

PARLIAMENT OF KENYA
THE SENATE
THE HANSARD

Wednesday, 9th October, 2019

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

**VISITING DELEGATION OF UNIVERSITY
STUDENTS FROM KISUMU COUNTY**

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Members, I have a brief Communication to make concerning university students from Nyakach sub-county, Kisumu County. They are with us in the Public Gallery. We welcome them to the Senate of the Republic of Kenya.

On behalf of the Senate, feel welcome. I think the Senator for Kisumu is on the way.

MESSAGE FROM THE NATIONAL ASSEMBLY

**DECISION OF THE NATIONAL ASSEMBLY ON SENATE AMENDMENTS TO THE
PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 52 OF 2017)**

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, I have a Message from the National Assembly relating to the decision of the National Assembly on the Senate amendments to the Public Private Partnerships (Amendment) Bill (National Assembly Bills No. 52 of 2017).

Hon. Senators, I wish to bring to your attention that a Message has been received from the National Assembly, pursuant to Standing Order No.41(3), regarding their decision on the Senate amendments to the Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017).

Pursuant to the said Standing Order, I now report the Message-

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“Pursuant to the provisions of Standing Order No. 41 and No.149 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

Whereas the Senate’s amendments to the Public Private Partnerships (Amendment) Bill, (National Assembly Bill No. 52 of 2017) were forwarded to the National Assembly for consideration on 5th March, 2019;

And whereas, by a resolution made on Wednesday, 31st July, 2019, the National Assembly negatived the Motion to consider the said amendments from the Senate;

Now, therefore, in accordance with the provisions of Article 112 of the Constitution and Standing Order No.149 of the National Assembly, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of five Senators to the Mediation Committee in respect of the said Bill”.

Hon. Senators, Article 112(1) (b) of the Constitution provides that if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.

Further, Article 112(2) (b) provides that, if after the originating House has reconsidered a Bill referred back to it under Clause (1) (b), that House rejects the Bill as amended; the Bill shall be referred to a Mediation Committee under Article 113.

I wish to inform the House that the Senate has received Communication that the Speaker of the National Assembly has nominated the following Members to represent the National Assembly in the Mediation Committee that will attempt to develop a version of the said Bill that both Houses will pass-

- (1) Hon. Joseph Kirui Limo, MP;
- (2) Hon. George Gitonga Murugara, MP;
- (3) Hon. David Mwalika Mboni, MP;
- (4) Hon. Peter Kaluma, MP; and,
- (5) Hon. Edith Nyenze, MP

Hon. Senators, the Speaker of the Senate is in the process of nominating Members to represent the Senate in the Mediation Committee, pursuant to Article 113(1) of the Constitution.

Thank you.

PETITIONS

PENDING BILLS BY NATIONAL YOUTH SERVICE

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, I hereby report to the Senate that a Petition has been submitted through the Clerk by Mr. Edward Mwangi, a citizen of the Republic of Kenya on behalf of suppliers of the National Youth Service (NYS).

As you are aware, under Article 119(1) of the Constitution, and I quote-

“Every person has a right to petition Parliament to consider any matter within its authority including enacting, amending or repealing any legislation”

Hon. Senators, the salient issues raised in the said Petition are as follows-

(1) The National Youth Service (NYS) engaged a number of contractors and suppliers who carried their work diligently, especially during the presidential directive on restructuring and rebranding of the NYS.

(2) From 2013 to June 2018, suppliers and contractors supplied goods and services to NYS, with the majority having not been paid to date.

(3) At the end of every financial year since 2013, there has been a promise to pay contractors and suppliers, but the promise has not been honoured to date.

(4) In the Financial Year ending 30th June, 2019, the President gave a directive to pay all pending bills. However, during the last week of June, 2019, a list of service providers was released by the NYS, but most of the genuine suppliers and contractors were not among the firms to be paid.

(5) NYS suppliers and contractors have experienced grievous economic distress as a result of loss of hard earned wealth and properties to auctioneers due to loans, death, medical conditions associated with stress, family break ups and shattered, irreparable livelihoods.

The petitioners, therefore, pray that the Senate investigates the matter with a view to ascertain genuine pending bills and claims for verifiable works and services rendered and recommend that payments be made without further delay so as to ease the unbearable economic distress to the suppliers and contractors.

Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to this Petition.

Sen. Cheruiyot, the distinguished Senator from Kericho County.

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker Sir. This is a very sad issue. As a young person, and also as a person who has been involved in business, I understand the pain that the Petitioners are going through.

It is really unfortunate that it has come to this, that as a citizen, after doing business with your own Government, you have to resort to all manner of tricks in the book trying to get paid for what is justifiably yours. I have never understood why it is a struggle for genuine contractors and suppliers, people who do honest business with the Government, to get paid.

It is no longer a secret that as things are in this country today, if you want to be bankrupt or go down as a business person, try doing business with either county governments or the national Government.

You do recall that at the beginning of this term, a similar petition came to us by way of people who had supplied goods and services to various county governments. Then the Controller of Budget, Mrs. Agnes Adhiambo, presented to this House a figure of Kshs99 billion as being the amount of money that counties owe various suppliers.

Many of these are just young people trying to eke a living, but the only crime that they have committed is not being well connected within the circles of Government. They do not have big shots who can make a phone call and ask the director of procurement or accounting services to pay them.

I know that it normally takes this House 60 days to handle a Petition. However, most of our committees do wait until the 60th day then they hurry to bring a resolution of the

committee to this House. This is such a serious issue. I hope that many of my colleagues, including those who are Members of the Committee heard some of the tribulations that these suppliers have gone through.

Some have even had a break up of their marriages and families because of these challenges, and I would understand. If you borrow money from your spouse, brother or sister to trade and do business with the Government, and then you are not paid, how do you pay the money back?

I humbly request the Committee that will handle this Petition to expeditiously resolve this matter within 30 days because these suppliers want to know the way forward.

Finally, as we fight corruption and all these other vices, we must not hurt genuine business people. Most directives being issued by people who sit in well air-conditioned offices here in Nairobi are affecting genuine business people. We have seen the demonstrations that are happening in Mombasa.

What happens to an individual who took a loan from the banks to buy trucks? It is a pity that a Cabinet Secretary (CS) would sit in an office here eating *mandazi* and issue directives---

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

Sen. Cheruiyot: Thank you, Mr. Deputy Speaker, Sir. I have taken a long time, but let me now conclude. As people make these directives, let them remember that Kenyans continue to suffer.

With those many remarks, I support the petitioners.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you very much. We have limited time and the level of interest is humongous. If you are lucky to catch the Speaker's eye just say that one thing that has not been said in a maximum of three minutes.

Let us have the distinguished Senator for Bungoma County, Sen. Wetangula.

Sen. Wetangula: Thank you, Mr. Deputy Speaker, Sir. The Public Finance Management Act is very clear that a public entity cannot procure for goods or services unless it has a budget and money for it in its account. When we are told that people have supplied goods and services to Government entities and are not paid, it is against an existing law and Government circulars.

More importantly, the President pronounced not once or twice that all Government departments must clear pending bills owed to Kenyans within one month. This is more than four months ago. What has happened? What is the value of the word, order and direction of the President of the Republic of Kenya to this Jubilee Government?

Mr. Deputy Speaker, Sir, all over the world as Sen. Cheruiyot has said, the biggest enterprise to do business with is Government. *Wananchi* in every country strive to do business with Government because it collects their taxes and can do business with and pay them. It is only in Kenya where in the National Youth Service (NYS), for example, that a hairdresser can go and collect millions of Kenya Shillings in gunny bags from a bank and accounts of NYS---

The Deputy Speaker (Sen. (Prof.) Kindiki): How was she supposed to collect?

Sen. Wetangula: Mr. Deputy Speaker, Sir, she was the hairdresser of the Cabinet Secretary at the time. But the young person on the streets who is supplying envelopes,

flowers, paper, milk and groceries is never paid. I urge the Committee that you are going to refer this matter to---

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

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

You eating into Sen. Wetangula's time. He has one minute.

Sen. Kinyua: Mr. Deputy Speaker, Sir, I am shocked that the Senator is trying to insinuate that hairdressers are not important people in this society.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Kinyua! On the contrary, I understood him to say that they are important, but they should not collect public money in gunny bags. There are ways of accessing money for *bona fide* contractors. That is the point he was making.

Sen. Wetangula: Absolutely, Mr. Deputy Speaker, Sir. This particular fraudster happened to be a hairdresser. I never said hairdressers are fraudsters. It was a fraudster who was a hairdresser.

(*Laughter*)

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

Sen. Wetangula: Mr. Deputy Speaker, Sir, the Committee that you are going to give this---

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

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

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, it is wrong to come here and cast some derogatorily adjectives upon somebody because she is a hairdresser. This House should sympathise with a simple girl who was trying to survive through hairdressing. The question we should be concerned with is how public resources to the magnitude we were reading in the newspapers landed in her hands. This is a poor---

The Deputy Speaker (Sen. (Prof.) Kindiki): What is out of order? Is your problem that the hairdressing profession should not have been mentioned?

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I have no problem because it is an honourable profession. The problem is somebody describing the young girl derogatorily; that she collected money in gunny bags which is not correct. Gunny bags, my friend is because her imagination was that she could only collect money in gunny bags---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. (Eng.) Maina! I do not see anything out of order.

Sen. Wetangula: Mr. Deputy Speaker, Sir, as I conclude, I remind my distinguished colleague the 'tycoon of Nyeri' that Chinua Achebe said that when bones are mentioned in a proverb, old people feel fidgety and uncomfortable.

I urge that suppliers to Government be paid. The Committee to which you are referring this matter must expedite and report in less than 60 days.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you. There should be no points of order on that one.

Sen. Wetangula has been kind enough not to quote Chinua Achebe verbatim because he was writing in an era which was less tolerant than the current. I will not allow points of order on that one.

We will listen to Sen. Ndwiga, the distinguished Senator for Embu County. You have a maximum of three minutes.

Sen. Ndwiga: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. The matter at hand is very serious. I want to talk about Embu County where I come from. There is a major problem of liquidity. Kenyans have no money. One of the reasons for this problem wherever we come from is that contractors and suppliers are never paid on time and sometimes they are not even paid at all.

As I am talking, we have very many contractors in this Republic who are suffering because auctioneers have landed on them. They are unable to pay bank loans. They are unable to survive or to continue doing whatever they do for a living. It is very serious.

This matter is not only for the national Government; even our counties are impoverishing our people when they do not pay contractors on time. Our people have had to go through financial hardships.

I support this Petition and also urge the Committee which will get it to expedite the matter. It is a matter of national importance and affects all corners of this Republic.

(Interruption of Debate on Petition)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM AINSWORTH PRIMARY SCHOOL

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, we have another set of visiting students and teachers from Ainsworth Primary School, Nairobi City County. I welcome them to the Senate on behalf of all of us.

I thank you.

(Resumption of Debate on Petition)

Sen. Faki: Asante sana, Bw. Spika, kwa kunipa fursa hii ili nichangie katika malalamiko yalioretwa na Mkenya ambaye ni mzalendo kamili. Malipo ya NYS ni donda sugu katika uchumi wetu kwa kuwa watu wengi waliopata kazi hizi bado hawajalipwa.

Jambo hilo pia linaathiri pakubwa kaunti zote nchini kwa sababu wengi wa wale ambao hawafanyi miradi ghushi wanachelewa kulipwa, ilhali wanaofanya miradi ghushi wanalipwa mapema.

Bw. Spika, ukiangalia gazeti la *Daily Nation* kila Jumatatu na Jumanne, utapata matangazo mengi – karibu kurasa kumi – ya kunadiwa kwa mali ya watu ambao wamechukua mikopo ya kufanya biashara na serikali za kaunti pamoja na Serikali Kuu. Kwa hivyo, ipo haja ya kupambana na swala hili kwa dharura, kwa sababu---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Faki. Would you want to be informed by the Senator for Kakamega?

Sen. Faki: Yes, he may inform me.

Sen. Malalah: Thank you, Mr. Deputy Speaker, Sir. I would like to inform Sen. Faki and the House in general that there were some allegations that we had some suppliers at the NYS who supplied biro pens at Kshs2,000. If these are the suppliers we are trying to defend here, then we should relook---

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

What is it, Sen. Cheruiyot?

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, I do not think it is in order for the Senator for Kakamega to insinuate improper motives on the conduct of colleagues. Of course, all the hon. Senators who have spoken to this matter are very clear in their heads that these are genuine Kenyans who took part in these business transactions.

In fact, if there is a person that we need to check on the people they defend, then it is the friends of people like Rai in this House---

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator! Order, Sen. Cheruiyot! You are committing the same sin that you are accusing Sen. Malalah of; namely, imputing improper motives on other Senators. Let that matter lie there.

Sen. Faki, you have one more minute to conclude your remarks and observations.

Sen. Faki: Bw. Naibu Spika, ninafikiri ile hoja ya habari ya Sen. Malalah ilikuwa sio Hoja haswa.

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

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

Sen. Poghisio: Mr. Deputy Speaker, Sir, is it really in order for citizens who cannot defend themselves in this House to be named here, and for the Chair not to notice the weight of it? Can those names be withdrawn and allow Kenyans to---

The Deputy Speaker (Sen. (Prof.) Kindiki): What names, Sen. Poghisio?

Sen. Poghisio: Names like Rai. Why would you name somebody here who cannot defend themselves?

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! That is why I called Sen. Cheruiyot to order. That now lies there.

Sen. Cheruiyot, it is important to appreciate the kind of respect and dignity that Kenyans have in this House. Therefore, the Floor of this House cannot be the basis of besmirching any Kenyan, unless and until you have evidence to prove that they have done certain things that are not proper. Let that matter rest there.

However, I note with concern – with support and agreement – what the Senator for West Pokot has said.

Very well, Sen. Faki, you may proceed.

Sen. Faki: Asante, Bw. Naibu Spika. Kusema kweli, imekuwa vigumu hata kwa wakulima wanaopeleka mazao yao kwa mashirika ya Serikali kupata malipo yao. Hii ni kwa sababu kidogo, sheria ina kizungumkuti, na inazuia wasiweze kulipwa kwa muda

unaofaa. Jana tulikuwa tunazungumzia maswala ya majani chai hapa, na tulipata kwamba wakulima wengi wa majani chai wanapata shida kukidhi haja zao, kwa sababu ya kucheleweshwa kwa malipo yao.

Kwa hivyo, Bw. Naibu Spika, suala hili ni muhimu na ningependa kujiunga na wenzangu kusema kwamba ile Kamati husika itakayo chunguza malalamiko haya ya mzalendo huyu, inafaa ije na mikakati ya kisawa sawa kuonyesha kuwa wanakemea suala ili. Vile vile, Kamati hii inafaa itoe muongozo wa vile sheria inaweza kusaidia watu hawa kulipwa kwa wakati.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Thank you, Sen. Faki. We are constrained by time.

Proceed, Sen. Dullo.

Sen. Dullo: Thank you, Mr. Deputy Speaker, Sir. I wish to support this Petition. As a country, we are really letting down business people. It is the right of those who have supplied or provided services, when required to, to get their payments. Unfortunately, the rate at which we are delaying payments to Kenyans is unbelievable. We need to see how we can solve this problem as a country, because it has appeared severally in this Senate.

This is not only happening in the NYS; even in the counties, the contractors who have supplied and rendered services to most counties are drained, because they have not been paid up to now. This is going to affect the counties as well as our national economy.

We need to come up with legislation on how pending bills should be handled and cleared. Some counties and national Government agencies cook figures of pending bills without looking at whether the services were delivered or not. That way, the country is losing a lot of money.

I hope that the Committee that will be delegated to handle this Petition will critically look at the pending bills *vis-a-vis* the national Government.

Thank you.

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

Proceed, the distinguished Senator for Kitui County.

Sen. Wambua: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I also stand in support of that Petition. Sometimes early this year, I brought a Petition of business people and contractors from Kitui County on pending bills. You were in the Chair, and you gave very clear instructions and guidelines to the standing Committee on Finance and Budget that this matter should be handled and a report be tabled in this House within 14 days.

Mr. Deputy Speaker, Sir, the President pronounced himself on the issue of pending bills, saying that all the pending bills must be cleared within one month. To date, those bills have not been cleared. The Senator for Bungoma has asked a very legitimate question: What is the worth of the word of the President on a matter like this? If the President and the Senate cannot give instructions on the payment of pending bills, then where will Kenyans go for redress?

I hope that through this Petition, this Senate will pronounce itself properly and clearly so that these bills are paid, and we stop the suffering of our people. Every county in this country has millions of shillings running into pending bills. That is money that

contractors have put into projects that governors are showcasing as success stories, yet the people who undertook those projects have not been paid.

I beg to support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Kindly proceed, the Senator for Nyeri County, Sen. (Eng.) Maina.

Sen. (Eng.) Maina: Mr. Deputy Speaker, Sir, I beg to support this Petition. This is a serious matter because currently there are talks of lack of money. Most leaders say that there is no money circulating within the country because the Government is the biggest employer. Therefore, when any department of Government is not paying people, it stifles the economy, creates poverty and unemployment. This is what is happening all over. When the suppliers and contractors are paid money, they do not just put it in their pockets; they invest the money in ventures that build the economy.

This is a serious matter and I believe that is what prompted the President to issue the directive that he gave. Whatever happened, it seems that the directive did not take effect as the President had wished. Currently, the county governments owe suppliers and contractors over Kshs120 billion. They have been paying the selected few who share the money with them. The county governments do not want to pay ordinary people who gave services.

Payments to contractors and suppliers at the National Government are also done selectively. As a result, many companies have ended up bankrupt. This is a serious matter that needs to be addressed. I, therefore, urge the Committee that will handle this matter to make sure that the Government wakes up and realizes that they are creating a dangerous situation.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, those who have not had a chance to comment will comment on the business that we will have later.

Hon. Senators, pursuant to Standing Order No.232 (1), the Petition stands committed to the Standing Committee on Finance and Budget. 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 petitioners by way of report addressed to the petitioners and laid on the Table of the Senate.

I thank you.

*(The Petition was referred to the Standing Committee
on Finance and Budget)*

We have a number of reports on petitions. I would, therefore, like us to expedite. What is it Sen. Halake?

Sen. Halake: On a point or order, Mr. Deputy Speaker, Sir. Is it in order for the Deputy Speaker to not give a chance to a Senator---

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Halake! Sit down.

Sen. Halake: Mr. Deputy Speaker, Sir, let me finish.

The Deputy Speaker (Sen. (Prof.) Kindiki): There is nothing to finish.

Hon. Senators, we have a number of reports. There are two reports by the Standing Committee on Labour and Social Welfare regarding the petitions by residents of Kajiado County.

The Chairperson of the Standing Committee on Labour and Social Welfare, kindly proceed.

Sen. (Dr.) Milgo: Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 9th October, 2019.

(1) Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate by residents of Kajiado County concerning delayed salaries and non-remittance of statutory deductions for employees at the Nol-Turesh Loitoktok Water and Sanitation Company Limited.

(2) Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate concerning non-recruitment of locals by flower farms, institutions and other companies operating in Kaputei North Ward, Kajiado County.

(Sen. (Dr.) Milgo laid the documents on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. (Dr.) Milgo. You are supposed to lay one petition report at a time. Since we have up to 30 minutes to consider the report of each Petition, you can make one or two comments about each report.

Kindly start again with the report on the delayed salaries and non-remittance of statutory deductions for employees at the Nol-Turesh Loitoktok Water and Sanitation Company Limited

REPORT ON PETITION: PLIGHT OF EMPLOYEES OF NOL-TURESH LOITOKTOK WATER AND SANITATION COMPANY

Sen. (Dr.) Milgo: Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday, 9th October, 2019-

Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate by residents of Kajiado County concerning delayed salaries and non-remittance of statutory deductions for employees at the Nol-Turesh Loitoktok Water and Sanitation Company Limited.

The Nol Turesh Loitoktok Water and Sanitation Company is located in Kajiado County. The Petition was brought to the Senate by the nominated Senator from Kajiado County, Sen. Mary Seneta. The Petition was committed to the Committee on Labour and Social Welfare.

Mr. Deputy Speaker, Sir, the Committee engaged the petitioners, the Ministry of Water and Sanitation, the Water Services Regulatory Board (WASREB) and the Nol Turesh Company and noted that the Company had not paid its workers for eight months and neither had it remitted the statutory deductions. The Company had also dismissed its workers without following procedure.

The Committee then directed the Cabinet Secretary in charge of Water and Sanitation to arbitrate the matter between the management of the company and the workers.

The Committee also directed that the Company should re-admit the dismissed workers and to respect the collective bargaining agreements between the company and the workers.

Mr. Deputy Speaker, Sir, during the last sitting with the stakeholders, the Committee learnt that the Company has entered an agreement with the Kenya Revenue Authority (KRA), the National Hospital Insurance Fund (NHIF) and the National Social Security Fund (NSSF) to pay the employees statutory deduction arrears in a staggered arrangement.

The company and the employees, under the supervision of the Ministry and WASREB are also currently in discussions on a return to work formula and payment of the eight months' salary arrears.

Mr. Deputy Speaker, Sir, the Committee is committed to following up the matter to its logical conclusion.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, I have a communication to make.

(Interruption of debate on Petition)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KERUGOYA MUNICIPALITY PRIMARY SCHOOL, KIRINYAGA COUNTY

Hon. Senators, I would also like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Kerugoya Municipality Primary School in Kirinyaga County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I welcome and wish them a fruitful visit.

I thank you.

Kindly proceed, Sen. (Dr.) Milgo to table the report of the second petition.

Sen. (Dr.) Milgo: Mr. Deputy Speaker, Sir, before I table the Report on the Petition, I join you in welcoming the students to the Senate. I would like to inform the students that this is the 'Upper House' of Parliament.

The core role of this House is to come up with Bills that concern counties, especially on matters education. I urge the students to be very disciplined so that in future when we retire, they will also come to the Senate. The Senate comprises old men and women.

(Resumption of Debate on Petitions)

REPORT ON PETITION: NON-RECRUITMENT OF LOCALS BY FLOWER FARMS, INSTITUTIONS AND COMPANIES IN KAPUTIEI NORTH WARD, KAJIADO COUNTY

Sen. (Dr.) Milgo: Mr. Deputy Speaker, Sir, I wish to also lay the following Paper on the Table of the Senate today, 9th October, 2019-

The Report of the Standing Committee on Labour and Social Welfare on the Petition to the Senate concerning non-recruitment of locals by flower farms, institutions and other companies operating in Kaputiei North Ward in Kajiado County.

The Petition concerning non-recruitment of locals by flower farms, institutions and other companies operating in Kaputiei North Ward in Kajiado County was presented to the Senate on 18th July, 2018, by Sen. Seneta who is a nominated Senator for Kajiado County. The Speaker of the Senate then directed that the Petition be dealt with by the Standing Committee on Labour and Social Welfare.

The Committee observed the following-

- (1) There is a lot of pressure for employment within the ward.
- (2) There are no incentives to private institutions to hire locally from within the locality of the institution since these institutions operate on profit and merit.
- (3) There seems to be laxity or complicity by both levels of government over monitoring of factories and institutions.

Mr. Deputy Speaker, Sir, the Committee has written to the Ministry of Labour and Social Welfare directing it to conduct inspection visits in Kaputiei North Ward to look into issues of the welfare of the employees, including the safety regulations, workmen compensation, freedom to be unionized and wages and salaries.

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order Members! Consult in low tones.

Sen. (Dr.) Milgo: Thank you, Mr. Deputy Speaker, Sir, for saving me from that noise.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order Sen. Milgo. There was no noise in the Chamber. We had consultations that were loud.

Sen. (Dr.) Milgo: Mr. Deputy Speaker, Sir, in response to the prayers, the Committee recommended that county governments, when attracting investments, should aim to get the best deals for their residents in terms of employment, putting up social amenities like schools and hospitals, capacity building in technical areas, rehabilitation of the environment and infrastructural projects.

Finally, unemployment, especially among the youth is a problem that faces the country as a whole. Therefore, the Committee is undertaking the following-

- (1) Engaging county governments during its county visits to ensure that counties get the best deal, including Corporate Social Responsibility (CSR), issues of employment

opportunities and environmental rehabilitation for their residents from potential investors; and,

(2) Dealing with the problem of youth employment wholesomely by engaging the Ministry of Labour and Social Protection under which the National Employment Authority (NEA) falls to work hand in hand with Huduma Centres and ensure that there is a database of youth seeking jobs in every centre through which the institutions can use to source for workers.

Mr. Deputy Speaker, Sir, pursuant to Standing Order No.232, I beg to lay the Report of the Standing Committee on Labour and Social Welfare.

I thank you.

(Sen. (Dr.) Milgo laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you Sen. (Dr.) Milgo. Hon. Senators, I direct the Whips to keep a tab on attendance because we have a number of Divisions which we will carry out as soon as we have adequate numbers.

We will have Divisions on Order Nos. 9, 10, 11 and so on and so forth. Therefore, the Senate Majority and Minority Whips and the party leaders should keep a tab on attendance. Once we have adequate Members, we will carry out the Divisions.

Let us now have Sen. Kibiru who is the Chairperson of the Committee on Tourism, Trade and Industrialization.

**REPORT ON PETITION: DISRUPTION OF LOCAL TRADE
BY GOVERNMENT ACTION AND SANCTIONS**

Sen. Kibiru: Mr. Deputy Speaker, Sir, allow me to welcome the teachers and students of Kerugoya Municipality School. I would like them to know that I am their Senator. This is the work that they and other people of Kirinyaga County sent me to do. They should feel welcome and I will see them later.

Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate. The first one is the Report on the Petition by Mr. Vincent Ombaka, a resident of Nairobi City County, concerning the disruption of local trade by Government action and sanctions that was directed to the Committee on Tourism, Trade and Industrialization.

(Sen. Kibiru laid the document on the Table)

Mr. Vincent Ombaka brought a Petition regarding the importation of sugar and the disruption of local trade when it comes to sugar business.

The Committee called a number of stakeholders, including the National Treasury, Ministry of Agriculture, the Agriculture Food Authority (AFA) and others. We made some observations and made some recommendations. One observation is that the Government published a number of gazette notices in sequence during that period. Three gazette notices were published.

Secondly, industrial sugar was imported during that period. According to the regulations, industrial sugar is not classified as emergency food, but it was imported duty-free. It affected a number of industries that deal with imported sugar.

Since we also called the multi-agencies, another issue that came out is that there are a lot of delays in verification and clearance of cargo at the Mombasa Port and the inland container depot. We talked to the Kenya Bureau of Standards (KEBS), the Kenya Ports Authority (KPA) and the Kenya Revenue Authority (KRA) and emphasized the need for them to expedite the process.

The final observation is that the duty free sugar was cheaper than locally produced sugar. The sugar that wholesalers and other traders had earlier imported and paid duty for was affected by the duty-free sugar that was imported.

The following are the recommendations that we made. It is important that we see how they can be implemented as a Senate and as a country. The recommendations are as follows-

(1) There is need for public participation which should be mandatory before any gazette notice is issued for importation of duty-free sugar in line with the Constitution of Kenya, 2010.

(2) The Ministry of Agriculture, Livestock and Fisheries should differentiate between industrial sugar and table sugar. Further, only recognized and registered manufacturers should be allowed to import industrial sugar.

(3) The relevant bodies should evaluate and report back on the Common Market for Eastern and Southern Africa (COMESA) commitments with regard to the sugar sector and the impact of the COMESA deadlines.

(4) The responsible agencies should expedite clearance of standardized and pre-verified cargo in Mombasa and the Inland Container Depot Nairobi (ICDN). The traders across board are suffering a lot because of the bureaucracies.

(5) Where the Government imports sugar cheaper than the local sugar, the Government should compensate the local sugar manufacturer, the wholesalers and retail traders to the extent of the difference between the duty-free sugar and the sugar that is locally manufactured.

(6) There is need for a mechanization of processes of sugar cane production so that we are also competitive.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you. Are you done with the two Petitions?

REPORT ON PETITION: REVIEW OF LAWS RELATING TO BUSINESS PREMISES

Sen. Kibiri: No, Mr. Deputy Speaker, Sir. I am not yet done with the second one on the Report of the Standing Committee on Tourism, Trade and Industrialization on a Petition to the Senate by Mr. Kevin Ndoho Macharia, a resident of Kajiado County concerning the review of laws relating to business premises.

Mr. Deputy Speaker, Sir, this was a straight forward Petition. We called the tribunal and other relevant stakeholders. One observation that clearly came up is that the law that needs to be reviewed is the Rent Restriction Act and the Landlords and Tenants, (Shops, Hotels and Catering Establishment) Act which were enacted in 1959 and 1965 respectively when some of us were not born. So, it is an archaic legislation in terms of the modernization and the way things are moving.

The recommendation of the Committee, therefore, is that the repealing of the Rent Restriction Act be reviewed as requested by the petitioner.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Kibiru, please approach the Chair.

(Sen. Kibiru approached the Chair)

I will allow one or two short observations. I will start with the Senator for Laikipia County, Sen. Kinyua.

Sen. Kinyua: Thank you, Mr. Deputy Speaker, Sir. I have heard the Senator for Kirinyaga say that the Chief Administrative Secretary (CAS) for Agriculture, Livestock and Fisheries should differentiate between industrial sugar and other sugar. I wonder whether the CAS should differentiate that. Did he mean that the CAS should indicate amounts for industrial sugar and other sugar?

I also heard him mention that sugar should be mechanized. To the best of my knowledge, 80 per cent of sugar farming is mechanized. So, I did not get that part.

Sen. Wetangula: Thank you, Mr. Deputy Speaker, Sir. Did I hear the Senator for Laikipia say that production of sugar in this country is mechanized?

I support this report.

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

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

Sen. Kinyua: Mr. Deputy Speaker, Sir, I did not say that sugar farming is mechanized.

The Deputy Speaker (Sen. (Prof.) Kindiki): Alright, it is clarified.

Sen. Wetangula: That is why I said ‘did I hear’ because I was not sure.

Mr. Deputy Speaker, Sir, this is a good and important Report. It takes us back to what we were debating yesterday. The reckless amalgamation of all crop and industrial statutes into one called Agriculture and Food Authority (AFA) repealed the Sugar Act, Tea Act, Coffee Act and all Acts that dealt with special crops.

The Committee did not go far enough to recommend the re-enactment of the Sugar Act. The Sugar Act that was repealed provided clearly that for any sugar imported in the country to cover the deficit, particularly through the Common Market for Eastern and Southern Africa (COMESA) window, importers should pay 15 per cent Sugar Development Levy of the quantum of the sugar that went to the development levy to help develop and maintain local sugar industries. However, that is no more. When the Sugar Act was repealed, the fund that was domiciled therein disappeared into thin air, Kenyan style.

Mr. Deputy Speaker, Sir, I fully support that before any importation of sugar, public participation is necessary. We must know how much we have produced in a particular year, what is our deficit and who is allowed to import to cover the deficit. This is because sugar is now used by cartels to create some slush funds for politics and other notorious activities in this country which must be resisted.

This recommendation should be passed on to the Committee on Agriculture, Livestock and Fisheries to extract the relevant recommendations and develop them into legislation that will help the sector.

The Deputy Speaker (Sen. (Prof.) Kindiki): The last remark by Sen. Wetangula is important to the Committee on Agriculture, Livestock and Fisheries. This Petition should not be done for the sake of it. These reports can inform Committee activities so that we escalate some of the recommendations into tangible end points.

We are away past the hour. Therefore, we will now go on a marathon to catch up with time. That brings us to the end of debate on Petitions.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KIRWARA HIGH SCHOOL, MURANG'A COUNTY

We have another set of visiting delegation in the Speaker's Gallery from Kirwara High school, Murang'a County. We welcome them to the Senate of the Republic of Kenya.

The Senate Majority Leader and your team, we have some Divisions to do. So, in case we raise numbers at some point, the Whips should advise the Chair so that we do the Divisions.

We move on to the Next Order.

PAPERS LAID

THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CATERING FUND) REGULATIONS, 2019

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today Wednesday 9th, October, 2019-

The Public Finance Management (Parliamentary Catering Fund) Regulations, 2019.

(Sen. Murkomen laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Next is the Chairperson of County Public Accounts and Investments Committee.

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**REPORT OF CPAIC ON INQUIRY INTO FINANCIAL
OPERATIONS OF VARIOUS COUNTIES FOR FY2014/2015**

Sen. Dullo: Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today Wednesday 9th, October, 2019-

Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the financial operations of Baringo, Busia, Elgeyo Marakwet, Embu, Kajiado, Kericho, Kilifi, Kirinyaga, Kisii, Kwale, Lamu, Makueni, Marsabit, Meru, Nakuru, Narok, Nyamira, Uasin Gishu, Vihiga and West Pokot counties for the Financial Year 2014/2015 (1st July, 2014 to 30th June, 2015).

**REPORT OF CPAIC ON INQUIRY INTO FINANCIAL
OPERATIONS OF VARIOUS COUNTIES FOR FY2013/2014**

Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Nandi, Elgeyo Marakwet, Baringo, Laikipia, Machakos, West Pokot, Tharaka Nithi, Siaya, Embu and Nairobi City County Executives for the Financial Year 2013/2014 (1st July, 2013 to 30th June, 2014).

(Sen. Dullo laid the documents on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Dullo, could you give Notices of Motions on behalf of the Chairperson Sessional Committee on County Public Accounts and Investments (CPAIC).

NOTICES OF MOTIONS

**ADOPTION OF CPAIC REPORT ON INQUIRY INTO FINANCIAL
OPERATIONS OF VARIOUS COUNTIES FOR FY2014/2015**

Sen. Dullo: Thank you, Mr. Deputy Speaker Sir. I beg to give Notice of the following Motions-

THAT, the Senate adopts the Report of Sessional Committee on CPAIC on the inquiry into the financial operations of Baringo, Busia, Elgeyo-Marakwet, Embu, Kajiado, Kericho, Kilifi, Kirinyaga, Kisii, Kwale, Lamu, Makueni, Marsabit, Meru, Nakuru, Narok, Nyamira, Uasin Gishu, Vihiga and West Pokot Counties for the Financial Year 2014/2015 that is from 1st July, 2014 to 30th June, 2015, laid on the Table of the Senate on Wednesday, 9th October, 2019.

**ADOPTION OF CPAIC REPORT ON INQUIRY INTO FINANCIAL
OPERATIONS OF VARIOUS COUNTIES FOR FY2013/2014**

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the financial operations of Nandi, Elgeyo Marakwet, Baringo, Laikipia, Machakos, West Pokot, Tharaka-Nithi, Siaya, Embu and Nairobi City County Executives for the Financial Year 2013/2014 that is from 1st July, 2013 to 30th June, 2014, laid on the Table of the Senate on Wednesday, 9th October, 2019.

Thank you.

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

We will rush through Statements. I will start with the Senate majority Leader; Business of the Senate for next week.

STATEMENTS

**BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 15TH OCTOBER, 2019**

The Senate Majority Leader (Sen. Murkomen): Hon. Senators, pursuant to Standing Order No.52(1), I hereby present to the Senate, the business of the House for the week commencing Tuesday, 15th October, 2019.

Hon. Senators, on Tuesday, 15th October, 2019, the Senate Business Committee (SBC) will meet to schedule the business of the Senate for the week. Subject to further directions by the Committee, on Tuesday, 15th October, 2019, the Senate will consider Bills due for Second Reading and Bills at the Committee of the Whole stage. The Senate will also continue with the consideration of business that will not have been concluded in today's Order Paper.

On Wednesday, 16th October and Thursday, 17th October, 2019, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the Senate Business Committee (SBC).

Hon. Senators, I continue to urge Standing Committees to expedite the consideration of the Bills before them and to Table reports within the stipulated timelines. I emphasize this, particularly, with regard to the Committee on Justice, Legal Affairs and Human Rights, because we have the Statute Law Miscellaneous Amendment which has been pending for far too long and we need to consider it.

This House has made a decision before, that when it comes to Statute Miscellaneous Amendments, we must take the work of the Committee more seriously because it cuts across various legislations which, if left to the Majority Leader alone to look at, without the benefit of the Committee, can easily be disadvantageous to this House and to the Members of this House.

Mr. Deputy Speaker, Sir, expediting these reports will enrich debate at the Second Reading stage and facilitate the House to effectively navigate the Committee of the Whole stage.

Further, we have quite a number of Petitions and Statements referred to the Standing Committees. I note that several Committees have tabled reports on Petitions and Statements which is commendable. I urge Standing Committees to stay the course and conclude with the consideration of outstanding business before them.

Mr. Deputy Speaker, Sir, I thank you and hereby lay the Statement on the Table of the Senate.

(Sen. Murkomen laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Senate Majority Leader.

We now move to Statements under Standing Order No.47 (1). I now give the Floor to the Senator for Kakamega.

Sen Malalah, be as brief as you can.

RAMPANT CLOSURE OF BUSINESSES AND LAYING OFF OF EMPLOYEES IN THE COUNTRY

Sen. Malalah: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing order No. 47(1) to make a Statement on an issue of national concern regarding the rampant closure of businesses and laying off of employees in the country.

In the recent past, Kenyans have witnessed the closure of businesses mostly occasioned by unfavorable business environment in the country and the inability of these businesses to sustain themselves.

Taxation is one crucial element among the factors of production of any legal business in this country. It informs corporate decisions and emboldens commercial plans for any businessman in our economy. It is, therefore, important as a country that we demystify and simplify our tax regime for consistency of policy and attraction of more investment in our country.

Mr. Deputy Speaker, Sir, the closures are definitely resulting in massive losses of employment to thousands of Kenyans who in most cases are the sole breadwinners in their families. It is worth noting that all this is happening against a backdrop of a Government's manifesto of creating one million jobs annually.

The closure of a business has several negative ramifications, especially to our economy. The national Government and the county governments will lose out on the much needed taxes that run our economy. If you analyze this *visa-a-vis* the shrinking national and county revenue collections, we are glaring into difficult budgetary and financial times as a country. It will reach a time when the Government will be struggling to finance the free basic education, free maternal healthcare and will not be in a position to fully roll out the universal health coverage.

Mr. Deputy Speaker, Sir, picture that parent who has been laid off or asked not to report to work indefinitely. He or she will not be able to pay fees for their daughter or

son. Once the child is thrown out of school, he will be dragged into issues of crime and lawlessness. Drug and substance abuse will be on the rise. The mother on the other hand, being unable to service her credit facilities from the ever mushrooming micro-finance companies, will be met by auctioneers. Her blood pressure and stress levels will go up and yet she will not be able to pay for her medication.

If we allow these massive business closures and job losses, we should also be ready to shoulder massive cases of depression and suicide as a country. If as a country, we shall allow rampant business closures, in the not so distant future we shall be pushed into astronomical borrowing by the national Government and over reliance on the national revenue by county governments. This situation will most certainly halt the development agenda. This is a dangerous path for our country.

Mr. Deputy Speaker, Sir, the country's general rating as a desired destination for foreign investors is also falling hence resulting in being blacklisted by most international companies as harboring an unfair business environment. Other lightweight economies within our region have already been earmarked as favorable investment destinations.

These closures of businesses have a very high potential of impacting negatively on the economy both at micro and macro levels if left unabated. The closure of betting companies for instance, has resulted into a decline in Government tax revenue and those companies will terminate all investments in sports in Kenya. Local football has already lost sponsorship worth Kshs600 million.

Mr. Deputy Speaker, Sir, some of the companies that have laid off their staff this year include-

1. Stanbic Bank; over 200 employees were given voluntary retirement.
2. East Africa Portland Cement; all staff declared redundant.
3. Kenya Airways; 38 employees were laid off.
4. Finley Flowers in Kericho; at least 1,700 workers lost jobs.
5. Nakumatt; 800 out of approximately 4,000 employees lost their jobs.
6. Nestle Kenya; over 100 employees lost jobs.
7. Unilever Tea Kenya sent 11,000 employees to voluntary early retirement.
8. Sportpesa sacked over 400 employees recently
9. Securex Company; 222 employees were rendered redundant.

Mr. Deputy Speaker, Sir, this is a sad state of affairs. As a country, we must delve more into the root causes of these closures and urge the Government to enact favorable economic policies for businesses to thrive. Our inability to create enough jobs for the youth graduating from colleges is immoral.

Our enthusiasm to lay off the few who have been lucky to be employed is sinful. However, our reluctance to speak about this and chart the best economic course for our country will be the greatest social, political and economic massacre of our time.

In the eyes of the common *mwananchi*, companies are not sending employees home. It is the Government that is sending employees home by creating a hostile environment for businesses to thrive.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. I will exercise my discretion and direct the Committee on Labour and Social Welfare to look at the remarks

made by the Senator for Kakamega. I urge them to use their discretion to help this House to speak on this issue in one way or the other. So, it is up to the Committee to pick it up from there.

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

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

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, considering the seriousness of the Statement by the Deputy Senate Minority Leader, is it possible that the Committee will not just exercise discretion, but come back to this House with a proper Motion on how we can address this issue? We, as the Senate, cannot continue burying our heads in the sand when this country is slowly sliding into economic depression and unemployment of a magnitude that is unprecedented.

Mr. Deputy Speaker, Sir, being the politicians we are in this country, we are confronted with so many Curriculum Vitae (CVs) across the country of Kenyans looking for jobs anywhere. People will not listen if I say that I am just a Senator, a MCA or a Member of National Assembly. They want an answer from the Government on how to grow the economy and sort out this unemployment issue.

Mr. Deputy Speaker, Sir, I do not know whether I am in order to request that you extend your discretion to an extent of this Committee being required to come with a proper Motion. We want to address these issues widely and give our suggestions on what could be done to alleviate the situation. There is a paradox; we are currently talking about the Big Four Agenda, which includes manufacturing.

If the Statement by the Deputy Senate Minority Leader is anything to go by, and what we have read in the media, businesses are closing. Factories are being closed. They are being raided by Kenya Revenue Authority (KRA) and business people arrested. People are being run out of business. The complaint across the country is that institutions of Government that are overseeing various issues, whether it is standards or taxes, are actually contributing to closure of these businesses. As I said, we cannot continue burying our heads in the sand.

Secondly, it is a paradox that the economy is performing worse when there is a ‘handshake’ than the time when we had proper political oversight. It is possible that those of us who are in the Government side have slept on the job because there is no proper oversight---

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

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

Sen. Farhiya: Mr. Deputy Speaker, Sir, I do not think it is proper to say that the economy is doing badly because of the ‘handshake,’ unless the hon. Senator has statistics that directly link the performance of the economy and the ‘handshake.’

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Sen. Farhiya, you did not hear the Senate Majority Leader well. He said that it is paradoxical that, perhaps, the economic situation seems to be worse than before. Stop reading politics everywhere. There is life beyond politics.

The Senate Majority Leader, we have heard you. Would you want to conclude or you are done?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, this is a bipartisan issue. If the Committee can lead us, let us not fold our hands like other institutions and say that we will not do anything. They can come up with a process that will involve all of us to give our suggestions and present a report to the national Government and counties on how we will grow this economy.

The Deputy Speaker (Sen. (Prof.) Kindiki): I agree with the Senate Majority Leader that the House should be innovative. It should be seen to stand for Kenyans where it matters. We cannot be here lamenting like everybody else. I am sure there is something this House can do. So, the Committee on Labour and Social Welfare take note.

Sen. Malalah: Mr. Deputy Speaker, Sir, just to support what my good---

The Deputy Speaker (Sen. (Prof.) Kindiki): Are you on a point of order, because we are not debating. This is not debate.

Sen. Malalah: Mr. Deputy Speaker, Sir, I pressed the intervention button before he finished. Just to touch on what he has said, this issue of the ‘handshake’ is very important for us---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Malalah. From where I sit, you have a very important Statement on the hopelessness in our country today. Please, do not water it down by bringing political intrigues.

(Loud consultations)

Order, Members!

Sen. Nyamunga: Mr. Deputy Speaker, Sir, I want to add my voice to the sentiments of the Senate Majority Leader because we need to go beyond partisan politics, and the truth must be told. We need to give Kenyans direction on how to handle the whole issue. The Jubilee Government had a lot of promises for Kenya. They promised to create over 500,000 job opportunities every year. That was a big number compared to what we are now seeing.

I am only pleading with the Committee to fast-track this issue---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! You do not have to plead with the Committee, Sen. Nyamunga. It is their patriotic duty to help the country address this issue. Please, let us not trivialize the matter.

I saw the Senate Majority Leader trying to veer off and bringing the ‘handshake’ issues and had to refuse us to be drawn towards that direction. This is because, in the past, he would be on the spotlight. He should be the one giving answers as to why this country is going through what we are going. That should be the case; you should be giving us answers. It would be extremely difficult for you to convince the House and country on behalf of the Government. However, given the importance and gravity of this matter, politics aside---

(Sen. Kang'ata stood up in his place)

Senator for Murang'a, I hope that you are not in the 'handshake' issues. Do not bring those political things here. What is it? I hope you are adding value to the Chair's direction.

(*Laughter*)

Sen. Kang'ata: Yes, Mr. Deputy Speaker, Sir. Mine is to give an idea on how we can create employment in this country. I know that the matter will be debated in the Committee, but I have always wanted to give ideas on how jobs can be created.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Kang'ata, you can bring your job creation Motion.

(*Laughter*)

The latitude available to you is immense. Please, do not convert Sen. Malalah's Statement into an opportunity to shine, when you have not done your homework. If at all you have some things that can help this country, draft a Motion.

Sen. Wambua: On a point of order, Mr. Deputy Speaker, Sir. You have spoken for the Senator for Kitui. The Senator for Murang'a is completely out of order because you have already made a ruling on this statement and committed it to a Committee. If he has ideas on how to create these jobs, he can then sit in that Committee and give those ideas.

The Deputy Speaker (Sen. (Prof.) Kindiki): Absolutely! That matter ends there.

Let us now move to the Statement by the distinguished Sen. Isaac Mwaura. Be brief as we are not doing very well time wise. You have the Floor.

DISCRIMINATION AGAINST PERSONS WITH ALBINISM AT THE UN HEADQUARTERS

Sen. (Dr.) Mwaura: Thank you, Mr. Deputy Speaker, Sir. I would have asked for more time because of this matter.

Pursuant to Standing Order No.47(1), I rise to make a statement on an issue of general international concern, namely, profiling and discrimination at the United Nations (UN) Headquarters with regards to myself and persons with albinism.

Marin Luther King Jr. said, and I quote:-

"Our lives begin to end when we keep silent about the things that matter."

Mr. Deputy Speaker, Sir, as a delegate from this House I was able to attend, for the first time, the UN General Assembly from 21st September, 2019. However, I was profiled by the UN, where I was actually stopped by the Secret Service at the entrance and kept for 30 minutes. I was questioned and they were trying to get my identity. It was a theatre of the absurd because they told me that they were looking for somebody who fitted my description, and ostensibly was walking around with a screwdriver, which would harm the kings and queens who were attending the sessions. I then asked these people: "Really? When Americans are actually allowed to walk around with guns, you

talk about a screwdriver?" I later got a formal apology through the Ambassador. His Excellency, the President, was also apologized to.

What was interesting is that it actually happened again. When we were going to another venue to meet His Excellency the President, I was stopped again when we were with fellow Members of the Senate and the National Assembly. We had to explain again when we were followed up by the Secret Service. In fact, His Excellency the President was joking and asking whether I am a member of the *Al Shabaab*, *Mujahidin* or the leader of the National Rifle Association. I then got an apology from the US Ambassador to Kenya, and then it happened the third time.

Mr. Deputy Speaker, Sir, this is really serious because when I had conversations with other people – there is another Nigerian with albinism called Dr. Emutayo, who also went through the same – and listened to African Americans with albinism, they told me stories. One of them works as a security officer, and because of his looks, he has to hide every time a certain lady has to come into the building because that person says that they get scared. Another lady by the name Jenifer had to be denied her own children, ostensibly because she is legally blind, and as such then, she would not be able to take care of her children.

Mr. Deputy Speaker, Sir, persons with albinism are very unique. This is because we are black, but not black enough; we are white, but not white enough; we are disabled, but not disabled enough. We are in between. Therefore, when you look at how, for example, we are caricatured or represented, it goes ahead to show that we have a long way to go when it comes to the rights of persons with albinism, both in this country and abroad.

Mr. Deputy Speaker, Sir, a good number of western movies cast persons with albinism as pale white skinned, red eyed villains who possess some kind of supernatural powers. Therefore, in the subconscious of these white Secret Service agents, I was a typical representation of such a villain; which is one size that fits all description for all albinos, especially from Africa. To them, everyone who looks like me is very dangerous, and this is the secret of the Secret Service.

Mr. Deputy Speaker, Sir, if this can happen in America, how different is it from the ritual killings that happen in Africa against us, where over 600 persons with albinism have been killed in over 29 countries, mostly women and children?

Mr. Deputy Speaker, Sir, such officialdom by agents of the States---

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Mwaura, you have a maximum of 10 minutes; I think you are almost there.

Sen. Mwaura: Mr. Deputy Speaker, Sir, if you do not mind, you can add me one or two minutes.

The Deputy Speaker (Sen. (Prof.) Kindiki): We do not seem to be doing so well.

Sen. Mwaura: Alright then. Indeed, such acts of officialdom by agents of the State bring to the fore the systemic discrimination within the American and other bureaucracies that act as barriers to the intrusion of persons with albinism, whether white, Spanish or African American within the American social subject and mosaic. There is clearly a missing link to their participation and contribution within society's body politic.

Mr. Deputy Speaker, Sir, it says that we, in Africa, have a great opportunity to teach the rest of the world how to include persons with albinism. We should not assume that just because a country is a super power, that they know it all; they do not. This is because those people are not used to seeing high level officials who can attend the UN General Assembly and happen to have albinism. We, therefore, need to ensure that we fight that feeling of unwantedness, illegitimacy and the coercion to apologize for just being there.

Martin Luther King Jr. had a dream one day that little black boys would be able to hold hands with little white girls. This, indeed, has come to pass in our own lifetime. He, however, possibly could never imagine about the chronic discrimination of persons with albinism; a people who are born white and treated the same no matter their race, religion, ethnic origin, societal status or achievement. For in the business of cherry picking, as exemplified by the rhetoric of racist administration of President Trump and others, the resultant disillusioned behavior of the Secret Service, they are left out as the bad ones and the misfits who are a threat to both the nation and international security.

Indeed, the anonymous desiderata urges us that we should go silently amidst the noise of the people. However, at times one is rudely awakened by the reality that you have got to stand up and fight for your space and rights, as you too are human, just like your oppressor, who only thinks that they have more rights due to their position, power or privilege. You have got to stand up for your rights because by doing so, you are helping to educate your oppressor by reminding him of his own humanity and deconstruct his own infallibilities. By doing so, you are helping to break the invisible barriers that exist amongst us; a people united by destiny and whose superficial differences mask the very humanity that we share.

As Abraham Lincoln, who abolished slavery said: "Sinning by keeping silent makes cowards of men."

Mr. Deputy Speaker, Sir, I want to say this clearly. Africa, a continent that suffered slavery and discrimination; a land that has witnessed the ritual killings of persons with albinism in so many countries, must rise to demonstrate to the world that people who look like me can have a seat at the table. That instead of being turned away at the gates of palaces and places such as the UN General Assembly and in between queens and heads of states, they too shall one day occupy such positions and residences to address gatherings and deliver speeches in fulfillment of the human duty; that of making the world a better place than they found it. That they, too, shall have the confidence and validity to inspire others to attain the highest possible ideals of human excellence and endeavor---

Mr. Deputy Speaker, Sir, I am finishing, please, kindly.

No child born today shall be turned away at the gates of opportunity because they are judged to be less deserving and not worthy of respect, honour and dignity.

As Nelson Mandela said: "When you climb a hill, you realise that there are several others to climb."

Many are the times that people ask where we are from or stare at us questioningly trying to put us into boxes that we may not fit or those that are familiar to them. I say to

you sons and daughters of the Most High that you will be fully aware and acceptable of who you are unapologetically.

If we need to take time to do something, let us do it. If we need to move closer to see something properly, let us do it. If we need help, let us ask for it bravely and proudly, showing both our vulnerability and humanness with assuring confidence and dependability that defines the indivisibility, interdependence and inalienability of our human rights and fundamental freedoms.

We must learn to explore our world beyond the guesses, laughter, derision and that sense of public shame and humiliation that we need---

The Deputy Speaker (Sen. (Prof.) Kindiki): You need to conclude, Sen. Mwaura. You have one minute.

Sen. Mwaura: I am concluding. We must learn to explore our world beyond the guesses, laughter, derision and that sense of public shame and humiliation that we go through each and every day of our lives.

The difficulties that we face must not be used as a hindrance to ourselves and aspirations and determination towards true independence and actualization. This endeavour is not only liberating, but fulfilling at the very least and full of promise and potential for the exposition of our inherent talents that form the bedrock of our contribution. We too have something to offer.

The shows of force of white privilege or the cover that comes with multi-layered identities, and the essence of our ‘in-betweenness’ cannot be used by ourselves and those around us to occasion the limitation of development of our own narratives in order to hide our ethnicities, nativities and heritage, fearing the ultimate embarrassment of being discovered. For in doing so, we predicate our lives to no man’s island state that not only blurs our vision, but also reduces us to the transfer list braggadocio of others in whose ego and position within the food chain is enhanced by our very own unacceptance.

(Sen. Mwaura’s microphone went off)

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

(Sen. Mwaura spoke off record)

I will give you one last minute.

Sen. Mwaura: We have a story of a conquering people. A story that helps to define the true ideals of humans’ inclusion and adaptability in the spirit of living no one behind according to the United Nations (UN) Sustainable Development Goals (SDGs).

To someone out there who is wondering on how to navigate the terrain of his or her identity, do not overlook your situation by amplifying the circumstances of others, for it is always profitable to confront your own reality for you to create a pathway for others to follow. To those out there who are struggling with the sense of belonging, I want to tell you that many times we doubt whether we can rise to the occasion when called upon, but if we can be, we shall be. If we are to be, will be. *Aluta continua.*

I am writing this officially as a protest to the UN Secretary-General, through the Ministry of Foreign Affairs and International Trade and all other relevant agencies.

Mr. Deputy Speaker, Sir, I submit.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Mwaura. The House understands the pain of discrimination. As they say: "Discrimination anywhere and against anyone is discrimination everywhere and against everyone." That matter should end there.

We have one last Statement under Standing Order No.48 (1). I do not see the Senator for Machakos County. So, that request for the Statement is deferred.

IMPENDING EVICTION OF RESIDENTS OF MAVOKO

(Statement Deferred)

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

BILL

First Reading

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) (No.3) BILL (NATIONAL ASSEMBLY BILLS NO.35 OF 2019)

(Order for First Reading read – Read the First Time and ordered to be referred to the relevant Senate Committee)

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, before we move to the next Order, I have a communication to make.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM AIC MATIANI GIRLS' SCHOOL, MAKUENI COUNTY

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators we have another set of visitors in the Public Gallery. These are students and teachers of AIC Matiani Girls' School in Makueni County. They are welcome to the Senate of the Republic of Kenya.

I thank you.

(Applause)

Hon. Senators, I will apply Standing Order No.40 as follows. We will defer items appearing as Order Nos. 9, 10, 11 and 12.

COMMITTEE OF THE WHOLE

THE NATURAL RESOURCES (BENEFIT SHARING) BILL
(SENATE BILLS NO. 31 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(SENATE BILLS NO.3 OF 2019)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COMMISSION ON ADMINISTRATIVE JUSTICE BILL
(SENATE BILLS NO.6 OF 2019)

(Committee of the Whole deferred)

BILL

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL
(NATIONAL ASSEMBLY BILLS NO.13 OF 2018)

(Bill deferred)

The Deputy Speaker (Sen. (Prof.) Kindiki): Let us move on to Order No.13.

MOTION

FORMATION OF COMMUNITY FOREST ASSOCIATIONS

AWARE THAT, natural and forest resources prevent floods, droughts, erosion and sedimentation, and increase water supply needed to generate more power, expand farm productivity, and meet the ever-increasing demand for domestic consumption of our exploding population;

NOTING THAT, Article 69 of the Constitution and Section (5), (6) and (21) of the Forests Conservation and Management Act (FCMA) 2016 mandates National & County Governments with the responsibility of

protecting, collaborating, maintaining, utilizing and attaining a tree cover of at least 10% of the land area in Kenya;

APPRECIATING THAT, there is need to achieve a holistic ecosystem approach to forest resource management, so as to prevent irreversible consequences of human activities on the environment, it is time to make an urgent call upon our citizenry to actively participate in the protection of forests and plant trees;

NOW, THEREFORE, the Senate urges-

1. THAT, all Citizens as per Article 69(2) of the Constitution, and Sections 48 – 52 of the Forest Conservations Management Act be encouraged through the relevant National Government ministries and County departments to contribute in formation of Community Forest Associations to expedite Community Participation in Forest Resources Management;

2. THAT, the National Government and all the 47 County Governments operationalize Tax & Fiscal Incentives (as per FCMA Section 53 – 55) to promote forest conservation and management, and prevent degradation of tree cover in Public, Private and Community Lands (as measures of ensuring sustainability);

3. THAT the National Government communicates progress towards establishment of a National Tree Planting Week, so that State Agencies, Corporations and Kenyans can adequately prepare for the event; and

4. THAT all County Assemblies initiate processes of enacting legislation on Forestry Functions for County Governments (As per FCMA Section 21).

(*Sen. Kasanga on 8.10.2019*)

(*Resumption of debate interrupted on 8.10.2019*)

The Deputy Speaker (Sen. (Prof.) Kindiki): The last time this Motion was before us, Sen. Wetangula had the Floor. In this resumed debate, Sen. Wetangula has seven minutes more to conclude.

Sen. Wetangula: Mr. Deputy Speaker, Sir, when we closed last evening, I was reminding the House of the provisions of the Forests Act, which we passed in the Ninth Parliament that obligated land owners, whether state corporations, institutions and individuals, to designate part of their land for planting trees, either as woodlands or perimeter fencing that would amount to 10 per cent, which would also be subjected to advice by agroforests. What Sen. Kasanga is asking is to operationalise and give effect to provisions of the existing law and the Constitution.

The protection of our forests has been totally lacking in goodwill. It appears to me that when persons in authority see a tree or a forest, what comes into their mind is possession of a power saw or a powerful machine to mow it down.

Rivers in this country have dried up. Yesterday, I said that we were all shocked as we were going to Kitui. Some of us took the Machakos-Kitui route and stopped at Athi River to see what used to be a very clean river. Kenyans used to go to Fourteen Falls at Ol Donyo Sabuk to swim, drink fresh water and enjoy the flora and fauna of Athi River. Now, Athi River is a dangerously polluted river flowing as sludge, carrying filth and other substances that are toxic and dangerous to human lives down the valley from Nairobi to the Indian Ocean.

I have reason to believe that the Dandora Sewage Treatment Plant at times releases untreated sewage sludge into the river. Factories are releasing toxic materials into the river.

Mr. Deputy Speaker, Sir, this is a river that is a lifeline for close to three million people, all the way from Nairobi to Sabaki in the Indian Ocean. No wonder, there are so many inexplicable ailments hitting people.

This river looks like sludge and we saw irrigation going on. People are growing fruits. Perhaps, even some of the fruits we are enjoying are coming from gardens along the river, with all the dangerous impurities and toxic material in them. What lacks in this country - and Sen. Kasanga should know - is not the law; the law is there. What lacks is the goodwill to enforce the law. You do not need even a law to know that a tree is a necessary component for protection of the environment.

Kakamega Forest is one of the most admirable natural forests with flora and fauna. I am told that there are species of snakes in that forest that are not found anywhere else. Tourists come to see them. However, this forest is being cut down. When you ask the Governor of Kakamega he says that the national Government says it is their forest. When you ask the national Government, they say that the county government is not doing enough. This ping pong, whereas we are losing our heritage, is not good.

Mr. Deputy Speaker, Sir, when we were growing up, there were so many swift, clean rivers flowing from Mt. Elgon to form tributaries of River Nzoia into the Lake Victoria. Similarly in the area you come from, there is Thuci River and others with deep ravines through Tharaka-Nithi all the way to Meru. I used to go to represent clients in Meru and could see very clean rivers. You could drink water from the river. Today, the rivers look grey; others yellow, while others look like mud. Everybody is just watching.

People have invaded forests even as we argue that removing people from forests must be done in a humane manner. Yes, it must be humane, but forests must be respected, whether it is in Mt Elgon, in the county that I represent, where there is a natural forest with caves occupied by elephants, or some other place. At some point the former President Moi excised 8,000 acres of land ostensibly to settle the Dorobos of Mt. Elgon, who have lived in forests. What happened is that the 8,000 acres was grabbed by people in authority. From the 8,000 acres that the President had excised, they went on to unlawfully excise another 25,000 acres of the forest. That is impunity!

When you look at our budgets, whether it is county budgets or the national Government budget, you do not see enough money allocated for planting trees. Everybody just says: "we must plant trees," but nothing is done.

We then get the biggest scandal where the biggest operator of tree logging activities in the country; the person who runs the biggest sawmill and devastates forests is

taken and put on the forest preservation board. How can we do such a thing? It is entrenchment of impunity.

Mr. Deputy Speaker, Sir, I was shocked to read about the gazettement of a person as a member of the Forest Preservation Board. This person has consolidated an entire industry of timber in the country. They have devastated all the forests in Baringo, Kericho and Nakuru. I was embarrassed the other day when I saw our distinguished colleague from Nakuru come here and read a Statement that she wants the cutting of trees to be sanctioned in Nakuru. One could even see the embarrassment on her face when she was reading the Statement; she did not believe in what she was saying.

We need trees planted everywhere. Science tells us that a tree can grow anywhere grass can grow. When it rains for one week, even the Arid and Semi-arid Areas (ASAL) areas of Northern Kenya suddenly become lush. What are we lacking? We lack goodwill. Governors are busy enriching themselves instead of turning the environment into something that can protect the future. We have the Ministry of Environment and Natural Resources in the country, and the only thing the Cabinet Secretary will never talk about is trees. They are just busy going around doing all negative things. It is as if we are at war with each other.

(The red timer went off)

Mr. Deputy Speaker, Sir, what is the solution? Give me two or three minutes to conclude.

The Deputy Speaker (Sen. (Prof.) Kindiki): Two minutes.

Sen. Wetangula: What is the solution? Sen. Kasanga wants to have committees to look after forests. The first port of call is that the national Government should take the bold step of fencing off all existing forests today, so that we turn them into no-go zones to protect them. This is because when you want to count on the goodwill of the people, it is not lacking. Just fence off the forests and protect them, so that people can learn to know that those are no-go-zones.

I was an advocate of people living in forests, but we have demonstrated beyond any doubt that our level of irresponsibility with regard to forests is beyond redemption. When people look at forests, they just start salivating as to how many cubic feet of timber they will get out of that and how much wealth they can create out of it. How many of colleagues here plant even one tree a year in our own homes? We do not. We must live by example.

Mr. Deputy Speaker, Sir, I urge that this Senate takes the bold step beyond this Motion; that next year, in the County Allocation of Revenue Act (CARA) we will do here, we obligate every county to have a budget for tree planting. Talk to our county assemblies again to obligate their county governments to plant trees, so that we can turn this country---

As I finish, I said yesterday that in 1956 and 1957 South Korea had a forest cover of 10 per cent. This is proven science. Today, it has a forest cover of 70 per cent. It is not a miracle; it can be done. Japan has a forest cover of 80 per cent up from very low levels. When you ask Government officials they stand straight, look you in the face and say that

our forest cover is about seven per cent when, in fact, you and I know that it is 3.5 per cent, and it is going down. How can we talk about five per cent when the Mau, Mt. Elgon, and Mt. Kenya forests are what they look like?

We must walk the talk and protect our environment.

Thank you, Mr. Deputy Speaker, Sir.

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

Proceed, Sen. Halake.

Sen. Halake: Thank you, very much Mr. Deputy Speaker, Sir. I stand to support this very important Motion. I would also like to correct certain misconceptions about conservation and how trees grow and thrive. Before I do that I would like to bring the attention of the House to the link between land and forests. The underlying issue about conservation, especially of forests, is land.

Article 61 of the Constitution on classification of land states as follows:-

“All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals.”

I know that Sen. Wetangula has passionately advocated for no-go-zones. How do we not go where we own? Land and forests belong to the people in Kenya. One of the things we should start getting away from is the misconception that forests are owned by the Government and people are on the side watching Government forest.

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

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

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

Sen. Wetangula: Mr. Deputy Speaker, Sir, I would like to inform the lady Senator, who is a good debater that I respect so much, that there are two categories of forests. We have Government forests that are gazetted as Government forests and have no settlements in them. Those are the ones I am talking about. There are also private plantations; individually owned pockets of trees on private land, which we all own and use at will. However, if you go to a country like Belgium, on your land even with the title deed, you cannot cut a tree without a licence and commitment to plant three or four more. That is where we should go.

The Deputy Speaker (Sen. (Prof.) Kindiki): Yes, there is a distinction between public and private forests.

Sen. Halake: Thank you, Mr. Deputy Speaker, Sir. I am very aware of that, and this where the problem is. My debate was going in that direction.

As much as there are public and private forests, we cannot divorce the issue of ownership between private, community and public land in relation to our forest cover. We cannot have a sustainable conservational forest that excludes communities as not owners. There is community land.

In 2006 about 60 community lands were degazetted as public forests. They became no-go-zones for the communities living around them because it was a public forest. The fact that we are not acknowledging that communities should own land that actually belong to them is not fair. This is called community forests. It is not sustainable

to think that the Government own forests, yet it is the people who should plant the trees. There is a bit of disconnect in that.

There is also a distinction between planting trees and growing forests. A tree needs three years of constant nurturing, watering and care for it to survive. So, we need to look beyond just tree plantation to tree growing, which is where we should be going and how communities are facilitated to do so. What I like about this Motion is that it has a role for communities. It is asking for community associations to be formed to look after forests. This is one way of land in Kenya being owned and used. A forest is a form of land use.

If communities do not own the land or their land is being taken away as public land, then what are we talking about? We need to look at the connection between land use, ownership, resources and how our forest cover is depleted because nobody owns it. How will people look after something that they do not accrue any benefits from? That is where any conservation of forests or other natural resources need to look at joint ownership, as well as benefits of the communities from it. In any case, these forests should belong to the people.

Mr. Deputy Speaker, Sir, county governments, for instance, hold land and other forests resources in trust for communities. However, no community in the last few years has benefitted from forest resources. These resources form very important habitat for wildlife, which brings so much foreign exchange to this country. Communities are not benefiting. I do not see how, when you have zero benefits accruing to you, you will be so passionate to do this. The approach by the Government of restricting people from going there or converting community forests to public forests, is not the way to go.

The other issue is our laws. Our laws, especially the Forests Conservations Management Act excludes the people. It talks of the national Government and county governments being the sole custodians of our natural resources, particularly forests. How is it that the communities will feel the ownership to then take care of our forests? What we should be doing in House is to make amendments to all our laws regarding conservation, to make sure that they include communities.

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

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

You cannot only talk of the national Government and county governments owning, collaborating, partnering and looking after our resources and expect communities to just show up because someone has said so. We need to fundamentally change the ownership of land and the inclusion of communities. This is because our laws exclude communities

Madam Temporary Speaker, we only have 6.2 per cent forest cover. This figure keeps changing depending on who is talking about it. We do not really have a forest cover to talk about. Expecting the Government to resolve this is not the issue. This is, of course, a very good proposition by Sen. Kasanga and I congratulate her. A journey of a thousand miles starts with a single step. We could do that. We need to fix issues around

equitable access to land, sustainable and productive management of land and encourage communities to settle, own land and classification of land. These trees will not grow in the air; they grow on land.

I support, but we need to look at the underlying issues and certain conservation dynamics that will ensure that this is sustainable and will give us the outcomes we are looking for.

The Temporary Speaker (Sen. Nyamunga): Senator for Kakamega, you may proceed.

Sen. Malalah: Thank you, Madam Temporary Speaker. I will be very brief on this issue. First, I want to congratulate Sen. Kasanga for coming up with this very important Motion on the formation of a community forests association to aid in the management of forests resource within counties.

I believe we all went through geography classes. Therefore, the importance of forests in our country must not be over emphasized. Forests are very important. As stated in this Motion, they prevent floods, drought, soil erosion and sedimentation. It is very important for us, as a leadership to support Sen. Kasanga on the establishment of communities, being ambassadors to conserve our various forests.

Article 69 of the Constitution and Sections 5, 6 and 21 of the Forest Management and Conservation Act mandates both levels of government to establish a way in which communities can collaborate with the Government to protect the forests. The law is not clear as to what role the county government is to play in protecting the forests.

A case in point is the Kakamega Forest where the county government has no entry points to conserve the forest. Every time logging is done, it is done by the national Government. The Forest Department is hosted by the national Government. Therefore, there is no entry point for the county government to even invest in the protection of the same.

It is, therefore, important for us to look at the legislation that will allow county governments to have an entry point in terms of budgetary allocations and playing the role of ambassadors in formation of community forest associations to protect the forests. It is important for the county governments to take part in this exercise.

Madam Temporary Speaker, I support the initiative of the formation of community forest associations simply because the only people who can protect the forests are the immediate communities. We know that the forests are vast and, therefore, the forest department does not have capacity to deploy enough police officers to protect the forests. It is, therefore, important for us to have community forest associations in place.

We need to have incentives for the communities living around the forests. It is sad that the same people who protect the Kakamega Forest; the communities of the Isukhas, Idakhos and Kabras, are antagonized by the forest police. There are instances where old women who go to the forest to collect firewood are arrested and beaten up, just because they went into the forest. It is very unfair for such people to be antagonized. We need to give the surrounding communities incentives. Firewood consists of the pieces of trees that have fallen down, which if left there will decompose. It is, therefore, important for us to encourage the police officers in the forest department to ensure that they work well with the communities surrounding the forests.

Madam Temporary Speaker, the young men who go to the forests to graze end up being arrested, taken to court and fined a lot of money simply because they took a cow or two to graze in the forest. Allowing local communities to collect firewood and graze their animals are some of the incentives that the forest department should consider to give the communities living around the forests.

It is ironical that when the communities surrounding forests are bereaved, the forest department pretends to be part of the community by donating the same firewood that they refused the old woman to collect while she was alive. I have witnessed instances where the forest department made donations in form of firewood at funerals in Kakamega County, in a bid to position themselves as good people, yet they are the same people who arrest the members of the surrounding community when they go to the forest to graze.

Madam Temporary Speaker, we need to be solution oriented when it comes to increasing the forest cover in our country. I would like to thank the drafters of Competency Based Curriculum (CBC). The CBC has overemphasized the need to instil environmental consciousness of our children from a very early stage. Nowadays, I see pupils in Grade One being conscious about the environment. I have witnessed pupils planting trees. There is a programme that is supported by the CBC, where a child is expected to adopt a tree and take care for it until they finish Grade Eight.

It is important for the county governments and the national Government, through the Forest Department, to collaborate with schools and finance them to ensure that they implement the environmental aspect of the CBC that is being implemented in our schools. As leaders, if we are united, we can achieve this dream that is being advocated for here by Sen. Kasanga.

Madam Temporary Speaker, the fourth point that Sen. Kasanga has brought out in this Motion is that all the county assemblies are supposed to initiate processes of enacting legislation on forestry functions for county governments. As the respective county assemblies will be implementing the committees, we should be genuine as leaders.

Recently, I saw leaders who I respect so much, some of whom are seated in this House, preventing the removal of people from the Mau Forest. It is a shame that those leaders were drumming animosity in that region. They were inciting the public to resist eviction, yet they know that those people live in the forest area. It is a shame. Kakamega Forest---

The Temporary Speaker (Sen. Nyamunga): What is your point of order, Sen. (Dr.) Langat?

Sen. (Dr.) Langat: On a point of information, Madam Temporary Speaker. I would like to urge the Senator for Kakamega County to get the background information and understand issues concerning the Mau Forest. I would also like him to name the Members that he is talking about, whom he thinks are---

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Langat, we do not what to go into details of that. Kindly give your point of information.

Sen. (Dr.) Langat: Madam Temporary Speaker, I would like to inform Sen. Malalah that he needs to know that there is a cutline which shows the gazetted forest area and the trust land of Narok. The leaders are protecting the people who are harassed by the forest guards, yet they are living in the trust land and not the gazetted forest land.

The Temporary Speaker (Sen. Nyamunga): Sen. Malalah, you need to be more informed.

Sen. Malalah: Madam Temporary Speaker, the Mau Forest does not belong to a community.

The Temporary Speaker (Sen. Nyamunga): What is your point of order, Sen. (Dr.) Milgo?

Sen. (Dr.) Milgo: Madam Temporary Speaker, in addition to what has been said, the leaders from that region---

The Temporary Speaker (Sen. Nyamunga): Are you on a point of order or a point of information?

Sen. (Dr.) Milgo: On a point of information, Madam Temporary Speaker. We are advocating for the compensation of the people who are evicted from their land. It is the Government that allocated land to them in that area.

The Temporary Speaker (Sen. Nyamunga): Kindly proceed, Sen. Malalah.

Sen. Malalah: Madam Temporary Speaker, I thank the Senators for the misinformation. We have grown up in this country and are aware that the Mau Forest is a forest. It is not a place for the people of that area to live in. It is, therefore, important for these leaders to know that we shall not allow any compensation of persons who have invaded forest land.

It is a shame for us to start compensating people who stole from this country. It is not possible to be part of that. Let the Mau evictees know that they were living in a forest area, and we shall not allow them to hide behind political cocoons.

The Temporary Speaker (Sen. Nyamunga): Sen. Malalah, kindly progress; your point is clear.

Sen. Malalah: Madam Temporary Speaker, my point is that leaders should be genuine when it comes to protecting our environment. We have seen leaders who have done commendable work in tree planting. Sen. Olekina has planted thousands of trees. We should encourage such leaders and not the ones who go to forest areas to blow trumpets of animosity and incite the members of the public against the Government that they exist in.

I thank you.

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Milgo, I can see that you have a point of order. Is it on the same? Sen. Malalah has just concluded.

Kindly proceed, Sen. M. Kajwang.

Sen. M. Kajwang': Madam Temporary Speaker, I rise to support this Motion brought by Sen. Kasanga that encourages the national Government and county governments to establish community forest associations.

Madam Temporary Speaker, a forest is one of the best savings accounts for our children. It is not only an investment in the future, but also an investment in the present. This is because when we plant and conserve forests, we get oxygen, clean air and a pleasant environment for us to exist in.

Madam Temporary Speaker, I congratulate Sen. Kasanga, because this is not the first time she has brought a progressive Motion to this House. We have been talking about issues of mental health, which was prompted by a Motion and subsequent

interventions that she brought to this House. This is also another very forward-looking Motion because many of us tend to think about the things that will benefit and give us political points or *bonga* points for today. We do not think about the future.

Madam Temporary Speaker, if you look at the current Act that talks about forestry, whatever Sen. Kasanga is asking us to do is not new. Part 5 of the Forest Act already talks of the establishment of community forest associations. If you go to Section 48 of that Act, it provides guidelines on how the community forest associations will be established. If you go to Section 49, it talks about obligations of community forest associations. It goes further, in Part 6, to even talk about incentives for increasing forest and tree cover. It goes ahead to mention tax and fiscal incentives.

Therefore, what Sen. Kasanga seems to be doing here is to remind us of those obligations and find a framework for their implementation. I agree with Sen. Wetangula, who spoke before me, that the problem is not in legislation, but in implementation. This is because if you are to implement the letter and spirit of the Forest Act, then we would not even spend time talking about community forest associations. We would be demanding for a report from the Chief Conservator of Forests on the status of forests in this Republic. That, then, would form the basis of our conversation today.

We would want to know the status of Kakamega, Gembe, and Karura forests. Karura Forest was a watershed moment in this country, if you think about the struggle for pluralism and the kind of freedoms that we enjoy today. These are the freedoms that allow us to go on our rallies over the weekends and sometimes even speak in contradiction of the President. Those things were not happening before, and part of that struggle to open up the democratic space in this country, forests featured a lot.

Madam Temporary Speaker, the Act that we currently have makes it obligatory for county governments to set up arboreta in every town. Now, if you ask a Kenyan what an arboretum is, chances are that many of us who came from the village have no idea what it is. If you look at Nairobi, we have one arboretum that is right behind State House. Those who probably went to the University of Nairobi could be more familiar with it, because you will find many students from the University there over the weekends.

Madam Temporary Speaker, Section 37 of that Act states that the responsibility of county governments is, one, to establish and maintain arboreta, green zones, and recreational parks for use by persons residing within its jurisdiction. This is where we need to reconfigure our oversight role. There is financial oversight, financial statement oversight and assessment of lawfulness and effectiveness of use of public resources.

However, this particular Act of Parliament puts certain obligations in county governments. How many of us here, Senators in this House, can confirm that their county governments have established arboreta? I must make it clear that an arboretum and an abattoir are two different things. The word in the Act is ‘arboretum.’ So, before you tell me you have an abattoir in your county, please, let us go back to the basics. An arboretum is an area that is shielded and protected, where you have different tree species, jogging tracks and sitting areas.

I want to challenge my colleagues that in the event that they do not go to their counties this weekend and find themselves in Nairobi, please, utilize Moi Day – because the Government has no idea how Moi Day should be spent – and go to the Nairobi

Arboretum. Get an idea on how an arboretum should look like, so that when you become governors in your respective counties, you can replicate what is in Nairobi in your various counties.

Once again, Madam Temporary Speaker, this Act says that each county government shall cause housing estate developers to allocate a green zone within every estate development that shall not be less than five per cent of the total area. What is happening in this country? When we are talking about Ruaraka, the matter started from a development plan, where land was set aside for the construction of schools, chief's offices, hospitals and green zones.

In the past, when you were building an estate, you had to set aside land for all those things. However, today, no one cares. We only wake up when a school has collapsed and children are dying and say all sorts of things. However, we forget about it immediately after we have posted our pictures on *Twitter*. How many housing estate developments, even in Nairobi City County, are including a mandatory five per cent of green space?

Not too long ago at Nyayo Embakasi, which is one of the grand housing estates that this country has seen in the recent past, because now we have privatized everything-- If we cannot provide security, as a State, we go to private security. If we cannot provide roads, as a State, we buy four wheel drive vehicles. If we cannot provide health, we buy medical insurance. If we cannot fix the education sector, where we do not even understand the Competency Based Curriculum (CBC), we take our students to private schools.

Madam Temporary Speaker, in Nyayo Estate Embakasi, which is one of the last grand projects done by a Government agency, because after that we privatized everything, there are green zones that were set aside. What happened is that people were allocated that land; they came and attempted to grab it and put up concrete. There is a reason that Act mandates county governments to observe that five per cent allocation. Again, as far as oversight is concerned, we should be asking those questions.

The county government is also required to establish and maintain recreational parks in every market center within its jurisdiction. The definition of a market center does not exist in the Act. I would have expected that in every serious center in our counties, there should be a recreational park. How many of these have we created? Instead of creating recreational parks, our governors are creating some iron tin-roofed structures or some shacks for *boda boda* operators. That is their idea of recreation.

Madam Temporary Speaker, it would be important that when people take that very noble responsibility and duty to be Chief Executive Officers (CEOs) of our counties, they should be taken through all the relevant legislation. Even this House needs to understand all the obligations that have been put on county governments. That is the only way we shall oversee counties effectively, monitor and evaluate the progress of county governments.

Madam Temporary Speaker, the Kenya Forest Service (KFS) was established, and there was a lot of hope that it would protect this nation's forest resources and increase the tree cover to the 10 per cent that is the benchmark. The KFS is supposed to conserve,

protect and manage all public forests; and yet, today, one of the hottest and most divisive political conversations has to do with forests.

The minute the Senator for Kakamega mentioned Mau Forest, all of a sudden, it reminded me of that proverb of old bones, dry bones and old women. You could clearly see those who possessed dry bones, because they were very quick to rejoin and provide points of information. Why should forests divide us? Why should we, as a county, have a conversation where one party says a forest should be conserved, and the other party says that people must live in the forest? We are getting it wrong.

If you look at the history of Africa, countries like Nigeria had oil to steal, and they stole it. Countries like Zimbabwe had diamonds to steal, and they stole them. Countries like Ivory Coast had Cocoa and Chocolate to steal, and they stole it. However, Kenya did not have a natural resource, we only had land. For us, our version of corruption is the theft of land. Land is terribly expensive in the country because we have no other alternative natural resources that we can dip our hands into.

Madam Temporary Speaker, there are two things that we must do to amend that Act. One, the Act requires the Chief Conservator of Forests to prepare a forest status report every two years. Unfortunately, that report goes to the Cabinet Secretary (CS). Why can we not make it mandatory for the forest status report to come to Parliament, so that we can have a conversation that is informed by a status report that comes from the regulators and experts?

Two, the Chief Conservator of Forests is supposed to provide a resource assessment report. Unfortunately, it happens only in five years and goes to the CS in charge of Environment and Forestry.

I believe that out of the conversations arising from this Motion, we could craft an amendment to the relevant Act, so that the forest status report is also tabled in Parliament. Whatever we do with it is a conversation for another day. Let it come here where the representatives of the people sit.

Madam Temporary Speaker, allow me to talk about the issue of commercial tree growing. Many people have gone to this business, which ought to be encouraged because every single tree planted contributes to an increase in tree cover. Kenyan farmers and business people, particularly the middle class, have taken to eucalyptus growing. Kenyans are good at assessing financial impact and returns on projects. However, they are poor at implementation.

Quite a few people that I know have gone into eucalyptus growing. Unfortunately, there is a lot of negative talk about the effect of eucalyptus on soil fertility, water usage and biodiversity conservation. The Kenya Forestry Research Institute (KEFRI) as well as the Kenya Forest Service (KFS) has a responsibility to give this country a proper account and information on the impact of eucalyptus on water, soil fertility and overall biodiversity.

Madam Temporary Speaker, if we can get the right varieties of eucalyptus that can grow in the different parts of this country, many young people will get into eucalyptus growing. This is because a tree that matures in eight years is as a good as education insurance plan if it is planted on one acre today, taken care of and secured

against pests. There are certain simulations that tell people that they can make close to Kshs1 million after seven or eight years.

A lot of requests that we get are from people who ask for school fees and support on medication. If we encourage youth groups to come together and grow eucalyptus, pine and cypress trees that take long, eight years is not a long time. A child born today after eight years will be in Class Two. If a person can harvest the trees, make some money and at the same time contribute to tree cover, it is something that we need to encourage. However, we can only encourage it if we have the right information that can allow us to push it.

Madam Temporary Speaker, in the last rainy season, I visited the Kenya Forestry Research Institute (KEFRI) somewhere in Muguga. I found a well set up institution in terms of infrastructure. They told me that the institution was built using donor funding from the Japanese Government. It is well kept and has people who are well committed. They encouraged Members of Parliament (MPs) to visit them more to pick trees and take back to their communities for planting. However, the trees are not for free. If you take them for free, they will not have money that will go back to the fund for research. However, if you want indigenous trees or talk to people who understand which tree can grow where, KEFRI is the place to go to.

Madam Temporary Speaker, I have few cases that have come to the County Public Accounts and Investment Committee (CPAIC). In Kwale County, they decided to plant trees all over the county without doing a feasibility study. They decided *wacha wapande miti* but the trees failed terribly. When they came to Nairobi, the explanation they had is that it was an act of God.

(Sen. M. Kajwang's microphone went off)

The Temporary Speaker (Sen. Nyamunga): I was to give you one more minute, but that is it.

Sen. Cheruiyot: Thank you, Madam Temporary Speaker, for giving me this opportunity. I rise to support this important Motion by my good friend, Sen. Kasanga. This adds to her already decorated career in the Senate of bringing matters of great importance to the country. This is just part of them.

The idea of community forest associations gives one an understanding of a leader who appreciates that the kind of communities that we live in nowadays are not similar to those of the colonial times. I have observed a worrying trend in Government, where for most of the challenges the society continues to face, it imagines that they can be solutions without involving the resident community and the people that live in a particular area.

Madam Temporary Speaker, today, we had a visiting delegation in the Committee on Energy about the oil spillage that happened in Kiboko area. We were shocked to learn that a CS formulated a taskforce to clean up the pollution that had been occasioned by the oil spillage. He involved all the big shots in the Government, for example, the county commissioners and chiefs, but not a single representative from the community. This is the kind of thinking that I am talking about. People believe that citizens are not properly informed to understand and surmount the kind of challenges that they continue to face.

The kind of proposal that is given by our good friend, distinguished Sen. Kasanga, gives us a good platitude to understand all the challenges that this country continues to face. If we involve the citizenry more in establishing solutions to the problems that bedevil us, perhaps, we will make more progress than us sitting on the ivory towers that some of us sit on in the big offices that we occupy in Nairobi. We imagine that we can dictate policies for people living in the villages. We think that they are people short on wisdom and so, we have to give them proposals and tell them to implement a project and find a particular solution. That is not the case.

I challenge all those who are in positions of power and authority that this is how to do governance post 2010 in this country. Article 10 of our Constitution talks about good governance and practices of involving the people, having them at the heart of decision making and appreciating that they know what is right and good for them. This is extremely important. Therefore, I laud our colleague for this kind of proposal.

For us to eventually manage this issue of forest, we must involve communities that live around the forest in decision making and conservation of our forests. This is extremely important. Three years after the passage of the Forest Conservation Management Act, most of our communities, county governments and county assemblies have not interrogated the document. They have not sat down to appreciate the importance of the provision where communities are supposed to receive reports via their representatives. County governments should file, report and establish that for Kericho County, for example, how much of the taxes that were made out of the forests that are in that region were used to plant trees in the forest, pay the forest conservators or improve on the forest cover? This is because all we are getting, which is typical of us Africans, is obsession of how to squander the forests that are already in existence. That is a worrying trend.

Madam Temporary Speaker, with this establishment that Sen. Kasanga is proposing to us, we shall identify a particular group of men and women of good integrity and have them sit in these committees. Let them be the people that take charge and give a special account of what is happening in all these community forests.

This is the kind of thinking that we need to appreciate all the other challenges that the society continues to face. We need to appreciate that as a country we are getting civilized by the day. Whenever the most civilized of societies have issues that they feel warrant the attention of everyone in the community, they sit down. The communities receive the reports through their representatives at the local municipalities and county assemblies. Let county governments establish how much of the taxes were used to plant trees in a particular forest, for example, in Kericho County. We should also know how much was used to pay the forest conservators and how to improve on the forest cover. We, Africans, have an obsession of destroying forests that are already in existence. That is a worrying trend.

With the establishment of what Sen. Kasanga is proposing, it will be possible to identify a particular group of men and women of integrity and have them sit in the committees. They should be people who will take charge and give a special account of what happens in the community forests.

This manner of thinking is what we need to appreciate all the other challenges that societies face. We need to appreciate that, as a country, we get civilized every day. Whenever the most civilised societies have issues that they feel warrant the attention of everyone in the community, people sit down to discuss and point out those who are a nuisance to society. If this had been established, most of the forest cover in this country would not have been destroyed in the manner in which it has been destroyed for the past 50 years.

If you go to regions around Mt. Elgon, the Mau and other places, it is not that the communities which live there do not know who destroys the forests. If we do as it is being proposed in this Motion, they will point out those who go to the forest to cut down trees and ask them to stop because they affect the entire community.

What did we do in our little urban wisdom of imagining that we are the know-it-all in Nairobi? We created something called the Kenya Forest Service (KFS). Little did we know that we were creating a toll station for people who want to rob us for the beauty of our forests. These people have been presiding over the destruction of our forests by receiving bribes from multinational timber agencies.

I have been following the debate, and I am surprised at how many of our colleagues continue to speak ignorantly about the destruction of the Mau and Mt. Elgon forests, among others. People in this country have bought hook, line and sinker that Mau Forest has been destroyed by village peasants, but that is not the truth. The Mau Forest has been destroyed by the “Raiplys” and “Timsales”. These are the big multinationals that cut down trees in thousands of acres. It is not the poor man with a panga and a jembe that walk into the forest and cause that kind of destruction. In this country, as long as you can buy the media and manage the stories, people will believe you and think that what you are doing is for the benefit of the country.

How is it that there were evictions of people from Embobut and Mt. Elgon forests, but if you go there, not a single tree has been planted? Forest conservation does not only involve evicting invaders. You have to get a thorough plan because it is an empirical process. You should sit down to plan and think through the whole idea of how you want to manage a particular forest cover.

There is an issue that was raised by my colleague, the distinguished Sen. (Dr.) Langat. If we had demarcated the Mau Forest in the 1960s that traverses about nine counties, we would not be talking about the kind of destruction that is on-going. As long as we still debate on where the boundary is, the outline and all these kinds of issues, we will not conserve our forests. That is the truth of the matter.

I have visited the Mau Forest. I know that in 2017 when the first order was issued for people to vacate the Nyayo Tea Zone, people were calling out those who had gone beyond the Nyayo Tea Zone boundary. They did not want to be deceived because they know where the boundary is. That is how you manage a forest. You need to involve the local communities.

The Ogiek are forest dwellers. If you go to some of the renowned forests in the world like the Amazon Rainforest, there are communities that live in the forest. Therefore, it is not a crime because the communities know how to conserve forests because it is within their cultural aspiration.

Chapter 11 of our Constitution appreciates the cultural diversity of this country. It is not that some of us do not know how to live inside a forest that we make assumptions that everyone who gets access and lives in a particular forest causes destruction. The Ogieks and the Ndorobos know how they live and fend for themselves. They are Aborigines of particular regions I have mentioned and take care of particular forests. That is what you get when you use a community to manage a forest.

Section 38 of the Forest Conservation and Management Act that has been referred to many times gives direction on what is expected of each and every county government.

Madam Temporary Speaker, I propose that my colleague, Sen. Kasanga, should move a step forward and introduce an amendment that will ensure that each and every county government gives a report back to this House on how they are improving the forest cover.

Many people talk about the Mau Forest using big words. I wish the Senator for Homa Bay County was here because there is something I wanted to remind him when he was speaking. He spoke well about what we need to do about the Mau Forest, but in his own Homa Bay County, forest cover is hardly two per cent. There is no need of speaking good English in Parliament and do nothing at home because it will not increase forest cover. That is what we need to learn and appreciate.

As a leader, I challenge my colleague, Sen. Malalah, not to be passionate about the issue of the Mau Forest alone but also Kakamega Forest. He should ensure that it is properly conserved. He should learn from us the challenges that we are going through.

I have been to Kakamega Forest many times, and I know that it is not properly demarcated. As the human population continues to increase, you will find people encroaching the forest. We should put to task the specific county governments. The same applies to Mt. Elgon Forest, forests in Nandi County and others in different parts of the country such as the Aberdare Ranges. We must fence off all our forests and ensure that there is a clear demarcation between what is available for public use and forest areas.

The issue of the Mau Forest is extremely sad. Unfortunately, it has been reduced to politics based on who is for and against. I say this with a lot of sadness. As I speak, the situation about the Mau Forest is not something to joke about. Women are being raped and kids are being thrown out into the cool.

Last week, officers of the Kenya National Commission on Human Rights (KNCHR) visited me in my office and asked what we should do. They tried to access Sierra Leone area, but officers of the KFS who have been deployed there by Cabinet Secretary (CS), Mr. Keriako Tobiko, and the Rift Valley Regional Commissioner, Mr. George Natembaya, denied them entry. How can you deny 15 commissioners who have been given the opportunity to look into issues of violations of human rights a chance to look into violations that people in that particular area are facing? I want to tell them on the Floor of this House that you may enjoy all the powers that you have right now but a day will come when you will pay for all the women that have been raped, all the properties that have been destroyed and all the kids that have died from pneumonia because of carrying out a particular exercise that is not sanctioned by the Government.

They are talking about a 60-day notice. However, if you ask them to show you the 60-day notice so that you appreciate what they are talking about, it is not there. These are

people who thrive in chaos and impunity of the highest order because they know it is convenient. They have convinced people that the discussion is between those who want people to live in the forest and those who do not.

I am not an idiot because I am well educated. I cannot possibly advocate for anyone to live inside a forest, but when you hear me say those people have not invaded the forest, it is not politics because I know what I am saying. I hope the President will respond to our cries because I stood there on 27th July, 2017, with none other than President Uhuru Kenyatta and we promised those people that eventually we will provide a solution to the issue of the Mau Forest. However, up to date, I have not heard his voice; I want to hear his voice. I want to know whether what Cabinet Secretary Tobiko and the Regional Commissioner, Mr. Natembaya, are doing is sanctioned by him. It is a shame and it really bothers us. Anyway, a time will come when we shall know the truth about this particular issue.

I congratulate Sen. Silvia Kasanga. We will join her as she moves the kind of proposals that have been proposed on the Forest Conservation and Management Act. In fact, a final proposal is: Why is it specific that we have to say Kenya Forest Service officer have got to be drawn from the different parts of this country and sent to a particular region?

Just a minute, Madam Temporary Speaker, as I conclude this point that I am mentioning---

The Temporary Speaker (Sen. Nyamunga): I will add you one minute.

Sen. Cheruiyot: Thank you, Madam Temporary Speaker. Is it not possible to have, say, a particular region, for example Kitui, to produce their own gallant young men and women who will be trained at the Kenya Forest Service Training School and be deployed back to Kitui to take care of their forests because it is their rural heritage? As long as you are bringing someone from Garissa or Kisumu to take care of my forest in Kitui, they will allow all the multinationals to sell the timber; after all, it is not their home. Therefore, that is an amendment that I want to urge my colleague to include in her Motion.

(*Sen. Halake raised up her hand*)

The Temporary Speaker (Sen. Nyamunga): Senator, you know that if you want to catch my eye, you can only do it through the intervention button. I do not know why you are not using your button. So, do you still want to raise a point of order and he is through?

Sen. Halake: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Okay, go ahead.

Sen. Halake: Madam Temporary Speaker, I am concerned. Is the Sen. for Kericho in order to suggest that people should always go back to their cocoon and to their land for them to ever do their job correctly?

Sen. Cheruiyot: Madam Temporary Speaker, that is not what I meant. I would wish to inform my colleague that this particular Motion is about Community Forest

Associations; how you get the participation of a specific community to take care of their forest? That is why I was suggesting that these communities should get young people and have them trained at the Kenya School of Forest Conservation as forest officers, and redeployed back to their communities to do conserve the forests there.

Thank you, Madam Temporary Speaker.

Sen. Haji: Asante, Bi Spika wa Muda, kwa kunipa fursa hii kuchangia Hoja hii ambayo imependekezwa na Seneta Kasanga kuhusu kuanzishwa kwa vyama nya jamii nya kulinda misitu katika kila kaunti.

Kwanza, nampongeza Seneta Kasanga kwa kuleta Hoja hii katika Bunge kwa sababu imekuja kwa wakati mwafaka, wakati tunaona kwamba kuna misukosuko kila mahali kuhusu misitu. Kuna misukosuko katika sehemu za Mau na sehemu zingine ambazo kuna hatari kubwa kwa misitu yetu kupotea.

Bi. Spika wa Muda, kule Mombasa, tuna misitu ya mikoko, yaani, *Mangrove Forests*, ambayo inasaidia kusafisha hewa katika miji yetu na vile vile---

(*Loud Consultations*)

Mhe. Bi Spika wa Muda, ningeomba unilinde kutoka kwa ndugu zetu wawili ambaao wanazungumza kwa sauti ya juu.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, you are advised to consult in low tones so as not to interfere with the progress or the conversation before the House.

(*The red light went on*)

Sen. Haji: Bi. Spika wa Muda, pia, naona taa nyekundu imewaka hata kabla sijaanza kuzungumza.

The Temporary Speaker (Sen. Nyamunga): Senator, continue with your contribution. It does not affect you.

Sen. Haji: Asante, Bi. Spika wa Muda. Nilikuwa nasema kwamba kule Mombasa tuna misitu ya mikoko ambayo inasaidia pakubwa kwa kusafisha hewa na vile vile kusaidia sehemu ambazo samaki wanataga mayai ili waweze kuzaana na kuendela kutoa chakula na kuweka sawa yale mazingira ya baharini.

Bi. Spika wa Muda, ukiangalia sehemu kubwa katika eneo la Tudor, kuna sehemu kubwa ya msitu wa mikoko ambaao umekatwa ili wananchi waweze kupata makao. Hii inaathiri pakubwa sehemu za samaki kuzaa na kutaga mayai na hivyo, inapunguza idadi ya samaki ambaao wako katika Bahari ya Hindi ambaao wanatumia mikoko ile ili waweze kuzaaa na kutaga mayai.

Kumekuwa na mvutano baina ya wale wakaazi halisi wa sehemu zile ambaao wengi ni wavuvi na wengi wanafanya ukulima wa nyuki ili waweze kupata asali ya mikoko. Katika sehemu zile za mikoko ambazo zina misitu, kuna nyuki wengi ambaao wanasaidia kupatikana kwa asali katika mji wa Mombasa. Lakini utapata kwamba ile mikoko inapokatwa, sehemu zile ambazo watu wangeweza kuweka mizinga yao na kupata nyuki wa kuweza kuzalisha asali na vile vile samaki zinaendelea kupungua.

Hoja hii itasaidia pakubwa kuwapa watu asili wa sehemu zile - kama aliviyotangulia kusema Sen. Cheruiyot - nafasi ya kusimamia ile misitu kwa sababu wanajua vile watatunza misitu ile na kusaidia pakubwa kuleta ajira katika sehemu zile.

Ukiangalia katika sehemu ya Mombasa hivi sasa, kuna sehemu kubwa ambapo kuna takataka ambayo ni hatari kwa mazingira kwa mfano zile *plastic* ambazo zinatupwa katika bahari ili wale waweze kuweka misingi ya nyumba zao. Jambo hili linaharibu mazingira ya bahari. Mara nyingi, bahari inatoa fursa ya kuondoa uchafu wote wakati zile mawimbi zinakuja katika ufuo ili kuondoa takataka na pia kusafisha mazingira. Lakini utapata kwamba takataka nyingi ambazo zinatupwa katika bahari zinasaidia wale ambao wanaweka makao katika sehemu zile ili waweze kujenga nyumba zao. Hii ni kwa sababu huwezi kujenga nyumba kwenye maji. Wanatupa takataka ambazo zinakaa kama msingi na baadaye wanaanza kujenga nyumba zao.

Kwa hivyo, Bi. Spika wa Muda, hii itasaidia pakubwa kuwapa nafasi wale ambao wanachunga misitu kama hii ya mikoko kuhakikisha kwamba mazingira au misitu ile haiharibiwi.

Pia, tumeona kwamba kumekuwa na utepetevu ama ulegevu kwa upande wa Kenya Forest Service kwa kuzuia watu kukata misitu na vile vile kulinda misitu ile ambayo ni kazi yao kwa hakika kuweza kusaidia kulinda. Kwa hivyo, hii jamii ambayo itakuwa inalinda misitu hii ambayo inasimamiwa na kaunti itasaidia pakubwa kuondoa utepetevu huo. Wale ambao watakuwa wamechaguliwa kutokana na wenyeji katika sehemu zile watasaidia pakubwa kwa sababu wao watakuwa na uchungu zaidi kuliko mtu mwagine yejote.

Bi. Spika wa Muda, nachukua fursa hii kuunga mkono Hoja hii ya Seneta Kasanga na pia kuwashimiza Waheshimiwa wote tuangalie jinsi tunaweza kuifanya isimamiwe na kaunti zetu kupitia kwa bajeti, ambapo itakwenda kwa bunge za kaunti kuhakikisha kwamba hii mapendekezo ya Bunge la Seneti yameteklezwa.

Asante, Bi. Spika wa Muda.

Sen. Wambua: Thank you, Madam Temporary Speaker, for giving me this opportunity to also add my voice in supporting the Motion by my sister, Sen. Sylvia Kasanga.

It has been said by the Sen. for Homa Bay and Sen. for Kericho that Sen. Kasanga has brought very progressive Motions on the Floor of this House, and this is one of them. She will be remembered for the Motion on Establishment of Mental Health and Psycho-Social Support Centres at the county level, and the other day on setting standards for the construction and maintenance of roads in our counties. I want to congratulate and thank her for bringing this Motion on the Formation of Community Associations to take charge of forests across this country.

Madam Temporary Speaker, this Motion seeks to bring communities at the centre of environmental conservation. I think that has been one of the most missing links in environmental conservation in this country. The conservation of the environment and preservation of our forests has been conducted in such a way that these are decisions taken in boardrooms in the cities and then implementation is supposed to take place in the rural settings. That has not worked and will not work.

It will be remembered that we used to have the 4K Clubs in schools where students would come together and plant trees. That faded away. Nothing much is happening in schools in terms of conservation of the environment.

Madam Temporary Speaker, the impression created by some politicians that communities are at war with the environment is wrong and, perhaps, aimed at other motives. We know that across the globe communities have lived in harmony with the environment. There are indigenous communities that live in forests not just in Kenya, but all over the world. In our country, we have the Ogieks who have done very well in conserving the environment and forests. They live in forests. In Australia, we have the Aborigines and the Red Indians in the United States of America (USA) who have done a lot in conserving environment.

I want to thank Sen. Kasanga because she is making us realize that communities living around our forests are the answers to the problems that we are facing in conserving the environment and doing serious sustainable afforestation. Once we acknowledge that fact, we will be able to take bold steps in ensuring we achieve acceptable forest covers in this country.

Madam Temporary Speaker, the issue of environment is so important that the drafters of our Constitution dedicated an entire Chapter Five on Land and Environment. I am very interested in Part Two of Chapter Five of the Constitution which talks about the obligations in respect of the environment. Important as it is that we have captured the issue of environmental conservation in our Constitution, I take great exception to the low standards that we have set for ourselves as a nation in terms of conserving our environment, especially the whole issue of afforestation.

Article 69(1) (b) is on achieving and maintaining a tree cover of at least 10 per cent of the land mass in Kenya. Progressive nations of the world have moved beyond these percentages of forest cover. Ten per cent is so low that even if you achieve it, the negative impacts and effects of global warming will continue to affect us. I also want to debunk the thought - and the Senator for Kericho has put it very well - that it is not the peasant farmer carrying a *panga* or a *jembe* who is responsible for the destruction of our environment and forests in this country, but it is multinational organizations working closely with the Kenya Forest Service (KFS). It is a pity that the wrong impression has been created that when we are talking about conserving our forests, that the KFS should be sitting on our side and pointing fingers at the people who are destroying forests. The truth of the matter is KFS is culprit number one in the destruction of forests. They should be seated on the side of the people we are accusing of destroying our forests.

The question we should ask ourselves is, by the time we destroyed and reduced Mau Forest to what it is today, where was the KFS? When these communities encroached our forests, who gazetted the establishment of chief camps in those forests? Who allowed the establishment of schools in those forests? These schools did not just happen on the people, they were registered. There was an elaborate process to register them. We cannot just wake up in the morning and start evicting people from their land in the forest and we pretend we do not know where they came from. I support wholeheartedly the spirit of conserving our forests, but as we do it, we must have a human face in this exercise.

As I conclude, the responsibility for the establishment of these community associations for the conservation of forests should not lie with the KFS or the national Government, but with county governments. Every county government must be held to account on the resources that are channeling towards environmental conservation.

It will be remembered that not long ago, the former President of the Republic of Kenya, His Excellency Daniel Arap Moi, came up with a slogan on conserving our forests; if you cut one tree, you plant two trees. County governments have a responsibility to the environment and to the future of this country, to not only conserve the forests that exist, but embark on serious afforestation programmes in all areas that are gazetted as forest land in counties.

With those remarks, I support.

The Temporary Speaker (Sen. Nyamunga): Hon. Senator, I did not expect you to conclude your contribution without congratulating someone in your county who did a lot of work of planting trees in Kitui County. Some years back when I was in Kitui, I saw a lot of tree planting. There is a lot of afforestation going on in Kitui County.

Sen. Wambua: Thank you, Madam Temporary Speaker, for reminding me to congratulate my friend who has won a lot of awards of global recognition, the founder and Chairman of the Green Africa Foundation, Dr. Isaac Kalua. He has done a tremendous job in conserving environment in Kitui County. However, the effect of deforestation in Kitui is really a disaster.

We all remember the Senate had its sessions in Kitui a few weeks ago. What the Senators saw in Kitui is not what we grew up in. Kitui County used to have many trees. It was green throughout. However, because of the illegal business of charcoal, many of our forests have been destroyed. There are efforts though by individual Kenyans to plant many trees in Kitui and to reclaim the tree cover that used to be there. As the Senator for Kitui County in the last season, I decided to lead this campaign by planting 6,000 trees and other 1,000 fruit trees. I have not been very successful because of rain failure; I have lost quite a number of trees.

I believe we, as leaders, need to establish private forests in our farms so that when we ask our people to conserve the environment and plant trees, they can see for themselves what we are doing in our farms. This will encourage them to plant a lot of trees in their counties.

The Temporary Speaker (Sen. Nyamunga): Proceed, Senator for Bomet, Sen. (Dr.) Langat.

Sen. (Dr.) Langat: Thank you, Madam Temporary Speaker, for also giving me this opportunity to make my contribution on this very important Motion by Sen. Kasanga. This Motion is very important and I would like to support it fully.

Three days ago, Madam Temporary Speaker, we were coming from Zambia, and I want to tell you and this House that desertification in Zambia is so alarming. This is simply because of the mess and lack of implementation of all these issues that is leading the country into becoming a desert. Community involvement at the implementation level of any law or policy is very important. For example, I come from Bomet-Kericho area, and the greatest challenge is involvement of the communities around when it comes to matters to do with handling of forests or trees generally.

That artificial forest you see in Kericho was planted at around 1979 or 1980s. It succeeded so much to that level because the communities were involved. The Government land was given free of charge to the people surrounding those places so as to plant their crops. They were then given tree seedlings to grow, as they also grew their crops. By doing so, whenever they were weeding and adding fertilizer to their crops, the tree seedlings benefited at the same time. That project succeeded so much.

However, the worst part of it came recently when it comes to harvesting of trees. The communities were so annoyed that people who were coming to harvest trees from the forest were foreigners, and they did not know anything about them. They just came, logged the forest, and whenever they were asked by the communities around, they just showed them permits from the headquarters; that is, from the Ministry of Environment. The people from the Ministry were so corrupt that they could not go down to the forest. Those who were harvesting the trees just paid for them here, they then went down there and harvested more than what they had even paid for. Therefore, if the community had been involved; if they had become the first ones to be asked to pay for harvesting, they would have appreciated even when it came to the time of planting the same trees. Therefore, this issue of ignoring or neglecting the communities around the forests is what is contributing much to the deterioration of the forests in this country.

Madam Temporary Speaker, I also come from Bomet, which is surrounded by another forest, Chepalungu Forest. For the last eight years, the Government allowed the harvesting of trees from this forest. The County of Bomet engaged us just last year to purposely plant some 2,000 trees. Otherwise, the largest part of this Government forest has not been planted even with a single tree, up to today. The forest guards in that particular area are hiring the land for grazing, which has even made it worse. It is so interesting, and they do not even issue permits for the people who are grazing in the Government land. You just give them money, which does not reach anywhere, and they allow people to graze therein. Therefore, there is a lot of mismanagement, misconception and misunderstanding of the forest issues in this country.

Madam Temporary Speaker, I am sure that if the Government today involved the communities surrounding Chepalungu Forest to plant trees and their crops, which are friendly to the forest as the trees starts to grow, no one will touch those forests. Therefore, this Motion that seeks the involvement of the communities in reforestation or planting trees and taking care of forests in this country, is very important.

Another thing is when it comes to the issues to do with, for example, chasing people out of the so-called forests in some places. I would wish to clarify to some people that the issue of forest settlements in this country has become misconceived and politicised so much that people have failed to understand the actual thing that is going on. In fact, I would like to shed light on this area, and I would have wished that all the politicians – not only those who come from the Mau region – were involved. I would wish that we even took it as a Petition in this House so that we may involve Senators from other places to go down there and find out facts concerning those places.

During the colonial period, for example, the white men sent these people to live in the forests so that their land would be used by multinational companies. Thereafter, when the new government came after Independence, those who had power took over those

white settlements and continued to encourage the people to live in the Mau Forest. They even used some ways to ensure that those people could acquire title deeds in Mau Forest so that they could forget the land that had taken away from them.

However, Madam Temporary Speaker, what we know as fact is that 23 blocks in Mau Forest are actually land gazetted as Government land. Otherwise, the rest of the land is trust land for the former Narok County Council. The owners of that land sold it to some people, and those people have got title deeds. Actually, if we continue the misconception, working on ignorance and blaming some communities, this problem will never be solved.

While I was teaching at the university, I used to say that the best way of solving a problem is by identifying the actual cause of a problem. What is the actual problem? Therefore, it is very important that as we are handling this important Motion, we should not engage politics of Mau Forest and politics involving other places as a way of getting a ticket to demonise some rights of some leaders of some regions in fighting for the rights of their people.

Another issue that I would like to encourage Sen. Kasanga to add on this Motion is the issue of supporting forest research foundation. There are some very important institutions that have been ignored completely in this country. Yesterday, I talked about how much the Government has ignored the Tea Research Foundation to the point that farmers have continued, for a long time, dwelling and planting traditional crops that no longer support their economic value at this point of time. Forest research foundations or institutions should be encouraged so that we get the right seedlings for the right places. For example, we were talking with Sen. (Prof.) Ongeri the other day, and I was appreciating him and his county because of how forested Kisii region is. He told me that the eucalyptus trees they have planted in Kisii are so harmful to that region instead of being a support to the region. In fact, the trees that they have planted have consumed water to the point that they are affecting the crops in that region.

If we had proper forest research foundations going round the country, advising people appropriately on the right trees to plant in particular places, this mess could not be there. We are currently facing the same problem in Bomet County, where most of the trees which are consuming a lot of water, like the eucalyptus trees, have been planted even in water source areas. They have contributed negatively and heavily on the environment than being a support to the environment. Therefore, the establishment of a strong forest research institution is very important when it comes to supporting this Motion.

As I finish, we should also emphasise on policies on construction. I have visited some countries where construction using timber is no longer encouraged. People use metal during construction. We are still traditional thinking that we must engage timber for every building. That coupled with the poverty rates in our country, you cannot ask somebody not to harvest their trees simply because of a policy. Due to poverty, people cut down trees so as to educate their children and so forth.

There are several policies that should be encouraged. We should also support poor people so that trees that have been planted are secured in various places we come from.

I support this important Motion and what other speakers have said before me. I have said before that an area like Baringo was more or less a desert in the 1980s. I wish

Sen. M. Kajwang' was around. There is a time when the former President Moi asked people to research so as to establish some seedlings to be planted. To date, they have covered most of Baringo region which was totally a desert.

We encourage people such as Sen. M. Kajwang' to support people in Homa Bay County to grow many trees. In fact, Homa Bay County is more of a desert than any other county. Whenever he speaks about tree planting, we wonder what types of trees he has encouraged people in Homa Bay County to plant compared to some areas where we come from. They should lead in this exercise so that Homa Bay County also comes up with another "Mau Forest" and becomes greener than any other place.

I thank you.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, we have less than 15 minutes. A Motion like this is normally given three hours and the time will lapse at exactly 6.00 o'clock. At the same time, I want to be fair to the rest of the Senators who would want to add their voice to this Motion. I am going to give each of you time but, please, take about four minutes each because we must conclude this conversation by 6.00 o'clock or one minute past that time.

Sen. Shiyonga, you have three minutes only.

Sen. Shiyonga: Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute on this Motion.

I congratulate Sen. Kasanga for coming up with this Motion on formation of community forest associations to aid in management of forest resources within counties.

There are many benefits of forests, some of which my colleagues have mentioned. Forests are made of trees. During the old days, most trees were used as medicine and some are still being used as such. Another benefit of forests is that they are habitats to our wild animals. Forests also attract rainfall and prevent soil erosion. There is also the beauty when forests cover wide areas.

We have an Act in place that provides for conservation and management of community and public-private forests and forestlands that require special protection but people ignore it. It provides for protection of forests and we need to respect it. The Act has a special objective to ensure long-term forest productivity and conservation through resources that prompt re-afforestation.

My colleagues have talked about the earlier days when we used to have a government that took care of forests. The slogan was; if you cut down one tree, you plant two. If all people are involved, it will be an advantage to our country. That is why we need to support our national Government. County governments also need to be involved in conservation of forests.

The challenges of de-afforestation are alarming. We waste a lot of time and Government's money to attend conferences on climate change because of de-afforestation. It is high time we adopted this Motion to ensure that---

I applaud Sen. Kasanga so much. Let us focus on afforestation than de-afforestation.

(Sen. Shiyonga's microphone went off)

The Temporary Speaker (Sen. Nyamunga): It will eat into other Senators time, but just give her one more minute.

Sen. Shiyonga: Madam Temporary Speaker, we need to adopt this Motion.

Kakamega Forest is the only tropical rainforests in East and Central Africa. The forest leads to rainfall throughout the year. Whereas other people destroy forests in other areas, they should know that forests have more advantages than disadvantages.

Madam Temporary Speaker, I support and urge Sen. Kasanga to work towards coming up with a Bill to emphasise on the importance of this matter.

Sen. (Dr.) Milgo: Thank you, Madam Temporary Speaker, for giving me this time to also add my voice. From the outset, I thank Sen. Kasanga for bringing such a wonderful Motion.

Formation of community forest associations will go a long way in assisting in terms of conserving forests. Our Constitution of Kenya, 2010, obligates the state to increase the forest cover to 10 per cent. As things stand now, forest cover in Kenya is barely at four per cent. In some areas, it is even below that. The major reason is because of issues of implementation.

If we have community forest associations, we will increase the percentage of forest cover. When we talk about community forest associations, we recognise the rights of a community to manage their affairs just like in devolution where county governments are doing very well.

Madam Temporary Speaker, this will go a long way in ensuring that forests that we have are conserved especially when communities are involved. We need to engage environmental departments of the county governments not only to set aside funding but also go around sensitizing the people on the importance of forests. If people are sensitised on the issues of forest cover, I am sure it will be possible to conserve many trees in Kenya.

We know that the reason we have challenges of climate change is because we have reduced what used to be flourishing trees to nothing. The result is seasonal rains that cause floods. If trees are conserved, they are not only for aesthetic value but also provide homes to flora and fauna.

In addition, the trees purify the air so that people can live in a better environment. Some of the diseases that we are encountering right now are because we have cleared the forests to the extent that we are so exposed. The many challenges that we are experiencing right now is as a result of the various Acts that we have. The Community Forest Association Act and the Water Resource Use Act speak to the issue conserving forests.

It is a high time that the Act should be looked into to ensure that we assign specific responsibilities to the different bodies so that we have better management.

The National Land Commission (NLC) is to blame for the challenges that we are facing currently. The people who inhabit the Mau Forest---

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Milgo, your time is up. However, I give you a minute to finish up.

Sen. (Dr.) Milgo: Madam Temporary Speaker, the National Land Commission (NLC) is to blame for the challenges that we are facing currently. The NLC assigned title

deeds to the illegal settlers so right now we are dealing with the issue of human rights. The Mau Forest evictees should be settled like other Internally Displaced Persons (IDPs) so that we can conserve those forests.

I beg to support.

The Temporary Speaker (Sen. Nyamunga): Kindly, proceed, Sen. (Rev.) Waqo.

Sen. (Rev.) Waqo: Madam Temporary Speaker, I thank you for allowing me to add my voice to this Motion on the formation of community forest associations to aid in the management of forest resource within counties.

I thank Sen. Kasanga for coming up with this Motion which is not only helpful to us, but the entire nation.

Our country, Kenya, has not been taking care of the resources that God gave us. Through the forest associations, we can prevent floods, drought and soil erosion. Reports from my county today indicate that we have lost so many animals as a result of floods. We had complained of drought, but we have now lost almost all our animals as a result of the floods. We have not taken good care of our resources especially forests.

Madam Temporary Speaker, I beg to support this Motion because a lot of deforestation has taken place such as timber extraction and illegal logging. I believe that if the counties take up the responsibility of planting trees, we can introduce tree planting programmes in our schools and declare a day where we can plant trees and see how we can protect the existing trees in our forests. If we do that, we can recover the forest cover that we have lost. We have lost our history because in the past, we would get wild fruits from the forests that were medicinal. Today, many traditional doctors have nowhere to get herbal medicine because we have destroyed all the resources that God gave us.

The entire nation needs to act to bring back the glory that Kenya had before. Kenya is a very beautiful country, and we are blessed in many ways. Unfortunately, we have destroyed everything that God gave us because we have not taken care of our resources.

Madam Temporary Speaker, I beg to support this Motion

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, that brings us to the end of debate on this Motion. I now call upon the Mover to reply.

Sen. Kasanga: Madam Temporary Speaker, I would like to start by thanking all the Senators who contributed to this Motion. The contributions are way beyond my expectations. I have got a lot of in-depth knowledge and information beyond what I expected. I am grateful for all the wonderful comments from the Senators towards this Motion, concerted effort from a few stakeholders as well as the team in my office who put together this Motion. I am deeply grateful.

I would also like to appreciate the leaders who have taken their time to make an effort towards planting of trees. I am aware that besides Sen. Wambua, Sen. (Dr.) Kabaka has a foundation that works on planting trees in schools in Machakos County.

The effects of global warming and climate change cannot be understated. The importance of how central the trees are to conservation of the environment cannot also be understated. As a country, we cannot handle the effects of global warming. We have witnessed flooding in the recent past that has caused Kenyans billions of shillings and loss of lives which we cannot replace because we do not have the capacity to replace. We

have also experienced diseases as a result of global warming. We should expect to experience more diseases considering our temperatures have gone up and the climate has significantly changed.

Madam Temporary Speaker, as we have heard from some of the Senators, in the 1980's, the climate was very different from what it is today. In those days, one could anticipate weather changes. One cannot anticipate weather changes today. That is why we are experiencing a lot of flash floods that cause death and destruction. We have no capacity as in this country to handle disaster and we have seen that time and again, year-in, year-out. We have been unable to manage our risks.

With the change in climate, it becomes paramount for us to take care of our environment if we are going to have a future to leave this country to our young people. We have a duty, as leaders, to spearhead the conversation on trees and more importantly take this conversation to the lips of every Kenyan. The best way to do that is to have the forest associations in place, empower them and let Kenyans understand the importance of planting trees, taking care of them and conserving forests. As Sen. Wambua said, in the past there was a policy from the Government that demanded one to plant two trees for each tree that they cut.

Sen. Wetangula has given us many examples of more progressive countries which have over 70 per cent of tree cover such as South Korea and Japan. That is practically living a forest. We need Kenyans to understand the issue of forests and living within forests. People can live in forests but the question is, do people understand the value of the trees that they live next to? That is the conversation that we need to have as we talk about protecting water towers.

Sen. Halake said that we should talk about land and conservation as two different things. I now understand where she was going with it. This is because Sen. Wambua, Sen. (Dr.) Langat and Sen. Cheruiyot have brought it up.

With regard to the politics around our water towers, leaders need to understand that people can live next to trees. However, they need to understand how to conserve and plant others or pick agricultural activities that do not require cutting down trees. That way, they can co-exist with the trees like in the Amazon like another Senator said. People live within the environment and eat from it. They protect it and use it for their medicinal purposes as Sen. (Rev.) Waqo has said. So, it is possible for people to live side by side with the forests.

Madam Temporary Speaker, our leaders should take the correct approach on the conversation around the Mau Forest and other areas where we have conversations on protecting our water towers. That is one thing that I have taken with me.

The Senator for Homa Bay has rightly put it that all the laws are in place. I also alluded to town planning in the beginning. I do not know why our cities and towns are still approving building designs without adequate green cover for our citizens to live in. At some point, we have to take stock, as leaders, and make the necessary demands. If it means developers have to find a way of making sure every development has a portion of tree cover or greenery, then it is a must we take that up, as leaders, and demand these things.

Madam Temporary Speaker, in the urban areas, for example, Nairobi, our temperatures have gone up because it is a concrete jungle. It is no longer the green city under the sun. There is a social media clip going around where a tree in the memory of our noble peace prize winner was cut down. You even wonder how that can happen yet she was celebrated globally. I do not know where the tree was taken. However, that is a sad picture of what this country has become.

Madam Temporary Speaker, market centres are now defined in the new Urban and Cities Act. Every market centre must have a green area for Kenyans to relax. Green areas have a direct impact on mental wellbeing of which I am an advocate of. It also has a direct impact on the general wellness of the human psyche and body.

Madam Temporary Speaker, a lot has been said. Sen. (Dr.) Zani had ideas on programmes just like Sen. (Rev.) Waqo. We cannot overstate the importance of these associations. This is because, as Sen. Mwaura said, devolution is revolution.

When you take the conversation down to the people, things begin to happen. The cogs begin to turn, and there is ownership. Sen. (Dr.) Musuruve talked about owning. When people own an idea, it begins to happen. Leaders must lead from the front. We know that trees can grow anywhere there is grass. So, let it not be a question of just the highlands, plants can also be planted in the semi-arid areas. It is a fact. We are watching with our own eyes how the Middle East is transforming their deserts yet we have a forecast that the Sahara Desert will increase. We should be scared. We should have this conversation every day and make sure that Kenyans understand the importance of trees.

Madam Temporary Speaker, I have taken heed of the various amendments that have been proposed including seeking a Statement through the Committee on Lands, Environment and Natural Resources where I sit. We can call the CS and push this conversation on trees further.

The issue of funding of the research foundation is also critical. The issue of commercial farming as an approach to achieve our tree cover as well as a commercial venture, as brought up by Sen. M. Kajwang, is a good idea. It is something that the Government is not venturing in. Other progressive governments, for example, Malaysia have allowed commercial farming where people can harvest trees and make money out of them as they continue to plant more. So, the Government can adjudicate areas and direct them towards commercial forest farming so that our multinationals can stop causing political upheavals in our delicate dispensation.

I am grateful of the Senate for having this conversation with such depth and passion. I pray that they will vote on this Motion so that we move the conversation forward.

The Temporary Speaker (Sen. Nyamunga): Sen. Kasanga, you need to end by saying ‘I beg to reply’.

Sen. Kasanga: Madam Temporary Speaker, I stand guided.

I beg to reply.

(Question put and agreed to)

We move on to the Next Order.

MOTION**ENGAGEMENT OF COMMUNITY HEALTH WORKERS BY
COUNTY GOVERNMENTS**

THAT, AWARE THAT county health facilities, and the promotion of primary health care are devolved functions, and each county government is striving to offer the best healthcare to the people of Kenya;

COGNIZANT THAT, the provision of healthcare services is continuously riddled with numerous challenges ranging from understaffing of personnel to inadequate facilities and equipment resulting in congestion in hospitals further restricting effective service delivery;

NOTING THAT every Kenyan has a right to affordable and accessible healthcare, and the President has launched a pilot universal health care program called “Afya Care” that will see many Kenyans access improved healthcare;

CONCERNED THAT, the diverse nature of counties and wanting infrastructural development is compromising the quality and accessibility of health centres especially during emergency situations, resulting in the loss of many lives occasioned by the failure by patients to reach health facilities in time;

FURTHER CONCERNED THAT, in each county there are numerous unemployed community health workers who are adept at working with communities in emergency situations, and have the requisite experience to support the medical practitioners in our country where, according to the World Health Organization 2014 report, there are two doctors for every ten 10,000 people;

NOW THEREFORE, the Senate resolves that the Council of Governors in partnership with the Ministry of Health –

1. Develop a policy for the training, certification and employment of community health workers to enhance the emergency health service delivery in the Counties, and

2. Facilitate the said community health workers with the necessary basic equipment for use during emergency cases.

(Motion deferred)

MOTION**NOTING OF REPORT ON THE 3RD STATUTORY MEETING OF THE
FP-ICGLR COMMITTEE ON ECONOMIC DEVELOPMENT**

THAT, this House notes the Report on the 3rd Statutory Meeting of the Committee on Economic Development, Regional Integration and Natural Resources of the Forum of Parliaments of the International Conference of the Great Lakes Region (FP-ICGLR) held in Bujumbura, Burundi, from 13th to 14th March, 2019, laid on the Table of the House on Tuesday, 21st May, 2019.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, there being no other business, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday 15th October, 2019, at 2.30 p.m.

The Senate rose at 6.15 p.m.