

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 23rd October, 2013

*The Senate met at the Kenyatta International
Conference Centre at 9.00 a.m.*

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

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

The Speaker (Hon. Ethuro): Hon. Senators, I am informed that we have a quorum. Let us commence business.

MOTION

AUDIT OF EMPLOYEES OF DEFUNCT LOCAL AUTHORITIES BY TRANSITION AUTHORITY

THAT, aware that Section 7(2) of the Transition to Devolved Government Act requires the Transition Authority to carry out an audit of the existing human resource of the Government and local authorities and advise on deployment to either level of Government; further aware that Section 57 of the Urban Areas and Cities Act provides that every person who, immediately before the commencement of the Act was an officer, agent or member of staff appointed, seconded or otherwise employed by a local authority shall, on the commencement of the Act be seconded or otherwise deployed as may be provided by law; concerned that failure to absorb bona fide employees of the defunct local authorities will deprive them of their rightful means of livelihood contrary to the spirit of the Bill of Rights as contained in Chapter Four of the Constitution of Kenya and the principles of devolution; the Senate urges the Transition Authority to urgently finalize the audit of employees of the defunct local authorities and put in place the necessary framework for their absorption as employees of the respective counties.

(Sen. Elachi on 22.10.2013)

(Resumption of Debate interrupted on 22.10.2013)

Sen. Elachi: Thank you, Mr. Speaker, Sir. This is a continuation of the Motion we had yesterday. Hon. Senators, it is the role of the Transition Authority (TA) to ensure that deployment of staff within the county governments and the national Government is done in accordance with the Constitution. The TA must make sure that employees who will opt to retire are paid their dues. Pension is a right of every employee. These are human beings who deserve to be treated in a humane manner. This is an issue of the livelihoods of Kenyans who have worked for us for many years. Yes, we are now in a new dispensation, but that does not mean that employees of the defunct local authorities be mistreated and denied their rights.

The most important thing for us to bear in mind is that the structures were transited elsewhere. Therefore, it is time we dialogued together and came up with best solutions for the county governments and the national Government. We want services to be delivered to our people. Therefore, the governors, the TA and the national Government must sit together so that Kenyans do not blame devolution and see it as something that came to mess up their lives. We do not want to hear anybody saying devolution messed up his life. We, as the Senate, wish to see every Kenyan appreciate devolution as something that came to transform his life.

Mr. Speaker, Sir, I know that we have many challenges in terms of creating employment in this country. As we think of where we will take the hundreds of thousands of workers who worked for the defunct 174 local authorities, we need to appreciate that as the staff are being deployed, some Ministries and departments were merged. How will we ensure that the mother ministry does not reject the same employee that was working for her at that time? These are some of the challenges that we will face in this new dispensation. I believe the TA is working on a framework which, hopefully, will absorb all the workers from the defunct local authorities. However, we should ensure that we vet the workers to ensure that those who mismanaged resources are taken to court and made to pay the monies that were meant to develop these counties.

Mr. Speaker, Sir, it is important for the Senate to seriously follow up this issue with the counties. I believe every worker is asking the Senators: "What are you doing to ensure our payments and jobs are secured, based on labour laws, the Constitution and the Bill of Rights?" We must make sure that we take care of Kenyans based on the Constitution that we passed.

Mr. Speaker, Sir, I beg to support.

The Speaker (Hon. Ethuro): Hon. Senators, this is an amendment to the main Motion. The amendment will also require that we vote on the basis of counties. To start with, we were just consulting to determine whether we have the requisite numbers. I do not think we have the numbers. It is up to the author of the Motion to advise us.

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, as you know from the good old days, Wednesday mornings are very difficult. We normally start off very slowly. We are a bit confused. Is it that the debate on the amendment has ended? Those of us who are here are eager to speak to the amendment. But if debate on the amendment has ended, you can advise us. If it has not, we can continue speaking to the amendment and, probably in the later hours of the morning, we will have the requisite numbers to put the vote.

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, it is not fair to have a selective memory. Is it that in the good old days, you would have contributed to the amendment because Wednesday mornings are a bit slow? There was no other interest after Sen. Elachi spoke to the amendment. In the absence of further contributors, that is why the Chair was proposing to put the question. But then, since this is a matter affecting counties, we could not proceed because we do not have the requisite numbers.

Sen. (Dr.) Khalwale, we welcome your intervention to contribute. But you should be alert.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir, for giving me the latitude. As a matter of fact it was hon. Orendo who engaged me in a very animated discussion which was very important, on a national issue of the Head of State visiting several counties in this country.

I rise to support the original Motion, but even more vehemently support the amended Motion. This is not a Motion founded on theory. In many counties, Kakamega County being one of them, this challenge is there. In fact, my Governor is faced with a serious problem where 92 employees of the former urban councils have taken him to court. I am glad that this Motion is now here, so that we not only provide a solution for counties like Kakamega, but also put a standard that can help such cases that might come up.

Mr. Speaker, Sir, as I support this amendment, it is important that we are alive to the fact that we had some unscrupulous mayors and clerks of the local authorities who just months before we went to the general election ended up hiring many undeserving cases. We have a case in Kakamega County where a whole family is listed as employees, including a 67 year-old mother of a former high ranking member of the local authority. She is listed as an employee. It is important that as we pass this Motion in its amended form, that this audit be done. We cannot speak for those people because they are the *wanyonge* and, at the same time, reward a wrong like the one that I have just referred to in Kakamega County.

Mr. Speaker, Sir, the issue of approaching the status of the former local authorities disturbs me because it looks like we have been so keen on speaking to the devolved funds, but we have been very quiet over many other funds. It is lost to this Senate that as soon as governors went into office, they found the former local authorities having cash in their accounts. They received cash that had, in the financial year, been budgeted for in the former Ministry of Local Government. They continue to collect revenue at source. It is important that the Auditor-General does a proper audit of all these monies, so that we know how much money these local authorities left on their account before the county governments became fully operational.

We need to know how much money had been realised from revenue collection and how much money had been voted to these counties to the former Ministry of Local Government. All this money runs into hundreds of millions. Informally, I understand, we

had up to Kshs56 million in the local authorities of Kakamega County. We had Kshs362 million released that was taken to this county. We must know where all this money is. I am convinced that all Senators should take up the responsibility of fighting corruption. We should not fear that our governors will feel that we are fighting them. It is not a question of fighting them.

Mr. Speaker, Sir, we should also ask ourselves: What role do we play in overlooking the corruption that takes place during hiring of staff? We are now speaking of staff of the former local authorities. The level of corruption that is now going on is unbelievable to the extent that the executive officers are giving a soft landing for their friends, relatives and cronies to have an easy way of landing jobs in the county governments. There are very many of them right from village administrators all the way to the sub-county. Maybe we, as the Senate, want to ask ourselves: What direct oversight role do we want to play?

For your information, whereas this oversight role is in the custody of Members of the County Assembly (MCAs), MCAs are virtually in disarray because of the challenges they are having in terms of remuneration. Most of them have to come all the way to the headquarters of the county. Usually they do not have money. When they go there, they start chasing little allowances that can enable them survive because of lack of financial muscle. So, the responsibility placed upon us is very immense.

Finally, Mr. Speaker, Sir, as I support this Motion, I want us to be very cautious about the issue of giving those employees a handshake. The experience we had about retrenchment in this country is that all the people who were retrenched are either dead and, if they are alive, they have become alcoholics. If they are not alcoholics, their wives have run away. So, this issue of retrenchment destroys people and families. The option that has been invited in this Motion of compensating these former workers should be an option of last resort. Generally, junior officers prefer being in employment and earning their little Kshs9,000 peacefully every month and they plan for it. But when you retrench them, the things that I have tabulated actually happen. This is not just in Kakamega County, but even in other counties like Tharaka-Nithi, Nakuru and so forth. It is even worse in Siaya County. My neighbour is just across there.

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

Sen. Mutula Kilonzo Jnr: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I rise to support the Motion and the amendment. It is fair that I mention that the Committee on Legal Affairs and Human Rights had the privilege of meeting the TA yesterday. This issue is alive, serious and must be addressed as quickly as possible. From the admission of the TA, this matter will create what they call, an industrial strike if it is not addressed as quickly as possible.

Mr. Speaker, Sir, I support the sentiments of Sen. (Dr.) Khalwale on rationalisation of the members of the local authorities who were existing at the time. From the meetings we had with the TA, I am aware that this issue does not only affect the local authorities, but it also affects employees of the national Government in so far as counties are concerned. We are informed that governors have refused to accept some of these members who have been, in the words of the TA, seconded to these counties. Some of these staff are qualified. Therefore, it behoves the Senate to assist the TA in matters of this nature. In fact, I am aware, from our meeting with them yesterday, that this will form part of the discussions we

are going to have in Mombasa when we meet at as a consultative forum. They are facing a lot of challenges, not only on this issue, but on many other issues.

The Senate should take action as a result of what appears to be the discrimination of the members of the local authorities in attempting to offer employment to people in this county. We have to make sure that the people who are working do not lose their employment and livelihoods for reasons that are not legal. Therefore, it behoves this Senate to quickly finalise this issue. I am not quite certain at this point in time whether we can finalise this Motion before we get the timelines on how fast they intend to do this and whether there have been any challenges they have been facing as the TA.

In addition, from what we have read in the press, it is important that as we debate this Motion, we are alive to the fact that there is an attempt to also do away with the TA. The Attorney-General intends to forward to the House an amendment to the Transition to County Governments Act. Therefore, it is extremely important for this Senate to address this issue seriously and as quickly as possible before we wake up one day and find that the counties of this country have gone on industrial strike and people have been sued in court for violating the rights of citizens of this country.

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I also rise to support this Motion in its amended version.

Mr. Speaker, Sir, first and foremost, it is important that the exercise that is envisaged be done in accordance with the law. I have listened to, especially the contribution of Sen. Boni Khalwale on this matter. One thing that has attracted me is his views on whether some of these employees should be retrenched. I would have argued that there is no way that we can ignore the fact that retrenchment or redundancy is part of labour practices, not just in Kenya, but also in other parts of the world. I do not think that we can fight redundancy whether in the public or private sector, simply because somebody will lose a spouse or not be happy because they have been sent home, so long as the law has been applied.

However, having said so, the only reason I support Sen. Khalwale on this one, is because the law does not envisage retrenchment. In particular, Section 57 of the Urban Areas and Cities Act says that those employees who were serving in the defunct local authorities will either be seconded or absorbed. So, it is either absorption or secondment. It does not envisage entrenchment. For that reason, I will agree in a very rare circumstance with the Senator for Kakamega on the basis of the law.

Mr. Speaker, Sir, secondly, there is need - and this Motion has actually brought it to the fore - for the continued existence and strengthening of the TA. I have said and want to repeat it on the Floor of the House that I will oppose any measure aimed at dissolving or otherwise terminating the life of the TA, because there was wisdom in the framers of the Constitution, to create the TA and provide for a three-year period within which it will oversee the transition into devolved government.

Mr. Speaker, Sir, the issue of audit, therefore, is something that should be done by the TA. I agree that there are so many ghost workers. Therefore, we cannot ask our counties to absorb all the unaudited or even audited baggage of, perhaps, not so qualified staff, because this will bring down the efficiency of counties. In any case, the reason the

counties should not bear the burden of absorbing all these employees is the fact that the Constitution envisages to create a new brand in county governments. Our counties must run away from the brand of local authorities. They are not a continuation of county councils, urban counties and other local authorities that used to exist.

It is in that connection that I have also supported the issue of governors refusing the green number plates. You will remember that when they were asked about number plates, one proposal was that they continue using green. They said that this would give the impression that the county governments are just a continuation or glorified forms of local authorities. So, we need to create a new brand in our counties and county governments.

Mr. Speaker, Sir, on the question of oversight, again, I have listened to some of the contributions here about the fact that even as we seek to protect our counties and county governments, there is no oversight on the human resources practices that are going on at the moment. I think that we should read our mandate a bit more purposefully, especially the mandate of the Senate in Article 96 (A), which talks about representing counties, but also protecting counties and county governments. This is protection from any predatory practices, from internal and external environment. In other words, emphasis has been given on the oversight role over financial issues in Article 96(c). But if you look at Article 96(a) which talks about protecting the interests of counties and county governments, this protection means protecting county governments from themselves and external threats, which can be the national Government *et cetera*.

Mr. Speaker, Sir, having said so, I think that an appropriate Committee of the Senate should be in a position to interrogate some of these human resource practices that are taking place without necessarily infringing on the role of county assemblies. Remember that the constitutional duty of oversight and protection of counties is not in county assemblies, but in the Senate, and this cannot be abdicated. So, without really encroaching on what the county assemblies are doing, time has come for the appropriate Committee of the Senate to start interrogating some of the things that are happening in the counties now, as a preventive measure, so that we do not wait to deal with scandals after several years.

Mr. Speaker, Sir, the last point that I want to make, because I still have time, is that the way I see the law, especially the transitional laws that were put in place in 2012, is that this exercise should be done in accordance with a legal framework. In other words, if you look at Section 57 of the Urban Areas and Cities Act, it says that the process of secondment or absorption will be done in accordance with some law. So, during this process, maybe there is need for us to have a transitional Act of Parliament which will guide and provide the parameters and principles for this exercise, to provide the conditions on which these employees will be absorbed, seconded or otherwise, liquidated and transited into the new devolved government.

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

Sen. Orendo: Mr. Speaker, Sir, I rise to support this Motion as amended and commend the Mover for bringing it, particularly her concern for the position and interests of those who previously served in the local authorities or have been seconded to those

counties or county governments. This is keeping on with the Constitution. The right to employment is important, if we are to build a caring nation.

Mr. Speaker, Sir, having said that, there is something important to realize in debating this matter. In the previous local authorities, there were many people who were seconded or taken there by the central Government or those who were politically connected at that time. They used the local authorities as a reservoir for offering employment to those that they could not absorb in the national Government without caring about the security or survival of these local authorities. So, this is something that we need to handle with a lot of care. As the Senate Majority Leader said, it is important that we brand these new entities as new forms of governments which should have completely new experience that can drive the Kenyan people forward.

Mr. Speaker, Sir, there are two things that I would like to say quickly. First, these county governments are not supposed to be autonomous states as it were. What applies to the national Government must also apply to the county governments, so that if the national Government is required to reflect a national character when engaging people in Government at various levels, then counties must do the same. They must be a reflection of the diversity of the Kenyan people. Equally for county government, they also must in their deployment and recruitment of staff, reflect not only the diversity within the county, but also practice the principle of ensuring that--- Even if it is Siaya County, I would be very happy to have people from Kakamega working for the county government. I would also be happy to see Tharaka-Nithi County government having people from Kakamega, so that these are not just regional enclaves.

Mr. Speaker, Sir, for that matter, probably, these county governments can teach the national Government something about deployment of staff to reflect diversity. At the moment, if you look at the national Government, it does not reflect what Kenya is. Sometimes I like praising the former President Moi in the sense that if you look at the Government at that time, and it was a one-party Government, in the Office of the President, you would have both hon. G.G. Kariuki and hon. Biwott there. So, there was some sense of balance. But when you look at this Government---

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. Issues of diversity and inclusiveness are sensitive in this country. Is the Senator for Siaya, therefore, in order to suggest that the national Government has not met the balances that are required of it in the Constitution? The Constitution demands that the formation of the national Executive and other agencies of the national Government must reflect diversity. That has been followed. Is the Senator for Siaya in order to mislead this House that balance has not been met?

Sen. Orengo: Mr. Speaker, Sir, there was an English bishop who was asked to prove the existence of a stone. Instead of going into the academic theory of trying to conceptualize whether or not the stone exists, he said: "Kick it if you doubt its existence." So, I just want the hon. Senator to one day even walk to the Office of the President and start from there, and then go the security forces. You will end up with the Chief of the Defence Forces who can suggest that those soldiers who were moving out of Westgate were carrying water. Sometimes when you have people from the same village, they can come up with all sorts of absurdities. Somebody was asking me yesterday whether this

was the same Commander who led the Kenya Defence Forces to take care of the Somalia situation and if they needed plastic bags from Nakumatt to carry water.

(Laughter)

Mr. Speaker, Sir, this is a serious point; that the county governments, at the end of the day, should teach the national Government how to have a fair reflection of the character and diversity of the counties and nation as a whole.

Mr. Speaker, Sir, the second point that I wanted to make on this matter is that there should be a mechanism where the county governments will be able to examine the workers concerned, for suitability. This is because sometimes when there is a general principle that they should all be absorbed, I think that at the national Government, probably, there may be a reason for that. However, at the county level, the county governments must be given a framework to determine whether these people are actually suitable for absorption. You will remember that the chapter dealing with public service is very specific about deployment of people into the public service. Therefore, I would hope that, at the end of the day, when that framework is established, there will be a mechanism for determining the suitability of these particular people.

Mr. Speaker, Sir, I also want to support very firmly the sentiment expressed by the Senate Majority Leader on the TA. The TA should have its full tenure and timelines respected for its existence, so that the transition is carried through in an organized manner instead of bringing in proposed amendments to bring the life of that authority to an end. I think at the back of my mind, this must be a conspiracy to try and interfere with the process of devolution. Indeed, this must be stopped unless we can be convinced that there is a better organ or process for ensuring that the transition from a centralized form of Government to a devolved system is going to take place in the manner conceived in the Constitution.

Mr. Speaker, Sir, I want to use the Floor of this House to say that whereas we are talking about human resources and so on, I think what is happening in the Judiciary should be brought to an end. When the Judiciary is involved in this kind of warfare for long, service delivery will be interfered with. I understand there was a 'war council'. We must bring this war to an end.

(Laughter)

We cannot have a war council which is fighting forever. What is happening in the Judiciary is a bit of a shame to the country because some of these things we are talking about may have to end up in the Judiciary. If the Judiciary cannot take care of itself in terms of recruitment of staff and issues of discipline, then when issues like these go to them, it will be very difficult to deal with them. This is, probably, a reflection of the fact that when you reform institutions and they do not have reformers, then it is very difficult to reform those institutions.

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

(Applause)

The Speaker (Hon. Ethuro): The Acting Senate Minority Leader.

The Acting Senate Minority Leader (Sen. Abdirahman): Thank you, Mr. Speaker, Sir. I also stand to support this Motion in its amended version. I want to appreciate or agree to the fact that those who served in local authorities in the past, as we know, had a lot of incompetence. We very well know the manner in which the Ministry of Local Government in the past actually deployed staff, or even employed them. They had actually recycled most of what we know as ‘clerks’ to the then existing local authorities. What characterized most of those local authorities was the fact that they had a bloated number of staff that cannot currently be absorbed by the newly formed county governments.

Mr. Speaker, Sir, this particular Motion is, therefore, very important and very timely. If the TA can take into account the existing human resource capacity with various skills, I think it will be very useful in terms of determining how this will be finalized. Just to give you an example of what is currently happening in Wajir, we have 103 workers of the then Wajir County Council. Out of the 103, only about 10 per cent have had formal training beyond their Form Four education qualification or even primary education qualification, in some instances. This is a clear indication that the county government cannot clearly absorb all these people, particularly those who may not have the kind of key competencies that are required to deliver what county governments are expected to deliver. Therefore, planning appropriately and deploying these ladies and gentlemen in the right places will be key if we can get the actual data.

Mr. Speaker, Sir, I want to comment on what Sen. (Prof.) Kindiki raised about dissolving of the TA. It is not right to actually disband or dissolve the TA at this time. I think the national Government is actually making a serious mistake if they go ahead and disband it. The TA cannot actually be replaced by an inter-governmental working committee at this stage. It is too early to do so. The TA will have to complete its work to the final conclusion, unless the national Government is actually trying to develop what they call the “Founder’s Syndrome.” The county governments actually contributed to the set up of the current Constitution. If they will have to deliver, they do not have to hold on to certain functions. It is important that we allow the TA to continue doing what it is doing to its final and logical conclusion.

I only want to disagree a bit with the issue of bringing in or delocalizing staff. In certain sectors like education – where we delocalized staff in the regions where we come from – it has not helped much. I will only support the bit which says that we bring in skilled personnel where they are not available in these counties to reflect on diversity, unity and cohesion within the country. But in as far as possible, if staff with key competencies can be available in the counties, then we should employ those people straight away.

Mr. Speaker, Sir, I beg to support.

The Speaker (Hon. Ethuro): Sen. Zipporah.

Sen. Kittony: Thank you, Mr. Speaker, Sir. My name is Zipporah Kittony. I am not used to one name.

Thank you, Mr. Speaker, Sir.

(Laughter)

Mr. Speaker, Sir, I stand to support this Motion which has come at a very appropriate moment. I support the amended version. True to the word, if we are going to have devolution, I think it is only proper to do a proper vetting in our former local authorities because we know the calibre of persons we had. The most appropriate thing to do is to do proper vetting and audit so that the people who have been taken over are the good cream that will facilitate faster development in the new devolved system.

Also, realizing that what we have in the county level are localities, if we need to improve on the services, then we definitely have to look for quality. With the new system and with the TA, this Motion has come at the right time. I would like to commend the Mover for having considered it fit to bring it at this appropriate time.

Mr. Speaker, Sir, vetting has to be done professionally. We should not let the usual systems in place to take over. Let professionalism be put in place so that the devolved system of government can get the right quality of personnel.

So, Mr. Speaker, Sir, with these few remarks, I beg to support.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. Muthama.

Sen. Muthama: Bw. Spika, nasimama kuunga mkono Hoja hii. Tumeingia katika muundo mpya wa Serikali na matumaini yetu kama viongozi ni kuona kwamba chanzo, mwenendo na mipango yote tunayofanya inawasaidia wananchi wote.

Bw. Spika, waliozungumza kabla yangu wametaja mambo fulani. Ninataka kuyazungumzia mambo hayo kwa mapana na marefu ili tusielekeze lawama kwa Serikali kila mara. Leo Katiba yetu iko wazi sana. Tulibuni vipengele vingi sana katika Bunge letu la Kumi ambavyo vitasaidia serikali za ugatuzi.

Bw. Spika, nikiangalia Hoja hii iliyoletwa na Sen. Elachi ni muhimu sana. Shirika la TA halina shida yoyote ila ni Serikali inayoleta matatizo. Chanzo cha matatizo haya ni magavana wetu. Hata hivyo, mimi sitaki kuwalaumu magavana, ila tu nataka kuwashauri. Katiba yetu inaruhusu Kenya moja. Tuna umoja wa Wananchi wa Kenya. Lakini ukiangalia kwa undani sana, utaona ya kwamba magavana wameweza kuchukua majukumu yao kwa nguvu sana. Hawataki kusaidiana na viongozi wengine.

Bw. Spika, tumeshuhudia wafanyakazi wa Serikali wakitimuliwa kutoka ofisini na Gavana wa Machakos. Ofisi zao zimefungwa pasipo sababu maalum. Jambo hili linapofanyika, ofisi zinabaki bila mtu wa kutoa huduma kwa watu wetu. Wafanyakazi wanafutwa kazi ovyovyote bila sababu yoyote. Wakenya wako na haki ya kufanya kazi popote hapa nchini. Ni jukumu la Serikali kuwapa watu wake nafasi za kazi. Hakuna Mkenya kuanzia Mheshimiwa Rais hadi mtu wa kawaida aliye na uwezo wa kufuta mtu kazi bila sababu maalum. Hakuna kiongozi aliye na uwezo wa kufunga ofisi ya mfanyakazi yeyote wa Serikali. Katiba inahitaji sisi sote kuheshimiana. Ni lazima sisi sote tuheshimu haki za watu wetu, wawe matajiri au masikini. Katiba yetu imetupa haki sawa. Lakini magavana wanachukulia jambo hili kama ni muundo wa serikali za kaunti.

Bw. Spika, tabia yao ni kama wameingia na kasumba ya kupindua Serikali na kudhani kuwa wao ndio wenye mamlaka ya kusimamia nchi nzima. Tusipotahadhari nchi hii itagawanywa katika misingi ya kikabila na magavana wetu. Ni lazima wajue ya kuwa kila Mkenya ana haki kufanya kazi katika kaunti yoyote. Ikiwa wewe ni Mkamba, unawezafanya kazi katika kaunti ya Kirinyaga. Ni aibu iliyoje kuona kuwa kuna magavana wengine ambao wanapenda kuitwa kwa jina maalum la “mtukufu”. Wengine wanafikiria kuwa wana mamlaka sawa na mheshimiwa Rais. Wamelewa na kasumba ya uongozi. Hii ndio maana wanafuta kazi wafanya kazi wa Serikali bila kujali watakwenda wapi. Kwa hivyo, wafanya kazi wa Serikali wasifutwe kazi bila sisi kuja na sera maalum. Hatutaki kuona wananchi wetu wakiteseka kwa sababu ya uongozi mbaya wa magavana.

Bw. Spika, jambo la pili ninalotaka kuliambia Bunge hili ni kuwa ikiwa wataweza kuitoa TA, basi hatua yao ya pili watakayoichukua baada ya hilo ni kuimaliza Seneti.

Bw. Spika, magavana hawana haja ya kutawala. Ningependa kusema kwamba Mkenya yeyote ana haki ya kutawala. Hakuna mtu anayekataa.

Sen. Orendo amegusia vile vyeo vimegawanywa katika Serikali. Ningependa kutaja jambo moja. Katiba inasema kwamba katika kila uteuzi wa Serikali ni lazima jamii zote za nchi ziwakilishwe ili sura ya Kenya ionekane. Mimi hushangaa sana. Baraza la Usalama la Kitaifa linawakilishwa na watu wa jamii moja. Watu hawa wanaweza kutumia lugha yao katika mikutano yao. Kuna mtu mmoja tu ambaye anastahili kutafsiriwa kinachosemwa katika mikutano yao. Mimi natetea haki ya Wakenya. Ningependa kuona kila jamii imewakilishwa katika Serikali kuu.

Kwa hayo machache, ninaunga mkono.

Sen. Hargura: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this important Motion. I would also like to thank the Mover of this Motion. I support the Motion with some amendments because the initial Motion would have left a lot of burden on the county governments. However, we now have an exit where the national Government has some ways of disposing of those who will not be absorbed by the county governments.

I would like to follow up on what some Senators have contributed with regard to the TA. We are giving this job to the TA which may not be there to do the work. First, the TA should be protected for it to do its job. We already have problems in some counties. For instance, the TA staff that was seconded is already being replaced in some counties. The seconded staff is being replaced by governors. I am not sure what the TA will use to carry out this important activity of auditing local authority staff. The budget of the TA may not allow it to do this work. They have been given Kshs500 million which will not be enough for them to carry out any activities outside their offices. We need to come up with a way of ensuring that the TA will be there to carry out this work.

This is an important activity because, currently, in my county, there is a lot of information being circulated in the social media with regard to the way employment of staff by governors is done. People are saying that it is not being done fairly. Once an audit has been done, we will have a clear picture of it. We should know about the communities represented in the former local authority's staff that has been taken up by the county governments. We should know the balance in terms of the employees who

have not been absorbed by the county governments. This is very important, especially in my county, where people are very sensitive on who gets what. This exercise by the TA will go a long way in ensuring that Kenyans do not lose their rights because of being laid off.

The amendment says that this has to be done in a procedural way. The amendment says that the Government needs to take care of their retirement benefits because these are Kenyans who have been serving this country and who have dedicated their time to work in the local authorities. Just like any other Kenyan, they have rendered their service to this county and should get benefits out of it. We need to have a structured way of doing this. That is why I support the Motion with an amendment.

Sen. (Prof.) Lesan: Thank you, Mr. Speaker, Sir. I also rise to support the Motion. The issue of employees of the defunct local authorities is just one of the many problems that the county government and the national Government are yet to resolve. There are also issues which involve fixed assets, especially properties and immovable assets of the counties that disappeared from the records of the counties during the transition period. This particularly happened in areas where the local authorities were serving several counties.

It is during this transition time that these items were not accounted for. It is important for this audit to be done so that we have a record of these items. I, therefore, support that an audit on these items be done. I also suggest that we edit the laws that govern the process of the TA. I seek your guidance as to what is contained in our Constitution in the Sixth Schedule, Part 4(18). This is just one of them. I will read so that it assists me.

It says:

“All local authorities established under the Local Government Act (Cap.265) existing immediately before the effective date shall continue to exist subject to any law that might be enacted.”

Mr. Speaker, Sir, I am not aware of any law that has been enacted after this, but I stand to be guided. Therefore, this means that there is no law to guide on how to handle employees and properties that were in the local government. A law is required to guide handling of properties, including employees, particularly with the impending merger or amalgamation of parastatals. We will be faced with a lot of employees who will fall under the same category with those of the local governments. This means that we, as legislators, need to put in place laws that will guide this process after the audit has been done.

There must be a law that the TA will use to handle the employees that they will find in the course of the audit they will conduct. I want to support this Motion. The national Government should look into the issue of employees who have been made redundant. A minor amendment requires that they be retired. I do not entirely agree with that because some of these employees are as young as 33 years old. I am not sure that you want to retire a 33 year old Kenyan who has a lot to offer to this country.

I strongly support the fact that we should audit these employees, account for them and use a law to follow up on their situation.

I beg to support.

Sen. Wako: Thank you, Mr. Speaker, Sir, for giving me this opportunity to talk about this important Motion which touches on one of the fundamental rights of any person, the right to work, the right to a decent living, among other rights.

I would like to commend Sen. Elachi for bringing this Motion for us to debate here. I support it. I particularly support the amendment that has been put there to ensure that those who are not absorbed by the local authorities are either employed by the national Government or are, at least, given a pension or a golden handshake. That was a very important amendment. It is because of that amendment that I am supporting this Motion.

We have gone around counties. The issue of employment is one of the critical issues that the county government is facing. We have seen demonstrations in Nairobi by workers. We have seen workers in Mombasa also demonstrating and going round to claim their rights. Everywhere you go, the problem is the same.

The other issue is that the amounts, so far, allocated to the county governments, in most counties, are not sufficient to pay the wage bill. In other words, the wage bill is higher than the total amount allocated to a number of these counties. If we are not careful, therefore, we will reduce county governments to mere employment agencies and not the developmental agencies they are supposed to be. They will not be institutions that promote democracy, but institutions that only provide employment. If we are not careful, the employment will, in most cases be of people who have been failures, either at the national Government or at the former local authorities. All of them were bundled to the local authorities.

Right now, the county governments have three categories of employees. There are those who have been employed directly through the county public service boards, there are former employees of the local authorities and employees of the national Government seconded to the county governments. In all of these, the law says they are currently deemed to be employees of the national Government until such a time when the county public service boards are established and county governments can employ their own staff.

For that to happen, as the Motion points out, we must have an audit of functions. I want to add that we do not want to have an audit of functions. We need a rationalization of those functions. An audit may imply the staff that was employed by local authorities and their numbers. We should remove the ghost employees who are getting double salaries. That is an audit.

What we need is a rationalization of employment. In other words, this is an exercise which must be done through the unbundling of functions under Schedule Four. It has been found that when they are unbundled, it is more complicated than it appears under Schedule Four. A costing of those functions will realign employees to those jobs which have been rationalized both at the national and at the county level. That is something that will be done after the audit. This is what I would want the TA to do.

Mr. Speaker, Sir, when you talk about the TA, I am in support of those who have said we should put in place a law to govern this process because of many reasons. First, from what we hear - and I am speaking because I met the TA members yesterday as Chairman of the Committee on Legal Affairs - the TA itself is under threat. In fact, we were told that the Miscellaneous (Amendment) Bill has already been approved by

Parliament, more or less, dissolving it. What will be the end of this Motion if we leave it the way it is because here, we are urging the TA and yet it is under threat?

Secondly, the point that came out is that to the extent that all employees are employed by the national Government and, to the extent that the Government takes responsibility for them, that should continue to be the way it is until we have put in place a law on the issue of pensions and how the employees of county governments are going to get their pensions. So, if someone is transferred from the national Government his or her pension rights continue. Right now, although it is contemplated that we must have that law, we still have to have that particular law in place.

In supporting this very important Motion, therefore, I am urging that we should try to develop the law to govern this process so that we can ensure that even in the transfer of employees, they do not lose their pension rights and have a place to go either in the national Government or be given a golden handshake. This requires putting in place some legal machinery to work this particular problem out.

With those few remarks, I beg to support the Motion. I thank Sen. Elachi for always being very compassionate towards the disadvantaged members of our society through the Motions that she brings to this House. That shows that she is a good mother.

The Speaker (Hon. Ethuro): Does it show she is a good mother or a good Senator?

Sen. Wako: Both.

Sen. G. G. Kariuki: Mr. Speaker, Sir, I do not have much to say, but I think I need to say something before this Motion comes to an end. I have listened to the contributions on this Motion and they have a case to talk about. The Motion itself is important in as far as reminding the Government that there is an outstanding issue that it must always be concerned about. It is quite possible that some people would be rendered unemployed without anybody taking responsibility. That is why this Motion is so important and it has come at the right time. This House is merely reminding the Government that there is a problem ahead of us.

The other issue I want to commend about is the issue of diversity. We heard in the contributions about diversity and that people in certain positions appear to come from one tribe. This House should not think that it is a new thing which has just been discovered. The issue of diversity will take us a long time and will be there for quite a number of years because of how we are segmented. For example, if you want to look at the way Kenya can be just like the United States of America (USA), look at the former white highlands. Whether we like it or not, if we look at the white highlands, diversity is coming to an end. In the white highlands, people came from all over the country to settle. There is no one who claims to own those areas, compared to other areas where you find a Member of Parliament or a Senator coming from a traditional district where everybody speaks one language because there is no mix with other tribes. That is the advantage we have, most of us from Rift Valley, because we are from non-tribal districts. I do not know whether that is the way this situation can spread. In fact, if we look at the head of state in this country, we are forced to go back to the traditional districts. Therefore, we end up carrying all the burden of tribal thinking.

Mr. Speaker, Sir, the other issue is accessibility, relationship and closeness which brings in the problem of tribalism. I am not sure whether what I am saying is right or wrong, but Sen. Wako's personal assistant or my personal assistant, are from our own tribes. Why does it happen that way?

Sen. Wako: On a point of information, Mr. Speaker, Sir.

Sen. G. G. Kariuki: Okay.

Sen. Wako: My personal assistant in Nairobi is a Kalenjin.

Sen. G. G. Kariuki: Thank you; you deserve credit because mine is a Kikuyu.

I am trying to say this because when we are talking in this Chamber, we should not appear as if we are at war with anybody. These are things which are historical and are known. We need to pinpoint them, but not almost on the borderline of abusing others. One Senator said that if you go to the National Security Council, there is only one person who needs an interpreter, but the rest are from one tribe. This is something that needs to be said, but with a lot of maturity because it does not just happen. If you look at how everybody came in, some of us have been members of the Cabinet, but we speak here as if we have discovered something very big. They talk as if they do not know what was happening. I think we should not listen to this kind of talk. Let us aim at looking at what we are here for.

It is very true that at the time of handing over from the county councils to the new county governments, there was no proper arrangement and many things have gone wrong. It is the duty of this House, without running away from our responsibility, to be sure that what happened was right. There is no one here who can give us a report to say that in Laikipia, the county council had this amount of money or this number of employees, so that we can know whether to add or reduce. We are just quiet here and, later on, we shall say that things are going bad. We need to control the situation before it gets far. This one is getting out of hand because very soon, you will see quite a number of people being retrenched. There will be a lot of problems because many people will be sacked from employment because they are over-employed. What are we going to do?

We are here to protect the county government. This means protecting the institute called the county government so that it does not fail. If the county government fails, it is the Senate which would have failed and that is a matter that we need to be concerned about. I believe and I know we are very concerned about what we are doing here. We need to wake up a little bit. Look at our Committees, we are quite new. We have to establish a new life in this Senate. We have to establish new methods without copying what was there in the National Assembly. We should have our own rules and regulations and see this country the way we think is better and not through any other person. If you look at our Committees now, maybe only one or two have reported something here, but quite a number have not. The moment a chair comes here to give a reply, he has not cleared with the Committee Members. We also hear it here also just like anybody else here. He or she needs to report to the Committee that such a question has come and the Members have to give their input.

Another issue is that if someone drafts a Bill, I am sorry I am diverting from the normal thing, since we are in charge of the county government, we should promote their development. I think we should consider ourselves important in terms of these issues.

Mr. Speaker, Sir, the Senate has to think again and we draw quite a lot from your wisdom. I think you are sitting on a very serious seat. I am sure history will judge you that we came in and did nothing, but complained. This House should not be a complaining House. Are we Members of a Lower House to keep on asking questions? We are here to create situations and to look forward and see beyond this House and beyond the National Assembly.

With those few remarks, I beg to support.

Sen. Nabwala: Mr. Speaker, Sir, I rise to support this important Motion brought to the Floor of the House by Sen. Elachi. I commend her for recognizing the plight of employees of the defunct local authorities. First, when one has to exit, there are ways in which one can do so. We work within laws and the labour laws that protect the rights of employees. When you have served in an organization for more than ten years, then you are entitled to a pension or a golden handshake. Therefore, I agree with the Mover of the Motion that the TA should start an audit of the human resource in the counties, so that we can know how many employees are affected. If the employees cannot be absorbed by the county government, the Motion has taken care of that in its amendment because the national Government would absorb them.

But one very important thing is that when the audit is being carried out, the TA needs to determine the level of the employee's qualifications; whether they are productive. In the past, I was in one of the local authorities where you would find six people seated in a room doing nothing. They just sit there chatting. As we evaluate these employees, we actually need to know their qualifications. If they have to be absorbed by the county government, are they going to add value? If they do not add value, how are we going to deal with these employees?

That is why the Mover of the Motion is asking for a framework where this issue can be discussed and negotiated between the governors and the TA, so that they can tell them how many of the employees they can absorb. If they are not able to absorb everyone, they we can know how the national Government will deal with the rest because they have been employees of the national Government. Their pension has to be paid by the national Government. If there is any golden handshake to be paid out, it will also be the national Government to pay out.

Mr. Speaker, Sir, we are aware that in the past, every councilor that was elected, came in with their own employees. Even new Ministers came in with their employees. That is why we need to vet those employees in order to know those who are *bona fide* and those who are not. At the moment, county governments are bloated with staff. In Nyeri County, for example, they are carrying out their own audit and I think they are going to come up with a report through the Senator which will be tabled on the Floor of this House. Also, during our visits to the counties, we have discovered that this is a critical problem which counties have had to deal with. It is also affecting revenue collection. For example, one county raised an issue where the staff from the defunct local authorities are collecting revenue and pocketing it. This county had lost Kshs1 million.

It is very urgent that the TA is allowed to continue with the work, maybe for a year, in order to achieve what they started. If we discontinue the operations of the TA, devolution will not be achieved. For a county government to move forward, first, you

need to know how many employees you have. An audit should have been done from the outset, for the assets and liabilities. We needed to know what the county government was taking over. However, these two issues were not addressed.

As a result, the counties are facing problems, like we recently saw in Nairobi County where workers confronted the Governor to demand for their salaries. We were told that the Governor had to go and borrow money to pay them, so that he could silence the problem. How do we know whether these are genuine workers? That is why it is important that the TA's period should be extended for them to complete the exercise so that they can support devolution and work closely with the Senators to make sure that all the devolved functions are tied to the staff who are working at the county governments.

I beg to support.

The Speaker (Hon. Ethuro): Hon. Senators, we have exhausted our time. We had one hour and 35 minutes. So, it is now time for the Mover to reply. Even before we do so, we should remember that we have been contributing to the amendment. So, we need to put the Question to dispose of the amendment. It is a county vote.

Sen. Elachi: On a point of order, Mr. Speaker, Sir. In accordance with Standing Order No.51 (3), I would like to request that you defer putting the Question to the vote.

The Speaker (Hon. Ethuro): For what reasons, Sen. Elachi?

Sen. Elachi: Mr. Speaker, Sir, since this Motion affects the counties, we do not have the requisite numbers to put the Question to the vote.

The Speaker (Hon. Ethuro): So, you want it to which day?

Sen. Elachi: Mr. Speaker, Sir, today in the afternoon sitting.

The Speaker (Hon. Ethuro): I think the Order Paper for today's sitting in the afternoon is already in circulation. So, I propose we defer it to tomorrow afternoon. That will be for both the amendment and the Motion.

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

Next Order!

GOVERNMENT SUPPORT TO TEA AND COFFEE FARMERS

Sen. Muthama: Mr. Speaker, Sir, I beg to move:-

THAT, aware that Kenyan coffee and tea are the major agricultural export earners; further aware that Kenya is rated as the fourth largest tea producer and the second biggest exporter in the world and that Kenyan coffee is regarded as one of the best coffees in the World; concerned that in the recent past the tea and coffee production has tremendously deteriorated due to lack of commitment by the Government in supporting the tea and coffee farmers in the cultivation of these two crops; further concerned that the government has not been keen in coming up with marketing strategy for these two crops; concerned that Kenyan farmers are

suffering a great deal due to lack of mechanization of agriculture; the Senate urges the national Government to support tea and coffee farmers by providing subsidized fertilizer to boost production as is the case of wheat and maize and actively get involved in the marketing strategy of these two crops and further that the national

Government makes budgetary provisions to buy and store coffee and tea when the international market prices are down in order to sell when the prices improve.

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

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

Madam Temporary Speaker, this Motion came to my mind after looking at what has been happening in our country for the last 50 years. When I looked at the records, from 1963 to 1987, coffee was the biggest foreign exchange earner for this country. This trait continued up to 1987 when the prices of coffee fell in the world market. Up to 1987, Kenya was exporting coffee worth USA\$445.6 million on average per year. In 1987, this fell to USA\$277.7 million. Therefore, I am moving this Motion to request the Government to do a simple and basic thing.

The Government of the Republic of Kenya in the last many years has set aside funds to support farmers of maize in this country. It has even gone ahead to set aside funds to subsidize prices of fertilizer. The coffee and tea sectors have either been neglected or forgotten. My Motion is to advise the Government and to put the Government in a situation whereby Kenyan farmers, more so, the tea and coffee farmers will not be allowed to suffer any more.

Madam Temporary Speaker, this trend of overlooking tea and coffee farmers has continued year in, year out. This has been experienced during the present and previous governments. Kenya has had peaceful transitions. There is no one time that we can say that there was a Government that succeeded another Government by use of force. The power to succeed and to get into Government is given by Kenyans. So, it upon every Government to see what the previous Government had been doing and identify what the incumbent Government needed to do. If truly there is money which has been set aside to purchase maize or put aside to support maize farmers, it would be important to have a similar allocation for coffee and tea.

Let us consider what has happened to coffee over the last two year, where a 50 kilogramme bag of coffee was sold at USA\$324. In a duration of two months, the same 50 kilogramme bag of coffee was sold for USA\$500. It would be important for the Government to set aside some money, buy the coffee from farmers, keep it and sell it when the market is right. That way, farmers would benefit. In addition, the country will earn maximum returns from the coffee and tea that is grown here.

As at 1987, 600 co-operative societies had been established through the coffee sector. If you take an average of 100 workers being employed by each co-operative society, that would be about 60,000 jobs created, not looking at what will be earned by

the country in the form of hard currency and other returns. That is one thing that we are looking forward to and that is what we want to give to Kenyans. The priority of every leader, including the Government, is to create jobs for the benefit of Kenyans.

When there was a shortage of maize in the country, the Government spent close to Kshs10 billion to import maize from South Africa and other countries. Most of this money was borrowed. I remember that we sanctioned this in Parliament. If we had strengthened what we have, first of all, and sold our coffee and tea with good returns, that money would have been used to import maize instead of borrowing from foreigners and begging them to give us money actually to buy food. Therefore, the Government should not let what we have get destroyed and then start chasing after foreigners to help us.

Madam Temporary Speaker, Kenyan coffee and tea are among the best. I have travelled quite a lot in this world and surprisingly, despite Kenya being a producer of the highest quality of coffee, there is not a single restaurant in America where you will be served Kenyan coffee. You will be served Colombian coffee and so on, yet people are coming here to buy our coffee. That also applies to tea. Our tea is marketed outside the country as English tea. If you want to be served the best cup of tea in any hotel or restaurant in Europe, you will be asked whether you want herbal tea or English tea. That tea comes from our country. Our marketing skills are not good. It is time that the Government got involved squarely and stopped people who are out actually to exploit Kenyans.

Madam Temporary Speaker, countries which do not grow coffee have benefited more than the producers themselves. I am talking about Kenya as a country. We have gone into the devolved system of Government and 30 per cent of the county that I represent grows coffee. I am very much convinced that equally, the neighbouring counties of Kiambu, Murang'a, Kirinyaga and Nyeri also grow coffee. If the interests of the farmers in these counties were taken care of and considered seriously, I am sure that this sector could generate enough money that would benefit our people. So, the Government should not wait until Kenyans are made total beggars, when they have their God-given natural resources.

Coffee farmers should be given the same treatment as the maize farmers. The Government should set money aside and buy coffee when the market is not good. We have witnessed the Kenya Planters Co-operative Union (KPCU) which was the only Government institution that used to market coffee--- My father had not more than 300 trees of coffee when it was referred to as the black gold of Africa. He had a number of children and enough to take care of them. They lived well on just 300 trees of coffee.

Madam Temporary Speaker, if money could be set aside within the Government budget to buy coffee, subsidize fertilizer and sell the coffee when the market is good, we would achieve much. The same should be done for tea farming. These are well known facts and there is no doubt about what we are trying to safeguard.

Madam Temporary Speaker, the natural resources of this country are not only what you can mine, but also what God has given us to grow in this country, which cannot be grown in another place. This is because not many countries can grow coffee. In East Africa, you will only find it in Tanzania and Uganda. But here we tend to ignore that and dwell on other issues which, actually, do not benefit this country.

Madam Temporary Speaker, therefore, we will not develop our counties if we do not take care of and protect what can be grown or achieved there. Since the Constitution allows me to defend and protect the natural resources and wealth of my county, the Government should set aside funds to purchase coffee.

Madam Temporary Speaker, I beg to move and ask Sen. Wamatangi to second the Motion.

Sen. Wamatangi: Madam Temporary Speaker, from the outset, I wish to start by thanking my good friend, Sen. Muthama, for being sensitive to the plight of the people of this country.

Madam Temporary Speaker, since Independence this country has been an agricultural based economy. Our people have for all these years depended on the work of our farmers to keep this country going. Two of the major cash crops that this country has depended on for all those years have been tea and coffee. As very well articulated in the Motion that has been moved by my colleague, Sen. Muthama, it is clear that the Government has had a clear strategy in supporting farmers, especially who grow other crops like wheat, maize and other cash crops, by having in place plans, strategies and subsidy programmes that have assisted the farmers who grow those kinds of crops to continue, even when times are lean. This Motion seeks to urge the Government to take an exceptional look at the plight of our Kenyan people, who farm these two cash crops.

Madam Temporary Speaker, I wish to second this Motion, and as I do so, state a few facts about the current state of our coffee and tea farming. Coffee farming in Kenya has declined consistently, year after year since 1963 up to 1988 at a gradual rate of about 6.6 per cent steadily until the year 2008 and 2010, when production of coffee dipped to an all time low and reduced by about 62 per cent.

Madam Temporary Speaker, coffee farmers, all this time, have also had to put up with the malady of the coffee berry disease and coffee leaf rust, which even now still remain a major factor which affects the yields and the cost of producing these varieties of coffee that are produced in Kenya. Currently, it is estimated that about 135,000 hectares of land is under coffee in Kenya, of which 67 per cent is under the co-operative sub-sector, and 33 per cent is in estates. The coffee industry in Kenya is noted for an effective co-operative system of production, processing, milling, marketing and auctioning of the coffee. About 70 per cent of coffee that we produce in Kenya is produced by small-scale farmers.

Madam Temporary Speaker, by the year 2012, about 150,000 coffee farmers were tabulated to be existent in Kenya, with about six million Kenyans directly or indirectly benefitting from the coffee industry. The highest coffee production figures in the country were recorded in 1987 and 1988 when almost 130,000 tonnes of clean coffee were produced. But like I have said, this has consistently been reducing to an all time low of 40,000 metric tons last year.

In contrast, Madam Temporary Speaker, the Colombian Federation of Coffee Growers in June this year announced that the Government of Colombia had given US\$180 million in income support to its coffee farmers. The organization explained that subsidies to Colombia's coffee farmers were necessary to sustain the industry due to Colombia's economic situation and the global coffee price fluctuations. Due to that

incentive, as an example, coffee production in Colombia last year increased by about 36 per cent.

Madam Temporary Speaker, there are a number of possible reasons for the decline in coffee production in Kenya today. Clearly, it is important that we look at the decline in world coffee prices, which has taken place for the last two decades. In Kenya, the Coffee Development Fund, which was established by the Government in 2006, was intended to be a vehicle that was supposed to revitalize the coffee sub-sector. Its mandate was to provide sustainable, affordable credit to coffee farmers for farm inputs, farming operations and income stabilization. Currently, this Fund has been giving coffee farmers only about US\$13 million in loans, which is shared among its members totaling to 61,000 coffee farmers in Kenya.

According to one Mr. Patrick Nyaga, the Coffee Development Fund Managing Trustee, the coffee sub-sector in Kenya requires about US\$125 million to meet the needs of Kenyan coffee farmers. The interest rate that is charged on the funds given to these farmers is about 10 per cent. It is also important to note that when it is given at 10 per cent, the consistent rate of inflation in this country has been about 9 per cent for the last nine years, which means that most of the gains that would have been achieved from these loans extended to coffee farmers are of little or no value or change to the farmers.

Madam Temporary Speaker, there are several features of the coffee value chain in Kenya that have significant impact on the outcome. Perhaps some of---

(Loud consultations)

Madam Temporary Speaker, if I could request for your indulgence; the consultations are very loud.

The Temporary Speaker (Sen. Ongoro): Order, Senators! Sen. Wamatangi is on the Floor giving his contribution.

Sen. Wamatangi: Thank you, Madam Temporary Speaker. I guess the issue of coffee is a good one and everybody is enjoying the contribution.

Madam Temporary Speaker, the other very important cash crop that this country has been growing is tea. But the story about tea farming is slightly different because the tea industry has registered substantial growth. But it is important to note a few facts. One, that the coffee industry in Kenya is mainly divided into two sectors; the small-scale farmers and the integrated multi-nationals who have their own plantations and factories for processing their coffee. Since Independence, the small holders in this sector have exhibited a steady growth of about 60 per cent of the national tea production, which accounts for about 65 per cent of all the areas that have harvested tea in this country.

Madam Temporary Speaker, the strongly integrated plantation process is such that the multi-nationals process all their tea in about 39 factories. The CPDA Law of 2007 established the Kenya Tea Development Agency (KTDA), which was expressly supposed to co-ordinate, process, and market the entire small scale holders' tea production. At that time, the KTDA was the country's biggest private company with over 15,000 employees and about 63 factories. Kenyan tea is sold through the Mombasa Tea Auction, which is

the second biggest tea auction in the world, and it is operated by the East African Tea Traders Association.

During the recent years, the industry has been facing several challenges that can be summarized as follows: Our tea farmers have been highly dependent on a few export markets; there have been low yields to the small scale-farmers because of the high cost of production and lack of credit facilities, low participation of the small-scale holders in the upper segment of the value chain and a deficient Government and management by the KTDA, which also attracts cess and levies which are paid by farmers. There has been a constant lack of innovation, research and extension of services to the small-scale farmers. Lastly, a deficient transportation infrastructure together with unreliable high cost of energy and supply are the other challenges that the Kenyan tea sector faces.

As I wind up, Madam Temporary Speaker, it is important to note from some of the facts that I have presented that, in general, the Kenyan tea sector performance has been lower than that of the World's Top Exporters (WTE). While average production in tea areas harvested under the WTE increased to 24 per cent and 18 per cent respectively between 2001 and 2010, the production only increased by 14 per cent in the harvested areas and 18 per cent respectively, implying that we are behind the other tea growing countries. Kenya does not have its own internal market so as to rely on the sale of its coffee. In the marketing and trade section of tea, we have about seven companies that control about 85 per cent of all the tea output in Kenya. Most important to note is that all these seven companies are controlled by the multinationals that own the plantations.

This means that the small-scale farmers in this country are fully dependant on the multinationals. These are the ones that determine value addition as they process the tea. They know how much it costs a small-scale farmer to produce the tea as opposed to how much he should be paid for production. The Kenyan tea is mainly consumed in foreign countries. The foreign countries are Russia, UK, Pakistan, USA and Egypt. The main market for the Kenyan tea is Pakistan.

Having laid bare some of those facts, in summary of my support and seconding of this Motion, we have two vibrant sub-sectors of agriculture in this country and that is the tea and coffee industries. For us to support our farmers who have sacrificed and continued to produce tea and coffee for the growth of this country, it is important to urge the Government to have a specific strategy of subsidizing the production costs.

As this Motion urges, the Government should, indeed, as a matter of priority form a system of subsidising fertilizer for tea and coffee farmers. The Government should also come up with a strategy to purchase produce of tea and coffee from small-scale farmers when the market is lean. Farmers should be shielded when the world tea and coffee prices are very low. The Government should buy these products during that time just like it buys maize through the National Cereals and Produce Board (NCPD) until such a time when the farmers can let go of their goods and get value for their products.

I need not say that as we transit from an agricultural- reliant economy to a natural resource based economy, it is important that we do not lose the gains already made in the sector. I stand here to support this Motion and urge fellow Senators to support the Motion so that our farmers are shielded and supported to continue to grow our country and economy.

(Sen. Muthama stood up at his place)

The Temporary Speaker (Sen. Ongoro): Order, Sen. Muthama! This is your Motion. However, you are not allowing fellow Senators to make contributions.

(Question proposed)

The Senate Majority Leader (Sen. (Prof) Kindiki): Madam Temporary Speaker, I rise to support this Motion. In doing so, I want to congratulate my colleague, the Senator for Machakos, Sen. Muthama.

I agree with him fully, save in very few circumstances which are; number one, the fact that this Motion is about the future of crops which are very important to the economy of this country; tea and coffee. We cannot just say that the reason why tea and coffee farming has not performed well is because the Government has refused to do anything. That is not true. This is due to interplay of factors and not just lack of Government commitment.

The Government does not grow tea or coffee. The Government can only facilitate by providing a conducive environment. Therefore, the language being used should be toned down. I want to support what my elder brother, Sen. No.1, G.G. Kariuki said here. This is not a House of lamentations but a House of national solutions. The moment a Senator stands next to a microphone, the whole country watches to see what solutions he has to the problems of agriculture, insecurity and others that Kenyans are grappling with. This is not a House of lamentations, name calling and other little things. The more we come out as a House of solutions, the more we entrench ourselves as a House with a national reflection and one that can offer hope as we move forward.

I want to support and say that these two industries used to provide a lot of employment opportunities especially in providing rural employment. When coffee and tea were doing well, the problem of unchecked urbanisation was under control. However, the moment these industries collapsed, very many youth who would have been retained in rural areas productively moved to towns. Those who are not in towns are idling along highways. That is very dangerous for the future of our country. When you drive around the country, you see many young people sitting by the roadside doing nothing. This is because some of the small-scale farmers were forced to cut down their coffee. As recently as two years ago, tea plantations were also cut down. The reasons for this have been captured well in the Motion although in a different form.

The first reason is that if we give the kind of support that we give maize farmers, for instance, this would go a long way in strengthening our cash crop sector. As much as we need food crops, we also need to strengthen cash crops. So, I want to agree that the provision of subsidized fertilizer which is available to maize farmers should be extended to coffee and tea farmers as well, if we are to revive this industry.

One other thing - and this is where Government policies can help - is that it has become extremely expensive to process tea leaves. Some of the factories that process tea leaves operate with generators because of insufficient and unreliable power supply. This

is also a disincentive because at the end of the day, there is a way in which that cost has an implication on the total cost of production of our tea and that also affects the competitiveness in overseas markets and also affects the bonus that the farmers are paid. So, if we had cheaper energy, it would really help in terms of the returns that farmers get from tea and coffee.

On the question of energy, I am happy to say that the Jubilee Government has put in place a very ambitious energy modernization project which anticipates that the energy output that has been available in the country since Independence which is slightly below 2000 megawatts, which is about 1.6 gigawatts---. The intention of the Jubilee Government is that by 2017, this will be increased to 5,000 megawatts. If this is achieved, it will go a long way in stabilizing the energy issue which is one of the most expensive components of the production process, especially for coffee.

Madam Temporary Speaker, the Motion also speaks about mechanisation of the industry. I have also heard from farmers that blind mechanization can have negative effects on employment creation in this industry. Therefore, as much as mechanisation is important, we also want to require that it is consistent with the policies and objectives of the country for job creation.

(Loud consultations)

The consultations are a bit loud.

The Temporary Speaker (Sen. Ongoro): Order, Sen. Orengo and Sen. Moi! Please consult in lower tones.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I am almost becoming a stranger.

The Temporary Speaker (Sen. Ongoro): Order, Senator! There cannot be a stranger in the Senate.

Proceed.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Madam Temporary Speaker.

The mechanisation of these industries should be consistent with the objectives of this nation on job creation so that a balance is struck between mechanisation for enhanced productivity on one hand and on the other hand a labour initiative that tries to create jobs for our people. That balance needs to come out in such policies.

The other area which has been forgotten is the area of extension services and the support to farmers given by the Government. Under the new Constitution now, the role of extension services in agriculture lies in the county governments. What the national Government can do is to provide the agriculture policy but majority of the substance of agriculture like crop and animal husbandry falls within county governments. Again, that is something that the Mover of the Motion needs to perhaps reflect on because, actually, much of what is required to be done - the recipient of the resolution actually should be the county government and not the national Government because of the new scheme of devolution under our Constitution.

Madam Temporary Speaker, having said so, many Kenyans will remember the days when we had extension officers in the villages to support crop and animal husbandry. This system has died in total and those services no longer exist. Perhaps time has come for us to think of some form of model legislation for counties which can help support and legalise extension services. I am saying this because counties need to share experiences and benchmark with each other. If we get extension services correctly, then crop husbandry will automatically be addressed. This is the missing link between agriculture in Kenya and agriculture in other countries.

Madam Temporary Speaker, as I wind up my contribution, I also want to say that there is a link between the performance of our agricultural sector and national security. Those who have followed discussions at the World Trade Organization (WTO) debates will realise that agriculture is one of the most contentious topics in international trade negotiations. Every country in the world tries to protect its agricultural sector because any country that is not food sufficient and does not sustain itself agriculturally cannot even sustain national security. If you want to see riots even in the most stable democracies, they will revolve around food and agriculture. That is why countries subsidize agriculture.

The reason I am making this point is because this Motion is calling for subsidization. I know there are debates which are sometimes supported by those who believe in liberal economics and liberalization of trade. If developing countries want to have national stability and national cohesion, they must continue subsidizing agriculture. In fact, it is ironical that even some of the rich countries continue to subsidize agriculture while some African countries are moving away from subsidization. So, we need subsidized agriculture through subsidizing farm equipment and farm inputs. We need to do whatever we can to make sure that our agriculture is stable and that we have enough food for our consumption and enough cash crops because agriculture is the mainstay of world trade and world economies.

With those many remarks, I beg to support.

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Machage!

Sen. G. G. Kariuki: Madam Temporary Speaker---

The Temporary Speaker (Sen. Ongoro): Order, Sen. G. G. Kariuki! The Speaker must balance contributions from both sides, the Majority side and the Minority side. The Speaker is seeing you and you will be given time.

Sen. (Dr.) Machage: Madam Temporary Speaker, thank you for reminding others that the Minority also needs to be recognized as a constitutional right. As I verily support this Motion as brought to us by Sen. Muthama, it is good to remember a few facts. First, I agree with the Majority Leader that insecurity can lead to reduction of production in agriculture. That is a fact and that is why we complain seriously when the Jubilee Government fails in that. I want to remember that support to agricultural production has been skewed by hitherto governments to areas that were considered to be "right".

We have had complete neglect of cotton production, sugar cane production, wattle production and pyrethrum production which were our mainstay in the generation of a lot of revenue just because some heavyweights in the former governments did find

enterprising ventures into synthetics and importation of sugar using funny agreements with COMESA and hence, dampening the spirit of the farmers of these crops.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Madam Temporary Speaker. The Senator for Migori has said that part of the problems in agriculture today have been caused by the entering into funny agreements with COMESA. I think that language is unparliamentary because if the intention of the Senator for Migori was to challenge the COMESA safeguards arrangement, that arrangement is pursuant to Article 61 of the COMESA Treaty of 1993 which is an international treaty ratified by Kenya. It is a *bona fide* treaty. So, the phrase “funny agreements” in my view is out of order, unparliamentary and it belittles the stature of international agreements.

The Temporary Speaker (Sen. Ongoro): Sen. (Prof.) Kindiki, just point out what is out of order.

The Senate Majority Leader (Sen. (Prof.) Kindiki): The use of the words “funny agreements” as being the basis for affecting the---

The Temporary Speaker (Sen. Ongoro): So, can you reframe your statement?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Is the hon. Senator for Migori in order to use the words “funny agreements” in reference to the COMESA Treaty of 1993?

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Machage, use parliamentary language in describing exactly what you mean.

Sen. (Dr.) Machage: Madam Temporary Speaker, I came to Parliament when Sen. (Prof.) Kindiki was a toddler and I know parliamentary language. The word “funny” is not described in any of the former and present Standing Orders as unparliamentary or even the Speakers’ rulings.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Madam Temporary Speaker. When I stood here on my point of order, I was very respectful to the Senator for Migori County. I am not going to entertain rude utterances about who was a toddler when. I am the Senator for Tharaka Nithi, the Senate Majority Leader. I deserve my respect.

The Temporary Speaker (Sen. Ongoro): Sen. (Prof.) Kindiki, is that statement out of order because it is not a fact; you were not a toddler when he came to Parliament? When did you come to Parliament, Sen. (Dr.) Machage? This is very serious and I want to make a ruling on it.

Sen. (Dr.) Machage: Madam Temporary Speaker, I came to Parliament in March 2003.

The Temporary Speaker (Sen. Ongoro): Sen. (Prof.) Kindiki, were you a toddler then?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, in 2003, I was a senior lecturer of international law at the University of Nairobi. I had a wife and two children.

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Machage, you are therefore out of order. You should withdraw and apologize.

Sen. (Dr.) Machage: Madam Temporary Speaker, I apologize and withdraw if that hurt my fellow Senator, but he was a young person all the same. He was also not in Parliament. The fact is I---

The Temporary Speaker (Sen. Ongoro): Proceed with your contribution, Sen. (Dr.) Machage.

Sen. (Dr.) Machage: Thank you, Madam Temporary Speaker. I refuse to agree with one statement from the Senate Majority Leader, that in this House we should not complain but only talk of constructive things. We will complain when the Jubilee Coalition Government is failing and it is failing in many issues which we will complain about. We can only use the Floor of the House to complain when they are failing.

Madam Temporary Speaker, it is not possible and it is known that it is difficulty really to move from a third world to a second or a first world country through engaging in agriculture alone; we must go into industry. But as we try to enhance production of these cash crops, we must think in terms of industrialization and hence think in terms of value-addition to whatever we produce. It is naïve that we produce our coffee, it goes to Britain and we import it back as Nescafe at a higher cost. That beats whatever profits we might have achieved. It is naïve for the little cotton that we produce to be exported and then we have to import linen into this country.

These are some of the policies that we want to see the Government come up with to protect not only the level of production, but for value addition and to protect how much the farmer has to earn after this production has been done. If you look at crops like tobacco, the farmer in the village is paid about Kshs80 per kilogramme of tobacco whereas that kilogramme of tobacco will produce nearly 100 packets of cigarettes. Who therefore gets more profit? It is all exported in the form of foreign exchange to other countries other than this country.

Therefore, there is need to do a lot of work in addition to what Sen. Muthama has proposed. He is only thinking of subsidizing fertilizer in order to boost the production of these crops. He has given us a focus and a focal point in expanding the thinking about our agriculture and hence proper production and value-addition. I think the Government should come up with a research on all the soils of this country in every part of the country. We know that because of skewed policies, certain areas were referred to as coffee production areas, Moi tea zones or sisal zones, because they were protected by the system. We need a proper research on all the types of soil all over the country and communities advised on what can grow best where.

I know in Migori County we have the highlands which can produce a lot of tea and coffee, but the establishment of factories has been made in such a way that even if we produce this coffee, the cost of transportation of the raw material to the market is so high and prohibitive in the production of this crop. Some of those areas produce even better coffee than what is produced in Kiambu County. We know that tea is not only produced in Kiambu and Kericho, but there are many other areas that can produce this crop.

We also need to establish Government incentives that will revive cotton factories. When the late Jaramogi was elected to Parliament for the second term, he came up with a Bill that really enhanced the production of cotton and establishment of cotton factories. But that was, again, stepped on by opening up the importation of *mitumba* or second-

hand clothes market, and that industry died. We can still produce cheap clothes and linen that will compete well with the second-hand clothes if we enhance the production of cotton in all the areas. Literally, the whole of Western Kenya can produce quality cotton. We also have the seed cake that comes as a by-product in the production of cotton, that is very nutritious for dairy farming. That, again, can be a resource that can be sold out to other parts of Kenya, where dairy farming is very much practiced.

Madam Temporary Speaker, therefore, as we look at this Motion critically and actually agree with Sen. Muthama, we need to come up with a bigger amendment on the already existing Acts on agriculture, so that it is encompassed into those Acts and we expand the same.

Thank you, Madam Temporary Speaker.

Sen. G. G. Kariuki: Thank you, Madam Temporary Speaker. A lot has been said and I do not think that I will spend a lot of time repeating it.

Madam Temporary Speaker, I would like to make a very small observation. First, the proponents of the new Constitution had all this in mind; that the country had gone wrong and was losing direction in every respect. This is because if a country can spend its resources to promote anything else other than food production, it leaves a lot to be desired. This country has about 40 million people, if we are right in our estimation. India has got 1.1 billion people and China more than 1.2 billion, and these countries are capable of feeding their own people.

The problem that we have here today was experienced in India in 1954. The Indian Government decided to suspend all other developments and concentrated on financing agriculture for the next five years. If we could seal all the loopholes of losing our money for five years and put it in agriculture, we would stabilize this country forever. This is because the riots, as has been said by one of our Senators here, are created by people who have nothing to lose. If somebody has no food and has not eaten in the morning and you tell him to safeguard the big buildings that you have here in Kenya, he will think that you are dreaming.

Madam Temporary Speaker, time has come when we must look back and ask ourselves: Are we on the right track? Are we here to stabilize this nation or see it falling down, like it is happening almost everywhere? I thought that it would not take us 50 years to fix the problem that I found when I first became a Member of Parliament in 1963. If you look at my concern, in my own writings, you will find that very little has changed. We are multiplying human beings but not multiplying the consumption. We have nothing to feed our people with and yet, we have the best soils in this country. Like one of the Senators said, time has come for us to pick soils from all over and make sure that we know what kind of crop that we need to produce where. We have been overtaken by businessmen and women.

I am sorry to bring in women in this dirty game of taking money from Kenyans without fear. Every year, we import sugar. Do we ever ask ourselves: who are these people who import sugar? It is a cartel of not more than five people and that continues to happen before our face. None of us has the capability or ability to question this kind of thing. That is why I was saying that the Senate's job is to penetrate and destroy those clusters through written and statutory laws. We have to pass and amend our laws, to

make sure that some people who have messed this country are really straightened. But we are not going to advocate that they be jailed, because that was the policy at that time. These people did not care about any other person or thing except the money that they received from their trade.

Madam Temporary Speaker, although we accept that capitalism is the mother of all the evil in the business world, we still believe that there is management. We need serious and critical management to make sure that capitalism is controlled in a way that it does not destroy the mushrooming of our economy, because of the production. But for those men and women who believe that money can take them somewhere-- I have been in this game for quite sometime and at times made some money. I have seen people with a lot of money disappearing from this world. I visited my friend, Mobutu Sese Seko, and he asked me to prepare to be flown to his farm which was 40 million acres. He wanted me to see his cows and goats and helicopter, but I declined because he did not understand what sort of a person I am. I had written about him and did not want very much to associate with him.

Madam Temporary Speaker, therefore, there are so many things that we need to be extremely clear about in our minds. I want to repeat what I said earlier; that if we fail, as Senators, to put this country up and behave like many in the Lower House, I think that our time needs to be shortened.

The Temporary Speaker (Sen. Ongoro): Shortened in the world or the Senate?

Sen. G. G. Kariuki: Madam Temporary Speaker, if we cannot change this country, the life of the Senate needs to be shortened in any way, because we are now almost appearing irrelevant. What can we claim that we have done better than the National Assembly? If we come here and ask the same questions--- I have a lot that I can ask about, but I keep asking myself: Is this really a House for questioning? It is a House of looking at the way the future should be for these young girls and boys, particularly---

The Temporary Speaker (Sen. Ongoro): Order, Senator! We do not have boys and girls in the Senate. We have Senators.

Sen. G.G. Kariuki: Madam Temporary Speaker, I think that I had better be given an opportunity. I was referring to the boys and girls who are growing to have a future. There are young people here and I respect them. But I think that they look at us and expect us to come out with something that can get them out of this economic quagmire and problems they have all the time. But when we are here, we seem not to realize that we have many people who rely on us.

Madam Temporary Speaker, for example, in 1970 after being an Assistant Minister for four years and people were not being settled enough because we relied on money from Britain, I decided to collect quite a number of people and told them: "Please, come in; let us join together" and we bought about 400,000 acres and resettled 48,000 families.

Therefore, Madam Temporary Speaker, there are many things that we can do if you really want to do something for your people. But if you just want to join the bandwagon of unscrupulous landlords and business people, then this country will go on, and on! We have wasted 50 years, and I would call these years, years of preparations. Now those who are there, the younger people, should move without talking about the past

because the past is immaterial. You can tell us about what happened in 1960 or 1980, but it has nothing to do with us. What is going to help us is what is going to be there tomorrow and what I am doing here today; and that is my life. I do not now treat this process as a major thing. I always look ahead and see what is beyond the National Assembly, the Senate and Parliament. Can we be better than what we are? Can we be seen as a new crop of people who really see this world from a better perspective? This is what I personally think---

Madam Temporary Speaker, I know my time is coming to an end. Thank you very much---

The Temporary Speaker (Sen. Ongoro): Your time is not yet up; you still have two minutes.

Sen. G.G. Kariuki: I saw the lights on.

Hon. Senators: Just finish!

The Temporary Speaker (Sen. Ongoro): So, do you support or---?

Sen. G.G. Kariuki: Madam Temporary Speaker, I do support the Motion.

(Several hon. Senators stood up in their places)

I can see that hon. Senators are up on their feet.

(Laughter)

I think they should now wait because there is something I did not talk about, especially the intention of my honorable good friend of having this crop managed for profit.

In this country, Madam Temporary Speaker, we look at people in the Ministry of Foreign Affairs – the ambassadors we have in this country. When I was the Chairman of the Committee on Foreign Affairs, I left a mark when I decided that we should create a new foreign policy, although foreign policy changes as time goes. But my perspective was that the best ambassador of Kenya should be in Uganda, because it is Uganda which sustains our economy. Do not rush somebody to New York to stay there and talk about diplomacy and international defense; all this is a waste of time! The world is becoming smaller and smaller, and international boundaries are becoming irrelevant because you cannot manage and direct economic forces the way you want. It is because of the law of demand and supply.

So, Madam Temporary Speaker, I agree with the hon. Member here and I do support his Motion; that let us go back and see where we went wrong---

The Temporary Speaker (Sen. Ongoro): Your time is now up, hon. Senator.

Sen. G.G. Kariuki: Thank you very much, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Sen. Orengo.

Sen. Orengo: Thank you very much, Madam Temporary Speaker, for giving me a chance to support this Motion. I want to agree with Sen. G.G. Kariuki in his opening remarks that the proponents of the new Constitution had an idea about building a new constitutional arrangement where we would govern ourselves in a better way and where

there would be standards in leadership and management of public affairs. I think this is an important starting point for anything that we want to do, be it in the agricultural sector or in matters to deal with security or any endeavor that we take as a country or as a nation.

Madam Temporary Speaker, I just wanted to point out that if you look at the agricultural sector and the institutions which were put in place – some even before Independence – to take care of the agricultural and livestock sectors over the years, many of them were affected by incidences of corruption and mismanagement. If we go through some of the institutions that I have on my list, you would be surprised at how much damage we have done to ourselves.

Take, for example, the Agricultural Development Corporation (ADC) which had so many farms and research institutions, growing everything from coffee to tea and also keeping livestock. What we saw over the years was the ADC farms being taken over and being given out as gifts to politically-connected persons. The same thing happened to the Agricultural Finance Corporation (AFC). There was a time, until the NARC Government came in, when that important financial institution had become moribund; it had no funds and it could not finance farming and livestock activities, and it had to be revived. The same thing can be said about the Kenya Tea Development Authority (KTDA).

You will remember that there used to be an Uplands Bacon Factory, which was a public institution that went under and the Kenya Meat Commission (KMC), which was responsible for training so many other similar institutions. In fact, if you go to Botswana, you will find that the Botswana Meat Commission was really a replication of the KMC. Similarly, our sugar factories were mismanaged. In fact, I remember at one time Nzoia Sugar Factory ordering for equipment for that factory. They bought machines that could not move on any road in Kenya. The equipment was not meant for Kenyan roads and the Nzoia Sugar Factory lost a lot of money. The same happened for the cashew nut factory in the Coast. There used to be a Sisal Board and a Cotton Board which were active; there used to be a Kenya Farmers Association (KFA), which was very robust and very extensive in its activities but it became moribund. With the Kenya Co-operative Creameries, there was mismanagement, it changed names and then it was later revived; and I am glad to say that, at least, it is processing some milk; but its glory days are gone. We also have the National Cereals and Produce Board (NCPB) which, right now, is before the other House; there is an audit of its activities.

The people who brought down these institutions are out there; they are still free and they have taken a lot of money from the public because these were public funds. To me, unless we come to terms with these incidences of corruption; until we come to terms with the ‘bad history,’ correct it and manage it – although Sen. G.G. Kariuki is saying that we should look to the future; and I agree with him – but without addressing some of these malpractices, I think the forward movement will be very, very difficult for us and for the future. I am talking about the NCPB – such an important institution; the granary of the nation in the sector of cereals – that people can obtain money from the taxpayer and get away with it without providing services is very unfortunate. I think the starting point is to make sure that the management of the agricultural sector must be above board, and it must be in accordance with the principles which are found in the Constitution.

Madam Temporary Speaker, it may surprise you that in Siaya, we used to grow coffee. In fact, at the time of Independence, there were people who were known in that region as better farmers, and they were growing Robusta Coffee. As a small child, it was part of our school activities to go to some of these coffee farms. The soil structure and content in Siaya and Busia is similar to the Robusta Coffee growing areas in Uganda, and the whole thing went under because of lack of marketing and extension services. Even now, you can still find some of those coffee trees which have grown into coffee bushes.

Some people are trying to revive those Robusta Coffee plantations, but because of lack of marketing and extension services, they cannot really make a difference. I have pointed out that there are some areas in Siaya County where there is one very good farmer in a place called Sigomre, who was up to five years ago growing Robusta Coffee, but because of lack of extension services and lack of incentives, he stopped growing that coffee. In Siaya, we were also trying to revive the cotton industry and that is why I agree with the speaker who said that we need to examine soil content and silt it.

There was a time during the revival of the cotton industry in Siaya that a particular species of cotton was brought to Siaya. This was a good species and it grew very fast. However, the plant would grow but never produce cotton. It would end up being a large tree and at the end of the day, people did not want to hear about cotton. They were made to plant cotton but the trees did not produce any cotton. This shows that extension services and provision of skills are critical.

Moving to Sen. Muthama's Motion which I think is timely; I think we are not asking for subsidies. You subsidise once you produce money to help farmers. However, most subsidies are tax waivers. The Government can decide not to tax fertilizer or farming equipment for the sake of farmers. That, to me, is still not a subsidy. Under the old arrangement, we used to import cars duty free and that was not a subsidy. Someone just decided not to put additional cost to what we were buying.

In effect, Sen. Muthama is saying that we do not just want tax waivers but concrete interventions by the Government to make sure that these two crops that have been very important in the growth of the economy are given further subsidies, not just in terms of ensuring that the economy and the sector grows, but for purposes of expanding the economy and making sure that people get work in agro-industries. Tea and coffee farming have a component of value addition although minimal. However, the fact is that the factories that we have, if they were operated well and if these subsidies were there, that would help the country and farmers.

I want to agree with the Senate Majority Leader in what he said about energy costs. I tried chicken farming but because of outages in the supply of electricity, I have almost given up. Once I put my eggs in the incubator, a batch of 5,000 or 10,000 ended up in waste due to power outages. I have tried to use a generator but the costs are so high that at the end of the day, you get nothing. Therefore, this is not a *kilimo* or *biashara*.

In the coffee and tea sectors where we have factories and other processes which require electricity, probably, the Government should consider removing tax like the VAT so that our tea and coffee become competitive. The idea of having a strategic storage of tea and coffee may help us at times determine how we play the international market like Brazil does. Brazil produces a lot of coffee in terms of volumes and probably, we cannot

compete. However, in the coffee sector, since we produce Arabica Coffee, which is not produced by many countries, we can make a difference here. In the tea sector, where we are the second largest exporter and the fourth largest producer, we can make a difference by making strategic interventions suggested by hon. Muthama.

Without taking more time, I support this Motion and hope that it will see the light of day in terms of implementation.

Sen. Kanainza: Thank you, Madam Temporary Speaker, for giving me this opportunity.

Agriculture continues to dominate Kenya's economy thus being the largest contributor to Kenya's Gross Domestic Product (GDP). We have about 75 per cent of Kenyans who are employed by the agricultural sector. We are talking about coffee and tea but we also have other sectors like fisheries, livestock, cotton, flowers, other horticultural produce and even fresh produce.

That is why I stand to defend this Motion and to support it. The relevant bodies, agencies and even the Ministry of Agriculture should take this issue seriously and provide a mechanism for sufficient and efficient production and even marketing of our produce, especially tea and coffee.

Secondly, to promote coffee and tea production and trade, the Government needs to support farmers. This can be done either by providing them with fertilizer, advice or even giving them direction on what to do so as to enhance their production and even provide training to farmers and workers.

The relevant bodies and agencies should promote good industrial relationships by ensuring good policies for farmers and improving production through the use of modern technology.

Madam Temporary Speaker, as we talk about tea and coffee, it is sad to say that even the sugar industry has been ignored by the Government. Mumias Sugar Company in Kakamega County where I come from is going down. The farmers are suffering because they do not get their dues on time. It is important that as we look at the subsidies to be given to coffee and tea farmers, the bodies in charge of this type of agriculture also advise on what should be done to enhance production and to facilitate high profits of our goods and services in the local and international markets.

I support this Motion and the Government should do what it is supposed to do.

Sen. Mutula Kilonzo Jnr: Madam Temporary Speaker, I rise to support Sen. Muthama's Motion. I will start by saying that this Motion touches me on a personal level because my late father was educated using proceeds from coffee. The coffee is still in bonding and my father was growing it as a hobby because it was not making any money. I have a feeling that I will continue doing so as a hobby if this Motion by Sen. Muthama does not see the light of day. More importantly, I would like to say that unknown to many people, the coffee that is grown in high altitude areas including Kangundo, Mbooni and Makueni is of very high quality but the farmers who grow this coffee do not get any value for money as a result of which you find that most of these people are now growing coffee for the sake of it as opposed to very serious agriculture.

The only factory I know in Mbooni is a coffee factory because coffee is the only crop that they have. Most of the coffee farmers in those areas continue to wallow in

poverty because they do not get value for money. This is also something of concern because if we have to create wealth for purposes of counties, it is important that this crop that most farmers are growing is then used to create wealth.

The other day, courtesy of Sen. Orengo, I had the privilege of over-flying the Mau Escarpment and there was a lot of tea that I saw. Tea occupies a lot of arable land in Kenya. This is a matter of national importance. Under Schedule 4, particularly paragraph 29, the national Government has an obligation to come up with what they are calling an agricultural policy. I am not sure what policy they have with regard to marketing of tea or the growing of coffee.

Although Sen. Muthama has proposed that they come up with a strategy, I think that we should improve this even more because we have left these issues to the Government for too long and they do not seem interested. It is possible from what I have seen from this Motion; I would propose that Sen. Muthama, any other Senator or the Committee in charge, should look at this issue in detail. I have information from my friends and from the people who I was advising in regard to the Coffee Act that, in fact, there is a problem even at the auction. The problem at the auction has to be solved because if we did some research on coffee, we will find that our coffee is of high quality but people who grow it are not benefitting. We should go a step further and check what the market prices in the world are with regard to our coffee and we will discover that we are the losers. So, other than suggesting that they come up with a strategy, we must implore the Government to come up with policies.

Madam Temporary Speaker, in terms of fertilizer, for the coffee that we are growing in Mbooni, I can assure you that subsidizing it and giving them fertilizer is not going to help. I have realized that the more fertilizer we put *vis-à-vis* the returns that you get, still does not help. Unless we look at the prices, even if we subsidize the fertilizer, the farmer is still not going to benefit. In the developed world, instead of the government coming up with a policy on marketing, the government buys the coffee, markets it and benefits the farmer. The governments then take over the responsibility of farming by providing facilities like extension services, fertilizer, mechanization, and then buy the coffee from the farmers. Once that happens, the overall beneficiary of this is the farmer. Although I am supporting the Motion, I want to say that the marketing of this product is not good enough.

Lastly, I want to say this as a way of assisting the Senate and ourselves as we move forward. We cannot make progress in this country unless we anchor all our suggestions, Motions, thoughts and ideas into legislation. Unless there is legislation, then it is not going to help because every time a new government comes in, it will change policies. I am aware that there are certain weaknesses and certain lacuna in the Coffee Act which is not helping the farmers and nobody wants to address it. The cartels in coffee are stifling farmers because they do not want the lower cadre of farmers to get in and make money out of it. The reason is because the legislation we have is currently very vague and it has a lacuna where these cartels or in Kiswahili *mabwenyenye wa kahawa* have come in and are stifling the farmers, particularly the low income farmers in places like Mbooni.

With that in mind and with all the submissions I have made, I beg to support this Motion by Sen. Muthama and urge that we, as Senate, should come up with very strong legislation because this affects counties directly and also affects their wealth, affects the people of Kenya and many other people who should ideally benefit from the farming of coffee and not just maize or beans.

Thank you, Madam Temporary Speaker.

Sen. Kittony: Madam Temporary Speaker, I stand to support this Motion by Sen. Muthama and I also stand on my own right as a senior citizen. I am also a senior farmer, so I would like to say that this Motion has come at a very appropriate moment. I am saying that coffee and tea farmers should be subsidized. Senator number one said that this is a senior House and many good things can come out of this House. I totally agree with him because this applies to not only tea and coffee; another Motion should be brought here to address the issues that affect farmers in this country. I am saying this because even as a maize farmer, a lot has to be done. There is still what we call the “middleman” who benefits more than the farmer. This also applies to coffee farmers.

God gave Kenya the best of everything. We have the best soil, good rains and so on. So, when we talk of coffee and tea, we are talking about our foreign exchange earner. Wherever you go in the world, our coffee and tea is praised but when you come back, many farmers do not feel like they own it. So, that issue needs to be addressed. I want to ask Sen. Muthama to consider an amendment to include the indigenous farmers who do other crops. When you look at areas like Mau, Kericho, Nandi and Limuru, the farms are not owned by Kenyans but other people. So, if they are not owned by Kenyans, whom do we want to subsidize? If this is a senior House and we want to address matters appropriately, let us do so properly so that we know what we are dealing with.

So, I totally support this Motion. As a foreign exchange earner, the small-scale coffee and tea farmer need to be assisted. They should be given the necessary techniques or skills to be able to produce quality coffee. I am touched by this Motion, and as the Mover includes in his views what the other Senators have said, the terms should be improved. Through the Senate, every person in this country, especially the young people will enjoy posterity.

With those few remarks, I beg to support.

Sen. Chelule: Thank you, Madam Temporary Speaker, for this opportunity to support Sen. Muthama’s Motion. When somebody speaks about a farmer, it is my passion and I want to congratulate the Senator for Machakos for coming up with this Motion. He has talked about subsidized fertilizers and I would like to urge that we subsidize all the farm inputs. It is my request to the Senate that we need to exhaustively discuss the problems facing farmers in our country. When we talk about farming, this forms the majority of our population and these are the people that should be empowered and motivated. We all know that there are so many idle youth and if we do not motivate the farmer, these youth will not be encouraged to engage in farming.

Madam Temporary Speaker, I want to talk about various Acts of Parliament with regard to agriculture which have not been repealed for a long time. It is my request that the Committee on Agriculture, Land and Natural Resources revisits those Acts. I am talking about the farmer because the Government does not have a strategy or policy on

the three issues that pertain to farming; production, processing and marketing. Today, farmers just toil but in the end, there is no profit. This does not motivate our Kenyan farmers. I would request that we look into issues that relate to production, processing and adding value to our farm produce.

There was a Senator who talked about value-addition, and we really need to look into the issue of value-addition because in some parts of this country, there are those who are planting vegetables and other crops that need value addition. This will motivate the farmers and improve their production. There is also the issue of research which was raised by Sen. (Dr.) Machage. This is key, and I think there is need to do a research on our soils in order to know what we are supposed to plant, where and when. I am moved by this Motion and although Sen. Muthama talked about the coffee and tea farmers, I would suggest that we talk about the dairy, fish, wheat, maize and all the other farmers in the country because at the end of the day, they are all farmers. I do not think who will come up with an amendment or I could request Sen. Muthama to improve on his Motion so that all the farmers are included.

When it comes to subsidies, it is not about fertilizer alone, but all the farm inputs. This is the only way we can motivate farmers. It came to my mind the other day that the problems facing the Baragoi people could be alleviated if we introduced other kinds of farming in those areas through irrigation. This could reduce the kind of conflicts that some parts of this country are facing. In the Baragoi area, for example, it is only about livestock, but suppose the Government came up with a strategy of introducing other kinds of farming through irrigation, probably this will promote peace and minimize conflicts.

Madam Temporary Speaker, we should repeal some of the old Acts of Parliament that relate to agriculture. We know, for example, that at the Agricultural Finance Corporation (AFC), loans are available but the interest is so high. It is our mandate as Senators to discuss the problems facing Kenyan farmers because they form the majority of the Kenyan population and without them, we probably would not be sitting here. I know each and every Senator had breakfast in the morning. It is because of the farmers that we have a healthy Kenyan nation.

With these few remarks, I support.

Sen. (Dr.) Kuti: Thank you, Madam Temporary Speaker. I stand to support this Motion which is very important. I would also like to commend Sen. Muthama for bringing up this Motion and for thinking about our farmers. There are two sad issues about the coffee and tea farmers. First, there are actually two types of coffee and tea farmers as earlier stated; there are large-scale and small-scale farmers. The smaller you are in the ladder, the more challenges you face. This should be our focus and I agree with Sen. Kittony when she said that there are small-scale farmers who at one point had to uproot their coffee because it was no-longer viable. In the world market, we know that coffee is as good as gold and just like the Stock Exchange, there are coffee auction houses in the world where money is really made. But this is done by small-scale farmers who get very little out of what they do.

In the Kenyan scenario, what really makes me mad when I visit Europe is that our tea and coffee are of the highest quality alongside the Colombia coffee, but when the Kenyan tea, which is so premium, grown and harvested in Kenya lands in the United

Kingdom, it is turned into what is called English Breakfast Tea. The best tea anywhere you go in the world is the English breakfast tea. But the English breakfast tea is our tea from Kericho and Limuru. There is not a single tea bush in the United Kingdom (UK), and I stand to be challenged on that. Whenever I go outside the country, I always see green tea from China and so on, but go for the English breakfast tea, because it tastes like KETEPA tea. But I am sure that KETEPA is only known here in Kenya.

Madam Temporary Speaker, I think that the most important thing regarding this Motion is the issue of branding. We must brand our tea. The Kenyan tea must go as “Kericho whatever”, “Limuru whatever” or just “Kenyan breakfast tea.” Unless we do that, this hierarchy of exploitation will go on, such that, you pay maybe US\$5 for a cup of that English breakfast tea, but the farmer who produced that tea gets peanuts. That is the crux of the matter, because from the time that he is exploited, there is somebody else who packages it and there are auction houses in this country. Then, it goes to the main auction house in London or wherever. From there, it is spread to the rest of the world.

Madam Temporary Speaker, this does not apply only for tea and coffee, but even our flowers. Kenyan flowers are the best in the world. They go to The Netherlands, get into an auction house and are repackaged under another name. So, we have a major challenge with regard to issues of branding our products. We need to ensure that these products are produced, owned and marketed by Kenyans, until it goes to the cup of the consumer, wherever he may be in the world, as a Kenyan product and brand. I think that, that is a very key issue that I would like to address.

Madam Temporary Speaker, there is also the issue of exploitation. Our production is so skewed towards manipulation and exploitation of the primary producer. The primary producer is the most hit in our agriculture. I want to give an example of livestock, which is the field that I know. A cow is delivered and the farmer stays with it for five years. He survives in hot sun and faces shiftas for five years with that animal. Now that he has a problem of school fees or a sick person and has to get money; he, therefore, takes the animal to the market. Somebody comes from a shower from a lodging and asks: “*Hii unauza pesa ngapi?*” When the farmer says “Kshs10,000,” he is told: “*Utapata wapi Kshs10,000? Hii ni 7,000 tu na hata huna habari ya soko la Nairobi?*” Then he is forced to part with that animal for Kshs7,000. That person who showered and bought the animal puts it on a lorry and takes it to Kiamaiiko here in Nairobi and sells it for Kshs40,000 to somebody who slaughters it. This guy who slaughters it, cuts it into pieces and sells it to a hotelier and maybe gets Kshs100,000. The guy at the hotel sells it as beef steak or sirloin steak and sells it to you and makes Kshs200,000; and yet this is the same animal! With these people, the shortest time you spend with this animal, the most money you make. The sweat of that first primary producer---

(Loud consultations)

(Laughter)

Madam Temporary Speaker, this is the sad scenario of our primary producers – whether they are livestock, coffee or tea farmers; you name it! I think we, as leaders,

should really address this issue of exploitation of our primary producers, and that is why they are so demotivated. That is why they end up uprooting the coffee trees. So, I really would like to congratulate Sen. Muthama for bringing up this issue. But I think this issue of exploitation needs to be addressed as an issue on its own because it cuts across the board. In fact, that is what we need to do.

So, Madam Temporary Speaker, I would really like to support this one small thing before I leave – the issue of the new Bill; the Alpha Bill. I was the Minister for Livestock and we were at loggerheads with the Minister for Agriculture then because of this bundling of laws into one and, therefore, creating confusion. This Alpha Bill needs to be relooked at, where all the laws are put together. Of course, the consolidation of laws is very important, but sometimes inside there, a lot of sub-sectors that had matured and grown will be stifled, and some of them will really lose relevance.

I would like us to look at that Alpha Bill and speak to it and see how to improve on it because even right now on the ground, there is a lot of resistance. All the farmers' organizations are up in arms and it is causing a lot of confusion; and it can actually lead to a lot of negative impact on the production by our farmers. I refused and I actually deleted 'livestock' out of it; livestock is now on its own and they are having their own laws that are operating. Of course, the Bill has been refined and a lot of additions have been made. I knew that Bill will not and cannot be implementable on the ground, and that is why I plucked out 'livestock.' But I think we still have the opportunity – we are still lawmakers – and we need to look at that law and improve on it.

With those few remarks, Madam Temporary Speaker, I beg to support.

The Temporary Speaker (Sen. Ongoro): Sen. (Prof.) Lesan.

Sen. (Prof.) Lesan: Thank you, Madam Temporary Speaker. I just have about a minute or so.

Thank you very much, Madam Temporary Speaker. First, I wish to thank the Mover of the Motion, Sen. Muthama, for bringing this Motion, which is very timely. Farmers are very hard working people, especially tea farmers, who are the most hardworking fellows. To date, after 50 or 60 years of planting tea, there are still individuals who are suffering. I say tea farmers are suffering because the plant tea itself is a plant that occupies the farm area of a farmer without allowing any crop rotation to take place. So, once land has been taken up or occupied by tea, the farmer does not actually have the opportunity to use that land for anything else. So, this farmer must get the maximum benefit from the plant of tea. Unfortunately, because you cannot do crop rotation; you cannot plant any other crops within the tea plantation. The farmers who farm this crop and who, unfortunately do not earn the maximum benefit from tea are actually suffering. I must say that they are really suffering. However, because they are very hard working, they are still able to sustain a very high productivity level in terms of producing the tea products.

Madam Temporary Speaker, there are several things that conspire to make sure that the farmer is poor, and several of them---

The Temporary Speaker (Sen. Ongoro): Hon. Senator, we will have to cut you short. You have eight minutes remaining and you will be the first to speak when we resume this debate tomorrow.

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, it is now 12.30 p.m. and the Senate stands adjourned to this afternoon at 2.30 p.m.

The Senate rose at 12.30 p.m.