

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 12th April 2018

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: We obviously do not have quorum. Ring the Quorum Bell.

(The Quorum Bell was rung)

Order, Members. We now have quorum. The Member for Cherangany, we now have quorum. We can start transacting business.

PETITIONS

IRREGULAR TRANSFER OF TEACHERS IN WAJIR COUNTY

Hon. Speaker: Order, Members. Member for Kiambu or Kiambaa, what are you doing? You cannot do that, Member for Laikipia. The Member for Kiambu is senior enough now. He should have told you that, that is not what is done.

Pursuant to the provisions of Standing Order No. 225(2)(b), I wish to convey to the House that my office has received a Petition concerning alleged unlawful and irregular transfer of teachers in Wajir County. The Petition is signed by Messrs. Hassan Mahat, Abdihakim Shamake, Abdikadir Hassan and Mahat Ali.

The petitioners allege that the Teachers Service Commission (TSC) and its leadership has failed to execute its duties as required by the Constitution, the TSC Act, 2012 and the Children Act, 2001, by failing to protect the rights of children to education and by irregularly transferring non-local teachers from Wajir County. The petitioners further contend that, as a result of the transfers, learning has been paralysed in the county.

The petitioners, therefore, pray that the National Assembly causes the TSC to review its policy regarding transfer of teachers to address the concerns of the irregular transfers and make any other order or direction that it deems fit in the circumstances of the prayers.

Pursuant to the provisions of Standing Order No.227, this Petition, therefore, stands committed to the Departmental Committee on Education and Research for consideration. The Committee is requested to consider the Petition and report its findings to the petitioners and the House, as required under Standing Order No.227 (2).

Since these concerns of teachers' transfers have persisted for some time now, I direct the Committee to inquire into the matter comprehensively with a view to resolving the concerns of the teachers, affected schools and those of the TSC, once and for all.

There is another petition by the Member for Mwatate, Hon. Mwadime Andrew.

HUMAN-WILDLIFE CONFLICT IN MWATATE CONSTITUENCY

Hon. Mwadime: Thank you, Hon. Speaker.

I, the undersigned, on behalf of residents of Mwatate Constituency, draw the attention of the House to the following:

THAT, the residents of Mwatate Constituency have experienced human and wildlife conflict for a long period of time;

THAT, in the recent past, wild animals have invaded human settlements and caused havoc to farmland, destroyed crops and homes, causing injuries and loss of life;

THAT, the residents of Mwatate Constituency have suffered excessive crop loss and destruction which has resulted in food insecurity and suffering as most of the residents' livelihood depend on farming activities;

THAT, Section 25 of the Wildlife Conservation and Management Act, 2013 provides for compensation for personal injury, death or damage to property caused by wildlife;

THAT, the numerous cases of human-wildlife conflict have been reported to the relevant authorities for the purpose of compensation, but in spite of this, the victims are yet to be compensated;

THAT, the Ministry of Environment and Natural Resources has failed to compensate the victims hence they are languishing in poverty and untold suffering;

THAT, the matter presented in this Petition is not pending before any constitutional or legal body; and,

THAT, efforts to have this matter resolved have been futile.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:

1. recommends prompt compensation of victims of human-wildlife conflict and such other affected persons and/or families and property as a result of the conflict suffered due to the massive destruction of homes, crops and loss of lives;
2. recommends that the Ministry of Environment and Natural Resources puts in place mechanisms to ensure human-wildlife conflicts are addressed; and,
3. makes any other order or direction that it deems fit in the circumstances of the case.

Your petitioners will forever pray.

Hon. Speaker: Hon. Members, I allowed Hon. Mwadime to present his Petition so that comments, observations and clarifications on both petitions can then ensue. I do not know whether the Members who had logged in had done so in anticipation of these petitions. I can see Hon. Kibiwott Melly. Did you want to comment on the Petition? In any case, the Petition will be referred to your Committee.

Hon. Melly: Thank you, Hon. Speaker. I accept that the Petition will be referred to our Committee, but I also ask for your direction that this Petition be looked into in a multifaceted way. The issues at play are beyond the Departmental Committee on Education and Research. I ask that the Departmental Committee on Administration and National Security also be involved so that we can handle this Petition expeditiously and in a better way.

Hon. Speaker: Just to observe, Hon. Melly, Article 125 of the Constitution states that any Committee of Parliament, or Parliament itself, is at liberty to call, summon or invite any person to give information or evidence. It does not mean that the Members of the Departmental Committee on Administration and National Security are more competent than you. Even you, yourselves, are at liberty to invite and, if need be, summon those who are responsible for matters to do with security to come and present their views before you.

Hon. Melly: Thank you. Your guidance is taken, Hon. Speaker.

Hon. Speaker: Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker. I stand to support the Petition by Hon. Mwadime. The issue of wildlife conflict is much more widespread there. I think we have had petitions here before. We put in place a new law, but the compensation is still slow. In many cases, it does not come. In my Seme Constituency, we have the menace of hippopotamuses and crocodiles. Of course, crocodiles are killing people and animals. The hippopotamus menace is such that people cannot plant crops, vegetables and maize along the lake. This has been raised many times. The organisations that are involved are aware. Many times, particularly when there are attacks by crocodiles, they seem to protect the animals more than human beings. I think there should be a broader look into the issue of human-animal conflict.

Hon. Speaker: Member for Yatta.

Hon. Kilonzo: Thank you, Hon. Speaker. I wish to support the earlier Petition concerning the transfer of teachers from Wajir County. Indeed, it is time that the relevant committee looked into this. It came as a shock to this House and the nation that the TSC took the drastic action and in one way gave in to the demands of a terrorist organisation. It confirmed there could be something terribly wrong with the way institutions operate. On one side of the Government, there is assurance of security and yet the TSC went ahead and gave the order to withdraw teachers. But of fundamental interest are the consequences of withdrawal of teachers from Wajir. We are punishing kids and denying them their right to education.

So, this Committee should move with speed to ensure that teachers go back and the necessary security is provided by the Government. We look forward to a report by that Committee.

Hon. Speaker: It is for that reason that I said that Hon. Melly and his team are, indeed, at liberty to invite all the parties concerned whether those dealing with the security sector or the education sector. If possible, they should appear jointly so that you can look for ways of an amicable resolution of the problems that, perhaps, may be bedevilling the education sector, especially with regard to the teaching fraternity in that county and maybe others and not just Wajir County.

Next is the Member for Igembe North.

Hon. Maore: Hon. Speaker, thank you. I wish to support both petitions and comment a little about the first one. When you hear people having a threat to life, it is not a matter which you can just brush aside. Those upcountry teachers have specifically been targeted by the attackers and those of us who have been following the recent developments on security matters have noted that the *Al Shabaab* threat has generally subsided in the whole country. When this Committee is dealing with this issue, they need to peel the layers that are covering what might be happening in North Eastern. You might be forcing these people there, but we need them in that place. I request that when the Committee is doing its investigations, the biggest picture they need to look at is next year's census. Those of us who know what happened in those places like

Mandera and Wajir, the elders *na vijana wanachukua makaratasi wanaenda wanajaza vitu vya huko kwa bush*.

Hon. Speaker: Which language is that?

Hon. Maore: So, Hon. Speaker we need the Government also to investigate whether that one is tied to insecurity with regard to upcountry teachers.

Hon. Speaker: Member for Kitui Central.

Hon. Mulu: Thank you, Hon. Speaker. I want to comment on the Petition on teachers. This is quite a serious matter. Even as we talk about making sure that our children go to school and are taught, we must realise that the issue of security is more important than anything else. If you are a teacher, posted there and you die, then at the end of the day, it is a choice between death and working. We all agree as Members that if any of us is given a choice between death and work, obviously we will choose life.

I recommend the idea of having a joint session of the two committees, namely, the Departmental Committee on Administration and National Security and the Departmental Committee on Education and Research. This might somehow be the way out because this matter requires a multidimensional approach. I am sure Members are aware that about three weeks ago, some teachers were camping at the TSC. Some of us used to get more than 100 text messages after every hour requesting Members to intervene. They are suffering and it looks like their employer is not really considering their plight. So, I appeal that even as the matter is being discussed by the Hon. Members, we also must look at the issue of teachers whose lives have been threatened. It is a matter of choosing between life and death.

On the Petition on human-wildlife conflict, we all know that this is a House of records. I was lucky to serve in the 11th Parliament with Hon. Mwadime. I am sure the same Petition was brought to this House by the same Hon. Member. As a House, we need to discuss the issue of implementing some of the recommendations that we make. I am sure if the recommendations had been implemented, Hon. Mwadime would not be raising this Petition today. Farmers are suffering. I urge the Chair of the Committee on Implementation, my friend Hon. ole Kenta, to start working and push hard so that the recommendations of the House are implemented.

With those remarks, I support the Petition.

Hon. Speaker: Hon. Mwadime, your prayers are that which committee looks into the Petition? Did you say the Departmental Committee on Environment and Natural Resources?

Hon. Mwadime: It is the Committee on Environment and Wildlife.

Hon. Speaker: I just want to pick up from where Hon. (Dr.) Nyikal left. This House, in the 11th Parliament, passed the relevant law which provides for methods and modes of compensation in the manner that the petitioners have complained. Should we not be looking at the implementation of that law? It looks like there could be some challenge. It is not that I know anything, but you, as parliamentarians, have the power to allocate sufficient resources to the agencies that are supposed to do the compensations. Perhaps, I would request that Hon. Mwadime appears before that Committee also and invite the relevant Executive branch to come and explain why it is that there are so many cases of human beings and livestock that have been killed or maimed by wildlife and there has not been any compensation. It is important so that we know from the Committee whether there is a problem about the figures that this House fixed as compensation sums.

Your Petition stands committed to that Committee. It will work within the usual timeframe of 60 days and then report to the House.

Hon. Mwadime: I stand guided, Hon. Speaker. I tried it several times in the 11th Parliament, but unfortunately, the issue was unresolved. Direct the Chair of the Budget and Appropriations Committee and the Chair of the Departmental Committee on Environment and Natural Resources to budget for the compensation amount which will be given. Since the Act was implemented, no one in this country has been compensated.

Hon. Speaker: My assumption is that the Chair of that Committee is in the House. I do not quite remember who it is. It is Hon. Kareke Mbiuki. We had marked the front benches for chairs and in their absence, the deputies would sit there, so that we can know who takes his work seriously. When I see some of them empty, it suggests that some have decided to abscond. Nevertheless, the Petition stands committed there. Start counting the days. Today is 12th April 2018. Count 60 days from today. If no report shall have come, you will be at liberty to raise the matter, so that the House can address the shortcomings.

Hon. Mwadime: Thank you, Hon. Speaker.

Hon. Speaker: On the Petition which I presented, Hon. Makali Mulu, the issue about security which is raised in this matter of teachers does not necessarily have to be addressed by the Departmental Committee on Administration and National Security sitting jointly with the Departmental Committee on Education and Research. The people who will give information relating to security are in the Executive, but not the Members of those committees. Once the challenges or problems are given to the Departmental Committee on Education and Research, they will still be brought to this House to debate and resolve them in one way or another. Hon. Melly, you can take up that matter, so that you can give us an all-round view of what the situation is like as given by both the security and education sector. The long and short is that we want the matter to be resolved in one way or another.

Hon. Members, allow me before we proceed to the next Order to recognise the presence of pupils from Potters House Academy, Kesses Constituency, Uasin Gishu County, who are seated in the Speaker's Gallery. They are welcome to observe the proceedings.

Next Order.

PAPERS LAID

Hon. Speaker: The Chairperson, Departmental Committee on Energy.

Hon. Gikaria: Hon. Speaker, I beg to lay the following Paper on the Table of the House: Report of the Departmental Committee on Energy on the consideration of the Petroleum (Exploration, Development and Production) Bill, 2017.

Hon. Speaker: Chairperson, the Departmental Committee on Justice and Legal Affairs.

Hon. Cheptumo: Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Justice and Legal Affairs on the Vetting of the Nominee for Appointment as a Member of the Judicial Service Commission.

Thank you, Hon. Speaker.

Hon. Speaker: Leader of the delegation to the inaugural Commonwealth Parliamentarians' Forum, Hon. Amos Kimunya.

Hon. Kimunya: Hon. Speaker, I beg to lay the following Report on the Table of the House:

Report of the Kenya delegation to the inaugural Commonwealth Parliamentarians' Forum held at the Westminster, London, United Kingdom (UK), on 26th February to 1st March 2018.

Hon. Speaker: Next Order.

NOTICES OF MOTIONS

VETTING OF NOMINEE FOR APPOINTMENT AS MEMBER OF JUDICIAL SERVICE COMMISSION

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

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the vetting of the nominee for appointment as member of the JSC, laid on the Table of the House on Thursday, April 12, 2018.

CREATION OF RAIN WATER COLLECTION AND STORAGE MANAGEMENT SYSTEMS

Hon. Speaker: Hon. George Kariuki, Member for Ndia Constituency.

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

THAT, aware that the Fourth Schedule of the Constitution provides for the protection of environment and natural resources, and in particular water protection, securing sufficient residual water among others by the national Government; further aware that the abundant water during rainy seasons goes to waste; deeply concerned over the destructive nature of the said excess water on roads, buildings and other infrastructure and which many a times has resulted in loss of lives and properties in the cities; cognisant of the fact that during dry periods, there is always rationing of water due to low water levels in the reservoirs that serve cities and towns; this House urges the Government to consider creating rain water collection and storage management systems in the cities and major towns in Kenya.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order.

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 17TH TO 19TH APRIL 2018

Hon. A.B. Duale: Hon. Speaker, pursuant to the provisions of Standing Order No. 44(2)(a), I rise to give a Statement on behalf of the House Business Committee (HBC).

The Committee met this week at the rise of the House to give priority to the business that will be considered today and part of next week.

On Tuesday next week, the Roads Bill, 2017 will be considered in the Committee of the whole House, if we will not conclude it today. On that matter, Hon. T.J. Kajwang' has a number of amendments. We have agreed with the Chair that he will appear before the Committee on Monday, so that they can harmonise all those amendments together. We will schedule the Bill on Tuesday at the Committee of the whole House. If time allows us on Tuesday, we will also consider the Energy Bill, 2017 at the Committee of the whole House.

The House is also scheduled to consider the following Bills for Second Reading: The Petroleum (Exploration, Development and Production) Bill, 2017, if we shall not conclude it today; the Public Private Partnerships (Amendment) Bill, 2017, and the Kenya Coast Guard

Service Bill, 2017. I urge the Chairperson of the Departmental Committee on Administration and National Security to expedite the consideration of the Kenya Coast Guard Service Bill, 2017 and table the report, so as to guide the debate during the Second Reading of the Bill next week.

On Questions before committees, the following Cabinet Secretaries are scheduled to appear before committees on Tuesday, 17th April 2018. I want to confirm and be on record on HANSARD that these CS have confirmed that they would be available on Tuesday.

Hon. Speaker: Hon. Leader of the Majority Party, let me have a moment. Hon. Members, what the Leader of the Majority Party is about to state is very important. Members should know that if you have filed Questions and on the appointed day you do not appear to pose the question, it will be dropped and will not be raised again for another six months. So, it is important for Members to know that. If you have filed a Question or Questions, what the Leader of the Majority Party is about to announce is important so that you can make sure that you are present at the appointed time and place and avoid a situation where Members go to harass the clerks explaining that they had gone to discuss issues about a cattle dip in their constituencies with some villagers somewhere in town and that is why they were not able to attend. If you do not appear, the Question will be dropped. Chairs of committees are accordingly informed that if a Member who has asked a Question does not appear or is not present and has not given prior notice and the notice approved, the Question should be dropped. Everybody must show seriousness.

Proceed, Leader of the Majority Party.

Hon. A.B. Duale: Thank you, Hon. Speaker. That is the problem chairs of committee face. Some Members do not appear to ask their Questions. It has now been made very clear.

The first Cabinet Secretary (CS) will be for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security to answer Questions from the following Members: Hon. William Kamket, MP, Hon. Muturi Kigano, MP, Hon. Caleb Kositany, MP, Hon. Gideon Mulyungi, MP, and Hon. Aramat Lemanken, MP, in the main chamber at County Hall at 10.00 a.m.

Hon. Speaker, I am sure 80 per cent of these Members are not here.

Hon. Speaker: None of them appears to be present.

Hon. A.B. Duale: The second CS will be CS for Lands and Physical Planning before the Departmental Committee on Lands to answer Questions from the following Members: Hon. Olago Oluoch, MP, in the mini chamber at County Hall at 11.00 a.m.

Even chairs of committees must be here. I have not seen the Chair of the Departmental Committee on Lands and the Chair of the Departmental Committee on Administration and National Security. As much as Members should be here, the chairs should also be here seated in their designated places.

The third and the last is the CS for Agriculture and Irrigation before the Departmental Committee on Agriculture and Livestock to answer Questions from Hon. Joshua Kutuny, MP, Hon. Liza Chelule, MP and Hon. Elisha Odhiambo, MP, in the mini chamber at 11.30 a.m.

The HBC will reconvene on Tuesday, 17th April 2018 at the rise of the House to consider business for the coming week. I also want to ask Members that those who want to file amendments on the Kenya Roads Bill, the Energy Bill and Computer and Cybercrimes Bill, 2017 to make sure that they file them within the time provided for in the Standing Orders, so that they do not rush to bring the amendments on the Floor of the House.

Thank you.

Hon. Speaker: Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Speaker. Yesterday morning, the Leader of the Majority Party tabled the Supplementary Budget Estimates. Normally, after tabling such a report, Members get copies so that they are able to read through. At the same time, you also directed departmental committees to use about seven days to finalise on that important document. But up to now, Hon. Members have not been able to access copies of the report on the Supplementary Budget Estimates. So, Hon. Speaker, I request for your direction on how we should proceed in a situation where we do not have copies of the documents and you have already ordered that committees have seven days to conclude deliberating on that document.

Thank you, Hon. Speaker.

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

Hon. Speaker: That is an important point you have raised, Hon. Makali Mulu. Traditionally and the requirement of the law is that the National Treasury or any other Government Ministry purporting to have documents to be tabled here, must know that the House has 349 Members and must therefore bring not less than 349 copies of documents. Every Member is entitled to a copy. It is not the responsibility of Parliament to bring photocopied documents. It is the responsibility of the Executive if they want or desire this House to consider those proposals. Therefore, I direct that the Clerk of the National Assembly writes to the National Treasury, CS and PS requiring them to submit the copies to the House, I am informed they only brought one copy. That is playing games with Parliament. They ought not to have done that. The Clerk is directed to write to the CS to submit, not later than the end of the day tomorrow Friday, 13th April 2018, sufficient copies of the various documents in support of the Supplementary Budget Estimates II for the Financial Year 2017/2018. The period for consideration by committees will be accordingly adjusted. The committees cannot just sit and look at nothing. Indeed, the Executive as a whole is warned never to play those kinds of games. How can they provide one copy to a House that has 349 Members even if it is their desire that the Speaker should not have a copy? Ideally, they should provide us with not less than 350 copies.

Hon. Makali Mulu, that is a valid point. The period for consideration by committees will be accordingly adjusted. I need to ascertain that by close of business tomorrow, there will be available not less than 349 copies of the various documents.

Leader of the Majority Party, you can take up this matter.

Hon. A.B. Duale: Thank you, Hon. Speaker for that direction. That should extend to anybody who is bringing documents for tabling, including the Auditor-General and constitutional office holders. When a document is tabled by the Leader of the Majority Party or by anybody, it becomes a public document. The media is always in my office looking for documents. Sometimes, I am forced to share my own copy. This should go to anybody or any institution which is under obligation to bring documents to Parliament that they must bring over 349 copies because heads of staff of Parliament like the Budget Office, Legislation and Legal Departments also want these documents to help various offices of Parliament to debunk what is written in them.

On the same note, Members should also develop a culture of reading. How many Members go to the Table Office to pick these documents? Hon. Makali Mulu is an expert in this matter. So, he is an interested party. A report has been tabled here about the Petroleum (Exploration, Development and Production) Bill, but how many of us will read it? We have a

very vibrant research department in this House. How many of us know that that department exists? That department has been established to assist Members to do research on various Bills and Motions that they want to bring here. Even on our part, there is some lethargy. When people realise that we do not go for the documents, they feel that none of us reads.

I totally agree with Hon. Makali Mulu and the direction you have given. We need to have anybody bringing documents for tabling to come with the necessary numbers. We must also have the culture to read and debate constructively on these matters.

Hon. Speaker: On the same issue, Hon. Nyikal?

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker. The issue of CS answering Questions has to some extent been confined to committees. It has in some way demeaned the importance of that session. I remember in the last Parliament, this was a very important issue. We even thought of ways of bringing the CSs into the House to answer Questions. Although Questions are put by individual Members, many times, they have far reaching effects at the national level. Many Members would thus like to participate.

Before that, when we had the parliamentary system, Ministers used to answer Questions on the Floor. I was involved in preparing answers for them. Ministers were very keen to make serious preparations, but this thing is increasingly starting to look like a committee affair. You just find few Members of a committee participating and even asking supplementary questions. I noticed early in the last Parliament that there were notices in the television sets all over Parliament precincts which were indicating the time the CSs would be answering Questions or events taking place in various committees. In this case of CSs answering Questions, it should be made public. If Members do not come to this session on Thursday, there will be no way of knowing the CSs who will be answering Questions. If they do not look at the Order Paper on Monday, they will not know. I suggest that we should make this more public and use the screens in the precincts of Parliament to know what time which CS is answering what Question. This will bring back the significance of this session.

Thank you.

Hon. Speaker: Well said. Hon. Nyikal, this is work in progress. That is why we have dedicated County Hall to be the only venue for that particular exercise. Unlike in the past when every committee would be in some room somewhere, we now have a venue. Even the CSs used to have difficulties finding where a particular committee was sitting. We have deliberately decided that on Tuesday mornings, Questions would be responded to by CSs at the County Hall Chamber so that the media and everybody knows that that is where the various CSs, as stated by the Leader of the Majority Party, will be appearing at the respective times.

The Members must also note that they are required to be present. In any event, the procedure is that the Member raises his Question – not necessarily reading the Question afresh – and the CS responds. That same Member is given the first opportunity to ask the first supplementary question. Whoever is on the chair is supposed to check the number of Questions that the particular CS is going to respond to within the one hour allocated and then know how many other Members raising supplementary questions will be allowed to do so. The exercise starts at 10.00 a.m. Members should know the CSs who will appear at specific times. We will be providing them some small room where they can sit and have what parliamentarians taste when it is around tea time. We are generous also in some respect. They will be relaxing there waiting for their turn to go in to be asked questions and to respond to them.

Like I have said, it is work in progress, as we move on, we will see how we can improve it. There are suggestions on ways of trying to improve it further, but we want to start now with

dedicating that particular chamber only on Tuesday mornings. If for example one Member is raising a Question on cattle rustling, if you come from cattle rustling prone area, even if you are not the one who has asked the Question, you should be there. You should be interested. You could get a chance to also throw some supplementary questions. Members should take interest in what the Leader of the Majority Party said. They should find out what Questions are coming and more importantly by attending the afternoon session on Thursdays. As you rightly pointed out, administratively, the Clerk is also instructed to ensure that the various Questions are put on the screens around Parliament precincts on the morning of Tuesdays.

Chair of Departmental Committee on Energy, you have intervention?

Hon. Gikaria: Thank you, Hon. Speaker. I thank you for the direction that you have given. Yesterday, when you gave the direction that committees have seven days, I took it upon myself to go to the Table Office to pick a copy. This morning, we rescheduled a meeting with the Fiscal Analyst attached to our committee to give us some highlights on the same. Today, again, we shelved some very important matters of the Committee. When we went there yesterday morning, I was told to come back after one hour. We did not get it. The direction that you have given is welcome. We totally agree that it is important in future that any person who is required to place those copies should have them ready for people who want them.

I also agree with the Leader of the Majority Party that the culture of reading in this Parliament needs to be encouraged. Sometimes it is important for Members to look at the reports that we have. Some of the Members contribute without looking at reports yet the answers they seek are in the same reports they have not read. I totally agree with the direction that you have given.

Thank you.

Hon. Speaker: Very well. Hon. Members, within the Order No.7, I have approved that Hon. Anthony Oluoch, Member for Mathare Constituency, will seek a Statement under Standing Order No.44(2)(c).

It is important I draw the attention of the chairpersons of various committees to the provisions of that Standing Order No.44(2)(c). When a Statement is sought, after having been approved by the Speaker, the Speaker may direct that the chairperson responds on the spot, on the same day. The Speaker can also direct that the response be given on any other appointed day. It is important that Members be looking at what is coming, particularly the chairpersons, because you may find yourself being directed to respond on the spot. I am saying this because I do not seem to see the Chairperson and the Vice-Chairperson of the Budget and Appropriations Committee (BAC). I do not know who the Vice-Chairperson is. Is it Hon. Moses Lessonet? Both are absent.

Hon. Members: He is here.

Hon. Speaker: Oh! Hon. Lessonet is present. He has changed positions so many times. Not being a very tall Member, he tends to get lost while he is where he is sitting now. We have seen you are around, Hon. Lessonet. The Member for Mathare is going to seek a Statement.

Hon. Antony Oluoch.

ESTABLISHMENT OF ICT HUBS IN CONSTITUENCIES

Hon. Oluoch: Thank you, Hon. Speaker.

This a Statement on the requirement to establish Information, Communication and Technology (ICT) hubs in each constituency through the National Government-Constituency Development Fund (NG-CDF).

Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairpersons of the Budget and Appropriations Committee (BAC) and the National Government Constituencies Development Fund Committee regarding two things: The requirement to establish ICT hubs in each constituency innovation hubs in constituencies through the National Government Constituencies Development Fund (NG-CDF); and, funds reduced from NG-CDF in the 2017/2018 Supplementary Budget.

The genesis of these was directives issued; agreements between the NG-CDF Board and the NG-CDF Committee of this House with the requirement that each constituency sets apart Kshs4.2 million for establishment of four ICT hubs.

Though the above directives and requirements are noble because they will, in my view, spur development and also create job opportunities for the youth, they have the effect of reducing the limited money that is allocated to each constituency. It is taking away the same resources from core functions.

Further, through the 2017/2018 Supplementary Budget, this House reduced the constituencies' funds allocations to each constituency by at least Kshs15 million, leaving about Kshs85 million to cover both ongoing and new projects including administrative issues and other contingencies. In this Statement that I propose to this Committee, I wish they answer or respond to the following issues:

- (i) Though the Executive or ministerial directive of establishing innovation hubs is a noble idea, is it within the provisions of the NG-CDF Act, regulations as well as the Constitution?
- (ii) Considering the limited funds available to NG-CDF, would the ministry consider having these hubs established and the infrastructure maintained through line ministry budgets?
- (iii) Considering the Kshs15 million reduced from each of the constituencies during the 2017/2018 Supplementary Budget, would the Budget and Appropriations Committee consider allocating a corresponding amount of Kshs15 million that was taken away through the Supplementary Budget in 2017?
- (iv) I am aware that a number of constituencies are still struggling to get NG-CDF funds. Would the Committee on the NG-CDF enlighten the House as to when the constituencies whose funds have not been reduced will be able to get their allocations?

I beg to request. Thank you.

Hon. Speaker: Well, the later bit of your Statement should go to the Chair of the Committee on the National Government-Constituency Development Fund.

Hon. Maoka Maore.

Hon. Maore: Hon. Speaker, I see the urgency of this question and agree that we respond on Thursday next week.

Hon. Speaker: Very well. There was an aspect which relates to the BAC, Hon. Lessonet?

Hon. Lessonet: Hon. Speaker, we will be able to respond on Tuesday 23rd also noting that we are already working on that issue, especially the Kshs15 million he is talking about. We will be more than ready to respond accordingly as we write the current Supplementary Budget.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Oluoch, I think both chairs have made reasonable requests. Hon. Maoka Maore will give you a response to the portion of your Statement's request that touches on the Committee on the NG-CDF on Thursday next week. Which date is this? Is it the 19th?

Hon. Maore: Hon. Speaker, we need clarification on the portion on ICT, the Ministry of Information, Communication and Technology and what they are about to do to the NG-CDF and the imposition implied be responded to by the National Treasury.

(Hon. Njomo conversed with the Serjeant-At-Arms)

Hon. Speaker: Order. Who is this one? Member for Kiambu, you are shouting to the Serjeant-At-Arms as if you are in Kiambu Town. We cannot follow proceedings because of that. That is how you speak in Kiambu Town? This is the House. We cannot do that. Next you will face the consequences of being out of order.

Hon. Maore.

Hon. Maore: The part that is talking about Kshs4.2 million was decided and imposed on CDFs by the Ministry of ICT. We should have some provision. The National Treasury should give guidelines on how to go about this story in terms of whether there are any tenders, due diligence and the details involved. We will ask the Departmental Committee on Finance and National Planning to try and take up that bit instead of the Committee on National Government Constituency Development Fund.

Hon. Speaker: Which aspect? He is saying something was imposed by...

Hon. Maore: Yes, Hon. Speaker. It needs a policy kind of exposition.

Hon. Speaker: But can a ministry come to impose directives on a parliamentary committee?

Hon. Maore: They did. What happened is that they decided that we need ICT hubs in every constituency and the budget fixed at Kshs4.2 million. The company to do it has already been appointed. So, Members are being asked to go and put the hubs and provide the places. That is how complicated it is.

Hon. Speaker: The Leader of the Majority Party, you can clarify.

Hon. A.B. Duale: Hon. Speaker, Hon. Oluoch has asked three fundamental issues very dear to these Members. As chairs, you represent us and Parliament. You do not represent the Executive. The BAC, the Departmental Committee on Communication, Information and Innovation and the Committee on National Government Constituency Development Fund can have one session. The law is very clear. It is the National Government Constituency Development Fund committee that will provide the list of projects. There is nowhere written that the CS for ICT will provide. As the Leader of the Majority Party, I have refused in my constituency. When I was providing the projects to the NG-CDF Board, I told my members that we will not put ICT. It is about priorities. When my people want schools and bursaries, why should I put an internet hub?

The law is very clear on this matter. It is the role of the committee of the respective constituencies that will deal with this matter. The board will sit but will not dictate. It is very clear. The board will only tell you whether whatever you want to do is a devolved function or it belongs to the national Government. So that matter must be resolved.

Hon. Lessonet, the Vice Chair of the Budget and Appropriations Committee, this matter is very serious. There are certain resources that were left out in Supplementary Estimates I. If

you want the House to approve Supplementary Estimates II, you need to fix that problem. There are no two ways about it. If the allocation is Kshs118 million, let it be so for every constituency. You cannot say that you will give us Kshs85 million. That is why chairs of committee have to be firm. Hon. Lessonet, sit with the Chair of the Committee on Finance and National Planning, the National Treasury and the board and agree. Hon. Maoka is aware. This is one of the things that is making some people collect signatures for a *Kamukunji*. Why should we have a *Kamukunji* when this thing can be resolved by the various chairs? Hon. Lessonet, 23rd of this month is very far. That is when we are supposed to bring the Budget and Appropriations Supplementary Estimates II Report for this House to adopt. If that matter is not considered, you will make my work very difficult. I do not want Supplementary Estimates II to collapse here. Call the National Treasury because the planning department that deals with the NG-CDF is now under the National Treasury. So, you are dealing with the CS who has the money and he is overseeing the CDF programme. Before it used to be handled by two different CSs.

Finally, the committee under the leadership of Hon. Maoka must fight for Members. Disbursements take too long. I am trying to debunk the *Kamukunji*. The Speaker has no business in that. Somebody was collecting signatures for matters which the Speaker has no business in. The issues being raised are part of the agenda of the *Kamukunji*. I thank Hon. Oluoch because you have now reduced the *Kamukunji* issues by 45 per cent. The only serious issue is on matters of medical insurance, and the Departmental Committee on Labour and Social Welfare will deal with that. That is a burning issue. I hope the Chair and the Vice Chair of the Departmental Committee on Labour and Social Welfare are here. Ideally, if you are not here on a Thursday, on Monday, you should go and get the HANSARD for Thursday and read what was transacted in the House. If you are not present either as a Member or a Chair of a committee and you want to find out what was happening that afternoon, you just need to go to the HANSARD Department and ask for a copy and see who has spoken, what the Speaker said and if there was a communication. These matters raised by Hon. Oluoch are very pertinent to Members and the Chair of the Budget and Appropriations Committee is aware. I have told him. The Chair of the Departmental Committee on Finance and National Planning and Hon. Maoka are also aware, and I am ready to assist. Let us sit together and by Thursday next week, we should bring an answer to this House. The approval of Supplementary Estimate II and the Supplementary Appropriations Bill II will become a very easy matter to deal with as we also deal with other matters in the Supplementary Estimates.

All in all, I think the matters raised are weighty and the chairs of the respective committees should take it seriously. It is in the interest of all of us and our people.

Hon. Speaker: It seems like the ball is in Hon. Lessonet's court.

Hon. Lessonet: Hon. Speaker, I appreciate that those are extremely weighty issues. As I speak, I have the privilege of having chaired NG-CDFC in the last Parliament where this issue of information hubs was discussed. It is not true that the Ministry imposed the Kshs4.2 million reduction per constituency on the CDF. That decision was a product of a *Kamukunji* which was in this House.

Hon. Members: No! No!

Hon. Speaker: Order Members! When you say he is lying... Hon. Lessonet, just one minute.

Please, for avoidance of doubt, you cannot challenge my memory. I am the one who chaired that *Kamukunji*. The CS in charge of the Ministry of Information, Communication Technology came here and he just made a pitch. Those were just suggestions. It is true there was

a *Kamukunji*. To that extent, Hon. Lessonet is right. But like I told you yesterday, it is an informal gathering of Members. It does not produce anything binding to anybody. It cannot even bind a mosquito. It was that kind of thing.

(Laughter)

Hon. Lessonet: Hon. Speaker, this is the 12th Parliament. A good number of Members in the 11th Parliament liked the idea of information hubs. It is then that we were able to install the hubs in about six constituencies, among them Limuru Constituency, where we have an information hub up and running. This is not cast in stone. Hon. Maoka Maore and Hon. Duale are right to say that it remains the decision of every constituency to see whether they want to proceed with that information hub or not. Eldama Ravine Constituency, which I represent, is only moving to two sites where there is no optic fibre. The optic fibre has covered a fairly long distance. I am comfortable financing the two sites with Kshs1 million each. The other sites are able to make their own applications to the providers such as Safaricom, at a much lower rate of less than Kshs40,000 and you will have a site up and running where the optic fibre is available. I totally agree with the sentiments of Members and on Thursday next week, we will give a new direction. Hon. Maoka Maore, the Chair of the CDF Committee and myself as a Member, will make a decision, so that we can release Members to decide on the Kshs4.5 million.

In the Supplementary Estimates I, it is true that the CDF was reduced by Kshs4.2 million shillings. The Budget is approved by this House. This House approved the Supplementary Estimate I to reduce the CDF by Kshs4.5 million, reducing each constituency's funds from Kshs101 million to Kshs86 million. As the Budget and Appropriations Committee, we shall be waiting for submissions from the departmental committees. They will be submitting to us on the 25th of this month. If in those submissions they will have justified the need to increase the CDF by the Kshs4.5 million, we shall not have any problem. In a nutshell, we shall be waiting for submissions from the departmental committees on the 25th of this month, so that we can bring a report to the House on 26th of this month.

With those few remarks, the ball remains with the Members of this House. I thank you.

Hon. Speaker: Hon. Members, let us not debate this because earlier on, the Leader of the Majority Party did indicate the need for Members to read documents. So, when the Supplementary Estimates are brought, do not close your eyes or assume that you are out there in the streets or in some other offices doing some other things and assume that those who are here are going to all know that the NG-CDF is being reduced. It is your responsibility to be here to make sure that the NG-CDF is not reduced. That must be the case. It is the responsibility and duty of every one of you to be present to ensure that the NG-CDF goes back to what it is supposed to be under the law. I wanted to close this, Hon. Makali Mulu. Is it about the Budget also?

Hon. Mulu: Yes, Hon. Speaker. While I agree with my colleagues in terms of those issues raised by Hon. Oluoch, there is one matter which I think is important, but is outside this House in terms of who is supposed to help us. The reason why people are not getting money is because of the Exchequer release. Unless that is addressed, the issue of when to release money to constituencies will remain pending. We really need to get a way of somebody assisting us through the Treasury so that money is released. Unless the board has money, they cannot release it to the constituencies. Since August to about February, we were not getting any money as

Members of Parliament. We need to be given priority now that we can operate, so that we can get money and work in our constituencies.

Thank you, Hon. Speaker.

Hon. Speaker: Again, the power is in your hands to compel the Treasury to release Exchequer. You might be crying when you have the answers to the problems that may be bedevilling operations at the constituency level with regard to the NG-CDF funded projects. So, please, exercise your authority. You have what it takes. I do not need to expound on this because you have it in the Constitution, in the PFM Act, in your Standing Orders, and in the NG-CDF Act. It is actually you. When you say you reduce, somebody may say you decided to voluntarily knowingly shoot yourselves in the feet. That is what it may amount to because it is this House that passes the Budget and those supplementary budgets. So, if there was a reduction, it was done through this House. Fortunately, like I always remind people, you look at Article 122, the Speaker has no vote. So, this ball is squarely in your courts. Address it as you find appropriate in the circumstances.

Hon. Oluoch, the response is on Thursday next week, on 19th. Next Order.

BILLS

Second Reading

THE ENERGY BILL

(Hon. A.B. Duale on 11.4.2018)

(Debate concluded on 11.4.2018 – Afternoon session)

Hon. Speaker: Hon. Members, debate on this Bill was concluded yesterday and what remains is for the Question to be put. Having ascertained that the House has the requisite quorum, I proceed to put the Question.

(Question put and agreed to)

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

Next Order.

Second Reading

THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL

Hon. A.B. Duale: Hon. Speaker, I beg to move that the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.40 of 2017) be read a Second Time.

The Petroleum Bill, 2017 is a constitutional Bill that was required to have been passed by the 11th Parliament. This Bill had a five-year constitutional timeline as provided for in the Fifth Schedule to the Constitution to implement provisions of the Constitution relating to the use of natural resources. It was first introduced in the House in August 2015 when it was read the First Time. We concluded it and it was passed to the Senate which concluded it. It was forwarded to the President for assent, but he referred it back to the National Assembly with a reservation on a few clauses in the Bill in accordance with the powers given to the President under Article 115 of the Constitution. The National Assembly considered the President's reservations and passed this Bill on 23rd November 2016 and it was thereafter forwarded to the Senate for concurrence. The Bill, however, lapsed in the Senate following the end of the 11th Parliament. This Bill, therefore, is being reintroduced in the House to ensure the implementation of the Constitution as required in the Fifth Schedule to the Constitution.

As it is now, this Bill carries all the amendments of both Houses of the 11th Parliament plus reservations of the President in line with Article 115 of the Constitution. From the outset, I want to thank the Chair, Hon Gikaria, his Vice-Chair, Hon. Pukose, and the entire membership for making sure that they have complied with the provisions of the Standing Orders and have tabled their Report this afternoon, which Members will use to debate and understand the views of the stakeholders which are captured in that Report.

This Bill has a total of 120 clauses and is divided into 11 parts. It objectively seeks to provide a framework for contracting, exploration and development of petroleum, together with the production of petroleum discovered within the licensed petroleum exploration blocks. Our country is now geared to make sure that we use, for the benefit of our people, the various natural resources found within our borders. That is why His Excellency the President, had the wisdom to form a separate Ministry of Mining and Petroleum under the able leadership of former colleague, former Minister in the 10th Parliament and Senator for Turkana, the CS for the new Ministry.

This Bill proposes to repeal the Petroleum (Exploration and Production) Act (Cap. 308 of the Laws of Kenya). So, you will find transitional clauses in this Bill. The moment this Bill is assented to law, Chapter 308 of the Laws of Kenya dealing with the Petroleum (Exploration, Development and Production) Act will become redundant.

Hon. Speaker, let me go through the 11 parts. Part I of the Bill deals with the preliminary issues such as definition of terms as used in the Bill, the scope of the Bill and the supremacy of the Bill on matters relating to upstream petroleum operations. This Bill will use interchangeably three key words; "upstream", "midstream" and "downstream" in discussing petroleum matters. This Bill will deal with matters relating to upstream petroleum operations by providing... The Bill once passed into law shall apply to all upstream operations being carried out in Kenya, upstream in the sense that it talks about the exploration and production of crude oil or gas.

Part II of the Bill deals with the national upstream petroleum policy and plan in terms of how we deal with the blocks and the exploration of crude oil and gas. This part provides that the Cabinet Secretary shall develop, publish and review the upstream strategic plan that the various investors who will be involved in the exploration of petroleum products will be known to the public and the House will have certain powers in making sure that the interest of the community, county and the national Government in terms of royalty and resources is taken care of. So, the CS shall publish and review a strategic plan that will deal with the upstream.

Part III deals with petroleum institutions. The part deals with powers and functions of the CS responsible for matters relating to petroleum. The National Upstream Petroleum Advisory Committee will be formed under that Part III. The function of that advisory committee is to advise the CS on upstream petroleum operations and production. The CS will be advised by that Committee.

Under Part III there is the Upstream Petroleum Regulatory Authority whose function shall be to regulate, monitor, and supervise upstream petroleum operations in Kenya. So, we will have an authority that will deal with regulating, monitoring and supervising upstream petroleum operations.

Part IV of the Bill deals with upstream petroleum rights and the management of petroleum resources. The rights of the various stakeholders are dealt with in Part IV of the Bill. This part vests all petroleum existing in its natural conditions on the national Government in trust for the people of Kenya.

Hon. Speaker, we need to be very clear. Having 47 county governments does not mean that we forfeit our rights of the one nation called Kenya. These are 47 homesteads in one big homestead called Kenya. So, if you have gas and another county has coal, we all belong to one country and that trust is with the national Government otherwise there will be war worse than the Biafra war of Nigeria in the 1960s. That is why the resource sharing formula should not excite Members. In the 2010 Constitution, we came out in large numbers and voted for it because of devolution. Today, some parts of this country receive more than Kshs10 billion annually. Garissa County receives Kshs8 billion. Wajir County receives Kshs 10 billion, Mandera County receives Kshs 11billion. Combined, the three counties in the north receive around 30 billion. However, they still say they are marginalised. Marginalised for what? You have been given resources for water and other needs.

Hon. Speaker, those of us who voted in the 10th Parliament for devolution, corruption has been devolved and we do not see... The NG-CDF is the only one that is functioning. Hon. Speaker, we should not look at this Bill from the county or village perspective. We can give you a certain percentage resource allocation until you will find that what the community receives is higher than what is allocated to that county. How will you manage that? How will the community manage Kshs15 billion annually from that resource? So, let us look in the lenses of a Kenyan. In Part IV, there is a section that states:

“All Petroleum existing in its natural condition in strata lying within Kenya... vested in the National Government in trust for the people of Kenya.”

The people of Kisumu are the same as the people of Garissa and Machakos. Let us not divide our people just because you found some little gas, a few goldmines in Homa Bay and you feel you want to have your own chiefdom in some corner. I want us to look at this Bill with very sober minds. We took money to counties but today we are poorer than before. I am sure I am not very popular with governors. I do not want to be a governor but we need to say the truth. Part V of the Bill deals with information and reporting. This part provides for the reporting requirements of the contractor and information that may be required by the CS. People are given blocks and they do not report back. They have a licence for 15 years.

Hon. Speaker, Hon. Kamket is a bit excited because with some other leaders, they went and paid a visit to the former President Mzee Moi. Congratulations but that should not excite you. We visit former presidents but you took the handshake a bit further which is good.

(Laughter)

Hon. Speaker, the handshake is moving. It has left Harambee House and today was in Kabarak. That handshake will have very little implication on the events of 2022. That I can say without fear of contradiction. So, those who will visit Mzee Moi must tell him *pole*. We need to tell him *pole* because he served us for 24 years. Those who want to come to the 2022 race; you do not have to make visits. You need to face us on issues especially those of us in the other camp.

Hon. Speaker, I want to congratulate Hon. Osotsi, he is now the bonafide Secretary General of Amani National Congress (ANC). Barrack Muluka is no longer the Secretary General. So, Hon. Kamket, relax, you are happy. You are a good friend of mine. We are somewhere waiting for you people.

Part VI of the Bill deals with the local content and training. Yesterday, I said that the resources belong to the people of Kenya and not to foreign companies. In everything we do in this House, we must fight for the local component for the sake of our people.

On training, we do not want this exploration companies doing development production to bring their people. We want them to transfer skills and knowledge, so that in the next 15 years we should reduce the number of their engineers. The Ministry of Energy and our local institutions must invest in petroleum engineering so that we can have many engineers.

Local content has been defined to mean added value brought to the Kenyan economy from petroleum-related activities through systematic development of natural capacity. So, we need to learn from the best practices. Countries and companies that have managed these resources well should transfer that knowledge and capacity to our people. On sharing of the accruing benefits, this part provides that a contractor and sub-contractor conducting petroleum exploration, shall among other things give priority to services provided and goods manufactured in Kenya and ensure that employment of Kenyans is given priority.

If you are doing exploration in Turkana, you must use the equipments, goods and services manufactured in Kenya. For example, there are companies that are known for manufacturing pipes but when a Chinese company gets a contract they import everything from China. We cannot talk about increasing our manufacturing sector under the Big Four Agenda by 10 or 15 per cent of the Gross Domestic Product (GDP), when we are allowing foreign companies once they get big contracts to import goods and services from China, Turkey, Europe or any other country. This House must help the President to protect the local manufacturing companies in our country who employ our people.

These companies must employ Kenyans, that is what we mean by train and employ local Kenyans. Part VI of the Bill deals with payments and revenues. It obligates all contractors to pay their relevant fees and levies as may be prescribed in the petroleum agreement and any other relevant legislation. It also talks about revenue sharing. Part IX of the Bill deals with environment, health and safety in the upstream production. This part obligates all contractors to comply with all environmental, health, safety and maritime laws in upstream.

I am happy that Hon. Chachu is seated here. In the north, there were companies which did exploration in the 1950s and 1960s and they lacked the required natural resources which was gas, petroleum or crude oil. The wells and pans they had dug caused loss of life to many pastoralists. There was a question of whether these companies were actually doing exploration or dumping toxic wastes. It must be made very clear to them that they must adhere to environmental health and safety standards in order to protect our people when it comes to upstream petroleum operations. Therefore, this part obligates all contractors to comply with it.

Those men, women and institutions who are supposed to oversee these companies should not be involved in corruption and issue certificates at the expense of the health and safety of the people of Kenya and their property.

Part IX of the Bill deals with the use of land for petroleum upstream operations including provisions related to how we deal with compulsory acquisition of land in accordance with the provisions of the Constitution. Part X deals with miscellaneous provisions and in particular how to deal with dispute resolution mechanism between parties, the national Government, county governments, communities and the companies looking for the resource. All these shall be resolved through alternative dispute resolution provided under this. Part XI deals with repeals, savings and transitional provisions. We are repealing an existing law and we must have the transitional clauses in order to deal with staff, assets and liabilities. How do we transfer all these? So it deals with this matter.

With those many comments on the Petroleum (Exploration, Development and Production) Bill, I will ask the Vice-Chair of the Departmental Committee on Energy to second this very important Bill. He is one of the very few... I do not know what he is saying, but he is the only surgeon in this House and Member for Endebess. I have confirmed that he is not a quack, he has gone through training. You know there are surgeons who are quacks.

Hon. Speaker: Hon. Pukose.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. First and foremost, I want to thank the Leader of the Majority Party for moving the Petroleum (Exploration, Development and Production) Bill, 2017 and I second it.

First and foremost, allow me to congratulate our Kenyan team. Today, we have won the first gold in the 800 meters race through Wycliffe Kinyamai. Three days ago three of my constituents won number one, two and three, although two of them are operating from a neighbouring country. They won a gold medal in the Commonwealth Games. The Sabaot live in both Kenya and Uganda and we were separated by the colonialists at the border.

This is a very important constitutional Bill. As the Leader of the Majority Party put it, it had gone through various processes in 2016 during the last Parliament and later on it was brought back. Looking at it, it repeals Chapter 308 of the Laws of Kenya on the Petroleum, Exploration and Production. Therefore, all the other laws concerning this Bill are going to be affected. By enacting this Bill, it will become superior and no other Bill will contradict it. I also want to thank my Committee led by our Chair, Hon. Gikaria. We have done public hearings and visited various places like Lokichar, Kalokol, Lodwar in Turkana and we also went to Lamu. It was an experience that was very informative.

For the Members' information, when it comes to petroleum whatever happens at the site of exploration, development and production it is called upstream. When it comes to the pipeline, when pumping the crude oil to the marketing site, that is called midstream and what happens after that on the lower side on selling, marketing and others it is called downstream.

With regard to upstream, before the contractor starts work there, he must show intent of expression. The Bill has looked at all these stages in terms of crude oil and gas. Before embarking on exploration, development and production, one shows intent and then signs what they call a production sharing agreement with the Ministry. The production sharing agreement allows the contractor to go to the site to do the exploration. More often, they might do exploration and not find anything.

In 1947 in Kenya at the Pate Island, Total and Shell did an exploration where they tried to explore oil. During the drilling, what they found was gas and at that time gas had no any other

purpose. Therefore, they decided to seal it off – it is called Pate I. Indeed, it is monumental feature within our country. At that time, we did not know that gas could be important. The gas they found in Pate I contained 98 per cent methane, which is a natural gas used in the generation of power. I can see Hon. Mule is listening. You know I am now an expert in oil and all that.

So, whenever exploration is done, the local community is involved. This Bill looks at what happens to the local community.

(Hon. (Ms.) Mbarire, Hon. (Ms.) S.W. Chege and Hon. (Ms) Odhiambo-Mabona consulted loudly)

Hon. Speaker: Sorry, Hon. Pukose! What is exciting the three ladies? That must be Hon. Mbarire, Hon. Sabina Chege and Hon. (Ms) Millie Odhiambo. The three of you are consulting so loudly and particularly when you begin cackling. It is very disturbing, please!

Hon. (Ms) Odhiambo-Mabona: *(off record)*

Hon. Speaker: Do not update us on... That is not business. We are in business now.

Hon. (Dr.) Pukose: At this stage I will reserve my comments on what is happening there and continue with the business of the House. This Bill addresses the issue of signing of the production sharing agreements. These production sharing agreements, at one stage or another, will also come to this House. We have taken care of that in this Bill. Before they move to the next stage of development and production, they sign what is called field development plans. These field development plans plus the production sharing contracts will be brought to this House within two years. Within signing of the field development production plan, they will be brought to Parliament within 30 days. That is provided in this Bill. Parliament will be able to look at the two documents and determine how the exploration would impact the local community.

This Bill has also looked at the local content. When you talk of local content, what stage are we talking about? Allow me to give the example of the construction of the Standard Gauge Railway (SGR). When building the SGR, it could be decided that a number of plumbers be trained. Some politicians might insist that the local content must comprise of people from within the area the SGR is being built. When the SGR moves from there to Naivasha, if you insist that you want to have the local people only, it means the ones who had been trained in Mombasa on the way to Nairobi are going to be jobless. This issue of local content needs to be looked at very carefully. Are we talking about our country, Kenya? Local content means within the nation.

For Members' information, we have 67 blocks of oilfields in Kenya, 37 of which are found within the Lamu belt. The other ones are now found in Turkana, Mandera, Wajir, Nakuru, Elementaita and other parts of Rift Valley. So, if oil is found in Turkana and you decide the engineers you want to train must come from Turkana only and not any other place, what it means is that when you move to Wajir, Mandera or Lamu, they become jobless. These are things that Members will need to discuss when addressing the issue of local content. It is something that affects even banking services. For instance, one would want to know whether there is a bank in the area and whether it is a Kenyan bank or not. More often, when you talk of local content it is the middle men who stand to benefit. They will very likely sub-contract somebody else to do it. We must also be able to think in terms of training and so on.

When it comes to oil production, the Kenyan crude oil which has been found in Turkana has low sulphur content but is also waxy. When at the stage of full production...

Hon. Speaker: Let me interrupt again. Hon. Pukose, you are seconding as the chairperson, is it not? Therefore, you have 30 minutes. This light should not distract you.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker for that guidance. These are issues that Members will need to be informed about and guided on, especially the issue of local content. I am aware that issues to do with local content have created problems and have been misinterpreted. It will be very important that this House looks at those issues.

I was saying that the crude oil that was found in Turkana is majorly waxy and has low sulphur content. This means that it is of a good quality. At full production, we will be producing around one million barrels per day. When you produce one million barrels per day, you need to look at what happens within the midstream. After drilling oil – it is done by rigs – you bring it to the well head and then from there you transport it to the storage facilities. So, you have to construct a pipeline. We will construct a pipeline from Lokichar all the way to Lamu. This is still within the midstream.

Crude oil is not just meant for production of diesel, petrol and paraffin. It has more than that. The crude oil will be used for production of fertilisers and petrol chemicals. We will need to establish industries. This would still be done at the midstream level. So, as you set up the oil refinery you need to know how much oil is produced. That would be the essence of having the Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) Corridor. It will enable us pull in Uganda and Sudan. We will definitely have to construct a big refinery that can handle all the oil products, including petrol and other chemicals. This Bill has looked into all those aspects.

In our country, one of the biggest challenges is vandalism and encroachment. There are very important equipment that is going to be used in the exploration and production of oil and later the development of the oil industry. This equipment must be protected. We have taken care of that. We have made it very punitive for anybody to attempt vandalism or any manner of destroying the equipment. One of the biggest challenges when it comes to oil exploration is that when you import a rig and all its associated equipment, it is normally duty free. However, that money is loaded onto the Government as a stage of production. So, if you want to move the equipment from a company in Lodwar to Lamu, our law is so bad that both the Kenya Revenue Authority (KRA) and the customs require you to export it outside Kenya and import it again. These are things that we need to look at.

Hon. Speaker, there is also another challenge which we have looked at. We have a very big problem in this country from Nairobi to Busia because there are fuel *shambas* which are illegal petrol stations. Lorry drivers drive into them and sell paraffin to dealers. It is then mixed with diesel because it has higher value than kerosene. Therefore, we have adulteration of petroleum. The kerosene that is imported into this country is about 10 million litres. Out of the 10 million, what gets to the consumers is about 2 million. The rest which is 8 million is used to adulterate fuel. That has affected the economies of this country because Tanzania, Uganda and the other regional countries do not trust fuel from Kenya because of fuel adulteration. These are things that we are looking into because between Nairobi and Busia, we have about 300 fuel *shambas* which are illegal petrol stations.

We also have another area in this country that is very dangerous. We have gas manufacturing stations which are illegal. They refill cooking gas. This is done in a very unprofessional way because they do not meet the standards of Kenya Bureau of Standards (KEBS). The gas is little and it leaks which is very dangerous. You hear of gas explosions in houses often. A day or two ago, there was a gas explosion in Mathare. You ask yourself whether this is part of what is happening illegally in this country. We want those issues to be addressed in

this law. We made it very punitive for the driver of the lorry which is ferrying fuel. He is given a driving licence and a licence from the Energy Regulatory Authority (ERA). We want to make it very punitive because adulteration of fuel is affecting the economy of this country. It means that we will not allow you to move from driving one lorry to another one and take your bad habits there. We should have a way of making it very punitive for you such that you will never drive in the Kenyan roads and have another lorry. These are the things we have looked at in this law. The Committee has explored many of these things. We had many public meetings and people gave memoranda.

The other area which we need to look at is the establishment of the Energy Regulatory Commission (ERC). If you create many energy regulatory authorities, it makes it very difficult if you want to operate a business. Where will you get your licence from? We have also taken care of the role of the county governments in this Bill. The Fourth Schedule of the Constitution gives the county governments powers to regulate gas and electricity. We are making a law for posterity. This means that in future, we will have gas in one area which will be distributed in the houses within a town. This is the constitutional mandate of the county governments. They should look at it and regulate how that will be done. When you want to do business like opening a petrol station, you must meet the health standards. We have provided in this law that you must have the business premise licence from the county government, so that they understand the kind of business you are doing within that place and the safety of the people surrounding. The county governments presented their memorandum which we looked at *vis-a-vis* the Constitution. We have provided whatever is constitutionally mandated to them. We have also provided what is required for national Government, especially for the Cabinet Secretary in terms of making policy standards and carrying out the guidelines in oil exploration, development and production.

I ask Members to engage the Committee in as far as other areas of this Bill are concerned. This is a Bill for posterity for our country. Let us look at it as a Bill for this nation. With those few remarks, I second this Bill.

(Question proposed)

Hon. Speaker: Member for Seme.

Hon. (Dr.) Nyikal: Thank you, Hon. Speaker, for giving me this opportunity to contribute to this Bill. I stand to support it. I must start by congratulating the team for the good work they have done, including production of a Report. However, we have not seen it. It was tabled today but it means that we can use it later before we go to the Third Reading.

This is an extremely important Bill. It comes at a time when Kenya is now moving to an oil production stage. It will be among the countries that is producing oil. Experience has shown that the discovery of oil in a country may not be of much help in the economy. In fact, it may even cause problems in the economy. Therefore, there is need for a law. This law seems to meet that requirement very well. When you discover oil and then you rush to explore it, very many companies express interest to explore it. They need to be regulated and monitored. This Bill provides for that.

There will also be a lot of speculation. As the law provides, the land has been divided into blocks. I am sure there will be a lot of speculation even before the blocks are registered. People think that if they get these pieces of land or blocks, there will be prospects of oil being discovered in their blocks and enrich themselves. That is important.

Hon. Speaker, even on our continental shelf, we are aware that there is a dispute with one of our neighbouring countries regarding it. That is because once you have oil, it is quite possible that even in the sea or ocean, you may have more oil. Already, we have a dispute regarding that. Therefore, we need a law that will make sure that all this is protected. When other countries discover oil, there occurs merciless exploitation of local people. The Bill takes care of that in terms of the local content. As Hon. Pukose has said, we have to clearly look at the definition of 'local content' so that it does not give us a problem in the management of our oil industry.

If a country is not careful, severe environmental damage can be caused by the people who are managing, exploring and exploiting the oil if they are not put under constant check with a proper legal framework. As more oil becomes available, adulteration and illegal manufacturing of other illegal by-products takes place. These are things we need to look at.

More important is how the proceeds of oil are utilised. There are countries where as they get richer because of oil, people actually get poorer, sometimes to the extent that they do not even get the oil itself to use. Those are issues we must look at. We must look at whether the proceeds of oil that we have will go into investment or go to conspicuous consumption and later on we find ourselves in a sorry state where we are a rich country with oil but we have not ventured into other areas that may support it, oil being a resource that can be exhausted. The Bill provides for all this.

As we have all heard, Part II harmonises all the other laws that are in place. The Bill gives power to the Executive – particularly the Cabinet Secretary – to develop a policy and strategy of upstream development of oil. That is extremely very important. If we do not put in place a policy and strategy, with properly laid down plans for utilising the proceeds, it will do more harm to us than good.

The Bill also establishes institutions. It clearly defines the role and function of the CS in regulating and monitoring the oil industry in the country. That has been made extremely clear. The CS will have to put plans in place that are actually shared.

Clause 12 provides for establishment of the National Upstream Petroleum Advisory Committee. It clearly defines the membership. The committee will be advisory and, therefore the role of the Minister will depend on clear advice. It gives the criterion for identifying people with experience to sit in the committee that will be advising the CS.

Clause 13 clearly states the relationship between the CS and the committee and the advisory functions that arise from that.

In Clause 14, the Bill establishes the Upstream Petroleum Regulatory Authority. In my mind, having gone through the Bill, this is probably the most important institution that is being established by the Bill. Its functions are clearly indicated in Clause 15. It is an authority that will look at all aspects of oil from upstream, midstream to downstream. Licensing and agreement will all be looked at by the Authority. Its functions are clearly outlined in Clause 15. Even during operations, there will be need to regulate, inspect and see how all these operations are going on. There will be need to look at equipment and infrastructure that is developed. All those are clearly provided for in the Bill. It has powers to enforce these laws, investigate complaints and provide guidelines. So, if this law is passed and we implement it, we will go into the oil industry very well protected, as a country.

The same Authority has a board of directors. The qualifications required for one to qualify to be the Chairman and all the members and the terms of the board of directors are well spelled out. However, I realise that, in terms of membership, there is overemphasis on the role of

the Executive. We may have to look more at that and make amendments so that stakeholders can also be involved.

In Part IV, we have upstream management. Upstream resources and resources still in the ground are invested in the national Government. The Bill also takes into consideration the requirements that the county government should be involved.

It also has a provision for reporting information that is very important that sometimes oil explorers and those who run the industry may keep away the Government and therefore inhibit proper regulation.

We should support the Bill.

Hon. Speaker: Member for Mwala.

Hon. Musau: Thank you, Hon. Speaker for giving me this opportunity. At the outset, I would like to say that I had the opportunity to look at this Bill two times. I, first, looked at it during the last Parliament, when it was returned to Parliament with Presidential reservations. I looked at it for the second time while in the Departmental Committee on Energy. Therefore I have had the opportunity to look at it exhaustively.

This is a long awaited Bill because it lays the framework for early exportation of oil. As we speak, we have oil that can be exported, but there lacks a framework and law to enable this to take place. The Big Four Agenda cannot survive without energy as a driver. Energy is required in quantity, reliability and also in terms of cost- effectiveness.

This Bill together with the Energy Bill will go a long way in creating an enabling environment to allow investors to invest and also allow the country to have amounts of energy that are required to spur economic growth. Just to give a feel of the kind of oil we are talking about in Kenya, in early stages we are able to produce at least 50,000 barrels per day. That would be at very early stages. At the current cost of oil per barrel of US\$64, that translates to about Kshs1.1 billion annually. On average, we expect to be exporting slightly higher than what Sudan is doing at over 500,000 barrels. That translates to Kshs1.1 trillion annually. Therefore, this is an interesting opportunity for Kenyans. As a Member of the Departmental Committee on Energy, we have learnt by engaging people who have done this before on how to do things and how not to do them. Oil is a potential cause of conflict. This Bill addresses some of those issues very well. For any country that has not done things properly in the business of producing oil, they will tell you about the importance of local content. How you engage the local community and how you share the revenue is of key interest.

In this Bill, any contractor who wishes to explore oil in this country is first on entry expected to sign a production sharing contract. This document allows the contractor, through the consent by Government, to go and find oil. They agree that if you find oil, this is the percentage you are going to receive and this is the percentage the Government is going to produce. This document is of interest to Parliament because it must be ratified by us. The share of the national Government, according to this Bill, has extended beyond devolution which goes to the county to address the local community from where the resource is found. The local community is defined as the sub-county. Clearly, the sub-county where oil is found is going to get a good percentage which as stated by the law is 5 per cent. We have had deliberations and engagements through public participation which have strengthened this Bill and the relationship with the community so that once production starts, we do not fall into trouble. Therefore, with a county getting say 20 per cent and the local community getting say 10 per cent, 20 per cent translates to Kshs100 billion for Kshs500,000 barrels of course with capping. This will go a long way...

This honourable House represents Kenyans. The honourable Members need to go far in creating goodwill because it is not just about this particular resource. Maybe tomorrow we are going to find another resource and we need public goodwill. This Bill proposes to create an authority to manage issues to do with upstream petroleum but you will have noted that with the Energy Bill we have dispensed with, we have Energy Regulatory Commission (ERC). It is our feeling as a Committee that there is no point duplicating it. Tomorrow we are going to have another nuclear authority or another potential source of energy. There is no need to create another authority. It is our feeling that all these need to come together under maybe the ERC and we create departments to manage the subsectors. That is also going to save the country on expenditure.

In information and reporting, you may be surprised that when we first hit oil in Turkana, London was the first one to know before our Minister knew. This is terrible because it influences markets. Therefore, this Bill is very firm. We have tried to be deliberately punitive to contractors who release information prematurely before that information goes to our Government. That is properly addressed. There is also information in as far as what the contractor is doing. Once the contractor signs the production sharing contract, he is expected to do field development plan that indicates the number of barrels of oil to be produced within a certain period of time. We do not want contractors who say they are doing “a”, “b”, “c” and “d”, but they are actually doing other things and not releasing that information to the Government.

One thing that also needs to be addressed in this Bill that does not come out clearly is the audit of the contractor. Basically, what we believe is the information we are getting from the contractor. We are supposed to pay contractors a certain percentage until they recoup all their investment. Therefore, it is very possible that they exaggerate the cost of exploration. How do we know the truth if we do not invest in an auditor who is stationed at the point of exploration and production?

Waste management is an issue. Oil has a by-product called brine which has effects. We engaged the public through public participation. Some say that once you are exposed to this, you will not give birth or impregnate somebody. We are yet to find the truth around that but we all agree that there are side effects. There are contractors who drill and leave exposed oils that can endanger the local community. We will try as a Parliament to be very punitive to these reckless contractors.

We need to move as Parliament swiftly and address potential issues of compulsory acquisition. Remember a contractor who has been given authority to explore...

Hon. Speaker: Member for Laikipia West.

Hon. Mariru: Thank you, Hon. Speaker. I rise to support this Bill. This is an extremely important Bill that we are considering here today. It is important because of the new realities in our country especially the discovery of oil in some parts of this country. There are many stories and many issues that you hear in Africa and elsewhere about the discovery of oil, and the possibility of the discovery of oil being a curse to a country. We have examples across Africa where oil has been discovered but that has meant community instability.

Clearly, Kenya is taking a different path especially reading through this Bill. Clearly, there is a commitment that we want to take a path to stability after the discovering of oil. It will be important even for this Committee at some point – and indeed the Members– to consider looking through the experience in Norway.

I read through and learnt that even some of the developed countries that have discovered oil have tended to borrow a lot from what is happening in Norway. One of the lessons that come

through from Norway is that you cannot manage oil in a sustainable and successful manner unless you have a very robust, comprehensive and clear legal infrastructure. It is not just the legal infrastructure, but also institutional infrastructure. Reading through this Bill, I gather that the legal provisions are very clear. The institutional provisions on oil governance in our country are very clear. I just want to point out a few of them. One of them is the whole question of the national upstream petroleum policy and plan.

It is important for us to know that we are not going to govern oil exploration without a very clear policy and plan. It is not at the whims of the CS. It should not be at the whims of whomever. Oil in our country must be governed through a very clear national upstream petroleum policy and plan that the CS is obligated, under the Bill, to develop. Also, it is not for the CS responsible to go somewhere and develop a policy and plan. It must be developed through an extremely consultative way and process. Remember, the Constitution is also very clear about how to come up with such a plan and policy. People must be involved, especially those who are affected. Those who are affected are across the entire country. All Kenyans have a direct interest on this issue of oil. So, development of the national upstream petroleum policy and plan must be through a consultative process.

The second pretty noble provision in this law is around the local development plan. The law is very clear. When the contractor comes in place, that contractor is, under this Bill, obligated to develop a local development plan. What is interesting, important and critical for us to note is that Parliament has been put at the centre of that local development plan unlike what happens usually. So, when the contractor moots, crafts and develops the local development plan, that plan must be tabled in the House within a specific period. It is for Parliament to engage. That in itself is also a lesson from Norway; Parliament is at the centre of oil governance.

A third issue critical to note in this Bill is about the decommissioning. When a contractor, an agent or whoever has been given a block... At the final conclusion of exploration, there always is a decommissioning phase. In many parts of Africa, after the exploration, contractors are not obligated in law to do a phased-out decommissioning of that block. What this law does is to obligate the contractor to set certain funds to be used for decommissioning. That is important. You do not want blocks that have been exploited and left open in the country. This law obligates the contractor to set some funds, at the outset. That is so that that money can be used when the exploration is done.

The fourth critical aspect of this law, that is important, is considering the blocks as an aspect of the present and the future. What they have done in Norway is to only give out a certain percentage of the blocks so that it is not just the money that comes from the exploration and the oil that is kept for the future generation; it is also about the blocks. We do not want all the 16 blocks exploited or given to contractors at ago. We need to know, agree and commit to ourselves that certain blocks can be exploited now and others in the future.

The other critical lesson from Norway is about the sovereign wealth and future generations. It is about realizing that this oil is not just for us today. It is for many generations to come. In any case, in the event this oil is exploited fully, there will be money for future generations to use. I learnt that Norway only uses four per cent of the sovereign wealth; the wealth they get from oil. It is so much that they, two or three years ago, reduced the amount they get from the sovereign wealth from four to three per cent. It is because of considering that future generation.

It is important to get another lesson from Norway. We must put Government at the centre. The Government must be the owner and the regulator in the industry of oil. We must not

put communities against each other or regions *vis-a-vis* another. We must put the Government at the centre of oil governance in our country, as well as it being the regulator. If we do not do that, we will be saying it is this region versus that, this community versus this community and this county versus another. We will never agree. We must let the Government to be at the centre. Then, the Government must commit, when Parliament is there and whoever else, to transparency and accountability on how oil governance is done and how the money gotten from oil is applied for economic growth.

Hon. Speaker, another issue that I think is critical in this Bill is that we must not combine contractors. Those who apply for licensing for upstream exploration should not be the ones involved in the downstream operations. That is to say that those who exploit oil should not be given licences to distribute the end product to homesteads. It is to ensure smooth operations and accountability at the two levels. In fact, three levels: the upstream exploration, midstream exploration and downstream exploration must be separated so that we have different contractors at each level. There is a check and balance that comes with separation. If it is one contractor doing upstream exploration, midstream exploration and downstream exploration, we will have collusion. We will have issues around that.

To conclude and very important is that any information that is got by the contractor on geology and other information around those blocks must not belong to those contractors. It must be made public and must belong to Government.

I support.

Hon. Speaker: Member for Ndhiwa.

Hon. Martin Owino: Thank you very much Hon. Speaker. I rise to support this Bill. There is a lot of work which has gone into this Bill. I really congratulate the committees that have been involved since the 11th Parliament to date.

I just want to comment on Part III, which is on rights and obligations, especially Clause 10; joint liabilities and indemnities. There are some statements there which will, in my opinion, give contractors a leeway. For example, on environment, it is written that the contractor will not cause as little damage as possible. That creates a huge loophole, especially knowing what contractors and companies who do this business are. The same word is used in the next clause. This should have standards. All this should point to some standards that we shall have set to guide the contractors.

I wish to also talk about Clause 12, which is still under Part III on rights and obligations. There was an accident in upstream exploration of oil in Florida. Accidents occur and when they do, they can be massive. There was a massive spillage of oil around the coast which interfered with marine life and the production of income generating activities, especially in the tourism industry which Florida enjoys. This took months because it was not clear how compensation can be done on both the city of Florida and the people who earn their livelihood along the coast, particularly the fishermen and the marine players. This can also happen to our coastal region especially the upstream exploration of oil.

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

*[The Temporary Deputy Speaker
(Hon. Mariru) took the Chair]*

Mombasa is the hub of tourism and we depend on it as a country for foreign income. If we fail to have specific measures that can guide compensation, we may lose out just as it took a long time for the State of Florida to settle the massive spillage of oil. That can be damaging to the local population in terms of how they earn their living.

Hon. Temporary Deputy Speaker, another area which has been elaborately expressed by you, as you were making your contribution is on community good and the corporate social responsibility. I have gone through it but I did not see the specifics. We say that a certain percentage should remain in the sub-counties. Sub-counties can be large. It may be reasonable enough to cascade those percentages to areas where the exploration is being done, because that is where damages can be bad to the local population. While doing that, it will also be prudent to state clearly all the amenities that constitute community welfare, like hospitals and schools. So, when the contractor is on site, he knows very well what is expected of him.

Lastly, the managers or the implementers of this corporation are only left for the Executive and there is no stakeholder's voice strongly streamlined in this. This can also lead to the "black gold curse" because there will be nothing trickling to them. We should explore how the community voice can come all through the exploration areas through the county to the commission which is going to be established.

With that, I think there is a lot of work done in this Bill and if implemented rightly, it will safeguard the interest of the communities.

I support.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Hulufu Oda, Member for Isiolo North. I guess I got the name correctly.

Hon. Hulufu: Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this very important Bill. I must say that this Bill is very timely. As a country, from the time we had oil discovered in Turkana County, we should be now utilizing the products from those wells. Unfortunately, the lack of laws to regulate issues surrounding utilization of petroleum which has been discovered, has led to delay. This is a very comprehensive Bill which stipulates that it mainly deals with upstream petroleum. Petroleum has three sectors, the upstream, the midstream and the downstream. This particular Bill specifically relates to upstream, which basically means it regulates how we can bring the crude oil below the surface to the surface and probably drill and operate the wells. The rest of the issues like midstream and downstream is dealt with by the Energy Bill which we debated yesterday.

I thank the committee for doing a comprehensive job. Most of the areas which are assumed to be having petroleum reserves lie in areas which were previously categorized as marginalized area. Of course, we no longer talk of marginalization after the current Constitution came into force, because we now get our fair share from the national Government. There were a lot of fears and hopes. We suspect we have unexploited petroleum reserve in my county. But in as much as we would like these reserves to be explored, there have been fears that anywhere in Africa where oil has been discovered, it has turned out to be a curse rather than a blessing. Instead of generating wealth and improving the wellbeing of the local communities, it has turned out to be something which makes their lives to be worse. I am confident that wherever we are going to have petroleum explored in this country, we shall generate good income, improve our collective well-being and ensure that local communities have their fair share. I like the way local community is defined. At times in as much as we assume local communities are homogenous and they have no local interest, at times we realise that if we do not define what local community

is properly, we may have issues when it comes to sharing the revenue. Clause 84 clearly defines how the national share from petroleum income is going to be shared in terms of what goes to the national Government, county government and to the local community. Local community is defined as a sub-county, which is very fair. If you define it on the basis of those who live around the wells, it becomes a challenge because where I come from, the land is collectively owned. What is owned collectively by the communities are ecosystems which, at times, are larger than sub-counties. Therefore, unless the proposed Bill has defined the way local community has been defined, it would have created more problems.

Another important aspect which the Bill has clearly defined and is going to help us to avoid conflict between national and the county government.... Of course, as a country there is devolution but we are a unitary State, and therefore the counties cannot claim natural resources like oil. The national Government is going to manage it in trust for the people of Kenya. That aspect is very important and is going to help us to address the fears and hopes of our people.

When I look at the part which relates to the sharing of the revenue and I hope we shall raise this at the Committee of the whole House stage, what is proposed to be the share of county government and the rider that county government should not get more than 20 per cent from the national Government, will raise some issues but we will move some amendments on it. The same applies to the five per cent which is earmarked for the community.

Another good aspect is creating a specific account for the petroleum fund which makes it easier for monitoring. If a county government feels that probably it has not received its specific share with a specific fund and a specific account, it becomes easy to monitor. In terms of reporting by the contractors, again the proposed Bill obligates them to report what they actually produce; the quantities they produce and the qualities of the same. Therefore, it is easier to monitor what has been extracted and cost it. This will make it easier when it comes to sharing of revenue.

Another important part in this Bill is the aspect of creating an advisory committee. I think when we leave it to the discretion of the county executive responsible for petroleum, at times having an individual making decisions on behalf of Kenyans is not good enough. Therefore, in line with the tenets of good governance, having that advisory committee which advises the CS in terms of his decision, to issue, renew and revoke licences as and when it is necessary, is a good thing. Although a member of the committee has raised an issue with having the authority and the need to give that power to the ERC, my personal feeling is that, if we have one big authority with directorates, it may not probably do justice. Therefore, my feeling is that we should retain the upstream petroleum authority. Its composition should reflect what is required as per the provisions of the Constitution. We have some Government appointees like the PSs from some key ministries, but at the same time we have five additional slots to take care of interests of other stakeholders including KEPSA. For the first time, we are seeing a proposal, which I think is a good thing, where institutions of higher learning with expertise in petroleum-related issues are considered for appointment to the board.

The other important thing is that once your land is taken over for purposes of oil exploration, the Bill has a clear provision on how the contractor will seek your authority on how that can be given and the timeframe within which as a land owner you can be compensated. That is very important because one of the areas of conflict in mineral and petroleum exploration is when it comes to compulsory acquisition of land from the land owners for the purposes of enabling the companies to do the exploration. It also provides that within four months from the time the land owner gives consent, the compensation agreed upon must be given.

I can see my time is up.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. Mariru): Member for Kangundo.

Hon. Muli: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. I rise to support it. We are talking about a very precious commodity - oil. Oil is a commodity that can drive Kenya to Second World status. Not only do we need the law to protect oil within the world, but also in the Kenyan jurisdiction because this is the first time we are having this adventure. It will be very important to give the industry proper guidelines in law, legal framework and good institutions to run this industry. We have a lot of conflicts in countries that produce oil. That is why I urge this House to support this Bill. We need these laws to be implemented immediately because of exploration, production and development of oil in this country.

We have a lot of conflict of the law in terms of environmental management. This Bill has covered a lot about the environment. It is high time we ended the conflict in the industry. We need to make laws like this to address environmental problems. Also, we have issues with community employment. This Bill has a good structure on oversight, checks and balances and duties for the CS. In terms of upstream and downstream, we needed a proper law. Earlier, we had many issues in Turkana with contractors on matters upstream and downstream. This Bill has tackled a lot on upstream and downstream. That is why I say this country needs this Bill.

On the matter of institutions, not only do we need this Bill but we also need a commission or authority to support the oil industry. It will be very important if we run quickly if we want our country to attain the SDGs in terms of industry and development of the economy. We need proper laws especially in matters concerning the petroleum industry. So, I rise to support this Bill.

Thank you.

The Temporary Deputy Speaker (Hon. Mariru): I see Hon. Gikaria wants to speak to this Bill. I was deliberately delaying you a bit so that - you are the chair - you get an opportunity to hear from other Members as well. You will get a chance.

Hon. Amin Kassim, Member for Wajir East.

Hon. Amin: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to give my voice in regard to this very important Bill on petroleum exploration, development and production. This Bill is indeed coming at a point when Kenya is looking for other opportunities to develop its economy. The fact that petroleum and other mineral deposits in the country have not been exploited appropriately in the past... This is coming at a time when we are looking around as a nation to see what potential exists to propel our economy to high heights and to make Kenya a middle-level economy.

Oil exploration has not had explicit guidelines and control in the past, particularly in areas that have been explored for this useful product. But one thing that we have learnt in the past is that many nations that have been able to explore petroleum and other mineral products have been in conflict. This product has been a source of conflict. This has been as a result of not looking critically at the laws that govern exploration and having a mechanism of control to thwart any conflict. One thing is quite clear: This Bill is very exhaustive. It looks at all issues so as to seal loopholes that can come about as a result of exploration of the same.

Another thing that is worth noting is that oil potential exists in the north and other shores of the seas. One important thing is that, as far as our knowledge is concerned, we are likely to have deposits of oil in the north, particularly Mandera, Garissa, Samburu and Turkana. They are

areas that are pastoral in nature and currently rely on livestock and trans-human form of land use, particularly in terms of mobility from one point to another. Basically, exploring the potential for other minerals, petroleum being just one of the natural resources we have. We would rather look at how these resources can be of benefit to the local people because this product is likely to change the lifestyle and livelihood of the people in that region.

One significant thing is that the Bill has categorised the community's interests and given specific percentages to the community and county. There is a specific percentage that has been given to each interest group. In the entire Bill, there is emphasis on community interests – something which was previously overlooked as this Bill was being developed. This Bill has given specific emphasis on 5 per cent to the community. However, that can be changed as we continue to amend the Bill as to what percentage goes to the community, what percentage goes to the counties and what percentage goes to the national Government. Those changes will be done as we proceed to the next stage, in terms of amendments that will be introduced in this Bill. Nonetheless, given the way the exploitation of this resource is clearly defined, and the various percentages being given, it is clear that this Bill is trying to look into the interests of everybody likely to benefit from this product.

Of great significance is environmental management and assessment, which is likely to affect oil exploration. This Bill clearly emphasises the importance of conducting environmental impact assessment to see how exploitation of this product is likely to affect other livelihoods in the region. These issues should be looked into critically with a view of seeing how this Bill can be harmonised with existing environmental laws, like the Environmental Management and Coordination Act (EMCA), in order to avoid conflict that would deter future exploration and development of this natural resource.

Finally, petroleum is of great significance. Any company that is likely to operate within this region, both in upstream and downstream should have programmes that will support the development of the local communities. In addition to the percentages of revenue allocated to the local communities, there should be mandatory corporate social responsibility programmes even at the initial exploration and potential examination stages. Let me say at the outset that the company that will be operating there should not ignore certain community interests.

Previously, many operations involving oil prospecting in northern Kenya resulted in an open looting spree of our natural resources as there were no controls. Companies that were mainly prospecting for oil went ahead to gather corals and gemstones, which are of importance to this country. There should be a specific declaration as to what a company is supposed to do. There should be controls to ensure that prospecting companies specifically do what they have been licensed to do. Otherwise, exploration of oil may give them an opportunity to discover more. Oil prospecting companies should be required to declare any other discovery made in the course of their work so that community interests, in terms of gemstones that may be in existence in the region, can be safeguarded.

With those remarks, I support this Bill.

The Temporary Deputy Speaker (Hon. Mariru): I must now give the Floor to a lady. This chance goes to the newest lady Member, Hon. Edith Nyenze.

The Member for Kitui West (Hon. (Ms.) Edith Vethi Nyenze): Thank you, Hon. Temporary Deputy Speaker. I am the newest Member of Parliament, as you have rightly said. My name is Edith Nyenze, the Member for Kitui West. I thank you for giving me this opportunity to make my maiden speech but before I do so, I would like to comment on the Bill before us. I urge researchers to also go to Kitui County and explore for petroleum. It is a very dry

area and this would help our people. It will improve our economy. We have a big problem of unemployment in that area. I am sure the youth will benefit.

Having said so, I would like to make my maiden speech. I take this opportunity to thank those who made it possible for me to be a Member of this august House. I thank God that He made it possible for me to be here. The Bible says that if God does not build a house, the builders do it in vain. In the making of Edith Nyenze, God was involved, and I thank Him. I also take this opportunity to thank the great people of Kitui West, who elected me in the by-election that was as a result of the passing on of my late husband, Hon. Francis Mwanzia Nyenze. I thank them for the trust they have in me.

I also thank you, hon. Members, for your contribution during my husband's burial. You did so much by showing so much love. Your contribution and visits were of great importance. That helped the family and supported his burial. I thank you so much for the support. I also thank you, hon. Members, for welcoming me to this august House. You have been very friendly this one week I have been around. I am so grateful. This shows how much you loved him. I sincerely thank you. I also thank my party leader, Hon. Kalonzo Musyoka, for the support he gave during my campaigns, together with the other principals of NASA. I will not forget to thank all my supporters who stood with me in the campaigns. They are many of them.

What will I do for the people of Kitui West? I have been elected through a by-election and my political mentor was my husband. The people of Kitui West loved him and he had initiated so many projects in Kitui West. The people elected me so that I can complete those projects. The people of Kitui West elected me to complete these projects. I promise to do my best and continue with them as I said during my campaigns. I promise to be honest and truthful because that is why they trusted me. I want to tell my opponents that the deal is sealed. The Member of Parliament for Kitui West is Edith Nyenze. Please, let us work together. I am sure you had an agenda for Kitui West and I invite you to develop the constituency with me.

We have many problems, in Kitui West, similar to those experienced all over Kenya especially concerning youth employment. I do not promise to give a solution to this but, I will partner with others to find a solution. Most of our youth are languishing in poverty after their parents have spent all their resources educating them. After completing their studies they lack employment opportunities. This is very disturbing to us leaders and parents. I join other legislators in trying to come up with a solution for this.

In my constituency and the whole of Ukambani we are experiencing heavy rains and some people have lost their lives due to floods. I want to urge my people to be careful during this time to avoid more deaths. Our roads are in poor conditions because of the rains. I will partner with the governor and other legislators through Kenya Rural Roads Authority (KeRRA) to ensure that our roads are brought back to good condition. I thank God for giving me a mentor who is my late husband. I will try to fit in his shoes. I will not pretend to be him but be myself. I will do my best to serve the people of Kitui West.

Thank you, Hon. Temporary Deputy Speaker, for giving me attention and this opportunity. I look forward to working with your office and the other MPs in building this great country Kenya.

(Applause)

The Temporary Deputy Speaker (Hon. Mariru): Very well. You can tell from the Members' applause that they have appreciated the maiden speech from the newest Member.

Once again, you are welcome. I give your neighbour, Hon. Eve Obara from Kabondo Kasipul, the Floor.

The Member for Kabondo Kasipul (Hon. Eve Akinyi Obara): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to speak today. As you have rightly said, my name is Eve Obara, the MP for Kabondo Kasipul.

First and foremost, let me thank God for giving me an opportunity to come to Parliament. Secondly, I want to thank my constituents for electing me to be their MP.

The Temporary Deputy Speaker (Hon. Mariru): Just to be clear. Is that your maiden speech?

The Member for Kabondo Kasipul (Hon. Eve Akinyi Obara): Yes, this is my maiden speech.

The Temporary Deputy Speaker (Hon. Mariru): Very well. Proceed.

The Member for Kabondo Kasipul (Hon. Eve Akinyi Obara): Thank you, Hon. Temporary Deputy Speaker, my apologies. I also want to thank my party and particularly my party leader for standing with me. In the Homa Bay County we have three women elected in the single constituency. Let me thank him for the space he created and made it possible for us to stand and eventually win the seats. I proudly stand here today to say that Homa Bay County has a representation of 50-50. Including the County Women Representatives we have four female MPs and four male MPs. Most likely, we are the only county with that kind of representation in the country.

As I stand here, I want to make reference to the handshake. I do not want to take the bold step made by our two leaders to reconcile this country for granted and I thank and appreciate them. As we sit here in Parliament, I think we all agree that the handshake has made a big difference in this House. The temperatures have been lowered, the environment is friendlier and we are all working together as a team. Let us thank the two leaders most sincerely for this act of selflessness.

Let me go back to my constituency and make this commitment to this House. One of the core issues affecting my constituents is mainly water. In as much as it is not the mandate of the MP, I know that I have the ability. I will collaborate with concerned agencies to make sure that water is brought closer to their homes. Being a woman, I cannot underrate what water does to a community. The women and children do not have to walk long distances anymore. By the time I complete my term they will have water closer to their door steps.

There is one produce that commonly comes from Kabondo Kasipul and this is the sweet potato. If you followed some newspaper articles some years back, sweet potato is part and parcel of the breakfast table of the Prince of Britain, yet the people who produce this crop do not benefit. A *debe* of sweet potatoes goes for Kshs.200 in Kabondo and a kilo of the same in Nakumatt, Uchumi, Tuskys or any supermarket goes for Kshs.200. This is their cash crop and the women toil day and night to produce it. We have to find a market and I will be at the forefront of finding it. I will make sure that the people of Kabondo Kasipul benefit from their labour of toiling on the land.

Finally, I support the Bill being discussed here today. The first reason is because it will ensure that revenue generated is shared to benefit the communities and this is clearly defined. I also support it because there will be clear monitoring of what is extracted. Whatever comes out will be calculated and the communities will know their dues.

With those many remarks, thank you once again, for giving me an opportunity to speak for the first time in this House.

The Temporary Deputy Speaker (Hon. Mariru): Before giving your neighbour, I will go to my right.

Hon. (Ms.) Odhiambo-Mabona: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): What is it, Hon. Odhiambo? What is out of order?

Hon. (Ms.) Odhiambo-Mabona: Hon. Temporary Deputy Speaker, whereas I do not want to challenge your discretion of giving the Floor to a Member from the other side, even the heavens are not happy if you can give my sisters and leave me in the middle. I think it follows automatically that I should be the next one. You even know that.

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Member!

Hon. (Ms.) Odhiambo-Mabona: Mbita is an island as I am reminded.

The Temporary Deputy Speaker (Hon. Mariru): Order, Hon. Member! Why I gave the two lady Members from both sides a chance is so that they can keep you and make sure you are busy there as I give the Floor to one more person. You will definitely get a chance and I have noted. You have caught the Speaker's eye.

Let us have Hon. Kibiwott Melly.

Hon. Melly: Thank you, Hon. Temporary Deputy Speaker. I think the gracious lady will actually get an opportunity to also contribute. I thank you for this time and also thank the Mover, more so for the reservations brought before the House by the President on this Bill. This is a very important Bill that sets a precedent in the sense that though oil is actually a very good natural resource for nations across the world, it has also become a curse, if it is not well managed and regulated in a proper manner. This Bill seeks to manage and regularise the upstream exploration of oil. It has defined in detail the role of a number of individuals involved in the exploration, the community and contractors. I applaud the issue that pertains to the information that the contractor or explorer might have. The Bill has gone on to even give some punishment for wrongful information. We have heard stories in this country that oil had been discovered far much early, but because of misinformation, it took a number of years before we knew that we are an oil producing country.

This Bill is setting a precedent especially in upstream oil management. I want to point out Part III of the Bill which spells out the functions and the role of the Cabinet Secretary in the management of this product. We have communities that are in the upstream. When we talk of upstream here we mean communities that are in the oil producing regions. These are the individuals who actually live where the natural resource is and the Bill has gone on to cater for them so that we have no dispute and we can easily produce oil. The immediate neighbours who sit where the oil is should benefit. The national Government and county governments also benefit. This is a very important Bill.

This Bill also points out the hazards that come with oil exploration, especially the environmental hazards. If you look at Nigeria, especially the delta region, which is actually an oil producing area, it has become extremely polluted. I think because we are a new region, we have taken the right steps so that any producer, contractor or company that will be involved in mining production, and later on even distribution of oil, must put into consideration the issue of environmental conservation. Therefore, it will not be only us and the future generations who will benefit, but also make sure that the environment, animals, birds, the living and non-living organisms are not tampered with. You can imagine the effects of oil spill and the detriment it will cause to the environment. This Bill has gone a long way to ensure that as a new oil

producing country we are putting into consideration and taking measures to stop the issue of environmental degradation.

I also want to point out the issue of dispute resolution. As a nation we are actually very new in this field, but we envisage that disputes will arise amongst communities, companies, individuals and institutions involved in oil production. Therefore, the Bill has gone ahead to try to ensure that any particular dispute that comes up is resolved amicably and the gains are actually distributed well.

Finally, the Bill has spelt out very clearly how the revenue from oil is supposed to be distributed from among the communities, the county governments and the national Government. The Bill has spelt out very clearly even to regions that are yet to discover oil. I want to point out that that includes the Lake Basin, regions of Chemase and parts of Miwani. The exploration is going on. This Bill has catered for those individuals who sit where oil is. I believe one time one day oil will be discovered in that part of the world and this Bill will cater for our interest, especially in revenue sharing among the national Government, the individuals and even the county governments.

I beg to support.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Odhiambo Akoth, Member for Suba North.

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. Before I speak to the Bill, allow me to indicate that I am extremely privileged this afternoon to sit between two powerful women Members of Parliament. I must say that because it is not easy for women to get into elective positions, especially seats where you fight against men. Men tell us they love us but when it comes to power they become totally different people. The two Members, Hon. (Ms.) Nyenze and Hon. (Ms.) Eve Obara, are members of a sub-caucus of Kenya Women Parliamentary Association (KEWOPA) called the leading women caucus. They are women who have fought in the traditional constituencies. A lot of us do not know how difficult it is when you just hear a rumour of a woman trying to be governor or that the public are rumouring that she wants to be governor or even rise to a higher position like Hon. (Ms.) Sabina Chege. You see the maligning that happens that she can no longer even report a simple case of somebody conning other Members and not even conning her. It suddenly becomes a sexual issue.

Somebody was asking me the other day why I am so preoccupied about these issues. This is because it affects us as women daily. The men who do not wear the shoes do not know. When fellow men MPs stand and speak on petroleum that is all you see, but when I stand and speak on petroleum, you assume other things beyond petroleum. That is why I am privileged to stand between two women who have taken the mantle of leadership in situations where it is difficult. I encourage other women to go for it despite and in spite of what people tell the women, including Hon. (Ms.) Sabina Chege. If they want her to go for gubernatorial, so be it. Even if it is the Deputy President, why not? Is it only men who can be leaders?

Let me go back to the Bill. The world is becoming extremely competitive. The last 24 hours I had the privilege and honour of going to several African countries, and in the last one month, I had the privilege of using different airlines. I was just challenged to see how people are branding. If Kenya Airways is not careful, it will no longer be the pride of Africa. We must up our game. The reason why I am saying that is because this Bill speaks to the issue of competitiveness in the world. Unless we see the country as a competitive enterprise, we will sink. This is because people are looking at our competitive niche. As a country, we must find out

what our competitive niche is. If we have oil, we must look at it and see how it benefits us as a country. We need to identify five or six areas where we will put all our energies into. This is what I would call the hardware of development. For instance, the current Government is focusing on four areas but we must look within that context of four areas and find out what our competitive niche is. Is it tourism, fisheries or oil? Wherever it is, we must put in all our energy and attention.

However, going by my background of human rights, whatever competitive angle we take, we should always remember that we must apply a human rights angle to our work. That is why I am happy that this Bill has focused on local content which has been defined to mean the added value brought to the Kenyan economy from petroleum-related activities through systematic development of national capacity, capabilities, investment in developing and procuring locally available work-force services and supplies for the sharing of accruing benefits.

There is an Hon. Member who gave the example of Nigeria. One of the reasons wars have been fought in countries is the lack of focus on the benefits that accrue to communities, whether it is on the issue of gold, oil or plant genetic resources. If we do not focus on what benefits accrue to local communities, then like Nigeria, we will be starting on the wrong foot. I am very happy that this Bill focuses very seriously on the issue of local content.

One of the things that I have not seen very strongly in this Bill is how we translate that to the issue of gender mainstreaming. Somebody asked me how come I always see the issue of women in every Bill. If we do not input it, people will never see it and it is never effected through the value chain. There is a project I once engaged in with various Government ministries where we were mainstreaming gender in the roads sector and in sectors where hitherto, people have never looked at the issue of gender mainstreaming. I remember some of the engineers asked me where women are in the roads sector. When we analysed the road sector, we discovered that because it is a very masculine sector, women do not appear anywhere in the value chain. It is the same case when we talk about oil exploration. You may find a very small number of women in this sector.

The Government must take deliberative and proactive action to ensure that we include women in the value chain. We will do this first, by ensuring that we encourage our women to be more involved in science, technology, engineering and mathematics (STEM), or subjects that will ensure that they get into this sector. Secondly, we will do this by ensuring that we protect our girls because in the recent past, we have seen very many alarming cases of girls who have dropped out of school because of abuse. Local content needs to be expanded and gendered so that when looking at a community, we unpackage it and see what benefits accrue to men, women, children, persons with disability and communities as a whole.

With those few remarks, I wish to support this Bill.

The Temporary Deputy Speaker (Hon. Mariru): Before we get to Hon. Gikaria, let us have Hon. Osotsi Godfrey.

Hon. Osotsi: Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this very important Bill.

We have just passed the Energy Bill in the Second Reading. That Bill proposes to consolidate all energy resources into one Bill, namely, geothermal, downstream petroleum, electrical energy, renewable energy and all that. I am concerned because it would have been proper if this Bill was consolidated within the Energy Bill for the simple reason that globally, the practice is to consolidate all aspects of a particular resource into one Bill for easy regulation. For example, in developed economies like the United States of America (USA), there is one

regulator for all the utilities, namely, electricity, water and telecommunications, but in this Bill, we seek to establish the Upstream Petroleum Regulatory Authority which is another regulatory authority similar to the Energy Regulatory Commission (ERC). We are a small economy and cannot accommodate many organisations of this nature.

*[The Hon. Temporary Deputy Speaker
(Hon. Mariru) left the Chair]*

*[The Deputy Speaker
(Hon. Cheboi) took the Chair]*

In any case, I remember some time back this Government was engaged in an exercise to merge various parastatals for effective management and to reduce cost. However, it now seems we are again engaging in an exercise to create many parastatal organisations. That will be a strain on our economy. Countries in Africa such as Rwanda have adopted a regime of having one regulator and that model has been assessed to be successful. The model of petroleum having a separate regulator from other forms of energy has been tried in Uganda. I advise the Committee to seek information from Uganda. There are challenges because upstream petroleum is regulated differently from other energy resources. It would be important for the Committee to seek information on how this can be done.

This Bill refers to the Energy and Petroleum Tribunal. There is a typo in the definition because it refers to the Energy Act, 2006. The Bill that we are about to discuss in the Committee of the whole House is the Energy Bill, 2017, but in the definition of the Petroleum (Exploration, Development and Production) Bill, it makes reference to the Energy Act, 2006. It is important for the Committee to note that.

Secondly, Part II of this Bill, just like the Energy Bill, says that the Cabinet Secretary in charge will develop and publish some policies or plans - in this case, what we call the Upstream Petroleum Strategy Plan. The model adopted for the Energy Bill and the Petroleum (Exploration, Development and Production) Bill is laudable but it does not give mechanisms of overseeing what the Cabinet Secretary publishes. The Committee should consider amending that section so that the Cabinet Secretary does not just publish but is also accountable for what he publishes. It is easy to publish anything, but accountability is very important.

Hon. Deputy Speaker, a section of this Bill talks about training fund. This is important because it will help this country develop the appropriate human resource on matters of upstream petroleum. From the Nigerian experience, this is very important. One of the challenges being faced in Nigeria is that most of the human resources who are involved in the management of petroleum are largely foreigners. If we have a mechanism in which we can develop our own local capacity through training, it is laudable.

This Bill also talks about sharing of revenue, which is important. My colleagues have said that the revenue share for the county and the community should be looked into. If you say that counties will receive 20 per cent of the Government share and that 20 per cent should not exceed what is allocated by the national Government, then you are reducing effectively what is equitably due to the county.

There is also the issue of the local community. We need to reconsider the definition of the local community. It limits the local community to a sub-county. The resource may be in a particular sub-county, but it is surrounded by other sub-counties which will be affected

adversely, if they are not considered in the sharing of revenue. This is a problem that has been experienced even in Nigeria at Niger Delta. There is competition among communities. Therefore, we need to look for a system in which the immediate neighbouring sub-counties to this local community can benefit from this very important resource.

I am also concerned that in the entire Bill, there is no mention of corporate social responsibility. This is a very important aspect. One may argue that these communities have benefitted from other programmes like training, local content and revenue share. If you look at experiences of other countries like Nigeria, the issue of corporate social responsibility is key. You have seen clashes in the Niger Delta. People fight because of lack of roads and sporting facilities. It is important that this Bill looks in detail the issue of corporate social responsibility.

With those few remarks, I support the Bill. Thank you.

Hon. Deputy Speaker: The only Member on the screen is Member for Nakuru Town East. Thereafter, the Mover will reply.

Hon. Gikaria: Thank you, Hon. Deputy Speaker. First, I want to thank you for giving me this opportunity to contribute to this very important Bill. I know my dear sister, Hon. (Ms.) Mbarire, will do due diligence on behalf of the Committee in reply.

I want to explain the Bill and what it is all about. The Petroleum (Exploration, Development and Production) Bill has sections which were brought from the Energy Bill, which is very unfortunate. We will have an opportunity in the Committee of the whole House to bring amendments. Part V of the Energy Bill was moved to the Petroleum (Exploration, Development and Production) Bill. It is unfortunate that Members did not look at Part V of the Energy Bill to contribute effectively to the Petroleum (Exploration, Development and Production) Bill.

This is a very progressive Bill. It brings so much for us to address. I want to tell Kenyans that it is not easy to have oil and explore it, as people might think. There are discoveries of oil blocks. We encourage Kenyans to come together and get financiers to give them money to go into oil exploration. I know that it is a very expensive venture. However, we cannot leave this country to foreign companies which walk into the country, explore all our minerals, particularly petroleum, while Kenyans sit and wait to earn from the shared revenue. It is important for Kenyans to think seriously on how they can get some financial assistance locally or abroad, so that they can be licensed as contractors and go into these oil blocks.

As a Government, one of our agencies is the National Oil Corporation which is also exploring oil in one of the blocks. It is an advantage to the country. Most of the other jurisdictions which have excelled in petroleum production have oil corporations which explore oil like other players. Those countries have really progressed because they have a corporation that is doing the same business. So, we want to encourage Kenyans to do as much as they can and understand the petroleum industry.

People do not know what upstream petroleum operation is. It is exploration and production of crude oil. Midstream petroleum operation is about refineries and transportation of the product at the pipeline. Downstream petroleum operation is about the marketing or selling of the products. I want to say that exploration and discovery of oil in this country will go a long way. It is not only about the petroleum products, but we can also get fertilisers, start plastic production in this country and so many other businesses from the by-products. We were in Lamu and the Deputy Chair can attest to this. Most of the ships will not be using fuel to move. They will be using something else that will come out of the production of some gas.

In 1971, this country did the first oil exploration in Pate Island, Lamu. We were very surprised that the rig is still there. It is a monumental. The people in charge of the national

heritage need to go to that place and try to conserve it. The oil explorers got gas instead of oil. Gas was of no commercial use in 1970. Most of it was flared and burnt out. Gas is the next frontier in this country. We have some people who are exploring it in Pate Island. There are a lot of prospects of gas.

I know you have heard the contribution of other Members. We need to remove the capping of the shared revenue. From the mathematics that we were given, it means one country will be receiving almost a third of what is given to the current counties in the country. The Government has a responsibility to take care of other counties. For example, the Government needs to take care of Turkana County because we found oil there. It is important for them to understand that they cannot absorb all that kind of money. I totally agree with that. If a sub-county or a constituency can get 10 per cent, it will add up to Kshs50 billion per year. In addition to that, the membership of the Trust Fund Committee will consist of people from the local area. That will be a big challenge. We want Members to understand how the provision of the capping was decided on so that we can have enough money.

During public participation in Turkana, we came across some challenges. It is true that they are quite behind. We want them to understand that this country took care of Turkana for the last 50 years. Now that oil has been discovered there, it is also their turn to take care of the rest of the country, comprising of almost 60 million Kenyans. They will depend on the proceeds from the oil.

As we did that, we looked at the inclusion of a pipeline and some people asked how much oil we have. The same companies have accepted to venture into investing in the 800 kilometre pipeline, all the way from Turkana to Lamu. From the few meetings we had with Tullow Oil Company that is exploring for oil in Turkana, we are now at class 'C' of 'A' and 'B'. We can produce a lot of oil to export. The good thing Kenyans should know is that our oil is of high quality because it has very low sulphur content. As much as it is waxy, it is going to be a product in the market that will be on demand. It will fetch a lot of money because of its low sulphur content. The oil is there. As we speak, over 3,000 barrels of oil have been stored in tanks in Turkana; it has never been moved. It is important for us to take that oil to the market so that it can be tested and then we can start earning from it. We are happy that there is some talk going on regarding the pipeline. We appreciate and ask the CS to fast-track the talks and start the pipeline construction.

Last, but not least, we realised that when we were doing public participation, most of the important installations are not secure. We ask the CS in charge of Interior and Coordination of National Government to assign some security personnel to the very critical installations. We also need to protect the Lamu coal project that will provide us with over 1,000 megawatts of power.

With those few remarks, I beg to support the Bill.

Hon. Deputy Speaker: Let us have the Mover to reply.

Hon. (Ms.) Mbarire: Thank you Hon. Deputy Speaker for giving me the opportunity to respond. But before I do so, allow me, being a Member of the Departmental Committee on Energy, to explain a bit of the process that took place from the time the Bill was committed to the Committee up to date, and how we came up with the Report.

Pursuant to Article 118(b) of the Constitution, and Standing Order No.127(3), Parliament is mandated to undertake public participation in its business, including legislative business. As a result, in fact, because of this legal requirement, the Committee put a notification that was placed in the mainstream print media on 22nd February 2018, informing the public that the Committee

was considering the Petroleum Bill, 2017 and invited them to submit any presentation they might have on the Bill.

The Committee also held meetings with the State Department on Petroleum in the Ministry of Petroleum and Mining to consider pertinent issues that the Bill was seeking to address. Additionally, the Committee received written memoranda and held meetings with various stakeholders, including the Council of Governors, the Kenya Private Sector Alliance, Natural Justice, Kenya Oil and Gas Association, Turkana County Assembly, Turkana County Government and the Kenya Society of East Africa on Wildlife.

In addition to receiving the written memoranda from stakeholders, the Committee held public hearings in the following counties: Turkana County and within it, Turkana East, Turkana South, Turkana Central sub-counties; in Nakuru County, we held meetings in Menengai, Bahati, Nakuru County Assembly and in Naivasha; in Narok County, we met in Suswa Ward; in Murang'a County, Mathioya Constituency; in Nairobi County, County Hall, Parliament buildings and in Lamu County, Kwasasi, Pate and Lamu Fort Hall.

Hon. Deputy Speaker: Hon. Mbarire, you are an extremely seasoned Member of this Parliament. The Bill has been moved and you are responding. Do it briefly and hint to Members what will happen in the next stage. That would be very good. I am not saying that we have run short of time.

Hon. (Ms.) Mbarire: I am well guided. From there, the Committee held a retreat in Mombasa for one week where we analysed the Bill clause by clause and took into account the submissions that were received from members of the public and from various stakeholders. The Committee made several observations as you might have noted from the Report, including the need to ensure participation of the local communities in decision making by various institutions in upstream, downstream and midstream activities. We also noted the agitation for increase of local community share of revenue from 5 per cent to 10 per cent. That is very important because we realise that part of the reason why other countries go into conflicts is because communities do not benefit from any available resource. Out of the 10 per cent that is going to the communities, including the 20 per cent that will go to county government, the people of Turkana County will receive up to 40 per cent because of the two sub-counties that will each receive 10 per cent. As a Committee, we fully support that.

I thank all Members who contributed to this very important Bill. I heard one Member asking why we did not have the Bill amalgamated with the Energy Bill. Knowing the important role that petroleum will play in the growth of this country and knowing where certain countries have made mistakes because of this particular resource, where many people see it as a curse, it was felt that there was need to have a Petroleum Bill and even establish a state department of petroleum for that purpose alone. That is very important so that the legal framework that guides the particular resource we are getting to explore and exploit for the first time, is very clear. We also know that this is just the beginning of the many opportunities we are likely to have in other parts of the country. We want to start on the right footing.

Another important thing that has been mentioned by the Chair, the Mover and the Vice-Chair is the role that communities will play, going forward, in the management of this resource and the need to ensure that whatever comes out of the revenue benefits the communities. It is hoped that once we pass this Bill and start exploiting this important resource, the county Government of Turkana and the sub-counties will benefit from this revenue and will use it for the intended purpose. This will enable the communities start feeling a change and appreciate this resource and allow for that same resource to help the nation.

With those few remarks, I beg to reply.

Hon. Deputy Speaker: Very well. I will not put the Question because of the obvious reasons. Therefore, we move to the next Order.

(Putting of the Question deferred)

COMMITTEE OF THE WHOLE HOUSE

THE KENYA ROADS BILL

Hon. Deputy Speaker: That is not going to be transacted today. It will be transacted at a later date.

Proceed.

(Consideration of the Committee of the whole House deferred)

BILLS

Second Reading

THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

Hon. Deputy Speaker: Hon. Mbarire.

Hon. (Ms.) Mbarire: Hon. Deputy Speaker, we wish to defer this Order until the next available date.

Hon. Deputy Speaker: That is granted. Of course, I would have been happier with some reason, but I have already granted it. I know you have been very active as the leadership of Majority Party. I know for sure that there must be some good reason.

Proceed.

(Bill deferred)

Second Reading

THE KENYA COAST GUARD SERVICE BILL

Hon. Deputy Speaker: Yes, the Leader of the Majority Party.

Hon. A.B. Duale: Hon. Deputy Speaker, for HANSARD purposes, I agree with my colleague, Hon. Cecily Mbarire, that the Report on the Public Private Partnerships (Amendment) Bill was tabled this afternoon. We wanted Members to acquaint themselves with it.

Secondly, I also need your indulgence on the Kenya Coast Guard Service Bill because the Departmental Committee on Administration and National Security has promised us that they will table the report next week. We agreed at the beginning of the 12th Parliament that we will always begin the Second Reading when the report of the committee on public participation has

been tabled so that Members can go through it and we are not accused of not listening to the public.

Hon. Deputy Speaker: That is also granted for the reasons I have said plus the fact that you have given good reasons. We do not have any doubt that we would not do it unless it was absolutely necessary.

(Bill deferred)

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, that marks the end of today's session. The time being 6.33 p.m., this House stands adjourned until Tuesday, 17th April 2018 at 2.30 p.m.

The House rose at 6.33 p.m.