

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 17<sup>th</sup> September, 2013**

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

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

### PRAYERS

### QUORUM CALL AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Ethuro): Order, hon. Senators! We need to determine if we have a quorum.

**The Clerk of the Senate** (Mr. Nyegenye): Mr. Speaker, Sir, we have 26 Senators in the House. We have a quorum.

**The Speaker** (Hon. Ethuro): Let us proceed.

### MESSAGE FROM THE NATIONAL ASSEMBLY

#### CONCURRENCE ON THE COUNTY ALLOCATION OF REVENUE BILL, 2013 (SENATE BILL NO.1 OF 2013)

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to make the following Communication.

I wish to bring to the attention of the Senate that pursuant to Standing Order Nos.40 (2) and (3), the Clerk received and delivered to me, on Wednesday, 7<sup>th</sup> August, 2013, the following Message from the National Assembly regarding the County Allocation of Revenue Bill, 2013 (Senate Bill No.1 of 2013):

THAT, the National Assembly has agreed to the County Allocation of Revenue Bill, 2013 (Senate Bill No.1 of 2013) without amendment.

Consequently, I caused the Message to be transmitted to every Senator pursuant to Standing Order No.40 (5) through letter Reference Sen/L&P/MSG2013/6 dated 7<sup>th</sup> August, 2013 as the Senate was not sitting at the time.

Hon. Senators, in accordance, therefore, with Standing Order No.40 (5), I hereby report the above Message to the Senate.

I also wish to notify you that the Bill was assented to by His Excellency the President on Friday, 9<sup>th</sup> August, 2013 and was published in a special issue of the Kenya Gazette on 12<sup>th</sup> August, 2013. The Act came into operation on 26<sup>th</sup> August, 2013.

I thank you.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): What is it, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I thank you for that Communication. I also laud His Excellency the President for signing the Bill into law. But remembering some of the *kamkunjis* we have had on the need for consultations between the two Speakers of Parliament and in view of the fact that we have been away for a long time, might you be having information to re-assure us that now business will be transacted in the two Houses in accordance with the provisions of the Constitution?

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

**The Speaker** (Hon. Ethuro): Thank you, Sen. (Dr.) Khalwale! However, once you dispose of your matter, you resume your seat.

*(Sen. (Dr.) Khalwale resumed his seat)*

**An hon. Senator:** He forgot!

**The Speaker** (Hon. Ethuro): There is no point of walking to your seat as if you have just had some major undertaking.

*(Laughter)*

Hon. Senators, let me take this opportunity to welcome you back to the Chamber after the recess. Of course, during recess, you were still busy with committee and county business. This is now an opportunity to resume plenary business.

I want to agree with Sen. (Dr.) Khalwale that we have made a lot of progress in terms of the relationship between the two Houses. I did not intend to do this in the main plenary. We are planning to convey this issue through the normal *kamkunjis* because this is really an in-house matter. But since you have raised this matter, it is good for me to give the assurance from the outset that the leadership of the two Houses got together and agreed on how to proceed with business. I can confirm, on your behalf, that what was agreed on is the framework that is within the law and the Constitution. That is what we have been asking for a long time. But as the English say, “the proof of the pudding is in the eating”, it is in eating of the pudding that you will appreciate it. This is just the first day when we start “eating”. So, from that Communication, we hope to continue eating the pudding until we determine that it is very nice.

Thank you.

## STATEMENTS

**The Speaker** (Hon. Ethuro): Yes, Senate Minority Leader.

SHOOTING OF PETER WANYONYI WANYAMA  
IN BUNGOMA COUNTY

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Mr. Speaker, Sir. I wish to seek a Statement from the Chair of the Committee on National Security and Foreign Relations under whose purview is internal or homeland security.

The Statement I wish to seek relates to an incident in Bugoma County last night where armed thugs ambushed and shot a prominent lawyer, Peter Wanyonyi Wanyama, and fatally wounded him. In the statement, I wish the Chairman to:

(1) Inform the House and the country what urgent steps are being taken to get to the root of this heinous crime.

(2) Tell the House and the country why it took so long for the police at Bungoma Police Station to get to the scene yet the lawyer lives barely a kilometre from the police station.

(3) Whether this fatal attack on the lawyer is a resurgence of the notorious insecurity incidents in Bungoma County over which you graciously allowed me, some three or four months ago, to move a Motion of Adjournment in this House where the House debated and expressed disgust and dissatisfaction at the state of affairs.

(4) Inform and commit that no stone will be left unturned until the perpetrators of this heinous crime and the fatal shooting are dealt with, knowing that the residence of the deceased lawyer is only 1.5 kilometres from my own residence and, therefore, he is my neighbor. Even if he was not, I must show concern as the elected representative of Bugoma County.

Mr. Speaker, Sir, I beg to request.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): What is it, Sen. (Dr.) Khalwale? Is the point of order related to the Statement that has been sought?

**Sen. (Dr.) Khalwale:** Yes, Mr. Speaker, Sir. Indeed, the matter being raised by the hon. Senator for Bungoma County is so serious because may be, unknown to the Senator, already the tension on the ground is such that some of the local leaders have already addressed the media and stated that this is a political matter. When this kind of death is referred to as being “political”, the senior most politicians from our community are in this Senate; Sen. Wako, Sen. Wetangula, Sen. Khaniri and myself. I am, therefore, saying that the Government must make sure that the question of “political” is not just allowed to be a statement made by an individual or individuals in passing. We would like to see all of us, the senior politicians of the area, being asked to go and record statements on this very serious matter.

I am pained because Peter Wanyonyi was my friend. At the time of his death, he was actively involved in a petition. He was representing hon. Musikari Kombo against

hon. Wetangula. So, to just let this matter fly like that, it can immediately set the bloc that sympathises with Sen. Wetangula against the other bloc and the situation will become worse.

Finally, Mr. Speaker, Sir, I would like the Government to stop playing games with the issue of insecurity in Bugoma County and in Kenya in general. I refer specifically to Bungoma County because when this matter of insecurity first came up three or four months ago, none other than the Deputy President and the Inspector General visited Posta Grounds and promised the people, upon the people's request, that they would reshuffle the senior police officers within Bungoma County because there was laxity and general unwillingness of the police to come out when called upon. These people did not come out last night the way Sen. Wetangula has said. It is shocking that even up to now, not a single police officer has been reshuffled in Bugoma County. What was the use of the rally that was called by the Deputy President and Inspector General, David Kimaiyo?

Mr. Speaker, Sir, we are very sad. We want to send our condolences to the family of Peter Wanyonyi. I want to call upon hon. Musikari Kombo, Sen. Wetangula and hon. Eugene Wamalwa to, within the next 72 hours, be seen together addressing our people, so that our people do not take it that we are killing each other because of our political wars. We come from a community which is called *Mulembe*, a community of peace. We do not kill people, leave alone our relatives.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Chairman could you give your comments on this?

**Sen. Haji:** Mr. Speaker, Sir, I sympathise with the bereaved family and send my condolences. I want to assure the hon. Senators that everything will be done to respond to this issue effectively. I want to be given up Tuesday next week, so that I can give an elaborate answer.

**The Senate Minority Leader** (Sen. Wetangula): Can the Statement be issued on Thursday, this week?

**Sen. Haji:** It is not possible.

**The Speaker** (Hon. Ethuro): Order, hon. Senators. The Statement will be issued on Tuesday, next week.

#### TARMACKING OF KIBWEZI-KITUI-MWINGI ROAD

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

**The Speaker** (Hon. Ethuro): What is it, Sen. Mwakulegwa?

**Sen. Mwakulegwa:** Mr. Speaker, Sir, as the Deputy Chairman of the Committee on Energy, Roads and Transportation, we were to give a Statement today from the Cabinet Secretary in charge of the same. But when we got the Ministerial Statement, we, as a Committee, felt that we needed to make more reference to the Statement, so that it is worth presenting on the Floor of the House. So, we indulge the House to give us about three weeks. We should be able to present that Statement on 8<sup>th</sup> October, 2013.

**The Speaker** (Hon. Ethuro): What was the Statement about?

**Sen. Mwakulegwa:** Mr. Speaker, Sir, it was on a Petition by Joseph Kalinga of Kitui through the Senator for Kitui County regarding the Kitui-Mwingi Road.

**The Speaker** (Hon. Ethuro): So, we will get the Statement in three week's time?

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

**The Speaker** (Hon. Ethuro): Senator from Kirinyaga County.

#### CONSTRUCTION OF SAGANA-KUTUS- KERUGOYA-KARATINA ROAD

**Sen. Karaba:** Thank you, Mr. Speaker, Sir. Before we proceeded for the recess in August, I sought a Ministerial Statement and a Petition. One is about a road that is purported to be under construction; the Sagana-Kutus-Kerugoya-Karatina Road. I was promised that the Statement would be issued as soon as we resume. Now that we have resumed, I need to be guided whether the Statement will be presented to the House.

#### PLIGHT OF RICE FARMERS AT MWEA SETTLEMENT SCHEME

Secondly, Mr. Speaker, Sir, the other issue I sought was on the Mwea Irrigation Scheme which I presented as a Petition from Mwea Farmers. We are yet to be told when these matters will be responded to, so that we keep our people informed.

**The Speaker** (Hon. Ethuro): Could the relevant Chairpersons comment on this? Senator Mwakulegwa!

**Sen. Mwakulegwa:** Mr. Speaker, Sir, on the issue of construction of Sagana-Kutus-Kerugoya-Karatina Road, we have not received the reply. Immediately we do so, we will make every effort to ensure the Statement is presented before the House this week.

**The Speaker** (Hon. Ethuro): Sen. Musila.

#### CRITERIA FOR DETERMINING MARGINALISED COUNTIES TO BENEFIT FROM EQUALISATION FUND

**Sen. Musila:** Mr. Speaker, Sir, I stand to address a very serious matter on a Statement that I requested on 14<sup>th</sup> May, 2013. I raised the matter again on 17<sup>th</sup> June, 2013, 2<sup>nd</sup> July, 2013 and 25<sup>th</sup> July, 2013. On that day, the Chairperson of the Committee on Devolved Government, Sen. Murkomen, assured the Senate that he was going to give a report of his Committee on the matter that I had raised, namely the matter of the Equalisation Fund. He promised the House, and this is on record on HANSARD, that the report would be laid on the Table of the Senate on 30<sup>th</sup> July, 2013. Thereafter, the Chairman pleaded with me that I allow him so that he uses the recess period to complete the report.

Mr. Speaker, Sir, this is a matter that has taken a very long time. When I raised it, it was meant to pre-empt the allocation of funds before the financial year. That was on 14<sup>th</sup> May, 2013. The Committee is either unable or unwilling to undertake this task.

Therefore, I am seeking the guidance of the Chair, whether this matter should be foregone. It is important that the issue of the Equilisation Fund be addressed. It is a constitutional issue and the Senate has a responsibility to ensure that those areas that are marginalized, as identified by the Commission on Revenue Allocation, benefit from the Fund. As I speak, only some 14 areas have been allocated the funds despite the fact that the same Committee identified 21 areas. Therefore, I am seeking the Chair's guidance on this matter.

Secondly, Mr. Speaker, Sir, since I am on the Floor, I want to seek your indulgence that as we were going on recess, I sought a Ministerial Statement---

**The Speaker** (Hon. Ethuro): Order, Sen. Musila! Just because you are on the Floor does not give you the right to go on and on. But since I allowed you and you had not indicated how many statements you wanted to seek clarification on, you can proceed. But it is not because you have seized the Floor.

WITHHOLDING OF KCSE CERTIFICATES  
BY SCHOOL HEADS

**Sen. Musila:** Thank you, Mr. Speaker, Sir. This is a brief matter. I had asked the Chairman of the Committee on Education, Information and Technology, Sen. Kagwe, to give a Statement on the issue of former students of secondary schools who finished their schooling and did their examinations, but their schools continue to withhold their certificates illegally. In accordance with Act No.29 of the Kenya National Examinations Council (KNEC) of 2012, it is illegal for anybody, principals or even the KNEC to withhold certificates of students who sit for national examinations. My friend is there, but I did not see him rise, that is why I rose on this matter.

**The Speaker** (Hon. Ethuro): Dr. Kuti.

**Sen. (Dr.) Kuti:** Mr. Speaker, Sir, I stand to seek a Statement from---

**An hon. Senator:** Has your name been called out?

**Sen. (Dr.) Kuti:** Sorry, I thought my name was called out.

**The Speaker** (Hon. Ethuro): Order! Your name was called out because I thought you were responding to Sen. Musila's requests. Which Committee does the issue of the Equilisation Fund fall under? Is this an issue under the Committee on Devolved Government?

**Hon. Senators:** Yes!

**The Speaker** (Hon. Ethuro): Could the Vice-Chairperson respond to this issue? Sen. Kagwe, you are not the Vice-Chairperson of the Committee on Devolved Government.

Sen. Wangari, as you respond, I wish to say that Sen. Musila has been on this matter for far too long. It must come to an end.

**Sen. Wangari:** Mr. Speaker, Sir, before I respond to the issue, I, first, want to apologise to the Senator for taking a long time to respond to a matter that has been on the Floor of the House for quite some time. But we know that these Statements do not come from the Committees, they come from the Ministries. We have not received that Statement from the Ministry of Devolution and Planning. We have constantly engaged

them. I hope that we will be able to push this by the end of this week, now that we are back from recess, so that they can give us the communication that we can table here. I beg the indulgence of the House to give us this week. By Thursday afternoon, we will be able to give a way forward.

**The Speaker** (Hon. Ethuro): Thursday afternoon, this week?

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

**Sen. Musila:** On a point of clarification, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): What is it, Sen. Musila? I thought you should be quite happy now.

**Sen. Musila:** Mr. Speaker, Sir, I am not happy because I feel the Committee is mistaken. The Committee ought to summon the CRA and get the facts. But what they are saying is that they want to give a Statement. I do not want a Statement, I want a report of the Committee on the sharing of the Equalisation Fund. That distinction should be made.

**The Speaker** (Hon. Ethuro): But Sen. Musila, you rose on the Order on Statements. So they are right to report on the same order, which is Statements. Making a Statement does not preclude a report. So, the Committee should issue the Statement but also bring a report.

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): What is it, Sen. (Dr.) Machage?

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, the Chairperson of the Committee on Devolved Government has made a very serious report on the unwillingness of a Ministry to reply or respond to their order. Would I be in order to request that you guide this House on how long it should be considered a waiting period and whether we have the powers, as envisaged by the Constitution, to also use the powers of the High Court on the Minister?

**An hon. Senator:** It is there!

**The Speaker** (Hon. Ethuro): I think Sen. (Dr.) Machage has already spoken for the House when he said that these committees take too long to respond. Of course, on the admission of that particular Committee, they are not getting responses from the Executive. I was just waiting to see the magnitude of that kind of problem so that we can be able to deal with it. But to respond specifically to yours, this is a Committee matter and so it is up to the Committee to come back to the House and state that it is not getting the necessary support and then we will pick it from there. They are at liberty to give any sanctions they wish. So, I think let us wait until Thursday, the Committee will come back to the House with a report and can also petition the House to take certain steps. For now, they seem to be a bit happy except for the point that maybe the rest of us are not happy. Especially since you have apologized, it means that they are not also very happy. So they are asking for indulgence for a few more days and then let us take the matter from there.

**Sen. Kagwe:** Mr. Speaker, Sir, in similar format, my friend, Sen. Musila, did ask the question that he said, but that was the last day and we did say that we were going to reply this first week after resumption. I wanted to seek your indulgence to reply next week because I have been with the officers concerned and there is a specific officer who is not in the office who I need to give a proper reply.

**The Speaker** (Hon. Ethuro): So, next week on Tuesday!

**Sen. Kagwe:** Mr. Speaker, Sir, Tuesday is fine.

MEASURES TO RESOLVE BOUNDARY DISPUTE  
BETWEEN MERU AND ISIOLO COUNTIES

**Sen. (Dr.) Kuti:** Mr. Speaker, Sir, pardon me for interrupting earlier. I am here to seek a Statement from the Chairman of the Committee on National Security and Foreign Relations about the deteriorating security situation in Isiolo. We have had relative peace for the last one year or so in Isiolo which earlier on was a hot spot. We as leaders have got together and managed a very successful election by trying to share and have a very inclusive leadership. Unfortunately, a land border issue is creeping into Isiolo and I have to seek this Statement this early in order that this matter be resolved and security personnel on the ground and the national level be able to take a pre-emptive move as we, political leaders, also look for a political solution.

Mr. Speaker, Sir, there is a developing land boundary dispute between Isiolo and Meru County at Meru North District and my colleague, Sen. Kiraitu, and I have agreed to put our heads together and go down and put leaders together and address this matter. But this morning, some members of my county were attacked. Four of them were injured, two of them critically and two women raped. This has been a brewing issue which we thought we could now rush and resolve. But now, since it has reached that level, it is an indicator of an explosive situation that I would like this Committee to take note of and to mobilize the security team as we, leaders, also get our act together so that Isiolo which has now enjoyed relative peace does not join the list of other counties that are hot spots.

Thank you.

**Sen. Haji:** Mr. Speaker, Sir, we have taken note of this and I intend to reply on Tuesday next week.

CLARIFICATION OF REPORTS ON ALLOCATION  
OF OIL BLOCKS TO NIGERIA GOVERNMENT

**Sen. Kagwe:** Mr. Speaker, Sir, I rise to seek a Statement from the Chairman of the Committee on Energy, Roads and Transportation following reports in the newspapers and the general media regarding the allocation of Kenya's oil fields. There was a report that we have given 46 oil fields to the Nigerian delegation that was here the other day. This is an extremely serious matter particularly given that we are aware that if there is one country that has managed its oil badly, it is Nigeria. In my view, what we should be learning from Nigeria is how to get to where the oil is and how not to manage oil resources. Therefore, I seek a Statement on this matter from the Chairman of that Committee. He should clarify this issue.

**Sen. Mwakulegwa:** Mr. Speaker, Sir, we shall consult and give the feedback in three weeks' time.

**An. hon. Senator:** That is too long!

**Sen. Mwakulegwa:** Mr. Speaker, Sir, It is not too long! For him to have said that they were given 46 wells, what was reported in the media is not what was reported in the



Ministry. So we want to get it from the Ministry so that we give you the right information.

**The Speaker** (Hon. Ethuro): Sen. Mwazo, the Ministry is not very far from you. If they came for less than five days and they allegedly got them, you should not take a lot of time to get the same information.

**Sen. Mwakulegwa:** Mr. Speaker, Sir, we shall fast track it and possibly give the Statement next week. But having worked in Nigeria for five years, it is not as you portray them. They also do good things and that is why on a light touch, they are marrying Kenyans girls.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, with all due respect to the Senator, is he in order to state that Nigerians are doing us a lot of good when we know that the cartels of drug trafficking in this country are perpetuated by Nigerians and, in fact, it forced the President to order the deportation of all foreigners but unfortunately to have them re-admitting themselves back into the country. Could he also – if he is convinced that they are doing a good job – use that opportunity to tell us what the President discussed with the Nigerians on the issue of drug trafficking? They might actually be bringing here barrels of drugs when we think that they are coming to mine gold.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Khalwale, Sen. Mwazo said it with a light touch although I agree with you that this is not a place for jokes. But as a matter of speaking, maybe that is why he did it. So, let us not escalate this particular matter. He also did not say that they are doing good things to us. He said that they do some good things. The only distinction he could not make is whether those good things included mining petroleum. Nigeria is a friendly State to our nation and we are bound by our standing orders; we should not discuss those kinds of things at this particular time unless you raise a substantive Motion. I think in terms of the issues raised by Sen. Kagwe, the Chair of the Committee has promised to deliver the Statement in one week's time.

**Sen. (Dr.) Kuti:** On a point of information!

**The Speaker** (Hon. Ethuro): Order, Sen (Dr.) Kuti, this is---

**Sen. (Dr.) Kuti:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Order Sen. (Dr.) Kuti! That matter was concluded and secondly, you should not insist when the Chair has made it abundantly clear that that is not a matter that may be entertained. The only reason why you had a bit of liberty was because the Senate Majority Leader was trying to turn this House into a choir and I want to make it very clear that this is a House of rules; it is only the Chair who can tell you whether you are out of order or not; or who should be given information and not any other Member. So, I hope all Senators are informed.

Next Order!

## MOTION

### ESTABLISHMENT OF COUNTY PUBLIC HEALTH COMPLAINTS BOARDS

THAT, concerned with the rising cases of patient mistreatment, negligence and professional malpractice by medical personnel in public and private health situations in Kenya which take the form of misdiagnosis, wrong decisions on treatment and prescription, medical or surgical errors, physical or verbal abuse, detention for inability to pay for services and alcoholism; aware of the devastating effects of such acts of commission and omission which have resulted in suffering, permanent injury or death of innocent Kenyans contrary to Articles 26, 43(1)(a) and 53(1) of the Constitution; concerned that most of those affected are the rural poor; further concerned that there are very few channels of addressing these abuses; the Senate urges the Government to establish public health complaint boards in all the forty-seven counties to address the systematic accountability issues that underlie rights violations in healthcare facilities in Kenya.

*(By Sen. Nobwola on 31.7.2013)*

*(Resumption of Debate interrupted on 31.7.2013)*

**The Speaker** (Hon. Ethuro): Hon. Senators, the Motion before us is as per the Order Paper. First, we have 25 minutes remaining. Secondly, there was an amendment by Sen. (Dr.) Machage which you should be debating. Just to refresh your memory, the amendment was that the Motion be amended by deleting all the words appearing between the words “urge the” and the words “in all” in the ninth and tenth lines and replacing thereof with the following words:-

“national government to establish offices of the Medical Practitioners and Dentists Board”.

So, we will, maybe, take two contributors to the amendment and then we put the question to the amendment and then we dispose of the Motion.

**Sen. Wako:** Mr. Speaker, Sir, I do not know how to proceed, perhaps you will guide me. But I have been talking to Sen. (Dr.) Machage about this particular amendment which was well intentioned and our aims are the same, but the Government cannot establish the Medical Practitioners and Dentists Board because that Board is a statutory corporation under an Act of Parliament and it is supposed to be independent, dealing with the discipline of doctors and dentists, which is an independent profession. Therefore, I have just talked with him and I felt that the proper wording ought to be:-

“Urges the Kenya Medical, Practitioners and Dentists Board to decentralize and establish its offices in all counties in Kenya”.

This, to me, will be in accordance with the law. Before I come to the merits, I just wanted to bring that to the attention of the Senate and I talked to Sen. (Dr.) Machage and he agreed that maybe this carries out our intentions well. So, I do not know how to proceed on it. One way is to debate that one and then bring this amendment, which will take more time.

**The Speaker** (Hon. Ethuro): The problem is that I have not even seen your amendment.

**Sen. Wako:** I thought I had forwarded it to the Clerk.

**The Speaker** (Hon. Ethuro): The Office of the Clerk plays a different role from the Office of the Speaker. Assuming we accept your amendment, then you will have squandered the opportunity. So, let us allow one Senator to contribute while we reconcile your amendment.

**Sen. (Prof.) Lesan:** Thank you, Mr. Speaker, Sir. I wish to make a contribution which touches on the amendment which is in the process of being read to you. I think this is the latest amendment and I will support it when it is properly before the House.

Mr. Speaker, Sir---

**The Speaker** (Hon. Ethuro): Order, Senator! You are not allowed to anticipate debate; so, you deal with the matter as it is.

**Sen. (Prof.) Lesan:** Thank you, Mr. Speaker, Sir. Let me carry on as the Motion was before; but I am also anticipating that some amendments will be done, but I will not mention it here.

Mr. Speaker, Sir, as a medical practitioner, I am personally saddened by the suffering that is currently being caused by the medical practitioners to the populace of the country. I am even more saddened because of the number of cases that are arising and also the severity of some of these cases which the medical practitioners are subjecting wananchi to.

Mr. Speaker, Sir, this is a very serious thing and we know that some of the cases are very serious. As we are today here, I would probably like to remind Senators of the very sad case that we saw in Bungoma Hospital, where a lady delivered on the floor under the watch of medical personnel and she was subjected to ridicule and abuse as she was being subjected further to negligence. I thought this was the lowest that the medical practitioners could go in this country, and I thought it is important now that a law or a system is put in place which can pick up these issues at the outset.

Mr. Speaker, Sir, I am saddened further because one of the bodies that did not make any response at all was the Kenya Medical Practitioners and Dentists Board (KMPDB). It was all left to the members of the press to address the issue. It is in this light that I really think that---

**The Senate Minority Leader** (Sen. Wetangula): On a point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Sen. (Prof.) Lesan, would you like to be informed?

**Sen. (Prof.) Lesan:** It is okay, Mr. Speaker, Sir.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Mr. Speaker, Sir. I want to inform the good Professor that, in fact, after that horrendous act at Bungoma Hospital, now the medics at the hospital have banned patients from entering the hospital with any mobile phones or electrical gadgets because a mobile phone was used to record the misconduct that brought their misdeeds to the public.

**Sen. (Prof.) Lesan:** Thank you very much, Senator for Bungoma. I am sure this is quite at home with the Senator.

Mr. Speaker, Sir, these are the very concerns that make this Motion a very important one that we should all support in this House. We should ensure that Cap.253, which establishes the KMPDB, is amended so that we can correct the situation and condition in such a manner that it is actually sensitive to what is going on. We can only do that if we bring this body closer to where the action is; and the action is usually at the counties, where most of the population stays. It is therefore important that we support this Motion which seeks to establish sectors or an arm of the KMPDB at the counties. It is in this respect that we think this body can respond faster to the suffering of the population on the ground.

Mr. Speaker, Sir, I do know that this negligence is not caused by lack of knowledge by the medical practitioners. I am aware of this because the manner in which medical practitioners work, there is a lot of referrals, consultation and team work that goes on and, so, knowledge is shared on the ground. It is really not the lack of knowledge that is causing this problem. Therefore, it is important that we look at the aspect of licensing of the medical practitioners such that the licensing is done in such a manner that no single medical licence is given, but a licence is given to a group or a team of doctors who practice.

With those few remarks, Mr. Speaker, Sir, I beg to support that this Motion be passed by this House in order to devolve the functions of the KMPDB and, therefore, make them more responsive to the public on the ground.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Machage.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, in view of the legal advice that has been presented to us by the former Attorney-General of the Republic of Kenya and humbly so accepting it, I would want to seek your indulgence that I withdraw the amendment Motion that I had moved earlier and replace it with the following---

**The Speaker** (Hon. Ethuro): Order! Order! Order, Sen. (Dr.) Machage!

Senators! Let me guide you a bit. Sen. (Dr.) Machage is withdrawing his amendment. Once a Motion has been proposed, it is the property of the House. So, he can only withdraw it with your leave, and that is why I was stopping him there in order to determine that you have granted that leave. You can only deny him the leave by objecting to it. Since nobody has objected, I take it that the House has granted him leave to withdraw the amendment. Standing Order No.2 (1)(a) states:-

““leave of the Senate” means there being no objection by any Senator, either with the sympathy of the Speaker or with the support of at least two other Senators;”

So, we will assume that your Motion has been withdrawn with the leave of the House. This is critical so that you do not just think that it is your own Motion and, therefore, you can withdraw it at any time.

*(Sen. (Dr.) Machage's proposed amendment withdrawn)*

The second one is that you cannot also just move another Motion because there was an original Motion and you brought an amendment. You contributed to the original Motion by bringing the amendment, so you spoke to the amendment. Therefore, you are

really now left with no opportunities. So, let your professional legal adviser, the Senator for Busia, now move the new amendment and you may be at liberty to second it. Those are our procedures and that is the way we will proceed.

**Sen. Wako:** Mr. Speaker, Sir, I support this Motion because it answers the needs or some of the problems that we have seen in this country---

**The Speaker** (Hon. Ethuro): Order, Sen. Wako!

**An hon. Senator:** Move the Motion!

**The Speaker** (Hon. Ethuro): I hope your professional advice is not limited to Sen. (Dr.) Machage; it should apply to the House!

**Sen. Wako:** Okay.

**The Speaker** (Hon. Ethuro): You should move the Motion as proposed and then you can now say those other things.

**Sen. Wako:** Okay.

Mr. Speaker, Sir, I beg to move the following amendment:

THAT, we delete from the fourth line the words “the Senate urges” up to the end and substitute it with the following words: “the Senate urges the Kenya Medical Practitioners and Dentists Board (KMPDB) to decentralize and establish its offices in all the counties of Kenya.”

Mr. Speaker, Sir, I am moving this amendment because I do support the spirit of the Motion. As a practicing advocate, one of my major clients were the Kenya Medical Practitioners and Dentists Union (KMPDU), which came to the aid of any doctor who had been either charged with professional negligence or if there had been any complaint against any doctor before the board, I would appear. So, I am aware that these problems of professional negligence particularly have been going on. But the other times I was in practice, the doctors who were appearing before these boards – the doctors against whom cases were being filed – were really the established doctors from established hospitals like the Nairobi Hospital, the Aga Khan Hospital and Kenyatta National Hospital. These were really the best established doctors and yet, even in that, we had cases of negligence. At that time, people were not very much aware of their rights; whatever the doctor had done was taken as done, with people relying on the common saying “*yote ni ya Mungu*.” But people have now become aware of their rights, but even more importantly, because of the increase in population, hospitals and many people seeking medical assistance, such cases have become very many and, consequently, the need to decentralize. It is in the spirit of our Constitution – and I believe it is Article 6(3) – which encourages national organs or institutions to decentralize their activities so that the services are also available at the county level.

Therefore, Mr. Speaker, Sir, it is in that spirit that we are now saying that with the phenomenal increase in our population and people seeking medical services; and, therefore, an increase in the number of doctors who have come up, the activities of the KMPDB should also be decentralized. The board is a statutory body established under an Act of Parliament to more or less discipline the members of the profession and, of course, key to any profession worth its name is an independent institution which disciplines its members.

I beg to move the amendment and I ask Sen. (Dr.) Machage to second.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I second the amendment to the Motion as put to us by Sen. Wako. The spirit of the Motion is not lost and Sen. Nobwola's spirit will actually be more lifted if we make this amendment so that the whole Motion is in tandem with our established norms of practice of medicine in this country. We already have an established Medical Practitioners and Dentists Board that is ably functioning but what we need to do is give more mandate to the counties in a wide scale instead of looking at only public health complaints as put to us by Sen. Nobwola because that would only limit us to primary healthcare. We need to look at primary, secondary and tertiary healthcare.

For that reason, I second the amendment as put forward to us.

*(Question of the amendment proposed)*

**The Speaker:** Hon. Senators, because of time, I will only take one, that is, Sen. Musila before I put the question.

**Sen. Musila:** Mr. Speaker, Sir, I want to support the amendment. I believe that if this is done, the suffering of patients, particularly poor patients in the rural areas will be minimized. Patients have been suffering for too long and the Medical Practitioners and Dentists Board takes too long to respond to complaints even when they are made because it is stationed here in Nairobi. I believe that if this amendment is implemented, the suffering patients in the rural areas will be very much relieved.

Mr. Speaker, Sir, allow me to point out one issue that has been going on concerning cancer patients. Cancer patients are suffering in Kenya today because their drugs have been withheld. These are some of the issues that we, as Senators, must check and ensure that the Government does not allow patients to die simply because they are waiting to collect taxes. Kshs375 million worth of drugs have been donated. The Government has paid Kshs5.6 million in revenue but the Kenya Bureau of Standards (KEBS) is insisting on Kshs900,000 as inspection fee. On Friday, I met some two girls suffering from Leukemia who had run out of drugs and were expecting them from Mombasa to save their lives. Could we, as a Senate, as we pass this Motion, urge the Government also to have these drugs released so that these poor patients can live?

**The Speaker** (Hon. Ethuro): I said, I will only allow one before I put the question but let me allow two more: Sen. Khaniri and Sen. Tiolo Ndiema.

**Sen. Khaniri:** Mr. Speaker, Sir, thank you very much for your indulgence. I rise to support the amendment that was moved by the Senator for Busia, Sen. Wako. Before I do that, allow me from the outset, to thank and congratulate the original Mover of this Motion, Sen. Nobwola, for bringing this important Motion. The initial intention was very good and the amendment moved by Sen. Wako just goes further to advance the good intentions that the Senator had.

Mr. Speaker, Sir, in my service as a Member of Parliament, I have had a lot of experience in trying to intervene for my constituents who have gone through this kind of suffering in our public and even private hospitals. The most notorious cases that affect my people were cases where hospitals detained bodies of people who had died because of

lack of payment of bills. This is very immoral and can be very frustrating to families that are grieving. I feel that this Motion will go a long way in trying to alleviate this particular problem. The reason we support the amendment strongly is because, first, it is in the spirit of devolution. When we passed the new Constitution and adopted devolved governments, we expected that people will get services from their counties. Therefore, this Motion goes a long way in urging the Kenya Medical Practitioners and Dentists Board to live up to the letter of the Constitution and ensure that the local mwananchi can access their services in their counties without coming to Nairobi to make their complaints.

**The Speaker** (Hon. Ethuro): Time up, Sen. Khaniri!

**Sen. Khaniri:** I support.

**The Speaker** (Hon. Ethuro): Sen. Tiole Ndiema, you have two minutes.

**Sen. Ndiema:** Mr. Speaker, Sir, I stand to support the Motion as amended. This Motion seeks to address the serious issues of health that our people continue to face, particularly in the rural areas.

Mr. Speaker, Sir, there are several areas that need to be addressed by this Board. While we are decentralizing, they also need to up their activities and report to the public. I have in mind issues of diagnosis. In many areas, there are laboratories that have sprung up which purport to give diagnosis but in most cases give wrong diagnosis, patients end up being treated for wrong ailments and by the time such mistakes are discovered, it is too late. I think something should be done.

There is also the issue of fake medicines or counterfeit medicines which have flooded the market. Every day we hear about such issues.

**The Speaker** (Hon. Ethuro): Senator, your time is up.

**Sen. Ndiema:** With those few remarks, I support.

**The Speaker** (Hon. Ethuro): Order, Senators! Therefore, I wish to put the question. Before I do so, I want to remind you that this is a Motion affecting counties.

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

**The Speaker** (Hon. Ethuro): What is your point of order, Sen. Nobwola?

**Sen. Nobwola:** On a point of order, Mr. Speaker, Sir. I wanted to request you to postpone the vote on the Motion since it affects counties because we do not have the quorum to pass the Motion.

**Sen. Wako:** On a point of order, Mr. Speaker, Sir. In the light of your very correct ruling that this is a Motion that touches on the counties, I can see that we lack the numbers. So, I would like to move, under S.O. No.51(3), which reads:-

“When a Motion has been moved and if necessary seconded, the Speaker shall propose the question thereon, in the same terms as a Motion, debate may then take place upon that Question then despite---

**The Speaker** (Hon. Ethuro): Order, Sen. Wako! We all have our Standing Orders, just mention and we will know. Do not read.

**Sen. Wako:** I am very glad that Senators are well learned in these matters. That is S.O. No.51(3). I am requesting that we defer this vote to another date.

Sometimes ago, we agreed that the vote in this House, particularly the votes that touch on counties, will preferably be done on Wednesday afternoon. Therefore, I want to request that the vote be deferred to Wednesday afternoon.

**The Speaker** (Hon. Ethuro): I thought the second part confirms that the Speaker shall nominate a time but you have gone ahead to propose for the Speaker. But the request has been put properly according to S.O. No.51(3) and (2) which says that the Speaker may on the request of a Senator defer the putting of the question to the following day in which case the Speaker shall nominate a time in which the question shall be put. So, we will have it put tomorrow Wednesday.

**Hon. Senator:** Wednesday next week.

**The Speaker** (Hon. Ethuro): Order! The Speaker is on his feet but I have heard you. I will defer it to Wednesday next week anytime after 3.00 p.m. after we dispose of the preliminary orders.

Sen. Nobwola, you still have the right of reply although we have not done well with time. So, I will give you five minutes to reply just before the vote is taken.

That is for both the amendment and the Motion.

*(Putting of the question on the  
amendment deferred)*

*(Debate on the Motion deferred)*

Next Order!

## MOTION

### FORMULATION, MAPPING AND OPERATIONALISATION OF KEY DEVELOPMENT AGENDA FOR COUNTY GOVERNMENTS

**Sen.(Dr.) Zani:** Mr. Speaker, Sir, I beg to move:-

THAT, aware that the county is the main focus of devolution and that there exist multi-level structures within county governments; noting the need for counties to succeed and improve the social, economic and political well being of citizens and attain optimum levels of development within the said counties; appreciating that the devolved government structure envisioned in the Constitution of Kenya 2010 provides for different levels of government functions and responsibilities and that the interpretation and enforcement of these roles has been the subject of debate; concerned that there is still no county impact analysis strategy; the Senate urges the Council of Governors to take measures to require all counties to formulate, map and operationalise, with measurable indicators, key development agenda and deliverables for each term of the respective county governments.



Mr. Speaker, Sir, this Motion is about trying to create order in the counties and really keeping the eye on the prize to show that the output and the outcomes for specific counties are very clear. The Motion, therefore, suggests that there should be a model of impact analysis that is very definite, with specific indicators and measurable outputs so that at the end of the day, a county might be able to see that devolution has actually worked. Devolution has been very attractive to Kenyans because there is a sense in which development will reach the grassroots. In the next five years, for whatever reason, if the impact of that devolution has not been felt, then people will move away from believing in the process and in the promise of devolution. Therefore, it is very critical that immediate indicators and a clear roadmap are put into operation to ensure that devolution works.

Article 174, Chapter 11 upon which devolution is hinged says:

“The objects of the devolution of government are—

- (a) to promote democratic and accountable exercise of power;
- (b) to foster national unity by recognising diversity;
- (c) to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;
- (d) to recognise the right of communities to manage their own affairs and to further their development;
- (e) to protect and promote the interests and rights of minorities and marginalised communities;
- (f) to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;
- (g) to ensure equitable sharing of national and local resources throughout Kenya;
- (h) to facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya; and
- (i) to enhance checks and balances and the separation of powers.”

For most citizens, the aspect of socio-economic and political development is key. These are the same pillars that have been envisaged in Vision 2030 to ensure that at the end of the day, optimum levels of development are achieved across these sectors.

Since devolution got implemented, for various reasons, across the various structures and organs that have been established, there have been conflicts. Sometimes, therefore, that has removed us from focusing on what the output should be. For example, this has happened at the national Government, the Judiciary, the Legislative organs; the National Assembly and Senate; and the Executive. We do not want to go that direction but we know what happened especially with regard to the National Assembly and the Senate in terms of getting a process and way forward for what we want to do. In the county governments as well, there has been a lot of confusion and at times not very clear roadmaps in terms of the direction that counties should take between the county governor, county members of assemblies and the members of the public who are supposed to participate.

The conflicts have been at different levels. They have been at the national Government organs, across national Government organs and within our county organs. That has removed us from the main agenda for devolution and development of the

counties which is where the focus ought to be. The Motion, as it reads, does not aim to introduce something that is completely new because we already have the Intergovernmental Relations Act and the County Governments Act, both of which emphasize the importance of strategic planning at the county level. The only thing they have not done which I think many counties have started doing is to put their development and strategic plans into operation and to synthesise them. What has not happened is that there has not been enough emphasis in terms of what the plans should constitute. There seems to be no coordinated effort at ensuring that at the end of the day, there is a distinct programme of ensuring that certain indicators are put into place.

With regard to the objects and purposes of Article 3 of the Intergovernmental Relations Act, 2012, this provides a framework for consultation and cooperation between the national Government and the county governments. Article 8 provides a framework for the national and county governments coordinating summit which should be part and parcel of the process of ensuring that the conflicts between the national Government and county governments are eradicated. Among the forums that have been put in place is the Intergovernmental Relations Act which is key.

Paragraph (f) of the Motion talks of: “Evaluating the performance of national or county governments and recommending appropriate action”. This is key; the idea of evaluation has been put in place. However, there is no detail of how that is supposed to happen. That forum should also receive progress reports and provide advice and appropriate direction where necessary.

Paragraph (h) of the Motion talks of: Monitoring the implementation of national and county government plans and recommending appropriate action. So, the key element here is monitoring the implementation of national and county development plans. The assumption made is that these plans will come from one place or another. Vision 2030, to a large extent, has looked at profiles and the level of development agenda that might be required for specific counties. Likewise, the Ministry of Devolution and Planning has put into place various plans and strategies as they have always done like five years development plans and ten years strategic development plans. Most county governments are borrowing from the various indicators so that they can put together their own strategic plans and have a direction in terms of where they want to go as counties.

The Council of Governors has also been concerned about the whole idea of performance at county level and enhancing this. One of the responsibilities of this organ is to receive reports and monitor the implementation of inter-county agreements and inter-county projects. The council shall submit an annual report to the Senate and to the National Assembly. This is very key. We will expect reports from the Council of Governors in terms of the progress that has been made by counties. Those reports will come for the Senate, the National Assembly and the county assemblies.

What method of evaluation will we use to see whether counties have really developed? Where are the baseline plans, for example? Where are the baseline studies that have been done for each of those counties so that as we receive the reports, we have a basis of evaluating whether the plans have been effective or not? The worry is that after five years of so much work, but without focus on the counties, they will lose the development agenda. We need to come up with a clear agenda, theoretical and practical

framework beginning with baseline studies, bringing professionals to the fore and experts to talk to stakeholders to see that the development agenda is clear.

Later, I will talk about the indicators because some counties have already started coming up with their integrated plans. However, if you look at some plans, you will find that some of them are much generalised in some areas. For example, when you talk about improvement of road structures or improvement in school enrolment, what does that improvement entail? How will we measure and determine, five years down the line, that there has been improvement?

The county sheet files give indicators for development across each of the 47 counties. They state where each county is at the moment. Those are the indicators that should be used over and over again. I remember when we had the breakfast meeting with the Vision 2030 personnel that these are some of the issues that we raised with them. We asked them specifically what their indicators were and their levels of measurability for some development agenda that they were putting across. For some development agendas, we could not get complete clear indicators. Without those clear indicators, it would be very difficult for us to move on. For example, even as reports are transmitted to county assemblies, on what basis will they evaluate the reports to see whether there have been achievements? It becomes very difficult. We need to have an objective measure so that at the end of the day, we know that we were at point “A” and we have now moved to point “B” and we are expecting to move to point “C.” If we are not at point “C”, we should explain why we have not moved on as it was required.

The expectation that there would be output that is measurable has been captured at various areas even in the Constitution. Article 222 says that the national Legislation shall prescribe the structure of development plans and budgets of counties and come up with various legislations that are aimed at ensuring that the end product is objective.

222. (1) “If the Appropriation Act for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, the National Assembly may authorise the withdrawal of money from the Consolidated Fund.

(2) Money withdrawn under clause (1) shall—

(a) be for the purpose of meeting expenditure necessary to carry on the services of the national government during that year until such time as the Appropriation Act is assented to;

(b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the National Assembly; and

(c) be included, under separate votes for the several services in respect of which they were withdrawn, in the Appropriation Act.”

This is with regard to the County Governments Act, the Public Finance and Management Act, Intergovernmental Relations Act and The County Government Act, among others. As I alluded, therefore, this is something that is already happening. The County Governments Act of 2012 stipulates that each county must have a County Integrated Development Plan (CIDP). Counties are meant to develop that plan. I have been looking at the papers in the last few months. Various counties have been placing

advertisements in the newspapers calling for participation and for people to attend their various meetings so that they begin to input in the process. By law, this should guide the county budgeting, project funding, monitoring and evaluation so that there is clarity.

Depending on the county and the expertise they can accrue within the county, different strategic plans or CIDPs will come up as a result. Those who can engage consultants who are good in areas of planning will come up with clear indicators and will, therefore, have objective plans that are measurable and which they can hold themselves accountable to. That is the key thing. Counties should hold themselves accountable to their plans and find a mechanism of making their plans public not only to members of the counties but also to members of the whole Republic. At the end of the five years, we should use this as the basis for evaluation for specific counties *vis-a-vis* the challenges and difficulties. This will allow us to see to what extent they have achieved the key objectives they had set for themselves.

Citizen participation is critical to devolution. Citizens will not engage if these county plans have not been made visible. We will discuss this as the Senate but one of the ways is to lay out the final integrated plan, put it in the newspaper or put it on the internet so that people can hold counties accountable. With all that is happening and all the amount of money that has gone into counties with fears of misusing the funds and corruption in the counties, if we focus on the negatives, we will lose sight of all the positives that are meant to help counties to develop.

If this is put into operation, if it is fully explained and initialized in every county, we will be emphasizing it now rather than later. We cannot wait for five years and then come up to say that these are the indicators that we should have used or what should have been done. That will already be lost time. So, this is the time now that all the indicators have to be clearly explained. Experts have to talk about the measurability standards and agree about them so that when it comes to formulating the plans, we are clear about what is happening.

We get interested in this because as the Senate, according to Article 98, we represent the counties and protect the interests of those counties. If counties are successful, that is something that is directly related to us. How will we, as a Senate, evaluate the various reports and the targets that have been set if the indicators that have been set are not clearly stipulated? The Motion reads that this responsibility has already been given to the Council of Governors. The mechanism is that they will come up with specific reports. However, the Senate needs to have an interest in what the Council of Governors is coming up with so that it can control and measure the final product within particular counties so that they monitor and see whether the benchmarking has been adhered to. Various counties are working on that.

County plans will consist of various issues like medium term plans, priorities for county governors, specific goals and objectives, implementation plans, provisions of monitoring and evaluation within each of those specific counties.

The County Governments Act, again, Article 106(4) provides for citizen participation and I added that. It also goes on to say how the citizen participation can be enhanced through county budgets and economic forums, through county citizen engagement frameworks, county communication platform strategies and county civic

education strategies that are very key for that process. This is not an easy process. It is very involving. It involves trying as much as possible to engage the right people at the right time, in the right mood in the right mode so that they can bring to the fore their knowledge. This includes the involvement of our sister county governments, for instance, the County Government of Mombasa will not have concluded its strategic plan without input from Kwale and Kilifi counties. These are the sister counties.

The whole idea of bringing in stakeholders and having consultative workshops and bringing in professionals who can put everything into perspective and going through thorough situation analysis, for example, where the county is, what its merits and demerits are; looking at its Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis; and, how they can be applied within a specific county, is very crucial. But more important and for the purposes of this Motion, they will ensure that the objectives and output are SMART. Whatever is seen as output should actually be Specific, Measurable, Achievable, Realistic and Time-bound (SMART). I think without being tough, putting adequate standards and being very specific about what is expected, we are just going to have outputs and development plans that are not really tying the loose ends and enabling us to measure the final output.

Mr. Speaker, Sir, most of our plans also have aspects of monitoring and evaluation, but this is something that is also variant. So, having a way of really being open and frank about the monitoring and evaluation framework that is put into operation is very, very key. Various players have begun to already get interested in this. I mentioned the Kenya county fact sheets from the Commission on Revenue Allocation, which was put out in June, 2013. There is some more work that has come up from the United States Agency for International Development (USAID) and KARA, trying to engage counties in terms of coming up with stringent and very clear development plans.

Some of the indicators from the county files include health and education outcomes; how many people are fully immunized within the population, malaria burden, tuberculosis cases, for example, within 1,000 years; HIV prevalence *et cetera*, as key or important indicators. But they must be broadened to be very specific and include everything that a county must include. So, if we look at what is coming from the specific counties, we need to be able, again, to make sure that it is not very generalized. If it is about development, improvement, putting out staff houses and taking a certain number of children to school, let it be very specific, so that it is not general. At the end of the day, it is possible for people to come up and feel that the objects of the county have been attained and the level of practical engagement for the development and measurability within the counties has been enhanced. People can actually come and look at the product and evaluate what that product is all about.

Mr. Speaker, Sir, with those comments, I beg to move and call upon Prof. Lonyangapuo to second the Motion.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, I rise to second this Motion. As we resume after recess, this Motion brings into focus what we have just been hearing and reading about in the newspapers in the course of July and August with regard to the implementation of devolution. Now, counties are working on the integrated plans and strategies.

Mr. Speaker, Sir, the Mover of this Motion has reminded us here that the devolution focus is supposed to see how the social and political status of our people can improve. You cannot address these issues without proper plans and funding as well. When we talk about key development agendas that are supposed to be tabled and listed by all the counties in Kenya, there are some that can be done by the counties and supported by the national Government. For example, if we want to attract any investor to come to any county, there must be a good road network, which our Constitution stipulates in the Fourth Schedule. It is no longer the function of the national Government.

Mr. Speaker, Sir, if an investor has to come, we must have a reliable source of power. This is what they are supposed to deal with now, but how can they do it if they do not have funding, which has been devolved in the Fourth Schedule? There are so many deliverables that can be done, only if certain key things, for example, water and agriculture have been given out. There are investors who are going to come. First, we must avail some infrastructure, as counties or national Government.

Mr. Speaker, Sir, in seconding this Motion, I am also asking myself whether we have given the counties the monies that were meant essentially for these key development agendas to take place. But how can you come up with a strategic or integrated plan without money? I have come from my county where we have some parallel investments and plans for constituencies; where the Governor is not in control, yet they are supposed to come up with one strategy for the entire county. This Motion calls upon this House; that we need to rein in what type of developments we are supposed to engage in. The focal point is the county for all of them. So, there should be no competition of any kind. There should be organized and systematic plans being done by the counties to benefit everybody. For example, for us to move from one county to the next, there will be need for counties to do joint strategies. For example, my neighbouring county called Turkana, does not have sufficient land, although I am told that they have just discovered the biggest collection of water which they can use for irrigation. But as at now, most of their food comes from West Pokot, Trans Nzoia and other counties. Indeed, then, these formulations of development plans need to be inclusive and the county governments need to sit together. I know that in the first two years, there might be some kind of teething problems, but this House can still put things in order by passing this Motion and asking the people that are concerned to work together and come up with the measures that are required for counties to move.

Mr. Speaker, Sir, in line with Vision 2030 which is almost 17 years from now, we should be moving from a third world country to a middle income generating country, where people can have good health and life. But how can that happen if devolution is not anchored properly in the counties? In fact, the Vision 2030 Secretariat in Nairobi needs to be now simplified into 47 versions, so that every county has a unit, working together with the governor and county governments, to see to it that these key development agendas that are being done are driving Kenya towards the goal of Vision 2030.

Mr. Speaker, Sir, I beg to second this Motion.

*(Question proposed)*

**Sen. Ongoro:** Mr. Speaker, Sir, I rise to support this Motion. May I also take this early opportunity to congratulate Dr. Zani for bringing such an insightful Motion. Her Motions are always very insightful.

Mr. Speaker, Sir, this is a Motion that must be supported by all in the Senate. It actually talks about our core function as the Senate and Senators. But having said that, it is true that the counties are now the main focus of devolution and, by extension now, development. For counties to achieve optimum levels of development and if the multilevel structures within these counties are to execute their respective different levels of functions effectively, then there is need--- If I may quote from the Motion, there is need to operationalize, with measureable indicators, key development agenda and deliverables for each term of the respective county governments.

Mr. Speaker, Sir, why do I say this? If we are not careful, what we are going to do, as a nation, is simply to avail a lot of funds in the hands of a few people at the county level, who without good structures and effective indicators of performances, cannot even evaluate their own performance. Without objectives and timeframes of performance, then as a nation, we might end up just enriching a few people at the expense of the many.

Mr. Speaker, Sir, this brings us to the whole idea of devolution. Why did we, as a nation, decide to support a devolved system of governance? We did this because we felt that as a nation, some regions were being developed at the expense of other regions. So, with the 47 counties and county governments and governors, we need to pass this Motion, to help them know their performance levels, objectives and have their own systems of accountability. It will also help these county governments to accelerate the development that was intended for the same counties.

Passing this Motion will also help these relevant county governments to formulate relevant policies. Some policies are really not relevant for some counties. Even in the manner of implementation, if we pass this Motion, it will give the county governments a way of coming up with effective implementation strategies that are tailor-made for respective counties. A policy might be very good. However, the manner in which it might be effectively implemented in Turkana County, for example, might not be the same strategy that would work for Nairobi County. So, that would help them to also have that.

Lastly, the County Impact Analysis will help the county governments also to know the performance indicators from the different Government departments from the different levels and from their own systems so that even a county Governor might be able to know which department within his Government is underperforming and which head of department is not meeting his targets. By so doing, he might also get an opportunity to restructure his own system without being bundled out together with those who are underperforming within his county.

With those few remarks, I beg to support.

**Sen. Hassan:** Bw. Spika, nataka kukushukuru sana kwa fursa hii na pia kumshukuru Sen. (Dr.) Zani kwa kuleta Hoja hii. Mimi nimesimama hapa kuiunga mkono Hoja hii kwa sababu hili ni jambo nyeti sana katika mpangilio wetu wa kaunti. Tangu Serikali ianzishe sera mpya ya utawala wenye ngazi mbili, Wakenya wamekuwa na matarajio mengi sana. Wengi wameamini kwamba ugatuzi ni sera ambayo italetu afueni katika maisha yao. Sisi kutoka pwani, tuliamini kwamba tutaleta ugatuzi wa

kiuchumi na kisiasa ili watu wetu waweze kupata manufaa. Hii ndio njia mwafaka ya kuwezesha maeneo mbalimbali ya pwani na nchi nzima kwa jumla kuwa na mipangilio kabambe ya kimaendeleo.

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

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

Bi Spika wa Muda, tangu tuanze mipangilio hii, kaunti zetu zimekuwa zikiendeshwa kiholelaholela. Ninajua kwamba kuna matarajio mengi sana na watu wengi wanasema kwamba wanataka ufadhili. Hata hivyo, bila ya sera maalum, matarajio yetu kama Wakenya hayawezi kupatikana. Kuna msemo wa Kiingereza kwamba “kama hupangi, unapanga kutofaulu.” Sisi tunataka kufaulu na kuafikia maazimio yetu. Hii ni Hoja ya hekima sana kwa sababu inashinikiza baraza la magavana kuwahimiza wenzao kuwa na mipangilio ya kimaendeleo katika kaunti zao.

Wengi wanafikiria kwamba kaunti zitafungua fursa ya kuweka hazina na kuleta maendeleo bila kuwa na mpangilio fulani. Muweka hazina hawezi kuwa na imani katika kaunti fulani mpaka ajue mpangilio na ratiba ya maendeleo yao ili waweze kutoa mchango fulani wa kimaendeleo. Juu ya yote haya, ni lazima tuwe na mipangilio ya kitawala ambayo italetu maendeleo. Inafaa kuwe na uwazi kwa masuala ya utawala na kihazina. Mara nyingi kumekuwa na fikra kwamba ni lazima tumjue gavana fulani ndio tupate kandarasi au fursa ya kuanzisha kiwanda ama mradi wowote katika kaunti yake. Ninahimiza kila kaunti, kama vile tunavyoishurutisha Serikali ya Kitaifa kufanya jambo fulani, kuhakikisha kwamba imeweka mipangilio maalum ambayo itaweka uwazi utekelezaji wa masuala ya kiuchumi na rasilimali za kitaifa.

Bi Spika wa Muda, sisi sote tuna maazimio ya kuleta maendeleo katika sekta tofauti za kiuchumi. Kwa hivyo, ni lazima wakati wa kuyatekeleza maendeleo haya, tuwe na mpango ambao utawahusisha watu wetu wote. Haiwezekani kusema kwamba mtu mmoja ndiye amewashinda wenzake wote kwa hekima. Kama wewe umechaguliwa kama gavana ama seneta, haimaanishi kwamba wewe ni bora kuliko wenzako wote. Inamaanisha kwamba umepewa fursa na uwezo wa Kiserikali kuweza kuandaa mikakati ya kimaendeleo. Ni lazima kupitia Hoja hii tuwahimize wale ambao ni washirika katika masuala ya mipangilio hii, wawahusishe watu wengi katika kaunti zao ili waweze kupata mawazo na fikra tofauti kuhusianana na mipango yao ya kimaendeleo. Hakuna yeyote kati yetu aliye na hekima na fikra zaidi kuwashinda watu wote katika utekelezaji wa jambo fulani. Kwa hivyo, ili kutatua vizingiti katika ugatuzi, ni lazima tuhakikishe kwamba kuna ushirika. Inafaa tuwahusishe wakaazi wote katika kila kaunti ili waweze kushiriki katika mipangilio hii.

Mwisho, kama hujui kule unakotoka, huwezi kujua unakoenda. Sisi tumeona kwamba kila mtu anapanga katika hewa. Kwa mfano, kutaka kiwanda cha kuleta nguvu za umeme katika kaunti za Nairobi na Mombasa kwa sababu kuna takataka nyingi. Haiwezekani kupata maendeleo ikiwa tutaona jambo na kulirukia kiholela bila mipangilio thabiti. Wenzetu katika nchi za magharibi waliweka misingi thabiti. Amerika ina



umaarufu kwa sababu, kwa mfano, jengo la White House na Capitol Hill zilijengwa kwa mipangilio ya kudumu zaidi ya miaka 100. Hapa kwetu, tumeiba nyumba za wakuu wa Serikali, viwanja vya ndege, vizioo na kadhalika. Hata ile mipango iliokuweco hapo awali yote imesambaratika kwa sababu ya wizi na ufisadi. Kwa hivyo, tutaanza upya na maendeleo yatafanywa kwa ratiba fulani ya kifuata mipangilio fulani.

Waswahili husema kwamba, ukiona vyaelea, jua vimeundwa. Wale wenzetu wa mataifa ya kimagharibi hawakuamuka siku moja na kupata maendeleo. Walijitolea mhanga na wakajenga taasisi zao. Baadhi yenu mkizuru nchi hizo mnapigwa na butwaa kuona mijengo ya kifahari. Mara nyingi sisi hupiga mijengo hiyo picha ilhali hapa Kenya, hupigi picha mijengo yoyote kwa sababu hakuna jambo la kuridhisha. Wenzetu wameendelea kwa sababu babu wao walikuwa na mipango.

Sisi siku moja tutaitwa waanzilishi wa Kenya mpya. Leo mimi ni kijana, lakini sitakuwa kijana maishani yangu yote. Na siku moja tutakufa na tutataka historia yetu iandikwe kama watu tuliochangia Kenya mpya. Ikiwa tunataka kuwa na historia nzuri juu ya maisha yetu, ni lazima tuwe na mipango maalum ya kutekeleza maendeleo yetu. Kila mara tunawanakili wenzetu kama vile George Washington na J.F. Kennedy, ilhali hatusemi ni nini wenzetu hapa nyumbani walifanya. Hayo ndio masuala ambayo ni lazima tuweke. Hawa magavana ni magavana wa kwanza katika majimbo yao ya ugatuzi. Ikiwa wanataka kukumbukwa, ni lazima waweke mipango kabambe.

Bi Spika wa Muda, sera hii ni ya kuhimiza kila mtu aweze kukaa chini na kuandika mipangilio ya kimaendeleo. Jambo hili ni la lazima. Sisi tunawahimiza, na mimi nina imani kwamba wale watakaofuata mwongozo huu, watapata ufanisi na watakumbukwa katika historia ya Kenya.

Kwa hayo machache, ninamshukuru sana Sen. (Dr.) Zani kwa kuleta Hoja hii. Ninaomba kuunga mkono.

**Sen. Lesuuda:** Thank you very much, Madam Temporary Speaker. Let me take this opportunity to congratulate and thank Sen. (Dr.) Zani for bringing this important Motion to this distinguished House. From the onset, let me say that it is very easy to rubbish this Motion because you may think that it is not tangible. Just as the speakers who have spoken before me, it is important to notice and to think about the phrase that has been said for a very long time, that when we fail to plan, we are definitely planning to fail. It is important that our governors, the executive committees, Members of the County Assembly (MCAs) and everyone who has been given authority at the county level does their part to make those counties work. They should critically think about planning and setting the foundation for the growth of our counties.

Let me also state from the onset that as stated in the Motion, we need to have clear deliverables for each term of the respective county governments. After four years and a few months from now, each county will be put on a weighing scale. We will be looking at which counties really delivered for the people. As Sen. (Dr.) Zani said when she was moving this Motion, Kenyans have so much hope in the county governments. I think that is why they overwhelmingly supported the Constitution in 2010, so that they can see services get down to them. I must state that there will be no excuse even for the counties that have for a very long time been termed marginalized or minorities. They now have a chance to redeem themselves. If the governors at the county level and even we,

Senators, who are the custodians of the county governments do not have a clear plan or vision for these counties, then definitely we are planning to fail. It will not be a good thing.

Madam Temporary Speaker, we started the process by passing the budgets at the county levels. I do not know how much we interrogated those budgets because they have to reflect the needs of the people. As my colleagues said, as the county governments go on with their business, they have to have the interest of the people at heart. As they come up with these strategies, they have to think about the needs of the people. We have to think of what is very important for the people at a particular time; whether a road, an abattoir or a hospital. They have to critically take into account the wishes of the people. We cannot do this if we do not involve the public. I have seen many counties putting advertisements in the newspapers saying that they will be organizing forums to discuss various opportunities in our counties. I wonder whether a newspaper reaches a place like Baragoi. How many people in Baragoi read newspapers? Are we really thinking of using other communication mediums which will reach our people in the counties? Are we thinking about the local radio stations that will enable these people get information about their counties?

Madam Temporary Speaker, we, as leaders, waste a lot of time arguing which House is the upper or lower one. I think what is important for us is the delivery of services to our people. It is just a matter of time for us to know which county is delivering services to its people. We will know which county is doing well and which one needs to put more effort in their delivery of services to their people. After the last general elections, counties were put on the same line. They started on the same footing. However, it is important that we put in place these benchmarks so that we get to know what our counties are doing.

Madam Temporary Speaker, it is also important for us as Senate to interrogate the Acts that are there. Is the County Government Act, 2012 relevant? I know when this Act was being passed, we did not have operational counties. Maybe there are some challenges that we did not foresee. Now that we have the counties in place, we need to interrogate these Acts and see which amendments need to be introduced so that we can give power and teeth to counties. When we say we need to plan, what are we basing it on? These are issues we need to look at.

I think it would also be important to interrogate whether the Council of Governors (CoGs) is the best suited organ to do those particular things or not. I am not sure whether they have the mandate or not. It is something that I was just discussing with Sen. Zani; that, probably, we might need to think about it and maybe the other speakers who will come after me will give their views on whether the CoGs is in a position to do so. It is not enough to just say “require all counties to formulate, map and operationalize---- Is the CoGs in a position to do so? I am not sure whether it is the job of a political caucus to take care of the interests of counties and governors. Are they really in a position to ensure that the plans of each county are put in place? This is something that we might want to look at.

Madam Temporary Speaker, I have heard a number of governors talking about going to get funding for their counties to support development projects. This has to be

done with caution so that governors do not just go out there and look for money when the Members of County Assembly (MCAs) and the people they represent have no idea about it. They must know where this money is coming from. Is it a loan or a grant? Who is going to pay it? We do not want see situations where counties will be overburdened with debts. All counties should formulate their own development agenda. They must also disclose all this information to the members of the public. After five years, we do not want to see counties worse off than they were when they were established. Governors should not borrow money to develop their counties if they do not have plans for development. I am sure that as the foundation is being set, these are some of the things we need to address.

Madam Temporary Speaker, as I conclude, it is true history will judge the Senate and the leaders who have been given the responsibility to represent the people at the county government level. It is important for us to start thinking about the foundations we are laying for the county governments in terms of the laws that we are going to pass. As I said, we need to interrogate the Acts that relate to counties just to ensure that this agenda and also these deliverables are put in place. Let us remember that in a couple of years time, we will all be looking back to see how far our counties have come in ensuring that they have uplifted the lives of the people.

Madam Temporary Speaker, I beg to support.

**The Temporary Speaker** (Sen. Ongoro): The Senate Minority Leader, Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Madam Temporary Speaker. I also want to congratulate Sen. (Dr.) Zani for bringing this very important Motion. The Motion is good. The Committee on Finance, Commerce and Economic Affairs that I serve has gone around a few counties. Some of these things are being done, although at a preliminary level. We are setting up integrated planning to have county development programmes synchronized. But the Motion is important to the extent that it is obligating every county to do exactly the same. More importantly, that every county must have a clearly formulated, mapped out and operationalized strategy for development.

Madam Temporary Speaker, I can very well remember – and my good friend, Sen. G.G. Kariuki, would, perhaps, be the best to remember this – that in 1965, the late Tom Mboya moved the first Sessional Paper in this country that gave the country a direction of development. That Sessional Paper was picked up by Malaysia. It has replicated it every five years with modifications. You can see where Malaysia is today. In Kenya, we abandoned it and we took a wrong turn. That is why we are where we are. I am sure that when the late Tom Mboya moved it, my good friend, Sen. G.G. Kariuki was in the House at that time.

Madam Temporary Speaker, we must plan, and plan properly. There is no “one size fits all” in development structures. This is why I agree with the two Senators who have spoken – yourself and the nominated Senator, Sen. Lesuuda. We are seeing a very worrying trend. Every governor or every county is struggling to do something without reflecting on whether it fits well in the cog of the national wheel. For example, it is the philosophy and policy of the Government to have a national power grid. Where we have

a shortfall, we have a master plan for East Africa for integration of our power grids. Where we have a shortfall, there is even a bigger plan to hook on to the integration with the Central and Southern African power pools. But today, we are hearing of each governor talking about setting up a power plant and generating power. I do not know if they are consulting with the master plan of the country to see whether if you generate, for example, power in your county and the consumption in your county is just about 15 megawatts---.

*(A Senator interjected)*

But they want to generate 50 megawatts, where do they take the other 30 or 40 megawatts? These are the integrated plans that we need not only encourage for them to be domiciled in the counties, but also to have some national programme that rationalizes what counties are doing, so that we do not engage in doing things that others are doing.

Madam Temporary Speaker, we need programmes for national highways, industrialization and for setting up institutions. We have passed a lot of Motions in this House obligating counties and national Government to do certain things that help and empower counties. What we need to do is to see how we can integrate, rationalize and ensure what is done by another county is not replicated in another county. For example, if the county of Trans Nzoia where there are secure rains and very good soil can produce one-third of our maize cereal in the country at a very affordable cost, I see no reason in going to another county and struggling to produce maize at three or four times the cost of production in Trans Nzoia. That money can be put to producing something else. If the maize is coming from Trans Nzoia County, wheat must come from Narok and so on. We will find that all these aggregate into the national good and national development agenda will help this country.

Madam Temporary Speaker, this Motion comes at a very opportune moment because all the counties are at their formative stages in terms of development and evolving programmes. It is good that we have a good, sound start, so that we do not end up in a state where everybody is left stuck, holding a white elephant that you do not know what to do with.

Madam Temporary Speaker, you can see that the flagship projects of Vision 2030 – we have The Lamu Port Southern Sudan-Ethiopia Transport Corridor (LAPSSET), we have the resort cities of Lamu, Isiolo, Eliye Springs on Lake Turkana and so on. Some of these programmes in those counties should also anchor on the Vision 2030. This is the programme of the national Government. The national Government may be tempted to think that because we are now devolved, those responsibilities remain the responsibility of the counties when, in fact, they are programmes that are to be managed by the national Government. That is why the distinguished Senator for West Pokot is right in saying that we need to have a footing of Vision 2030 in each county. We do not want to replicate programmes and projects, but, instead, we want to harmonize and see what the comparative and competitive advantage of each particular county is.

How do we aggregate that to national good? How do we, for example, preserve the range lands of Kajiado and Narok that are rapidly disappearing? How do we now

make use of the huge water resources that have been found in Turkana? How do we harmonize the use of the coal deposits and the new mineral finds in the country, so that, at the end of the day, all these resources that are looking so good for the country, become a translation into national and county growth?

Madam Temporary Speaker, in another ten years, there are some counties that will be a lot richer than others. Although we do not expressly say so in the Constitution, or in any law, I do not envisage any difficulty, in another ten years, with one county borrowing money from another county instead of going out there to borrow money from China, India, the United Kingdom and wherever else and bloating our national debt in the process. If the county of Kwale, with all its newfound wealth, has surplus resources, they can lend that money to other counties. That way, we will save on foreign exchange. We will also avoid bloating the national external debt and we will still be developing in the same manner as we would if we borrowed these resources externally.

This will ensure that the counties, in their plans and programming, can be interdependent and co-ordinated in a manner that will help this country grow to the extent that we do not want to see huge population movements like the amount of inflows into Nairobi. Why is Nairobi so attractive? Nairobi has remained the hub and centre of everything. That is why we have devolved. The population of Nairobi is now unsustainable. Do we move into Nairobi to lead good lives? No! There are many more villagers living in Nairobi than even in the villages. People come from the villages with a hope, and rightly so, that they are moving to where they will find a better life. But they come to Nairobi, and you find out that the people are cramped up in slums. Why? Because we have not created conducive opportunities for them to remain in the countryside, enjoy clean air, a tranquil environment and have some work to do.

If you look at the development plans of this country, for example, the evolution of setting up sugar factories in the western belt in 1960s was to arrest movement of populations to Nairobi. The plan was to have a sugar factory in Muhoroni, Miwani, Sony, Nzoia and in Chemelil so that we could create wealth, jobs and arrest urban migration. But because of the mismanagement of these public investments, even the setting up of Thika as the Birmingham of Kenya did not seem to have worked. If you go to Thika now, there is a slum called Kiandutu, which is so huge and deprived in terms of facilities that you regret why people would move into this place, but you cannot blame them. Everybody lives with some hope that the grass is greener across the fence. However, when you cross the fence, you find that it is not any greener than where you left. People find it difficult to go back to the villages because they have to walk the whole day every day, every week, every month and every year looking for non-existent jobs. We hope that these integrated plans will not just be about small things like building roads, schools and maintaining hospitals, but we want mega plans of industrialization.

Madam Temporary Speaker, why would maize produced in Trans Nzoia, for example, be transported to Nairobi, milled into flour, packaged and then taken back there to be sold to people? We should have a mega industrial set up there where they produce, add value and then take the finished product to the market. In doing so, we shall have programmes that will make every county do their best. For example, we have a huge potential of production of cement in Pokot. We have been hearing this for a long time.

Studies have been carried out and so on. Pokot people should now sit down and make this as their niche in the economy of this country. They will not produce cement for Pokot County only, but they will produce cement for the whole country. That cement will be used in development of other parts of the country. Pokot will become richer. Much sooner, they will lend money to Laikipia County or Bungoma County. This is what I believe the Mover of this Motion intends to enlighten the country and counties on.

Madam Temporary Speaker, as I conclude, I want to propose that when these good Motions are passed and we move them to the next level, this Senate is obligated both in law and, in fact, to call upon the governors to move in this direction. That is how we expect them to work together to give meaning to this very wonderful ideas that are emanating from the Senate. I am very proud that our Senators are being ingenious, forward looking and positive in their generation of ideas that will help and entrench devolution. With this kind of developments, even those who are showing reluctance and indifference to devolution will soon realise that devolution is here to stay and that the people of Kenya want devolution. They will embrace devolution and see it as the only answer to exclusion, marginalisation and the fact that many parts of this country have been ignored for a long time. For example, Pokot County was a closed district. The Government would just close up Pokot, move in and beat up people for two months for no reason, in the name of fighting crime, then open it up again. Now with devolution, nobody can do that, because they have a government of their own and they can legislate on how to manage their issues.

With those few remarks, I beg to support.

**The Temporary Speaker** (Sen. Ongoro): Sen. Mungai, Nakuru County.

**Sen. Mungai:** Thank you, Madam Temporary Speaker, for giving me this opportunity to support the Motion by Sen. (Dr.) Zani. This is a very important Motion because it is going to put governors on their toes in the way that they are going to plan what is happening in the counties. It is worrying that up to this moment people on the ground are still hoping to see something tangible happening, but very little seems to be happening. When we talk about County Integrated Development Plans (CIDPs), yes, they are being carried out in various counties, but unfortunately, the level of involvement and the thoroughness that is required is lacking. It is very unfortunate because I am yet to come across a Senator who has been involved in the CIDPs formulation.

In Nakuru County, for example, public participation in the development of the CIDP was quite minimal because only two hours were given to each constituency. It is very difficult for anything to be deliberated within two hours. When we talk about the CIDPs, the period that is being taken into consideration is very paramount. What is happening with CIDPs in various counties is that they are being done in a haphazard way. There is money that is being used and which does not get the desired results. This means that they will end up having CIDPs that are not workable.

Madam Temporary Speaker, our counties can perform very well because the devolution that was envisaged in our Constitution is here now. I have had opportunity to go out of this country and it has been very worrying because sometimes when you come back you ask yourself many questions. For example, one might ask; what is actually wrong? When we talk about the challenges that we are likely to have, for example, the

rains are about to come, but the roads that were destroyed by the rains in April have not been repaired. Our people are crying because the roads have not been repaired. When we look at other sectors of the economy that are supposed to be very vibrant right now, very little is happening. Therefore, when Sen. (Dr.) Zani brings a Motion like this, it is timely because of the fact that it is talking about governors being given a certain period to show what they are planning to do because many of them have nothing to show for now. I would request the Council of Governors to ensure that they come up with tangible plans that have a direct impact on the people that they are governing.

Madam Temporary Speaker, when we talk about industrialization, one factor that plays a very big role in ensuring that most of our counties are not ripe for industrialization is the cost of power. If that is not looked into, we will talk about industrialization, but it will still remain a pipedream. When we talk about production, if the cost of production is high, then the market will be very limited. That will mean that products from other countries will be cheaper than the products here. Therefore, if we see many companies from China coming here, they are interested in creating markets for their products and not to start industries here. The reason is the cost of power.

In my county, we are the major producers of geothermal energy. This energy is efficient and clean. After engaging with the Geothermal Development Company (GDC) and KenGen, it is possible for them to supply industries with electricity at a very subsidized cost. This could be the beginning of Nakuru County becoming a major industrial player in this country. We are apparently ensuring that our CIDP should have a short-term and a long-term phase. Issues concerning industrialization are given a lot of attention because the population of those who are unemployed is very high. I am worried because it was reported the other day that there is famine in Tanzania. In 2008 when there was famine there, the Tanzanians came and bought our grains. When this happened we ended up with serious levels of starvation. It is important for the various counties where grain is grown to ensure that the grain that is produced is not bought by other people. If this happens we might have a replication of what happened in 2008 where we had some serious levels of starvation.

With those few words, I beg to support.

**Sen. Elachi:** Madam Temporary Speaker, I also rise to support this Motion. First of all, I wish to thank the governors who I know have started their plans and have integrated them. These are the Governors of Bungoma and Kakamega. They have involved most of the leaders, including political leaders. This is a good thing. I know that we also have counties that have not done so. We hope they will do so soon.

Madam Temporary Speaker, you know very well that you cannot budget without a plan. You need a plan for you to budget. It has been very difficult for counties and that is why most of their budgets have a lot of errors. There should be understanding on how to budget for a bigger project and how to budget for a mid-term or short-term project. Some have ended up doing something like a Constituencies Development Fund (CDF) plan where you do a budget for classrooms, renovation of roads and so on. That is why we, as the Senate, are insisting that it is very important for counties to have a plan where they will give themselves a long-term strategic plan that will guide them in the next five years.

Madam Temporary Speaker, as the Senate, it is our obligation to ensure that we receive reports from the governors. I know that some Members will come and amend the Motion so that we urge them that it is important to understand that every county has its unique way of doing things. Now that we have devolved governments, we hope that they will embrace public participation within, so that people have a say and a stake in what is being planned. They should tell their governors what they feel is a priority; whether it is water or matters of agriculture.

The governors must also understand that this is not just a way of doing things, but a time when we must appreciate the fact that the Constitution brings in public participation. As they come up with the plans, they must also subject them to public participation. They also have to work very closely with the county assemblies. This is because it is the county assemblies that enact law for the implementation of their plans. Therefore, this should not just be a plan for a governor, but a plan for the whole county. The county assembly has a say in terms of determining what they have prioritised and what should be done in the first and second years as they move on.

When you look at the report from the National Budget Controller, you will see that it emphasises on the need to have a plan for the county. Therefore, we, as a Senate, urge governors to give service to people. They are there as leaders who must listen to their people. Many a times, you will find governors who are the ones with the last say. This is why we passed the new Constitution. It is because of what used to happen at the Executive level. They should know that the days of deciding and bringing issues to people are over. It is time to work together in harmony. It is time to ensure that as you map out those resources, the public is aware. They should put up a notice to show what they intend to do and each constituency must benefit. That is another thing that governors have forgotten.

There is some marginalization in some constituencies in a county. When we do our plans, we must ensure that each constituency benefits in whatever we are doing. The development plans must take care of every group in the county. It is important for governors to show benchmarks when they are planning. I know that most of them have been crying about the poor state of their roads. However, very few of them have come up with plans that will take care of those roads in their various constituencies within their counties.

You will find that even today, they have not audited what the constituency development fund was used for. They do not know whether it was being used to build classrooms and whether it is, probably, now time to buy desks. We find that the same classrooms that were built by a former Member of Parliament are now being built by the governor so that he can please the county assembly and is not manipulated by the county assembly. The plans are, therefore, done in such a way as to repeat what had been done by the Members of Parliament. These plans will help, now that the CDF will go to constituencies.

It is important for the National Assembly Members to sit down with governors, so that as they do the plans for their constituencies, they look at what the governor has done and integrate the projects. They should not overlap projects or fight over who did what. They should not put different posts where one reads; “done by the governor” while



another one reads; done by “CDF” which brings a lot of tension in the constituency or county with regard to the owner of the project.

Lastly, as I support, the plans will help the public to feel as if the tax they are paying is coming back to them and services are being offered in a way that can be seen. It is important for people to get good services.

**Sen Nobwola:** Madam Temporary Speaker, I wish to congratulate the Mover of this Motion, Sen. (Dr.) Zani. The Motion is well thought out. As a leader or as a governor, you must know where you are coming from and where you are going. I worked for a private organization. Immediately you entered that office, you were expected to do a “Strengths, Weaknesses, Opportunities and Threats” (SWOT) analysis. You had to look at your strengths, weaknesses and threats for you to formulate your plan. Now that we are in the era of devolution, there is public participation. We have people out there, the citizens who voted for the Constitution, who expect a lot from us.

Governors must deliver. How will they deliver if they do not have plans in place? We have Vision 2030. When governors plan, they should capture what the national Government has in place for them in the counties within Vision 2030.

When you plan, as a county, you should also look at your strengths. For example, in Trans Nzoia County, I would look at the strengths as the food basket of the country because it produces a lot of maize. When you are planning, that should be one of the major items that you should capture in your plans. As Sen. Moses Wetangula said, we produce a lot of maize which finds its way outside the county. It is milled and then sold back to the county very expensively. How do we protect that? The governor needs to sit down with county assembly members because they have to approve part of those plans and protect their economy.

Where there is a weakness, for instance, in counties like Turkana which buy their foodstuffs from outside, you need to find out how you will feed your people in the next five years. We should have a shift towards things like industrialization because they provide value addition. They also offer jobs and raise revenue. Counties that have weaknesses should look at such opportunities because these will create jobs for people in places like Turkana County since they cannot grow crops like maize.

Pastoralists keep animals, but during the dry spell, they lose their animals, which is a big loss. Some of these animals cannot be insured or, probably, insurance companies are not ready to insure them. Development plans are very important. We would like to know where we will be in the next five years. When you start off in the first year, you may suggest putting up, for instance, a plant to manufacture cooking fat.

In my county, we grow soya beans and sunflowers. Those two components can be used to manufacture cooking fat. However, with regard to planning, in the first year, we may not achieve this. That means that we should stagger the project in the first year, second year, and third year up to the fifth year. At the end of the five years, that is when governors and Senators will be judged. We are supposed to oversight governors. We are supposed to oversight them so that as they plan, they know what we are also planning, our strengths and weaknesses.

I also know that in Trans Nzoia, one of our weaknesses is lack of jobs. Our youth are idle. When the governor is planning, he needs to see how to engage the youth so that

they are busy. The Jua Kali sector should also be looked into because, at the end of five years, when we will be campaigning, we should tell people what we did. For example, we should say that we built Konza City or any other project. However, if we will not have done anything, it will be very difficult to come back after the 2017 elections.

The Mover of the Motion has asked the Council of Governors to take measures to require all counties to formulate their plans and operationalize them, with measurable indicators. She said so because when you plan, you should know whether the plans are going well. The plans need to be reviewed from time to time. We have made visits to counties and most revenues are dropping. We would like to know why they were collecting more money before these areas became counties. After elections, the revenue of some counties like Bungoma is going down. Governors need to get concerned and know what is happening. We were being given an example of someone who collected council revenue of Kshs1 million and banked it in their own account. I think he has been arrested and is being investigated. If the county had planned for this revenue, immediately there was an indicator that things were not well, they would have arrested the situation before losing a lot of money.

It is, therefore, important for the Council of Governors to get together with other governors so that they harmonise the development plans which some have prepared. Some have not; maybe, they need assistance because they lack the expertise. Such counties should receive the necessary assistance. These plans should be put in place. Once in a while, they need to sit and share and see which counties are not performing well so that they are assisted. We have been told that a few counties have not taken off and do not have their plans in place. These counties need assistance so that they are on board with the rest. We want to grow with all the 47 counties. We do not want to leave out any county. We, as Senators, have a duty to provide that assistance and capacity.

As a Senator in a region, if your county is not doing well, then you need to get involved and involve some Committees like the Committee on Devolution and the Committee on Finance, Commerce and Economic Affairs so that we assist the county.

I support this Motion because I think it will go a long way in helping our counties to grow.

**Sen. G. G. Kariuki:** Madam Temporary Speaker, I rise to thank the Mover of this Motion. She did a good job. The spirit of this Motion is alive. It is not too late to suggest that we come up with this kind of Motions. When I looked at this Motion, from the word go, although I liked the spirit and wishes of the Mover, I still thought that we needed to go beyond the Motion. After amending it, my interest and proposal is to bring an amendment to the main Act. That is after we have done what we are doing now.

I would like to propose an amendment which will start preparing the county governments for bad days to come. We must have a statutory law to enable us direct county governments to do what they are supposed to do.

Madam Temporary Speaker, in the meantime, I would like to move an amendment which states as follows:-

THAT, the Motion be amended by deleting all the words appearing immediately after the word "Senate" in the eighth line and inserting in place thereof the following words; "direct county governments to take

measures to require all counties to formulate, map and operationalize, with measureable indicators, key development agenda and deliverables for each term of the respective county governments and submit an annual progress report to the Senate.”

Madam Temporary Speaker, this amendment will add some value to the main Motion, because the county governments will now understand that we are not going to leave this matter to the county governors’ council. I am not familiar with the law, so far, and do not know whether they are capable of requiring or directing the county governments to do certain things. This is because the county government is independent and can only co-operate with the central Government. But I do not think that the county governors’ council would have any facilities to enforce the requirements of this Senate. Since the county governments are the agents of devolution, we need to deal with them directly. This is because there is no way you can separate the Senate from the county governments. The roles of the Senate and county governments are very clear in our Constitution and you cannot, therefore, separate the two. We are here to protect the interests of the county governments and they have to do what we require them to do.

I think that it has to be very clear in everybody’s mind that the Senate is here to direct and manage the county governments. In fact, if they fail, it is this Senate which should be held responsible. In the Constitution, we are mandated to do quite a number of things. Even when there was some hostility between the Lower House and the Upper House and the governors’ council came in also, there was a problem in determining who should decide what. But the Senate was quietly being blamed to have allowed that situation to happen. Whether we like it or not, we have to agree that this Senate is in charge of devolution and our agent is the county governments.

Madam Temporary Speaker, I think that it is very clear in our minds what we want to do here. I think that the Senator here will agree with me that the time is ripe to start coming up with Motions and laws to manage and direct the county governments. For example, the county governments have now decided just to copy what the national Government is doing. You will find that there are people called ministers and yet, there is nothing like that in the Constitution. These are executive committee members of the county governments, but they call themselves ministers. So, I think that time has come when we should stop playing politics just to please the county governors. I think that quite a number of us came through public support, maybe in collaboration with some Senators and governors and, therefore, we do not want to appear as if we are disagreeing. This House has to be seen as being independent and able to deal with the county governments’ requirements. In fact, we have to work for the county governments more than anything else, because this House was created as a result of the Kenyan people wishing to see the devolved government. The devolved government will not be enforced by any other people, except the Senate.

Madam Temporary Speaker, this is our time now. Let us now be clear in our minds. I appeal to the Senators who are here to get involved in the development of counties, so that after four years, we shall say that the Senate has managed devolution because it has done A,B, C and D. But if we try to play the game of pleasing the governors and county assemblies, we will be wrong. This is because these new people are

ready to get ideas. If I can speak for Laikipia County, we work together. There is no need for us to have any problems. But if we are not careful, there will be devolution, but we will also devolve corruption all over Kenya. We have failed in this country because our priority has just been to make money. If you do not have money, you are nothing. If you are not driving a big Mercedes, you are *bure* and your mind does not function. That is the mentality of Kenyan people. I think it is time that we changed this mentality and gave Kenyans a leadership which is going to be for those who have elected us. They have elected us and we are their servants.

Madam Temporary Speaker, I need to stop there and ask my friend over there, Hargura, to come and---

**The Temporary Speaker** (Sen. Ongoro): Who is your "friend over there?" That is Sen. Hargura. Address him appropriately!

**Sen. G.G. Kariuki:** Madam Temporary Speaker, he is a Senator and friend.

**Sen. Hargura:** Thank you, Madam Temporary Speaker. First, I would like to thank the Mover of the Motion because this is one of the basic requirements for planning.

Madam Temporary Speaker, also, I stand to second the Mover of the amendment to the Motion, because I think that it just makes the Motion clear. This is because we are directing it at the recognized entity, which is the county government, instead of the council of governors. Also, we are requiring them to be reporting, at least, to the Senate, so that we can have that connection.

Madam Temporary Speaker, as we know, the Constitution requires us to protect the county governments. One way of doing that is to make sure that they are on the right track. That will require them to have proper plans. We are discussing this knowing very well that, currently, the counties are doing their county integrated development plans. But what we are doing is to have it improved further, so that it has measurable indicators which can guide us along the way. When they are submitting their progress reports to us, we can check against their development plans and determine whether they are on the right track or not. I think that, that is why it is necessary to amend this Motion; to have that aspect that it has to be the county government which is being directed to do it. They have to report to us annually, so that we can make sure that they are on the right track. In case of any fallbacks, we can address them before it is late.

Madam Temporary Speaker, we know very well that in any organization, there has to be planning. This is because these governments are run by elected leaders, who I am sure when they were running for office, had a vision for those counties. As the Mover rightfully put it, we have to take care of the socio-economic and political wellbeing of the citizens and also have a target, that by the time that period of five years lapses, at least, they should have attained some optimum level of development. Even if it will not be possible in five years, at least, they will have reached a certain level of development, which requires that government, before it takes off, to put that on paper in consultation with the citizens. They should come up with their targets. If the five years elapse, where will that government expect the level of development in that county to have reached?

Madam Temporary Speaker, for some of us, this is a very good opportunity, because we come from areas where we feel that we are not at the same level as the rest of the country. This is because we feel that the resource allocation for the last 50 years was

not equitable. Now we have the chance of getting ourselves back on track, by coming up with a plan which is all inclusive, consultative and has measurable indicators. So, in the first year, the government will have laid down some basic infrastructure and ensured that, for example, in areas with water deficiency, at least, there will be water which will be accessible within some given maximum distance from the homesteads. After that they can move on to other areas like health, roads and education. At the end of the five years, that county government will say: "We were here and now we have reached here." Without this kind of a plan, one will not even measure whether he or she has made any progress.

Madam Temporary Speaker, I support fully the idea of having the plan and the requirement that such plans be the responsibility of the county governments and not the council of governors, because the entity that we are dealing with is the county governments--- We are after ensuring that devolution works and the units are the county governments. The Motion recognizes that there are other levels. For example, we have the sub-county level, ward level and village level. Right now, they are recruiting administrators for those levels. All those levels of government have to be indicated clearly in their five year strategic plan. The people at that level, like the administrators, should be the ones monitoring that. That way we can easily know whether we are moving in the right direction.

Madam Temporary Speaker, I second the amendment because it makes the Motion clearer and more implementable.

Thank you.

**Sen. Ndiema:** Mr. Speaker, Sir, I beg to support the Motion as amended and congratulate Sen. (Dr.) Zani for bringing it. This is because it really touches the core of our mandate which is to represent the interests of the counties and their governments. This Motion is important because it now gives us the tools with which we can effectively gauge the performance of our counties. That way, we can work on an informed position when we are defending them.

I support the amendment, but I hope that at a certain stage, this will not only apply to the county governments, but also to the national Government because the counties are not operating on the basis of the county governments only. We know that there is still a big role being played by the national Government in the counties. It is our responsibility as well to ensure that they play their role as expected. So, I believe that at a certain time, maybe separately, we can also require the national Government to do likewise for every county.

Madam Temporary Speaker, as we are all aware, integrated plans have been prepared by the counties, but we must admit that the process was rather hurried and there was not enough consultation and even representatives both in the Senate and in the National Assemblies might not have had time in some places to be consulted and to have an input. It is very important that for everybody in the county to own the process, they should be involved and, more particularly, the representatives of the people; the Senate and the National Assembly, so that there is no excuse at a later stage to disown certain programmes that were included therein.

In this country, we are known for having very good development plans and good indicators, but we lack in monitoring and evaluation. So, I think at a later stage, we must put in place an independent monitoring and evaluation body that will be able to assess the performance of counties and the national Government in delivering what they promised to do. This is necessary since we now have two levels of Government. There is need for a body that supervises them just the way the Controller and Auditor-General cuts across. Their reports will be very valuable to us in dealing with the counties and the national Government in as far as the development agenda is concerned.

Madam Temporary Speaker, as we develop these programmes, we must know that there is no way we can separate the two levels of Government. For instance, I am aware that in some development plans that were prepared by counties, issues of police stations or policing in general were not included because that is not their mandate. We are all aware that all these developments that we are talking about will not succeed unless the aspect of security is looked at.

There are other cross-cutting issues, for example, urbanization. In all economies that have become developed, we know that they have done so through urbanization. That is really the direction we should take. Sen. Wetangula had alluded to it; that we have tended to centralize everything in Nairobi and, perhaps, that is why we are not growing as fast. We should really have more cities in this country in order to be able to develop. Devolution to the counties gives us these opportunities.

Madam Temporary Speaker, the Act that defines the criteria for a city or a municipality has done more harm than good. Instead of deliberately enhancing the status of our cities and towns, it has even gone to the extent of demoting some of our urban centres. For example, Kitale Municipality is supposed to be a township. I do not know what the intention is. We should purposely target towns, even those which are not there to be uplifted to city status. But if we step backwards and use the basis of population alone we may not be able to properly determine a city or a municipality. We should also look at other aspects. For example, we should say that every county headquarters should be a municipality, whether it is small and then plan the road network to make it possible to become a municipality. Some have argued that previously, some townships that were just villages were created. It is true, but if you look at all of them, you will discover one thing; the fact that they were created made those centres grow.

In developing the criteria, we should also look at other parameters and not just economic indicators. We should also look at the national values and principles; whether the counties are conforming to the requirements of the Constitution in terms of human rights and national values like sharing and looking after the marginalized and so on. At the moment, I am not sure that these parameters are being given weight by our county governments.

With those few remarks, I support.

**Sen. (Prof.) Lonyangapuo:** Thank you Madam Temporary Speaker, for this opportunity to support this amendment which will add value to the Motion which had earlier been Moved by Sen. (Dr.) Zani. Indeed, since originally the Council of Governors was the one in charge of the counties, there was no way the governors would be the ones evaluating themselves. It now makes sense that we can, as the Senate, get the annual

progress reports for every country so that we can all be apprised and see a coordinated plan for the entire country as envisaged in the Vision 2030. I know that when the Vision 2030 was written, no specific agenda was identified for every county.

Now, we can get some of the plans that had not been brought forward from every county. For example, where I come from, my governor and county government officers came up with development agendas that are very specific. We should see the value additions that are taking place in that county. We keep a lot of cattle. For a long time, my county had been a closed district; therefore, we were not able to sell these valuable animals to key markets in Kenya and outside. I expect that a key agenda that will be put forward by my county government and other pastoralist county governments would be how they can process animal products from what they have in their counties; how they can have access to ready markets in some counties which they did not have access to. This way, they should get investors coming to invest directly in their counties.

The other issue that I have seen as being very key and which we should look at properly in this Senate is the manufacturing of some of the goods there. For example, my colleague neighbour from Trans Nzoia County talked about maize which we grow every year and take all the way to so many maize milling plants in Mombasa, which then return it back to us as a finished product. But when we have key development agendas that are deliberately targeted for every county, there is nobody who can do it, except the governor and we will oversee whatever that they will be doing. We can see to it that our people get employment in those regions where the original raw materials emanate from.

We know, for example, that the nation's attention is now focused on Turkana County where oil has been discovered. Where will that oil be processed? How will that county benefit from it? So, I am looking at it in the sense that one of the key development agendas which that county must submit to us is how they are planning to process that oil. Is there a level of manufacturing taking place in Turkana County for this precious mineral that has been discovered? If not, then it means there is something that we need to do as the Senate. We should step in and say "we have to see a degree of manufacturing taking place at the source" so that we can improve the level of investments in that area. Our target in this Motion is to see how the social sector develops and how the economic sector also expands on top of the political sector. The social sector can only be built when the economic sector becomes strong.

Madam Temporary Speaker, I remember that since Independence, we have always sung about the three enemies; hunger, disease and ignorance. If we come up with key development plans that target to eradicate or minimize these problems, it will be great. But you find that in some areas, the national Government still gives people relief food every year, yet these are healthy people who can work. No plans have been put in place for irrigation in those areas which have water so that these people can wake up and work for themselves. This Motion comes at a time that we need to focus, move from the usual way of operating as Kenyans and go to areas we have never thought of before. Who knew that coffee would grow? Now we have coffee growing in Kiambu. I am told that Kiambu is almost replacing coffee with buildings. But if we remove that, that would be a problem now.

We need to see how we can go to some of the frontier areas that we have never been to before, open them up and remove this congestion we see in Nairobi. Nairobi is attracting people to do what? Our people have this belief that if you go to the city, you can get a job and live a good life. But our counties can develop and we would see in the counties' key agendas points where they are saying they are opening up areas far away from the county headquarters so that they also do not crowd and have mini "Nairobis" in the county headquarters. For example, where I come from, I would like to see us opening up the exterior of Kacheliba which is very flat and where we can do irrigation. We can extend the Wei Wei Irrigation Scheme. That is an agenda which will bring a lot of revolution there and people can move away from the urban areas.

Madam Temporary Speaker, we keep on hearing a song where people are saying that a lot of money has been taken to the counties; this is what some National Assembly Members and some people in the Executive keep on saying. They say: "Can they consume the money they have first so that we can see whether they have the capacity?" I want to see how the county Governments and the governors can come up with their strategies and roll out these programmes. We can compare and now show them that this is what has been done with this money.

Madam Temporary Speaker, we need to hold one another accountable and systems must be in place. In the same vein, I want to know who will handle the Constituencies Development Fund (CDF). Is the Implementation Committee responsible? Before we move on to this system, there have been very many great challenges, particularly from counties where some of us come from, where the auditors from Nairobi do not reach. Will the county governor now audit the CDF people on the ground? Who will do it? We are going to see to it ourselves that we oversee the plans for the county governments, but what about the other ones? So, in one way or the other, we need to see how we can integrate our own supervision to ensure that issues that touch on the development in the counties are done.

Madam Temporary Speaker, in this fashion where we are saying we now have a level checking one level, I support this amendment as has been suggested.

Thank you, Madam Temporary Speaker.

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

**Sen. Lesuuda:** Thank you, Madam Temporary Speaker. I would like to thank Sen. G.G. Kariuki for bringing this amendment. As I was contributing, I had my reservation on allowing the Council of Governors to do all these things alone. I was not sure whether this body would be able to ensure that all counties formulate, map and operationalize measureable indicators to show the development agenda of each county. As it is now, we are asking the county governors to ensure that each county has a plan for that county and to ensure that services are delivered to the people.

I would also like to thank Sen. G.G. Kariuki for mentioning that he will be bringing amendments to the County Government Act, 2012. These are things that we really need to entrench into law. These are things that we can talk about authoritatively. This Motion should be preparing our governors psychologically because there is something more to come in terms of an Act. The Act being looked at with all the challenges that we are foreseeing now is because we want to ensure that we put a good



foundation for our counties. So, I would like to thank him for this amendment. We are also looking forward to amending this Act.

Madam Temporary Speaker, it is also important to note that just as we have been talking about planning, and what Sen. Beatrice has talked about, we should ensure that the county governments or the governors and their teams plan properly so that whatever they are planning to do in the counties does not overlap with what the CDF is doing. We want to avoid duplication in our counties. We also need to put measures in place to ensure that we do not misappropriate the money or put too much money in one area. I think all leaders in the county governments should sit together, think through and come up with a plan so that we maximum development in our counties.

Madam Temporary Speaker, the other issue is to do with not spending money allocated to the key Ministries by the national Government and returning it to the Treasury for one reason or another. With this plan I hope and pray that there will be no county where money will be returned to Treasury because it has not been utilised. As a Senate, we will also have failed if we will not be able to ensure that the governors and the county governments use the money that they have been allocated. This is something that we need to think about as a Senate. That is why the amendments to the Motion will be very important.

As we pass this Motion - and I have trust in the Committee for Implementation to ensure that this actually happens - we are just directing the county governments, but we are yet to see whether they will actually implement what this Motion is asking them to do. We should ask ourselves how we can ensure that there is inter-county cooperation. There are issues that cut across counties, for example, in counties across the northern part of Kenya like security and peace. It is important that counties come up with a strategic plan and ensure that there is peace. I wish they could say that for the next four years there is going to be peace in that region. Without peace, there is no development. The strategic plan in those counties should ensure that there is peace between Laikipia, Samburu, Moyale and in other counties in the region. No single governor can do it alone because the conflict is inter-county.

I am very happy to see that the governors of Baringo, Laikipia, Samburu and Isiolo have called for a meeting this Friday to talk about peace and security. This is important because even as the money starts going to the counties, they will have time to deliver services to the people. I think this Motion is very important and I support it. It is also important to note that we need more teeth to ensure that these things work. If it fails, as we said earlier, then the Senate will have something to answer.

I support the amendment to this Motion.

**Sen. Elachi:** Madam Temporary Speaker, Sir, I also stand to support the amendment of the Motion. When we were reading the original Motion, we realized that we were telling the same person to do the plan and to also put in place measures to ensure that it can be done. But now with the amendments, I believe the Senate now has the right to follow up and ensure that each county gives a report. This will also help the Controller of Budget ensure that as she looks at the financial bit, she is also able to ensure that whatever they have proposed goes in line with the plans they had done. It will also assist

the counties go to the next budget cycle with a better plan than what they did in the first cycle of the budget.

When you look at the first budgets, you will find that they have a lot of misallocations in terms of where the funds are going. Most of those budgets do not tally with what the counties have. Most of them were unable to read and tabulate the revenues that they collect locally, but if they have plans now, come 2014, I believe that each county will be able to set itself properly, do a planning that is better and implement what will be done by the people. When this is done, the citizens within the counties will appreciate that devolution can work and can change their lives.

Madam Temporary Speaker, what is happening now is that each governor is saying what he will do without putting in mind what the cost is. For example, a sector like the health faces challenges and no governor can tell us what he is going to do with the existing 50 health centres and what equipment can be put in them. One cannot tell you whether they lack a CT scan, dialysis machines and so on. It has also been difficult for the Transition Authority (TA) to do an audit so that it can help the counties. What we are trying to say as the Senate is that; we want to see plans that can give a picture of that county. It should show us the revenue that can be collected and how the allocation from the Government can be supplemented and allocated to various projects in development.

Madam Temporary Speaker, it is very difficult to determine the measures and systems that have been put in place to guide them to mitigate the revenue collection. When we talk of development plans, we are talking about resources. Therefore, we should ensure that the little resources we have can work for the benefit of all and not just end up as recurrent expenditure or wages. What is meant for devolution should be directed to development. That is where the governors have really lost it. Due to their lack of plans, they ended up budgeting for their vehicles, then their executives and forgot to plan for those who are going to do their technical work. That is why we have challenges of salaries. If governors can plan well, they can pay the salaries to their experts.

Today, if you look at the County of Nairobi, you will realise that one of the challenges is the plan on how to come up with their own metropolitan police which is needed urgently. For example, yesterday in Ufungamano Street, young men were terrorizing owners of shops, stealing everything, including phones and money in broad daylight. It means that we have a challenge in maintaining peace and security. Lack of peace is not just where there is fighting, but also where we have insecurity because the owner now has to stand with a *panga* or a gun to secure his shop and himself. We have to really plan.

When we talk about plans, we are saying that we have very unique counties like Nairobi, Mombasa and Kisumu. So, if the governors do not plan well, then these counties are not going to realise what we thought devolution can bring. You will find that the wage bill in these counties is so high because these were cities so the county councils at that time were so bloated. Every councillor could bring in his or her people to be employed. Today, the Intergovernmental Relations Act states something different. You must have papers for you to work. Therefore, that becomes a challenge for the counties.

Using the plans and the Equilisation Fund, we will see how and where counties are marginalised. This will be in their plans. You will also find the issue of

marginalisation occurring in Nairobi and Kisumu counties because of the slums that we have. Therefore, when we talk about plans that can deliver, we are saying that each county has an area that is marginalised. However, it is only when you have a clear plan or blueprint that will guide you that you will identify and see where you need to improve.

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

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. I refer to Standing Order No.51(3) and request that we defer the putting of the question to a date that you will guide us on, probably, on Wednesday afternoon because we do not have the numbers to vote on the amendment and the main Motion.

**The Temporary Speaker** (Sen. Ongoro): Sen. (Dr.) Zani, that is in order. It is my opinion that you mean tomorrow. I think next week will be appropriate because tomorrow we will still not have a quorum. Many of our colleagues have travelled. So, we will have the question put on next week Wednesday afternoon at 3.00 pm.

Next Order!

*(Putting of question on the amendment deferred)*

*(Debate on the Motion deferred)*

## MOTION

### POLICY FRAMEWORK FOR THE ENGAGEMENT, TRAINING, REMUNERATION AND COMPENSATION OF POLICE RESERVISTS

THAT, aware of the crucial role played by the National Police Service in the provision of security to citizens; further aware that the number of police officers in the Service, currently, is way below the ideal number required to effectively cover all areas in Kenya to provide adequate security to Kenyans; appreciating the Government's efforts to supplement the services of police officers with police reservists, especially in areas prone to cattle rustling; concerned that in spite of the immense contribution towards national security by the reservists, no form of compensation is given to them; further concerned that many of them are maimed while others die in the line of duty; the Senate urges the National Government to develop a policy framework for the engagement, training, remuneration and compensation of police reservists.

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, I think we should defer this Motion to tomorrow.

**The Temporary Speaker** (Sen. Ongoro): Senator, I think you can proceed. Owing to the constraint of time, you may not have it seconded, but we will proceed tomorrow from where you will have stopped.

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, since I came back today, I request that you allow me to prepare myself and move the Motion tomorrow if that is okay.

**The Temporary Speaker** (Sen. Ongoro): So you want to prepare your talking points? That is okay. Prepare your notes. We want you to make a good presentation.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, there being no further business, the Senate stands adjourned until tomorrow, Wednesday 18<sup>th</sup> September, 2013 at 9.00 a.m.

The Senate rose at 6.05 p.m.