

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 3rd July, 2013

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

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

### PRAYERS

#### QUORUM CALL AT COMMENCEMENT OF SITTING

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

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

I have been informed we do not have a quorum. I order that the Division Bell be rang.

*(The Division Bell was rung)*

Hon. Senators, we now have a quorum. Let us proceed with business.

### NOTICE OF MOTION

#### APPROVAL OF SENATE CALENDAR FOR THE FIRST SESSION

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, pursuant to Standing Order 28, the Senate approves its Calendar (Regular Sessions) for the First Session of the Senate, as contained in Appendix B.

**The Speaker** (Hon. Ethuro): Senator Mbura!

RESTORATION OF KENYA'S COMPETITIVENESS THROUGH  
EXPANSION AND MODERNIZATION OF INFRASTRUCTURE

**Sen. Mbura:** Mr. Speaker, Sir, I beg to give Notice of the following Motion:-

THAT, acknowledging that a key pillar of Kenya's economy includes the provision of an outlet to the sea for many landlocked countries; recognizing that most of these countries are forced to rely on the extremely inefficient Port of Mombasa and Kenya's poor road and rail systems for lack of an alternative; deeply concerned that several countries in the sub-region are seeking alternative routes to the sea for export and import of their goods; noting that our railway network has literally collapsed leading to heavy road traffic congestion, rapid wear and tear and increase in accidents on our roads as bulk of cargo is transported by road; the Senate resolves that the National Government prioritizes the restoration of Kenya's competitiveness through the expansion and modernization of the Port of Mombasa, the overhaul of the Kenya-Uganda Railway to a modern standard gauge line, and commences the construction of the Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) Corridor project and eliminates corruption in the sector.

**MOTIONS**

DECLARATION OF ALCOHOL AND  
DRUG ABUSE A NATIONAL DISASTER

THAT, aware that the Government of Kenya recognizes the threat of alcohol and drug abuse; appreciating that the National Authority for 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 on 2.7.2013)*

*(Resumption of Debate interrupted on 2.7.2013)*

**The Speaker** (Hon. Ethuro): Who was on the Floor? Is there any other contributor?

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I rise to support the Motion by Sen. (Dr.) Wilfred Machage. I wish to commend him for bringing such an important Motion at such an appropriate time in the history of our country.

Mr. Speaker, Sir, when Sen. Machage was moving this Motion yesterday, he gave statistics that have to do with what alcohol and drug abuse have done to Kenya. They are statistics that are in the public domain and should worry everybody very much. As I sat yesterday listening to the very able contributions from honourable Senators, it continued to worry me that we have taken so long to see our country go down the drain, as the abuse of drugs and alcohol continues to ravage the youth, even not the so young in our country and the strong people in this nation. If you analyse what drug and alcohol abuse have done to this country, I can challenge and ask anybody sitting in this House this morning to say which family has not been directly affected by this menace. It is like HIV/AIDS, where you know somebody or people who are very close to you, that are affected directly by the scourge.

Mr. Speaker, Sir, since HIV/AIDS was made a national disaster, we have seen how much action has been taken, both at national and international level. We have also seen that, that action has got very positive results. We need to be thankful to those people that saw it fit to declare HIV/AIDS a national disaster and almost an international disaster. Virtually everybody supported this Motion yesterday and saw the wisdom of it.

Mr. Speaker, Sir, I represent Murang'a County in this Senate, and I know that it is not any more ravaged than other counties. But if what I see in Murang'a is anything to go by, and if that is what is happening in all the other 46 counties, then I believe that each one of us should support this Motion without equivocation. In the Ninth Parliament, I was privileged to be a Member and brought a Motion at that time which was for the banning of the sale of alcohol in sachets. This is because the sale of alcohol in sachets that bore many names and also their sizes and the fact that they could be hidden in school bags--- You could see people like the gentlemen sitting in this Senate having them in the pockets of their coats and drinking continuously. It destroyed many people. When I brought that Motion, what I remember vividly is that when it came to the Floor of the House, the then Minister for Trade took interest and contributed very positively to it. At the end of it all, he took it over and the ban on the sale of alcohol in sachets was gazetted and to date, we do not see alcohol being sold in sachets in any part of the country. I know for sure that it saved or helped to save many of our school-going children and men and women, who would otherwise look responsible in public, but when they get drunk, you do not know, because of the fact that they were able to conceal that factor.

Mr. Speaker, Sir, if we have the abuse of alcohol and drugs declared a national disaster, then we expect that every arm of the Government, at every level, both national and county, is going to focus on this issue and come out with solutions, like it has already started in some counties; where the sale of illicit brews and abuse of alcohol is being taken very seriously. One wonders how alcohol that is bottled, like in plastic bottles, finds its way and is sold over the counters in bars, in every place, and it has passed the test of the Kenya Bureau of Standards (KeBS) and all the other authorities that we have in this country, when indeed what is being sold is poison. You will find poison on the counters of bars in Murang'a and all other counties, and it passes as alcohol or brew. It is not normal for someone to take less than half a bottle and he cannot remember his or her name. Sadly even women have been sapped into this and we have as many alcohol and drug abusers in men as we have in women. This is not a gender issue, but a national

issue. One of the biggest challenges is how some of these national institutions are working. When do they inspect and how do they pass these things?

Mr. Speaker, Sir, there is the issue of corruption. Corruption, again, has played a very major toll in this destruction that we are seeing in the youth of our country. How are these alcohols manufactured? How do they find their way to the counties? How do they cross the borders between counties and then find themselves in there, when mothers, fathers and everybody is crying because they can see the destruction that has been caused? But even as we talk, never mind that there is the Mututho Law, if you go to any place, you will still find people lying in gutters, and they do not know where they are because they are dead drunk. That is not a normal thing because that cannot be alcohol, neither is it a drug. It is pure poison in a bottle that has been passed by the Kenya Bureau of Standards. I think that this now becomes a very big challenge to the county governments, because they are closer to the people. This was one of the major purposes of devolution; to bring the Government and institutions much closer to the people, so that they are able to complain and bring out these issues much closer home, because they are real.

Mr. Speaker, Sir, there is also the issue of licensing. We know that all the counties have the budgets and monies that they got as allocation from the national Government. These budgets are in deficit. How are they going to bridge these deficits? One of the ways to bridge these deficits is by licensing. I hope that among the licences that the county governments are going to give, they are not going to put emphasis on collecting licence fees from people who sell alcohol. I hope that they will be very careful because there is always the temptation that the bars in all those towns are a source of income. They should not be looked at as sources of income, because if they do so, then the county governments in the zeal to collect revenues from licences will overlook the more important issue of trying to see to it that these pubs are not licensed. We must adhere to the law. The Mututho Law, in my view, with all its failings, should be reviewed, so that the best practices out of it come out, and we are able to help our counties grow.

Mr. Speaker, Sir, there is the issue of rehabilitation. If anybody cared to look at the Sunday Standard of last Sunday, there was a story of a young lady who has gone to hell and back, out of alcohol and drug abuse. That lady has written a book in which she talks about rehabilitation and the need for us to look at this issue seriously. Since she has come out openly to talk about it, we need to talk about this issue of alcohol and drug abuse openly and take rehabilitation seriously. I talk about that lady because I know her. She is from my county and I am very proud that she has been able to come out, talk about it and even author a book about it because I am sure that she is going to help a lot of people.

Mr. Speaker, Sir, institutes like Asumbi Institute for Rehabilitation and all those that are there, should be emulated and multiplied. They should be in as many counties as possible. There should also be inter-county exchanges, so that our young men and women can agree to go to these rehabilitation centres. Unfortunately, there are virtually none in the counties. I want to encourage the county governments, in their budgets, to ensure that because of this national disaster, they have sufficient number of rehabilitation centres as is necessary, so that our young men and women can, at least, go for rehabilitation. If you

look at the case of Njeri, the young lady who wrote her own story, she is gone through it and is now rehabilitated, and is helping other people to get rehabilitated. So, it is possible and can work. But it will only work if all of us take it in and we take this Motion seriously and have the Government of the Republic of Kenya declare drugs and alcohol abuse a national disaster.

Mr. Speaker, Sir, on my part, I would have said: Alcohol, drugs and other substance abuse. This is because we know that there are other substances that are coming up that are not designated as drugs, yet they continue to destroy our children. Shisha is one of them and it is smoked openly these days. People think that it is fun smoking that thing in the evening, because it is supposed to be drug-free. But NACADA has shown that one part of that thing – I think that it is called Sasha or something---

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

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I will take the information if my time is not being counted.

**The Speaker** (Hon. Ethuro): Your time will be counted for sure.

**Sen. Haji:** Can you include *miraa* also?

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I wish that the hon. Senator was in the House yesterday, because *miraa* is one of the things that were counted as a substance that has not been designated as a drug, but continues to be sold in this country. That is why I would have proposed that we amend this Motion to say: “Alcohol, drugs and other substance abuse.” This will ensure that *miraa*, shisha smoking and all those things that are destroying our children in the name of fun, and they become addicted in the name of pursuit of happiness are curbed once and for all, so that we can continue to have a healthy nation and hope to achieve our Vision 2030.

Mr. Speaker, Sir, I support the Motion.

**Sen. (Eng.) Muriuki:** Mr. Speaker, Sir, thank you for giving me this opportunity to support this very important Motion. As highlighted by the previous speaker, we have the statistics because at least any one of us knows someone who is affected either in the family, close to the family or from a friend’s family who has become a zombie. This is what we are experiencing. Most of our young people get frustrated either because they are not doing so well in education and find solace in drugs and alcohol or because of unemployment. Unemployment is a major contributor to this. That is why I support this Motion because if the Government takes it up, it will be able to put together issues of unemployment and what happens to people, especially the youth when they are not employed. We have very many people both in the rural and urban areas who do not have jobs and do not know what to do. So, they try to get solace in drunkenness so that they can forget their woes for some time. If any of this is close to your family, probably they have become a total zombie and cannot work even if the job is available. When someone becomes like this, he cannot work or cannot function. So, it is very important for the Government to take this matter seriously.

It is unfortunate, the incident we heard about the Kenyan officials in Nigeria. I do not know what happened but whatever it is, it is unfortunate that when the Government is taking some major steps, some other problems crop up. Some West African countries see it differently and support some of those characters who come into our country

propagating what we are fighting in this country. The Government needs to also put hypocrisy aside. There is no way they can tell us that they can identify individuals from West African countries and other countries to the extent that they can hire a jet to deport them but do not know Kenyans who do the same work. I find this to be either total hypocrisy or corruption of the extreme order. I do not think that the Government of Kenya, with all the intelligence it has and the security set up in the country is not aware who the drug barons are. If the Government really wanted to take action, they would do it.

Declaring this drug abuse as a national disaster will hopefully wake Government institutions which are mandated to deal with this kind of problem. They will come out in the open and leave no stone unturned. We should do away with some people in this country, who because of their status, we cannot touch them. They have money and are able to buy their way around. By declaring alcohol and drug abuse a national disaster, I hope the Government will take this matter seriously so that anybody, it does not matter who it is, whether you are a Senator, Government official, legislator or a rich person, will be dealt with by the Government departments which are mandated to make sure that our society is free from drugs and alcohol abuse.

Mr. Speaker, Sir, last but not least, we have this issue of illicit brews. What we normally see in the media where Government officials, that is, District Commissioners or chiefs, raiding places where alcohol is being manufactured and they pour it down--- I do not think that is an effective way. The job of a Government official is to make sure that it does not happen but if you wait until it has happened and you go to pour the stuff down, it is not effective. We do not hear whether it was stopped or if anybody was jailed or fined. Last night we had very elaborate action of District Commissioners, chiefs and others busy pouring stuff in the river. Then two kilometres down the line, they go and pour some more and another one kilometre down the line they go and pour some more. This is nonsense. How does the Government know where the alcohol is hidden? They even invite the media. This means that the Government is fully aware about what is happening. Otherwise how does one invite the media all the way from Nairobi? I think there is some hypocrisy in the Government which must stop.

With those few remarks, I beg to support this Motion very strongly.

**Sen. Nyakeriga:** Bw. Spika, asante sana kwa kunipa muda. Kwanza nashukuru daktari kwa kuleta Hoja hii kwa sababu ni ya maana sana. Ningependa kuunga mkono Hoja hii kwa sababu ukiangalia katika familia, utapata watu wanakosana kwa sababu ya kelele ambayo inasababishwa na dawa za kulevya na pombe harama. Maafa katika jamii yamezidi kwa sababu ya madawa ya kulevya. Utapata kwamba mtu akiwa safarini, anapewa tu peremende na kisha anaaga dunia na baadaye inapatikana kwamba alipewa madawa za kulevya.

Bw. Spika, ukiangazia juu ya pombe haramu ya kumi kumi, utapata kwamba inafanya watu wengi kupoteza macho ama kuwa vipofu. Kwa upande mwingine, tunaona kwamba pombe na madawa ya kulevya yanaathiri sana uchumi kwa sababu pesa nyingi hutumika. Hii inaweza kuleta shida katika familia.

Naomba kuunga mkono Hoja hii na kusema kwamba yafaa tuangamize madawa ya kulevya na pombe haramu.

**Sen. Nabwala:** Mr. Speaker, Sir, thank you for giving me this opportunity to contribute to this very important Motion. I stand to support this Motion which is very important because it is calling upon our Government to declare drug abuse and alcohol as a national disaster. Before we do that, we need to go into the root cause of why people or our youths resort to drugs. First and foremost, it is because they are idle and are not engaged in gainful employment. This problem needs to be tackled at county level. That is where we find that our youths do not have employment and in most cases when they wake up in the morning, they do not have anything to do. What they do is get into groups and before they realize it, they will be taking drugs which leads to addiction.

Drugs are very harmful to our bodies. We read in the media sometimes back where people drunk alcohol and went blind. In fact, in some cases, most of them died. Unfortunately, you will find the same people still want to drink. Why? May be it is because they are stressed or depressed. Unless we know the cause of this problem, it is difficult to declare drug abuse and alcoholism a disaster. Drug abuse and alcoholism are linked to crime. People want to get rich and when they do not have money, they look for it. One way they get this is through burglary or killing like it is happening in some counties like Busia, Bungoma, Trans Nzoia, Mandera and so on. People are being used to kill. They are given money, then they take some drugs or alcohol so that they are not in their senses when carrying out the crime.

Mr. Speaker, Sir, regarding rehabilitation, you will find that rehabilitating someone who is taking drugs, it is very expensive. There are a few clinics where you can take your person and this is very expensive. Sometimes, families are forced to take their people to Mathari Hospital which is also very far from the counties. Therefore, I am suggesting that we establish rehabilitation centres in every county so that it is easier to rehabilitate our youths. We are saying here that we declare drug abuse and alcohol as a national disaster but how do we deal with the problem of those who are already addicted to drugs?

Mr. Speaker, Sir I have talked about the link between drugs and alcohol. Recently, there was as a story in the newspapers where a lady's drink was laced in a bar and she found herself in a strange place and she had been raped. She went to the police to report the next morning about the rape but she was told that they will investigate. This is not helping our ladies. This is gender because it affects gender. A woman is raped and in distress but when she goes to the authorities, she is told to wait for investigation. After that, the lady will go home but what happens next? The Government needs to take stern action by looking for the drug barons who want to grow rich overnight. We know them, they can even be among us. They are the people killing our youths and I think we need to create that awareness among people so that if you know someone who is dealing with drugs, you should inform the authorities through a hotline without identifying yourself because if you do, you will find yourself dead or in a catch 22 situation.

Mr. Speaker, Sir, people also use drugs as a pastime or stress reliever. At the county level, you will find a man whose family does not have food. So, for a man to go home, he should have food. If there is no money, the man goes to drink so that when he goes home and the wife confronts him, he goes down on the chair to look drunk. The cost of living out there is very high and it is not helping families. Families are hurting and we

should not be living in denial. I personally know a family which has been affected because of drugs. Most of the time people are found to be sick because the liver is affected and advised to stop drinking but unfortunately the person is usually addicted. So, I just want to urge our Government to get to the root cause of why people take drugs and alcohol because that is where the problem is. We can condemn it today but unless we solve the problem of unemployment and make sure that we are not taxing bread and milk, things which are important to the families, you will find that the heads of families are resorting to drink because they cannot face their families.

With those few remarks, I stand to support and hope that---

**The Speaker** (Hon. Ethuro): Your time is up, Senator! Now the remaining time is for the Mover to reply. But I will request the Mover as he proceeds, to donate at least a few minutes to Sen. (Dr.) Zani and Sen. Adan who have persistently been up.

**Sen. (Dr.) Machage:** Thank you Mr. Speaker, Sir. I agree to donate my time. I am only left with four minutes. Distribute the rest of the time to them.

**The Speaker** (Hon. Ethuro): So, Sen. Zani, three minutes!

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir, for this opportunity to contribute to this very important Motion. I think it is the basis or really where we go wrong in terms of all the other pillars we think about. Our Vision 2030 is not going to be a reality in terms of the social, economic and the political pillar when we have youth, for example, who cannot go to school and stay in school and when we have people who cannot work and gainfully be employed because most of them are drunkards.

Certain organizations have tried to come up with policies so that they actually try to help those who are in those organizations so that they can be assisted to come out of that particular situation. It is unfortunate in Kenya that despite the Mututho laws, people have continued with their drinking habits, really showing resistance to this whole idea and the fact that many of the youth get into it because of peer pressure and yet the consequences are so dire. It really puts this nation in a very difficult situation.

Mr. Speaker, Sir as much as organizations like NACADA have tried to put forward a proposal where they say that they are going to caution and go into research and dissemination and the various efforts to control, the Kenya Police Anti-narcotics Drugs Unit have also tried to put a lot of effort into this area, they have not been completely successful. The consequences have been mentioned and I will not go into them. But the preventive measures, especially those to do with the rehabilitation are very expensive and the average Kenyan is not able to access those facilities.

I have been requested to make an amendment to this Motion as follows:-

I beg to move:

THAT the Motion be amended by deleting all the words appearing---

**The Speaker** (Hon. Ethuro): Order! Sen. Zani your time is up. Secondly, you are trying to do an illegality. You do not contribute to the Motion and then you go ahead to amend it.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, after contributing, I realized it should be amended.



**The Speaker** (Hon. Ethuro): You should have brought the amendment and then you contribute to it. I will ask Sen. Kanainza to bring the amendment. You have done your bit. Sen. Kanainza, speak to the amendment only.

**Sen. Kanainza:** Thank you, Mr. Speaker, Sir, for this opportunity. I actually wanted to contribute because every Senator has been touching on the youth and it is true drug and alcohol abuse---

**The Speaker** (Hon. Ethuro): Order Sen. Kanainza! You move the amendment and then you contribute to it. That is all!

**Sen. Kanainza:** Mr. Speaker, Sir, I beg to move that the Motion be amended by deleting all the words appearing immediately after the word “alcohol” in the sixth line and inserting the following words; “drugs and other substance abuse a national disaster”.

**The Speaker** (Hon. Ethuro): You talk to it for a minute! You remember you have borrowed time.

**Sen. Kanainza:** Mr. Speaker, Sir, it is true that apart from alcohol and drugs, we have other substances that are affecting our young people in the society. Drug abuse is a growing problem among teenagers that has led to serious consequences well into their adulthood.

I beg to move.

**Sen. Adan:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to second the amendment. A lot has been said, but I think we need to look at the legislations that deal with licensing of alcohol. We should introduce heavy penalties for drug barons and those who are found to be guilty of peddling drugs and other substances.

Secondly, I think to some extent, we should blame parents. From my experience, you will find some parents carrying their small kids to restaurants where they sit with them on the same table and drink alcohol. What would you expect from that child? In your absence, he or she will try to taste that alcohol. In future, we should introduce some restrictions in the way we train our kids. Some parents even carry alcohol to the house and when their kids come of age, they break into those stores and drink that alcohol. Who are you going to blame? We should also blame ourselves as parents.

I beg to second.

*(Question of the amendment proposed)*

*(Question that the words to be left out  
be left out, put and agreed to)*

*(Question that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question of the Motion as amended proposed)*

**Sen. (Dr. Machage):** Mr. Speaker, Sir, as I endeavour to thank every Member of this House for the support you have given to this important Motion, I call upon every citizen of this country, every donor in this country, every businessman and the

Government to take heed of what the Senate has said. This is a disaster in the making. It is an epidemic being rolled out. It is our duty to abhor and condemn this status and actually take action to see to it that our youth and the population of Kenya in general has a bright future.

I do not have to over-emphasize the importance of this declaration which is actually a national disaster. I urge Senators to pass the Motion as amended.

I beg to move.

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:-*

THAT, aware that the Government of Kenya recognizes the threat of alcohol and drug abuse; appreciating that the National Authority for 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, drugs and other substance abuse to health and the economy of the country; the Senate urges the Government to declare alcohol, drugs and other substance abuse a national disaster.

#### ESTABLISHMENT OF ONE-STOP PUBLIC COMPENSATION CLAIMS BUREAU

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

THAT, aware that the State and other Government agencies have been the biggest impediment to payment of dues to Kenyans, including retirement benefits, court awards and insurance claims; recognizing that such delays amount to violation of human rights and undue punishment; noting that claimants spend a lot of money and time travelling to Nairobi and other far off destinations pursuing the claims; acknowledging that the purpose of devolution is to take services closer to the people; the Senate urges the national Government to immediately establish a one-stop Public Compensation Claims Bureau to enable victims of delays and all future claimants to lodge their claims for immediate verification and subsequent expeditious settlement through the nearest commercial banks and to ensure that legally confirmed dues are settled within six months of the award.

Mr. Speaker, Sir, as leaders and representatives of the people, we should all be familiar with situations in which *wananchi* come to see us, either singly or in delegations, seeking our intervention and support to have their dues and other entitlements paid to them by their former employers, Government or other public agencies and even by private insurance companies. In my career in politics, I have witnessed and continue to witness many such cases. The majority of the cases involve claims for payment of benefits both from Government and other private entities, workman's compensation awards by courts in respect of accidents taking place in various places of work, claims in

respect to payment of pension emoluments, valid court awards, compensating individuals for wrongful dismissal from their jobs, payment of insurance claims following court awards and many other similar claims.

In my experience, many of the claimants, even where courts have given awards and no appeals are pending, are still subjected to long delays. I am aware of delays which have taken as long as ten years and more. Sometimes those claims are not even settled at all. In pursuing these claims, the victims often travel long distances from their areas of residence to come to Nairobi, incurring huge expenses. But even after doing so, they are still told to wait or come back another day because the files cannot be traced.

Mr. Speaker, Sir, imagine a Kenyan who lives in the northern part of Turkana travelling to Nairobi to pursue a claim. He or she spends a lot of money because they have to find accommodation in Nairobi which they do not know well, all in pursuance of claims. Sometimes they have to make these trips many times. This is punitive and even torturous. It drains them of their finances and exposes them to unnecessary risks such as road accidents. It compromises their personal comfort and their well being. The long delays starve victims of their families' resources leading to deterioration and break down of their social status, compromising their financial stability. This compromises their financial stability to the extent that some of them do not send their children to school or even meet their basic obligations of supporting their families. I am aware of some who have sold their land and family investments to pursue these claims. I am also aware of cases where people have struggled for years to have these claims settled. Some even die before the claims are settled.

We cannot sit here and allow this to happen to our people. The Constitution of Kenya 2010 prohibits ill treatment of citizens. In the Bill of Rights, human rights are to be upheld strictly to promote dignity, security and safety of all Kenyans. Ill-treatment is not only restricted to physical torture or illegal detention. Other actions that subject citizens to psychological torture, financial distress, physical strain and social deprivation constitute serious violations of basic human rights. These lead to stress and mental disorder, they break families and businesses and often lead to crippling indebtedness.

The long delays in settling valid claims are unacceptable because they traumatize our people and subject them to demeaning experiences. The objective of this Motion, therefore, is to advocate for a mechanism which will facilitate fast and efficient settlement of claims. Let us move to a self propelling mechanism to expedite this payment in a manner that will be as humane and as convenient as possible. This is a mechanism that will also be affordable and which will be close to the homes of the claimants.

The mechanism I am proposing is the establishment of a one-stop public compensation claims bureau in each county. Once this is done, all that victims need to do is to ensure that their claims are validated or verified through courts or other acceptable mechanisms. Once the claims are verified, it should be easy to access payments in a matter of hours or at the very worst, in a matter of a few days.

Determining what is owed as a retirement benefit or compensation for wrongful dismissal of an individual from his job or compensation for accidents that occur at places of work or compensation due as a result of a road accident is a matter that is not complex

and should not take long to sort out. After determination and if all appeals have been settled conclusively, payment to victims can be done in a matter of hours or in a few days through commercial banks or other accredited agencies within the counties.

I believe that if this Senate approves that mechanism, it will compel institutions to develop their own mechanisms and ensure that claims are settled in the shortest time possible. Institutions know that if these matters have to be sorted out through bureaus, they could be surcharged for the expenses incurred in taking the matters to the bureaus. Here, we have a situation where we will improve efficiency and make organizations more responsible in terms of ensuring that claims are settled when they are supposed to be settled.

I appeal to hon. Senators in this House to support this Motion which is in line with the spirit of the Constitution and whose primary motivation is to ensure claims by *wananachi* are settled speedily and in a manner which is simple and affordable.

I beg to move and request my colleague, hon. Abdirahman Hassan, Senator for Wajir, to second this Motion.

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

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

**Sen. Abdirahman:** Thank you, Mr. Deputy Speaker, Sir. I want to second this Motion by stating the fact that this is an area which has been of concern to many Kenyans including leaders. I remember a similar thing came up in the Ninth Parliament. Motions can be passed at times but if the relevant agencies including Government do not think of ways to enforce them, that becomes a problem.

The Pensions Department, for instance, is a stone throw-away from the Kenyatta International Conference Centre (KICC). If any of us walked over there, they would find what Sen. Obure is trying to bring out for us to understand.

Yesterday, two retired chiefs came to my office. They are looking for their retirement benefits. They told me that they are currently putting up in Eastleigh and that it was becoming very expensive for them to stay around. Can you imagine a chief coming from the furthest end of northern Kenya hanging around for the past 21 days, trying to get his file from the Office of the President first, and then trailing it all the way to the Pensions Department which is across the road? This is the highest order of inefficiency on the part of those charged with the responsibility of ensuring that ordinary citizens do not suffer.

We have a lot to learn from the idea of one-stop shop. This is happening in the Ministry of Trade where there were very many barriers and requirements for licensing, 21, to be precise, that complicated facilitation of trade. It was not difficult to solve this because at one point, the Kenya Investments Authority took stock of this and shortened the process. The same thing can be replicated by the Pensions Department. People have been giving bribes at the Pensions Department to find their files. I do not think that is the right thing to do. We can do a lot to improve the payment of claims, either for retirement benefits, court awards or insurance claims not even to six months as the Motion suggests

but these can be facilitated and paid in a maximum of three months, That way, we will have saved Kenyans a lot of time and money which would have otherwise gone into something important.

Mr. Deputy Speaker, Sir, now that we have devolved to county governments, the Pensions Department, for instance, should be the first to devolve to the county governments so that once claims, as proposed by Sen. Obure, are verified, they are paid easily in a matter of weeks.

Finally, capacity should be improved at the county level so that they take charge of some of these responsibilities. Before I conclude, I will say that before payments are facilitated, particularly for members of the service who may have died, their families suffer a lot in terms of getting these things processed with the public trustees. We know that the Pensions Department has done a lot of reforms but I do not think we have done a lot of enforcement.

I second.

*(Question proposed)*

**Sen. Kajwang:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Motion. Let me start by saying that most Government agencies know exactly when an employee will retire. They even give a year's notice prior to the retirement date. The note shows that next year, you will retire because you will have either reached the age of either 55 or 60. So, we cannot say that they do not know. In fact, they stop your salary forthwith when that time reaches.

At times, I wonder why the file disappears because it was available when they were stopping your salary pronto. But immediately your salary is stopped, your file disappears. If you went to the Office of the President and even looked for it for six months, you would not find it. If you went to any other institution, that would also be the situation. This is the problem in every other institution and because you are not in office, nobody will want to talk to you. You will realise this when you lose your seats. Immediately you become a former Senator, no one will seem to notice your face.

This is extremely painful now that you are also out of pocket. You are supposed to walk from office to office and the only other person you can go to is your Member of Parliament or Senator to sort you out. In fact, why can they not have a Cabinet for files of people who will retire this year so that immediately you come, they quickly pull it out?

The other thing they ask you to produce is your last payment slip as if they are not the ones who paid you and as if they do not have the records. And if they do not have the record and then they ask you for your national identity card, which they have always kept in your file for all these years you have been working. In fact, they will not pay you a coin if you did not have that identity card; they will not pay your National Social Security Fund (NSSF) claims if you did not have that identity card. But now, it is a requirement; bring your identity card and bring your last pay slip. In fact, sometimes it is more difficult for widows who do not find pay slips of their dead husbands, because we do not usually show them our pay slips.

(Laughter)

If you die accidentally and your widow or the children search for the pay slip, it is nowhere to be seen. Banks now even insist that before they give you a loan, you must show them the original pay slip. So, you probably took some loan there and that is why they cannot find the pay slip. Why must the Government insist on seeing the last original pay slip before any settlement is done? Some of these rules could be made easier so that people can access their claims.

The second thing I want to say – because I had this problem when my mother retired – is that she had so much problems of her file moving from Teachers Service Commission (TSC) to the Pensions Department. I think it took her two years. I had to move from one office to another; something had to be done here; something had to be done there; an officer has to be seen, and at that time, I was a Member of Parliament. Now, if your son is not a Member of Parliament and is not in Nairobi, you could have a lot of problems moving your file in your own department, which has employed you for 30 or 40 years. It is really a sad thing! I think it is painful that Kenyans have to go through this kind of suffering.

Mr. Deputy Speaker, Sir, if you go to court awards, it is even worse. You get a court award, you go to the Attorney-General; of course, the Attorney-General knows about it because he is aware of the judgment immediately it is given. You extract a decree and you pay a lot of money to get that decree certified, then the Attorney-General tells you “Now you can leave it with us; we will get you paid.” Of course, the Attorney-General is just the lawyer of the department which is supposed to pay you. Letters are written two years, three years, four years and no payment is done; and you really do not know where to go. Some very good lawyers have had sometimes to get the court to give certain orders that will compel the Attorney-General or that department that has refused to pay you, but it is expensive and it is unnecessary. Now, what can we do? I remember hon. Lotodo, when he was the Minister in charge of wildlife, there was a time when we asked him: “Hon. Lotodo, somebody has been killed by a lion and for eight years he has not been paid, although you had already said that you were supposed to pay him some paltry Kshs30,000.” Hon. Lotodo said: “I want to pay them, but I do not have the money!” The Government rarely budgets for these claims; they do not even know how much they are. In fact, we should find a way in which the Attorney-General can advise each department of the claims they must pay at the end of every year so that there is at least some budgetary allocation. But you will find that most Government departments do not receive any money from the Treasury for payment of these claims. They do not consider them important, yet most of these people have suffered loss because a Government department was wrong. Sometimes they have suffered loss because some wildlife killed your animals, your child or something. I come from the lake where crocodiles have killed a lot of our people, and when you try to get this compensation, the Government does not put any money in it.

In fact, the Motion should be a wake-up call; that the Government should treat claims like they treat international debts of the International Monetary Fund (IMF) – that they are the first charge on the Consolidated Fund – so that our people can know with

precision that when you get an award, you will most likely get your compensation within six months at most so that you can plan your life around that.

Of course, people should not be travelling long distances; of course, people should now be going to their counties to get these claims settled. But this can only happen if we find a way in which a Bill can provide on how this responsibility will be devolved, because if it is a responsibility that is devolved, then money will also be devolved so that these compensations are made. But if you just put an office – like if you put of a Public Trustee in Homa Bay, for example, but he has not received the money, then there is nothing they can do. The office will be there, the claimants will be going there every day, but there will be no settlement because there is no money that has been allocated.

So, I support this Motion because most of our people who come to Nairobi several times, first of all, they are unemployed. If you have a claim like this, you have been damaged beyond repair. In fact, you need repair, you do not even need compensation. When you have to come and bother your relatives to sleep in town here and still have to look for money, which you do not have, it is painful. It would be better if we have to go to our counties.

Mr. Deputy Speaker, Sir, I support this Motion and I wish that after this Motion has been debated, we can craft some Bill that can then clearly devolve this responsibility to the counties.

I beg to support. Thank you.

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

**Sen. (Dr.) Zani:** Thank you very much, Mr. Deputy Speaker, Sir. I also stand to support this very important Motion. I would like to start by saying that there are various State and Government agencies that are in charge of paying out benefits, and they usually have a particular structure and process that is put into place. Unfortunately, most of the time, that process and structure is not transparent; it exists probably only in their websites. Most of the time, you will find that the structures for collecting the benefits tend to be more integrated than the ones for giving out the benefits, especially at the time they are meant to be given. There are various benefits that we may be referring to, such as retirement benefits, disability benefits, medical benefits, NSSF benefits--- This is money that somebody has contributed knowing that at a particular time, they will need back that money. Therefore, it is very important that, that money is given at the right time, in the right way and with a lot of dignity to the person who has made that contribution. It is a well known fact that in Kenya, most of the time when it comes to claiming and getting back benefits, it becomes a tiring process. There is no clear explanation also as to where those funds are held and what those funds are used for. Do they accrue interest, for example, and how is that navigated across or how is that passed on as part of an added interest to the person who has made that contribution?

Usually, the processes are very cumbersome. It may include somebody having to write a letter, they will have to send a complainant form; most of the sites will say it will take only about a month, but we know it will take a much, much longer time. Even if it is court awards, for example, especially those that include insurance cases and where somebody has really gone through a very difficult time and expects that this is the time

they will reap from, their efforts, that process that takes a lot of time and that person continues with that specific suffering. If it is a disabled person, for example, they are not able to have that attended to immediately because they need the money to be able to do so.

There is also lack of information and no clear stated time lines in terms of action and feedback, and there are a lot of promises. This is what we are saying in this Motion; that somebody finds themselves pushed and tossed from one place to another, to and fro as they are making that particular claim. It is for no reason that people who put in their money so that when they need it, it can come to them in some form of benefit--- One of the things that show this is that in 2011, the Government allowed early retirees or those who opted out of employment to claim for their retirement early and within June of that year, there was a liquidity problem because everybody was actually looking for their money. That means that as people are putting in their money, they are actually putting it there for a reason and they expect to reap from it and utilize it when the time comes. It is indeed a violation of human rights, as it has been stated by the Mover of the Motion. It is very, very unfair when somebody has to go to and fro as though they are begging for that benefit, especially when they do not have the right information on where to go and in the process, incurring a lot of expenses as well. Sometimes it includes hiring of expensive lawyers, and that makes it even more difficult. There could be lack of communication during the process; the people who are serving in most of these agencies are not quick in giving information, and when they do, sometimes they give it as partial information, which makes the process even more difficult and more complicated. The information flow, therefore, becomes very, very slow and to the detriment of these individuals.

In many countries, the whole notion of coming up with State and Government agencies that are to pay for various claims is key for the social development of those specific countries, and those services have to be given out as expeditiously as possible. Therefore, I support the notion that we create a one-stop compensation claims bureau. From the way the Motion reads, it should be closer to the people and from the explanation, it should actually be within the counties. But it also raises the issues of co-ordination that are very, very key and are going to be very, very critical. In some countries, they have been able to put together, for example, identification systems so that somebody is able to be identified easily by either having an identification card, a driving license and bank account details all under one particular Personal Identification Number (PIN). Most of the times when organizations or agencies that are in charge of paying up take a long time, it is because they sometimes say there are cases of fraud, forgery or there are cases of problems in identifying the right person. All those cases are very, very valid. But we could actually jumpstart the process and be one step ahead by ensuring that all the identification that is needed is available. In more developed countries, it is even possible to catch up with criminal activities very, very quickly because such a system is already in place.

Therefore, even before waiting for such benefits to be made, we could actually have a system where all the identification that somebody needs is already in a data bank, be it payments in terms of what they have received, pay slips; be it in terms of insurances they have taken, so that we have one identification number and the process can begin



long before the actual claim is made. When all these are put together, they are synchronized in such a way, it makes it easier for them to be processed very, very quickly. Therefore, with all these legally confirmed dues and identification, they can actually be fast tracked. But I think it needs a lot of co-ordination; it needs to be something that is done way in advance and it is something that will need a lot of finances. I think in between the process, there will be quite a lot of activities that will go on, but I think in the long run, it will make it possible, as has been said here, that such preparations should be made way before such claims are made, because there are systems of being able to pre-empt. We could have systems where a trigger is made six months, for example, before the benefit is made so that preparations already go into place.

We cannot, therefore, underestimate the role of technology in such a process; technology that will work, technology that is pre-empted in advance, and therefore the training of manpower for such technology to be put in place to make it possible so that we find that those who are actually looking for the benefits do not have to go through the indignity of having to spend so much time, effort and resources to get the same resources that they have put into place in those organizations that can come in handy to them when they need them. Let us treat them with the dignity that they deserve.

Thank you very much.

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

**Sen. Wamatangi:** Thank you, Mr. Deputy Speaker, Sir, for the opportunity to contribute to this very useful and important Motion moved by Sen. Obure.

Mr. Deputy Speaker, Sir, most of my colleagues in the Senate have contributed to this Motion. They have said most of the things that might need to be said, but because this is a very important Motion, there have to be issues that will always be brought out to ensure that what rightfully belongs to the people of Kenya, they get it.

Mr. Deputy Speaker, Sir, compensation is a very dear issue to most of the people who are claimants as at now and before. One of the most important distinctions to make is to identify, indeed, who are the claimants. Most of the claimants, for example, retirees, become claimants only after they have rendered services. For example, somebody has worked for the Government until they attain the retirement age of 60 years. After serving and giving their best during their youthful years, when it comes to the time they need to be rewarded for what they have done and services they have rendered, they are reduced to beggars. If it is other forms of claims, for example, insurance claims, you will find that a healthy and useful Kenyan who contributes to the economy of this country gets involved in an accident and loses a limb. When they can no longer render the service that they have been rendering, again, they are turned into beggars.

I speak about this from a personal perspective because I have been a victim. When I was a young man, I got involved in an accident, in which I almost lost my right hand. By then, I was about 17 years old. Since I did not come from a very well-connected family, my own mother struggled for more than ten years. Even until when she passed away, I never got compensation, after spending more than a year in hospital and another year going through physiotherapy. Until today, I still have the scars and even a metal plate in my hand. I never got compensated for it. What about the other millions of Kenyans who suffer a similar fate?

Mr. Deputy Speaker, Sir, if it is in terms of court awards, then we have seen and witnessed in this country people who have been victims of torture and made legal claims which have been awarded through courts. They spend years and years following up on their awards. It is evident and there to be seen; that actually most of these claimants die without ever enjoying those benefits that they claim. So, this is a serious issue. But what is even more serious is that over 90 per cent of all those claimants are poor people. This is because those who are well connected and wealthy can afford to use their connections and wealth to access the benefits that they seek. But the poor person, who has no means and only relies on the goodwill of the Government and other paying agencies and companies to pay have to bear the brunt and suffer for a whole lifetime before they can get what is rightfully theirs. So, this is a Motion and issue that is right at the heart of the Kenyan people. It requires to be treated with a lot of seriousness, so that we ensure that once and for all, this is brought to a halt.

Mr. Deputy Speaker, Sir, I support all the Senators who have spoken before me and proposed that, indeed, the effective way to deal with this, is to come up with a Bill that will be firmed clearly in the law that stipulates the timeframe and manner in which those compensations and payments are supposed to be made.

Mr. Deputy Speaker, Sir, I support this Motion and laud its Mover, so that the Kenyan people can get what is rightfully theirs.

**Sen. Elachi:** Mr. Deputy Speaker, Sir, I also rise to support the Motion. But I also want to look at it at the level of the institutions that deal with compensation.

Mr. Deputy Speaker, Sir, Kenya is a very interesting country, where I think the unclaimed assets amounts to a lot of billions of shillings. I do not think that, as Kenyans, we really know the figure. Let us take the example of the National Social Security Fund (NSSF) and look at the poverty level of many children whose parents used to make contributions to the NSSF. To date, most of them are unable to go to school or even to the NSSF and try to claim whatever their parents left when they passed on. When you look at the trustees and how they deal with children today, it is also a very sad story. Indeed, today those who benefit more from what the parents contributed are the trustees rather than the families of the contributors. Today, many women who are widows languish in poverty, not because they do not have assets, but because the institutions that are supposed to even name the assets and the lawyers, have decided to use the same resources for their own benefit. Therefore, when we talk of compensation, we need to, first, ask ourselves: What is the structure? First, you will have to hire a lawyer. Therefore, you will pay the lawyer and before you even get your money, the lawyer will go with three-quarters of the money. The family will just get a quarter of what is being compensated.

Mr. Deputy Speaker, Sir, look at the recent case of Mau Mau. The lawyers will walk away with more than Kshs800 million and yet, the person---

**The Deputy Speaker** (Sen. Kembi-Gitura): Do you have facts about that statement?

**Sen. Elachi:** Yes, Mr. Deputy Speaker, Sir. It was in the media, that the lawyers will be paid Kshs800 million. If you look at the figure that the Mau Mau are being compensated with, you would wonder if it is right and fair. When you ask anyone in this

country, especially the institutions of Government, to even give you figures of unclaimed assets, nobody will disclose it to you. This is because they know that they are working with the banks. The banks will never allow any Kenyan to know what they have as unclaimed assets. I do not have the figures for this, but I know that there are more than Kshs200 billion in unclaimed assets. Therefore, I agree with the Mover of the Motion that, indeed, it is time we asked ourselves, as a country, whether it is right for people to languish in poverty when we know that they have assets and money that they have contributed for years. Therefore, it is time for their families to use that money to take their children to school or even improve their livelihoods wherever they are staying.

Mr. Deputy Speaker, Sir, I would wish that the Mover of the Motion does more research to help even the Government to understand. When we talk of “unclaimed assets” and “compensation” we need to ask ourselves: How do we deal with unclaimed assets and at what level is the Government allowed also to take the unclaimed assets and reveal to the public their value? Then, we will be helping even the country to understand how much the banks hold sometimes as unclaimed assets and whether they have been able to look for the beneficiaries of those unclaimed assets. Those are some of the challenges that I think many people have faced when they go to claim their assets; where parents or maybe their fathers passed on and never disclosed to their families where most of the assets are. Where do these assets disappear to? Is it important now for the Government to take the unclaimed assets and use them in a charitable manner, to help other children who are poor? I think that this is something that we need to look at as the Senate. Many families do not know where to go. I think that most of them have walked to the Office of the Ombudsman, but I do not know whether they have ever gotten answers regarding what they have gone to ask for.

Mr. Deputy Speaker, Sir, I beg to support and say that it is time that, as a country, we asked ourselves where the unclaimed assets go and who the beneficiaries are.

**Sen. (Prof.) Anyang’-Nyong’o:** Mr. Deputy Speaker, Sir, I rise to support the Motion.

Mr. Deputy Speaker, Sir, my sister who has just spoken has made a point about that case involving the Mau Mau and the amount of money that the lawyers are taking from the compensation. I have gone through that kind of experience and know that when you get this kind of compensation through the courts, the lawyers take quite a substantial part of it to your utter amazement.

Mr. Deputy Speaker, Sir, this Motion is extremely important. I want to refer the House to the Pensions Act, Cap.189, Section 19A. It says:-

“A dependant’s pension payable under the foregoing sections shall be paid to the dependants within a period of 90 days after the death of the officer concerned, failure to which interest shall accrue thereon at bank rates, until payment is made in full, provided that no interest shall be payable under this section, where the failure to pay is occasioned by legal proceedings in respect of payment.”

Mr. Deputy Speaker, Sir, this is where the problem is in the sense that the law says that dependants shall be paid within 90 days, but the onus is on the dependant to go and claim that money within 90 days. When they fail to get this money within those 90 days, they really have no recourse except to go to court or look for a lawyer, to urge the

Government to pay this. Once you go to court and you are looking for this money, then there is a rider that in so far as there is a legal proceeding, if there is a delay, you will not get the interest.

Now, you can stop going to court to look for your money and hope that when you are finally paid, you will be paid with interest. I want to dare this House to find out how many Kenyans have actually been paid with interest when they get that money. What the Government department concerned will do is state that it is not their mistake that the file was missing. So, ordinary citizens who actually do not know that something called Cap.189 exists are at the mercy of the system. What is being proposed here is a Bill that will implement Section 19(a) of the Pensions Act, called “payment of dependant pension”. This section was passed, but it did not include an institution that will implement that particular section. That is very characteristic of many laws in our country. The law exists, but implementers are not quite determinate as far as the ordinary human being is concerned. So, there is something indeterminate called the Government. When you go to a Government office and go to a particular section, you will be referred to human resources or to the legal section, but in the end, they come to a representative called a politician. That is why, we, as Members of Parliament, get a lot of letters from people looking for their dues.

When I was a Member of Parliament for Kisumu Rural Constituency, I had a full file of letters of people looking for their dues. They included retired teachers, policemen and so on. Just the other day a woman, whose husband died seven years ago, came with all the documents for the claims of the pensions of her husband. I did not know how to go about it because they were very legitimate, but definitely, this section applies. Even as a Member of Parliament, I did not know exactly where to go because the man worked in so many places. So, I did not know which one is the right place to look for his pension.

This particular Motion, therefore, helps in establishing at least an institution in every county that people can go to. I am glad that the amendment we are bringing takes these bureaus to every county. Our people do not have to travel to Nairobi, spend so much money staying with relatives and chasing their pensions which is usually very little money. I once met a former permanent secretary who eventually also became an ambassador. I do not want to mention the name, but he lives in Kiambu. I asked him how much he earns every month as pension. He told me that he earns Kshs4,500. A pension of Kshs4,500 in this day and age for a man who served this country in such a high position is really despicable.

The other issue that we need to look at is the value of money. The value of money gets lost over time. We should look at the pension that people who served this country in very respectable capacities as civil servants get.

Therefore, I would like to move an amendment, which I brought to the attention of the Speaker. I do not know whether the Chair is aware.

**The Deputy Speaker** (Sen. Kembi-Gitura): I have not seen any amendment.

**Sen. (Prof.) Anyang’-Nyong’o**: I left it with the offices here.

**The Deputy Speaker** (Sen. Kembi-Gitura): I have seen here a document which is not signed. So, I do not have any amendment with me. I am sorry. I would propose that

you get somebody to propose the amendment. Then you have to stop contributing, sign it and have it approved.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I will stop contributing and sign it. I think the amendment will improve and add value to what we are talking about.

**The Deputy Speaker** (Sen. Kembi-Gitura): The amendment is important, Senator, but I am just talking about procedure.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, what I could do is stop contributing and deal with the amendment.

**The Deputy Speaker** (Sen. Kembi-Gitura): The problem is that you cannot contribute twice.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, then give me my amendment, I sign it.

**The Deputy Speaker** (Sen. Kembi-Gitura): I suggest you have somebody move the amendment on your behalf. Let us do it in a proper way.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, then I can get the next speaker to move the amendment. All we want is the amendment. I can speak on the amendment then.

Sen. G.G. Kariuki, can you move the amendment? It is a very sensible amendment and you will not be ashamed of "myself".

*(Laughter)*

Mr. Deputy Speaker, Sir, the most important thing is to realize that we need to make life more comfortable for citizens when they retire, especially as Sen. Kajwang said, when this pension is the lifeline that such citizens are looking for. If you punish them by chasing this thing as if it was a crime to be working for the Government or it was a crime to have been employed somewhere, I feel it becomes a very ungrateful undertaking.

With those few words, I would like to support the Motion and hope that my dear friend, Sen. G.G. Kariuki will move the amendment in the spirit in which we have worked with.

I beg to support.

**Sen. Ongoro:** Mr. Deputy Speaker, Sir, I also rise to support this Motion. I want to state that the way the State and its various agencies act when somebody retires and wants his or her benefits, is quite baffling. In my opinion, from the day when somebody is employed, that person's file is activated with all the required documents, including the next of kin and all the information that could be required. I would think that from that day the State already knows that this person has been employed at this age and, therefore, after five years, 10 or 20 years, he will retire. So, in my opinion, the State could from time to time update that person's file, especially when it is one year, six months, three months, one month or five days to retirement. It should package that person's benefits in such a way that he or she only needs to file, then the people employed in that agency should actually have worked on his or her file for the whole time prior to retirement. So,

the person should just be given an easy time having served the Government through the various State agencies to, at least, go home smiling and not spent the rest of his life chasing benefits. If somebody has been working continuously for 20 years or 30 years and he spends another five or seven years looking for pension, it is not fair. In most cases, people die even before accessing their benefits.

Mr. Deputy Speaker, Sir, it is said that all that ends well is good enough. In most cases, people retire just at the peak of their lives when most of their children are in college. That person wants to go back home and settle, to start income generating activities. Therefore, one needs to be given his benefits in time, so that he or she does not get a mental breakdown and die without ever accessing what he or she was entitled to.

It is in order now that we are decentralizing everything under the devolved system of governance, that we also decentralize this function. It makes no sense at all for people to travel from the various counties to one county which is Nairobi to process their pension. Nairobi is just a county like all the other 46 counties. I do not understand why people should still be travelling from their own counties to the county that is called Nairobi to process their benefits. This process must now be decentralized to their counties so that everybody just moves from every part of their county to the headquarters of their county to be sorted out regardless and in spite of where one was employed.

Mr. Deputy Speaker, Sir, apart from that, I want to add my voice to those who have spoken before me and, especially the Chair who stated that what we sometimes call retirement benefits is really paltry. I do not know what to call it. If you are paying somebody Kshs3,000, Kshs2,500 or even Kshs7,000 minus the transport expenses and accommodation, does it really make sense? Should we give somebody the opportunity to choose whether he wants to be paid one time lump-sum amount which he can invest somewhere and find good use for, instead of pretending that we are paying Kshs3,000 which only adds to the frustration to somebody who is in his later years. Some of those people are over 50 years of age with an extended family, including their children and grand children. Everybody will know that the person has gone for his pension. So, by the time he arrives home, he is more frustrated than when he left. I think we should really reconsider what we pay people and what we refer to as retirement benefits. Let a benefit be truly be a benefit and not a source of frustration. When someone tries to budget something so paltry, he cannot find a way of dealing with it.

Lastly, in dealing with this, we must find a way of ensuring that those who have been listed as next of kin or beneficiaries in somebody's early life, for example, if somebody filled forms at the age of 21 years and you do not call him to update it after 40 years, when he dies, the person who was listed as the beneficiary, there is always an issue around the benefits. I have attended many funerals in my life. It is sometimes very easy to sort out issues around a woman's death. However, when you attend the burial of a middle-aged man, to my surprise, there are always issues. This can be sorted out if you remind everybody to update their files every six months. Every six months is reasonable enough. Don not you think so, Sen. Kajwang?

**Sen. Kajwang:** One year!

**Sen. Ongoro:** Yes, one year, now that it comes from Sen. Kajwang.

It is in order that we have these files updated so that when there is an issue, it can be sorted out almost immediately to avoid the stress that is always involved.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, thank you very much for giving me a chance to contribute in support of this Motion. I remember we were with you in the ninth Parliament together with many others here when Sen. Musila, brought a Bill of this kind. When the Bill was passed, there was confusion in the offices at that time. To our surprise, nothing much has happened since the Bill was passed. People still suffer and struggle to get their benefits. Therefore, I wonder whether what we discuss in this House and the other House is just like mere talking shops. We need to have some of these things properly implemented. There is also the need to have the implementation committee so that such things are acted upon. If we have to keep on discussing things, we need to know how implementation is going on. This is a Motion which is a wake-up call for us to start thinking whether we are dealing with issues that had been discussed earlier. We need to find out what is happening. We cannot keep on discussing Motions here and yet there is no implementation taking place. This Motion should serve as a wake-up call. We do not have to discuss issues and keep on reviving them. We should bring the people who are in charge to book and ask them what is wrong. This Bill was passed in the Ninth Parliament. I remember I made my contribution towards it.

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

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

Madam Temporary Speaker, it is even worse for teachers. We have teachers who should be retiring at 60 years. I am sure they are preparing because most of them will retire next year or at the end of this year. What is surprising is that after somebody retires, and more so, a teacher, he will be required to submit the last payslip which will be retained by the same employer. You are asked to surrender it to the pension officers. In the forms which are filled by the employee, they even ask you to state the next of kin, your district, location, chief and sub-chief. With devolution which we are seeking in this Motion, it will be very easy for somebody to be traced than it is at the moment.

Once this Motion is passed, it should translate into a Bill. This should be the second Bill after the one that was passed in the Ninth Parliament. We should also appoint one or two people to follow it up because this is a very agonizing state of affairs, considering that this happens when somebody has retired and yet they are supposed to pay house rent. It is a punishment for the employee to keep on making trips to Nairobi and giving out bribes. If you make a mistake of not pronouncing the name of the officer handling your case, you are told to come the following month. I have been there. It is that bad.

Madam Temporary Speaker, even if we come up with amendments, it is important that this is dealt with, once and for all, so that we do not come here again to seek for the retirement benefits to be paid after six months. It should be immediate. We had proposed within the first three months, benefits be paid to the retiree. It never happened, it has never happened and I do not see it happening. So, the best thing we should do to this

Motion is to make a follow up to know what is happening in this department. If the Director of Pensions is not performing his duties, he should be sacked. We are already in the digital era and from computerized data it is easy to tell when an individual is retiring.

When I was a teacher, I remember I used to get payslips with my age printed on them. So, these people already know that you are about to retire. Why should people suffer after attaining the age of 60 years? These officers should know how many people are retiring each year. If you are not careful you will be treated to shock when you discover that after 60 years, the retirees may not be paid immediately. They will be paid even after five years. This will be defeating the spirit of the Motion we are debating here. That is why I am calling for some checks and balances on the progress of this Motion because it is the nerve centre of our debate in this House. It is very bad for people to travel from northern Kenya, western and coast to come and hire lodgings in Nairobi pursuing their dues and benefits that they have earned for the last 50 years. These are dues they have planned for---

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

**The Temporary Speaker** (Sen. Ongoro): Sen. Karaba, do you want to be informed?

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

**Sen. Kajwang:** Madam Temporary Speaker, I want to inform my brother that because the Senate has been designated as the House of *Wazee*, we are particularly interested in *wazee* getting their money.

**Sen. Karaba:** I do not know whether it is true!

**The Temporary Speaker** (Sen. Ongoro): Sen. Kajwang who designated this House as the House of *Wazee*? We have Senators who are between 25 years and 27 years.

**Sen. Karaba:** Madam Temporary Speaker, some of them are representing the youth like Sen. Kanainza. Sen. Lesuuda is here and she is not even 30 years. I am sure several of you are not even 40 years. How old are you?

**The Temporary Speaker** (Sen. Ongoro): Sen. Karaba, could you, please, stick to the Motion. You cannot start interrogating people about their age.

**Sen. Karaba:** Madam Temporary Speaker, I am trying to prove that this is not a House of *Wazee*.

**Sen. Wako:** On a point of order, Madam Temporary Speaker. Is the eminent Senator from Kirinyaga, who is a gentleman and a former teacher, in order to behave unlike a gentleman, to ask a woman's age?

**The Temporary Speaker** (Sen. Ongoro): Sen. Karaba, why are you specifically asking the ladies how old they are?

**Sen. Karaba:** Madam Temporary Speaker, I think Sen. Wako is imputing ulterior motives to me. I just gave an example of somebody who is not a *mzee*. Much as I would refer to Sen. Obure as a *mzee*, I know the Chair is not even 60 years old.

**The Temporary Speaker** (Sen. Ongoro): Order, Sen. Karaba! You are out of order. Who has told you to brand Sen. Obure a name that is unknown to him? He is known as Sen. Chris Obure.

**Sen. Karaba:** Madam Temporary Speaker, Sen. Obure is a Member of this Senate. I am sure he is not a young man, much as I am not also young. Old is gold!



(Laughter)

Madam Temporary Speaker, I do not know whether you will add me more time because of those interruptions because I need to stress the point that there is a difference between benefits and pension. When somebody retires, they are paid a lumpsum and then, in subsequent years, they are paid monthly pensions, for example, Kshs3, 000 or Kshs5, 000. This should also be enhanced so that as somebody gets closer to the grave, they earn more money so that their relatives will be able to give them a respectable send off. Benefits of this kind should be paid immediately the officer in question retires. Taking too much time to pay the retiree is painstaking.

I thank Sen. Obure for bringing this Motion to the House. I hope that it will be expedited so that we can know who is not doing the right thing. If it is the Director, he should be fired in order to make sure that retirement benefits are paid to the retired officers immediately they retire. Six months to me is too long a time.

I support.

**Sen. Madzayo:** Asante sana, Bi. Spika wa Muda, kwa kunipatia nafasi nichangia Hoja hii. Pia ningetaka kuchukua nafasi hii kumshukuru Sen. Obure kwa kuleta Hoja hii inayowahusu wafanyakazi. Kama sote tunavyojua, mfanyakazi ni mtu muhimu sana katika uendelezaji wa uchumi wa nchi yetu. Lakini ni jambo la kusikitisha tukiona kwamba baada ya mfanyakazi kustaafu anapatikana barabarani, ofisini na nyumbani za marafiki akiomba omba ili apate namna ya kuweza kujikimu kimaisha.

Ningetaka kuhimiza mapato ambayo yanapewa na mahakama yalipwe mara moja kwa sababu ni haki ya mfanyakazi. Mfanyakazi aliyefanya kazi au kwa bahati mbaya amepoteza kazi yake, ni sharti alipwe ikiwa mahakama imeamua alipwe. Ni jambo la kusikitisha kuona ya kwamba hata baada ya muda mrefu baada ya mahakama kupendekeza mfanyakazi alipwe kiasi fulani cha pesa bado anahangaika barabarani.

Bi. Spika wa Muda, kwa upande wa wafanyakazi wanaofanya kazi katika makampuni ambapo kuna mitambo inayowaumiza mikono, miguu na sehemu zingine za mwili, waweze kulipwa bila taabu yoyote. Iwapo mfanyakazi aumie, asiweze kuendelea kufanya kazi tena, ni lazima afidiwe vilivyo. Ikiwa amejaza zile fomu na ni lazima alipwe, kuna umuhimu wa kuona ya kwamba huyu mfanyakazi amelipwa katika muda mfupi iwezekanavyo.

Jambo la kusikitisha ni kwamba mara nyingi wale wafanyakazi wanapoumia katika kampuni wanabaki wakienda katika hayo makampuni kuomba ridhaa. Hatimaye mara nyingi wanaendelea kufanya hivyo mpaka mwisho wanafariki. Kunazo safari wanazofanya kutoka sehemu mbalimbali. Kwa mfano, kule Kaunti ya Kilifi, wakati nikifanya kazi kama hakimu katika korti ya viwanda, watu wengi walikuwa wakisafiri kutoka sehemu mbalimbali siku nzima ili wafike Nairobi. Hawa watu huwa wamestaafu ama wamewachishwa kazi ama wanafuata ridhaa ambazo zimepewa na korti. Hili ni jambo la kusikitisha. Wakifika hapa wanazungushwa katika ofisi mbalimbali.

Hoja hii ni muhimu na itahakikisha kwamba malipo kama haya kama yamepeanwa, ni lazima yapelekwe kwa Serikali za mashinani. Wafanyakazi wengi wamekuwa wakipata taabu kuelimisha watoto wao. Mtu akifanya kazi na raha anaishi na

familia yake vizuri. Mtu anapostaafu kwa kazi yake, malipo yake yanafaa kulipwa. Hayafai kuchelewishwa. Yakichelewa, watoto wanacha kwenda shule. Hoja hii ni muhimu. Tunafaa kuona malipo haya yamepelekwa mashinani.

Bi. Spika wa Muda, jambo lingine ningependa kutaja ni kuhusu wazee ambao wamestaafu. Wakati unapofanya kazi, afya yako huwa nzuri lakini unapostaafu, haujiwezi tena. Ni jambo la kusikitisha kuona wakati ulipokuwa umeajiriwa kazi ni kama kuwa harusini, lakini wakati wa kuacha kazi unakuwa ni kama wakati wa mazishi. Hii ni kwa sababu unaanza kuhangaika na haujui maisha yatakavyokuwa. Ni haki yako kulipwa.

Jambo hili linafaa kuchukuliwa hatua ili malipo yapelekwe mashinani. Hakuna haja ya mtu kutoka Kilifi Kaunti kuja Nairobi kufuata malipo yake. Hakuna haja ya mtu kutoka Kwale ama Mombasa na kusafiri usiku mzima kuja Nairobi kupata haki yake ambayo angeipata akiwa nyumbani.

Bi. Spika wa Muda, kwa hayo machache, naunga mkono Hoja hii.

**The Temporary Speaker** (Sen. Ogoro): Sen. (Prof) Anyang'-Nyong'o, I have received your proposed amendment which I have just signed. It will be coming through Sen. G. G. Kariuki. So, after we take the next speaker, it will be in order for him to move it.

**Sen. Bule:** Bi. Spika wa Muda, nashukuru kwa kunipa nafasi ili niunge mkono Hoja hii. Hoja hii ni muhimu sana, hasa kwa watu kama sisi ambao wanatoka mashinani. Sisi huwa tunapata shida sana kwa sababu watu wetu wanapotoka huko na kuja kutafuta haki yao, wengi huja kutueleza shida zao. Wengine wanachukua miaka mingi kuja Nairobi lakini wanaarudi bila usaidizi wowote.

Kuna haja ya Seneti hii kuwa na mbinu za kuwalipia watu mashinani wanapostaafu. Hii ni kwa sababu watu wanapotoka Kaunti ya Tana River na kufika hapa, wanahitaji malazi na nauli ya usafiri. Mambo hayo yote yanahitaji pesa. Huyu mtu ambaye anataka hayo yote anaweza kuwa ni masikini. Pengine anaweza kuwa amestaafu miaka kumi iliyopita na pengine hajapata malipo yake. Mtu huyu anahitaji kusafiri na malazi mema. Hayo yote ni masumbuko. Mtu huyu amenyimwa haki yake.

Naunga mkono Hoja hii kwa sababu Serikali inafaa kuchukua hatua na kuwalipa watu hawa mashinani. Tunafaa kuwa na njia mwafaka ambayo Wakenya wanaweza kutumia kupata haki yao. Watu hawa wameajiriwa na walikuwa wakilipwa, basi sioni kwa nini malipo yao ya uzeeni ichelewe kulipwa. Wakati huu hatutumii mfumo wa faili. Hapana. Tuko na mitambo ya tarakilishi. Mhe. Rais wa Kenya alisema hata mtoto wa mwaka mmoja atakuwa na tarakilishi mwaka ujao.

*(Laughter)*

Kwa nini mtu aseme kwamba kuna mtu ambaye hajulikani hali yake? Sasa hivi, nikitaka kujua yale yanayoendelea katika nyumba yangu, nitaenda katika *google*. Kwa hivyo, kila mmoja wetu anafaa kujulikana alipo na shida yake kutatuliwa mara moja.

**Sen. Madzayo:** On a point of information, Madam Temporary Speaker. His Excellency the President referred to children joining class one and not those that are one year old.

**Sen. Bule:** Bi. Spika wa Muda, hiyo ni sawa. Nikisema mwaka mmoja, namaanisha mtoto katika hali ya uchanga anaweza kuwa na tarakilishi. Kwa nini hapa Kenya hatuna mfumo wa kuweka faili za watu ambao wamestaafu na wanaohitaji manufaa mengine? Tunatakiwa kuwa na mbinu katika mashinani za kuwalipa watu wanapostaafu. Mtu akistaafu leo, kesho mambo yake yanafaa kuwa sawa kwa sababu watu ambao wanatuajiri wanajua ni nani amefikisha umri wa kustaafu. Haya yote ni mambo ambayo Wakenya wote wanafaa kuwaajibika. Wale wanaojiriwa maofisini wanafaa kuajibika.

Kuna wakati ambapo tulikuwa na maofisa ambao walikuwa hawajulikani lakini walikuwa wakilipwa na pia walikuwa katika orodha ya Serikali. Hayo yote yalifanyika kwa sababu ya kutowaajibika.

Wakenya wote wanafaa kuwaajibika na mambo yafanyike vile yanavyopaswa kufanywa. Mambo hayafai kufanyika vingine. Tuwe na sheria ambazo zinatusaidia ili kila mmoja wetu apate haki zake wakati unaofaa.

Bi. Spika wa Muda, kwa hayo machache, ninaunga mkono Hoja hii.

**Sen. G. G. Kariuki:** Thank you, Madam Temporary Speaker. Mine is very simple. It is to give this Motion more force in terms of law. I want to make sure that it will not just be debated and, after the resolution, it dies off. I think time has come when the Senate must start thinking as my friend has started thinking that a resolution of the House does not just work. However, if we convert this Motion into a Bill which would be assented to by the President, that would be a more appropriate situation.

Without repeating what my friends have said, everybody knows what problems our people go through. They go through us when they have no one to represent them. They experience problems as if they have no Government. Time has come for us to start thinking about the people who brought us here and those who sent our colleagues to the lower House.

That is the only way you can give support and respect to leaders who have been elected by people. However, for instance, if you are from Kericho and you meet someone from that area seeking his retirement benefits, you cannot ignore him. At the end of the day, these people go home with nothing because all the money they are supposed to be paid is used up in travelling allowances and accommodation in the big cities.

I now want to amend this Motion to read as follows:

THAT, the Motion be amended by deleting all the words appearing immediately after the word "Senate" on the sixth line and inserting the words, "hereby establishes a Select Committee that will work on a Bill to establish a one-stop public compensation Bill in all counties to process all outstanding claims and ensure that claimants are paid in three months of retiring."

The Committee should report to the Senate within three months.

The Members of the Select Committee, with your permission, will be;

Sen. Chris Obure

Sen. Agnes Zani

Sen. Njuguna Wamatangi

Sen. Fatuma Dullo

**The Temporary Speaker** (Sen. Ongoro): Sen. G. G. Kariuki, we do not have anybody by the name Sen. Njuguna Wamatangi. We have Sen. Kimani Wamatangi.

Mr. G.G. Kariuki: He is still Wamatangi. Somebody must have given him a new name.

Sen. Kimani Wamatangi  
Sen. Fatuma Dullo  
Sen. Otieno Kajwang  
Sen. Hassan Abdirahman  
Sen. Stephen Sang  
Sen. Beatrice Elachi  
Sen. (Prof.) Anyang'-Nyong'o  
Sen. G. G. Kairuki  
Sen. David Musila  
Sen. Amos Wako  
Sen. Naisula Leisuuda

These are the Senators expected to work on this Bill and report to this House within the shortest time possible.

I beg to move.

**Sen. Wako:** Thank you, Madam Temporary Speaker. I want to second the amendment brought by Sen. Obure. Sen. Chris Obure has worked in the Government in very key Ministerial portfolios. In particular, he was for a brief period the “Chancellor of the Exchequer for the Government.” The Chancellor of the Exchequer is the Minister for Finance. I think he knows the problem he is talking about. Therefore, this becomes a very well thought out Motion to help our people process their claims.

This amendment is very important because we just pass a mere Motion without giving it legal teeth, it will become another added bureaucracy in the processing of claims. I can assure you of that. Part of the problems that the retirees have is personnel files within the Government not being kept up to date. I came across many files where somebody was retiring. This is someone who had served the Government for over 40 years. If you check his personal file, you will find that it only shows when he was employed on temporary terms. This file does not show when he was confirmed or even promoted. To ensure that the records are updated, this takes many months. They are now redoing the files so that they can pay. We also have issues of tax clearance. If you have been working for the Government, you must get clearance from the Ministry. Things can be very interesting.

For example, Madam Temporary Speaker, when I retired, I was told that a book had come to my office in 1997, but it not been returned. I was told that I cannot be cleared without returning it. I could not even recall which book it was, under what circumstances it came, but I was told it must be cleared. So, I had to pay the value of that book just to get clearance out of the way. That just shows you that if the Attorney-General can have that problem, what about people in the lower cadres of the Civil Service?

Madam Temporary Speaker, when it comes to matters of decrrial amounts or where judgment has been entered, again, there is lack of information. First of all, it makes

the work of the accounting officer very difficult to ascertain in advance how many claims or judgments will have been delivered against the Ministry in any given year. The Government being what it is, this means that some of those judgments are made in far flung areas in various courts all over the country. Sometime the accounting officer does not know. So, it is only when he is confronted that he tries to write to the Ministry of Finance to get some money out of the Consolidated Fund. But I am glad that by the time I left, we had begun streamlining that process.

Madam Temporary Speaker, as we pass this Motion, my appeal is that the Government should also begin streamlining the records. There should be better information flow on the cases that have been filed against the Government; better information flow on the judgments that have been entered against the Government. That will make it easier for the bureau to take over. I am glad that I am in the Committee. Thank you very much for thinking about me to be on the Committee. When this one-stop bureau is established, it will only serve a useful purpose if the constitutional provisions are followed. What are those constitutional provisions? It is that even the national institutions, such as the one we are going to establish, must be decentralized to county governments. Article 6(3) of the Constitution deals with decentralization of some functions from the national Government to county governments. This must be facilitated. It is only when this function is transferred to the county government that we will assist retirees, so that a man does not have to travel all the way from Busia to Nairobi for his pension. He would go to the local office. Since that office will have the backing of the law, it will help that particular person to pursue his pension or claim.

I beg to support the amendment.

*(Question of the amendment proposed)*

**The Temporary Speaker** (Sen. Ogoro): We shall now proceed to continue debating the Motion with the proposed amendment. We shall proceed to debate the amendments.

Yes, Sen. (Prof.) Lonyangapuo?

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, I also rise to give my input to the Motion as amended. We need to thank the presenter of this Motion; it has come at a time when---

**The Temporary Speaker** (Sen. Ogoro): Senator, we have not yet amended it. You will be debating or giving your input to the proposed amendments.

**Sen. (Prof.) Lonyangapuo:** On the proposed amendments?

**The Temporary Speaker** (Sen. Ogoro): Yes, the proposed amendments, because the Motion has not yet been amended.

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Speaker, I concur with the Senator who brought these amendments. To me, the Motion will now have more power and teeth, as it is suggested here. I hope the Senators who will work on the Bill will come up with it within the three months proposed here. The reason we need to come up with the Bill is so that any officer in the central Government or whoever else is processing compensation for officers who have retired or officers who have since passed on, do not

feel neglected in our country. This Bill, as it will be generated, I hope it will bring hope and sanity into the lives of the people who have been affected seriously.

Madam Temporary Speaker, there is a lot of celebration and joy when a new Kenyan is born. There is a lot of celebration and joy when somebody gets a new job. However, when somebody retires or dies, agony sets in when he claims his pensions or when the next of kin claims benefits of the deceased. I hope this Select Committee will capture the pain we are talking about here. Many families have almost experienced hell on earth trying to get their benefits after the breadwinner has retired or died. For example, there is an administration police officer who lost his life in the line of duty almost eight years ago. But his peasant parents have never accessed his benefits. They come to Nairobi and they are sent to the Public Trustee. After five years of struggling to get his benefits, they are told by the Public Trustee that they have opened a new office in Nakuru. They advise them to go to Nakuru to lodge their claim there. From Nakuru, they have been told to go to the KTDA Office Buildings in Eldoret. They are looking for only Kshs250,000. The question is: How much money have they spent in pursuit of these peanuts? They have sold all the cows they had.

Madam Temporary Speaker, Sen. (Prof.) Anyang'-Nyong'o talked about the Pensions Act which spells out exactly which penalties are supposed to be levied. I am hoping that when this Bill comes before the Floor of this House, we shall debate it, pass it and take it immediately to the highest office in the land to be assented to. Kenyans should not continue with their usual manners of keeping files and documents as though nothing has taken place. The Pensions Act is law and it should have been operationalised long time ago. I think officers working in the Public Trustees Office should have been punished a long time ago and some sent home for not implementing this Act. I even wonder whether officers working in this office ever retire. If they do retire, are they also subjected to the same trauma and drama that these other Kenyans go through?

Madam Temporary Speaker, I support the proposed amendments.

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

**Sen. (Prof.) Lesan:** Thank you, Madam Temporary Speaker, for the opportunity to make a few comments on the Motion. From the outset, I wish to mention that I support the amendment which is being made on this Motion in order to give it some teeth. In the past, we have had the Retirement Benefits Authority Act, 1997 which was amended in 2010. From what we have heard here, it is apparent that those amendments on the Retirement Benefits Act done before have actually not solved some of the pending problems mentioned by some of the speakers who have spoken before me. So, I am glad that Sen. Obure has brought this Motion and I am also even happier that it is going to be amended in order to give it some teeth to address the current situation where retirees have been suffering.

Madam Temporary Speaker, the main problem that has been with the previous Act governing pensions, particularly retirement benefits, has been the keeping of records. Apart from the attitude of workers within the authority, I think lack of records has been the main problem. But we are very fortunate in this country that we now have Information, Communication and Technology (ICT). We also have computers. Therefore, at the moment, it is a pity that I am not able to get an electronic statement (e-statement)

of my benefits from my employer while sitting on an armchair at home. This is possible. I do not have to come all the way to Nairobi when we have this kind of thing. I am sure with this Bill, such amendments will be made in the procedures so that it is possible to actually get the records up to date, and be able to get periodic statements of the status of the benefits of the individual at any time. This is an important amendment. It is one of the things that we could follow.

Madam Temporary Speaker, it is always accepted that the benefits we look for from the retirement scheme is in monetary terms. I think it might also be possible to change the terms in which we can get these benefits into other forms. For example, I would like to have a medical cover as part of my retirement benefits so that I do not have to go around looking for money. I just turn up to the best medical provider and get treatment because, after all, the amount of money that I, probably, get from retirement is spent on medical services. Therefore, if I got this as part of the scheme, then I do not have to follow an officer at the office, like he says in Eldoret or Nakuru, to give me some money. I just report to the nearest medical officer to get this service.

Madam Temporary Speaker, it is very appropriate that this Motion has come at this time and I think we, as Senators, will support it with the proposed amendment. In fact, I support the amendment because it goes a long way to serve the purpose which we intend to.

Therefore, Madam Temporary Speaker, I beg to support the amendments to the Motion.

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

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. I stand to support the amended Motion and to really thank the team who came up with the amendments. These amendments will add a lot of value to it. I am also happy with the decision of converting this Motion into a Bill. I think this is really going to help many Kenyans who have been struggling to get their benefits as they will now be able to do so expeditiously.

Madam Temporary Speaker, even as that Select Committee works, certain proposals will come in handy to strengthen the sort of Bill that we would want to come up with. For example, we must come up with timelines. People tend to have a lot of trust when these timelines are given and they are actually adhered to. When you have set a specific time, you actually ensure that you have adhered to it.

Madam Temporary Speaker, the idea of automation, of course, is very key and will help us move away from the problem of keeping records. But, sometimes, I think that, that problem has been self-made. This is because with proper records, it becomes very difficult for you to misappropriate funds. So, if we go the proper way by having automated records that are clearly visible and easily available to people who might want to request for them, that makes it a more transparent system.

Madam Temporary Speaker, it is also very important to have it as a proactive benefit paying system. Rather than waiting for people to make claim for these benefits, we should actually be more proactive and inform them that within a specified time, for example, three months, they should come and collect their benefits. We should even have a database of relatives. I think we have these databases. However, if these records are manual, it becomes very difficult and tedious for somebody to look for them and actually

be able to contact all those who need to be contacted. But we can also counteract this by being proactive in terms of civic education process. Let people know what this benefit is all about, so that they can actually be more active in ensuring that what is expected is done at the right time. If this is done, especially at the county level, information will be disseminated even faster and quicker into the communities for them to reap the benefits.

Madam Temporary Speaker, I support the amendment to the Motion.

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Madam Temporary Speaker. Noting that the number in the House is not adequate and given that this is a county-related Motion, I rise under Standing Order 51(3) to seek your indulgence that when the Motion comes to an end, you name another day when we can actually vote for it.

**The Temporary Speaker** (Sen. Ongoro): All right, Senator! Your request has been noted.

Sen. Karaba!

**Sen. Karaba:** Madam Temporary Speaker, I support the amendment as moved by my friend, Sen. G.G. Kariuki.

Madam Temporary Speaker, I would also like to bring to the attention of the Members the fact that the reason we have these delays is as a result of lack of documents and necessary technology. Software should be provided from the various departments to deal with retirees only. This will enable them to know that in a certain year, for example, at the end of 2013, a certain number of people will be retiring. I will take the case of teachers, for example, because I am a former teacher. The Teachers' Service Commission (TSC) should have come up with a list of those will retire towards the end of any year. This Committee, therefore, should be able to check and know how many people are retiring from every department at any given time.

Madam Temporary Speaker, it is also important to consider cases where courts have given awards to the retirees. I have a case in point where several teachers retired several years back. The case was taken to Nakuru. The Nakuru Court awarded the teachers a retirement package totalling to almost Kshs32 billion. This is one of the cases which have been cited by the teachers as they go on with strikes. To avoid such strikes, in future, this Committee should be charged with such responsibilities of trying to analyze and coming up with court cases. It should also check whether these cases have been honoured by the said departments, so that we do not land into problems, the way we are doing with the teachers.

Madam Temporary Speaker, when you talk of Kshs32 billion owed to retirees, some of whom are dead and others advanced in age, it is very unfortunate, noting that these are people who worked tirelessly during their youthful days and years. For record purposes, they are known to exist, but the flimsy reasons given either by the TSC or departments of the same Ministries are wanting. This Committee also needs to have teeth, to follow to the letter such court awards and ensure that they are honoured and paid on time. If this happens, we will not have problems in future emanating from such departments, more so, if it is zeroed down to the county levels. This is because as these people get to some advanced age, it is also dangerous for them to travel to Nairobi to claim their dues. That money can even be swindled from them by thugs. So, it is important that we get to know what is happening. If the fate of retirees is known, it is



possible even to prepare their cheques six months before their retirement dates. As soon as they retire, the cheques are handed over to them, so that they can enjoy the benefit with their families or next of kin.

Madam Temporary Speaker, I beg to support.

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, this Motion, definitely, affects counties, because it seeks to have a Bill passed, that will establish Public Compensation Bureaus in all counties. Sen. Anyang'-Nyong'o has made a procedural request according to Standing Order No.51 (3), to which I have assented. So, we will take the Vote on this Motion tomorrow, at 3.00 p.m.

*(Debate adjourned)*

In that case, we will now move on to the next Order.

#### ESTABLISHMENT OF SECURITY ROAD NETWORKS

**Sen. G. G. Kariuki:** Madam Temporary Speaker, I beg to move the following Motion:-

THAT, aware that the country is experiencing rampant incidents of insecurity due to factors such as competition for resources, ethnic tension, crime and economic disempowerment; aware that some of the incidents may spread unabated from one county to another as well as across the international borders; concerned that many lives and property are lost, people are displaced and the socio-economic set-up of the affected communities and individuals is disrupted; cognizant of the fact that poor infrastructure is the main contributing factor inhibiting the containment of insecurity incidents; appreciating the initiatives recently instituted by the Government to mitigate the enormity of the incidents with regard to budgetary allocations and police sector reforms; the Senate urges the Government to urgently institute special road projects by designing and establishing road networks that will facilitate connectivity and mobility of rapid response teams across the security hotspots including urban informal settlements, arid and semi-arid areas and known disaster zones.

Madam Temporary Speaker, this Motion is very clear as far as I am concerned. I am sure Senators will look at it keenly and see the intention and the spirit which brought it forward. This country has been having a lot of problems in terms of insecurity and unless we change our strategies to deal with the situation, I see no end to this problem. The importance of security in the development of our nation cannot be over-emphasized. This is because it is only through security that economic stability can be achieved. If there is no security, domestic and foreign investments cannot be achieved. The initiative that the Government is making now following the new Constitution to reform the police is welcome. However, I think there is need for us to start now advising the new National Police Service Commission (NPSC) to try and change their strategies and attitudes towards maintaining security. If you look at the past, the police have been chasing

criminals, but they do not have clear ways of detecting and discovering crime before it is committed. That is the only way to deal with the situation of this nature.

Looking at this year's Budget for the police, they have been allocated about Kshs67 billion to cater for general operation and improvement; Kshs4.4 billion for equipment; Kshs4.5 billion to enhance operations and Kshs1.5 billion for research. That is the most important part. I hope that this money for research will be used effectively to make sure that we are aware of crimes before they are committed and we are capable of stopping them. The problem today is that the public's work is to inform the police that crime has been committed. There is no time when the police will come to the people and inform them to be careful because a crime might be committed at a certain time.

In some countries in the world where security operators do nothing other than security, they are capable of detecting and even knowing in advance what will happen. The department of Special Branch, the philosophy and the spirit of it when it started, although it is a very old sector--- the whole idea was to make sure that they discover crime before it is committed. In this country, they built a new kind of idea in Africa where they only followed political crimes because those in power feared to be overthrown. Therefore, they spent a lot of money to sustain themselves in power. That way, other minor crimes were forgotten. What was more important for the successive governments was the sustainment of the president in power and, also by extension, his government. Therefore, a lot of money has been spent, although there is no security threat, through the Special Branch. I think today, the world has changed and people have gained freedom. There is democracy. Therefore, you do not need Special Branch to investigate for politicians because now the politicians are left to be handled by the public itself. That is the essence of democracy.

Madam Temporary Speaker, I believe and I think that the Kshs1.5 billion should be spent to deal with crimes. The other point is about traditional ways of fighting crime which have to be changed if you want to be relevant in a modern world. The only way we can do that is that we must always be guided by the ability to contain the spread of crimes and be able to understand in advance that crime is about to be committed. We must always be ready for potential crimes.

Politically instigated crimes must occupy security agents' minds because it could degenerate to irreversible conflicts for many years. So, the problem in our country is political crime is not taken very seriously because if it were, things like tribal clashes will not have happened. These are crimes that were instigated by politicians, but everything remained there. Most of the time, a statement is issued by police, the Minister or Government official, you wonder whether we are in the right country because time is now that political problems should be dealt with politically. The rule of law needs to take shape immediately. Otherwise, we are going to keep on talking about crimes and our minds are directed to what the public may do, but not what the politician does. This is a matter of grave concern.

If you look at our set up today, after the new Constitution was promulgated, you will see that there are several commissions which have been formed. These commissions are formed because we, as the Government or police, are unable to control and contain corruption and many other crimes or abuse of offices. The money which is paid to the

Ethics and Anti-Corruption Commission (EACC) and the Ombudsman is not necessary if we were keen to deal with security matters. If we were keen to support our security agents, we would have given them enough. If we did not politicize them, we would not have needed to have all these commissions. Why do we have the EACC? This is because the police, politicians and the people are not capable of dealing with the situation unless you create a commission which is not immune from corruption. I think we are going round in circles and it is unlikely that we will get anywhere. We are creating what we used to call “jobs for the boys” where somebody creates a commission or a certain institution to get his or her friend to manage the place no matter what happens. I think we need to shift our mind from this kind of business which does not really help us.

Madam Temporary Speaker, I think I need to say something about the history of our roads in this country. Now, the beginning of road making in this country started in 1936. All these roads which were created those days were intended to go where the White farmers were living so that their produce and everything else could be brought to the market without any problem. Now, all those kilometres were created during that time in 1936, that is when the railway line was still there up to Nakuru and then it was pushed to Malaba, Uasin Gishu, Nanyuki and Nyahururu, for that matter. The bitumized road was done in 1930. This was followed by several roads to serve mainly the tea growing areas. This was only where the White farmers were. Even when we took power from the British Government, we followed the same pattern. This situation was supported very strongly by the then Government under a certain Sessional Paper No.10 of 1965 which really supported the past programme of road making. We are saying that we should now look at the security of the people of Kenya then everything else will come after that. By doing so, we are going to open up very important economic areas which are not considered now just because they are not delivering for the time being.

After Independence, the Government published its policy with respect to development of infrastructure and mobilization of resources under Sessional Paper No.10 of 1965 which stated:-

“To make the economy, as a whole, grow as fast as possible, development money should be invested where it will yield the largest increase in the net output”

That is our concern today. It continues:-

“This approach will clearly favour the development of areas having natural resources; good land, rainfall, transport and power facilities and people receptive to and active to development”.

That is on page 46 of that little paper called Sessional Paper No.10 of 1965. That policy statement concentrated in areas where I have just mentioned. Northern Kenya and parts of the coastal region were left out. They were left out because there was no yield at that time which was considered of economic benefit.

Madam Temporary Speaker, if you look at the Kenyan Geography, you will see that when the whitemen were moved from the northern side of Kenya, that is, Narok and Kajiado, they were taken northwards and parts of western and central Rift Valley. Those are the areas where economic roads had been done. That is where development was concentrated. So, when we stand here and condemn the past Government, we are justified

because although they had their own problems at that time, immediately after Independence, we were not able to change the course in terms of infrastructure.

Even if we give the police all the requirements, if there are no roads where cattle rustling and insecurity is rampant, areas which are completely impassable, making it impossible for the police to get there--- Therefore, we have to develop those areas; create new roads and also remember that the population has increased. The increase in population is also another big problem. Those areas should be opened up for the people to enjoy security and independent benefits because they fought for Independence with a purpose.

Madam Temporary Speaker, there are some areas, for example, where I come from where, because of CDF, between 2003 and 2007, we were able to build 11 police posts. During that time and up to today, there is need for police posts. But even after putting up the buildings, nothing has changed. There are a lot of problems. But I think with a new policy which the Government is undertaking, maybe, there will be some change. It is up to the Senate as the people's representatives to understand that even those in Government are not angels; they are just like us. Therefore, all of us have to remind them of their responsibility and remind ourselves of the responsibilities that we are supposed to undertake on behalf of the people of Kenya.

There is need for a policy shift from developing infrastructure based on economic feasibility to security considerations. No meaningful economic development can take place amid insecurity. Therefore, there are specific areas that should be taken into account. Road networks connecting major roads and towns should be prioritized. For example, the road from Malindi to Tana River County to Garissa, the road through Tsavo East National Park, the road connecting Garissa to Modogashe to Wajir and Moyale, the road linking West Pokot, Baringo and Laikipia, the road linking Laikipia and Samburu counties and the road linking Isiolo and Samburu counties.

It is commonsense for everyone that if a crime was committed and 50 people were killed, the police would not find the killers. This is then repeated in another year and the police are still not capable of using other facilities like helicopters owing to the unanimity of the expenditure to fight the crime. However, if we give enough money to the police so that they have small air fields all over the country, we will respond to such crimes when they are committed.

Madam Temporary Speaker, this Motion is asking Senators to look at the Motion whose mandate goes beyond political borders and look at it from the spirit it has been formulated.

I expected my Seconder to be here, but I think he just stepped out when the Motion was called out. I hope that somebody else will stand, give support and give their chance to someone else who should speak later.

We are urging the Government to design and establish road networks that will facilitate connectivity and mobility of rapid response teams across the country, especially in security hot spots like in urban informal settlements, the arid and semi-arid areas and the known disaster zones.

Before I conclude, I would like to say that at times people commit crimes in this country, especially in border areas - near Ethiopia and Uganda – because they can go

across the border. The criminals also know we have no way of pursuing them due to the outstanding conventional agreement that says you cannot direct your armed forces to enter into another country's territory without permission. These criminals are aware that we have no authority under the law to enter into those areas.

With those few remarks, I beg to move.

**The Temporary Speaker** (Sen. Ongoro): Who is your Seconder?

**Sen. G. G. Kariuki**: I have picked on Sen. Machage, but he is not in.

**The Temporary Speaker** (Sen. Ongoro): Sen. Beth Mugo has offered.

**Sen. Mugo**: Thank you, Madam Temporary Speaker for giving me this chance to second the Motion. I would like to congratulate the Mover of this Motion; the experienced Senator, G. G. Kariuki, for this very timely Motion which I hope and trust that hon. Senators will support.

In seconding this Motion, I want to underline from the beginning the importance of security. We are all aware of the insecurity pricking our country right now. I congratulate the Government because of the good infrastructural record which was, especially put in place by the previous Governments. We all know the efforts that former President Kibaki put in place to ensure good infrastructure across the country. We congratulate and appreciate his efforts. However, the job is not complete. The Senator is saying that we need to connect our security forces with areas where acts of insecurity are happening.

What the Senator has said is true. The focus has been on economic activities. Most roads were designed to promote economic activities. This happened where productivity was taking place. It was right to do that for the country to develop. However, the issues and needs keep on changing. More urgent issues evolve as the country develops. Insecurity is, indeed, a new phenomenon in our country. We are witnessing a lot of insecurity now. Our children are at times being kidnapped. When we were growing up, that was not heard of even in the cities. These are new crimes. We must keep up with the times so as to combat crimes. We have many incidences of crime that are connected to politics, elections, economic issues, resources and ethnic tensions, among other things.

First of all, I believe that as a Government, both the national and county governments need to have programmes to educate and teach people how to take care of their own security. Governments alone cannot handle all security matters if the people do not want to be secure or promote use of safe language that does not promote hatred. We should instead promote love and caring for one another. We should not be working as if we all live in our own cocoons. This time round, we need to put in more resources into this.

In the Budget, we saw that this docket was given a good portion of the national cake. However, this Motion is directed to the Department of Interior and Coordination of national Government because we need coordination as this money is being spent. The Ministry of Transport and Infrastructure and the Department of Internal Security need to work together and see where great priority is needed. We know each docket and each Ministry plans for its own activities, but the time has come when we must have a co-ordinated approach in order to make the best use of the limited resources the Government has for development. For the Senate, I believe we are saying that insecurity is high on the

agenda. We suggest or we propose that roads or connectivity be brought all over across the country, especially in the security hot spots. We also want to urge our colleagues, the politicians, to preach peace. No matter what infrastructure we put in place or how many policemen are put out there, unless the leaders themselves decide we want to be secure--- Unless we decide that we want our people to be secure and the citizens themselves make that decision, I do not think all the infrastructures in the world will bring about that security. But the Government has the biggest portion of the responsibility. It must make sure that security forces can reach any area at any time. We do not want to be told again when you are calling the police informing them you really need their help; “we do not have petrol” or “we do not have a vehicle,” or “can you send me a vehicle to come and bring me?” Those are issues which we have experienced now and then. Sometimes we do not know whether it is our police who really are reluctant to do their work, or whether it is because of lack of resources. We have been told that enough money has now been allocated to supply them with the equipment that they need.

Furthermore, Madam Temporary Speaker, we also appreciate that we are in a country where we are receiving a lot of people coming from our borders as refugees, sometimes crossing with guns. We need to tighten the security at our borders because the more firearms that come into the country, the higher the rate of insecurity. For us, we act as the good neighbour, and Kenya has done that with distinction. We also would urge the United Nations (UN) and other international bodies to make sure that they support Kenya to the full in order to curb insecurity, especially that which infiltrates us from our boundaries.

On our security forces, it is very disheartening when you hear that sometimes maybe those police officers who have lost their jobs--- I do not know who exactly, but there are people who are from the trained security forces who participate in crime. We would like to urge the leadership in the police department, especially the Inspector-General (IG) and all those other people, to instill proper discipline. We know our forces are well trained. We have very good institutions, but because of corruption that seems to seep in everywhere, it is very disheartening when we read that instead of being the ones to secure safety for the citizens, some of them get involved and are actually caught up in crime. They should find out anyone of those and severely discipline them and definitely remove them from the forces. Then we should also follow up on those who have retired; what are they doing? Are they also in possession of firearms? It is not possible that those who are supposed to protect the citizenry are the ones who are involved in causing insecurity.

Madam Temporary Speaker, I urge my colleagues Senators here who have the vote, because unfortunately – I hope this is not another Motion that the nominated Senators have no vote--- I am glad to hear that it is not. I urge all Senators to support this Motion. I also urge the Mover to bring a Bill so that we can pass it. This is because we can pass many Motions here, but they are not really implementable. But when we pass a Bill, then the Government must pay attention to it.

I urge all of us to support this Motion and pass it.

Thank you, Madam Temporary Speaker. I beg to second.

*(Question proposed)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, with only 30 seconds remaining, we are not able to proceed. The Senate now stands adjourned to this afternoon at 2.30 p.m.

The Senate rose at 12.28 p.m.