30 a.m.

The House rose at 7.00 p.m.