

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 18<sup>th</sup> June, 2014

*The Senate met at the County Hall,  
Parliament Buildings at 2.30 p.m.*

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

### PRAYERS

### STATEMENTS

#### GOVERNMENT POLICY ON PUBLIC SCHOOLS FEE STRUCTURE

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I stand here on behalf of Sen. Karaba to give a Statement on Government policy on public schools. This is a Statement that was sought by the Senator for Kirinyaga County, Sen. Karaba on 19<sup>th</sup> March 2014. The response is signed by the Cabinet Secretary, Prof. Kaimenyi.

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Zani! Who sought the Statement?

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, it was sought by Sen. Karaba when he was not the Chairman of this Committee. He is now the Chairman of this Committee. So, the answer is coming from the Committee to Sen. Karaba. Shall I go on?

**The Speaker** (Hon. Ethuro): That is a strange one but proceed.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, when he sought the Statement he was a Member of the Committee. Members of the Committee appreciated the weight of the subject matter because of its importance to the nation in terms of the policy on public school fees. Many schools over time have increased the levies and fees without adhering to the fees guidelines.

The Statement sought to find out, one, whether the Government was aware of this and whether it was doing anything to ensure that these guidelines are adhered to. So, Sen. Karaba requested for a Statement from the Chairperson of the Standing Committee on Education, Information and Technology, relating to the national Government policy on public school fees structure, with specific reference to the following:-

(a) Whether the Cabinet Secretary is aware that the guidelines provided by the Government on how much fees public schools should charge are not followed to the letter; and,

(b) What the Government is doing to ensure that the guidelines are adhered to in order to make education more accessible to all students countrywide.

Mr. Speaker, Sir, first, the Ministry is aware that some public secondary schools have not adhered to the guidelines provided by the Government on how much fees public schools should charge. The Ministry is also aware that the schools are charging fees above the Government guidelines after the approval by the parents' Annual General Meetings (AGMs) and Board of Management as provided for in the circular; Ref: MOEG1944 dated 8<sup>th</sup> August, 2009. This report is in the appendix. There are incidences where the fee is charged before the final approval and recommendations by the District Education Boards (DEBs) and the Ministry headquarters as stipulated in the circular cited above.

Secondly, there are a number of interventions that the Government has put in place to ensure that public secondary schools adhere to Government fees guidelines. In order to cushion the poor students and orphaned children against high cost of fees and extra levies charged in public secondary schools and to ensure compliance to Government fees guidelines by school management and heads, the current interventions are listed here below.

(a) A circular on school fees in public secondary schools; Ref: MOEDSTEGC Vol.3 of 7<sup>th</sup> February, 2014 was issued to County Directors of Education, Sub-county Directors of Education and all principals of public schools. This is also in Annex 4 of this report. The circular gives these instructions: Suspended forthwith, all extra levies and other levies approved by boards of management and Parents Teachers Associations for 2014. Schools are required to adhere to the policy of one project at a time. The cost of Kenya Secondary Schools Heads Association (KSHA) and other non-student based associations should not be loaded to the students. Banned all non-essential levies with immediate effect and all fees payable by parents to be spread in three terms to ease their financial burden. Informs institutions about the formation of the task force to review the unit cost of basic education in public schools in Kenya and that new fees structure will be released after the task force report is adopted.

(b) The Ministry constituted an inclusive task force with representation from the National Assembly, the Senate and all education stakeholders. The taskforce is mandated to review the unit cost of basic education in public secondary schools with reference to the terms of reference which are also included in Annex 5.

(c) The taskforce is expected to avail its report by 17<sup>th</sup> April, 2014 which will be used to inform the release of new fees structure for public schools. The new fees structure will be issued to all public and secondary schools. I would like to inform the House that as a Committee we managed to meet with this particular taskforce as it began its work. We were informed that the time has been extended for them, so that they can do proper survey and research and go across the various public schools and be able to tabulate the various figures and give adequate suggestions. So, that deadline of 17<sup>th</sup> April has actually been extended. That is the information that task force gave to us when we invited them as stakeholders to our Committee meeting.

(d) The Boards of Management and head teachers will be expected to stick to the fees structure guidelines, failure to which disciplinary action will be instituted for non-compliance.

(e) The Ministry has established County Education Boards (CEBs) in all the 47 counties to work in consultation with the National Education Board (NEB) in supervisory and advisory services in management of all basic education institutions.

(f) Enforcement of legal framework and Ministry policy guidelines on fees and other matters are now entrenched in the Kenya Constitution, 2010. The Basic Education Act, No.14 of 2013 and the policy.

These legal frameworks among others have provisions ensuring the right of every child to access education, provision of free education, obligation that the parents are to provide education to their children and penalties to the defaulters. Through these Statements, the Cabinet Secretary is aware and various modalities have been put into place to address this issue.

Thank you.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, in the Statement issued, the Cabinet Secretary is quoted to have said that the levies will be limited to only essential issues and avoid all non-essential services. Has he enumerated what he thinks are essential services and what he thinks are non-essential services? Is it not just a blanket allowance for schools to continue levying higher fees to parents?

**Sen. (Eng.) Muriuki:** Mr. Speaker, Sir, the fees which is charged by secondary schools has such a big variance. You will find that within the same area, whether it is a levy or whatever, you will find that there is such a big variance. Although this is a Statement coming from the Cabinet Secretary concerned, did the Committee delve into the matter and address this big variance that needs to be addressed on its own?

**Sen. Khaniri:** Mr. Speaker, Sir, I want to thank Sen. (Dr.) Zani for the Statement. You will agree with me that the cost of taking children even to public schools has skyrocketed and education is now not accessible to the poor. I know of public schools in my county that have a fees structure of 80,000 and above per year. These are public schools where we expect the Government to subsidize. I am not happy with the intervention the Ministry has taken telling us that they have issued circulars. I do not think that, that is good enough because these circulars are not obeyed by the principals and the administration of the schools.

Could Sen. (Dr.) Zani tell us how many cases have undergone disciplinary action because she has said that they have issued circulars and anybody not obeying them will face disciplinary action?

**Sen. Musila:** Mr. Speaker, Sir, I also want to thank Sen. (Dr.) Zani for the report that she has read to this House. The variance in school fees that has been alluded to by the two Senators is actually the reason students are unable to pay school fees. Recently we passed a Motion here requiring the Government to release certificates that have been withheld since 2006.

While welcoming the President's recent statement that very soon secondary school education will be free, could the distinguished Senator tell this House when the Motion passed by this Senate on releasing certificates withheld by principals will be implemented?

**Sen. Billow:** Mr. Speaker, Sir, I thank Sen. (Dr.) Zani for that Statement. The affordability of secondary education in this country has become a privilege. I agree with Sen. Musila that this Government would want to declare free secondary education by 2016. But in the interim, I know that in the Budget that was just read last week, there was an increase of 33 per cent in the amount of money that has been allocated for secondary school tuition. Could she explain how that will impact on the school fees structure of public schools?

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Zani, you can now respond to those questions.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, let me start with the last query on the 33 per cent increment for tuition levies and just start by being very specific that when the Statement was sought, it did not go directly into the implication of this 33 per cent increment on tuition. Therefore, we did not get a direct feedback for that information. But it is true that if that increment has been made, then it is important that, that is factored in, so that it can actually ease the burden. It is true that now in Kenya, the levels of education and the type of education are pre-determined by the social class because of the high fees that is charged.

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Zani! You are now being speculative. Either you know what the additional would do or you do not.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, I stand guided. As per now and as per the report and the Statement that was sought, we had not requested for that information. So, right away, I do not have that information.

On the issue of the release of certificates, again, that came as a Motion in this House. We said that those certificates should be released, but for this specific Statement, again, we did not ask that question directly. We actually implied that as a result of the high cost, certificates will not be given on time. We did not seek for a direct request on the same.

On the issue of the variance between the various types of schools, if I can allude to this from the information that is highlighted here, because from the report, there are terms of reference that have been given for a specific taskforce that was set up. For that specific taskforce, one of the things they were going to consider is to look at that specific variation and give us a feedback as to why that variation is there. The logic is that if certain schools can survive and are only charging Kshs.20,000, why would others have to charge Kshs80,000 for more or less the same type of education? So that is a matter that is being handled by the taskforce that is being chaired by Prof. Mwiria and in good time, I think they want to go into it in detail so that they can actually address these variations and rationalize all the levies and the fees. It is true that in this particular Statement, the whole idea of non-essential levies has been left floating.

With your indulgence, that is a matter we need to go and delve into as a Committee. This is where the gap really is. They will look at the so-called non-essential levies. For some they will term them as essential while for others, non-essential. That is what will create the variance and give certain schools the leeway to charge for what they will call essential levies which might be defined by other sectors as non-essential levies.

Thank you, Mr. Speaker, Sir.

**Sen. Billow:** Mr. Speaker, Sir, you have heard Sen. (Dr.) Zani's response to a question that I asked. When budgets are prepared, three or four months before that budget, policy statements are done which determine, based on the policy of a particular Ministry, how much resources are allocated. Before the Government decided on an increase of 33 per cent on the allocation for tuition to secondary schools, that policy must have been discussed and agreed on by the Ministry long before the question was answered. Whoever has given the answer should have known that there is the 33 per cent. In other words, the cost for public secondary schools should actually have gone down by a third because the Government will increase the allocation by one-third. Would I be in

order to request the Committee to find out whether that increase by one-third would actually result in a decrease in the fees by a third?

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, the sentiments that have been raised by Sen. Kerrow are very important. This is a matter that we, as the Committee, need to look into. He is right that, that 33 per cent in itself should be able to reduce the fees by a third. That is a specific policy that has been put in place by the Government to ease the burden. We will go back and query the issues to find out whether that has been implemented, to what extent and what the effects of that have been. Indeed, not only do we need to find out whether it has been applied, but also whether there has been a specific effect. We also need to know whether that specific effect can actually be seen within the various variances because we could have school fees, for example, at Alliance High School reducing, but still be substantially high. Of the 33 per cent, those who are paying 20 per cent when it is reduced by a third will go very low. But in terms of a comparative approach those, for example, in Alliance High School, will still be paying more. The intervention, in terms of education to ensure that the fees is actually across board, more or less distributed, will be important for us, as a Committee, to look into.

**The Speaker** (Hon. Ethuro): Sen. Khaniri, is it on the same or different matter?

**Sen. Khaniri:** On a different matter, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): I was wondering from the response of Sen. (Dr.) Zani whether she is working on the assumption. She has been misled by Sen. Kerrow that the numbers remain the same. It is also probable that may be the enrolment is higher and there are more schools. Those are all possibilities. Sen. (Dr.) Zani, find out and let the House know.

Sen. Khaniri, you may proceed.

**Sen. Khaniri:** Mr. Speaker, Sir, I rise to give a Statement that was sought by Sen. Mutula Kilonzo Jnr., the Senator for Makueni County and directed to the Committee on Land and Natural Resources.

Mr. Speaker, Sir, I note the Senator is not in the Chamber. I need your guidance on whether I should continue and give the Statement or we should wait for his presence.

**The Speaker** (Hon. Ethuro): We have established the practice of at least deferring the Statement to allow a Senator to be present so that he can interrogate the statement, unless he is persistently absent. For now, let us give him the benefit of doubt.

**Sen. Khaniri:** Most obliged, Mr. Speaker, Sir. However, I noted that in the previous Statement the questioner was not in and debate on it was allowed to go on. I know for sure Sen. Karaba attends the Senate religiously.

**The Speaker** (Hon. Ethuro): You were there when I made the same observation. A Member of the Committee, Sen. (Dr.) Zani, clarified that the Statement was sought by the Chairperson himself. Now that he is the Chairperson, it would have been inappropriate for him to present and interrogate the same. But they had taken a decision as a Committee that the issue is of such immense public interest. As you can see, almost the entire House made interventions.

Any other statement? Sen. Wako.

APPOINTMENT OF COMMISSIONERS TO THE GENDER  
AND HUMAN RIGHTS COMMISSION

**Sen. Wako:** Mr. Speaker, Sir, I rise in response to a Statement requested for by Sen. Billow on issues surrounding the appointment to the Gender and Human Rights Commission (GHRC). We were directed to get in touch with the Ministry of Devolution and obtain answers. We have part of the answer from the Ministry on their part. But on the key questions, they have said, and I agree with them, that we need to get the answers from the Office of the Attorney-General and the Department of Justice because according to Executive Order No.2 of 2013 that Commission falls under the office of the Attorney-General.

We have been in contact with the Public Service Commission (PSC) and the office of the Attorney-General. I expect to get an answer very shortly. So, I really want to tender my sincere regrets to my friend, Sen. Billow Kerrow, that I am not able to give him a full and comprehensive answer today until I get that information from the office of the Attorney-General. What has happened is that the panel was constituted, it carried out interviews and we have the dates of those interviews. But anything beyond that, is a matter for the office of the Attorney-General.

Mr. Speaker, Sir, I beg to request for more time. I hope my learned friend – sorry, he is not my learned friend, but my colleague will accept that we give the answer in two weeks.

**The Speaker** (Hon. Ethuro): Who sought the Statement?

**Sen. Wako:** Sen. Billow Kerrow.

**The Speaker** (Hon. Ethuro): Sen. Kerrow, what do you have to say?

**Sen. Billow:** Mr. Speaker, Sir, I thank the Attorney-General *Emeritus* for the suggestion that he has now got half the answer and he is looking for the other half. But I want to emphasize that I sought that Statement several months ago. It has taken too long and I do not want it to be overtaken by events. So, I would really appreciate if he could expedite it and get the response before the end of two weeks.

**Sen. Wako:** Mr. Speaker, Sir, we shall try to expedite with the office of the Attorney-General to give us a requisite answer as quickly as possible. I think they will co-operate. They have not given me cause not to co-operate. So, two weeks will be in order.

**The Speaker** (Hon. Ethuro): So, with the anticipated co-operation, you require two weeks?

**Sen. Wako:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Sen. Wako, I have a copy of the correspondence. This matter must have been raised in March. The response was sent to us by a letter dated 7<sup>th</sup> April, 2014. Today is 18<sup>th</sup> June, 2014.

**Sen. Wako:** Maybe I can---

**The Speaker** (Hon. Ethuro): You do not need to. I am just saying that there has been sufficient time between April and now; we are almost three weeks of June. That is a lot of time that you should have used to look for the remaining information.

**Sen. Wako:** Mr. Speaker, Sir, I want to agree with you. The letter says:-

“Request for information from the National Gender and Equality Commission (NGEC). Secondly, also request the Public Service Commission (PSC) to provide---”

There was a bit of delay there because we were chasing the wrong horses; the Commission itself and the PSC. It is only later we learnt that information should come from the office of the Attorney-General who submits the list to the President for signature. I agree there was a delay, but it is because of that confusion.

**The Speaker** (Hon. Ethuro): Let us have the statement in two weeks time.

Any other statement? That is the end of that Order.

Next Order!

## MOTIONS

### ADOPTION OF REPORT ON COUNTY OVERSIGHT AND NETWORKING ENGAGEMENTS IN THE COASTAL REGION

THAT, the Senate adopts the Report of the Standing Committee on Education, Information and Technology on the County Oversight and Networking Engagements (CONE to Lamu, Tana River, Kilifi, Mombasa and Kwale Counties on 29<sup>th</sup> August – 5<sup>th</sup> September, 2013 laid on the Table of the Senate on Thursday, 3<sup>rd</sup> April, 2014.

*(Sen. Boy Juma Boy on 11.6.2014)*

*(Resumption of Debate interrupted on 12.6.2014)*

**The Speaker** (Hon. Ethuro): Hon. Senators, this Motion had been exhausted. It was just awaiting the Mover to reply.

*(Sen. (Dr.) Zani stood up in her place)*

Sen. (Dr.) Zani, you seem to have acquired some new status that I am not aware of.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, on behalf of the Chair of the Committee on Education, I start by thanking the Members of the Senate for the enormous contributions that they have made. As we discussed this report, there was an agreement among the Members in the Senate that this was a comprehensive report that had delved into very key and critical issues in education, especially early childhood education which is a devolved function. Secondly, matters of education, especially at preliminary levels, have not been given the attention that they deserve. It, therefore, became necessary for us, as a Committee, to go round to the various counties to find out exactly what is happening. We need to establish the levels of ECDs in these specific counties and what the challenges are, so that we can begin to network with the various counties and levels of leadership within the counties.

Mr. Speaker, Sir, the Committee tried as much as possible to engage the various stakeholders at the county level, including the county governments themselves. We also visited various centres to see for ourselves what is happening, so that when recommendations are made, this is done from a very informed point of view.

The counties that were visited are from the Coast namely; Lamu, Tana River, Kilifi, Mombasa and Kwale. This initiative targeting coastal counties is important because we know for a long time that counties from the Coast in terms of education performance have not been able to exhibit the sort of excellence that they is found elsewhere. There is still a long way to go. Therefore, some of the recommendations in this report cut across, not only the counties that were visited, but also other counties, probably, also marginalized counties. This is very important.

Mr. Speaker, Sir, we wanted to find out the county priorities as far as education and ICT is concerned. Even as the events of Mpeketoni unfolded in Lamu County, the whole country was able to know what was happening very quickly because of ICT. The initiatives that can be used in ICT in the world today cannot be understated. Therefore, for us in this Committee, it is important to ensure that centres are well equipped, that computers are given to those centres, teachers are well trained and motivated and that they have been employed and remunerated in an adequate way.

We will continue to address some of these issues in our Committee through the ECD Bill that will shortly be presented to the House. This Bill delves into specific issues that are important. Issues of financial resources are key. They are essential for equitable development. The recommendations in this report are such that there should be equitable development.

We, as a Committee, also wanted to look at the process in the infrastructural development within the various counties. Indeed, in the long run we are looking at what we are calling the best classroom model for children between the ages of three and six so that as they go through this educational experience, they can enjoy, learn and understand what is happening.

Various challenges and recommendations have been given in the report because this report was discussed in detail in this House. I do not want to go again and discuss them afresh. But I will just mention them in way of passing and take on board the recommendations that were made by the various Senators who spoke to this report. Among the challenges are issues of poor pay, lack of support, especially for teachers at various levels, funding and low enrolment at the Coast. We should be able to investigate and look at the socio-cultural impediments that make parents not so keen to take their children to school, especially at the early formative years. It is well known that a good and firm foundation in early primary education is what will build a firm and good foundation for university and later levels of learning.

There is also the issue of training where we seek to know: Who is training these teachers? How is the training taking place? How is the posting being done? All these become very critical.

The report also delves into the issue of polytechnics. The fact that polytechnics are centres that act as transitions for those who might not make it to the universities and for technical education is key. It is important for us, as a Committee - and from the recommendations and the information that we were given on the Floor - that polytechnics are built up. We want our people to get the technical skills. We also want to see these polytechnics capacitated so that they are able to deliver.

Another key area that came from the discussions is that of a development of a national curriculum. Most of the time we have various curriculums and there has been no effort to synthesize so that it is clear what sort of curriculum we are given. Indeed, there

have been suggestions that, maybe, various counties should have different curriculums. The idea of introducing mother tongue education has also been discussed. Therefore, we need policy guidance. We need to find a way to ensure that we have proper curriculum development and how to move forward.

Mr. Speaker, Sir, there is also the issue of investing in feeding programmes, especially for children from poverty stricken areas because this acts as an incentive for them to come back to school. Last but not least, there is the issue of recruitment and remuneration for the teachers, so that they can be encouraged to proceed.

Mr. Speaker, Sir, once again, I would like to thank the Senate and the Committee for the work that we have done. I, therefore, beg to move that the Report from the Committee on Education,

Information and Technology on the County Oversight and Networking Engagement (CONE) to Lamu, Tana River, Kilifi, Mombasa and Kwale Counties be adopted.

Mr. Speaker, Sir, since we do not have the sufficient numbers in the House at the moment to vote on this Report, I request under Standing Order No.54 (3) that we defer the voting to a later date when we have the requisite numbers.

**The Speaker** (Hon. Ethuro): Order, Senators! My reading of this is that this is really a Report of a Committee of the House to the House. The House membership has delegations. So, I do not really think that it is a matter affecting counties.

*(The Speaker consulted with the Clerk-at-the-Table)*

I, therefore, wish to put the Question and, again, say that this is not a matter affecting counties.

*(Question put and agreed to)*

TRANSFORMATION OF NAIROBI INSPECTORATE  
DEPARTMENT INTO A MODERN METROPOLITAN  
SECURITY AGENCY

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to move the following Motion in an amended form:-

THAT, aware that pursuant to Article 6(2)---

**The Speaker** (Hon. Ethuro): Order, Senator! Cite the relevant Standing Order, particularly being a Professor of Law.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, thank you for the kind reminder.

Mr. Speaker, Sir, I beg to move the following Motion in an amended form, in accordance with Standing Order No.49, which allows this to happen with the leave of the Speaker, and the Speaker having satisfied himself that the amendment does not alter the substance of the Motion in a material way. I have already shared this with you---

**The Speaker** (Hon. Ethuro): Proceed!

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to move the following Motion in an amended form:-

THAT, aware that pursuant to Article 6(2) of the Constitution, the national and county levels of government are distinct and interdependent and that they may conduct their mutual relations on the basis of consultation and co-operation; recognizing that the respective functions and powers of national and county governments are provided for in Article 186 and the Fourth Schedule of the Constitution, and that under paragraphs 6 and 7 of Part 1 of the Fourth Schedule, national security is a function of the national government; further recognizing that Article 187 of the Constitution provides for the transfer of functions and powers from one level of government to the other; cognizant that Nairobi City is the main gateway to Kenya; concerned, however, that the threat of terrorism continues to be a major challenge to Nairobi City and the country at large which adversely affects Kenya's image internationally and hampers investment; recognizing that Article 247 of the Constitution allows for establishment of police formations to supplement the National Police Service; the Senate urges the national government to-

(a) enter into agreement with the County Government of Nairobi with a view to transforming its City Inspectorate Department into a modern metropolitan security agency, capable of detecting and combating criminal activities; and,

(b) initiate legislation to provide for a legal framework for the complementary roles of the proposed Nairobi Metropolitan Security Agency to supplement the role of the National Security Agencies in Nairobi and its environs.

Mr. Speaker, Sir, Nairobi City is one of the few modern cities that are still struggling with serious issues around law and order. This Motion is about relooking at how the County Government of Nairobi can participate and supplement what the national Government police authorities are doing in this city, so that we can make Nairobi safer and more secure, and build confidence among the people who live and visit Nairobi; whether Kenyans or foreign nationals. This will give them confidence that Nairobi is a hub for business investment and as a gateway to the Republic of Kenya, it is a city where people can thrive, live and do business.

Mr. Speaker, Sir, let me start with the constitutional arrangement at the moment. The function of national security is squarely within the national Government. If you will allow me, just for clarity, if you look at the Fourth Schedule, you will find three categories of functions and how they are allocated. The functions are allocated in three categories. The first category is what we call exclusive functions or jurisdiction, where some functions are exclusively vested in one level of government. An example of a function which is exclusive to one level of government is national security, which is vested exclusively in the national Government.

Mr. Speaker, Sir, there are other types; namely, functions that are concurrent. For example, education is concurrent because Early Childhood Development (ECD) education is vested in the county governments and the rest of the education is vested in the national Government. Much of agriculture is devolved to counties, but the agricultural policy is vested in the national Government. There is also the health function and the like, which is concurrent.

Mr. Speaker, Sir, finally, there is the residue functions. The Constitution says that residue functions are functions that are not provided for in the Fourth Schedule. Therefore, it is important for us, as we even continue interacting with the new Constitution, to understand that the functions in the Fourth Schedule are not supposed to be exhaustive. The Constitution says that if there are other functions that have not been captured in the Fourth Schedule, those functions will rest in the national Government. So, we are talking about national security which is an exclusive function to the national Government.

Mr. Speaker, Sir, the second point in terms of laying the constitutional background of this Motion is Articles 186 and 187 of the Constitution. These two articles allow the transfer of functions or the sharing of the delivery of functions between the two levels of government. The fact that a function is exclusive, say, to the county governments, does not mean that the national Government cannot help the county governments to deliver those functions and vice-versa. Those who framed the Constitution anticipated a situation where in certain circumstances, a function that is exclusive to one level can still be undertaken by another level, either jointly with the level donating or even exclusively, but subject to an intergovernmental agreement first, which is provided for in Articles 186 and 187 of the Constitution.

For instance, for purposes of being efficient, it is deemed that the level vested with that function cannot deliver that service to the citizens of Kenya efficiently. They can co-operate with another level through an intergovernmental arrangement, for purposes of efficiency and which level is able to give impetus to the appropriate delivery of that function.

Mr. Speaker, Sir, the other constitutional benchmark is Article 6 (2) of the Constitution, which to me, as we roll out devolution, will remain a very critical provision of this Constitution. Allow me just to read Article 6 (2) of the Constitution. It says:-

“The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and co-operation.”

Mr. Speaker, Sir, this is very important. We have seen instances where there has been a lot of emphasis on the distinctiveness of the two levels of government, at the expense of the requirement of the Constitution to consult and co-operate. So, this is the basis of this Motion. In matters of the police, at the moment, it is possible actually to create even additional police agencies, just to set the record straight. You will get that in Article 247, which says:-

“Parliament may enact legislation establishing other police services under the supervision of the National Police Service and the command of the Inspector-General of the Service.”

So, you can have other police services, but by legislation. This Motion, in the second prayer, is asking for a process where that legislation can be developed to assist Nairobi County. Why Nairobi County? First, this is the hub and capital of Kenya.

Mr. Speaker, Sir, secondly, Nairobi is facing serious security and law and order threats. Thirdly, 60 per cent of Kenya's Gross Domestic Product (GDP) is about Nairobi. It is the home to international diplomatic and political organizations. It is the gateway to our country.

Mr. Speaker, Sir, finally, as I speak, the Inspectorate Department of Nairobi County is already performing almost policing activities. They arrest people all over town and even have a court. But this department is archaic and analog. The officers have no training or curriculum. They just grab people from the streets and drag them to some kangaroo courts, which I am told, sometimes are inside pick-ups. We want a modern service that is uniformed, trained and disciplined, with a curriculum to supplement what the National Police Service is doing.

Mr. Speaker, Sir, here, two things come out clearly. First, there will be need for a law. Secondly, there will be need for an intergovernmental arrangement. So, this Motion is just to start that dialogue, so that we can assist Nairobi to become like other modern cities, like London and Antwerp. All the major cities have metropolitan police. But what must be emphasized is the need to subsume the operations of this proposed Nairobi Metropolitan Police Agency to the authority and command of the Inspector General of Police, in accordance with the Constitution. So, we are not helping the Governor of Nairobi to have his own police unit. The county government can only supplement whoever they appoint.

For example, I am told right now that the Governor of Nairobi County has appointed some former police officer to head the City Inspectorate Department. Even if that department is upgraded to a metropolitan police service, that person appointed by the Governor must remain under the command and instructions of the Inspector General, for the purposes of satisfying the Constitutional requirements.

Mr. Speaker, Sir, without much ado, I think that this is a straightforward Motion. It is justified under the Constitution. We know that it is sensitive, but I think that Nairobi is a unique city and we have to modernize and make it the city that we want it to become. Therefore, we must go towards the direction that has been taken by other countries.

Mr. Speaker, Sir, with those many remarks, I beg to move this Motion and, in the spirit of working together across parties, which is important at an hour like this one in our nation, ask in a very rare move, the Senator for Homa Bay County, Sen. Otieno Kajwang, to second it.

**Sen. Kajwang:** Thank you, Mr. Speaker, Sir. I note those words; “rare.” I am here to support this Motion because it is timely. Nairobi, being a metropolitan City – and I think until the new Constitution was promulgated, it was the only city in the country – now needs special attention, especially on security. It needs special attention because you cannot walk on these streets, especially beyond Tom Mboya Street, without being mugged. In fact, just to emphasize, I was a victim recently. I was actually driving along Waiyaki Way and I slowed down to pick my phone. Of course, I was making a mistake to pick my phone, but I did not know that my window was halfway down. Somebody just grabbed it and ran away with it.

It seems like everywhere you walk in Nairobi, if you meet three people, two of them are thieves. We are living in a very bad environment. In fact, if you went abroad and you met a similar situation – that you were walking on the street, talking to your phone and somebody grabbed it – I do not think you would want to go back to that country again. In fact, it leaves a very bad taste in your mouth. What kind of country is this? But unfortunately, that is how Nairobi is known. Other countries are known because if you take your hand out of the window of a plane and it is too hot, then you know you are nearing Egypt; if it is too cold, then you know that this must be Europe. But if you are

wearing your watch and you put your hand out of the window and your watch is grabbed, then you know you are nearing Nairobi.

*(Laughter)*

That is the kind of life we are leading and we must live with this situation somehow.

I think our police force is over stretched, both in numbers and equipment. We must find another way; we have to be very creative. I want to thank the professor for being very creative by bringing up this Motion, preparing us for a Bill that will eventually make this possible.

Mr. Speaker, Sir, Nairobi has what I will now call “old crime.” These are burglary, mugging, theft, robbery, rape, pilfering and all those kind of things. But there is also the new crime that is terrorism, which we must also deal with. I know that to deal with terrorism, we will rely more on intelligence than on brute force. The people who work for Nairobi City as of now are people who have worked in this city for a long time; they know their city very well, they know the people in this city better than we do and they transact with them on a daily basis. I think if co-opted into helping the national police in doing some of the things that the police are grappling with, they could do it better. They only need equipment, training and help that will make them deal with the level of crime in our city. In fact, so many people want to visit our country, but only if we could reduce the level of all these bad things that I have talked about.

I was in Mombasa two or three days ago. I saw many hotels are without even one *Mzungu*. I was in Nyali Beach because I like it. It is near to the town centre, but there was not even one *Mzungu*. The swimming pool did not have anybody and the weather was very good for swimming. I can tell you that when I went for breakfast, we were only four of us in a hotel where you would normally look for space to get a table to take your breakfast. If we are not careful, crime will destroy our institutions and our businesses. I think this sharing of functions is the best way forward.

Mr. Speaker, Sir, in other countries, the cities themselves actually elect their own police bosses. They do not even select, they elect. Even what they call the attorney is also elected. In five years, you know you are facing an election again, so you do your best to reduce crime because that is your job. Make sure that you deal with all kind of crime and we will elect you again. They work very well to make sure that they get the confidence of the people that they work for. In fact, in our own thinking at the time we were doing the Constitution, we knew that the national security will be an exclusive function of the national Government; but we also knew that the national Government will use the good offices that it has to incorporate as much as possible the local institutions. We knew that other than the cities, at the local level, they would incorporate the Governors into the security arrangement; not so that the Governor becomes a security boss and starts threatening the national Government. They do not have that capacity. However, we can use them because they have the local support and networks to deal with security issues.

Mr. Speaker, Sir, I want to share all the things that Sen. (Prof.) Kindiki has mentioned without having to go into each one of them. The national Government will, of course, be donating some power that they already have under the Constitution. When they do donate, in fact, they could even donate personnel. They could very well say the Commander of the Nairobi Metropolitan Police will be donated by the Inspector-General

to help them organize. They could even work together. That is what we miss. They are efficient in harassing and arresting hawkers. I have gone to the court there so many times to defend clients who were taken there for many reasons, including parking in the wrong place when your car has been towed. I have even seen them towing a car when the owner was inside his car. The fellow was braking saying "I am not going anywhere". They towed him until the tyres were smoking.

*(Laughter)*

They are very enthusiastic. If only their energies and capacities were harnessed for the good of the country, we would have a better environment in which to do many types of businesses.

Mr. Speaker, Sir, I know I do not have a lot of time, but I can say that in the countries where we have gone, sometimes there are not enough people to become police officers because they are aging and because some of them do not choose that job and they are looking for people to employ, but they cannot find such people. In Kenya, I think we have more people who are looking for this job. It is just that the jobs are not there. I think the city has sufficient resources to pay these people. They are already paying them, giving them very good uniforms and so on.

*(Laughter)*

I noticed that Mombasa City had very good uniforms. I can also confess that there were very young and beautiful ladies; I do not know where they recruited them from. But that gives the city a very good face. Those who visit and look at that uniform and the discipline which they have, it gives you an idea that this county looks after its interest and that it is serious with the business they are doing.

Mr. Speaker, Sir, I support, except to say that I wish we could replicate this all over the country. We should replicate this in Mombasa, Nakuru, Kisumu and Eldoret towns. At least we can start this in our big cities and see how it goes. We should at the same time urge the national Government to see how they can co-operate with the county governments in security up to the village level so that we can reduce the amount of insecurity that we are experiencing in this country. Nairobi is known for very bad reasons; it is an insecure capital. In fact, most international organizations have been threatening to leave. Were it not for the good rapport they had with the former President, some of them would have left long time ago. We even had to create another police wing, called the Diplomatic Police Unit, to take care of the diplomats in the areas where they live. I think we can do this for our city and benefit a lot.

Mr. Speaker, Sir, I beg to second.

*(Question proposed)*

**The Speaker** (Hon. Ethuro): Order, Senators! Before we proceed with that Motion, I would like to interrupt it a bit with a communication.

## COMMUNICATION FROM THE CHAIR

DEMISE OF HON. GEN. (RTD.) JACKSON  
KIMEU MULINGE

**The Speaker** (Hon. Ethuro): Hon. Senators, it is with a heavy heart that I regret to announce the death of a distinguished Kenyan, an elder statesman and a patriot, hon. Gen. (Rtd.) Jackson Kimeu Mulinge, which took place on Sunday, 15<sup>th</sup> June, 2014. The late hon. Gen. (Rtd.) Jackson Kimeu Mulinge was born in Kathiani, Machakos County, in 1924. He attended AIM School, Mumbuni in Machakos, then joined the military and began serving his country in 1942. He was granted commission as an officer in the Kings African Rifles (KAR) in 1961. In 1963, he was appointed commanding officer, Third Kenya Rifles. The General rose through the ranks to become commander of the Kenya Army in 1969 and later in 1971, the first Chief of General Staff (CGS) of the Kenya Armed Forces. He was the first to become a full star General in Kenya and the first full star General to hold this position previously occupied by a Major General.

Hon. Senators, you will all recall that Kenyans remember him fondly and with tide and gratitude for thwarting the 1982 coup attempt at a time when the military coups were devolved in Africa. This ensured that our country remained a democracy up to the present. He retired honorably from the military in July, 1986, after 44 years of exemplary service. Thereafter, he was appointed as the Chairman of the Kenya Railways; then the Chairman of the Kenya Meat Commission (KMC), after which time he ran successfully for elective politics, becoming the Member of Parliament (MP) for Kathiani Constituency in post 1992 multi party elections. He was thereafter appointed to serve as the Minister for Lands and later, he also served as the Minister for Health.

Hon. Senators, you may wish to note that when he retired from politics, he went full time into business, both in real estate and in farming and ranching. His legacy is that of a distinguished Kenyan; a man who tried his best to be incorruptible, and he helped countless people to get education and to find employment. Despite all his achievements, he remained a humble man with a common touch until the very end.

He will always be remembered for his development record, particularly in Kathiani and also in the greater Ukambani region. His demise, therefore, is not only the loss of his family and to the County of Machakos, but to the entire Republic.

Hon. Senators, may I, therefore, on your behalf and on my own behalf, take this opportunity to convey our sincere condolences to the family, relatives and friends of the departed, hon. Gen. (Rtd.) Jackson Kimeu Mulinge, and to express our gratitude at the selfless service rendered to the people of Kenya. Indeed, he was one of a kind; the best of a kind. May God rest his soul in eternal peace.

Hon. Senators, let us observe a minute of silence.

*(Hon. Senators stood up and observed  
a minute of silence)*

Amen.  
Thank you.

**Sen. Musila:** Thank you, Mr. Speaker, Sir. I wish to stand for a few minutes to really thank you for the tribute that you have paid to this gallant son of Kenya, the late hon. Gen. (Rtd.) Jackson Kimeu Mulinge, now departed.

Mr. Speaker, Sir, as you have eloquently stated, the late hon. Gen. (Rtd.) Jackson Kimeu Mulinge served this nation with a lot of loyalty and dedication. He gave very loyal service and it is really instructive to know that he joined the service in 1942, just a year before I was born, and served for 44 years.

Mr. Speaker, Sir, in today's Daily Nation, the heading says the following about hon. Gen. (Rtd.) Jackson Kimeu Mulinge: "Mulinge loved playing by the rules." I think that is the most important statement that can be made of this man. The only assertion that I disagreed with – and I would like to take this opportunity to correct – is this statement and I quote:-

"Decisions by Mulinge were sometimes hamstrung by his lack of formal education, that made him rely on other officers."

Mr. Speaker, Sir, I think that was very unkind for hon. Gen. (Rtd.) Jackson Kimeu Mulinge, who rose to be the first African four-star General commanding our defense forces. For your information, hon. Gen. (Rtd.) Jackson Kimeu Mulinge was a self educated man; he spoke very fluent English; he was very intelligent and no one with that kind of description described here could have risen to the rank of a four-star General.

Mr. Speaker, Sir, let me conclude by emphasizing one point you have said; that hon. Gen. (Rtd.) Jackson Kimeu Mulinge was commanding the Army and the Defence Forces when other countries in Africa were falling to coups, and he stood very firm. He was very loyal to Mzee Kenyatta as his Commander in Chief. Later, he became the Chief of General Staff (CGS) under President Moi and he was very loyal. You have just stated that in August, 1982, when elements of the Air Force tried to take over Government by force, he stood firm and he took his loyal friend, Gen. Mohamud Mohamed, and ordered him to go to Kenya Broadcasting Corporation (KBC), storm that place and I think that is the reason we are here today.

*(Applause)*

Mr. Speaker, Sir, I want to join you and other Kenyans in paying glowing tribute to this son of Kenya. Maybe we, as politicians, because he also became a very successful politician, should also learn something from hon. Gen. (Rtd.) Jackson Kimeu Mulinge. I hope that even the men in uniform will learn to be loyal to this country. This is because it is through loyalty that we are where we are.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): If you all can be brief like Sen. Musila or even better, then it will be good.

**Sen. Mugo:** Mr. Speaker, Sir, I also want to join you and other Members in sending condolences to the family of the late General, to the people of Kathiani, Machakos County and the entire country because he served all of us. This is a gallant son of Kenya who was loyal. I had the honour and privilege of meeting him when he was holding that position and he, indeed, felt a Kenyan; he protected Kenya. He protected Kenya against a coup in this country which would have brought misery in this country.

So, he is a good example and a gallant son of this country and may God rest his soul in eternal peace.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I join other Kenyans to mourn the late Gen. Mulinge, a great son of Kenya who, sadly, has left us at a time when we are grappling with the security and stability of our nation.

I want to celebrate the great things and the heroic work that Gen. Mulinge did together with his colleagues in the service of our nation. I just want to recall as others have done, that in 1982 possibly, without Gen. Mulinge and Gen. Mohamud Mohamed, Kenya today would be in tatters. However, because of his self-less service to the nation and his discipline as a military man, they stood firm and defended the country.

As we mourn the departed general, perhaps, as a nation, this is the time that we want to call upon all of us to be patriotic and to contribute to the solutions of the problems that the country is facing today.

Mr. Speaker, Sir, without much ado, I also condole with the family and Kenyans at large at the loss of Gen. Mulinge and may God rest his soul in eternal peace.

**Sen. (Dr.) Machage:** Bw. Spika, kwa niaba yangu mwenyewe na wananchi wa Migori County, ninatuma rambirambi zetu kwa familia na marafiki wa huyu Gen. Mulinge ambaye alikuwa mcheshi, mzalendo na aliyependwa na watu nchini. Kazi yake ilidhihirika na uwezo wake ulionekana kwa kazi aliyopewa. Si wengi wetu walio kama yeye alivyokuwa wakati wa uhai wake. Lakini pia tunamshukuru Mungu kwamba aliishi miaka mingi. Umri wake si jambo la kawaida kwa wengi nchini. Hata kama tunalia na kutoa machozi, pia ni lazima tusherehekee maisha marefu aliyopewa na Mwenyezi Mungu huyo mzalendo wa nchi ya Kenya. Tukubali yaliyotendeka na kumshukuru Mungu kwa maisha yake.

Asante, Bw. Spika.

**Sen. Kittony:** Mr. Speaker, Sir, I also join my colleagues in sending my heartfelt condolences to the family of our departed friend and father Gen. Mulinge. I knew him personally. He loved this country and he was a selfless man. He always put the country first. His story will tell itself because he saved this country. He did not put himself first. He averted two attempted coups because he was not greedy. I only wish others can emulate such good character of the general that we have lost. He also molded the army to the status that we are proud of today. That is why our Kenya Defence Force (KDF) is excelling in Somalia. So, his hand is there. We do appreciate all the good things that he did. I do remember very well that his friend, the second President of Kenya, would say all the time that Gen. Mulinge is a very good man. Indeed, we have lost a very good man and may God rest his soul in eternal peace.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I wish to thank you for giving me the opportunity to join my colleagues and friends in mourning the passing on of a patriot, the late Gen. Mulinge, a former Member of Parliament and a person who served this nation selflessly. I listened to my friend and colleague, Sen. Musila giving his message of condolence. I would like to reiterate and adopt in full what he has said because, obviously, he was talking as a person who knows him very well. On my own behalf and on behalf of the people of the County of Murang'a, I also wish to send my message of condolences to the family, relatives and friends of the late general.

Mr. Speaker, Sir, let me add that when you read about people like Gen. Mulinge, and I did not know him personally although I had the fortune of knowing his son who is a

good friend of mine and what I see in his son is what was in his father, then I can truly talk of a great person. It is people like Gen. Mulinge who make us realize the meaning of patriotism, the meaning of love for God and country. The meaning of playing by the rules as was stated in the *Daily Nation* newspaper today and the need to put the nation and the country always first before self.

Without making it a cliché, it is unfortunate that we do not have many people like that in this country today. Today we have people who think about themselves first and the nation second even when they are public servants. It is my prayer and wish that even as I pray that his soul rests in peace, that this country again uses this opportunity as a learning curve of what it means to work for a country, to love a nation and to be selfless when you are working for the country.

Thank you.

**Sen. Murkomen:** Mr. Speaker, Sir, I stand here to pass my condolences to the family and relatives of Gen. Mulinge. I did not know him personally, but I studied him in geography, history and civics in primary school. What I strongly remember about Gen. Mulinge is his love for the country, particularly his personal sacrifice for the greater good. If there is something that will always be remembered about him, it is the fact that he stood firm in 1982 when the country was facing its greatest challenge in terms of a coup. That is a man who teaches all of us that you do not always have to act for personal interest, but for the greater good of the country. There is something that always pains me; that is history. If you travel to all countries of the world, you will see they have documented their history. About one month ago, I was in China. They have documented their history. If you go to Nanjing, you will find the history about the inversion of the Japanese in China. So, there is a clear history of what happened, how many people died, where did they come from, who helped, what tribunal was formed, who was punished, who was the judge in that tribunal and so forth.

Mr. Speaker, sir, in this country, we have left our history to oral literature so that it depends on whether Sen. Musila is able to give a proper account about Gen. Mulinge or something like that. So, the history of this country is not good because we have not documented properly what great men and women have done for this country. The reason we are still divided on tribal, ethnic, and gender grounds is because we have not really found historical facts or situations captured so well that they can teach a child that Tom Mboya, when he was a Member of Parliament in Nairobi was elected by all tribes and acted for the interest of the whole country. What Gen. Mulinge did was to protect the whole nation. Can you imagine if the 1982 coup had succeeded? Perhaps, we could be having a different history. Maybe I would not even be here. Most of us would not have had a chance to be here.

Mr. Speaker, Sir, I want us, as a House, at an opportune time, using our county governments to have a law that requires that every county government documents historical facts that happened. A museum is a function of county governments. We should recognize heroes who come from those county governments. Perhaps, in the past, our history was written in a skewed manner so that certain people who did great things in Turkana are never remembered unless you are within a hundred metres radius from Nairobi. So, it is important that we ensure that our history is documented well. The county governments should use the function of museums so that we have a sport museum in Elgeyo-Marakwet County. Great sportsmen from that county should be recognized.

We have great military men like Gen. Mulinge. This is something that can be remembered by Machakos County. They should have something. They should even construct a road or construct a particular entity and call it Gen. Mulinge Road, Gen. Mulinge Museum or Gen. Mulinge Institute and so on. This is the only way the youth of this country can remember our history.

With those few remarks, I want to, once again, send condolences and ask Kenyans, especially we, politicians, that at such a time - when we celebrate a man who sacrificed his life to ensure that this country is together, we should be united. We should avoid divisive political statements and find a way of uniting the country even in the face of serious attack on our security.

**Sen. G. G. Kariuki:** Mr. Speaker, Sir, first, I want to send my condolences to the family of Gen. Mulinge and the people of Ukambani for the loss of a great man. I did not work with him for a long time, but the little time I knew him, he was a man of his word. During the coup, I was very close to him and saw how the Government was reorganized. One thing I continue remembering is when after Kenyatta's death, he waited until 2.00 p.m. before pronouncing a new President. Gen. Mulinge came and asked us "suppose another person declares himself the president because I have taken too long to swear in the Vice-President" That showed that he was a man of wisdom. I worked with him and even when I came to disagree with the system at that time, he refused to join those who were trying to find mistakes in me.

I remember that some 36 armed forces men and women came to my office. They wanted me to give them shambas. I was so lucky to ask them to go and get a letter from Gen. Mulinge. If Gen. Mulinge had not issued a small note, it was going to confirm that I was going to take over the Government because it meant that I was organizing some armed forces or military to take over the Government.

Those were the days when anybody could say anything and it will remain the truth. Gen. Mulinge remained level headed; a man of his word, a man who did not fear to tell Moi when things were not good in the army. He would tell Moi that the majors and captains in the army were not happy. We survived at that time because of him. He was very genuine and was liked by other people who worked with him.

I do not think Mulinge knew about tribalism. These were the people who went to fight the World War II and had been trained. So, they did not have any idea of tribalism. When he took over the leadership of the army, he was taking over from another general who had a little bit misbehaved because he thought he could have taken over the Government. Gen. Mulinge came up and said that as long as he was in charge, the country should be stable. If there is any other problem to face this country, then it would not come from the army.

Mr. Speaker, Sir, in 1982 during the coup - a human being can err at times because the report was that--- I was in the security department. The report was that there was going to be a *coup de tat* and I kept on informing the system. The mistake we did is that the military sent all our people for training in western Kenya. They sent about 15,000 soldiers. The guys who were trying to take over and were known very well, realized that they had already told other people to come back, so that they could be arrested. The mistake we made at that time was to trivialize that matter. The general did not understand how, somebody in Laikipia base, by the name of Ochuka, a young fellow who was frustrated and had no money, nobody could understand that he can organize those things.

That is why I am saying that when we are talking here about the security of the country, a small thing can ignite a war; a problem that none of us can control.

Mr. Speaker, Sir, I want to thank the Speaker for catching my eyes because I thought I would not talk because my throat is not well. I thank you.

**The Speaker:** (Hon. Ethuro): That marks the end of that intervention.

*(Resumption of Debate on the Motion)*

**Sen. Elachi:** Thank you, Mr. Speaker, Sir. I also stand to support and to thank the Mover of the Motion. We know that at the moment, in our country, we are facing many challenges in terms of security. Today, even within the county governments, the governors are also wondering how they can assist since this is a national function. However, they would wish to assist because the people who are dying are within counties. When we talk about security, it is important to remember that this is not about us, but about the whole country. Both leaders of the national and those of the county governments should make a formal commitment in terms of cooperation and issues of security.

If you look at the challenges that Mombasa and Nairobi counties are facing today, indeed, you will see that they need metropolitan police to assist. The police should assist in terms of ensuring intelligence information and creating domestic structures. They should ensure that they work together with the national Government in dealing with crime. The crime rate is escalating and becoming high-tech. We want to see a metropolitan security agency that can facilitate communication, coordinate and even integrate what they have in terms of supporting the other security agencies.

Mr. Speaker, Sir, a few minutes ago, our friend and colleague, the Senator for Homa Bay County, talked about how he was robbed of his phone. As you walk on the streets of Nairobi, you will not just worry about the person who will mug you, but also about the street families that have come back. You will also wonder how you can support that initiative so that we have a safer environment. The first question you may need to ask yourself is where the street families come from and what challenges they face. In the end, they are the ones who end up coordinating with muggers. Your phone is taken and given to a woman who is walking in the streets with a baby. You will think that this are poor women carrying babies in the streets and even assist them. However, these people work together. We want to see Nairobi coming up with more of these Motions. We also want to see the Nairobi County Government trying to deal with the challenges we are facing in terms of street families. How do we support these families and how do we ensure that we remove them from the streets?

During the times of Uncle Moody as the Vice President and Minister for Home Affairs, he tried his best to remove these families from the streets. He was strict and firm. He told them to go back to their homes. He warned that if he found any child on the streets, that child would have to take him to their home, where the family lived or to the chief. He wanted to know what challenges the young children were facing and why some of them were being taken through child labour.

Any time we have the national celebrations, you will see the *askaris* of county governments, especially those of Nairobi County dressed very smartly. They are good and well trained to do this job. The only challenge we all have is the corruption we talk

about from our homes to the institutions. This is a challenge to all Kenyans. This is a challenge even to them in terms of performance.

Today, you will find that we have parking lots in Nairobi. Within the same parking lots, we have young boys whom I would wish to continue doing their jobs, but in a proper manner. They should be taken for training. They should also be given uniform so that they are well identified. It is good to see that you are leaving your car with someone who can properly be identified. It is true that they need something for their families, at the end of the day. However, most of the time, these young men are drunk. They are the ones who coordinate with the people who cause insecurity. For you to be satisfied that you have left your car at a safe ground, you end up paying the council guy and this other person as well. Either way, your car is still not safe. If we want to see a proper system, we must have the metropolitan agencies assisting in security matters.

We hope that the Nairobi County Assembly will look into this broadly and see it as a challenge within the county. They should bring a legislation that will guide the operations of the county; not just within the Central Business District (CBD), but in all the areas. They forget that everyone wants to go to Kirinyaga Road. We would also like to walk all the way to Kariokor Market.

It is upon them to see how they will support the Governor to have a structured and good system to allow the national Government to come in; to ensure that there is an intelligence service that is taking care and protecting Nairobians within the town and its environs. We have the same challenge in Waiyaki Way and in Kibera, Kangemi, Muthurwa, Buruburu, Kayole and many other areas. We want to see an environment that is safe. Everyone should know their neighbour. As we talk about *The Nyumba Kumi* Initiative at the national level, I would like the county governments to come out and say that they can do it even better at their level.

Today, if Lamu had a metropolitan police, maybe they would have had a different way of dealing with the issue we are facing now. However, since we are only relying on the national Government where our officers are compromised, we end up facing those challenges. If we had a county metropolitan police service, made up of people who know one another, then we would have done a better job. They would have known the enemies within them; even those who have brought the enemies. Who brings enemies? It is those who know them around an area. This is not just about Nairobi or Mombasa. We need this to happen in all counties.

It is time that the national Government thought about how County Commissioners can work without having conflicts with the Governors. This is something over which they need to sit at a round table and agree on. They should see that security is not just for a certain group, but for all of us. If there is a governor in place, let him be part of the solutions of the security within his county.

As we talk about Nairobi and Mombasa cities, I urge all governors sit down with their County Commissioners to see how best they can work for the benefit of not just security, but for a safe and good environment which will also enhance economic growth, order and respect.

I support and say that this should move on to become a serious Bill of Legislation that will be replicated in all the 47 counties. I support.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir for giving me this opportunity. From the outset, I support and congratulate Sen. (Prof.) Kindiki for bringing this Motion.

This Motion talks about issues that are dear to us, as Senators. The issue of security is dear to us. Currently, we are seeking solutions to these issues of security. We have been trying to integrate national Government and county governments, so that they address this problem. This is not a problem that only affects Nairobi County. It also affects many other counties like Mombasa, Kwale, Mandera, Wajir and many others. In the amendment, we are concentrating on Nairobi County. However, as I make my contributions, I would like to say that the initiatives need to trickle down, even if not immediately, to all other counties.

In Nairobi, the problem of insecurity is well known. Many people leave their homes and are not sure whether they will go back. We have seen what terrorism has done both in Nairobi and Mombasa. The hotels in Mombasa are completely empty. Tourists have left this country as a result of insecurity. Therefore, this is something that is very dear to us as Senators. This is something that we should talk about and change.

The initiative of cooperation and harmony between the national Government and county governments is something that we need to emphasize over and over again because it is mandated by the Constitution. The Constitution allows the national Government to transfer some functions to county governments if it feels they can be effectively carried at that level. This initiative should also be put in place.

Indeed, it is important that we begin to look at legislation because many counties have already gone ahead to source different metropolitan police institutions within the counties. This has come as a result of a response mechanism. Many governors in those counties have found themselves in a situation where even Members of the County Assemblies are asking what they can do about the problems in the counties. Many governors have, therefore, naturally responded by ensuring that the security is enhanced. It is important, therefore, that we legislate across this as Sen. (Prof.) Kindiki has suggested. This is supported by Article 186(4).

“For greater certainty, Parliament may legislate for the republic on any of these matters.”

Therefore, it is important to formulate a policy through legislation. A sense of routine and procedure should be put into place. It is also dangerous that if this is implemented without a sense of guidance and proper legislation, we may reach a point where everybody is doing things in an arbitrary way. That may jeopardise the security system. There is a sense that we should have some level of control across various counties. I think that is very critical.

Article 6(2) of the Constitution puts both the national and the county governments as distinct and interdependent and encourages consultation and cooperation. That is what we are advocating for in this Motion. It is time for this country and for the counties to address matters security. These issues must be addressed as quickly as possible so that we get a point where we do not have to worry about the various problems in this particular country.

This will, of course, have financial implication and that is a tricky bit. Article 187(2) states that if a function is transferred from a government at one level to a government in other level, arrangements have to be put into place to ensure resources necessary for the performance of the function trickle down to those specific county governments. That is why it is important that this is legislated upon because it will make

it possible for such initiative to be put into place. That legal framework and the resources as well make it very necessary for it to be put into place so that it is implemented.

Over time, the initiative needs to be replicated in various counties, slowly, but surely. Initially, it can start with Nairobi. However, I know that in Mombasa County, there is already Mombasa Metropolitan Police service that has been operational. They have bought vehicles and hired police officers. It has helped to a large extent to address the problem of insecurity.

Without security, everybody becomes worried. The productivity of the country goes down. This is something that is very critical and important. Under the Constitution, we balance between the functions and responsibilities from one level of government to another. That gives us a window in terms of trying to put these two levels of government to work in tandem and in such a way that is for the benefit of the citizens of Kenya.

Various Articles have been quoted in this Motion. Article 186 which is the Schedule that specifies what should be done at the county and at the national Assembly. However, when Professor was moving this Motion, he said that these issues are not cast in stone. There is, through observations and looking at what has happened over time, possibilities of exploring. That is what devolution is all about.

When devolution started, we did not know what route things would take. However, one year later, we are able, through experience, to look back and to change the way we want to do things. Therefore, such legislation comes at a very appropriate time.

I would like to wrap up again in emphasizing that as we look at various cities and counties like Mombasa, Nairobi and Kisumu counties, such initiatives be extended to other counties.

With those comments, I beg to support.

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

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

**Sen. Mositet:** Thank you, Mr. Temporary Speaker, Sir for giving me an opportunity to contribute to this wonderful Motion by the Senate Majority Leader. This Motion is telling us that devolution is here to stay. Owing to the maturity that has already been demonstrated, the national Government can cede some functions to the county governments. For that matter, I see it being a very noble idea that an agreement can be entered between county governments and the national Government so that the Inspectorate Department is transformed.

What is the county government requesting? Already, we know that the Inspectorate that is there has the personnel, a good uniform like the Senator for Homa Bay described, but not very decent to some eyes. However, in terms of training, they want, if possible for their personnel to be trained. Other than that, it is good to note that although we have that department, which functions very well, it uses wrong motor vehicles. You will find them using tippers to arrest people. You can imagine that some ladies are thrown into the tippers which are very high.

I believe that with a shared function, the national Government can contribute some resources. In terms of the vehicles, I believe that they can also acquire modern

vehicles. As it is now, the staff, who are referred to as *askaris*, use *rungus* and not even strong *rungus* like the Maasai ones. They use a small piece of timber called *rungu*. With the experience I have with the Maasai *rungu*, I can tell you that even children in Maasailand do not fear the *rungu*. With an agreement with the national Government, this Inspectorate can be equipped with modern equipment, including guns. This way, I believe they would work effectively. They would also arrest criminals which would include combating terrorism. This is a noble idea.

When we talk about Nairobi Metropolis, it is important to know that this covers not only Nairobi, but Machakos, Makueni, Kiambu and Kajiado counties. Therefore, it would be good if all those counties, which neighbour Nairobi, can be part of it. If you look at counties like Kiambu, Machakos or Kajiado, you will see that these, in fact, are the dormitories of the people who work in Nairobi. Those people work the whole day in Nairobi contributing to the economic activities of this great City and then they end up sleeping in those other counties. So, it would be a noble idea if we could look at the boundary of the metropolis and make sure that those other counties can be involved and their inspectorate can be reinforced.

With those many remarks, I support.

**Sen. Musila:** Thank you, Mr. Temporary Speaker, Sir. I join my colleagues in congratulating Sen. (Prof.) Kindiki for a well thought out Motion which I support. One of the omissions that I think we did when we were formulating our Constitution was in the area that we are discussing now. The National Police Service (NPS) is overstretched and wherever we go all over the world, there is nowhere that the national police take responsibility of the metropolitan areas. You always have a special police with unique issues in that area that takes care of security and other related functions. So, this is an appropriate opportunity for us to correct something that we forgot. The law also gave us the opportunity or the right to be doing laws wherever we find gaps. I think we can all see that this is a major gap.

Before I come specifically to Nairobi, I want to say that we will also need this police force in a metropolitan setting not confined to Nairobi because we have other cities with similar challenges like Nairobi, Kisumu and Eldoret. I think we should put a cap that whenever a metropolitan becomes a city, then it qualifies to have metropolitan police because any area that is declared a city will definitely have some security challenges like the ones we are dealing with in Nairobi. We should not just consider Nairobi and tomorrow we start talking about Mombasa. I think we must have a formula that after you are declared a city you qualify to have a metropolitan police.

At the moment, Governors are at the mercy of the national police even on implementing things that they can. For example, too many informal settlements are coming up in our cities. In Nairobi, for example, people just come and start in a small way, they construct a *banda* and the following morning another and then it becomes a slum. The city inspectorate police may not really have the power to arrest that situation. If we had the metropolitan police with full police arresting, investigating and prosecution powers, I am sure we can improve the services that we render to our citizens in, specifically, Nairobi City.

Mr. Temporary Speaker, Sir, previous speakers have talked about the crime that is prevalent here. We have a population of, probably, five million plus people. If you look at the number of the Kenya Police personnel we have in this City, they are so few

compared to the population. That is why there is breakdown of law and order in this City. Let us face it; there is breakdown of law and order in this City. Probably, where you live you can see some order, but if you cross River Road, you will actually see that in this City it is about survival for the fittest; from muggings, breaking traffic rules and even general crime. This goes undetected and when it is detected, it ends there. Therefore, this gives incentive to criminals to continue committing crimes because whenever they commit crime, nothing happens to them.

I know Sen. G.G. Kariuki will support me that the biggest problem we have in this country as far as crime is concerned is our failure to detect, investigate and successfully prosecute crime. This is why people just kill others. The police will say that they are investigating. That will be the end of the story. People steal and get corrupted even on the road where you can see money changing hands, but the police always say that they are investigating. I want to assure you that there is no investigation that goes on. So, establishing a metropolitan police force within the City of Nairobi or even other cities will make crime detection, prosecution and investigation generally easier and we will reduce crime in our areas.

I am for this and I hope that we can extend it to other cities and towns whenever they grow. Let me also decry the security situation in the rural areas. At the moment since it is a national function, our governors are in a serious problem because crimes are committed, people complain to them because they think they are the authority, but then the governor is handicapped because security is not their function, but the function of the national Government. That is why some governors have bought vehicles for their inspectorates. They do not call them police forces. So, you will find vehicles on the streets or in the rural areas called inspectorates. This is just to detect crime, but illegally because they have no law that makes them operate. So, when it comes to the second part of the recommendation initiating legislation to provide for a legal framework, we must define very clearly what governors can do to arrest simple crime that is so prevalent and that is out of reach of the national police.

Mr. Temporary Speaker, Sir, as criminals get sophisticated, we must also get sophisticated. We must get clever and increase personnel. At the moment, Kenya has the lowest per capita policing as compared to other countries and as defined by the United Nations. So, I think by approving this Motion and implementing it, will go a long way in coming closer to getting the number of personnel that are required in order to have adequate policing of our areas and thereby reduce the crime which, as I said, is so prevalent and we all know deters investment. It makes families uncomfortable because they are unable to sleep at night. This is because they do not know who is coming to attack them. In cases where you call the police for assistance, they have no fuel and other basic necessities. Therefore, we need a dedicated police force that is answerable to the authority of the county that the citizens of that county can approach. The Governor can complain about the inefficiency or even praise the efficiency of their service.

I beg to support.

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Kittony!

**Sen. Kittony:** Thank you, Mr. Temporary Speaker, Sir. From the outset, I would like to commend the Mover of this Motion and also congratulate you for being in the Chair. I have not spoken before when you are in the Chair. I am happy that I have caught your eye.

Mr. Temporary Speaker, Sir, this Motion has come at a very appropriate moment, because it conforms to the mandate of the Senate on devolved systems. Devolution will be a reality if we start to implement and introduce this very worthy metropolitan security in our capital City. Nairobi being the capital City of Kenya is known to be the City in the Sun. Given the number of visitors that this country receives, I think that it is the most appropriate time to implement this Motion. It is a very good beginning for the Senate because we are fulfilling what is required of us.

Mr. Temporary Speaker, Sir, the Mover researched the Motion well and has brought it at a very appropriate time. We have seen this system in many countries. In America, they are called Sheriffs. They are friendly to the people and are known. That is why there is reduced rate of crime. If it is introduced now and rolled out eventually to all our cities and towns, I think that the rate of crime in this country will reduce.

Mr. Temporary Speaker, Sir, I think that it is also very important if they will be different from the normal police officers that we have. Let them get special training and learn to be friendly. They should handle situations the way they come. The police force that we have is known for pride. Therefore, if the special unit is created and it becomes friendly, a lot of good things will happen.

Mr. Temporary Speaker, Sir, this Motion needs to be passed as a matter of urgency, so that we can curtail the increased incidents of crime. The special training and friendliness to the people will help. We are seeing a number of young people in the streets smoking and walking around with water bottles, whose contents I do not even know. If the special unit is in place, I think that it can be in charge. As a result, crime will reduce in the society.

Mr. Temporary Speaker, Sir, once again, I congratulate the Mover and support the Motion.

**Sen. G.G. Kariuki:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to say what I think I should say on this Motion.

Mr. Temporary Speaker, Sir, while I support all the efforts that the Senators are making, to make sure that this country has an improved security network, there are many other things that we need to consider. We are now thinking of devolving the national Government in terms of security. But in the national Government today, no one can say that they are quite ready to be devolved. This is because they have not done what is supposed to be done in a new system, like the one that we have. We are fighting international terrorism and even petty crimes have increased in a way. There are murders that are taking place in Nairobi with impunity. Every now and then, you will hear that somebody has been found murdered on the streets. The same thing is happening in the rural areas. Therefore, we have to see this problem beyond just making the City of Nairobi a special place.

Mr. Temporary Speaker, Sir, the institution of security must, first of all, be addressed with a view to achieving the current standard of security. We are expressing our concern, through this Motion, about the security problem. But to get the central Government to start negotiation with the Inspectorate Department of Nairobi County, you have to train the whole lot. They have to be able to answer the question of security in Nairobi. We should ask ourselves whether or not we are satisfied with the police officers that we have in Nairobi. If we bring another lot which is not trained, just because we want to hear that Nairobi has got metropolitan police, will that improve our situation? I

think that the beginning of this matter is to have a central institution that will consider the security of this country, without looking at Nairobi or anywhere. We should ask ourselves a few questions. Can we match the current security technology? Can we deal with the criminals? If we can, why have we not destroyed them?

Mr. Temporary Speaker, Sir, we should consider changing the current system that we have. We should change quite a number of people and bring to light some of the hidden security information, where the people of Kenya will know for sure that there was a problem. For example, yesterday we were informed that before the incident that took place in Mpeketoni in Lamu, the Regular Police and Administration Police were given information by the National Intelligence Services (NIS) and they did not take any action. Why did this happen? It is because they have no power to arrest or take anybody to court. Therefore, we expect them just to inform and withdraw. We have to find out the philosophy behind these areas.

Mr. Temporary Speaker, Sir, before the multi party system, the police force was in charge of anything to do with security. They were working for the Head of State or the President because he was the giver of everything that one would have wanted. Even we, in Parliament, had no power over the Executive. But now that the Executive authority has been distributed to *wananchi* by *wananchi*; some to the Lower House, the Senate and all other constitutional institutions, the time has come when we need now to ask ourselves, without rushing into this kind of Motion---

With all due respect to my friend, I suspect this Motion is a Government Motion because it has been brought by the Senate Majority Leader. Maybe that is not what the Standing Orders say, but my assumption is that it is a Government proposal. If it was not, then this House needs to be told the truth; is it Sen. (Prof.) Kindiki's Motion or is it a Government Motion? What are we expected as party supporters---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! There will be no controversies here. This Motion was brought to us by Sen. (Prof.) Kindiki, and that is it. Whether there are hidden arms behind it, is none of our concerns. Let it be so seen and it is so written.

**Sen. G.G. Kariuki:** With all due respect, Mr. Temporary Speaker, Sir, that is the reason I am asking several questions because I do not know. No one would claim the intention of the gentleman who brought it here, except himself. But I was just trying, for the party; the way the party works in the system, to find out whether it is a Government Motion or it is a private Members Motion. That will guide us on what position we are supposed to take. I think we have lacked that one because nowadays in the Senate, unless you identify that Sen. (Dr.) Machage is in the Opposition and he is bringing that Motion from the Opposition, there is no other way you can understand whether it was a collective decision of the party. Similarly, no one here would tell when I bring a Motion here. Personally, I find it very difficult to declare which side I am standing for---

**The Temporary Speaker** (Sen. (Dr.) Machage): Indeed, Sen. G.G. Kariuki, you are allowed to move an amendment to the Standing Orders to bring that important observation.

**Sen. G.G. Kariuki:** Thank you, Mr. Temporary Speaker, Sir. But I think we have the officials here who should now also be concerned with the views we are raising on the Floor here. It is for them to understand that concern and advise us; that is why they are here as technicians. I hope they will do that so that we know that, as I stand here, I am

supporting Sen. (Prof.) Kindiki because he is the head of my political party; or I am supporting him because it is a private Motion. That is what I was trying to pass across.

Finally, Mr. Temporary Speaker, Sir, because my time is running out, the national Government has not proved that they have the will to change. They have pronounced the change, but we cannot see any evidence of it, other than the money which has been voted to the national Government in terms of security; that is the figure that we can go by. But for Kenyans to sit down and decide their future, it is really demanding because this insecurity is not for the Government parties. It is not for the Opposition, but it is just like the soul which belongs to God. Therefore, we all belong to God, just like the people who died. Somebody would say because they came from a certain tribe; but I want to say this; if you cause somebody's death, you are just telling him "go ahead, I am following you" because you will not live forever. You will just follow him and then you will face the same fate.

Mr. Temporary Speaker, Sir, with these few remarks---

*(Sen. Kittony crossed the Floor without bowing to the Chair)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Kittony! Go to the Bar and bow before you cross the Floor. I want this practice to be appreciated. Sen. Kittony, you are an old legislator and you know that.

*(Sen. Kittony went back to the Bar and bowed to the Chair)*

Very good; now you can cross the Floor.

**Sen. G.G. Kariuki:** Mr. Temporary Speaker, Sir, I am not allowed to comment on your directives---

**The Temporary Speaker** (Sen. (Dr.) Machage): Continue; continue! I will add you one minute.

**Sen. G.G. Kariuki:** Just one minute.

Mr. Temporary Speaker, Sir, I just want to conclude by saying that we need to see the change in terms of the new dispensation so that the people of Kenya agree that there are some changes which are being tried out, because we can try and we do not get anywhere. We have to show the whole world that we are concerned with insecurity in this country. We are talking of people saying that there is no work in Coast Province. If this persists, then forget Coast Province. You will not find yourself in these Chambers. We are talking about Coast Province or Mandera, for that matter; but if insecurity persists and given the wave it is taking, I am sorry to submit that we are in big problems. This is a problem that can be unstoppable.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Wamatangi:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion. As most of my colleagues have said, this is a very timely Motion that has come at a very opportune time for this country, given the security challenges that we have been facing as a country.

Mr. Temporary Speaker, Sir, the efforts by the Senate Majority Leader to bring into clear perspective the ways and means by which we can enhance security speaks for themselves. As we look at the possibilities and the options that we have open in enhancing security, I notice in this Motion that the Senate Majority Leader has given emphasis to crimes and terrorism. It is then that, as a House and as we contribute to this Motion that we need to pick out and highlight some of the important areas that will give flesh to this Motion so that it can become useful and impactful to the people of this country, and help us realize what we need to realize as a House.

Mr. Temporary Speaker, Sir, the threat of terrorism in this country has largely not been confined of late to Nairobi, Mombasa or to any of the urban centres. We have had waves of terrorist activities and strikes in Mandera, which is not even a city. We had similar attacks in Wajir, which is not even a city. As we look at the threat of terrorism and at a time when the world has gone digital, terrorist activities are now carried out in various forms; from grenades, guns, bombs, including cyber terrorism. It is important then that we widen the scope of what we look at as security.

Mr. Temporary Speaker, Sir, when we talk about security, I believe that the intention of the Senate Majority Leader was not only to confine his thoughts of security only to the threats of people being attacked by gun wielding thugs, but security in the broader sense as envisaged in our Constitution; that we are all entitled, as citizens of this country, to life and that right to life is given unto all of us.

Mr. Temporary Speaker, Sir, as I support this Motion, I want to state clearly that the importance of us, as a people and a nation, irrespective of what we do, is to ensure that we are secure or we act in ways that enhance the security of our colleagues, brothers and sisters. We know that recently, the Government started the *Nyumba Kumi* Initiative with the intention of curbing terrorism. This initiative has gone a long way in alleviating some of the challenges that we faced. However, a lot has to be done in order to address the issue of insecurity in this country. For us to be able to address or make meaningful steps towards dealing with terrorism, we must own that responsibility as a people.

If we want our inspectorate officers in the defunct county councils, to acquire the necessary knowledge and exposure to fight crime in our cities and towns, we must train them. We need to expose them to countries that have faced similar challenges like us. For example, we can train them in Israel which has had many challenges like us. Its citizens are themselves security officers; they remain vigilante all the time. This is also applicable to many other nations. This is the culture that needs to be inculcated in Kenyans, so that we take responsibility for our own security. This responsibility cannot only be confined to ordinary citizens. It is not possible because it will be self-defeating. That responsibility must be borne by us politicians and by those who work in offices. A doctor in an office must feel equally responsible that whatever he does also enhances security.

Mr. Temporary Speaker, Sir, we know as people of this country that this challenge of security has continued to increase since the early days of our Independence. We have had many challenges since 1992 when we were agitating for a new Constitution. Crimes, criminal activities, violence and insecurity have become the order of the day in this country. Just the other day, we saw what happened in Lamu. We cannot continue with this kind of culture in this country. This is a culture that is self-defeating. This is a way of doing things that only ensures that we diminish and finish ourselves as a nation and as a country.

We, as a nation, need to adapt one strategy to make sure that we take responsibility for our own actions. If a politician like me engages in activities or utterances which may endanger the security of my colleagues, I must be made to bear responsibility. That is the only way this country can move forward. We cannot have such a culture when we have a new Constitution that says that I am guaranteed life and, on the other hand, we have a set of sacred cows who cannot be touched when and if they do compromise the security of fellow citizens.

Mr. Temporary Speaker, Sir, it is in this spirit that I am saying a time has come for people to carry their crosses if security will be realized. Security cannot exclusively be left to be the responsibility of police. We cannot say that every time when we want to talk about enhanced security it is because we have a thousand more police officers on the streets. There is no way we can say that for security to be enhanced in Kenya, all our eyes must be looking at what the Inspector-General of Police is doing or what the Cabinet Secretary is doing. That is not the way we would enhance our security. The only way to win and succeed in this war is to make sure that it is a personal responsibility. In all cultures even in primary schools, there is always a trend of doing things and there is reward and punishment. You remember when we were in primary school and made a mistake, we were caned on the spot. If you were not caned, then you would repeat the same mistake.

With those few remarks, I support the Motion.

**Sen. Hargura:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to contribute to this important Motion. I stand to support this Motion as it is. I saw it in the first Order Paper and it was limited to Nairobi and I prefer it that way---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! If you want to amend the Motion as amended to us by the Mover then you so declare, but the Motion we are discussing now was amended. Therefore, it has to be supported or opposed the way it is on the Supplementary Paper that has been issued to you.

**Sen. Hargura:** Mr. Temporary Speaker, Sir, that is what I am referring to. I support it as it is because the Motion clearly gives the legal interface between the two levels of government and even indicates that Article 247 of the Constitution allows for establishment of police formation to supplement the NPS. So, it is something based in the Constitution. My understanding of the metropolis is actually the city and its suburbs which is as it is right now, we are having challenges in terms of the number of police officers vis-à-vis the population. So, there is need to have a system to support, taking into account the high crime rates in the city and even the new types of crimes like terrorism, drug trafficking, human trafficking and so on. These crimes require a specialized force other than the regular police which covers the entire country and which may not give specialized attention to a specialized set up of population in a small area like Nairobi.

Mr. Temporary Speaker, Sir, we still need not compromise the level of the police force required even if it is Nairobi. I can see here we are talking of the former city council *askaris*. This does not meet the level of a security force. So, for that to be realized, there must be proper training or even employing qualified and well-trained officers in the security system. Other countries which have this are like London Metropolitan. This is a properly trained police force which covers all the relevant areas of security. So, it is not expected that we shall upgrade the normal city *askaris* into a police

force. We need a properly trained police force because we are trying to address a situation which is difficult even to be handled by the normally trained police.

So, we are talking of properly trained police officers, properly equipped and with better security equipments. That will mean more investments and even proper coordination with the NPS because crime in the cities is not an isolated case. It is something which needs to be coordinated throughout the country. So, we require some infrastructure to establish this kind of metropolitan police system.

Mr. Temporary Speaker, Sir, we should not forget that the Constitution provides that when you transfer a function, you also have to transfer the necessary funds. So, the Government has to be ready to transfer the funds for this kind of system to be achieved.

Let me go back to my first comment, having the county governments getting involved in the security of the counties has its own downside. We are talking about infrastructure like procurement of vehicles. We are establishing new police stations and posts and providing housing. However, when it comes to having a say in the way the police service is being run, that is a different matter.

There are some areas where we have more than one tribe, especially in northern Kenya where we have inter-ethnic strives. If the Governor from such an area was in control of the security system, that would make matters worse. That security may even be used against part of the community. So, we must look at how far we can go with this.

Generally, it is better if security can be in the hands of the national Government. However, in urban areas like Nairobi where the crime rate cuts across and is very high, then it is better to have this kind of a system.

I support with the rider that it is not applicable throughout the country.

**Sen. Sijeny:** Thank you, Mr. Temporary Speaker, Sir for giving me a chance to contribute to this wonderful Motion. This is a time when the country is grappling with major insecurity which is taking a toll on our lives, properties and the economy. I would like to thank the Mover for having thought very carefully and timeously over this issue.

I wish to support this Motion because, first and most, it recognizes the two levels of Government. It calls for dialogue and bringing all stakeholders together. At the end of the day, everybody will own it and no one will blame the other in case there are challenges. All the stakeholders will face the challenges and improve on it as a group and as a team. However, major cities like Nairobi and Mombasa, are unique. There is a major population that exists or lives within the counties. The big population comes in with advantages and disadvantages. Many foreign donors and partners have also invested heavily, not only in the entire country, but within the cities.

Mr. Temporary Speaker, Sir, it is important, therefore, to come up with this unit that will ensure that there is proper and airtight security within the region and hence the Republic. We should have proper security in the capital city and the main port which is the other entry into the country, Mombasa and a hub for business. This will protect not only our interests, but also those of our neighbours who heavily rely on our port and infrastructure. We have the East African region and the rest of Africa that heavily depend on the facilities that Kenya provides through its major cities.

Mr. Temporary Speaker, Sir, it is, indeed, very important to come up with a legal framework to complement the roles of the proposed metropolitan security agencies to supplement the existing ones. We have seen that we have challenges. However, this is the time when everybody is bringing to the table the ideas they have in terms of what can

assist, what can work and what cannot work. This is after considering the best practices from other countries where such initiatives have succeeded fully.

Bringing this agency is something that ought to have been done yesterday. However, there is always the first step. I urge the national Government to implement it without further delay.

I beg to support.

**The Temporary Speaker** (Sen. (Dr.) Machage): I see that there is no other Senator interested in discussing this Motion. It is time to call upon the Mover to reply. However, I have also been told that he is not in the House for legitimate reasons. I will, therefore, postpone until next time it is put on the Order Paper so that the same can be done.

*(Question that the Mover be called upon to reply deferred)*

*(Motion deferred)*

CONSTRUCTION OF BOARDING SCHOOLS  
IN ARID AND SEMI ARID AREAS

**Sen. Mohamud:** Thank you, Mr. Temporary Speaker, Sir. Allow me to state that I will move this Motion in an amended form. This will not interfere with the substance of discussion of the Motion.

THAT, aware that 80 per cent of Kenya's land comprises arid and semi-arid areas; further aware that nearly 30 per cent of the 47 counties are inhabited by pastoralists who live in arid and semi-arid areas; concerned that these pastoralists are marginalized and face a myriad of socio-economic and physical constraints that make it difficult for their children to access education; appreciating that Article 56(b) of the Constitution of Kenya obligates the state to take affirmative action measures to ensure marginalized groups are provided with special opportunities in educational and economic fields; the Senate urges the national Government to construct boarding facilities in at least three established schools in every ward in arid and semi-arid areas as a means of facilitating nomadic children to access education.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Senator! I do not see any amendment. Did you forget or that is the way you wanted to read it?

**Sen. Mohamud:** Mr. Temporary Speaker, Sir, that is the way I wanted to move it.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well, continue.

**Sen. Mohamud:** Mr. Temporary Speaker, Sir, we are aware that education is one of the most important things that improve the social aspect of an individual. It reduces the poverty of an individual and improves the health standards of a person and also makes a person know his or her rights.

Mr. Temporary Speaker, Sir, 80 per cent of our land mass is inhabited by pastoralists. We know that they move with their animals in search of water and pasture. This means that they also move with their children who are supposed to be at school. We also understand the lifestyle of most of the pastoralists. They are polygamists meaning

that they bear very many children. Most of them are out of school. We are also aware that most of the parents are not educated. This has a ripple effect on their children.

It is high time that we killed the mentality that pastoralist parents have that education is expensive. If we provide education at their door level, they will appreciate and enjoy the fruits.

The official Government statistics indicate that approximately 95 per cent of all school going children attend school. However, this is different in pastoralist areas.

Take an example of one of the counties like Wajir, the enrolment rate is 45 per cent. You can see that there is a big difference between the national rating and what the specific counties are undergoing. This means that the pupils are not benefiting from the free primary education which the Government is providing. This is because children in those areas join their parents in herding their livestock on long journeys. The long distances to school also make the children drop out of school and develop a negative attitude towards school. Parents move with their children during the migration period. This makes most of the children drop out of school.

Mr. Temporary Speaker, Sir, in Turkana, there is a decline in the number of students during the transition period. For example, the retention rate is 22 per cent. This means that about 50 pupils join class one and when they are completing class eight, their numbers reduce drastically to about 20 pupils. Currently in the pastoralist areas, there is only one boarding school per ward. If you compare that with the vastness of the wards, it is illogical. In some of the counties like Wajir which covers 10 per cent of the Kenyan landmass, it has only one boarding school. The current status of the boarding schools is deplorable. The few that are in existence have no basic facilities like doors. The condition and the environment that they are in are pathetic. They are not good for human habitation. The Government should look into the standards and quality of boarding schools all over the country.

We can improve the education of the nomadic child by improving accessibility to facilities like boarding schools, provision of adequate food supplies, improving the learning environment and exploring alternative education like mobile schools. Mobile schools will move to where pastoralists are going. I urge the national Government to consider establishing three boarding schools in each ward in these areas so that the nomadic child can get access to education.

Mr. Temporary Speaker, Sir, unless we have security whether we put up hundreds of boarding schools, it will not make a difference. Security is very important since the pastoralist communities are known to be very hostile. There is cattle rustling and many other issues causing insecurity. It is high time the national Government considered security issues to be an important aspect.

In conclusion, I urge the national Government to facilitate this process because a lot of talent inherent in the pastoralist child is lost. You never know, the future President of our country may come from Turkana or Marsabit.

With those few remarks, I beg to move and request Sen. Sijeny to second.

**Sen. Sijeny:** Thank you, Mr. Temporary Speaker, Sir, for giving me the chance to second this Motion. This is, indeed, a very considerate and sensitive Motion. It is no wonder that it has been moved by a lady Senator who knows the importance of caring for the interests of children because they are the future leaders of this country. Protecting the

interests of children is also adhering to the Constitution of Kenya and the Children Act. The best interests of the children must always be taken into account.

Kenya has diverse geographical differences. We know that we have the arid and semi-arid areas. Indeed, these areas have harsh weather. Some of those areas have not been accessible because of the difficulties that exist there. If the national Government provided boarding primary schools at the ward level, this will be a major achievement. The benefits will be immediate and the future will be so bright that the national Government will wonder why they did not do this before. We know knowledge is power. Creating a good environment and giving children access to education is making a serious point because it will increase the level of literacy. It will also protect children from harsh weather, poverty and particularly, the repugnant traditions and customs. We know that in some of these areas there are early marriages despite all the laws available against early marriages and Female Genital Mutilation (FGM). Some people still sneak it in. Children should be made to understand that they must go to school. Therefore, implementing such a scheme would be very easy and the cultural practices will also change.

This will also provide them with better nutritional health because they will have access to balanced diets which the Government and all the interested partners will provide. The children will definitely have access to adequate water which is a major challenge in some of these areas where children have to walk long distances to help their families tend to the livestock that they have. They will not need to go through the long journeys, the harsh weather and the dangers that are out there.

Mr. Temporary Speaker, Sir, girls will also have access to adequate sanitary towels amongst other things. This is usually a major challenge. Girls do not go to school because they lack some of those facilities. We know that this could be considered a luxury in those areas. Science has proved that children start their menstrual periods at tender ages. Some even start at the age of seven or 10 years in their early primary school going ages. So, when they are provided with all these items, they will be comfortable to learn and achieve the levels that they want. These are marginalized areas.

Mr. Temporary Speaker, Sir, as the Mover has clearly stated, this is a very lawful Motion. Article 56(b) allows that. This is affirmative action which the national Government must take to support the communities. Once these boarding facilities have been put up, naturally security must be beefed up. When you ensure there is security it means that many people will leave around an area and other facilities such as hospitals will come up. Before we know it, a city will have developed. People will not have to move from one region to another. Water will be in place and irrigation will be undertaken. We know that the Senate has passed very many Motions that support irrigation and other ways of providing water to these arid and semi-arid areas.

Mr. Temporary Speaker, Sir, by establishing boarding schools within these regions, many other facilities will, like mosques and churches will come up. Naturally, the areas shall be well developed. With proper development poverty will be eradicated. This is surely the best way forward.

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

*(Question proposed)*

**Sen. Nabwala:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion on education, science and technology. This Motion is very important and should have come as early as yesterday.

Mr. Temporary Speaker, Sir, the Motion is asking the Government to put up boarding facilities, so that we can accommodate school going children in arid and semi-arid areas. As the Mover said, 80 per cent of Kenya's land comprises of arid and semi-arid areas. These are regions which have been disadvantaged in the past. We are aware that most of these counties, including Marsabit, Wajir and Turkana are lagging behind because they have not had opportunities that major towns and cities like Nairobi and Nakuru have experienced.

Mr. Temporary Speaker, Sir, pastoralists have no other means of livelihood. They depend on rearing of animals. During the dry seasons, they keep moving from one area to another. This means that when they move with animals, their children's' education is also disrupted. So, it is very important that the national Government, whose function actually is education, pays more attention to these regions, so that boarding schools are put up. This will ensure that children from these regions also access continuous education. This will bring them to the same level or standards as other counties.

Mr. Temporary Speaker, Sir, education is very important in the lives of our children. Without education, we will go nowhere. Education is important because it offers job opportunities and helps to sustain the development of our economy. If we want to eradicate poverty, then we must move in the direction of educating our children. Our Constitution is very clear on education. It recognizes that everyone has a right to education. So, why can we not help to uplift the standards of students or children in arid and semi-arid areas, to bring them to the same level as other counties?

Mr. Temporary Speaker, Sir, education has also other benefits. For instance, we have talked about boarding facilities. These are good because they are safe for children. They will be able to study at night, as opposed to if they were day-scholars. Since, maybe there is no electricity at home, that child cannot compete with other children in other counties. Therefore, boarding facilities which are well equipped are very important. We have seen on television children learning under trees. Really, is this happening in Kenya or elsewhere?

Mr. Temporary Speaker, Sir, I am happy that Sen. Halima actually thought of bringing this Motion, so that the Government can take some action to correct the historical injustices. We are aware that there is the Constituencies Development Fund (CDF). One of the functions of CDF is actually to help put up infrastructure and give out bursaries. But at the same time, education is not a devolved function. Therefore, we need to involve the county governments to put up infrastructure and boarding facilities, so that our children are comfortable. When you educate children, you are educating a nation. We have all come a long way because of education. We would not even stand here to deliberate on the Floor of the House if we were all illiterate.

Mr. Temporary Speaker, Sir, education for our children and even civic education for our mothers and fathers has value addition. Why are some cultural practices like the FGM still going on? Some people stick to their cultures because they lack awareness and civic education. They do not know that some of these practices pull them back. We should encourage the national Government to do something in the arid and semi-arid areas, because these are the counties that have been ignored in the past.

Mr. Temporary Speaker, Sir, sometimes when you watch television, they show the *manyatas* where these people live. Surely, I have never seen classrooms or a boarding facility being shown. Children in those areas have to walk for miles to get to school. So, this Motion is very important and it should be given proper attention so that we can correct these injustices. This is affirmative action which is in Article 56(b) of our Constitution, which is very clear. Article 43(1)(f) of the Constitution states that:-

“Every person has the right—  
(f) to education.”

Mr. Temporary Speaker, Sir, why can we not move in the right direction so that we bring all counties at par and make sure that there is no one county performing better than the other because of lack of facilities or science laboratories? For instance, in my county, we have a few schools that perform very well because they are within the urban centres. However, schools which are in the remote areas are lagging behind. You will also find the dropout rate for girls is very high in those areas. Similarly, the rate of pregnancy among young girls is also very high. Why? Because every morning when you send your child to school, she will be waylaid by somebody who is idle and who is waiting along the road. So, he lures this girl and then you find that school girls are getting pregnant. But if we have children going and staying in boarding schools until the end of the term, then they come home where the parents monitor their child properly. This would not be the case. Even when the child goes to school, you make sure you escort them to school and when they are closing, you are well informed. But if a child has to walk from school every evening, a parent cannot be going to school every day to walk home their daughter. So, this is a very good Motion. I just want to support and thank the Senator for bringing this Motion to the Floor of this House.

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

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. Congratulations, Sen. Halima, for bringing this Motion that really brings out a lot of concerns for marginalized and ignored groups. It is a privilege that we have Sen. Halima in this House so that she can focus on pastoralists, young boys and girls who, for decades, have been ignored. As people's rights have continued to improve over time for other communities, they have continued to be more marginalized. They too have a dream. They hear other regions are moving on, but their regions cannot move on. They do not have people who can talk on their behalf in order to enhance legislation. Therefore, I would like to urge that we pass this Motion. After we have passed it, we must make sure that it is implemented. Without it being implemented, we will have, as usual, very diversified figures of those who finally make it to our higher institutions of learning.

Mr. Temporary Speaker, Sir, if at the level of primary and secondary education so many people are disadvantaged, then the same disadvantage will show itself at higher levels of education. We know that education is a transformer for life in various ways; it transforms the economic functions of individuals, families and outcomes for their children. Education also transforms their social status and gives them a particular level of housing, water and all the other social benefits. It really puts them in a position where they have better outcomes than those who have not had education.

Mr. Temporary Speaker, Sir, it is unfortunate that in this country, we have continued to experience educational inequalities right from Independence. This has been experienced across the various regions. North eastern has been one area that has borne

the brunt of such regional differences. For example, coast province is second after north eastern. These regions have borne the brunt of different and divided programmes in education that have, at the end of the day, contributed to less enrolment and less transition at the various points in terms of the transition that is so critical to get people to the level of education that they are looking at.

Mr. Temporary Speaker, Sir, gender differences have also ensured that many people, especially young girls, have not reached the levels they are needed to achieve. I think many of these people really come from the marginalized areas. As Sen. Halima quotes in her Motion, 80 per cent of these people live in the ASALs. So, we are already talking of only 20 per cent of our population that is advantaged *vis-à-vis* 80 per cent. This is a large majority that is disadvantaged and has continued to be disadvantaged for a long time. So, we need to look at the policy and think why we have not changed this situation, despite so many commissions probing this issue. We have had the Kamunge Commission and others. These commissions have produced reports addressing the whole issue of inequalities in education. However, in reality, those reports have never been implemented.

Mr. Temporary Speaker, Sir, this Motion is talking about coming up with a practical solution; that is having a boarding school in each of those wards. Boarding schools should be located in areas that are safe and accessible to the children so that as many students as possible can attend school. We are talking about communities that are so disadvantaged in many ways. They live in insecure areas. Many times they have problems of insecurity in those particular regions. Because of the harshness of life in these regions, pastoralists have to keep moving from one place to another to secure food for themselves and for their livestock.

Mr. Temporary Speaker, Sir, sometime back, mobile schools were introduced by the Government. We still need to get an evaluation of how progressive those mobile schools have been. Do they still exist or have they died off? Have they been effective? That is also another initiative that should be encouraged. We can also think of having mobile libraries so that people can actually read. It is not fair when a country develops and one region is completely left behind. This also brings social inequalities because if such a community is not able to make it or to change and make transformation for themselves, they will then have social stratification differentiated at specific points all across. Therefore, for those in marginalized areas, there are chances that you will have this reaching the highest pinnacle in stratification and being able to make a difference and getting into leadership so that they can actually translate that leadership into action. This becomes very difficult. So, this has to be looked at in detail. There is a lot of poverty among the pastoralists. Their children do not go to school because their parents cannot afford school fees. We should also look at the socio-cultural practices that happen in such communities where, for example, it is more important to herd or where it is more important for girls to be married off early at the age of 12 or 18 years because of poverty. These girls are getting married off when they are still children. They do not even know what marriage is all about. So, this is a serious issue that needs to be addressed.

Mr. Temporary Speaker, Sir, affirmative action in this country has made a difference. The more affirmative action we have in whatever sector, the better, especially in the education sector. In the universities, affirmative action has helped to reduce the entry points for the female students. This has helped secure access for specific female

students to those universities. In the same light, affirmative action, including this one we are talking about of having boarding schools in wards, will ensure that both boys and girls have access to education. This is because in those boarding schools, they will concentrate in their studies. They will also run away from poverty from their homes and they will see things in a new light. They will also be exposed to technology and achieve their dreams. In addition, they will meet children from neighbouring villages so that they actually see and hear how things are done. They will also begin to have a vision. That is the right of every child. I think that right to dream, want and have that fundamental human right is what is enshrined in Article 43(1) (f), which says:

“Every person has the right—  
(f) to education.”

Every person needs to be protected so that they actually have their fundamental freedoms, which are very critical. That will help them preserve their dignity and promote social justice according to Article 19 of the Constitution. These rights need to be enshrined over time.

Mr. Temporary Speaker, Sir, the Bill of Rights is in the first year of implementation, but it is rights that over time should be implemented. We also have provisions in the Constitution to seek for the justification of those rights being enhanced from time to time and in a continuous manner. Once this happens, it would be possible for these people to have hope and be able to become better citizens.

Mr. Temporary Speaker, Sir, I support this Motion that urges the national Government to construct boarding facilities in at least three established schools in every ward. This will definitely help increase access to education. It will camouflage and stop most of these students from the ravages of their particular environment and the problems they face. This will keep them in a protected environment. Those boarding schools should also be well-equipped and well financed. We should make sure that they get the best principals and teachers. It is one thing to provide the facility there, but it is also another to ensure that the facility helps people transit from the position they are in to the next one.

With those few remarks, I beg to support.

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, I rise to support the Motion by Sen. Halima. As has been said by my colleague, Sen. (Dr.) Zani, Sen. Halima represents the diversity of this country. She represents precisely what she has presented to this House. She is a young Senator and also from the pastoralist community. A week ago, I had the honour of visiting Turkana County. I stayed there for five days in the company of my fellow Senators and the Speaker of the Senate. I also had the privilege of being taken around, entertained, visiting schools and so on. I had firsthand experience of how the pastoralist communities live and what the children have to bear and live through in their daily lives. I remember visiting a cultural event that was entertaining us in various folk songs. In that cultural activity, some of the performers were young school children. Some of them as young as eight years from the lower classes, both boys and girls. As the young children were performing there, as a parent you could not fail to see in their faces messages of the kind of life they live. Across this House, just in front of me, there is a big painting that depicts the kind of life that pastoralist communities live through.

Mr. Temporary Speaker, Sir, in asking that the national Government establishes boarding facilities within the counties of the pastoralist communities, that is a very noble

and useful request. The first and most notable quality or aspect of living in pastoralist communities is poverty. Poverty is almost identical with the pastoralist communities. If one imagines a student who goes to a boarding school in Nairobi and one who goes to a boarding school in Wajir or in Turkana, the difference in the facilities and life experiences, the difference in the prospects of those two students as they go through life in the same country is wide and overwhelming. As has been said by some of my colleagues here, many students who bear the brunt of that poverty in the pastoralist communities are young girls. By establishing boarding facilities in the pastoralist communities and expanding to other marginalized communities would help these young children as they go through their education to, at least, have time to concentrate on their education. They will also be able to apply their minds to the one course of education knowing that some of the facilities that are required for a good growing up child can be availed.

It is at this point that we urge our county governments to also take a share in the responsibility of making sure that such a good dream is realized. We are about to send monies to the counties to the tune of almost Kshs230 billion. If I would just take an example of one of the counties like the Turkana County which will be receiving close to Kshs10 billion, if the county government can only spare a bit of that money to establish or equip some facilities that would assist these young children in their education, it would go along away in serving the course that has been advocated by the Senator.

Mr. Temporary Speaker, Sir, in summary, as I conclude, Sen. Halima in her final remarks also said something that is very important that we must take to be the topic of this week. This is something that we have to hammer to our people. She said that no matter what facilities we establish or how many schools we put up, without security all this will be useless. That is a point that must be hammered home because it is important. The very nature of nomadic communities is that they move from this area to another area. The most likely event as the nomadic communities move from one area to another is that they will encounter other communities. For example, if a Turkana nomadic clan is moving, they will go the next area where they will encounter the Samburus or the Pokots. That is why we must denounce ethnic profiling across this country. Dividing the people of Kenya against each other along ethnic lines is not good. A Turkana, Rendile, Somali, Kisii, Kikuyu and Kamba must be able to move around this country freely. Kenyans must feel secure where they go to school, do business or live. You can even buy land wherever you want to go. That must be the edict of this country. That cannot be gainsaid. That is why we need to ensure that we provide security in the nomadic areas and across the country.

Mr. Temporary Speaker, Sir, as I was looking behind, I saw a painting which looks like Lamu County. It cannot also be said that this is a privileged county. I have been to Lamu several times. There are areas there which can be classified as extremely marginalized. You ask yourself, when somebody moots in their minds that there would be violence in a marginalized county like Lamu, does that person first stop to think what will happen to the children of Lamu? Those issues must be brought out clearly.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Do you know more than we do? Could you give us more information on that?

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, it is said that no one single person has got the knowledge that would exceed all the others, but neither would all the others have the knowledge that would exclude that one. So, in my contribution---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! If you have no more knowledge just withdraw and continue.

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, on the issue of what is required for security to be enhanced, I stated my opinion that, indeed, security in this country has got to be enhanced. This cannot be gainsaid. In every part of this country, everybody must feel free. That is my point.

In my concluding remarks, I support the Motion. I wish to say that the Motion was brought in good faith. May it see the light of day by virtue of the action that will be taken by this House.

I support.

**The Temporary Speaker** (Sen. (Dr.) Machage): The nation is watching what we are discussing. The Lamu issue is very sensitive and we must be very careful.

**Sen. Kanainza:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this Motion. First of all, I would like to congratulate the Vice Chairperson of the Education Committee, Sen. Halima, for thinking about the people of the ASALs. That is the area that she comes from.

Education is very vital for the full realization of an individual's potential, especially for the socio-economic development of this country. That is why when you look at Vision 2030, you will see that education and training is very key to its success. It contributes to the global competition of quality education.

The enrolment of students from the ASALs is at 24 per cent. This means that they do not enjoy the Free Primary Education (FPE) and secondary education that is in the Millennium Development Goals (MDG). They do not enjoy the facilities that other students enjoy like laptops, computers and libraries. They also do not enjoy the use of electricity that is provided by the Rural Electrification Authority (REA). Once we have boarding schools in these areas, I believe, things will be better. Why do I say this? We have the Policy Framework for Nomadic Education in Kenya that was adopted by the Government. It is unfortunate that there are very few aspects in that policy that have been achieved up to date. The enrolment level is also very low.

We have very few boarding facilities in these areas. They are also not habitable. They do not have enough beds to accommodate students and the walls are not strong. That is why I support this Motion that urges the national Government to construct boarding facilities; at least, three in a ward to accommodate the children from these areas.

Why do we need these boarding facilities? First, this will bring about high enrolment of students in these areas. The students suffer when their parents move from one place to another to look for pasture for animals. That means that they have to move with their children and they end up dropping out of school. When we have these schools, the children's performance will improve. This is because they will remain in school from morning to evening and concentrate fully in their studies. In most cases, it is the girls who suffer most. This is because when they go back home they have to carry out the basic domestic duties. At times, they face harassment on their way home.

If you look at other areas where we have boarding facilities, you will see that students move from far areas to access education. If we have these facilities, we will have children moving from Nairobi County to access education in the ASAL areas.

We want to have accessibility to education in this country. If children from the ages of 6 to 13 do not access education, that means that we will have youths in this country who cannot compete properly with youths from other regions and even internationally. That is why you find young people engaging in drugs and terrorism and having problematic children.

Article 56(b) of the Constitution says that the marginalized groups must get this special opportunity. That is why I support this Motion. If we provide boarding facilities to our children, then we will have better citizens.

I support.

**Sen. Elachi:** Thank you, Mr. Temporary Speaker, Sir. Indeed, education is the key as we have always been told even back home. Today, 50 years down the line, many of us look at the way our pastoralist brothers and sisters have walked their journey through education. It has been a tough journey for them knowing that our system of education requires that you sit an examination whether you come from a harsh area or from an environment that you can learn.

I also want to thank the Government for focusing on the education sector for the last 10 years. The issue of affirmative action has been raised. The policies that have come up are much friendlier to ensure that more students within pastoralist areas can join high school and university. The Jubilee Government has a robust programme of education.

The Government has brought back the school feeding programme. We are also saying that we will have polytechnics within each constituency. The challenge goes back to the legislators of the National Assembly who have resources within the CDF to deal with matters of classrooms. They need to come up and support.

At times, you will find that the amount given for CDF to go to the pastoralist areas is so much. However, you wonder why in Turkana County, for example, children still learn under trees. We know very well that there is some CDF amount that is almost Kshs90 million. The constituencies are now demanding for more money. It is unfortunate, as leaders, that we have refused to embrace the development reform agenda to see that our people settle in better environments and enjoy the services and the fruits that they have been paying taxes for.

It would be wrong to say that we, as a Senate, will sit and watch the National Assembly increase the CDF to Kshs28 billion without questioning. We have a lot of money already within the constituencies. What do they want to do in their constituencies? What are their development agendas? We, as the Senate, must ask the national Government to work in collaboration with the county governments in the education sector so that some of these issues like lack of food and education facilities can be addressed by the county governments so that we find a solution.

The other day we watched on national television children going to school not because of thirst for education, but because of poverty and starvation. Even their parents follow them to school to see what they are being given so that they can share with the other children who are left at home. If we are not careful, we will only celebrate a new Constitution and devolution. We need to go down and question our leaders on how they are spending the resources we are channeling to them. If we do not do so, we shall still

have the same challenges. With the little they have they can transform their counties. They should also be accountable. We are talking about marginalized groups that have suffered for years. Now that we have devolved governments, in the next five years, who will we complain to? I wish the governors could even just take one sector and do it very well so that, at the end of the five years, they will pinpoint it as one of their successes. That is the spirit the Senate would like to see.

Mr. Temporary Speaker, Sir, the issue of FGM is very prevalent in the pastoralist areas. It poses a big challenge. Therefore, if we had boarding schools where these girls and even boys would go, maybe they will come out and do away with some of those cultures and move on. They would embrace new technology that is available today and move on like any other child. We are talking about children who trek for more than 20 kilometres to get to school. They would like to go to school, but because of the harsh environment, they are not able to go to school. Since they have that inherent wish, they even join Standard One when they are 10 years old. This is key for the first and second MDGs which are to ensure that we kick out hunger and ensure free primary education for every child. Today you will find that we have parents and grandparents who would wish to go to school. Education is the most important thing you can give your child.

This does not only affect the pastoralist areas; we need to look at it broadly and take it to Tana River, Kwale and Kilifi counties where we have serious challenge. We also have other constituencies such as Ganze that are vast and very dry. The Government should provide funding to each constituency to ensure that they have polytechnics because we need a turnover from those polytechnics we are building per constituency. We, therefore, need to put up facilities that will enable the young people to join those polytechnics.

Mr. Temporary Speaker, Sir, we, as the Senate, should now focus seriously on education within the counties. We should think of children, for example, in Mbita who learn under trees or sit on stones. The same children are expected to sit for similar exams with those children who learn in classrooms and have all the books. I know that a few of us have really pushed for the admission to university of students from disadvantaged areas who score a mean grade of C Minus. This is because you cannot compare that child with a student who had the necessary books, a teacher everyday and laboratory facilities. In some areas in this country, some children even study on their own without teachers. When we talk about classrooms, we should also look at the whole infrastructure that will enable that child in the ASAL areas to enjoy what a child in Nairobi is enjoying.

Mr. Temporary Speaker, Sir, the other challenge is that some parents would wish to see their children go to school, but they are prevented by some cultural practices. For example, it is very difficult for a girl from pastoral communities to continue with education after the age of 16 years. This is because it is believed that at this age, that girl is ready for marriage. Even the men will be putting pressure on that girl to get married. Therefore, if we had boarding schools, a girl could decide not to go home and stay in school. Two years ago in Pokot we had girls who refused to go home. This is because they felt that if they went home they would be forced to undergo the cut. They decided to stay in school and undergo an alternative rite of passage, conducted by pastors. Therefore, there are many challenges that girls face in those areas. Due to poverty some of the girls opt to get married so that their parents can get something in form of dowry.

Therefore, the life of a young girl in the pastoralist community is so challenging that they end up compromising themselves in many ways to please their parents.

Mr. Temporary Speaker, Sir, as we support the Motion, we need to ask ourselves whether three schools in every ward is viable or we can think of how to reduce the number. We might talk of three schools, but given the nomadic culture of some of the communities, some of those schools may end up without students. Therefore, we need to ask ourselves many questions as we aim to achieve what Sen. Halima wants to achieve. I believe that whatever she wants to achieve is supported by everyone in this country, including the corporate world, because we would wish to see young people – boy and girls – move and get better lives than what we have seen for the last 50 years.

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

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Speaker, Sir. I rise in support of this Motion. First and foremost, I thank Sen. Halima for bringing this Motion. The problems that are associated with the arid and semi arid areas are long standing. They have been there since the colonial times. I am afraid that unless, we, as a country under the new Constitution move swiftly to correct the problem of marginalization of certain parts of this country, it is impossible to create a united Kenya; a country where every citizen can feel that they belong to the same country.

Mr. Temporary Speaker, Sir, the kind of challenges that Kenyans go through in some parts of this country sound like folk tales when they are told to other Kenyans in other parts of the same country. The purpose of the new Constitution was to correct the historical marginalization that is a consequence of a bad Constitution that we have had since 1963. But more importantly, is to correct the social economic policies that we have pursued in the implementation of the Constitution that we had before 2010. In particular, I have great challenges with Sessional Paper No.10 of 1965. Every time I look at the inequality in this country, it points to the thrust of that policy paper which – with all due respect to its crafters. I am told the former President of Kenya, hon. Mwai Kibaki and the late Tom Mboya were some of the people who crafted that policy. There is one area where these great sons of Kenya – and I hope there were daughters also – made one grave mistake. This mistake was to advance a narrow view that to create a prosperous country, all you needed to do was to concentrate on what they called “high potential areas.” They drew an imaginary line just above Malindi, joined that with Meru, left out Isiolo on the other side all the way to Mt. Elgon. If you look at that map downwards or southwards, it is less than a third of the territorial size of Kenya. The rest of Kenya or two thirds north of that imaginary line was left to its own devices and to the vagrancies of under development. Of course, the Kibaki administration tried to do a few roads outside that area. However, the railway and the major trunk roads are concentrated south of that imaginary line. Education wise, until recently when universities have moved out, all the universities and all the great national schools were also concentrated there.

So, Mr. Temporary Speaker, Sir, I support this Motion. This is a Motion that should actually even give rise to amendments of the Basic Education Act, so that this obligation becomes lawful. But there is need for us to define which counties these are. At the moment, when you say ASALs, almost every other county – a part of Tharaka Nithi, for example, is ASAL. So, we need this to be clearly defined. We can even name the counties. We know the counties that have really got a raw deal from the previous Constitution. They got a very raw deal.

We need to name them because there is nothing wrong in doing so. I am sure this is something that we are willing to compromise on so that if my county is left out, then I should be in a position to comfortably say at least my county is better than Turkana County or Mandera County.

Mr. Temporary Speaker, Sir, this is a good Motion. The issue of boarding facilities is good, especially for the girl child. I do not think the boys are doing any better in these places. As much as I am very sympathetic to the course of the girl child, I do not think in these places boys are doing any better. So, why can we not put up boarding schools for all children? The numbers also is an issue. It says three per ward; I do not know what mathematics Sen. Halima used. I have never known her to be a mathematician anyway. Assuming she is one, I do not know what mathematics or economics she used to arrive at that figure of three schools per ward.

Mr. Temporary Speaker, Sir, this country will never know peace and prosperity until we confront the ogre and the demon of marginalization. You can preach until cows come home on how Kenya is one country, how we have one flag, how we have one national anthem or how we have one map, but until every Kenyan feels like they are being treated like fellow Kenyans elsewhere, we will continue having divisions, skirmishes, violence, hatred and so on.

Devolution was crafted to salvage our country from disintegration. In fact, even as we talk about entrenching devolution, I am persuaded that we need to make devolution a national security issue. This is the only thing that will prevent this country from going to chaos. All said and done, the reason Kenyans are angry at each other is because they feel part “x” has been treated differently from part “y”.

Mr. Temporary Speaker, Sir, this is a wonderful Motion and I hope it can be replicated in other ways to entrench and equalize counties in terms of health, agriculture and other things that can bring socio-economic transformation in our country and bring equality and dignity to all Kenyans.

Having said that, I have no problem with retaining the girls as the subject matter, however, I have a problem with ASAL area. This is general. In fact, it starts by saying 80 per cent of Kenya is arid. I think we should say that we should have these boarding schools in the whole country which I do not think is a good way to go. Just specify. It is not difficult to convince colleagues about Turkana, Mandera, Isiolo and so on. We know them. We can even use data about the facilities available in the counties and have a cut off line where if you do not have this threshold of facilities for girls then you do not qualify or otherwise.

With those very many remarks, I want to say that I totally support this Motion wholeheartedly. When the counties are defined, do not forget Tharaka Nithi County.

**The Temporary Speaker** (Sen. (Dr.) Machage): Indeed, just to quote Sen. (Prof.) Kindiki, this country will not have peace until we confront the ogre of marginalization with due respect to our own Constitution. For that reason, I think this Motion needs more ventilation. It is only one minute to adjournment and that is not enough time to call upon the Mover to reply. I believe we should not “marginalize” the Motion. We have to postpone it to the next sitting.

*(Motion deferred)*

Hon. Senators, I have also moved to another day Orders No.11 and 12.

RESTRUCTURING AND EXPANSION OF  
MANDATE OF KURA

THAT, aware that the Kenya Urban Roads Authority (KURA) is vested with the responsibility of developing roads in cities and former municipalities; noting that a number of county headquarters are located within areas formerly known as county councils and therefore road maintenance within such county headquarters would not be the responsibility of KURA; concerned that this arrangement gives undue advantage to county headquarters located within cities and former municipalities compared to those located within the former county council areas; the Senate calls upon the National Government to restructure KURA and expand its mandate to cover road infrastructure in all the forty-seven county headquarters.

*(Motion deferred)*

MEASURES TO DEVELOP RESEARCH IN KENYA

THAT, aware that research is a mystified domain which remains a preserve of selected Government agencies, academic institutions of higher learning and a few other organizations; concerned that even in the said institutions of learning, research is usually introduced at post-graduate level; further concerned that research has not been prioritized and very low funding is channeled towards it; the Senate calls upon the National Government to:-

- a) take deliberate measures to cascade research to lower level of education right from early childhood education level;
- b) inculcate and institutionalize research by introducing it as a compulsory discipline at all levels of education;
- c) develop a clear policy and legal framework to guide the development and sustainability of research at all levels of education; and
- d) increase funding for research by allocating at least 1% of the National budget to research.

*(Motion deferred)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, there being no other business on the Floor of the House, the Senate stands adjourned until Thursday, 19<sup>th</sup> June, 2014 at 2.30 p.m.

The Senate rose at 6.30 p.m.