

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 20th June, 2019

The House met at 2.30 p.m.

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

PRAYERS

COMMUNICATION FROM THE CHAIR

DELEGATION FROM THE PARLIAMENT OF UGANDA

Hon. Speaker: Hon. Members, I wish to introduce to you a delegation of Members of Parliament of the Legal and Parliamentary Affairs Committee and staff from the Parliament of the Republic of Uganda who are seated in the Speaker's Row. They comprise of the following:

- (1) Hon. Jacob Oboth Marksons, MP - Leader of Delegation;
- (2) Hon. Denis Hamson Obua, MP - Member;
- (3) Hon. Prossy Akampulira, MP - Member;
- (4) Hon. Alex Byanugaba, MP - Member; and,
- (5) Hon. Paul Mwiru, MP - Member.

The delegation is accompanied by Mr. Max Komakech, Mr. Edward Ngobyte and Mr. John Tamale who are staff of the Parliament of Uganda.

The delegation is in the country on a benchmarking visit to our Centre for Parliamentary Studies and Training (CPST) to share experiences in relation to legislation the Parliament of Uganda is processing, namely the Institute of Parliamentary Studies Bill, 2019.

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the country.

(Applause)

MESSAGE

PRESIDENTIAL MEMORANDUM ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL, 2019

Hon. Speaker: Hon. Members, you may recall that on 13th June 2019, this House passed the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019). Thereafter, the Bill was presented for assent to His Excellency the President in accordance with the provisions of the Constitution and our Standing Orders. However, in exercise of the powers

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under Article 115(1)(b) of the Constitution, His Excellency the President, by way of a Memorandum dated 18th June 2019, has referred the said Bill back to the National Assembly for re-consideration. This Bill is proposing to make various amendments to 14 statutes relating to various sectors.

In his Memorandum, the President has expressed reservations on the provisions relating to the Merchant Shipping Act, 2009 as passed by the House. In his reservations, he is agreeable with the principle of the Committee and the House regarding limiting the powers of the Cabinet Secretary and the specificity of the exemption. However, he has reservations with the limitation on whole ownership. He is of the view that this restriction will disadvantage the Kenya National Shipping Line, whose majority shareholding is held by the Government through the Kenya Ports Authority. His Excellency the President is concerned that the revival of the national shipping line will be greatly hampered and yet it is an opportunity to create employment lost, especially for youth near maritime resources.

His Excellency the President is, therefore, proposing to delete the proposed new Subsection 16(1A) as passed by the House and to introduce a caveat that the provisions of Section 16(1) shall not apply to a shipping line owned or controlled by the Government of Kenya. He is of the view that this, in effect, will assist the Kenya National Shipping Line in collaborating with other partners, as is the international practice, to enhance its competitiveness in the regional and global shipping markets.

The President, having exercised his powers under Article 115(1)(b) of the Constitution, now requests the National Assembly to reconsider the Bill against his reservations and the recommendations proposed, and amend the Bill in light of his reservations. Standing Order No.154 requires the National Assembly to consider the President's reservations within 21 days.

In this regard, the Memorandum of His Excellency the President now stands committed to the Departmental Committee on Transport, Public Works and Housing for consideration. The Committee should prioritise the matter and table its report by next week, Thursday, 27th June 2019 to enable the House conclude with the Bill in good time, ahead of the short July recess. I encourage any Member wishing to give their views and comments to appear before the Committee during the period of re-consideration of that specific provision.

May I, at this point, remind the House of the Speaker's Communication delivered on 28th July 2015, concerning the consideration of the President's reservations to a Bill and amendments thereto. I particularly draw your attention to my guidance – that, the voting threshold for the passage of amendments proposed by a Committee or an individual Member that have the effect of fully accommodating the President's reservations is a simple majority as contemplated under Article 122(1) as read together with Article 115(2)(a) of the Constitution.

On the other hand, an amendment that does not fully accommodate the President's reservations or, indeed, one that has the effect of total override of the President's reservations, including negating his proposed text, would require a two-thirds voting threshold to be passed in keeping with the provisions of Article 115(4) of the Constitution.

I wish to further reiterate that only the specific section of the Bill that has reservations will be considered by the House. I now direct the Clerk to circulate the Memorandum from His Excellency the President to all Members so that they can familiarise themselves with its contents.

Next Order!

PETITIONS

Hon. Speaker: Members making your way in, please, take your seats.

PROVISION OF GOVERNMENT CAPITATION
TO STUDENTS IN PRIVATE SCHOOLS

Hon. Speaker: Hon. Members, pursuant to the provisions of Standing Order No.225(2)(b), I wish to report to the House a Petition submitted by Ms. Mutheu Kasanga, the National Chairperson of the Kenya Private School Association (KPSA), an umbrella organisation representing private education institutions in the country, registered by the Registrar of Societies in accordance with the law and duly recognised by the Ministry of Education.

THAT, the Association, which has a membership from private education institutions pursuing a curriculum approved by the Ministry of Education, aspires to provide alternative opportunity for the realisation of the right to free and compulsory basic education to all children as espoused in Article 53(1)(b) of the Constitution;

THAT, the recent Government initiative of 100 per cent transition from primary to secondary school in conformity with the 2018 Policy for Reforming Education and Training for Sustainable Development has congested and outstretched infrastructure and facilities in public secondary schools beyond what they can handle, hence likely to compromise quality and standards of education;

THAT, as a consequence, enrolment in private secondary schools has also grown and has brought on board many students from less privileged families who strain to pay full school fees charged by private schools without Government capitation;

THAT, in keeping with Section 29(1) of the Basic Education Act and Ministerial Circular No.MOE.HQS/13/3 on guidelines on the implementation of free primary and secondary education for 2019, the Government budgeted Kshs22,244 for every Standard VIII pupil captured in the NEMIS System as a measure to facilitate 100 per cent transition from primary to secondary school in 2019;

THAT, whereas the Government is remitting capitation for students admitted to tertiary institutions through the Kenya Universities and Colleges Central Placement Service irrespective of whether they join public or private tertiary institutions, the same principle does not apply to basic education;

THAT, in spite of the said budgetary provision, children who joined private secondary schools and were captured in the NEMIS system do not benefit from the Government capitation of Kshs22,244, which would have lessened the financial burden and aided access to basic education for all children;

The Petitioner, therefore, proposes that the initiative of 100 per cent transition could be further eased out through placement of students in private secondary school which have ready capacity to absorb students instead of putting up day streams in national, extra-curricular, county schools and boarding schools.

THEREFORE, the Petitioner prays that the National Assembly:

(i) engages the Ministry of Education to reconsider its policy on capitation for free primary and secondary education to include capitation for pupils and students

enrolled in private schools in the country who have been captured in the NEMIS System; and,

(ii) considers the immediate amendment of Section 29 of the Basic Education Act, 2013, and review of other relevant regulations and Government policies on education funding so as to accord, with the constitutional principle of access to free and compulsory basic education, all children irrespective of whether they get enrolled to public or private schools.

Hon. Members, pursuant to the provisions of Standing Order No.227, this Petition stands committed to the Departmental Committee on Education and Research for consideration. The Committee is required to report its findings to the House and the Petitioner in accordance with Standing Order No.227(2).

Let us have Hon. Jennifer Shamalla.

INQUIRY INTO LGBTQI ACTIVITIES IN KENYA

Hon. (Ms.) Jennifer Shamalla (Nominated, JP): Thank you, Hon. Speaker. This is Public Petition No.43 of 2019 regarding funding of lesbians, gays, bisexuals, transgender, queer and intersex - otherwise known as LGBTQI - agenda by foreign organisations in Kenya.

I, the undersigned, on behalf of faith-based organisations and religious institutions, draw the attention of the House to the following:

THAT, the Preamble of the Constitution acknowledges the supremacy of the Almighty and commits to nurturing and protecting the well-being of the individual, family, communities and the nation;

THAT, Article 36 of the Constitution guarantees the freedom of association with an inhibiting clause that the registration of a body under this right can be reasonably withheld or withdrawn;

THAT, Article 45 of the Constitution further states that every adult has the right to marry a person of the opposite sex based on the free consent of the parties;

THAT, on 22nd March 2019, three judges of the Court of Appeal at Nairobi delivered a ruling on Petition No.440 of 2013 upholding the judgement rendered by a three-judge High Court Bench on 24th April 2015;

THAT, the said judgement allowed the petition of Eric Gitari, who seeks to register a Non-Governmental Organisation (NGO) with the NGOs Coordination Board;

THAT, the core objective of the said NGO would be to address the violence and human rights abuses suffered by gay and lesbian people;

THAT, paedophiles have begun to seek similar status arguing that their desire for children is a sexual orientation no different than heterosexual or homosexual;

THAT, the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorder, namely, "The Psychiatrists' Bible" and other reputed international media research institutions have variously classified such sexual orientation and deviation as sociopathic condition and non-psychotic mental disorder;

THAT, there exists an institution in Kenya by the name "National Gays and Lesbians Human Rights Commission" which has openly admitted to receiving foreign funding for their activities;

THAT, organisations such as the Open Society Foundation almost fully funded by the George Soros Foundation Astraea, a lesbian foundation based in Canada, Hivos a Dutch foundation...

(Loud consultations)

Hon. Speaker there is a...Can I proceed?

Hon. Speaker: Just proceed.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): A Dutch Foundation working to support social change and Taidys Foundation, an American firm that seeks to promote robust democratic processes, a key stakeholder in the LGBTQI agenda in Kenya;

THAT, the European Court on Human Rights while interpreting the European Convention on Human Rights has ruled that gay marriage is not a human right noting that only 10 out of 47 European countries allow such same sex marriages;

THAT, the USA Supreme Court declined to state that the same sex marriages is a right under the Constitution or international law but instead ruled that individual states may decide whether or not to allow the said marriages;

THAT, it is thus questionable that organizations from those countries are channeling funds for the promotion of the agenda in Kenya;

THAT, there has not been sufficient information and details as to exactly how much funding have been directed to the LGBTQI agenda in Kenya;

THAT, if the situation is not investigated, then the State will stand in contravention of the Constitution which guarantees protection of the family and prevention of practices that are detrimental to the society;

THAT, the matters presented in this Petition are not pending before any court of law or independent body;

THEREFORE, your humble Petitioner prays that the National Assembly, through the Departmental Committee on Justice and Legal Affairs:

- (i) inquires into all the matters raised in this Petition pursuant to Standing Order No.216(5);
- (ii) inquires from the Chief Executive Officer (CEO) of the NGOs Coordination Board on the status and annual funding of LGBTQI in Kenya;
- (iii) inquires from the Inter-Religious Council of Kenya on their views regarding the LGBTQI agenda; and,
- (iv) make any order or direction that it deems fit in the circumstances of the matter.

And your Petitioners will ever pray.

Hon. Speaker: I believe the humble Petitioner... Is it the Petitioner or Petitioners?

(Hon. Shamalla spoke off record)

Very well. The other Petition is by the Member for Nakuru Town East, Hon. Gikaria.

SAFEGUARDING PUBLIC UTILITY PLOTS IN NAKURU

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Speaker.

I, the undersigned, on behalf of Ms. Juliet Nyaguthii, a resident of Nakuru County, draw the attention of the House to the following:

THAT, Article 62(2) provides that public land within the jurisdiction of county governments shall vest in and be held by a county government in trust for the people who are resident in the county, and shall be administered on their behalf by the National Land Commission;

THAT, vast parcels of public land in the then Nakuru Municipality have remained and still remain unutilized;

THAT, among the unutilized public utilities are seven parcels of land, LR Nos. 12570/183 (market), 12570/184 (water reservoir), 12570/185 (market), 12570/186 (religious institutions), 12570/187 (primary school), 12570/188 (service station) and 12570/189 (nursery school);

THAT, in early 2005, residents of Nakuru East Ward wrote to the then Nakuru Municipality seeking authority to access and make use of the stated seven public utility plots within the Ward;

THAT, on 18th October 2005, the then Council Clerk, acting on behalf of Nakuru East Ward residents, wrote to the Commissioner for Lands seeking guidance on the procedural requirements to affect the transfer of plots to the council for public utility use within the ward;

THAT, the request has never been granted, causing the land to remain idle and vulnerable to possible grabbing, with a recent attempt having been made by some investors who fenced off the property, which was immediately brought down by members of the public;

THAT, on 2nd October 2018, the National Land Commission Coordinator in Nakuru County wrote to their national offices concerning the land and requested the Chairperson to visit Nakuru to handle the matter;

THAT, the delay by the National Land Commission and the Ministry of Lands to legally formalise public use of the said parcels of land has heightened tension between members of the public and private developers purporting to be owners of the land;

THAT, efforts to have the matter addressed by the National Land Commission have not been fulfilled;

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or legal body;

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Lands:

i) Investigates and inquires into all the matters regarding ownership of parcels of land, LR Nos. 12570/183, 12570/184, 12570/185, 12570/186, 12570/187, 12570/188 and 12570/189.

ii) intervenes through the Ministry of Lands and the National Land Commission to ensure that all public land in Nakuru County is safeguarded from irregular transfers and made available for public utility; and,

iii) makes any other further order(s) it deems fit in the circumstances of the matter.

And your Petitioners will ever pray.

Thank you.

Hon. Speaker: Very well. The various petitions are referred to the various committees. I can see the Member for Samburu North Constituency wishes to make a comment.

Hon. Members, I will allow limited comments because, as you know, we must transact the business listed as Order No.8 in good time before many of you take off to the villages.

Hon. Alois Lentoimaga (Samburu North, JP): Thank you, Hon. Speaker. I rise to support the second Petition. You know, NGOs can go out of their way to get money to support activities that are uncultured, and at times evil. So, the State, according to Article 45 of the Constitution needs to protect the family as its foundation. It is not African to protect and promote gay marriages.

Hon. Speaker: Well, there are no other interventions. The Hon. Member who is raising his hand, you have to show interest using your card. Member for Tigania West, do you have a card?

Hon. John Mutunga (Tigania West, JP): Yes, Hon. Speaker. I have a card. It is inserted properly and I have keyed in. I do not know why it is not reflecting. However, thank you for the opportunity to comment on one of the petitions, specifically the one you have read.

The KEPSA is an association of private schools investors in education who are not necessarily funded by the Ex-chequer. We all appreciate, as Kenyans, that there is serious congestion after the implementation of the 100 per cent transition policy. It presupposes that all the pupils in primary schools must go to secondary schools and those in secondary schools must either go to middle level colleges or universities. We also note that failure to absorb all the students has led to secondary schools, both national schools and county schools, opening up day streams within their schools which, therefore, complicates the management of schools and can easily bring indiscipline and other issues into the schools because the structural management was not designed for the two sets. I am sure most of the Members have such classes in schools in their constituencies or have passed through that particular process where there are more than 60 students in a class. Sometimes, there is no space for teachers to stand. Investment in education by the private sector should be supported by the Government.

Hon. Speaker: Sorry, Hon. Mutunga. This is not an occasion for debate. Actually, comments are limited to seeking clarifications and simply making comments. We cannot operate like others who make petitions occasion for debate.

Hon. John Mutunga (Tigania West, JP): Hon. Speaker I stand guided, but let me just say two things...

Hon. Speaker: Not two things! You have already said too many things. Just conclude.

(Laughter)

Hon. John Mutunga (Tigania West, JP): To conclude, I would like to say that it is not really true that private schools charge more fees than public schools. I have had a student in private school and a child in public school. I paid more in public school under the capitation process. The capitation does not necessarily benefit all Kenyans and it should be equitable even to those going to private schools.

Thank you, Hon. Speaker.

Hon. Speaker: Very well. As indicated earlier on, the petitions are referred to the various committees. The one by Hon. Shamalla will be referred to the Justice and Legal Affairs

Committee; the first one to the Departmental Committee on Education and Research; and, the one by Hon. Gikaria to the Departmental Committee on Lands.

Hon. Members, allow me to recognize the presence of students from the following institutions in the Speakers and Public galleries.

Njonjo Girls High School from Nyahururu Constituency, Laikipia County. I am not too sure that I know of a constituency called “Nyahururu”. Anyway, they come from Laikipia County. I can see the Member for Laikipia smiling.

Kyunyu Girls High School, Gatanga Constituency, Murang’a County; Murumburi Secondary School, Gatundu South Constituency, Kiambu County; The New Dawn School, Kikuyu Constituency, Kiambu County; Siruwa Primary School, Mogotio Constituency, Baringo County; MCK Kariokor Primary School, Starehe Constituency, Nairobi County; St. Theresa’s Kabula Boys High School, Bumula Constituency, Bungoma County and St. Jacobs Educational Centre, Leseru, Turbo Constituency, Uasin Gishu County.

They are all welcome to observe the proceedings of the National Assembly this afternoon.

Next Order!

PAPERS LAID

Hon. Richard ole Kenta (Narok North, ODM): Hon. Speaker, I beg to lay the following Papers on the table of the House. Reports of the Committee on Implementation on:

- (i) the implementation status of the Departmental Committee on Agriculture and Livestock Report on the petition on and inquiry into the crisis facing the sugar industry in Kenya;
- (ii) the implementation status of the resolution on establishment of sports academies in every constituency; and,
- (iii) the implementation status of the operationalization of the Sports Act, 2013; National Sports Fund.

Thank you.

Hon. Speaker: Are you through, Hon. Kenta?

Hon. Richard ole Kenta (Narok North, ODM): Yes.

Hon. Speaker: Then let us move on to the next Order.

NOTICES OF MOTION

ADOPTION OF REPORT ON THE PETITION/INQUIRY INTO THE CRISIS FACING SUGAR INDUSTRY IN KENYA

Hon. Richard ole Kenta (Narok North, ODM): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Implementation on the implementation status of the Departmental Committee on Agriculture and Livestock Report on the Petition and inquiry into the crisis facing the sugar industry in Kenya, laid on the Table of House today Thursday, 20th June 2019.

ADOPTION OF REPORT ON IMPLEMENTATION STATUS
OF SPORTS ACADEMIES AND SPORTS ACT

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

THAT, this House adopts the Report of the Committee on Implementation on the status of implementation of House Resolutions on:

- i. Establishment of Sports Academies in every Constituency; and,
- ii. Operationalization of the Sports Act, 2013; National Sports Fund, laid on the Table of the House today Thursday, 20th June 2019.

Hon. Speaker: Next Order!

ORDINARY QUESTIONS

Hon. Member for Kaiti

Question No.283/2019

COMPLETION OF STALLED ROAD PROJECTS

Hon. Joshua Kavinda (Kaiti, WDM-K): Thank you, Hon. Speaker for giving me this opportunity.

I beg to ask the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.

- (i) whether he is aware that the contractor awarded the works for the construction of Katuaa-Kee-Nunguni Road has not completed the work since 2015 despite expiry of the 24 months' contract;
- (ii) whether he could explain why the same company was awarded another contract for the construction of the Tawa-Ngoluni-Itangini Road in the same county and constituency, before completing the aforementioned Road that has since stalled?
- (iii) what measures the Ministry is putting in place to ensure completion of Katuaa-Kee-Nunguni Road, and what are the timelines for its completion?

Hon. Speaker: That Question will be responded to before the Departmental Committee on Transport, Public Works and Housing. The next Question is by the Member for Vihiga, Ernest Ogesi Kivai.

Question No.284/2019

DELAY IN APPOINTMENT OF MEMBERS OF RBA-AT

Hon. Ernest Kivai (Vihiga, ANC): Thank you, Hon. Speaker for giving me this opportunity.

I beg to ask the Cabinet Secretary for the National Treasury:

- i. whether he could explain reasons behind the inordinate delay in the appointment of Members of the Retirement Benefits Authority Appeals Tribunal (RBA-AT), bearing in mind that the term of the former Tribunal expired in 2017; and,
- ii. how many cases are pending before the Tribunal to-date and what mechanism the Ministry has put in place to ensure that the pending cases are determined expeditiously as prescribed under Section 47 of the Retirement Benefits Act, 2018.

Thank you, Hon. Speaker.

Hon. Speaker: That Question is to be responded to before the Departmental Committee on Finance and National Planning.

The next Question is by the Member for Turkana North, Hon. Christopher Nakuleu. He has written requesting for deferment. I have acceded to the request and so, the Question is deferred.

Question No.285/2019

WHEREABOUTS OF MR. MAKALE

(Question deferred)

Hon. Speaker: The last question is by the Member for Voi, Hon. Mlolwa, who has also approached me to say that the Question as drafted, does not reflect his full intentions and requests that it also be deferred. I have acceded to the request. The Question is deferred for it to be re-drafted to meet his expectations.

Question No. 286/2019

PROVISION OF REGULAR TRAIN SERVICES BETWEEN MOMBASA AND NAIROBI

(Question deferred)

(Hon. Babu Owino stood up in his place)

Hon. Speaker: The Member for Embakasi East, just take your seat. I intend to re-organise the Order Paper for the convenience of the House because business appearing as Order No.8 is crucial, granted that Article 121 prescribes the voting thresholds in the House. I can see some Members who are getting thirsty and could be leaving very soon. So, I intend, for the convenience of the House and for those Members who may not have the capacity to stay longer than the next 20 minutes, to allow them also to exercise their representative role in other places. I, therefore, desire to re-organise this Order Paper. We will go back to the Statements.

I know there are Members who have requests for statements, but let me re-organise very briefly for purposes of disposing of the business appearing as Order No.8. Therefore, Hon. Members, having so ordered, let the Clerk call out the Order.

MOTION**ESTIMATES OF RECURRENT AND DEVELOPMENT
EXPENDITURE FOR THE FINANCIAL YEAR 2019/2020**

THAT, this House doth agree with the Report of the Committee of Supply on its consideration of the Estimates of Recurrent and Development Expenditure for the year ending 30th June, 2020 and, pursuant to the provisions of Article 221 of the Constitution of Kenya, Section 39 of the Public Finance Management Act, 2012 and Standing Order 240, approves the issuance of a sum of Kshs1,928,270,282,319 from the Consolidated Fund to meet the expenditure for the National Government, Parliament and the Judiciary during the year ending 30th June 2020 in respect of the Votes as approved in the Schedule and that necessary adjustments be made to programmes amended in the Committee of Supply.

Hon. Speaker: Hon. Members, you concluded consideration of business on this Motion in Committee of Supply and so, I put the Question

(Question put and agreed to)

Hon. Members, now we can go back to Order No.7 and proceed with request for statements. There is a statement to be made in response... We have asked the Hon. Chair of Departmental Committee on Environment and Natural Resources to be brief. I have seen the Statement. It is quite long.

Hon. Kareke Mbiuki, you have the Floor.

STATEMENTS**HUMAN-WILDLIFE CONFLICT IN KAJIADO EAST CONSTITUENCY**

Hon. Kareke Mbiuki (Maara, JP): Hon. Speaker, on Wednesday, 12th June, 2019, Hon. Peris Pesi Tobiko, MP, Kajiado East Constituency, rose under Standing Order 44(2)(c) to seek for a Statement regarding the human wildlife conflict in Kajiado East Constituency. Hon. Tobiko in her Statement, highlighted very serious issues of human wildlife conflict which had caused loss of lives, injuries and destruction of properties and crops in her constituency. The issue of human wildlife conflict has also affected learning with eight public schools having been closed due to fear of attacks by elephants.

Hon. Speaker, based on the serious concerns the Member raised in this House on human wildlife conflict, you directed that the Departmental Committee on Environment and Natural Resources makes a response to this House within one week.

The Departmental Committee took up the matter and invited the Ministry of Tourism and Wildlife for a meeting to respond to the issues that Hon. Tobiko had raised in her Statement. The Member was also invited to interrogate the Ministry, together with other Members whose constituencies have been affected by the human wildlife conflict.

Hon. Speaker, I have shared the detailed Statement with Hon. Tobiko. I, however, can confirm that there are serious issues of human wildlife conflict in Kajiado East Constituency.

The Ministry is taking mitigation action to protect lives, property and crops from damage arising from the same. For the loss of lives and damage to property arising from the human wildlife conflict, the affected families were facilitated with compensation claim forms and were guided on how to fill them with relevant attachments. They will be considered for compensation after undergoing the due process alongside other claims for Kajiado County.

Hon. Speaker, the Kenya Wildlife Service Warden has also visited all the affected schools and re-assured them of its presence in the area. The Service has also held meetings with chiefs, elders, schools management, and has also provided hotline contacts for the Mobile Problematic Animal Control Unit. The Service is also engaging in corporate social responsibility interventions such as fencing of schools and providing water for the schools for mitigation purposes.

Hon. Speaker, KWS has important future plans to minimise the interaction between the community and wildlife, such as: Providing and installing solar water pumping equipment to community boreholes and to secure schools that are within elephant corridors; posting a Warden at Mashuru Sub-County to manage emerging wildlife issues and securing southern Kenya wildlife corridors.

Hon. Speaker, in conclusion, I would like to reiterate the Committee's commitment to address the issue of human wildlife conflict. In the Budget Estimates for 2019/2020, the Committee proposed to the Budget and Appropriation Committee to reallocate Kshs200 million towards Human Wildlife Conflict Mitigation Project to add to Kshs250 million that the National Treasury has allocated. This is aimed at concentrating on fencing specific human wildlife conflict hotspot areas to reduce and mitigate on those cases. The Committee also proposed an allocation of Kshs200 million in the Supplementary Budget II for General Administration which includes support for the human wildlife conflict mitigation. This was approved by the Budget and Appropriation Committee as well as this House.

Finally, Hon. Speaker, arising from the Meeting with the Ministry of Tourism and Wildlife on this particular matter that was held on Tuesday, 12th June 2019, the Committee directed the Ministry:

- (i) To immediately post a senior officer (Deputy Warden) to Mashuru Sub-County to address the rising cases of human wildlife conflict.
- (ii) Through the Cabinet Secretary, prepare a scientific report on the effects of the SGR on animal movement and human wildlife conflict and submit the same to the Committee on Environment and Natural Resources.
- (iii) To ensure that the County Wildlife Conservation and Compensation Committees are reconstituted and operationalised from July 2019 to address the pending compensation claims since 2017.

I thank you Hon. Speaker.

Hon. Speaker: Very well. The next is by Hon. David ole Sankok. Nominee 001 is seeking a Statement under Standing Order 43(1)

TWELFTH SESSION OF ASSEMBLY OF STATE
PARTIES ON RIGHTS OF PERSONS WITH DISABILITIES

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Speaker. Pursuant to Standing Order 43(1), I wish to make a Statement regarding the 12th Session of the Assembly of State Parties on the United Nation Convention on the Rights of Persons with Disabilities (UNCRPD). Kenya also co-hosted various side events including Still Standing Strong Albinism Awareness and more importantly the World Disability Summit One Year On in which the Kenyan Delegation shared a video clip prepared by Jacky Lilumbi of KBC appraising the International Community on its current status with regard to progress made on disability rights and welfare.

I urge you, Hon. Speaker, and indeed, this noble House, to join me in requesting our local media to broadcast and disseminate this important video enumerating Kenyan achievement and challenges we face in disability rights.

Hon. Speaker, our achievements have placed Kenya at the apex of disability rights in Africa and position six in the world. Among our most notable achievements to which the international community has indicated great appreciation include:

- (1) Access to Government procurement opportunities by persons with disabilities with at least two per cent of all public procurement opportunities reserved for persons with disability, which is an economic empowerment model found nowhere else in the world apart from Kenya.
- (2) Tax exemption enjoyed by persons with disabilities employed both in the Government and private sector.
- (3) Introduction of disability mainstreaming as a very important indicator in performance contracting of all Government ministries, departments and agencies.
- (4) The introduction of disability accessibility as a study unit in training of architectures and engineers in Kenya.
- (5) The provision of sign language interpreters as a mandatory part of all news bulletins in local media as well as in our public meetings.
- (6) His Excellency the President directives on inclusive education for learners with disabilities.

Hon. Speaker, in my personal contribution to the Assembly of State Parties in the United Nations Convention on the Rights of Persons with Disabilities, I emphasised on the need for public participation in the production of mobility devices like wheelchairs, calipers, white canes and crutches. For a long time Africa has been a dumping ground of such devices manufactured abroad. Yet, a mobility device is like a medical prescription.

Proper assessment must be done on the receipt of the mobility device to prevent it causing more harm than good. It is equally important to assess the environmental terrain. For example, all wheel chairs that will be used in New York must have side mirrors, head lamps, reflectors and indicators because their chief concern is traffic.

Here in Kenya, our chief concern specifically in the pastoralists region is dangerous wild animals. Consequently, wheel chairs and crutches in Kenya ought to have in-built programme sounds of wild animals so that if I encounter a leopard, I simply press the button emitting the cry of a hyena to scare it away. If I encounter a buffalo, then I press the lion

button to scare it aware. A chameleon sound will scare away the elephant. Even when I encounter very aggressive people... I can press Rashid's voice when I encounter Gedi and Kidero when I encounter Shebesh.

I wish to call upon investors to consider investing in the disability sector in Kenya because it makes economic sense. By way of illustration, the total cost of providing 400,000 wheelchairs in Kenya at a cost of Kshs30,000 each translates to a metal business market worth Kshs12 billion. About 6.5 million Kenyans with disabilities is a market bigger than Nairobi.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Sankok, that was a very long one. It got some Members, including the Leader of the Minority Party, wondering what it was about because of some of the content. The next Member seeking a Statement under Standing Order No. 44(2)(c) is Hon. Owen Yaa Baya.

REQUESTS FOR STATEMENTS

MEASURES TO CUSHION COASTAL FISHERMEN AGAINST FISHING RESTRICTION

Hon. Owen Baya (Kilifi North, ODM): Thank you, Hon. Speaker. I request for a Statement pursuant to Standing Order No.44 (2)(c) on cautioning of coastal fishermen restricting fishing.

Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock on the need to caution fishermen in the coastal region from the effects of Governmental directive restricting them from going to sea due to strong winds currently being experienced in the coastal region.

Hon. Speaker, the Kenya Metrological Department recently banned or restricted fishermen along the Kenyan coast from undertaking fishing activities in the Indian Ocean on account of strong winds exceeding a force of 25 knots which pose a threat of capsizing boats and other sea vessels through large and severe waves.

Hundreds of fishermen have been affected by this directive and, as a consequence of the restriction, they are currently struggling to earn a living or even pay school fees for their children. This is because they solely depend on fishing as their only means of subsistence and livelihood. It is on account of these challenges being faced by the coastal fishermen that I seek a Statement from the Chairperson of the Departmental Committee on Agriculture and Livestock on the following:

- (i) What measures are there to cushion coastal fishermen from hunger in the face of the current fishing restriction?
- (ii) What specific relief programme has the Government earmarked for both current and future fishing restrictions?

Thank you, Hon. Speaker.

Hon. Speaker: Where is the Chairperson, Departmental Committee on Agriculture and Livestock or even the Vice-Chair? I do not know where these Chairpersons of Committees are.

They should read Standing Order No.44(2)(c) to appreciate that the Speaker may direct that a response be issued forthwith or appoint a date when the Statement should be issued as sought. Who is the Vice-Chair of that Committee? Well Hon. Baya, the Statement will be forwarded to the Committee with the instruction that it be issued next Thursday. The Clerk's Office, take note. That Statement should be provided next week.

Next is Hon. Catherine Waruguru.

ISSUANCE OF WORK PERMITS TO FOREIGN NATIONALS

Hon. (Ms.) Catherine Waruguru (Laikipia (CWR), JP): Thank you, Hon. Speaker. Pursuant to Standing Order No.44(2)(c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding issuance of work permits to foreign nationals.

Hon. Speaker, the primary responsibility of the Government of the day is, first and foremost, to the people of Kenya whose interest must be prioritised, protected and advanced before those of any other persons. As a country, we have always been open to foreign investors and expatriates but, at this point in time, I believe that our kindness is being taken advantage of.

Kenyans are suffering due to harsh economic times. In this country, unemployment is at all-time high with millions of young people struggling to make ends meet. It is saddening to see our people close their businesses in Nyamakima, Gikomba and other places due to punitive Customs Duty and other operational constraints. It is additionally worrying that some foreign nationals, including some Chinese citizens, have taken over those businesses and are even doing minor businesses, small-scale trades and jobs when our unemployed youth could be doing similar tasks. It is highly disturbing that we have made it very easy for foreigners to do business in this country, while making it very difficult for our own youth and people in Kenya to do the same business.

Hon. Speaker, it is against this background that I want to seek a Statement this afternoon from the Departmental Committee on Administration and National Security on the following grounds:

- (i) a disclosure of number of Chinese nationalities currently in the country and who hold valid permits to work;
- (ii) clarification on agreements pertaining to trade and labour for foreigners in this country;
- (iii) why foreigners are finding it easy to set-up and run businesses in this country as opposed to local Kenyans;
- (iv) bring information on whether there is any existing kitty to aid import and export of trade for local traders;

Therefore, I look forward to getting this information explained as per the Kenya Trade Bill.

Thank you.

Hon. Speaker: Where is the Chair of the Committee or the Vice-Chair? The Vice-Chair is there. Hon. Waluke, when do you think you can provide that Statement?

Hon. John Waluke (Sirisia, JP): Thank you, Hon. Speaker. We are already handling the situation. The Cabinet Secretary has already started deporting illegal Chinese traders. I am requesting for two weeks so as to give an answer.

Hon. Speaker: Very well. You have two weeks from today. Hon. Waruguru is also comfortable with that. The Leader of the Majority Party, do you have any statement under Standing Order 44(2)?

BUSINESS FOR THE WEEK COMMENCING 25TH TO 27TH JUNE, 2019

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give the following Statement on behalf of the House Business Committee (HBC), which met on Tuesday, 18th June 2019 at the rise of the House.

Hon. Speaker, following the approval of the Budget Estimates for Financial Year 2019/2020 in Committee of Supply by the House, the HBC has scheduled consideration of all the stages of the Appropriations Bill, 2019 next week.

We also hope to consider the Second Reading of the Nuclear Regulatory Bill, 2018 and Senate Amendments to the Public Private Partnerships (Amendment) Bill (National Assembly Bill No.52 of 2017). Should we conclude these businesses, we have also prioritised reports of the Departmental Committee on Transport, Public Works and Housing for debate as follows:

1. The Inquiry into the Proposed Kenya Airways' Privately Initiated Investment Proposal to Kenya Airports Authority. Should we not conclude it today, we will continue next week.
2. The Montreal Protocol.
3. The Bilateral Air Agreements between Kenya and Cambodia; between Kenya and Burkina Faso; between Kenya and Finland; between Kenya and Seychelles; between Kenya and Hellenic Republic among many others.

In accordance with the provisions of Standing Order 42A(5) and (6), I wish to convey that the Cabinet Secretary for National Treasury and Planning will appear before the Departmental Committee on Finance and National Planning on Tuesday, 25th June, 2019 to answer the following Questions:

- (i) Question No.075/2019 from Hon. Gabriel Kago, MP;
- (ii) Question No.079/2019 from Hon. Michael Muchira, MP;
- (iii) Question No.111/2019 from Hon. Samuel Atandi, MP;
- (iv) Question No.223/2019 from Hon. Godfrey Osotsi, MP;
- (v) Question No.225/2019 from Hon. Robert Mbui, MP; and,
- (vi) Question No.227/2019 from Hon. (Dr.) James Murgor, MP.

The Cabinet Secretary for Lands and Physical Planning will appear before the Departmental Committee on Lands on Tuesday, 25th June, 2019 to answer the following Questions:

- (i) Question No.206/2019 from Hon. Peter Kihara, MP;
- (ii) Question No.246/2019 from Hon. Benjamin Mwangi, MP; and,
- (iii) Question No.248/2019 from Hon. Charles Kilonzo, MP;

The Cabinet Secretary for Industry, Trade and Co-operatives will appear before the Departmental Committee on Trade, Industry and Co-operatives on Tuesday, 25th June, 2019 to

answer Question No.177/2019 from Hon. Nelson Koech; Question No.217/2019 from Hon. Emmanuel Wangwe and Question No.263/2019 from Hon. Benjamin Washiali.

The Cabinet Secretary for Interior and Coordination of National Government will appear before the Departmental Committee on Administration and National Security on Thursday, 27th June, 2019 to answer the following Questions:

- (i) Question No.026/2019 from Hon. Justus Murunga, MP;
- (ii) Question No.161/2019 from Hon. Alois Lentoimaga, MP;
- (iii) Question No.218/2019 from Hon. Joseph Manje, MP;
- (iv) Question No.241/2019 from Hon. Olago Aluoch, MP;
- (v) Question No.242/2019 from Hon. Gideon Mulyungi, MP;
- (vi) Question No.245/2019 from Hon. Agoi Alfred, MP;
- (vii) Question No.265/2019 from Hon. Ayub Savula, MP; and,
- (viii) Question No.266/2019 from Hon. Brighton Yegon, MP.

The Cabinet Secretary for Education and Research will appear before the Departmental Committee on Education and Research on Thursday, 27th June, 2019 to answer the following Questions:

- (i) Question No.007/2019 from Hon. Tindi Mwale, MP;
- (ii) Question No.094/2019 from Hon. Geoffrey Makokha Odanga, MP;
- (iii) Question No.133/2019 from Hon. Moses Kirima, MP;
- (iv) Question No.137/2019 from Hon. Beatrice Nkatha, CWR;
- (v) Question No.151/2019 from Hon. William Kisang, MP;
- (vi) Question No.154/2019 from Hon. Joshua Kimilu, MP;
- (vii) Question No.156/2019 from Hon. Andrew Mwadime, MP;
- (viii) Question No.148/2019 from Hon. Geoffrey Omuse, MP;
- (ix) Question No.149/2019 from Hon. Moses Malulu Injendi, MP;
- (x) Question No.233/2019 from Hon. (Ms.) Bishop Kawira Mwangaza, CWR; and,
- (xi) Question No.236/2019 from Hon. Simon Ng'ang'a King'ara, MP.

Hon. Speaker, with your permission, I want to make it very clear that Chairs cannot defer questions. You have no powers to defer a Question. If the Member did not come before the Committee, you drop that Question. If we keep on deferring, then the number of the Questions will keep increasing. That is why we are going on HANSARD. The HBC has agreed that if you are not available, then you ask the Chair to get you the written answer for onward transmission to the Member. But the Chairs have no powers to defer a Question. It is only the Speaker who can defer a Question. So, if an Hon. Member is not there, you drop that Question.

Finally, the HBC will reconvene on Tuesday, 25th June, 2019 at the rise of the House to consider the business for the coming week.

Hon. Speaker, I now wish to lay the Statement on the Table of the House.

(Hon. Aden Duale laid the document on the Table)

Hon. Speaker: Hon. Members, because of the business appearing as Order No.11, I have allowed the Departmental Committee on Finance and National Planning, as soon as they are ready with the President's reservations to the Insurance (Amendment) Bill, to bring their Report to the House so that that business can be transacted.

Let us move on to the next Order.

MOTION

REPORT OF MEDIATION COMMITTEE ON THE PHYSICAL PLANNING BILL

Hon. Speaker: I see some intervention. Before the Leader of the Majority Party speaks, let us have Hon. Gikaria. What is your intervention?

Hon. David Gikaria (Nakuru Town East, JP): Thank you. Maybe, the Leader of the Majority Party can clarify. We have heard him say that the Chairs have no right to defer a Question. Is this the only mechanism where Hon. Members who have Questions can appear before committees to get answers? Is it the only mechanism or maybe the Table Office has another mechanism just to remind members that they are supposed to attend Committee meetings so that they can have their Questions answered? When we have Questions for the plenary, we are normally reminded about them. We are told: "You have a Question at this hour. Please be there for you to ask it." I do not know whether it is still the same with the clerks where they remind Members that they are supposed to appear before respective committees to have their answers. Again, as you have just indicated...

Hon. Speaker: Hon. Gikaria, the Order Paper contains the Questions. Is that not sufficient information? The HBC, through the Leader of the Majority Party, comes again to make that announcement so that everybody is reminded. It is like now requiring that people be reminded to carry their cards while coming to the Chamber. The Order Paper is out there for every Member. Therefore, to avoid a situation where every now and then we are told there are too many questions that have not been answered, and it is giving a bad impression on even some of the committees, if a Member has a Question to be responded to before a particular committee and for one reason or the other the Member is not able to be present, the Member should notify the Chair of the Committee and seek some intervention. In any event, the written answers are always available in the Table Office. So, this is just to make sure that everybody attends. I am sure there will be other reasons. I am sure those reasons will be communicated to members in the usual ways why every one of you will be encouraged to, every day, show a record that you came to the House. But you will be notified through the usual channels.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Speaker!

Hon. Speaker: What is the point of order, Hon. Duale?

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, you have seen Hon. Passaris. She is carrying a rucksack. She is carrying a big bag on her back and I do not know how the Serjeant-at-Arms allowed her. We are not safe here! She needs to show that bag. It is like somebody going on a safari. That is not a lady's handbag.

Hon. Speaker: What kind of bag is it?

Hon. Aden Duale (Garissa Township, JP): Can you show us the handbag?

Hon. Speaker: Yes Hon. Passaris.

Hon. Aden Duale (Garissa Township, JP): Where is the handbag? Show us the handbag.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Speaker, I do not know what the matter is with the Leader of the Majority Party. He seems to be so observant with everything I do, from the thermos and now to my handbag. I have a problem with my back. I have a slipped

disc and my doctor advised me to balance the weight on my back. So, I am carrying a backpack. I have gone to the Serjeant-at-Arms who has checked my bag. I want to tell the Leader of the Majority Party that my handbag is private, and it does not bring any insecurity to the House. I will not allow him to check what is inside my bag. We should trust the Serjeant-at-Arms.

Hon. Speaker: He is not demanding to check the backpack because he does not do it. It is done by the Serjeant-at-Arms.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): The Serjeant-at-Arms has checked my bag. I explained to them that I have a problem with my back. So, I am carrying a backpack to balance the weight on my back.

Thank you.

Hon. Speaker: Perfect. That is sufficient explanation. If the Serjeant-at-Arms are satisfied that what you are carrying is not a weapon of mass destruction, that is good enough.

Let us hear Hon. Mbadi.

Hon. John Mbadi (Suba South, ODM): Hon. Speaker, you have already made a ruling. The explanation given by Hon. Passaris makes a lot of sense because it is a health issue. However, we need to be clear on what kind of bags we should carry to this House. We know that ladies' bags are allowed. However, we should not start carrying rucksacks into the House. At one time, I will come with a heavy bag on my head. We need to be clear on which type of bags are admissible in the House. It is a lady's bag or a man's wallet. We will soon start bringing to this House huge bags on our heads. Some of us will come with *kiondo* and it will be a mess. So, we need to be clear on which bags are admissible in the House.

Thank you.

Hon. Speaker: Let us not go there. What is it, Hon. Nyamai?

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Speaker. When Hon. Passaris was walking into the Chamber, I observed Hon. Duale. He observed her from the time she entered the Chamber all the way to the time she sat. So, it is important for Hon. Duale to tell this House whether he was focussing on the bag or Hon. Passaris.

Thank you, Hon. Speaker.

(Laughter)

Hon. Speaker: The Member for Suba North, what is your intervention? I hope you are not threatened by the said bag.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Speaker, I am not threatened by this bag. It is a very beautiful bag. I asked her if she could give me one. Now that it solves a health issue, I cannot ask for it. My only concern was the issue about Hon. Duale. It did not even take him a minute to notice that Hon. Passaris had a bag. It took me a while to even notice she had a bag and yet, she is sitting next to me. However, it took Hon. Duale one second to notice that she has a bag. It is true that he was noticing Hon. Passaris.

(Laughter)

Other than that, what is more concerning is what Hon. Mbadi has said. He said that we want to give bags gender in this Parliament. There is a woman's bag and a male bag. He said that we must determine which ones are rucksacks. Is there a rucksack that is feminine and masculine?

(Hon. (Ms.) Odhiambo-Mabona showed the Members a bag)

If that is the case, can the Members give me the gender of this bag? Is it a man's bag or a woman's bag?

(Several Hon. Members interjected)

They want to take over the bags from us. This one is for a woman. It is a Louis Vuitton bag. These Members do not even know the brands. They get their bags from River Road. Leave my sister alone.

(Laughter)

Hon. Speaker: Hon. Millie, you can hear the Member behind you. He is a fairly experienced Member. So, he is trying to advise you. He is a veteran in some of those things. Hon. Wanjala, do you want to express something to her?

Hon. Raphael Wanjala (Budalangi, ODM): Hon. Speaker, I am analysing the bag in two ways. One, that it might be carrying the currencies that she has been hiding in the house and she wants to transfer it to the bag or it might be carrying a grenade. So, we are not safe.

(Laughter)

Hon. Speaker: The Serjeant-at-Arms has checked and found that you are safe. Hon. Wanjala, you are safe. I was also informed that Hon. Esther Passaris is not a harmful person. Hon. Sankok, do you also want to wade on to this?

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Speaker. Hon. Millie has shown us a bag, and it is not a hand bag. It is not a lady's bag. We feel threatened. When Hon. Duale observed the lady, he was not admiring her. He comes from Northern Kenya, where there are many risks. He was trying to protect the Members of this House. If Hon. Passaris is a threat to this House, we can call upon Sonko to intervene.

Hon. Speaker: Hon. Members, that was a light moment. Let us now get on to business. The next Order has already been called. So, proceed, the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Based on what has happened, I can see that the other ladies, including Hon. Millie and Hon. Rachael, are very jealous. From now, I will have a timetable. I will be observing each lady from the time she enters the House because they are jealous of Hon. Esther Passaris. Please, if you want me to observe you when you enter the House, make sure that you register your name in my office and you carry a bag. Hon. Sonko, the Governor of Nairobi County, cannot defend himself here. So, we should not drag his name into this matter. There is nothing called "Anti-Sonko" bag here.

Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order No.150, this House adopts the Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bill No.34 of 2017), laid on the Table of the House on Wednesday, 12th June 2019, and approves the mediated version of the Physical Planning Bill (National Assembly Bill No.34 of 2017).

As you are aware, the House passed this Bill and the Senate proposed amendments on several clauses, which were rejected in the House hence the mediation process. I am very happy to report that with the input of the mediation team from the National Assembly - my colleague the Leader of the Minority Party the Chair of the Departmental Committee on Lands, Hon. Nyamai, Hon. Kositany, Hon. Mishi Mboko and our usual expert on land matters, Hon. Ounda - we went through very difficult days. It is one of the mediations I will always remember. It was a very difficult situation where you reason, but sometimes reason does not prevail.

Allow me to highlight the key clauses that were subject of mediation and the recommendations of the Committee in respect of the amendments. We began the mediation process and we realised that the items for consideration by the Committee were three. What is the appropriate title for the Bill? What is the appropriate term to be used instead of “Planning Authorities”? What is the place of consultative fora for physical planning at the county level? Those are the three questions that were subject of the mediation team.

The most difficult question was the title of the Bill. We were told that this Bill would not be called “Physical Planning” but “Land Use Planning”. For the 30 days as provided for in the Standing Orders, we argued about the title. But later on, we realised that we have to find a middle ground. In answering the first question on the title of the Bill, the Committee spent considerable time analysing “Physical Planning” versus “Land Use Planning”. I really want to thank the legal team led by the Director, Madam Akama, Ms. Jemimah and other people. They are counsels who gave very good input. I am proud to stand here and commend the legal team of the National Assembly and the Budget Office. You may not see their value here but when we go for a mediation meeting, a number of which I have attended with Hon. Mbadi, you will see the kind of men and women who work in the National Assembly. We are proud of them.

We need to amend the Constitution on some things. We cannot have a House of 349 Members and another one of 67 Members, but when it comes to the constitution of a mediation committee both have an equal number of Members. It makes voting become a problem because of the equal number of Members from both Houses. Even electing the Chair was a problem because we had five Members from each House. Our five voted for a Member from our side and the other five voted for a Member from their side to be the Chair. So, electing the Chair and the Vice-Chair was a problem. We need to amend the Standing Orders to cater for that.

The middle ground we settled on was that we called the Bill, “The Physical and Land Use Planning” in order to take into account the few aspects of land use. We argued that the physical planning is repealing the existing principal Physical Planning Act. The Bill has only eight clauses talking about land use, while 92 clauses talk about physical planning.

When a Bill like this collapsed in the 11th Parliament, some of us who were there gave in because the Government and the people of Kenya need the Bill. So, we agreed on that title. In the velum circulated to Members, we have effected many amendments. In fact, our legal team told us that the words, “physical planning” appeared over 445 times hence the amendments were

carefully inserted. So, the moment we touch a title of a Bill, then we have to amend each clause where it appears. So, there were 445 instances we had to amend.

Going forward, the mediation committee Members should be paid more allowances because they sit for long hours and it is very stressing. At one time, I told Hon. Mbadi that that will not tempt us to go to the Senate. There was a time they proposed an amendment to make reference to the Senate as the National Senate of Kenya. There is nothing like that. They said that where Parliament appears, we must call it the National Assembly and the National Senate. When some of us will write a book, we will talk about that.

The second question for determination was agreed on, although I leave it to the Chair of Departmental Committee on Lands to explain.

Paragraph 8 of Part II, Fourth Schedule to the Constitution provides that the county planning is a function of county governments. In this regard, the Committee agreed that in line with the function of county governments to deal with matters of county planning as envisaged under the Fourth Schedule, there is need to establish County Physical and Land Use Planning Consultative Forums in each county for the purpose of providing forums within counties and inter-counties on physical land use planning. In this regard, the Committee agreed with the Senate amendments to Clauses 37, 12 (a)(b)(c).

As I conclude, I am glad that the mediation process was successful and fruitful as the Bill will finally see the light of the day. As we may recall, this is a Bill to implement the Constitution which ought to have been passed in 2015 but kept on failing. But we have delivered it for Kenyans. I thank the House and the mediation team.

We have delivered and I ask the House to agree with us so that going forward, we comply with the Constitution. We have set a new standard on matters physical planning and land use and have made Kenyans proud. For that, I thank our Members, the Senators and our able Secretariat for a job well done. We will go down in history as having given life to that which we kept failing since the 11th Parliament.

With those remarks, I thank the Chair of the Departmental Committee on Lands, a very dedicated Chair who knows her Committee. I beg her to forgive me this afternoon, but next week on Tuesday afternoon, I will recognise her when she walks into the Chamber and Hon. Esther Passaris will wait until August as I see others.

I beg to move and ask Hon. Rachael Nyamai to second.

Hon. Speaker: Hon. Nyamai, you have the Floor.

Hon. (Ms.) Rachel Nyamai (Kitui South, JP): Hon. Speaker, I choose to just focus on seconding the Motion.

Hon. Speaker, I beg to second this Motion on the Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bill No.34, 2017)

Hon. Speaker, first of all, I would like to thank you for your wisdom and the wisdom of the House in identifying the membership of the Mediation Committee. Having Hon. Duale, Hon. Mbadi, Hon. Mishi Mboko, Hon. Caleb Kositany and myself, and your wisdom in identifying for us an expert who gave us leadership and expertise in physical planning and land use, was good and I would like to appreciate that.

Having Hon. Duale and Hon. Mbadi in the Mediation Committee made a difference. I do know if I were the one chairing it how I would have done it. At times, it became extremely

difficult to discuss. I realised that Hon. Duale is very patient. I did not know that, but the meeting gave us a chance to know each other.

I saw Hon. Ounda hit the tables when trying to tell us the meaning of words by even making reference to the dictionary and googling to show us that the line between physical planning and land use is very thin. I thank the Committee and ask that we agree with the Mediation Report.

The Committee observed that most of the amendments from the Senate focused on the title of the Bill. We argued on the difference between physical planning and land use by trying to show that physical planning encompasses land use. But because we would like this Bill to pass because it collapsed in the 11th Parliament, we agreed and Hon. Duale has explained to this House what physical planning and land use are. We have done it before. We agreed on an agreed version of the title of the Bill that takes care of the words, “physical planning and land use”.

Considering the foregoing, the Mediation Committee observed that although the Bill seeks to implement the provisions of Articles 66 and 68 of the Constitution, as read together with the Fifth Schedule of the Constitution on land use planning, the Bill largely contains matters of physical planning. But it has some issues of land use. So, we agreed to the mediated version of the title.

In Clause 2, the Mediation Committee further considered the definition of the term, “planning authority” as Hon. Duale has said, and agreed to expand it to clarify the obligations of the national Executive and the county executive with respect to planning functions under the Bill. Therefore, the Committee agreed to amend the definition of “planning authority” as follows: “Planning authority with respect to national Government to show the functions of the Cabinet Secretary and at the county level, the executive committee member on lands.”

Hon. Speaker, under Clause 5, the Committee rejected the Senate amendments to paragraph (o) and (p) and agreed to the following amendments: That, paragraph (o) and (p) to be amended to read –

“(o) a person nominated by the Kenya Private Sector Alliance (KEPSA) and also appointed by the Cabinet Secretary; and,

(p) nominated by the registered associations representing residents.”

The Committee agreed to the Senate amendments also within sub-clause (3) as follows: THAT, Clause 5 of the Bill be amended by deleting and substituting thereof the following sub-clause–

(3) The Cabinet Secretary shall appoint members nominated under section 2(l),(m), (n), (o), (p) and (q) by notice in the Gazette.

The justification for this - so that the House is clear on why we agreed on this - is that the Committee observed that the proposed amendment on paragraph (o) providing a person nominated by a registered association representing the largest number of entities in the private sector in Kenya in the membership of the National Physical and Land Use Planning Consultative Forum is ambiguous and needs to be specific. That is why we agreed that we all focus on the private sector in Kenya, that is KEPSA, because this is known and it is a place all of us can make reference to avoid being vague.

On Clause 9(d), the Committee agreed with the Senate on amendment to paragraph (d). I will not explain because it has been ably explained by the Leader of the Majority Party. The justification for this agreement is that the Bill in paragraph (d) provides that the Cabinet

Secretary shall monitor and oversee matters to do with land use. We agreed as a Mediation Committee that paragraph (d) is in conflict with Article 67(2)(h) of the Constitution which provides that the National Land Commission (NLC) shall monitor. We do not want to be a House which is taking away the roles that have been provided to constitutional commissions and in this case, the NLC.

On Clauses 37, 32(a), 32(b) and 12(c) on the County Physical Planning and Land Use Planning Consultative Forum, we agreed. Initially, we thought that it is too expensive for the country to have the consultative forum at the county level, but we agreed to have the consultative forums at the county level as a way of give and take in this mediation. The Committee observed, in line with the functions of the county government, to deal with matters of county planning as envisaged in the Fourth Schedule of the Bill.

On Clause 11(c) and (d), the Mediation Committee rejected the Senate amendment to paragraph (c) and proposed the following new amendment:

“A registered physical planner as per the Physical Planners Registration Act of 1996 and of good standing. Initially, we thought that just having a person who is registered is enough. We do not need to have the words “a person of good standing”. But we decided to agree with the Senate.

The Committee noted the amendment to paragraph (c) proposing to change the qualifications of the Director-General of Physical Planning and Land Use from the “registered physical planner” to “professional planner” as ambiguous because it does not give respect to the registration of physical planners in the country.

As I finish, on the Second Schedule, paragraph (3) and (12), the Mediation Committee rejected the Senate amendments to the paragraphs and schedule. The Committee observed that inclusion of human right, poverty eradication and gender in a situational analysis of physical planning and land use development plan is already covered in the population and demographic analysis and need not be included in Physical Planning Bill.

Hon. Speaker, these are the issues that we discussed. I would like to thank the honourable Members from the National Assembly - and I emphasise the leadership that you gave us. It is important to have people who have been in this House longer. As I said, having three-term Members, Hon. Duale and Hon. Mbadi, was extremely important in this mediation.

With that, I second. Thank you.

(Question proposed)

Hon. Speaker: Hon. Mbadi, it is your chance.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. As I persuade the House to agree with the mediated version of the Physical Planning Bill which, if agreed to, will now be Physical and Land Use Planning Bill, I want to make a few observations because the technical areas have been ably dealt with by Hon. Rachael Nyamai, the Chair of the Departmental Committee on Lands. She was valuable in our Mediation Committee together with the professional in the House, Hon. Oundo.

I agree with the Leader of the Majority Party. We got a lot of valuable input from our technical team and, more particularly, our legal team. I am also in agreement that we have

competent staff in the legal department, staff who can do thorough research and bring you a well-researched paper from other jurisdictions. That was very valuable in dealing with this Bill.

Something that I have observed that is of serious interest to me - although I have not done research on - is the number of jurisdictions that have this kind of arrangement, where the two Houses get into mediation. I find this very cumbersome. A lot of disagreements in the mediation process are just ego fights that are not informed by any professional input. It is basically an issue of ego between the two Houses; which House is going to come out the victor. I do not think this is good for this country.

In my view, the people of Kenya need to relook at this current arrangement. We spent so many days. In fact, I got very frustrated to the extent that I asked myself whether it was worth my time to go for a meeting where we did not want to agree on very simple facts even after our professional team had come out very clear, and you would think it was too clear for everyone to understand. At the end of it all, you go back and start afresh. This is tiring and time consuming. I do not think this arrangement is healthy. We need to be clear. If Senate was meant to protect the interests of counties, we need to probably have Senate dealing with those matters concerning counties exclusively or, at least, have veto power where matters of counties are concerned, so that they can override the interests of the National Assembly in such matters. If it is other matters of, maybe, national legislation, the National Assembly should have veto power. With regard to mediation, I foresee going forward a situation where we are going to lose very many important Bills.

As I wind up, in this Bill, we spent more time not discussing the substance and the content of the Bill, almost 80 per cent of our time was spent disagreeing on the title of the Bill. That is something that surprises me. I have been in this Parliament for a while and we have legislated a lot. The title of the Bill is usually drawn from the content of the Bill. If you look at this Bill, you will find that it is over 90 per cent physical planning. There is an element of some land use but, again, some professionals appeared before us and ably explained that land use is a subset of physical planning in the context that the Bill was drawn. In fact, you will be surprised that Senators kept telling us that if they do that, they will be killed.

It is clear to me that the Senate and the National Assembly deal with Bills differently. When the Senate rejects a Bill or they make amendments to it, they insist that what they have done must be accepted by the National Assembly. It is not only on the Physical Planning Bill, but also on the Division of revenue Bill. They kept repeating the words “No! No! That one, *tutauwawa*. If we accept that ‘*tutauwawa*;’ you cannot go to a mediation table when your hands are already tied. For the number of times I have left the National Assembly to go for mediation of Bills that were referred to the Mediation Committee, I have never been given a brief. I have never been given any brief and I have never sat with the Leader of Majority Party or a chairperson of a committee to agree on what we will do. If it is not done, we will walk out. That has never happened. We consult on what we can agree with or reject.

When both Houses go for mediation, let them not go with fixed minds. Even where we gave concessions, it is interpreted that we were holding our grounds. We have given a lot of concessions and some of them came in good faith. In the Physical Planning Bill, you will realise that we agreed on many of the Senate amendments. Although we did that, I want to ask Members of the National Assembly to kindly agree with us. However, you are not under any obligation to agree. You can reject this mediated version. I want to plead with you that, you

agree with the mediated version so that we show leadership. Something needs to be done about the arrangement of the bicameral system we have in Kenya.

I have never sat with Members in a committee who are dedicated like the Members of this Committee. All of them were there the entire length of time that we were discussing. The Chairperson of the Departmental Committee on Lands deserves to be congratulated. She is the one who had the Committee's memory. She could tell us if what was being proposed was wrong. She has the technical knowledge.

I support. Thank you.

Hon. Speaker: Hon. Oundo, you have the Floor.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Speaker. From the onset, let me sincerely thank you for having given me an opportunity to serve a Mediation Committee. Being a first timer, it was such an illustrative learning process. I will come to that much later.

Let me make it clear that, indeed, the issues concerning land use and the environment are so critical to the national development and welfare of this country. They require to be given utmost consideration and commitment in terms of drafting of legislations and regulations to manage the same. On that account, the Physical Planning Act has metamorphosed over many years. It started as the Town and Country Planning Act, then to Town Planning Act and now we have the Physical planning Act. It has changed throughout the jurisdiction of the Commonwealth and related jurisdictions. Indeed, I was shocked when we got to a point where the Senators insisted that there was nothing called physical planning. That, we were talking about land use. Mistakenly, they kept reminding us that it is supposed to put into effect Article 68 of the Constitution. Article 68 of the Constitution is clear. It calls for revision of sectoral laws in land use and related issues. Physical planning Act is one of those sectoral laws that require amendment or revision. In their mistaken belief, they thought that they were, in one swoop, effecting the provisions of Article 68 of the Constitution.

I do not want to go to the technical matters. The Chairperson of the Committee and the Leaders of Majority and Minority Parties have been explicit on what we went through. I want to urge this House, for purposes of making us move and not having a lacuna in a built environment and land related issues. We approve the mediated version of the Bill. I know, from where I sit and from a technical point of view, what we have passed is not perfect. However, it is better to have something than nothing.

In my many years as a student and a lecturer, I have never come across a "bunch" sorry to use the word, a bunch of so called students where you set out the principles clearly and they deliberately refuse to listen. They deliberately refuse to conceptualise and understand the issues. Going forward, this is important. There needs to be a lot of capacity building in the Senate staff to understand conceptual issues.

[The Speaker left the Chair]

[The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya) took the Chair]

Hon. Temporary Deputy Speaker, I was surprised that, to justify their hardliner position, The Senators went all over the streets of Nairobi picking non entities, quacks, lay bouts and busy bodies to come and justify that instead of talking about physical planning, we should talk about land use planning. To make this point clear, land use planning is a composite concept that cannot be amended or put to effect through one single Act of Parliament. Going forward, I hope the Government, in fullness of time, will come up with a separate Bill to address the fears that were raised by the Senate.

I sincerely want to thank this House for the opportunity it gave me to serve in the Mediation Committee to give my expertise. I hope it has been of valuable use to the Members who sat in the Committee. In future, I will be willing to offer my knowledge and skills at no cost to the taxpayer.

I support and request my colleagues to pass it as it is. We can revisit it later.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): Hon. Rindikiri, Member for Buuri Constituency.

Order, Members! You cannot gag Members who want to speak. Hon. Jennifer Shamalla, you have the Floor.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the amendments and the mediation process to this crucial Bill. Indeed, I want to congratulate the mediation process and the Members who took part in that mediation process. I wish to see, without any further delay, the enactment of this particular legislation. If you look, specifically at Clause 46 with regards to zoning, you will find that this is an issue that must be addressed urgently in Nairobi, its environs and in the entire country. If you look at a county like Nairobi, you will see apartments next to mortuaries, bars, public schools *et cetera*.

Going forward, once this legislation has been enacted, I hope that they shall address comprehensive regulations on zoning.

With those few remarks, I support the approval of the mediation version and I trust that the rest of the House shall do so.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Let us hear the Member for Nairobi County.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. First, I support the Mediation Committees's Report. As a new legislator, when I hear that we have differences between the Senate and the National Assembly and they both serve citizens, I feel it is wrong. It is good that we have a mechanism to deal with such. It is a shame that it has lasted from the last Parliament to this Parliament for us to agree on how we should pass the Physical Planning Bill. It is also a shame that it was just a matter of the title being either: "The Physical Planning Bill" or "The Land Use Bill." I think that the process of mediation should be hastened so that we have laws in place. We are legislators and as long as we do not have laws that can govern various aspects of how we manage our land and how we plan our cities... I am the County Woman Representative for Nairobi County.

One of the biggest problems that we have is that we have never had good physical planning. Buildings are put up haphazardly. They do not have a layout design. If you go to Europe, you will find that everything is orderly and you will realise the value of making our city be a city to reckon with. All the demolitions we had to pave way for the construction of by-

passes were because we did not have a Physical Planning Act. Therefore, we have delayed it – I agree with the Leader of Minority party – because of our egos. We have to put our egos aside and look at the bigger picture. The fact that we have not had good physical planning has resulted in many houses collapsing and people losing their lives. Still, we were not able to prioritise the Bill so that we plan our cities better.

The cost of correcting all the mess that we have had in terms of physical planning is going to be high. What I would like to see is devolved governments being humane when they will be adjusting to the new Physical Planning Act. Now that we did not have one in place, many people did wrong things. We must be humane and think of how we will compensate the affected people. A number of houses have been brought down because we lacked a Physical Planning Act. There has to be a humane way of dealing with such. Nairobi does not have enough accommodation. If we pass this Bill then start going round with bulldozers and bringing down houses that do not conform to the Physical Planning Act, we will have a problem because many people will be displaced. We do not have adequate housing for people in Nairobi.

If the housing agenda of the Government is not fulfilled quickly, we will have many people live on the streets. I was recently in Vancouver and I realised that houses are expensive. People with white collar jobs cannot afford them because they are expensive. Although we are a middle-income country, the housing cost has to be brought down.

I support the mediated version Report and commend everyone who was in that Committee.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Sankok, you have the Floor.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. At the outset, I support our mediation team. I congratulate the Hon. Speaker for having the best selection of Members in the Mediation Committee. It comprised of men and women of high learning, who are intelligent and dedicated. More importantly, they were ready to cede some ground for the benefit of Kenyans. If they went to mediate with their lines already drawn and not ready to cede ground, this Bill would be passed by the 13th or 14th Parliament. Because of the selection that Hon. Speaker did, we had a good team that was ready to negotiate and cede ground for the sake of Kenyans. That is why we have this Bill before us today. I want to urge all the Members of this House to support the Report of the mediation team. We are willing to support them because we know they had good intentions for this country.

I also agree with the review of representation in mediation committees. It beats logic that in the Senate, one Senator represents 12 Senators in the Mediation Committee whereas in the National Assembly, one Member represents eight of us. That is the ratio. So, we need a mediation committee to be set up in terms of the ratio of representation, so that we have equal representation. I expected the Senators to be two against eight of us. That will be the best representation. They will be representing a number of us; that is the essence of representation.

I also want this House to speed up the passage of this Bill. We know that land issues in this country are emotive. We saw what happened in Nairobi. Hon. Passaris has alluded to it. Houses were brought down because of fake reasons. You were given certificates from the National Environment Management Authority (NEMA) that were fake. As an investor, I may not have spiritual eyes to tell fake from genuine documents from the Government. We have

witnessed retrogressive reasons for bringing down buildings in which people invested millions of shillings. They have been brought down for the reason of being built on riparian land. This House should revisit the issue of riparian land. What is riparian land? The United Nations headquarters in New York is sitting zero meters from Huddersfield River. Fort Jesus is sitting zero meters from the Indian Ocean. The Egyptians connected two seas, the Mediterranean Sea and the Red Sea, using the Suez Canal. A country like Holland was reclaimed from the ocean. Why are we, here in Kenya, talking about land that is 15-30 meters from a water body as riparian land?

We are advocating for animals' rights in Nairobi. We have migrated from the Maasai Mara and Amboseli and left it for animals. Now, again, they want us to leave Nairobi for animals. We have to revisit this issue. The sooner we pass this Bill, the better for us. We will be able to solve this emotive issue of land.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): It is your chance the Member for Suba North Constituency.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I take this opportunity to agree with the Mediation Committee on their mediated version of the Physical Planning Bill. I do not want to speak to the issue of sibling rivalry between the Senate and the National Assembly. It is expected. The only concern is that it is taking a little too long to settle.

Last week, Hon. Janet Sitienei, Hon. Gertrude, a Parliamentary staff and I were in Rwanda. I have heard Hon. Passaris refer to the developed nations as examples in terms of physical planning. It is an embarrassment to us as a country that Rwanda that has gone through so much in terms of disturbance is doing much better than us. I remember when I shared with some people this information, and by coincidence somebody else I knew happened to have been in Rwanda at the same time... We shared about the same and people said that Rwanda has only 13 million people. If you can get it right with 13 million people, you can always get it right with over 50 million people. I used to do a lot of work in Rwanda before I came to Parliament. It took me a while to go to Rwanda after I was elected. You can evidently see the amazing transformation in Rwanda. Sometimes it is not magic. It is just about developing a culture of constitutionalism and respect for the law.

This country has not had a lacuna of law in physical planning. We are only making sure that our laws conform to the Constitution and emerging issues. Why can we not do what is right? For example, when we talk about zoning, sometimes you pass through Nairobi and you sympathise with a lot of people who have invested in property. You find a bungalow surrounded by high-rise buildings. You are forced to sell it because you cannot live in such a situation. The Government will not compensate you for what you invested. I do not want to speak to what I saw happening with the railway planning. I might be going to land use planning. I want to speak to physical planning. I want to challenge the Governor of Nairobi, Hon. Sonko. He is a young man. I am told the County went on benchmarking. At least, if he wants the County to remember him for anything, let him fix Nairobi.

I would like to encourage him to go beyond the theatrics. You can do theatrics and also be a performer. He should learn from me. Can he please do his theatrics but also perform so that he has a legacy when he leaves the county. We should not only remember Sonko for all the

wrong reasons. As years go by, we will not remember that Sonko used to give handouts. We will also not remember that he used to call out people or shame them. But we will remember him if he transforms Nairobi. We will remember if he does owning right or if he just names streets properly.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Millie, I want to believe that you are only citing Nairobi as an example. Do not get into personalities. I did not know you to be a theatrician. You just said you are a theatrician.

Hon. (Ms.) Odhiambo- Mabona (Suba North, ODM): Yes. Is that not correct? You know one of the things about me is that I am also very honest. I do not pretend. I am not speaking negatively about Sonko but I am encouraging him as my brother. I am encouraging him as a person who is a performer and who is also visionary. I am speaking about Nairobi because of the timeframe. If I had time I would go to Homa Bay as well because even my home town of Homa Bay is not doing well. I would encourage the Governor of Homa Bay, in the same vein, to be visionary and ensure that we get things right. Sometimes it does not take much. I want to congratulate, Hon. Joho. The other time I was in Mombasa and I saw what they were doing there is as simple as just doing pavements right and painting. Unfortunately, he was taken to court on the same issue. I hope he keeps focus.

I went to Kakamega, I saw the same focus. I guess I am focusing more on Nairobi because I stay here most of the time. Therefore, Nairobi is more evident. I was driving along the suburbs around Parliament, Riverside to be precise. I saw a small kiosk coming up. If nobody gets it down the next day they will be two and the next day they will be four. Before you know it there is a slum. I know we are facing challenges and we must deal with the people who are struggling to live and do their small businesses, but we can do it in an orderly manner. We can build for them small, decent beautiful structures even in those suburbs, so that we do not have very strange looking things in our neighborhoods. If we want let us visit places like Botswana, Namibia, Rwanda and South Africa. I do not want us to go far.

I am using the example of Rwanda because it is the country that should offer us the greatest challenge. They had years of war. They lost many people but they have reconstructed their country. We have had faith in young people. We are electing young people now. If the older people cannot make a difference, why can our young people, especially the governors not do that? When the Governor for Machakos was elected, he seemed to have had that vision. I do not know what happened in between. I want to encourage him as well to maintain that focus that he had at the beginning so that we can transform our country.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Yes Hon. Nyikal Wambora.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I must start by commending the Committee. This is an extremely important law and they worked well on it. May I also thank the Parliamentary Service Commission for giving us these iPads. At least, now we have a system where you get the information and you can follow what is going on without any paper.

This committee worked diligently. I have seen many reports of mediation, but this has been done professionally. I really must congratulate that Committee. Just to give a few examples, when they were dealing with the issue of titles, they were extremely professional.

Those are the issues we should look at. If you look at Clause 5 when they were talking about the membership of the consultative forum, you will find that they gave reasons about the decision that was made when they were rejecting one part and the other. If you look at Clause 11, you will realise that the qualifications of the Director General and the terminology... I have no option but to commend them for a good work.

It looks apparent that in the selection of this Committee, two important factors were actually looked into. One was the experience of the legislators that were there, and two the input of professionals. These are things we must adhere to. We must adhere to professionalism. There are professionals. They are in Parliament and some come from the Executive when we are doing things like this. They come from parliamentary staff, and we must listen to them because that is where matters lie. We also have Members of Parliament who are experienced. If we do that and avoid issues of ego and the war between the two Houses we will do very well. In that situation, you are dealing with reality.

Experienced legislators drive you into reality of the law. The professionals lead you into the reality of life. Let me say something. Professionals do not generate what is there; they just observe and adhere to the laws of nature. It is not them; they just invent. Therefore, when we start to defy professionals, we are actually defying nature and it is to our peril. So, I appreciate that was done.

We need to adhere to the law and that is the most important thing to do. In the area of physical planning, we have had a big problem. People have lost expensive property. If you look at it carefully, you will find that there must have been approvals according to some plans. But it turns out later that it should not have been. You do not hear people who approved these things suffering anything while the owners are losing enormous amounts. Some even go ahead and commit suicide. We must adhere to the law. As citizens, we must have a culture of adhering to the law. Enforcement officers have no option but to adhere to the law as it is passed by Parliament. They have done a good job. We have a good law but, as a country, we must adhere to it. Enforcement officers must do so too.

Nairobi has many problems. As the Hon. Member for Suba North was saying, even the naming of streets is a problem. Do you know what difference it would make if all the streets were clearly named? I do not know how much money it would cost and how much time we would spend so that you would know exactly where you are. We have google maps, but it cannot help you if the streets are not named. This is a simple matter that we need to do. Look at the matatu stage. We do not have matatu stages. We just have places where matatus stop. I do not know how they determine fares if there are no defined stages. We also do not have bus parks. Look at the railway go-down where we have the Easy Coach and the Guardian. It is a mess. All that is needed is for it to be paved and shades and bays to be put up, so that it is known at this bay the bus will be leaving at this time. We need this law. Once again, let me appreciate the Committee for the good work done.

Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): Let us now hear the Member for Butula.

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to comment on the Mediation Report on the Physical Planning law. I will start by congratulating the team that went in for mediation. I am sure, if the mediation did

not do a good work, we would have had a law that would not be acceptable by many people. Physical planning is a very important exercise, if we have to manage our small towns properly.

Hon. Temporary Deputy Speaker, due to lack of physical planning, you will find the upcoming small towns in the peri-urban or rural areas are built in a very haphazard way with no plan. Anybody who has a plot would develop it without caring about the neighbour. So, this good law that we are legislating should be effective in ensuring that any construction or development that is to be carried out in any town is properly planned. Physical planners should be increased in number so that citizens do not run up and down to identify who can carry out physical planning. It is important that the department increases the number of personnel to help citizens in the rural and peri-urban areas. I support this mediation agreement and hope that in future, we will have better laws brought to this House.

I thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kioni, you are next, but maybe I should give Hon. Kiai a chance as you finish your consultations. Let us have Hon. Kiai. The Hon. Leader of the Majority Party, I have not yet called you.

Hon. Anthony Kiai (Mukurweini, JP): Thank you, Hon. Temporary Deputy Speaker.

First, I commend the team that came up with this piece of legislation. I also commend the two teams from both Houses for having put their sibling rivalry apart for the common good of the country. This is a timely piece of legislation. Physical Planning entails planning how to utilise land especially in urban areas to ensure that services rendered to the people who live there are also maximised.

Secondly, we are talking about the beauty of an urban setting and land use so that we do not have this haphazard use of land. With the rural urban migration being on the increase, we have exerted a lot of pressure on the urban settings. Unless we have laws in place to ensure that the development in those urban settings is done according to physical plans, we are likely to have experience, especially in many urban centres such as Nairobi... These are the proliferation of slums and emergence of residential areas that are not fit for habitation. We also have wanton destruction of properties that had not been approved or had been approved using shortcuts.

Hon. Temporary Deputy Speaker, what we are saying is that even after we have put the laws in place, we also need to cultivate a culture of adhering and observing the current laws. The total disregard of laws in our country is another issue that needs to be addressed. Laws relating to physical planning have been disregarded for long. So, I believe that with the new legislation, we will have beautiful urban settings.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): It is your chance Hon. Kioni.

Hon. Jeremiah Kioni (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Speaker.

First, in supporting this, I thank the team that put their heads together. We have a report that will help us look at the end of the first phase of implementing the Constitution, which was the enactment of the statutes as required by the Constitution.

Secondly, this is one of the most important statutes that we needed to get out of our way and allow those in this profession to use them.

Thirdly, a well-planned country will enable us fall outside the brackets of banana Republics. I was in India the other day and I hired a taxi driver. When I told him that I come

from Kenya which is in Africa, he said that our country is very poor. I told him we are not poor because we do not have the kind of wires that were hanging all over. In India you can easily be hanged by the electric wires. They are all over. I told him that we do not have such things and that we are a well-planned country. Therefore, physical Planning is a very important thing. It goes hand in hand with urban planning.

If you went to Kiambu today, what we used to consider as agricultural land is all gone. It is now residential land. You ask and you are almost told that the approvals have not been given in the manner that you thought they should have been given. We have lost the coffee plantations and we have people who own those coffee plantations because they think they paid for them. However, it is important for us to say that though they owned them, they were holding those pieces of land and coffee plantations on our behalf. This is coffee that we used to export and it used to earn us foreign exchange. Now it is all gone and covered with concrete. Sooner than later, we will be wondering what is this we can sell. What is it that can sustain our economy? We have economists who are better than me who can answer those questions.

Hon. Temporary Deputy Speaker, this will help us know that we have sold an area for agriculture, another area for industrial use and another one for a different purpose. It is incumbent upon us and even those at the county level to adhere to the requirements and provisions of this statute. In so doing, we end up with a better planned country and counties where people will be happy to go sightseeing. Where we can have better returns on the kind of investments we have that will be accessible. This is because we have the services that are required and that are easy to give. When we decide to improve on infrastructure such as roads, we also know what is beneath it because we have things done in a planned manner.

With those many remarks I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. Savula.

Hon. Ayub Angatia (Lugari, ANC): Thank you, Hon. Temporary Deputy Speaker for this opportunity.

First of all, I also join my colleagues in thanking the team that worked on this mediated version of the Physical Planning Bill. This will go a long way in consolidating the services done by county governments and national Government. This is because the surveying work is a devolved function and will help coordinate the work of physical planning and surveying. Why I am touching on this mediated version of a Bill is because it affects my constituency. There is a place called “Kaburengu” in Lugari Constituency.

The land used to belong to the defunct Webuye Municipal Council. It was transferred to Bungoma County Government and yet the physical location of the land is in Kakamega County. So, this mediated version of the Physical Planning Bill will help sort out such messes.

I will also give an example where the immediate former Governor of Kajiado County issued an order that land should not be subdivided unless it is less than 50 acres. Without proper laws in place the issue of land is very emotive. Here we will address issues facing Kajiado so that we can operate within a legal framework. It should not be just about a governor issuing an order not to subdivide land belonging to an agricultural area without a Bill in place.

Therefore, the Physical Planning Bill will zone areas which should be sub-divided into halves or quarters or which should be left for agricultural production. This Bill will also enhance the issue of creating industrial parks. Like in the neighbouring Bungoma County, the Governor has indicated that he will establish an industrial park. But the set-up of Webuye Town where

they will establish the industrial park is under Nzoia Sugar Company sugar belt. These issues will be resolved in a structured way when this Bill takes effect.

Lastly, we have had wars with the Senate on Bills arising from this House through our able Leader of the Majority Party which go straight to the President for assent. I would like to advice the Senate to concentrate on matters related to devolved function. There is nowhere Senators come in on matters of national function. We have given them an opportunity like the mediation of the Physical Planning Bill because it affects both the national Government and county governments.

On matters concerning national security and the Ministry of Interior and Coordination of National Government why should CS Matiang'i report to the Senate? What business is he doing with the Senate? Why should CSs of the national Government in-charge of functions not affecting the county governments be busy in meetings with the Senators? They should report direct to the National Assembly alone. Let the Senators deal with Governors and County Executive Committees (CECs). If Senators do not have a job, let them go home. This is because county governors are oversighted by county assemblies and the national Government is oversighted by the National Assembly. So, we do not want small conflicts but we have given them opportunity through mediation of the Physical Planning Bill which is important because it covers a devolved section of surveying and physical planning.

Thank you, Hon. Temporary Deputy Speaker for the opportunity.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Waihenya.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to support the Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bill No.34 of 2017).The aspect of planning is very crucial in every urban center and more so in a City like Nairobi. The impact of not planning the city of Nairobi has been the source of all the problems we have been coming across. I want to talk about the impact of not planning the city in as far as crime is concerned. You know before the new Constitution 2010 all education matters were handled by City Hall.

Between 1990 and 2010 looking at the statistics the City Hall in Nairobi did not build any primary or secondary school. So over, time the young people who left primary schools did not have secondary schools to transit to. So, we have a city where the bigger population of children who go up to class eight only and that is all. So, what does such a population result to in terms of development? They can only go out there to do manual jobs, touting and hawking. So, over time we have produced a population that is not knowledgeable; one that is not adequately facilitated in terms of education. This has resulted in a poverty cycle where parents cannot afford to build houses but can only manage to put up small slums and shanties and this is what has resulted to slums like Kibera, Gitare Marigu, Mukuru kwa Reuben *et cetera*.

With time public land that had been set aside for the development for public amenities like secondary schools, hospitals and polytechnics has been misappropriated and grabbed. Therefore, my appeal to our governor is that during his time as he promised he should ensure he revokes the allocation of public utilities to individuals which has been happening from 1990s up to date. Therefore, we can build schools, colleges for Technical and Vocational Education, Training (TVETs) and hospitals.

I have in mind areas in my constituency like Marurui, Githurai, Kamae, Kahawa and Congo where I have been struggling while looking for spaces to build secondary schools. I have

resulted to speaking to the Board of Management (BOM) of primary schools to allocate me small parcels of land next to the primary schools so we can develop secondary school facilities. As you know land is very expensive in Nairobi.

Therefore, I want to hail this Bill and all the people who participated in it. I want to remind our governor that if he will not stamp his authority and reclaim grab land, the people of Nairobi will not remember his legacy. He has an opportunity to work for the people of Nairobi, give us land to develop the city and reclaim all the parcels which have been grabbed.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I was going to refocus you to stay relevant to what is before us but you have made your point. I see no further request for contribution. Therefore, I call upon the Mover to reply.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, I will defer putting of the Question until such other time as the House Business Committee (HBC) will bring this business up.

Let us move on to the next Order.

(Putting of the Question deferred)

BILL

Second Reading

THE NUCLEAR REGULATORY BILL

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the Nuclear Regulatory Bill of 2019 be now read a Second time.

On the onset, Kenya is a Member State of the International Atomic Energy Agency (IAEA) since 1965, and is a signatory to various international legal instruments relating to the nuclear energy, the non-proliferation and nuclear security, and the use of radiology and nuclear material. Again, this contributes significantly to the socio-economic development of Kenya and the world over. However, without legislation for the adequate control of such materials, they will present a fertile ground for accidents and terrorism in the current world dispensation.

We remember the effect of the 2011 Fukushima accident. We also remember the 1986 Chernobyl nuclear disaster in India which is still being experience even today. So, as a country, we are implementing a nuclear energy programme for electricity generation in addition to looking at the existing radiological and nuclear related activities within our country. The current Radiation Protection Act Cap 243 establishes an agency under the Ministry of Health. The Nuclear Security and Border Surveillance are also part of the board's mandate, and the current Act is inadequate in terms of regulation and making sure that we are up to the modern applications of nuclear security and the terrorism challenges that it has.

What is the purpose or the object of this Bill? It is to repeal the Radiation Protection Act and provide for more comprehensive regulatory framework for radiation and nuclear security and

safeguards to control radiation resources, nuclear materials and all the associated waste that come with it. This Bill will protect the people of Kenya, their property and the environment from any harmful exposure of radiation. So, the Government and the stakeholders felt that there is need to enact it.

Parliament has that constitutional role to enact an enabling legislation to regulate nuclear energy for electricity generation and to provide for nuclear safety and all connected purposes in accordance with both national and international obligations.

So, nuclear safety, nuclear security and safeguards require a regulatory authority which is independent of the user ministries which are going to promote and support the other operational agencies. In a nutshell, this Bill proposes to regulate the exposure to non-ionising radiation in the telecommunications sector and other sectors which are not currently regulated. Somebody cannot come and put a telecommunication mast next to your house, a school or a hospital where we know there will be radiation effect. So, this Bill is not about nuclear energy. It is very important. It will regulate how telecommunication companies will put anything that will emit radiation and how it will be regulated. Regulations are in place. This Bill has a number of issues concerning the people of Kenya in terms of how to deal with their safety and security in terms of emission of radiation.

Part I of the Bill deals with the preliminary matters just like any other Bill. So, I will not go into it. The purpose of the Bill shall be to create and regulate safe, secure and peaceful development and production of nuclear energy for electricity, its usage, storage, disposal, transportation and handling of nuclear and radioactive materials, and all other activities that generate anything to do with ionising radiation.

Part II of the Bill deals with what we call the Kenya Nuclear Regulatory Commission. So, there will be a commission that will regulate the nuclear sector the same way we have the Communications Authority and the Electricity Regulatory Agency. So, there will be the Kenya Nuclear Regulatory Commission which will be an independent and autonomous body that will be established in a neutral administrative government ministry from the user ministries. So, this ministry will not be in the Ministries of Energy or Health. It must be in an independent ministry so that its independency and autonomy is respected.

Part III of the Bill deals with the financial provisions; how this Commission will get its funds, how they will present their estimates, accounts and auditing of their books by the Commission and, of course, the Auditor-General.

Part IV of the Bill specifies the manner in which the Commission shall exercise regulatory control including authorisation and inspection.

Part V of the Bill provides the framework for the radiation protection and related medical unintended radiology exposure with the trans-boundary effects among other issues. So, the regulatory framework on how we deal with exposure between one country to the other is also provided here.

Part VI deals with the safety of radiation sources and facilities. This commission needs to establish a system of control over radiation sources in order to ensure that they are safely managed and securely protected during and at the end of their useful lives and proscribe a certain categorisation of sources based on the potential injury and risk to the people and the environment.

That is why if, for example, you go to northern Kenya and many parts of our country, you will find that in the 60s and 70s, there were companies that went to drill oil and where they could not find oil and gas, they ended up working with other companies. So, they ended up dumping toxic waste in the fur-flung pastoralist areas. You can mention BB Shell during that time and all those other companies. That is why today you see in North Horr, Marsabit and Wajir thousands of animals die after drinking water from boreholes and water pans. That is because of the nuclear waste which was dumped there. You know the only place where people dump waste is in Africa. Big illegal fishing ships come to our coast in countries like Somalia where there is no strong government. They bring waste and dump it in the sea and then go back to the high seas and collect fish. This Bill is very important when we come to the Committee of the whole House.

Hon. Temporary Deputy Speaker, I will leave the Chair of the Departmental Committee on Energy to tell us more about public participation and the report they have tabled. The Committee has to make sure that this Bill is improved and it passes the third stage.

Hon. Temporary Deputy Speaker, before I finish, a journalist called me today and told me that there is a group of Members of Parliament who are called “Young Parliamentarians”. He said that they are complaining because they are not given an opportunity to debate in the House. I asked him where those Members were. We are moving a very important Bill. Looking at my age and experience, I am not one of the young parliamentarians. If you are not here now and you were not here before when we were dealing with the mediated version of the Physical Planning Bill, and you were not here when we were in the Committee of Supply, where are you? Are you in your county assemblies, Java House behind here, the Gallery or in the Senate?

David ole Sankok (Nominated, JP): Koinange Street!

Hon. Aden Duale (Garissa Township, JP): Koinange Street only works at night and businesses are run here during the day. It looks like Hon. Sankok knows the timings and how it operates. Hon. Millie Odhiambo who is one of our ranking Members is here in the House. She is always here and I am here. Hon. Kimunya, Hon. Sankok, Hon. (Dr.) Nyikal, our panel’s Chair, Member for Makueni, Member for Kibwezi, Hon. Angwenyi, Hon. Gikaria, Hon. Fatuma and many other Members are here. Who are these young parliamentarians who go to the media to say that they do not talk because they do not get a chance? I think they are talking about another National Assembly, but not this one. Hon. Temporary Deputy Speaker, you will agree with me.

This is a very important Bill. It provides how to deal with nuclear security. You have seen that nuclear security is becoming international these days. You have seen that young man of North Korea. The whole world respects him. President Trump travels all the way to Singapore to see him because he has nuclear weapons. He sometimes says that he will meet President Trump under his terms. Terrorists use nuclear weapons. The face of terrorism has now gone to another level. That is why Iran has a problem in that region. We are always ahead of our neighbours. Let us have a Nuclear Regulatory Framework so that we know when Safaricom wants to put a mast next to my house, there is a law that I can use to say they cannot do that.

As I finish, I really want to thank Hon. Osoro for what he did yesterday. I do not want to go into the details, but he exercised his legislative powers to make laws, but not to review salaries. I beg to move and ask Hon. Gikaria, the Member for Nakuru Town East, and a very seasoned Chair, to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Before Hon. Gikaria takes the microphone, the Leader of the Majority Party we want to know these Members who feel that

they are not allowed to debate. In as far as I am concerned and the entire Chairperson's Panel, we have a system of facilitating the debate of every Member. The Leader of the Majority Party and the Leader of the Minority Party have priority over all Members. We also have a number of balancing that we do to make sure that gender, persons with disabilities and ranking are considered at the discretion of the Hon. Speaker.

According to the law, the Leader of the Majority Party and the Leader of the Minority Party have priority over other Members. If you are not here, then there is no way we can let you speak. That cannot be a genuine concern. No one is locked out from contributing.

Can we have the Leader of the Majority Party?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, the media can do better than that. It should go to the HANSARD and get the names of those Members who do not speak in the House. That should be a headline which will make them come and speak in the House. They should not send me a journalist to make a comment. When he asked me, I told him to use the HANSARD to see the Members who contribute in the House. Every Member speaks in the House. They can be having a language problem. The problem with the Kenyan Parliament is that you can only speak in English and Kiswahili. You cannot speak in your mother tongue. If you cannot read, you have researchers. Those who cannot speak those two languages have an opportunity to speak over the weekend.

(Hon. Silvanus Onyiego spoke off-record)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Osoro, we still have not opened up the debate. I want to give the Chair of the Departmental Committee on Energy an opportunity to second. Hon. Osoro, I do not think that the Leader of the Majority Party has said anything about you. He did not say anything wrong about you.

Hon. Silvanus Onyiego (South Mugirango, KNC): I want to clarify, but I do not know whether I am on a point of order. I stand guided. The Leader of the Majority Party was right when he said that every Member speaks in the House and the media is reporting wrongly. The new Hon. Members are complaining that they get a raw deal in communication on very sensitive Bills or matters in the House. It is a perception that is around. I am among the young Members of Parliament and I hear them speak. I have not complained because I speak in the House. The young Members are not given much opportunity to discuss sensitive matters, especially when the Hon. Speaker is in the Chair. When any other Member of the Chairperson's Panel is in the Chair, they are given an opportunity to contribute. The Hon. Speaker is a bit selective in sensitive matters.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us hear the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, you have heard what Hon. Osoro who is representing the young Members of Parliament has said. You cannot indict the Speaker of the National Assembly. This is the problem. When you are a new Member of Parliament, you learn the ropes and stay in the House. You cannot indict the Hon. Speaker. You are saying that the Hon. Speaker denies them an opportunity to contribute. I want you to ask him to tell us these sensitive matters. We know that every legislation discussed here is important. We are not the National Intelligence Service (NIS) or the National Security Council

(NSC). We do not discuss sensitive issues, but legislations like the Nuclear Regulatory Bill and Physical Planning Bill. Can you ask him what is sensitive, and withdraw for imputing improper motives on our Hon. Speaker? If he does not do that, I will name him next Tuesday and he knows the consequences.

(Loud consultations)

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order Members! Let us hear the Deputy Leader of the Majority Party.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Hon. Temporary Deputy Speaker, as the Leader of the Majority Party has just said, Hon. Osoro needs to withdraw and apologise.

Secondly, I want to ask him to round-up all those Members who are saying that they are denied a chance to contribute in this House, so that they can be taken for an induction course to be told how to be allowed to speak. For you to be allowed to speak, you must show some commitment. Some of these young Members are destroying the image of this Parliament. When he condemns the Hon. Speaker, he condemns you too and the entire panel. We cannot allow that. If it were not that he is my grandson, I would have asked that he be kicked out of the House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, I do not want to open this up. I have already ruled on it clearly. I do not want to open this up because the issue is very open and clear.

(Hon. David ole Sankok spoke off record)

Order, Hon. Sankok! You may be a new Member, but you speak every other day. Hon. Osoro, we will take the trajectory of what the Deputy Leader of the Majority Party has said. We do not know who the Members are and we may need an orientation session. Hon. Osoro, if you said that the Hon. Speaker is selective, you need to withdraw that because we are guided by certain principles, the Standing Orders and the Constitution. We do not have any selectiveness. Any business that comes to the Floor of the House is important. None is more sensitive or less sensitive. It is all important business that concerns Kenyans. So, Hon. Osoro, if you said that the Speaker is selective, you are totally out of order.

Hon. Silvanus Onyiego (South Mugirango, KNC): Hon. Temporary Deputy Speaker, the Hon. Member, who is my grandfather, got the message wrong. I said that the perception among young people is that the Speaker usually has a selected list of Members who speak. I am speaking on the general perception. I have not said that I am speaking on my own behalf or on behalf of anyone. But having said that let me make a clarification because you have asked me to. I understand the Speaker's position with the fact that he knows each Member here and their debating skills. I forgive him from my view that since he does not really know how some of us can speak on some matters he opts to choose some

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You are totally out of order, Hon. Osoro! You are missing the point.

(Hon. David ole Sankok stood in his place)

Order, Hon. Sankok! Take your seat. A Member is not given a chance to speak on the basis of how he or she speaks or how he or she does not. There is a way that is followed in allowing Members to speak. The only thing I can do is to send you, Hon. Osoro and your team, back for orientation. We will raise this matter with the Clerk if the new Members have a problem understanding how the House is run.

(Loud consultations)

I am referring to the Members who have been referred to as young Members.

Let us have Hon. Gikaria to second the Bill.

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Speaker. I agree with. You have given guidance on how a Member is given an opportunity to speak. One must, first, insert his card in the gadget in front of his seat and follow the process. Hon. Osoro should be patient and he will reach there. We have seasoned speakers like Hon. Millie Odhiambo, who have been here for quite a while and have gained experience. Let the Member be patient and his time will come in another few years to come. I am not saying that he should not do that, but patience pays.

Hon. Temporary Deputy Speaker, I take this opportunity to register our gratitude to the offices of the Speaker and that of the Clerk for the support accorded to the Committee while considering the Bill, and specifically for granting us additional days to consider and undertake fairly exhaustive public hearings on this important Bill.

I wish to express my appreciation to the Members of the Committee who sat for long hours to listen to our beloved citizens and all stakeholders who made useful contributions towards the preparation and production of this Report. I also take this opportunity to recognise the importance of the Leader of the Majority Party. He has moved the Bill though he was not part and parcel of our engagement. But his rich knowledge and research based on his experience in Parliament, he has moved this important Bill in a very exhaustive manner. I thank him for tirelessly taking his time to read through and prepare himself for all the business that comes before the House. I appreciate the fact that the Leader of the Majority Party has done us proud. We admire his capabilities and appreciate the person who appointed him to that position because of what he has always done.

The Nuclear Regulatory Bill (National Assembly Bill No.27 of 2018) seeks to repeal the Radiation Protection Act, Cap.243 and provide a comprehensive regulatory framework for radiation and nuclear safety, nuclear security and safeguards, control radiation sources and nuclear materials and associated waste. The Bill also aims to protect people, property and the environment from harmful effects of exposure to radiation and proliferation of nuclear materials in accordance with the national and international obligations.

Kenya is a signatory to the International Atomic Agency. It has also subscribed. The Bill will go a long way in enabling Kenya to ratify important treaties we need to comply with so that the country can explore the use of other sources of energy.

Why nuclear energy? First, it is to enact a regulatory law, and it is not the actual production of nuclear energy. So, we have to prepare the road for us to have nuclear power.

According to experts, we could produce the first 1,000 of nuclear power in 2030. That is the time we intend to have our first nuclear plant to produce power.

When we went round the country, people were really concerned and when they heard of nuclear, the first thing they thought about is the negative effects of nuclear power; the destructive or dangerous use. This Bill specifically talks about the peaceful use of nuclear energy on regulation. We should get prepared, as a country, to handle that. It is not easy to produce nuclear power. Of course, the country has other sources of energy we can exploit like geothermal, solar, and wind. At the same time, we need a base load. If the country has to become an industrialised nation, we have to have a base load of energy that is consistent and available.

Geothermal energy might be depleted after some years while wind is sometimes available and sometimes not. They depend on the weather or climate in the country. I appreciate that nuclear energy will be an alternative. Of course, it has its negative effects in terms of the example Hon. Duale has given about a young man in North Korea. The purpose of the Bill is to provide for peaceful use of nuclear energy. I would like to inform the House that to use nuclear energy negatively, you need to have almost 80 per cent concentration. What we need to be able to produce energy is only 4 per cent of the nuclear component. That is very critical.

In processing this Bill, when the Clerk of the National Assembly placed an advert in the print media on the 8th February 2019 seeking comments from the public pursuant to Article 118 of the Constitution, we were lucky that the Bill got quite a number of memoranda from East African Association of Radiation Protection, Ratech East African Limited, Kenya Association of Radiologists, an individual Kenyan who sent the most of the aspects and talked about the Nuclear Bill for quite a while by the name Vincent K. Mutai and the Kenya Radiation and Protection Board.

As a Committee, we were able to visit 12 counties, namely Kajiado, Nakuru, Kericho, Kisumu, Busia, Uasin Gishu, Nairobi, Kwale, Kilifi, Mombasa, Kiambu and Kitui and we were able to have another stakeholders' meeting for experts on this matter in our Committee Room.

I do not want to dwell too much on the legal aspect and the parts as the Leader of the Majority Party has already moved, but the most important aspect of this Bill is that the Committee has agreed, through the public participation, to bring some amendments to correct some of the anomalies that are within it, part of which is like the huge number of the so-called members of the Authority.

Under *Mwongozo*, we have a directive and it is not a law per se, that it is a Government policy not to have many people. In that Authority, they were proposing a record 19 members. We needed to look at that. The word "commission" is a little bit confusing going by what is in our current Constitution and we will be bringing some amendments to be able to correct it to something else like an authority.

We know that the most important part in this Bill is Part IV which deals with exercise regulatory control that includes notification, authorisation, inspection and enforcement. This is very important because we have to follow due process. If you want to deal in any aspect in a big or small way, then notification must be given, authorisation sought, inspection done and most importantly, enforcement. We think this is not being followed.

Part VII provides for various authorisations that one needs to acquire before any undertaking. These include the site authorisation, construction, operation and decommissioning. We have had a case where, for example, when you commission a nuclear service, by the time

you want to leave, then you just leave that place in a very dangerous situation in terms of human health, environmental health and very many other things. So, it is important for us to ensure that when you are leaving that place, you leave it as good as you had found it without any toxic waste to the environment. Of course, the design stage of the facility is very important. I do not want to belabour on it.

Part XI which is most important, provides for illicit trafficking of nuclear materials. If this aspect is not handled carefully by the people who have been authorised to engage in this business, then it becomes very dangerous. Illicit trafficking of nuclear materials can cause death. In fact, one of the penalties that people were proposing is that any person who is handling nuclear material must be responsible in the way that they handle it. An example is a doctor who is handling you in a hospital. If he or she leaves you for a long time on an x-ray, you are going to contract many radiation effects that you might end up losing your life. The penalty for that was only one year in jail or a fine of Kshs1 million. It was proposed by the public that for that negligence, you must pay heavily and not just a penalty of Kshs1 million. Of course, just because of your mishandling of nuclear material, you end causing many deaths. Again, the Committee will bring an amendment when the time comes.

During the public participation, the Committee observed that the first reaction from the public when they hear about nuclear is nuclear bomb and nothing else. They have good history about the leakages that happened in Japan and even destruction in terms of both the environment and human health that occurred in those respective places and other places in America and the like. We have already advised the Nuclear Agency as it is called under the new Energy Act, that they need to go back and demystify all those issues. The Nuclear Agency of the country which is already in existence has enough money to go and do some public awareness on the positive and negative effects of nuclear energy.

One of the concerns that we were confronted with is whether this Bill concerns counties. At first, we thought this does not include counties but we have realised that within the provisions of the Bill, there are very many aspects that touch on county matters. Therefore, it will be sent to the Senate for their contribution.

Second is the constant engagement to demystify that aspect of the public on both the application of nuclear energy mainly on industrial and peaceful use and forward planning relating to regulation of nuclear power plants and their operations.

It is very expensive to have one nuclear plant. We will be spending almost Kshs500 billion to just have one nuclear plant in place. The question is: Are we prepared to spend that kind of money? We have partners who are willing to come in, more so the Koreans, Russians and Americans. They want to come in and assist us. Much as it is expensive, it is very reliable. It will be there for a record of 80 to 100 years. After every two years, we will be shutting down the plant and doing some service. The initial cost is very high but it is very sustainable over the years.

The third thing that we interrogated during our public participation is about the various modes of communication that need to be used to widen the scope of awareness in legislative matters. Our Parliament published this Bill online on our website but very few people visit our website to read. We were forced to produce hard copies to give to the public every place we visited. As Parliament, we need to start considering other models of communication where we can communicate about a Bill that is on our website. Parliament needs to come up with

alternative channels of communication like the use of vernacular FM radio stations and translations in fostering public participation so that they are not excluded from active engagement.

When we went to Kilifi, a very young girl came up and looked at the Bill on the face value. She is the one who came up with the conversation on one year penalty. She asked why we are charging one year where somebody could be causing 100 deaths. She had just picked the Bill and started reading. I think it is important for us to use other models of communication. In most of the places that we visited, people asked why not exhaust geothermal or other sources of energy. I have said and I will repeat it that geothermal will be depleted after some time. Solar and wind are not always available. Hydro is the worst because of its cost. So, this is a cheaper source of energy that we need to look into.

The other thing that we observed is the huge composition of the Authority of 19 members. We are looking at it to see how best we can reduce the number. Most members of the public were complaining about the qualifications of the Director General of the Authority. They say that it is beyond the reach of most Kenyans. This can only go to a bracket of certain qualified persons. They were complaining more about the ten years' requirement and they were proposing that we get to five years, so that we can widen the net of people who can qualify to be the Director General.

There was also the issue of the National Environment Management Authority (NEMA) and how they will be giving their reports. People have complained about NEMA in the past. They claim that NEMA just gives licences even when it is very harmful to the environment and the people living in those areas. They said that we need to look at NEMA and the way they write their reports. First of all, they are supposed to conduct public participation in every area where they think there will be an effect, but NEMA ignores and goes ahead with its plan even in places where the public has raised queries. A point in case is when we visited Mwingi the other day. The public was very categorical that they do not want the mining of coal and they gave their reservations. However, NEMA went ahead and gave a positive report. A company was engaged and said it is only that there were demonstrations that the extraction of coal in Mwingi never took off. You could tell the love the people have for their land in Mwingi. They are proud of the land that give them sweet water melons and not about the extraction of coal.

We also talked about compensation. If we have to do a nuclear plant, we have to go to an area that has a lot of water because we need a lot of water to cool the system and not because the water will be going through the process. It is meant to cool the system. Once it cools, it produces steam and that steam is used to produce energy. That is a very critical component.

The people of Mwingi said that if we were going to their area to use their land, they would expect compensation towards their settlement, displacement and their lives in case of harmful exposure.

The Bill also led us to indicate about quotas and shares of proceeds from nuclear power. As you produce, just like you produce geothermal particularly in Nakuru and Baringo counties of Rift Valley and other places, people get some share of the revenue. That is what most of the people were requesting to have.

The other bit is about the independent body to check the safety and security of nuclear plants and materials. People are scared. For the first time, they made it very categorical that they would not like these regulatory body to be under a ministry that supervises them. For example,

under the Energy Act, the Energy Regulatory Commission (ERC) is under the Ministry of Energy yet ERC is supposed to be independent. Since they are domiciled in the Ministry of Energy, it means they can only take instructions from the Cabinet Secretary in the Ministry of Energy.

As a Committee, we have been thinking where the Bill will be domiciled. As it were, the Bill will be domiciled under the Ministry of Interior and Coordination of National Government. That was the thinking of the Committee. At the same time, because it has an aspect of safety and health, the Committee felt that it should be domiciled under the Ministry of Health where the Radiation Protection Board is domiciled. We shall bring this as an amendment. We might eventually have this Authority under the presidency, so that they do not get any interference from the respective ministries where it is domiciled. Once it is under the presidency, it could have that autonomy.

A lot has been done and said about this Bill. As a Committee, after going round, we realised that we are supposed to comply for us to be party to other international treaties this country is supposed to be signing. We are grateful that we have reached this point where we have the Bill being discussed and debated in Parliament. We will bring our amendments within the required period of time. It is the hope of Kenyans that once the Nuclear Regulatory Bill is passed, we should move with speed to have the actualisation of generating power from nuclear sources. People are concerned with the high cost of electricity. We are hoping that this is the only way that we can get cheaper electricity. My Committee had opportunity on different occasions to visit South Korea, Russia and the US on the same matter. In the three countries that my Committee visited, we were surprised at the cost of electricity. This will go a long way to improve and reduce the cost of power in this country.

With those few remarks, I beg to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Thank you, Hon. Gikaria, the Chairperson to the Departmental Committee on Energy.

(Question proposed)

The first Member to contribute will be the Member for Suba North, Hon. Millie Odhiambo.

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

From the onset, I support and encourage our young Members who are here that even as you are given the opportunity, it is not because the Chair is biased, but because of a number of reasons which are very parliamentary. One of which is that I am in the House and you cannot give somebody an opportunity unless they are in the House. The other being that I am a ranking Member. When the other speaker was speaking, she said that you must have strict adherence to the law, but also practice of other parliaments. I hope you can actually enable other Members of Parliament to travel to other countries especially the USA from which we have borrowed our system. If you sit in a parliamentary committee in the US, even if you watch on CNN, they will always give priority to a ranking Member. They will say that that is a ranking Member of the committee.

It is Parliamentary practice all over. Beyond that, let them also just attend especially these sessions where you do serious parliamentary business. The others are serious, but this is the serious legislative work when you are doing the Second Reading or when you are in the Committee of the whole House.

Having said that, I want to say that I am the Chairperson of the Parliamentarians for Global Action, a network of Parliamentarians globally that works on issues of rule of law, human rights, peace and security. We have been discussing these issues a lot. So, I am happy that this Bill has come. I know that when the Chairman of the Committee was seconding the Bill, he spoke to the fact that whenever we talk about nuclear, it has a negative connotation. That is because of the history of the wrong use of nuclear and nuclear weapons. For instance, we all remember the case of Hiroshima and Nagasaki, where many people were killed and maimed.

Several years later, you still see the effect on women and children. Many children are born deformed. That is why whenever you give people an opportunity, everybody thinks about the negative consequences. That is why the world came up with many international treaties. Many of the treaties came about around 1945 or post 1945, which was as a response to some of the things that the world had witnessed.

One of those treaties included the Treaty of Non-proliferation of Nuclear Weapons, and Kenya is a signatory to that treaty. The objective of that Treaty includes:

- (a) To prevent spread of nuclear weapons and weapons technology.
- (b) To promote cooperation in the peaceful use of nuclear energy.
- (c) To further the goal of achieving nuclear disarmament.

That Treaty has three pillars.

- (i) Non proliferation.
- (ii) Disarmament.
- (iii) The right to peacefully use nuclear technology.

Hon. Temporary Deputy Speaker, I have said that Kenya has ratified that Treaty. If you look at the content of this Bill - and because of the short duration, I may not go to all of them - you will see that Kenya as a non-nuclear producer has paid a lot more attention on the third pillar, which is the right to peacefully use of nuclear technology.

This Bill is on non-proliferation and disarmament. I wish we had also put much attention on that because we do not know what the future portends. I would like to encourage the Chairperson of the Committee that even as we are looking at that, he should put in a little bit more attention to issues on non-proliferation and disarmament.

Hon. Temporary Deputy Speaker, I also encourage the Committee that within this framework, they could also encourage the Bill on Biosafety, which we have already. Biosecurity could be brought to this House because the one that we are facing more serious concerns over is the issue of biological warfare.

Nuclear warfare may take longer because of what is involved in production and the amounts. However, the ones on biological warfare are very easy and you never know even where Ebola may have come from. So, we could also hasten the bringing of such Bills for protection. Having said that, I just want us to look at some of the provisions in terms of why I am saying we have paid a lot more attention to issues of security and safeguards, which is the third pillar of that Treaty.

If you look at Part VIII on safe guards, particularly Clause 83, it says:

“All the nuclear material in Kenya shall be used exclusively for peaceful purposes in accordance with this Act”.

This is very positive. Part V in summary provides the frame work for the radiation protection and related medical and intended radiological exposure with trans-boundary effects.

Hon. Temporary Deputy Speaker, that is very significant especially in a country like ours with porous borders and sometimes with the challenges we have with security that we put very clear frameworks for regulating especially those trans-boundary issues.

I am particularly happy with the provisions under Part IX that deal with emergency preparedness and responses in the event of radiological emergencies and nuclear accidents.

I am just imagining if Kenya had to face a Hiroshima type of situation. Several of us would be dead because of our lack of preparedness. That is why I am happy that this Bill provides for that. It also addresses the issue of illicit trafficking, certification and inspection which is important.

If you look at Clause 3, which deals with the objects and purposes of this Act, it talks about regulating the safe, secure and peaceful development, production, procession, storage, transport, transfer, disposal or handling of nuclear and radioactive materials, activities, facilities and other apparatus generating, ionising radiation and protect persons’ property and environment in relation to nuclear and radioactive material activities, facilities and other operators generating ionising radiation.

The Bill also ensures that even in the process of nuclear-related activities, we protect persons, but also the environment. I know that, as a country, we have even been having challenges of protecting our people from the most basic environmental challenges. Once in a while, some counties seek to close facilities they think are harmful to people. Can you imagine if you were talking about nuclear, and we do not have measures to deal with escapes to the environment or things that would be harmful to people? I am very happy that the Bill has put a lot of emphasis on people.

I can see my time is almost up. However, Clause 7(3) is on the values, which I am very happy with, and I request the Committee to look at Clause 7(3)(g). I know we are talking about values of protection of persons, properties, environment, national security, independence, responsibility, accountability, transparency, cooperation that need not be bound by strict rules of evidence.

I would like the Committee to look at that and perhaps give us direction on what it exactly means. If it does not serve the public, perhaps you may need to consider amending that sub-section. Unfortunately, my time is up.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. That is good debate I am sure the new Members can testify to the richness of debate in seniority. However, we do not lock them out. Allow me to give a new Member, the Member for Kinangop, the Floor.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to speak on the Nuclear Regulatory Bill. From the onset, I want to congratulate the Departmental Committee on Energy for a job well done. They are well prepared for what is going to be another first for this country where we will join the league of developed countries in terms of use of nuclear energy.

In the past, we had challenges where we introduce new firsts in the market without laws. This one has come in time. We are saying that by 2030, we will be producing nuclear energy. But most of the lay people, when they hear of nuclear, it sends some cold shivers down their spine because we always think about what happened in Hiroshima in Japan and the effects thereof.

But going forward, I want to congratulate the Committee for taking time to get the right laws and prepare beforehand so that we can add more power to our national grid because there is deficit. We have tried wind energy, hydro energy and geothermal energy, but still we have a deficit. I believe this will come in handy in addressing the issue of the shortage we are experiencing and importation of power. So, we will get to a place where we will also export power to our neighbouring countries.

On the issue of safety in case of terrorism, I believe it is well taken care of in this Bill. We cannot wish away the safety issue because we are living in the age of global terrorism. This law will ensure that we avoid this catastrophe in case of terrorist attacks.

Therefore, I join my brother, the Chair of the Departmental Committee of Energy, in saying that this is one of the Semi-Autonomous Government Agencies (SAGAs) which should be domicile either in the Ministry of Health or in the presidency because of security issue. There are issues of radiation and there is a Radiation Protection Board under the Ministry of Health. Therefore, I think it will be in the best interest of this country if this Authority is domiciled under the Ministry of Health to address issues of radiation.

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

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): It is evident that even the new Members represent their constituencies and make laws in the House. So, I must congratulate the Members who are present and those who wish to speak. They know the procedure. You must catch the Speaker's eye and be present in the House. Though we allow those who speak out there in *barazas*, that is not legislation.

Let us now hear the Member for Mumias East, Hon. Washiali Jomo.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. From the onset, I support the Bill. But before I delve into the subject, I want to mention that I have been sharing with the Chair of the Departmental Committee on Energy that the procedure in this House is such that the Committee in charge of a particular sector helps us to digest any kind of Bill. In this case, this is a highly technical Bill which we can easily make a mistake by not addressing the issues as they are.

I have been talking to the Chair and I have been told that most of the Members have gone to Kisumu for the inauguration of the Kenya Pipeline Oil Jetty, which will allow oil to be collected in Kisumu to other neighbouring countries. That is why most of them are not here. But in future, it is important to have the relevant committee's entire Membership around, so that we can make the right decision.

I support the Bill because generally it is dealing with regulations. Many times, we have come up with projects without first putting regulations in place. I am happy that even with the imagination of us developing nuclear power, we are already starting with regulations, which is very good. I also want to add that our country is a member of the international community, and nuclear power is not isolated to a particular country. We have nuclear materials which keep moving around and, therefore, these regulations are very important.

I was looking at Part I of the Bill and in the preliminary matters, they have already indicated how they will regulate, secure peaceful development of nuclear products, production, possession, use, storage, disposal, transport, handling of nuclear and radioactive materials and other activities generating ionising radiation.

Going back to my background, I have been in the logistics business for quite a while and I had opportunity to clear goods at our borders, airports and other border points with an operational Customs office. I do not think the Ministry of Health has put enough facilities to test nuclear radioactive materials. Many times, we would find radioactive items in nature just passing through the border points without the knowledge of the Ministry of Health officers.

The other day when Ebola struck our neighbouring country, I was impressed by the Ministry of Health when they took their officers to all our border points. The other day when we were coming from Kisumu, we could not exit from the usual exit point because the Ministry of Health had set up facilities and directed us to a place where they were testing for Ebola. My temperature was checked because it is a major sign of Ebola.

Now that we are going to pass this Bill, and I am sure the Members will support it, I wish the Ministry of Health will set up facilities to check radioactive materials at all our border points so that Kenyans are safe from radioactive materials.

Part II has established the Kenya Nuclear Regulatory Commission.

They have made the Commission as independent and autonomous as possible, so that it can do its work without any problem. I like Part VI which talks about the safety of radiation sources and facilities. That is just an emphasis of what I was talking about in how we will protect this country.

I know I have a few minutes to go. In summary, I am just wondering why as a developing country, we are getting into business that advanced or developed countries are getting out. As we speak, countries like Austria, Belgium, Germany, Italy, Philippines, South Korea, Sweden and Switzerland are already decommissioning their plants. Therefore, even as we try to imagine that this will be a major source of power, we need to borrow a leaf from the countries that have had this power and if possible find out the reasons why they are decommissioning. There is no point of us going to an area that others have already been and are already discouraged.

We are lucky in this county, just like the Chairman has said, because we have rivers that do not dry which give us very clean hydroelectric energy. We are lucky we have wind power. For the current energy demand, we should have given it a thought to see whether it is really important that we go the route of nuclear power.

Otherwise, I support this Bill. I hope that all Members will support it so that nuclear power is properly regulated in this country. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Thank you, Hon. Washiali Jomo. The Floor goes to Member for Seme, Hon. Nyikal Wambura.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. This is an extremely important Bill in the energy sector. We are dealing with nuclear energy. When the nucleus of these heavy elements degenerates, they produce extreme heat. That is what we are using to heat water and produce steam which we use to run machines that give us energy. It is a huge economic advantage to have them. Although other countries are exiting, they have acquired the knowledge. They have benefited from the economy of it. I think it is a good idea that we should have it. I support this Bill.

We are looking for renewable energy. This is definitely a renewable energy. It is the cheapest and it is very reliable. Of all the energy sources, it is probably one of the most reliable and easy to utilise. Many of us have travelled and you go to these countries and you never see power outages. Many of them are on nuclear energy. Can you imagine when all your public transport is on rails that are electrically powered and then you have irregular supply? It will not just be a disaster. We must move in that direction.

We must, therefore, go for reliable energy. If we are successful in using nuclear energy, it will reduce the cost of production tremendously. It is a way that we cannot avoid. We cannot say that people are moving away from it and, therefore, we do not get the knowledge. In telecommunication, there is massive use of nuclear energy. It is the same even in agriculture and security. From small security instruments that we use, there is an element of this although we are talking of the big nuclear reactors. However, even in those small commercial security things, there is an element of use of this kind of energy.

It is used in war. Definitely, we will say that is a negative use, but you need to protect yourself. What makes America such a formidable nation apart from its economy is the military might. That may be negative, but it is something that we need to look at. Even in the health industry, there is a lot use of this type of energy. The X-Rays, the CT scans and the MRI use this energy. We also use this energy in treatment like radiotherapy, the treatment for cancer. Obviously, because of its ionising nature and the tremendous energy it has, it has a lot of problems starting with regular daily use and regular exposure. There will be problems to people who are exposed to this. If you have accidental leaks like it occurred in Chernobyl in 1986, these are a disaster. The effects of that is children are still suffering after being born with it and people are still developing from 1986 up to now. That, definitely, is a problem that we have. Even exposure through irregular use can cause people to develop cancer. Children can be born with malformations. Those are things that we should be aware of.

Importantly is the waste. We have to be careful how the waste that will arise from it will be utilised. Again, that is important. It can have a negative effect on crops and animals. You can find traces even in the animal products that we have. Therefore, there is definitely need for a law. However, what drives people most is the use in war, the nuclear weapons, and the possible use by terrorists. I think this is really the scariest bit, but again, if we have it in the world, these are things that we need to look at. Therefore, we must have a law. I support the Bill so that we can produce a law for us to have peaceful use of nuclear energy.

If we want to use it, we must have a law, so that we adhere to the international treaties. The Member for Suba South has already told you about the international treaties that we have to prevent nuclear weapon proliferation. The International Atomic Energy Agency is an international regulator. It looks at how all other countries relate with the use of this, how they use it, how they protect themselves and how other countries are also protected. So, our law must take that into consideration. I know we now have the Radiation Protection Act, but it does not go the extent that it can be utilised if we use it in industry and power production. We are mainly using it in the health area, small time use in industries and even in ports to detect what is coming in. Therefore, if we go full scale, we definitely need to repeal this law.

However, the question is how we can afford it. We have already said that we will have our friends helping us. In nuclear energy, even if our friends come to help us, we must be extremely careful about what their intentions are. The big war between Iran and the USA - not a

war to that extent - but the big political war or international relations issue between the USA and Iran is because the latter has the capacity to use nuclear energy. When you have the capacity to use nuclear energy, you also have the capacity to get into nuclear weapon production. If we get into this, we must be ready to look at it.

We have touched on the issue of countries moving away from nuclear energy. That is true. As I said earlier, other countries are moving away from it, but a whole technology cannot pass without us developing expertise in it. There is no way of developing expertise in any area unless you use it. We will gradually get away from nuclear energy, but for now, it is something that we need to do.

I support the Bill because it covers all those areas that I am talking about and the issues we are worried about. Part II establishes a commission. We need that. It will be the main regulator. We will then go into the structures and the funding of the Commission. Those are things we can do.

Part V provides for the framework for radiation protection and related medical and unintended issues that come up. We need that. Part VI, as a Member had said, deals with the safety of radiation sources. It is not just the big nuclear plants, but there are very many radiation sources. So, this will be taken care of. Authorisation is an important element that must be looked at. The Bill also looks at emergency preparedness. Are we prepared for an issue like Chernobyl or Hiroshima? The Bill looks into that.

All in all, we must have this Bill at this stage of our development. We will look at it very carefully and see what amendments need to be done.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have Nominated Member, Hon. Osotsi Godfrey.

Hon. Godfrey Osotsi (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker for the opportunity to also add my voice in support of this Bill.

This Bill is very timely. As you are aware, we already have an institution that is involved in matters nuclear energy, namely, the Nuclear Power and Energy Agency, which is established under the Energy Act. This agency has been carrying out research, development, innovation and capacity building on matters of nuclear energy. Now we have a regulator who will regulate the whole cycle of nuclear energy production including safeguards, security, physical protection of nuclear facilities, nuclear equipment, technology and how they will be accounted for. This Bill also speaks to the production, acquisition, transfer, transportation and peaceful use of nuclear energy. It is very timely to have a regulatory framework for the purpose of regulating the nuclear industry.

I have reservations about some aspects of this Bill. The first reservation is the composition of the Commission. As rightly pointed out by the Chair of the Departmental Committee on Energy, they will look at ways of reducing the membership of this Commission which has 18 members. That is a very large number for a commission that handles matters of national importance like nuclear energy. Globally, regulatory commissions on matters of nuclear energy are usually lean in composition. For example, the USA Nuclear Regulatory Commission has only five commissioners. This is a commission that has done a lot of work in the area of nuclear energy. The Committee should consider reducing the number of Commissioners.

The second reservation is that this regulatory body is domiciled in the Ministry of Interior and Coordination of National Government. If you look at the composition of the people who will sit on the Commission, they are rightly security-oriented individuals. We will be sending a wrong signal to the international community if we structure the Commission in that manner. The reason we want to go nuclear is because we are looking for nuclear energy. That is another issue that we need to consider.

The other reason is that there is a tendency nowadays to place a lot of critical functions under the Ministry of Interior and Coordination of National Government. Recently, we passed the Computer Misuse and Cybercrime Act and domiciled it in the Ministry of Interior and Coordination of National Government. We are having challenges in implementing this legislation because it has been domiciled in a ministry where there are no experts on matters of computer misuse and cybercrime. This is another case of a legislation being placed in the wrong ministry. I suggest that we put this function in the Ministry of Energy. After all, the other organisation that deals with nuclear matters is the Nuclear Power and Energy Agency, which is domiciled in the Ministry of Energy. Why do we want to bring confusion?

The other issue is that nuclear commissions globally are supposed to be independent. For example, the USA one is independent. The only thing that Trump does is to appoint the chairperson of the commission, who is vetted by the Senate and that is it. Here, there is no independence in this Commission because the Cabinet Secretary will appoint people to the Commission. The CS will be dealing with this Commission on a day-to-day basis.

The other issue which I am concerned about, and the Chairman has talked about is that the construction of the first nuclear plant has now been moved to 2030. I want to make a correction that recently, they made an announcement that they were postponing the date from 2027 to 2036. More shocking is that they want to put up two nuclear plants each producing 600 megawatts of nuclear energy. That is very little power. Nigeria wants to put up a plant for 4,000 megawatts. South Africa wants to put up a plant for 9,600 megawatts. We want to put up two plants each producing 600 megawatts at a cost of over Kshs900 billion. It is not worth it.

The cost of constructing a nuclear plant is too high. The duration of putting up a nuclear plant is also too long. Most importantly, the cost of decommissioning a nuclear plant after its lifespan is too high. For example, Japan wants to decommission one of its nuclear plants. It will cost them US\$20 billion. That is why I agree with the Majority Party Whip that this is a matter which we need to look at very carefully. We are better off investing in green energy than going into nuclear energy without looking at all the issues clearly. We are talking about having a nuclear plant in nine years, but we still do not have a research reactor in this country. South Africa, which is putting up a nuclear energy plant, has a research reactor. Nigeria also has it. We cannot put up a plant without putting in place relevant things that will help us achieve our plan.

Otherwise, this is a step forward which we need to encourage. However, we need to be clear in our thinking. If the objective is to get more energy, we can get it through green energy because we have a lot of resources for green energy like geothermal energy. I support nuclear energy because as Hon. Nyikal has said, it is cheap and reliable. However, it is expensive to set up a nuclear energy plant and it takes a long time to have it. Decommissioning a nuclear energy plant is also very expensive. So, as a country, we have to decide where we want to go. We also want to see this organisation called “Nuclear Power and Energy Agency”. What is it doing? It has been there for several years. They are supposed to carry out research. It is not clear which

research they have done. Have they even partnered with universities on nuclear energy research? They have not. What are they doing in matters of capacity building in nuclear energy? This Bill is a step forward, which I support with the reservations I have given.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Member, you are also aware that you can propose amendments in consultation with the Chairman at the Committee of the whole House. Nominated Member, Hon. ole Sankok David, you have the Floor.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. From the outset, I support the Bill. Just like what Hon. Osotsi has said, I will table my reservations and consult with the Chair, so that we can bring some amendments, if they are in agreement with my reservations.

I also want to state categorically that I am a new Member in this House. I have always been treated fairly by the substantive Hon. Speaker, Hon. Deputy Speaker and the Members of the Chairperson's Panel. They always treat me fairly. Let me inform our new Members that there is a procedure in this House for you to get a chance to speak. There are 349 Members and each Member needs to speak. If you need to speak, you must have a lot of patience. You have to wait for your turn to speak. You also have to know the process and the procedure of placing your card and pressing the button that shows that you need to speak or the intervention button. Some of them may not be aware of this. This is not a toilet where you just walk in and out and think that you will get a chance to speak immediately. We strictly use Kiswahili or English language. If you start to contribute in English, you finish in it and if you start in Kiswahili, you finish in it. If you are very good in *sheng*, and you do not have confidence of contributing in English, then it becomes a problem.

Hon. Godfrey Osotsi (Nominated, ANC): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): There is a point of order. Let us hear it. Yes Hon. Osotsi.

Hon. Godfrey Osotsi (Nominated, ANC): Hon. Temporary Deputy Speaker, is it right for my good friend, Nominee 001, to compare this House with a toilet?

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. You can justify and clarify that. From where I sit, I can confirm that this House cannot be compared with a toilet. I gave him time to speak. He is a new Member and we are happy because he is expressing his satisfaction in the procedures of the House. This is not a toilet. He was referring to the way Members walk into the Chamber and said that this House is not a toilet.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I should get a pat on my back from Hon. Osotsi because I said that this is not a toilet, but a House of rules and regulations. We should follow them.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are protected, but be relevant.

Hon. David ole Sankok (Nominated, JP): I will go back to the Bill, Hon. Temporary Deputy Speaker. I support it because we really need a very reliable source of energy. There are a lot of blackouts in our country. With the research we are undertaking in our universities,

including the Kenya Aids Vaccine Initiative and other very important researches, it is important to have a reliable source of energy.

We also need an electric transport system. Without a reliable source of energy, we may not go towards that reliable mode of transport. If you have blackouts and you are in an underground train tunnel, you may be scared and there may be many accidents. If an underground tunnel does not rely on oxygen from a reliable source of energy, it may cause many deaths. That is why I support that we need to go to a cheaper and reliable source of energy. We also need to see the side effects of this reliable source of energy.

As a growing economy, we do not have the capacity to deal with nuclear energy accidents. Some of these accidents are devastating. Having in mind what happened in Hiroshima and Nagasaki, we are not going towards producing nuclear weapons. A nuclear energy plant is a source of accidents that may cause effects that are of the nature of what happened in Hiroshima and Nagasaki. We are talking about ionised nuclear source. We have to be very prepared for the side effects.

I also have reservations because we will have partners and some countries will come to assist us to set up a nuclear plant. If they bring their expertise to set the nuclear plant and then, God forbid, we go into war with such a country which knows what is happening in the nuclear plant and has all the keys of the nuclear safes, it will be very easy for them to finish our country from within. It is like having an enemy setting up weaponry in your bedroom. Even as we partner with other nations, we have to be very careful to make sure that it does not become a weapon against us when there is diplomatic war between the country that we have partnered with.

As a country, we signed and ratified the Treaty on the Non-Proliferation of Nuclear Weapons of 1st July 1968. We are signatories to that international instrument. We have to be very careful. We should also have little autonomy. I urge the Chair of the Departmental Committee on Energy to enlighten the whole House on how much autonomy this House and the people who will be in charge of the nuclear energy plants will have in such plants. If they will be in a ministry and they will be appointed by the cabinet secretaries, their autonomy or independence will be limited. If I were to be asked, I would propose that it should be placed either in the Office of the President or be independent like the independent commissions. Placing it under the Ministry of Interior and Coordination of National Government is a step forward. The Ministry may be very independent from the Ministry of Energy, but still it will be under a Cabinet Secretary. Because of the risk of nuclear energy, we do not want to place it in the hands of an individual.

The board has 19 members to oversee nuclear energy plans and we need to know how they will be making decisions. They are very many. We need to reduce the number to align ourselves to *Mwongozo* that prescribes that we should have between nine and eleven members in boards of State corporations and semi-autonomous agencies. I will consult the Chair so that we can try as much as possible to reduce that number.

In future, and we need a directive from the Speaker on this, when a Bill is being debated, all Members of the Committee that is responsible for the Bill should be present in the House. They have done public participation and have researched on it and should enlighten the House so that when the House makes a decision, it is from an informed point of view. When we only have the Chairperson present out of 19 Members, then we miss the information. On sensitive matters

like nuclear energy, we need more information. Members of the Departmental Committee on Energy should come to the House to enlighten us more, so that we can make informed decisions.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Your time is up. I now give the Floor to the Member for Ugenya, Hon. David Ouma Ochieng', who is doing his second term.

Hon. David Ochieng' (Ugenya, MDG): Thank you very much, Hon. Temporary Deputy Speaker. I am happy to support the Nuclear Regulatory Bill (National Assembly Bill No.27 of 2018).

Law, like anything else, needs to be updated, researched and improved. It is just like when science advances. The Nuclear Regulatory Bill provides for upgrading of the Radiation Regulation Board into a modern regulatory Commission that can regulate the use of nuclear energy, nuclear items and nuclear activities in a manner that responds to the contemporary ways of using nuclear power. Nuclear energy has been used positively in medicine, industry, agriculture and in the improvement and elongating lifespans. So, the importance of nuclear energy cannot be gainsaid. It is very important.

Whether we produce nuclear energy or not we know that on a daily basis Kenya uses many equipment and new products with nuclear. That is why regulation in this regard does not only respond to what we produce, but also responds to what comes to the country through imports and through medical equipment. On a daily, weekly or monthly basis, much is brought to the country that is nuclear-related, but it is 36 years since we last made a law on radiation protection.

The Bill is timely and has been introduced at a time when Kenya is not only doing laws to ensure that we respond to the requirements of the new Constitution, but also respond to emerging threats and problems that may arise from the use of nuclear energy. The scope and scale of use of nuclear energy will always grow because as research is done and as the world expands the contours of the use of nuclear energy, Kenya must be at the forefront of ensuring that this very highly toxic material is regulated.

As I support this Bill, I propose that the institution we are establishing in the Bill must be up to the task. I am wondering how a commission of 19 people will chaperone and guide the onerous tasks that are bestowed up on it. They are 18 of them with a director-general, but are not experts. They are bureaucrats. No commission in the country has these kind of bureaucrats where you have the memberships from the National Treasury, the Kenya Revenue Authority and the Ministry of Energy. You could get health and energy professionals. We do not have to have a commission with 18 members. We are now reducing membership of commissions in the country. We could have three or five highly qualified individuals who are able to guide this very important institution.

I am surprised that after looking at the objects of the Commission, under Clause 6, there is no provision for the Commission to conduct mandatory research. It should establish for us how much nuclear material we have in the country. I heard a governor yester-night saying that in the last three years alone, he has received three containers of medical equipment from America. Some of these could contain nuclear materials that are safe, yes, but will need to be disposed of at some point in time. So, we may need this body, first of all, to do research and tell us the status of nuclear materials in the country and how much has come in, what the problem is and what needs to be done. Do we have some of it that is causing problems like diseases through

exposure? I believe that will change this, so that we can have a strong component of research for this institution.

You would imagine that this very specialised area in the country has very few experts. The provisions under Clauses 99, 100 and 101 are important. The ones in 99(d) are surprising because they are talking about retaining commissioners yet currently there are no commissioners. Currently, we have board members. If the Committee wants to retain board members there, they will probably have to find the right wording. I am encouraged with what I see under Clause 101 because if we do not retain staff of the current Radiation Regulatory Board in total, force them to reapply for their jobs and allow the Commission to open it up, we know what happens in the country when employment comes in. We do not think about merit or safety. Instead, we think about my relative or my neighbour. I propose that the Committee considers strongly ensuring that there are no ambiguous or vague wordings like, "A person who, immediately before the commencement of this Act, was an employee of the Government". No. We should say that: "The persons who were employees of the board shall be employees of the Commission". Let us not be vague on that. This is because we will not get them anywhere.

One of the reasons the country has failed in regulation and enforcement of the law is that we, as a people, have never believed in ourselves and have never lived the values enshrined in our Constitution. That is why every day we hear the police or the KRA officers have done this or that or have allowed goods to pass through the border. Nuclear power is such a serious issue that we hope that people who will end up dealing with the Commission will be people of high integrity, high moral character and who understand the height, breadth and depth of what the Commission is supposed to do.

I have my doubts - a lot of doubts - that any day, this country will produce nuclear power. It is infantile imagination that this country, Kenya, is going to produce nuclear power in the 21st Century. It is not in our lifetime. If we cannot combat hunger and Kenyans are dying of hunger, we cannot make sure that our children stay in school, our widows die when giving birth, this is a dream. Let us do what we can. Let us stick to what we are able to do. Let us measure our capacities. I agree that there are areas we will not go to, areas like trying to play and toy around with nuclear power. These are dangerous games that Kenya cannot go into. Kenya is better advised to remain with what this Bill is proposing - regulating the use of nuclear energy and nuclear materials. That we can do because we cannot stop nuclear materials from coming to the country, but trying to imagine that we can produce nuclear is a dream. We cannot even harness solar, God-given resource that comes every day. Priority is very important. Sequencing is also very important.

If we want to help one another and help this country and next generations, we should only ensure that the laws we do, and where we put our money can give us returns. I would advise anybody in the energy sector today to forget about trying to put money, today or tomorrow, in nuclear energy. Do away with the Nuclear Agency. How many years down the lane? Nothing produced. We are paying salaries yet we cannot see anything because people want to go to conferences and come back and say, "This is very good, it is happening in China, Germany and India." China, Germany and India are developed. We must live within our means. We must do things based on our circumstances.

I am going to bring a couple of amendments to make this Bill better, but I want to commend the Committee for the good work. This is the way to go. Let us ensure this Bill has

teeth to bite, so that our people are protected from any harmful effect that comes from the use of nuclear energy.

Thank you. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, allow me to interrupt the debate of the Bill and give the Floor to Hon. Waihenya Ndirangu to table a Paper.

PAPER LAID

Hon. Isaac Ndirangu (Roysambu, JP): Hon. Temporary Deputy Speaker, I beg to lay the following Paper on the Table of the House:

Report on the Consideration of the President's Reservations to the Insurance (Amendment) Bill (National Assembly Bill No.21 of 2018).

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. The Paper is officially tabled before the House. I give the Floor to the Member for Lari, Hon. Mwangi Mburu.

Hon. Jonah Mwangi (Lari, JP): Thank you, Hon. Temporary Deputy Speaker, for noticing that I really want to contribute to this Bill. From the outset, I support the Bill, and just like those who have raised many concerns about our country and about the nuclear energy, I also have my concerns. Yes, we know the value of nuclear energy, but sometimes I feel like we are planning too far. We know nuclear energy is cheap. We also know nuclear energy is efficient. We know we can have a lot of power for industrialization and we will have enough for our hospitals. We know that we will have enough power for our healthcare and machineries in the health industry and we will have enough power for powering even our vehicles and lighting. Yes, nuclear power could be the solution, but is it the priority today? Yes, we need the regulations so that when nuclear power comes into the grid, we have enough regulations. But I am wondering whether a country which cannot collect garbage in Nairobi and manage the Budalang'i floods is able to contain waste disposal that is created by nuclear energy.

Other countries in the world have found it very difficult and have had problems for a long time. For example, Chernobyl, Iran and Japan have problems of nuclear energy that can escalate for many years. Are we ready to think about nuclear energy? I support, but we should look at it more.

Again, I look at where the Bill is to be anchored. We are talking about energy. We need a comparative analysis. We have wind energy, geothermal, water and even diesel energy. So, we need a comparative analysis, but why place it under the Ministry of Interior and Co-ordination of National Government? We need to place it purely under the Ministry of Energy until when we feel that Kenya can create a threat to Uganda that we may create nuclear weapons. At that time, we may think of shifting it to the Ministry of Interior and Co-ordination of National Government. I do not think that is the plan for today. Wherever we do strategic plans, we do them for 10 or 15 years. We do not do them for 30 years. It is like we are doing a strategic plan for 30 years, and we are thinking about creating nuclear weapons like Iran as if we will be a threat to America. I do not think our country is heading to that direction. We are looking at nuclear energy purely for creating more energy to our grid so that Kenyans can enjoy cheap energy and we can attract more investors into the country.

Every time I go to china, my Chinese friends tell me: "I want to put up an industry in Kenya, but I hear you have a problem of power. Within 30 days, you have 2,000 hours of no

power.” I am wondering whether we are passing this Bill for the next 30 years when we will be thinking about fighting Uganda or trying to colonise East Africa or whether we are passing this Bill for our usage in terms of having more power to grow our economy.

Another issue is the composition of the board. I still believe we only have the Cabinet Secretary for Energy and some few professionals. If we have to create this board, it should not have more than seven members. Why are we putting the country into so much burden of paying allowances and salaries? How can you propose a board of 18 members? How will 18 members come to a conclusive decision? It is a whole crowd and you want to conduct public participation with all the people from Lari Constituency. It becomes almost impossible to get consensus. We need a smaller board, more powerful, and strictly, it could have direct lines maybe even to the Executive or to State House if it is not autonomous. We need a smaller board that can implement the regulations.

We should also look at the dangers of nuclear energy. Disposal is a big danger. Today, we are not even able to dispose of our waste from e-commerce. You will find old computers in the streets. We are not able to dispose of whatever waste we have. If you go to a busy road, you will find waste on the middle of the road. You find pieces of condoms, surgical materials, and here you are looking at nuclear energy, something that can cause permanent disability to our children who are being born for years.

We will have children who have malformation; children who are born without noses or ears for many years. We need to be very strict on this. We are talking about poison through nuclear - radiations. Today, it is very difficult even to manage small hospitals that have radiation machines. In this Bill, are we looking at where we are going to position the nuclear reactors? The Bill has to be very clear.

We need to place them where we have a radius of some few hundreds of kilometres from where people live. These areas are limited. Maybe we can find them in North Eastern or Turkana. I do not know where we can find those areas where we need to put the reactors at a radius of above 100 kilometres. If you go to the US, you will find the reactors in the wilderness, the least populated areas. You will also find them in the middle of nowhere. The same happens in Canada. You wonder how they manage it. Do we have the capacity to transport nuclear energy to our grid? The other day we had wind energy. It took the country a long time to connect the wind energy to the national grid.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order, the Member for Lari! This Bill will still continue to be debated in the next sitting. You will have a balance of three minutes.

Hon. Jonah Mwangi (Lari, JP): Thank you, Hon. Temporary Deputy Speaker.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Tuesday, 25th June 2019, at 2.30 p.m.

The House rose at 7.00 p.m.