

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 3rd August, 2021

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

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

PRAYER

The Speaker (Hon. Lusaka): We have a report of the Standing Committee on Tourism, Trade and Industrialization. The Chairperson, or a committee Member.

PETITIONS

REPORT ON PETITION: LIQUIDATION OF MOI UNIVERSITY
SAVINGS AND CREDIT SOCIETY (MUSCO)

(Petition deferred)

That is okay, we can go to the second Petition by Sen. Halake.

MURDER OF ENVIRONMENTALIST AND CONSERVATIONIST
MS. JOANNAH STUCHBURY

(Petition deferred)

The Speaker (Hon. Lusaka): Papers.

PAPER LAID

REPORT ON THE SPECIAL AUDIT REPORT ON
UTILIZATION OF COVID-19 FUNDS

The Senate Majority Leader (Sen. Poghishio): Mr. Speaker, Sir, I beg to lay the following Paper on the Table on of the Senate, today, 3rd August 2021.

Report of the Standing Committee on Health on the Special Audit Report on the utilization of COVID-19 funds by county governments.

Thank you.

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(Sen. Poghiso laid the document on the Table)

The Speaker (Hon. Lusaka): Next.

STATEMENTS

APPROVAL PROCESS AND IMPORTATION PROCEDURE FOR COVID-19 VACCINES INTO KENYA

Sen. Cherargei. He is absent, so we defer

(Statement deferred)

STATE OF MENTAL HEALTH AMONGST OFFICERS IN THE DISCIPLINED FORCES

Sen. (Dr.) Mbiti. He is not there.

(Statement deferred)

Sen. Halake.

HIGH DROP-OUT RATES OF SCHOOL-GOING GIRLS

They are all deferred. Let us go to the next order.

(Statement deferred)

BILLS

Second Reading

THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 25 OF 2020)

(Sen. (Dr.) Zani on 29.7.2021)

(Resumption of debate interrupted on 29.7.2021)

The Speaker (Hon. Lusaka) Sen. (Dr.) Zani, you have 56 minutes.

Sen. (Dr.) Zani: Thank you very much, Mr. Speaker, Sir. I had begun to move this Bill at the last sitting, and I had gone into it for about five minutes. I would like to pick it up from there. I had just begun to state that this is one of the Bills that really seeks to ensure that we have structures and institutions for benefit sharing.

There is a lot of work that has been done in terms of benefit sharing, especially putting in place the communities and how that benefit sharing should be. That benefit

sharing might be in the form of royalties, monies that are going to the counties, or Corporate Social Responsibility (CSR).

However, we felt that all these sometime have hitches. An organization can say that they are doing CSR, but there is no way to measure and ensure that a certain amount is going to the communities. I need to say here that there are various organizations that develop natural resources that have done very well in this respect. We, however, also wanted to have a level of formality an institutionalization so that benefit sharing is very clear.

We said that we would not talk about royalties or CSR, but about benefit sharing in whichever form. This is so that communities can come together. As I was explaining, the strength of this Bill is that we have the Mining Act that is already in place. It spoke about these institutions, but they have not been put in place.

Mr. Speaker, Sir, in the initial Bill, we had envisaged an authority and an overlooking institution that will be looking into matters of benefit sharing and then cascading these to two very important committees, the County Benefit Sharing Committee followed by the Local Community Benefit Sharing Forum. The first is that at the national level, the second one is at the county level, and the third is at the ward level.

You will be aware that the whole definition of community varies from one Bill to another. In this Bill, we want the community where a natural resource is being developed, be it forest, water, minerals or gold. Whatever it may be, the immediate community should really benefit. We know from various situations that we have been in that sometimes you find a benefit that really goes beyond a ward to another ward or to the county itself.

Mr. Speaker, Sir, we want the community whose natural resource is being exploited or developed to be the main beneficiaries, because sometimes there are also repercussions. For example, if it is tresses that are being cut, then they will miss out on firewood, and it is their environment that is going to be depleted.

One of the things that I will emphasize is a way to re-establish all these resources and reset the set up. They have to find a way of rehabilitating these communities. Right from the beginning, apart from the national organization which would have been able to do that, we have other organizations and structures.

Mr. Speaker, Sir, I just want to touch on the County Benefit Sharing Committee and its membership.

Mr. Speaker, Sir, I want to touch on the County Benefit Sharing Committee that will be looking into matters of benefit sharing and then cascade this to two very important Committees that is, the County Benefit Sharing Committee followed by the Local Community Benefit Sharing Forum. The first, at the national level, the second at the county level and third at the ward level.

Mr. Speaker, Sir, you are aware that the definition of community varies from one Bill to another. For us, we felt that a community is where a natural resource is being developed, be it forest, water, minerals or gold, the immediate community should benefit.

We know from various situations that we have been, sometimes you find a benefit that goes beyond a ward to another ward or the county. We want that community whose natural resources are exploited or developed to be the main beneficiaries because

sometimes there are repercussions. For example, if it is trees being cut, they will miss out on firewood and their environment will be depleted.

Mr. Speaker, Sir, one of the things that are emphasized is a way to establish all these resources and reset the setup. We have to find a way to rehabilitate these specific communities. So, right from the beginning, apart from the national organization which would have done that, we have other organizations and other specific structures.

Mr. Speaker, Sir, I would like to touch on the County Benefit Sharing Committee and its membership. It has the County Executive Committee (CEC) Member, the chairperson of a specific county assembly, two technical officers and five persons who have had a lot of experience in terms of community and how the resources are used.

I say this carefully because there has been the bottom-up debate going on. This Committee has five members who are at the community level so that they can have a say. We know that there can be a lot of influence from administrators and high level county officials and all these people. So, the five members should have power to determine. They are the ones who will say whether a particular resource is exploited and the amount of money that will come as a result of this resource.

If it goes to the loyalty fund that is established in the Bill at the financial provision at Clause 14, it should cascade. Therefore, they should have a say and know how much money has gone from this particular resource.

This Bill is inspired from Rwanda in the idea of *Kwita Izina* which is a concept where tourists come to see gorillas in the forest, they collect revenue and as a result, they build roads, hospitals and specific development projects targeting specific members of the community for a specific natural resource.

When communities realize that they will gain because of their trees, water or minerals, they feel attached and try as much as possible to do the best they can. In fact, they become defensive of that natural resource and they protect it over time.

So, for *Kwita Izina*, the community names the gorillas in an international event and from that, people give various funds. They pay for naming gorillas and the money goes to a specific thing. That is why, it is important to have Committees to negotiate this effectively.

We felt that it is not important to have that at the county level but at the specific local community.

In a few minutes, I will go into the proposal of how the funds should be divided within the various counties which is important.

What is key is that the local communities can trace these funds and know that they are not part of the funds coming from the counties, equitable share, conditional grant or any other money. It is part of the money that they have generated. This is important especially when we talk about Own Source Revenue (OSR). This would be one of the ways for communities to catapult themselves and make adequate contribution.

Mr. Speaker, Sir, before we publish this Bill, it was first initiated in 2013. Sen. Wamatangi is here. From the teams of Senators who were there at that time, we had a Committee of about nine Members and we went around the various counties to come up with this. Of course, we had various versions of it from that time.

Sen. Wamatangi will soon be seconding this Bill as a Member who was also the vice chairperson.

I thank all the Members at that time and now. This is because we have undergone many useful amendments to this Bill.

One of the amendments was necessitated by ensuring that this is not considered to be a money Bill. Initially, we had put an authority as the main figure at the national level.

Over time, with consultations from various stakeholders, we decided that it is important to put the Commission on Revenue Allocation (CRA) and give it more responsibilities like the ones given to the authority so that, one, we are not introducing another body all together. Two, giving powers to CRA who will overlook that things are done properly, for example, the coordination and preparation of benefit sharing agreements, reviewing and determining the royalties payable at the CRA level and also working with this community.

Mr. Speaker, Sir, the strength of the Bill must be seen in the coordination of various bodies, at the national level, county level and local level at the ward which is close to a particular resource.

They would also oversee the administration of funds set aside for the community projects. As they do that at the Local Benefit Sharing Committee, they should give suggestions. So, we have a to and fro process so that at the end of the day, those projects are known to be coming as a result of the natural resources.

They will also determine appeals arising from the conflicts. Some conflicts will be dealt with at the county level. There is a Clause where we have said whereas a resource bestrides more than one county, then we will have a joint County Benefit Sharing Committee either between two, three counties or whatever the case will be. When it comes to conflict resolution, that Committee will come into place.

Finally, CRA will be the overarching body to address this at the national level.

Clause 5(1) states that-

In addition to its principal functions under Article 216 (1) of the Constitution and section 10 (1) (d) of the Commission on Revenue Allocation Act, the Commission shall be responsible for the implementation of this Act and shall, for this purpose, —

“(i)Oversee the establishment of benefit sharing Committees and forums”

I have talked about this.

(k)build the capacity of local communities in negotiations for benefit sharing and implementation of related projects;

The other day when I was in Kwale County, I visited some of our organizations that are involved in resource development.

Every time I talk to the communities, they are always asking what they will get as a result of developing their natural resources, how they will gain, give back and restore for now and for future? So, this becomes critical and important.

“(m)identify, in consultation with sector specific organizations, incentives and benefits to promote the conservation of natural resources;

This is a big thing. I remember at that time, we visited various organizations. We went to one where after mining, they put water and restore by place by having a fish pond and they sell the fish.

“(o)promoting local content initiative”

This came out as a big thing. As these resources are developed, how will build on them so that we can create more job, do value addition for the same resources, employ

the unemployed youth and assist in putting all these together. So, this is important especially the part on restoration.

One thing that is clear is that we hold these natural resources, not for ourselves, but for the generations past and those that will come in the future. This is critical.

Mr. Speaker, Sir, at sub clause (2) talk about need for coordination that Commission on Revenue Allocation (CRA) so that will not do this on their own. They will do this with other relevant bodies as well.

We go specifically to the collection of funds. We have the Kenya Revenue Authority (KRA) where the royalty fund will be going to. How does that get divided? Apart from just having the legal provision, it is important to ensure that it can be implemented. There was a lot of debate about this. What we had in mind is that you have a royalties fund right at the top. Out of that, we have 20 per cent divided going out as sovereign fund. In it we have a future's fund where they can take care of educational opportunities and scholarships for people.

We can talk about restoration within that fund. We have 80 per cent beginning to cascade into the counties. At the first level, at the counties, we have 40 per cent going to the counties and 60 per cent remaining at the national. Remember that is of the 80 per cent because 20 per cent has gone out as royalties.

From the 40 per cent that has gone to the counties, we have the local community receiving 40 per cent to compensate for that resource being developed. We have 60 per cent going to the general county. That was the provision that we made a little bit different from some of the provisions that have been made. This was specific because with natural resources you need to put a little bit of money on the side for the future. However, you also need to ensure that whatever trickles down can be used appropriately.

Mr. Speaker, Sir, when we debated about which was the best organization to collect this fund, we settled for KRA. That is well captured in Clause 7. That one is able to do that specifically.

I want to dwell briefly on the local community benefit sharing forum. This is the one now that comes at the ward/community level, if you wish. That is right where the resource is being developed. This one is key. It comprises of various people, but again, we have tried to ensure that the representation at the local level is clear and well established.

Mr. Speaker, Sir, for example, in it we will have five people who are residents within that county, a public officer and members of the local community benefit sharing forum. We have specific government officials put into the board. We have ways and means of ensuring these people are so close to the communities that they can always give advice necessary at the various points to enhance that benefit sharing.

Initially, we did not limit the natural resources. We said not only these natural resources at Clause 3, but others as well. I think as we negotiated and through public participation and some of the instances that were coming, we felt that let us just legislate at the moment for the specific natural resources as per now and not extent that list. Those others can always come up as amendments in the future if need be. At Clause 3 (a) to (f) we have sunlight, water resources, forests, industrial fishing and wind.

Mr. Speaker, Sir, these was a big issue. I remember when we were discussing it the first time, Members felt, for example, when it is a resource like water, how do you

best manage it if it is flowing from one county to another. How do you just agree on the benefit sharing where other counties are related? This is where we finally came up with CRA as an arbitrator in that, but also having these other various communities and committees which will cut across counties to address this. This becomes very critical.

All the time, the CRA is going to be guided by the provisions of Clause 6. Looking at specific things that are key in terms of defining the benefit sharing that should go. They will look at the impact of the exploitation on the local community, the affected county and the environment. They will also look at the total capital investments of the affected entity and the prevailing international market value of the commodity. At the end of the day, there is a sense that all these have been taken into. Whatever comes down and moves to the counties is something that will be very appropriate for them and important so that they can feel that they have been taken into consideration.

What will these county beneficiary committees be doing? What will the local communities be doing? I just want to pick on some of these functions like negotiating the terms of benefit sharing. There is monitoring the implementation of projects which is key. However, they will not have the administrative power to drive the process. However, we hope that because they come from the community, they will have a say and a voice that can be considered when they are making suggestions about what should be done.

Mr. Speaker, Sir, implementation and monitoring determine the amount to be appointed to the local level. This is the county benefit committee and how they will take the funds to the local community benefit sharing forum where the implementation will be made. You will realize just from the moving of this Bill and the statements that I am making, we want the communities to be the winners and in charge because they know best about what is happening. They are the ones whose voice has been heard more often. They are the ones who say look, our resources have been taken away and we have not benefited. We still have our children not in school yet we do not see the money. We want them to come on fore and make those decisions for themselves.

Mr. Speaker, Sir, we are trying to ensure that they are and remain in charge. That they can act. By giving these specific functions to them we enable them to do things that need to be done. They will, indeed, have to do a lot of consultations.

I remember the first time when this was an *ad hoc* Committee and we travelled to the various counties, this debate had already started. I remember when we were in Turkana County and we were asking so what do you want this money to do. We had two different groups of people. Some were saying let us put it in education.

Others were saying let us put it in infrastructure. It begins like that. At the end of the day, the communities must come up with a way that they feel the impact is maximized. When that impact is maximized, it is a win-win situation for the communities and organizations developing these specific resources.

Mr. Speaker, Sir, this is a Bill that is coming up again in terms of our concurrence as per Article 110 (3). We are starting the process again and really hoping as we go through this we can get to the point where the communities can functionally feel that they have been involved. At Clause 18, we involve other key administrative personalities and authorities. There is the Cabinet Secretary (CS) who will make regulations for the better carrying out of the provisions of this Act.

In particular, without prejudice to the generality of their power, the Cabinet shall make regulations for the prescribing of the fees, mode of payment and details that have to be put into place. As much as we put the committees in place, we need these regulations so that we find this trickling down to the counties.

Many times as we move around to various communities, they kept on saying they want their communities to matter and better themselves. We want our communities to get back from what has been developed from where they have come. We want them to be happy and relate with their natural resources. We want to enhance the natural resources sector through this Bill so that we have a commonality across the board. You will realize legislations sometimes handle forestry or water separately with different modes put into places.

The idea was to create a formality and a legislative framework that makes it possible for these communities to have something to hold on to in terms of reference points as they look for that important benefit sharing component which is owed to them by virtue of the natural resources being in their specific counties and wards. Also, as they look for a better future, they think about how best they can progress. This was the spirit of the Bill.

Mr. Speaker, Sir, I wish to stop there because I think we have covered the main components, structures, the way to go about it, local communities and various authorities that have been put into place. We think this will change the communities. We are looking forward to a time when communities can be proud of the natural resources and that they are able to socially benefit. Benefit sharing becomes a reality in these communities.

With that, I beg to move and request Sen. Wamatangi who was the Vice Chairperson at the last Senate 2013-2017 to second this Bill.

Sen. Wamatangi: Thank you, Mr. Speaker, Sir. I rise to second this Bill and from the onset congratulate Sen. (Dr.) Zani as one of the outstanding and spectacular lawmakers in this House. I laud her for her consistency, focus and resilience. It goes without saying that it takes a determined person to make this come round a second time.

I was the vice-chairperson of the committee that was formed by this House in the 2013-2017 session when Sen. (Dr.) Zani moved the then Royalties Bill in which she sought to get justice for the people of this country. In that committee we did quite a lot of work. What is remarkable, even before I go into the details is the zeal with which Sen. (Dr.) Zani has pursued this matter.

I hope that this will also work and mark a signal whereby the National Assembly, in this new and revived way of collaboration and ensuring that once pieces of legislation are passed in this House, when they go to the National Assembly they can be expedited soon. I hope it does not take another round of battling in court as we did to ensure that there is compliance.

Mr. Speaker, Sir, this Bill should have seen the light of day. I think it is important that we put it on record that part of the consideration and matters that must be said is for example, how much of public money goes to waste when a Bill like this one comes to this House, all the processes undertaken, foreign travel undertaken, committees formed, sittings held, staff paid, promoters and supporters facilitated and at the end of the day when those funds have been put to this process then this Bill goes to the National Assembly and dies there, never to see the light of day until when a new session of

Parliament is convened to have this Bill restarted. It is important that we put it on record that what happened in the last session and pursuant to the court ruling that this will be a thing of the past.

Having said that, this Bill that has been pursued by Sen. (Dr.) Zani whose determination is that something should be done to ensure that there is justice for the people of this country in the areas where natural resources are situated. Indeed, where it has been decided by the investors, the Government and interested parties that they need to exploit these natural resources for the benefit of those companies, nation-building and also extend those benefits to ensure that as those companies, investors and the national Government, big companies who build roads benefit, the local population also benefit.

During the life of that first committee we undertook a lot of visits in this country to look at how it affects local communities differently, where natural resources are situated differently.

I remember we paid a visit to the County of Machakos and also Makueni County. Some of the stories that we found there are simply unbelievable.

We paid a visit to the County of Machakos and we found a place where exploiters collect sand for sale in Nairobi. We said this in the last House that you will find that the most beautiful buildings in this city like the KICC, the most magnificent hotels, big stadiums like Kasarani Stadium, beautiful homes in the most exquisite estates in this city, the sand that builds those places is harvested in Machakos and Makueni.

We paid a visit to those places - I hope and pray that by now that situation could have changed - and we found that the renowned spots where this sand is collected the harvesters and sellers of this sand live in pits inside those places. We were flabbergasted to find that there is a family that lives in some of those pits there and they have put up small ramshackles at least somewhere high above the sand beds such that when it rains they are not washed away by the water. However, their livelihood is pitiful.

If that sand is harvested there, how much does the county government benefit from that exercise? You will find that it is almost nil, negligible. If a truckload of sand is collected from Machakos, at that time they said they were paying about Kshs500; maybe that has increased by now. That same truckload of sand will come and fetch maybe 50 times more here in the city. You then ask yourself: How much trickles down to the person whose farm that has been harvested? You find it is almost nil. The same situation is found in every area.

When we went to Kajiado, we tried to engage a Chinese firm that was building the southern bypass then. We found that there was already a very big rift between them and the county government of Kajiado. The reason? The Chinese firm had been awarded a contract worth Kshs17 billion to build the southern bypass and they were collecting all the stones they were crushing to take the ballast to build that bypass. They had adopted a position that they could not pay even one shilling to the county government of Kajiado for the stones they were collecting to crush and build the southern bypass.

I happen to have the benefit of being the chairperson of the Committee on Roads and Transport and I know that when a contractor is doing a bill of quantities to charge for the construction of a road he will charge per cubic metre, including that stone that he has collected for free to crush and get paid to the tune of millions of shillings.

As we speak today, the approximate cost for building a tarmac road here in Kenya is about Kshs45 million to Kshs50 million. You can imagine if somebody has been awarded that contract at Kshs17 billion, how much of that amount goes to the equivalent of the stone that that person has put in the cost and yet they cannot pay a single shilling.

The Maasai community in the area where those stones were being harvested live in deplorable and dangerous conditions because of some of the environmental degradation that has been occasioned by the exploitation, including disease.

We visited one of the areas between Isinya and Rongai and one of the most notable hallmarks on that road where the exploitation was happening is a big dam. This has occurred because of all the stones that have been harvested and carried away. The dam is now filled with water which is a danger to the community.

Mr. Speaker, Sir, that area is a danger to the community. People in the community were complaining that so many young children had fallen into the dam and lost their lives but the entire area is now a health hazard because mosquitos breed there and it is a dangerous zone. However, no effort has been made to cover or refill the dams. I am pointing this out just to show the extent of neglect and impunity with which some of these people have been allowed to trod and trample this country.

We dealt with a similar issue in Kajiado County but left it at that. We visited one of the companies that makes hundreds of millions. So many cement manufacturing companies such as East African Portland Cement, Bamburi, and others are exploiting the locals in the areas that they mine. Everyone knows that cement is very expensive. It is one of the most expensive building commodities. If you ask how much the local community get, who are the custodians of the natural resource that is harvested to produce cement, you will be shocked. None of the funds go to the local community other than a few shillings that are paid through cess that goes to the county government but never finds its way to developing and growing the lives of the local people.

The stories are not only limited to the areas of natural resource of building materials. We looked at a case in Kiambu County where the natural resource of carbon dioxide is exploited by a company called Carbacid (CO₂) Limited. Carbon dioxide is a natural gas that is used in bottling of soft drinks such as Coca Cola. The kind of framework agreement that is there between the local community and manufacturers is pathetic. That is because the person with the authority to decide how the agreement will look like is the investor. Within a community where such a product is being exploited and there is an agreement that has been signed that should last for more than 30 years, the only benefit that the locals get are two marram roads from where the company has built its headquarters to the nearest primary school. Once the company has put up the marram road, they will be happy to announce that they have done their bit.

Mr. Speaker, Sir, I believe that it is time to intervene. If this Bill is the thing that will bring salvation and remedy to this country and to our people, so be it. This is a Bill that we must support. How can we justify that a company will move all the way from Canada into this country, set up a company in Kwale County, decide that other than creating local employment for the people of Kwale, they will do nothing else; they would rather pay thousands of dollars to mobilize a vessel from Canada to come to Mombasa to load raw materials. Why can the company not build a company here, create jobs, employ our young people and ensure that there is growth and development within Kwale County.

Why would such a company hire a vessel from Canada, go with truck to load the raw material in its pure form then go to deposit it in a place in Canada where they build processing companies thus creating jobs for their people while improving their economy as well as the per capita of their country. How then can we as a country ever claim that we will grow?

Some of the most renowned and profitable companies are the ones that exploit us. There is a strong nexus between the companies that benefit the most and the ones the exploit natural resources. Those are the companies that benefit the most. The processors of natural resources are the most profitable. How did the Goldenberg scandal become a scandal that was so mega in this country? It was due to exploitation of natural resource to ensure that the people who have the natural resources get while the people who spin it round are billionaires.

Mr. Speaker, Sir, as Sen. (Dr.) Zani stated, this story does not end there. We visited counties such as Turkana where we could not believe seeing the owners of the area that have natural resources; they cannot even afford clothing. We are priding ourselves on the oil wells which are the first to be discovered in this country in Turkana County yet the people on the ground are not happy. Some of the locals have resorted to taking up arms. The locals told us that they were going to block the roads because that is the only way they can be sure that they are going to benefit from the oil wells in their areas. That is how low we have allowed ourselves to sink and how much we have allowed ourselves to be exploited without raising a finger.

Stories such as those of Migingo Island where the local people have to arm themselves because fishermen from another country will come and fish from our country, beat up, arrest and incarcerate our people just because we are a country that will allow ourselves to join the leagues of Democratic Republic of Congo (DRC) which is known to be the richest country but with the poorest people because their natural resources are taken anyhow. I hope that the commission that has been proposed by this Bill and all the other authorities that have been entrusted with this responsibility will ensure that the money collected on behalf of the local population will be put to good use. That they can copy all the good examples that can be emulated worldwide.

Countries such as Norway have made history. There is no other country in the whole world with higher per capita income per individual other than Norway. That is as a result of Norway deciding to set up a sovereign fund around its natural resource of oil that is exploited by the United Kingdom and Norway itself. The country has built a sovereign fund worth hundreds of billions of dollars today. That is the reason people in Norway live well. That is why there are problems of the rich vs the poor. The children in Norway are sure that they are going to go to school because their country has invested wisely, put in the right laws and elected people who have the best interest of their people in their minds.

I hope that the people who will be appointed in the proposed commission, the ones that are entrusted to ensure that funds are collected and put to the right use can do what is right and be accountable. We did a case in this House where there was a claim that in Narok County, where we have one of the major natural game reserve, where a fund has been established which collects a lot of money. At least for a while, Narok County has offered a good example because they spend their money well. I hope that by

now, the funds from the Maasai Mara can be an example as to how a community can benefit and be uplifted if we plan properly. I just hope that the spending of the funds from the Maasai Mara is now being done well.

Within the role that the Kenya Revenue Authority (KRA) has been given by this Bill, to be custodians and facilitators of collection and depositing of these funds into the sovereign fund that they will not first of all think about prioritizing taxation at the loss of the people.

The local communities should benefit from the natural resources found in their areas.

I beg to second this Bill and congratulate Sen. (Dr.) Zani.

(Question proposed)

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir. I congratulate Sen. (Dr.) Zani for coming up with this Bill. I used to think of how the local people do not benefit from the natural resources way before I joined this House. I know that some people have benefitted from the natural resources as the local people perish in poverty.

A good example is the electricity that is produced at Masinga Dam. The homes that surround Masinga Dam have no electricity and neither do those people use that water to irrigate their farms yet they are surrounded by a Dam that provides electricity to the entire country. I pray that this Bill gets to see the light of the day because it will enable such people and their counties to benefit from their resources. This Bill is very timely.

The other natural resource that I want to talk about is sand. Sen. Wamatangi talked about it. Sand is found in Machakos and Makueni counties yet the local people do not benefit from it. I pray that this Bill will protect the locals and the counties where the natural resources are found. Kitui has a lot of coal and I hope that this Bill will enable them to benefit from it. With this Bill, the people of Machakos County will also benefit from the resources that will come with Konza City.

We recently went to Thwake Dam together with the President and my party leader; Mr. Kalonzo Musyoka. That dam will be a resource to the people of Makueni and Kitui counties. The dam can even service Kajiado County because it has a lot of water. It is my prayer that the people of Makueni County will use it for irrigation. I hope that they will benefit from the revenue that will be collected from that water.

Gemstones are the other natural resources that we have but the people who live in the areas where they are found live in abject poverty yet gemstones are very expensive. The passage of this Bill will enable those people to benefit from the natural resources found in their counties. The same will apply to the people of Turkana County who have oil. We also have the residents of Mgingo Island in Lake Victoria who are surrounded by a lot of fish. Those people can be protected by law and the Government can build a factory to process and store their fish.

As we discuss this, we should also think of the investors so as not to affect them. The law should protect the local communities and the investors as well.

I congratulate Sen. (Dr.) Zani. I have been in this House for a few months and I have come to love her participation. I congratulate her for being recognized as the best nominated Senator.

I support this Bill and I pray that it sees the light of the day.

Sen. Cheruiyot: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this progressive Bill; The Natural Resources (Benefit Sharing) Bill (Senate Bills No. 25 Of 2020), by Sen. (Dr.) Zani.

For those who may not know, this is not the only Bill that has been moved by Sen. (Dr.) Zani in an attempt to safeguard the local communities that have natural resources. She had a Bill similar to this in the 11th Parliament or at the beginning of the 12th Parliament but it died in the usual way. We all know what happens when a Senate Bill goes to the 'Lower House'. I do hope that this Bill will have a different fate. I hope that out of good order and good thinking, our colleagues in the 'Lower House' will appreciate the importance of the legal framework that this Bill seeks to provide for the benefit of local communities. It is my prayer that they will see beyond the House of the Senate. They should remember that we are all representatives of the people who are to benefit from this Bill.

Every part of this country is blessed with a natural or manmade resources. It is upon the arrangement and organization by the Government to either spend money in trying to make sure that the resources are commercially viable. The Government is supposed to set up systems to make the natural resources usable by the rest of the society so as to bring success to a particular community. It is unfortunate that almost 60 years after independence, many of the local communities that have been immensely blessed with the natural resources do not benefit from them. It is only those of us who are in urban places like Nairobi who know the benefit of such resources.

You cannot compare the amount of revenue that comes into the country courtesy of that natural resource and the benefits to the local communities. Sometimes in mentioning Maasai Mara National Park, we forget about the rest of the national parks in far flung places like Turkana and Samburu counties. There are others in Nanyuki and the Tsavo. These are places that generate a lot of income for this country yet despite proximity to that resource, local communities have very little, if any, to show for that proximity.

For most of them, the resources are collected by the Kenya Wildlife Service (KWS) and, maybe, those who are intelligent enough to set up a lodge which is way beyond the price of what local communities can do. They may not have the resources to put up a lodge, eco lodge or hotel close by. On many occasions, you will see them try to emulate and copy some of those things, but they do not have the capacity to come up with something that can attract sufficient revenue for them to draw a livelihood out of a particular natural resource.

Madam Temporary Speaker, I guess it is out of that motivation that---

(Loud consultations)

I was thinking about Sen. (Dr.) Zani and the work she has done.

Mr. Speaker, Sir, you know there is no way I doubt your gender. I know very well that you are a proper man. The rest can be left---

(Laughter)

Back to the point of debate.

(Loud consultations)

I resist the temptation to be invited to that debate because I know it can quickly move on to other things.

Mr. Speaker, Sir, it is out of that realization that our colleague, Sen. (Dr.) Zani, thought it proper that we need to have a legal framework that at least safeguards something for the local community. Imagine the amount of wind energy that we harvest out of Loiyangalani. I have not been there for a while. I do not see Sen. (Eng.) Hargura, the local representative here, but if he was to tell you the stories of the local communities that live around that place, how much do they benefit? Somebody came and found that land harrowed and properly tilled and people purchased and created energy out of it. However, what is left for the local community that they can be proud of?

On many occasions, many people imagine that it does not matter. So long as we have paid a few people, ensure politicians and a few local leaders are safe and well taken care of, then we can exploit and do as much as possible. We are living in a society that is increasingly being informed on their rights and freedoms. A time will come when people will demand for their rightful share. We need to provide for this legal framework and clearly state what is due to a host community. For example, what is due to the people of Turkana County on whose land we have found oil reserves? If we do not provide the framework, then chances are that the local communities will set up a price for themselves and you do not want to find yourselves in such a situation. It will be chaos and anarchy. Chances are they will set a price that will price out most of these businesses.

It is actually in the interest of many of those who do businesses alongside local communities that do not benefit from these natural resources, for this law to be expedited and passed because it safeguards their investments. In the absence of such a law, and looking at the restlessness of the current generation of young people who have gone to school and cannot understand why despite being graduates, they cannot eke out a living out a natural resource close to their home, they will be ingenious and come up with ways of separate taxation. You might just have to pay tax to the Government and also to the local community.

Mr. Speaker, Sir, this is an important piece of legislation. I congratulate our colleague for providing it because this is how you ensure that people benefit and everybody creates value. I appreciate the fact that this Bill has left it to the Commission on Revenue Allocation (CRA) to guide the process because they are the constitutionally mandated body to ensure that we divide our revenue sufficiently. They make recommendations, but I am not so sure whether that is a proper arrangement.

By the way, despite the fact that I am a Parliamentarian, sometimes I think had we left it to be purely a CRA function to divide resources between the two levels of Government, perhaps they would have done a better job than what we have done as a House of Parliament. They would have looked at it professionally and defined a natural resource and how much funding would be sufficient. Anyway, that is a debate for another time.

I like the fact that in this Bill, they have been charged with that responsibility. They will oversee, make proposals and decide what they think would be good value for money for community “X” out of a natural resource drawn and is close to them. It will not be left at local communities being allowed to just sell beads by the doorsteps of Sekenani Camp. I am talking about the women we normally find when we go for visits to the Maasai Mara National Park. It is unfortunate that we have not sufficiently organized our people and ensured---

I do not know where as a country we got this false sense of extravagant capitalism where we say we live in a global world and, therefore, we make laws that are reflective of a society. If you look at global trends, every country is going protectionist in terms of its policies. Countries are ensuring that their citizens first benefit before they open up to people from other countries. Right now, almost every country opens up opportunities only after it has safeguarded the interests of its citizens. A good example is Ethiopia. It was written in the newspapers the other day that one of our largest corporations, Safaricom, was setting up shop in Ethiopia. Kenyans are being advised that it is good to go and do business there, but unfortunately on your own, you cannot register a business. You must be in partnership with a local.

Mr. Speaker, Sir, what happens if you are to do the same in Kenya? Just come, walk into the Registrar of Companies, set up your business, mint you millions of shillings and repatriate the money. We then think we are a safe destination for people to come and invest. While there are advantages of being an open society where people can benefit by doing flourishing business in your country, I think there should be some level of balance. I am not advocating for the extreme of it where you stop non-locals from setting up any businesses in our country, but I think time has come where, as leaders, we must reflect on how our citizens will benefit.

While other nationals are welcome to set up and do business, other than taxes like corporation tax, what returns do they leave in our country? Otherwise, if we are not careful, people will come, exploit all our natural resources and do business in this country. Markets do not last for too long for any particular trade save for the traditional businesses that are known. Some of these new emerging businesses will only be there for 50, 70 or 100 years. People will then shift when there is new technology or ways of doing a particular trade. What happens to the local community, yet we will have squandered our opportunity? We need to learn from some of these countries that ensure they protect their natural resources, but also their own citizens from exploitation so that you teach people to do business and partner with organizations that come to set up shop in our country.

I only have one point of concern for Sen. (Dr.) Zani to think about.

Sen. (Dr.) Zani is proposing a fine for a person who is found guilty of an offence under sub-clause (1), that is, a person who fails to furnish information that is relevant, or people making false claims under this Act. You want to charge them only Kshs2 million? That is a pat on the wrist. In fact, that is almost like commending them to continue doing this work.

Mr. Speaker, Sir, a few weeks ago, we had a discussion somewhere with colleagues, Senators. We were told that part of the reason why it is very difficult to punish the people that are pouring raw sewer into Nairobi River is the fine. Some of these people that run these industries mint millions of shillings. The fine that you put in place

for somebody who pours raw sewer into a river like Nairobi River is Kshs500,000 or a maximum of six months on jail.

They are not even afraid. They tell the National Environment Management Authority (NEMA) to please issue the notice because they know what the law says. At the end of the days, they are fine with it because of some of these legislations that we make. I really want to convince Sen. (Dr.) Zani that we need to raise the amount of the fine of a bit.

When you consider the communities that you want to protect, some of the games that these corporations play, and the attitude where some people think that it is okay to exploit people, then Kshs2 million is too lenient a fine. Think of a higher figure, like Kshs20 million, something that someone will feel the pain and that it is wrong to exploit local communities.

Do not look at giving misleading information as a simple act of lying. It is actually the difference between how much a community makes *vis-a-vis* what they will lose. If you are doing *x* amount of shillings out of a particular project that you have set up in a community, then you file separate figures to Corporate Social Responsibility (CSR) and under declare by 10-20per cent, the amount that it comes to in figures is quite a huge amount.

I propose that when we do the Committee of the Whole, let us try and raise this fine. Let it be a higher amount so that that it deters anybody that would imagine that they can just fill papers, bribe their way through one or two Government officials, and get away with it when this exercise commences in our local communities. That should not be the case. People must learn. Let it be known.

Mr. Speaker, Sir, even the imprisonment, three years, is such a short time. Some people will say, what is three years? They can persevere the three years and make their millions. In any case, their businesses will be running. Let the punishment be punitive so that people know that we must respect our local communities.

Otherwise, I appreciate the opportunity to contribute. I congratulate Sen. (Dr.) Zani. I hope that we conclude on this Bill as soon as we can so that our local communities can draw benefit from the natural resources that are around them.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir, for the opportunity. Normally, the only time that you have to re-sit an exam is when you fail, but we have to do this again because we love our counties.

We actually formed an *ad hoc* Committee for this purpose. Sen. (Dr.) Zani travelled with a whole Committee to some countries for this Bill. We went to our noisy neighbours and it became history. They do not realize that. The discussions we are having on national matters in the public domain are borne by the fact that we have not realized that this county has potential other than we politicians pretending that we can hire or give money to every young person in that county. It is not possible.

Mr. Speaker Sir, I am just going to cite a few examples. Sen. Kavindu Muthama will forgive me for this. There is a person associated with her by name who is a billionaire because of the natural resources coming from Taita Taveta County. I invite

you to one time to ask the good Senator to take you to this place. She wears some of that jewelry. It is very nice looking.

It will surprise you that the people where these minerals come from are possibly the poorest in the country. The people mining in Kishushe today are the billionaires of this country. Some of them are the ones now promoting something I do not even want to mention here about economics that do not make sense, yet they are billionaires from these natural resources.

I wish they would donate some of their mines. If the people of Taita Taveta County, together with the county government were to benefit even 10 per cent from the minerals that are coming from Taita Taveta County, you would not have poverty there. They are my neighbours.

Mr. Speaker, Sir, I do not know whether you have travelled. Perhaps you should send us for as a Committee there. Taita Taveta County has possibly the most expensive lodges in the country. There are people whose private lodges have elephants. Sen. Cheruiyot used to blame my late father for keeping lions. There are people who have elephants in their lodges. I mean elephants are running around in your ranch in Taita Taveta.

Taita Taveta is beautiful but poor because the regulations that exists to ensure that conservancies share this money with citizens are not there. People are paying top dollar to stay in tents in Taita, and to go to a place that Sen. Olekina loves called the Angama Mara. They pay Kshs100,00-200,000 a night just to sleep next to a river where you will hear crocodiles and hippopotamus having a good time at night, yet people are poor.

I had spoken to Sen. Olekina about this. The reason why half his community in Tanzania has built a whole business empire in Arusha is because the Serengeti side of the Mara has a business arrangement with the community. The sort of complaints that Sen. Olekina complains about Maasai Mara would have been resolved if his county shared the revenue that they are collecting with the people of Narok.

Mr. Speaker, Sir, we had a Petition in this Senate about Maasai Mara. I was shocked. These people are sitting on billions. They are paid in dollars. In fact, a time will come where Narok will not need the national Government because of the money that they are collecting from Maasai Mara alone. They actually do not.

I hope that this gentleman is elected the Governor, because even 10 per cent of the United States Dollars (USD) 5 billion that is in their account will make sure that there is no child in Narok--- Those girls that Sen. Olekina is educating will be educated through the fund that is collected from Maasai Mara, the Sovereign Fund that Sen. Wamatangi was talking about. How do you collect a sovereign fund if the billionaires are taking everything?

Sen. Mwaruma has proposed the Wildlife Conservation and Management (Amendment) Bill about the regulations. In 2013, the President signed the regulations that require all the people in Isiolo, Marsabit, Makueni, Taita Taveta, and Nairobi to get a small portion of the amount collected from the parks. Tsavo East and West National Parks used to give 10 per cent of their collections to both Taita Taveta and Makueni counties.

Mr. Speaker, Sir, I support this because our revenue, for purposes of counties, are shrinking. We have not discussed a Supreme Court ruling that bars counties from

collecting levies. For example, Mombasa County was taken to court for collecting levies that are now being challenged by traders. Where will counties get Own Source Revenue (OSR)?

Mr. Speaker, Sir, you are aware that part of the Western Belt has gold. Should we not find a way for this money to get to the communities?

In the last Parliament, the Governor of Turkana County led Turkana leaders to State House to sign what they were calling ‘sharing’. They went there and bargained on whether they should be given 10 or 15 per cent.

I am 100 per cent certain that in that bargain for the 10 per cent, they never had a framework like the one proposed by Sen. (Dr.) Zani where part of it will go to the community. Chances are that this money will end up in some people’s pockets to build hotels. This is what I call primitive opulence that is synonymous with our leadership of this country. When a person becomes rich, they must build a hotel.

Mr. Speaker, Sir, we should ensure that our counties become reliant, do not quarrel, collaborate and exploit.

The Chinese love Kenya. We were fighting on the surface when they were building the Standard Gauge Railway (SGR) on the side of Makueni. Sen. Olekina took me to a place on the SGR in Narok and I was shocked. That railway is going nowhere. In fact, it has begun to rust because it is not being used.

The people who were doing the SGR were collecting soil and rock samples. They were checking, at every point, whether the rock formation can lead to minerals. This is because they understand that a country as diverse as Kenya is bound to have minerals underground. So, when they were blasting rocks, we were complaining about the blasts. However, Sen. Mwangi was happy to take me to Thwake to complain about Thwake Dam. When they blast the rocks, they collect it to go and check. These are some of the things that we should do. We want to help our counties to build a kitty.

They used to say that Tom Mboya was a bright man. However, I wonder all the time about Sessional Paper No.10 of 1965. It bothers me that he thought that some parts of the country could feed the rest. It bothers me what he was thinking at the time as our Justice Minister. It cannot be the solution.

There is something about Turkana that Kenya must benefit from. There is something about Isiolo that Makueni can benefit from. There is also something about Meru, Wajir and all other places that this country can benefit from. That is the only way to integrate this country. That is why this is so important so that Kenyans can start to love their own counties and think about things that could make them rich.

Kitui County has refused to explore its coal for many reasons, half of it is due to fights about what to do when the coal is exploited and other environmental concerns. However, with such a law in place, we will stop talking about the economic principles that I am hearing from theorists in the country who want leadership of this country by exploitation.

Mr. Speaker, Sir, the theories that are currently in the public domain can only be obtained by false pretense because they cannot last or sustain. This is the way to sustain counties by making them self-sufficient. The only time we shall discuss wheelbarrow, it is when it is non-carcinogenic from Bungoma, not any other time.

(Laughter)

You wonder why you bought such a wheelbarrow but not any other time so that this country progresses and becomes sufficient.

The State of Bavaria gives part of its revenue to other states in Germany. Therefore, Narok County ought to be in a position to lend money to Makueni County because it has resources in dollars that can help the country. That is what Germany does. That is the economic model that we need where we promote counties and not create dependence.

We do not want to get a Government that will sit somewhere in Nairobi and give the Senator for Nyandarua money but deny the same to the Senator for Makueni because they do not like him. That is not the way to help this country. That is not what we are looking forward to.

A country that want to develop counties will fight tooth and nail to ensure that this becomes law because we will not bother the national Government with resources all the time. We will not quarrel about formulas like we did for three months because of Kshs2000 to 400 million. That is the sort of money that is pocket change for Narok County. It is a drop in the ocean. At the tap of the finger, money is available from the migration.

Mr. Speaker, Sir, I support this framework and hope that it becomes law so that we can help our counties and the country at large. This is because there is money at the counties. It is proposed in the Bill, that Kenya can make money through the national Government by making sure that counties have a benefit sharing formula.

The issue of boundaries between Isiolo and Meru, Taita Taveta and Makueni, Kajiado and Makueni, Kisumu and Vihiga counties about where a town is, can only be about collecting revenue. We have towns in Makueni County that are split into two. In one side of the town, Machakos County collects revenue and the other side of town, Makueni collects revenue. You will find them quarreling all the time. That will end when counties become self-sufficient so that we stop taxing *mama mbogas* for eggs, *sukuma wiki* and look at the bigger picture. That is in this Bill: The Natural Resources (Benefit Sharing), Bill.

I thank Sen. (Dr.) Zani for being as usual, very hardworking. I congratulate her on the award and recognition that she got for the good work that she has done in the Senate.

I support.

Sen. Nyamunga: Thank you, Mr. Speaker, Sir, for giving me an opportunity to contribute to this Bill.

First of all, I congratulate my sister, Sen. (Dr.) Zani, for bringing this critical Bill. We can combine this Bill with another one that is also pending and has taken a long time for it to reach the Floor of this House, the County Resource Development Bill. If we put these Bills together, we will go a long way to resolve a lot of problems that are within our counties.

Mr. Speaker, Sir, during the colonial time, the Western world took advantage of our ignorance. During that time, most of our forefathers who dealt with the colonial powers did not know the benefit that accrued from our country. They took advantage and a lot of resources were siphoned from the country.

(Loud consultations)

Mr. Speaker, Sir, can I be protected?

The Speaker (Hon. Lusaka): Let us consult in low tones.

Sen. Nyamunga: Mr. Speaker, Sir, the international communities took a lot of advantage over our resources and siphoned a lot of resources from this country for their own benefit. If you talk of slavery and that is why I believe that anybody, for example, the black Americans living in America, they should be given first priority.

First of all, they did not ask anybody to take them from their original countries to America or any other country. As they sit in those various countries more so in the United States of America (USA), they should be benefiting and treated very well. This is because they were taken there to be taken advantage of.

If we see the development in the first world, it is as a result of our people who were taken inform of slavery. They did a lot of work to build those countries. It is still based on that that we have continued to suffer. The colonial people took advantage of us but we still continue to take advantage of ourselves. This is because if only we can develop the resources within our counties, I do not think we will be having a lot of---

Mr. Speaker, Sir, we will be demystifying the presidency. It will not matter who is on the throne. It will not matter where the president comes from. Everybody will feel that they are taken care of, their resources are developed and shared in a proper manner and everybody is benefitting. If we continue at this rate, we are going to continue fighting over resources just as already mentioned by Sen. Mutula Kilonzo Jnr, that we took three months to decide on revenue allocation. This is because we have very scarce resources. If only we can develop our resources and make sure that if there is a resource emanating from a particular area, then that area must benefit. We cannot continue to rule our people in poverty. The benefit of any good government is to make sure that your people should put food on the table.

Mr. Speaker, Sir, if you are a President and you are governing a people who cannot even have a meal, leave a lone three meals, not even a single meal---. There are so many people right now who are suffering because of lack of food. They cannot take their children to school. They cannot afford hospitals because of poverty.

We can end this by just doing the right thing. First of all, developing our resources in our respective areas and secondly making sure that it is shared. There is a time there was a big problem with the Governor of Murang'a County. The idea was the source of water, Ndakaini Dam. That water feeds Nairobi. Actually, the argument that he had was very valid. That this water emanates from Murang'a County. How comes we are not benefiting and it is brought to Nairobi, then people benefit from it without taking care of the origin of that water?

Mr. Speaker, Sir, it is not only about water. A lot has been mentioned in this Bill. If you can take care of Lake Victoria, gold in South Nyanza and Western, we should help our people and make sure that there is no fighting. This Bill will make sure that once the resource is developed, the sharing is also developed. That way, everybody will benefit and nobody will feel left out.

It is important for us to note that Kenya is much endowed with a lot of resources and wealth but we are failing our people as leaders. This is because every time we are

elected instead of concentrating on how we can develop and take development back downwards, we are busy fighting for the next elections to see who will be where. We are so self-centered to the extent that we forget that the responsibility we have as a people or leaders is to make sure that our backyards, people and relatives are in a position to manage their own lives.

Mr. Speaker, Sir, if we continue like this, it means that more Kenyans are going to languish in poverty. If the resources are harnessed in a proper manner and the sharing is done in a proper way, and that there is an agreement in terms of percentages, protection of all the resources, it will be for the good of this country. It will even enhance the tax bracket. The more resources we have at the county levels, the more revenue. Even if it is developed by the national Government, there is a percentage that will go to the national Government, a percentage will go to the county governments and to the locality where the resource is developed.

It will help the national Government. It will be left with bigger things like developing infrastructure and maybe taking care of the debt that is perpetually growing. The small things of developing a people, schools, hospitals and local infrastructure will be taken care of this resources if properly developed and share without a problem. It will even bring the understanding amongst communities and wards to sub counties to counties. The leaders will see the need of bringing themselves together and develop. If we start with one and it does well, that can be replicated everywhere.

Mr. Speaker, Sir, I support this Bill. It is very timely and it is only that it has taken long. I also believe that the Resource Development Bill will be soon coming to the Floor of this House. If the two are passed and put into action, our county governments will be relieved and we will not be fighting over resources. We will not be fighting over revenue sharing at the national Government and county government and whatever levels.

We talk of bottoms up and that is a big debate now. You cannot be talking of a type of concept that nobody understands. You do not tell us where we are going to get the money from and how you are going to distribute it to anybody. These are some of the things that should be clear that anybody selling a concept has to be clear. Is it going to come from the county government or a pull somewhere where it is so amorphous that nobody even understands where this original money is coming from? It is important that as leaders, we give our people direction and do not mislead them.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Lusaka): Sen. Halake, proceed.

Sen. Halake: Mr. Speaker, Sir, thank you. I rise to support this important legislative framework as sponsored by Sen. (Dr.) Zani. I congratulate her for her wonderful work as usual in ensuring that our communities are not left behind as resources are shared and distributed within our country.

As I rise to support this Bill and congratulate Sen. (Dr.) Zani both for her recognition and award as the best Senator in the country and for the hard work she has continued consistently to perform in this House.

I would like to say that I am very familiar with natural resources. I can confirm that local communities are not priority in some of the benefits that accrue from our natural resources.

Mr. Speaker, Sir, the County of Isiolo that I come from is on the Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) Corridor. It is supposed to be a result city. It hosts some of the most unique and rare animals on earth and not just in Kenya. From the Grevy's zebra to reticulated giraffes and other animals. However, I can tell you for a fact that the benefits of these natural resources in Northern Kenya do not accrue to the local communities but get lost in the bigger scheme of things leaving the local communities impoverished and not even an outside of the help they could have got.

From Marsabit to the animals in Isiolo, Maasai, Amboseli and Narok belt, the communities just watch from a far as others benefit and as they remain poor outside the economic framework. This Bill is timely and important to ensure that nobody is left behind as the country makes use of its natural resources.

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

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

Madam Temporary Speaker, this Bill has a lot of very good provisions. From the functions of the Commission on Revenue Allocation (CRA) to the royalties that will be collected and it gives how they will be collected, the benefit sharing that is being driven by our counties and communities. To the financial and miscellaneous provisions, this is a progressive law.

That having been said, there are certain concerns that I have in terms of some of the definitions. For instance, it says 'affected county' 'affected community' or 'affected entity' when they are not just affected; they are hosting. They are custodian counties. So, words like 'custodian' give people more ownership as opposed to 'affected' because these are not things that affect us; these are things that we have hosted. If it is animals, resources, minerals, we are custodians of them, not necessarily affected by them.

As I was reading the Bill, I was hoping that some of the definitions can be refined to reflect the ownership, the hosting of these resources and not just being affected by them.

At the same time, the organizations are being called affected organizations or affected entities. They are not just affected; they are exploiting entities. These are some of the things that we need to be very decisive about so that it is very clear who owns, who exploits, who shares, who does what and where.

Madam Temporary Speaker, the provisions within this law that the coverage of what natural resources are from sunlight, water resources, forests, wildlife resources and wind. This just goes to show how rich our country is in natural resources. However, how is it that we are so rich yet so poor? We do not add value to the natural resources, it is perhaps exported in its raw form. Resources can be a curse if there are no right frameworks in place.

This Bill will make sure that our resources do not become a curse to us and that there is a legislative and legal framework within which we will make sure that our resources are a blessing and not a source of strife and crisis for us.

This Bill again will strengthen devolution. As it is now, natural resources are seen as a preserve of the national Government with very little input or inclusion of our

counties and communities. From our community lands, forests and conservation, everything seems to be managed from the top. This Bill then pushes things down to be governed by the local communities and benefits to our local communities in the process, therefore, strengthening devolution and our counties and making sure that our resources have a sustainability aspect to them because they are managed, owned and benefitted from by our communities and not some more removed entity, so to speak.

I am a bit concerned about the scope and the breadth of the role of the CRA. They seem to have been given quite a lot of work from facilitating, monitoring and implementing benefits, sharing agreements to determining appeals arising from that, to ensuring proper and timely payments of funds to ensuring that they set up other funds.

I do not know if they have the capacity or if this Bill contemplates adding the capacity of some of the institutions to which a lot of this work has been given so that we do not overwhelm the institutions that already had a full plate as they do other things.

My concern is that the role of the CRA has been expanded many folds and I hope that the Bill will contemplate strengthening their capacity to do all this work.

The collection of royalties is being done by the KRA which already has the capacity to collect revenue and already does that but in terms of the role of the CRA, we may want to make sure that we are giving them the right capacity as well.

Madam Temporary Speaker, another concern I have is that a lot of times when funds are being developed, they have not really worked in the manner and substance in which they should work. We have the Universal Service Fund that is supposed to take connectivity to hard-to-reach places. It is now in its billions and it has not quite given us the outcomes we had set these funds for.

We had the Petroleum Levy Fund. The price of petroleum is going high yet these funds exist. I do not know in this Bill how we are going to make sure that these Funds that we are setting up, the sovereign fund and the future's fund, that they actually bring forth the outcomes we want and that they serve the counties and the communities in the manner and substance in which it is contemplated in this Bill.

That having been said, I think these are good things. We just need to make sure that we are not just repeating the same mistakes we did with the Universal Service Fund, the Petroleum Levy Fund, the Youth Fund and all the different funds that were set up in the past so that we are not just doing the same things and expecting different results.

In terms of the sharing of revenue, this Bill is progressive. It includes the monetary benefits that may accrue to the county and the contribution of the affected entity in realizing the same.

Each county was supposed to come on board and is supposed to make sure that they establish a County Benefits Sharing Committee. Our counties knowing their capacity, I hope we do have some contemplation of the provisions to ensure that the committees have the requisite capacity to do these things. That having been said, pushing this down to our counties will definitely make sure that we strengthen devolution, strengthen the capacity and provide a framework that is people-run, people-facing and people-owned so to speak.

I come from the conservation sector. Seventy to eighty percent of our natural resources, be they forest resources, fauna and flora are hosted by our communities and in our counties. Everything that is accruing goes to the centre. We need to then start

devolving some of these resources to ensure that the local communities that are bearing the brunt of hosting these natural resources; bearing the brunt of the human-wildlife conflict in places like Isiolo where we host wildlife and places like Maasailand, Samburiland and the Amboseli belt that are compensated not just for the conflict but also as owners of these resources.

I support this Bill. It is a very good step in the right direction with regards to pushing the resources to the communities and ensuring that the communities that host and actually look after these resources benefit and are therefore, able to have ownership of the same.

This Bill also has a provision for establishment of the Natural Resources Royalties Fund which shall vest in the commission. I mentioned already that I have a little reservation with funds and how we then need to make sure that there are mechanisms in place for managing the funds to sub-grant it or ensure that it is well managed and that the governance structure of these funds will ensure that the right outcomes are achieved by our communities.

One thing I really like about this Bill is the responsibility it gives to the individuals within our communities and our institutions where a body corporate if found guilty of an offence under this Act, every officer of that corporation is deemed to have committed the offence.

Madam Temporary Speaker, often times, nobody is held responsible because people hide under the entity which is the corporation. When mistakes are made, nobody is responsible, an entity is not responsible and therefore, nobody that we know and has a name and address will be charged for any offence. This is very progressive because now officers would know that they must do the right thing because it is not just the entity or the corporation, it is individual responsibility and accountability that must be demanded for by this framework.

With those few remarks, I support this Bill and look forward to its implementation.

Madam Temporary, I am happy with this Bill because I know that a county like Isiolo, where I come from, which hosts wildlife resources and other natural resources such as water and natural forest resources will benefit. I am sure that the communities that had been neglected or left out of the economic mainstay of that region will definitely be included.

I beg to support this Bill and congratulate Sen. (Dr.) Zani, who has sponsored this it.

The Temporary Speaker (Sen. Nyamunga): Proceed, the Senator for Turkana County, Sen. (Prof.) Ekal.

Sen. (Prof.) Ekal: Thank you, Madam Temporary Speaker, for giving the chance to congratulate Sen. (Dr.) Zani for this Bill. I support this Bill from the outset and hope that it is going to see the light of day as other Senators have said. A natural resource is not given resource in a particular locality. As such, it should benefit the people who benefit in that locality. Unfortunately, a lot of the resource in this country are taken by others. The local community is usually left without any support; they do not gain much from the local resources. It is very unfortunate that things like that happen. You would

think that a local resource should support the people of the particular locality and better their living conditions. Unfortunately, that does not happen.

A lot of what I want to say has been said already by other hon. Members. Sen. (Dr.) Zani and Sen. Wamatangi have spoken a lot on what I wanted to say so I am going to speak about a special locality. Allow me to speak about a special county, Turkana County. You realize that this year, Turkana County was rated as the poorest county in the country. That is very unfortunate and unfair because that is one of the most endowed counties in the country.

Unfortunately, the resources of Turkana County are poorly managed and usually go to others who do not come from that locality. Usually, such resources are exploited by others from other parts of the world and the locals are left in dire need. It is for those reasons that Turkana County is rated as one of the poorest counties. People mine gold in Turkana County. Oil has also been discovered and is being mined. Sand, rocks, charcoal, electricity and so many other things are also found in Turkana County. One may think that a country with so many riches should be featuring well and not being counted as one of the poorest.

As I said earlier, the natural resources in Turkana County are poorly managed so they do not benefit the locals. I would like to cite the examples of roads that are being put up in Turkana County. There are some roads that are being built in Turkana County which are exploiting the locals. A lot of the natural resources are taken away in Turkana while the locals are left with nothing to show for the natural resources in their own county. That is a source of exploitation. The roads are allowing people from outside Turkana to come easily and exploit the locals. They build the roads, take a lot from the Government and go their own way.

Madam Temporary Speaker, the other problem is that the locals are not considered in the jobs. Jobs such as those of putting up roads, digging out sand and gold should go to the locals. Unfortunately, a lot of the work is done by people from other counties leaving the locals sitting there. Unfortunately, the locals sometimes do not even see that their riches are being taken away from them. For example, when others are mining gold in their own counties, they do not even question that. They say that is something that people from outside or foreigners usually do. For instance, the people in Turkana will tell you that their work is to only look after their animals so they let that kind of exploitation go on. They are not even aware of the exploitation. It behooves the County Government of Turkana to manage those resources for the locals and make sure that the lives of the locals are changed.

The exploitation of gold, sand or even holes that are being dug to prepare putting up of roads, that kind of work changes the environment. A hill has to be demolished to create marram or some holes are dug to harvest sand but such holes are never filled. The holes are left uncovered and whenever it rains, they become pools full of water. Little children are by nature attracted to pools of water because they want to go there and swim. When the kids go to such dams to swim, they usually perish. Poor mothers are left mourning their lost children but there is nothing that can be done. Nobody is held responsible after such an accident occurs; not even those who dug such holes.

I expect that when this Bill comes to fruition, there is going to be a situation where when you make such an environmental change by digging such a big hole to

harvest sand or any other natural resource, you should fill it after use so that nobody loses their lives while trying to swim in such holes. Unfortunately, the people who make roads do not care neither do the people who harvest sand or gold. They leave the big holes uncovered after they finish their work which in turn become death traps for the children in Turkana County.

Exploitation in a general sense is on-going all over this country. Examples have been given of counties such as Kwale and Kilifi where minerals are being mined by people from outside the country who take the raw materials back to their countries in raw form, they go to develop the raw materials and then sell the finished products to us. All that is happening because of our weak laws which have made us become like little children. People come to our country to exploit us and we do not say anything. We do not hold people who exploit us responsible or stop them so they keep on exploiting us while we remain poor. Our exploiters get rich on our resources while we remain poor.

Madam Temporary Speaker, I hope that this Bill is going to be passed by our comrades in the National Assembly and eventually become to law which will help improve the living standards of several people in this country.

The Temporary Speaker (Sen. Nyamunga): Thank you, Sen. (Prof.) Ekal.

Proceed, the Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Madam Temporary Speaker, I thank you for giving me an opportunity to support this Bill which has been sponsored by Sen. (Dr.) Zani. I would also like to congratulate her for being the best Senator from her county.

Sen. (Dr.) Zani has brought forth a very important Bill that is going to be a game changer to our local communities if it sees the light of day. The one thing that clearly comes out in this Bill is that there are; natural resource exploiters, the National Government, the county governments and the local communities. Those four entities are all interested parties in natural resources. It is unfortunate that if one happens to own land where gold can be mined, that land ceases to be yours. There are usually very many interested parties. People will allocate themselves that land and within no time, you find yourself displaced. It is usually a harrowing experience for an individual to find himself in such a situation and his family.

It is a golden opportunity for one to have natural resources in their parcel of land and that person should benefit from it. We have cases of gold mines in Kakamega County, but the stories from there are very sad. Jobless graduates from those areas end up mining gold, but they do not benefit directly from that gold. It is unfortunate that the exploiters of natural resources end up exploiting the local people who are the rightful beneficiaries of those resources. This Bill will ensure that the rightful owners of those resources benefit from them. The man or woman whose land has gold, oil or any other natural resources should benefit from the natural resources together with his lineage.

Sen. Moi moved a Bill in this House which sought to have the local communities get a certain percentage from the natural resources in their surroundings. It is unfortunate that people wallow in poverty yet they have natural resources in their land.

I once went to the village and found a contractor constructing a road. We all know that contractors are paid a handsome sum of money. He was extracting murram from a particular family's land and he was paying them Kshs500 for each lorry. He later left that family with a hole that could not help them. I am happy that this Bill talks of

sustainability of natural resources. Extracting murram from a family land renders that land useless and the family poor. It is unfortunate that people take advantage of families that are poor and with no knowledge. The other good thing about this Bill is that it anticipates public awareness on issues of resources. A family needs to know what it will be getting into.

I am also happy about the function of the revenue that is being set up. According to this Bill, the Commission of Revenue Allocation (CRA) is supposed to prepare the agreements in areas where resources have been found. It is, therefore, expected that CRA will ensure that the locals are not exploited. Local people have been exploited for so long. There are cases where the land owners have been displaced and the investors have arrogated themselves the resources. We also have cases where the locals have been sold at a very low price.

The CRA will also review the benefit of the natural resources to the community. Some communities are never aware of the value of their natural resources. Some of them are bought at a very low price because of poverty. We have to protect the birthright of Kenyans and that is what this Bill seeks to do. This Bill will safeguard the birthright of Kenyans for posterity purposes.

Overseeing the funds that come from the natural resources is important. We have to know how the funds from the natural resources will benefit the local community. Those funds should be sustainable; create jobs. The development undertaken in a community where natural resources are found should be sustainable. The youths should not complain as it happens in Kakamega County. We should not have graduates digging gold mines. There should be value for what they get in the mines. In fact, the people who work in those mines should be employed as 'engineers.' It is good to have graduate engineers, but we should also appreciate people who are hands on. People who are hands on can do better than those who have papers and they should be brought on board.

The guiding principles in this Bill are clear. This Bill states that there has to be inclusivity when natural resources are found somewhere. The locals have to be included through public participation. The locals have to be allowed to express their views about the commodities. Apart from that, their views on the future projects must be sought. They have to be allowed to question the sustainability of such projects.

This Bill seeks to ensure sustainability in resources. The resources are not to be depleted. For example, if the God given resource are trees which produce food and attract tourism, then they should be sustained. We should not deplete such a resource that will help the future generation.

Madam Temporary Speaker, a country like Saudi Arabia which is rich has ensured her resources benefit locals. It is rare to find beggars on her streets because they take care of their poor and ensure they are comfortable as anyone else. They get basic needs such as food and access basic education. That is the direction we should take and ensure we take care of our poor. If a poor person has gold, do not take his land and displace him and take away his gold.

The rich should not exploit poor. I talked about an incident in Lugari Constituency where somebody has left a hole where you cannot even plant crops. That person has exploited you to the grave because you will now have to look for money to buy your food. This has happened while the county government has allocated a lot of

money for road construction. However, an exploiter in the name of exploiting resources had decided the poor person is ignorant and is unaware of the expensive murrum on his land. The exploiter then pays the poor person just Kshs500 per lorry. Such people should be brought to book. It is painful and unfair to exploit poor people because they are ignorant and unaware of their rights.

There is need to ensure restoration of the environment after exploitation just like the Bill states. According to this Bill, the authority will also endeavour to build capacity of the local communities. It is important to involve the local communities. I am happy that five people from the local community will also be among the people in the board, who will discuss the benefits of revenue sharing from the proceeds of a natural resource.

The five locals are important because they are the ones to be used to build capacity of the local people. Sometimes information does not reach the common man. You will find people just gossiping about what they have heard the county government is doing and so on. Now, the county government needs to be brought to task so that in case natural resources are identified in counties, the five locals in the Board should be enlightened about the natural resources, what will be done and how their community will benefit. They are the ones to explain to the people on the ground how exploitation of natural resources will be undertaken.

Madam Temporary Speaker, it is important for the resources to be shared between the county and national Government. There should be a clear way to ensure that common person and the community where resources are, benefit. The clear benefit in a community is job creation. If you can give job opportunities to the youth of a community jobs, then that is a plus. If the natural resources do not create employment, it means they are exploitative to the community.

For natural resources, youth should benefit from employment because they are energetic and have time to put the energy to good use. They can use the energy if they are involved in the exploitation of the natural resources. Let them at the frontline. Let natural resources exploiters get the goodwill of the community because if they do not, then the exploitation will not be sustainable.

I support this Bill. I hope when it goes to the National Assembly, it will see light at the end of the tunnel.

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

Sen. (Dr.) Ali, proceed.

Sen. (Dr.) Ali: Thank you, Madam Temporary Speaker. I also support the Bill by Sen. (Dr.) Zani. It is well written. However, as usual when it goes to the other side, they usually mutilate it.

Mining in Kenya is done by many people. There are locals who mine at the local level. Others do it in groups as small businesses. There are also companies who mine. The most who do it are the multi-nationals. Sometimes they cannot go to certain areas like where I come from, but at the Ministry of Petroleum and Mining, you will find all the places have been divided among the Chinese, British, American and Turkish companies which do not even go those areas. Instead of the Government supporting such companies because some of the mines may be deep where the locals cannot do much, then nothing will happen. In the end, nobody gains.

The other issue is that when locals do small scale mining here and there, the national Government should assist, but it does not. Like Sen. (Dr.) Musuruve said, the small miners in Homa Bay, Migori, Kakamega and many counties of this country, are exploited by middlemen and brokers. They get one to five grammes and some even a kilogramme, but they do not get the value of what they strive to mine. Many of them even die in those mine holes.

It would be good if the national Government, through the Ministry of Petroleum and Mining, looked into the welfare of these small miners. Sen. Cheruiyot talked about how the Goldenberg Scandal happened. People were bringing gold from Ethiopia and Congo, many people were exploited and a scandal happened. If we have a central organization to help our small gold diggers from Pokot and every part of this country, then something could come out of it. Unfortunately, we just look at the multi-nationals out there who are out to just exploit everybody.

We have been given examples of what happened in Kwale and Turkana counties. For a long time in Marsabit County, there have been wars between the locals and organisations which were generating wind power. Somebody just came from nowhere and decided to take 100 kilometre squares of your land without any compensation. The power comes all the way to Suswa and the people living around that area do not have power. That is unfair and it is not right.

When people went to court and complained about this matter, everything was thrown out because these are people who could be bulldozed. In certain areas, the local leadership is corrupted and, therefore, the small miners cannot get anything.

You and everybody in the world has heard about pirates in Somalia. It came as a result of industrial mining, in form of fishing. Trawlers from all over the world come to explore their Ocean. They were then forced to become pirates and chase exploiters away. What happened next is that the big powers have come to those areas and the big trawlers are there exploiting everything. The locals are not benefiting.

It brought about pirates who would create many problems and cause a mess in the Indian Ocean.

Madam Temporary Speaker, these issues should not be underrated. The local communities in our context should be assisted. We do not want people to get to a level where we have bandits and local militia making sure that these big companies or the people who invest--- You were told about Taita Taveta. With all its natural resources, what do the people from there get? Nothing!

You will hear of big rich people collecting all the rupees from there and the people there do not have anything. Others have gold mines there, others have closed all the big areas, while others have huge ranches and hotels yet the locals are suffering. This is everywhere. In the long run, when they hear that gold or petrol has been discovered in Wajir or some areas which they thought have nothing, they will flock there in large numbers.

Nobody wants to go there now, but when you hear about these discoveries, you will hear that the whole of Kenya is going there. When this happens, the people in Wajir will react in a negative way, and that is what will cause problems in this country. If the resources that we have now are used and exploited properly in all counties, something good will happen.

In Wajir, we have rare giraffes that are found nowhere else in the world. We have the Hirolas in Garissa, but they are not exploited properly. Tourists are not taken there because we are told that the area is insecure. How will that insecurity end if the locals are not encouraged to make use of their local resources? That is the only way that people can benefit from local resources.

Madam Temporary Speaker, I come from Wajir North on the border of Kenya and Ethiopia. People come all the way from Ethiopia to exploit some of the trees that we have there. There are hardwood trees in the hills at the border. All of them have been cut down and taken to Ethiopia. People come all the way there to kill and collect the wildlife that is there.

Five years ago, you could walk around and see a lion, giraffe, all types of antelopes, cheetahs and ostriches. You cannot see them now because they have all been killed. The Ministry of Tourism and Wildlife is not doing anything because nobody cares about this wildlife. In some areas, they are leaving Wajir North and coming towards Marsabit because they are being taken care of at Mount Marsabit. From there they go to Isiolo where there are game reserves and game parks.

Other times, you could see elephants coming all the way from Isiolo to those areas, but now they cannot because these animals are very bright. They will not go where they are not safe. The Government knows what they can get from natural resources like wildlife and mining. If these things are done properly, we will benefit in the long run.

Madam Temporary Speaker, I was recently sharing that fish is brought from China. Do we have to bring fish from China? We have the Indian Ocean, Lake Victoria, Lake Turkana and all these other lakes in the Rift Valley where we can get a lot of fish. We are however importing fish from China. What a shame. We should instead try to help our fishermen. If there is hyacinth and these fish cannot survive in these areas, how do we clear it and help these people? There are a lot of ways of making sure that our people survive and do better. However, these things do not happen.

While I congratulate their leader, I do not know how the Commission on Revenue Allocation (CRA) can manage all this work. The way the Government of the day is, even sharing the resources is not very easy with the way things are now. If the CRA was to be given this job, I know that they would have done a good thing, but will they even be allowed?

The CRA needs to expand to all the localities and counties to make sure that they look at the resources that are there and how they can maximize on this. Unfortunately, that will be something that might not see the light of day because the National Assembly, who think that they are the owners of this money, will not allow any other entity look into this.

Madam Temporary Speaker, this is the shame of this country. We cannot look at it and ask how our people and our counties benefit. When Members of the National Assembly talk, they believe that they do not come from counties. They say that they are from the national Government. Where is the constituency based? Unless we are able to look at all these things and see how things are happening, we will be in for a big shock.

The Kenya Revenue Authority (KRA) is to collect money. I recently talked to some of the leadership in North Eastern Kenya about the border with Somali. There is a

lot of *magendo* that is going on. A lot of funny things come from the other side. One day you are told that they have closed the border. Who is benefiting?

Why do you not open the border, put your border post there and get money? This is the money that can help the CRA and other organizations to expand. However, you do not collect enough revenue and you want close things just for the sake of it when you can do nothing about it. All the *panya* routes and soldiers are everywhere, but what do they do? They collect from some vehicles and ban all other vehicles and that becomes the headline.

Madam Temporary Speaker, this is the way that this country operates. How do you even help our people to survive and exploit our natural resources properly? These are things which should be looked at. In the KRA, a subordinate staff is a multi-millionaire. How? Everything in this country has a problem because of corruption. Until we are able to fight corruption, whatever good things we do, whatever good Bills we pass or what we try to do as a House of Parliament, nothing will work.

I am very happy about the way the Senator wants the revenue divided. That would be great if it could work, but who will allow it? The Sovereign Fund at 20 per cent, for what? There is 60 per cent for the national Government and 40 per cent to develop the natural resources in our country. Those are dreams which I will be happy to see become a reality. Unfortunately, I do not think that these things will happen. These are some of the issues which will be killed immediately they leave here.

The Sovereign Fund has 20 per cent, then 80 per cent for the national Government. From the 80 per cent that remains, 60 per cent is for the national Government and 40 per cent for the county government. Somebody talked about Turkana and about getting even 10 or 15 per cent. That money has not reached the community. It does not reach, and nobody benefits from it. Was it Sen. Mutula Kilonzo Jnr. who said that the leadership wants to take everything and use it for their own purposes when the poor mothers and nomads there are suffering?

Madam Temporary Speaker, I do not know how we can change this country. We need the grace of God and something to come from somewhere to help change this country because of the way things are done. We do not care about people who are down trodden. We do not want to help the small time people come up. There is a certain area along the border with Moyale called Thabero. There is a lot of gold. I am told that the big powers are now fighting over it.

The locals have been mining that gold for the last 20 years, but the Government does not even recognize it. Nothing even happens. Sometimes you will see people fight amongst themselves. There is a certain area in Wajir North where a whole hill has been brought down flat because some people found some gold. They went there and the whole hill went down.

A person will tell you that he has gotten a half a kilogramme of rock, but he will go back to the way he was because there is no proper management on usage of these resources. When people get small money and they have no one to advise them on how to use it, they misuse it. However, if the Government, through the Ministry of Mining, took experts to the people to advise them on how to form associations and cooperatives, the local community, county government and national Government would have benefited. Unfortunately, these things do not happen.

I hope that with this Bill, something will change. We are usually good at writing good professional papers and Bills, but nothing comes out of it.

With that, Madam Temporary Speaker, I support.

Sen. Faki: Asante, Bi. Spika wa Muda, kwa kunipa fursa hii kuchangia Mswada ambao umeletwa Bungeni na Sen. (Dr.) Zani.

Kwanza, ninampongeza dada yangu, Sen. (Dr.) Zani kwa kuwa mahiri na kufanya kazi ya kuonekana. Tuliingia Chuo Kikuu Cha Nairobi mwaka moja naye. Yeye alipata shahada ya sosiolojia na mimi ya sheria. Kwa hivyo, ninampongeza kama mwanafunzi mwenza na kumtakia kila heri katika kazi zake za useneta.

Mswada huu wa ugamvi wa rasilimali ya faida ni muhimu katika nchi yetu ya kenya. Hii ni kwa sababu mali asili imetapakaa nchi nzima. Kwa hivyo, Mswada huu utasaidia pakubwa kuhakikisha kwamba jamii zinazoishi maeneo ambayo kuna mali asili zinapata kitu kuwasaidia kuboresha maisha yao.

Wenzangu waliotangulia kuzungumza wametaja mbuga za wanyama pori na madini mbalimbali kama vile mafuta eneo la Turkana, dhahabu eneo la Kakamega na kwingineko, mawe meusi Kitui na madini tofauti tofauti kama yanayopatikana Kaunti ya Taita Taveta. Katika sehemu hizi zote, hakujakuwa na njia yeyote ya kuhakikisha wenyenji watapata mzuku kutokana na mali haya.

Sehemu nyingi ambazo mali hizi zinapatikana kumetokea umaskini mkubwa. Watu wengi ulalamika kila mara kuhakikisha kwamba kuna usawa baina ya mwekezaji na wale ambao wanaohusika na madini yale.

Kule kwetu Mombasa, madini makubwa tukonayo ni bahari. Inasikitisha kwamba hakuna chochote ambacho kinatoka bandarini ya Kilindini.

Zamani, bandari ilipoanza kujengwa, jamii za Changamwe na Likoni walikuwa wanapewa *loyalties* kila mwaka kutokana na matumizi ya bandari. Lakini, baada ya uhuru, mambo hayo yote yaliisha.

Uwanja wa Ndege wa Moi ulipojengwa, jamii husika zililipwa *loyalties* mara kwa mara kwa matumizi ya ardhi kwa kujengwa uwanja wa ndege. Lakini hayo yote yaliondoka wakati tulipata uhuru mwaka wa 1963.

Ninavyo zungumza, imekuwa dhiki kwa watoto wetu kupata ajira Moi International Airport au Bandari ya Mombasa kwa sababu nafasi zinatangazwa kitaifa na sisi kama wenyeji hatupati aslimia tunayotakikana kupata kulingana na sheria iliyopitishwa na Bunge.

Kwa hivyo, Mswada huu utasaidia pakubwa kuondoa malalamiko ambayo iko katika kila jamii inayo husiana na matumizi ya madini.

Mwaka jana, kulitolewa *judgement* ya watu wa Bagladesh ambapo kulikuwa na kiwanda cha kutengeneza *battery* ambapo waliadhirika na madini ya *lead* ambayo ilitoka kwenye kiwanda hicho. Watu wengi wamepoteza maisha na wengine kuumia hali ambayo imewafanya kutofanya kazi zao kama kawaida.

Kwa hivyo, viwanda vinavyoanzishwa vinasaidia pakubwa kudhulumu haki ambazo wananchi wangepata kama sheria ingefuatwa.

Kwa mfano, viwanda vya simiti, vinatumia madini ya Clinker ambayo ni hatari kwa maisha ya binadamu. Katika eneo la Mikindani, maswala ya Clinker yameibuka na nyumba nyingi katika mtaa wa Owino-uhuru katika eneo la Jomvu Kuu sub-county wameadhirika. Lakini wawekezaji hawatoi chochote kwa watu.

Kwa hivyo, Mswada huu utaweka mfumo maalum ambao utasaidia kutoza asilimia fulani ya mapato ili waliadhirika na raslimali kama zile wasaidike.

Nimefurahi pia kwamba katika Mswada huu, CRA imepewe jukumu la kufanya *assessment* ya fidia itakayolipwa kwa jamii husika. Hili ni jambo nzuri.

Mambo ya faini yamezungumziwa. Ninakubaliana na Seneta wa Kericho kwa kusema kwamba *faini* ya million mbili ni kidogo sana. Inafaa iwe asilimia fulani ya kiwango cha pesa zinazopatikana na mwekezaji. Kila alichotoa katika eneo lile kiwe ni asilimia fulani ambayo atalipa kama faini iwapo hataweza kutimiza sheria hii. Itajulikana kwamba mtu akikosa, lazima alipe kiwango fulani ili sheria ifuatwe.

Iwapo faini hii aitabadilishwa, basi kuwe na kipengeo cha kusema kwamba, mbali na kulipa faini ya million mbili, tano au kumi, lazima alipa faida kwa jamii husika.

Bila ya kuzungumza mengi, ninaunga mkono Mswada huu. Tunaomba Bunge la Seneti likipitisha, ndugu zetu wa Bunge la Kitaifa waipitisha kwa sababu hii ni njia moja ya kuleta maendeleo katika jamii zetu.

Asante kwa kunipa fursa hii.

Sen. Pareno: Madam Temporary Speaker, I support Sen. (Dr.) Zani on this. There are encouraging issues coming out. The issue of division of resources in the country is what brings a lot friction. This is because others feel that they are left out when it comes to sharing resources. So, this Bill will help us to bring not just harmony in terms of how we handle our resources, but amongst ourselves, as Kenyans, so that we feel we belong, share and none will be left behind.

Yesterday, we had regulations on issues of Equalization Fund that are being developed and handled by Sen. Faki. These issues came about because we are saying we are not equal. There are people who have been left out of sharing of resources for a very long time since Independence. That is why these communities or sections of Kenyan population came out to assert themselves not from anywhere else, but from the Constitution itself. This is so that they are heard, considered and also share like everybody else.

Madam Temporary Speaker, it is going to 20 years and it is going to go to 30 years, we have not yet addressed the issue of how we are sharing resources in this country. We have not even brought to par those ones that have been left behind so much that they had to assert themselves in the last Constitution of 2010. This is so that we all feel we are now at the same level and we can move forward together.

A lot of sections and areas in this country are not developed while others are over developed. I do not know whether there is something like over development because technology is coming in every other day with new things. I think this Bill can be a blessing to those that feel the resource have not been shared in the right manner.

Madam Temporary Speaker, I am happy that devolution has come in to bring us somewhere. I cannot even imagine how it was before this devolution. At least now, there is something from the national cake that is coming down to the counties, but we still have so much to be done.

The other day, I had a Statement where a section of people around an area called Kipeto wrote a memo to me saying that we have this wind power projects that are being developed around our areas, but not even a sweeper is employed. So, you import inclusive labour from elsewhere that is not even expertise. It is very minimal, but

uplifting jobs that even the locals can do. It is time that when there is a project in an area, can it benefit? It can benefit the whole country because it is a probably a national project, but also the people that live just next.

Madam Temporary Speaker, you cannot dig that there, get the resources and then they see nothing out of the returns that come out of it. This will help us bring people together and integrate this society and to make sure that everybody is being taken care of. This is so that it is not feeling like a resource is being taken from one area to another. That that other area is benefiting while this particular where you are getting that resource, is not.

I want to talk about two areas specifically if I may refer to Kajiado County because that is where I understand more. At one point, we had a very big dispute in the East African Portland Cement. There is so much raw material used from that area where I come from and we have a lot of plants. One day the company was almost going under and decided to sack everybody.

Madam Temporary Speaker, when we came to check who has been sacked and how much percentage of each community is there, we were shocked to learn that there are areas where there is no representation at all even in employment. It is time that people cannot marginalize even in employment those ones that are there. They should be given their own quarter so that they feel like they belong. That they can even own those projects ran in the country. Since they feel they own, they will always take care of it.

It is sad if we have to keep talking about resources and those resources are gotten out probably if it is a land resource and those that live in that land cannot benefit. In fact, if you look at most of the issues that are being handled by the Committee on National Cohesion and Equal Opportunity where I sit, it is just issues of people feeling that they are not included. There is no inclusivity in what we are doing. They feel agitated and they are fighting for their rights. The other day we were at Kenya Ports Authority (KPA).

Madam Temporary Speaker, we went to Kenya Maritime Authority (KMA) because there was a Statement in this Senate that the people from that area and region are not being considered. Then I make a Statement on East African Portland Cement that they are not being considered. Then a Statement on Teachers Service Commission (TSC) that people are not being considered. Then a Statement on Kipeto wind power that the people from that region are not being considered.

This is a good Bill that can help us ensure that we have inclusivity in every area; the development and resources in this country. The land resource is very valuable and we have so much land in this country. If we are doing mining, can we ensure that as you do your mining, the people from that area are also benefiting.

Madam Temporary Speaker, can you imagine some of these areas like in that area where I am talking about the East African Portland Cement, you can find that it is not passable. There is no road. These companies cannot even do simple social responsibility projects for their own comfort and the community. They used to do boreholes for the community. At one point I was told they were all dead because they cannot sustain those boreholes for the sake of the community to get water just nearby yet you are benefiting from the same resource from that area where the people are living.

On the wind power, why can you not employ? Even if you do not get the experts, can you employ the rest of the nonskilled labour? That kind of ownership by the people

from that area where you are doing your development will help a lot. There are roads, water and schools. Why can we not even just do that bit of corporate social responsibility (CSR)? That is giving back to the community from where that project is.

Madam Temporary Speaker, if only we did that, there will be harmony and we would not be talking about any marginalization. We would not be talking about the community feeling that they are not participating in the projects. We would even have better roads because once you have a project, you would do the roads that go to that project. In the process, you do the roads that can open up that community. After all, we do some of these projects to open up for development.

This is a very good Bill that definitely will go a long way to ensure that there is that social responsibility and at least equity in sharing of resources in this country. I thank you and I support.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, this Bill has attracted a lot of interest. For the sake of fairness, I would ask you if we can adjust this to allow only ten minutes. I think that should be fair so that we give as many Members as possible time to contribute to the Bill.

Sen. (Dr.) Lang'at, proceed.

Sen. (Dr.) Lang'at: Thank you, Madam Temporary Speaker for giving me this chance. First, I would like to thank Sen. (Dr.) Zani for bringing up this important Bill at this time. Right from the onset, this Bill at the preliminary level has opened up our minds and eyes concerning the details of this Bill. I am happy because of even the definition of some contextual terms especially when it comes to affected county and entity. It is so clear that who we are dealing with when it comes to exploitation of resources in a particular place.

Remember that majority of the people in this country own land but the government has not given them title deeds. More often than not, you can say that wherever these important resources are found, it is possible to get wrong owners of land to benefit from these resources than the actual owners. This Bill will provide a clear framework that will support the utilization of resources in various counties.

Madam Temporary Speaker, this Bill will provide solution to several conflicts. Wherever there are some important resources ranging from small ones such as water, minerals in Turkana and other parts of North Rift and the rest of these places. Wherever these resources are prospectively discovered what normally follows closely are conflicts.

The way this particular Bill has been structured, it will naturally provide a solution to conflicts between the national Government and the county governments on exploitation of resources. It will also provide a solution of conflicts between county governments or any government and the local communities living in a particular area.

We have heard of conflicts whereby sometimes the locals think that the utilization of resources in their areas will only benefit the national Government. For example, one time when we were in Taita Taveta trying to resolve human-wildlife conflict, we realized that almost three-quarters of the land in in Taita Taveta is animal national reserves and the people of Taita Taveta do not benefit from those animals in any way. In fact, more often than not you find that whenever those animals are in conflict with human beings through the destruction of their livelihood in terms of destroying their animals and crops the most disadvantaged entity are the residents of Taita Taveta and the surrounding areas.

The moment these revenue is shared effectively between the county governments and the National Government the people from those particular areas will see the importance of these resources and they will be able to even protect them.

Madam Temporary Speaker, an example is when we were in Samburu, we saw some national animal reserves whereby the locals benefit because the owners do corporate social responsibility projects. You find that in those particular places there is a lot of harmony between the people managing the resources and the locals.

There will be less cases of companies that are normally out to exploit those resources, including human resource. They is always a lot of fear from the locals whenever prospection of these resources is done. The locals fear because they do not know the owners of those companies who are coming to exploit minerals and other resources in their locality. That fear will not feature anymore because the clarity of resource exploitation and revenue sharing is now very clear.

There is also an element of environmental protection. Before this Bill comes out, currently if you go to places where these resources being exploited, the environmental degradation can be seen. It is getting worse and affecting the locals through pollution in one way or another.

At one time we were in Mombasa with another committee and we managed to visit Bamburi Cement Factory. We were able to see how the environment has seriously become seriously affected by the mining of those minerals.

This Bill is so important. I have seen many things, especially matters to do with displacement of people who were living in areas where natural resources are situated. This Bill has provided an effective framework such that whenever the Government or any prospecting company discovers a resource to be exploited somewhere, there is a way out for those people who are living in those areas to get proper compensation or once they are removed they are compensated effectively.

This is very important and I am sure that even those people who the Government had initially awarded them natural land in the forest, once this Bill is enacted into law, it will provide a means of resettling some people who have really suffered for several years unnecessarily.

When it comes to the functions of the Commission on Revenue Allocation, the Bill has really touched on very important areas, for example on matters of co-ordination and the preparation of benefit sharing agreements. This will benefit the locals because they will know very clearly that all the revenue will be shared in a particular way.

Another one is review and where appropriate determines the royalties payable to the affected entity. This is so important because it looks at the suffering experienced by the people living near the resources. We have seen in some areas that the land where the resources are found used to be ancestral land for some people. For example, you will find a company mining on land that used to be ancestral land and the people who used to live on that land are now living in deplorable conditions. It is ironical that those who claim that the land used to belong to them normally become so poor while the foreigner is benefiting from the land.

As Sen. (Dr.) Musuruve has said, this Bill will benefit the locals right from creating an opportunity for capacity building of the locals so that they may know the importance of protecting their environment, the knowledge of benefiting from the

resources and getting the skills. Capacity building is so important and this Bill has really clarified on the same.

Another one is the promotion and restoration of the environment during exploitation and even after. This is so important. I have also seen on Part II, Collection of Royalties and Fees. This particular area has explained very deeply on areas that are very important.

This Bill is very friendly with regard to what some of us are selling out there politically. At times I see my friends criticizing some political theories or ideologies that some parties are selling outside there. However, when we sit down and see it very clearly some of the Bills we are coming up here are in line with some political---

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

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

The Temporary Speaker (Sen. Pareno): Your time is up, but it is not because you are touching on some theories. I will give you one minute to conclude.

Sen. (Dr.) Langat: I want to thank Sen. (Dr.) Zani very much and I want to assure her that the hustler economics support this seriously because it is part of our thinking. You are in line with what we are thinking.

Thank you, Madam Temporary Speaker.

Sen. Olekina: Thank you, Madam Temporary Speaker. Let me first begin by thanking Sen. (Dr.) Zani for coming up with this Bill. I hope that we can look at this Bill and analyze it critically on the benefits that it would have in this era of devolved government structure.

I have looked at the Bill keenly and there are some areas that I agree with, but in some areas, I have shared with Sen. (Dr.) Zani on the need to change those areas.

I have looked at the list of the natural resources which have been outlined here, which include sunlight, water resources, forests, biodiversity, genetic resources, wildlife resources, industrial fishing and wind. When I look at that list as someone who comes from Narok, I see that list being very limiting. When you talk about the natural resources which are available in this country, in the Trans Mara region in Narok we have plenty of sand which is a natural resource. We have talked about mining, but I have not seen anything on mining.

Last year, when we were discussing the Petroleum Act, we talked about benefit sharing of natural resources. We got into a serious debate when we were discussing the issue of percentages of local content. That is a grey area because there is no law. Sen. Moi sponsored the Local Content Bill, but I do not know what happened to it. I am also not sure whether the people who were proposing the benefit sharing in the Petroleum Act particularly on the issue of Turkana and how much the local communities should get, really thought about the issue of natural resources benefit sharing.

When I looked at this Bill, I had in mind the issue of the petroleum and mining industries. I am a firm believer that if you really want to benefit, you should concentrate everything in one Act so that it can make sense. If the percentages are different in the Petroleum Act as well as in the Local Content Bill--- In this Bill, the Natural Resources

(Benefit Sharing) Bill (Senate Bills No. 25 Of 2020), we are also looking at building local content and sharing dividends from the royalties. We need to be very clear on what we are talking about.

During the devolved government structure, we talked about own source revenue. The Maasai Mara Game Reserve revenue has been discussed here at length. This Bill proposes that Narok County should be sharing its own source revenue with the national Government at the ratio of 60:40, which I completely object. I hope that the sponsor of the Bill will separate between own source revenue and national Government revenue. If we are talking about the people of Trans Mara or Lolgorien benefitting from the money that a company which mines gold and is listed in the London Stock Exchange, I would be very happy about that. However, when we talk about the little revenue that Narok County gets and divide that revenue with the national Government, then I completely object that.

Madam Temporary Speaker, one of the things that I support in this Bill has to do with the issue of county benefit sharing committees. I appeal to the sponsor of this Bill to amend it to separate two elements. One, own source revenue which, in the case of Narok, is revenue that comes from the Maasai Mara Game Reserve and then include an element of the revenue or royalties which will be paid with the mining sector by the companies that mine gold in Narok, so that it can then be shared between the national Government and Narok County Government. In that case, all the people who live along the gold mining sector in Lolgorien and Kilimapesa can benefit.

I am one of the people who believes that the only thing that the community can benefit is if the money goes straight to their M-Pesa. When we talk about communities benefitting from money that is set in a fund what comes to mind is the Equalization Fund where communities that were supposed to be benefitting have never benefitted. Are we just creating another fund, which will just give money to the national Government who will then decide what to do or not to do with that money?

Time is not on our side so I do not want to deliberate on this matter for long. However, I am not very happy with certain proposals on this Bill, which I have discussed with my sister, Sen. (Dr.) Zani because they will affect what is already on the ground. If change can be made so that the counties that have been collecting their own money can keep collecting their own money, but any other mineral that is discovered out there should be shared with the national Government.

Narok County has a lot of potential for solar and geothermal energy. However, no one is benefitting from those in Narok County. In fact, the companies that come to exploit those resources are not anywhere from the region. In fact, there is no one from Narok County who goes to the Ministry of Energy to be given a license to exploit geothermal to benefit the people who live in that area.

My problem with this Bill is that it creates another fund, which the national Government will decide whether or not to send the money to county governments; the people who are supposed to benefit. This Bill also proposes that the money should be collected by the KRA to be allocated by the Commission on Revenue Allocation (CRA). I urge my sister, Sen. (Dr.) Zani, to amend PART II on the Functions of the Commission on Revenue Allocation. It says-

‘5. (1) In addition to its principal functions under Article 216(1) of the Constitution and section 10(1)(d) of the Commission on Revenue Allocation Act, the

Commission shall be responsible for the implementation of this Act and shall, for this purpose —

(d) oversee the administration of funds set aside for community projects to be implemented under a benefit sharing agreement;’

Sen. (Dr.) Zani should change that so that they come up with a mechanism in order for the community to get money directly. We now have to demystify what is local. There is ‘local’ and there is ‘Local’. What I mean is that if the people of the Maasai Mara are now benefitting from 19 per cent, that percentage should not benefit anyone else apart from the people who live in that area because they are the ones who are affected by the trucks which go out there for mining or the dust elicited by the tourist vans ferrying the tourists to the sites. If we separate what is local in terms of ensuring that the local community benefit and what is local in terms of the entire Narok County, then I would support this Bill entirely.

Madam Temporary Speaker, finally, I hope that when we talk about promoting local content, we can then now look at the existing legislations. We do not want a situation where one legislation is created which affects the entire county yet situations are unique. The provisions of Article 191 of the Constitution must now come in play where if a situation is unique for a county, that county government legislation supersedes the national Government legislation.

I plead with my sister to relook at the list of the natural resources that she is proposing for us to share the revenue and look at what the county governments are now using to collect their own source revenue. For example, sand harvesting is a huge mineral in Narok County. The Narok County Government makes a lot of money from cess collection. Is Sen. (Dr.) Zani now telling us that the money should now be collected by the KRA so that it is split between 60:40? We need to rethink that proposal.

Madam Temporary Speaker, I thank you.

The Temporary Speaker (Sen. Pareno): I was going to give Sen. (Eng.) Hargura a chance to speak first before Sen. Madzayo but since Madzayo is ready to speak, I will allow him to speak first followed by Sen. (Eng.) Hargura.

Proceed, Sen. Madzayo.

Sen. Madzayo: Asante, Bi. Spika wa Muda. Ningependa kumsifu na kumshukuru dada yangu, Sen. (Dr.) Zani, kwa kuleta Mswada huu.

Mswada huu ni muhimu kwa sababu unazingatia mambo ya madini. Hii ni mara ya kwanza tunapojadili Mswada ambao una ongea juu ya mambo ya ugavi na faida ya madini yetu nchini. Mswada huu ni muhimu kwetu kama watu wa pwani na Wakenya kwa ujumla. Kuna maeneo katika Kaunti ya Kilifi ambayo yana madini ya pesa nyingi sana. Kule maeneo ya *sub county* ya Chonyi, tuko na madini kama *manganese*. Mashamba ya wakaazi wa huko Chonyi yanachimbwa mashimo makubwa ndiposa watoe *manganese* ilhali hao wakaazi hawafaidiki.

Tuko na maeneo kama Kokotoni na Mazeras. Kuna ile bandari ambayo inajengwa na sio ile ya Naivasha bali ile ya Kilindini ambayo inajengwa kwa bahari. Wale wanaojenga hiyo bandari ni lazima watumie saruji na kokoto. Kokoto yote ambayo inatumika mkoani pwani inatoka eneo ya Jaribuni, eneo bunge la Ganze, na mimi ndiye Seneta wao. Watu wa eneo ya Jaribuni ambapo hizo kokoto zinatoka ni watu wanaoishi katika hali dhaifu. Wengi wao ni wangonjwa. Wakati ile mawe inapasuliwa, nyumba

zinapata *crack*, watu wanakuwa wagonjwa, viziwi na hata wengine wanapata ugonjwa wa saratani.

Mawe ambayo yanatumika kujenga katika maeneo ya pwani yanatoka upande wa Kilifi ilhali watu wa Kilifi wanabaki maskini. Kila upande wa bahari kumetobolewa mashimo na watu ambao wako na pesa na wazungu ambao wamenunua vifaa. Hao watu wanatengeneza pesa na kuacha watu wa hayo maeneo katika hali ya umaskini. Huu Mswada utawezesha watu kufaidika kutokana na madini ambayo yanapatikana katika maeneo yao.

Chumvi ambayo inatumika Kenya nzima inatoka Magarini, Kilifi, ilhali wafanyikazi katika hizo viwanda, ambao ni wenyeji wa Magarini, wanapata taabu. Wengi wao wanakuwa wagonjwa kwa sababu hawana vifaa vinavyohitajika. Mazingira yao ni mbovu ilhali watu wote nchini Kenya wanakula chumvi inayotoka Kaunti ya Kilifi. Huu Mswada utasaidia maneno kama hayo.

Mchanga inatoka Mjanaheri ambayo ni eneo ya Magarini, Kaunti ya Kilifi. Hiyo mchanga yote inatoka kwetu ilhali wakaazi hawafaidiki na rasilimali yao. Hiyo ndiyo ninasema ya kwamba hiyo sio sawa. Mswada huu unataka hao wakaazi wafaidike na rasilimali zao.

Tuko pia na *Limestone*. Wananchi wa hayo maeneo wanaweza kufaidika kwa sababu tuko na viwanda viwili vya saruji katika Kaunti ya Kilifi. Kiwanda cha Mombasa *Cement* peke yake ndicho kina zingatia mazingira na ndiyo inasaidia watu wa hayo maeneo. Tunataka hizo viwanda zote ziwe na *corporate social responsibility* na sio Mombasa *Cement* peke yake.

Ukienda Kaunti ya Kwale, tuko na *titanium* ambayo ni mchanga wa thamani sana. Iko kama almasi. Huo mchanga pia unapatikana upande wa Mrima ambapo ni mlima kubwa. Mchanga kutoka Mrima huwa unatumika kutengeneza ndege ambazo zina safirisha abiria. Huu Mswada una umuhimu zaidi. Ninampa dadangu, Sen. (Dr.) Zani, ambaye anatoka maeneo ya Kaunti ya Kwale, kongole kwa sababu amesaidia huu Mswada utasaidia watu ambao wanaishi katika yale maeneo. Ni laziima ugavi kama huu uzingatiwe sawasawa na kusiwe na ufasidi.

Tuko pia na mazeras ambayo watu wengine wanaita *galana stones*. Watu wengine wanazitumia kutengeneza *tiles*. Kaunti ya Kwale iko na madini kama hayo na ndio maana wanafaa kupewa nafasi ili wafaidike. Sisi watu wa Kaunti ya Kilifi hatuwezi kusema ya kwamba tunafaidika kutokana na rasilimali ambayo tuko nayo kwa sababu watu wetu wanateseka ilhali tuko na rasilimali. Ni lazima serikali izingatie na kuona ya kwamba watu wa Kaunti ya Kilifi wamefaidika kutokana na rasilimali yao. Shida kubwa huwa ni wakurugenzi wa kampuni wanaonyanyasa wananchi wa viwango vya chini na hiyo ni mbaya. Watu hupata ugonjwa kama saratani, wengine wanakuwa viziwi na hata vipofu. Huu Mswada utaweza kuokoa maisha ya wakenya ambao wanaishi katika maeneo ambayo yana madini kama kaunti za Kilifi, Kwale na hata Taita Taveta.

Watu wa Taita Taveta wanateseka sana ilhali wako na mawe ya thamani sana.

(The Red light was switched on)

Sen. Madzayo: Bi. Spika wa Muda, naomba unipe dakika moja nimalize. Ningependa kuzungumzia Kaunti ya Taita Taveta kwa sababu hao ni watu wa umuhimu sana.

The Temporary Speaker (Sen. Pareno): Tafadhali maliza kwa dakika moja.

Sen. Madzayo: Asante, Bi Spika wa Muda. Ninakujua kwa ukarimu wako.

Ni lazima watu wa Kaunti ya Taita Taveta wafaidike na rasilimali zao, ambazo ni ghali na zime tajirisha Wakenya wengine. Hata wengine walikuwa katika hili Bunge la Seneti mwaka wa 2013 hadi 2017. Wametajirika sana na hata kujulikana Kenya nzima. Sio Mkenya mmoja tu aliyetajirika bali ni wengi lakini sijaona ikitajirisha Mtaita hata mmoja. Ikiwa ni *green granite*, *ruby* na *diamonds* ambazo zinapatikana katika Milima ya Taita, basi lazima Wataita wafaidike na mali yao. Sio tuu kuingia ndani ya mashimo, kupasua kwa baruti kisha kuteseka na magonjwa na mishahara midogo. Wanaotajirika ni mabwanyenye walionunua milima hiyo halafu wanatoa madini aina ya *green granite* na *ruby*, wanauza na kupata pesa kisha kuwaacha maskini wananchi wa Kaunti ya Taita Taveta.

Katika Mswada huu, sasa tumepata uganga. Ukitibiwa na mganga na upone, huu ndio uponyaji sisi kama Wakenya katika taifa letu.

The Temporary Speaker (Sen. Pareno): Sen. (Eng.) Hargura, proceed.

Sen. (Eng.) Hargura: Thank you, Madam Temporary Speaker, for the opportunity to contribute to this important Bill. If I remember well, this could be the third time this Bill is coming before this House. The first time we had this Bill was in the Eleventh Parliament, where it was passed by the Senate, but it did not go through the National Assembly. I think it was also here early in this Twelfth Parliament.

I thank Sen. (Dr.) Zani for being consistent and bringing up this Bill again. I hope this time around, because of the working relationship between the two Houses, it will see the light of day since it has been a victim of the acrimonious relationship we had with the National Assembly.

This Bill covers a very important aspect of our economy because laws are created to fill gaps and this is a serious gap. I know the Bill talks of taking into account the existing laws, which cover resources like the Mining Act and the Petroleum and Energy Act. However, what is left now is solar, water resources, forests, biodiversity, genetic resources, wildlife, industrial fishing and wind. All these are important especially for somebody coming from the arid parts of this county, which is the next frontier of development in this country because that is where we have land and all these resources. We are heading towards the area of wind and solar energy.

Madam Temporary Speaker, the earlier we have this kind of legislation, the better because if you look at the current situation, you find most community land is not registered. This is even after the Constitution of Kenya 2010, which clearly defined land as being private, public and community. Community land is still under the custodianship of county governments unlike trust land before because the Trust Land Act is not there but that problem is still there.

Initially, a developer would come and identify a resource somewhere, quietly, do his study and establish the potential. He will then acquire that land quietly, lease it at very ridiculous rates and then come back to now develop the resource. By the time the resource is developed, the community has lost the land because it was leased by the local

authorities then, who are the holders of the trusteeship. When you come around and see somebody benefiting exorbitantly out of your land, then there is nothing you can do because it is a case of a private developer on private land. The only thing the county government gets is maybe something like Kshs10 per acre of land as land rates per year and nothing else. On the other hand, the developer has mobilized himself, got investors and is making exorbitant amounts of money.

For example, a case where a wind farm has been developed and the county government and the community have no share and do not benefit out of it. They do not even get that power because it is evacuated to the national grid, while that county is off the national grid. We are told 15 per cent of the power running this country comes from that county. That is how the current situation is exploitative of the communities.

Madam Temporary Speaker, I hope Sen. (Dr.) Zani will look at the situation where it is on private land. Does this law apply when it is solar or wind on being done on titled private land? I believe that time, there is an agreement between the investor and the owner of the land. That is why as communities, we want to register our land and we want to be the ones negotiating directly with these investors, not through this kind of benefits sharing. That will be the best way to go.

As it is now, it is better that we still have this Bill. The Commission on Revenue Allocation (CRA) has an important part to play in this Bill. They are supposed to come up with the benefits sharing agreements and also establish the rates of the benefits sharing by doing a scientific calculation of what the production cost, net benefit and how to share it out. I hope investors will agree to that because right now, they do not have it in mind. We might even see a situation where they might start pulling out because they came in with a clear mind that nobody owns the land, they got the title first and they do not want to hear anything about sharing benefits.

If you look at the sharing formula, when you calculate, the local community gets 12.8 per cent of what is collected and royalties. So, it is a matter of how much the royalty is because the national Government gets 68 per cent which is the bulk of it, as Sen. Olekina said. The whole of the Sovereign Fund is under the national Government and then they get 68 of the total. The county government and the community will end up with 32 per cent. The calculation is such that the community does not get much, but only 12 per cent.

Madam Temporary Speaker, it is good the County Benefit Sharing Committee has five members from the local community in it. The agreement has to go to the county assembly for approval and that is another good check so that the representative of the community at that level approves. It is then deposited to the CRA and the Senate. This is also another line of checks so that we confirm what is being agreed on the ground is something that is in the interest of the community. There is also public participation in making sure when projects are identified, then the community is consulted.

The only thing I want Sen. (Dr.) Zani to look at is what happens if it applies to privately titled land because that is where we are going as communities, so that we know which resources it applies to. I know there are resources which the Government claims even if it is on your private land. So, which are these resources? I know minerals below the ground like oil are said to belong to the Government. What about wind and solar which are above the ground? Will it also come after that if we register our land and start

claiming this exorbitant percentage where the national Government takes 68 per cent; the community, 12 per cent; and, the county government, 20 per cent? Is that how it will go? Then the exploration of natural resources---

We need to have laws. Currently, the raw material for titanium in Kwale County is exported as it is. The other day, I heard a clip of the late President of Tanzania, Hon. Magufuli, saying they had experienced this kind of thing in Tanzania. Foreigners would say the material they mined and exported had only 40 per cent of copper and that the rest was useless. However, they tested that material and found that it had more than seven other minerals in it. That is how these people are short-changing us.

Madam Temporary Speaker, we must have laws, which state that in the event of exploitation of natural resources, there must be minimum processing of that natural resource on site. This will provide employment to the local communities and also help us know what these people are exploiting. We have lost our minerals in that manner. Somebody just comes, collects raw material and tells you it is only 40 per cent copper, when there are many other minerals in it.

We need to have other laws to make sure that if natural resources are to be exploited, there must be minimum processing of that resource on site so that we know what it is and the locals also get employment.

When they pay that, we will even know what royalties we are claiming. If you take all that soil and say that it is 60 per cent titanium, or something like that, they will pay less if it is not properly declared. For the sake of knowing what royalties they are to pay, we need to have proper analysis.

Madam Temporary Speaker, I support the Bill. I hope that it will go a long way in making sure that the exploitation of our resources by most of the time non-locals, will end. Out of this, the counties, especially the arid land counties, will have an incentive of calling in developers so that they can develop wind farms and solar energy, because we have seen the potential that is there. There will now be an incentive from which they will get a direct benefit. Without this kind of benefit sharing, people even fear to allow investors to come.

I support the Bill

The Temporary Speaker (Sen. Pareno): Sen. Cherargei.

Sen. Cherargei: Thank you, Madam Temporary Speaker. From the onset, I want to congratulate Sen. (Dr.) Zani for this wonderful Bill. If she has been following me keenly, I have been very passionate about issues of natural resources. I am happy that we finally have this Bill back. I hope that we shall be able to process it as soon as practicably possible.

I think that Sen. (Dr.) Zani has been very industrious. I can see she really tried to ensure that she captures everything in the definition of natural resources. I think that we are still very green on the issues of marine, biodiversity and genetic resources. Spain has benefited from biodiversity and genetic and marine resources in the blue economy. It is very important that we capture this.

I am happy that the issue of forests has been covered. Nandi County is the only county that has three major forests. We have one in Nandi North around Sang'alo area, Kamboga and many other areas near Chepterwai. There is another one in Nandi Central just next to Kapsabet County headquarters. The other one is in Nandi South around

Tinderet, Kisumu, Kericho and Timboroa. When you pass that area, there is a micro climate system that has been created.

Madam Temporary Speaker, this is very important. We know of others like Mau Forest and many others in Mount Elgon like Mount Elgon and Arabuko Sokoke somewhere in the Coast region. I think that this is very important. I really thank Sen. (Dr.) Zani on the issue of forests because Nandi has three major forests in one county according to the population census of 2019. I am happy that this benefit sharing will be very significant. I know that the issue of climate change has been very important, especially where there is sharing in counties across the nation.

The issue of water resource has been very important. This is the resource that is readily available, but rarely accessible to some Kenyans even in this city. In this city, to get access to clean water for three days a week is still a big challenge. Access to clean water is provided for under Article 43 of the Constitution.

You remember the issue of building a tunnel from Murang'a to the city. That has been the biggest fight. The County Government of Murang'a wants money to be paid. So, this Bill captures the imagination of Murang'a County. For example, the water that is supplied to Uasin Gishu County comes from Chebara Dam, which is in Elgeyo-Marakwet County. There has always been a fight between the host county and the county that is consuming the water. Therefore, this is a critical Bill especially on the definition of benefit sharing aspect.

There is also the issue of industrial fishing in areas of Lake Victoria. We are aware that there are countries who are taking advantage by having fishing equipment that harvests everything. When we destroy the marine and the biodiversity of our oceans, we threaten their lives and survival in the future.

Madam Temporary Speaker, we need to harness wind and solar energy. I remember that at one point Sen. Halake brought an issue on increase of taxation on solar energy. We should move to greener energy.

The issue of revenue has been emotive. The Senates took quite a number of months disagreeing on the best formula on how to share resources. Yours truly was on the onslaught for the one man, one vote, one shilling formula while others were in team Kenya. I do not know whether Team Kenya has mutated to One Kenya Alliance. Sen. Mutula Kilonzo Jr. should have been here to tell us more.

Madam Temporary Speaker, there are some people who might not be elected to this House because of that. This is because we share bursaries and other things in the counties.

(The red timer went on)

I can see my light is on. This Bill is a critical. I thank Sen. (Dr.) Zani for bringing it.

I agreed with the late Tanzanian President John Pombe Magufuli for flushing out people who were exploiting natural resources in Tanzania. We have similar situations in Nandi at the Kerebe Gold Mine, Tinderet Sub-county. People's land was exploited, but they have never been paid. They are suffering because they are being harassed by the police.

There is a gold ginnery being constructed in Kakamega County. We have been told that the President might visit it. Sen. (Dr.) Musuruve should tell us more about the visit.

When you go to Kakamega, Nandi, Migori, Kitui, Machakos and many others counties including Turkana where there is oil, natural resources have become a curse. This is because the national Government has allowed cartels to exploit the natural resources at the expense of the ordinary *wananchi*. That is why in places where these natural resources are found, people have turned it into a curse. The landlords are not being paid yet the resources are exploited.

This Bill has come at a better time. We want these resources to be shared. People who own land should benefit. For example, in Nandi, we are contributing because there are now proper climatic conditions. Therefore, we should benefit from the sharing of revenue.

This is a brilliant idea by Sen. (Dr.) Zani. When the Bill reaches Committee Stage, we should agree on how to encourage counties to share revenue. For example, in Nandi, we have three major forests. No other county has such. In fact, we have a special climate where it rains throughout the year because of that.

How do we encourage such counties? How do we give this through revenue benefit sharing to improve the environment and make sure that we have more free set areas? This is because that micro climate allows for the growing of crops like tea and maize. It also allows dairy farming and many others. In Kibiko Forest in Kajiado, for example, we need to encourage this.

Madam Temporary Speaker, in Kajiado County, where you come from, we have a lot of empty land. We should encourage people to grow trees. Some of us have the benefit of flying around. Whether people want to talk about the wheelbarrow or not, we have the benefit of flying around the country. When I fly, I have seen that there is empty land in Kajiado. We should encourage people to plant more trees.

The Temporary Speaker (Sen. Paredo): Sen. Cherargei, let me just give you information. That it is not empty land. It is grassland. We happen to have animals that graze on those lands. They are not just empty.

Sen. Cherargei: Thank you, Madam Temporary Speaker for that explanation on the flora and fauna. In as much as grassland and savannah is important for the wildlife, we should encourage people to grow more trees. Wherever it rains, there is erosion especially in Narok Town. In Tinderet, where I come from, when we do not plant trees, sometimes the effects of heavy rains are not good.

I thank you and hope that this Bill will be processed. If you could give me one minute to conclude. I am happy because I am among the people who went to court to ensure that this Bill is protected. If we had not gone to court, unfortunately, we would not be having this Bill.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Paredo): There are no more requests so I call upon the Mover to reply.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. I beg to reply.

First, let me start by thanking Sen. Cherargei for being in the team that went to save all these Bills. These Bills would have been elsewhere. We are happy we are now

seeking concurrence under Article 110(3). We wish this would have happened earlier, we would have been somewhere, but it is a process. It is a new experience of a bicameral system.

I want to reply in the shortest possible time to allow my sister Sen. Halake to move her Bill. The form that this Bill is in now is because of the efforts of many Senators. Indeed, almost all Senators at one point or another through committees have contributed to this Bill.

Secondly, there is no county that does not have natural resources and the issue of benefits sharing being so important. That is why you have heard all the Senators this afternoon discussing about this and relating it with their counties.

Madam Temporary Speaker, I thank Sen. Wamatangi who took us down memory lane in terms of visiting the various counties. Sen. Kavindu Muthama who was very eloquent and we could hear her passion. We are proud of her as our elected Senator, especially the women fraternity in this House. Keep up with the work and your representation for your county.

Sen. Cheruiyot, Sen. Mutula Kilonzo Jnr., Sen. Nyamunga and Sen. Halake all had specific aspects that they have been dealing with, for example, the role of the Commission on Revenue Allocation (CRA) and how to deal with poverty and sustainable economy within these various counties. Sen. (Prof.) Ekal gave us the situation of Turkana County and the need for development there. Sen. (Dr.) Musuruve told us about local content.

Madam Temporary Speaker, let me just say that this Bill was introduced in 2013/2014. A lot of the components of this Bill have been taken up by other Bills thereof, but this can all be consolidated. We have the Local Content Bill, but we still have the idea of putting everything together. Sen. (Dr.) Ali was quite pessimistic about the scenario, but we have to keep moving as a country. We have to keep trying. We have to keep putting in our best foot forward and pushing the agenda.

Sen. Faki was very eloquent and insisted that it is important for us to put this into place. Sen. Pareno gave us the need for inclusivity as very important. Sen. (Dr.) Lang'at also contributed to the Bill. Sen. Olekina had various issues that I will also talk to him privately about and still enhance this Bill. We want a product that will be good for us. There is the issue of own source revenue. I know in Narok County, there was the issue of the 19 per cent. We want to make sure that is ring-fenced within a particular scheme. We will be able to talk about that because this still goes back to the local communities.

Sen. Madzayo eloquently explained the case for the Coast. I wish to finally thank the Committee on Lands and Natural Resources and Sen. Mwangi specifically for his dedication and the work he has done on this Bill within his Committee.

I would also like to thank Sen. Farhiya who made some comments on the need for regulations, making sure that these are put within a particular timeframe and the need to ensure also that the quantity of what is extracted-- and this is also what Sen. Hargura mentioned.

I cannot say anything more. I just wish to thank this Senate and to wish us all well even as we proceed with this Bill and move with it together as a Senate Bill.

Madam Temporary Speaker, I beg to reply and wish to request that the putting of the question be deferred according to Standing Order No.61(3) to another appropriate time.

I thank you.

The Temporary Speaker (Sen. Pareno): Hon. Senators, I determine that this is a Bill that definitely touches on counties and we cannot, therefore, proceed to vote at this moment. It is therefore deferred to Thursday and it should be put on the Order Paper for that day.

(Putting of the Question on the Bill deferred)

Next Order.

Second Reading

THE COUNTY HALL OF FAME BILL
(SENATE BILLS NO. 9 OF 2021)

I do not see Sen. Murkomen. This Bill is, therefore, deferred.

(Bill deferred)

Next Order.

Second Reading

THE LAW OF SUCCESSION (AMENDMENT)
BILL (SENATE BILLS NO. 15 OF 2021)

Sen. Halake: Madam Temporary Speaker, I beg to move that The Law of Succession (Amendment) Bill (Senate Bills No.15 of 2021) be read a Second Time.

Madam Temporary Speaker, this Bill is not a very long one, but it is very important to the women of this country. It seeks to address the issues of gender, equity and succession matters. The Bill is amending the law of Succession Act and seeks to ensure that the Act provides for gender equity with regards to succession matters.

Before I go into the proposals and provisions of the Bill and the amendments that we seek, please allow me to give a little bit of a background of what occasioned the need for this change.

The existing Succession Act is the parent legislation enacted in 1981. This shows how old and how disconnected from the Constitution of Kenya, 2010 it is. It was legislated in 1981 to regulate succession and inheritance laws in the country. It contains certain progressive measures for which the women of this country are quite happy and grateful.

However, the implementation is often influenced by the patriarchy and in addition contrary to the Constitution of Kenya, the Act also has discriminatory provisions against women thereby denying women their rights. It became, therefore, necessary for us to make amendments to align the existing Cap.160 to the new Constitution and other progressive laws that I am going to list in a few minutes.

Just to look at women's land and property rights and Law of Succession Act, Cap. 160 of Laws of Kenya and the discrimination between the new provisions and other laws

that then look at these things, I would like to say that the Law of Succession Act was enacted after the recommendations of the 1968 Commission of the Law of Succession.

The Act was created to amend, define and consolidate the law relating to interstate and testamentary succession, the discrimination of the estates of the deceased persons.

The Act has various provisions that seek to protect and promote the rights of women for which the women of this country are grateful such as permitting us to make wills and that a wife ranks high among the dependents of the deceased husband. A surviving spouse is considered to be the most suitable person to take charge of the deceased husband's property. Children are allowed to inherit without making any preference to a male or a female child.

Those are the progressive aspects of the Law of Succession Act (Cap 160) which are very good. However, despite the progressive provisions, the Act contains discriminatory provisions and lacks key provisions that would better protect the women of this country in terms of land, property and inheritance rights.

Madam Temporary Speaker, this is what occasioned the need for this Bill to ensure that we make some reforms to the Law of Succession Act, 1981 basically because a lot has happened. The Constitution of Kenya 2010 has provided even better provisions for us. Other laws including the Matrimonial Act have also better and more progressive provisions. Our 2010 Constitution, the Land Act, 2012, the Land Registration Act, 2012, the Land Commission Act, 2012 and the Matrimonial Property Act, 2013 allow women to acquire land through purchase, gifts, inheritance and allocation of public land by the Government is seamless and processes confirmed in the provisions of the Constitution and other laws including equality and non-discrimination. Women continue to face hurdles in the inheritance of land and property. This is ironical since inheritance is a more assured way of women acquiring land and property in this country.

I do not want to repeat what some of the provisions and the disconnects are, but allow me to put this into context before I go into the specific provisions of what we are trying to amend and what we are trying to enact. The enactment of this Bill will address the provisions in law which are detrimental to women whose family members died prior to 1981. There are quite a number of provisions that are discriminatory against a child or children born out of wedlock. There is also exclusion of Muslims and others based on social origin where the Act exempts its application in certain areas of Kenya. The areas listed are mainly pastoral communities where land continues to be held communally.

Madam Temporary Speaker, you come from a pastoralist community like I do so you are aware of how discriminatory some of these provisions are not just to the women from pastoralist communities, but to the larger community as well. Most of us are familiar with the Community Land Act which has given specific provisions to make sure that things that were not done well in the other Land Act are taken care of under the Community Land Act to ensure that the rights of pastoral communities are also taken care of.

The Law of Succession Act has these discriminatory provisions. The Act allows that application of customary laws of the deceased. The customary laws have been influenced by patriarchy so they are not so protective of women. The fact that we also have the Community Land Act which has been aligned to the Constitution, it provides

these gaps that we need to make sure are not used in the Law of Succession Act to circumvent the gains that pastoralist communities and Community Land Act has provided to pastoralist women for instance. The existing Act also fails to effectively protect women from harmful practices.

The Act also fails to recognize the new property regime because a lot has changed since 1981 such as the establishment of the National Land Policy of 2009, The Promulgation of the Constitution of Kenya 2010 and the enactment of the land and property related laws are all at loggerheads with the law of 1981.

The Act must therefore conform to the current regime. For example, with the Matrimonial Property Act, 2013 in place, the Act should recognize matrimonial property and make provisions for its distribution upon the death of the spouse. The Constitution calls upon Parliament under Article 68(2)(6) to protect the dependents of the deceased persons holding interest in any land, including the interest of spouses in actual occupation of land which is yet to be achieved. There is a gap in the Law of Succession Act (Cap. 160) of the existing laws.

Those concerns became a concern for women of this country and a concern for us who are here in the interest of women, in the interest of special groups such as women, people with disability, pastoralist communities and other vulnerable communities, on whose behalf we are here, in this House.

Key policy concerns which occasion the amendment include certain conflicts with Section 2, 3, 5, 32, 35(5), 36(1), 39(1) of the Act which discriminate children who are born out of wedlock, women and the rights of girls and widows. These provisions do not conform to the equality provisions under Article 27 of the Constitution of Kenya, 2010.

In addition, rules of international laws are to form part of the laws of Kenya as per our Constitution and any treaty or convention ratified by Kenya shall form part of the laws of Kenya. The discriminative provisions are against regional and international human rights instruments that Kenya has ratified, including International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa; the Maputo Protocol.

This law is not just old, but it is disconnected and discriminatory. It needs reforms. The Law of Succession Act does not conform to the existing laws and that is what has occasioned this amendment. I want to list some of the laws that it conflicts with after the promulgation of the Constitution of Kenya, 2010. Parliament embarked to review and enact legislation that will conform to the Constitution of Kenya and support the implementation of the Constitution.

Key legislations that promote the respect of women and land rights include the Land Act, No. 6 of 2012, the Land Registration Act, No. 3 of 2012, the Matrimonial Property Act, No.49 of 2013 and the Community Land Act, No.27 of 2016. Whereas the Marriage Act, No.4 of 2014 and Protection against Domestic Violence Act, No.2 of 2015 are all progressive, but there is a disconnect with the law of succession. Matrimonial property and community land must, therefore, be recognized in the law of succession and that will offer better protection for women. In addition, the recognition of marriage regimes under the Act will offer better security for women. That is the background to which the Law of Succession Act Cap. 160 is being reformed and amended.

In addition, the Act is silent on violation that women and children go through after the death of their spouses. We all know how widows are chased out of their homes by relatives who then due to patriarchy or other considerations decide that they are more entitled to the properties than the widow. They strip the widows of the assets, evict and even abuse them physically and mentally. Some of them are forcefully inherited. The Protection against Domestic Act, No. 2 of 2015 prohibits certain violations against widows and the Act should have specific provisions creating offences and penalties that should address any form of cruelty, degrading and inhuman treatment against the deceased beneficiaries. This inhuman treatment is usually meted on women and children, who are the most vulnerable members of the community.

With regard to access to justice, which is a constitutional right, the succession process in Kenya is complex, expensive and time consuming. Therefore, this Bill seeks to simplify it. The persons who have been disenfranchised should not have to go through an expensive, dehumanizing, in-dignifying and time consuming succession battle with relatives and others who seek to deny them of their rights.

The succession process requires one to file requisite documents in court. The Judiciary is mandated to promote access to justice for all and it is supposed to ensure that the succession process is accessible to all. The Act further needs to embrace alternative dispute resolution---

The Temporary Speaker (Sen. Pareno): Order, Sen. Halake. You have a balance of 47 minutes when this matter comes next in the Order Paper.

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the House. The Senate, therefore, stands adjourned to tomorrow, Wednesday, 4th August, 2021, at 2.30p.m.

The Senate rose at 6.30 p.m.