

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 4<sup>th</sup> July, 2013

*The Senate met at the Kenyatta International  
Conference Centre at 2.30 p.m.*

*[The Speaker (Hon. Ethuro) in the Chair]*

### PRAYERS

### QUORUM CALL AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Ethuro): Hon. Members, we need to determine whether we have a quorum. I think we have more than the requisite numbers.

Let us commence Business. We have a quorum.

### STATEMENTS

#### GOVERNMENT EFFORTS TO END TEACHERS' STRIKE

**Sen. Kagwe:** Mr. Speaker, Sir, I rise to make a statement in relation to questions by Sen. Karaba that were raised last week regarding two issues.

One of them is on the teachers' strike that is currently going on and the other is about the Government Laptop Project.

From the outset, I would like to say that we have met with the Cabinet Secretary for Education. I have another statement here that is similarly signed by the Cabinet Secretary. The statement of the Senate on the validity of Legal Notice No.534 of 1997 signed between the Kenya Union of Teachers (KNUT) and the then Government leading to the teachers' strike.

Secondly, funds set aside for laptops for Standard One pupils and the capacity building of the teachers. On the validity of Legal Notice No.534 of 1997, the Government position is as follows.

In 1996, the Government appointed the Teachers Service Remuneration Committee (TSRC) whose negotiations culminated in the salaries award as per the Legal Notice no.534 of 1997. The award was to be implemented in five phases as from 1<sup>st</sup> July, 1997. The first phase was paid out in 1997 as agreed, but four phases were not paid due to Government financial constraints.

On the validity of the agreement signed in 1997, the Gazette Notice 534 of 1997 was valid. This was as a result of negotiations of the TSRC which had been constituted under the reviewed Teacher Service Commission Act Cap 212.

In September 2002, teachers went again on strike demanding implementation of the remaining four phases of the Legal Notice No.534. The then Moi Government signed a return to work formula with teachers on 18<sup>th</sup> October, 2002 and agreed to implement the remaining phases in ten phases starting from 1<sup>st</sup> July, 2003.

The ten-phased tripartite agreement signed by the parties on 18<sup>th</sup> December, 2002, culminated in the Gazette Notice No. 16 of 2003 that substantially amended the provisions of Legal Notice No.534 on the following grounds.

1. Phasing of salaries to ten phases.
2. Commuter allowance was to be implemented in three phases and remained at a fixed rate.
3. Medical allowance was to be paid in three phases and remained at a fixed rate.
4. Responsibility allowance was to be increased by 500 per cent.
5. It also adopted the Directorate of Personnel Management (DPM) Circular No.OP18/1A/8/14 of 18<sup>th</sup> June, 2001 on house allowance.

The Government has fully implemented the provisions of Legal Notice No.16 of 2003 and Legal Notice 142 of 1<sup>st</sup> August, 2003. Attached is a summary of the implementation status of the Legal Notice 534 of 1997 and Legal Notice 16 of 2003. The ten-phased agreement with KNUT is what resulted to Gazette Notice No.16 of 2003 that substantially amended the provisions of Legal Notice 534.

The Kibaki Government subsequently gazette Legal Notice No.17 that reduced the ten phases as per Legal Notice No.16 of 2003 to six phases. The full implementation of Legal Notice 16 and 164 was fully done in July, 2007.

The current status is that the Kenya Union of Post Primary Education Teachers (KUPPET) went on strike on 17<sup>th</sup> June, 2013 demanding the following.

1. Harmonisation of Commuter allowances;
2. Harmonisation of leave allowances;
3. Harmonisation of responsibility allowances;
4. Employment of more teachers;
5. Recruitment of Early Childhood Development (ECD) teachers; and,
6. Training and development of teachers.

The KNUT went on strike on 25<sup>th</sup> June, 2013 demanding the following. Implementation of the following allowances as per Legal Notice No. 534 of 1997.

1. House allowance at 50 per cent basic salary;
2. Medical allowance at 20 per cent; and,
3. Commuter allowance at 10 per cent.

The Teachers Service Commission's (TSC) action is as follows. The TSC went to the industrial court and filed a petition for both unions. Following the hearing of both petitions on 28<sup>th</sup> June, 2013, Judge Linnet Ndolo of the Industrial Court issued the following orders.

1. Parties be and are hereby directed to commence negotiations on the issues raised by the respondents.

2. The issues to be determined during the negotiations shall relate to the following; as far as KUPPET is concerned, the harmonization of commuter, leave and responsibility allowances for their members.

3. As far as KNUT is concerned, the rationalization of the remuneration due to their members under Legal Notice No.534 of 1997 and Legal Notice No.16 of 2003. The

meeting between the parties shall be convened and chaired by the Cabinet Secretary for Labour.

4. In the meantime, members of the respondents' unions or the teachers to report back to work on Tuesday, 3<sup>rd</sup> July, 2013 at 8.00 am.

5. Failure on the part of teachers to report to work as directed and any continuation of the strike will be deemed to be a perpetuation of a prohibited or illegal strike.

6. The parties shall report back to court on 15<sup>th</sup> July, 2013 on the outcome and status of the negotiations.

7. That both parties including members, agents and officials or the respondents should refrain in commenting on the said matter or in any way publicly communicating on the said matters during the tendency of the court matter until its determination.

The Commission convened a meeting on 2<sup>nd</sup> July, 2013 chaired by the Cabinet Secretary for Labour as directed and to deliberate and agree on the offer to be presented to the unions. The aim of the meeting was to come up with the Government's position in readiness to meet with the unions the following day.

On Wednesday, 3<sup>rd</sup> July, 2013, the Commission called for a meeting with the unions and all key stakeholders to deliberate on terms and conditions of service for teachers and offer the unions what had been approved by the Salaries and Remuneration Commission (SRC). However, the KNUT stormed out of the meeting when they learnt through an order served to the Chairman of the meeting by the industrial court that the unions did not comply with the court order requiring teachers to return to schools as negotiations take place.

The Government side is, therefore, consulting with the hope of continuing with negotiations if the unions will agree. It has been agreed that all negotiations with the unions should be in tandem with the prevailing legal framework.

With regard to the implementation status, all the allowances as previously agreed with the KNUT have been fully paid as per Legal Notice No.16 of 2003. That is the statement with regard to the matter of the unions' strike.

Mr. Speaker, Sir, I will now proceed to explain and make a statement on the matter regarding the purchase of laptops.

#### PURCHASE OF LAPTOPS BY GOVERNMENT

The Government has set aside Kshs53 billion for the laptop project for Standard One children in line with the promise they made under the Jubilee Manifesto. A breakdown of the budget for laptop implementation for the three phases is as follows.

The summary of the proposed Information Communication Technology (ICT) integration in public primary schools is as follows.

Here, there is a whole table regarding the monies that will be spent. However, let me just go through the first column just to highlight some of the differences that exist.

Out of the Kshs53 billion that is supposedly for the purchase of computers, only Kshs27.5 billion is the amount for the purchase of the computers. The rest of the amount is as follows.

Preparations, installations, storage which includes cabinets for keeping the computers so that they are not stolen; Kshs3.2 billion; digital devices, students laptops,

Kshs27.5 billion; teachers laptops and LCD projectors, Kshs5.5 billion; training of teachers and education sector officers, Kshs341 million; digital content which consists of softwares, Kshs843 million; connection of power to schools for them to use the laptops, Kshs15 billion; and, project management, monitoring and evaluation, Kshs380 billion.

The Government in appreciation of the shortage of teachers countrywide has set aside Kshs3 billion in the approved budget of the TSC for 2013/2014 Financial Year towards recruitment of 10,000 additional teachers. This is a phased approach where you will see recruitment of more teachers in the subsequent financial years.

This statement is signed by Jacob Kaimenyi, Cabinet Secretary, Ministry of Education.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. My colleague talked about Kshs380 billion. I doubt whether it is really billion. For the record, he has to clarify.

**Sen. Kagwe:** Mr. Speaker, Sir, the last figure was Kshs380,400,000.

*(Sen. Karaba stood at his place)*

**The Speaker** (Hon. Ethuro): Let us take the request for the statements first and the responses for the two statements afterwards. Sen. Karaba, hold on for a while.

#### TERRITORIAL STATUS OF MIGINGO ISLAND

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Speaker, Sir, on behalf of Sen. James Orengo, the Senator for Siaya and with your permission, I would like to request a statement from the Senate Majority Leader on the following.

One, the position of the Government of Kenya regarding the status of Migingo Island which is within the territory of Kenya as stipulated in Article 5 of the Constitution and, in particular, his views on the claims made by the Government of Uganda.

Two, which security personnel occupy and govern Migingo Island? What circumstances led to and surround the confrontation that occurred last week between the Kenya Administration Police and the Uganda Police? What efforts are being made to resolve the dispute over the Island and to ensure that the Island remains an integral part of the territory of Kenya without any foreign forces occupying or administering it?

**The Senate Majority Leader** Sen. (Prof.) Kindiki: Mr. Speaker, Sir, I request the Chair to allow me two weeks to allow me to get the responses from the relevant authorities of Government.

#### CONSTRUCTION OF THE CHEKARIGA-TUNAI-MITUNGUU-MERU TOWN ROAD

**Sen. Murungi:** Thank you, Mr. Speaker, Sir. Similarly, I would like to request the following statement from the Government through the Senate Majority Leader.

First is a statement on the current status of the construction of the Siakiriga-Mitunguu-Meru Town Road which traverses both Tharaka-Nithi and Meru Counties.

Mr. Speaker, Sir, this contract being implemented by Impex Construction Company was awarded in the last financial year. Although some bush clearing and some

earth work has been done, no single inch of tarmack has been done, although the financial year has come to an end.

So, Mr. Speaker, Sir, we require a detailed Statement from the Government stating:-

1. What was the commencement date and the completion date of this contract?
2. What was the contract sum?
3. How much money has the Government paid, so far, regarding that contract?
4. What percentage of the work has been done by the contractor?
5. What steps is the Government taking to ensure that this road is completed as soon as possible?

#### PROVISION OF SECURITY TO COUNTY ASSEMBLY SPEAKERS

Mr. Speaker, Sir, the second Statement is on the security of the Speakers of the county assemblies. Given the fact that the Speakers of the county assemblies are constitutional officers under Article 178 of the Constitution, who are critical in the proper functioning of the county governments; given the fact that their colleagues – the governors, county commissioners and even district commissioners – are provided with security both in their homes and in their offices; also given the very difficult conditions under which the speakers of the county assemblies are operating, especially if you see what happened in Kiambu County Assembly yesterday, there is need for the Speakers to be provided with security as a matter of urgency.

So, Mr. Speaker, Sir, we need a Statement from the Government, through the Senate Majority Leader, stating:-

1. When all the 47 Speakers of the county assemblies will be provided with security.
2. The nature of security they are going to be provided with, both in their homes and offices.
3. When that security is going to be provided.

Mr. Speaker, Sir, this matter should be treated as urgent. We want a very early Statement from the Government through the Senate Majority Leader.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Sen. Ethuro): Senate Majority Leader?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. Given the urgency of the matter at hand, I want to request the Chair to indulge me for one week rather than two weeks in order to come up with a comprehensive Statement on the matter.

**The Speaker** (Sen. Ethuro): It is so ordered; the Statement will be brought after one week.

Sen. Abdirahman Hassan, you are not on record as intending to do---

**Sen. Abdirahman:** No; no at all, Mr. Speaker, Sir.

*(Sen. Abdirahman spoke off record)*

**The Speaker** (Hon. Ethuro): That is the end of requests for Statements. There will be two more from the Senate Majority Leader and the Chairman of the Finance Committee, but they will be sought after we interrogate the earlier responses.

So, let us start with the issue of the laptop project.

Yes, Sen. Karaba?

**Sen. Karaba:** Thank you, Mr. Speaker, Sir. I also want to thank the Secretary of the Ministry of Education and, more so, Sen. Mutahi Kagwe, for reading that very comprehensive response from the Secretary.

But from what you have already stated here, it is important to note that Legal Notice No.534, which was signed in 1997, gave the teachers hope that the allowances said thereof were going to be paid in ten phases. Strangely, this agreement was infringed by the subsequent governments. It was even reduced to six phases by the then President, Mwai Kibaki. From there, it ceased to be recognized. So, the reason teachers are on strike is because they have been mistreated. They have been taken as if they are not serious negotiators and they are suspicious of these negotiations. Maybe that is the reason for not trusting the Government. What made it possible for the Government to denounce Legal Notice No.534 of 1997 without even due meetings and agreements with the teachers? I am sure teachers have a point. They must be having a bone to pick with the Ministry. So, it is not just an issue of mere allowances, increases and so forth.

Secondly, Mr. Speaker, Sir, you will also note that the figure of 10,000 teachers that the Secretary for Education says they will recruit, to me, is a drop in the ocean. We need to recruit more than 10,000 teachers if this country is serious with the provision of quality education. If that will not happen, then the same thing will continue happening. We will continue witnessing strikes year in, year out. It is sad that teachers must go on strike before their demands are honoured. This trend must stop. We should be seen to be serious when dealing with teachers' issues. We should treat teachers as professionals who know what they are doing.

Mr. Speaker, Sir, you will also note that the Early Childhood Development (ECD) teachers have not been recruited, so far, but teaching has been going on unabated. We have had teachers who volunteer themselves to teach under very difficult conditions. So, it is only humane for the Government, therefore, to listen to the cries of the teachers. The cries of the teachers are the cries of the country. Our pupils and students must be taught. This is not a demand for salaries and allowances alone; it is the demand of the country. The country must be seen to be taking care of a service. That service is provided by the Ministry.

Mr. Speaker, Sir, there is an illusion that the teachers and the Ministry take a lot of money from the Budget. This is not true. It is only that the Ministry of Education is a service Ministry. Even if they were to be allocated the whole budget of the country, that would not be enough. So all we need to do is prioritize our needs. We need to make sure that the Ministry is given adequate budgetary allocations so that all these demands are met. Otherwise, if other Ministries are given whatever they demand, then why are the teachers not paid when they demand? If we can only pay them when they are on strike, then it is okay for them to continue with it until they are paid.

I would also like to plead with the Ministry to make sure that teachers go back to teaching because they are wasting a lot of time for our children. Parents are agonizing because students are at home. I am sure there are so many problems which are emanating

from the failure of our children to go to school. There are areas like North Eastern and Eastern Provinces which are dry and where students are on school feeding programmes. Therefore, if they are not in class, I am sure that the feeding programme is not going on. Therefore, it is necessary and urgent that the teachers meet quickly and resolve this crisis.

*[The Speaker (Hon. Ethuro) left the Chair]*

*[The Temporary Speaker (Sen. Murkomen) took the Chair]*

Mr. Temporary Speaker, Sir, the other thing I noted is about the laptops project. I note that the money which is publicly known to be Kshs53 billion has now reduced to Kshs27 billion; which is okay. We have no worry about that one. So, what is the Government doing now, noting that we have five months ahead of us before we start off the programme? Has the Government started anything that can be realized on the ground to prove that it is serious to start off the programme, given that we have the programme of training teachers; we have to put up the labs, and we have also to prepare the teachers? We also have to make sure that the students who are being taught are taken care of. We are aware that there are classes which combine standards one, two, three and four and so on. What happens to that class one when they are given laptops against the background of standard two, three and four in the same class? That is something I think the Ministry should address quickly so that we can go ahead.

The other thing is the morale of teachers. If the teachers are not motivated to handle this project, I can foresee it not succeeding. So, take care, Cabinet Secretary. First of all, deal with the matter of the teachers before you introduce the laptops programme.

Thank you very much, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Murkomen): Sen. Abdirahman, the Deputy Senate Minority Leader.

**Sen. Abdirahman:** Thank you, Mr. Temporary Speaker, Sir. I want to thank Sen. Kagwe for the very detailed presentation, but I have two quick questions. One is in relation to the teacher's strike. It is clear that between 1997 and 2003, there has actually been two gazette notices which were varied. I believe it is varied unilaterally by the successive governments. I want to ask Sen. Kagwe, because teachers and even the union are depicted very negatively; when you listen to what they do and the response from the Ministers today, it will be assumed that teachers are on a wild goose chase. It will be unfortunate if we depict them in that bad light. Can Sen. Kagwe, on behalf of that particular Ministry, confirm that teachers were engaged in all those instances; and if these variations were done, they were done with their consent?

Mr. Temporary Speaker, Sir, it is of great interest to us because two Committees will be crucial in determining the validity of these gazette notices. These are the Committee on Education, Information and Technology; and the Committee on Health, Labour and Social Welfare. It will be of interest to us because I am a Member of the House Committee on Health, Labour and Social Welfare. We will want to get copies of these gazette notices, if they can be tabled.

Mr. Temporary Speaker, Sir, my last question is in relation to the laptops. The issue of laptops not being a priority aside, because some of us do believe it is still a priority--- I want to ask about the Kshs15 billion being committed to schools for

connection of electricity. This is the same thing as what the Rural Electrification Authority (REA) has been doing in the last ten years. We fear duplication of roles. To what extent will this Ministry liaise with REA to ensure that we do not duplicate electrification projects because we need this money for other essential purposes?

Thank you very much, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Murkomen): Yes, Sen. (Prof.) Lonyangapuo. That should be the last one before we get a response from Sen. Kagwe.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I did not hear clearly the Statement of the Chairman of the Committee on Education, Information and Technology. Really, has the plight of the child been considered or not? What we have been hearing in the media, especially in television and radios, are two giants fighting – the Government on one side and the teachers on the other side, for close to two weeks now. The Kenyan child has become a casualty and he has suffered. Nobody seems to be talking about these children. What becomes of them?

Mr. Temporary Speaker, Sir, as a result of the strike that took place last year, examinations were done beyond the prescribed usual times. It affected the whole school routine. Where I come from, there is only one academy. Now, it looks like everybody is comfortable because some counties could be having a lot of academies, which are private schools. I am asking this because I come from a pastoralist region. If the child's routine is interrupted, a new "pastoralist" is being born for those two weeks. The rhythm changes now from following school programmes to laughing and looking after the cows. That is an avenue of creating new cattle rustlers in some regions if we are not keen. So, I want Sen. Kagwe to tell us clearly when these children are going back to school. It is as simple as that.

**The Temporary Speaker** (Sen. Murkomen): Mr. Chairman, please, respond?

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, clearly, this is a matter of concern to each and every one of the Senators who are here with us and, indeed, all parliamentarians and Kenyans, at large. Nothing will please everybody better than to hear that our children are back in schools. After all, when two elephants fight, it is the grass that suffers. In this particular case, our children are basically the sufferers.

Mr. Temporary Speaker, Sir, in response to Sen. Karaba's question regarding teachers, the Statement I have clearly spelt out that 10,000 teachers will be recruited in the first phase of recruitment. Of course, they will also be hired according to availability of funds. We cannot hire people without funds. But the Government has already committed itself to hiring 10,000 teachers immediately to address some of those very serious shortcomings. In the Committee on Education, Information and Technology, we asked the Secretary to bring or to table to the Senate the number of teachers that will be recruited, county by county. We want to make sure that that some counties are not left out of the recruitment.

Mr. Temporary Speaker, Sir, Sen. Karaba asked about the labs and the laptops. I think there is some confusion regarding this issue of laptops. The first question we should be asking ourselves is; what sort of laptops are we talking about? There is a misconception around the country that the Government is going to buy McIntosh laptops for our children; this is not the case. The laptops that we are talking about are basically for use by children. They are tablets that are used by young people. They will have all the necessary software. They will be hardy so that even if the child drops it, it does not get



spoilt. So, I think it should be explained. We have asked the Government to do so, so that people know the kind of computers we are talking about. These are computers which can be easily used by our children in class one.

Secondly, Mr. Temporary Speaker, Sir, there was the issue of the preparedness of the Government to implement this project. The Government has already started working on a curriculum for the use of these tablets. Our hope is that the software is going to include the use of books. There are several advantages to these laptops that, probably, have not been explained properly by the respective Ministry. The idea and the fact that there are areas without classrooms should be a reason for the use of solar powered laptops. Because even under a tree, if you have got a laptop. There you can receive books or education materials. There you can receive everything.

So, Mr. Temporary Speaker, Sir, it is not “either/or;” it is not either we have got classrooms or we have got laptops. Just like it is not whether we have got hospitals or we have got roads; it is both hospitals and roads. Similarly, it is both laptops and classrooms.

*(Applause)*

Mr. Temporary Speaker, Sir, Kshs53 billion is not the budget for the Ministry of Education; it is simply the amount set aside for the use in the laptop project.

The other benefits that we must see in this project and Sen. Abirahman rightly pointed out, is that out of this amount, about Kshs15.5 billion will be spent in connectivity. Schools and surrounding areas will get power. Again, this is something we should look at positively. Let us not forget that as soon as a transformer has been connected to a school, people within the area can access power from there. Therefore, there are multiple benefits to the idea of connectivity to schools. I also wish to assure Sen. Abdirahman that there is a multi-ministerial taskforce that has been constituted to tackle this matter so that the Ministries of Energy and Petroleum and Education will work in tandem to ensure that implementation does not result in duplication of responsibilities, duties and use of funds.

Mr. Temporary Speaker, Sir, it is necessary for us to also appreciate that the debate that has been ongoing regarding the laptops has done a very positive thing for our nation. It has centralized the discussions, whether for or against the use of computers and technology. It should not be a debate about whether or not we will go ahead with technology infrastructure. We must do so. We do not have a choice. If we do not do this, our nation will be left behind in the same manner we were left behind because of lack of the gun technology. Nations became colonies because somebody discovered the use of the gun and gun powder that would allow ten warriors to be struck down at once. This is the “new powder.” Unless our children are integrated in this system from the word go, in such a manner that technology belongs to them and that they do not belong to it, then we can propel our nation to a newly industrialized nation faster than we can blink. If we do not teach our children from the word go that technology is their lifestyle and their future, we will fail them.

Mr. Temporary Speaker, Sir, finally, an adult does not promise a child something and he or she does not deliver it. It will be a shame for every parent in this country if we promise standard one pupils laptops and we do not deliver them.

Thank you, Mr. Speaker, Sir.

**The Temporary Speaker** (Sen. Murkomen): Thank you, Sen. Kagwe.

**Sen. Abdirahman:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Murkomen): What is it, Deputy Minority Leader?

**Sen. Abdirahman:** Mr. Temporary Speaker, Sir, Sen. Kagwe spoke at length until he forgot to address some issues we had raised. This matter is of great importance to us. I want to refer to the gazette notices. The relevant committee such as the Committee I belong to on Health, Labour and Social Welfare need to interrogate these gazette notices because we are portraying the teachers' unions in bad light. The Government has cleared its name on this matter. Kenyans believe that teachers are on the wrong side. It is important that Sen. Kagwe tables these gazette notices if he has them with him.

**The Temporary Speaker** (Sen. Murkomen): Sen. (Prof.) Anyang'-Nyong'o!

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, first, let me begin by congratulating Sen. Kagwe for a very spirited and clear Statement. It makes me proud, having been his teacher. Having said so, there are a few issues that I would like Sen. Kagwe to clarify. As he says, I believe very strongly that we should leap into the future and catapult our nation to a second world nation. Indeed, this is the spirit of Vision 2030 for which I was partly responsible.

Having said so, there are a few things that we, as hon. Senators, need to get clear. We know that we have had a problem in the successive governments with the issue of procurement. Good ideas come and vultures hijack them and make nonsense of them, especially where big monies are involved. In this regard, big monies are involved. We want to make sure that these monies are put to the use which they are intended. I want to be clear on the issue of the Kshs15 billion energy connectivity. It would be important for us to get the facts and figures as to which counties are not yet connected and where these monies have been used. We also need to know whether it is energy connectivity to electrical or solar power. I am sure there are certain thesis regarding these tablets where solar power will be more efficient and cost effective.

Secondly, since we are in devolved system kind of government, the implementation of this project should not to be over centralized. When you over centralize that is when the vultures of procurement come in. Nonetheless, given the fact that counties may not have developed at this point in time, the capability and capacity to handle this project--- I was wondering whether it would not be a good strategy for the Government to pilot the project in certain areas and have the ocular proof that it is working without rolling it out massively in the country and then finding out whether there are bottlenecks all over the place, thereby, discrediting the project.

As a teacher, I agree with Sen. Kagwe that disappointing a pupil is also preventing him or her from learning. But we should not rush to bring packets of sweets which may ruin the health of the pupils. What is brought in should be in such a way that the reception and use meets the original objective. I am saying this because of the clear Statement that Sen. Kagwe has brought before this House and because of the concern that in catapulting us into the future using this technology, we understand the use of the tablets; we do not want to fall into these pitfalls.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Murkomen): Sen. (Prof.) Anyang'-Nyong'o should be the last to seek a clarification. We need to conclude this issue and move on to other business.

Sen. Kagwe, you may give you final response.

**Sen. Kagwe:** Thank you, Mr. Temporary Speaker, Sir. In response to Sen. Abdirahman's question regarding the gazette notices, I will make arrangements to have them available if the Chair will allow me up to next week at the same time. I can avail them and table them before this House.

Mr. Temporary Speaker, Sir, I want to also thank all hon. Senators who have commented on this matter. I particularly thank Sen. (Prof.) Anyang'-Nyong'o on raising the issue of procurement. This issue must be looked into critically. In the engagement with the Cabinet Secretary responsible for Education, we raised this issue. We specifically said that we believe that if these tablets are properly procured we should see the price of each tablet come down substantially from what it is. If you walk to a supermarket today and you want to purchase a tablet, chances are it will be less than Kshs10,000. If you purchase tablets *en masse* in a proper transparent procurement method which should be over sighted by this House as well as the National Assembly, then we should be able to bring down the cost of each tablet that a pupil will get to an affordable level. We hope this exercise will be successful. If we get to that level, it means that the demand for computers, particularly tablets in this country will be so high that it will make it feasible for organizations and universities to start assembling these tablets in Kenya. I am aware that, for example, Jomo Kenyatta University of Science Technology (JKUAT) is already working on this area. They are already planning how they can assemble tablets at the university. If they do so, the cost should be one that we can be sure is going to be reasonable.

Mr. Temporary Speaker, Sir, on the issue of energy use, once again, we will require that the Cabinet Secretary in this area tables the exact use of the Kshs15 billion. If it is possible, we would like to get a school by school account. There should be a table detailing the amount that---

**Sen. Murungi:** On a point of information, Mr. Temporary Speaker, Sir.

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, I accept to be informed.

**The Temporary Speaker** (Sen. Murkomen): Proceed, Sen. Murungi.

**Hon. Senators:** Former Minister for Energy! Sen. *Njuri Ncheke!*

*(Laughter)*

**Sen. Murungi:** Mr. Temporary Speaker, Sir, I would like to inform my very able colleague that, indeed, what he is talking about has already been done. When I was at the Ministry of Energy we had a programme for universal electricity connectivity for this country by the year 2030. We prepared a rural electrification master plan which listed all primary and secondary schools, and other public institutions. The costing was also done. I believe these figures could be linked to that rural electrification master plan because it is available. We only managed to connect about 90 per cent of the secondary schools. But a large number of primary schools were not connected, except those which were near the grid because our target was not primary schools, but secondary schools.

I fully support the laptop programme for our primary school pupils. We, as the Senate, should not obstruct transformation of this country. We will not transform if we do not embrace the computer era because this is the direction the rest of the world is taking.

**The Temporary Speaker** (Sen. Murkomen): Sen. Kagwe, you have two minutes to conclude.

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, I want to thank Sen. Murungi for that information. As I mentioned earlier, this matter is, indeed, being worked on by a multi-ministerial taskforce. As hon. Senators can imagine, it is not that the Ministry of Education that will start putting up the poles. The Ministry of Energy and Petroleum will be engaged in this exercise.

I would like to respond to Sen. Anyang' -Nyong'o that, indeed, there is a pilot project currently going on in Kwale County and two other areas I cannot recall right now. It is true that we will be communicating with the relevant Ministry to ensure that the issues raised regarding over centralization and the use of solar energy, I am sure this is an issue the Ministry of Energy and Petroleum, will give some thought to.

Finally, the problems that we are seeing today with regard to the teachers' strike have been there for a while. This matter has been looked into by the Moi and Kibaki administrations. It is now in front of the Uhuru administration. We are convinced that we have a digital administration as opposed to an analogue one. We are convinced, therefore, that they will take care of the interests of teachers as they have sworn to do.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Murkomen): Are there any other Statements or request for Statements?

**Sen. Nyakeriga:** Thank you, Mr. Temporary Speaker, Sir for according me this opportunity. I want to thank Sen. Kagwe for responding to issues regarding the laptops programme. However, I would like him to remember the disabled people. We have blind pupils in our schools. Can a blind pupil in class one use a laptop? When they are sourcing for these laptops, I urge them to consider such pupils.

Thank you, Mr. Temporary Speaker, Sir.

*(Applause)*

**The Temporary Speaker** (Sen. Murkomen): Thank you, Sen. Kemunto. Although we had concluded that issue, I reconsidered you and you have made a very good contribution. Sen. Kagwe, please, transmit that submission to the Cabinet Secretary for Education.

Senate Majority Leader, please, table the programme for the coming week.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY 9<sup>TH</sup> JULY, 2013

**Sen. Billow:** Mr. Temporary Speaker, Sir, on behalf of the Senate Majority Leader, I beg to present the business for the Senate for the week commencing Tuesday, 9<sup>th</sup> July, 2013---

**Sen. Murungi:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Murkomen): What is it, Sen. Murungi?

**Sen. Murungi:** Mr. Temporary Speaker, Sir, I was waiting for a response from the Senate Majority Leader on---

**The Temporary Speaker** (Sen. Murkomen): Order, Sen. Murungi. That will follow after Sen. Billow gives a Statement on the business for the coming week.

Proceed, Sen. Billow.

**Sen. Billow:** Mr. Temporary Speaker, Sir, pursuant to the provisions of Standing Order No.43(2), I wish to present the business for the Senate for the week ahead.

On Tuesday, 9<sup>th</sup> July, 2013, the Rules and Business Committee will meet at 12.00 noon to schedule the business of the Senate for the week commencing Tuesday, 9<sup>th</sup> July, 2013. The Senate will, however, continue with the business that will not have been concluded in today's Order Paper. The Senate will also commence debate on a Motion by Sen. Haji on the operationalization of planned irrigation schemes in pastoralist areas and consider any other business to be scheduled by the Rules and Business Committee.

On Wednesday, 10<sup>th</sup> July, 2013, morning sitting, the Senate will continue with the business not concluded on Tuesday, 9<sup>th</sup> July, 2013 and will commence debate on a Motion by Sen. (Prof.) Lonyangapuo on the need for a policy on creation of livestock disease free zones in pastoralist areas and consider any other business scheduled by the Rules and Business Committee. In the afternoon, we will continue with the business not concluded on Tuesday and Wednesday morning.

The Senate will also commence debate on a Motion by Sen. Emma Mbura on expansion and modernization of the Port of Mombasa and consider any other business scheduled by the Rules and Business Committee.

Mr. Temporary Speaker, Sir, on Thursday, 11<sup>th</sup> July, 2013 the Senate will continue with the business not concluded on Wednesday afternoon and consider any other business scheduled by the Rules and Business Committee.

I beg to lay the Schedule of business on the Table.

*(Sen. Billow laid the document on the Table)*

**The Temporary Speaker** (Sen. Murkomen): Next Order.

#### GOVERNMENT EFFORTS TO SUPPORT MIRAA TRADERS

**Sen. Billow:** On a point of order, Mr. Temporary Speaker, Sir. Again, on behalf of the Senate Majority Leader, I wish to respond to the issue of the Statement that had been sought by Sen. Murungi on the issue of *miraa* business. In view of the developments in the last couple of days, as you all remember, the UK Government and other countries have banned importation of *miraa*. We are seeking a further request of time, until next week, to provide a Statement on this matter.

**The Temporary Speaker** (Sen. Murkomen): Sen. Murungi, what do you have to say about that?

**Sen. Murungi:** Mr. Temporary Speaker, Sir, this Statement was supposed to be given to this House two weeks ago and the ban on *miraa* only came yesterday. So, we do not understand why the Government does not seem to appreciate the urgency and importance of this matter. The entire *miraa* industry as my colleagues would know, is under threat, it is about to collapse and it is going to throw the entire Meru economy, the

Meru people, the Somali community and other Kenyans into joblessness. There is going to be a lot of poverty and apathy among our people. As far as we are concerned, we do not know what the Government is researching weeks on end.

The issue was for them to clarify whether *miraa* was legal or illegal. Indeed, there was a law which was passed by Parliament in 1994; the Narcotic Drugs and Psychotropic substances Act of 1994 which listed all the dangerous drugs. *Miraa* is not among those listed drugs. So, you do not need to research beyond that Act. The issue of legality or illegality of *miraa* should be closed. What we wanted was a statement confirming that, indeed, that is the position. So, we do not know why they want to take so much time.

With regard to what happened yesterday, this ban of *miraa* by the United Kingdom (U.K), we would indulge the Government because this was new and it also affects us in a serious way, for another one week to study why the U.K, contrary to scientific and legal evidence has decided to ban *miraa*. We have a report from the U.K. Government, from the home office dated July 2011; Occasion Paper No.95---

**The Temporary Speaker** (Sen. Murkomen): Order Sen. Murungi. The issue on which you are seeking clarification was whether you would indulge the Majority Leader for another one week until Tuesday, next week, to respond to the Statement and not to delve into the debate.

**Sen. Murungi:** Thank you, Mr. Temporary Speaker, Sir. The only addition is, now that there is this new development, could the Government consider taking diplomatic action as well and report to this House, regarding the ban by the UK Government of *miraa* which is political and discriminatory? It is the duty of this Government to protect the *miraa* traders who have been operating in Europe and in England for a long time. The Statement should also contain the steps the Government is taking to protect the *miraa* traders against this illegal ban by the U.K Government.

**Sen. Billow:** Mr. Temporary Speaker, Sir, in view of the additional information that the Senator for Meru is asking, it would be appropriate to give him a response by Thursday, next week, so that we can incorporate his request.

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Temporary Speaker, Sir. Listening to my dear friend, Sen. Murungi expound on this issue of *miraa* and noting that in one of the past Parliaments, we had a major debate on this *miraa* issue, would it be in order, using your discretion to bring this matter on a Motion of Adjournment, so that it can be debated extensively by the House?

**The Temporary Speaker** (Sen. Murkomen): Sen. Murungi, what do you say on that?

**Sen. Murungi:** Mr. Temporary Speaker, Sir, I think we can do that on Tuesday, next week, after the Statement.

**The Temporary Speaker** (Sen. Murkomen): Hon. Senators, it is important to remind each other that Questions and Statements sought by Members are very serious in terms of the manner in which it affects the citizens of this country. I think, on behalf of Majority Leader, Sen. Billow should transmit the information that the Cabinet Secretary should take it seriously because from the Statement seeker, Sen. Murungi, time is of the essence. As requested, I order that the Statement be submitted on Thursday, next week.

**Sen. Billow:** Mr. Temporary Speaker, Sir, the point is noted. We will do so. I have a Statement to make can I go ahead?

**The Temporary Speaker** (Sen. Murkomen): Proceed!

## THE BUDGETING PROCESSES OF COUNTY GOVERNMENTS

**Sen. Billow:** Mr. Temporary Speaker, Sir, we have a Statement from the standing Committee on Finance, Commerce and Economic Affairs on the budgeting processes of a county governments. We are issuing this Statement after our meeting this morning because of the concerns that have been expressed in the media in the last three days regarding the budgets of various counties, which has alarmed many in the country.

The standing Committee on Finance, Commerce and Economic Affairs is a committee of the Senate established under Standing Order No.206 and the mandate as highlighted in the Second Schedule of the Standing Orders, includes consideration of matters related to resolutions and Bills for appropriations, share of national revenue among the counties and all matters concerning the national Budget, including public finance, monetary policies, public debt, trading activities, commerce, tourism, investment and divestiture policies, planning and development policies.

The Committee has noted with deep concern that the budgets for the county governments are or have been prepared with blatant disregard to the relevant laws and regulations and laid down procedures that govern the management of public finances in some of the counties. Pursuant to Article 96 (3) of the Constitution which gives mandate to this House to, among other things, determine the allocation of national revenue among the counties and also exercise oversight over national revenue allocated to the county governments, we feel obliged to make a number of directions relating to budgets of the counties.

It is imperative that in making the budgets, county governments must align them to the functions gazetted by the Transition Authority (TA). It must be noted in this regard, that no expenditure shall be allowed to be made by the county government which does not fall within the gazetted functions of the county governments.

Mr. Temporary Speaker, Sir, what is happening as you have all seen, some of the county governments are actually making provisions in their budgets for activities which do not fall within the mandate of the county government. Resources follow functions and, therefore, for all the gazetted functions that have been devolved to the county governments, the County Executive must provide adequate resources needed accordingly for the implementation of those functions.

It is also important to note that, indeed, if the county governments do not – with regard to that – manage their resources effectively, the Treasury under Article 225 of the Constitution has the power to stop the transfer of funds to a county government for material or persistent breach of measures established in various legislation such as the Public Finance Management Act. So, it is very important that for all the functions that have been devolved, the county governments provide finances. The Senate advises the Controller of Budget not to sanction any transfers from the Exchequer for activities which are not in line with the mandate of the counties as gazetted by the Transitional Authority.

Mr. Temporary Speaker, Sir, as you know, once the budgets are done by the county governments, they go to the Controller of Budget. We are advising her not to sanction transfers from the Exchequer for activities which are not in line. Next week we are meeting the Controller of Budget so that we get concurrence on the matter.

The county governments must commit themselves to comply with the existing financial procedures and regulations relating to budgetary processes and expenditures and to the procurement processes. It is important to know that the budget process prepared under the MTF requires that Estimates be made to cover a period of three years. For example, if you want to put up a project worth a billion shillings and the project is likely to run for three years, you break up that figure over three years and provide allocations over a three year period.

In the procurement process, there is the Public Procurement and Disposal Act. The Public Finance Management Act requires, under Section 21, that all procurements by county governments must be in accordance with the Public Procurement and Disposal Act. So, it is important that the county governments commit themselves to comply with these existing financial regulations, otherwise they risk being surcharged for misuse and misappropriation of funds. They risk other penalties provided for in these relevant Acts.

Article 185 of the Constitution vests the legislative authority of the county in the County Assembly and provides that the County Assembly exercises oversight over the County Executive and any other county Executive organ. In Sub-Article 4, the County Assembly is mandated to receive and approve plans and policies for the management and exploitation of the county's resources and development and management of its infrastructure and institutions. It is, therefore, imperative that the approval of county assemblies is sought for in approving estimates of expenditures as provided for in the Public Finance Management Act, Section 131. It is very clear that all budgets prepared by the county governments must be approved by the county assemblies. If that has not been done, the County Executive cannot spend that money. If they spend, they will be held responsible. But at the same time, all plans and policies for management and exploitation of resources, development projects and all the activities, must actually be approved by the county assemblies. So, the County Assembly has a significant role in this regard and the public will hold them accountable if they fail in this respect.

From 1<sup>st</sup> September this year, quarterly expenditure reports for the next financial year's budget will be required to be submitted by the county governments to the Controller of Budget and, subsequently, to Parliament. It is important for the county governments to know that accountability is not after five years, but on quarterly basis. They need to appreciate that. The Senate Committee on Finance will soon summon the county executive officers in charge of finance in some of the counties in the exercise of its mandate under Article 96 (3). They will be required to give explanations on their budgeted expenditure to ensure that they are in line with the gazetted functions. Under the Constitution this House has the power and the mandate to demand explanations from the county executives, particularly to ensure that expenditures are aligned with the functions and those counties do not spend money the way they are doing it.

The Committee will start visits to various counties to ascertain whether the county treasuries are operating in compliance with the Public Finance Management Act on the accounting for revenues and expenditures. Lastly, there is need for the County government to sober up and observe austerity measures in designing their budgets and aligning them with priority areas such as health, water, education, women and youth programmes and so forth. There is a lot that the county governments can do which can impact on the people immediately in terms of poverty reduction and growth of the



economy and not really on big projects only. I table the Statement for the Senators to note.

*(Sen. Billow laid the document on the Table)*

**Sen. Kajwang’:** Mr. Temporary Speaker, Sir, I have listened to the hon. Senator. This Statement is coming from the Committee on Finance. It is like we are closing the stable when the horse has already escaped. This is because, essentially, I think that the TA did not do its job very well. They were supposed to provide the capacity for the county governments to do, from Day 1, what they were supposed to do and not to leave them to mess and then we complain, as if we set them out to fail. If I were a Governor and was supposed to do a budget, definitely, I would fail if I did not have people with the capacity to help me work out that budget. In fact, budgets are very difficult to work out. I can tell you that all this Members who campaigned, probably, did not have a budget. This is because they do not know how to work out budgets. So, it is a technical thing. They should have provided technical staff to help these ladies and gentlemen work out their budgets.

Mr. Temporary Speaker, Sir, look at the situation in some of the counties, where the budget says: “This is what we will do with the money that is coming, which is only about Kshs5 billion to Kshs6 billion.” Then, they say that their budget is Kshs20 billion, without saying exactly where the money will come from or showing any commitment from any donor as to where that money will come from. The technical people from the TA let this come to the Treasury. I think that it should have been stopped. They should have been asked: You only have Kshs5 billion; where are you getting this Kshs20,000? They would have said: “The IMF has given me this and another bank will give this.” From this you can make a meaningful budget. A budget is not a wish list. Eventually, that is now what we are seeing all over the country. They are just wish lists. It is like saying: I wish I had a mountain. I would have done this and that in one year. These budgets do not seem to have been built on some progression. We are here for five years, this is the project that we want to start. This is how it will go until the circle of three years is over.

Mr. Temporary Speaker, Sir, I hope that the Committee will take this seriously. In fact, we need a serious amendment, if not to the Constitution, then to any other Act of Parliament, that would give serious oversight even at the time of budgeting. This is because if the budget is wrong, then the entire implementation is wrong. You will be overlooking something which already started on a very wrong premise.

Mr. Temporary Speaker, Sir, those are my very humble views.

**Sen. Muthama:** Mr. Temporary Speaker, Sir, I also want to say one or two things regarding this Statement that has been given by Sen. Billow.

Mr. Temporary Speaker, Sir, if this House does not move fast and arrest certain situations, we may find the entire country in confusion. I can bear witness of the budget that was read in my own county. The allocation that is coming from the Government is about Kshs5.4 billion and what the entire county used to collect, through municipal councils is about Kshs1 billion. The budget is Kshs8.6 billion. You will realize that there is already a problem there.

Mr. Temporary Speaker, Sir, in addition, the Senate is not playing the role that it is supposed to play; to protect the interests of the counties. If you look at the allocations

now, as reported in the Media, huge amounts of money have been allocated for construction of houses, purchases of vehicles and so on. We need to have a situation where controls are put in place. If we do so, it will be seen that this House has a mandate over what is happening.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Billow:** Mr. Temporary Speaker, Sir, I appreciate the points raised by Sen. Kajwang. These things should have been done, but what happened in this Financial Year is that everything seems to have started late, because of the late elections which were held in March. The whole budgetary process should have actually been done well before April, that is, from September, last year. However, it is important to note that none of these counties have actually received this money. We are talking about budgets now and this can, again, be amended through a Supplementary Budget. This is because provisions for amendment of the budgets by the county assemblies are provided for in the Public Finance Management Act. So, if we are talking about how to manage the resources that they are going to get in the next two or three months, there will be a schedule on which money will be released by the Treasury. So, I think that county assemblies can still have an impact in terms of addressing some of the areas. If, for example, money has been provided for on areas that are not a priority, the county assemblies can still make amendments to address those areas.

Mr. Temporary Speaker, Sir, Section 107 of the PFM Act is very clear that there are fiscal responsibilities that must be complied with. For example, not less than 30 per cent of that budget should actually be spent on development projects. Regarding the position raised by Sen. Muthama, actually Section 107 of the PFM Act provides that the county assemblies cannot approve a budget with a deficit. So, some of these things are very clear and going forward, we will be working very closely with the Treasury and the Controller of Budget to ensure that the county assemblies and county government executives do not flout the regulations and laws.

Thank you, Mr. Temporary Speaker, Sir.

### COMMUNICATION FROM THE CHAIR

DEMISE OF HON. JAMES NJIRU, FORMER MEMBER FOR  
NDIA CONSTITUENCY

**The Temporary Speaker** (Sen. Murkomen): Hon. Senators, I have the following Communication from the Chair.

Hon. Senators, I wish to inform the Senate about the demise of a former Member of Parliament, hon. James Njiru, who represented Ndia Constituency in the late 1960s. He was an Assistant Minister for Health and later became Minister for Political Guidance in the Government of His Excellency Daniel Toroitich arap Moi. Hon. Njiru will be buried on Saturday 6<sup>th</sup> July, 2013, in Kirinyaga County.

Hon. Senators, the purpose of this Communication is to let the Senators be aware and also urge and encourage them to attend this burial on Saturday 6<sup>th</sup> July, 2013.

Thank you.

**Sen. Khaniri:** On a point of order, Mr. Temporary Speaker, Sir. It has been a tradition that when such a Communication of a departed former colleague is made to the

House, we observe a minute of silence, because not all of us will be in a position to attend the burial.

**The Temporary Speaker** (Sen. Murkomen): Very well. I agree and I am well advised. So, I want to request all Members to stand and observe a minute of silence.

*(All Senators stood up in their places and observed a minute of silence)*

Thank you.  
Next Order!

## MOTIONS

### ESTABLISHMENT OF SECURITY ROAD NETWORKS

THAT, aware that the country is experiencing rampant incidents of insecurity due to factors such as competition for resources, ethnic tension, crime and economic disempowerment; aware that some of the incidents may spread unabated from one county to another as well as across the international borders; concerned that many lives and property are lost, people are displaced and the socio-economic set-up of the affected communities and individuals is disrupted; cognizant of the fact that poor infrastructure is the main contributing factor inhibiting the containment of insecurity incidents; appreciating the initiatives recently instituted by the Government to mitigate the enormity of the incidents with regard to budgetary allocations and police sector reforms; the Senate urges the Government to urgently institute special road projects by designing and establishing road networks that will facilitate connectivity and mobility of rapid response teams across the security hotspots including urban informal settlements, arid and semi-arid areas and known disaster zones.

*(Sen. G.G Kariuki on 3.7.2013- Morning Sitting)*

*(Resumption of Debate interrupted on 3.7.2013 – Morning Sitting)*

**The Temporary Speaker** (Sen. Murkomen): Hon. Senators, you will remember that we had debated the Motion by Sen. G. G. Kariuki and completed it. It is now time to put the Question. But before I do so, let me allow the Senators who are coming in to take their seats.

*(The Temporary Speaker resumed his seat and several Senators walked into the Chamber)*

**Sen. Kittony:** On a point of order, Mr. Temporary Speaker, Sir. We have observed one minute of silence for our late brother. As a KANU nominee, I think that it is befitting really to say that hon. Njiru did a lot for this country. Therefore, we cannot

just observe one minute of silence and leave it at that. Maybe most of us did not know that he had passed on. I, therefore, think that it is important that we, at least, allow Members to convey their condolences, since we have observed a minute of silence. Personally, I knew Mr. Njiru as a good citizen and Minister in this country.

**The Temporary Speaker** (Sen. Murkomen): Order, hon. Senator! Sen. Kittony, we had already passed that stage. Unfortunately, if a formal request, which you have attempted to do, had been made in good time, we would not have hesitated to do the same. I saw you standing around here and was wondering why you were not raising any point of order at all.

In honour of such an important former Member of Parliament, we will reserve the last 15 minutes before the end of business today, to pay tribute to him, for those who knew him or want to say something about him.

Hon. Senators, the Motion by Sen. G. G. Kariuki was due for voting. I want now to put the Question. I would like to remind the Senate that this is not a Motion affecting counties. Therefore, it will just be voted by the majority who are available.

*(Question put and agreed to)*

ESTABLISHMENT OF ONE-STOP PUBLIC  
COMPENSATION CLAIMS BUREAU

THAT, aware that the State and other Government agencies have been the biggest impediment to payment of dues to Kenyans, including retirement benefits, court awards and insurance claims; recognizing that such delays amount to violation of human rights and undue punishment; noting that claimants spend a lot of money and time travelling to Nairobi and other far off destinations pursuing the claims; acknowledging that the purpose of devolution is to take services closer to the people; the Senate urges the National Government to immediately establish a one stop Public Compensation Claims Bureau to enable victims of delays and all future claimants to lodge their claims for immediate verification and subsequent expeditious settlement through the nearest commercial banks and to ensure that legally confirmed dues are settled within six months of the award.

*(Sen. Obure on 3.7.2013 – Morning Sitting)*

*(Resumption of Debate interrupted on 3.7.2013- Morning Sitting)*

**The Temporary Speaker** (Sen. Murkomen): Hon. Members, you remember that the next Motion by Sen. Obure had an amendment introduced by Sen. G.G. Kariuki. We had debated the amendment and it is due for voting. Therefore, I want to order the Division Bell be rung on the amendment. I want to emphasize that it is a Motion affecting counties.

*(The Division bell was rung)*

**Sen. Obure:** On a point of order, Mr. Temporary Speaker, Sir. I wish to make a request in view of the importance of this Motion and more particularly the amendments by both Sen. (Prof.) Anyang' -Nyong'o and Sen. G.G. Kariuki. I wish to request under the relevant Standing Order No.51 (3) that the voting be deferred to Wednesday afternoon.

**The Temporary Speaker** (Sen. Murkomen): Order, Senator. As you very well know Standing Order No.51(3) requires that any request for deferment is to the next day. The next day, in this situation, cannot be tomorrow, but Tuesday when we have the next sitting. So, it cannot be Wednesday.

**Sen. Obure:** Thank you very much for that guidance. In view of what you have just said, I would make the request for Tuesday afternoon.

**The Temporary Speaker** (Sen. Murkomen): Okay. I order that voting on this Motion, which is basically the amendment to the Motion, be deferred to Tuesday 3.00 p.m. In that regard, I also order that the debate of the main Motion be deferred accordingly.

*(Motion deferred)*

Next Order.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I have this Motion talking about the construction of the Turkwel Gorge Dam in West Pokot County. It was constructed between 1986 and 1991 and it became into operation in 1991. It has been generating power to the people of Kenya. To date, I am told that the power generated forms up to 18 per cent of the power used in Kenya.

**The Temporary Speaker** (Sen. Murkomen): Order, Senator! This is the first time you are moving this Motion, although you are learning and we have had more than 100 days to learn. So, you need to move the Motion appropriately.

COMPENSATION FOR COMMUNITY DISPLACED BY  
TURKWEL GORGE DAM

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I beg to move:-

THAT, aware that the construction of the Turkwel Gorge Dam by the Kenya Electricity Generating Company (KenGen) led to the displacement of many Kenyans due to the large area covered by the dam; noting with concern that no compensation was given to those who were displaced; further concerned that the dam is a breeding place for mosquitoes which cause Malaria and is heavily infested with crocodiles which pose a danger to both livestock and people living around the dam; noting that the area lacks necessary social amenities such as schools, dispensaries and access roads; the Senate urges the Government to

compensate the displaced persons and to purchase motor boats and construct access roads, dispensaries and schools in the area in order to enable Kenyans living around the dam locality to move with ease and to access necessary social amenities.

Mr. Temporary Speaker, Sir, this dam was constructed in 1986. It took almost five years to complete. It started its operations in 1991. I am told that because of this dam, Kenya has really benefitted by receiving electricity. We used to get some electricity from Uganda, but as a result of this dam, our electricity deficit reduced as we continued getting up to the tune of 18 per cent of our power needs from Turkwel Dam.

Mr. Temporary Speaker, Sir, the water that accumulated as a result of the construction of this dam affected so many families in about five locations in my county. To date, 700 families in Korupu Location have been displaced by this water; 150 families in Toyo Location and, in particular Kesot Sub-location; 130 families were affected in Nakwikid Location, particularly in the Sub-location called Tamaruko; 630 families were affected in the whole of Kositey Location; while 120 families were affected in Kapchok Sub-location, Kopean. This totals to about 1,730 families which have been affected by the presence of this water. Initially, people did not know the impact of this water because, as you know, that area is quite in the interior of West Pokot; very few people have gone to school there and they did not know the effect of the construction of this dam.

Displacing 1,700 human beings without being resettled by the Government on alternative land is a tragedy. Today, we have homeless people living in the hills as a result of the presence of this huge dam. I am told that today, the dam covers 46 kilometres of land. It is no longer a dam. It is turning out to be a real lake because from the middle of the dam, the largest diameter is 15 kilometres for you to cross. The effect of this is that families were separated by the water by force as those ones across in North Pokot could not meet with those in West Pokot District.

Mr. Temporary Speaker, Sir, I am told that when people were moved, some little money was given and it was said: "Let us count; if you have any beehive, we will give you Kshs400." How many people will keep bees in Pokot land where you keep animals? So, that was not supposed to be treated as compensation. Secondly, anybody who was living in a grass thatched hut was given Kshs1,400. The land was not paid for.

Mr. Temporary Speaker, Sir, anybody who had a hotel or even a shop owner, these amenities were present by the shores of the River Suam, which now turned out to be this Turkwel Dam, were not compensated. There were many shop owners because of the presence of gold. There was a lot of gold harvesting in that river. So, when the water came, it also cut off all the livelihood of the people who were depending on gold harvesting. There were very many Kenyans, not necessarily from that county, but from Turkana, western Kenya and other parts of the country who were prospecting for gold. Now, the gold mining is gone. Nobody can measure the amount of gold that was in the ground. I think it is in terms of millions.

Mr. Temporary Speaker, Sir, when the dam was built, two scenarios emerged; mosquitoes came in their thousands and in their millions.

*(Laughter)*

My people are suffering as a result of the mosquito breeding ground that was brought by the Government by force. Now, I expected that as a result of the presence of this dam, they would have constructed health centres and dispensaries. However, none of that was done. Only one health centre was constructed. It is found eight kilometres down the hill. It was done for the construction workers. In fact, it is not even assisting my people. There are no health centres in Siruach, Korpu or in Kesot. For you to overcome what I have said, you have to travel 46 kilometres in length and 15 kilometres across. It is by the grace of God that our people are alive today because there is no dispensary.

*(Laughter)*

Two, I expected that when a dam is built, you have to make a road network that goes round the dam so that the people can also move from one place to another. Even the owners of this dam should supervise their own dam in order to know whether there is siltation and so on. But how will they move round the dam? I even hear that they are supposed to do afforestation and environmental impact assessment. But nothing is happening there. To move from one place to another when one wants to go and meet members of your family who were cut off by this dam, you need to go across the water. Our people have not been able to access that, except when a few fishermen came from Lake Victoria – they discovered that the best fish have migrated from Lake Victoria to this new dam that is turning out to be a lake – they came with canoes. Now, when people are moving across the dam with a canoe, we have lost over 20 people ever since, as a result of these small time canoes capsizing in the water.

Mr. Temporary Speaker, Sir, new arrivals also came. These are crocodiles. We do not know where they came from.

*(Laughter)*

Crocodiles have caused havoc to both human and livestock. When goats go to drink water in the dam, they instantly become meat for the crocodiles. The Kenya Wildlife Service (KWS) are supposed to be the arm of Government to look after and take care of their animals in the dam, but they have left a lot of havoc to be caused by these reptiles. Fish, was supposed to be the accruing benefit of the dam after construction, but my people have not been trained fully how to harvest the fish and where the nearest market is for this new arrival called fish. We have never kept fish and we do not even know how it is harvested.

When fishermen come from Kisumu County, they just come and stay in a corner, they look for the fish and my people do not know what is taking place there.

*(Laughter)*

I expected a lot of transfer of knowledge to be done by the Government when this dam was built.

Again, Mr. Temporary Speaker, Sir, downstream between Pokot and Turkana counties, there was supposed to be a massive irrigation project as a result of the water flowing down. However, this is not for the people who have been displaced, rather it is

for the people living downstreams in the flatland between Pokot and Turkana. But no single inch of land has ever been irrigated.

So, Mr. Temporary Speaker, Sir, I have come to say that 22 years ago, this dam came as a blessing in disguise for other people. We have not really benefitted from the connectivity that we were talking about here. Sen. Murungi said that most of the schools have received electricity power. How can you go round Turkwel Dam without a road to take you to one or two schools –which were not built by KenGen, but by local people – to take electricity? It is not there! So, we have not benefitted from this dam.

Mr. Temporary Speaker, Sir, there should be Corporate Social Responsibility (CSR) by this company to the local community. There is no provision of water. As for electricity, we normally use a terminology. My people say: “We are the people looking after this cow and it produces milk, which is electric power. We have been very faithful pastoralists and herdsmen for 22 years without even drinking even a single drop of milk from this cow.” What is the implication of this? It means that the Government has really not bothered to take care of the local community.

Mr. Temporary Speaker, Sir, two years ago when I was still the Permanent Secretary (PS) for Public Works, there was a dam that was built in Elgeyo Marakwet called Chebara Dam to collect water for the people of Eldoret and Uasin Gishu counties. I witnessed a compensation of Kshs750 million given to the people affected by this very tiny little dam called Chebara Dam. I am talking about a huge, mighty lake called Turkwel Dam. If we were able to compensate these people, then why were our people not compensated for their land by getting them appropriate alternative land? In Chebara, they built brand new schools, Chebara Boys and Chebara Girls Secondary Schools. These schools never existed. They were started from scratch. They are even building a Church. Next to it, they have built a polytechnic and two primary schools which have a nursery wing. I wonder where the children are going to come from because these facilities are all concentrated in one place. But this has been done faithfully by our Government, whereas nothing has been done for the people around Turkwel Dam.

Mr. Temporary Speaker, Sir, you drank water yesterday; you showered, ladies and gentlemen in Nairobi courtesy of the water from Ndakaini Dam. I am aware that the people who were displaced by the water that accumulated in Ndakaini were compensated, but not the people of Turkwel Dam. The latest dam that was done for power generation is called Sondu Miriu Dam – Sen. (Prof.) Anyang’-Nyong’o – I visited Sondu Miriu. People who were displaced there were compensated. Sondu Miriu Dam is not like what I am describing; Turkwel Dam is actually a percentage of Lake Victoria. Our people were not compensated when they were forced to pave way for its construction.

Mr. Temporary Speaker, Sir, the dams that have been constructed on River Tana – and Sen. Muthama was around here – the people there were also compensated. They now want more compensation. This issue has put a lot of questions in the minds of Kenyans who are living around Turkwel Dam. Why were we subjected to this? Their grazing grounds were also fully covered by this water. So, with the few cows they had, they migrated very far to the border of West Pokot and Turkana counties. This has now brought up the appetite for stealing cows and cattle rustling because we are both competing for pasture. So, it becomes like a game where the most active cattle rustling activity taking place is around Turkwel area, some 10 kilometres away from Turkwel at the border of Pokot and Turkana. This is because the people were moved by this water.



They do not have anywhere else to grace the animals. In 22 years time, we would have had the first graduates from that area. But until seven years ago, that is when we went and moved children - I was personally involved – to bring them to Turkwel Gorge Primary School which has now been fully deserted when KENGEN last year, amazingly uprooted their staff from that place claiming that there was insecurity in Turkwel and relocated to Sondu Miriu and Kitale. This has added another dimension to it. How can a Government run from their plant in the name of a few cattle rustlers from the Pokot and Turkana communities? To me, we are either hiding something or it is a deliberate attempt to frustrate Kenyans who are living around that place. There are no proper schools in that area and no meaningful employment. The people expected to be employed in that plant. Sometimes when people are employed, people from that area never get to know. The job vacancies are advertised in the newspapers. We just see new people on the site who are not from that area.

Mr. Temporary Speaker, there has been serious hunger in that area for a long time. They no longer plant maize. The coal deposits that were found in that area are gone. There was a lot of trade going on. The co-operative that they used to have at Ortum Centre collapsed the moment the water covered the dam. This dam was created because the source of gold used to come from River Swam or Turkwel. I expect quick action to be taken to save the situation by compensating those people and giving them appropriate land. We should also create a road around the entire dam. We should buy motor boats which the people can be trained to use. The dam is there to stay and we cannot do away with it. We have to adapt and live with the dam.

Since fish is the in thing now, I have not heard of the Government opening their unit there, so that the people can be trained on how they can benefit from the presence of this fish. There are a lot of crocodiles in that area. Is there a market for crocodiles?

**Hon. Senators:** Yes!

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, if there is market for crocodiles, how can we trap them? I read in the Bible that the Israelites were taken captive and they were---

**Sen. Sang:** On a point of order, Mr. Temporary Speaker, Sir. Is the hon. Senator in order to propagate and incite Kenyans to do poaching in the name of marketing crocodiles?

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, we have crocodiles in that area and I was wondering whether there is a market for them. I expected him to come and tell us where it is and how we can capture them. It is not necessarily the local people to do it, but---

**The Temporary Speaker (Sen. Murkomen):** Order Senator! You know very well that crocodiles are wildlife. There are certain laws and regulations that require conservation of wildlife. So, for you to use the opportunity in the Senate to try to market or behave in a manner that can be construed to mean that crocodiles in Turkwel should be harvested by certain people, you are completely out of order.

Proceed!

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I stand guided by your direction. The KWS should open a station there so that they can tell us how to live with these reptiles and then come up with a compensation scheme. If they can turn part of the

lake to be a wildlife sanctuary, then they should tell us how we can stay with those reptiles.

The child mortality rate is very high because of the presence of the mosquitoes that I have just mentioned. I can give a living example. There is a very good resort in Turkwel which has become dilapidated because of migration of KENGEN staff, where one woman carried a dying child in her hands for several kilometres, for two days on the mountain and found us in the camp. This child died when we were watching. She told us that if there was a dispensary her child would not have died. These are the issues that I am mentioning.

Mr. Temporary Speaker, Sir, as I conclude, whenever the Government puts in place a plant, is there no mechanism put in place so that when this plant comes up, they make sure that the community benefits? When KENGEN staff moved away last year, there is no vehicle on site. Occasionally, the local community used their buses to go to town and back. Now that has been cut off completely. The staff of KENGEN sometimes operated as though they were not Kenyans. So, you find that there are two worlds there; people in the camp are totally different from those outside the camp. So, I would like to urge that the relevant department gives us a comprehensive direction on how this can be done.

I would like to see the people given appropriate land. Irrigation should be done downstream between the two counties. The one million acres we were talking about are ready. The water is already there. The Government needs to allocate a substantial amount of money and then incorporate the community so that they can also benefit from the irrigation scheme.

I beg to move and I ask Sen. Sang to second this Motion.

**Sen. Sang:** Mr. Temporary Speaker, I beg to second this Motion. In seconding, I wish to sympathize with the over 1,730 families that were displaced to pave way for the construction of Turkwel Dam. We definitely need to look at this issue more broadly. We have had instances in this country where the Government decides to carry out development activities that are aimed at supporting the economic advancement of this country, but at the end of the day, they are not careful enough to look at communities that are being affected by these development activities. If you look at the over 2,000 families being affected, these are families, as described by the Mover of this Motion, who are living in abject poverty. These are communities who are having their children suffering from malaria and other diseases, courtesy of a Government project that was supposed to alleviate poverty within this region. This was supposed to be a blessing, but we are now seeing a project which was well intended ending up to be a challenge to the communities within this region.

Therefore, I wish to raise this as a matter that should be looked at from a boarder perspective. We have seen a lot of Government projects, for example, the building of roads within this country. I come from a county where a lot of people lost their land and they have not been compensated. We have seen a lot of development of water projects which involves the laying down of pipes to supply water to the various towns and counties and people end up losing their property and yet the Government is not keen on compensating them. We need to encourage the Government that before they engage in any of these projects, they need to do a feasibility study and an environmental impact assessment. More importantly, we need to assess and look at how many communities are

going to suffer, how many livelihoods are going to be curtailed and how many people are going to be affected, and then provide mechanisms to ensure that these issues are addressed.

Mr. Temporary Speaker, Sir, in the case of the building of Turkwel Dam, if you look at the kind of landmass that is now covered by the dam, we are talking about huge acres of land. We need to provide for a mechanism where communities who lost this land, whereas we are aware that this land was not private – this is one of the major issues that we need to address – people may not have title deeds, but we know this is community land and we know the various communities and households that were affected. We must be able to provide alternative settlement so that we are able to look around the entire Pokot region and identify alternative land to resettle these communities. At the very least, we need to provide them with social amenities. If you look at the Constitution, Article 66 (2) states that local communities must benefit from investment in property. This investment is either by national Government, the county government or private investors. In a situation like the one we are discussing in this Motion, instead of communities benefiting, they are suffering. We must address some of these issues.

I come from a county where, already the national Government, mid last year identified a project that they are keen on building another dam. We are told of the very many benefits that are likely to accrue from it. Some of us, as leaders, within Nandi County, were almost starting to consider and accept this project. But with the kind of situation that the community in Pokot is going through, we, as a leadership, are no longer keen until we clearly understand how the Government will deal with the negative impact of such kinds of projects. It is, therefore, important for this House to pass this Motion. But more importantly, we must make sure issues raised here are implemented to the logical conclusion. I, therefore, want to join the Mover of the Motion in asking the national Government to carry out the corrective measures, especially having looked at the studies in other areas.

Mr. Temporary Speaker, Sir, the Mover of the Motion has made it clear that people were not compensated. As a House, one of our responsibilities is to protect the interests of counties, but more importantly, the greater goal, is to ensure equality. For members who were affected in this project to feel that they are part and parcel of this country and that this House understands the challenges that they are going through, we must pass this Motion and ensure that the national Government takes its rightful responsibility in ensuring that they carry out corrective measures to compensate the families, build hospitals and ensure that there is prevention of diseases. But more importantly, they should build the infrastructure around the dam. This should be an issue that we should carry on in any other Government project. Let us not only look at the environmental impact assessment, but also the socio-economic impact that some of the national Government and county government projects are going to have within the lives of the local communities.

Mr. Temporary Speaker, Sir, we have now discovered oil in Turkana. In a short while we will be able, as a country, to move to the next level of exploiting some of these resources. But we must be careful to ensure that the local communities within these regions are catered for. As a country, we will continue building roads, but we must ensure that the families and people who are going to be affected are catered for. This is because the national Government and county governments, just like any other person in this

country, is bound by the Constitution to protect private property. So, if a project is going to affect people's private property, we must address some of these issues, so that we are able to create a system and culture of following the rule of law, especially from the Government to the county governments at the local level, and any other public officer.

Mr. Temporary Speaker, Sir, in conclusion, we need to be honest as Kenyans, Members of this House and Government. We have to take and respect private property in this country. We must also be very honest. When the Government gives an undertaking that it is going to compensate communities or individuals, it must be held accountable and responsible. This will ensure that we do not have the Government entering into agreements. I know for a fact that when such kinds of projects are being developed, the national Government gives promises, for example, to the people of Pokot that those surrounding this project will get free electricity. But is it implemented as a fact? We need to ensure that some of these agreements that we reach between the Government or investors and the local communities are completely adhered to, so that the affected communities get the benefits that they deserve.

Mr. Temporary Speaker, Sir, with those remarks, I beg to second this Motion.

*(Question proposed)*

**Sen. Ongoro:** Mr. Temporary Speaker, Sir, I rise to support this Motion for a simple reason. In the spirit of allowing host communities of natural resources to benefit from the resources that they have always taken care of and are part of, it is in order that such a Motion should be passed.

Mr. Temporary Speaker, Sir, for example, in this case, we know the benefits of electricity. We know that electricity is actually the bedrock of a lot of economic activities and the benefits that companies such as KenGen have accrued from the generation of electricity. It is only in order and it makes sense that the host community, that has suffered displacement and lack of the benefit of what they were usually endowed with, like in this case, grazing land for their cattle, is compensated in such a way that they will feel part and parcel of the project.

Mr. Temporary Speaker, Sir, I listened and read in the newspapers that in the case of Turkana County, Ngamia I, Ngamia II and Ngamia III are being heavily guarded. I asked myself: From whom are they being heavily guarded? If only the Government, from the outset, makes the community part and parcel of the project and enjoys the benefits that accrue from the project, this community will then turn themselves into the guardians of this project. Why should the Government spend billions and withdraw all security forces from that county, to guard Ngamia I, Ngamia II and Ngamia III? Now we are told that they have even gotten another well. Are we guarding these wells from the host community, that is, the Turkana people, who really are supposed to be the first beneficiaries? If we make them understand that the drilling of oil in their midst is going to give them schools, better roads, good medication and better hospitals, this community in Turkana County will jealously guard the wells and nobody will interfere with them. I think that this should be the Government policy.

Let us not just contain it as a policy, because there has always existed a gap between policy formulation and implementation within Government structures. Can we bridge that gap and ensure that such beautiful and very effective policies are

implemented, so that the people in Turkwel Gorge, in this case, are fully compensated, because this was their ancestral land and they do not know any other land. Their way of life was interrupted because they are pastoralists. Now, when you take such a big chunk of land from them, you are actually destabilizing their economic activity and livelihood. They should not only be compensated, but the Government, by extension, must compel private companies that undertake such economic activities within a given community to build social amenities such as schools, dispensaries and access roads. In this case, for a people who have suffered an injustice already, for 22 years, they should be compensated not just at current rates, but even bearing in mind the suffering that they have undergone, the lives that they have lost for 22 years and all the inconveniences that they have gone through because of having to give out their land for this dam.

Mr. Temporary Speaker, Sir, look at the case of the Niger Delta in Nigeria. The Government of Nigeria is now spending billions, fighting with armed militia, who feel that despite the fact that their region produces oil, they are still amongst the poorest of the poor in Nigeria. Now that kind of scenario can never be fought by any force. They will fight and fight, generation after generation. The only remedy is to make that community get all the benefits that come with the economic activities from drilling the oil from their ancestral land. In the absence of those kinds of benefits, there will always be yet another generation that takes up arms to fight the Government. This is because what happens in that kind of a scenario is that the people pit themselves against the Government and it is like two forces fighting over such a beautiful economic activity, like the drilling of oil or generation of electricity, in the case of Turkwel Gorge.

Mr. Temporary Speaker, Sir, my point is simple. The Government should not bury its head in the sand and hope that the people who gave their land to allow the generation of electricity from Turkwel Gorge will one day relax and feel comfortable. Now that you see a Senator from that area already talking about it, there are many more brains behind, who will always feel that our forefathers, grandfathers and fathers suffered this injustice and we now need to correct it. So, the sooner we correct it, the better. It is sad that when such Motions come to the Floor of the House, I am seeing a pattern that is forming; that certain Motions are being branded as belonging to certain regions or brought by certain parties or people affiliated to certain beliefs. This is a very dangerous precedent. We should support or reject Motions based only on their merits or demerits. But if we start branding Motions and thinking that we should not support this because it has been brought by G.G Kariuki, I think he comes from this kind of community, we are not going to benefit.

Fellow Senators, Kenyans are watching and - we are live on air. Everything that you state here - your behaviour and statements, is a seed that you are planting. I can assure you that every seed that you plant will surely germinate and come to fruition. By the grace of God, you will be a partaker of that fruit. So, whether good or bad, be prepared to one day sit before a Committee and be told: "Twenty years ago you were in the Senate and there was this kind of a Motion, and we can now see the people who walked out or the names of those who were in the House or voted against this kind of a Motion, and you were amongst them. Now that you want to become the President of this nation, tell us why you think that we should allow you to lead an entire nation, when you did not allow this kind of a Motion to pass?" It is just as simple as that. Politics is a double-edged sword. It is very pleasant when it is chopping off the hand of your

opponent. But I can assure you that the day it will be turned on you, it will come for nothing but your head. So, when you are sharpening the political sword, by way of what you think is an intelligent activity or statement, be sure that it is something that you can defend at all times, amongst any generation and before anybody, with your conscience very clear that you did the right thing.

Mr. Temporary Speaker, Sir, I beg to support.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, thank you very much for giving me this chance to contribute to this very wonderful Motion and I will support it for various reasons.

First, the Motion is well-intended and it has what we can say a national approach to food insecurity. This is one of the Motions trying to accuse the arm of the Government for neglecting residents where such projects are located. I also come from a county where there are people who have been affected by the construction and operation of such a project called Mwea Settlement Scheme in Kirinyaga County. What the professor is articulating here is true. It is true for many other projects that we have in Kenya. So, it is not only in Turkwel Valley where we have this problem but all over the country. At one time we visited Nyando when I was the chairman of the committee on education. We saw the pathetic living conditions of the community around that river. During the time of floods, these people have to leave their ancestral lands to the highlands surrounding the Kano Plains. This thing has been happening for a long time.

We have people in Mwea Settlement Scheme who, every other day, are in water. There is no adequate sanitation so you wonder what happens when there is a call of nature. These people just kneel down and do their thing because there are no toilets. So, what happens to people living downstream? This is a canal supplying water to residents living downstream. Those people downstream drink this water. So, the kind of diseases we are talking about like malaria, typhoid, cholera and so on will come up. These people are emaciated to the level where they look like skeletons walking because they do not even have time to eat. Most of the time they are trying to battle with water supply which is little, struggling with health conditions which are very bad and at the end, what they get from their sweat is negligence.

In Mwea, the rice that these residents grow has no market because other international countries have come to dump their rice in Kenya. So, we need protection. We need to know what is happening in the country. Why are residents of such schemes suffering? We have Mwea farmers suffering from the flooding of rice imported from Pakistan and Japan. I also note that Japan has imposed 700 per cent duty on anything imported to Kenya. In Kenya we have liberalized the market and as a result the farmers are suffering.

Mr. Temporary Speaker, Sir, coming to Turkwel, this is a multipurpose development scheme and the Government should know that. If it is a multipurpose development scheme, we need to take care of the undertaking that the Government will have with locals and the international companies which are engaged in development so that people do not suffer. You do not displace the residents just because the area is commissioned for development. We need to mind about their plight. These are the people who have been living there for a long time and they do not know any other land. The best land they know is where they are settled, so displacing such people is wrong. It is not right to have them displaced without giving them alternative land. That is what we are

discussing here. Therefore, it is important for the nation to know that a mistake was committed to the residents of Turkwel and the Government should move with speed to make sure that the anomaly is arrested. We would like to see Turkwel turned into a tourist resort. That is one of the reasons why we have a multipurpose development scheme. We would like to see tourists coming from Ethiopia, Uganda and other countries just like some of us go to Turkwel to see those famous crocodiles that eat sheep and goats belonging to the residents around the lake. This is a lake which, if developed, can attract tourism as I have said and therefore needs to be protected. It is not just a Turkana or Pokot project but this is a project that can generate a lot of money and bring in a lot of foreign exchange through tourism to this country. This is what we are encouraging. More of such dams should be constructed in Kenya. For example, we should have one in Turkwel, Bura and Tana River. Tana River has seven dams but, surprisingly, even the people there have not been compensated adequately, the way the professor is saying here.

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

*[The Temporary Speaker (Sen. Ongoro) took the Chair]*

This is the problem we are having; the commitment of the Government to the residents is sometimes like blackmail because the people who negotiate for the packages are not from there. We have people from overseas and they aggravate the problems of the residents and as a result they are left without anything. So, it is important that any time we have such development taking place, we involve the locals. The locals should be involved for them to know what their lives would be like after the construction and what will happen to the settlers of that said area. If resettlement has to take place, then those displaced should be settled in a good place with social amenities as it happens everywhere. Why can you not go to Tennessee Valley Authority and see how Americans have harnessed River Tennessee? In 1945, Franklin Roosevelt, who was the president then did a lot of work in Tennessee Valley. Today, everybody wants to go there to see the development along that river. This is what we would like to see in Kenya. When that happens, I am sure the money that will be generated will go to the national kitty and that is the money that will spread and help those areas which cannot do much.

I have heard that people in Turkwel Gorge do not have a culture of eating fish, but if trained, they will know about it. Let them know that fish is a very delicious food. This is something that should be researched on before such a mighty and giant multipurpose scheme is realized. So, we encourage the developers to consider the plight of residents and of those in the neighbourhoods of such projects so that they can also benefit and not investors alone. Let investors also undertake an agreement with the Government that during that time they should be able to provide what people want. If it is schools, let them provide schools because that is a requirement. The roads must be done so that they can reach and access the population that could not be accessible. That is what anybody seriously investing in a developing country like Kenya should be encouraged to do. We need to protect investors, the residents and also we need the money. So, all those partners should be involved in developments like this one of Turkwel Gorge.

With those few remarks, I beg to support.

**Sen. Kittony:** Madam Temporary Speaker, thank you for at least seeing me today. I want to congratulate my neighbour, a very close friend, from Pokot County which borders our County of Trans Nzoia. So, we are actually like brothers and sisters. When we saw this project being constructed we were very excited as neighbours and we thought heaven is near and our people will benefit. To our surprise and dismay, it has come to give us destruction. When he talks about mosquitoes invading us, that is true. They have actually come to my bedroom because Turkwel Gorge is very close. What Sen. (Prof.) Lonyangapuo has said is indeed very true. When this project came, we thought the problems we have been experiencing of lack of electricity will be eliminated but to my dismay and surprise, the rampant black outs have even doubled. So, we suffer the consequences, leave alone the menace of crocodiles.

Madam Temporary Speaker, it is indeed painful to realize that such things happen. The Kitale-Lodwar Road which goes through Pokot was tarmacked at one point but right now, there is no road. So, we wonder whether we have a project which is generating electricity in that countryside or not. Instead of actually opening up development, we seem to be deteriorating.

So, while I contribute and sympathize with what is happening to our people--- When I say I am a neighbour sometimes I wonder whether my neighbour, Sen. Ole Ndiema, might be wondering if I migrate very quickly because sometimes, I am from Pokot, sometimes I am from Baringo but I would like to say that I am a Kenyan. Let me make it clear today. I am very concerned with the plight of all our people. The projects that come to this country should be to the benefit of the people. Honestly, we thought the lives of the Pokot people, I hope the professor is listening because I am trying to support this Motion, some of us who are neighbouring Pokot thought they had got a lifeline and their lives would change but what is stated here is true to the letter. Therefore, something has to be done as a matter of urgency. They should eradicate mosquitoes which cause malaria. Every time you travel to Kitale or Kapenguria you get malaria. Instead of enjoying good health, people suffer the consequences of the Turkwel Gorge.

I am saying that we were very excited as we saw huge trucks or vehicles going there but what was the result? What you are seeing is the result. While I support this, I want to urge that it should be addressed as a matter of urgency to save the lives of innocent people whose land has been taken and have not been compensated. Some of them have lost their livestock due to misplacement.

Indeed, it would be important, as you said in your statement here, that we want to go in history to have actually changed the lives of people instead of people saying that these things happened during our time and we did nothing.

With those few remarks, I support this Motion.

**The Temporary Speaker** (Sen. Ongoro): Sen. Tirole Ndiema!

**Sen. Ndiema:** Thank you, Madam Temporary Speaker. I stand to support this Motion. This issue of compensation for the people of West Pokot is long overdue and it is not a favor that the people of West Pokot are asking for. It is their right under the Constitution. It has become almost a tradition in this country that projects are conceived, considered and feasibility studies are carried out – very beautiful ones – promising heaven on earth to residents of those areas where those projects will be domiciled.

Madam Temporary Speaker, if I remember well when the Turkwel Gorge Project was initiated, the residents of Pokot and Turkana were promised, just to mention a few,



that they will get electricity, and that would have been the first priority. I do not know whether they have got enough electricity and as neighbours – as earlier mentioned by my able Senator from Trans Nzoia – those areas in the neighbourhood are faced with power shortages. In the feasibility study, it was also promised that so many acres of land would be put under irrigation and issues of threats to food security will be a thing of the past. We are yet to see any irrigation project under this programme, which was supposed to be the Phase II of the project.

Madam Temporary Speaker, we were also promised that the residents will get clean drinking water. I believe those who live near the dam are sharing the raw water with the crocodiles and mosquitoes. It has become a tradition that when projects of this kind come up, people are not consulted. If you remember, all the projects, including the big one in Tana River, Kiambere Hydro Electric Power Station and Sondu Miriu, they have almost had false starts because people were not consulted and they were not compensated in time. Compensation came later and in quantities that really do not help those who were displaced. Why should compensation be an afterthought? Why should the Government think that when you are compensating the people who own the land, you are doing them a favour, because that is what it seems to be the case? It has become tradition that unless you complain and threaten to stop the project, you are not compensated.

I think the Government should be more proactive and compensate people upfront. Unfortunately for the residents, who are the Kenyans who live around Turkwel Dam, they were never considered. Perhaps their voice did not reach the Government. But through this Senate, their plight is before the Government, and it is only right that the Government this time, although belated, compensates the communities. It has also been a tradition that when these projects are started in places where there are community lands and people are living there – of course, they do not have title deeds and you cannot compel them that unless they have a title deed, you will not be compensated them – these are the people who own the land and thanks to the new Constitution, it recognizes community land. The residents of Turkwel should be compensated in a manner that is both personal – because some families lost their livelihoods in terms of sources of food, they lost land also as a community – by putting up projects that will uplift the standards of the residents there so that they can appreciate the project, own it and also protect it.

Turkwel Gorge is there today, but unless we conserve the environment, it will not survive. We have seen dams being silted and their viability going away. So, if we are to ensure sustainability, we have to compensate the people. Let them own the project so that they can protect the environment together with the Government. There are settlement schemes where people are settled in water bodies and swamps. A good example is a place like Namanjalala in Kitale where every year during the rainy season, they are flooded and they become part time Internally Displaced Persons (IDPs), only to return later to meet the same mosquitoes that Sen. (Prof.) Lonyangapuo referred to earlier. These are the areas the Government should look at because they are fragile environments and people are living precarious lives. We need health centres and support for those people to earn their livelihoods.

Madam Temporary Speaker, power or electricity is a necessity for this country, especially in this century. But the manner in which power generation, prospecting and distribution is done, does not take care of the welfare of the people affected. Even in our

counties, if I may mention Trans Nzoia, where rural electrification is done, people's *shamba's* are trespassed, trees are cut indiscriminately and owners are not compensated. There is something wrong with power projects because residents are not being considered.

Madam Temporary Speaker, the issue of Turkwel Dam needs urgent attention. Even as it is said in Kiswahili, *deni haliozi*, so, that debt never rots and it should be paid. It is due to the people of Turkwel.

With those few remarks, I beg to support.

**The Temporary Speaker** (Sen. Ongoro): Sen. Muthama.

**Sen. Muthama:** Madam Temporary Speaker, I rise to support this Motion and, at the same time, to propose an amendment. The reason I am proposing this amendment is because this Motion is very important and many areas, not only Turkwel Gorge, but the entire Republic of Kenya, have been affected. What the Mover did was to highlight one of the serious issues.

Madam Temporary Speaker, if you allow me, I beg to move:-

THAT, the Motion be amended as follows.

(a) By inserting the following words: "in the area and all other areas where such dams have been constructed and people have not been compensated" immediately after the word "persons" in the eighth line.

(b) By deleting the word "area" appearing in the ninth line and inserting the words "affected areas."

Madam Temporary Speaker, the amendment is meant to cater for areas like those mentioned earlier, Kisumu, Kiambere and also Masinga Dam as good examples; and many other areas. In Masinga Dam, people were displaced 15 or 20 years ago. KenGen has been generating electricity there and selling it to Kenyans, and they are being paid money. Although KenGen is generating revenue from the dam, Kenyans and *wananchi* there are still suffering. Some of them have become squatters and they have no place to go. Ten years ago, these people went to court, they won the case and they were awarded about Kshs240 million. But what did KenGen do? Without caring about the people that this nation is supposed to be serving, they went to court and made an appeal. The judge asked the institution to deposit only Kshs10 million and those people are still waiting for the determination of the appeal, while KenGen is generating money.

Madam Temporary Speaker, you know the electricity bill you and I – including everybody else who is here and who is not here – pay after using electricity. We even know the bills that poor teachers, who are demanding for their money, pay when it comes to electricity; it is a lot of money. Today, KenGen is just expanding at the expense of the people who live in those areas.

So, Madam Temporary Speaker, I beg to move this amendment and I wish to ask Sen. Melly to come and second it.

Thank you, Madam Temporary Speaker.

**Sen. Melly:** Thank you, Madam Temporary Speaker, for giving me this chance to second the amendment by Sen. Muthama.

Madam Temporary Speaker, we all know that devolution is about allocating resources to all the counties in Kenya; and that is the job of this House. If there are places, as mentioned, basically where projects were done – we have Rusinga, Turkwel and a number of other companies that operate today – and if the people who live in those

areas or the communities surrounding those resources or projects were not compensated, it is our role as the Senate to ensure that they are compensated, and the time is now.

Madam Temporary Speaker, the Government has, a number of times, displaced people. There are several such cases and a good example has been mentioned by Sen. Muthama. Today, I ask myself one question; yes, these people were displaced; the Government did achieve to construct and to put up a project that is running until today. But what about the lives of those people who lived around there? Are we really building this economy or are we destroying it? Because at the end of the day, those people who were displaced there are very poor today and they live in terrible conditions. These people were displaced by the Government. On that note, what I am trying to say is that the Government should compensate all people across the board within the 47 counties. If there were people who were displaced and the projects are running, let all of them be compensated so that they can come to their original positions and help build this Republic.

Madam Temporary Speaker, in those dams, we have the water resource as the Mover said. His was my lecturer and Principal at the university. I congratulate you Senator. There are water resources in these dams. I was trying to inquire and I found out that money was allocated to these dams for irrigation but until today there is no irrigation in a majority of these dams. So, the question that we are asking today is, where did this money go? Money was allocated for irrigation and people should produce food so that this country can have enough food. Today we cannot believe the prevailing situation. Money was allocated but nothing has been done. Our job is about fairness and, therefore, as the Senate we should see to it that everybody who has been denied a chance is given a chance to change their lives.

Lastly, companies have what we call corporate social responsibility. I do not know to what extent these companies have done this job to ensure that the communities that live around these dams are provided with schools, hospitals and infrastructure. I want to request that this Senate comes up with a law to ensure that every company that operates within a certain place across the 47 counties has something to offer to the people who live there. That is our job and we can do it. If these things are done the way they should be done, I am sure the lives of many people will change. We look forward to all Senators supporting this Motion so that we compensate our people who have suffered all this time. We are there for them because we protect devolution.

With those few remarks, I second the amendment.

*(Question of the amendment proposed)*

**Sen. Elachi:** Thank you Madam Temporary Speaker, I also stand here to support the Motion as amended bearing in mind the reason that the Government has always used to bring up multipurpose projects. I will give an example of Turkwel Dam. When the Government conceived the Turkwel Dam, it was a multipurpose project that was supposed to deal with agriculture, fisheries and hydro electricity. It seems that most of the time, the projects are abandoned and in the end the Government concentrates more on the project that generates more revenue. Therefore, even when the Government is identifying an area to start a project, one of the things that we have always failed to do is to create awareness for the community to understand that there is a project that is coming up. It is

very sad because the Pokot community are pastoralists and yet the project was supposed to generate agriculture, but we were not able to train and impart skills. Worse still, they were unable to understand the fisheries part of it. When you look at these projects, they are projects that can empower the community if the Government puts in place measures in terms of ensuring communities understand why they need a project.

Madam Temporary Speaker, as we speak, we have laws. One of the laws in this country states that you cannot just go into a community project without building a school or hospital. It should be any social project that will benefit that community. Therefore, I think because of the impunity we have in terms of disrespecting law in this country, that is why we never abide by certain laws. I think now that we have devolution, it is up to the Senate that any project that comes to the county government, the Governor must have a Memorandum of understanding which indicates what the investor is bringing and what the community is going to benefit. Now that we have started oil drilling in Ngamia I and II, very soon, let us not find Turkana becoming displaced yet we imagine that for the first time we want to see a different Turkana County.

Therefore, we are saying this knowing that we are celebrating 50 years of Jubilee and God has blessed us with a lot of natural resources. I just hope and pray that in this Senate we will be able to protect the interests of the counties. I think time has come for the real protection. The communities where we have natural resources will benefit in terms of ensuring that young people go to school and get employment. As much as the investor would want to bring in expatriates from wherever, at least, 70 per cent of the informal jobs must be given to the youth within that community so that they feel part and parcel of the project. It is important for the Government to come up with measures to start owning up these projects. Let the community feel part and parcel of the process that is going on. If we start projects the way we did in Turkana – you could see how the communities were even engaging each other and chasing away the investor. I would plead with politicians not to go in with their vested interests. The communities are willing to work with the investor but because the politicians have not benefitted as individuals, they start politics until the project collapses.

Madam Temporary Speaker, when you go to Embu and Muminji and you look at Kiambere Dam, there are many people who have been eaten by crocodiles. There is need for the KWS to come in and make sure that the communities around benefit. You do not just compensate by giving out Kshs30, 000; it is an insult to the bereaved who may have lost their child. I think this is unfair when we are able to award Kamlesh Pattni Kshs4 billion. Sometimes when you look at how judgments are made in this country, you really do not understand where Kenya is heading. I do not know whether those judgments are made because of the groups and gaps we have in terms of richness and poverty. This is something that we need to ask ourselves as the Senate.

I beg to support.

**Sen. G.G. Kariuki:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): What is your point of order?

**Sen. G.G Kariuki:** On a point of order, Madam Temporary Speaker. Would I be order to ask that the Question of the amendment be now put?

*(Applause)*

**The Temporary Speaker** (Sen. Ongoro): Going by the mood of the House, I feel that I should now put the Question of the amendment.

*(Question, that the words to be left out be left out  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question of the Motion as amended proposed)*

**The Temporary Speaker** (Sen. Ongoro): We will now proceed with the Motion as amended.

**Sen. Obure:** Madam Temporary Speaker, first, I want to say that I support this Motion as amended. I also want to thank Sen. (Prof.) Lonyangapuo for the initiative that he has taken to bring this Motion here. I also want to thank the Senator for Machakos for introducing the amendment which extends the impact of this Motion to other communities that are affected in a similar way.

Madam Temporary Speaker, what was initially intended to be a blessing to this nation – the electricity project at Turkwel Gorge – has actually turned out to be a curse to the local community. What was intended to make us proud, as Kenyans, through the construction of this massive project, has actually been the cause of misery for the local people in West Pokot. Although the nation has largely benefitted through additional generation of electricity, back in West Pokot it has brought poverty to the people. The project has displaced 1,700 people and because of that families have been separated. The families which were together do not meet or share together. This is really the impact of this particular project.

Madam Temporary Speaker, we have been told that the livelihoods of people have been disrupted. Those who were engaged in exploitation of gold no longer do so and have to find other activities to engage in, in order to earn a livelihood. Pastures have been destroyed, leading to people resorting to the bad culture of rustling and so on. Communication was also cut off and movement became difficult around this particular area. A new form of transport – the canoes – was introduced. These canoes have been a source of accidents and death to the local people. Crocodiles have also found a new habitat in that area. They have become a danger to human beings and livestock in that area. Worse still, the dam has become a breeding ground for mosquitoes. We know that mosquitoes kill because they transmit malaria which is a killer. So, women, children and grown-ups in Pokot have died out of malaria. It is a serious matter when you look at it from that perspective.

Madam Temporary Speaker, I think that the Government should have done more than it appears to have done. We should have carried out programmes to educate, teach and induct the people of West Pokot on alternative ways of living. We should have taught them on how to engage in alternative activities for a livelihood, like agriculture. This is because this dam was intended to introduce a new way of life for them. We should have taught them that agricultural activities can be undertaken through irrigation downstream and all that. They should have been taught how to take advantage of this and maximize

from the fish industry that was introduced in this area. All that was not done and it is very bad.

Madam Temporary Speaker, KenGen which is largely responsible for the operations at this dam of generating electricity, does not appear to have undertaken its corporate social responsibility seriously. It does not seem to have integrated itself with the communities in West Pokot. They do not seem to have wanted to associate at all with the local communities and so, they have introduced a new culture and the people of West Pokot are referring to these new people as foreigners. This is very unfortunate. I am sure that KenGen has the capacity to do better. So, I would urge the Ministry of Energy and Petroleum and the Ministry of Mining to try and focus a little more on their operations in Turkwel Gorge, so that they can create a more positive image of themselves, by associating and engaging with the communities.

Madam Temporary Speaker, even on the issue of jobs, we have been told that KenGen brings workers from Nairobi and other parts of Kenya.

**Sen. Murungi:** On a point of order, Madam Speaker, Sir. Is it in order for the hon. Senator, who was a Minister in the previous Government, to continue misleading Kenyans and this House that KenGen has not associated itself with the people around Turkwel and that it has not done any corporate social responsibility while, in fact, KenGen has built some schools in the area, employed local people and even sponsors a marathon which is a cultural event in that area as part of its corporate social responsibility?

**The Temporary Speaker** (Sen. Ongoro): Senator, as a senior Member of Parliament, while you are on a point of order, you might also be out of order by not presenting facts to the House. Can you present to this House with facts that negate the facts contained in this Motion and which Sen. Obure was deliberating on and presenting?

**Sen. Murungi:** Madam Temporary Speaker, what I am saying is true because I am aware and given time, I can bring the facts but it is misleading to say that KenGen has not associated itself with this community because for sure they have built primary schools and employed local people. For those who have said that they have not employed people, they should show that by tabling the list of people employed there to show whether local people are not employed. So, making such statement is not fair on KenGen.

**The Temporary Speaker** (Sen. Ongoro): Senator, I still repeat my statement, you are actually now sailing in the same boat with Sen. Obure. Why can you not do Senators a favour by presenting to us, specific names of the schools that have been built by KenGen so that we negate the claims by Sen. Obure?

**Sen. Murungi:** I do not have the list today with me but surely, this is information you can get.

**Sen. Karaba:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): Are you aware that the Senator was already on a point of order?

**Sen. Karaba:** I am standing on a point of order on his point of order.

**The Temporary Speaker** (Sen. Ongoro): Proceed.

**Sen. Karaba:** The point of order that I have is that here we have different Senators from different backgrounds. Some of them were Ministers, others were Assistant Ministers, others were Cabinet Secretaries and some were in different Government departments. So, what I want to find out from the Chair is whether we can

bring our past experience to correct the impression created by Senators as they present themselves here.

**The Temporary Speaker** (Sen. Ongoro): Sen. Obure, proceed to conclude your contribution.

**Sen. (Prof.) Lonyangapuo:** On a point of information, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): Do you wish to be informed, Senator?

**Sen. Obure:** Yes, certainly.

**The Temporary Speaker** (Sen. Ongoro): Proceed, Sen. (Prof.) Lonyangapuo.

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, I wish to inform Sen. Murungi that I was in Turkwel for two days and I can tell you that it is desolate. KenGen migrated one year and seven months ago. As a Minister, he never went to that place. Those people moved because the community realized that KenGen was not working with them. They migrated with the computers to Kitale and they run the plant from there. There is no school that KenGen ever built. They inherited a small structure that was left by the company that constructed the said plant. The only schools built there by Red Cross are Leting, Lorukol and Lonyangaleru. So, we do not want to reveal what harm has been caused by KenGen.

**Hon. Senators:** Shame! Shame!

**The Temporary Speaker** (Sen. Ongoro): Proceed, Sen. Obure.

**Sen. Obure:** Madam Temporary Speaker, I am aware that Sen. Murungi, whom I respect very much, was not present when Sen. (Prof.) Lonyangapuo moved the Motion. I have served as a Minister before and I am aware Ministers can also be misled by being provided with information that may not be accurate. I hope Sen. Murungi is not relying on information provided to him and which could be incorrect. I am also hoping that he will come here with concrete information to negate what I am saying but let me go ahead.

Madam Temporary Speaker, I was just about to come to the issue of compensation. Sen. (Prof.) Lonyangapuo, when moving the Motion, indicated that there are other similar projects elsewhere, and he quoted Chebara and Ndakaini Dam, where the local communities were compensated. He said that in the case of Turkwel, the locals were not compensated. So, the spirit of this Motion is that compensation should be paid in all similar projects around the country, which I support. If that was to be done, then the kind of views which are being expressed in respect of Turkwel project would not arise. So, I support the spirit of this Motion that all communities wherever they are in this Republic who have given up land for a national project should be compensated and that there should be no discrimination whatsoever in carrying out compensation.

I want to conclude my remarks by saying that what this Motion is asking the Government to do is simple. They are asking the Government to compensate displaced people, not just in Turkwel but also in other areas where similar projects have been undertaken. We are being asked to provide motor boats instead of canoes and things like those which endanger the lives of people. That is sensible and this House should be able to support this Motion because the request is very simple. The Government should build access roads, dispensaries and schools around the project. This is reasonable and it is not too much to ask of the Government, particularly taking into account the overall benefits which the nation derives out of a project of this nature.

I support.

**Sen. Muthama:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): I want to disallow that point of order and listen to the Senator for Laikipia County.

**Sen. Muthama:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): What is out of order, Senate Minority Whip?

**Sen. Muthama:** This point of order is just to alert the Chair; looking at the time, it is now 6.00 p.m. and the previous Speaker who was on the Chair ruled that by 6.15 p.m. we should adjourn the debate to enable the House to send condolences to the family of the late former Minister, Mr. Njiru. My kind request is that we try and share the remaining minutes. We should allocate 10 minutes for each of us, maybe three or four minutes per speaker.

**The Temporary Speaker** (Sen. Ongoro): You are simply requesting that we reduce the contributing time from five minute to three minutes?

**Sen. Muthama:** Yes.

**The Temporary Speaker** (Sen. Ongoro): Going by the mood of the House, I think that is a general agreement. So, Sen. G.G. Kariuki, proceed and you have two minutes.

**Sen. G.G. Kariuki:** Madam Temporary Speaker, I do not know what to say about the two minutes except that I need to---

**The Temporary Speaker** (Sen. Ongoro): You have three minutes.

**Sen. G.G. Kariuki:** Thank you, Madam Temporary Speaker.

Madam Temporary Speaker, I have been listening since the time this Motion was moved by my good friend; I have also listened to those Senators who contributed to this Motion, including yourself, and I think there is one thing we are omitting here. Nobody is talking about the positive side of this kind of development. Everybody is saying they were neglected, they were not consulted and all these manner of things.

Madam Temporary Speaker, the intention of those who created these major projects was quite good at the time these projects were being contemplated. However, I wish to remind the Senate that, that was not the time to consult anyone---

*(Laughter)*

This was the time which we call “personal rule”, because only one person had a say on what was to be done and what ought not to be done. That is why Kenyans unanimously voted for a new Constitution because of various historical problems they have gone through. Therefore, it is important for us to appreciate some of the projects which were done at that time, whereby economic consideration was there. But the issue of compensating people downstream or the people who occupied the area was not taken into consideration because they would have otherwise delayed implementation of the project by those who, perhaps, wanted to benefit financially from these kind of big projects.

Therefore, Madam Temporary Speaker, it is up to this Senate to appreciate the problems that this country has gone through. Recently, the people of Kenya elected us to come here to try and correct all the past mistakes which were committed. They also expect us to improve on the areas we think ought to have been improved; but not to be guided by condemnation.



Madam Temporary Speaker, what has just been said here – moving people from the areas under which these major projects have been done – is going to create another big problem, like you and the Mover of the Motion have already explained. This is not just about the mosquito and crocodile menace; all these problems must come after a big project like that one is created without taking into consideration what might happen.

But it needs to be said---

*(The yellow warning light turned on)*

Is that okay?

*Asante sana*, Madam Temporary Speaker. I can see that my time is over.

**The Temporary Speaker** (Sen. Ongoro): Sen. G. G. Kariuki, the yellow light actually notifies you that you have about a minute to conclude your contribution. It is when the red one goes on that your time is over.

**Sen. G. G. Kariuki:** I have another minute?

**The Temporary Speaker** (Sen. Ongoro): Yes, you still had a minute to contribute. The yellow light notifies you that you have a minute.

**Sen. G. G. Kariuki:** Madam Temporary Speaker, some of us respect the Chair very much. When I saw the yellow light, I thought I was being alerted to sit down. But thank you for allowing me to wind up.

We need to support the sentiments of this Motion and what has been said by the Mover and Senators of this House because it is now a national Motion and not purely for West Pokot. The people of West Pokot have definitely benefited from this project, and I know that. But we cannot say vividly that all the projects that have been created to date have not benefitted our communities.

So, Madam Temporary Speaker, I beg to support as it is.

Thank you very much.

**The Temporary Speaker** (Sen. Ongoro): Sen. Kipchumba.

**Sen. Kipchumba:** Bi Naibu Spika, nakushukuru kwa kunipa nafasi hii. Kwanza, ningependa kuunga mkono Hoja hii. Nimetiwa kiwewe na mawazo ya Sen. G. G. Kariuki, ya kwamba maovu yaliyofanyika katika miaka iliyopita yanaweza kuwa halali kwa sababu ilikuwa inaendeleza mafanikio ya wachache. Nadhani hizo ni fikira ambazo zinadunisha haki za watu. Kwa hivyo, ningependa tubadilishe ya kwamba maovu ambayo yameweza kufanywa wakati wowote na Serikali yoyote yaweze kupingwa na kukataliwa kwa enzi zote. Kwa hivyo, kuhusu Turkwel Gorge Dam, kwa wale ambao hawajui jina lake halikuwa Turkwel bali Tilkol. Tilkol ni jina la Kiturkana kusema kwamba mto unaweza kustahimili jangwa. Kwa kimombo wanasema; *a river that withstands wilderness*. Huo ndio ulikuwa mto wa kipekee ambao wakati wowote kukiwa na jangwa, mto huo ulibaki na maji. Hio ndio sehemu ambayo wananchi wa sehemu hiyo walitegemea. Turkwel Gorge ina tunnel ya kilomita saba. Na jambo ambalo linatisha sana ni kwamba wengi ambao tegemezi lao lililikuwa katika sehemu ile waliondolewa kutoka mashamba yao. Na sio pale peke yake bali ni sehemu nyingi. Kwa mfano, kule Baringo kuna mto wa Bosei ambako dam ilitengenezwa. Lakini baadaye wananchi hawangeweza kukitumia kidimbwi kile kwa sababu kilifungwa. Halafu pale chini ya mto hakuna nafasi na mtu akipatikana hapo anashtakiwa.

Ninadhani hii ni Hoja nzuri kuweza kuhimiza Serikali kuona ya kwamba miradi yote ambayo iliweza kukuza maisha ya watu kwa njia isiyofaaa, wale watu wafidiwe, hasa sehemu ambazo maisha ya watu yamehatarishwa. Kwa mfano, pale Turkwel kuna mbu nyingi sana. Haifai kuwapatia watu wale mosquito nets peke yake kwani hizo zitawasaidia wakati wanapotembea? Nimesikia watapewa hata madawa ya kutibu malaria. Hiyo haitoshi. Inafaa watu wapewe sehemu nyingine ambako wanaweza kuendeleza maisha yao. Pia, kile kdimbwi ambacho kimekuwa kama bahari, wafunzwe mbinu za kuvua samaki na waelimishwe jinsi ya kupata soko la samaki. Watu wakiwachwa hivyo wanabaki maskini.

Ninatilia maanani Hoja hii na kusema kwamba inafaa Serikali ihakikishe kwamba watu wanafidiwa. Inafaa watu wa Turkwel wajengewe shule, kwa maana ninaamini KenGen haijajenga shule yoyote pale. Kampuni hii inapeleka wapi faida ambayo inapata kutokana na mauzo ya nguvu za umeme? Inaonekana wakurugenzi ndio wanafaidika ilhali raia ambao maisha yao yamebadilishwa na mradi huu hawapati faida yoyote.

Ninaunga mkono Hoja hii. Asante.

**Sen. Bule:** Madam Temporary Speaker, thank you for this opportunity. As the first Senator for Tana River County, I think I am better placed to come and discuss this important issue which affects counties. Tana River has not been represented over the years. Today is when the people of Tana River feel that they are represented.

All these projects have been initiated by people who are not mindful of others. The project does not favour the people living downstream. Tana River which I represent which is being used as a buffer zone is the most affected place in Kenya. Tana River has also been affected by KenGen for the past 45 years. Other projects were initiated by the Executive. The Constitution of Kenya favoured the executive and not the locals. This is where we went wrong. It is today when we have the Senate which is representing the counties and county assemblies where we have county representatives. Today, we can discuss our issues fully. Therefore, we have a full Government where issues are discussed.

**The Temporary Speaker (Sen. Ongoro):** Sen. Bule, you should stick to the Motion.

**Sen. Bule:** Madam Temporary Speaker, we need to correct what went wrong before. We have suffered in the hands of greedy leaders who are not mindful of the people of Kenya and Tana River which is very special to me. We should be compensated fully by KenGen. These are the people who have caused suffering among the people of Tana River. People died, crops and livestock were lost because of their project. They just release water without giving us notice. Before we move to court, the people of Tana River should be fully compensated.

I fully support the Motion.

**The Temporary Speaker (Sen. Ongoro):** Before I call the Mover to reply, I will give two minutes to Sen. Hassan. Please, we are constrained of time.

**Sen. Hassan:** Madam Temporary Speaker, once Sen. Bule has spoken, I really do not have anything to add. That said and done, I would like to support this Motion and lay down a Government philosophy of development. No Government can purport to develop a society, a community or an area by disenfranchising groups of people for whatever purpose or development.

Madam Temporary Speaker, I support this Motion, because nobody can contest the fact that areas like West Pokot, Turkana, Mombasa and Ukambani have been victims of systematic and deliberate marginalization, even in the event of development. It is because of a greedy few who have agreed on a collective strategy at the expense of the many. So, I think that it is important at this point in time to reconstitute the people of West Pokot and all other areas where people have been disenfranchised by virtue of Government actions or inactions in terms of their strategy of development. So, I support this Motion because I know that it will benefit every Kenyan across the counties to ensure that Kenya is made a better place and those we have displaced and disenfranchised are reconstituted.

Madam Temporary Speaker, I beg to support this Motion.

**The Temporary Speaker** (Sen. Ongoro): I now call upon the Mover to reply.

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, I rise to thank my colleagues for contribution to this Motion. By passing this Motion, most of the areas that are going to benefit or have ever benefited from the national Government will now be looked at critically, to see to it that the local communities benefit properly.

Madam Temporary Speaker, I beg to move.

*(Question of the Motion as  
amended put and agreed to)*

*Resolved accordingly:-*

THAT, aware that the construction of the Turkwel Gorge Dam by the Kenya Electricity Generating Company (KenGen) led to the displacement of many Kenyans due to the large area covered by the dam; noting with concern that no compensation was given to those who were displaced; further concerned that the dam is a breeding place for mosquitoes which cause Malaria and is heavily infested with crocodiles which pose a danger to both livestock and people living around the dam; noting that the area lacks necessary social amenities such as schools, dispensaries and access roads; the Senate urges the Government to compensate the displaced persons in the area and all other areas where such dams have been constructed and people have not been compensated and to purchase motor boats and construct access roads, dispensaries and schools in the affected areas in order to enable Kenyans living around the dam locality to move with ease and to access necessary social amenities.

#### **MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.31**

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, I will now make reference to Standing Order No.31 (1) which states:-

“A Senator may, at any time, for reasons stated, seek leave to move “That, the Senate do now adjourn.”

That leave was sought by Sen. Karaba earlier and permission was granted that he will move a Motion to eulogize the late James Njiru, who is a former Member of Parliament for the then Ndia Constituency.

Hon. Senators, take further note of Standing Order No.31 (3) which states:-

“The debate on a Motion under this Standing Order shall be confined to the matter of the Motion.”

TRIBUTE TO THE LATE HON. JAMES NJIRU,  
FORMER MEMBER FOR NDIA CONSTITUENCY

**Sen. Karaba:** Madam Temporary Speaker, I wish to thank the Senate for adjourning to eulogize the late hon. Njiru who was a Member of Parliament for Ndia Constituency in Kirinyaga Constituency. He was a Member of Parliament from the 1980s where he was very instrumental in the founding of this nation. Those people who knew him, and I can see some of them here, will agree with me that this was a gentleman who did a lot for the country. He contributed a lot in Kirinyaga County and we join the residents of Kirinyaga County in eulogizing the departure of a great person in the name of James Njiru. He was known to have started the echo of KANU *moto*. He was appointed as an assistant minister by the former President, Mr. Moi and later on as a Minister for Political Guidance. During his tenure, he was the most powerful Minister. So, we are asking the Senate to really eulogize him. I sympathize with the family and the people of Kirinyaga for having lost such a person.

It is also regretted that the Late Njiru passed on last Thursday in a Nairobi hospital suffering from cancer, according to the doctor's report. He will be laid to rest on Saturday, 6<sup>th</sup> July, 2013 at his home in Kirinyaga. Therefore, I am appealing to those who can afford to come to do so and give a send off to the great hero.

I beg to move.

**Sen. Murungi:** Madam Temporary Speaker, let me also take this opportunity to send my deepest and sincere condolences to the late hon. Njiru, former Member of Parliament from Kirinyaga. The late Njiru was known to me and indeed, to many other politicians who are now here in the Senate. So, we at the Senate feel it is appropriate to send our collective condolences to the family of the late James Njiru. For those who come from the region, the Late Njiru is well known as KANU *moto* and also known in other dear terms as “brother”. He was a giant in Kirinyaga politics together with others like Njunu and Njogu Kasam with whom they developed politically in the 1980s.

The late Njiru will be remembered for his high drama in politics. I remember at one time when they came to Meru with the former President, Mr. Moi. The whole presidential convoy was in Meru and Moi decided to fly back with a chopper and left his limousine to Njiru, who passed through Nanyuki, Karatina and Kirinyaga. Everywhere he stood, he would pop up from the limousine and greet the people. Of course, people would think it was Moi and we all thought that by the time he arrives in Nairobi, he would be sacked. But former President Moi had a liking for him. He will be greatly missed by his family, friends and the entire political leadership of Kirinyaga and this country.

May the Lord rest his soul in eternal peace. Thank you.

**Sen. Muthama:** Bw. Naibu Spika, ninashukuru kwa nafasi hii ili nitume rambi rambi zangu na kilio changu kwa moyo wote kwa familia ya marehemu Njiru. Njiru

alikuwa mwanasiasa aliyefaa na aliyestahili sana. Alichaguliwa kwa kuwaambia watu wake ya kwamba akichaguliwa atajishughulisha na majukumu ya kutatua shida za watu wa sehemu yake. Ninasikitika sana kwa sababu, bali na kuwa alipigiwa kura, alitaka kuwapa watu wake maji lakini aliwaacha bila maji. Alitaka wapate matibabu na hosapitali lakini aliwaacha bila.

Baada ya miaka, 50, Njiru ameiacha nchi hii ikiwa sio vile alivyotaka. Lakini ninashukuru Mungu kwa kazi aliyofanya. Tunamtakia kila la heri katika maisha yake ya kwenda mbinguni. Mungu amuonee huruma na amuweke pahali pema peponi. Nasi tufanye kazi tukijua kwamba tutaondoka na tuna jukumu la kutoa huduma kwa watu wetu na kuona ya kwamba tunashughulikia nchi yetu iwezekanavyo.

Naomba kutuma rambi rambi zangu.

**Sen. Obure:** Madam Temporary Speaker, I join my colleagues in passing my personal condolences to the family of the late James Njiru. I knew him as a very solid leader, as a person who was very patriotic and that is the one quality that enabled him to be appointed Minister for national guidance.

I take this opportunity to express my prayers that the Almighty God will bless his family and that He rewards him for the contribution he made to nation building. May God bless that family.

Thank you.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, there being no other business, the Senate stands adjourned until Tuesday 9<sup>th</sup>, July 2013 at 2.30 p.m.

The Senate rose at 6.30 p.m.