

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 26<sup>th</sup> June, 2013

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

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

### PRAYERS

### QUORUM CALL AT COMMENCEMENT OF SITTING

**The Speaker** (Hon. Ethuro): Order, Hon. Senators! Could we confirm if we have a quorum?

**The Clerk of the Senate** (Mr. Nyegenye): Mr. Speaker, Sir, we have 15 Senators in the House; we have a quorum.

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

### NOTICE OF MOTION

#### DECLARATION OF ALCOHOL AND DRUG ABUSE A NATIONAL DISASTER

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

“THAT, aware that the Government of Kenya recognizes the threat of alcohol and drug abuse; appreciating that the National Authority for the Campaign against Alcohol and Drug Abuse (NACADA) has cautioned on the national trend; noting with concern that alcohol and drug abuse is significantly on the increase; recognizing that information available points to the disastrous outcome of alcohol and substance abuse to health and the economy of our country; the Senate urges the Government to declare alcohol and drug abuse a national disaster.”

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

**The Speaker** (Hon. Ethuro): Order, Senator! This is just a notice. Next Order!

**NOTICE OF MOTION FOR ADJOURNMENT  
UNDER STANDING ORDER NO.33**

NATIONWIDE INDUSTRIAL ACTION BY TEACHERS

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

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I rise on Standing Order No. 33(2) to raise a matter of definite and urgent national importance to discuss the national crisis in the country in the education sector following the nationwide industrial action that was declared by the Kenya National Union of Teachers (KNUT) on Monday, 24<sup>th</sup> June, 2013. The strike has led to a complete shutdown of all public primary and secondary schools in the country, culminating into an unprecedented crisis.

Mr. Speaker, Sir, I want to request hon. Members to rise in their position if they are in support of this Adjournment Motion on this matter.

*(Several hon. Senators stood up in their places)*

**The Speaker** (Hon. Ethuro): You only needed five but you got the whole House.

*(Laughter)*

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

Order, hon. Senators! According to Standing Order No.33(3), the Motion for Adjournment will proceed not later than 5.00 p.m., but if we finish other business of the roll call voting even earlier, then you can commence.

Next Order!

**MOTIONS**

**The Speaker** (Hon. Ethuro): Order, hon. Senators! You remember we dedicated Wednesday afternoon to dispose of all these Motions that we had concluded debate, and they are by division.

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

Order, hon. Senators! On the first Motion to be disposed of under Order No.8, Sen.(Dr.) Zani's Motion, we have two amendments to dispose. Once again, this is a reminder; this is a Motion affecting the counties, so we will take a division.

ENACTMENT OF LAW TO REQUIRE PAYMENT OF  
ROYALTIES BY INVESTORS TO COUNTIES

THAT, aware that various counties in Kenya are endowed with  
natural resources such as oil deposits, wildlife, minerals among others;

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appreciating that their capability to exploit and utilize the resources varies according to economic and technical potential; cognizant of the fact that under the devolved system of government, the county's role in the creation of national revenue is critical; concerned that there may be no direct and proportional share on the basis of the revenue that a county is able to generate since equitable sharing of revenue raised will be done by the national Government; affirming the need for direct benefit from the proceeds of the said natural resources to the local communities, especially in marginalized counties; aware that imposition of tax by national or county government can only be by way of legislation and that only the national government can impose tax; the Senate urges the government to take immediate steps to initiate legislation, pursuant to Article 209 (2) of the Constitution, to require investors to pay at least 20 percent of their turnover as royalties to the respective counties where they operate so as to enable resources of specific counties to be directly utilized in the counties to address specific social needs and, thereby, act as an incentive for the said counties to optimize their capacity to raise revenue.

*(Sen. (Dr.) Zani on 22.5.2013)*

*(Resumption of Debate interrupted on 13.6.2013)*

**The Speaker** (Hon. Ethuro): Just to refresh your memory, the first amendment we need to dispose of was a further amendment to the amendment proposed by Sen. Wamatangi; and the further amendment was proposed by Sen. (Dr.) Machage. The further amendment reads as follows:-

“The amendment be further amended by inserting the following names immediately after the name of Sen. Stephen Sang:-

1. Sen. David Musila
2. Sen. Chris Obure
3. Sen. (Dr.) Wilfred Machage
4. Sen. Kipchumba Murkomen
5. Sen. Henry ole Ndiema
6. Sen. Amos Wako
7. Sen. Omar Hassan.”

Which are additional names to the ones that had been proposed in the amendment by Sen. Wamatangi. Just for clarity before I put the vote on the amendment to the amendment, Sen. Wamatangi's amendment reads as follows:-

“THAT, the Motion be amended by deleting all the words appearing after the words “Senate” in the 11<sup>th</sup> line and replacing therewith with the following words “resolves to establish a Select Committee to initiate legislation to require investors to pay a percentage of their turnover as royalties to the counties where they operate and to determine the following”

- a) the criteria to be used in paying of percentage of royalties by investors in the counties where the exploitation of natural resources occurs.
- b) how the revenue approved will be utilized by the country and counties; and,
- c) any other relevant issue that may arise with regard to other existing legislation.

The Committee shall comprise the following Senators:-

1. Sen. Peter Mositet
2. Sen. Paul Kimani Njoroge Wamatangi
3. Sen. Danson Mwazo
4. Sen. Boy Juma Boy
5. Sen. (Prof.) Anyang'-Nyong'o
6. Sen. (Pro.) John Lonyangapuo
7. Sen. Catherine Mukite
8. Sen. Lisa Chelule
9. Sen. (Dr.) Agnes Zani; and,
10. Sen. Stephen Sang."

So, that was the amendment by Sen. Wamatangi that was further amended by Sen. (Dr.) Machage essentially by adding additional names. So, therefore, to dispose of the further amendment, will as many as are of that opinion--- Sorry; it is by division.

*(Laughter)*

*(Loud consultations)*

No! No! It is okay. You know, instead of you saying whatever position, now you will do it individually.

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

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

**Sen. Murkomen:** Mr. Speaker, Sir, considering that the voting on all these amendments will be on the same Motion, is there anything that bars us from just voting on this one, vote on the next one without going for division in each one of them?

**The Speaker** (Hon. Ethuro): For the Motions or for the amendments to this particular Motion?

**Sen. Murkomen:** The two amendments, concurrently.

**The Speaker** (Hon. Ethuro): There is everything that bars us.

*(Laughter)*

And I am sure you know better; it is called the Standing Orders. We are supposed to dispose of one amendment before the other.

*(The Division Bell was rung)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators! If you have been delegated to represent a particular county, we would like to know.

I order that all doors be closed, so that we proceed with Roll Call Voting.

The Tellers are as follows: Ayes, Sen. Kisasa and Noes, Sen. Kanainza.

**The Clerk of the Senate** (Mr. Nyegenye): The Roll Call Voting is on the further amendment to Sen. Wamatangi's amendment by Sen. (Dr.) Machage.

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

## DIVISIONS

### ROLL CALL VOTING

*(Question on the further amendment to the amendment put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Hargura, Marsabit County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapou, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mbuvi, Nairobi County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Njoroge, Kiambu County; Sen. ole Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County and Sen. Wako, Busia County.

**Teller of the Ayes:** Sen. Kisasa

**NOES:** Sen. Kivuti, Embu County;

**Teller of the Noes:** Sen. Kanainza

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to announce the results as follows.

**AYES:** 26

**NOES:** 1

**ABSENTIONS:** Nil

*(Question of the further amendment to the amendment carried by 26 votes to 1)*

Therefore, the Ayes have it.

*(Applause)*

**The Speaker** (Hon. Ethuro): Let us proceed to the next amendment.

**The Clerk of the Senate** (Mr. Nyegenye): We are now taking a Roll Call Vote on Sen. Wamatangi's amendment.

ROLL CALL VOTING

*(Question of the amendment put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Chelule, Nakuru County; Sen. Hargura, Marsabit County; Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. Kivuti, Embu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Prof.) Lonyangapou, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Mbuvi, Nairobi County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Njoroge, Kiambu County; Sen. ole Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County and Sen. Wako, Busia County.

**Teller of the Ayes:** Sen. Kisasa

**NOES:** Nil

**Teller of the Noes:** Sen. Kanainza

**The Speaker** (Hon. Ethuro): Order, hon. Senators! I wish to announce the results of the Roll Call Vote as follows:-

**AYES:** 27

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question of the amendment carried by 27 votes to nil)*

*(Question of the Motion as amended proposed)*

**The Speaker** (Hon. Ethuro): I order that the doors be opened. Let us have the Mover to reply---

**An hon. Senator:** But there are more Motions!

**The Speaker** (Hon. Ethuro): There are more Motions to be voted on, but we must conclude with this one by Sen. (Dr.) Zani.

Proceed, Sen. (Dr.) Zani!

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

I would like to thank all the hon. Senators for the way they contributed to this Motion in a very articulate, focused, profound and insightful manner that really helped to make this Motion a better one through amendments and amendments to amendments. As the Motion stated, this is about counties and ensuring that we are able to exploit natural

resources in those counties to ensure that they are able to manage their affairs better. This would make Kenya a better place.

With those few remarks, I beg to move.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. It must be made clear and I think my colleague did not do that, there has been representation to the public, the Standing Orders do not have the amendment so it must go to the public that we are not dealing with 20 per cent royalties anymore. There is an amendment to that and I think it should have been attached to the Order Paper.

**The Speaker** (Hon. Ethuro): We note what Sen. Murkomen has said but I felt that by the Chair repeating the two amendments, it must have gone to the public and also on record. I take this point that it could have been easier if the proposed amendments were attached to the Order Paper so that Senators could know the amendments they are voting on. Before I put the Question, I will read the entire Motion as now amended so that we can know which one is being voted on.

Therefore, I wish to put the question which is:-

THAT, aware that various counties in Kenya are endowed with natural resources such as oil deposits, wildlife, minerals among others; appreciating that their capability to exploit and utilize the resources varies according to economic and technical potential; cognizant of the fact that under the devolved system of government, the county's role in the creation of national revenue is critical; concerned that there may be no direct and proportional share on the basis of the revenue that a county is able to generate since equitable sharing of revenue raised will be done by the national government; affirming the need for direct benefit from the proceeds of the said natural resources to the local communities, especially in marginalized counties; aware that imposition of tax by national or county government can only be by way of legislation; and that only the national government can impose tax; the Senate resolves to establish a Select Committee to initiate legislation to require investors to pay a percentage of their turnover as royalties to the counties where they operate and to determine:-

- (a) The criteria to be used in payment of percentage of royalties by investors in the counties where the exploitation of natural resources occurs;
- (b) How the revenue the revenue accrued will be utilized by the country and counties;
- (c) And any other relevant issue that may arise in regard to other existing legislation and that the Committee shall comprise the following Senators:-
  1. Sen. Peter Mositet
  2. Sen. Paul Kimani Wamatangi
  3. Sen. Danson Mwakulegwa
  4. Sen. Boy Juma Boy
  5. Sen. (Prof.) Anyang'-Nyong'o
  6. Sen. (Prof.) John Lonyangapuo
  7. Sen. Catherine Nabwala

8. Sen. Liza Chelule
9. Sen. (Dr.) Agnes Zani
10. Sen. Stephen Sang
11. Sen. David Musila
12. Sen. Chris Obure
13. Sen. (Dr.) Wilfred Machage
14. Sen. Kipchumba Murkomen
15. Sen. Henry ole Ndiema
16. Sen. Amos Wako and,
17. Sen. Omar Hassan.

Ring the Division Bell.

*(The Division Bell was rung)*

**The Speaker** (Hon. Ethuro): Order Senators! All the doors should be locked.

### **DIVISION**

#### **ROLL CALL VOTING**

*(Question of the Motion as amended put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Anyang'-Nyong'o, Kisumu County; Sen. Boy, Kwale County; Sen. Hargura, Marsabit County, Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Murang'a County; Sen. Kipchumba, Baringo County; Sen. Kisasa, Kilifi County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof) Kindiki, Tharaka-Nithi County; Sen.(Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Dr.) Machage, Migori County; Sen. Melly, Uasin Gishu County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County, Sen. Mwakulegwa, Taita Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Njoroge, Kiambu County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

**Teller of the Ayes:** Sen. Mshenga.

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to announce the results as follows.

**AYES:** 31

**NOES:** Nil

**Teller of the Noes:** Sen. Kanainza.

**ABSENTIONS:** Nil



*(Question of the Motion as amended carried by 31 votes to nil)*

*Resolved accordingly:-*

THAT, aware that various counties in Kenya are endowed with natural resources such as oil deposits, wildlife, minerals among others; appreciating that their capability to exploit and utilize the resources varies according to economic and technical potential; cognizant of the fact that under the devolved system of government, the county's role in the creation of national revenue is critical; concerned that there may be no direct and proportional share on the basis of the revenue that a county is able to generate since equitable sharing of revenue raised will be done by the national government; affirming the need for direct benefit from the proceeds of the said natural resources to the local communities, especially in marginalized counties; aware that imposition of tax by national or county government can only be by way of legislation; and that only the national government can impose tax; the Senate resolves to establish a Select Committee to initiate legislation to require investors to pay a percentage of their turnover as royalties to the counties where they operate and to determine:-

- (d) The criteria to be used in payment of percentage of royalties by investors in the counties where the exploitation of natural resources occurs;
- (e) How the revenue accrued will be utilized by the country and counties;
- (f) And any other relevant issue that may arise in regard to other existing legislation and that the Committee shall comprise the following Senators:-

1. Sen. Peter Mositet
2. Sen. Paul Kimani Wamatangi
3. Sen. Danson Mwakulegwa
4. Sen. Boy Juma Boy
5. Sen. (Prof.) Anyang'-Nyong'o
6. Sen. (Prof.) John Lonyangapuo
7. Sen. Catherine Nabwala
8. Sen. Liza Chelule
9. Sen. (Dr.) Agnes Zani
10. Sen. Stephen Sang
11. Sen. David Musila
12. Sen. Chris Obure
13. Sen. (Dr.) Wilfred Machage
14. Sen. Kipchumba Murkomen
15. Sen. Henry ole Ndiema
16. Sen. Amos Wako and,
17. Sen. Omar Hassan.

## POINT OF ORDER

### PROCEDURE FOR DESIGNATING MEMBERS TO VOTE ON BEHALF OF COUNTY DELEGATION

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. May I raise a procedural matter under Standing Order No.68 (2) which you have repeatedly read to us? It designates the voting authority to the Head of Delegation and in his or her absence, a designated Member of the delegation. This means that when the Clerk is calling out the Roll Call for voting, constantly he must call the Head of Delegation then the designated Member of that delegation, if there is a situation like that, he or she may stand up and inform the House that he or she is voting on behalf of the Head of Delegation. But we have heard the Clerk reading out the names of delegated Members which is not correct under Standing Order No.68 (2). We have no difficulty with designated Members voting, but the rules must be followed. That is my procedural point.

**The Speaker** (Hon. Ethuro): Just to respond to the point of order raised by the Senate Minority Leader who also happens to be the Senator for the great County of Bungoma and the delegation leader on his own admission. You should look at both Standing Order No.68 (1) and No.68 (2). Standing Order No.68 (1) states:-

“On election, all Senators who are registered as voters in a particular county shall collectively constitute a single delegation for purposes of paragraph 2 and the Senator elected under Article 98 (1) (a) of the Constitution shall be the head of the delegation”.

So, you have a delegation with various Members and there is one head. The rest of the Members of the delegation are also part of the delegation. That is why it is talking of “shall collectively”.

Now you go to Standing Order No. 68 (2). It states:-

“Except as otherwise provided in the Constitution in any matter in the Senate affecting counties, each county delegation shall have one vote”.

So, no matter how many you are, you are one vote. Who will cast that vote? It will be cast on behalf of the county by the head of the county delegation. That head is defined in Article 1 (a) and also 68 (1). So my argument is, if the head is defined by name, then you go to the alternative, which gives any other Member of the delegation. So, why can you not also call out the name of that Member? In the absence of the head of the delegation, it will be done by another Member of the delegation designated by the head of the delegation. The designation is the authority for you to vote. The designation does not say like in the old days if you were an Assistant Minister and you went and read a Statement on behalf of the Minister, then they announced that it was the Minister who spoke when he did not. I think over time, we will also change that.

So, I see no reason, but I accept your challenge and we will need to read it further. But from my reading – which I think also is your reading – the right way is that if there is a head of delegation, we shall call out the head of the delegation. If the head of the delegation has designated another Member, that Member also deserves recognition. In

any case, according to Standing Order No. 68 (1), they shall collectively constitute a single delegation. So, the issue is whether it is the head or another Member delegated.

How do they know whether it has been delegated or not? Proceed! I think the Clerk is on the right track.

**Sen. Orengo:** Mr. Speaker, Sir, I wanted to agree with you just for purposes of the record. What shall the HANSARD bear out once a Division is taken? The HANSARD should show the person who voted. The person who voted was not Siaya County. If it was to be read in the HANSARD that it was Sen. Sijeny on behalf of Sen. Orengo, on behalf of Siaya County, that cannot go on the HANSARD. The name that goes in the HANSARD is the name of the person who voted in the division.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. I stand to applaud the direction you have given as a way of clarification. We are setting precedence on these things. First of all, as I have said, I am happy with the position that has been communicated by the Chair.

Secondly, just for clarification, my own thinking, the issue of designation is an administration whereby the person designating the voting right communicates to the Speaker. Once the Speaker is satisfied that the designation has been done, then the Clerk has no business calling the head of delegation and ascertaining whether whoever is voting has actually been designated. This is an administrative issue which is strictly between the person designating that right and the Chair who is the Speaker in this case. I just needed that clarification because if we do not set good precedence, we will not have clarity on this matter.

**The Speaker** (Hon. Ethuro): I think the matter is clear. However, I will give the last chance to the Senator from Murang'a.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I agree, fully with Sen. James Orengo, that the HANSARD will finally read the name of the person who voted. However, for the sake of record - we need to understand that this is a legal position - I agree with Sen. James Orengo that the HANSARD should read the person who voted. The position here is that once Siaya County is called, for instance, and the Senator, under Article 98(1) is not present, then if he has designated somebody to vote on their behalf, that person should rise in their position and indicate that they have been designated. The Speaker will then verify from his records whether, indeed, that person is designated. That person shall vote in their name on behalf of the delegation. I think that is how I understand the Standing Order. It is important that we get this clear right from the beginning because nobody has been stopped from voting. No delegation has been stopped from voting. All we are saying is that the due process should be followed and there should be a designation, in writing, by the elected Senator or head of delegation under Article 98(1) of the Constitution. That person shall vote in their name. I think that is what Sen. Wetangula was putting to the House.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I just wanted to say that the delegation process is clear. There is a process for the clerks to check that the designation has been formally done so that when a Senator stands, she or he can proceed to vote directly rather than stand and say that they are representing somebody. That process should be entered into before or prior to the actual voting.

**The Speaker** (Hon. Ethuro): Order Senators! I think Sen. (Dr.) Zani wanted to make a difference between our colleagues who are exercising their minds and another input from another profession. My reading – I am very clear on this one - Article 98(1) says:

The Senate consists of—

(a) forty-seven members each elected by the registered voters of the counties, each county constituting a single member constituency;

Standing Order No.68 tries to determine the delegation. We have said that the head of the delegation is the elected Senator. So, when the head of delegation is there and he can do his own bit, so he is recognized as such. However, in the absence of the elected Senator who is the head of the delegation, the Standing Orders have gone ahead to provide for an alternative. When it comes to vote, there must be somebody responsible for the voting.

That is the argument that Sen. Orengo is alluding to. While the rest of you are making suggestions in terms of procedure, these are procedures which are already predetermined. Before we allow calling out that particular name, the head of a delegation should have written to the Speaker. So, as we sit here, we have information on whether the head of the delegation is present or absent. However, in terms of the delegation, we have information that the Head is not there and he will be assisted by so and so. We repeat that for purposes of identifying who is present. So, we will rest this case for now for parliamentary purposes. However, if you wish to do a dissertation on your PhD, you are most welcome. For now, we are done.

Next Order!

#### ESTABLISHMENT OF LEVEL FIVE HOSPITALS IN ALL 47 COUNTIES

THAT, aware that in the last fifty years the best equipped public hospitals were established in certain regions in Kenya to the exclusion of other regions; appreciating that the introduction of the devolved system of government, through the Constitution of Kenya 2010, was aimed at equalization of development across the country; concerned about the high maternal, infant and child mortality rates in Kenya mainly caused by lack of primary and secondary health services; the Senate resolves that the government establishes a Level 5 hospital in each of the 47 counties and Level 4 hospital in every sub-county, before the expiry of the term of the current government and provides annual reports on the development of the hospitals to the Senate through the Senate Standing Committee on Health, Labour and Social Welfare.

*(Sen. (Dr.) Machage on 19.6.13)*

*(Resumption of Debate interrupted on 19.6.13)*

**The Speaker** (Hon. Ethuro): The Division Bell will be rung for another eight minutes for us to take the roll call vote.

*(The Division Bell was rung)*

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

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

**The Temporary Speaker** (Sen. Ongoro): Can we now have the doors locked?

*(The doors were locked)*

The tellers are Sen. Boy Juma Boy for the Ayes and Sen. Joy Gwendo for the Noes.

Senators, this is a Motion that affects counties and we are going to vote by delegation.

## DIVISION

### ROLL CALL VOTING

*(Question put and the Senate proceeded  
to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Elachi, Nairobi County; Sen. Hargura, Marsabit County, Sen. Kajwang', Homa Bay County; Sen. G. G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen.(Prof.) Lesan, Bomet County; Sen. Lesuuda, Samburu County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Kipchumba, Baringo County; Sen. Mositet, Kajiado County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Njoroge, Kiambu County; Sen. ole Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

**Teller of the Ayes:** Sen. Boy Juma

**NOES:** Nil

**Teller of the Noes:** Sen. Gwendo

**Sen. Orengo:** On a point of order, Madam Temporary Speaker. Do you not think that the Senate Minority Leader, who is my leader, is misleading the public by using the

word “entire”, causing it to believe that in Bungoma County there is a delegation? Can the record be put straight?

**The Temporary Speaker** (Sen. Ongoro): Senator for Bungoma, do you consider yourself an entire delegation or are you misleading?

**The Senate Minority Leader** (Sen. Wetangula): Madam Temporary Speaker, if you are well read in the scriptures like I am, there are moments when Jesus referred to himself as “we.” I am taking that position.

*(Laughter)*

**Sen. Ong’era:** On a point of order, Madam Temporary Speaker. I want to come to the rescue of the Senate Minority Leader. If you read Standing Order No.68, it talks of “shall collectively constitute a single delegation.” This is like the Holy Trinity in the Bible. So, three people become one. So, it can also be vice versa.

**The Temporary Speaker** (Sen. Ongoro): Sen. Janet, in this case, who are the three people who have become one, in the person of the Senate Minority Leader? Anyway, let us rest that case and move forward.

Hon. Senators, the results of the vote that we have just taken on the Motion, as listed in Order No.9, are as follows.

**AYES:** 31

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 31 votes to 0)*

**The Temporary Speaker** (Sen. Ongoro): Let us move to the next Order.

#### ESTABLISHMENT OF GRADUATES ENTERPRISE FUND

THAT, aware that the level of unemployment among youths in Kenya is over 70 per cent and rising; concerned that the formal Sector is unable to generate sufficient formal employment for college graduates, resulting in far reaching ramifications to the economy and society across all counties in Kenya; noting that the youths are unable to venture into private enterprises because of lack of access to affordable credit; the Senate urges the Government to take urgent and immediate steps to ensure legislation is enacted to provide for the establishment of a Graduates Enterprise Fund to offer revolving interest-free loans to unemployed graduates in all the 47 counties.

*(Sen. Nabwala on 19.6.2013)*

*(Resumption of debate interrupted on 25.6.2013)*

**The Temporary Speaker** (Sen. Ongoro): Open the doors and ring the Division Bell.

*(The doors were opened)*

**The Temporary Speaker** (Sen. Ongoro): Close the doors!

Tellers are:-

Sen. Boy Juma Boy for Noes.

Sen. Joy Gwendu for Ayes.

Order hon. Senators! Please, take your seats. We shall now proceed to take a vote on the Motion as listed in Order No.10 and I shall now put the question.

### DIVISION

#### ROLL CALL VOTING

*(Question put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Prof. Anyang'-Nyong'o, Kisumu County; Sen. Boy Juma Boy, Kwale County; Sen. Kajwang, Homa Bay County; Sen. G. G. Kariuki, Laikipia County; Sen (Dr.) Khalwale, Kakamega County; Sen. Kipchumba, Baringo County; Sen. Sen.(Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murungi, Meru County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

**Teller of the Ayes:** Sen. Gwendu.

**The Temporary Speaker** (Sen. Ongoro): Order, Senators! This was a Motion affecting counties and voting was by delegation and the results are as follows. You are aware that any Motion affecting counties we must have at least 24 Members. So, I will announce the results:-

**AYES:** 22

**NOES:** Nil

**Teller of the Noes:** Sen. Boy Juma Boy

**ABSENTIONS:** Nil

Therefore, the Noes have it because we have less than 24. The Motion is lost.

*(Question defeated by 22 votes to 0)*

Next Order!

## PROFILING AND RESETTLING OF INTERNALLY DISPLACED PERSONS

THAT, aware that over the last twenty years thousands of people in some counties in Kenya especially within the Rift Valley, Western, North Eastern and Coast regions have suffered displacement due to politically and ethnically instigated violence, violation of the nation's sovereignty, natural disasters, resource-based conflicts and forced evictions; noting that during displacement people lost lives, livelihoods and property with some families losing their bread winners; aware that thousands of families live in deplorable conditions and their economic life has been disrupted; appreciating the efforts undertaken by the government, donors, civil society groups and individuals to alleviate the suffering of Internally Displaced Persons (IDP's) and resettle them; concerned that the problem of internal displacement has been worsening and that the budget for feeding IDPs currently living in tents continues to grow by the day and that the number of IDPs continues to rise, partly aggravated by individuals posing as IDPs; further concerned that the country has no reliable , comprehensive and disaggregated data on IDPs; the Senate urges the Government to profile all the current Internally Displaced Persons and to take urgent and immediate steps towards resettling IDPs and finding a lasting solution to their plight.

*(Sen. G.G. Kariuki on 20.6.2013)*

*(Resumption of debate interrupted on 25.6.2013)*

Open the doors and ring the Division Bell.

*(The Division Bell was rung)*

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

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

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, the Teller for the Noes is Sen. Boy Juma Boy and Sen. Gwendu for the Ayes. Before we proceed to take a vote on the Motion as listed on Order No.11, I want to draw your attention to the fact that there was a question as to whether this Motion affects counties. Yesterday the Speaker ruled this Motion affects counties. Therefore, voting shall be by delegations.

*(Loud consultations)*

Hon. Senators, this Motion affects counties. We require, at least, 24 Senators to have it passed.



**DIVISION****ROLL CALL VOTING**

*(Question put and the Senate proceeded  
to vote by County Delegations)*

**AYES:** Sen. Hargura, Marsabit County; Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Njoroge, Kiambu County; Sen. (Prof.) Lesan, Bomet County; Sen. Lesuuda (nominated), Samburu County; Sen. Mungai, Nakuru County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Sang, Nandi County; Sen. Ongoro, Nairobi County, and, Sen. Wako, Busia County.

**Teller of the Ayes:** Sen. Gwendu

**NOES:** Sen. Boy Juma Boy, Kwale County; Sen. Kipchumba, Baringo County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Mwakulegwa, Taita Taveta County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; and, Sen. Wetangula, Bungoma County.

**Teller for Noes:** Sen. Boy Juma Boy

**ABSENTIONS:** Sen. Ndiema, Trans Nzoia County

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, I wish to announce the results as follows.

**AYES:** 14

**NOES:** 9

**ABSENTIONS:** 1

*(Question defeated by 14 votes to 9)*

We have less than 24 Senators. Therefore, the Motion is lost.

**ESTABLISHMENT OF SELECT COMMITTEE TO INQUIRE INTO EXISTING  
LEGISLATION AFFECTING FUNCTIONS OF COUNTY GOVERNMENTS**

THAT, knowing that Section 17 of the Sixth Schedule to the Constitution requires the national Government to restructure the system of administration commonly known as the "Provincial Administration" to accord with and respect the system of devolved government established in the Constitution; Noting that the provincial administration continues to operate in circumstances that have affected the exercise of certain functions and operations of the county governments; Appreciating the doubts about the constitutionality of offices linked with the provincial administration, including provincial, regional and county commissioners as established and deemed to be part of the national government; the

Senate resolves to establish a select committee comprising the following Senators to inquire into all existing legislation that may undermine the authority, mandate and functions of the county governments and draft appropriate legislation by Parliament-

1. Sen. James Orengo
2. Sen. Beth Mugo
3. Sen. Moses Wetang'ula
4. Sen. (Prof.) Kindiki Kithure
5. Sen. Murkomen Kipchumba
6. Sen. Amos Wako
7. Sen. Hassan Omar
8. Sen. Judith Sijeny
9. Sen. Kiraitu Murungi
10. Sen. Otieno Kajwang
11. Sen. (Dr.) Agnes Zani
12. Sen. Dullo Fatuma
13. Sen. David Musila
14. Sen. Lesuuda Naisula
15. Sen. (Dr.) Boni Khalwale

*(Sen. Orengo on 13.6.13)*

*(Resumption of Debate interrupted on 13.6.13)*

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, we will now have the Division Bell rung.

*(The Division Bell was rung)*

Hon. Senators, take up your seats and let us have the doors closed. We are supposed to take a vote on the amendment as brought by Sen. Wako.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Madam Temporary Speaker. I know that the Division Bell has already been rung and that we have closed the doors. However, we have a very critical Motion of Adjournment coming up in the next ten minutes. This is on the Teachers Strike. It is important that this Senate ventilates fully on this very important national catastrophe. Children are not in school while the teachers are busy with the strike. We support their desire to be paid and we need to have a voice on this. I wonder whether going on to vote will not undermine and interfere with the Motion of Adjournment which the Chair had already granted and allowed the Senator who requested for it to move it at 5.00 pm.

**Sen. Kajwang:** We only have five minutes.

**The Senate Minority Leader** (Sen. Wetangula): Madam Temporary Speaker, I am requesting the Chair to exercise its discretion and to defer this voting and any further debate on this Motion, so that we deliberate on the matter that is of urgent national

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importance as required by the Standing Orders. We have already brought this to the attention of the Chair. The Chair acceded and allocated time for debate.

**Sen. Murkomen:** On a point of order, Madam Temporary Speaker. I notice that we are just about 20 people. We can vote very fast in less than five minutes. I think the Senate Leader of Minority is being dishonest. He is using the wrong excuse. He is being creative in looking for a reason to avoid defeat of the Motion. We should be honest. If he says we do not want to vote today until we have numbers, then he should say so. However, we cannot talk about issues related to time because we have enough time.

**Sen. (Dr.) Machage:** On a point of order, Madam Temporary Speaker. The rules of the House dictate that we respect the ruling of the Chair. The Chair had already ruled that this Motion that was tabled by Sen. (Dr.) Khalwale be discussed not later than 5.00 pm. We only have five minutes to five or even less. It is just logical that no other business can be carried out in those few minutes.

So, it is our humble request that you accept the Senate Minority Leader's request.

**Sen. Murungi:** Madam Temporary Speaker, these are valid arguments. You have discretion within the Standing Orders to extend time, for us to deal with all the business before the House this afternoon. So, you can give them five or ten minutes towards the end, so that we can do the voting first and then deal with the other important business, which the Senate Minority Leader has brought before us.

**Sen. Wako:** Madam Temporary Speaker, thank you for giving me this opportunity. I would very much have liked that we vote now, but the reasons given by the Senate Minority Leader and others are very good. I want to add another reason. If you look at the Order Paper, on the Motion in Order No.8, we went straight into a Division to finalize a matter, once and for all. In the next Motion that we voted on by Sen. Machage, again, we went straight to a Division without debate. In other words, we were going to finalize the whole thing, once and for all. On Order No.10, the Motion by Sen. Catherine Mukiite, again, we were going straight to the Division; finalizing it, once and for all. If you go to Order No.11, the Motion by Sen. G.G. Kariuki, again, we were going straight into a Division to finalize it, once and for all. Once we come to Sen. Orengo's Motion, if we were in that position like the other Motions, where by voting we would be disposing of the Motion, once and for all, there should go ahead and finalize it, once and for all. All the Motions that we have voted on today we were finalizing them, once and for all. Therefore, let us go ahead and vote for Sen. Orengo's Motion, once and for all. It is a question of another 15 minutes. We can extend the time.

Madam Temporary Speaker, I am reading this Motion. It says that the balance of time which it is entitled to is one hour and 35 minutes. Is it reasonable that we proceed on an amendment of a Motion and then proceed, again, to debate until we come to voting? Is it not preferable that we postpone everything on this to the next sitting, so that we can now proceed for one hour and 35 minutes and finalize it, once and for all?

*(Laughter)*

**The Temporary Speaker (Sen. Ongoro):** Sen. Wako, you have been heard loud and clear. However, do not pre-empt the Chair's ruling.

Hon. Senators, all arguments cannot be sustained. This is because once we have a Division time freezes. So, it would have been in order if we proceeded to dispose of the matter, once and for all, as Sen. Wako aptly put it. However, the Speaker earlier made a ruling and the Chair cannot contradict itself. The ruling was that we dispose of the matter that was brought on the Floor by Sen. Khalwale, not later than 5.00 p.m. Now, in my understanding to attempt to dispose of this Motion in a record of one-and-a-half minutes, is not possible.

So, I want to rule that we dispose of this Motion next Tuesday at 2.30 p.m. I want us now to proceed with Sen. (Dr.) Khalwale's Motion. I believe the matter is actually affecting the nation. We, as the Senate, should have something to say on the current stalemate. That is my ruling.

**Sen. Murkomen:** On a point of order, Madam Temporary Speaker. I know that you have ruled, but I do not know if it is once and for all. What happens when already the Division Bell has been rung, the doors are closed, we are about to do a vote and we open the doors? What has necessitated that kind of opening when the procedure has not been followed?

**The Temporary Speaker (Sen. Ongoro):** Sen. Murkomen, do not attempt to question the Chair's ruling. We need to proceed to expend the business as earlier directed.

Sen. Khalwale!

### **MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33**

#### **NATIONWIDE INDUSTRIAL ACTION BY TEACHERS**

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker, for this opportunity. I would like to move:-

THAT, this Senate do now adjourn to discuss the crisis that has now brought the educational system in the country to a total shutdown.

Madam Temporary Speaker, before I proceed, I would like to take this opportunity to thank all distinguished Senators here who have risen to the call of national duty to address the plight of our children, fellow parents who have given birth to these children and our teachers.

Madam Temporary Speaker, the top leadership of this country has demonstrated, right from the day of inauguration of the new Government, that they are committed to God. The good book called the Bible tells us that even Pharaoh was asked to "let the children of Israel go." I want to beg them to let the teachers have their way.

Madam Temporary Speaker, who is a teacher in Kenya today? A Kenyan teacher is a very well educated professional, doing a noble service, but lives under deplorable housing conditions. I beg that we pay them housing allowance.

Kenyan teachers cannot afford to take themselves, their children and wives to any decent private hospital, because of lack of affordability. I pray to the Government that they pay our teachers medical allowance. Kenyan teachers mark volumes upon volumes

of homework from hundreds of children under their pupilage. I pray and beg the Government that we pay our teachers special responsibility allowance.

Lastly, Kenyan teachers walk long distances, sometimes hundreds of miles, to go to where they teach. I pray and beg the Government that we pay our teachers commuter allowances to allow them either to ride a *boda boda* or buy a motorbike.

Madam Temporary Speaker, it is important to request this leadership to appreciate what is going on. I will give them a brief insight of the history of this problem. In 1997, the Government of retired President Daniel Moi went into an agreement signed on behalf of the Moi Government by the former Permanent Secretary, Phares Kuindwa and the late John Katumanga for the Kenya National Union of Teachers (KNUT). They did this in the presence of the leadership of the Central Organization of Trade Unions (COTU) and the Federation of Kenyan Employers (FKE).

The gist of that agreement was that the teachers were requesting to be granted a 105 per cent to 200 per cent increment on their basic salary. They were given. They also wanted a 50 per cent increment in their housing allowance, 20 per cent increment on their medical allowance - of the basic salary - responsibility allowance of 45 per cent, special allowance of 10 per cent, hardship allowance of 30 per cent and commuter allowance of 10 per cent.

Madam Temporary Speaker, we must give credit to President Moi at that time. He went on and allowed this to be given the force of law. This agreement which basically was a Collective Bargaining Agreement (CBA) was then given the force of law through the Legal Notice No.534 of 1997. Indeed, the Government went further and honoured part of that legal agreement by operationalizing the provision on basic salary. Having operationalized part of the Legal Notice and left out the other side that was referring to the allowances, time has now come, now that we have got a Kshs1.6 trillion Budget, for us to pay teachers. When this operationalization was being done at that time – and the President has told the Republic that he wants us to grow the economy before they pay – we were collecting around Kshs180 billion. Today, we collect over Kshs920 billion. This is really the time for us to pay our teachers.

Madam Temporary Speaker, because of that initial operationalization, the Government is, therefore, under legal requirement and obligation to make sure that they honour the part on allowances. Why do I emphasize this? It is because, traditionally, anywhere in the world, in any democracy that is worth its name, it is understood that the obligation of a particular government that precedes a succeeding government, are then transferred to the succeeding government. It is, therefore, the obligation of the Jubilee Government to ensure that whatever it is that the earlier governments agreed upon with the teachers, they go ahead and honour.

Madam Temporary Speaker, I will keep it short because I want the hon. Senators to ventilate on this issue. But before I do so, there is a very glaring issue, namely, the Cabinet Secretaries that are in charge of the line departments. The Cabinet Secretary, Kambi Kazungu and Cabinet Secretary, Prof. Jacob Kaimenyi, have set out from yesterday on a very dangerous tangent. Their pronouncements are fueling this national crisis. I request this Senate to find that we cannot allow, in present day Kenya, a public servant who is operating under the new Constitution, to exercise any modicum of

dictatorship. These statements issued in arrogance, covered with irresponsibility and intended to result in nothing helpful, should immediately be withdrawn by the two Cabinet Secretaries. In fact, these two Cabinet Secretaries should offer an apology to the entire nation.

Madam Temporary Speaker, it is important that Kenyans know that Kenya is not broke. There is so much money in this country given the fact that one morning, the Deputy President can wake up and hire a special jet to go to do some business in some corners of Africa; in nations that do not do any business with Kenya. This country is so rich that as we force our children out of class, we want to give the same children who are not in class laptops worth Kshs53 billion. I hope the top leadership of this country has time to read newspapers. There is a child who was featured in one of the dailies; her name is Atieno. She is a pupil in a primary school in Mombasa. You look at her and you can see that she is typically a child of the poor. The little genius; a potential professor who would go to the dental school and teach like Prof. Jacob Kaimenyi, was crying that she has not been allowed to go to school to be taught.

Madam Temporary Speaker, we are advising the Government that this pet white elephant of theirs in the name of laptops for every Standard One child be shelved and this money be used to pay the teachers so that learning can continue the way it has been doing. Since we know that the proceedings of the Senate are followed locally, continentally and internationally, we must emphasize that all the Members here support Information Technology (IT). We want all our children to be given laptops to have access to computer technology education. However, we must also do it in a manner that will have logic and save public funds. What do I mean? There is nothing difficult by this Government starting off by putting up one computer lab in each primary school, and then the leadership of the school will decide which hours of the day and which days of the week a particular class will go to that particular computer lab. In the process, all the children in the primary school will have access to computer education.

Madam Temporary Speaker, although this Motion does not require anybody to second me, but I beg that you allow Sen. James Orengo to speak immediately after me because I know how he feels. I hear that the grandfather to the young girl, Atieno, actually came from Siaya.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): Okay; your request has been granted.

Proceed, Sen. Orengo.

**Sen. Orengo:** Thank you very much, Madam Temporary Speaker. I am indebted to my friend, Sen. (Dr.) Khalwale for coming up with this Motion of Adjournment.

Madam Temporary Speaker, whenever teachers are gathered, every political party and every political leader wants to go to where the teachers are gathered. Every politician has a desire to go before the teachers when these meetings are held in Mombasa annually by teachers, either by the leadership of the Kenya National Union of Teachers (KNUT) or secondary school heads. If you listen to what the politicians say every time they attend these meetings with teachers, it is promises and more promises. Those promises always end up quoting this Legal Notice of 1997. Hypocrites! Hypocrites! Hypocrites! Like the Bible talks about hypocrites; hypocrites are the swines of – shall I say civilization – like I

said at one time? Because, you know, if you remember what teachers do to our families and communities in every village, it is not just teaching children in the classroom, but they take care of students even after the classrooms. It is high time that this matter is dealt with, once and for all.

The negotiations going on have always been predicated on this Legal Notice of 1997. The issue of revocation only arises when the teachers are fighting for their rights and saying they are not going to negotiate. They are not ready for dialogue because the Legal Notice is clear. The Government of Kenya was party to that Legal Notice of 1997. In fact, if you look at the negotiations over the years, what they have been doing is that they have been saying that despite that Legal Notice of 2003 which they say was revoked by the Legal Notice of 1997. So, in effect, every successive Government has tried to give an impression to the teachers that they are trying to fulfill the obligation that the Government made to the teachers in accordance to the Legal Notice of 1997. Now, if they cannot deliver on a promise of 1997, how are they going to deliver on promises of this year, which are worth more than the promises of 1997? They should deliver on these issues that affect historical injustices. Entitlements that are of yesteryears are part of the problems of historical injustices that we need to deal with.

So, Madam Temporary Speaker, I rise here knowing very much that even those who are now in power and in authority should realize the role that the trade union movements played in bringing about Independence. The role of teachers and KNUT before Independence was in mainstreaming the struggle. Even during the fight for multiparty democracy, we really relied on the teachers to bring about these changes. They were bringing these changes so that we could have a Government in place which was mindful of other people's welfare. So, I think we are going to judge the Jubilee Government on this single issue of teachers. They cannot run away from it because they cannot give laptops to pupils if the people who are supposed to give instructions are not happy to be in the classroom.

The beginning of resolving the problem is making sure that the instructor who is going to sit with the pupils in the classrooms is happy being and performing his duties in the classrooms. It is saddening that from Jomo Kenyatta to the professor of politics, Daniel arap Moi, Mzee Kibaki and the rest, in one way or another, they were teachers. The teachers have played a very critical role. Even Sen. Amos Wako, the Attorney-General emeritus taught me at one time when he was a junior teacher. Could you imagine that he was teaching me religious knowledge because I was not being taught law in Form One?

*(Laughter)*

Above all, he was a very effective teacher. In fact, we do not have enough teachers. It is a pity that we are not even paying them what they are entitled to.

Madam Temporary Speaker, without taking any more time, because many people want to contribute, we are going to judge the Jubilee Government on how they handle this matter. They better put arrogance and chest thumping behind and begin to sit on the table with the teachers. As Sen. Kiraitu was reminding us, in 1963 when there was a

similar problem, the late Tom Mboya chose the path of dialogue; and not the kind of language which is coming from some of the Cabinet Secretaries. Sometimes when you have too many technocrats dealing with problems which are now political, you are bound to fall in a pit. So, they should be taken to a language school to know how to talk to people. These are Kenyans. Otherwise, we are just courting disaster.

Madam Temporary Speaker, I support the Motion of Adjournment.

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, for the avoidance of doubt, I draw your attention to Standing Order No.33, which states:-

“(1) A Senator may at any time rise in his or her place and seek leave to move the adjournment of the Senate for the purpose of discussing a definite matter of urgent national importance.”

*(Question proposed)*

Yes, Sen. Murungi?

**Sen. Murungi:** Thank you very much, Madam Temporary Speaker. We do agree with Sen. (Dr.) Khalwale that this is a matter of critical national importance. We want our children back in schools. We want our teachers to be paid so that those children can go back to school.

Madam Temporary Speaker, I recently attended an international meeting where education was one of the topics being addressed by experts from across the world. They said that in a school system, there are very many pillars. The most critical pillar is the teachers because even if you have everything else right; the buildings, the students and even parents escorting children to and back from school, and then you do not have teachers, there will be no school. So, teachers are the most critical pillar in the education system and we cannot hope to develop educational excellence in this country with overworked, underpaid and frustrated teachers.

Madam Temporary Speaker, it is critical that the issue of teachers be addressed urgently and in a very comprehensive manner. We are tired of seeing teachers coming out in the streets year in, year out. I think time has come for us to engage them on a very comprehensive basis.

Madam Temporary Speaker, as I was telling my learned friend, Sen. Orengo, when we got Independence in 1963, almost every worker was out in the streets demanding higher salaries now that Independence had come. It is the same thing that we seem to be seeing now; today it is the teachers, tomorrow it will be doctors and, the other day, the nurses.

The country appears to be in a labour crisis. I think it is important for us to look at these crises on a more comprehensive basis because even after the teachers' issues are resolved, you can expect there will be another group of workers coming out tomorrow and another group the day after tomorrow. Indeed, we should also look at the other supply side; you know, Parliamentarians are demanding money; Senators, County Assembly Members, the police, the army. These demands for money almost seem to be endless. The Government uses taxpayers' money and yet taxes are not being increased. So, unless you manage in a very careful and prudent manner, we are likely to get into the



cycles that one sees in the political instability of Latin American governments, where populist governments will come, they promise heaven and earth to people. They try to implement those promises and within five years, there is so much inflation in the country. Even the bail money you got cannot buy much and you do not solve the basic problem which was there. So, unless we address the labour issues in this country in a comprehensive manner, we are just going to put ourselves in that cycle of boom and burst; and that cycle of happiness and frustration, happiness and frustration in an endless manner.

So, Madam Temporary Speaker, I am proposing that we do not talk down to teachers. Let us sit down with them across the table. Let us show them all the existing economic facts and then we will do what Tom Mboya did in 1963. Let us equalize the teachers to all the other civil servants so that the allowances that people in Job Group “K” get, let the teachers in Job Group “K” also get the same amount. If the teachers in Job Group “S” are earning certain allowances, let us look at what Government officers in Group “S” earn and then we should give them the same. The Salaries and Remuneration Commission (SRC) should treat all the public servants in this country equally because as Senators, our job is to equalize the Kenyans.

Madam Temporary Speaker, if we address these issues in such a manner, then it will not be the teachers, the army and the nurses coming out tomorrow, because we will be dealing with civil servants across the board. Then we have a breathing space so that we know that if we solve all those issues this year, we have at least another three years within which to work. Then, if money loses value in future, we sit down again and review the salaries. So, my call is for tolerance. My call is for dialogue which is the spirit of the new Constitution so that we treat our teachers well, but also taking into account how much the economy can carry and how we are treating other civil servants.

Madam Temporary Speaker. I beg to support.

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

**The Senate Minority Leader** (Sen. Wetangula): Madam Temporary Speaker, I want to start where my learned senior left off; populism. The height of populism is promising laptops to Standard One children when you have a problem of teachers on your hands. That is what the Jubilee Government is doing. I want to remind the Cabinet Secretary for Labour, Social Security and Services for free, first, that governments have perpetual succession. So, he cannot go to the public and say that the agreement was signed by the Moi Government and they cannot honour it. A government is a government.

Secondly, that agreement has been partly honoured. In law we have a doctrine called estoppel. The Government and any of its Ministers and officers are estopped in law from denying the validity or legality of that agreement.

Thirdly, I want to encourage the Minister for Labour, Social Security and Services to exercise some decorum when he is talking on issues of this level of sensitivity. This agreement was signed 16 years ago. To date, it has not been fully honoured. In fact, the teachers are not even demanding for new issues. They are simply asking this Government to honour the 1997 agreement. I first came to Parliament in 1993 when the salary of a Member of Parliament was Kshs22,000 and transport allowance was Kshs9,000 a month.

By 1997 the salary of a Member of Parliament had risen to Kshs74,000. Today, the salary of a Member of Parliament is known.

Madam Temporary Speaker, I am a son of a teacher and I have brothers and sisters who are teachers. They earn the same salary that my father earned in the 1960s. These are the social engineers of society. When you see great lawyers like yours truly, Sen. Wako and Sen. Orengo, they were taught by teachers. When we see a good Speaker like you, you were taught by teachers. When you see great doctors like Dr. Khalwale and others, they were taught by teachers. When you see professors like Anyang'-Nyong'o and others, they were taught by teachers. When you see all of us, the social engineers, we were taught by teachers. So, we must respect the teaching profession. We must respect teachers and honour them. Let us not give excuses. We saw during Moi's time when at one time the police salaries were increased five times in two years, but for the teachers, nobody is talking about them. When you listen to those teachers talking, at some point they were actually begging the Government to honour the agreement that is 16 years old. They cannot be any fairer than that.

All we are doing is daring them and calling them names. That is not right. The teachers of this country are responsible for our children. In this country, parents send their children to school at 7.00 a.m. in the morning and see them at 6.00 p.m. in the evening. The aggregate time a parent has with the children is just about two hours a day, that is, when you are taking your child to school and when you are having dinner at home. The rest of the time is the teachers who are the parents of our children. So, we must make it possible for them to work.

Look at the teacher's workload. You will find a teacher---

*(Loud consultations)*

Madam Temporary Speaker, please, protect me from these three lawyers.

**The Temporary Speaker** (Sen. Ongoro): Order! Please, consult quietly.

**The Senate Minority Leader** (Sen. Wetangula): Madam Temporary Speaker, the teachers of this country work under very difficult circumstances yet we have given discretion to people at Jogoo House who just sit and decide which area is a hardship and teachers can get hardship allowance. They decide that Kajiado is now a hardship area or remove Garissa from hardship areas.

It is time that we harmonize the salaries. I agree with Sen. Murungi, the Senator for Meru. Teachers are public servants and state officers like everybody else. The Salaries and Remuneration Commission must cut across. If the Clerk of the National Assembly is in Job Group "K", a teacher in that job group must earn the same allowances and the same salary. That is the only way we shall be predictable and determinate. We shall be able to know where we are coming from and where we are going.

The other day I saw a very reckless move. The police have been allowed to form a trade union. I am not aware of any country where persons who work in such a critical sector in a country can have a trade union. Tomorrow the police will say that the criminals can have a field day until their salaries are increased. Next day, the army will

form a trade union. When we tell them to go to Kismayu, they will demand for a salary increment first.

Madam Temporary Speaker, we must find a way of harmonizing public salaries.

I support.

**Sen. Karaba:** Madam Temporary Speaker, thank you very much for giving me this chance to contribute to this pertinent Motion on the struggle the teachers have undertaken and continue to undertake without anybody sympathizing with them. I concur with all those who have talked here. I can say that I am a victim of the same. In 1997, I was a headmaster/principal of a school. I remember very well that we were the people who were consulted as to how the teachers' plight was to be resolved. The good government of the day led by President Moi promised teachers that teachers will be given salary increment. So, from that time to date, teachers have been forgotten. It is with a lot of bitterness that teachers cannot get anything without going for a strike. To me that is not the best way to move, particularly so with the teachers. You have heard what other Senators have presented here. It is true that teachers work in very difficult conditions.

When I was the chairman of the Education Committee in 2003 to 2007, we visited some parts of Kilifi, Nyanza Province and North Eastern. In our visits, we could tell teachers were struggling to make ends meet. Some of them go to class with their newly born babies because they cannot get housemaids who speak the same language and they cannot afford them. Teachers provide a vital service. Many people mistake the service as voluntary. It is service and it has to be paid for. Even if they are very many, you cannot say that it is their wish. It is not their wish. They are taking care of children. Some children are of very rich people. Those children would have been vulnerable if it were not for the sacrifice of teachers who have been there to take care of them.

When a child joins class one he does not know how to write or draw a face. But he is guided through standard one to standard eight, then throughout secondary school up to the university level by a teacher. What does the teacher get? A meagre Kshs2,000 or Kshs3,000 per month to the dismay of the students who have been taught. I can give you examples. I am sitting here with people who were my students and they became Ministers when I was still struggling. Now we are with them here as Senators still struggling and I am sure they are ahead of me.

What we need to do here is to make sure that the teachers are paid as much as professional doctors and lawyers. We have seen teachers languishing in poverty. Some of them cannot even afford rent. They cannot even afford to dress well like most of the professionals do. They are discriminated against as if it is their wish to be teachers. They are providing a very important service. If it was not for teachers today, Kenya would be in problems. I am warning this nation that if the teachers' plight is not solved within the shortest time possible, there will be chaos. Students will burn schools and there will be increased cases of accidents on the roads. Teachers rarely teach. I can see that the Chair is really listening. We are very concerned about teachers. You find a teacher is teaching standard one, two and Three in one class. What I am worried about is this thing you are calling laptops. Who will teach standard one because this teacher is teaching Standard one, two and three in one class? How will you differentiate between standard one and two

and yet they are in one room? That is something we need to think about. We are asking the Government to solve this problem of salaries, once and for all.

Let there be professionalism in teaching so that a graduate who is at Job Group “K,” “L” and “M”, will earn the same salary as that professional who is in the Civil Service. Otherwise, we are mistreating teachers and yet, they are great thinkers. They are the think tanks of this country and one day we will regret.

Madam Temporary Speaker, if you go to Egypt, Germany or the United States of America, teachers are the most highly paid professionals while in Kenya they are the least paid and yet they do the donkey work.

I support this Motion. Let the teachers be paid and be listened to.

**Sen. Kajwang:** Madam Temporary Speaker, *bado mapambano*, because the teachers are telling us that. Teachers have brought our education system to a halt. It is a national crisis. When I listened to the Cabinet Secretary for Labour, Social Security and Services saying that their agreement has been abrogated because it has stayed for 16 years, I thought he was making a very serious mistake. I thought so, because he has been a politician. I thought he could have been better than Kaimenyi. Listening to teachers talking, he was worse than him.

When I saw the tears of Atieno, I thought it was a contradiction. You know what I said first: Usually when pupils are told to go home, they are happy because they have a lot of time to go and play. But Atieno is crying that she went to class and she was told to go home because the teachers are not there. It seems that our children have matured. They know that they are losing something fundamental by going back home. Nobody can say that when a Government promises something, that Government can change. That one is a banana republic. That is why we carry money in our pockets, because it is a promise. It is also a promise by the Government that what you are carrying in your hand is Kshs100. If the Government says that we will pay you so much, the Government cannot change. If it changes, then it destabilizes everything. We start doubting the money in our hands and all the promises that the Government has ever given.

Madam Temporary Speaker, in the Bible, there was a king called Nebuchadnezzar. One of his advisors cheated him that he could bring more taxes into his treasury if he made a law that all the Jews should be killed. He made that law because he wanted his treasury to be full. Later on he realized that his queen was actually a Jew. He realized that the queen had also to die because he had made the law. Then he asked his advisors: What do we do when we have made a bad law in this empire? He was told that after a king had made a law under his own seal, the law could be changed. He said: In that case, my queen must die. Later on, somebody advised him that the only way out is to amend the law. He said: How do I amend it? He was advised to make a law that if they were attacked they could defend themselves. Actually that was the law that was enacted. The Jews were allowed to defend themselves.

Never say the Government that promised you something was the KANU Government. In fact, when the KANU Government was making bad laws, the current President and the Vice-President were in KANU. So, the KANU Government promised and the KANU Government must pay, although they are now dressed in another cloak. I saw it in the press that teachers are asking for more money. I did not even hear when they

asked for more money. In fact, they have not gone there; they will go there. They talked of a promise of 1997. The university staff are coming to demand for their perks. They are saying we agreed with you---

**Sen. Murungi:** On a point of order, Madam Temporary Speaker. Is it in order for the Sen. Kajwang to forget that the Minister who actually issued that Legal Notice of 1997 was none other than the CORD running mate, Hon. Kalonzo Musyoka, who was then the Minister for Education?

**Sen. Kajwang:** Madam Temporary Speaker, I have not forgotten anything. Even Hon. Kalonzo was in KANU. He committed the Government and he is saying that they should pay the teachers. So, there is nothing much about it. What is important is harmonization. When you are in college and one of you is doing a degree in education, another one law and another one engineering, then when you come out one person is paid more than the other, and you were in the university at the same time, only that one took longer than the other, but became a teacher, it is very frustrating. You feel like; what did I read? In fact, that is the reason we created the SRC. We did not create it to chop our salaries; we created it to bring harmony.

I support.

**Sen. Muthama:** Asante sana, Bi Spika was Muda. Nchi yetu ni kama baba anayewala watoto wake halafu anaenda kwa jirani na kuchukua watoto wake na kudai ni watoto wake halali.

Bi. Spika wa Muda, je, ni haki kwa Waziri wa Leba kusema Serikali ilidanganya walimu wakati fulani na sasa haiwezi kutekeleza yale yote iliyowaahidi? Ikiwa Serikali inawandanganya wananchi wake, basi Kenya imekwisha, hakuna pakwenda. Mimi ninaudhika sana ikiwa walimu hawatalipwa pesa zao. Ikiwa hakuna pesa, kwa nini Serikali inapendekeza kutenga Kshs700 miolini za kujenga ofisi na nyumba ya Rais aliyestaafu mwaka huu? Ninakumbuka Bunge la Kumi lilitenga kiasi fulani za pesa za kuwasaidia wakimbizi wa ndani wa kisiasa. Lakini pesa hizo hazikuwasaidia wakimbizi hao kwa sababu ya ufisadi Serikalini. Wengi wao wanaendelea kuishi katika mazingira duni na ya aibu.

Bi. Spika wa Muda, Serikali inasema haina pesa za kuwalipa walimu na ilhali imetenga Kshs53 bilioni za kuwanunuliwa watoto wa darasa la kwanza tarakilishi kutoka China. Mwaka huu wakati wa uchaguzi, tuliletewa mitambo ya *Biometric Voter Registration* (BVR) iliyogharimu Serikali pesa nyingi sana. Mitambo hiyo haikufanya kazi. Ilikuwa ni mitambo ya uongo. Serikali ilipoteza pesa nyingi sana ambazo zingetosha kuwalipa walimu.

Ikiwa hakuna pesa ninaomba Rais Uhuru Kenyatta na Naibu wake, watangaze kwa kauli moja kwamba magari yote ya Serikali yasimamishwe kwa muda wa miezi miwili ili tupate pesa za kuwalipa walimu. Wale wanaotumia magari hayo wanaweza kutumia baiskeli au pikipiki kwenda kazini. Serikali itaokoa pesa nyingi za petroli ya magari na itawalipe walimu.

Ikiwa Waziri wa Leba, Bw. Kambi Kazungu amesema Serikali zilizotangulia ziliwandanganya walimu, basi hakuna haja ya walimu kukubali mazungumzo na wahuni hawa wandanganyifu.

**Sen. Mugo:** On a point of order, Madam Temporary Speaker. Is the Senator in order to use words like “wahuni” or “wadanganyifu”? Could he substantiate and apologise?

**Sen. Muthama:** Bi. Spika wa Muda, nitadhihirisha kwa sababu makubaliano haya yaliafikiano baina ya Serikali na walimu. Mwaka wa 1997, Serikali iliwaahidi walimu kuwa wangelipwa marupurupu yao yote. Kwa hivyo, aliyewaahidi mshahara huu hakuwa mchimba mashimo lakini mwaakilishi wa Serikali na alikuwa na mamlaka ya kufanya hivo kuambatana na kiapo cha ofisi yake.

**Sen. Mbuvi:** Hoja ya nidhamu, Bi. Spika wa Muda. Sen. Beth Mugo amemuuliza Sen. Muthama afafanue utumizi wa maneno “wahuni” na “wadanganyifu” kwa viongozi walio Serikalini. Matumizi ya maneno hayo si ya nidhamu. Anafaa kuyaondolea mbali ili aendelee na kuchangia Hoja hii.

**Sen. Muthama:** Bi. Spika wa Muda, ikiwa neno “wahuni” halieleweki vizuri, basi sijua ni tumie neno lipi. Mtu ambaye anasema hayaelewi maneno haya hafai kuaminiwa.

Mkataba kati ya Serikali ya Kenya na Urusi uliyotiwa sahihi na Rais Uhuru Kenyatta ni halali kati ya mataifa haya mawili. Ikiwa ninaweza kuwa Waziri na niseme mkataba huu hauwezi kutekelezwa na Serikali hii, basi nitakuwa nikiwandanganya Wakenya. Hatuwezi kuendelea kuketi hapa ikiwa viongozi wanasema maneno ya uongo na tuwaamini.

Kwa hivyo, walimu walipwe pesa walizoahidiwa bila kundanganywa na kuhangaishwa. Tusipofanya hivo, hatuwezi kuendelea kama kama taifa.

**Sen. Njoroge:** Thank you, Madam Temporary Speaker, for giving me this chance to contribute to this Motion. There is no single person sitting in this Chamber today, who can adequately enumerate or even evaluate the true value of a teacher in this country. Teachers are invaluable. Their services are extremely important. I can attest to that fact considering my background.

There are many Kenyans who have only benefited by the input and services rendered to them by teachers. Today, I can stand with other Kenyans and eke out a living because of what teachers did for me. So, the value that these noble Kenyans render to this country cannot be gainsaid. So, in every respect, the demands and queries of teachers are genuine. It is very important for this country to come up with a solution to address this problem.

We must acknowledge that we have a problem on our hands. The question we must address is this; whose problem is this? Is this a Jubilee Government problem? Is this a Senators’ problem or a particular community’s problem? This is a national problem. This is a national situation that we must deal with absolutely devoid of political affiliations and persuasions no matter how we view things. If there is any disservice we will do to teachers this day, as we contribute to this Motion, is to insinuate or sensationalize this Motion. We should not give it a political connotation. This problem must be dealt with by Senators absolutely above board. It must be dealt with as a problem of this country.

The teachers did not go on strike because a promise was made to give laptops to children in class one. That is not the reason they went on strike. Teachers have not gone

on strike because there was a proposal to build a house for a particular ex-President. Teachers have gone on strike because of very simple reasons. They went on strike so as to be paid dues that they think are due to them. There is no parallel to that. We cannot sit here and try to link the laptops deal or project with the strike of teachers. We have to pay teachers for their services to this country. We must be honest and genuine as we address this problem.

**Sen. (Dr.) Khalwale:** On a point of order, Madam Temporary Speaker. The rules of debate require that a Senator be responsible for the accuracy of his utterances. Could the Senator make it abundantly clear whether he would rather that the teachers of Kiambu County are not given a salary, but instead laptops go to children of class one who the same teachers have refused to teach?

**Sen. Njoroge:** Madam Temporary Speaker, I have a very simple confession. I am fully aware that as the Senator for Kiambu County, many teachers in my own county voted for me in good faith. I honour them. I will stand up to everything that they ask for that would make their lives and work easier and better. If laptops had not been promised to our class one children, teachers would have still demanded for what they are demanding. So, let us face this problem, compromise, sit together and find a solution.

Thank you, Madam Temporary Speaker.

**Sen. Kipchumba:** Madam Temporary Speaker, I take this opportunity to thank Sen. Khalwale for seeing the urgency and desire that our teachers are taken care of. But one thing that I would wish to bring to the attention of hon. Senators is to remember who a teacher is. Try to define or imagine what role a teacher plays. I was a teacher between 1984 and 1985. By then, I was earning Kshs740 which was a lot of money.

Madam Temporary Speaker, a teacher is a person who changes darkness to light. The Indian Community calls them *gurus*. A *guru* is a person who removes one from darkness, which is “*gu*” to “*ru*” which is light. This is a person, in the spiritual realms, that we equate to our prophets and teachers of the holy scripts; Jesus in particular. In the world, there are two teachers. One is a mother being that person that brings you to the world. We thank mothers for that. But there is this other person who brings the world to the person and that is the teacher. It is that person who is very important, who influences people to be leaders. What about the Kenyan teacher?

Madam Temporary Speaker, it is so sad when a Cabinet Secretary, in a new dispensation and world, still believes that they can give some decrees and shut people down. A teacher is a person that knows what the world needs. It needs people with compassion, love, care and warmth. But that person must be empowered, facilitated and live better than the students. It is so sad, with the present system of education, especially the private programmes, that there are children who do better than teachers in terms of livelihood. They drive into school and can eat three meals in the next hotel. Teachers do not have that. Unfortunately, at a time that they demand this, here is the Government so insensitive that it can put aside Kshs53 billion for laptops. It is just like a family where a father decides to buy a bicycle when there is no food in the house. It is not fair or good. Teachers must and should be paid now and not another time. This is because teachers will change this country. Let the laptops come, but teachers must be paid first.

Madam Temporary Speaker, teachers not only offer their time in school, but also their lives to the children that they teach. They are the unspoken counsellors in the village. These are the spiritual guides of the community. They are not just there for a job, but, in fact, on a divine service. The Senate is the House of equilibrium, where the sense of this country rests. Let us not play with the lives of our children. Let us not allow anybody to let our children die because lack of education is worse than physical or clinical death. A day that a child spends outside school is a lifetime death.

Thank you, Madam Temporary Speaker.

**Sen. Ong'era:** Thank you, Madam Temporary Speaker. I rise to support this Motion. I would like to commend Sen. Khalwale, the Leader of the Delegation from Kakamega County.

Madam Temporary Speaker, it cannot be said many times that teachers are an integral part of this society. They form one of the most essential services, yet they are not recognized and appreciated. This Government has no business saying that they cannot pay teachers. Teachers are not asking for a salary increment, but for payment of the reasonable allowances that they had been promised. When we talk about hardship allowances, these are reasonable allowances.

Madam Temporary Speaker, this Government has its priorities upside down. How on earth can this Government talk about laptops when our children are walking to school without shoes? Our teachers who are supposed to teach these children do not even have the knowledge or a shilling in their purses or pockets. It behooves this Government to look for the money, including what they have put in the Budget. You will find that some Ministries have been given three times their budgets. I have the case of the National Intelligence Service (NIS). Why would they get a budget three times more than other Ministries? They have a lot of money which is not properly accounted for and it behooves them to pay teachers' salaries.

Madam Temporary Speaker, if you look at many of our teachers today, we have reduced them to paupers which should not be the case. You have heard each and every Member in this distinguished House say that, indeed, the teachers are the ones who taught us. Look at Prof. Anyang'-Nyong'o. He was my teacher at one point. There are many other teachers who taught many.

*(Sen. (Prof.) Anyang'-Nyong'o consulted loudly)*

Madam Temporary Speaker, I need protection from Prof. Anyang'-Nyong'o.

*(Laughter)*

**The Temporary Speaker** (Sen. Ongoro): Order, hon. Senator!

**Sen. Ong'era:** But, Madam Temporary Speaker, as a result of these teachers teaching our children and grandchildren--- I heard the Leader of Delegation from Homa Bay say that there was somebody who was crying in the papers. It just shows the depth of the emotions of this matter.

Madam Temporary Speaker, with these few remarks, I beg to support.



*(Loud consultations)*

**The Temporary Speaker** (Sen. Ongoro): Order, Senators! Order!

**Sen. Mugo:** Thank you, Madam Temporary Speaker, for giving me the opportunity to contribute to this Motion and to support the welfare of teachers. I started as a trained teacher and I taught for two years; so, I know all about teachers. My father was a teacher and, so, I have grown up in the household of a teacher. I do not think any one of us needs to be told about the value of teachers; we all know. The importance of paying teachers properly cannot be overemphasized.

But having said that, Madam Temporary Speaker, let me start by saying that this is not a new problem; that is why I am surprised when some of my colleague former Ministers who have spoken here now are talking as if it is a new thing. We discussed this issue in the Cabinet during the last Cabinet and it was a major problem even then. There was a strike. Those former Ministers who spoke here know exactly the problems which we encountered, how we were able to pay or to increase teachers' salaries and give a little money at a time; and they were part of those decisions. We cannot now, all of a sudden, imagine that there is a lot of money that is going to come from somewhere. That is why I want to support Sen. Murungi when he called for dialogue. It is true that teachers have suffered for too long; it should not be left for that long. But you cannot sort out such a problem overnight because we have to look at the wage bill totally, and not just one sector.

**Sen. (Dr.) Khalwale:** On a point of order, Madam Temporary Speaker.

**Sen. Mugo:** No---

*(Laughter)*

Okay.

**The Temporary Speaker** (Sen. Ongoro): Granted; granted!

Order, Sen. Mugo! Take your seat!

Stick to the point of order, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, the distinguished Senator is asking for some more time. She was a Minister of the Kibaki Government for 10 years when they were having this particular Legal Notice No. 534, and she did nothing. How much more time does she want before they pay teachers?

**The Temporary Speaker** (Sen. Ongoro): Sen. (Dr.) Khalwale, what is not in order?

**Sen. (Dr.) Khalwale:** Is she in order, when she lacks high moral ground, to state as she stated and to mislead the country that if she is given time – and this time she is powerless; she is not a Minister---

**Sen. Mugo:** I can---

**Sen. (Dr.) Khalwale:** What power do you have? What power does she have?

**The Temporary Speaker** (Sen. Ongoro): Stick to the point of order, Sen. (Dr.) Khalwale!

**Sen. (Dr.) Khalwale:** Yes; what power does she have if given more time to find more money when she is just a Senator; nominated in fact!

*(Sen. Mugo stood up in her place)*

**The Temporary Speaker** (Sen. Ongoro): Sen. Mugo, just a minute; take your seat!

Sen. (Dr.) Khalwale, can you withdraw that demeaning statement and stick to the point of order?

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker.

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

**Sen. (Dr.) Khalwale:** What is out of order is that it is unfair and it is not right according to the Standing Orders for the distinguished Senator to mislead the country and this House that all that is required is some more time.

**The Temporary Speaker** (Sen. Ongoro): Sen. (Dr.) Khalwale, can you withdraw the last part of your earlier statements?

**Sen. (Dr.) Khalwale:** Which one, Madam Temporary Speaker?

**The Temporary Speaker** (Sen. Ongoro): The one which stated: “what power does she have if given more time to find more money when she is just a Senator; nominated in fact.” Can you withdraw that part?

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. I said that without prejudice; I wish to withdraw.

Thank you.

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

Proceed, Senator.

**Sen. Mugo:** Sen. (Dr.) Khalwale, I have been elected three times as a Member of Parliament for Dagoretti, and I could have gone and vied for that seat again. So, please, do not talk about “nominated;” I am a Senator in this House!

*(Applause)*

*(Sen. (Dr.) Khalwale consulted loudly)*

Madam Temporary Speaker, we need protection.

**The Temporary Speaker** (Sen. Ongoro): Order, Senators!

**Sen. Mugo:** Madam Temporary Speaker, what I was about to say until I was rudely interrupted is that no problem is solved overnight. Whether I believe, and whether I have a position in the Government or not, is that this Senate is part of the other arm of the Government. We are part of the Government and, therefore, I can also speak as a Member of the Government. What I am saying is that, I do not think anyone would not want to pay the teachers.

**Sen. Ong’era:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): What is out of order, Sen. Ong’era?

**Sen. Ong'era:** Madam Temporary Speaker, is the honorable elected Senator, Beth Mugo, in order to say that the Senate is part of the Government, when we know that there exists the principle of separation of powers; that this is the Legislature, there is the Executive and the Judiciary?

*(Applause)*

**The Temporary Speaker** (Sen. Ongoro): Sen. Mugo, what exactly did you mean by stating that we are part of the Government?

**Sen. Mugo:** Madam Temporary Speaker, I meant to say that the Government has three arms; one is the Judiciary, the other one is the Legislature and the third one is the Executive. I did not say that I am a Member of the Executive. I said I am a Member of the 'Government,' which includes all of us, even as Senators.

*(Applause)*

Madam Temporary Speaker, I hope they will now, at least, let me finish what I am saying.

*(Laughter)*

**The Temporary Speaker** (Sen. Ongoro): Yes, I will---

*(Sen. (Prof.) Anyang'-Nyong'o consulted loudly with other Senators)*

Sen. Anyang'-Nyong'o, allow Sen. Mugo to finish her contribution.

**Sen. Mugo:** Madam Temporary Speaker, what I am suggesting is that we do not rob the children or try to connect the issue of the laptops to pay teachers. We know there are people who opposed the laptop initiative even before teachers went on strike. So, let us not politicize the laptops initiative; let us give children their rights. We need to be innovative and to give our children equal opportunities as other children of the whole world.

*(Applause)*

**Sen. Mbuvi:** On a point of information, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): Her time is up. Sen. Mugo, do you wish to be informed by Sen. Mbuvi?

**Sen. Mugo:** Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): Your time is also over.

**Sen. Mugo:** Let him still inform us.

**Sen. Mbuvi:** Thank you, Madam Temporary Speaker. I wish to inform Sen. Mugo on the issue of laptops.

Madam Temporary Speaker, this is a digital Government and we are in a digital era. Those who are opposing the laptop initiative by the Government, I think they are lost---

**The Temporary Speaker** (Sen. Ongoro): Is that informing or updating her?

**Sen. Mbuvi:** I am informing her, Madam Temporary Speaker; I am not updating.

**The Temporary Speaker** (Sen. Ongoro): Are you debating?

**Sen. Mbuvi:** I am not debating, Madam Temporary Speaker. I wish to inform her that all those honorable Senators who are opposing the laptop initiative before this House are wrong. The reason I am informing the honorable Senator is because they had all the time for preparing---

**The Temporary Speaker** (Sen. Ongoro): Senator, you are now debating.

**Sen. Mbuvi:** Am I debating?

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

**Sen. Mbuvi:** Then can I take my time to debate---

**The Temporary Speaker** (Sen. Ongoro): No, no, no, no; it was not your time! You have made your point of information. Kindly take your seat and you will be given time.

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

Madam Temporary Speaker, the issue of teacher's salaries or payment is very crucial and we need to pay them. But the issue of beating about the bush and saying that the laptop initiative is this or that, that is not the thing. Let us stick to the issue, Senators, because we have been talking about the laptops and other issues. Let us call a "spide" a "spide" and not a big spoon.

*(Sen. Bule spoke in an accent)*

*(Laughter)*

**The Temporary Speaker** (Sen. Ongoro): Senator, are you referring to a spider? What is a spide?

*(Laughter)*

**Sen. Bule:** Madam Temporary Speaker, I said; let us call a "spide" a "spide"; a spade a spade, not a spoon, but a spide. Okay? It was a slip of the tongue.

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

**Sen. Bule:** I am saying that always when we come to this---

*(Loud consultations)*

**The Temporary Speaker** (Sen. Ongoro): Order! Order!

*(Sen. Karaba stood up in his place)*

Sen. Karaba, what is so out of order?

*(Sen. Karaba spoke off record)*

**Sen. Bule:** Madam Temporary Speaker, anytime we talk of issues, let us not use a point which is not there. I have been hearing some learned Senators talking of something which is not there, because we are talking about teachers' salaries, and teachers need to be paid. If a Senator is mindful enough, let him contribute in the problem solving process, but not just talking something which is irrelevant, like talking about laptops, which we had discussed some weeks back. Today, we are here to support the teacher's demand for payment of their salaries and we actually plead--- I beg our Executive to take this issue seriously because we are parents; we have our people there. Like me, I even employ ten teachers from my pocket.

*(Applause)*

I have given two teachers appointment letters to go and teach the people down there; I want everyone to take this example. Sen. (Dr.) Khalwale should not only take issues and oppose them. Let us take the important part of the Motion that you are discussing. It is not only the Executive to blame, but every one of us has contributed to this problem. In fact, the previous Government is the problem, caused by the Teachers Service Commission (TSC), the agent of all these problems that we are encountering today. We wanted to solve this problem today. We fail to plan, and we do not plan to fail. You are the one to plan for our future; you are the ones who have to plan for our children. Let us negotiate; let us discuss the problem seriously and say this is the route; this is how we will deal with this problem" because the Senate is composed of mature leaders. The Senate is the Upper House; the Senate is the House where things are resolved. The Senate is actually not like the House of MPs, where you heard the MPs being called 'pigs.' We do not want to be called pigs like our friends there.

So, please, we want our teachers to be paid; I want our principals to take note of this seriously, because if I am employing ten teachers from the little salary that they have given me, what about our Executive, who are able to employ hundreds of teachers from their pockets? Why can they not take this issue seriously and pay teachers enough salary so that we can take forward our lives so that we can, at least, get learned Kenyans?

Thank you, Madam Temporary Speaker.

*(Applause)*

**Sen. (Prof.) Anyang'-Nyong'o:** Madam Temporary Speaker, I agree with the Senator who has just spoken that we need to solve the problems, and I think I am going to try to be part of the solution. But, first, let me try and correct Sen. Murungi. I think populism just came to an end in Latin America with the passing on of Hugo Chavez.

Latin American Governments are now very reformist, very neo-liberal and I think populism has moved more to Africa than anywhere else.

After having said that, Madam Temporary Speaker, I agree with our colleague Senators that we need to invest in our children---

**The Temporary Speaker** (Sen. Ongoro): Just a minute, Sen. (Prof.) Anyang'-Nyong'o. What is out of order, Sen. Mbuvi?

**Sen. Mbuvi:** Madam Temporary Speaker, can the Senator repeat himself? I have heard him saying "Rachel Shebesh;" I do not know---

*(Laughter)*

**The Temporary Speaker** (Sen. Ongoro): Sen. (Prof.) Anyang'-Nyong'o, did you, by any means, mention the name of hon. Shebesh to the annoyance of Sen. Mbuvi?

**Sen. (Prof.) Anyang'-Nyong'o:** No, no, no, Madam Temporary Speaker. I said 'Hugo Chavez,' not "Rachel Shebesh"!

*(Laughter)*

Having said that, Madam Temporary Speaker, let me try and make the following proposal. I agree that we need to look at the conditions of work and service for teachers. That is the most important issue. Indeed, we need to do this in a bipartisan way because this is a national problem. The solution will come from a bipartisan process.

Madam Temporary Speaker, in a bipartisan solution, you will realize that there are two areas in which we have had a lot of Commissions since Independence; it is the area of education and land. I remember soon after Independence, we had the Ominde Commission and other Commissions have followed, like the James Mwangi Kamunge Commission, and so on. You can count a lot of Commissions on education, which means that education is a major problem, just as land is.

Having said that, Madam Temporary Speaker, if you look at the recommendations of most of these Commissions, they have always been bipartisan or national. One of the things we must realize at the moment is that if you are the Minister for Finance and you are faced with teachers demanding salaries, and you have a finite budget, you have to look at your budget and decide; where am I going to get the cuts from to pay the teachers, because the budget is finite. Sen. Mugo knows that this is what we did in the Cabinet; we looked at the budget and asked: "Where can we make the cuts to pay the teachers and the medical professionals?" Those who are making the proposal that the cuts should come from the laptop initiative are not against the laptop initiative. They are only saying that given that the budget is finite--- The amount allocated for purchase of laptops can be spent now to solve the problem while in future we look at how we can have this laptop agenda progressively. In any case, we should not just look at it as laptops. We should have looked at it as an IT education for our children. That education is very important and I am proposing that in this bi-partisan approach we sit down with Treasury and decide where the cash is going to come from. That is the most important thing that I wanted to say.

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

Sen. Sonko, Mike Mbuvi! Before you proceed, you rose on a point of order and you thought that Mhe. Shebesh was mentioned. Are you by implication gagging all Senators never to mention that name? Or is it a preserve only for yourself or what did you mean?

**Sen. Mbuvi:** Not a preserve, Madam Temporary Speaker. I did not get the hon. Senator. I just want him to repeat.

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

**An hon. Senator:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): Senator, you were interrupted and we had reduced the talking time to allow at least two more Senators to contribute to this before we close. Kindly, Senator, please take your seat.

Proceed, Sen. Sonko and you have exactly two minutes.

**Sen. Mbuvi:** Thank you, Madam Temporary Speaker. First and foremost, I support the teachers' strike as provided for in Article 37 of the Constitution. They are entitled to peaceful demonstration. I know the pain the teachers are facing. My own children went to public schools, the first born went to Buruburu Girls High School which is a public school. My second born went to Our Lady of Mercy which is in my former constituency. The issue of payment of teachers' salaries and the issue of laptops are two different issues. Allow me to defend our Government. You have heard the remarks of other colleagues who have spoken here. My friend or my *shogga*, Sen. (Dr.) Khalwale, he is my *shogga* just like his former boss. The former Prime Minister was my *shogga*. *Shogga* is a friend and not abusive language.

**The Temporary Speaker** (Sen. Ongoro): Order, Sen. Sonko! You started debating in English and you have to continue in English. Can you clarify the word that you have used?

**Sen. Mbuvi:** With all due respect, if I put the word *shogga* in English, it will be abusive word.

**The Temporary Speaker** (Sen. Ongoro): But you have to go by the Standing Orders. Do not deviate.

**Sen. Mbuvi:** Thank you, Madam Temporary Speaker. My friends who are here to criticize the Government and the laptop issue, I would like to challenge them and I repeat that this is a digital Government.

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Madam Temporary Speaker. Is the hon. Senator correct to say that those who have talked about the laptop issue are criticizing the Government when I have made it very clear that we are making a proposal as to where the amount of money that is to be paid to teachers can come from? All that the Senator can say is to propose where other funds can come from.

**The Temporary Speaker** (Sen. Ongoro): Sen. Sonko, apart from clarifying that, I ruled that you must withdraw that part of your statement.

**Sen. Mbuvi:** Madam Temporary Speaker, I am withdrawing but what I mean is that we should not politicize the laptop initiative by the Government. The reason why I am saying this is because this is a digital Government. We had all the time to prepare our people, our students, our parents and our schools for this digital moment. All colleagues

who have criticized the laptop initiative were Members of Parliament or Cabinet Ministers in the former Government and they had enough time to do---

**The Temporary Speaker** (Sen. Ongoro): Your time is up.

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. Because of time, I will be very brief. The issue of digitization and laptops cannot fail to arise when we are talking about teachers who need to be paid and looking for solutions and finding ways where we think there are resources that can be diverted to teachers who are very important in this society. There is no other society apart from the Kenyan society where there is such inconsistency in education. In no part of the world would you hear that students or children have not gone to school either at primary, secondary or university. This is something you only hear about in Kenya. It has stayed for too long without being addressed and it is a terrible culture.

We see and hear teachers being discussed in open and derogative ways and yet these are responsible members of this society who are also socializing with our children. We are also bringing in the culture of strikes. What is going to happen to the future generation of Kenyan children who are used to knowing that unless you strike, you are not able to do anything and that an agreement that was made as far back as 1997 has not been honoured and yet not enough concerted effort is going into honouring it? We do not want to see the Atienos crying in this country. We also have to remember that the issue of social class indicates that there are certain children in private schools who continue to go to schools.

Thank you.

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, I rise to support this Motion calling upon the Government to take the matter at hand very seriously. This is a very important time in the calendar of education in Kenya where we are now preparing children for mocks both in primary schools and secondary schools. At the end of this year, examinations are going to start. They are just barely three months ahead of us. Any nation that does not take teaching very seriously is a nation planning to fail badly. For example, in education, the teacher is the pillar. Just like the Bible says: The stone that the builders rejected became the cornerstone for the house. If we must get things right in Kenya, our teaching force needs to be remunerated properly and at the same time, we must also employ new ones to fill the gap that exists.

I support this Motion and say that as early as tomorrow, if possible, the Government should sit down with the teaching force and the Kshs350 million I heard Cabinet Kazungu Kambi saying that they will build a polytechnic per constituency which translates to Kshs101.5 billion, is quickly transferred to the Teachers Service Commission before we do any building if he has that money.

Thank you.

**Sen. Mungai:** Thank you, Madam Temporary Speaker for giving me this opportunity. I will try to be very brief since I only have a minute. I am surprised that from 1997, these allowances have apparently not been paid. When I also look at the various governments that have been there, I am surprised that even last year there was a coalition Government that never addressed this issue. I am in solidarity with the teachers especially those from my county, and I am requesting the Government to prioritize this matter so



that learning in our schools can resume and also for the teachers to see that the country respects their profession.

I beg to support.

### **ADJOURMENT**

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, it is now time for interruption of business. The Senate stands adjourned until tomorrow, Thursday, 27<sup>th</sup> June, 2013 at 2.30 p.m.

The Senate rose at 6.30 p.m.