

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Tuesday, 1<sup>st</sup> October, 2013**

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

*[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]*

**PRAYERS****QUORUM CALL AT COMMENCEMENT OF SITTING**

**The Deputy Speaker** (Sen. Kembi-Gitura): Let us determine the quorum.

**The Clerk of Senate** (Mr. Nyegenye): Mr. Deputy Speaker, Sir, we have 22 Senators in the House. We have a quorum.

**The Deputy Speaker** (Sen. Kembi-Gitura): Fellow Senators, we have a quorum. Let us proceed to today's business as contained on the Order Paper.

**Sen. Mositet:** On a point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, Sen. Mositet.

*(Loud consultations)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, let us have some order, please.

**Sen. Mositet:** Mr. Deputy Speaker, Sir, my point of order concerns Standing Order No.214 on the Joint Committee on National Cohesion and Equal Opportunity. There was a Committee---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Mositet. We are now on the order on Petitions, are we not?

**Sen. Mositet:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): I do not think you have raised your point of order at the correct order. May I suggest that, if you want to raise a point of order, which is not on petitions, papers or the other orders, that you raise it after the Order on Statements.

**Sen. Mositet:** Thank you, Mr. Deputy Speaker.

**The Deputy Speaker** (Sen. Kembi-Gitura): Next Order.

**POINT OF ORDER**OPERATIONS OF JOINT COMMITTEE ON NATIONAL  
COHESION AND EQUAL OPPORTUNITY

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Mositet, you had a point of order. May I propose that you make it now?

**Sen. Mositet:** Mr. Deputy Speaker, Sir, I rise to ask that as per Standing Order No.214, we are supposed to have a Joint Committee on National Cohesion and Equal Opportunity. Since the names of the members who had been appointed to that Committee were presented to the House, that Committee has never had a sitting. I do not know what the problem has been. I wonder if the Committee should be disbanded. If that happens, some people in this country will suffer.

As of now, I know some people in my county who are really suffering in their jobs because of issues of discrimination in the Ministries. I do not know which committee will look into such matters.

Mr. Deputy Speaker, Sir, it is my request, if you could rule on this matter.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Mositet. Your Committee will not be disbanded. It is an important Committee of the House. Consultations are going on between this House and the National Assembly. We gave the names of the members of the Senate that would form part of that Committee, because it is a joint committee. But we still have not got a full complement of names from the National Assembly. Consultations are going on and we hope that soon, that Committee shall be in session.

I want to thank you for raising that issue. I want to request you not to be shy, to raise it again should nothing appear to happen in the near future. If in the next two or so weeks nothing happens, I request that you raise the issue again, so that the Clerk's office can follow up the matter to its logical conclusion because those committees are meant to be working.

**COMMUNICATION FROM THE CHAIR**ELECTION OF SENATOR TO PRESIDE OVER SITTING PURSUANT TO  
STANDING ORDER No.18 AND ARTICLE 107(1) OF THE CONSTITUTION

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, before we move to the next order, I wish to bring to your attention that the Speaker and the other two panelists are out of the country. So, I am alone running the show. Like I said last Thursday, it is not possible that one person can run the show continuously.

Hon. Senators, what I was proposing - and I have done consultations with the Clerk's Office - is that, again, proceeding under Article 107 of the Constitution and Standing Order No.18, we will do exactly what we did last week. But this time, I will ask that under Article 107 of the Constitution - it does not stop us from proceeding the way I want to propose - that we elect an hon. Senator, who will assist me in the running of this House until the end of this week. If the same situation persists next week, we can do the same thing in the following week.

Senate Majority Leader, I do not know what plans you have. But I would like to do a very quick election. Last week, we elected Sen.(Dr.) Machage. I want to sincerely thank him for the help that he gave me and the House.

**Hon. Senators:** Machage!

**The Deputy Speaker** (Sen. Kembi-Gitura): If you think so, I want to have a proposer and a seconder; then we have an election.

**Sen. Mositet:** Mr. Deputy Speaker, Sir, I propose.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Mositet. Is there any seconder?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): I second, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Does Sen. (Dr.) Machage accept, so that I can propose? The question I want to propose is as follows:-

THAT, in view of the current situation in the House, Sen.(Dr.) Machage be and is hereby elected to assist the Speaker in the running of this House for the balance of the week, that is, today, two sessions tomorrow and the session on Thursday.

*(Question proposed)*

Hon. Senators, can I go ahead and put the question?

**Hon. Senators:** Yes.

*(Question, that Sen. (Dr.) Machage be elected to assist in presiding over the sittings of the House, put and agreed to)*

### POINT OF ORDER

#### CLARIFICATION ON OPERATIONS OF THE OFFICE OF MINORITY LEADER

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I rise on a point of order to seek your guidance on a minor but temporary matter. This concerns what the court declared yesterday in connection with my colleague, the Senate Minority Leader. I see Sen. (Dr.) Khalwale is actually sitting on Sen. Wetangula's chair. We need to get some guidance on this issue. Not that I have anything against Sen. (Dr.) Khalwale, but there is need for clarity on this issue.

On many occasions, the Office of the Senate Majority Leader is supposed to be dealing with that of the Senate Minority Leader. I do not know whether, automatically, the Deputy Minority Leader takes over. What happens? For purposes of proper transaction of business, we need that clarity, with all due respect to Sen. (Dr.) Khalwale. He is even welcome to sit on my chair when I am not in.

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

*(Sen. (Dr.) Khalwale stood up in his place)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, please, let us hear Sen. Abdirahman. He stood on a point of order before you.

**Sen. Abdirahman:** Mr. Deputy Speaker, Sir, with due respect to the Senate Majority Leader, Sen. (Prof.) Kindiki, I want to confirm, in my own understanding, that there is no vacuum as there is a substantive deputy in the House but we seek the Chair's guidance on this issue. Sen. (Dr.) Khalwale was just holding onto the seat.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, did you stand on the same point of order?

**Sen. (Dr.) Khalwale:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Proceed.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, indeed, I understand why the Senate Leader of the Majority is very excited to bring up this matter. Apparently, things have worked so well, in their favour. As you well know, the seat of the Senator for Bungoma County is not vacant as far as this House is concerned. That is a rumour in the newspapers. There is a way in which the Speaker will be served and after he is served, he will tell us that: "Hon. Wetangula is no longer a member of this House." For your information, I have just talked to Sen. Wetangula; he is on his way, he is going to be in this House.

Is the Senate Majority Leader in order to take advantage of the failed legal process in this country that declared the winners losers?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale! You know very well that you cannot pour disrepute on the Judiciary. A decision has been made. There are legal processes to be followed. There is the Court of Appeal and the Supreme Court. I do not think it is fair for you to make the kind of remarks you are making.

Have you concluded your point of order? Actually, you should withdraw the remarks you have just made. We must follow the decorum of this House. At this point, we are not discussing our colleague, Sen. Wetangula. We are discussing the legal position. I do not think it is correct for you to pour cold water on what the Judiciary is doing without having exhausted the legal process.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, indeed, you are right. But my mind is also clear that until the Office of the Speaker is served---

**The Deputy Speaker** (Sen. Kembi-Gitura): I know that. So, what point are you making?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, the point I am making is that the Senate Leader of the Majority is misleading the House that there is a vacancy in the Office of the Senate Leader of the Minority. Even if there was, there is a deputy who automatically would sit there. Is he in order to mislead the House?

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. (Dr.) Khalwale. The Senate Leader of the Majority, are you satisfied?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I did not mean to celebrate what has happened to our colleague, because it could have happened to any of us.

Secondly, the reason I asked for clarification is because this is the first time this is happening to this Senate. Therefore, Sen. (Dr.) Khalwale should not impute improper

motives by saying I am misleading the House because I did not give a definite position. I just asked for guidance from the Chair.

I can see they are now organizing themselves.

*(Laughter)*

*(Sen. Okong'o stood up in his place)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Okong'o, what are you rising on?

**Sen. Okong'o:** A point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): You need to say so.

**Sen. Okong'o:** On a point of order, Mr. Deputy Speaker, Sir. Is the Senate Majority Leader in order to say that the CORD team in this House is disorganized?

**The Deputy Speaker** (Sen. Kembi-Gitura): No he is not.

*(Laughter)*

## COMMUNICATIONS FROM THE CHAIR

### INVITATION TO LAUNCH OF SECOND MTP, 2013-2017, AND SIGNING OF 2013-2014 PERFORMANCE CONTRACTS

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I know that we went through the Order Paper and we are now moving to Motions. However, there is a brief Communication that I would like to make from the Chair.

As you are aware, Kenya Vision 2030 is the country's long-term development blueprint that is being implemented through the five-year successive medium term plans. The first Medium Term Plan (MTP) 2008-2012 implemented the first five years of the Vision. The Ministry of Devolution and Planning has finalized preparation of the second Medium Term Plan (MTP) 2013-2017 to succeed the first MTP, 2008-2012. The second MTP, 2013-2017 outlines key programmes and projects to be implemented over the period towards the achievement of aspirations of Kenya Vision 2030.

Hon. Senators, in this regard, the Ministry has invited all Senators to the official launch of the second MTP 2013-2017 and signing of 2013-2014 performance contracts by His Excellency the President, Uhuru Kenyatta, C.G.H. President and Commander in Chief of the Defence Forces of the Republic of Kenya. The event will be held at the Kenyatta International Conference Centre (KICC) Amphitheatre, Nairobi on Thursday, 3<sup>rd</sup> October, 2013 starting at 8.00 a.m. Kindly make time to attend this important national event.

Thank you.

VISITING DELEGATION FROM TAITA TAVETA  
COUNTY ASSEMBLY

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have another brief Communication from the Chair.

*(Sen. (Prof.) Anyang'-Nyong'o stood up in his place)*

Order, Sen. (Prof.) Anyang'-Nyong'o! Please, take your seat.

*(Sen. (Prof.) Anyang'-Nyong'o resumed his seat)*

Hon. Senators, before we continue with business this afternoon, I wish to acknowledge the presence and introduce to you, a delegation of the Members of the County Assembly from the County Assembly of Taita Taveta, who are seated at the gallery.

The delegation is led by the Taita Taveta County Assembly Speaker, Hon. Meshack Maghanga. As I proceed to introduce the rest of the delegation, I request that if an hon. Member's name is called out, he or she should stand up and be acknowledged in the normal tradition of Parliament.

Arising from the inadequacy of space in our gallery, in this temporary Senate Chamber, the delegation had to be divided into two groups.

As I call the first group, please, stand up so that you may be acknowledged.

Hon. Ann Nangasu Ngaluma

Hon. Elisha Mwaisaka Wawaka

Hon. Elizabeth Wakesho Mwatela

Hon. Francis Rongaine Terere

Hon. Sanguli Mngola

Hon. Mercy Z. Mwakera

Hon. Maria Chao Mwakio

Hon. Naima Saleh Ahamed

Hon. Rachel J.M. Dawai

Mrs. Veriti Mghoi Kisochi, Interim Clerk to the County Assembly

Mr. Andrew Shangarai Jumanne, Interim Chief Serjeant-at-arms

Mrs. Judy Mutemi, Interim Hansard Reporter.

*(Applause)*

Welcome to this temporary seat of the Senate. Feel at home. I hope that you, as a very important arm at the county government level, will learn something from this visit.

*Asante Sana.*

Next Order.

## MOTIONS

TRANSFER OF ALL KERRA FUNCTIONS

## TO COUNTY GOVERNMENTS

THAT, aware that Schedule Four to the Constitution assigns the responsibility of construction and operation of national trunk roads to the National Government and that county transport including county roads are the responsibility of the County Governments; acknowledging that the Kenya Rural Roads Authority (KeRRA) is mandated, under the Kenya Roads Act, 2007, to administer funds for the development, rehabilitation and maintenance of roads in constituencies which are roads within counties and which fall under Class D category and below; cognizant of the fact that there are already established KeRRA structures in each of Kenya's 47 counties; the Senate urges the National Government to transfer all the functions of KeRRA to the County Governments in order to ensure faster and more efficient delivery of services.

*(Sen. Mositet on 26.9.2013)*

*(Resumption of Debate interrupted on 26.9.2013)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, we will begin with the Motion by Sen. Mositet. We adjourned debate on this Motion on Thursday last week. The balance of time is two hours and fifteen minutes.

Sen. Ndiema, you were last on the Floor when debate on this Motion was interrupted. You have five minutes to conclude your contribution.

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, last Thursday, I stood to support this Motion that the functions of the Kenya Rural Roads Authority (KeRRA) be devolved to the counties. As per the Constitution, rural access roads are a function of county governments. So, the management of KeRRA should be taken over by county governments. If there is anything that needs to be devolved because it impacts directly on the economy of the people, it is rural access roads. In the counties, these are the roads that serve the public the most and enable farmers to deliver their produce to the markets. The best authority to do this is the county governments.

We are aware that KeRRA had already devolved its functions to the county level. What is required is for that function, equipment and personnel to be transferred to the county governments. As of now, county governments do not have adequate facilities and personnel to offer that service. It is inevitable that this has to be done.

Mr. Deputy Speaker, Sir, I do not understand why we procrastinate over a matter like this one. It is high time that we resolve that those functions that have to be devolved must be devolved at whatever cost. We must bite the bullet. If we do not do that, we will soon land in a situation where county governments will recruit and procure equipment to maintain the same roads hence leading to duplication which is not prudent in terms of costing. We are always talking about reducing costs. But as things stand, it looks like the national Government wants to run some functions which are also being run by the county governments. We also have the CDF managing other roads. At the end of the day, this will be a very expensive exercise.

Mr. Deputy Sir, I see a situation which is foreseen in Article 197 of the Constitution, that certain functions will be transferred to other levels of Government. I do not see how the national Government in Nairobi will be repairing class B and C roads in the long run. At the end of the day, this will be functions that will be performed best by the county governments.

Mr. Deputy Speaker, Sir, with those remarks, I beg to support.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, I stand to join my colleague in thanking Sen. Mositet for this timely Motion which reminds us about the duties of the national Government and the county governments as clearly stipulated in the Fourth Schedule of the Constitution. Even somebody who does not know how to read and write can understand that maintenance of roads in the counties must be performed by county governments. Although the Act that was generated in 2007 established KeRRA, many roads that were supposed to be done by KeRRA have not been done and yet in every county, there exists a KeRRA office and engineers appropriately assigned.

Mr. Deputy Speaker, Sir, the problem arises to the extent that we ask that this Motion be supported so that all these functions can be administered by the county governments and that the KeRRA officials work with the officers in charge of roads in the county. I am told that all the funds that were supposed to have been devolved to the counties are still at the KeRRA headquarters. Since 2007, KeRRA has been storing the money at their headquarters and releases it in bits. There is a huge temptation, as always, since we are human, if you are the head of KeRRA, your heart may be tempted to please your home heritage; you give more money to the KeRRA offices where your interests are. This is not something unique. It calls upon us to say this is what was envisaged when we were releasing the Constitution of Kenya, 2010. The Constitution of Kenya 2010 law is more recent than the Act of 2007.

Mr. Deputy Speaker, Sir, when I was working closely with a sister Ministry closer to that of Roads, I followed these issues closely. Members of Parliament from every constituency would go and queue to see the Director-General or the officers who work in Nairobi and not those ones on the ground. This means that unless we do not trust what we did in our law or what we approved in the Constitution which stipulates and gives duties appropriately, then it means we have defeated logic.

The CDF and the KeRRA funds that were released in bits would go to every constituency and somebody is appointed by the MP to be in charge of the Roads Committee and then the KeRRA officers would work together with them. We found that roads were not done to the required standards. There are about four roads that I know in West Pokot County which fall directly under KeRRA. They all emanate from Kapenguria at the headquarters. There is one that starts from Kapenguria through Kapipich all the way to Elgeyo Marakwet County. That road is the lifeline for development activities in the area. But when the rainy season starts, it becomes impassable and all the farm produce – the milk in particular – gets spoilt.

Mr. Deputy Speaker, Sir, these roads were expected to improve significantly since this Act of 2007 was passed, but as I speak to you, it is worse off. What does that mean? It means that we need to embrace the spirit of the new Constitution, which has now discovered so sincerely and truly that these activities or functions that are supposed to be done relating to the Kenya Rural Roads Authority (KeRRA) on the ground must be done by the county governments. We are not saying that all the KeRRA people must be



sacked; no. The KeRRA people on the ground must work together with the county governments there to offer the standardization and oversight there, but they should not handle the funding. If this is not done, then we are still going round in circles.

If you go round the country, including where you come from, Mr. Deputy Speaker, Sir – I went through your county two years ago – you will find that there are some impassable roads and you cannot move. So, let us test by releasing – the way the Constitution has said – the funding to the county government so that the KeRRA people on the ground can work together with them. If we find that this is not working, we can then try otherwise. But prior to this, I am hearing Senators saying that we are reversing the activity to say that we manage them from Nairobi, which cannot work.

Mr. Deputy Speaker, Sir, there are some areas which needed some roads to open up some of our counties, like the county I come from. The border between West Pokot and Turkana counties has no roads, and it is a very active area for illegal activities like cattle rustling. Now, how will Nairobi – that has failed to understand that this cattle rustling is going on because of lack of roads – be able to do it?

Mr. Deputy Speaker, Sir, I support this Motion to say let there exist a decision; release this money and, in fact, have a number of officers working on the ground. You can only know this if you visit our headquarters – I do not know whether the officers who work in the KeRRA offices have ever been to these difficult areas – that is the only way you can appreciate what we are talking about.

Mr. Deputy Speaker, Sir, I support this Motion and say; let the funds be released. We can do evaluations as time goes by to see whether the decision we have taken has been implemented or not. We should not fear that the county governments will misuse funds; there is law and order in this country. We will hold them directly responsible and even the citizens of Kenya who gave us this mandate to work for them have every reason to step in and say “you have failed.”

Mr. Deputy Speaker, Sir, I beg to support this Motion.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Abdirahman.

**Sen. Abdirahman:** Thank you, Mr. Deputy Speaker, Sir, for allowing me to contribute to this very important Motion that touches on all counties. I personally believe that the current confusion we are in originated from the fact that the Transition Authority sent mixed signals from the outset, claiming that counties were rather unprepared in terms of capacity. It is important that all State organs or institutions respect the provisions of the Constitution. If the Constitution allowed county governments to administer, manage and harness their resources; and efficiently use what is given from the national Government, there should be no cause for alarm until a certain time that we doubt the performance of one particular county, and those are things that the Senate can effectively oversight.

Mr. Deputy Speaker, Sir, KeRRA has constituency committees from the time this Act was actually enacted in Parliament. Those committees normally identify priorities on how best each of the areas within the constituency or the larger county can actually be managed. The idea of holding funds at the national level, to my own understanding, is mainly emanating from the fact that people at the national Government, particularly at the KeRRA Headquarters, have colluded with what I will call “cowboy contractors.” This is why people are holding onto these funds. There is absolutely no other reason. One, the KeRRA offices are at the county level; two, equipment and machinery are also at the

county levels and, if anything, contractors who were given these jobs normally hire machinery and mechanical equipment from the Ministry of Roads or even from private business people.

So, really, there is no justification why we should actually hold back funds at the national level when the Constitution provides for the same funds to be channeled to the counties for us to improve on our roads, particularly in the areas such as the Arid and Semi-Arid Lands (ASALs), where I come from. And not only the ASALs, but all over the country; efficiency can only be improved when it is implemented at the lower level. So, I support this Motion; the earlier these funds are channeled to our local areas, the better.

Thank you very much, Mr. Deputy Speaker, Sir, for allowing me to contribute.

I beg to support.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Machage.

**Sen. (Dr.) Machage:** Thank you, Mr. Deputy Speaker, Sir. As I congratulate the Mover of this Motion, it is not possible to only look at the Kenya Roads Act of 2007; we have also to look at the Finance Act of 2009, which actually facilitated the establishment of the Constituency Roads Committees. Because these ones have to be looked at as a unit for us to completely devolve the roads infrastructure management to the county level.

Mr. Deputy Speaker, Sir, as we know, KeRRA supervises roads belonging to Class D, E and below, and these are the main roads found in the counties. They already have infrastructure that is already established at the county level. Therefore, we are not supposed to have a big problem in pushing the functions of KeRRA to the county; all we have to do is come up with a Bill and amend the Roads Act, 2007, to facilitate the same.

Therefore, I will call on the Mover, after this Motion is passed - which I believe will pass - to move very fast and come up with amendments to the Roads Act of 2007 so that we can now empower the governor to oversee the activities of KeRRA at that level. Of course, we have to look at how we will reposition the Director-General of the same body and the infrastructure that is established at the national level. But it is important to know that Kenya is actually one of the countries in the world with very dilapidated road infrastructure.

Therefore, it is of essence that we look at this issue very fast before funds are lost in this lacuna of confusion between the county government systems and the national Government system on who really is to manage the funds that are already allocated to KeRRA. It is true that KeRRA has already signed contracts with many multinational and local companies that are managing and dealing with roads at this time. Therefore, the transition might be a complicated issue because how do we handle the existing contracts with these companies? So, this is something that has really to be looked into in detail so that we do not have an issue where some contractors will use the opportunity to escape their mandate and responsibility on giving us the type of roads that we really need.

It is also important to know that the Director-General right now in existence has a lot of power that, really, curtails most of the functions out of the purview of the Principal Secretary in the Ministry. So, we have to know that when we remove KeRRA as a national parastatal, how we manage the communication between the Principal Secretary and the county government. These are issues of legal nature that need to be thought of in detail and re-designed for the management of proper road infrastructure development at the county level.

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Kuti.

**Sen. (Dr.) Kuti:** Thank you, Mr. Deputy Speaker, Sir. I stand to support this very important Motion, and I congratulate Sen. Mositet for bringing it forth.

Mr. Deputy Speaker, Sir, infrastructure is a very key component of development, be it at the national or at the county level. If we want the counties to realize faster development, we should allow them to do their own infrastructure, and the most important one is roads. So, it is the local leadership – the governors and the county governments – that know which roads are crucial to them for their faster development; which roads will bring in the farm produce faster, and which roads will bring faster development to their counties. So, although these committees at the constituency level are functional, some major roads are considered at the national level by the Director-General and his team.

Mr. Deputy Speaker, Sir, I am a victim of KeRRA, because when I was a Member of Parliament, I struggled to have one very crucial bridge that connects two districts in my constituency constructed then – Kolgotu Bridge – it made me negotiate all the way to the Head of State, whom we even invited to visit the district that was affected by that road. At that time, an executive order was given for KeRRA to develop that bridge, but up to today, it has not been done. I had to raise money from the Constituencies Development Fund (CDF), which was not quite enough. It is only now after I left that seat that the constituency now knows that that it is the current Member of Parliament who is doing this road, after being promised Kshs200 million in 2010, which has not been delivered up to now.

Mr. Deputy Speaker, Sir, we want this function devolved very quickly so that the county government can make decisions and quickly implement development at the county level. So, I strongly recommend and support the fact that county governments should be allowed to run the funds for roads of Class D and below.

*(Applause)*

Secondly, Mr. Deputy Speaker, Sir, holding onto these funds at the national level has connotations of corruption and dealings with contractors. Most of the time, the people winning major contracts for these roads do not come from those counties. It is only roads of Class E and below that are given to county contractors. Otherwise most of the contractors will be coming from elsewhere. This is especially so in counties where major contractors are not easily available. It is important that we start developing our own contractors at the counties.

It is important that, that money meant for that county circulates in that county so that it triggers other developments, because the availability of that money there increases liquidity and cash flow and, therefore, triggers off other developmental activities in the county. Having a major contractor from Nairobi or from a different county doing a project and taking money to another county only triggers development in other counties or in Nairobi. Therefore, it is crucial that these funds are devolved and that the Kenya Rural Roads Authority (KeRRA) releases the funds so that they are managed and used at the county government level.

With those few remarks, I beg to support.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. I stand to support this Motion and remember that if there is one indicator that should remind Kenyans why we wanted devolution, it should be the roads sector. Even the so-called classification of roads; A, B, C, D and E was for convenience because it was done arbitrarily. When you say, for example, that Class A roads are the transnational highways; who does not know that we have a transnational highway that runs from Nairobi to Garissa and to Mandera which connects us with Ethiopia and yet the Government has not bothered to tarmac this very critical road? The tarmac ends at Garissa and on a whole 750 kilometres, there is no tarmac. So, this issue of Class A, B and others is arbitrary and was being used by the old school politicians to keep on taking development to their areas.

It is this arbitrary classification of roads that you will find, from the time I was born, has contributed to having no tarmac road between Kisumu and Kakamega. Now, as we speak, they are busy tarmacking another one.

*(Loud consultations)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, order. Please! Let us consult in low tones so that we hear what Senator Khalwale has to say.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. They have started constructing the road between Kisumu, Kakamega, Webuye and Kitale. We should move away from this arbitrary stuff. I will be requesting that we move an amendment Motion so that we reclassify the roads. We should ask ourselves which road deserves to be called a county road and which one is under the Kenya National Highways Authority (KeNHA). The big dollar money will be going to the transnational highways that are being managed by the national Governments. We will be scrambling for little money as counties when the national Government has enough money to work on those roads.

I am saying these things because it saddens me that you can move from Kisumu to Busia, using a road that connects Kenya to its biggest trading partner, Uganda, without driving on tarmac. Anytime the Government remembers to work on this road, all they do is recarpet it. I always ask myself; what is greater than the other; to take a great road to Thika or take a great road to Uganda where we will go to do business? I look at the Thika Superhighway and see it as a “big man” syndrome.

**Sen. (Dr.) Kuti:** On a point of order, Mr. Deputy Speaker, Sir. Is my medical colleague, Sen. Khalwale, in order to impute that the Thika Superhighway only goes to Thika when we know it as the Great North Road which connects Cape Town to Cairo? The only section that has not been tarmacked now is the Kenyan section from Marsabit to Moyale which is, however, being tarmacked. We will have contributed to the Great North Road, by having the Thika Superhighway. In fact, it forms the best section of the road. Is he in order?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Khalwale, you are out of order. I do not like asking Senators to make clarifications but when you make a statement like the one you have made, knowing very well that the road does not end in Thika, is not very good for national cohesion. You know it, I know it and everybody knows this. If you want to make a point about the Busia Road, do it without necessarily antagonizing what is already going on.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. Probably, because of the loud consultations, something escaped you. I was making a comparative. You cannot do comparative conversation without addressing two issues.

**The Deputy Speaker** (Sen. Kembi-Gitura): Senator Khalwale, your time is running out.

**Sen. (Dr.) Khalwale:** The iniquities in this country are the reason that we brought devolution. I do not know why I am being gagged.

I want to talk about some roads in specific counties. In some counties like Kakamega, we have a road that runs from Sigalagala to Butere and to Sidindi. This road connects two major counties; Siaya and Kakamega. This road has been the subject of politics. Everybody who cared to win while asking for presidential votes spoke about this road. As we debate in this Chamber, we have earthmovers lying on it for the last three years. It is waiting for the next round of elections for a would-be presidential candidate to ask for votes using the same. I will be requesting, when we move the KeRRA Fund to the counties that the Governor of Kakamega moves with speed to ensure that funds are allocated to Sigalagala-Butere and Khayega- Shinyalu-Chepsonoi Road and Lurambi, Shikoti and Bungoma roads.

These things are very serious. The way we speak about them, one can think we are speaking from the prism of tribalism. If you go to the Coast, you will find that there is a major road that runs from Voi to Mwatate taking us to our trading partner in Tanzania. Recently, the road was being done. I am hoping that hon. Mwazo is here because the road from Wundanyi to Mwatate should also be done. A lot of business is done by the local people who move their goods from Wundanyi to Mwatate. If this Senate cannot allow us to say these things, the Senate will be falling short of the glory.

I appreciate the comments from the background from my junior colleague, (Dr.) Kuti. However, just as I taught medicine when he was my junior in school, he will also learn from my debate here and see that funds are sent down to the counties.

I support.

**Sen. Hassan:** On a point of order, Mr. Deputy Speaker, Sir. The Senator from Kakamega indicated that this Senate is gagging him. I am part of this Senate and from a personal point of view, I do not remember telling him not to talk about certain things. Is he in order to allege that Senators, individually or collectively have gagged him from talking about certain issues?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, indeed, I want to confirm that Sen. Hassan has been supporting me in my contribution and I am very proud of it. I only used that word because my “Medical Junior” was attempting to cut short my speech when he knows very well that I used to help him with homework.

*(Laughter)*

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM TAITA TAVETA  
COUNTY ASSEMBLY

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, hon. Members! Before we proceed to the next speaker, I mentioned to you that we have visitors from Taita Taveta County Assembly. I have already introduced the first group to you. However, due to the size of our galleries, we cannot accommodate all of them. However, I do not want them to go to Taita Taveta and say that the Senate has no gallery. These are temporary premises. When you visit us next time, you will find us in a place with a complete gallery. I will call the next group. When I call you, please, stand so that you are acknowledged in the parliamentary way.

The second group is composed of;

Hon. Roselyne W. Mshambala;

Hon. Rosina Mghoi Kisochi;

Hon. Ruth Wambugha Mwanyiro;

Hon. Valery Mghoi Mganga;

Hon. Steven Mwakio;

Mrs. Jemmimah Makoko, member of staff;

Ms. Isabellah Talu, member of staff;

Ms. Beatrice Njumwa, member of staff;

Ms. Dora Manga, member of staff; and, finally,

Mr. Nelson Mwanyalo, member of staff.

*Karibuni.*

*(Debate on the Motion resumed)*

**Sen. Mwakulegwa:** On a point of order, Mr. Deputy Speaker, Sir. First, I would like to congratulate the people of Taita Taveta for being very gender sensitive. I think we lead and others follow. This is a glaring example. Others need to borrow a leaf from us. I want to congratulate their elected officials and their members of staff.

**Sen. Hargura:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion on a very important sector in this country; the roads sector. We need to have this sector devolved. As you know, roads are better handled as close as possible near their point of control. I am surprised that, while the Constitution is very clear that some roads should be handled by the county governments, that seems not to be the case.

The national Government still feels that it has work to do there. I thought that was the first function they should have devolved because that is where there are a lot of problems. It is a sector that affects development at each and every level. It is a sector, when improved, improves the rest of the sectors. The classification we are talking about has already been done. We already have the national highways which are under the Kenya National Highways Authority according to the Roads Act of 2007 and the other roads like the rural roads which are supposed to be under the counties. We also have urban roads which are under the Kenya Urban Roads Authority (KURA).

We have a case where the system wants things to continue the same way they have been, not because it wants to deliver services but because that is where most money comes from. We know very well that people in the roads sector say that the money we lose every year to corruption is enough to construct another Thika Superhighway, Kshs30 billion. About 30 per cent of the money sent to this sector is lost through corruption. That

is documented. People have been talking about it in forums. The best way to come out of this corruption is to devolve the sector.

In Kenya, we have close to 200,000 kilometers of road. Out of these, less than 15,000 are part of the national highways. The rest of the roads are in the rural areas. For example, the ones that KeRRA is handling, Class C and other special purpose roads are 60,000 kilometres. The other 100,000 kilometres are unclassified tracks. That is where the county governments should concentrate so that they develop to a point where the rural roads can be used for transportation. That is why I support the fact that the national Government should do what Kenyans have decided, to have those roads actually managed by the county governments.

The other part is funding. Since the year 2000, after realizing that we were not maintaining our roads, the Government came up with the Kenya Roads Board to manage the maintenance fund, which is the Fuel Levy Fund. This Fund is generated from fuel. For every litre of fuel you use, Kshs9 is collected and used for roads maintenance. As I have said, the Kenya National Highways Authority (KeNHA) covers about 15,000 kilometers, while the rest is about 170,000 kilometers. But the KeNHA still gets over 40 per cent of that money. The Kenya Rural Roads Authority (KeRRA) gets about 30 per cent from this, which is about Kshs4 billion. But there is no formula for sharing out the bulk of the money; that is, the Kshs100 billion which the Ministry of Transport and Infrastructure gets.

If you check with any of the authorities' Director-Generals, there is no formula. It is the Minister who decides. I think that is where the problem is. People are holding on to the rural roads because of the money which they have been using. This is money which did not have any formula and that could be the main issue. So, we need to have the management of the county roads moved to the county governments. We all need to be told how the Kshs100 billion, which the Ministry of Transport and Infrastructure collects through the fuel levy, is actually shared out. This is because that is where the inequitable development comes from.

Mr. Deputy Speaker, Sir, studies have shown that the choice of which roads are tarmacked actually depends on who the President is, who the Minister for Transport and Infrastructure is and who the Chief Engineer for Roads is, and it is documented. We want to get out of that and that is why we need to have our share of the development money. We are not claiming only the fuel levy money, but also the development money. We would like the Cabinet Secretary for Transport and Infrastructure to come out very clearly and tell us how the Kshs100 billion for transport sector is being shared out. That is where we have been losing out.

I am talking from experience because up to recently, I was a regional manager with KeRRA and we used to get only Kshs30 million per constituency. That is why Sen. (Dr.) Kuti, maybe, could not get the money to do his bridge. This is because even if you put what Isiolo gets, it will not construct that bridge. That money was supposed to have come from the development fund, which has no formula. The only formula to get it is that you have to go and queue at the Cabinet Secretary's or Principal Secretary's office. I think that we need to get out of that. I believe that this should have been among the first sectors to be devolved. This is because if it is the issue of capacity, right now KeRRA only has engineers. The management of the fund is done using committees, whose members are actually from the Constituencies Development Fund (CDF) committee. The

engineer is only a secretary. Even the tendering is actually done by the same committee, composed of the CDF members, a procurement officer and the engineer. So, there is no capacity issue there. The Mechanical Transport Equipment Fund is actually autonomous and can be accessed by anybody.

The other one is the contractors. What the KeRRA staff do is just to supervise the contracts which are done by the local contractor. So, KeRRA will still be there because of the standardization and specifications part. This is because we need to have roads which are standard throughout the country. The Ministry still has that obligation, even according to the Constitution. It is supposed to be in charge of maintaining the standards of the roads. That can be one, but I still feel that the actual control of the funding should be done by the county governments. We have seen that the county governments are taking this aspect of roads seriously. For example, in my county, the sector which was allocated more money than the others in the Budget this year was roads. So, I am wondering what happens to that money now. Does it mean that we have to redistribute it to other sectors which were not our priority? It is already interfering with even the way the county governments are thinking. They have already prioritized this sector, but if now it is moved to KeRRA, then that means that we will not get the development that we required.

Mr. Deputy Speaker, Sir, the national Government should follow the Constitution and devolve the county roads as they devolve other functions to the county governments. This is because other sectors like health which already have staff are fully devolved. The good thing with the roads sector is that the KeRRA already has staff, even up to the constituency level. So, it is just a matter of the staff working under the county executive and the chief officer of the transport department of each county.

We are not introducing anything else, just like the officer in charge of health at the county is directly now transferring all his staff and facilities, so that they are under the county governments. The same thing should happen to the roads. The good thing is that the structure is there. So, KeRRA, maybe, has to remain with the technical aspect of ensuring that the standards and specifications are the same throughout the country, but the funding should be devolved to the county governments.

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

**Sen. Hassan:** Bw. Naibu Spika, nasimama kuunga mkono Hoja hii, kwamba majukumu ya taasisi ya KeRRA yapelekwe haraka katika mamlaka ya serikali za kaunti.

Bw. Naibu Spika, namshukuru sana ndugu yetu ambaye ni Seneta wa Kajiado, Bw. Peter Mositet, kwa kuleta Hoja hii. Hii ni kwa sababu tunajua kwamba kama Seneti tunajukumu la kuhakikisha kwamba tumelinda maslahi ya kaunti zetu na kuhakikisha kuwa Serikali yetu inawajibika kikatiba.

Bw. Naibu Spika, kuna majukumu mengi sana ambayo serikali zetu za kaunti lazima zitekeleze. Mojawapo ya mambo ambayo yamedhoofika sana katika taifa la Kenya ni maswala ya barabara. Hivi sasa tumepata fursa ya kuhakikisha kwamba barabara zitaweza kuhudumiwa kupitia kwa mamlaka ya serikali za kaunti. Kupitia sera ya ugatuzi, tunajua kwamba tumeleta serikali karibu kwa sababu Waswahili husema: "Kiatu unachokivaa ndicho unakijua pale kina machungu yake." Kwa hivyo, serikali zetu za kaunti zinaweza kuhakikisha kwamba zimeteteleza majukumu yao kwa kukarabati barabara zetu ndogo ndogo. Pale ambapo hakuna barabara, serikali hizi zinaweza kupendekeza ili barabara hizo zijengwe, ili tuweze kuleta hali inayofaa ya mawasiliano katika kaunti. Hii itahakikisha kuwa tunaendeleza uchumi na usafiri katika kaunti zetu.



Bw. Naibu Spika, mnajua maana ya neno “kera” katika Kiswahili. Kukera mtu ni kumsumbua mtu. Ukisema: “Huyu mtu ananikera,” inamaanisha kuwa yule mtu anakusumbua au anakudungadunga.” Kwa hivyo, tunataka hii taasisi ya KeRRA isikere kaunti zetu. Warudishe majukumu ya kaunti zetu katika mamlaka ya kaunti zetu. Lile la muhimu ni kuhakikisha kwamba Serikali ya kitaifa imetii mataakwa ama amri za kikatiba.

Bw. Naibu Spika, wengi wamezungumza hapo awali kwamba lile swala nyeti katika maswala ya ugatuzi ni kuhakikisha kwamba tumeondoa ule ubaguzi wa kimaendeleo ambao umekuweko katika Kenya hii na wengine wetu kukataa kwamba ubaguzi kama huu umekuwepo; labda ni kwa sababu walikuwa katika upande wa kupata. Wengine wetu tumeamini, ijapokuwa tunatoka katika Kaunti ya Mombasa, kuwa tumebaguliwa kimaendeleo kwa muda mrefu. Kwa hivyo, hakuna mtu katika Kenya hii ambaye haamini kwamba kumekuwa na ubaguzi wa kimaendeleo. Kwa hivyo, tukiendelea kuangalia ni barabara zipi zitapewa kipaumbele kwa njia ya kukarabatiwa, basi tunaweza kulegeza kamba katika maswala ya kuhakikisha kwamba tumetekeleza ahadi ya ugatuzi.

Bw. Naibu Spika, mara nyingi sana ni lazima pia tuchunguze--- Ningewataka wale ambao wako katika Kamati tofauti tofauti za Bunge wajaribu kuelewa ni kwa nini watu wamekwamia mamlaka haya. Niliwasikia baadhi ya wakuu katika Serikali ya Kaunti ya Mombasa wakisema kwamba sababu moja ya watu kukwama na majukumu haya ni kwa ajili kandarasi zimetolewa. Tungependa Kamati za Seneti hii ziweze kufuatilia ni kwa nini watu hawataki majukumu haya ya KeRRA kurudishwa katika kaunti zetu. Inamaanisha kwamba kuna mtu ambaye labda amekalia jambo fulani na huenda zile shutuma zilizoko ni za ukweli.

Mara nyingi sana tunajenga barabara ndogo ndogo kuliko kubwa kubwa. Kwa hivyo, kandarasi zaidi ziko hapo. Hii ndio maana tunataka kuzithibiti. Kama yale malalamishi kwamba baadhi ya kandarasi zimetolewa na ndio maana watu wengine hawataki kuyatoa majukumu, basi kuna Kamati tofauti tofauti za Seneti ambazo zitachunguza mambo hayo. Kuna Kamati za mawasiliano, maswala ya fedha na zingine nyingi. Katika siku zinazokuja, baadhi ya Kamati zetu za Seneti zitakuwa zinatembelea kaunti, kwenda kuangalia majukumu yale ambayo yalipelekwa kule. Wale Maseneta watakaotekeleza majukumu haya wanataka kuangalia ni nini ambacho ni kizuizi kwa Serikali yetu kukabidhi majukumu ya barabara hizi za KeRRA katika mamlaka ya serikali zetu za kaunti.

Bw. Naibu Spika, tukiendelea kukwamia majukumu ambayo serikali za kaunti zimepewa kikatiba, tutaendelea na sera ile ile ambayo katika fikira zetu kuna Serikali kuu na serikali za wilaya. Serikali za kaunti sio serikali za wilaya. Nilimsikia mwenzetu mmoja pale akisema: “Kama mnaogopa kuwapatia pesa kwa sababu zitaporwa, kwa nini mmewapatia pesa zingine?” Kuna watu wanaosema kuwa tukifanya ugatuzi tutakuwa tunapeleka ufisadi mashinani. Wengine wanasema kwamba hao watu sio waaminifu na kwa hivyo, wanafaa kutuletea akaunti za pesa zao. Basi kama hatuwaamini, mbona tunawapa pesa zile zingine? Tunawapa mabilioni kisha tunaogopa kuwapa Kshs200 milioni. Hizi ni fikira ambazo Waswahili wanaziita za kiabunyasi; jambo ambalo haliingii akilini.

Wewe unasema kuwa huyu ni mfisadi na atapora rasilimali na huku unampa na kuogopa kumpa kile kingine kidogo. Kwa hivyo, kama sisi tuliazimia kwamba tunataka ugatuzi, tuko tayari kupambana na ufisadi. Wewe tekeleza ugatuzi na yule atakayekuwa

mfisadi, sisi tutapambana naye kama taifa la Kenya. Kwa hivyo, msijaribu kutia duku duku katika nyoyo za Wakenya kwamba tukileta ugatuzi kikamilifu, huenda kukawa na ufisadi mwingi. Sisi tumewachagua watu hao na kila mmoja hapa alipigiwa kura kama Seneta. Uko na jukumu la kuhakikisha kwamba rasilmali za kaunti zimetumika kiadilifu. Kila mtu hapa amemchagua gavana wake kwa imani yake, akijua ni kwa nini. Kwa hivyo, ni lazima turegeshe yale majukumu pale yanapostahili.

Bw. Naibu Spika, nataka kumshukuru ndugu yangu, Sen. Mositet na wengine ambao wametoka katika kaunti ambako barabara zilizoko zilijengwa kitambo sana. Kuna barabara nyingine ambazo hazijapanuliwa tangu wakoloni waondoke. Mkienda Mombasa, mnasema kuwa kuna dhiki kutoka *airport* mpaka Mombasa Town. Ni kwa sababu hakujajengwa inchi moja ya barabara baada ya wakoloni kuondoka. Barabara zingine zimewekwa viraka kwa njia ya ukarabati. Wengine kama ndugu zetu wa Lamu hawana barabara kabisa. Huenda wale ambao wamepata rasilmali sasa, kama Turkana, watanufaika kidogo. Hatuna mengine isipokuwa kujenga viwanja vya ndege vya kimataifa. Huenda hivyo viwanja pia vikaleta wafisadi wapya kwa ndege. Kwa hivyo, ni lazima tuhakikishe kwamba tumeweka zile stakabadhi ili watu wapewe majukumu yao. Ndugu zetu wengi hapa wameumia na tunajua tukipata fursa na rasilmali hii, huenda tutapata afueni.

Mwisho, inafaa magavana hawa wakiondoka baada ya miaka mitano wawaonyeshe wananchi wamefanya nini. Hata sisi Maseneta inafaa tuonyeshe tumefanya nini, mbali na kuleta Hoja baada ya nyingine. Watu hutaka kuona matokeo. Ukienda Mombasa, kila mtu anauliza ni nini alilolofanya la kuleta faida kwa wananchi bali siyo yale aliyosema katika Seneti. Ukiulizwa na watu wa Migori umefanya nini, haina maana kuwaambia kwamba umechangia kila Hoja kwani mkono mtupu haulambwi. Watu wanataka kuona barabara ikijengwa. Wananchi katika kaunti wanataka kuona maendeleo. Hatufai kutegemea Serikali kuu au Rais kwa kila jambo. Na hatutajali nani ndiye Rais au Naibu wa Rais wetu kwa sababu kutakuwa na mipangilio ya kufanya kazi. Na hii ndio ilikuwa nia ya hii Katiba. Ushrikiano wa kisiasa utakuja lakini kwa mapenzi na kwa heshima. Kwa hivyo, sisi tunataka kuhakikisha tunaheshimu Katiba yetu kama msingi mzito. Ndugu yangu, Sen. Mositet, na wengine wengi wamekereka sana na ile sera ya kutopeleka majukumu ya kaunti kwa kaunti.

Ninaunga mkono Hoja hii.

**Sen. Leshore:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Motion. From the outset, I would like to urge my fellow Senators to support this Motion. Those of us who were in the Eight Parliament knew very well that the national Government was always hesitant to release the CDF money to the constituencies. I remember the late Bonaya Godana told me that he had created 4,000 kilometres of road using the CDF money.

When I asked him how, he told me that the engineer on the ground was a local person in the name of Sen. Hargura. He was the one who was in charge of Marsabit and he did 4,000 kilometres of road. Before we passed the CDF Motion, we did not have roads in our constituencies. For the last 50 years in my county, we have never seen a tarmac road. I would like to thank the former President Mwai Kibaki who did 100 kilometres of road between Isiolo and Merile. It is not that he loved the Samburus, but because the road was connecting Kenya and Ethiopia. Since then, we never tell our

children to go to Nyahururu, which is over 200 kilometres away, to learn what a tarmac road is. We can now easily move to Archers Post.

I support this Motion because I know that all these money which is being given out in Nairobi does not go to the counties. Between April and May, the Deputy President, hon. Ruto, said that there was about Kshs500 million to repair roads which had been destroyed by the rains. I wonder whether any county has benefited from that. Samburu County only benefitted about 20 kilometres where they only put stones and covered them with soil. I am sure if this money gets down to KeRRA at the county level, the Governor and the county representatives will have to supervise projects the way they have been supervising the constituency roads.

Mr. Deputy Speaker, Sir, I would like to urge the Government to transfer this money as soon as possible so that we can endeavour to put our roads in a better condition. We have been crying for the last 50 years since we got Independence for the Rumuruti-Maralal Road to be tarmacked. My friend, Sen. Hassan, is lucky because he was born where a tarmac road was. There are some people from some areas who are yet to see a tarmac road in Nyahururu and Maralal. I wish one day His Excellency the President could tour that area using that road and not the air force choppers so that he can see what we are going through especially during the rainy season.

I beg to support.

**Sen. G.G. Kariuki:** Thank you, Mr. Deputy Speaker, Sir. I think the honourable Senators have exhausted their contributions and that is why none of them was competing with me to catch your eye.

What is important in this Motion is not just to transfer the funds to the counties. What is more effective is that the counties, especially the county representatives be responsible for this money to the people who elected them. The biggest problem now is that there is no county representative, a Member of Parliament or a Senator who has legitimate rights to direct and to enforce the law which gives KeRRA the power to use that money. What we are doing here is to make sure that those who are given this money be accountable to the public. Even if it means to amend the law so that the transfer of this money is done with immediate effect, I think this should be done. I am one of those Senators who think that our counties are not ready to carry this kind of responsibility but on a second thought, we must see something being done. They must be seen to be responsible.

I know there will be opposition from KeRRA and from quite a number of people who have benefited directly from this kind of money to say that it will be very difficult for the county governments to manage this kind of funds. From the contributions of the Mover, I must confess that I am not quite sure that the structures are there. If the structures are there, then there is no need for us to leave this money in a central place. It has to be distributed to the people who are supposed to be helped with this kind of money.

I want to support this Motion very strongly and also suggest that this money should be transferred very fast because we are at the training stage in the counties and also in the Senate. None of us can claim to know what is extremely good for this country but we are trying. We need to see to it that functions that are supposed to be transferred are transferred as quickly as possible. We must also be careful as Senators not to encourage certain things that we are not very sure of. We must be sure of what we are

saying because the public believes that this Senate has very responsible people who know what they are doing. Therefore, there are some functions that we might not want to be transferred immediately.

We must be capable of advising this country and especially the county government which we are responsible to. They are also responsible to us and I think we will be able to work harmoniously with the county governments if we select what we think they can do. We should not pass this Motion just because we are politicians because this country trusts that nothing will go wrong in the county management systems if we are here.

With these few remarks, I beg to support.

**Sen. Ong'era:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity so that I can also support this Motion. May I, first, begin by commending Sen. Mositet, for bringing such an important Motion. As you know, rural roads form such an important cog of any development in the rural areas. We know that without these roads being in good condition, we will not be able to transport any services to the basic unit of the county Government. As you know, this is the village level. Therefore, it behooves the national Government to transfer these services, especially to ensure that they have sufficient funds so that KeRRA can be able to operate at the county level. There is no way somebody at the national level; those mandarins sitting in the national Government, can be able to plan and determine for us in the rural areas.

County governments are the ones that are best placed to be able to determine and prioritize which roads should be developed but not the mandarins at the national Government. We all know that the reason why they do not want to transfer these services is because of the culture of *kitu kidogo* and the 10 per cent commissions that many engineers at the national level continue enjoying with the contractors. Therefore, I want to support the Motion by urging that these funds should even have been transferred yesterday.

Mr. Speaker, Sir, if you may recall the reason why we decided to increase the funding for county governments - you know, the Lower House maliciously removed our amendments, but we wanted to support the county governments. They need to get all the services but those services must not just be transferred in an *ad hoc* manner but with adequate resources and funding so that---

*[The Deputy Speaker left the Chair]*

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

**Sen. Hassan:** Hoja ya Nidhamu, Bw. Spika wa Muda. Nataka kujua umetumia kifungu gani katika nidhamu zetu za Seneti, yaani, *Standing Orders*, kwa wewe kutoka kwenye kiti chako na kukaa katika kiti hicho cha Uspika.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! If you repeat that remark again, I will kick you out of the House.

*(Laughter)*

Proceed, Sen. Ong'era!

**Sen. Ong'era:** Mr. Temporary Speaker, Sir, in case Sen. Hassan does not recall, this House just voted unanimously to have you as our temporary speaker for the day.

So, as I was saying before I was interrupted by the distinguished Senator for Mombasa, all services must be transferred to the counties but services cannot just be transferred in a vacuum. Counties must be supported with adequate funding so that they can carry out these services. We do not want to reduce county governments into employment bureaus. We want them to have enough money so that they can carry out capital developments at the county level. At the end of five years, we want to see a system audit carried out in the county governments to establish what capital developments they were able to do. We do not want services to remain at the national level because even now the county governments have adequate capacity.

I support the Motion.

**Sen. Adan:** Mr. Temporary Speaker, Sir, being the last person, I am sure I have very few points to add and I believe---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Senator! You cannot preempt that.

**Sen. Adan:** Mr. Temporary Speaker, Sir, the first point I want to make is that if we really want to think about development, then roads are very critical. At this level of development in our country, we really need to have roads in place. Where I come from, the issue of insecurity is of great concern. If there are no roads, it is normally hard to track the attackers and it is also hard to access those who have been attacked in those areas. So, it is important for us to have these services transferred to the county governments so as to improve the security and development of those counties.

Mr. Temporary Speaker, Sir, the other issue I want to talk about is the issue of health care services. Where I come from, taking patients and expectant mothers who want to deliver to health centres is cumbersome because there are no roads. You will find that those expectant mothers die before they reach the hospital because there are no roads and no ambulances. Therefore, it is important for the roads to be constructed in those areas so that services are brought closer to the people.

The other issue is access to markets. You will find that pastoralists do not have roads. People have to ferry their animals on trucks for almost 400 kilometres to access the market. You will find that they sell their animals at throwaway prices but those who want to buy those animals from urban areas are able to access the market and buy the animals at lower prices. So, it is important to have those services brought closer to the communities so that we can access the market, both at the national and international level.

Finally, regarding the decision about which roads should be constructed, this is normally done at the national level by people who do not even understand people's needs. Therefore, you will find one road being constructed twice or thrice. If these services or functions are brought closer to the people, the right people will be able to point out which roads need to be constructed urgently and which ones should be given priority.

With those few remarks, I would like to say that this is a very critical Motion especially for us, pastoral communities. It is important that the Government makes a

proper decision to transfer those services to the counties if we really want to develop this country.

**Sen. Kanainza:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to contribute and support the Motion before the House. I will start by congratulating Sen. Mositet for bringing the Motion to the House. I have seen that all Senators are supporting it. I would like to clarify that the work of the Kenya Rural Roads Authority (KeRRA) is to give guidance in the maintenance and construction of roads. So, do they have to carry out that mandate and yet there is a county government in place? This has given many challenges to our county governments because the citizens would ask why the county government is not even able to repair a pothole. This is because of the confusion that KeRRA has brought about.

The other thing that I have seen them do is upgrading and introducing another class of roads just to make sure that the county government does not perform its role. I stand to support this Motion because it will bring equality and an opportunity for all the counties to benefit from the funds meant for construction of rural roads. As you can see, county governments had even budgeted for the construction of roads but they have been denied the opportunity to do so. If this Motion is passed and implemented, all the counties are going to get equal opportunities.

With those few remarks, I support.

**Sen. Melly:** Mr. Temporary Speaker, Sir, thank you for giving me this chance to share some three or four points on this issue of KeRRA. I want to believe that in the revenue allocation that we voted in this House regarding monies going to counties, roads were also included. What we are saying is that we want these functions to be transferred since the money was already in the Budget.

Regarding the issue of awarding new contracts, the Government said that they should allocate at least 20 per cent of the contracts to the youth. If these functions are not transferred to the counties, our young people in the rural areas will not have access to these contracts. There are so many other procedures including procurement laws and regulations which do not allow our young people to compete for these contracts. In a situation where services are retained at the national Government, the young people in the village will not access those contracts. If we transfer these functions to the counties, the governor and the leadership of the county including the Senator can sit down and award contracts to the young people. This will ensure employment for the young people, reduce insecurity, and also ensure that our people get experience.

Mr. Temporary Speaker, Sir, my concern is on the issue of harmonizing the Constituencies Development Fund (CDF) and the money allocated to counties for roads. This is another issue that we have to talk about and agree because at the end of the day, if a Member of Parliament allocates Kshs10 million to a certain road in the county, then the governor allocates another amount for the same road, what happens? This means that we are just rotating and not going anywhere. That is why all of us have to sit down so that we can do a uniform job and all the roads are properly done and people are held accountable.

The other issue is transparency and accountability. In the rural areas, people cannot see transparency when all the functions are still at the national level. When you take these functions to the people, they will know who constructed the road and, therefore, can make someone accountable. At the end of the day, it is the governor who will be responsible in the counties.

Mr. Temporary Speaker, Sir, regarding the roads that cut across counties, county governments can agree that if there is a road, for example, cutting across Uasin Gishu and Elgeyo-Marakwet, they can agree on percentages for each county. At the end of the day, the roads will be done and the national government will see the work done. The reason why we are pushing for this is because we want our people to have good lives. We want those farmers who produce milk, vegetables and fruits to access the market and sell their produce to improve their living standards.

As a Senate, we are concerned with issues of devolution, so we must ensure that this money is taken to the counties. After this, the Senate should play its rightful role, that is, oversight. We have to agree on how we intend to carry out this oversight role. At the end of the day, this money will be taken to the counties but what mechanisms are in place to ensure that the governor can give an account of how much has been spent on a road? If money is allocated and somebody does not make a follow up, it will encourage corruption.

With those few remarks, I beg to support.

**The Temporary Speaker** (Sen. Ongoro): I can see no other Senator who wishes to contribute to this Motion. I, therefore, call upon Sen. Mositet Korinko to reply.

**Sen. Mositet:** Thank you, Mr. Temporary Speaker, for giving me this time to reply to the Motion. I do thank very much all the distinguished Senators who have eloquently contributed to this Motion. From your contributions, it has come out clearly that it is the local leaders who know the state of roads in their respective counties. These local leaders include the Senators, governors, Members of County Assembly (MCAs) and village leaders.

Most roads from Class D are found within counties. These roads include feeder roads. We use these roads to access our homes. Therefore, it is only imperative that they are managed by county governments. It is only the leaders within those counties who know the state of these roads. They can prioritize these roads when they want to repair them. They know which is in dire need of repair and so on. These roads mean a lot to our people because they use them to transport their farm produce to the market. With good motorable roads, our people can access health centres when they fall sick or when they are dropping their children to school.

So, I urge all hon. Senators to support this Motion so that it can pave way for the introduction of a Bill which will see to it that both classified and non-classified roads are managed and maintained by county governments.

Mr. Temporary Deputy Speaker, Sir, we have Kiserian-Isinya road in my county. It passes through two constituencies; that is Kajiado West and Kajiado East. This is a Class D road. Since 2010, some contractors won the tender to do that road. Today, some sections of the road are more pathetic than they were before the contractors moved in. It used to have tarmac all the way from Kiserian to Isinya. The situation is very pathetic. It is a pity that at the county level, local leaders cannot do anything about it because it is managed from Nairobi. The other road which is in dire need of repair is Kiserian-Ngong road. This road is equally in a very pathetic situation; it is full of potholes. As one of the Senators said here, even to do a simple pothole, the locals cannot do it. This is because procurement and funding process have to be done from Nairobi.

So, I believe if we pass and implement this Motion, there will be structures in place which will help us manage these roads at the county level. For example, I know the

regional manager of KeRRA has the data of all the roads in the counties. These managers and their staff can work hand in hand with the local leaders to ensure that, at least, those roads will be attended properly and at the right time.

Mr. Temporary Speaker, this Motion touches on counties and the voting is by county delegations, I do request you under Standing Order No.51(3) to defer putting of the Question to Wednesday, so that all Senators will be here to vote for this Motion.

Mr. Temporary Speaker, with those few remarks, I beg to reply.

**The Temporary Speaker** (Sen. Ongoro): Very well, Sen. Mositet! I have considered your request under Standing Order No.51(3) and I do accept that the putting of Question be done tomorrow as from 3.00 p.m.

*(Putting of the Question on the Motion deferred)*

Next Order.

ESTABLISHMENT OF A FUND TO  
COMPENSATE VILLAGE ELDERS

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

THAT, aware that in the African context elders popularly referred to as ‘*wazee wa mtaa*’ have a special place and they are highly respected; appreciating their work in supplementing the work of Chiefs in matters of administration at the locational and village levels; concerned that no form of structured payment is given to them for the services they render; the Senate urges the national Government to establish a fund from which the elders will be compensated for their services.

Mr. Temporary Speaker, Sir, I rise to move this Motion which touches on the functions and duties of the Department of Interior and Co-ordination of National Government. I present this Motion, particularly at a time when we are anchoring devolution in Kenya. I want us to benefit from the positive context of the African culture.

Mr. Temporary Speaker, this Motion is coming at a time when so many challenges are visiting African countries, particularly Kenya. It is only last week when we had the tragedy at Westgate Mall. Some people from outside this country attacked and killed innocent Kenyans. We must beef up security along our borders with our neighbours. It is sad that they passed through so many villages to come and commit a heinous crime in the heart of our capital city without being noticed by our security agents. Something is very wrong along our border points. They were travelling by vehicles. They must have taken food or water along the way. I believe they must also have interacted with so many people. They must have been noticed in one way or another as aliens, but nobody brought this to the attention of our security agencies.

Mr. Temporary Speaker, our culture is a heritage from God. He gave us elders who are the custodians of our wisdom. They have passed their wisdom and knowledge from one generation to another. The positive attributes that we have today as human beings were passed to us by the older generations. Today, in Kenya, according to the recent data, we have more than 288 districts. In these districts, we have 3,350 locations scattered across the entire country. We also have sub-locations totaling to 8,300. This is



the data which can be generated by the Department of Interior and Co-ordination of National Government.

Mr. Temporary Speaker, each location is headed by a chief who falls under the national Government. Every sub-location is headed by a sub-chief, who is paid and trained by the national Government. From a historical perspective, we know that all these leaders that are paid by the people of Kenya through our taxes do not work alone, but under the direction of the village elders. These village elders may not be “old” necessarily by virtue of age, but by the position they hold in that village to take care of societal matters. If you look at the data clearly, you will find an average of ten people working with a sub-chief to advise him and to talk about issues that affect the village.

In the perspective that I am presenting this Motion, it looks like we have not tapped and taken advantage of the structures we have had in the past. These people have been doing a good job. Every document you have in Kenya today talks about village elders. For example, the last time we had a census in 2009, one paragraph of a document stated: “Each assistant chief, with the assistance of his village elders, had to take the mappings when they were doing the data to know how many people were there.” So, the role of village elders is recognized in Kenya, but it looks like we only use these people when a need arises. After that, we have no use for them. Yet they are the ones who play the crucial roles, particularly in the pastoralist areas where I come from. These are the people who have brought a lot of peace in our communities. The local community and the national Government must tap the wisdom of these people. I also know that the county governments have come in and they will tap into them when they want to maintain peace and order in the villages.

Mr. Temporary Speaker, if we analyze the problems that affect man now in Kenya, it is because somebody has not taken responsibility right from where they stay. For example, we had a problem where I am told that criminals infiltrated our country. They moved from Somalia with crude weapons without being noticed. I am raising this issue because if we had these village elders along our border with Somalia and Ethiopia which I am told stretches about 300 kilometres all the way from the Indian Ocean, they would have noticed those criminals coming to our country.

If the communities that live around the border have elders who have been identified and trained, then crime along our border points and inside our towns would be minimal. These people were originally taking care of the communities. I urge the Government now to tap into this by upgrading them and making sure that they are committed to serve our country. These elders can pass very useful information to police officers. For example, when they see a stranger in the village, they can know what action to take or what kind of information to pass to security agents.

Mr. Temporary Speaker, if we do this, chances are that we will be able to stem and close in on these problems that we now bear the brunt of, right here in the city. We need to empower these elders. We can also use these elders to pass correct attributes in our counties. For example, we are now saying that every child that has been born in Kenya must go to school. Who can enforce these laws?

When the chief arrives in his uniform, the people might not listen to him, but they will listen to elders. A number of us went to school because of the authority of elders. This is because when they heard and understood the message, they passed it on. The people in these areas - particularly those areas where cattle rustling takes place and elders

have been spoken to and have understood that this is an evil activity - when they stand to speak, that behaviour will definitely be wiped out.

This is because the youth listen to and respect their elders. When the elder has spoken in some African context, as we know, we do not go against their word. So, why are we running to some alien and foreign strategies in trying to put order and sense into the way we live, as Africans, in Kenya instead of tapping into what we know best? Elders have also been found to be useful when an idea has come, like when we want to open up certain regions for planting of crops instead of rearing of animals.

In this scenario, the best people to convince others are the elders because when they speak, that issue is understood. I am told the Government has identified this year, in the Jubilee Manifesto, that one million acres of land would be put to irrigation. Where are you going to get this land? This land is found in the villages. Until elders buy that idea; until they are trained and they have understood what it is, that idea might not move very far. You may use political force or you may use the elites who are few in some areas.

You can already see that for agricultural areas, elders can assist so seriously. In the densely populated areas like Nairobi, we have estates which are difficult for people to access because there are no roads, and where thugs operate from and hide. People have even built on the road reserves making it hard for you to access some estates. Who can tell us how these areas can be turned into peaceful areas other than village elders or estate elders - whatever name we can call them? In the arid and semi arid areas (ASALs), the elders play a very crucial role because they advise generations on the seasons and times to migrate with cows to look for pasture. The youth can easily go by force, but when the elders are involved; this issue is brought to a stop.

Mr. Temporary Speaker, Sir, in some communities, for you to vie for the Senate seat or the National Assembly seat, you have to get the blessings of elders. I am talking about tapping into this idea that existed before and using it positively to manage and man our affairs on the ground, at the village level by pulling people together.

So far, we have 8,300 sub locations and an average of 10 village elders who must be vetted by people. I know that we have some who have terrorized other people by being very demanding when problems arise. They take a lot of fines in terms of goats and cows. If this Motion is passed, we will have vetted elders to work with us in the villages. We have a staggering 83,000 village elders or thereabout in the whole Republic. I propose that we establish a Fund to provide for monthly allowances and not salaries or stipends. With as little as Kshs24,000 per year per village elder, at a rate of Kshs2,000 sitting allowance per month, we can address this issue. I do not want to call this a salary because some people will misunderstand me. These people are not educated. They may be asked to present their curriculum vitae to see up to what level the village elders are educated.

I read the Transition Authority Act recently where it says if you have to employ a village administrator, that person must have a degree. A village administrator must have a degree and I was wondering where we are heading with our degrees. Degrees are babies that cannot manage people. If they cannot manage people, then you must have wisdom and age. You should have raised a family and people must know you. You must have a testimony and have a background of speaking in forums during meetings. If we operate like that, we will only require approximately Kshs1.99 billion which is just about Kshs2 billion for a whole year.

With regard to the problem we are talking about, we can assign them as many roles as we think are necessary depending on where they come from. If an elder is from Eastleigh, he must be given more roles than others. His role should be to know who is new in that area. He should make a report to the national Government about a stranger in his area.

Sen. Obure is here. At one time, he was the Minister for Public Works. Another time, he was the Minister for Roads. He can attest to it that a lot of wastage of funds, in the course of a contract, is realized when there are delays in awarding local or international tenders. We hear that we lose a lot of money or approximately Kshs200 billion through procurement process. There is a time when the former Permanent Secretary, Joseph Kinyua, talked about it. These were huge losses. So, if we are talking about losses in the minimum range of Kshs2 billion per year, this money is enough to give a token of appreciation to village elders to buy some soap, sugar and live decent lives.

How much have we set aside for security matters this year? We have set aside billions. For the National Intelligence Service (NIS), we have also set aside billions of shillings. We return a lot of money to the Treasury unused. We have also set aside over Kshs140 billion to run commissions generated and created by us. A sum of Kshs2 billion is very little money to this Government. We need to use this money to give some token of appreciation to people who are 65 years and above.

You will recall the answer that was given recently by the Chairman of the Committee for Health, Labour and Social Welfare, Sen. (Dr.) Kutu. He said that this year, they had set aside Kshs2.7 billion or so, to roll out this programme of giving out some little compensation to elders or anyone who is aged. This is done because we respect our elderly. I will go further to say that we need to establish this.

In the location I come from, Kanyarkwar in West Pokot County, we had problems, for a long time between us and the people of Trans Nzoia County and Uganda, Imbugwa. Five years ago, we sat and said why can we not identify and upgrade our village elders? We did that and decided to buy them uniform as a way of appreciating them. We asked them to choose their colours which should not be very far from those of the chiefs. They looked for the uniforms and shoes and we paid for them. Stealing of bicycles and chicken that used to happen on market days stopped. You can walk tall today, between the two communities up to Uganda, courtesy of these elders just because we bought them uniform. How much does a uniform cost? The uniforms cost us Kshs32,000 only, but brought us peace. Although they use the uniforms on particular days when they are going to administer order in particular areas, if we can all go this way, we would change things.

This may not be the best way of doing things. It may seem to be a primitive way of doing things. However, which is the right way of doing things? What is better? Should we think about complicated ways of bringing peace in the Republic or using the structures that we have which we inherited? Since this is our African cultural heritage which we must not forget, we need to upgrade these people. The Kenyan Government should set aside funds so that village elders are identified through a procedure and trained. Even in your own county, there is a lot of training going on because of devolution. Some people have enjoyed flying all the way from Nairobi to Mombasa because training seems to be taking place there. The nominated members of county

assemblies have been going for training. We have not been having this. We need to identify these people and train them depending on their personalised roles.

One village may be different from another. Where I come between the border of West Pokot and Turkana, some petty cattle rustling takes place. Yesterday, however, a very major raid took place at Apuke. If these elders were identified, since they have mobile phones, they would have passed information to the District Commissioner. From the DC, the information would go to the County Commissioner and this problem would end because we would act on it. These are the people who stay in the villages. If we tell them that some boys are disturbing us, they will move in to allay and close that chapter.

This is one case that demonstrates the need to go back to our grassroots level. I do not know whether we have had this kind of arrangement before. However, considering the suffering we are going through today, we need to establish such a system.

Yesterday, in Uasin Gishu County, the Deputy President talked to people because there has been some kind of insecurity in the county. Suppose elders were upgraded and identified; we would be dealing with them. The ones I have in Kanyarkwar have their own leader who coordinates. He is referred to as a senior *mzee wa mtaa*. This is even printed on their shirts to distinguish them from the rest. They also carry identification tags that show who they are. This can go a long way. We can spread this across. This touches us and you should not tell us that there are some communities that have forgotten how they used to live.

The problems caused by the *Mungiki* that were disturbing people in central Kenya can only be stamped out by the same village elders. They are the ones who know where these people live. This can bring the problem to a stop.

I beg to move and to call upon Sen. Kuti to second.

**Sen. (Dr.) Kuti:** Thank you, Mr. Temporary Speaker, Sir. I would like to start by congratulating Sen. (Prof.) Lonyangapuo. Sen. Lonyangapuo touches the hearts of the lower group in terms of societal hierarchy. Recently, you will remember that Sen. Lonyangapuo moved a Motion to support Kenya Police Reservists (KPR). All residents of Arid and Semi Arid Lands (ASALs), especially in Isiolo, appreciated that Motion. Today, this is a similar Motion that addresses the social structure at the last mile.

Our elders were the government representatives before the secular government came into place. Every tribal group in Africa had a government before the British came in. What Sen. (Prof) Lonyangapuo is talking about are rudiments of those governments. Those rudimentary governments still have a major role in those communities, especially in the rural set up. This also applies in the urban set up because the tribal groupings in Eastleigh, Kibera and Mathare have the same relationships. They have their own small *wazee* leaders who address or manage issues. When somebody dies, the *wazees* come together and they are the ones who are charged with sending information to Sen.(Prof.) Lonyangapuo, to me or to other Senators or to Members of Parliament, after which you hear about it. These structures are operational in Nairobi, but are stronger in the rural villages.

This is a total government, save for the fact that they do not move around with flags and do not get any recognition. They do not have an army, but they keep the society together. They are the identity of these communities. They are the first respondents to issues, whether it concerns security, ceremonial or a developmental issue. These elders can also be used by the national Government. They are units that are alive and which

function very well. In a way, our Government has not taken advantage of this group while impacting development issues; be they security measures, education or health issues.

These people are a living library. When I go and hold meetings in the constituencies or counties, they will tell me that if you want to do a dam, the best place to do it is such and such a place. They will show me the place where the maximum accumulation of water will be. If you go there, you will realize that what they tell you is the correct thing. Sometimes the water engineer would just say that he wants to do a dam somewhere and go ahead to do it. Eventually, you will realize that, that dam will only be utilized for a very short while, because he did not utilize the wisdom of the people on the ground.

Mr. Temporary Speaker, Sir, on matters social, these people play a very important role in marriages. They are the ones who know the norms and advise which clan should not marry which clan. You will realize that even scientifically it has a significance. They are very important during dowry negotiations. When the actual weddings happen, they are the ones who plan. If for any reason there are disputes in marriages, they become very crucial in terms of resolving them, before the couples go to courts. If it is divorce, they are the ones to decide, using the traditional methods, how the divorce will be done in a very peaceful way, and every partner gets their dues.

In terms of children upbringing and youth, they are ones who give the leadership. They decide which time circumcision should happen and become strongly involved in those processes. In places where the social network is strong, these elders play a major role and the youth in those areas have better chances of avoiding drug abuse. As I said earlier, in areas like Samburu, Pokot and Mandera, you will realize that the drug abuse levels are low because the societal network, culture and influence of the elders are so strong that people obey. Therefore, they grow up to be very mature and responsible young people because of the influence of these elders.

Mr. Temporary Speaker, Sir, the issue of security has been mentioned. We cannot overemphasize the role of *wazee* in security issues. They are the ones who know what is going on. Even in cattle rustling the youth get blessings from these *wazees*. Therefore, if the Government could negotiate with these people, even in areas where there is chronic cattle rustling, the raids could be stopped from happening. But even when it happens you will still need these *wazees*, because they know who is doing it, how it is done and how they even negotiate with the *wazees* on the other side.

You cannot overemphasize the importance of these *wazees* in security, because everytime there is an issue and we make these communities meet to talk about it, they bring solutions that are usually adopted by the Government. We have the Garissa declarations, Modogashe declarations and so on. All these declarations are peace declarations where the Government has brought the various *wazees* together and there is a debate for even a whole week. Resolutions are arrived at and the Government now endorses them. The Ministry in charge of internal security will then take them up for reference in future, in form of how to punish the offenders. This is the crucial role that is played by *wazees*.

Mr. Temporary Speaker, Sir, in terms of community mobilization, if there is any idea, whether it is development or Government policy, the people to mobilize the community are the *wazees*. If I want to call a *baraza*, for example, I rarely use the chief. I

just call an old man and tell him: “I want to come and hold a meeting in your village. The importance of the meeting is this and that.” He will call people and the women will start preparing themselves to sing when I arrive. The young people will perform their drama and the *wazees* hold their discussions. The community will be mobilized.

*(Loud consultations)*

Mr. Temporary Deputy Speaker, Sir, obviously, it is African tradition that women dance for men. It is a very important role. I am not saying that they are less important. Just as a man has a role to defend a home, the wife has a role to make sure that the men are sung for and heroes praised. That was a cultural thing before the White man came and brought the Beijing issue.

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

*(Question proposed)*

**Sen. Mohamud:** Mr. Temporary Speaker, Sir, before I proceed, I want to remind my colleague from Isiolo, that our role is not just to dance and prepare things. Our job is to encourage peace and make resolutions in the communities.

Mr. Temporary Speaker, Sir, I beg to support the Motion and thank my senior colleague for bringing it at the right time. Indeed, I would like to appreciate the effort being done by our elders, as we know, old is gold. One proverb in Somali states that if a community lacks an elder, it can even purchase one from another community or place. In the Somali language it says: “*Id hadhii odhi lowaya, adon beeah ayalosoibiya*”-*(If a certain community lacks elders amongst them, you better purchase them from other communities)*

Mr. Temporary Speaker, Sir, the effort done by the elders is really encouraging when it comes to conflict resolution. As my colleague has already said, in our pastoral community we have inter-clan conflicts and these elders are the ones who normally resolve them. Also, on the issue of borders, I am sure that you are aware of an incident which happened in Wajir one year ago, where two officers were kidnapped from the border and taken to Somalia. In fact, the Government did not do much, but it is through the efforts of those elders that the two officers were released back to Kenya. That means that they are doing more work at that level than even the Government.

Mr. Temporary Speaker, Sir, these elders normally handle the issue of divorce, marriages and other conflicts which relate to the communities. It is through these elders that the quality of education can improve, because they are at the local level and normally encourage parents to take their children to school. This encourages competition among the parents, hence performance also improves. They also facilitate the county governments, where the minority communities are somehow forgotten. These elders are the people who know the community and hence, ensure that everybody is brought on board.

Mr. Temporary Speaker, Sir, if these elders have families; if they are not motivated they will not do their work properly. At least, a system should be put in place in the county governments, so that those people can have a small token to make them happy.

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

**Sen. Obure:** Mr. Temporary Speaker, Sir, first of all, I want to thank Sen. (Prof.) Lonyangapuo, the Senator for West Pokot, for his initiative to bring Motions to this House, which seek to involve the people in matters touching on their own welfare.

Mr. Temporary Speaker, Sir, this particular Motion by Sen. (Prof.) Lonyangapuo calls for a formal recognition of the role of *wazee wa mitaa*. It reminds us to appreciate the critical role played by village elders in our various communities and counties. The Motion, of course, is seeking to accommodate the structure of village elders, which already exists anyway, so that it becomes part and parcel of our governance structure.

Mr. Temporary Speaker, Sir, in the true African context, village elders have always been highly respected people. This is because of what they are and the functions that they have been able to perform in society. In my own Kisii County, we refer to them as *Abatureti*. This is a very respected category of people in our communities, not so much because they have been able to accumulate university degrees and other distinguished accolades, but because they are generally sound and wise. They understand well the environment in which they live and that is why they are respected. They are considered morally upright largely because they have managed their own families well, brought up their children well and set a good example to others. They are respected because they are neutral and can be relied upon to arbitrate properly during periods of conflict between families and members of the communities. But most importantly, they are respected because they are peacemakers.

Mr. Temporary Speaker, Sir, in the current constitutional dispensation, it is envisaged that good governance will start right at the village level. Indeed, contact between the county government and the citizens is expected to start at the village level. The county government must understand the expectations of its people, their challenges and their priorities in order to be able to serve them effectively. The citizens must also have a platform through which they would discuss matters and convey their wishes and expectations to the Government. I see, therefore a platform of elders--- If they are properly identified, I see them as serving as an important critical link between the communities and the administration. They provide a link with the newly created positions of ward administrator, sub-county administrator and a link with their own county governments. I see the village elders playing that critical role.

Mr. Temporary Speaker, Sir, I want to touch a little bit on what the Mover of the Motion discussed at great length; the issue of security. Security has become a matter of great concern to everybody. We have witnessed serious cases of security lapses and breaches. In fact, there have been situations of serious breakdown of law and order. We have seen that in Tana River, Garissa and other parts of North Eastern Kenya. We have seen that even in Samburu, Kitui, Bungoma and very many other parts of the country. A week or so, we saw it in Nairobi. In all these incidences we have lost many lives. Many of our people have been injured while others have been permanently maimed and completely incapacitated. We have lost large amounts of valuable property and the country is still bleeding. Insecurity is not good for development and investment. We cannot attract, leave alone, local investments, but foreign investments if our security is not right.

It is clear to all of us that the current security arrangements are clearly not effective; that they have failed us. We must urgently review the existing security

arrangements and structures. This is incumbent upon all of us as a nation.. The failures which we have experienced have clearly demonstrated that we cannot adequately provide security throughout the country from the centre. It is not possible to provide security from a central command. We must, therefore, involve the communities. We must encourage every Kenyan to take responsibility for security where he lives and where he works.

Mr. Temporary Speaker, Sir, we have also seen that community policing – from the place where you and I come from – has been very effective. Therefore, if village elders are given a leading role in issues of security, I am sure that we can reduce this escalating insecurity because they know the areas well and the people they are living with. In the event of any security breach, these people will be able to identify the perpetrators. They know who the criminal elements are within their own communities. In addition to all that, we also know that the elders have played a very significant role in terms of dispute resolution on issues of land. They have come in and been able to amicably solve these disputes. In domestic and family disputes, the village elders know the historical build up to these conflicts and so on and they have been able to solve these problems.

I am very sure that whatever investments we make by way of creating the kind of Fund Sen. (Prof.) Lonyangapuo talked about, in order to provide some kind of compensation as little as it may be--- but that amount of investment will yield great returns. That return will be far greater than the amount of money we spend putting in that Fund. I am convinced that this is a good Motion. Therefore, I am urging the hon. Senators to support this Motion because of the critical role the elders play by virtue of the experience and the respect which they command from the communities.

I support the Motion.

**Sen. Kisasa:** Asante sana, Bw. Spika wa Muda. Nanafikiri kila eneo la watu kuna msemu wao. Huko pwani tunasema kwamba, “penye wazee hapaharibiki jambo”. Kwanza, ningependa kumpongeza Sen. (Prof.) Lonyangapuo kwa Hoja hii. Mimi mwenyewe nilikuwa ninapanga kuileta Hoja hii hapa kwenye Bunge la Seneti. Kwa hivyo, ni kama ameniibia Hoja hii. Mimi nina heshima kubwa sana kwa wazee wetu. Wazee na akina mama wote wana majukumu makubwa sana kule nyumbani.

Kuhusu usalama, ni lazima tuzingatie kuwa wakati huu tuna ugatuzi. Ugatuzi maanake ni nyumbani ama mashinani. Ukiangalia kule mashinani, polisi mmoja hawezi kumchungu raia mmoja. Kwa hivyo, hatuna polisi wa kutosha kuleta usalama, isipokuwa kama tutaongeza wale wazee wa mtaa ama wale watu walioko kwenye vijiji ili tusaaidiane na polisi kudumisha amani na usalama.

Bw. Spika wa Muda, ninataka kuzungumza machache kuhusu suala la Mombasa Republican Council (MRC). Vijana wote ambao wameungana na kikundi hiki, na wale ambao wanafanya mambo ambayo hayahusiani na maadilifu kwenye jamii, tunawajua, kwa sababu ni watoto wetu na ndugu zetu. Kwa hivyo, tuwaonyeshe hao wazee kwamba tunawapenda na wakifanya shughuli fulani watapewa zawadi kidogo, kwa mfano, Kshs2,000 ambazo ni pesa nyingi sana kule mashinani. Ni wangapi kati yetu wanapeana Kshs2, 000 kila mwezi? Hawa wazee wakipewa Kshs2,000, hiyo itakuwa imewatosha na tutakuwa na usalama majumbani kwetu. Hata wale wanakula unga na kuuza madawa ya kulevya tunawajua kwa sababu ni watoto wetu na tuanishi nao.

Pia tukiangalia hao wazee kwa kuwaheshimu na kuwapatia zile nyadhifa, masuala haya yote ya ukosefu wa usalama yatarudi chini. Upande mwingine, tumekuwa tukisema



kwamba yetu ni Serikali ya *digital*. Tutawafanyaje hao wazee? Je, tuwaue? Kwa hivyo, tukiwapatia nyadhifa katika mitaa, tutakuwa tumewatia katika hii Serikali yetu ya *digital*. Kama kule kwetu Kilifi, imebidi wauwawe kwa sababu wanakula chakula ambacho kingekuwa ni cha watoto wao. Mimi mweneyewe nilipatikana na mtihani kwa sababu mjomba wangu aliuawa kwa sababu alikuwa ameficha *Title deed* au cheti cha kumiliki shamba. Kwa hivyo, inafaa tuwalete hao wazee pamoja.

Utaona kwamba wakati wa uchaguzi huwa tunawavuta hawa wazee karibu sana na sisi lakini tukishapata vyeo, tunawasahau. Hatuwezi kufanya kazi bila hawa wazee wa mitaa. Ni lazima Sen. (Prof.) Lonyangapuo aliwatafuta wakati wa uchaguzi na wakamsaidi sana. Ndio sababu nilisema kwamba, ni kama ambaye ameniibia Hoja hii kwa sababu wakati wa kampeni yangu, nilitumia hawa wazee sana na ndio niko mahali hapa. Nilihakikisha kwamba hao wazee walinisaidi katika kila jambo.

Bw. Spika wa Muda, hii ni Hoja ambayo imechelewa sana. Hata marehemu baba yangu pia angepata kibarua kama hiki kwa sababu Kshs2,000 ni pesa nyingi sana kule mashinani. Kwa hivyo, tukifanya hivyo, tutakuwa tumeleta amani na heshima kubwa kwa hao wazee. Nimeuliza awali ni nani humpa mzazi wake Kshs2,000 kila mwisho wa mwezi. Mimi wangu alienda mbele ya haki, na Mungu amrehemu. Lakini ninasema itakuwa ni zawadi kubwa sana kwa hawa wazee na sisi wenyewe katika ugatuzi kwa sababu kila jambo litakuwa rahisi sana. Anayekuja pale nyumbani tutakuwa tunamjua na kule anakotoka.

Bw. Spika wa Muda, katika nchi ya Tanzania, kazi inayofanywa na polisi wetu hapa nchini, huwafanywa na wazee wa mtaa ambao wanajulikana kama *Sungu Sungu*. Hao wote wanachangia katika jamii yote. Kwa hivyo, tuiseme tumeenda *digital* na tukasahau kwamba tuna majukumu ambayo yanaweza kufanywa vizuri na hawa wazee. Inafaa sisi kujali masilahi ya wazee hao, badala ya kuwaacha kule mashinani kwa hali ya umasikini sana.

Kwa hayo machache, ninaunga mkono Hoja hii.

**Sen. Okong'o:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity to contribute to this Motion. First of all, I thank Sen. (Prof.) Lonyangapuo for coming up with this Motion. The *wazee wa mtaa* as they are called, are men and women who are reservoirs of knowledge and wisdom. They play a very important role in nurturing communities. The African culture and heritage is deteriorating each day because we are aping the West. The values that were inculcated in us as we were growing up by these men and women have been set aside. I support this Motion so that we can allow these men and women to contribute to the good of this country.

In the larger Gusii region, for instance, we had what we called *Turet* where the old men could sit and they would discuss on all the issues affecting the community. In Nyamira County, they have set up a council of elders which spreads to our sister county, Kisii County. It is very important that the Government comes up with a token of appreciation for this old men and women to contribute to their welfare.

Mr. Temporary Speaker, Sir, another area which has not been captured very well is the area of drugs. These old men and women know who brews *chang'aa* in the villages. With the inherent democracy, the chiefs' powers have waned. If these old men and women are motivated by some token, they can have an opportunity to assist the chiefs in curbing *chang'aa* consumption in areas like Nyamira and Kisii and other parts of central Kenya. The other issues have been well articulated by Sen. (Prof.)

Lonyangapuo, my elder brother Sen. Obure and even my sister. It is not a big deal to appreciate these old men. We are not going to pay them a salary, but simply to appreciate them for their role so that they can have a sense of belonging. I would suggest that Sen. (Prof.) Lonyangapuo comes up with some amendments to include the payments which are being made to the old people in the country.

We are just appreciating their role and I also propose that we do an amendment so that we can include the elders who were supposed to benefit from those tokens but were not catered for. I think at an appropriate time, I will consult my brother, Sen. (Prof.) Lonyangapuo, to see if the other group of elders can be incorporated.

With those few remarks, I beg to support.

**Sen. Kanainza:** Mr. Temporary Speaker, Sir, thank you that I have been able to catch your eye after having stood up for a very long time. I actually want to support this Motion so strongly. The village elders are the managers in our community. In most cases, these are people of wisdom. They are the first ones to reach out to---

*(Loud consultations)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Sen. Obure, please, consult in low tones!

**Sen. Kanainza:** Mr. Temporary Speaker, Sir, as we appreciate devolution, it is very important for us to also appreciate the village elders since they are the people at the grassroots level. They play a big role as mediators in case of a dispute in the family or community. Before people go to the chief's office, they first run to the village elder. Secondly, when I was growing up, the village elders could order one out of the house to go to school and the parent will be taken to task. That is why I am saying that it is important for us to recognize village elders in our community.

Most of us have talked about the security aspect and it is true that the village elders know who the residents are and who the strangers might be. When we talk about disciplinary cases in our community, you will find that they were not high because of the work of the village elders. Right now, there is a lot of indiscipline in the village, including the misbehaving by our children. This is because the village elders have not been involved. These village elders have a deep knowledge in traditional law on what happens in our society and what is supposed to be done. When we talk about circumcision of boys, for example, it is these village elders who know how it is supposed to be done and who is supposed to do it. This digital era is actually killing our culture. As we devolve, let us look into the welfare of our village elders.

Mr. Temporary Speaker, Sir, lastly, I want to talk about the coordination of various activities in our communities. These village elders are the ones who can do it well. They give direction and advice, and even convene meetings. That is why I said that it is very important for us to motivate them. These funds will assist them do their job. We should even go further and provide them with uniforms and means of transport depending on where they come from. I know that in some places, bicycles can do well and, in other places, motor cycles can do well.

Regarding capacity building, we know that county governments have funds meant for capacity building of our people in the community. If they are given an opportunity to train, they will deliver.

With those few remarks, I beg to support strongly.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, thank you for giving me the opportunity to contribute to this Motion. This Motion is coming at the right time when we have devolution. If there is anything to be devolved then it is what is in this Motion. These are the people who are crucial in the devolution process. They are the ones who should be telling us what to do and what not to do.

Mr. Temporary Speaker, Sir, we are talking about Kenya which has been independent for the last 50 years. The kinds of problems we are experiencing now were fewer before Independence. The rate of crime was lower before Independence. Right now, the advanced theft that exists was not there. Today we are experiencing very many problems due to population explosion. Population has grown higher and the young people have to find alternative ways to live. Therefore, they resort to crime that we are experiencing today. If we were to address ourselves to the population and its set up, including its composition, like tribe, lifestyles and economic activities, we can get to know the structure of each tribe and how they lived.

We can utilize this knowledge and come up with very good rules and laws in this country. This is what we need to digest further and get to know why our culture is having what we call “cultural shocks”. We also need to know why we do not recognise tribes, why we cannot even talk about one country, one nation and one Kenya. This is because we have left individual tribes to be on their own. We have also left the population to grow without caring what happens. We need to go down and look at our cultural problems and assess our cultural traits. This can only be done through *wazees*, be it women or men.

Mr. Temporary Speaker, Sir, *wazees* were respected everywhere in the community. In Kikuyuland, *wazees* of those days were held in very high esteem and a lot of respect. You could not even cross the road when an old man was crossing. They had some special trees that they worshipped under, especially when there was a problem of drought, for example. Amazingly, the rains would come. They would even slaughter animals and take the sacrifice to their gods. I do not know what happened today. The gods vanished and also the traditions vanished. We, as a country, are not able to get to the root of the existing problem. Why are we having these problems? We need to find out.

When you go to Meru, there is a group called *Njuri Ncheke*. If a Meru misbehaves, he is called to the traditional court and reprimanded or counseled. This has instilled some discipline among the Meru people. The same thing happens in Maasailand, we also have the Kaya Elders in the defunct coast province and also in Bungoma County, we have people who are known to instill discipline. Recently, there were some cattle thefts and the *wazees* resolved that the only way to handle the cattle theft is to borrow a witchdoctor from Bungoma. When the witchdoctor came in, the crime fizzled out. Now there is no stealing of cattle anymore because the thieves are aware that there are some powers where if you are found with somebody’s cow, you will eat grass for the rest of your life.

Mr. Temporary Speaker, Sir, we are taking life for granted. This has even become a problem to the Government. The Government is using too much money in combating crime. This Motion is calling upon the Government to come up with a policy to try and recognise traditions in different tribes. That is what we are going for and that is why we are supporting this Motion. If we can recognise these *wazees* as people who are part of the system of the Government, we will benefit from them and even gain from information

transmission from them. They can even be better than the National Intelligence Service (NIS). These *wazees* know whether there is a visitor in the area and where he or she is coming from and so on.

These people have a system of communication that enables them to know who has come and who has gone out. So, if we can recognize that they exist by giving them the token that Sen. (Prof.) Lonyangapuo is proposing, I believe the *wazees* will work hard and effectively. I have heard from the contributions that this fund is meager, but I can tell you that you can get wonderful results from this. They are not asking for too much and they are also available. They can be recruited from amongst retired administrators, retired police reservists, senior clan members and so on. These people can combat crimes very fast and very easily.

Take for example the tribes which live across the border like the Maasais of Kenya and Tanzania, the Somalis, the Turkanas and the Tesos. These people criss-cross the border. It is only the elders who can know them because they have relatives across the border. Anytime there is a criminal, they can identify him fast. If they are given a token, problems across the border will be minimized. This is what we are asking for. If this fund was to be established and we recognize that these people can be of help to our country, I am sure we will have fewer cases of cattle rustling. They know the criminals, but they ask themselves of what benefit would it be if they reported, and yet after reporting nothing happens. But if they can be given that token, they are really going to help the Government and they are going to live in a better way than we expect.

Mr. Temporary Speaker, Sir, let us recognize these *wazees* as people who we can work in collaboration with the police. These are the people who can help us because they have helped us in the past. Since they have set a pace of assistance, why do we not recognize them by giving them something? This is what the Mover of the Motion is calling a "special fund." What can we not create this fund? If we find that it is becoming a problem, we can devolve it to the county assemblies so that we can ask the county governments to set up a fund. In every county, for example, the fund can be used to pay these people. By doing so, you will see a lot of changes. These *wazees* are the ones who can be used to resolve conflicts because there are a lot of conflicts among our people.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to support.

**Sen. G.G. Kariuki:** Thank you, Mr. Temporary Speaker, Sir. First of all, I would like to congratulate the Mover of this Motion. To me, it seems that he has been thinking very critically about the affairs of other people. I think even after Independence and even before Independence, we had these people called *wazees*; and they have been working voluntarily. It is unfair for a Government, which has been there for more than 50 years, to continue depending on free service from individuals, either communally or individually. I think this Motion ought not to have come because it is suggesting that we devolve security itself, which is not within our mandate. The security function has not been devolved and yet these people we are talking about have been working very hard with security people.

If you go to any constituency today, you will find that the District Commissioners (DCs) rely heavily on these *wazees*. He cannot rely very much on government officials because most government officials have really failed. Not that they wanted to fail, but because they are following our Kenyan culture. The Kenyan culture is such that you have to be a very corrupt person to be given such a responsible. This is a very serious

statement that I am making, and I have a reason for that. These *wazees* who rely on nothing – they go out of their way even when the chief is going to visit them to try as much as possible to even get chicken for the chief. They suffer a lot. They are there in every constituency because the security situation has deteriorated very badly. The provincial administration that is the chiefs, DCs and Dos, now rely on these *wazees*. They are the only people who would give clear and proper information without lying. Therefore, the time has come when we have to recognize these volunteers by giving them a token.

Mr. Temporary Speaker, Sir, I will not agree with those who are saying that we could recruit the *wazees* from retired people. Village leadership does not require recruitment in terms of education. It is just leadership which just comes from the people. The people themselves know who their leader is, whether elected or not. The people at home know that so-and-so is a leader. So, you cannot go deliberately to look for people to be employed or to be brought in because they have been retired police officers; we are not going to devolve corruption. You cannot just get a retired police officer and make him any kind of an elder in the village. You will be making a terrible mistake. Let that retired police officer or civil servant stay with the people and the people themselves will see if that person is capable of doing a certain job. He may show some the leadership qualities. You cannot hide leadership in any community; it just comes up.

Mr. Temporary Speaker, Sir, my advice is that these people should not just be given honorary amounts of money. The Government and the country must decide; these people have got very unique roles to play. Therefore, we should spend about Kshs2 billion or Kshs3 billion a year to comfort these people. I can tell you that the security problem we have will go down by 30 per cent immediately. Because if they know they are respected and trusted for this kind of job, they will do their best. This is because they belong to the village and they will not want their village to be messed up. If these *wazees* work with the home guards in those districts which have homeguards and the chiefs, I can tell this House that our security will improve very fast. That way, you will really not even need policemen. You can only bring a policeman to arrest somebody, but not to give any information. They will not know any information more than these old people.

I have experienced quite a lot with these elders. I have worked with them and I know the chiefs in this country, although that culture is dying--- We need to think whether we would like to let our culture die as we are watching, because today in some constituencies or districts, the elder's advice is not being entertained because we are killing ourselves in the name of Christianity. I think there is no country without a culture that survives. So, we need to use these *wazees* to sustain our culture and, also, to be able to the judge of petty family quarrels. It is very important. But these days, people are becoming so *mzungunised* that when anything happens, they just go to the High Court or to a court of law. These are the *wazees* who understand and know each and every person in the village. If I am quarrelling with my friend here, they will just say: "You do not belong here" straight away because they belonged there even before us.

Mr. Temporary Speaker, Sir, I think we have a duty here to decide just to pass this Motion and then keep quiet. I think it is not fair to do so. We need to bring in a Bill to make sure that this issue is put in our Statutes so that the Government can now be held responsible to sustain these old men. These old men will be governed by a certain section of the law. Most particularly, they need to maintain our culture wherever they come from.

If they are Kikuyu, Kuria or Teso, they have to maintain their own culture so that we are able to advise our children. But, today, English is a language that can never, ever be used to advise anyone, especially in our traditions. English is a commercial language; in fact, it has gone beyond commercial.

I have got grandchildren and when they come to my house, they say “Hi *Guka*” and I say to them “stop it; you speak to me in the language I understand. That one you are trained in school.” They think that I have never gone to school, but I tell them “do not talk to me in that language; talk your mother’s language with me;” but they cannot understand and I tell them “you go home; if you cannot understand your mother’s language, I also do not understand English.” All of them speak very good Kikuyu because I am proud of the language that I found my mother and father speaking. But for us to think that once you speak the Queens English, you become a *Mzungu*, then you are nothing; you are just a slave of other people’s culture.

I respect the Maasai people and even the Turkana because they have sustained their culture. The Turkanas and even the Pokots still respect advice from elderly people. They can be told not to do something and they will not do it. However, the Kikuyus now and, probably, the Kalenjins are also joining our bad band wagon - they do not listen to an old man. They think that since they speak in English, they are advanced. They have no idea that the English Language is only a means of communication. It is just for communication.

I remember one time, in 1952, when I was in secondary school. The late former President Kenyatta was just a politician at that time. He visited our school and told us that the most educated person is not the one who speaks English through his nose the way the Queen does. He said that this is a person who can put pieces of wood together and make a table out of it or put sand and stones together to build a house. He said that is considered to be the most educated person. He said that the English Language is a mode of communication and has no borders, respect or anything.

I will stop there. Thank you for allowing me to say something. God bless you.

**Sen. Mositet:** Thank you, Mr. Temporary Speaker, for allowing me to contribute to this Motion by the Professor. I may not have much to say because our elderly Senator has already spoken and I may be diluting what he has already said. However, if you look back in order to find out who these *wazees* are, you will see that these are people who used to bring back sanity whenever people went out of order. These are people who were associated so much with God that they were more holy than the average person. They would even mediate between quarrelling families.

In our culture, this is respected very much. If you go out of this country and say that you are a Maasai, you may just be selling Kenya. However, we have something that has not been well documented. The Senator from Kitale knows it. In our community, when people fight and somebody dies, we have a way of resolving it. There is a culture that they follow and the two families are reconciled. The person who has killed someone is fined and things return to normal between the two families as if nothing had happened. A son or a daughter of a person who was killed can end up getting married to the other party. That is something I know. In law, we take somebody to court, the verdict is read and the person is hanged. What happens to the other family? Those families will never be together. We should follow the traditions of our *wazees* which were very good in maintaining peace and making sure that the families go back together.

Suppose we did not have these *wazees* in the villages? How many courts would we be having in this country? How many magistrates would be employed and how many support clerks of the courts would be there? All that work is done by those *wazees*. Therefore, when Professor says that we need to appreciate the role of these *wazees*, I feel, just like any other Senator who spoke before me that this should have been done a long time ago.

The Government should have taken another serious step. Any time they issue medals to the distinguished people of this country, those *wazees* should be in the list of people to be decorated. For sure, there is a lot that these *wazees* do that has not been documented. Just like the senior Senator from Laikipia said, if you go to any of the county commissioner offices or the District Commissioners offices, you will find that there is nothing they can do without those *wazees*. They rely, purely, on the *wazees*. Why are we suffering with regard to insecurity, particularly, in urban centres? Urban centres are more hit.

Recently, I was in Kigali and met people with a culture that we need to cultivate. The fact that we always think about ourselves is something that we need to change. We need to consider the country first by realising that the other person is your brother, sister or your dad like Sen. G.G. who is seated there. If we had such a culture, we would hardly have the kind of problems we are having in our societies. Let me talk about the positive things I noted in that country. I found a society where even at 10.00 pm in the night, women would walk in Kigali with their handbags and phones comfortably, not worried about who is passing by them. I know that here in Nairobi that is just part of our history. We should allow these *wazees* to work and ensure that our culture does not get lost.

Our culture was very rich among all the societies; Kikuyus, Maasais, Kambas and Kalenjins, among others. We were very rich and we used to respect one another. We had a culture where if you were walking past a woman who was having a problem and you did not assist her, you feared that the *wazees* would later call you.

I appreciate this Motion because it is timely. I call upon other Senators to support it. Professor, probably, you need to go further and come up with a Bill so that we can make this into law.

With those few remarks, I support.

**Sen. Melly:** Thank you, Mr. Temporary Speaker, Sir. I will also take this time to congratulate the Senator for West Pokot who was also my lecturer at the University for bringing such a wonderful Motion at this time when we have county governments in place.

I will start by saying that *wazee wa mitaa* or village elders have suffered. From what I know, village elders have no offices. That is one. Two, they do not have any money. They only get something small when a cow is stolen from a family. He is forced to come in to try and resolve the issues. At the end of the day, when they find the animal, that is when he gets, at least, Kshs500 or Kshs1,000, probably, after a month. Other instances could be when a neighbour sells a piece of land. He comes in as a witness and is given Kshs500. That is what they earn. Having in mind the work they do, right from security issues to resolving conflicts affecting villagers at that level, we should come up with something to compensate them. They are also leaders like us, but the only challenge they face is that they work at the village level while we are at the national level.

A number of them have not gone to school. However, the kind of decisions they reach, in everything they deal with in the village, show that they have a lot of wisdom. Irrespective of the level of crime, village elders have always sat down and solved issues. Village elders have always sat down and come up with good solutions that ensure that people reconcile and love one another like before, even when there was a problem, to an extent that somebody was killed. They would come and reason together and bring a solution. At the end of the day, they remain friends and guard their village.

Mr. Temporary Speaker, Sir, there was a time when a cow belonging to my neighbour was stolen. Investigation was done by two village elders for about one month. We were just listening and could not offer any meaningful help, but I saw what they were doing. At the end of a month, they managed to bring the cow back home. If the police officers were involved, a lot of expenses would have been incurred. Through the village elders, they did that good job and were able to actually get the cow. Village elders are security agents at village levels. They report to sub-locations, locations, County Commissioners and the rest. So, they are the people who have the first information. If we are really serious on issues of security and resolving any conflicts that arise in the villages, the village elders are the right people.

Mr. Temporary Speaker, Sir, I think we, as the Senate, should come up with structures on how to compensate these village elders. I want to congratulate them for their tireless efforts in ensuring security by resolving conflicts, even when they were not paid anything. We want them to be empowered to do their job. They are leaders like us and need to be given space and recognition. This is because all of us, right from the village to this level, are leaders. Let us come up with ways of compensating these people in terms of allowances, so that they can still provide us with the necessary information that we require to maintain peace and stability in this country.

Mr. Temporary Speaker, Sir, with those few remarks, I beg to support.

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, I rise to support this very important Motion. I congratulate Sen. Lonyangapuo for bringing another very important Motion to this Senate.

Mr. Temporary Speaker, Sir, the role of elders in society is longstanding and the work that they have done is invaluable. Their work ranges from offering guidance to communities to being mentors for the youth on cultural and moral issues. Every society has rules which govern it, that ensure that there is order, prosperity and harmony within society. In our traditional setting, there are cultures which gladly the current Constitution recognizes. The elders play a very important role in nurturing these cultures.

Mr. Temporary Speaker, Sir, with regard to family issues, especially marriages and so forth, there are normally problems, disputes and conflicts that *wazees*, as we call them, have always managed to resolve. The justice that we derive from these *wazees* is quick. When I talk about "*wazees*" I mean men and women. We know that when you take marriage disputes to court, they drag on forever. The same applies to other disputes. As we say: "Justice delayed is justice denied." The justice from elders has never been delayed. It is almost instant and within the means of our people. In our judicial system, for you to institute a proceeding in a court, you need to be a man of means. What happens to the people who do not have the means? At least, for the *wazees* if you have one chicken, you can slaughter it and they will eat, finish your case and issue a verdict that is satisfactory. But the court processes are expensive and not appropriate for our people.



Mr. Temporary Speaker, Sir, *wazees* or elders have also contributed immensely to peace and harmony among communities, tribes and even across borders. They have been our ambassadors sometimes when things go wrong and you cannot cross over to the other side of the border. For example, in Trans Nzoia, if livestock is stolen from one side and taken to the other side, it will be difficult for a policeman to cross because that is another country. But through the *wazees* system, the *wazee* will go there even without carrying passports. They will negotiate and the cows will be returned. There are numerous situations like this. We are aware of places like Mandera and Wajir, where certain international crimes have been committed and even Government vehicles taken. The *wazees* have been able to prevail and the situation brought to normal. Whatever is stolen is returned. The roles of *wazees* in this country cannot be enumerated and finalized.

Mr. Temporary Speaker, Sir, even in political disputes, we are all aware of situations where there was tension and *wazees* were involved to reach some sort of negotiated agreements. This has also helped. I have a case in mind, that is, after the 2007 General Elections. Everybody knows what happened. Through the efforts of *wazees* we have been able to restore peace and harmony within communities. People have gone back to their land and are staying in peace. We held the last elections very peacefully. In Trans Nzoia and Bungoma counties there were a lot of disputes, but *wazees* from the Bukusu, Sabaot and Teso counties were able to sit and reach an agreement, famously known as the Mabanga agreement, which still stands up to today. This agreement says that we have to live peacefully and everybody has a right to live wherever he should. Resources and opportunities are also supposed to be shared, in accordance with the Constitution.

All is in accordance with the Constitution. In Trans Nzoia County, we are enjoying relative peace and harmony because of *wazee*. They have also been very useful in determining the identity of the people. For instance, for one to get an identity card, the issuing officers would not know who is who, but the *wazees* have done a commendable job to identify people who qualify to be issued with identity cards. Of course, you will find a few cases where they have been accused of being compromised, but those are few. Overall, they have done a commendable job.

Mr. Temporary Speaker, Sir, *wazee* have resolved very many land disputes. As the previous speaker said, if we were to take all disputes to the courts of law, there would be no enough courts. Since courts imprison or fine people in default, there will not be enough prisons to hold all Kenyans who contravene the law. The *wazee* have found a way around it and disputes have been resolved without clogging our courts of law.

Every community has *wazee*. The *Njuri Ncheke*, for instance, of the Meru people have done a commendable job to ensure that there is peace and harmony within that community. There are many other associations or groups of *wazee* all over the country. It is not appropriate that we continue operating as if they do not exist. This is our culture and these are our people. At the end of the day, these are the people who matter in as far as our well being is concerned as Africans. It is unfortunate that while these Kenyans, most of who are retirees have been rendering these services for many years, it has never been found appropriate and deserving to compensate them in any way. Some of them leave their households very early in the morning every day and go home empty handed. No wonder a few of them have been tempted to engage in activities that seem to be lacking in integrity. This is because they have not been compensated.

Mr. Temporary Speaker, Sir, our Constitution recognizes this in Article 169. It provides that Parliament may enact legislation to form a tribunal of any sort to sort out disputes. The same Parliament can also define jurisdictions. I think when the appropriate time comes, we should formalize this arrangement through a Bill that recognizes the elders at all levels; the community, the county, sub-county and village levels. They should be given a token of appreciation for the work that they do. The Constitution recognized the *Kadhi* courts for arbitrating issues for the Muslim brothers and sisters. For other communities, these elders really perform the same job. I see no reason why recognition and compensation cannot be given in a similar manner.

This Motion is very timely in that if we are not careful the role of *wazee* may be forgotten. As we say in Kiswahili; *mwacha mila ni mtumwa*. So long as we do not take care of our own *wazee* we shall be at the mercy of others elsewhere.

With those remarks, I support this Motion.

**The Temporary Speaker** (Sen. (Dr.) Machage): Since there is no other Senator interested in contributing, may I call upon the Mover to reply.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I stand to give tribute and thanks to my colleague Senators for speaking to this Motion. As we noted, this is a very timely Motion because we need to redeem our culture and the usage of the wisdom of the old people who live among us. We also note in this Motion that it is not only the men who are supposed to be working with the chiefs as *wazee wa mtaa*, but also women. You may also note that in some locations and villages, even persons as young as 30 years could be identified among the elders. The villagers who identify them know that wisdom lies in them. As we talk about putting them together and making sure that we secure our country and utilize the resources that we have, it is proper that we know that these categories of people may also come in.

With regard to security matters in the cities, there is the usage of the CCTV and so on, but in the villages, the CCTV is the *wazee wa mtaa* because you cannot install those kinds of gadgets there. These are the people that are able to move around and put things in order. We also note that *wazee wa mtaa* may not necessarily be a council of elders because the council of elders is an organization that is registered and that is trying to keep things together. In Meru, we have the *Njuri Ncheke* who may not necessarily be working with the chiefs to keep order, but there is that linkage. Some of them may be working with the chiefs to provide security but they may also be members of the *Njuri Ncheke*. So that people may not confuse this – when it comes to anti-social activities in the villages like the brewing of local brews, these are the people who can know who brings the chemicals that are normally used.

Mr. Temporary Speaker, Sir, when we talked about establishing a fund, we could even give them something better, depending on what we can afford as a country. The minimum was Kshs2 billion per year, but we could raise it to Kshs4 billion. That means we could be talking about a honoraria of about Kshs5,000 per person or as low as Kshs2,000 depending on what we can afford. This is a group that can work very well in areas where we have the Kenya Police Reservists (KPR). The KPR could report to the village elder and monitor how the boys and the girls use the weapons that the Governors give them.

I beg to move.

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, this is not a County Motion. I will, therefore, put the Question.

*(Question put and agreed to)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Dr.) Machage: Hon. Senators, that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, Wednesday 2<sup>nd</sup> October, 2013 at 9.00 a.m.

The Senate rose at 6.12 p.m.