

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 25th September, 2018

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*The House met at Uasin Gishu County Assembly
Chamber, Eldoret, at 2.30 p.m.*

[The Speaker (Hon. Lusaka) in the Chair]

PRAYER

COMMUNICATIONS FROM THE CHAIR

SITTING OF THE SENATE IN UASIN GISHU COUNTY ASSEMBLY

The Speaker (Hon. Lusaka): Hon. Senators, I welcome you all to Uasin Gishu County for this auspicious sitting of the Senate. I also want to thank the leadership of Uasin Gishu County Government – both the Executive and the Assembly – led by His Excellency Governor Jackson Mandago and the Assembly Speaker, Rt. Hon. David Kiplagat for the warm welcome since our arrival and for facilitating these Sitings.

(Applause)

I wish to convey our deep appreciation to the leadership and Members of the County Assembly for hosting us and for accepting to adjourn their sittings to allow the Senate to use your Chambers for this first-ever sitting of the Senate outside the capital city. The Third Senate of the Republic of Kenya and the Uasin Gishu County are jointly making history which will remain engrained in the annals of Kenya's parliamentary history.

Our sincere gratitude also goes to the great people of Uasin Gishu County, the home of champions, for the friendly welcome and the hospitality extended to us. I also thank the leadership of neighbouring counties for embracing this noble idea and joining us for this auspicious sitting.

Hon. Senators, one of the most fundamental provisions of the 2010 Constitution is the devolved system of government, which aims at bringing services closer to the people as a means of accelerating development and enhancing collective responsibility. A core creation of this Constitution is the Senate, whose main function is, inter-alia, to represent the counties; and serve to protect the interests of the counties and their governments.

In recognition of the above and in an effort to institute steps towards its actualization, the Senate Business Committee (SBC) on 13th March, 2018, resolved that a Sitting of the Senate be held away from its traditional premises in Nairobi, in Uasin Gishu County in September, 2018, as an innovative way of enhancing interaction between the national and county levels of government.

This inaugural Senate sitting constitutes one of the noble and innovative ways of enhancing interactions between the national and county governments, which are distinct and interdependent. In this manner, we bring the Senate closer to the people both symbolically and functionally.

Specifically, these unique sittings are expected among other things to-

- (1) Hold public hearings on key legislative proposals;
- (2) Promote the work and role of the Senate; and to highlight existing opportunities for people to get involved to achieve greater public engagement;
- (3) Give an opportunity to the Members of County Assembly (MCAs) and staff to learn and borrow practices from the Senate; and,
- (4) Develop and strengthen partnerships at the county level by creating interest among the public regarding the Business of the Senate.

Hon. Senators, today we create a new path in the democratic governance of our country by setting in motion a Senate program which shall, henceforth, be replicated in other counties and regions. Through these sittings, the Members of this Third Senate will be involved in a critical process of redefining the work systems and ethics of the Senate.

This inaugural Senate sitting in Uasin Gishu County – and the subsequent ones to be held outside Nairobi – will serve to open up the scope for the Senate to operate amidst the people beyond our country's capital. Let us face it; the Senate is all about our people and their needs.

(Applause)

It is imperative to mention that already, the National Executive has adopted the healthy and commendable practice of holding celebrations for national public days in various counties and regions of our country. This outreach endeavour rhymes with the evolving practice of the Senate.

Hon. Senators, through this “Senate *Mashinani*” initiative, the Senate is making its contribution towards nurturing larger and more inclusive parameters in the management of public affairs in our country.

In the next 4 days, various legislative activities that have been lined up – Plenary, Committee meetings and public participation fora, which are a key pillar of our Constitution – will accord the public a special opportunity to actively engage and participate in the Senate legislative Business.

This unprecedented Senate sitting, therefore, provides a unique opportunity for us to engage and harness diverse efforts drawn from various parts of Kenya to make our country better. Let us engage in an open conversation on what needs to be done to achieve prosperity, even as we strengthen our institutions of governance.

Going forward, the Senate will seek to draw valuable lessons to further enrich and improve the subsequent sittings. This is because we believe that county assemblies can complement good legislative practices and hold the potential of directly identifying and

addressing the people's tribulations, revitalizing hopes and aspirations as well as deepening a democratic, consultative and participatory governance tradition. I dare add that county assemblies are at the core of improving governance in our country.

In conclusion, I want to urge all of us to always remember that we cannot have counties without the Senate; conversely, we cannot have a Senate without the counties. Ours is a symbiotic relationship, one which requires mutual learning, experience sharing and leadership for it to grow and thrive.

I thank you.

(Applause)

Hon. Senators, we do not have gadgets to press; therefore, if you want to catch the eye of the Speaker, you will have to stand. The first to stand will be the first to be served.

Proceed, Senator for Uasin Gishu; Sen. (Prof.) Kamar.

Sen. (Prof.) Kamar: Mr. Speaker, Sir, thank you for giving me an opportunity to add to your welcome statement and also say, welcome hon. Senators during this historic sitting in Uasin Gishu County Assembly.

On behalf of the people of Uasin Gishu County, the County Government of Uasin Gishu and on my own behalf, I would like to take this singular opportunity to welcome all hon. Senators and you, Mr. Speaker, to Uasin Gishu County.

I will forever be grateful to the Senate for accepting in one voice to bring the first sitting ever outside Nairobi to Uasin Gishu County. I would like to assure Members that the people of Uasin Gishu are very excited about this sitting. We expect them to visit the committees and the plenary sessions during this one week. The Committees that will be going for site visits, I can assure them they will be warmly welcomed by the people of Uasin Gishu. They are very warm and very generous.

I am sure that the Committees have already felt the presence of the public, including professionals. I managed to visit the Committee on Health at the Moi Teaching and Referral Hospital and we witnessed very wonderful interactions.

The people of Uasin Gishu are looking forward, not only for interactions, but also to contributing to legislations by the various Committees after these sittings. Our farmers are very eager to listen to the Agricultural Committee and the *ad hoc Committee* tomorrow in the County Hall, the same way our business community is looking forward to the public hearing on the Private Public Partnerships (Amendment) Bill (National Assembly Bills No.52 of 2017) that has been set by the Committee. We are all set and ready.

Hon. Members, may I once more, thank you very much for according us the honour to host you and wish each and every one of you a very successful time in your meetings.

(Applause)

The Senate Minority Leader (Sen. Orenge): Thank you very much, Mr. Speaker, Sir. Let me join the Senator for Uasin Gishu in expressing gratitude to the people of this County for the manner in which we have been received.

One of the things that I learned last night about leadership and which I think other counties should learn about Uasin Gishu County, not only at the level of Members of County Assembly (MCAs), but also of the Executive, which was exemplified by the Governor yesterday when he was introducing his Members of Cabinet and Chief Officers, he knew all of them by name and portfolio. Then he introduced MCAs from the Speaker to the last Member by name and their wards. After that, I noticed him trying to run around to make sure that everybody was comfortable and had something to eat. This is an exemplification of the kind of leadership that we have here, especially now that they are not subject to oversight.

Secondly, yesterday we had young men and women who are champions, including the best of all of them, Mr. Eliud Kipchoge, who has done this country proud. There have been leaders out there before in Europe and other places who try to create the best generation of people even through making scientific experiments on how you can produce a superior race. If people were to talk about a superior race, I think some of them belong here in this county.

(Applause)

Not only are they champions in the field, but as I said yesterday, generally in the leadership of this country. I have interacted with the best and the greatest of minds of people, men and women, from this county.

Lastly, by sitting here, we are demonstrating to everybody, not just in this county, but across the nation that the Senate is here to stay. The Senate is here to stay because it has a role to play. It has a role to play because devolution is one of the most innovative and the fundamental pillars in this Constitution that was proclaimed in the year 2010. If anybody wants to doubt the authority and power of the Senate, then he should be able to read the judgment of Supreme Court on what that Court had to say about the role of the Senate.

This House makes me proud because everything we have done mostly all the time is for the interest of this country.

(Applause)

I have never seen in other chambers and in other parliaments before, where it is possible to develop a bi-partisan spirit in order to talk about a Bill or a Motion, or even deciding to come to this county. There was no much debate about it in the Senate, in Nairobi. It was important that we make that point. To emphasize that, when we come to this county, we are coming to the bread basket of this nation.

I pray that one day the sins of the national Government will not be visited to the county governments. In Nigeria now, for example, Lagos is talking about being the third or fourth largest economy in Africa. California prides itself of being the fifth largest economy in the world.

I hope that because of the potential Uasin Gishu County has, and the leadership I have seen here, one day we can pride ourselves that the economy of this county could be larger than the economies of some of the surrounding States. I will not mention which,

but which if they want an example of good leadership, should probably come to this county.

(Applause)

It is not a dream, but something we can achieve. Even if Kenya is coming down, that does not mean that this county should also go down, but it can still go up. We want the County and the nation to go up together and make Kenya a great and prosperous nation for the people of Kenya. The people of Kenya are like we are seated here, nobody can look at the Senate Majority Leader and know where he comes from, or probably, some people make mistakes about certain people if they do not have the sixth teeth that I do not have, to determine where I come from. However, this is the nation of Kenya through electoral representatives, sitting together in a Chamber like this.

Finally, I really like this Chamber. A small Chamber has got its advantages. Sir Churchill was the one who refused the expansion of the House of Commons. He said that when there were few people, it was still a good environment to carry on a debate. He also said when there was an important issue, the immediacy and the urgency of the moment would be reflected in the attendance because some of the Members would be sitting in the Gallery with some standing around the Speaker and at the Bar and the House would have a sense of urgency.

As I stand here, I am almost touching my colleague, hon. Fatuma Dullo, There is no way I can be impolite. I have wanted to be civil, but being so close is also being so homely and is like a family having fellowship.

Thank you.

(Applause)

The Speaker (Hon. Lusaka): Sen. Murkomen, Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker.

Sen. Orengo was not very clear about his closeness to the Senate Deputy Majority Leader.

(Laughter)

There is a little bit of confusion here, but that will be clarified later.

I want to join you and my colleagues Sen. (Prof.) Kamar and Sen. Orengo in appreciating the importance of the Senate coming to this county. This is a dream that we had in the last Parliament and now “Senate *Mashinani*” is a reality in this Parliament and this is a unique thing.

[Sen. Murkomen]

We will take it very seriously because he has been in all Parliaments from 1979. The great experience he has means that this is extremely a unique thing that we have done as a Senate. No wonder some people are a bit jittery because they are seeing that the Senate is closer and getting closer to *mwananchi*.

Mr. Speaker, Sir, in the last Parliament when there was a contest as to who is greater; we decided as a Senate that our greatness will not be defined by our title, cars or

entourage that we have. We said that the person who is great is the one who is the servant of them all. We are willing and ready to sit down with the people; go to every county, even a small Chamber like this one to sit in such an environment even if we are used to our Chamber. This brings us closer to solutions that we need for the people of Kenya.

To start with, since I have been a very vocal champion for the empowerment of county assemblies, the experience we have in this Chamber today confirms what we have always said in Nairobi; that the county assemblies must be facilitated, empowered and given resources to perform their legislative and oversight function. The county assembly should not struggle the way we are, in tents where we will meet. They should not struggle to have microphones in the Chamber and committee rooms, although I agree with Sen. Orengo on Sir Winston Churchill.

Winston Churchill was of yesteryear. The county assemblies must be made as modern as possible for them to discharge their responsibilities. That is not to discount what he said. His point was in relation to something else but this is in relation to technology and the relationship that we must have with our county assemblies.

I strongly believe that we did the best thing to enhance the resources of county assemblies when we were dealing with the ceilings. We can do more to ensure that the county assemblies have the resources to do their job. We are happy to be in Uasin Gishu. I celebrate as a Senator. I also welcome you to come to this region of north Rift. My county is just next door. Feel at home. We have already started good interactions with the people of Uasin Gishu County. Today, we had very good interaction. I had the privilege of leading a team to Moi Teaching and Referral Hospital (MTRH) and the university to discuss matters of health.

Mr. Speaker, Sir, this is my last statement. Sen. Orengo had more than three. The Senate of the Republic of Kenya must not be ashamed of what we did in coming to Uasin Gishu County. Instead, we must make a Uasin Gishu Declaration that at least, four to five times a year, we hold similar sessions in different counties in the Republic of Kenya.

(Applause)

If we continue doing that, we will provide critical support. In fact, I have visited Tana River and Wajir County Assemblies. We must choose to go to the most difficult county assembly so that we have the greatest pain and feel the greatest suffering that county assemblies and counties are going through so that we give proper intervention. When counties say they need money, we will speak from a point of information that those counties need money and our protection.

I thank you.

ACKNOWLEDGEMENT OF INVITED DIGNITARIES
TO THE SENATE SITTING IN UASIN GISHU COUNTY

The Speaker (Hon. Lusaka): Order, honourable Members. I wish to make a Communication.

I wish to acknowledge the presence in the Speaker's Gallery, this afternoon, of invited dignitaries who have joined us for this auspicious occasion of the inaugural sitting of the Senate outside Nairobi in Uasin Gishu County.

I have invited these dignitaries in recognition of their key role and partnership with the Senate on devolution. I request each one of them to stand when called out so that they may be acknowledged in the Senate tradition.

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| (1) H.E. Alex Tolgos | - Governor, Elgeyo-Marakwet County |
| (2) H.E Stephen Sang | - Governor, Nandi County |
| (3) Hon. David Kiplagat | - Speaker, Uasin Gishu County Assembly |
| (4) Hon. Johnson Osoi | - Speaker, Kajiado County Assembly |
| (5) Hon. Beatrice Elachi | - Speaker, Nairobi County Assembly |
| (6) Hon. Philemon Sabulei | - Speaker, Elgeyo-Marakwet County Assembly |
| (7) Hon. Catherine Mukinyang - | Speaker, West Pokot County Assembly |
| (8) Hon. Joshua Kiptoo | - Speaker, Nandi County Assembly |
| (9) Hon. David Kiplagat | - Speaker, Baringo County Assembly |
| (10) Hon. Joshua Werunga | - Speaker, Trans-Nzoia County Assembly |
| (11) Mr. S.K Choge | - Clerk, Uasin Gishu County Assembly |
| (12) Ms. Jane Mutai | - Clerk, Elgeyo-Marakwet County Assembly |
| (13) Ms. Isabella Jebet | - Clerk, Nandi County Assembly |
| (14) Mr. Ainea Indakwa | - Clerk, Trans-Nzoia County Assembly |
| (15) Ms. Waceke Wachira | - Country Representative, AHADI |
| (16) Ms. Maureen Oduori | - Country Representative, Westminster Foundation for Democracy (WFD) |
| (17) Mr. Patrick Wafula | - Clerk, Kakamega County Assembly |

On behalf of the Senate and on my own behalf, I wish to thank our guests for honouring our invitation and joining us on this auspicious occasion.

I thank you.

Proceed, Sen. Mutula Kilonzo Jr. Please keep it short. You have three minutes.

Sen. Mutula Kilonzo Jr.: Mr. Speaker, Sir, I will keep it short. Thank you for your Communication. I often quote the Bible. Even in this occasion, I will, where it says: "Where two are gathered in his name, He shall be there". We are gathered here. Two or three are gathered. I have seen some comments about our visit here.

For those who are in doubt, we had a very successful meeting this morning with the Committee on Finance and the executives of Uasin Gishu and the County Assembly in a make shift tent. We also had a very successful visit to the MTRH. I do not think I

would have known that this county hospital serves 21 counties if we had not come to Eldoret. If we had not come here, we would not have heard the things that we did.

The County Public Accounts and Investments Committee (CPAIC) is meeting with governors. They spend money coming to Nairobi, but now we have come here to listen to them. We have demonstrated humility by sitting in the county assembly just like in the Bible, those who come down will be raised by the good Lord. So, have faith.

As the Senate Majority Leader, we should go to Tana River County, Lodwar, and let us cross by boat and go to Lamu County, listen to them and ride on those donkeys so that then, just like in the Bible, 'we can be lifted high.'

Mr. Speaker, Sir, I have no regrets whatsoever coming to Uasin Gishu. I am sure by the time we will finish, devolution will be much better because of the things that we will do here. We should make a resolution to suspend a lot of our sittings in Nairobi and sit amongst the people and leave those ones who think that they are big because they make themselves big to sit in Nairobi. I would choose to sit in Wote and many other places. There is no contradiction with Senators having offices in county assemblies.

To the people of Uasin Gishu, the Home of Champions, may God bless you. The Champions of devolution are in town.

Thank you.

Sen. Olekina: Mr. Speaker, Sir, I also rise to thank the people of Uasin Gishu.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, honourable Members! The speed at which you stand will save you.

(Laughter)

Sen. Olekina: Mr. Speaker, Sir, you should tell them that the taller they are, the better. I thank you for this opportunity. It is a great opportunity with the people of Kenya to realise that this House is the House of union - a House that has come to listen to the people.

Earlier on today, I sat across there and the Governor of Baringo sat here, and we got a chance to go through the queries which were raised by the Auditor-General. That gave us an opportunity to speak to them on the importance of them collecting revenue during this time when the national Government is proposing to reduce money which is going to be sent to the county governments. It was important for us to emphasize on the importance of raising local revenue.

It is a shame that during the defunct local authorities, county councils used to raise more revenue than what county governments are doing at the moment. I am quite happy that we have a few governors and speakers of other assemblies.

Mr. Speaker, Sir, I hope that next time the Senate will go to Narok.

The Speaker (Hon. Lusaka): I now give the Floor to Sen. Dullo on the basis of gender balance.

Sen. Dullo: Thank you, Mr. Speaker, Sir, for this opportunity. It is really important for us to also have gender balance.

Let me take this opportunity to thank the Governor of Uasin Gishu and his team and the Speaker of the County Assembly of Uasin Gishu for the work they have done. I remember we were here a week ago when most structures you have seen outside there were not in place. It is important to thank the leadership of Uasin Gishu County for the work they have done to make sure that the Senate sitting is successful today.

Secondly, let me take this opportunity to thank Governor Mandago for the good work. When we came here first, as the leadership of the Senate, he really showed us a lot of humility. He was running up and down to receive us wherever we were and to make sure that we were received well. I think this is very important for the leadership of the counties. They should learn from Governor Mandago as he has received the Senate.

Mr. Speaker, Sir, most people do not know what the Senate does. However, today, the country has seen the work of the Senate. This morning, we interacted with Members of the County Assembly when we heard a Petition from Kericho and Bomet counties in terms of land issues. There is nothing as fulfilling as having service delivery being brought to the people of Uasin Gishu or various counties to deal with the issues first-hand, instead of them travelling to Nairobi.

The Senate Majority Leader has proposed that we should have more sittings like this one to build capacity, interact and share partnership with our colleagues at the county level so that we are able to deliver services as required within the laws of this country.

Finally, we had a sitting this morning with the Governor of Baringo to discuss issues affecting his county. It is interesting to note that the Governor appeared before us with all his senior members of staff. By doing so, he was able to answer all audit queries with the assistance of his staff. This was a learning experience for them.

Mr. Speaker, Sir, I would like to appeal to the Senate that, the next sitting should be in a place that is not as rich as Uasin Gishu, and I will propose Isiolo County for this matter. I will lobby my colleagues to make sure that we have the next sitting to improve the economy of our country.

Sen. Khaniri: Mr. Speaker, Sir, I want to thank you for the opportunity. I join you and my colleagues who have spoken before me to thanking the leadership of Uasin Gishu County for hosting us and the preparations that they have put in place to make sure that we have a successful sitting outside Nairobi.

I also want to join my colleagues in thanking the residents of Uasin Gishu County for the hospitality, the love and warmth they have shown to the Senate of the Republic of Kenya.

For those who had doubts about devolution, this is a clear demonstration that devolution is here to stay. The biggest gain that Kenyans got in the Constitution 2010 is devolution and one of the three pillars of devolution is the Senate. The other one is county assemblies and county governments.

The Senate as provided for in Article 96 of our Constitution serves to represent counties. There is no better way to represent people than going to them and getting to know their problems first-hand. That is what we have embarked on. I want to support the idea that we should endeavor to visit four counties every calendar year.

I take this opportunity to welcome you to the great County of Vihiga that I represent.

The Speaker (Hon. Lusaka): Lastly, Sen. Haji. We have a heavy day and you will be able to contribute to the many issues we have

Sen. Haji: Thank you very much, Mr. Speaker, Sir, for allowing me to join my colleagues.

I must express the fact that in the beginning, I had some reservations about our coming here not for anything, but because of the cost that is going to be involved. However, this morning, I had an opportunity to attend a meeting of the Committee on Finance and Budget. I had also an opportunity to attend a meeting of the Committee on Devolution and Intergovernmental Relations.

Our committee on security had a meeting with our colleagues; the MCAs of the Committee on National Security, Defence and Foreign Relations. I think we would have not got this opportunity if we had stayed in Nairobi

Mr. Speaker, Sir, from my own words, I will be supporting that the Senate should sit outside Nairobi and that time has come to hold a sitting in northern Kenya where they have been marginalized for many years. I invite you to Garissa to come and drink camel milk.

Finally, I want to apologize to His Excellency the Governor of Nandi, Sen. Sang, somebody with whom I have related very well when we were at the Senate, for having not gone to Nandi yesterday because I arrived late, but I want to assure him that I will be visiting his county tomorrow.

Thank you very much.

The Speaker (Hon. Lusaka): Next Order.

PETITION

OPERATIONS OF KAREBE GOLD MINING LIMITED

Sen. Cherargei: Thank you, Mr. Speaker, Sir. Before I read the Petition, I also want to join my colleagues as a good neighbor to welcome Senators to Uasin Gishu County. They are in The City of Champions and we, alongside Elgeyo-Marakwet are the source of champions.

Secondly, I want to say that it is an honour to be in Uasin Gishu for the “Senate *Mashinani*”. I want to tell the critics; the naysayers; the prophets of doom, that the Senate is not going anywhere because it is the engine of devolution.

Mr. Speaker, Sir, secondly, allow me to read the Petition to the Senate concerning the operations of Karebe Gold Mining Limited in Tinderet Sub County, Nandi County.

I wish to draw the attention of the Senate to the following-

(1) That, Karebe Gold Mining Limited is a British firm carrying out gold exploration mining and processing in Kenya and is currently ranked as the largest gold producer in the country with USD1 million with three separate mines in western Kenya.

(2) That, one of these mines is located at Chemise area near a place called Kibisem in Tinderet Sub-county of Nandi County;

(3) That, workers at the firm are subjected to harsh working conditions, including working inordinately long hours and without the safety and protective equipment required when working in the mines;

(4) That, as a result, many current and former employees of the firm have been affected by a myriad of illnesses, including loss of hearing and breathing complications,

with the firm failing to provide them with either an appropriate medical cover or compensation;

(5) That, the firm has also engaged in fraudulent land acquisition in the area and has further failed to compensate property owners whose houses have been destroyed due to blasting activities of the mines;

(6) It is worth noting that the land owner is here. He lost his hearing because of frustration by the owner of Karebe Gold Mining Company. He and the great people of Chemase are in the Public Gallery;

(7) That, the firm has failed to engage with locals in carrying out its operations, which are shrouded in secrecy and does not carry out Corporate Social Responsibility (CSR) projects in the area for the benefit of the local community;

(8) That, despite the firm extracting gold from the area, the local community has not benefitted in any way from this precious resource and have instead been left in a worse off position than they were before this firm commenced operations in the area;

(9) It is worth noting that under the Mining Act, 2016, on mining rules and regulations, according to the community development agreement, they should get 1 per cent out of the Kshs1.2 billion that they generate every financial year.

(10) That, we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give satisfactory response to the people of Chemase; and,

(11) That, none of these issues raised in this Petition is pending in any court of law, constitutional or any other legal body.

Wherefore, your humble petitioners pray that the Senate investigates this matter and makes appropriate recommendations thereon, with a view to-

(a) ensuring that the rights of workers at the firm are respected, that the local community benefits from extraction of gold in their area and that if found culpable of breaches of law or other malpractices, action is taken against the directors of the firm; and,

(b) Ensuring that appropriate regulations and guidelines are put in place, giving effect to the Mining Act, with regard to managing relations between extractive firms and local communities, including in decision-making on matters affecting them.

Mr. Speaker Sir, there are Senators here from regions where natural resources are extracted. If you go to Chemase, you will find a classical strategy used by miners purporting to be the owners of the land.

There is a person by the name Kibor arap Cheseret who has lost his hearing ability and is a frustrated man. The people of Chemase have been suffering. The only CSR that Karebe Gold Mining Company has done is to build toilets. I do not think that is appropriate because it is shameful.

They have even come to see for themselves. That is why the Senate is important in this country. They decided that the only way their prayers can be looked into and if they want to get legal remedy is by petitioning the Senate. The committee that this Petition will be referred to should handle it expeditiously.

The natural resources that are extracted in this country should benefit the local communities. Before we discuss about going to the national or county governments, we must ensure that the rights of individuals that come from those areas are protected.

Finally, we should use the Karebe Gold Mining Company in Chemase Sub-county as a classical example to ensure that our people get rightfully what is theirs according to Article 43 on economic and social rights. When the people of Chemelil, Chemase and Nandi get the opportunity, they will always remember the Senate and pray for it so that it continues to do its work.

Mr. Speaker, Sir, because of time, since Members are interested in this matter, allow me to end there.

I thank you.

The Speaker (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Sen. Cheruiyot: Mr. Speaker, Sir, I rise to support this Petition by my good neighbour and friend, Sen. Cherargei. This is something that he is extremely passionate about.

During my first interaction with him, once he was elected to the Senate, he began canvassing issues around Chemase Gold Mining. On many occasions, before I could get a good grasp of his name, I used to refer to him as the “gold Senator”, not because he loves the gold that is being produced but because of the passion that he has for the people that live around the area and the suffering that they have had to endure due to “investors”.

We look at them as investors but they are not. The truth of the matter is that these are people who have come to our country because of the weakness of our laws. They impoverish our nation and take away natural resources with very little benefits being extended to the people that live close by. The Committee that will handle this matter should get to the details of the concerns that are being raised by residents of Chemase. Let them find justice in this House.

There is a concept that I do not seem to agree with. I say this because this morning we had a chance to listen to a Petition from residents of Kericho County about what should happen because their land was taken by colonialists. As a people, they have never been compensated and up to date, there is nothing they enjoy from their land. During contributions, you could hear a certain line of thought being pushed, especially by our colleague Senators from the legal fraternity, that there are legal issues around it that we cannot address as a Senate.

The sanctity of the Senate and Parliament as an institution cannot be second-guessed. The idea of Parliament is the gathering of people of Kenya. There is nothing under the sun that is greater than the very people who own a particular republic.

I challenge the committee that will handle the matter to get to the root cause of the matter. They should give us hard-finding solutions and proposals that even the ownership reverts back to people of Chemase. There is nothing that is wrong with that. It is possible for them to run it, own it and be successful.

With those many remarks, I beg to support.

Sen. (Dr.) Zani: Mr. Speaker, Sir, thank you very much for this opportunity. You know how passionate I have been on matters of natural resources. During the Eleventh Parliament, we had a Bill on natural resources that the whole Senate supported and it would have solved exactly this problem that we are talking about. The Bill proposed structures that would have ensured that counties and communities reap from natural resources put there by God.

There is no county without natural resources. The Committee that was formed visited nearly all the counties. If I can remember, we had Sen. Murkomen, Sen. Wako and many others. We worked like we had never worked before for two years.

We as the Senate represent counties and their interests. Those interests include human beings having the dignity to live in the counties, work for those counties and be remunerated properly for the work they do in the counties. We have heard that they work under harsh conditions or the owners are not compensated. The rights of the workers are not taken care of yet structures can be put in place to ensure that this does not happen.

Mr. Speaker Sir, it is not difficult to come up with a fiscal regime that ensures that right from the top to the bottom or from the bottom to the top, that a more organized mechanism is put in place to ensure that communities are compensated. It is good for the communities' natural resources to be exploited. However, it should not become a curse like in the case of Nigeria where we had the oil curse.

People should be able to consider the resources that they have. For example, in Rwanda, they have the Kwita Izina. They look at the baboons in that area and know that their roads have been constructed because of those baboons. It is not asking for too much to make this happen. This is to happen by ensuring that that these structures are put in place.

Various Bills have come up after the Natural Resources (Benefits Sharing) Bill. Shortly, this Bill is coming up again. We have tried to address the issue of "Money Bill" and created another authority, rather than the one we had, so that we ensure that at the end of the day, the Revenue Collection Authority (RCA) is put in place to ensure that revenue is collected and distributed.

Mr. Speaker, Sir, there are many Bills in the National Assembly that have been termed as "Money Bills". As the Senate, what we strive for are our communities. It behoves our work when we have sat in this Senate and our communities cannot be helped. The Natural Resources (Benefits Sharing) Bill was clear about the proportions to be given including 20 per cent for the Sovereign Wealth Fund (SWF) and 80 per cent that would go to the national fund. Within the 80 per cent, 60 per cent was going to the counties and 40 per cent was going to the communities.

Within those communities, 40 per cent was going to specific communities. That way, the cries that I heard from the old men and women in Mzima Hills in Kwale County to the point that they felt so disenfranchised--- They said: "Can we just have these minerals remain in those mountains, if need be." Today, in a WhatsApp message that is circulating, information is being given about the amount of money that is being reaped by companies that are exploiting natural resources.

I strongly support this Petition. Karebe Gold Mining Limited (KGML) has a case which extends to many other counties. These questions have to be put on the table and answered and proportions given out.

After the Natural Resources (Benefits Sharing) Bill, other Bills have looked at the whole idea of compensation and benefits sharing right from the national level to the community and given proposals. This is a good thing. However, even the Mining Act 2016 does not have those provisions.

It simply says that for a certain amount, distribution of 25 per cent will go up to the lowest level, which is the community and 75 per cent remains in the national Government. For as long as we have Bills that give a provision but do not put adequate

structures to ensure this happens, then it is all in futility. We need communities to be happy and not see natural resources as a curse. We need the KGML to be vindicated.

Thank you, I support this Petition.

Sen. (Eng.) Maina: Mr. Speaker Sir, I rise to support this Petition and commend the courageous Senator for Nandi County. I have seen him fighting this case in the media. However, this has been going on for a long time.

For this Senate, on a matter like this one, we can only resort to going to a committee. In this regard, let me address Sen. Wako, who was the Attorney-General and the Senior Counsel, my friend, Sen. Orengo. When the Constitution was being made, that was the right time to empower this House such that on matters like this, we can make decisions that are more or less paralegal. However, we are reduced to just maybe making decisions and one goes the long route. The Senator has said there is an old man here who has come all the way because of the pain that he has been going through. Justice has to do with the time it is delivered.

If the Senate is empowered, there are many things that it will streamline in this country. At this juncture, if the courageous Senator had been given the oversight funds, maybe he would have gone and employed the best lawyers like Sen. Mutula Kilonzo Jr. to represent these people. That is what is required. Therefore, we look forward to that time. Before then, I call upon you to ask the committee that will look into this matter to see the inhumane issues and expedite the Petition.

Secondly, let me also put it here that we are not here to scare away investors. We are here to work in a civilised manner with any investor who will come to Kenya, benefit the local people and also for him or her make whatever money he or she is making. However, it is deplorable and inhuman that one is making billions and cannot afford a paltry sum to keep the community in a way that they will feel that they have good neighbours.

Therefore, let us call upon ourselves, including the other Legislature, to expedite laws and make the time for justice less. We are fighting corruption in this country. The public is getting fatigued when cases get into a merry-go-round and take so long. We need to come up with a legislative mechanism where once it is decided, it is done quickly.

With those remarks, I support.

Sen. Wetangula: Thank you, Mr. Speaker Sir. This Petition is a wake-up call to many issues. I urge ---

(Sen. Kinyua stood up in his place)

The Speaker (Hon. Lusaka): Order, Sen. Kinyua.

(Sen. Kinyua took his seat)

Proceed, Sen. Wetangula.

Sen. Wetangula: Mr. Speaker Sir, whichever committee you will commit this Petition to, should go beyond listening to the complainants and coming to table a report and we forget about it. This Petition reflects on many issues that we have noted in this country.

One may recall, in Lolgorian in Narok County, there was a South African miner who literally used to park material mined in raw form in containers and take to South Africa, purportedly for research. Everybody knew he was carrying away gold and all other minerals attendant to gold. We need to ask ourselves why in this late hour in our history, we do not have a law that protects communities, investors, interests of the national Government and those of county governments.

We have just come from Australia with the Committee on Finance and Budget led by Sen. (Eng.) Mahamud. We learned from Western Australia that mining is owned by the counties or provinces where the mines are domiciled.

(Applause)

It is those counties that sit and negotiate with the national Government and determine what share of the proceeds will go to the national Government for national good to deal with security and other issues. We need to borrow a leaf from this Australian experience that, if gold is in West Pokot or Nandi County, it is those counties that should negotiate with the national Government to see what share the national Government should take out of this.

Lastly, the Senator has told us that this investor is making a million dollars a month. Our distinguished former colleague, Gov. Sang, is in the Gallery. One would be interested to know how much of this money is being given to the County Government by way of either taxation, honorarium or whatever form you call it, for the local community and the county development programmes. This is because it is not beyond reach for the county government - the governor is a lawyer - to mount legislation that will determine how investors in his jurisdiction can benefit the people that are in his county. This is also something that needs to be looked at.

Mr. Speaker, Sir, finally, I think this Senate needs to pick up again the Bill that was developed by Sen. (Dr.) Zani and look at comparable experiences, like the one of Australia that I am talking about. We can improve it even more, legislate, send it to the National Assembly and give it sufficient publicity to the extent that if they mutilate or reject it, then we take them to the court of public opinion.

Thank you.

Sen. Mwaura: Thank you, Mr. Speaker, Sir. First and foremost, allow me to say that the visit to this county is very important, because if Moses can go to the mountain, the mountain can also come to Moses. If you comparatively look at the issue of power relations, the people who have power have no knowledge and the people who have knowledge have no power. Today, we are here and have really benefited from insights of various actors within the finance sector and health sector with regards to how we can even strengthen our demands to the national Government, in order to protect the counties.

In fact, yesterday we really benefited from seeing the robust way in which our former Senator, now governor, Gov. Stephen Sang is working, with regard to the development of his County Integrated Development Plan (CIDP). Governors like Gov. Ferdinand Waititu and Gov. Mike Mbuvi Sonko can have something to learn from the young Gov. Sang; it is very important.

(Applause)

This is a game changer, going forward and it also justifies the reason we need young people in the position of governor.

Mr. Speaker, Sir, the issue of extractive industries, as represented by the able Sen. Cherargei, is really the bane of Africa, where people want to have legislation or regimes that do not clearly outline how resources will be shared. As a result, communities are deprived of their own natural wealth. This has been the case for far too long. It cannot happen that Africa has actually 30 per cent of the world wealth and yet, we remain to be the poorest. The case of this gold mining is a clear testament of what has been happening across the great continent.

When we talk about the resource curse, it is not a curse; let us disabuse ourselves of that notion. African people are not cursed. The problem is that we do not have clear-cut legislations, like the ones we have had from Australia, where everybody knows that when there is a contestation as to how resources will be shared, then the legislation takes the supreme role. We had a similar situation with the people of Turkana, and I am very glad that they were able to properly negotiate with the national Government.

It cannot follow that out of a profit of Kshs1.2 billion, the only amount of money you can give to poor people is 1 per cent, which only translates to Kshs10 million. What can Kshs10 million do to impoverished people? To add salt to the injury, a situation where you use your financial muscle from the same resources that you have extracted from a people, to even outrightly take away the land that belongs to them, as epitomized by the *mzee* who came to see us.

We need to be serious about this, and I would want to second the call by Sen. Wetangula that we should have Sen. (Dr.) Zani's Bill reintroduced. It is a matter of urgency that we protect ourselves from the abuses of people who think that because they can come with pen and paper, they are more intelligent than our fellow Africans and deprive us of our resources, go and develop their home countries and ours is to receive donations in terms of aid and go for debt, which is actually mortgaging our country.

I support this Petition.

Sen. Malalah: Thank you, Mr. Speaker, Sir. Before I contribute on the Petition by the good Senator for Nandi, I want to express my gratitude to the County of Uasin Gishu, the home of champions, although yesterday they failed to rise to the occasion when our first team thrashed them two goals to nil. It is only in the second half, when we did a ceremonial substitution, where Sen. Haji was the defender and Sen. (Prof.) Ongeru was the striker, and that is how they managed to score some flimsy goal.

(Laughter)

Sen. Haji: On a point of information, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of information, Sen. Haji?

Sen. Haji: Mr. Speaker, Sir, by the time Sen. (Prof.) Ongeru and I left, we had scored two goals against one.

(Laughter)

When we went out---

The Speaker (Hon. Lusaka): Sen. Malalah, do not misinform the House.

Sen. Malalah: Mr. Speaker, Sir, I think Sen. Haji is a wonderful defender. He came into the match and never touched the ball, but he was the defender.

(Laughter)

Today, I am also happy because I have seen real salvation. I have seen the manifestation of God in this House; what goes around comes around. Last week, when I was in the Senate trying to pump some sense and logic regarding the business of the House, one of the Senators, who is seated here, stood up and demeaned my contributions. The Senator even brushed me off and said: "Do you think that this is a county Assembly?" I am glad that, today, he is seated in the Chamber of the County Assembly of Uasin Gishu.

(An hon. Senator spoke off record)

Sen. Murkomen categorically demeaned my status as the Senator for Kakamega

(Laughter)

The Speaker (Hon. Lusaka): What is your point of order, Senate Majority Leader?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, is Sen. Malalah in order to, first of all, introduce a debate that was concluded by the Speaker at that time? But most importantly, how did I demean Sen. Malalah, when I called him "former MCA and the Deputy Minority Leader? I thought that by doing so I was actually elevating the position of an MCA to a higher level; that you can rise from being an MCA to a Deputy Minority Leader. I thought that was a good thing.

(Laughter)

The Speaker (Hon. Lusaka): I will check the records. If that is what you said, then Sen. Malalah has no reason to complain.

Proceed.

Sen. Malalah: Mr. Speaker, Sir, the Bible says "forgive and forget." So, I hereby forgive Sen. Murkomen for those reckless utterances.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Murkomen?

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Speaker, Sir. First of all, I do not know which Bible Sen. Malalah is reading. I thought you forgive and remember that you forgave. But more importantly, the Senate Majority Leader cannot make reckless remarks, particularly, if it is in the person of Sen. Murkomen, who has been the critical defender of MCAs, from the time Sen. Malalah was elected. That is why my defence enabled him to come to this House.

I think my record speaks for itself and Sen. Mutula Kilonzo Jnr. will bear me witness. Likewise, Gov. Sang, in the Gallery, and the former Senator for Mombasa, Sen. Hassan Omar, will bear me witness. This is because the three of us did a lot of work to protect the likes of Sen. Malalah and now they are enjoying that protection in this House. Can I really make reckless statements?

Sen. Malalah: Mr. Speaker, Sir, moving forward, I stand to support the Petition by the Senator for Nandi. This matter is not about Nandi County only. In Kakamega County where the real gold is found, our people are being exploited.

Mr. Speaker, Sir, when one goes to the village of Rosterman, we have a company which came to do leaching using cyanide. For those who understand chemical terminology, cyanide is a combination of carbon atoms bonded with triple nitrogen. It is very poisonous. The leaching company is using cyanide or cynamide or whatever---

(Laughter)

The Speaker (Hon. Lusaka): Order, Sen. Malalah! Use the correct terminologies. Do not mislead the House.

Sen. Malalah: Mr. Speaker, Sir, it depends on which school you attended. The most important thing here is the contamination of Isiukhu River. The company is using the river to do leaching which is poisonous. It is killing our animals and people downstream. This Petition is not limited to Nandi County.

On the issue of communities benefitting from mining companies, the Mining Act is very clear on the issues of Community Development Agreement (CDA). Why are we ignoring that aspect of CDA? Our county governments have the mandate for licensing. Before they license any company, I urge them to make sure that we have an elaborate CDA. It is sad that the poorest village in Kakamega County is the one that has gold. The poorest constituency by 2013 was Ikolomani, yet it has more gold than Nandi County

Sen. Mutula Kilonzo Jnr: And bullfighting!

Sen. Malalah: Yes, bullfighting. We want the people of Ikolomani to get the fruits of mining by Acacia Company. We want the people of Rosterman in Kakamega County to get the fruits of mining from Azima Contractors.

Mr. Speaker, Sir, the people who are supposed to help us benefit from mining are governors. We want to know how much money Kakamega and Nandi counties collected from mining.

Sen. Khaniri: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Khaniri?

Sen. Khaniri: Mr. Speaker, Sir, I rise on a point of order pursuant to Standing Order No.229 (h). The Petition was very clear. In our rules, the petitioner must have prayers. Is the Senator for Kakamega, honestly, in order to hijack a very genuine Petition that is genuinely before this House to be addressed, to include other issues that are not represented in the prayers of the Petition? Those are new prayers he is putting forth while the prayers of the Petition are very specific.

Sen. Dullo: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Dullo?

Sen. Dullo: Mr. Speaker, Sir, is it in order for Sen. Malalah to say that governors are the ones to be blamed for mining, yet the licensing of mining is a national Government function?

I thank you.

The Senate Majority leader (Sen. Murkomen): He is still learning.

(Laughter)

The Speaker (Hon. Lusaka): Order, Members. Sen. Malalah, you are out of order to introduce new things in the Petition.

Sen. Malalah: Mr. Speaker, Sir, that is why I said that it is important that before one becomes a Senator, he or she goes through the county assembly as a Member so that one understands issues of the county.

(Laughter)

The county governments are in charge of licensing at the county level. Kakamega County licenses mining companies in Kakamega. The trading licenses---

(Loud Consultations)

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Speaker, Sir?

The Speaker (Hon. Lusaka): What is your point of order?

The Senate Majority Leader (Sen. Murkomen): Is Sen. Malalah in order to completely mislead the House about mining licenses when we know that this House passed a very important law; the Mining Act that has responsibility on mining? These are some of the things I was raising.

The Speaker (Hon. Lusaka): Order, Sen. Malalah---

Sen. Malalah: Mr. Speaker, Sir, I simply said that for mining licenses, it is the mandate of county governments. Sen. Murkomen, I would like to encourage you to kindly vie for the seat of Member of County Assembly (MCA) in Elgeyo-Marakwet County in 2022, so that you understand who issues trading licenses.

The Speaker (Hon. Lusaka): Order, Sen. Malalah! The more you continue talking, the more you are confusing yourself. You are safer seated.

(Laughter)

Sen. Wetangula: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Wetangula?

Sen. Wetangula: Mr. Speaker, Sir, is it in order for the Senator for Kakamega to continue using terminologies interchangeably as if they mean the same thing? I think we should correct the HANSARD. Mining is not trading and trading is not mining. We cannot, therefore, say that when we talk of mining we mean trading and vice versa.

(Laughter)

Sen. Sakaja: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Sakaja?

Sen. Sakaja: Mr. Speaker, Sir, I have two concerns. Is it in order for us to use the Standing Order and points of order to bring in arguments and debate?

Secondly, I have noticed that since we started this sitting, we have not realised that there is a backbench in this House because not a single Member from the top row has been allowed to speak.

Mr. Speaker, Sir, I have constantly been on my feet on all the points. We must remember that in as much as Sen. (Prof.) Kamar is welcoming us here, I am the one who hosts you in Nairobi. Therefore, give me an opportunity to also contribute to the matter before us.

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members. As I mentioned at the beginning, we have extremely weighty matters still coming up for debate. You will have an opportunity to contribute unless you want to contribute to these ones that may not look very---

(Loud consultations)

Order, Members! The time is up for Petitions.

Hon. Senators, pursuant to Standing Order No. 232 (1) the Petition stands committed to the Committee on Labour and Social Welfare. In terms of Standing Order No. 232 (2), the Committee is required in not more than 60 days from the time of reading the prayer to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

I thank you.

Next Order!

(Applause)

Sen. Faki: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order?

Sen. Faki: Thank you, Mr. Speaker, Sir. We should acknowledge the presence of Mr. Mandago who I understand is in the House.

The Speaker (Hon. Lusaka): I was about to make that communication.

Sen. Faki: Thank you, Mr. Speaker, Sir.

COMMUNICATION FROM THE CHAIRACKNOWLEDGEMENT OF INVITED DIGNITARIES
TO THE SENATE SITTING IN UASIN GISHU COUNTY

The Speaker (Hon. Lusaka): Hon. Senators, I had already acknowledged some of the dignitaries that we invited. However, I now recognise the presence of His Excellency Jackson Mandago, Governor Uasin Gishu County who has joined us; hon. Hosea Kibet Korir, the Deputy Speaker, Uasin Gishu County Assembly; hon. Josphat Lodeya, Majority Leader Uasin Gishu County Assembly and Mr. Joseph Koech who is the Clerk, Baringo County Assembly.

On behalf of the Senate and on my behalf, I wish to thank our guests for honouring our invitation and joining us on this auspicious occasion.

I thank you.

Sen. Malalah: Mr. Speaker, Sir, today, I stand here as a very sad man. It is unfair for a Member of this House to stand and start contributing only for him to be interrupted with points of order. I had not even made my point. We are setting a bad precedent.

The Speaker (Hon. Lusaka): Order, Sen. Malalah.

(Loud consultations)

Order!

Sen. Wako: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Wako?

Sen. Wako: Mr. Speaker, Sir, I do not challenge your ruling in referring this matter to the Committee on Labour and Social Welfare but in the course of the debate, it occurred to me, and it is now a suggestion, that it should be jointly referred to the Committee on Labour and Social Welfare and another Committee that deals with natural resources. That is an answer to the Senator of Nyeri who asked why we put this thing here.

I want to assure him that everything is in this Constitution. We have a whole section on environment and natural resources in Article 69(1) (h) which says:

“The State shall-

utilise the environment and natural resources for the benefit of the people of Kenya”.

The definition of natural resources, other than the Constitution, includes minerals. When it comes to these resources, the Constitution has provided that the county assembly can also be concerned with agreements relating to utilisation of natural resources. If I understood my dear friend, Chairman, right, that is exactly what was said---

The Speaker (Hon. Lusaka): Sen. Wako, you have been heard---

Sen. Wako: If Sen. (Dr.) Zani’s Bill which touches on natural resources is directly relevant to the Petition before you in as much as it also concerns the sharing of that---

The devil in Africa today is that, the people on whose property the various mineral resources exist have been so much misused by these investors that the

environment where they live has been destroyed. They do not benefit from it. That is why sometimes it is said that natural resources in Africa are a curse.

The Speaker (Hon. Lusaka): Order, Sen. Wako.

Sen. Sakaja: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Sakaja?

Sen. Sakaja: Mr. Speaker, Sir, I beg that you consider the views of the Chairperson of the Committee on Labour and Social Welfare as you make your determination. What Sen. Wako has said is indeed true. There are certain elements that touch on different committees but that is also true for everything that comes before this House. There is no one matter that you will deal with that is squarely within the purview of one committee. There is always a legal aspect or a matter touching on a different Committee.

When I heard this Petition, issues of how workers are treated, labour laws, protective gear, the working environment and an issue that I am dealing with on the matter on SGR came to my attention. Many times we look at investors with rose-coloured glasses at the expense of Kenyans and a first class country can never have a second class citizen. That is something that we are dealing with.

However, as the Chairperson of the Committee on Labour and Social Welfare, I am extremely hesitant to deal with a Petition through a joint Committee. The logistics of getting quorum of two committees, the scheduling and the other matters before the Committees never allows us to fully pursue a matter. I have been in many joint committees.

If we feel that the bulk of this matter is environmental, I would like to sit on the Committee on Lands, Environment and Natural Resources to deal with it. We can come in and assist on aspects that touch on labour. If it is mainly labour, let my Committee deal with it then the other Committee can come in, but the logistics of joint committees are very inconveniencing to us, as Chairpersons, and to the Members of these Committees.

Sen. Cherargei: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Senator?

Sen. Cherargei: I think---

The Speaker (Hon. Lusaka): Not you. It is Sen. Madzayo.

Sen. Madzayo: Mr. Speaker, Sir, once you have made a ruling on a particular subject that is on the Floor, that is final. I do not see the reason my colleagues keep on going to and fro, whereas you have made a ruling on this matter. Is it in order? Can we move on?

The Speaker (Hon. Lusaka): I have directed that it goes to the Committee on Labour and Social Welfare.

Next Order.

We have a Supplementary Order Paper. We will now turn to the Supplementary Order Paper.

Are we all there?

NOTICE OF MOTION

COMMENDATION OF ELIUD KIPCHOGE FOR
BREAKING THE WORLD MARATHON RECORD

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to give Notice of the following Motion:

COGNIZANT THAT Eliud Kipchoge broke the world marathon record held by a fellow Kenyan athlete Dennis Kimetto during the 2018 Berlin Marathon held on Sunday, 16th September, 2018;

AWARE THAT Kenya has earned international respect in athletics over the years courtesy of such hard work and stellar performance by our athletes in both on and off the field events which has brought us together as a country and encouraged cohesion in line with our National Anthem;

FURTHER AWARE THAT athletics has created significant economic opportunities and infrastructure in the Rift Valley creating thousands of jobs for many would be jobless youth, thus engaging them in a productive and meaningful manner for purposes of nation building;

FURTHER AWARE THAT the youth are a critical component of the Big 4 agenda by the government and that development of athletics will lead to more productivity by a significant population of the youth who constitute a formidable part of the demographic structure of the country;

COGNIZANT THAT more support from the government is needed to fight the doping menace that has bedeviled our athletes and to encourage and motivate young and upcoming athletes to strive for excellence untainted by the vice;

NOTING THAT performances by our sportsmen and women are indeed commendable and deserve special recognition, the Senate now commends Mr. Eliud Kipchoge for his excellent performance in the Marathon and specifically for breaking the world marathon record and urges the National Government to-

- (1) Set aside additional funds to improve sports facilities;
- (2) Establish a conducive environment in the country by giving incentives to investors in the sports sector;
- (3) Provide psychosocial support to active and former athletes including a pension scheme; and
- (4) Create a fund to cushion athletes who are forced to early retirement due to illness, injury or other circumstances.

Thank you, Mr. Speaker, Sir.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I would hate for the Senate Majority Leader to get into trouble with the women of this county. Where is Gladys Cheron? This Motion should be amended to include Gladys Cheron for us not to offend the women. There might be some trouble for the rest of the week.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I only gave the example of Eliud Kipchoge because he broke the world record. In my moving notes, there are many other Kenyans who are holding world records including Daniel Komen and David Rudisha. When I come to the moving of those notes, we will recognise all of them.

The uniqueness of Eliud Kipchoge in this Berlin Marathon was the world record for there are many other marathons that take place every year.

The Speaker (Hon. Lusaka): Well said.

Sen. Malalah: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Malalah?

Sen. Malalah: Mr. Speaker, Sir, I rise to support the Minority Whip on the issue of---

The Speaker (Hon. Lusaka): You are out of order, Senator.

Sen. Malalah: I wanted to question---

The Speaker (Hon. Lusaka): What is your point of order?

Sen. Malalah: Mr. Speaker, Sir, the point of order is that the Motion that the Majority Leader, Sen. Murkomen, is tabling in this House is limiting. We need to widen it to include other people who have broken the record, including the Wanyamas and the Marigas of this nation, because the issue of us---

The Speaker (Hon. Lusaka): Order! Order, Sen. Malalah!

(Laughter)

The Speaker (Hon. Lusaka): Order! Order! Sen. Malalah, seemingly since you came to Eldoret, you have---

(Laughter)

The Motion that has already been brought cannot be altered. If you want to bring your own motion, you can do so and move it.

Next Order!

STATEMENT

IMPLEMENTATION OF CRA CIRCULAR ON EXPENDITURE CEILINGS FOR COUNTIES

The Speaker (Hon. Lusaka): Sen. Shiyonga.

(Loud consultations)

Sen. Shiyonga: Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to request the Statement. However, before I do that, I would like to join you in thanking the County Government of Uasin Gishu for hosting us in this County. We appreciate the leadership and the work they have done for us to enjoy their facilities.

Mr. Speaker, Sir, pursuant to Standing Order 48, I rise to seek a Statement from the Standing Committee on Finance and Budget on the implementation status of the Commission on Revenue Allocation (CRA) circular Reference CR/FA/01/Vol. 1122 dated 28th June, 2018, regarding recommendations on the County Government Recurrent Expenditure Ceiling for the Financial Year 2018/2019.

In the Statement, the Committee should-

(1) Explain why the county assembly service boards in all the 47 county assemblies discriminate against nominated Members of County Assemblies (MCAs) by failing to provide office rent and to employ partisan staff as per the CRA recommendation; and,

(2) Provide a report on the status of the implementation of the above referenced circular and, in particular, the provisions relating to the salaries and allowances for the three partisan staff and service rent to all MCAs, both elected and nominated, for the last five financial years.

Thank you.

The Speaker (Hon. Lusaka): Where is the Chairman of the Committee to respond?

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, I beg to reply. In the current financial year, as was in the last financial year, the current expenditure for county executives and county assemblies were actually segregated and dealt with. The circular which the hon. Senator is referring to was issued during the discussions we had with the CRA during the budget making processes.

In fact, during that process, the CRA recommended a figure of Kshs30,646,550,421 to be allocated as recurrent expenditure for county assemblies. However, after looking at it at length, we varied that figure and allocated an extra of Kshs1.7 billion to county assemblies across the country. This was meant to deal with issues of the increase in operations and maintenance of county assemblies as contained in the Gazette Notice of 2018---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, hon. Senators! Let us consult in low tones.

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, this was also meant to deal with committee sitting allowances – which were actually not taken into account by the CRA – to be based on 12 months and not 10.5 months, as already learnt. Therefore, this matter was exclusively dealt with during the budgeting process.

In fact, if the hon. Senator remembers, Schedule 4 of the current County Allocation of Revenue Act (CARA) details both the recurrent expenditure ceilings for the county executives and for the county assemblies. There is nothing beyond that, which we can actually deal with in terms of county assemblies. As far as we know, the assemblies are one entity and both the nominated and elected members enjoy the same rights. They are all entitled to get similar offices and allowances.

Therefore, as the Committee of Finance and Budget, we are not aware of any discrimination against nominated Members.

Thank you. I beg to reply.

[The Speaker (Hon. Lusaka) left the Chair]

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

The Deputy Speaker (Sen. (Prof.) Kindiki): I cannot see anybody on their feet. What is it Sen. Sakaja?

Sen. Sakaja: Thank you, Mr. Deputy Speaker, Sir. Is the Chairman of the Committee on Finance and Budget in order to purport to reply to a Statement that has just been given? It is very clear that what the Senator is asking for is not about the allocation but the implementation status. We know very well that as a Committee Chair, on top of the theoretical information that you have on how much was allocated, you are supposed to go and see if it is being implemented in the counties.

Mr. Speaker, Sir, I know of many county assemblies, including my County Assembly of Nairobi, where nominated Members do not have office space and staff. I also know of many county assemblies where nominated Members are treated as second class legislators, forgetting that many great Kenyans – including His Excellency President Uhuru Kenyatta; yours truly, Sen. Sakaja Johnson and Sen. Moses Wetangula – were once nominated Members.

(Laughter)

Mr. Speaker, Sir, is it in order for the Chair to dismiss the issue just because he knows he passed the budget, yet the Statement is clearly asking about the implementation status?

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well Sen. Sakaja---

Sen. Sakaja: Mr. Deputy Speaker, Sir, the Chair should move beyond the theory, go to the ground to ask county assemblies and make sure that the budget is followed.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, you have made your point and you have declared interest.

What is it Sen. M. Kajwang'?

Sen. M. Kajwang': Mr. Speaker, Sir, we have been through this, where a Statement is requested and a Chairman responds immediately. We have said that if it is possible for that to happen, then it will be very efficient; but it should not compromise quality and content.

Mr. Speaker, Sir, we need to have a broader interpretation on this issue of circulars, because our job is to legislate. However, there are also other circulars which bring certain matters into effect beyond our legislative duties. For example, there is a circular at the county level on which this request for a statement has been raised; there is also a circular on the residences of speakers; there is another circular in force right now that allows governors to invest in education infrastructure in primary and secondary schools.

Is it, therefore, in order for the Chair to purport to give a response without doing a thorough assessment of these issues of circulars and issues of legislation through circulars?

Mr. Speaker, Sir, we are complaining about legislation through presidential memoranda; we are getting another tyranny of circulars in this country.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, Sen. Kajwang’.

Order, Senators! Chairperson, you have been asked whether you want to give this answer now on the spot or whether you want more time.

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, the issue raised by the hon. Senator relates to the Financial Year 2018/2019. That budget has not yet been implemented; we are just starting now. I cannot be questioned about the implementation of the budget when we have not yet started implementing it. We will do so in due course. We are looking at how to follow budget implementation with the Treasury and the counties as we go forward.

It is, therefore, not in order for Sen. Sakaja to think that I should be talking about implementation because the question---

The Deputy Speaker (Sen. (Prof.) Kindiki): You are out of order, Chairperson. You cannot declare a fellow Senator out of order. You can only ask whether they are in order.

Sen. Kang’ata, is it on the same matter? If it is related, it can wait for a while.

Proceed, Sen. Mutula Kilonzo Jr. Make it quick. I know that you have the skills to abbreviate.

Sen. Mutula Kilonzo Jr.: Mr. Deputy Speaker, Sir, I will make it short. Your direction is important. In terms of budget implementation, we have somebody who does the budget implementation. The quarter had started. Therefore, you cannot check the implementation. We have just passed the cash disbursement schedule which will dictate whether they have implemented that budget.

Although, you have put the Chairperson on the spot, the correct position is that, at the end of the quarter, you have budget implementation but what is more difficult is that, the statement is general. We are not certain, as Members of the Finance Committee, which county the Senator is referring to. It could be one nominated Member of County Assembly (MCA) in one county.

So, please assist this Committee so that we do not enter into a wild goose chase.

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson, what is your recommendation? How do you want to dispose of this matter? Please do so, briefly.

Sen. (Eng.) Mahamud: Mr. Deputy Speaker, Sir, this is in relation to the matter which the Member asked in terms of the ceilings for county assemblies. After discussing with the Commission on Revenue Allocation (CRA), we struggled to make sure that the budget ceilings for expended items of recurrent for county assemblies were done and put in Schedule Four of County Allocation of Revenue Act (CARA) which is the law in place now. It is also in the Cash Disbursement Schedule which we sent the other day.

So, as far as the Committee is concerned, this matter has been dealt with. We increased the figures CRA brought to us in terms of expenditure for county assemblies by an extra Kshs1.7 billion, considering the longer sitting period, allowances for sitting and the recurrent expenditure. The assemblies were dealt together as a one entity. I am not aware of discrimination.

As explained by a Member of my Committee, Sen. Mutula Kilonzo Junior, we do not know whether the matter refers to all the 47 county assemblies.

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson, is it your position that you have answered the questions that were raised?

Sen. (Eng.) Mahamud: Mr. Deputy Speaker, Sir, as far as I am concerned, I have answered them.

The Deputy Speaker (Sen. (Prof.) Kindiki): Who is the owner of that Statement? We should not spend too much time on this.

(Sen. Kang'ata consulted loudly)

Order, Sen. Kang'ata!

Sen. Shiyonga: Mr. Deputy Speaker, Sir, there are two requests in the Statement.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Naomi Masitsa, are you satisfied with the answer from the Chairperson?

Sen. Shiyonga: Mr. Deputy Speaker, Sir, I am not satisfied.

The Deputy Speaker (Sen. (Prof.) Kindiki): What specific information do you require him to look for?

Sen. Shiyonga: Mr. Deputy Speaker, Sir, the Statement requires that he provides a report on the status of implementation for the 47 county assemblies.

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson, in the light of the specific request from Sen. Masitsa, I direct that you come back with further information in a week's time.

Sen. (Eng.) Mahamud: Mr. Deputy Speaker, Sir, budget implementation for ---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator. In one week's time, provide further information as requested by Sen. Masitsa.

We are done with that matter. Sen. Kang'ata, you know what you need to do. You have watched the House of Commons, you stand up or raise up your hand. Otherwise, the technology we are using is different. Is it related to this matter?

Sen. Kang'ata: Mr. Deputy Speaker, Sir, yes, it is related to the Committee that is headed by engineer. Allow me to seek your directions and maybe also from the Chairperson of the Committee on Finance, reason being that there is a matter that was committed before his Committee. Up to now, I have never known the status of that matter.

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

Sen. Kang'ata: Mr. Deputy Speaker, Sir, it is the County Ward Development Fund Bill. Allow me to explain.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator. If you want a statement on the status of the Ward Development Fund Bill, you know what to do.

Sen. Kang'ata: Mr. Deputy Speaker, Sir, I do not know. I seek your direction.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Kang'ata.

Sen. Kang'ata: Mr. Deputy Speaker, Sir, allow me to explain. The reason I asked that---

The Deputy Speaker (Sen. (Prof.) Kindiki): Either you know what to do or you ought to know.

Sen. Kang'ata: Mr. Deputy Speaker, Sir, I have, in an informal manner, been asking people in the corridors. I have written an official letter to the office of the Clerk inquiring the status of ---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator. Resume your seat. You will get help from the Clerk-at-the-Table. They will advise you on how to pursue that matter.

Thank you, hon. Senators. That was the only Statement on the Order Paper. What is it, Sen. Sakaja?

Sen. Sakaja: Mr. Deputy Speaker, Sir, I am sorry to take you back. It is on the same. Just as Sen. Kang'ata has asked, one of the first statements that were made in the Senate was the statement I issued requesting information from the Committee on Finance on Kshs58 billion owed to Nairobi County Government. We exist to protect county governments. I have also never received any report on that Kshs58 billion.

Further to that, when I gave the first state of the county address about Nairobi County, I raised issues on revenue collection and asked that the Committee – there was direction from the Speaker's Chair that the Committee on Finance and the Committee on Devolved Government look into the issues I raised, especially, with respect to revenue collection in Nairobi City County. To date, I do not have responses.

The Deputy Speaker (Sen. (Prof.) Kindiki): Is that a request for a statement?

Sen. Sakaja: Mr. Deputy Speaker, Sir, when we are at statements on the Order Paper, we can also ask for status, with your indulgence. You can be kind enough to allow the Chairperson of the Committee to respond to us because that is why we exist. We exist to represent our counties.

Those statements do not lapse. I have heard ---

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Sakaja, I am sure you are aware that we have a new regime for statements which is now effective.

So, you might want to acquaint yourself with the new way of doing things.

Sen. Sakaja: Mr. Deputy Speaker, Sir, it is a relief to me because it means I can also do away with all the statements I have been working on in my Committee on Security and the Committee on Labour and Social Welfare. I will bring the statement again with regard to Nairobi on Kshs58 billion and Revenue Collection. I am sure the Chairperson will be so kind to give us answers.

The Deputy Speaker (Sen. (Prof.) Kindiki): Chairperson, have you noted? Do you want to say anything?

Sen. (Eng.) Mahamud: Yes, Mr. Deputy Speaker, Sir. On the same note, in the old regime of answering statements, at some point we stopped. Now that we have a new process, what happens to the pending statements that were requested? Have they lapsed? Do we start afresh? We want guidance from the Chair.

The Deputy Speaker (Sen. (Prof.) Kindiki): There was a substantive ruling on this matter. When you change a law, it replaces an old one and the new one takes its place, unless it is saved in transitional clauses.

What is it, Sen. (Dr.) Zani?

Sen. (Dr.) Zani: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. Sakaja in order to refer to the fact that some of the statements might have been dropped as a result of the changes that have been made as a relief? It should be a pleasure for the Chairperson of any Committee to bring all the statements that are sought. They help us to answer questions from *wananchi* and key areas of importance. It is part and parcel of the dignity of being a Senator and a Chair of the Committee.

Is he in order to use such language?

Sen. Sakaja: On a point of order, Mr. Deputy Speaker, Sir. I do not know where that is coming from but if you heard what I said, when I said that it is a relief, you know for sure from your Chair, that I am one of the best performing Chairpersons who has brought all statements raised to the Committee. Sen. (Dr.) Zani cannot try to impute that I sit ---

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

Sen. Sakaja Mr. Deputy Speaker, Sir. On top of bringing statements, I take individual Senators to different agencies concerned. Is it in order for Sen. (Dr.) Zani to impute improper motive that it is not a pleasurable experience for me to bring responses to the House while I really enjoy?

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

Order, Senators, the old order on Statements came to an end. We now have a new way of dispensing Statements. There was a particular Communication from the Chair on that issue. For the avoidance of doubt, it should be clear that the Statements requested under the old regime lapsed with that regime. It is so ordered.

Let us move on to the next Order.

BILLS

First Readings

THE COUNTY LAW COMPLIANCE AND ENFORCEMENT BILL
(SENATE BILLS NO.25 OF 2018)

THE COUNTY EARLY CHILDHOOD EDUCATION BILL
(SENATE BILL NO.26 OF 2018)

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT
OF ECONOMIC AND SOCIAL RIGHTS BILL
(SENATE BILL NO. 27 OF 2018)

*(Orders for First Readings read – Read the First
Time and ordered to be referred to the to the Standing Committee on
National Security, Defence and Foreign Relations, the Standing
Committee on Education and the Standing Committee on Justice, Legal
Affairs and Human Rights, respectively)*

COMMUNICATION FROM THE CHAIR

COMMITTAL OF BILLS READ THE FIRST TIME
TO STANDING COMMITTEES

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, I have a Communication to make. Pursuant to Standing Order No.141, a Bill having been read a first time shall stand committed to the relevant Standing Committee.

In this case, the following Bills stand committed to the following committees-

(1) The County Law Compliance and Enforcement Bill (Senate Bills No.25 of 2018) stands committed to the Standing Committee on National Security, Defence and Foreign Relations;

(2) The County Early Childhood Education Bill (Senate Bills No.26 of 2018) stands committed to the Standing Committee on Education; and,

(3) The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No.27 of 2018) stands committed to the Committee on Justice, Legal Affairs and Human Rights.

Hon. Senators, pursuant to Standing Order No.140(5) and No.143(1), the committees to which these Bills have been committed to, shall facilitate public participation on their respective Bills and report to the Senate within 30 calendar days from today.

Let us move on to the next Order.

BILL

Second Reading

THE PETROLEUM BILL (NATIONAL ASSEMBLY BILLS NO. 48 OF 2017)

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, this where I now feel the pressure of space---

Sen. Mutula Kilonzo Jnr.: You cannot move the microphone!

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Murkomen. That is a fixed asset.

Hon. Senators: It is immovable!

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

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move that the Petroleum Bill (National Assembly Bills No.48 of 2017) be read a Second time.

From the onset, I know this is a very important Bill. I am expected to take at least one hour to prosecute this Bill. From the beginning, I wish to state that I will not take that one hour because of the interest on this Bill by Members. They have already told me that they would like to contribute to this Bill this afternoon. Therefore, I will restrict myself to about 15 to 20 minutes to just highlight the salient issues regarding this Bill.

This Bill is extremely important. As a way of introduction, the Constitution makes it clear that resources that are found in our country must be used for the benefit of the people of Kenya.

Secondly, these resources must be shared in a manner that benefits the local communities and their economies. This is very clear in the Constitution. So, this Bill is drafted and founded on that basis.

Thirdly, the history of establishing this Bill is based on the fact that Kenya explored and established that we have petroleum in this country. So, the Ngamia 1 we all know now is a very viable block. We are possibly going to have oil in the country.

Sen. Olekina: On a point of order, Mr. Deputy Speaker, Sir. I do not intend to derail any debate on this very important Bill. However, I seek your direction because I sit in the Committee on Energy and we have a report which we are about to table today. I wonder, for it to be able to enrich the debate, whether we can wait for this debate to---

This is very important because when you talk about public participation, we invite the public to share their views. These Senators, sitting here, representing 47 counties, it would be important for them to have an opportunity to look at the report and the submissions made by all the stakeholders because this is an important issue we are dealing with. This is a natural resource.

Mr. Deputy Speaker, Sir, if you could just direct, because it will enrich the debate further when we have an opportunity to read the report.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Mover, what do you have to say?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, it is very unfortunate because Sen. Olekina is a Member of the Senate Business Committee (SBC). He was there when we scheduled this business. He was very supportive that it should have been prosecuted from 2.30 p.m---

The Deputy Speaker (Sen. (Prof.) Kindiki): He could have changed his mind.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, even if he changed his mind, he cannot do so as a Member of the SBC without approaching the Mover of the Bill. That will only denote bad faith. More importantly, if the report is ready I am surprised that they did not approach the Chair to facilitate tabling of that report in good time. If that report is ready, it should be tabled but there is no procedure now for tabling that Report. To add on to that, I am already moving the Bill; I am not out of order.

The Deputy Speaker (Sen. (Prof.) Kindiki): Majority Leader, you cannot declare yourself not out of order. That is not your province.

Sen. Mutula Kilonzo Jnr., do you want to say something before I make a short ruling?

Sen. Mutula Kilonzo Jnr: Mr. Deputy Speaker, Sir, it is good practice that the committees obviously give us reports so that we have the benefit of the information they receive from the public. However, we should not allow the committees to stifle us; then the committees will not do their work and then the business of the Senate will then hang.

This Senate is diligent, we have good Senators, we can proceed and then the Chair and the Committee can have an opportunity at some point to present those observations. However, since the Senate Majority Leader is on his feet and we slotted this during the SBC, I think he should proceed.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators. The Plenary of this House is superior to its committees. These committees serve this House. That is number one.

With or without the report of the Committee, this Senate can still continue with business. However, our tradition has been to give the House Committees an opportunity, as the expert agents of this House, to provide us with reports.

Thirdly, we cannot anticipate a report which is not before us.

Fourthly, it is unlikely that this matter on this Bill is being disposed of completely today by way of Division in the Second and Third Reading stages. For that reason, there is still room for the report of the Committee on Energy to inform the final results of the final Division after the Third Reading.

Therefore, I direct the Senate Majority Leader to continue. Before you take the Floor, Senate Majority Leader, you have up to 20 minutes and I will also give the Senate Minority Leader an equal amount of time. If he uses less, the better, but I will also allow him up to 20 minutes. After that, because of the high interest on this matter and also considering that we have many other Bills competing for our attention today, I will direct that thereafter, contributors take not more than five minutes.

It is so ordered.

Sen. Sakaja: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Ni nini, Sen. Sakaja?

Sen. Sakaja: Bw. Naibu Spika, tuna kikao katika kaunti ya Uasin Gishu ili kuleta Bunge la Seneti karibu na wananchi. Kwa sababu tunazungumza kuhusu mambo ya mafuta, ni vyema umwambie Kiongozi wa Wengi aongee katika Kiswahili ili wananchi wa Kenya wasikie. Tuko katika Jimbo la Uasin Gishu na mambo ya mafuta yanahusu Wakenya wengi. Ninajua kwamba, anajua Kiswahili kwa sababu ni hodari katika lugha ya Kiswahili. Ni vyema azungumze katika lugha ya Kiswahili.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Sakaja! Let us not spend much time on this. The Speaker does not act whimsically. The Speaker is guided by the Standing Orders. Standing Order No.87 is very clear, that any Senator, including the Senate Majority Leader, can use Kiswahili or English. The only caveat is under Standing Order No.87 (2), which required that the language you start with must be the language you should continue and end with.

Let us have the Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I was willing to take the challenge. The only problem is that I am not willing to break the Standing Orders because I had already started in English. Let me just continue in the language that I started with.

I thank you for that direction. I offered to use 20 minutes. I was at the point where I was saying that part of the background to this Bill is the establishment that Kenya is endowed with natural resources in the form of oil. With the discovery of oil in Ngamia 1-

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(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order Senators! Those who are retreating to do so in silence. Sen. Murkomen, you may proceed.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, this Bill was enacted to answer to the challenges that Kenya as a country is facing as a result of discovery of oil in Turkana. It is now public knowledge to all of us that we have oil in

Lokichar area in Ngamia 1. It is not just that we discovered oil but it is of commercial value and that Kenya is in the process of establishing how to export the important resource.

It is also important for me to notify Members that it is not only Turkana where we have oil. Large deposits of oil have been found in Elgeyo-Marakwet County. This is the right forum for us to have this discussion about the importance of petroleum law. I would like to request Hon. Members, even as they make their contributions, to prepare themselves to give suggestions on how we can better this law. Yesterday, it was Turkana, today is Elgeyo-Marakwet, tomorrow it could be Lamu and next day Homa Bay. The rest of the country will benefit from this Bill.

Thirdly, many of us have contributed earlier in regard to the Petition that came from Nandi which we discussed. It is about the fear that natural resources are a curse and that in countries that have natural resources, it has led to conflict in the areas.

We know the story of the Democratic Republic of Congo (DRC), which is a big country. It is almost a quarter the Continent of Africa and they have challenges in so far as resources are concerned. However, we also know of other countries that have positive examples. We have countries like the United Arab Emirates (UAE) that have used their natural resources very well to develop the country and diversify. Although we say that they do not have democracy like we do, they have leaders that have a foresight who know that natural resources are short-terms. For that matter, they have diversified. That is why most of us know about Emirates Airline.

Many people who know about emirates do not know about oil. Instead, they know about Dubai and Abu Dhabi. They know that Dubai is a well-built city. They know about Emirates Airline because they are aware of the well-established transport in that great country.

By way of introduction, I just want to add that in about 2014/2015, I had an opportunity of escorting the former President of Nigeria, Mr. Goodluck Jonathan, who happens to come from the Delta region where there is a lot of oil. He told me one important thing, that as a country, we must think about the legal framework before we start selling or exporting oil. So, a legal framework is important because it can be a source of conflict.

You saw what happened in Turkana the other day. I had an occasion to attend some of the negotiations regarding this Bill about sharing of the revenue, the benefits that should go to the county and what should go to the local community and establishment of a Trust Fund for the local community and it is extremely emotive issue. That is why as a nation, we must take this Bill extremely serious.

Part 1 of this Bill is about exploration, development and production of petroleum. So, it covers exploration, development and production but also transport upstream to downstream of petroleum. This Bill has been prepared through extensive public consultation.

I want to acknowledge the effort of leaders of Turkana who took it upon themselves to almost believe that this Bill is about them and the county. The Governor of Turkana, Members of Parliament (MPs) from Turkana and Members of County Assembly (MCAs) of Turkana have helped the rest of Kenya because the oil was discovered in their region. They have helped the rest of Kenya to reflect on the issues that

would be pertinent in a local community in so far as the establishment of this very important resource is concerned.

Having watched some of the debates in Turkana and people saying that because of the oil prices – like Sen. Sakaja was trying to challenge me to say something about the price of oil – in Turkana, they were saying that now that we are taxing petroleum, they would like the national Government to prepare a different “tap” so that they collect their oil directly from there and use it. You can imagine the kind of misconceptions people have about the oil business.

The law provides that the national Government must provide a national petroleum strategic plan. Just the way we have county integrated development plans, we must have a national petroleum strategic plan which is developed in a consultative process and which provides guidance on its implementation via a national policy. That is very important. Once we pass this Bill, it will be mandatory that every Kenyan must have a say, through their representatives, on how to deal with issues of how to explore, develop and use petroleum resources in this country.

It also provides that the national Government may conduct upstream petroleum operations on its own or through the National Oil Corporation of Kenya (NOCK), for example, which is a public company owned by the people of Kenya. Most people know about the Aramco cases which relates to the oil exploring and selling companies in Iran.

Mr. Deputy Speaker, Sir, I know that you are a prolific teacher of international law. You know very well the negotiations that went into the issues of nationalisation of American companies in Iran after the 1979 revolution and what followed. In many countries like Libya and the United Arab Emirates (UAE), oil operations are done via national companies because of the importance of oil to the national economy. It is time we started thinking about strengthening national companies to operate like private companies, with the kind of responsibility that is expected of private entities.

For a long time the behaviour of public officers, who are appointed to run Government parastatals in this country, has been wanting. However, with the reforms that we are putting in place to ensure that accountability becomes the order of the day, it is expected that companies like the National Oil Corporation of Kenya (NOCK) will take great responsibility in conducting upstream operations of petroleum. Let me emphasize this point because the law permits private contractors or any other person, as prescribed by an Act of Parliament, to be also involved.

I have personal preferences and believe that the sovereignty that comes with natural resources – particularly with the magnitude of oil and the sensitivity that is involved – it is important for the national Government and the people of Kenya to have control. We do not want to find ourselves being mortgaged to other countries.

I do not want to mention other nations because of my position and jeopardise the international relations, but there is a country that I visited the other day which gave out all their oil exploration to another country from the Far East. Since they are not meeting their financial obligations, that country says that it will take over the management and ownership of exploration, marketing and selling of oil in that area. It is important, and I hope that the Committee looked at this in their Report, to find out how the nation and people will have control.

Part III of the Bill deals with a very important concept about licensing and reviewing of licenses. It is important to understand that the Cabinet Secretary (CS) has

been given certain responsibility, but not to perform as an individual. The law makes it clear that there must be an establishment of a National Upstream Petroleum Advisory Committee. The responsibility of that committee is to advise the CS on how to deal with negotiations on petroleum agreements. Again, this is an area that Kenyans must insist on transparency, because it is possible for some people to mortgage the country by giving exploration certificates and licences, shrouded in mystery, to certain individuals.

Mr. Deputy Speaker, Sir, since exploitation is going on in Elgeyo-Marakwet and Turkana counties, we challenge the national Government, through the Ministry of Energy and Petroleum, to make public all the exploration agreements without exception. This is because these resources are not owned by a Ministry or office of the national Government, but by the people of Kenya. They are given by God for the benefit of the people of Kenya. In the interest of transparency and accountability, these agreements must be made public.

That is why this law, unlike the existing one, makes it clear that all the agreements related to upstream petroleum operations and matters related to policy, must be subjected to an advisory committee that deals with those issues related to licences. This advisory committee also assists the CS in developing criteria for negotiation of the petroleum agreements.

Part IV of this Bill provides for upstream petroleum rights and management of petroleum resources. This is where the licences are obtained for operations from the Authority and the procedure has been set out as to how that licence will be achieved. It explains how a person will apply for a licence, the authority will review and, finally, the CS will have the authority to give the licences.

Part IV of the Bill also provides that the licensing agreement, unlike in the past, must make the licensing process predictable, so that it enhances confidence in negotiation and the award process. It is important for the people of Kenya to know who the investor is in that particular sector. It is also important for the investors to know that if they would like to invest in the oil sector, there is no favouritism; that other people are negotiating better terms in one corner and they are expected to abide by other obligations that are beyond what they can do. In that regard, it is important that the Bill provides that the negotiation processes must be transparent and accountable to the people of Kenya.

Mr. Deputy Speaker, Sir, this Part is also important as it requires submission to Parliament of a field development plan. Parliament includes the Senate of the Republic of Kenya and we will have an opportunity and responsibility in so far as contracts related to production are concerned. They must come to Parliament for ratification. It is key that we have a say in ratification. There is also a set timeline; that if we do not act swiftly in 60 days, that agreement will be assumed to have been approved by Parliament. It actually compels Parliament to take action once the agreement is brought before the House.

There is also protection and disclosure of information to third parties that are related to agreements with investors in the sector. There are also very important provisions in so far as local content is concerned. The Bill provides for a framework for local content on matters to do with training. Any external contractor or person, who has been made a contractor in an area where there is oil, must ensure that he gives priority to service providers and goods that are produced in the local area.

Mr. Deputy Speaker, Sir, it also gives priority to goods that are manufactured in the local area. This encourages establishment of factories and manufacturing plants in

areas where oil is established. This can be done and it does not have to be that the national Government must ensure that there are factories. For example, if it is Makueni County, priority could be given to the milk that is being produced in a factory established by the people there, through the County Government of Makueni. Again, Makueni County is processing tomatoes and so on. This will encourage counties, local investors and communities.

In Elgeyo-Marakwet County, we have a mango processing plant that has been established by the Kerio Valley Development Authority (KVDA). This is one of the few parastatals whose headquarters are out of Nairobi City County. The headquarters is in this town. They have done a good job and established a mango processing plant in a place called Tot in Kerio Valley. Some of those factories must be given priority. It also includes providing a training fund to provide capacity building and training to local people, Kenyans, and local institutions. All these are requirements for the contractors who are going to deal with petroleum exploration.

The other very important provision is in Section 7, which was negotiated such that the national Government actually sat on this Bill for over a year. Finally, after protracted negotiations, the President ceded to Section 7 in so far as what the people of Turkana deserved. We must always acknowledge the pioneers of this negotiation; the county leadership of Turkana took it upon themselves to take care of this Section 7. It was almost impossible that the national Government would cede up to 25 per cent of resources and benefits to the local community because of the history and the tradition of the issue.

I was in that negotiation and it was not easy. However, the County Government of Turkana stood their ground and Section 7, which provides that the county government shall get a share of 20 per cent of the national Government share of the benefits or resources that come from the petroleum products was agreed on.

Secondly, it states that there will be a local community with a trust fund which will get five per cent. If Senator---

Mr. Deputy Speaker, Sir, I beg for your indulgence; I did not think that 20 minutes was going to be very--- You can see the Bill for yourself and you have---

The Deputy Speaker (Sen. (Prof.) Kindiki): Yes, Majority Leader, I have seen the Bill; but I have also seen the Order Paper.

(Laughter)

All Senators in the chamber are all eager to contribute.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, if you give me another five minutes, I will complete my contribution.

The Deputy Speaker (Sen. (Prof.) Kindiki): You have three minutes.

The Senate Majority Leader (Sen. Murkomen): Okay; in addition you have added three minutes.

(Laughter)

Mr. Deputy Speaker, Sir, I was trying to say that Section 7 provides for that local trust fund. If Sen. (Dr.) Zani can remember, this is exactly the provision we were trying

to push in the Mining Act and the Local Revenue Sharing Bill that we tried to develop in the Committee that we sat in together. We must have a local community that will have a trust fund. This law confines this trust fund within the ward where that oil production is found.

However, Mr. Deputy Speaker, Sir, there are challenges, because sometimes resources will be found in a boundary between one ward and the other. More importantly, these resources can be found between a ward which is a boundary between one county to the other. These are the issues that we must grapple with, as we go forward, and find out how these issues can be dealt with. I know that Sen. Mutula Kilonzo Jnr. has a Bill that deals with the issue of county boundaries. A part of the reason why we have an escalation of boundary disputes is because you will find a very docile barren land where nobody is bothered about where the boundary is passing until the day you are told there are gold or oil deposits there.

That is when you now have one county fighting with another. This is because 20 per cent of the benefits that will come to that county means that it will ensure that, that county is self-sufficient. I really hope that Elgeyo Marakwet gets oil and in larger deposits than any other county in the Republic of Kenya. I know that such a prayer is not a fair prayer but---

The Deputy Speaker (Sen. (Prof.) Kindiki): It can be understood.

The Senate Majority Leader (Sen. Murkomen): Yes, it can be understood.

Mr. Deputy Speaker, Sir, if you have less than Kshs1 billion for the development fund in a county, this is wonderful. That is because if we get high deposits of oil in Elgeyo Marakwet, I am very sure that the investments that come with supporting local community; the question related to the resources that come to trust fund and the fact that there are other resources that will go to the county government which we can use to develop our counties.

That is not just for the county of Elgeyo Marakwet; I pray that all the other counties get something. I pray that we get some oil in another county; we get diamonds in another county and gold in another county and precious stones in Tharaka Nithi. This will make our counties very viable so that they can be attractive areas of destination.

Finally, Mr. Deputy Speaker, Sir, I want to emphasize two things. The law provides for a framework for compliance with the environmental, health and safety standards, which include strict standards for waste management. This also includes the need for proper maintenance of the contract area to ensure that the environment is safe. The environment is very important and the reason why we have many diseases is because we have messed up with our environment. This Law---

Mr. Deputy Speaker, Sir, the three minutes begin now. This law gives us a great opportunity to deal with environmental issues to ensure that we do not have a situation where we will say that the environment is not important; as long as we get the money; we get the resources. You can have the money and the resources, and then as a result of destroying the environment, you have drought or you have diseases that you are unable to cure using the money that you have earned.

In conclusion, Mr. Deputy Speaker, Sir, this law also provides for the protection of community rights, rights to participation, compensation, sensitization, capacity building, among many other issues. I know that the Chair of the Committee – the Minority Leader – and the rest of the Committee Members will add something to it to

educate this House about the strength and importance of this Bill. I urge this House to come together – like Sen. Orengo said earlier – as usual in a bipartisan manner to look into this Bill.

We should look at it with the people of Kenya, posterity and with the greater interest of this nation in mind, just like we have always done. This is to demonstrate our position, as the Senate that is willing to listen to various views from the people of Kenya; but also will apply good judgement to ensure that this law is passed.

Mr. Deputy Speaker, Sir, I beg to move and ask the Chair of the Committee to second.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Order! Order! I took the liberty to add you another two minutes because I thought you needed to conclude. That is for the Minority Leader to note; that if need be, we will also treat him equally when the time comes. However, if he can shorten debate, the better.

Chairperson of the Committee, can you Second in ten minutes or less?

Sen. (Eng) Maina: Thank you, Mr. Deputy Speaker, Sir. I rise to Second this Bill. I also rise to outline the origin and importance of this Bill. This Bill comes at a time when Kenya was supposed to be joining the oil league of nations. It has also been regarded with utmost importance by all the Members in the Committee. I am glad to say that the Senator for Turkana, where the first oil reserve was discovered, is a Member of this Committee; and he carries the approval of this Bill.

Mr. Deputy Speaker, Sir, the issue of oil is not just an issue of extraction; it also entails many other activities before you come to what people see as the end result – the dollar. This Bill starts with looking at streamlining the operations upstream at the extraction stage. It looks at the importance of the protection of the environmental impact of any exploration where any extraction is being done.

The Committee on Energy was particularly concerned that we do not want people exploring oil in this country to leave our environment and, of course, the local communities with environmental degradation. After that, we looked at the downstream of the oil, all the way to the point where the oil will end up. Our Committee was guided by the interest of wanting the Turkana community, who have come as the first beneficiary of this kind of resource in this country, to be given the maximum justification and to be treated with the best justice that there is.

Mr. Deputy Speaker, Sir, I congratulate the people of Turkana for their resilience and steadfastness. It took nearly over a year and a lot of fatigue for everybody involved arriving at what is considered a win-win situation. Thereafter, the Committee went ahead and met all stakeholders including various Non-governmental organisations (NGOs). The Turkanas were given the first priority being the people who were going to be most affected.

We also took into account the likely conflicts and curse that can come with oil. Therefore, we believe that at this juncture we have come into a situation where everybody comes out a winner. I was personally very gratified and relieved when the Senator for Turkana County who used to be always on the other side with his people said that what we did was what they considered just for their people.

Mr. Deputy Speaker, Sir, let us assist the people of Kenya through the Turkana people knowing that we all have witnessed how the Turkanas stood fast. If they said, “Yes” who else is there to say, “No”?

We looked at the justice and framework that we would consider to give benefits to the people. There is the Petroleum Fund that will be set up. I must tell this House that the Committee considered very seriously the fact that we must ensure that the people who are supposed to be beneficiaries are duly safeguarded.

We have all witnessed resources being given to various organisations and they do not benefit the people. We put a clause in the Bill stating that there will be the National Trustee who will be held personally responsible if the fund is not utilised for the benefit of the people. We were concerned that whatever benefits come, they should not be given to some organisation and then end up in the way we have been witnessing. Being Senators, we came out with what we consider best. There is no other Bill that took us as much time and that we went through with the most consciousness than this one.

Mr. Deputy Speaker, Sir, we also went through the matter of training. We felt and I think justifiably- that even the Turkana must be given a chance. In the Bill, there is provision or methodology of establishing the oil polytechnics. In this regard, I can inform this House that we went to the point of witnessing that Canada as an example is a country that has gone very much ahead. This Fund will ensure that the people of Turkana benefit from the oil.

We also considered another case where we do not just want the investor to come here, extract the oil, take it away, come out with his billions and then Kenyans and Kenya at large is left hanging. We looked at a methodology which is in the Bill where the local entrepreneurship starting with whatever is available in Turkana and elsewhere will be periodically involved in the extraction and maybe the whole service delivery of the oil. In this regard, we took an example of a country such as Nigeria which has done fairly well. They started without anybody who knew about oil---

(Laughter)

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

Sen. (Eng.) Maina: Thank you, Mr. Deputy Speaker, Sir, for protecting me. Once in a while, this protection is needed.

The Deputy Speaker (Sen. (Prof.) Kindiki): Always needed.

Sen. (Eng.) Maina: Thank you, very much. Do not count that time. We took into account that we will be safeguarding the local people. We have put in the Bill a methodology of ensuring that people will be enticed and come out in Kenya as entities standing in their own right as experts in the oil field.

In all that we were looking at, as a people of Kenya; as much as we wanted benefits for our people, we were in recognition of one thing that I must tell this House: One can stand here and say he is speaking on behalf of the people of Kenya on Turkana. However, this business is not a child's game but entails billions of shillings. We have seen the person extracting oil in Turkana coming to a stop. That is a sad thing because people will come here - and they are not that many in the world - to put their billions because they feel there is the environment they need. This Bill and the laws that we are putting in place will be expected to create that kind of atmosphere.

The Deputy Speaker (Sen. (Prof.) Kindiki): Please, conclude.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, in doing all this, we were guided by the principle of the interest of the people of Kenya. We would wish that the children of

Turkana have the best of education out of the fund from this oil and that Turkana becomes a granary for Kenya and an agricultural stronghold, the way we have seen the people in the Arab Emirates investing their money in the right ways. This is what this Bill entails.

I therefore, ask this House that we come together---

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Time is up. Thank you, Sen. (Eng.) Maina.

Sen. (Eng.) Maina: Can I have one minute?

The Deputy Speaker (Sen. (Prof.) Kindiki): You have one minute. Please conclude.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, in my language, one minute can mean five but let me use three minutes---

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator. There is only one language in this Chamber - that is the language of the Standing Orders. You have one minute.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, let us all be guided not by the divisive political notions that we have, by looking at this Bill in the spirit of the "Handshake" - the miraculous and religious thing that has occurred and given Kenya the road to prosperity.

With those remarks, I beg to second and beseech this House to support it for the benefit of our people.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well, Thank you. Let us have the Senate Minority Leader (Sen. Orengo).

The Senate Minority Leader (Sen. Orengo): Thank you, Mr. Deputy Speaker, Sir. I rise to support this Bill---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator! One minute, please. There is a procedural issue we skipped. Resume your seat.

(Question proposed)

The Senate Minority Leader (Sen. Orengo): Thank you, Mr. Deputy Speaker, Sir. I wish to support this Bill. It is important to have a framework for the contracting, exploration, development and production of petroleum.

Speaking after the Senate Majority Leader and the Chairperson, this House should pay close attention to this Bill because it is a very important Bill. If we are not very careful, we will end up committing the greatest sin against this nation.

I would like to inform the Seconder that if we go his direction, then one can commit a crime and plead the handshake. However, we will not plead the handshake on this Bill because we must do the right thing. We must make sure this Bill will protect this very important industry.

Sen. (Eng.) Maina: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. (Eng.) Maina?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, my dear friend and former schoolmate---

The Deputy Speaker (Sen. (Prof.) Kindiki): Which one? Who is your schoolmate?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, it is Sen. Orengo.

The Deputy Speaker (Sen. (Prof.) Kindiki): Okay, proceed.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I respect him, but his misunderstanding of my intention based on what I said should not be allowed to go unchallenged. He is insinuating that I want to use the handshake to do an ulterior thing which is not the case.

The Deputy Speaker (Sen. (Prof.) Kindiki): What are you doing with the 'handshake'?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I was just appealing that the handshake brought an atmosphere where we do not have combativeness just for the sake of it.

The Senate Minority Leader (Sen. Orengo): Point taken, Mr. Deputy Speaker, Sir.

We should not lose the fact that oil is a curse. We have no doubt that oil is a curse. This is because there are studies that have been done by some scholars in this industry and they have said that democracy has not worked in the countries where oil was discovered after the year 1960. In fact, authoritarianism has sipped in to an extent that was never imagined. They have given some examples to back up findings.

If you look at oil producing countries in Africa, be they in West Africa, or Central Africa, they are not doing very well in terms of democracy. If you take a country like Venezuela, for example, which was doing very well, oil has been a curse to it. If you look at some countries in North Africa, which include Libya, oil has been a curse more than a blessing.

In the Middle East, those scholars who have looked into this matter have said that what has helped them is not in the sense of building democracy, but the fact that oil has given them money to take control of their people. They give people benefits as if they are being rewarded in order to make sure that they do not have participation in the public affairs of those particular countries.

We have to carry out certain very exhaustive amendments to this Bill. It cannot stand the way it is. First of all, the Constitution says that oil is part of the land. It also says that land in Kenya belongs to the people of Kenya, as a nation, and as communities. Although this Bill is borrowing from an Article in the Constitution which vests public lands to the National Land Commission (NLC), it is now saying that oil is vested in the National Government, in trust, for the people of Kenya.

A statement must be made in this Bill if we want the Turkana people to believe in us when we say that oil belongs to the people of Kenya as a nation and as communities. In that case, we will be talking sense to the communities. We are creating a behemoth or a creature in this Bill. If you look at the powers given to the Cabinet Secretary (CS) in this Bill, I can tell you that we will have no responsibility in the management of operations of oil, particularly upstream. That needs to be corrected.

If I had more time, I would, probably, talk about a few general issues. However, look at the powers of the CS. According to the Constitution, the CS only answers

questions to Parliament, but he is not accountable to it. A CS is accountable to the President. Therefore, what the Senate Majority Leader refers to as approval of development strategies for oil operations, it is an idea that comes when the more important decisions have already been made.

Clause 5(1) says-

“The Cabinet Secretary shall develop and publish a national policy on petroleum operations which shall be reviewed at least once in every five years.”

It then goes on to say in Clause 5(2) as follows:-

“Relevant stakeholders participate effectively in the making of the national policy on petroleum operations.”

We can talk about stakeholders generally. However, in this particular provision, there was need to put in that stakeholders would include the county governments and the communities where these operations are being carried out.

Clause 6(1) says-

“The Cabinet Secretary shall develop, publish and review a national petroleum strategic plan.”

He does this without consultation with anybody.

Clause 7 says-

“Within three months after the end of each financial year, the Cabinet Secretary shall prepare and publish a report on the implementation of the national petroleum strategic plan.”

Mr. Deputy Speaker, Sir, if you look at the generality of these provisions, from Clause 7 to Clause 8 up to Clause 126, there is something that I find to be very odd. It is the CS who will negotiate contracts for purposes of upstream operations; him alone. How can we have a position like this? I have never seen a law like this. It is all there in black and white.

(Sen. (Eng.) Maina spoke off record)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. (Eng.) Maina! I hope that the handshake is not under threat.

(Laughter)

The Senate Minority Leader (Sen. Orengo): Mr. Deputy Speaker, Sir, it also says that after he has negotiated the contract about upstream operations, a contractor shall not transfer an interest in a petroleum agreement executed in accordance with this Act without the written submission of the CS. If you have already negotiated with him and you want to transfer, you must go back to the same CS.

When it comes to the advisory committee, the following people will work under him. This is captured in Clause 12 (2)(a)(b) and (c). It says:-

“The advisory committee shall consist of-\

(a) The Principal Secretary or an authorized representative in the Ministry responsible for petroleum.

We are also told that it will include the person in charge of petroleum, who shall be the Chairperson;

(b) The person in charge of petroleum at the ministry responsible for petroleum or an authorized representative;

(c) The Chief Executive or an authorized representative in the National Oil Corporation.”

The members of the advisory committee are to hire their senior and junior staff.

Mr. Ephraim Maina, this is a very bad law. Without amendments---

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Eng.) Maina.

The Senate Minority Leader (Sen. Orenge): Yes, Sen. (Eng.) Maina. This is a very bad law. I say this with respect, but that is not to say that it should be thrown out. There should be some amendments to it.

Sen. Seneta: On a point of information, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Orenge, would you like to be informed?

The Senate Minority Leader (Sen. Orenge): Yes, Mr. Deputy Speaker, Sir.

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

Sen. Seneta: Mr. Deputy Speaker, Sir, I thank him for accepting to be informed. When he was reading the advisory committee membership, he did not mention that there is a representative of the Council of Governors (CoG). It is important that we inform Kenyans that there is a representative of the CoG. You have not finished yet; you have not talked about a representative of the Council of Governors (CoG). It is also important to inform Kenyans that we have a representative of the CoG. Why are you not giving that particular one?

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Proceed, Sen. Orenge.

The Senate Minority Leader (Sen. Orenge): With respect. You should be ashamed of what you are saying.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator! That is not parliamentary. Use other words. Use different words.

Sen. Seneta: On a point of Order, Mr. Deputy Speaker, Sir.

The Senate Minority Leader (Sen. Orenge): Mr. Deputy Speaker, Sir, I withdraw and apologise.

Sen. Seneta: Mr. Deputy Speaker, Sir, you should allow me ---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Seneta. Sen. Orenge has withdrawn and apologised.

Sen. Seneta: Mr. Deputy Speaker, Sir, let him withdraw and apologise for using unparliamentary language.

The Deputy Speaker (Sen. (Prof.) Kindiki): He has.

The Senate Minority Leader (Sen. Orenge): Mr. Deputy Speaker, Sir, I have withdrawn.

The Deputy Speaker (Sen. (Prof.) Kindiki): He has withdrawn and apologised. Let us proceed.

The Senate Minority Leader (Sen. Orenge): Mr. Deputy Speaker, Sir, out of 12 positions in the whole Republic, 47 counties, and you just have one representative of the CoG, it cannot be that. Look at this area; I am glad we are in this part of the country. There is oil in Elgeyo-Marakwet. There will be oil in Turkana, Baringo, Trans-Nzoia and

Nandi. In fact, if you look at the studies, as the Rift Valley comes from Israel across Africa, there is something about oil.

The oil in Uganda and the Democratic Republic of Congo (DRC) is in the fault line of the Rift Valley in those lakes. So, there is a possibility that the whole sweep from Turkana to Bomet up to Kisii and Nyanza, we will have a lot of oil discoveries. At the end of the day, you will just have one representative of all counties. I do not think that makes any sense.

Mr. Deputy Speaker, Sir, the other thing that I have found very mischievous which has something to do with what has happened in Turkana – Sen. Wetangula probably knows this better than I do – what happened in Nigeria is that the communities where oil was found – and this is a general principle everywhere, even in Libya and Sudan where oil discovered, is that there is a lot of trouble, exploitation and human misery. People tend to rise up and say, we cannot have this. That is why the Ogoni rose up in Nigeria.

Clause 10 (6) states-

‘(a) any person who without reasonable excuse, obstructs or hinders the Cabinet Secretary – I told you, all this is about the Cabinet Secretary – or authorised officer in the exercise of the Cabinet Secretary’s powers under this section or,

(b) knowingly or recklessly makes a statement or produces a document that is false or misleading, in a material particular to the Cabinet Secretary or authorised officers engaged in carrying out this duties and functions under this act, commits an offence and shall on conviction be liable to a fine not exceeding Kshs20 million or to imprisonment for a term not exceeding five years.’

Again, this is a replica of what was happening in Nigeria. You try to raise an issue about a problem in the oil belt, you are warned that you will be in for five years or you pay Kshs20 million. There is something mischievous about provisions like those which are found in this Bill which is otherwise very commendable.

Madam Speaker ---

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

(Laughter)

The Senate Minority Leader (Sen. Orenge): Mr. Deputy Speaker, Sir, I am sorry.

(An hon. Senator spoke off record)

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

The Senate Minority Leader (Sen. Orenge): Mr. Deputy Speaker, Sir, there are three ladies looking at me. I apologise.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): I hope you are conversant with the geographical situation of the Speaker of the House.

The Senate Minority Leader (Sen. Orengo): Mr. Deputy Speaker, Sir, I am in an unfamiliar territory. Normally after 5.00 p.m. we are used to having the panel of ladies on the Chair. I am so sorry.

Mr. Deputy Speaker, Sir, these punitive measures are not there to encourage transparency. There should be a lot of transparency in the oil sector.

Then, there is this question of the petroleum fund. It is a good idea but you will find in certain cases, unless stringent provisions are put in place – this Clause says that the applicable law will be the Public Finance Management Act – you would find that in a place like Venezuela where there were sovereign or future funds to help future generations, these funds were invaded after the country found out that they were not doing very well after all or when the prices of oil came down.

We need to do something to anchor this properly. I will come up with a suggestion to ensure that these funds are like the funds that we have seen established in Norway and some of the countries of Northern Europe where they have found offshore oil. They have very good provisions in so far as some of these funds are concerned.

The problem is not even African. The Dutch also had what was called a Dutch disease when the oil was discovered in the North Sea. It gave them a lot of problems in terms of transparency and accountability.

Generally, the idea about this law is good. I could have gone Clause by Clause but because of time, I cannot. We need to go through it properly because transparency in the oil industry is the only solution. Everybody who is talking about oil now, including the oil companies; Shell and others, have found out that the best answer is absolute and maximum transparency. That would ensure that the oil industry works for the betterment of the people.

One of the reasons why the oil industry is very difficult to deal with in so far as sharing resources is concerned, is first, the oil industry does not engage unskilled labour like agriculture. In offshore oil, for example, you find a rig with 20 or 30 people. Once it has been built, operationally, very few people can operate an upstream oil well and other operations that go with it. Then, you will find that the money goes into very few hands, the oil sheiks.

So, in Kenya, if you are not very careful, we will have a lot of oil but very little to show for it but many oil sheiks. In Nigeria, in some of the airports, you will find many private jets. There are many billionaires around who benefit from an industry like oil or commodities but that money does not find its way into the hands of the common people.

In Kenya where we have so many curses, oil will just be another curse if we do not come up with a proper law. If we can play around with some things like maize and sugar, what about oil? If we cannot manage these two simple things which are commodities, oil is a more dangerous business unless you start it on the right note.

Mr. Deputy Speaker, Sir, we need a lot more transparency in the management of the sector. One of the ways that it can be done – I hope where operations are to be carried by the national Government, county governments must be involved. It should be a joint responsibility. They may come with a mechanism where they do not have as much weight but if in this Bill, upstream operations are totally almost in the hands of the national Government. Midstream and downstream, you can find some responsibilities being given to the county government.

If you are running oil operations which are worth billions of dollars and you tell the County Government of Uasin Gishu that you can issue licences to petrol stations, what are you saying? This is what we are trying to say in this Bill, that the operations that matter, you do not involve communities and the county governments. The county governments must be involved from the beginning; upstream, midstream and downstream. Then, we will be talking serious business.

Mr. Deputy Speaker, Sir, I also think - and I must say that we were discussing it with Sen. Mutula Kilonzo Jnr. - that to have a model contract in the legislation, it means that the Cabinet Secretary has everything for seeking rent. This is because he will say: "You know, I have got the contract here. It has been drafted; we will just put your name and address." This is what happened even on the issues of land in Bomet, Kericho and Nandi. Power was given to the governor and Commissioner of Lands. We are trying to do the same thing. We have made it possible for the Cabinet Secretary to seek rent.

I am not saying that all Cabinet Secretaries would seek rent, but there is a good template here, in this Bill. From the beginning to the end, we will have Cabinet Secretaries, like the Ministers in Nigeria, who when a new government comes into office, they obviously end up in jail. This is because they had so much power and resources and the attraction is so high because the decisions start and stop with them. Even for the protection of Cabinet Secretaries, we must make sure that these powers are diluted and the people have a proper role in this matter.

Mr. Deputy Speaker, Sir, I had quite a bit to say, but I do not want to deny other Members a chance of saying whatever they want to say.

The Deputy Speaker (Sen. (Prof.) Kindiki): Okay! Everybody is on their feet and it is noted. But it was recommended by the Speaker that it is five minutes for the other speakers. So, many Members will speak.

Sen. Cheruiyot

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker, Sir. I have so much to say about this particular Bill, but with the short time, I will try and address myself to four key issues that I consider extremely important.

I sat through the presentations by various energy and oil sector players that appeared before our Committee and four things really pricked my conscience. Reading through the Report that came from our Committee, I must say from the outset that unless we do proper amendments to this particular Bill, it will be extremely difficult for my conscience to allow me to vote in support of it.

Mr. Deputy Speaker, Sir, I will share with you a very short story once shared by a journalist who was present at the agreement signing ceremony, when Kenya and Uganda were supposed to sign the ill-fated petroleum channel that later aborted. One of the oil giants in this region got so worked up that we were doing that channel between Kenya and Uganda that they left in a huff and said: "After all, it does not matter because in the business of oil the Presidents of Kenya and Uganda are small boys." That journalist doubted them, but true to their prediction, that exercise has never taken off.

What does that tell us? It tells us that the amount of interest in matters oil are bigger than us, as a country, and if not properly handled, it can lead us to extreme difficulty. The people who have an interest in the oil business are sharks. If we, as legislators, do not protect the very people that have put us into office, we shall be doing

ourselves a great disservice. We shall not be fair before God and the people who voted for us.

If you want to have an understanding of the thinking that led Ministry officials into agreeing on some of the proposals that they are making before us, as a Committee, among the amendments that we have proposed, is that we need to amend Clause 22 to read: "The Authority that is being set up, where exploration activity involves drilling or an activity that is likely to alter the land on which exploration activity is being undertaken, requires an application to submit an environmental impact assessment." They could not even think about the environment and that tells you how much vendor-driven this Bill is. If we are not careful and do not give enough thought to it, we shall have sold our country.

Finally, previously I was opposed to the idea of counties sending money to the Council of Governors (CoG). I thought that county governments were siphoning money, but the kind of presentation that I saw from CoG was shallow and minute, in comparison with the presenters that came from Kenya oil and gas experts. It tells us that we need to allow the CoG to have money to hire researchers, who will work for them, on behalf of the people of Kenya.

Mr. Deputy Speaker, Sir, with those very many remarks, I give my conditional support.

Sen. Wetangula: Thank you, Mr. Deputy Speaker, Sir. This is a poorly drafted Bill and it cannot stand as it is. I say so because petroleum is a very dangerous finding for any country. If we do not get it right from the word go, we will destroy our country.

I would encourage your office that for a Bill such as this, this House should have conducted a retreat for all Senators for a day or two. We would go through it painstakingly, clause by clause, look at comparable jurisdictions and experiences and give this country a good law. Listening to my distinguished colleague from Nyeri telling this House that they picked from the best example, Nigeria, then you know that there is something very wrong.

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators! What is it, Sen. Kirinyaga?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, the example that I gave of Nigeria was about the local people getting involved in oil matters and not the ministers or governors who are in jail. I was talking about real entrepreneurs in Nigeria today, who have been assimilated in this kind of--- I have never stood for theft and it will never happen.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Your point is made.
Sen. Wetangula.

Sen. Wetangula: Mr. Deputy Speaker, Sir, the people of Nigeria who have suffered under the hands of oil are called the *Ogoni*. Definitely, they are not an example of beneficiaries; it is very easy and clear.

Mr. Deputy Speaker, Sir, it also does appear to me, from what have heard from my colleagues and casual reading through, that this Bill is being designed and presented to the Senate and the National Assembly to cure the Turkana problem. This is very

myopic because there is oil coming up in Lamu, Garissa and other places. Will we engineer a new legislation to meet the challenges in every discovery?

Listening to my colleagues from the Government side, it is like this is a negotiation between the Government and the Turkana people, and since the Turkana people agreed, this is a good law. This is very simplistic. We must pass a law for the country and posterity; a law that will govern and protect the interests of oil finding and management and generate oil for this country for generations to come.

Mr. Deputy Speaker, Sir, I want to speak to the sovereign fund, because there is mention of the fund here without clear description. The sovereign fund that was set up in Norway was so well designed that it says that every single deposit in the sovereign fund matures in 50 years; you do not touch it. So, the deposits in the sovereign fund of Norway are maturing now. You do not put money in a sovereign fund and when your balances in the budget cannot work, you go and raid it and put in the budget. If that is the case, then it is not a sovereign fund that will help the country.

Mr. Deputy Speaker, I encourage that as we carry on with the debate, because of the constraint of time, I share the views of Sen. Orengo on the particular Clauses because I had also flagged them out. I do not want to belabour what has been put on record.

I urge that this House recesses and retreats to look at this Bill and bring a law that will cover any oil discovery anywhere in this country, rather than solving the Turkana problem.

I beg to contribute.

The Deputy Speaker (Sen. (Prof.) Kindiki): Well Spoken. Let us now have Sen. Halake.

Sen. Halake: Mr. Deputy Speaker, Sir, I will not belabour this because a lot has been said. This is a bulky piece of legislation but it misses a lot of key points. This Bill looks at the nitty-gritty of the operational aspects and has not set the contextual and strategic framework within which that execution will be made. It has not captured the issue around ownership and jurisdiction that this law will operate---

(Sen. Cheruiyot consulted loudly)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Sen. Cheruiyot and company, consult in low tones.

Sen. Halake: Mr. Deputy Speaker, Sir, the worry I have about this piece of legislation as it delves into deep prescriptive aspects of prosecution of extraction and production of oil, especially considering the issue of contractors and the other nitty-gritties of upstream, midstream and downstream petroleum operations, it has not set up the strategic framework of ownership of the jurisdiction within which this will happen.

We know that oil extraction has a lot of jurisdictional issues. Who will manage them? Is it the counties, the national Government, the communities or the owners of land? So, it has not set out all the jurisdictional aspects so that it is clear who will take care of what.

It has not looked at ownership. Where I come from, land is owned communally. Just alluding to that, in the United States for instance---

The Deputy Speaker (Sen. (Prof.) Kindiki): Where do you come from?

Sen. Halake: I come from Isiolo County. I am a daughter of Isiolo County and a daughter of Kenya. Where I come from in Isiolo which is in Kenya, we have a lot of community land that does not get mentioned.

In the oil and gas laws of the United States of America (USA), the Indian tribes are mentioned by name with the ownership rights to those resources. It is very clear even before you look into issues of extraction, upstream, midstream or downstream petroleum operations or what have you, you already know the rights of the people.

While this Bill has some details about all these things, we do not even know who owns different things prior to extraction and during extraction. We do not talk of issues around common resources that could be drained to another county. For instance, in Northern Kenya, Turkana County may have oil but through drainage and extraction, oil from another county may be drained. So, all these are issues of strategic importance that some of our laws must look at before we look at the digging, extraction and the rest of it.

We do not even have anything to do with certain corrective rules, should we have issues. For us as legislators, even without going into the deep details of extraction and the technical aspects of things, we need to know about the ownership, jurisdictional issues and such things like contract leases. I think that has been taken care of quite a bit but what about the regulations and some of the practices that will make sure that we do not go down the oil curse?

The Bill is also very narrow. It goes straight to petroleum. There are certain aspects of the energy sector that cannot be divorced; oil and gas for instance. I do not know if this in the form and substance as it is really takes care of the aspects that we need as a country so as not to go down---

The Deputy Speaker (Sen. (Prof.) Kindiki): Conclude, Senator.

Sen. Halake: I am concluding, Mr. Deputy Speaker, Sir. For me, as much as this is a bulky document, the key important strategic issues have been missed. Therefore, it is in the best interest of this House to ensure that those things are looked at.

I sit in the Committee on Lands, Environment and Natural Resources. We are dealing with a lot of issues that emanate from laws that do not serve the purpose for which they were made. Therefore, we do not want to make laws that will serve nobody but a few people that probably would want to get themselves an easy way to line their pockets.

I rest my case and thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Let us now have Sen. Olekina. Keep it short so that as many of us as possible can contribute.

Sen. Olekina: Mr. Deputy Speaker, Sir, I thank you for giving me this opportunity. I rise to support this Bill, albeit with a lot of amendments. I happened to have sat in the Committee that invited stakeholders.

From the outset, going through the Bill Clause by Clause, I second my good friend, Sen. Wetangula, that it might require the entire House to go through it. I will limit my presentation in about nine areas.

This Bill talks about creation of a regulatory body which will be taken care of by the Ministry of Energy. We have two Ministries but it is the Ministry of Petroleum and Mining which takes care of the downstream, midstream and upstream petroleum operations.

We interviewed stakeholders through public participation. That is why it is important that when we call for public participation sessions, we should take into consideration what the general public and stakeholders talk about. That is why from the outset, I said that it will be important for this House to get access to the Committee Report.

I want to be on record that I never agreed with most of the things. In fact, I ended up writing a minority report. It is imperative that the energy sector has its own regulatory body and the Cabinet Secretary for Petroleum and Mining also takes care of the regulatory body that deals with upstream, midstream and downstream petroleum operations.

I want to talk about the issue of contracts. I am sorry I am rushing because of time, but I want to touch on all those areas. The second area that I care so much about is the issue of revenue-sharing contracts and the field development plan which the contractors have to come up with. These are things that have to be ratified by Parliament, so that it takes care of the interest of the people.

The other issue, which is something that every stakeholder spoke about, is to do with direct involvement by county governments. This Bill creates very powerful Cabinet Secretaries. In this era of devolved Government structure, it is imperative that the people in the county governments and their county governments have a say, so that we can be seen to be dealing with issues that take care of all our interests.

Fourth, is the issue of revenue sharing. I am not from the school of thought that believes that the county governments or the people should have a share of the national Government revenue. I tend to believe that county governments and the people should have a share of the profits that we get from the upstream petroleum operations. It will be good for the people of Kenya to get 70 per cent and people living around places where oil is extracted to get 10 per cent. The issue of saying that people went to Turkana and negotiated for 5 per cent or 25 per cent does not involve the entire country.

The other thing is the issue of permits. From the outset I said this is a terrible Bill. We will bring amendments from Clause 1 all the way to the end because when you talk about permits, there are so many permits which are required, which do not take into consideration---

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

[The Temporary Speaker (Sen. (Prof.) Kamar) in the Chair]

We now have Madam Temporary Speaker. There was transition which is confusing.

It is important for me to wrap it up that we have to look at the Bill, taking into consideration the issues of exemption of permits and who will be exempted. There are certain issues which are decided on by the Cabinet Secretary (CS) without consulting the people on the ground. When, say, there will be an issue to be communicated, we do not even find a method that can be used to reach all the people.

There are many amendments that we will bring to this Bill. I do not want to belabour on them. However---

(Loud consultations)

(Sen. Olekina's microphone went off)

Madam Temporary Speaker, could I please have one minute to conclude?

The Temporary Speaker (Sen. (Prof.) Kamar): That is okay. You have one minute.

Sen. Olekina: Madam Temporary Speaker, as I wrap up, I am happy that I am seated in a House which has Members of high intellectual capacity to look at the reports that we have drafted.

Finally, this Government or country must take seriously this issue of national resources. This is because right now in the Maasai Mau, in Olpusimoru, people are dying because of fighting for resources. If we cannot control those issues, what about oil?

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Olekina, you are done. Thank you.

Proceed, Sen. (Prof.) Ongeru.

Sen. (Prof.) Ongeru: Thank you, Madam Temporary Speaker, for looking at the back street. We had been forgotten. This is a very serious Bill which touches on the lives of people. Once somebody said, oil is a dirty and slippery business. We are just about to walk that slippery path by the manner in which we are trying to draft the main framework law that will govern the conduct of exploitation of resources within the country.

I say so because these resources are not found anywhere in the air. They are in and under the sea; on and under land and the surrounding environment. We have seen that the upstream regulatory body has the tendency to lend support to the Executive with powers that would be detrimental to the common user of that product. As I had said earlier, if we are not careful, Angola went through the same process and they were doomed. They had a very strong economy but today, they are sagging in their economy, so did Venezuela and Nigeria. Kenya is just about to get into that mess.

Madam Temporary Speaker, I plead with you that this Bill should be withdrawn. Let us go back and have a very serious session, clause by clause, because I am not prepared to assent to a Bill that gives unlimited powers to a CS under the current constitutional framework because he or she has no responsibility. The only responsibility he or she has is to the appointing authority and not the people who are in charge of the resources that are emanating like now the oil in Turkana County and other areas of the country.

Yes, I support that we need a Bill or legal framework. However, the manner in which it has been drafted is very hurried and will create a lot of problems and insecurity in this country. I once sat in the Kenya Petroleum Refinery (KPR) Board and came to realise that there were share "A" and "B". Share "A" were the marketers and "B" were the Government. Therefore, we had a very raw deal because they carried the day. We are just about to make the same mistake today. We want to bequeath this to the multinationals who will exploit and also tell us: "Either you play the pipe or ship out." These are resources where we will be told to ship out.

I reluctantly support this with a major shift in the way we want to amend this Bill.

Sen. (Dr.) Langat: Thank you, Madam Temporary Speaker.

(Loud consultation)

I think I am lucky because I have not even had a chance to thank the---

(Sen. (Dr.) Kabaka stood up in his place)

The Temporary Speaker (Sen. (Prof.) Kamar): Is that a point of order?

Sen. Kabaka: On a point of order, Madam Temporary Speaker. I think for a Member to be granted this opportunity, one has to walk all the way to the Chair!

(Laughter)

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. (Dr.) Kabaka! You are out of order.

Sen. (Dr.) Kabaka: Madam Temporary Speaker, I am wearing four glasses. I saw him walk there and he was given a chance.

The Temporary Speaker (Sen. (Prof.) Kamar): Order!

Sen. (Dr.) Kabaka: That is collusion, condonation and connivance.

Sen. (Dr.) Langat: Not really!

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. (Dr.) Kabaka, you are out of order. I have a list that I am following and it has been listed from the time that you started standing. We know who stood ahead of who. The eyes of the Chair are looking at those who stood earlier. The earlier you stand, the better for you.

Sen. (Dr.) Langat, you have four minutes remaining.

Sen. (Dr.) Langat: Thank you, Madam Temporary Speaker, for awarding me this time to thank Uasin Gishu County for receiving us. We have seen a galaxy---

(Loud consultations)

Relax, Members!

Concerning this Bill, Madam Temporary Speaker, in as much as we need a framework to guide us in the management and production of petroleum in our country, this Bill has many issues. Coming from the field of linguistics, this Bill has a lot of linguistic ambiguity and requires detailed scrutiny to erase them.

(Loud consultations)

For example, when it comes to Clause 16(2)(a), it is so open that a person who wishes to undertake an upstream operation - of which I also question "upstream" - this Bill is more of downstream. It says-

"A person who wished to undertake upstream petroleum operations shall-

(a) apply to the Cabinet Secretary for a petroleum agreement; or"

So, it has created many centres or areas that you can easily make many applications and get away with some things. Even the Bible that I believe in does not talk about God so much. It gives a chance to other people, even the devil. This Bill gives so much power to

the CS. The Bill needs many corrections. We need to retreat, read, scrutinise and come up with something great.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. This Bill was first introduced in the National Assembly in 2017. It has gone to and from the National Assembly; it went back with reservations from the President. It has come back.

Listening to the discussions and contributions, what happened all this time? This is because I have also seen places where stakeholders are involved even in the policy that is talked about in Clause 5. Probably, either stakeholders were not very involved or this is a Bill that came from the Cabinet or Ministry and was just interpreted and taken as it is. I am happy that it is being subjected to this scrutiny. This Bill is also important because it actually proposes the repeal of the Petroleum (Exploration and Production) Act, Cap. 308 of the Laws of Kenya.

Madam Temporary Speaker, going through it, I think the Bill starts very well because it starts with the issue of policy and strategic plan. This is important. That policy will be evaluated after every five years. After that, I think we run into turmoil especially at Clause 9.

With regard to Clause 9, we see where the problem is. As other Members said, a lot of powers have been given to the Cabinet Secretary (CS). Clause 12 says we have a representative of the CoG. However, no provisions at all have been made as to the qualifications of that person, or the procedure on how to select him. In other words, basically the governor can hand pick somebody and put him there. This will create a big problem.

Madam Temporary Speaker, what really touches me and it is very important is the way the agreement for the distribution has been made. I do not know whether the people of Turkana actually agreed that 5 per cent only should go to them out of the 80 per cent that will go to the national Government. This Bill proposes only 20 per cent to the county. It is as though it is a favour because no mechanisms have been put in place. As much as we are saying the national Government will be a trustee and make sure that the people of Turkana will benefit, this needs to be discussed. We can see there will be a lot of control from the periphery.

The 5 per cent proposed here for the community is not enough. I do not know how they arrived at this figure. If we go by this percentage, the county and the community will only get 25 per cent. We are saying 75 per cent will go to the national Government. It is a pity because the people of Turkana County have been poor people for a long time. It is by God's grace that now they have discovered water and oil. I do not know whether this part of the negotiation they have agreed with. I propose that when we come to amendment of this particular clause we need to give the communities much more than what is provided here.

Last but not least, we must look at this Bill in its entirety. As has been suggested by other hon. Senators, we need to analyse it, clause by clause. All Bills that will come after this, must be critically analysed. This Bill will be used as a basis. This Bill has a total of 128 clauses. It is a very comprehensive Bill. I suggest other Bills focus on some of these clauses and improve them. We need to be sensitive and give to the communities what their rightful theirs.

Sen. (Eng.) Mahamud: Thank you very much, Madam Temporary Speaker, for giving me the chance to contribute to this very important Bill. For a long time now

people have been trying to explore for oil in Kenya. It only became a reality last time when we discovered oil in Turkana. Sometimes we were about to discover gas in Lamu. However, oil exploration is a very risky and expensive business. That is why it is important at this stage to have a new law. There was a law before, but it was found to be inadequate. However, because of the presence of the resource in the country, we need to have a law which will be useful to this country.

As we continue with oil exploration, we should not scare away investors. I remember when the Chinese drilled oil a well in Isiolo, they spent over USA\$95 million. It is sad after spending that amount and you find your well is dry. An investor goes home discouraged. Therefore, it is very important in the upstream phase when you are exploring; we must be carefully not send or scare away our investors.

It is not the first time this Bill is before us. It was before the last Senate. However, it was only returned to this House because it was not assented to by the President. We now have the chance to make it better than it was before without throwing it away. We must all understand that we need it. The Committee dealing with it must also enlist the support of these Senators. I know the Ward Development Fund (WDF); small as it was, it became a difficult business of legislation. We had to have a breakfast meeting for all Senators and take them through. We need the involvement of everybody. Everybody must understand it because it is useful. However, there are a few things that need to be debated before it is enacted.

We must understand the consequence of the Bill. It is expected to set out a comprehensive framework for the exploration, development and production of petroleum. The current legal framework is not adequate; that is why it has been brought here, so when you look at it, let us have that in mind. We cannot throw away the Bill because it is important. I am surprised that Members of the Committee are standing here to oppose it.

(Loud consultations)

Yes, because you have not done your job as a committee. Work on it properly. Please, give this House something to guide the House instead of coming here to oppose it.

Sen. Olekina: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): What is your point of order, Sen. Olekina?

Sen. Olekina: Madam Temporary Speaker, it is out of order for Sen. (Eng.) Mahamud to insinuate that some of us are opposing the Bill. As a Member of that Committee, I stood here and I pointed out clearly that it was important for this House to have gone through the Committee Reports first before we debated it. That was an earlier intervention that I made. The Speaker then said that since the Bill is in its Second Reading stage, we proceed because during the Third Reading we will bring all the amendments.

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. Olekina! I do not know why you are giving us explanations. We wanted to know what was out of order. Proceed, Sen. Muhamud.

Sen. (Eng.) Mahamud: Madam Temporary Speaker, the environment in which we are today is not the same as it was before we had county governments. Today we have both the national Government and county governments. Therefore, the Bill must take into

account the current governance structure in this country. Kenyans need to fully participate in the resource mobilization and utilization in this country.

Let us wait for the amendments at the Third Reading Stage. Let us be taken through this Bill clause by clause. Let us not throw away the baby with the bath towel.

(Laughter)

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Mutula Jnr., could you contribute and not answer anybody else across the Floor?

Sen. M. Kajwang: On a point of order, Madam Temporary Speaker. I request that because you have a list before you and you are subjecting Members to standing up and down, squatting up and down. Would I be in order to request that you read out the list so that we know the order and then we can be saved the trouble of having to stand up after every two minutes?

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. M. Kajwang, that is not a procedure in this House. We do not read out names here, you catch the Speaker's eye. In addition to catching the Speaker's eye, we have got a list, but it is not for the House to know it. All of us are supposed to be here until 6.30 p.m.

Sen. Malalah: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): What is your point of order, Sen. Malalah? Let it be a point of order, please.

Sen. Malalah: Madam Temporary Speaker, I think my colleague is just concerned about his muscles since yesterday we played a football match and he keeps on standing and sitting down. He is straining his muscles so it would have been good enough if you considered his request of just reading out the list, we are remaining with 20 minutes to time.

The Temporary Speaker (Sen. (Prof.) Kamar: Hon. Malalah, we do not want to reduce the minutes we have because we only have 20 minutes. We need to allow people to have their five minutes each.

Hon. Mutula Kilonzo Jnr. Continue, please.

Sen. Kilonzo Mutula Jnr: Madam Temporary Speaker, thank you for the opportunity. The Committee on Energy must listen to the mood of this House. The mood of this House is that this Bill is not compliant. If the Committee does not consider our proposals of amendments, we will reject it. My vote will be no. Let me explain; it is extremely unusual both in legal practice drafting to have contracts of this nature. If you read from 16 to 59, these are standard contracts. This is the most unusual thing I have seen in legislation.

Agreements normally are put in books and there is a reason for that. The reason, Chairperson, is that you leave flexibility of contracts. I am addressing him because when we have an arbitration clause, you cannot dictate to the investor the site. In arbitration practice, it could be anywhere including Addis Ababa or Rwanda which are also arbitration seats or London or Paris. We leave that to negotiation. We do not put it as law because you are going to throw away your investor.

I was in a conference in AddisAbaba and there is a reason they do not want to come to Nairobi. They prefer to go to Addis Ababa or Rwanda. It is bad practice to have that. Secondly---

The Senate Majority Leader (Sen. Murkomen): On a point of order Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): What is your point of order?

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, is the Senate Minority Whip in order to try to cast doubt on the ability of Kenya to be the right arbitration place considering that this Bill was enacted to ensure that we protect our own interest? Why is he speaking on behalf of investors whom we do not even know?

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators let us allow Sen. Mutula Kilonzo Jnr. to continue. My understanding is that he is giving us different opinions from across Rwanda, Ethiopia and so on. Go ahead.

Sen. Mutula Kilonzo Jnr: Madam Temporary Speaker, there is a difference between the seat of the arbitration and the law applicable. I have done arbitration for Kenyans and the law is the law of England. That is the difference but we leave it to drafting.

Secondly, we have not enough on environmental impact and social reports. It is not here or done well.

Thirdly, if we look at Section 28 of the Environmental Management and Coordination Act (EMCA), there is something called deposit bonds rules. The people who are going to do petroleum exploration are going to put Kenyans at risk like the Thange Oil Tragedy. We must ask them to commit to a bond so that just in case there is an oil spillage or disaster, there is money available. We must commit them because the law under EMCA is there. There is no contradiction in reiterating it.

Sen. (Dr.) Zani: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): What is your point of order?

Sen. (Dr.) Zani: Is it in order for Sen. Murkomen to keep talking to the person who is making the presentation as he struggles to talk through the Chair; he is speaking directly to the Senator who is on the Floor? That is out of order.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. (Dr.) Zani, you are concluding that he is out of order.

(Loud consultations)

There is a Speaker on the Chair. Continue Sen. Mutula Kilonzo Jnr.

Please, converse in low tones so that he can finish his presentation.

Sen. Mutula Kilonzo Jnr: Fourthly, I am extremely concerned about what we are calling five year strategic plans. Why would we do five year strategic plans? Seriously? Why? Is it because of elections? There is no basis. If we are going to do petroleum we must think twenty or thirty years. That is how our country behaves.

The public participation in this Bill and what the Senators were talking about upstream, ground stream is not properly factored.

The other issue that Sen. Orengo also pointed to; the thing about the Cabinet Secretary and Government holding things on behalf of Kenyans is unconstitutional. The polluter pays principle must also be incorporated in this Bill because it is in EMCA and it is not a contradiction. However, it is important to have it here.

Lastly, on disaster management, there is nothing called National Disaster Management Unit (NDMU). The National Government, as a point of information to the

Senate Committee on Energy, has already passed the National disaster management authority. You are late in time.

With those few remarks, Madam Temporary Speaker, I request that we have a meeting such as we had on the Physical Planning Bill (National Assembly Bill No. 34 of 17) and the Kenya Roads Bill (National Assembly Bill No. 47 of 2017), where the Committee on Land, Environment and Natural Resources, agreed to amend the law to become the Land Use Planning Bill. That was accepting the will of Senators.

Otherwise, *chuma chao kimotoni. Asante.*

Sen. Kinyua: Asante sana, Bi. Spika wa Muda, kwa kunipa fursa hii. Swala hili la madini kupatikana katika nchi yetu ya Kenya limekuwa donda dugu. Ninaona ni kama tulipopewa Uhuru tulipewa uhuru wa bendera pekee. Kwa mambo ya uchumi, inaonekana kama tumeachia wale wageni wanaokuja katika nchi yetu na wao ndio wanaopatafaida. Wakenya wamebaki wanyonge baada ya kupatikana madini kama mafuta.

Tukiangalia Mswada huu, Katibu katika Baraza la Mawaziri amepewa nguvu nyingi lakini Wakenya hawana la kusema kwa kuwa Yule Katibu anahifadhi nguvu zote.

Mswada wenyewe nauunga mkono lakini tufanye marekebisho katika sehemu zinazo onekana kutoambatana kabisa na Wakenya. Sisi kama viongozi ni jukumu letu kuwaeleza Wakenya ukweli. Tunaposema, kwa mfano, kwamba asilia mia tano inaenda kwa wananchi wa Turkana, itabidi wananchi kila mwisho wa mwezi kuangalia katika akaunti zao za benki kama wamelipwa.

Ni vizuri tuseme kuwa pesa zinaenda kwa kaunti yao kuwasaidia kutengeneza barabara, daraja na mambo yale mengine ambayo yanawafaidi pale Naunga mkono lakini tuelewe kwamba hata kama imefanyika katika sehemu zingine za dunia ambapo kumekuwa na shida, naomba kuwa tutasoma kwa wenigine ili sisi tusipitie katika ile barabara. Ninataka tuangalie Mswada huu kwa makini, tuupige darubini na hatimaye tutajifunza kutoka kwa watu wengine ili tuepuke makosa hayo.

Asante sana.

(Applause)

Sen. M. Kajwang’: Thank you, Madam Temporary Speaker, that I have finally got the opportunity.

This is not a problem of Turkana County as other contributors have said. The area around Lake Victoria has 46 gazetted drilling blocs with the area around Lake Victoria designated as Bloc 12 D and has been assigned to Tullow Oil. When we debate this matter, I am conscious that one day, oil will be struck in Lake Victoria. The decision we make today will come to haunt us.

Madam Temporary Speaker, due to limitations of time, let me just refer this House to Article 71 of the Constitution. It talks about the role of Parliament in ratifying transactions relating to natural resources. Besides that, Parliament passed a Bill, now an Act of Parliament that is called Natural Resources Transactions Subject to Parliamentary Ratification. One of those transactions listed there is extraction of crude oil. How can it be today that an entire Ministry and Government can come up with a Bill that excludes parliamentary role in scrutiny and ratification of these agreements?

It will also be important that this nation is informed of what happened when President Obama came to Kenya. Kenya committed to be a signatory to the Extractive Industries Transparency Initiative where they said they would do certain things in six months. The issues of transparency, accountability and the agreements that are signed--- We know globally that oil contracts are the most opaque---

I would wish to join those who believe that a greater conversation is required for us collectively as Parliament to come up with a position and a Bill that will support oil exploration, not just in Turkana but in Lake Victoria, Migingo Island, Isiolo and other parts of the country.

I beg to move that we hold that consultation before we subject this matter to a vote.

The Temporary Speaker (Sen. (Prof.) Kamar): Let us have Sen. Wario. We might take a few more people if you can reduce your contribution to three minutes.

Sen. Wario: Asante, Bibi Spika wa Muda.

(Laughter)

The Temporary Speaker (Sen. (Prof.) Kamar): Order, hon. Members. Consult quietly.

Sen. Wario: Asante Bibi Spika wa Muda. Kwa wale ambao hawafahamu Kiswahili vizuri wanaona ni tofauti sana kusema Bibi Spika na Bi. Spika kwa sababu Bi.ni ufupi wakusema Bibi.

(Loud Consultations)

Mswada ulio mbele yetu ambao ni sheria ya petrol ni mkubwa. Wale waliotengeneza walifanya hivyo kwa hali ya utalamu mkubwa sana. Kuna mengi ambayo ni mazuri katika Mswada huu. Hata hivyo tunataka tukupiga msasa kidogo ili uwe sawa kabisa.

Katika yale mazuri ambayo yako hapa ni kuwa jamii inayoishi katika sehemu ambayo madini haya yanapatikana inaweza kupata masomo yale ambayo wanaita *capacity building*, au *training* na pia kutengenezewa barabara. Uchafu pia unachomwa na hayo yamo katika Mswada huu.

Bi. Spika wa Muda, tukisema tutapiga msasa Mswada huu, mambo mengi yameenda kwa ugatuzi. Hasa kwa kuwa madini haya yanapatikana katika kaunti, watu wameweza kupata cheche nyingi na kusema kuwa mambo mengi yamewekwa kwa Serikali kuu. Waziri ambaye yuko katika Serikali kuu atakuwa na mamlaka, na hii ndio sababu tunasema kwamba kutakuwa na wahuni wengi wanaoitwa *cartels* katika Serikali kuu.

Wahuni hawa watanyonya haki na rasilimali ambazo zitapatikana katika sehemu ile ya chini; na hiyo ndiyo sababu watu wameenda kwa ugatuzi. Kwa hivyo, hayo mamlaka makubwa yaliyopewa waziri katika Serikali kuu yanatakikana yavunjwe, na watu wa Kenya waseme jinsi wanavyotaka ili mambo yaendeleo vizuri.

Bi Spika wa Muda, hatuwezi kusema kwamba Mswada huu utupiliwe mbali. Huu ni Mswada unaohitaji kupigwa msasa ili Wakenya waweze kusema ya kwamba hii ni

sheria inayofaa. Lakini tukisema kwamba tutautupa Mswada huu, tutakuwa tumepoteza akili kubwa na jasho jingi ambalo Kamati hii walitumia.

Bi Spika wa Muda, sikupata nafasi wakati wa mwanzo kabisa, lakini ningependa Seneti hii, ikiondoka hapa, iende katika Kaunti ya Tana River wakati tutakapoenda katika---

(Sen. Wario's microphone went off)

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Proceed, Sen. Pareno.

Sen. Pareno: Thank you, Madam Temporary Speaker, for giving me these two minutes. I support this Bill, but with the amendments that are being proposed. I want to see a Bill that cushions the interest of the public. I also want to see a Bill that will not allow exploration to be exploitation of our people.

Why do I say that, Madam Temporary Speaker? You will remember that when this oil business started in Kenya, we were told that there were land speculators who go out to speculate. When exploration is being done, their business is to speculate for purposes of fleecing the communities of their land and their resources.

Madam Temporary Speaker, I would want to know how much has been picked from the public. I have seen some schedules that show that public hearing was done and that some comments that were picked from the stakeholders. How much---

(Loud Consultations)

Madam Temporary Speaker, there is too much noise; I can hardly hear myself.

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Hon. Members! Please consult quietly so that we can listen to the hon. Member.

Sen. Pareno: Madam Temporary Speaker, I want to see a Bill that cushions the public interest. It should be a Bill that is a result of public participation, where the stakeholders have been heard. It should be a Bill that takes into account the proposals that have been made after a public hearing.

Madam Temporary Speaker, what is the use of a public hearing? You carry out a public hearing so that you can pick the views of those people. However, if those views are completely disregarded, then there is no use for us, as a Senate, to do public hearings on any Bill.

There must be honesty, transparency and trust between the stakeholders and those who come to explore our resources. There must be some sort of control so that we do not just allow people to roam all over, saying that they are exploring for resources, yet they are kicking out people in the name of compulsory acquisition of land. We have had a very bad experience; the Standard Gauge Railway (SGR) compensation was not properly done.

I hope that this Bill will take into account that we need proper guidelines on compensation, how to explore and acquire land for purposes of this exploration.

Madam Temporary Speaker, I saw a provision that says that they will give notice that they are coming to explore your land. The notice is 15 days. I was wondering on the form of notice so that you do not just say that notice has been given yet the form of notice

is not described. Is it notice by advert? It must be specific so that when you give notice, then people will turn out to know that their land is being explored and that there is a survey going on.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator.

Proceed, Sen. (Dr.) Kabaka.

Sen. (Dr.) Kabaka: God is great! Finally!

Thank you, Madam Temporary Speaker. I think I will be the last because of the time factor. Mine is simple and quite different from previous speakers. Looking at the entire document, my concern is not the legalese in the intended Bill. Mine is on Clause 37, the one dealing with the profits of petroleum sharing and R factor. I do not know whether we were all blind. This is where the so called Western world fleeces the African economy.

I totally differ with the scientific mathematical model which is given here. We need more time to scrutinise the model, especially, the R factor because initially before the parties zeroed in to the agreement, the government and the contractor share was 50-50. Why must this always be 50-50? Why not 60-40? No one is questioning the mathematical intricacies.

I remember referring to a similar case when I was studying petroleum law. I will table the equivalent of the formulas here. We have been given a raw deal. In countries like Nigeria, we have been given similar case. I think this is an extract. In other countries like Venezuela and Brazil, the ratio for sharing is 70-30. That will be very easy for the national Government to offload or agree with the county governments how they will share.

My submission is that the model which has been given is dishonest. We need to revisit the scientific models so that our people can fetch optimum returns. I am not saying the Bill is bad. We will support the Bill subject to such articulation and modification.

The Temporary Speaker (Sen. (Prof.) Kamar): We have two minutes for Sen. Farhiya. She will have three more minutes tomorrow.

Sen. Farhiya: Madam Temporary Speaker, I thank you for giving me this opportunity. I shed light on this Bill not because of the content of the Bill. Let us not discuss about throwing out this Bill. If it means that the Senators go to a retreat and discuss this Bill to be passed, that is the way we should go. I had an opportunity to work in Turkana. From Independence up to now, they have been told that they are not developing because they do not have resources. Now they have resources.

The longer we delay the implementation of this Bill, the much more problems we will encounter. If you throw away this Bill, imagine how long it will take to bring it back, the suffering you will still subject those people to and the opportunities wasted for this country. This Bill needs to cover every part of the country. At this point, Turkana has oil is being explored. The longer we delay making laws for this sector, the much more suffering we are subjecting the people. Conflict can also arise out of delaying this Bill.

(Loud consultations)

Madam Temporary Speaker, hon. Senators are consulting loudly. I do not know whether they are asking me to stop. What is going on?

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I am looking at the time. It is not upon you to look at the time.

Sen. Farhiya: Madam Temporary Speaker ---

ADJOURNMENT

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, having said that, it is now 6.30 p.m., time to interrupt the business of the Senate. The House, therefore, stands adjourned until tomorrow, Wednesday, 26th September, 2018 at 2.30 p.m.

The Senate rose at 6.30 p.m.