

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 21st November, 2013

The House met at 9.00 a.m.

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

PRAYERS

QUORUM

Hon. Speaker: Hon. Members, it does appear like we may not be able to commence any business as we do not have the quorum. Kenyans in their wisdom decided to put the issue of quorum in the Constitution in Article 121. I direct that the bell be rang for the first 10 minutes.

(The Quorum Bell was rung)

Hon. Speaker: Order, hon. Members! You may now resume your seats. Thanks to hon. Chris Wakhungu for going to get hon. Members to come to the House. There are some hon. Members who had indicated that a ballot had been taken on their Motions. I have just seen one of them, hon. Shimbwa, walk out. Yesterday he did not turn up and now he has just walked out. He will come to say that he wants to be given time.

Hon. Member: He had forgotten to carry a copy of his Motion.

Hon. Speaker: I am told he had forgotten a copy of his Motion. We will allow him because he has really struggled to get that matter on the Order Paper. We will give him a chance to raise it next time.

STATEMENTS

DELISTING OF FIRMS FROM NAIROBI STOCK EXCHANGE

Hon. Njenga: Thank you hon. Speaker, Sir. Pursuant to Standing Order No. 42(2)(c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Finance, Planning and Trade, regarding the proposed delisting of M/s Rea Vipingo Plantation from the Nairobi Stock Exchange (NSE).

Hon. Speaker, several companies have been delisted from the NSE in the recent past. For instance, the takeover bid and un-listing of Unilever Tea two years ago and un-listing of Access Kenya a month ago. Unfortunately, the Capital Markets Authority (CMA) whose mandate is to foster capital market growth and deepening, has watched from the sidelines as helpless minority shareholders suffer investment losses from uncalled for delisting after take over. It is emerging that some of the delistings are suspect. Assets are grossly underquoted in their financial statement.

Hon. Speaker, the East African Cables has changed ownership twice. Recently, it reorganised its control and principal shareholding, without having to result to de-listing.

In the Statement, the Chairperson should inquire into and report on: -

(i) measures the CMA has put in place to safeguard minority shareholders from losses occasioned by delisting; and

(ii) whether the impending delisting of M/s Rea Vipingo is motivated by the firm's underlying assets, and in so doing action being taken to stop such fraudulent delisting.

Thank you.

Hon. Speaker: Let us hear from the Chairperson of the Departmental Committee on Finance, Planning and Trade, the hon. Benjamin or his able deputy, Nelson Gaichuhie.

Hon. Gaichuhie: Thank you, hon. Speaker. Realizing that yesterday the Committee had four pending Statements and this is a fifth one, I will ask hon. Njenga to give us two weeks. We are going to deal with the other ones next week. But before we go on recess, I want to say that we will be able to respond to his Statement.

Hon. Speaker: The issues raised by hon. Njenga are very weighty. As you deal with the various players, you will need to invite him and any other hon. Member who may have information on these happenings to appear before the Committee. They need to meet with the relevant stakeholders.

Hon. Njenga: Hon. Speaker, Sir, this is a very urgent matter. Assets are being disposed of and yet the shareholders who are the majority of Kenya and whom we represent in this House are losing. I would only request the Committee to give the issue priority. Once losses are incurred and investments losses are taken up by the poor minority shareholders, our people will lose and they do not have power to face court battles. I believe this is a very urgent matter that we, as the representatives of people, must address without any delay and should be given priority.

Hon. Speaker, Sir, I would request that this be given priority and we get the Statement before the end of next week.

Hon. Gaichuhie: Hon. Speaker, immediately after this sitting, we have a meeting as Finance, Planning and Trade Committee. We will ask our clerk to write to the Acting Chief Executive Officer of the CMA and the management of Rea Vipingo. We may have a meeting with them. When we write such a letter, we give ourselves a seven days' period before we hold a meeting. So, maybe we will invite them by next week. But immediately they confirm their attendance, which should be sometime next week, we shall inform the hon. Member.

Hon. Speaker: Indeed, everybody must be given not less than seven days' notice. Hon. Njenga, you must appreciate that one. There must be the normal practice even in the court processes. Seven days' notice is the minimum that you should give to anybody who intends to appear before a committee or court.

Hon. Njenga: Thank you, hon. Speaker. Seven days will fall within this Session. I will expect to have an answer within seven days. Let seven days be seven days, if Kenyans have to judge us as their representatives. I request the Chair and the Vice-Chair of the Committee to work very fast. You can even work over the weekend.

Hon. Speaker, Sir, allow them to work over the weekend in order to give me what I want. This is a company whose board should be responsible and responsive to the demands of this Parliament.

Thank you.

Hon. Speaker: There is no other request for Statement, although I had approved another one. I think the hon. Member is not present and I do not see any other request. I will use Standing Order No. 1 to allow hon. Shimbwa, who has been struggling to get his copy of the Motion, to give notice. So, we will reorganise the business on the Order Paper. From Order No.7, we go back to Order No.6 to allow him do so. Please, hon. Shimbwa, you may do so. Are you the one on Temporary Card No.9?

Hon. Shimbwa: Thank you, hon. Speaker, Sir. Yesterday, I failed to be here in time because I was in a very important committee. But I am very happy, at least, for you to have considered that this is my first time. I promise I will not repeat the mistake.

NOTICE OF MOTION

MEASURES TO LIBERALISE AIR TRANSPORT FARES

Hon. Shimbwa: Hon. Speaker, Sir, I beg to give notice of the following Motion: -

THAT, aware air transport in Southern and Eastern Africa is growing with three major African carriers, including Kenya Airways Limited dominating international and domestic flights, with international traffic in the region having grown at annual average rate of 6.2 per cent between 2001 and 2007; further aware that Kenya Airways Limited provides 70 per cent international traffic through Nairobi, compared to South African Airways and Ethiopian Airlines, at 33 per cent and 83 per cent respectively in their hubs; noting that Kenya Airways Limited enjoys monopoly in air transport in Kenya, thus determining the rates of fares at will, and that demand for air travel has increased tremendously given that there is no regulatory body in place to supervise and ensure fair opportunity for competition by different airlines to ensure checks on the excesses of the airline; and that a number of airlines that applied for licence to operate domestic flights are yet to be approved; this House resolves that the Government puts in place measures to fully liberalise the airfares including awarding licences to other operators to make air travel affordable as a result of fair competition.

Thank you.

Hon. Speaker: Hon. Mwinyi, I direct the Clerk to immediately forward a copy of this Motion to the Cabinet Secretary responsible for air transport because this is an extremely important matter. What you are saying is true. Air fare has increased and I think it is important that when the Motion is finally debated, also the Chair of the Committee responsible should have sufficient information on which to avail to the Members for purposes of enriching debate.

Very well. Next Order.

BILLS

Second Reading

THE INSURANCE (MOTOR VEHICLE THIRD PARTY RISKS) (AMENDMENT) BILL

(Hon. Langat on 20.11.2013)

(Resumption of Debate interrupted on 20.11.2013)

Hon. Speaker: Hon. Members, debate on this Bill had been concluded. So, what remains is to put the Question.

(Question put and agreed to)

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

Next Order.

Second Reading

THE WILDLIFE CONSERVATION AND MANAGEMENT BILL

(Hon. (Ms.) Abdalla on 20.11.2013)

(Resumption of Debate interrupted on 20.11.2013)

Hon. Speaker: Hon. Ben Washiali.

Hon. Washiali: Thank you, hon. Speaker, Sir. I would like to seek your direction. Before we went through the Procedural Motion yesterday which made this a normal sitting day, various committees had planned to sit this morning. I want to seek your opinion on whether we will go ahead with the committee meetings now that we have a normal sitting day this morning. This is because chances are that the Chambers may be left without any Members given that all Members are members of various committees.

Thank you, hon. Speaker.

Hon. Speaker: Very well, hon. Washiali. The point you have raised is important not least to the Kenyans in general. There is a misconception that you must have 349 Members seated any time in the Chamber to transact business. The practice the world over is that because Parliaments are houses of records, everything is on HANSARD. You do not need the entire membership to sit through debates. Any Member who wishes to debate on something usually prepares and rushes from a committee sitting to the Chamber in plenary to contribute to a debate on any Bill or Motion. Therefore, it is not a requirement save for putting the Question and voting, of course. As you know, decisions in the House are usually through votes. So, it is only when it comes to voting that quorum would be raised.

In the collective wisdom of all Kenyans, that provision was put in Article 121 of the Constitution. There is a requirement for 50 Members in National Assembly and 15 for the Senate. So, there is no mandatory requirement that you must have 349 Members. Therefore, committees which obviously generate a lot of the work which comes to the plenary must continue to work. I am alive to the fact that several committees are lined to have their meetings this morning, Thursday which is normally not a plenary sitting day. So, committees are allowed to continue with their work. I am sure there will be sufficient Members to debate the business that is on the Order Paper.

The long and short of it is that, I am aware that the Budget and Appropriations Committee is scheduled to meet and the Departmental Committee on Transport, Public Works and Housing is also scheduled to meet. I can see hon. Jamleck Kamau reminding me that even

his Departmental Committee on Energy, Communication and Information is supposed to be sitting. Hon. Pukose says even the Departmental Committee on Health is also meeting. So, all committees that are scheduled to meet may proceed to do their business but I am sure we will still have sufficient Members to be here to debate. I have seen and witnessed in other jurisdictions a plenary sitting where only the Speaker is on the Chair and only one Member is contributing and it is still deemed to be proper because what the Member is contributing is on record. Any other Member wishing to come and either oppose or express himself will go to the record.

Hon. Washiali, I think that is an important point that you have raised for even Kenyans to know in general the point which was raised here yesterday. On Thursday when you sit from 2.30 p.m. to 6.30 p.m., it is only four hours. Even if we were to say no prayers so that we sit for exactly four hours, if every Member was to contribute within the allowed time of 10 minutes, only 24 of us would sit. It would be grossly unfair to the country and the taxpayers to hold 349 Members here when we know that only 24 or 20 would contribute. Surely, in the wisdom of the House that is why committees have to continue sitting and Members do other business. Members are elected to represent, oversee and legislate and that is done in various other forms, most of which is in committee. This is general information for the public so that when they see three Members in the Chamber, they do not say there were no Members. Other Members are busy doing other things and Kenyans must know that. We still have not been able to cover live all our committee sittings so that people can know that if hon. Mbadi is not in the Chamber, then he is contributing to parliamentary work in committees. So, hon. Washiali, the committees may continue while at the same time the plenary will also continue.

I am told on this particular Bill, hon. John Muriithi was on the Floor. I am informed you have a balance of two minutes.

Hon. Waiganjo: Thank you, hon. Speaker. When the House adjourned, I was addressing Section 67 of the Bill and it was my view that Section 67(3)(e) and (f) be deleted from the face of the Bill. This section particularly talks about culling and cropping which literally means the harvesting of animals. My contention was that we do not have enough wildlife to entertain culling and cropping. I gave an example and said that cropping contradicts wildlife conservation efforts and I want to refer to our past experience.

In 1991, large ranch owners put a lot of pressure to have experimental cropping and this programme was to run for only five years but the said programme ran for a record 13 years because it opened up the gates of our national reserves to poachers. The experiment was, of course, thereafter suspended but the people who are behind cropping and culling are the large ranchers. I think it is important that ranch owners are told that animals in their ranches do not necessarily belong to those ranches. There are animals which could have migrated to those ranches or are on transit. This is because some of those ranches are not even fenced. So, it is an anomaly to talk about cropping and culling. What statistics are we using when we do not even have data to show how many wildlife we have? We should, therefore, not compromise our wildlife heritage by entertaining this cropping.

Hon. Speaker, Sir, consumptive utilization of wildlife has been tried in other jurisdictions with disastrous results. I invite hon. Members to think about West Africans, for example. What wildlife do we talk about in West African countries like Nigeria, Ghana, Cote d'Ivoire, Cameroon and Liberia? They have none. This is because they opened up their game reserves to cropping. That is how this country will go if we do not delete Clause 67 from the Bill.

Most significant is around Loliondo area in Tanzania. Unfortunately, Tanzania which is our good neighbour has managed to open its reserves to wanton destruction of wildlife habitat. It has invited a Dubai-based company called “Ortello Hunting Business Corporation” which organises hunting parties. This has effectively denied Tanzania its wildlife heritage. We do not want to go that way. We want to preserve our wildlife because we do not have enough wildlife as it were. Our game reserves and our wildlife are being disseminated by poachers. Can you trust the Kenya Wildlife Service (KWS) to keep the lions or leopards safe? Can they also protect our rhinos and elephants? Every day we hear about poaching.

Hon. Speaker, Sir---

Hon. Speaker: Hon. Members, also pay attention to the lights. Sometimes you want to reserve the best bit of your contribution but you must pay attention to the lights.

Hon. Ng’ongo: Thank you, hon. Speaker, Sir. I want to thank you for giving me this opportunity to also contribute to the Wildlife Conservation and Management Bill. This Bill is long overdue.

I remember even in the previous Parliament, we actually called for this Bill to be tabled in the House without success for a long time. This Bill has been in the working for quite some time. It is good that this Bill is finally here, we are able to debate it and come up with a better Act to manage issues of wildlife in this country.

Hon. Speaker, Sir, I appreciate that wildlife is important to the economy of this country. We know how much is brought to this country in form of foreign exchange because of the tourism sector. Sometimes those of us who border national parks or have national parks, lakes and such like environment which preserves wildlife within their constituencies really suffer from wildlife.

If you look at the current compensation for those who are either killed by wildlife or any destruction or damage caused by wildlife--- Sometimes you ask yourself whether this country is more concerned about the welfare of wildlife as opposed to the welfare of the people of Kenya.

I have the bigger part of Ruma National Park in my constituency. Sometimes we get very angry and annoyed when we find wildlife getting out of the fence, causing terror to families, killing our people, destroying our crops and even killing domestic animals. When we raise concern with the KWS, the first question you are asked if, for example, a leopard gets to your home and kills domestic animals is, was the animal sleeping outside or in a house?

Hon. Speaker, Sir, our culture does not allow us to keep animals in houses. We keep them outside the house but within the *boma*. It is really annoying if someone tells you that your home is supposed to be controlled and managed by wildlife at night or during the day. This is because we do not employ wildlife to be our watchmen. We want wildlife to be in the park and us in our homes.

If the Kenya Government does not want human-wildlife conflict, it must protect wildlife. It should fence the parks so that wildlife does not get to the homes.

One time, I was shocked that the KWS went chasing my constituents. My home is about five or six kilometres from the park. These people were being chased five or so kilometres away from my home. They wanted to arrest them for killing a *sungura* and other animals. Those people were being accused of poaching. I asked how those people could have poached if the animals had strayed into their homes. I said those people had a duty to protect themselves and they could kill those animals. I was told that you cannot kill any wildlife even if it is outside the park. Actually, they were accusing them of killing animals within the park. I told them where they

found those people was not far from my home. Were they saying that the Member for Suba lives in the park? My home is outside the park and those people were far from the park.

I am on record on this and I have no apologies to make. I have told my constituents that any animal that strays outside the park and invades our home must be killed. The Government, instead of arresting those people, can arrest me because I am the one who has given them permission as their representative. So, the Government must make sure that even as it protects the animals, the lives and welfare of our constituents is of paramount importance to us.

Hon. Speaker, Sir, the other concern that I have is with regard to hippopotamus. My constituency borders Lake Victoria. Some parts of my constituency are actually islands. I have two islands within the lake. We have a right to live where we are. We have also a right to use water from the lake. However, you will find hippopotamus getting out of the lake or getting to our *shamba* at night and destroying our crops. This is the case and yet there is no compensation. It is like hippopotamus have a right to feed on our crops. If an officer from KWS hears that you have killed a hippopotamus, he or she will have a problem with you. They will arrest the whole community.

Hon. Speaker, Sir, the most annoying part of it is that when a person is injured or killed by wildlife, there is no compensation. Even medical bills are not taken care of even if that injury is caused in your home. You are left to suffer and sort out yourself. This must stop.

I am happy that this Bill is now spelling out compensation. Of course, you cannot compensate death but, at least, this is a token for those who lose their lives as a result of wildlife. Those who are injured will get compensated. However, the compensation, in my view, is still low. One million shillings looks like a tidy sum but if you are talking about someone who has lost a sole breadwinner in a family, what is Kshs1 million? For how long will a family feed on Kshs1 million if it has lost someone who was taking care of it?

The Kenya Government should take care and be serious in protecting the lives of Kenyans. It should make sure that it fences the parks and increases the compensation. Sometimes the Government makes decisions without even involving the community. A national park like Ruma is not properly secured. This is the case and yet you will find the Government taking rhinos to that park. Rhinos are very dangerous animals. In fact, there is a main road in my constituency which passes through this park. You have to go through the park when travelling from Nyadenda to Nyabera. One location of my constituency – Ruma Location – is divided by the park. One sub-location is on one side, and the other sub-location on the other side. People have to walk through the park. That is the single most important road that we use in my constituency. The Government has sent their rhinos to that park but they have not secured the road to protect *wananchi*. So, my people now cannot move freely from one sub-location to the other.

If you want to reach the other sub-location within your location, you have to go through two other locations. Given the location of the chief's office, it is completely inconveniencing to my constituents. Where would you address your concerns if the Government is more concerned about the welfare of wildlife, and not human beings?

Finally, the KWS must have strategic corporate social responsibility to the people who live with wild animals. We go through a lot of frustrations and stress as a result of the wild animals.

Hon. Speaker, with those remarks, I beg to support with those concerns.

Hon. Speaker: Yes, hon. Shaban.

Hon. (Dr.) Shaban: Hon. Speaker, I also want to add my voice in congratulating the team that has put this Bill together but I have issues that I need to raise.

Under Clause 8(f), one of the functions of the KWS will be to develop mechanisms for benefit sharing with communities living in wildlife areas. I am assuming that, that is what they have all along been doing, which is part of their corporate social responsibility, which includes employment of youth coming from those particular areas.

Hon. Speaker, I just want to talk about Tsavo West and Tsavo East national parks. Taita-Taveta is home to very many elephants living in the Tsavo National Park. Tsavo West National Park actually forms the bulk of my constituency. I just want to point out the pain and the heartache that the people who live around those areas suffer. We suffer not only losses relating to crop destruction but we also suffer losses when it comes to the supposed mechanisms through which the communities are supposed to benefit.

You find that as the KWS goes about its business, recruiting people, the people from those areas are the biggest losers in the sense that during recruitment of personnel, the KWS hardly takes 10 per cent of the recruits from those areas. We are supposed to benefit from these mechanisms. If the communities living around wildlife areas are not the most important ones, I wonder who are. These are people who live with these animals. They are the people who have been taking care of these animals.

Hon. Speaker, if the communities living around wildlife areas decide that they do not want to see the wild animals, we will have a situation where we will not really have the wild animals, because the animals are actually a big menace and have been causing conflicts. Some of the wild animals and more so elephants; which happen to have a very high IQ amongst other animals, behave like human beings. Elephants leave their areas of habit and go to where human beings live. Even when you have harvested your maize, they come to your home and harvest it as you try to dry it.

It is not easy to explain how much suffering our communities have been through. Even in terms of community social responsibility, as they collect funds from the parks and make money, the KWS must be told in so many words that they have to make sure that most of the money they collect must go towards the welfare of the communities living with the wild animals.

On Clause 31(2), on the issue of compensation, I am surprised that a figure of one million shillings has been put as the maximum compensation even for a person killed by wildlife. We are talking about bread winners. They are people who have been taking care of their families. It is surprising that the most appropriate amount of money that we have thought of is one million shillings. Is human life worth only a million shillings? I know that the figure has been far less than a million shillings but I believe that a figure of at least Kshs5 million would make more sense than putting it at a maximum of one million shillings. So, it should be at least Kshs5 million.

If you go to the penalty clauses, where animals are concerned, you will see figures ranging from Kshs5 million to Kshs10 million. The Bill says that even if you are found with items related to wild animals, you will have to pay so much money in fine as a person who has offended the wild animals. What is shocking is that our wild animals are being considered much more important than human beings. Kenyans are not as important as wild animals.

Hon. Speaker, I am a person who really loves animals because I know that they are good for our country. They are a natural resource that God has given us. However, we would want to see our people benefit from their existence. We would want our people to be compensated adequately when they suffer losses as a result of hosting them. As culprits will be severely

penalised when they offend wild animals, we would want our people compensated adequately when they incur losses occasioned by wild animals.

As I said, elephants have the highest IQ amongst the wild animals. An elephant would leave the national park and go to the farms. In Taveta, I have even seen them doing a balanced diet. They would eat not only maize but also bananas, tomatoes and onions and finally decide that water melons are better for them. That is a balanced diet. The experience that farmers go through when they wake up in the morning is very painful. Elephants do not move in singles or duos. They move in herds of even 100. That means whatever you left in the farm as you went to sleep will not be there in the morning. So, the amount of damage and deaths that they cause in those areas is very painful.

Hon. Speaker, this Bill is welcome. It is long overdue but we need to come up with some amendments, so that we can have a fair deal as far as our people are concerned.

Thank you.

Hon. Speaker: Yes, hon. Gichigi.

Hon. Gichigi: Thank you, hon. Speaker. I rise to support the Bill.

One of my childhood memories was a herd of elephants crossing our farm, where I was born in Kipipiri. It is very sad that what happened very many years ago is no more. There are no more elephants to cross our farms in Kipipiri apart from the few who can be found in the neighbouring Aberdares National Park. Unless this country thinks about its God-given natural resources, our posterity will not see an elephant or a lion. The only thing that brings foreign exchange, through tourism, in this country might not be there in a few years to come.

Perhaps, the rate of extinction of our wildlife is brought about by a combination of several factors. My colleagues who have spoken before me, have mentioned a few of them. One of them is lack of ownership of wildlife by the communities that live with the animals. For many years, and even now in some areas, wildlife lives outside designated game parks. They live with human beings and domestic animals.

Hon. Speaker, I am happy that this Bill has provided for a joint management of these wild animals between the KWS and the communities in the same manner as the recent reforms in the forest service. It is important that we involve the communities. We must devise ways of informing the public so that it can realise that animals are not always its enemy. One way of doing that is giving sufficient compensation.

The Bill proposes a maximum of Kshs1 million for compensation for loss of life. We need to align this with what is happening with the Bill that we have just passed, that is, the one on motor vehicles third party risks. At least, Kshs3 million is paid with regard to loss of life. In addition to that, when it comes to other injuries, because that has not been provided for, I propose that during the Committee of the whole House this Bill be changed. It should be limb by limb, eye by eye and so on. Any injury that is compensated by this law that we have just completed in the Second Reading should be similar to what is provided here. We could just refer to that other Bill we have just passed.

I am happy that poaching has been dealt with seriously. In December, I happened to visit the Mount Kenya Ark. I met the KWS officials and the team which is there to protect wild animals. They reminded me, "Go and pass that law so that a poacher killing our elephants, rhinos and lions serves life imprisonment." I am happy that the Committee has come up with that particular provision. Therefore, any person who is killing our elephants, as we speak is actually sabotaging the economy of this country. Before so long, we might not have an elephant left in this wonderful country of ours. Let us have these serious punishments in place. I would like to

urge the courts to consider jailing, more than the fine of Kshs20 million that has been proposed in this Bill.

It is also important that this Bill be amended to provide for areas where we have private conservancies. You keep wild animals and they go and harm our people. It is important that we have a common insurance which must pay people who are hurt or injured or lose their crops to wild animals.

The KWS, if I compare it to other natural resource managements like the forest service, has been doing a better job. They can have their blame because obviously the poachers have got the better of them, but we also need to look at the resources that are at their disposal *vis-à-vis* what they are doing.

Hon. Speaker, I support this Bill. Let us preserve our heritage. I will not say like my colleague hon. Mbadi has said. Let us not encourage our people to kill wild animals just because they are out of the parks. Let us enhance the mechanisms of KWS with regard to dealing with those animals so that where that is not done, we compensate people adequately. I support.

Hon. Muzee: Thank you, hon. Speaker for this opportunity to contribute to this very important Bill. First of all, I rise to support it. I think this Bill is very timely in this country and especially where I come from in Malindi, in the great county of Kilifi. We know that tourism is driven by three key factors which are basically the beach, culture of the people and, of course, wildlife which is why we are discussing this Bill. We know that our wildlife is under threat. We have learnt from the media that elephants are being killed right, left and centre. This poses a great risk for our wildlife and tourism and we know that tourism contributes a lot to the economy of this country.

A lot has been said by my colleagues here and I support their sentiments. I think there is need to focus on marine wildlife. A lot has been said about animals in the park, but where I come from there are marine parks. It is very important that we also consider the fish species that we have in the Indian Ocean which also attracts tourists who pay a lot to drive this economy. So, I would like to see in this Bill a focus on preservation of fish species in marine parks. We need to ensure that we do not have pollution or spillage that can destroy fish species. I really wanted us to be keen on that as we move forward.

A lot has been talked about wild animals, but wildlife is about the flora too. When I was growing up in Malindi, there were forests all over the place. I do not see that any more. I think we need to focus on this as much because cutting down trees affects our lives. It also contributes to desertification. In my constituency these days if there is no rain we say that someone has decided to cast a spell on the community. We hear stories of people being cut with *pangas* because of witchcraft. I am sure you hear a lot about that from my area. So, I think we need to focus more on the flora as well so that we also conserve our forests. As we all know, the forest cover in this country is less than two per cent. We need to ensure that this goes to over 10 per cent so that we also provide a good ecosystem for our wildlife.

Hon. Speaker I would also like us to focus more on stray animals. Last month I heard that hippos strayed into my village and ate all my maize. It was really sad. We could not do anything. We had to call the wardens in Malindi, but they normally take too long to come. It is very frustrating. Of course, there is danger that lives could be lost when these animals stray into our farms. They also destroy our crops. So, when it comes to compensation it is important that we compensate not only for injuries or lives lost, but also for the destroyed crops. This is because families are trying very hard to get out of poverty through their labour in the farm and yet animals destroy their crops. It becomes very frustrating, indeed.

It is important for us to focus on conserving wildlife. Two or three years when I was in Singapore, I was shocked that if you want to see a cow, you must go to a zoo. I do not think we want to get to that level by depleting all our wildlife so that our grandchildren visit zoos to see a cow. We need to encourage communities to participate in wildlife conservation efforts. As school going kids those days, we used to form groups to conserve the wildlife. I think this should be encouraged in schools and committee groups as well. We need to give them much support because I can see they are straying. There has to be a lot of effort to ensure that they do their work. Having said that, I really want to rise and support this Bill which is very timely. We need to ensure that we use this moment to ensure that we have laws that will guide wildlife conservation. We need to help transform this country through the heritage we have as a country and as a nation.

Thank you so much, I rise to support

Hon. Speaker: Hon. ole Kenta

Hon. ole Kenta: I thank you hon. Speaker Sir, for giving me this opportunity to contribute to this very important Bill. I would like to compliment the able Chair of the Committee, hon. (Ms) Abdalla, for her presentation yesterday. This Bill is important because it involves communities and Kenyans in general. One thing you must know is that without wildlife, Kenya will not be in the world map as it is at the moment. You have heard and read that the Maasai Mara has been rated the eighth wonder of the world and the great migration of the wildebeest is actually what brings interest.

The Bill, which is taking over from the Wildlife Conservation and Management Act, Cap. 376 recognises communities for once. I salute the communities that have sacrificed, for many years, their land and lives so that these animals can be preserved for posterity. I believe that it is a duty of each one of us to ensure that wildlife does not disappear from the face of this earth. I believe the new Kenya Wildlife Service is also accommodating the ordinary people because when you look at the Act, we now have members of the public, especially those in wildlife areas incorporated in the board. The other very important thing is that this Act actually recognises conservancies. This has enabled communities living in the wild areas to benefit. I strongly believe that national parks should actually be national reserves because it is the communities that preserve this wildlife.

I was very happy that the Committee realised that the new Act, with the stroke of a pen, had taken away national reserves from communities, yet it is community land. I am happy to say that the Committee, in its wisdom has reinstated them to the communities. We must also look at the issue of compensation. It is a very pertinent issue, because you cannot live with wildlife, sacrifice your life and when hurt by those animals you are left helpless, desolate and all that. As the able Chair said yesterday, the Committee had looked at all those things and made amendments which shall be presented before this House. I am sure the Committee has done a good job and this House will support it.

The other thing is the penalties for poachers. The beneficiaries of this poaching are not Kenyans. We have seen foreigners killing our animals for the sole purpose of taking horns for libido enhancing benefits. I believe that we should not encourage such things. The penalties of life imprisonment and Kshs.20 million fine should be encouraged and supported, otherwise tomorrow we shall have no wildlife. As we all know, the black Rhino is actually at the brink of extinction. Such that in future our children will be looking at such animals in pictures, as the Member who has just spoken said. You go to *in situ* as if you are in another land.

The other very important thing is that, we should know that this Act has also created a human face. It is now not unlawful to kill wildlife in self defence. We are not saying you must kill, unless it is in self defence. Why would you want to kill an animal that is not a threat to your life or to your property?

The other issue is compensation for crops destroyed by wildlife. Many Members are complaining about it. Any crops that are destroyed will actually be compensated at market value prices. I believe that should not worry Members any more. The other issue that was very sensitive and which was accepted under Section 61 of the Act is that now, land owners can benefit, if your land is in migratory areas. So, we have started benefitting as people whose lands are used as transitory route. So, it is not just the game parks that are supposed to be benefitting.

The other very important issue is culling. We should be very careful with this. I think the Committee had requested that the issue should be looked into because if you encourage culling, most of the poachers will take advantage of this. If you are a land owner and there is wildlife on your land, if you say that you have a right to cull, how sure are we that right will not be misused? So, I am requesting this House to look at this Act and let us amend it accordingly. Let us support it because it is for posterity and protection of what God has given us.

I support the Bill.

Hon. Speaker: Hon. Ali Wario.

Hon. Wario: Ahsante Mheshimiwa Spika kwa ruhusa yako. Ninachukua fursa hii kumpongeza mwenyekiti wa Kamati hii kwa kazi nzuri alioifanya. Kabla sijampa sifa, sheria iliyoko mbele yetu ni mchanganyiko wa mazuri na mabaya. Tutakaposimama pamoja kukosoa yale mabaya yalioko mbele yetu, bila shaka hii itakuja kua sheria nzuri sana. Nasema hivyo kwa nini? Juzi, Mhe. Halima Ware alizungumzia kuhusu mauaji ya mtoto katika sehemu inayopakana na Tsavo West. Maafisa wa KWS walimuua mtoto. Wakati ripoti ilifika nyumbani, watu kuenda kuchukua maiti, walikuta ilikua imechukuliwa na KWS. Sasa swala nzito tunajiuliza ni; watu hawa wanawala watu? Mtoto huyo walimpeleka wapi? Hakuna mama mzazi anaweza kulia akibingirika akisema mtoto wake ameuawa pale bila jambo hili kuwa la kweli. Damu ilionekana pale, lakini maiti haikupatikana. Pengine Mswada huu utaleta uso wa ubinadamu katika uwindaji wa wanyama na kusimamia mbuga za wanyama.

Mwenyekiti alipokua akizungumza jana, alizungumzia faida nyingi, ikiwemo faida ya utalii, GDP na faida aina mbali mbali. Ukumbusho wangu kwa Bunge hili ni kuwa tuwe na sheria bora. Faida haipatikani mpaka tutakapotambua haki ya wale wanaoishi karibu na mbuga za wanyama. Kwa nini niseme hivyo? Wema hulipwa na wema. Mtu amekupa ardhi, mifugo wake hawatoki, shamba lake hawezi kulima na KWS wanaua watoto na kuwaficha! Hapa unalipa wema wetu sisi tunaokupa ardhi kwa ubaya. Kule kwetu tuna Mbuga ya Wanyama ya Kora, Mto Tana, Mbuga ya Wanyama ya Tsavo West na Tana River Primate Reserve. Ardhi yote imeenda na KWS. Pengine sheria iliyoko mbele yetu itapitisha kwamba kila kaunti iwe na mbuga ya wanyama moja na *national reserve* kadhaa ambazo zitasimamiwa na serikali ya kaunti.

Usimamizi wa mbuga za wanyama umewekwa chini ya Serikali ya taifa. Ni vizuri tukubaliane, nyingi ya hizi mbuga za wanyama na *reserves* ziko katika kaunti. Serikali ya taifa ikisimamia, usimamizi mwingine utafanywa na nani? Kuna maswala nyeti ambayo yanastahili kuamuliwa na serikali za kaunti. Hivyo basi, rasilimali hizi zisimamiwe na serikali ya kaunti. Kama tunazungumza juu ya ukame, ni vigumu kwa waziri kutafakari Tana River iko wapi na ina matatizo gani. Lakini serikali ya kaunti inatambua kweli sehemu ya kusini ya Tana River inastahili kupewa ruhusa walishe mifugo katika mbuga za wanyama.

Lakini itakuwa vigumu kwa Serikali ya Taifa kufahamu haya. Ningependa kusema pia kuwa mchakato wa kuifanya sehemu yoyote hifadhi ya wanyama unafaa uhusishwe mwananchi kutoka siku ya kwanza mpaka siku ambayo hiyo sehemu itatangazwa kuwa hifadhi ya wanyama. Nilipokuwa katika Bunge la Tisa, Kola ilikuwa *national reserve*. Hatukuhusishwa kwa mkutano wowote na leo Kola ni *national park*. Mchakato huu ni lazima uhusishwe mwananchi wa kawaida. Ninaambiwa ya kwamba kupitia Kifungu cha 38(1) (a), (b) and (c), Waziri ana uwezo wa kuamka na kutangaza sehemu kuwa *national park* au *marine park*. Uwezo huo ni lazima upitishwe na Bunge ili Waziri asiwe na mamlaka kama hayo. Kwa nini asipewa mamlaka kama hayo? Kwa sababu Kifungu cha Katiba cha 63(2)(d)(i) mpaka (iii) kinazungumzia juu ya ardhi ya wafugaji na ardhi ya umma ambayo haiwezi kutangazwa na Waziri kutumiwa kwa matumizi mengine.

Ili sheria hii ambayo tunaitunga isigongane na Katiba, mamlaka ya kutangaza sehemu kuwa *national park* ipitishwe na Bunge. Isipopitishwa na Bunge hivi ilivyo, inafaa kubadilishwa na haifai kupita hapa ndani. Ukiangalia sehemu ya hatia na faini, inanichekeza. Naona mkono wa wakoloni ndani ya hii sheria. Nasema hivyo kwa sababu kuna wanyama katika kifungu cha (a) ambao ukiwaua, utatoa faini ya Kshs20 milioni au kufungwa milele gerezani. Lakini wale wanyama wakikuuwa, utalipwa Kshs1 milioni au Kshs3 milioni. Baina ya hao wanyama na wanadamu, nani anastahili kulipwa Kshs20 milioni? Nikiua ndovu, nitafainiwa Kshs20 milioni au nifungwe milele gerezani. Ndovu akiua mtu, familia yake italipwa Kshs1 milioni au Kshs3 milioni kuambatana na hali ilivyo. Jee, wanyama ni muhimu kuliko wanadamu? Je, swali hili tukiulizwa na wananchi ambao wanatutegemea sisi kuwatungia sheria, tutawapa jawabu gani? Hapa naona mkono wa wakoloni. Ili tutoe huu mkono wa wakoloni, ni lazima tuseme kuwa ndovu akiua mtu, familia yake ilipwe Kshs20 milioni au ndovu akiuawa, faini iwe Kshs3 milioni ili kuwe na usawa baina ya sheria na utekelezaji.

Kifungu cha 89(f), kinasema kuwa ukipatwa ukilisha ndani ya uhifadhi ya wanyama, hata kama ni mbuzi 10, utafainiwa Kshs200,000. Pengine dhamana ya wanyama wako haifiki Kshs200,000. Sheria hii itaumiza wafugaji. Ukisoma ukurasa wa mwisho, hifadhi za wanyama ambazo zinahesabiwa hapo ziko katika sehemu za wafugaji. Ni lazima tutambue kwamba kuna haki baina ya mifugo na wanyama hao.

Nikimalizia, juzi, maafisa wangazi za juu katika KWS, ambao wote wanatoka katika sehemu ya wafugaji, walisimamishwa kazi. Lakini kabla ya muda wao wakufutwa kufika, ofisi yao ilibadilishiwa watu wengine. Hiyo ni dhulumu. Sisi ardhi yetu imechukuliwa na KWS na tunataka nafasi za kazi kwa watoto wetu. Wale ambao wako katika ngazi za juu wahifadhiwe.

Kwa hayo machache, tukirekebisha, nitaunga mkono.

Hon. Omulele: Thank you, hon. Speaker, Sir, for giving me this opportunity to speak to this good proposed Bill. From the outset, I would like to state that I support this Bill for the reason that, for a long time, we have always known that wildlife in this country is part of the goose that lays the golden egg. We must all, as a nation, stand up to conserve wildlife.

I have looked at this Bill and I have also listened to the submissions of my brothers and sisters, Members of Parliament. I would like to state that there have been some concerns specifically about the levels of proposed compensations in this law. For a long time, we have had human-wildlife conflict in this country. People have been killed and injured by animals, which are very important to our national tourism and we must not run away from that fact. We did not have a compensation policy or scheme. The fact that we have come up with this proposal and said that we shall limit the compensation, particularly for deaths to a maximum of Kshs1 million,

is a starting point. This is not to say that I am putting down the concerns of my brothers who have spoken to this clause, but it is a good thing that it is a starting point.

Having said that, I have noted that compensation is provided for in Clause 30 of the proposed Bill. At Sub-clause 2, it provides that compensation shall be considered for deaths to a maximum of Kshs1 million. You will also note that at Sub-section 4, the same law proposes that compensation for crops shall be considered to be paid at the prevailing market rate. I think there is a conflict here. If we are going to compensate for crops that are lost to our wildlife at the market rates, it will only be fair for us, at the Committee stage, to provide that human life should also be compensated at the prevailing market rate. In this regard, I would like to support my brother, hon. Gichigi, who proposed that when we are looking at compensation for the loss of human life, we should be guided by the law that rules in motor vehicle third party injuries. We will then be addressing the concerns that have been raised by all the Members who have spoken to the fact that we may not be taking human life as seriously as we ought to do.

I would also wish to submit that I am happy that this Bill, specifically at Clause 32(c), has provided for a Wildlife Compensation Committee. It has set out the roles for the committee. Among those roles – and this is going to obviate the concerns that Members have raised – is that the committee shall undertake educational extension services and public awareness. That is where our people – our fellow Kenyans - will be educated. They will know why they need to conserve wildlife, what value it has to them and have a chance to participate in formulating the policies that will be used in conserving it. I am happy about that.

The Committee will develop a mechanism to mitigate human-wildlife conflicts, so that the fears we have about the conflict - and we have spoken about it too well - will be dealt with in a participatory way. Our people, those who are actually at the knife's edge, will have a chance to speak and say how those conflicts can be obviated. In that regard, this Act has gone quite a distance in addressing the salient issues that face our wildlife and the conflict with human beings.

I am also pleased that the Bill is emphatic at Part VI, about the conservation and protection of the environment. As much as we are conserving and protecting our wildlife, it is of paramount importance that we must do this. We must ensure that the environment is always conserved. In Section 37, I am happy to note that we have provided and are proposing that this should become law; that any activity which is likely to have an adverse effect on the environment is expressly prohibited. For a long time, wildlife conservation and management in this county has been in the hands of expatriates and a few who have been in the know. They have acted in ways that have been harmful to our environment. Any act where any toxic or any other activity that may injure the environment shall be expressly prohibited and anybody who undertakes any such adverse activity will face the full force of the law. I am happy about that provision.

I am also happy to note that all wildlife is protected and I would like to inform my brother, hon. Katana, who fears that marine life is not protected under this Act that, that is not so. In Section 38, it is clear that all wildlife and marine life is protected and again, I would like to inform my brother hon. Wario, that the Cabinet Secretary's powers in Section 38 to gazette national parks and marine protected areas must always be guided by the provisions of the Environmental Management and Coordination Act of 1999. In doing this, and also in observing the provisions of that particular Act, the Cabinet Secretary must always be guided by public participation in reaching that decision. So, if the decision of the Cabinet Secretary is done contrary to public desire, then it shall be negated.

With those few remarks and observations, and especially that the migratory routes shall be protected, I am glad to support this bill. Thank you for giving me a chance to speak on it.

Hon. Speaker: Hon (Dr.) Pukose, take the Floor.

Hon. (Dr.) Pukose: Thank you, hon. Speaker, Sir, for giving me a chance to contribute to this very important Bill. First and foremost, I want to thank the Chair of the Committee and her Committee for work well done in yesterday's presentation.

The major areas where there is human-wildlife conflict are mainly for us who come from areas where we have national parks or game reserves within our regions. In those areas, most of our communities have co-existed with wildlife for centuries. We have always had our cattle grazing within those areas together with wildlife and for us we think that the people who graze their animals there are actually the real protectors of the wildlife. When you look at this law, in areas where they are talking about grazing, it states that unless you have authority, it will be an offence to graze. We need to also look at those areas like where I come from in Endebess. We have the Mount Elgon National Park which is very poorly marketed and we have our people who have been living in the moorlands like the Dorobos. They have co-existed with wildlife for many centuries and they graze their animals in the park. We would want KWS officers not to abuse the law because it allows them authority to graze their animals and also ward off poachers.

We also have had loss of crops and human life in those areas. We still think the Committee has tried and as we go to the Committee of the whole House, we want the compensation, especially for loss of life, to be much higher compared to the current rates. This law has been long overdue. When you lose crops, there has been no mechanism for compensation. As hon. Naomi Shaban has put it, elephants will come and eat all your crops and, at the end of the day, there are no ways of compensation.

The area where there is much improvement is on formation of community organizations that assist in conflict resolutions in those areas, but this also needs to be much improved. We need to look at ways of having those communities benefit, because once people realise the benefits of the wildlife, then that will also make them to be able to promote it. We also want improvements in terms of wildlife sanctuaries, both national parks and game reserves to be done in such a way that other areas are not left out. When you look at, for example, Mt. Elgon National Park, it is one of the most poorly marketed in this country, yet the wildlife that is there is very interesting. There are places which I know you can find about 2,000 buffalos congregating in the morning and it is a very spectacular feature, and in the evening, there could be about five of them coming back. There are caves which are also within that area, some of them connecting our country to the neighbouring country and others of historical value. I look at this Bill as a much improvement because when you talk about caves of historical value, we have Kapsetai and Kitum within the area of Mt. Elgon. This Bill will go towards supporting the communities in preserving those areas of national heritage.

When it comes to areas where we have imposed a ban on use of trophies, one of the issues that we should not forget is that in our African society we have had traditional regalia, they came in form of hats and clothes and even during political rallies or certain functions, leaders are made elders by wearing this traditional regalia. This also needs to be captured very well in our laws, so that for those which have been made in the past, people should not be punished for wearing them.

The other area that needs improvement also is corporate social responsibility. We have seen that in those areas where we have wildlife or game parks, more often the communities have

not benefited so much in terms of road infrastructure, building of hospitals, provision of schools of excellence within those areas so that the community can feel part and parcel of it.

Hon. Speaker, Sir, the other area which I looked at is where we are talking about forming the county team. In this county team we are bringing in agricultural officers, people who are experts in the use of land. But the community that is within is less represented. So, I think that is an area that we will bring in amendments so that this can also be captured.

Last, but not least, is the representation of the elected leaders. That is because more often than not, when you go outside there, we are the people that our constituents will ask many questions. They will ask us about compensation for injuries. We are the people who take those people to hospitals and we are the ones who pay their bills.

Therefore, we must also be involved in the compensation of those who are injured so that they can receive fair, adequate and prompt compensation. This is because more often, the compensation has been taking a very long time. People are injured, they are taken to hospitals and some of them continue paying medical bills. For those who are able to afford they continue incurring medical expenses which is not commensurate with the expenses that they incur in terms of hospital bills and the injuries which they sustain.

There is even the psychological trauma somebody goes through. Once somebody is injured, it is not just that the person feels both the psychological and the physical trauma, even the surrounding community which is going to move around and see to it that they are able to take this person to hospital is affected. More often, some of them suffer severe arm injuries that are irreversible. I want to support what hon. Gichigi said, let us not look at somebody in terms of just compensating for life. We must do proper assessment.

With those few remarks, I support.

Hon. Speaker: That is just a warning shot. Hon. Lati.

Hon. Lati: Thank you, hon. Speaker, Sir. I also want to add my voice to this debate. This is because I find this Bill to be very good in terms of wildlife. I think it covers everything that is wildlife in a very good way. But if you look at the KWS in Kenya, every wildlife expert will tell you that wildlife does not exist in isolation, they exist with human beings and wildlife parks are surrounded by communities.

In fact, in Kenya, it is estimated that 75 per cent of wildlife actually lives outside the national parks. It is for that reason that we need to make sure that we harmonise the needs of wildlife with the needs of the communities that live around national parks. It is for that reason I have an issue with Section 89 of the Bill.

If you look at Section 89, it starts by saying: "Any person who---" meaning everything within that section is actually an act attributable to a human being. It is clearly so apart from number (f). If you look at number (f), it is out of place compared to the rest of the parts of Section 89. Everything else is attributable to human being because they enter the national parks, they set fires, they carry out logging, they clear and cultivate and willingly do all those things.

But Section (f) actually says: "Any person who grazes---"

Human beings do not graze, they graze their livestock. I am not an English guru, but I think there is something missing there. It should read: "Any people who grazes his livestock." More importantly, the communities who live around national parks are particularly pastoralist communities. They have lived in harmony with wildlife for so many years. That is the basic reason why you find most of Kenya's wildlife are found in the pastoralist areas.

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

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

Hon. Temporary Deputy Speaker, grazing is not an act of human beings, livestock move and it is not like cultivating a farm is a national park. Animals like livestock stray into national parks. In my view, it is so punitive to punish a herdsman whose livestock strays into a national park by putting him in jail for two years simply because his animal has strayed into the national park. This is likely to be abused. Unless that section is repealed, we should build prison cells for our herdsman because they cannot control livestock from straying to the national parks.

I hope the Chairperson of the Committee is listening. I know she is able and she is also a pastoralist. It is serious, if any animal strays into a national park, the owner gets into trouble of being jailed for two years. I know that rangers can use the same to abuse our people. We need to look at that and I think, in my opinion, we should remove it.

There are other things that I looked at in this Bill, which is very nice and I support it. There are gaps that we must fill before we pass it. If you look at the compensation part of this Bill, there are things that need some sort of uniform distribution on how to do compensation. For example, if a human being is killed by wildlife today, and you know it happens so often in areas where people keep livestock, you are compensated with a maximum of Kshs1million. But if you kill the endangered species of wildlife, you get fined about Kshs10 million and several years in jail.

Hon. Temporary Deputy Speaker, if you look at it thoroughly, the life of a human being is compared to the possession of any trophy. So, if you possess any trophy today--- Where I come from, Samburu, we have a lot of trophies, not because they killed wildlife yesterday or the day before that, it is because some of those trophies are passed from generation to generation. In this Bill, it says that if any of our people is caught with those trophies, they are fined about Kshs1 million.

Hon. Temporary Deputy Speaker, there is also another aspect of compensation. If we were in the United States of America (USA) today, I think we can borrow something--- I am using this analogy of the USA drug trade because today, in the USA, if you are caught having a drug and being a consumer of a certain drug, the punishment is so distinct from being a drug dealer.

In this Bill, there is no separation of our people who kill wildlife because they get into trouble along the way when they are taking care of their livestock. Those people are actually not like the Chinese dealers who take ivory to China. I think the punishment should be different. This is because today, if you ask a Chinese dealer to give you Kshs.10 million because you got him at the airport taking ivory to the Far East, to him Kshs10 million is very little. But if you get one of my brothers who has killed an elephant because he had trouble with his livestock, and you ask him to pay Kshs10 million, that money is just too much. I think we need to separate the people who get into trouble with wildlife and the dealers in trophies; the people who do a lot of damage to our wildlife.

The other aspect I looked at in this Bill is that it seems to give too much power to the Cabinet Secretary. If you allow the Cabinet Secretary to declare certain areas national parks, we will have problems. I know that there is a section that says that it is fine as long as he consults the community. There are grey areas when you start talking about just consulting communities. I

think we need to do something to make sure that our national parks exist. We need to pass a law to that effect. The Cabinet Secretary should not wake up one day and decide that some part of Samburu County should be a national park.

The other thing I did not find very clear in this Bill, which worries me a lot, is the issue of national parks and national reserves. As you know, revenue from national parks comes to the national Government. But in places where we have national reserves, communities have benefited a lot. A good example is the Maasai Mara and Samburu National Reserves in Kenya. We need to clearly define that national reserves are the preserve of the counties where those national reserves exist so that we do not lump them with the national parks and give so much discretionary powers to the Cabinet Secretary just to do anything and probably take away revenue from communities that are so used to getting their revenue from wildlife. Otherwise, if those small things are amended in this Bill, I think we have a comprehensive Bill to cater for the wildlife of our country. We will have an opportunity to improve our economy because you know wildlife and tourism play a very big role in the expansion of our country's economy.

I support the Bill and I know we have a very able Chairlady. I think she will take care of some of the gaps, particularly those which arise out of our people being herders and livestock keepers. We should not punish them for living next to the wildlife and we should not create unnecessary friction between those people and the wildlife. They have lived with this wildlife for so many generations and I think the reason why we have wildlife today in Kenya is because they have lived harmoniously. We need to create a situation where they live with wildlife harmoniously and our wildlife is kept well and our people are also not put in jails around the country.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Thank you, hon. Member. Hon. Shukra Hussein Gure.

Hon. (Ms.) Gure: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I rise to support the Bill. As we all know, this Bill is very important. Wildlife contributes a lot to our economy and it is something that we should put into consideration. The Bill encourages a lot of community involvement and speaking on that, this Bill has given an opportunity to the county governments in terms of setting up the County Wildlife Compensation Committee which includes two persons from the community who are knowledgeable about wildlife matters. It encourages the voice of the communities to be heard in this Bill.

Hon. Temporary Deputy Speaker, the other thing that this Bill encourages in terms of compensation is that it has a time limit to do the assessment and also payment. That is a good thing. The other Bill did not give a time limit to the communities which live with wildlife.

We need to look into it in depth to know more about it so that we can urge the House to support it. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu: Thank you. Hon. Abass Sheikh Mohammed.

Hon. Mohamed Abass: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I rise to support the Bill. This is an excellent Bill but it has some grey areas. This country is actually endowed with a lot of beautiful fauna and flora that has not been conserved for many years and it has been abused badly. I think this Bill will now curtail abuse of our resources and the fauna and flora of this country.

Hon. Temporary Deputy Speaker, the Chair of the Committee is not there now but we need to inculcate love of wildlife in children, especially those at the early age. In the past, we

used to have 4K and Wildlife clubs in schools but of late this has not been happening and the Bill does not incorporate that early childhood education on wildlife and other natural resources.

One other thing is that the Bill is giving a lot of power to the Cabinet Secretary. I think we need to change that on a serious note because a single hand decision is actually very dangerous and can bring punitive issues. I would suggest that the Wildlife Regulatory Council should have more powers in regulatory and conservation issues.

Hon. Temporary Deputy Speaker, one other thing is that most of our wildlife is situated in pastoral areas and there is always a problem, especially during the dry period where there is conflict between wildlife, people and the livestock. The Bill is stressing the need for creation of more conservancies and I think this will cause more conflict. One thing I will say is that so far people have huge chunks of conservancies and as you are aware every year the Kenyan population is increasing. The pastoralists' population is increasing. The livestock population is increasing. So, there is a lot of conflict and in the past we have experienced a lot of killings in the wildlife national parks especially during the dry time when animals stray to people's homes. People are killed or tortured and they have not been compensated for many years. I request the Bill to also limit the number of conservancies and national parks in the interest of the neighbouring communities and also those that have sacrificed their land for purposes of conservation.

In terms of licensing and rights for operation of conservancies, that is what we need to limit. The compensation is not commensurate to the losses. As a country, we must also take care of the sanctity of human life. If somebody kills an elephant, he or she is fined Kshs20 million or life imprisonment. If an elephant kills somebody, you are only paid Kshs1 million or Kshs3 million depending on the situation. I think that is not fair. We need to have commensurate compensation on the losses on both sides.

Hon. Temporary Deputy Speaker, one other thing is that the community role is not appreciated in the Bill. There are many communities that have sacrificed their land. They have given out their grazing lands and the benefit is not actually ploughed back to the communities. I think it is only five per cent benefit that is going to the communities. I would request the Chair to also look into that and increase the benefits to the communities from five per cent to 20 per cent.

I will also request for some amendments on Section 10(89) where the offences are. As you are aware, in most times it is the livestock that strays into the national parks in search of grazing areas and water and it is not the liking of the pastoralists or the neighbouring communities. Therefore, those offences are just too harsh. I think we need to be very understanding. We must accommodate both sides – that is the communities that neighbour the national parks and the Kenya Wildlife Service. I request the Chair to look at Section 10(89) on the offences, especially the grazing areas of national parks and request that at times of extreme drought, the communities be allowed to graze their livestock in parts of the national parks even if it will be at a certain fee. The livestock belongs to Kenya and many people depend on livestock. I know many people derive their livelihoods from livestock. I think we need to harmonise how the wildlife and livestock co-exists within the grazing land.

Hon. Temporary Deputy Speaker, now that the Chair is here, the 4K Club and the Wildlife Club are not part of this Bill. I request that area to be looked into.

Finally, there is a long list of animals, fish, trees and plants that have scientific names and most people do not understand them. If it is possible, they should be labelled in the local languages so that people can know the animals they have in their areas.

Hon. Temporary Deputy Speaker, with those few remarks, I support the Bill.

Hon. Macharia: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill. I would like to thank the Chairperson of the Departmental Committee on Environment and Natural Resources, hon. (Ms.) Amina Abdalla, for ensuring that the two warring parties – the wild animals and *wananchi* or the common person - can now meet and agree to work in tandem through this Bill.

As all of us are aware, whenever the Government declares any area in this country to be a game park, there is anxiety and the people of the area are usually not happy because of the way the Government through KWS has dealt with people who live near or around game parks in the past. This was in a manner to suggest that animals and tourists are more important than *wananchi* who live around that area.

We have seen in the past crackdown when animals have been killed. We have also seen animals get into people's farms and when they are killed people are arrested. We have also seen instances in the past where crops have been destroyed and compensation has been hard to come. The bureaucracy in the KWS is longer when farmers claim compensation or people claim compensation for the death of their loved ones than when people suspected of killing game are being prosecuted.

Hon. Temporary Deputy Speaker, I support this Bill mostly because it is involving the people at the county level where we have seen a set up that looks like home rangers. We know that in some areas of this country where game parks are mainly in central Kenya and some parts of Nakuru County, people live in their houses with empty *debes* preparing to chase away marauding elephants that destroy their crops. Therefore, the involvement of the local community in the management and ensuring that, at least, they have a say in what happens around the game parks is a milestone of this Bill.

Finally, I would like to air my voice on the fact that we have seen this Bill attempt to equalise or put at a level playing ground the issue of compensation versus fines. This is because in the past if one killed a wild animal, the fine was bigger and sometimes prohibitive. However, if someone is killed by a wild animal, the compensation is little. Probably, it would be Kshs1 million or Kshs200,000.

We have also seen the KWS and the Government refuse or discredit people who claim to have been injured or killed by wild animals. One case in study is when someone was attacked by an elephant and the KWS brought a story to court that, that gentleman from Nyandarua was trying to milk an elephant. We know and we are aware that no human being can attempt to milk an elephant and the gentleman was not paid. Therefore, this Bill attempts to bring everyone on board.

With those reasons I beg to support the Bill.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to support this Bill. As I support the Bill, I want to say that conservation is good and it has to be supported.

As has been spoken to by my able colleagues, at no time should animals be valued higher than human beings. That is a mistake that has happened in this country for a long time and it is a mistake that I hope this Bill will correct.

We have seen in many cases where there have been conflicts between human beings and animals. This has been happening many times even at the Nairobi National Park. The concerns of conservationists tend to be more on the welfare of the animals and I think that this wrong. Those are animals that are part of our heritage and they are here to help us achieve our goals as a country and the reverse should not apply.

Hon. Temporary Deputy Speaker, it is true that animals attract tourists. It is also true that we need the money that we get from tourism. However, on the issue of tourism, I happen to hold a slightly different view. I think time has now come when we should stop equating tourism with animals. It is time, in my view, that players in the tourism sector in Kenya became more creative. If you go to America, Europe and the United Arab Emirates (UAE), for example, you will find that some of the leading tourist attraction sites are actually not animals but are manmade features. If you go to America, you will look at the manmade features like the Hoover Dam and the White House. If you go to the United Kingdom, you will find the Buckingham Palace. If you go to France, you will find the Eiffel Tower. If you go to Italy, you will see the leaning Tower of Pisa. Those are tourist attraction sites which attract millions of tourists as opposed to our obsession and the false belief that we can only attract tourists if we conserve our animals.

The other lapse that I have seen and it should be a concern to us especially in view of the insecurity that we have had in this country is that today, Kenya has not only a thriving economy but also a very expanding middle-class population. I think it is an omission on the part of the players in our tourism sector that they have not made deliberate attempts to encourage domestic tourism. We tend to be obsessed with foreign tourists and the net effect in some cases has been that we have reached a point where we do not even take time to think about the quality of the tourists that we attract in our country. In the process, we have allowed terrorists disguised as tourists to come to Kenya. We have also allowed conmen who are basically coming here to try and start from where they have failed in their countries under the guise of being tourists to come to this country. They come to Kenya pretending to be tourists when their intentions are not good for the country.

If we can spend more time to encourage the middle-class population, we will be several steps ahead. If you visit our urban centres, you will see a very thriving and confident Kenyan middle-class which is growing by the day. If we can be more creative, we can have packages like health insurance schemes, so that one scores points along the way, including earning points through shopping; so that they can be converted into opportunities for domestic tourism. The idea of always thinking that when we attract a million foreign tourists, we will be doing well is not good. The diversity that is in this country is a big opportunity for a thriving domestic tourism market. In my view, if this potential is harnessed, we may go far. I am not saying that we discourage foreign tourists. We need them. I am saying that perhaps there is more to gain if we concentrated more on encouraging and promoting domestic tourism, so that we can grow our economy in that respect.

Hon. Temporary Deputy Speaker, as it has been said, it is true that we need our wild animals but in Kenya today, we have a lot of artistic works that, in their own right, can be an attraction to people from different parts of the country. So, we are able to enjoy the diversity that our country provides. Let Kenya not be like the United States of America where an overwhelming majority knows nothing about what is happening outside their borders. We are diverse in the sense that we have 42 communities. Even our own diverse cultures are a way of attracting tourists from different parts of the country, so that we can have a thriving domestic tourist market.

As it has been outlined by my colleagues, of course there are some areas in the Bill that will have to be looked into. I am glad that the able Chairperson of the Committee is here. She is listening and taking notes. Hon. Members have expressed concerns, especially on the idea of making animals to have bigger rights than human beings. This is something which has been regarded as colonial, draconian and unnecessary. It is time that we used this Bill to clearly define

the pecking order. Animals exist as part of our heritage. They are there to help our economy to prosper, but not the other way round. So, if it happens that there is a conflict between human beings and animals, we should know that the entity that needs more consideration has at all times to be the human being, and not the animals.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, hon. Alice Muthoni Wahome.

Hon. (Ms.) Wahome: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. I rise to support the Mover of the Bill.

I will associate myself with many of the comments that have been made by colleagues in support of this Bill. I will start with Clause 24, which talks about the County Wildlife Conservation Committee. There is need to rethink about the process of identifying the four persons - not being public officers, knowledgeable in wildlife matters and nominated by community wildlife associations within the area. The process of electing those people is likely to lose the person with the necessary experience as envisaged by the Bill.

I would like the Chairperson of the Departmental Committee to listen to this particular point. We have had Constituencies Development Fund (CDF) elections and sometimes it is very hard to control what the community produces in terms of electoral processes where people are not guided by any regulations. So, this particular provision needs to be re-thought.

Hon. Temporary Deputy Speaker, next is Clause 31, in respect of which many hon. Members have expressed dissatisfaction in terms of compensation. We know that a compensation of Kshs200,000 was previously allocated for a person killed by wildlife. It is also good to be mindful of the fund that will be created. If we recommend very excessive compensation amounts, we are likely to deflate this particular fund. It is not good to have a single figure of, say, Kshs1 million or Kshs3 million per person without taking into account the situation in life of the specific person who has been injured by wildlife and the age of that person.

The Departmental Committee Chairperson needs to take this matter back to the Committee. We could lose a child or a family's bread winner. Compensation should take into account various factors. Lost years will be counted depending on my age. So, that is something which must be taken into account. Paying Kshs200,000 for a child and Kshs200,000 for a person who is 40 years, which is one's prime life, is not reasonable. So, those particular provisions need to be streamlined. Even insurance compensations for lives lost in road accidents take into account the earnings of the specific person.

Hon. Temporary Deputy Speaker, Clause 32 also needs to be re-thought out. It provides for the committee on compensation. This House seems to be taking itself out of work. Every now and then, Members of Parliament seem to be coming with laws that completely remove them from their oversight roles. Particularly, in the area of compensation, most people will land in the Office of the Member of Parliament. While the County Governor is involved in the compensation committee, there is no indication of how Members of Parliament can be involved. There should be representation of Members of Parliament in every county. It is possible that Members of Parliament can use one of them as a voice of the National Assembly. For me, that is a gap we must fill.

Clause 38 relates to declaration of areas of national parks. The Cabinet Secretary has sweeping powers. I would want to see this clause amended to allow that kind of declaration to be subject to the approval of the National Assembly. I want this amended to read: "The Cabinet

Secretary may, in consultation with competent committee, but with the approval of the National Assembly.” Communities will always raise issues. So, the National Assembly has a role to play.

Hon. Temporary Deputy Speaker, the proposed penalties are completely excessive. Some of them mean well but others could completely become a challenge to our communities. The proposed penalties range between Kshs200,000, for some offences, and Kshs10 million. We need to isolate wildlife commercial trophy marketers and be mindful of the cultural practices of our communities. Sport hunting needs to be redefined. There are rich people who just come to this country to do sport hunting. Those are different from a young youth killing an antelope, who could be subjected to a fine of Kshs1 million. This must completely be checked because we do not want to approve fines that are out of the reach of common Kenyans. We know that communities are always in conflict with the law. That is very clear in Clause 83, which talks about sporting, trophy keeping and all that. Some homes still have wildlife skins; those are trophies. If one is penalised Kshs1 million as a fine, I think that could still be a challenge to most of our people. Even with regard to transportation, people hire vehicles innocently. We are also in the transport business. There are *matatus*. Somebody is caught with some hidden trophies in his or her luggage. The owner of the *matatu* is going to be penalised a fine of Kshs10 million. I think that is a big contradiction. It is really not in line with the setting of our Kenyan community. I am looking at Clause 86 and I think it needs to isolate some of those offences so that people who are here and are commercial people can be penalised a fine of Kshs10 million. However, to target innocent persons who do not even know what a trophy is, or they do not even know that wildlife items are in their vehicles, we will be coming up with a law that does not make a lot of sense.

I support this Bill. It is timely. We need to support the Mover of this Bill. Clause 85 defines “hunting bush meat”. The fine imposed under this clause is Kshs200,000. To charge such a penalty upon an ordinary Maasai or Kikuyu in Laikipia or in the Aberdares for hunting an antelope and yet we have not even created sufficient awareness, I think that is unfair. It could as well be that the antelope came into my farm.

With regard to compensation, the time limits must be clear. We do not want to keep Kenyans who have lost their families for years without them knowing when they will be compensated. Those are people who have children and who have been left without bread winners. That one must be stated clearly in this Bill. There is a proviso that must be removed from this Bill. It states that once your crops have been damaged or somebody has been killed, you have to show that there was no recklessness or carelessness on your part. You have to show that you took measures to ensure that your crops are not destroyed by, say, elephants. That proviso does not make sense, with respect. It must be deleted because it will create an avenue, a gap or a loophole that is likely and capable of being misinterpreted and misused to deny rightful owners compensation as is expected in Clause 31. I am talking about the proviso in Clause 31(4) which states thus: “Provided that no compensation shall be paid where the owners of livestock, crops and other property failed to take reasonable measures to protect such crops, livestock, and property from damage by wildlife”. How do you protect yourself from zebras that have--- I think it is the duty of the conservatory agency---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is up.

Hon. Eric Keter: Thank you, hon. Temporary Deputy Speaker. I take this opportunity to support this Bill. It is a Bill that has decisions which are going to assist this country. Wildlife is a natural resource that we should all try to keep. The responsibility of safeguarding those animals is on us. The issue of leaving animals to roam about and they destroy human life and food should be looked into thoroughly. When we compare human beings and animals, the animals were made

for man; not man for the animals. In this case, when I look at the compensation issue where a poacher is fined Kshs20 million and a human being who has lost life is compensated only Kshs1 million, I think it does not make much sense. I would like an amendment to be preferred as far as compensation is concerned.

Much as we punish the poachers to the extent of Kshs20 million, let us also have those who lose lives get compensated with the same amount. If the worse comes to worst, it should be Kshs10 million. This is a human being who has got dependants, say, children, grandchildren and so on. When such a person's life is taken away by an animal, the Government only comes in to say, "It is bad, we appreciate, but here is Kshs1 million." We need to rethink this issue.

Much as we are talking about wildlife conservation, I would like this issue to go to the youth also. We should encourage our youth to appreciate our wildlife. In cases where those children are taken for tours, they should be taxed very little. You will find that schools pay a lot of money as entrance fees when they tour some of the game reserves and parks. I suggest that we lower those fees drastically so that we encourage school visits. Those are the same people who will conserve those animals in the future.

We need to have a wildlife institute that will be researching on ways of conserving wildlife. This will help us understand the need for co-existence between human beings and wildlife. The responsibility of ensuring that there is security of human beings should be left to this Ministry. It should ensure that there is an electric fence---

Hon. Temporary Deputy Speaker, I do not see why we are fast at getting resources and yet, we do not safeguard lives. Why can the Ministry not ensure that game parks have electric fences?

We need to encourage private owners also. I know there are individuals with large tracts of land and sometimes animals invade them and they are not compensated. So, if we have to promote wildlife conservation, we need to compensate farmers when they are affected by the wildlife. At times, farmers develop a passion to kill those animals. I would like us to look into that area.

Finally, we should come up with better legislation to encourage tourism, so that we can boost our economy. We need to look into our game reserves like the Maasai Game Reserve. Going to these game reserves is a big problem because of the state of the roads. We should improve the roads in these areas, so that we can support our economy.

Hon. (Ms.) Duri: Thank you, hon. Temporary Deputy Speaker. I stand to support the Bill but with amendments. The Bill is talking very much about animals and crops, but not talking much about why KWS officers take law into their hands and kill people. That needs to be put in the Bill clearly, so that compensation for persons killed by the KWS officers is also catered for.

Life is very precious. If an animal's life is very precious, what about human beings? There should be fairness in this law. We should know that hitmen should not be killed like what I saw the other day and I raised the issue in this House. The KWS officers fire in the air to scare away animals and people, and we lose many animals when running away from the fire. These issues should be put in the amendment so that we can also co-exist peacefully. Another issue is that the communities living around these national parks should be given employment opportunities. In Clause 32, it is recommended that there will be a compensation committee to guide the compensation and the KWS. In some counties, the members of this committee might all be men. I wish to suggest that the ward representative be involved in the committee. For example, if we talk about Kone, the ward representative for Kone should be in the committee. If we talk about Assa or Wayu, the ward representatives should be members of the committee. We

should have at least, one woman in the committee. There are some areas where all the members will be men.

The other issue which I wanted to be provided in the amendment is the review of boundaries. The KWS has moved the colonial boundaries into the community land. For example, in Kone and Bilisa, they have even fenced the shallow wells which the animals use during drought. So, I propose that a review of the KWS boundaries be carried out. We also need to involve the communities through setting up small committees to participate in the KWS issues whenever there are damages or when they want to see what they can do for the people. They should not only be harassing the communities. We have a problem with KWS harassing the neighbouring communities.

The other issue is that the relationship between the KWS and the local communities should be improved. They must feel that the neighbours of the national parks are human beings and need to live comfortably. So, they should improve the relationship between the local communities and the KWS. We also have an issue with the proposed compensation. When a wild animal kills a human being, the small compensation is even delayed. This compensation should be done immediately after one or two months. Some of the people who are killed by wildlife are the breadwinners of their families. The compensation should also be reviewed from what it is currently to what we proposed last time. It is also good for the local communities to know that these animals are an asset in their areas.

There is a proposal that if an elephant is killed, the fine is higher or the person is jailed for life. When a human being is killed, these things move very slowly. We want everything to be in order. Human beings should enjoy their rights and animals should also enjoy their rights.

I support the Bill if only the amendments are carried.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Halima, we have time to forward our amendments to the relevant Committee. This is very welcome.

Hon. Maweu: Thank you, hon. Temporary Deputy Speaker. I rise to support this Bill. We should support the Bill. In the past, we have lost animals, properties and even lives without any compensation, but now we are coming up with a law which will protect the animals, property and lives. I see no reason why we should not support the Bill.

I am comfortable when we talk about communities being involved, so that they can decide when things go wrong, particularly when our properties are destroyed. In the past, property would be destroyed and nobody would be compensated. Many of my colleagues have said that the compensation is very little, that in most cases it does not serve the purpose it is supposed to serve. I urge the House to amend the Bill, so that we can give compensation, which can help those who lose lives and properties. We need to amend the Bill to cater for this.

I tend to agree with the proposed penalties. If we do not have severe penalties, we will lose all the animals. Many of us know that wildlife has earned this country a substantial amount of money and we have a duty to protect the wild animals. Finally, let us attach a lot of importance to our properties and lives and not attach a lot of importance to animals. As we protect the animals, we should also protect our lives and properties. This Bill is addressing all those issues and I support it.

Hon. Angwenyi: Thank you, hon. Temporary Deputy Speaker, for giving me a chance to contribute to this important Bill. First of all, I want to thank the Mover of the Bill for having thought about this law that will govern our wildlife conservation. Upfront, I want to differ with my colleague who contributed from that side that we should not attach a lot of importance to our wildlife, being a tourist attraction. That is a God given asset, the same way people in Arabia have

been given oil or South Africans have been given gold. This is our gold! We should protect, promote and exploit it for the benefit of our people.

Hon. Temporary Deputy Speaker, we actually promoted tourism in this country on the grounds of wildlife. We will probably have more visitors like the visitors who visit Malaysia in a year. Malaysia has got a population of 23 million people. They do receive 26 million tourists in a year. All they have to show is rubber plantations and two twin towers. They have no sun beaches, wildlife, and mountains with snow at the top, no lakes or glaciers. We should use this wildlife to promote our economy and our people to eradicate poverty. Therefore, it is an asset given by God, only that we have not used it well.

Hon. Temporary Deputy Speaker, I also want to contribute on section 31(2) where it says that if a wildlife kills a human being, that human being is compensated by a maximum of Kshs1 million. Kisii people are used to hunting and that is why we wiped out all the wildlife in Kisiiland. It is said that I will be fined Kshs20 million if I kill wildlife. What is that? That, that gazelle is much more valuable than my life? An amendment should be made to this section so that compensation for human beings is higher than wildlife. In any case, God created wildlife for us to eat. That is why they were created, not the other way round. Therefore, that should be amended to make it reasonable.

Hon. Temporary Deputy Speaker, I also see that when wildlife damages my crops, for example, what I can get as compensation is Kshs200,000. But if I stray into wildlife sanctuary, I have to be fined Kshs200,000. That is a travesty! If they damage my property, the value of that should be compensated. The same way we do, if you get an accident in a vehicle, that insurance pays the value of the damage caused by that accident.

I have also not seen in this Bill where communities that reside within the conservancies will benefit. There must be a clause in this Bill saying that, maybe, 10 or 20 per cent of any proceeds arising from the existence of the wildlife in a given area should go to the communities concerned. This will be an incentive for the communities that have been able to keep these wild animals with them over the years.

When I was t10 years old, there were a lot of gazelles and impalas in Kisiiland, but they are all wiped out. The Maasai, the Kikuyus and the Samburus who have kept all this wildlife all this time, should be given some incentives or rewards for having done that.

(Applause)

Hon. Temporary Deputy Speaker, in a case where a *matatu* driver or even the Chair is driving from Loitoktok to Nairobi and on the way he carries a friend who has in his possession a trophy, the law says that you will be arrested and fined or imprisoned for five years. That is inordinate. That is a travesty again. Therefore, that should be amended. Unless the driver was involved in the illegal trade of trophies, he should not be fined. We should follow the person who owns that trophy.

Hon. Temporary Deputy Speaker, if we want our Government to work, then let us do away with it. Every time we bring a Bill in this Parliament, we want to say that the Cabinet Secretary should not do this or that. Why do we have them then? Why do we think that Parliament knows everything and must manage everything? We have got an executive branch of Government and they have got their roles and functions; let them do them.

In this case, actually, they are mandated a little by section 2 which says that there must be public participation. So, the public participation involves declaring what is going to be a park and what is going to be a national reserve.

With those few remarks, I beg to support.

Hon. (Ms.) Tobiko: Thank you, hon. Temporary Deputy Speaker. I can assure you my people would not forgive me if I do not contribute to this Bill. It is one Bill that is very dear to them and they have been waiting for it for so long. I can tell you they have been on the corridors of Parliament trying to urge us to support the Bill because of the good in the Bill. There are a lot of things in this Bill which are good and progressive.

However, there are few things that need to be amended. As I support the Bill, I would urge the Committee to bring the necessary amendments and those of us who are interested can reach out to the Committee to show them the few areas that we think will be punitive to our people.

The issue of compensation has been spoken to by many people. I think it is not fair, proper or just for a family that has lost a dear one, maybe, a breadwinner or any human life for that matter, to get a compensation of Kshs1 million or even Kshs3 million. Whatever the elephant is worth, the human being is worth much more. I would urge that the issue of compensation be relooked at to make sure--- Even when God created human beings, animals and all that is in this world, He had put human beings on top of everything that is in existence. We must value human life.

Hon. Temporary Deputy Speaker, my constituency is sandwiched between three national parks; Nairobi, Tsavo, at the Chyulu Hills, and Amboseli National parks. When I attended a meeting in a place called Merisho, I witnessed or saw people who were just seated in vehicles. I could not understand why they were not getting out of the vehicles to come and participate in the meeting. But later on, I was told that those people who were in the vehicles were not just there, it was because they were incapacitated as a result of wildlife attack.

Those people had been incapacitated and they had not been compensated by KWS. They had hospital bills that had not been taken care of and they could no longer work for their families. So, I would also urge that hospital costs for those who have been injured by wildlife must be taken care of. Again, it is very punitive that the wildlife finds you in your own farm and injures you and finally you get to meet the cost. Our areas, particularly group ranches, and even individual ranches around the parks provide a dispersal area for wildlife. If this Bill says that you must take measures to protect your crops or your livestock, I think a wedge is being driven between the communities and the wildlife. If we fence our areas, then wildlife will not find space to move out of the parks. Actually, our communities have been living for years with this wildlife. If you go to my home today, and I think a number of Members were there not long ago, it is like you are going through a park. We live with wildlife. We appreciate them, but if you say that we must be seen to have taken measures to protect our crops--- In fact, in my community we do not do farming. Not because we do not want to do it, but it is because elephants would not allow. We never cultivate crops like maize. We would have wanted to do that for the sustenance of our people, but we cannot because of the wildlife. The people around parks cannot do farming because of wild animals. Those communities around the parks must be encouraged. The law must be done in such a way that there is mutual benefit. We should live amicably with these animals. I think we might create laws that will encourage communities to even eliminate these animals.

I have also seen that KWS does not employ local people. I would say that the law should specify that game rangers and others, 80 per cent should come from the communities that are preserving these animals. It is the only way for these people to look at the animals as an asset. This is the only way to look at wildlife as benefiting every Kenyan and particularly those who have kept the animals. I liked what hon. Angwenyi has said; there are communities that have lived with these animals. There are communities that have preserved this good heritage. There are communities that have wiped it out. Why do you not do well to those who have kept this wildlife? Why do we not put a law that will then appreciate the role that these communities have been playing? I would also say that during drought, we find our animals moving into parks. It is not the wish of these people to move into parks, but at that time it is really survival.

I would say that penalties must not be punitive. After the drought, the animals move out of the parks to our ranches. So, both do visit each other. If we put penalties that cannot be afforded by the communities, people will not appreciate this resource. I would say that the law is good, but a number of things must be corrected. A number of things must be amended so that we then continue keeping the wildlife.

Thank you for the opportunity and I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Tobiko. Hon. Korir.

Hon. Korir: Thank you, hon. Temporary Deputy Speaker for the chance to stand and support this timely Bill.

This Bill should have come earlier. When you go outside this country, anywhere in the world and mention the word “Kenya”, there are two things that people will say. They will talk of wildlife and running. Those are the two things that have sold this country all over the world. These two things are being attacked from all sides. If we do not come together as a House to protect what has made this nation to be known all over the world, we will be losing a lot in this country. Wildlife has been something that has earned this country so much respect; it has earned this country so much money. The human-wildlife conflict is affecting this gain. Poaching has been another big problem we have been facing. There is one thing that we have to accept, the rate of poaching in this country has gone up. The moment the Chinese came to work in this country, we started experiencing this problem. We need to look at it and ask why it has happened. This Bill gives us a way to bring about a co-existence between wildlife and communities. That is the only way that we can maintain what has brought this country a great name.

Athletics is at the verge of being killed by doping. The wildlife is equally at the verge of extinction because of poaching. We have to give counties the power to enjoy what the wildlife brings. That will enable the counties to manage what is in the parks. That will give communities an opportunity to appreciate the animals around them. They can love them and take care of them. That is what this Bill does. I know the Bill is not perfect, and many hon. Members have been able to poke into the imperfection of this Bill, but nothing in this world is perfect. Bring amendments to it so that we can help our people.

There is one thing that this Bill also mentions about compensation. I agree that compensation is not enough. I also agree that we should take punitive action against those people who come to this country and take advantage of what has been ours to enrich themselves. We have to make sure that we provide enough preventive measures to make sure that animals do not get out of the parks. If they do not get out of the parks, they will not kill human beings. We will not have an issue with compensation. Otherwise, if the Government does not fence these parks,

we will end up losing more animals, because this Bill also gives permission to those people who live next to game parks to kill animals in self defence. During drought, most of these animals leave the parks in search of food. They will kill people. On the other hand, people will also kill them in self defence. This will raise many issues of compensation. We will have a disaster.

So, the first thing is to fence these game parks so that these animals are in a place where they will not have conflicts with people who live near the parks. If we do that, we will not have all these problems that we are saying we are facing in this country.

Hon. Temporary Deputy Speaker, I would like to support this Bill and encourage hon. Members who have problems to propose amendments so that we can have a good law that will safeguard our natural resource and the dignity of this country.

Hon. J.K. Ng'ang'a: Thank you, hon. Temporary Deputy Speaker. Let me begin my contribution by thanking the Mover of this Bill. Hon. Members will agree with me that this Bill was timely. I come from a place which is surrounded by wild animals. I know that many people have lost their lives and some have been maimed while others have lost a lot of property. Crops have been destroyed and their livestock killed.

When it comes to compensation, I do not think that there is any valuable money which can compensate human life. At least, we should come up with a law which will say that those people who have lost their lives or have been injured are well compensated.

I have a feeling that what we are discussing today should not only be geared towards compensation but should be geared towards coming up with measures on how to protect wildlife. As hon. Angwenyi has said, we are proud of our wildlife. It is our God given resource and we need to protect them.

Many developed nations which I have visited, normally associate Kenya with wild animals. We should try as much as possible to protect them. There are some few species which are almost extinct because they are not properly protected. We should come up with a law which will make sure that wild animals are well protected. Besides that, I have a feeling that there are those KWS officers who are performing a very noble duty to protect wild animals. These officers should be well remunerated. This is because the allowances they get are low and they live in very deplorable conditions.

Hon. Temporary Deputy Speaker, you will be surprised to see an officer on duty even at night and yet he or she is not well protected. They should be well compensated, protected and remunerated so that they can have the morale to do their job. I would like to wind up by requesting the Cabinet to implement this Bill once we pass it. This is because we have passed very many Bills but they have never been implemented.

The work of this House is to enact laws and they should be implemented once they get to the Cabinet. If there is any Bill they feel is not properly constituted, it should be brought back to the House for further scrutiny otherwise we will be wasting taxpayers' money and our time debating Bills in this House the whole day, week, month and year. *Wananchi* will blame us, as Members of this august House, for not doing our work. Why am I saying this? This Bill was supposed to be brought to this House during the Tenth Parliament but it has taken more than five years. My people in Njoro Constituency which I represent have been waiting for this Bill for more than 10 years.

When I asked a Question related to this Bill in the last Parliament, I was told that it was being drafted. This is the time it has been brought to the House for debate. So, let it be implemented once we pass it so that the people on the ground can benefit.

Thank you, hon. Temporary Deputy Speaker. I support this Bill.

Hon. Rop: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. I want to congratulate my team because I happen to be a Member of the Departmental Committee on Environment and Natural Resources.

The Bill is very good because we want to protect our wildlife. Our animals are a resource that has been given to us by God. Tourism is a major income generating activity in this country because wildlife attracts people from all over the world. So, the Bill has very good intentions in terms of protecting wild animals and ensuring that people who live near conservation areas are given an opportunity to conserve wildlife.

Hon. Temporary Deputy Speaker, people have been complaining about the amount of money that has been quoted for compensation. I am a Member of this Committee and I know that the figure will change to Kshs3 million. This is because the Kshs1 million is too low. I believe that this Bill has very good intentions. The endowment fund has been created by the Bill and it can be used to offer other services like research in wildlife.

Clause 41 of this Bill allows community participation in terms of establishing conservation. This means that we are allowing any community to participate in conservation. If you have land that you want to use for wildlife habitation, it is allowed. Clause 57 says that every person has a right to practise conservation. So, you are given that incentive to practise wildlife conservation.

This Bill says that everybody has reasonable access to wildlife resources. It also allows sustainable utilization of this resource. The Bill also protects wildlife. The Bill discourages pollution in the wildlife conservation areas. It also aims at protecting wildlife from being destroyed by hunters, especially those who do wild meat business. The penalty of Kshs200,000 that has been indicated in the Bill is not for small time poachers or those who practise hunting. It is supposed to deter those who do wild meat business. The Bill also provides for licensing and regulations on practising wildlife. This country is endowed with wildlife resources. I support the Bill subject to introduction of the few amendments that have been mentioned. I believe that, as a country, we will develop because wildlife is a major resource from which we generate income.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, hon. Rose Rwamba Mitaru.

Hon. (Ms.) Mitaru: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. I was looking forward to the opportunity and hoping that time would not lapse before I could say what this Bill means to my people of Embu County.

Where I come from, we have a lot of elephants housed near Mount Kenya. The people around that area have a big problem. Every season, elephants harvest their crops. Sometimes they kill people around there and nothing is done. I also come from near the hydro-electric power dams, where there are so many crocodiles. When our livestock go to drink water from the dams, they are sometimes attacked and killed by crocodiles. Very early in the morning, sometimes women and children go to the dams to fetch water. The crocodiles know that, that is the time when women go there to fetch water. We have lost very many families to crocodiles.

It is very sad that when we report such attacks to the relevant authorities, they do not take any action simply because it is not a wild animal that has been killed but a human being. We also have snakes that bite people, especially when it is very hot. We have amputees in that area. When KWS officers are called, they do not even attend to such cases. So, my people are very worried. Sometimes we wonder who is more honoured in this country. Is it the crocodile that has eaten a person and left a family without a mother or a father or is it the person who kills a snake which has bitten his child? Such a person is arrested and taken to court.

We have a Kisumu Ndogo in Embu County because we have many people who have come from other constituencies and counties to do fishing. The hippos have also learnt to kill those people. We report to the authorities but nothing is done. Whenever a victim is compensated, the amount is so little that we wonder what it means. A hippo has killed a breadwinner, a person who has been fishing and bringing fish to Nairobi in order to sustain his family, and his family is then compensated with very little money or almost nothing. It also takes a very long time before the compensation is made. When one sustains injuries, the best that people in the neighbourhood do is to sit together and sell their livestock to support the person in hospital so that he can get treatment.

I propose that if any wild animal attacks a human being, the KWS officials must go to the scene and record the incident. If there are medical bills to be paid, the victims must be taken care of. If there are funerals, the Government must take it up. We have very many small *Harambees* that take place there, with people trying to raise money to buy a coffin and pay hospital bills. When the compensation comes, you realise that it is very little money despite the fact that it takes very long to come. Therefore, I support this Bill with amendments, so that our people do not continue wondering whether we respect human life less than wildlife. So, we have to take action very fast.

This is very important for my people living near Mount Kenya, where elephants destroy their crops. Sometimes they experience famine. They always run out to farm. Those living downstream, where we have power plants, crocodiles and hippos are also destroying our people.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Mbalu): Yes, hon. Harrison Kombe.

Hon. Kombe: Ahsante, mhe. Naibu Spika wa Muda. Ningependa kuchukua fursa hii kuunga mkono Mswada huu.

Kwa hakika, wanyamapori wanaleta faida kubwa katika taifa hili lakini pia inastahili tufahamu kwamba mwanadamu yuko na thamani kubwa zaidi kuliko mnyama. Hata Mwenyezi Mungu alipoumba mbingu na ardhi, alimuamuru mwanadamu aje ardhini kuwatawala wanyama na awe mwenye mamlaka juu yao. Inatupasa pia tuzingatia kwamba binadamu ana thamani zaidi kuliko mnyama. Pendekezo kwamba ridhaa kwa mtu ambaye ameuawa na mnyamapori iwe Ksh3 milioni halijatosheleza.

Tuchukulie kwamba mtu huyu ndiye anayeitafutia riziki jamii yake. Mtu huyo anapotea kwa ghafla, ridhaa hiyo ya Ksh3 milioni haiwezi kukidhi mahitaji ya jamii yake kwa muda mrefu, haswa tukizingatia jinsi shilingi inavyopoteza thamani yake siku baada ya nyingine. Kwa hivyo, wakati wa kupendekeza marekebisho utakapowadia, nitajaribu kuleta pendekezo la kuibadilisha hali hiyo na kuongeza ridhaa kwa mtu atakaye uawa na wanyamapori kutoka Ksh3 milioni hadi Ksh10 milioni. Hata ikibidi jamii ya mwenzake wagawane pesa hizo, kila mmoja atakuwa na kiwango cha fedha kitakachomusaidia.

Tuchukulie kwamba aliyeuawa ni mwanamume ambaye amejimudu na kuweza kua mabibi 10, alafu uwapatie Ksh3 milioni. Ukiwagawanyia fedha hizo mabibi 10 na watoto wao, kila mmoja anapata kiwango ambacho hakistahili kamwe. Ni pesa ambazo anaweza kuzimaliza kwa mwezi mmoja halafu wabaki wakihangaika. Miongoni mwa wanyama walioorodheshwa, kuna wanyama kama vile nyani na tumbili, ambao wameachwa nje licha ya kwamba hao ndio wanyama waharibifu zaidi wa mimea, na haswa mumea wa mahindi. Inafaa wanyama hao pia wajumuishwe kwenye orodha ya wanyama waharibifu.

Vile vile, kuna wavuvi ambao huenda kuvua samaki. Wakati mwingine hukumbana na papa na kupambana nao. Wakati mwingine utapata yule mvuvi amekatwa vipande viwili naye

hupoteza maisha yake. Wanyama kama papa inafaa waorodheshwe ndiposa atakayepata hasara ya kuuliwa na papa alipwe ridhaa. Kuna samaki mwingine hatari sana tunamwita pweza. Huyu samaki akikupata katika mwamba utabaki pale pale mpaka bahari ijaye tena upya; utakufa maji. Yule pweza pia angeorodheshwa kama mojawapo wa wanyama ambao wakimwathiri binadamu basi alipwe ridhaa.

Ridhaa inayolipwa kwa ajili ya mimea kuharibiwa, kiwango chake ki chini sana. Pana haja, wakati wa marekebisho, tulete marekebisho mwafaka. Kwa mfano, mnazi unafaida chungu nzima. Hakuna sehemu moja ya mnazi ambayo utaitupa. Kila sehemu inayo faida. Ukipata mnazi umeharibiwa, kiwango kimetengwa kulipa mnazi ni duni kabisa--- Inapaswa hili lizingatiwe ili pawekwe kiwango kinachostahili na kinachoweza kukimu hali ya maisha ya mkulilma.

Wenyeji wanaoishi karibu na sehemu zilizotengewa wanyama pori sharti wapate kiwango fulani kutoka kwa mapato ya utalii. Baadhi ya jamii pia ziruhusiwe kubuni mashamba ya wanyama. Hivyo, watawaalika watalii kutembelea mbuga hizo zilizobuniwa. Hii ni njia ya kupata mapato ya kukimu hali yao ya maisha. Kuna sehemu nyingi ambazo ni kame na zinaweza kutumika kuhifadhi wanyama.

La ziada sina. Nawapa nafasi wenzangu nao wachangie. Ahsante.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I must appreciate that this is one of the Bills that has really attracted legislators. We have 15 minutes left for this morning sitting. Could we reduce the time to three minutes per speaker?

Hon. Members: Two minutes!

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, two minutes then. Hon. Tonui.

Hon. Tonui: Thank you, hon. Temporary Deputy Speaker, for this opportunity. I have waited quite for a while. I want to support this Bill because I believe we need it to streamline the wildlife sector and tourism in this country. We know that wildlife and tourism is a major source of income to our economy. We must, therefore, do all that we can to ensure that we strengthen this area.

I am happy that this Bill is talking of devolution. There are some sections in this Bill which will be under the counties. I support the issue to do with compensation and the environmental committees. This Bill also strengthens the KWS. One issue which might not have been captured very well is the transitional clause to include the current staff of the KWS. This is going to be a totally new body. If we do not take care of that, the employees of KWS will find themselves without jobs after this Bill comes into place. Being a member of this Committee I believe that we need to capture that in the transitional clause so that these people are assured of their jobs as the Bill is enacted.

With regard to compensation, I represent a constituency which borders Mau Forest. We have wild animals that stray into people's farms. They include elephants and porcupines which love potatoes. The issue of compensation is very important. I know that this Bill proposes a maximum of Kshs1 million in case of death. We must harmonise this with what we dealt with in the Bill on insurance. We said that the compensation under third party is about Kshs3 million.

Hon. Njomo: Hon. Temporary Deputy Speaker, I am proud to be part of the Departmental Committee on Environment and Natural Resources that was working on this Bill. We went through a very consultative process to come up with this Bill which will satisfy all the people and organizations involved in wildlife matters. We met several organizations and this will show their input.

It is well known that Kenya is a haven for wild animals. If animals all over the world were to be asked where they would like to settle, they would run to Maasai Mara because that is the haven of our wildlife. So, we should protect it jealously. I remember Eng. Gumbo was talking about the way we should attract tourists using other methods other than wild animals. I would like to put it to him that we have animals as a natural gift from God. We need to use this as a tool to attract tourists in our country. Tourists want to see our animals and they will definitely come. There are many countries with tourists, yet they do not have wild animals. I have gone to zoos in other countries where the best you can see are lizards and rats. Here, we have beautiful animals. We should take advantage and use---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Member. You must appreciate there is a difference between Jude and Judy. Members, it is 10 minutes to 12.30 p.m. As per the procedures and rules, the Mover has 10 minutes to reply unless she is philanthropic enough to donate some of the minutes to our legislators, which is at her discretion. I, therefore, call upon the Mover to reply.

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Speaker, I would like to donate a minute to hon. Baiya because he asked for a chance in mother tongue. Then I also want to give hon. Duale, the Member for Dadaab, and hon. Gikaria, because he has been complaining that we have not heard his voice.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Members, she is philanthropic enough to donate two minutes to hon. Baiya, two minutes to Duale and two minutes to Gikaria and she will use the other four minutes to reply.

Hon. Baiya: Hon. Temporary Deputy Speaker, first of all, I wish to thank hon. Abdalla for allowing me one minute. I also want to support this Bill. The challenge that we have had is that conservation has been left to certain people, who are basically in big business trading with wildlife in this country to the exclusion of the bulk of the Kenyan people, particularly the communities. It is very important that as we look into this legislation, the inclusion of the local communities and the stakeholders in conservation be emphasised. Even sharing the wildlife-based resources among the communities must also be emphasised. Matters like compensation, which are meant to manage the risks arising from the management of these resources, should embrace the fact that these resources also belong to the people.

It is also important, when it comes to licensing that the State should control some of the users. I want to support the Bill because I can see that I have run out of time.

Hon. M.D. Duale: Hon. Temporary Deputy Speaker, from the outset, I want to thank hon. Amina Abdalla for giving me two minutes from her time. I totally support this Bill. I want to congratulate the Committee for having done an excellent job in terms of the information they have shared in the Bill and for engaging many of the stakeholders.

Wildlife is one of the major resources of this country through tourism, which has created many job opportunities through foreign and local tourists. We need to conserve our wildlife. We also need to minimise the human-wildlife conflict and I am very happy that compensation in terms of death and destruction of properties has been well taken care of. My only appeal is that for death, injury or destruction of property, the process of compensating citizens should be fast-tracked. In terms of the KWS, I urge that the Ministry concerned should increase the strength of the staff, so that they can protect these animals.

With those few remarks, I totally support the Bill.

Hon. Gikaria: Thank you, hon. Temporary Deputy Speaker. First, let me thank the Chair, hon. Abdalla, not only for giving me this opportunity, but also for ably being in charge of a Committee that has given us a very good Bill.

First, as it has been said by hon. Baiya, the Bill brings out public participation and that is the most important aspect of this Bill where the public, in areas where we have wildlife, is involved in the management. They can also have their private wildlife conservancies. Secondly, it is the aspect of compensation. I come from near the Nakuru National Park and it has been a problem, not so much with the other animals, but with the baboons. In my area, women no longer wear skirts because baboons have realised that women wear skirts and men are in trousers. Women within the national park wear trousers, so that baboons just see people in trousers. Baboons have destroyed roofs in this area. The aspect of compensation has come out very clearly in the Bill.

The other issue is about environmental pollution. Lake Nakuru is almost gone because of the effluent from Industrial Area within the Nakuru County. This is affecting our national park. The offences and the penalties proposed for pollution of the national parks is a welcome idea. These industries make a lot of money, but at the end of the day, they emit residues and effluent, which destroy the eco-system of the Nakuru National Park. The fines, as indicated, are appropriate.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you, hon. Gikaria. Now I call upon the Chair, hon. Amina Abdalla, to reply.

Hon (Ms.) Abdalla: Thank you, hon. Temporary Deputy Speaker. I wish to thank all the Members for their worthy contribution to strengthen this Bill. I am happy to note that most of the issues that were raised have already been dealt with in the amendments that we will be proposing to the House. I just wanted to let the Members know that we have strengthened Parliament's role in gazettment and degazettment of national parks and the issues raised by hon. Wario will not arise with the amendments that we have proposed.

Secondly, I want Members to note that despite the fact that national parks will be part of the national Government, we have clearly ensured that national reserves and their revenues are managed by the county governments considering that those parks are based in community lands. I note with concern the fact that Members were unhappy about the low penalties, but they need to note that the penalties have to be paid from the Exchequer. As a Committee, we had to balance what we can charge the Exchequer and what we cannot. These figures are similar to those of third-party compensation. I would really pray that Members do not amend to increase these figures because we have done well enough at 3 per cent.

I also note that Members are concerned about culling and cropping. We have put in place amendments that would ensure that cropping will only happen in fenced protected sanctuaries and not in open areas.

Finally, I would like to request those Members who wish to move some amendments, because we have so many amendments, to come for the Committee meeting on Wednesday next week, so that we can harmonise them and ensure that we do not end up with a Bill that does not flow. Although I did not say it when I was moving the Bill, there are clauses that should not be where they are and I fear that if we do not sit down and harmonise them before we come to the Third Reading, we might be moving amendments that contradict each other. I really pray that any Member with amendments should join us on Wednesday next week to deal with it. I notice with concern the issue of gender representation in the county committees on conservation and compensation. We will try to do something during the harmonization session.

With those remarks, I beg to move.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Members, it is now 12.30 p.m. This House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.