

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 15th May, 2013

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

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, our first Order is, of course, to determine if we have a quorum. We do not appear to have a quorum. I order that the Division Bell be rung.

(The Division Bell was rung)

(Several hon. Senators entered into the Chamber)

Hon. Senators, we now have a quorum. I request that the ringing of the Division Bell be stopped, so that we can proceed with the business scheduled for this morning.

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33

MITIGATION OF FLOODS IN THE COUNTRY

Sen. (Dr.) Zani: Mr. Deputy Speaker, Sir, I rise this morning to seek leave to move for the adjournment of the Senate at a time determined by the Speaker to discuss the issue of flooding in this country. The problem of flooding has been with us in the last two months. We, as the Senate, note that not enough attention has been given to address this issue. Only two organizations; that is, the Kenya Red Cross (KRC) and the Ministry of State for Special Programmes have put in effort to address this problem. In fact, various organisations are doing different things to mitigate against the effects of floods in this country. There is no sense of co-ordination.

Mr. Deputy Speaker, Sir, this is a matter of urgent national importance. As recently as yesterday, a six year old child lost her life as she was looking for an

identification card for her mother which had been swept away by floods, so that they would qualify for aid from the KRC. Ahero Girls High School has been closed. The road network in various parts of this country has been disrupted. This is an issue that concerns all counties. This falls within our mandate.

Mr. Deputy Speaker, Sir, as per Standing Order No.33, I have the support of hon. Senators.

(Several hon. Senators stood up in their place in support of the Motion)

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. (Dr.) Zani. You have the numbers.

Hon. Senators, in view of that notice and the fact that the hon. Senator has support from other hon. Senators, I direct that this Motion shall be moved and discussed not later than 5.00 p.m. today.

Let us proceed to the next Order.

BILL

First Reading

THE DIVISION OF REVENUE BILL

(Order for First Reading - Read the First Time and ordered to be referred to the relevant Departmental Committee)

The Deputy Speaker (Sen. Kembi-Gitura): Next Order.

MOTIONS

SERVICING OF LOANS AND DEBTS INCURRED BY FORMER LOCAL AUTHORITIES BY THE NATIONAL GOVERNMENT

THAT, acknowledging that County Governments are an essential framework, pillar and structure of governance and democracy in Kenya and exercise constitutional authority and functions; aware that the work and performance of county governments may be undermined, burdened and frustrated by debts and loans incurred by local authorities as previously constituted under the law; recognizing that devolved system of Government must be protected and defended in order to attain the underlying principles, objects and functions as set out in Articles 1, 6, 10, 174, 175 and 186 as well as the Fourth Schedule of the Constitution of Kenya, 2010; the Senate resolves that the National Government takes over the servicing and payment of all major debts and loans owed and incurred

by all the local authorities or other such entities that existed before the establishment of County Governments.

(Sen. Orengo on 14.5.2013)

(Resumption of Debate interrupted on 14.5.2013)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, this is a continuation of the Motion moved by Sen. Orengo. It does not appear any hon. Senator had a balance of time. Let us continue from there.

Yes, Sen. Musila!

Sen. Musila: Thank you, Mr. Deputy Speaker, Sir. I stand to support the Motion by Sen. Orengo. This is a very important Motion because it concerns the transfer of debts owed by counties to the central Government. Yesterday, several hon. Senators expressed their concerns that there are many debts that have been inherited by counties from the former county councils. If these debts are transferred to the county governments, these governments will not be able to deliver the services that are expected of them from the people. But of all concerns is the worry that this Senate has heard from the beginning that the Central Government does not appear to be supporting devolution. We were comforted when His Excellency the President was opening Parliament because he assured the nation that his Government was committed to supporting devolution. He even reiterated that the Government had no choice, but to support devolution. However, the events of the recent past do not support the fact that the Government is supporting devolution.

I want to draw the attention of my fellow hon. Senators to an action taken by the Transition Authority (TA) last week. The TA transferred staff from the Central Government to county governments. Over 2,000 civil servants have been offloaded by the Central Government to serve in Kitui County. I am sure other counties will find even bigger numbers of civil servants having been transferred. I cannot imagine how many have been transferred to, for example, the Chair's County, Murang'a County, if Kitui County is getting 2,000. This means that all the little money that is being allocated to the counties will go to salaries. In addition to over 2,000 staff that have been offloaded by the Central Government to serve in various counties, the counties are also inheriting staff from the former county councils. The county governments will have a very bloated payroll. On top of that, these counties have got debts which were committed by the former county councils.

Mr. Deputy Speaker, Sir, the point I am making is that this Senate needs to stand firm. Since we started we have been lamenting about the lack of Government support in the counties. But we do not seem to be going very far. We need to move from rhetoric to some form of action, so that we get assurance by the National Government that they are, indeed, supporting devolution. The strategy is that this Senate takes action immediately to suspend, if not stop, the transfer of civil servants to local authorities because it will have a very negative effect on the functions of counties.

For the information of the Senate, counties have already been given the names of the staff who have been transferred alongside their job groups and salaries, so that they

can factor them in their payroll. There is going to be a disaster. Since last week, my Governor has drawn my attention to this issue. Instead of protecting county governments, the TA is just strangling them. Instead of the Central Government taking over or continuing to pay staff, they are now giving counties money and then giving them bills to pay in form of salaries for staff. This matter should be addressed urgently.

Mr. Deputy Speaker, Sir, I want to thank Sen. Orengo for bringing this Motion because it gives us a window to raise a red flag over this matter, which is just beginning. Therefore, calling for debts to be written off by the national Government is really not out of the ordinary. Article 214(2) of the Constitution states that:-

“For the purposes of this Article, “the public debt” means all financial obligations attendant to loans raised or guaranteed and securities issued or guaranteed by the national government.”

These debts were guaranteed by the national Government. Therefore, they belong to the national Government. If the national Government is true to its word, that it wants to support devolution, then the best way to do so is to take over these debts, so that county governments start to govern the counties from a clean slate.

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

Sen. Abdirahman: Thank you, Mr. Deputy Speaker, Sir. I stand to support this Motion by Sen. Orengo. The Motion has come at a most ideal time. This is the time when we are planning to set up the local level governance structures in the most appropriate manner, so that whatever we do at that level can be sustainable.

Mr. Deputy Speaker, Sir, as has been said by hon. Senators, any new thing has its teething problems. This Motion has come at a time when county governments, as various hon. Senators before said, are actually struggling to find out what they have to do with the workers who served in local authorities before the establishment of our county governments. From the time of inception of the Local Authorities Transfer Fund (LATF), the Ministry of Local Government, as we have known it before, has actually given a window to chief officers at county councils or municipal councils the ability to constantly loot in collusion with technical officers from the National Government. There was no clear policy framework regarding Local Authorities Transfer Funds (LATF) and they have allowed people to continue paying debts running into billions of shillings using this Fund. Over the last ten years, it has actually created these problems. That is why county governments have to face these problems. This is really a bottomless pit. How do we keep on pumping in money and use it to clear debts? We complained about this matter in the Eighth, Ninth and Tenth Parliaments. It is incumbent upon the national Government to pick up this matter and take over all liabilities, so that we start on a clean slate.

Mr. Deputy Speaker, Sir, for now, the worst part of it is the fact that the TA is not working with the county governments in a harmonized manner. We require a concerted effort. The challenge in this country is not the lack of knowledge, skills or resources, but it is the lack of coordination. Ministries have been working in a compartmentalized manner. I do not know whether the current Cabinet Secretary nominees will do better. If politicians-cum-technocrats could not achieve much, I do not know what technocrats alone will be able to achieve. Let us hope they will bring in some input that is better than what we think.

Mr. Deputy Speaker, Sir, previous governments have in the past bailed out a number of Government institutions that are now effectively running. They have done that to bodies such as the Kenya Airways and the Kenya Meat Commission (KMC), which were ailing and about to die. It is my prayer that these liabilities are taken off the county governments so that we have something that we can show for what we are trying to achieve as a Government through the Constitution.

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

Sen.(Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance. I want to start by confirming my support for this particular Motion which is founded in the Constitution. The point that Sen. Orengo is trying to emphasise is the use of devolved resources. Article 175(b) speaks on this issue very emphatically. Allow me to quote, it says:-

“County governments established under this Constitution shall reflect the following principles—

(b) county governments shall have reliable sources of revenue to enable them to govern and deliver services effectively;”

Why is this reflected in the Constitution? The drafters wanted a situation whereby it was clear that resources going to the county governments were meant to enable the counties govern and offer services. Payment of debts is not offering services. The Government has a policy on the management of debts. The debts we are talking about were not incurred by county governments. Therefore, it is an act of burying its head in the sand when the Government wants to hear nothing or see anything of the debts that they incurred. They want to ask the Governors to take over such debts.

Distinguished hon. Senators, we have created a minefield for our political colleagues, the Governors. If events continue moving the way they are doing, all our colleagues will not be re-elected because on the time of nomination day they will find themselves in jail for these debts. If they will not be in jail, they will be dead because people who have not been paid might even choose to kill them. Alternatively, they will simply be voted out because they will become so unpopular. It scares me that beyond these debts, Governors are today taking up the responsibility of the bloated staff that hon. Musila has just spoken about. When a Governor will attempt to sack all the former employees of the county, municipal and city councils, that man will be dead. He will not even walk in town because a big chunk of these employees come from these counties. They will be saying:”We did not vote for you, Mr. Governor, so that you come and sack us. We voted for you to create employment.” We must protect our Governors.

Mr. Deputy Speaker, Sir, allow me to refer to Article 186(3) of the Constitution. It says:-

“A function or power not assigned by this Constitution or national legislation to a county is a function or power of the national government.”

There is nowhere in this Constitution where we assign settlement of debts to county governments. Since Article 186(3) says that when this is not assigned, then it is a function of the National Government, automatically the Treasury should realize that this is their responsibility and they cannot pass it over to the county governments.

Mr. Deputy Speaker, Sir, allow me to lament about Kakamega County. Poor hon. Ambetsa Oparanya, he is taking over Lugari and Kakamega county councils, Kakamega Municipal Council, the County Council of Butere and Malaba and Mumias Town Councils. These are six former county councils. If you ask him to take over the debts of these six councils, hon. Oparanya will not operate. I have seen a very big joke suggesting that Kakamega County will be given a paltry Kshs7.8 billion. What will hon. Oparanya do with a small amount like this one? We will be speaking on this when the Bill comes because it is gross injustice to the people of Kakamega County.

Mr. Deputy Speaker, Sir, as we resolve to ask the Government to take over these debts, we should also have something to say about the former chief officers. The culture in this country of saying a lot and doing very little about perpetrators should come to an end. We all remember when we privatized Telkom Kenya, the people who caused financial trouble there, are alive and walking scott-free in this country. Instead the Government went on and paid billions of shillings in order to save Telkom Kenya. We should send a clear message by resolving that the former chief officers, who incurred some of these bad debts, should be arrested, surcharged and their properties sold, so that office bearers who served in public interest should not think that one can always steal public funds and get away with it when the Government settles the debts.

Mr. Deputy Speaker, Sir, still on issues of Kakamega County, if we do not stop and pause and think about the amendment by Sen.(Prof.) Anyang' -Nyong'o that was defeated yesterday, we will have a situation whereby as soon as people on the ground realize that the Government is taking over these particular debts, they will make very many claims and most of them artificial. We have cases in Kakamega County where some unscrupulous lawyers have taken the former county councils to court, settlements have been made and people walk away with millions of shillings.

Mr. Deputy Speaker, Sir, the final point I want to make is: What are some of these services that county governments are expected to offer? The functions are clearly defined in the schedule. In the case of Kakamega County, it scares me when I realize that this county is supposed to be responsible for health services. The only services that the national Government will exercise in Kakamega will be as far as national referral hospitals are concerned. There is no national referral hospital in Kakamega. It means that right from the Kakamega Provincial General Hospital, to all other health centres and dispensaries, this will be the responsibility of the county government. We require hundreds of millions of shillings to run all the health facilities, including Kakamega Provincial General Hospital in Kakamega County. We need to stand up to this and demand that every county must have one national referral facility that can be taken over by the Government, so that, at least, Kenyans in every county have access to a hospital which is funded, maintained and staffed by the national Government. Can you imagine a situation where all the doctors, nurses and other medical specialists in all the health facilities in Kakamega County and, for that matter, in Siaya County are being paid by the Governor? Surely, this man is being set up for failure. If, indeed, we are committed to making sure that our devolved system functions, we must stand tall and speak in loud voices to ensure that the Treasury respects devolution by not passing on its responsibilities, especially the responsibilities that they do not like.

Hon. Senators, I hope that we shall move a Bill in this House that will state clearly that funds that go to county governments should not be used for recurrent expenditure. They should be used for development purposes if we want to change the lives of our people. Should we say that those funds should be used for both development and recurrent expenditures, then we must clearly state in that Bill what percentage we would like to go towards recurrent expenditure. In my view, it should not be more than 15 per cent. All funds at the county governments, up to the tune of 85 per cent, we should deliberately make sure in a statute, that amount is purely for development. That way, our counties will change.

This country has a history. There are some counties that were enjoying devolution without devolution. This is because every year it was mandatory that funds for water and electricity go to Nyeri and funds for roads should go to Kiambu. This has been going on for 50 years. When you come from such privileged counties, you will be keeping quiet and lying low in this House because we are very angry and tense when we fly over your counties and---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Khalwale! You must stick to the Motion, unless you want me to ask you to clarify what you are getting into now.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I was just talking about what I see when I fly over the counties of Kenya.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khalwale, please, stick to the Motion.

Sen. (Dr.) Khalwale: Most obliged, Mr. Deputy Speaker, Sir.

As I end this, it is my dream that when my children will fly over Kenya, they will see an equal Kenya and not a Kenya which is unequal.

Mr. Deputy Speaker, Sir, with those many remarks, I thank you for the correction and I beg to support.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wamatangi, you may want to clarify some of the issues raised by your colleague.

(Laughter)

Sen. Wamatangi: Thank you, Mr. Deputy Speaker, Sir. I rise to support the Motion. Indeed, it is very true that unless some of the debts which are currently being serviced by the counties are written off or taken over by the Central Government, it is obvious that the county governments will not deliver.

Mr. Deputy Speaker, Sir, this Senate has been mandated by the Constitution to be the caretaker of the county governments. It is, thus, our responsibility to ensure that if we do find that such debts are going to cripple or become an impediment to development, then we take the correct and appropriate action in ensuring that those debts are, indeed, taken over.

Mr. Deputy Speaker, Sir, it is also a responsibility of this Senate to act responsibly in ensuring that all legislation that we pass does, indeed, meet the intended purpose. For example, a few years ago, in the now Nairobi County, millions of shillings

were misappropriated by going to buy land that eventually became a big scandal called “the cemetery scandal.” Supposing these funds had been borrowed and in the books of the now Nairobi County, these cemetery funds are retained as a debt, what will happen? We also know that most of the debts which are currently being serviced by the counties have arisen from such responsibilities as paying ghost workers who are still existent in their payrolls.

Mr. Deputy Speaker, Sir, if we just pass a blanket Motion that gives blanket amnesty to the county governments, this Senate will not have acted in its full responsibility. It is important that we support this Motion. However, we support it with a caveat that the debts which these Senate will be asking the central Government to take over be audited by the relevant departmental Committees before they are taken over by the Central Government. I would want to refer to the contribution of one of the Senators yesterday who said that we have relevant Committees in this Senate which are capable of dealing with such an issue. We all know we only have 47 county governments. Could we ask them to forward all the debts that they are required to service to the relevant Committees of this Senate for validation. It is the responsibility of those Committees to tell us which debts were incurred in the right way before we enact a legislation which will force the central Government to write off or take over those debts.

Mr. Deputy Speaker, Sir, as my colleague was making his contribution, he insinuated that the County of Kiambu is a special beneficiary of skewed development from the successive governments since Independence. I would like to invite my colleague, Sen. Khalwale, to Kiambu County. I know that he comes from Kakamega. It has been a long time since he visited that county. He could be speaking out of facts. The people of Kiambu struggle like every other Kenyan to make ends meet. We have limited facilities just like other people in other counties. It is true there are parts of this country which have not had the advantage of getting some of the services because of their geographical location. The purpose of this Senate is to ensure services are taken to people in all counties. The people of Kiambu are not beneficiaries of any skewed arrangement as alleged by the hon. Senator. The people of Kiambu would be happier if Sen. (Dr) Khalwale address issues affecting all Kenyans in general because they all suffer the same problems like the people of Kakamega County. We are one nation with similar problems. Only by looking at issues like that can we deliver the required services to this country.

Mr. Deputy Speaker, Sir, I support the Motion. I would be proposing that an amendment be moved that requires those debts be forwarded here for validation.

The Deputy Speaker (Sen. Kembi-Gitura): As Senators would realize, the balance for this Motion was one hour. So, whoever is going to contribute now has only five minutes.

Yes, Sen. Wako.

Sen. Wako: Mr. Deputy Speaker, Sir, first, I want to thank the Senator for Siaya for bringing this Motion. To me, it does nothing, but to clarify the constitutional provision. I will be very brief.

Mr. Deputy Speaker, Sir, the Section 3 of the Transition to Devolved Government Act states that the object and purpose of that Act is to provide for the audit, verification and transfer to the national and county governments of assets and liabilities--- To the

extent that it mentions liabilities in that section, it is my submission that is unconstitutional. It is one of the issues that we shall be looking at when we are amending the various pieces of legislation that were passed in a hurry by the Tenth Parliament. I say so, because, first, the purpose of the constitutional provisions as I understand them, was to transfer functions, duties and power from the national Government or local authorities to the devolved governments. It was not to transfer liabilities.

Mr. Deputy Speaker, Sir, secondly, once those functions have been transferred, then it was incumbent upon the national Government to provide money to the counties. The functions of the counties are many, as you have noticed. In a number of places, the national Government only issues policies, but the implementation is at the county level where a lot of money is required.

Consequently, the Constitution is replete with a number of sections which make it incumbent that the counties must be provided with money to discharge their constitutional mandate. Transfer of power, functions and provision for money, so that the counties can discharge those powers and functions.

Mr. Deputy Speaker, Sir, my In-law here referred to Article 175 which says:-

“County governments established under this Constitution shall reflect the following principles—

(a) county governments shall be based on democratic principles and the separation of powers;

(b) county governments shall have reliable sources of revenue to enable them to govern and deliver services effectively; and

(c) no more than two-thirds of the members of representative bodies in each county government shall be of the same gender.”

Mr. Deputy Speaker, Sir, further if you go to the Public Finance Chapter of the Constitution, the purpose of this public finance, again, in Article 203(d), is the need to ensure that county governments are able to perform the functions allocated to them. That is the whole purpose of finance. Paragraph “f” stipulates the need to ensure developmental and other needs of the counties.

Mr. Deputy Speaker, Sir, if you go to the Transitional Clauses, Sixth Schedule, 15(2)(a) reads:-

“(2) The legislation mentioned in subsection (1) shall—

(a) provide for the way in which the national government shall—

(i) facilitate the devolution of power;

(ii) assist county governments in building their capacity to govern effectively and provide the services for which they are responsible; and

(iii) support county governments;”

Mr. Deputy Speaker, Sir, to the extent that liability was included, that was *ultra vires* to the Constitution. This is not the first time that assets have been transferred without liabilities. When the East African Community (EAC) broke down, all the services of that Community--- We had the East African Railways and had to have now the Kenya Railways Act enacted which led to establishment of the Kenya Railways Corporation. We also had to pass the Kenya Posts and Telecommunications Corporation Act and so on. We also had to enact the East African Harbours Corporation, the Kenya

Ports Authority and so on. If you read those Acts, what were being transferred were assets, but not liabilities. This was for a good reason. If you have to transfer liabilities, then the new corporations which were going to start would not take off. They would be stillborn. That is why the spirit of this Constitution very rightly provided that no liability should be transferred really, although it does not state so. It provides that functions must be transferred and counties given enough money to do that. You do not transfer functions together with liabilities, because you will not be assisting the county governments to perform their functions and duties. Actually, you are making the counties stillborn.

There is a fear that when people get to know that the debts have been taken over by the Government, then there will be a tendency to make false claims. However, there is a system within the Government to validate their claims. In fact, these debts belong to the Government. As we know, although they are called local authorities, they were actually departments effectively and de facto, of the Ministry of Local Government. The Minister had a lot of powers over them. So, whatever was incurred at that time was the responsibility of the Ministry of Local Government and by extension, the Government. So, when we say that the Government should now take over these debts, we are actually asking them to own up to their responsibilities. When they take over, there is a system within the Government which will do special auditing to make sure only valid claims are paid.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wako! Your time is up!

Sen. Wako: With those few remarks, I beg to support.

The Deputy Speaker (Sen. Kembi-Gitura): Does the Leader of Majority wish to respond to this Motion? If you do then you have 15 minutes.

Sen. Elachi: Mr. Deputy Speaker, Sir, I wish to donate five minutes to Sen. Billow.

Sen. Billow: Mr. Deputy Speaker, Sir, after looking at this matter seriously, I rise to oppose this Motion because of a number of reasons. One, if these debts of the local authorities are transferred to the national government there will be an element of inequity or an element of unfairness to the extent that whatever debt the national government takes and pays will be borne by all citizens of this country because it is going to affect the national resources that will be available for use. These debts have been used by a particular local authority, so it would be unfair for the people of Mandera County, at the national level, to pay for the debts of Kakamega Municipal Council or the excess of the City Council of Nairobi. For example, Nairobi city council has a debt according to the Governor, of about Kshs30 billion. Why would the people of Mandera County suffer for the excess of the City Council of Nairobi? I do not understand. The Nairobi County has taken over the city council and when resources are allocated according to Article 203 of the Constitution, all the factors have been looked at.

The second reason I do not support is that we might send wrong signals to the counties. Already we have seen a situation where many county governments have factored huge debts in their budgets for the next financial year. What is going to happen a year down the road? They are going to end up with public debts. Are we going to come here and say that public debts must be taken over again by the national government? We are going to send a wrong signal if we start suggesting that those debts be taken over.

The third reason is that we do not know how much money is involved even as we suggest that these debts be taken over. I do not know how much is owed by Mandera County, Kakamega County or the City Council of Nairobi. We are going to give those guys a blank cheque. The moment you approve this Motion my worry is that tomorrow we will have those figures inflated, many pending bills and invoices in dozens which will lead to frustrations.

Mr. Deputy Speaker, Sir, there are better ways of handling this. The concern is to give adequate resources to the county governments. This is because county governments like any other government will have to borrow. They are allowed in the Constitution to borrow. So, in future, we will have a situation where the county governments have to balance their budgets by borrowing. That will come. We cannot always be running back. What we need to do is what we are required constitutionally to ensure that the revenue allocation under Article 202 of the Constitution that puts the minimum at 15 per cent can be adjusted. We have the power to adjust that figure to 30 per cent, 40 per cent or 50 per cent to give enough resources to the counties to pay all their obligations, including not only their recurrent expenditures, but also development expenditure and payment of debts. I am saying that because if we push these debts to the national government, we will have a situation where today the national public debt is Kshs1.8 trillion. According to the estimates by Treasury, that figure will go up to Kshs2 trillion. In the last few years, this Government has been on an expansionist policy, spending more than they can generate. If you look at this year's estimates, the public expenditure is Kshs1.63 trillion yet the total revenue that the Government expects to generate in the next financial year is only Kshs723 billion. In the Budget that we are going to look at in the next few weeks, the Government intends to borrow not less than Kshs596 billion just to cover the operations of this country. If we allow this, then all the debts that are in this country, including all the 175 local authorities, we are just going to make the situation worse.

Mr. Deputy Speaker, Sir, we have an obligation to ensure that adequate resources are actually given to the county governments. I think that is a better way; that is, to empower the Governors so that they can clear their liabilities rather than pushing the matter to the national government. We even do not know how much it is and this will also create opportunities for rent seeking behaviour and so on.

Mr. Deputy Speaker, Sir, the other point that I want to put across is that the national government has external debts. That has been taken over by the local authorities. In this year's financial estimates, there are about Kshs45 billion external debts guaranteed by the national government for local authorities among other institutions. This does not include the billions that have been mentioned or owed by suppliers to the local authorities. Therefore, my argument is that it is our responsibility to nurture the county governments to be able to operate like government so that they can meet their obligations, generate revenue, take loans, get grants and be able to pay those liabilities by ensuring that their fiscal capacity is enhanced. One of the criteria to be used by the revenue sharing formulae is fiscal capacity. That is something that we expect to change in the next few months when we review it. My argument is; I do not think this Motion, after looking at it critically is appropriate.

The Deputy Speaker (Sen. Kembi-Gitura): Order! Your time is up!

Sen. Elachi, do you wish to donate some more time to another Senator? You only have five minutes now.

Sen. Elachi: Mr. Deputy Speaker, Sir, I will take my time. First of all, I want to thank hon. Senators for their contributions. After 2007, I believe we had some local authorities that were managed by our brothers from the other side. The Minister for Local Government was also from that side.

Hon. Senators: Which side?

Sen. Elachi: The CORD side. It was ODM which is still CORD.

Hon. Senator: What about Wiper?

Sen. Elachi: Wiper was in the Government at that time but it was not heading the Ministry of Local Government.

The Deputy Speaker (Sen. Kembi-Gitura): That point will be struck off or be ignored for record purposes.

Sen. Elachi: Mr. Deputy Speaker, Sir, it would be wrong to come and tell Kenyans that we have to pay debts without auditing each county council. This House has an obligation to meet the TA and to ask some of these questions. If the Chairman of the TA followed due process, we would have known the debt of each county council. The Government released money to counties. For example, Pokot County received Kshs47 million, but in one week, they had spent everything. It means that other county councils also received the same figures or even more. We have to start thinking how we move on in this country. Indeed, it is so sad for Kenyans to be paying tax and then we ask the Government to pay debts which were irregularly incurred by local authorities. We must ask ourselves what kind of debts we are paying. Are we paying debts where money went into pockets of individuals who we should be taking to court? We will end up having the Governors being taken to court soon because they cannot even question some of these debts.

For example, they cannot even question why they are receiving Kshs300 million to build a house when they cannot pay those debts. We thought we were bringing in a new government in the devolved system that can question some of these things. If I were the Governor, I would think twice before I take this money to build an office or a house when there are debts worth millions of shillings to be paid. I will start with the payment of debts if I am willing to serve the people. But the Governors are not talking about Kshs300 million they are given to build offices. They are talking about salaries. They have to be serious in tackling these problems. It is time we, as Senators, ask ourselves whether we still need this TA. This is because the work they are doing is supposed to be done by us Senators. I urge the President to wind up the TA because the Senators will hold the Government accountable. There should be no conflict between us and them. It would be wrong for us to pass this Motion. We channel all debts to the relevant Committee of Devolution for validation. We need to know how much is owed by Kakamega County, so that we can decide whether the Government can pay in phases or not.

The Deputy Speaker (Mr. Kembi-Gitura): Thank you. Sen. Orengo. You have ten minutes to reply.

Sen. Orengo: Mr. Deputy Speaker, Sir, I am going to ask for your direction at the conclusion of my response. Could you direct that the count be taken at a particular or appointed time so that we will be able to have as many delegations being able to register their vote? That is, if it is possible; there has been precedence for this during the first Motion that was brought before the Senate where voting was postponed to an appropriate time.

The Deputy Speaker (Mr. Kembi-Gitura): Are you making an application, Sen. Orengo? Under what Standing Order, are you making that application?

Sen. Orengo: Mr. Deputy Speaker, Sir, it is under Standing Order No.51. I had organized all that, so---

(Laughter)

But that will come after the Question is put. Before we respond---

The Deputy Speaker (Mr. Kembi-Gitura): You go through the whole Motion and then at the appropriate time, you make the request as necessary. I am aware of Standing Order No. 51---

Sen. Orengo: I am much obliged, Mr. Deputy Speaker, Sir.

Could I, again with your permission, give five minutes to hon. Kajwang before I make my response?

The Deputy Speaker (Mr. Kembi-Gitura): Proceed.

Sen. Kajwang: Mr. Deputy Speaker, Sir, I want to thank Sen. Orengo for giving me three minutes of his time. He has changed his mind from five minutes to three minutes. I had a good speech to make, but now I do not have the time to do it. I will now go straight to what I want to say.

Mr. Deputy Speaker, Sir, when we talk of these debts, whose debts are they? Are they the county government's debts? Did the county governments incur these debts?

Hon. Senators: They did not!

Sen. Kajwang: Why must they pay them?

Hon. Senators: They should not!

Sen. Kajwang: Mr. Deputy Speaker, Sir, these debts were incurred by the national Government through a department called the local Government, and each debt was signed for by the Minister for Local Government of the national Government!

(Applause)

You talk as if these people belong to the moon somewhere. These are not our debts and we do not know who incurred them. Who incurred them? Who should pay them? When you talk of Homa Bay Municipality, for example; this council had a budget every year and that budget had to be approved by the Minister. That budget had all the expenses, including payment of debts, and the Minister approved it. We know the history why they did not have the money to pay debts. Of course, there could have been corruption. There has also been corruption in national Government. They have been paying these debts, including Anglo Leasing. So, the national Government has the job to

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audit those debts, if they want to audit them, and pay them. But these debts which were incurred by people they do not know are not the responsibility of the new government of Homa Bay County.

(Applause)

If there is anybody who has to pay any debt in this Government before we started, it is the national Government. In fact, if Homa Bay County were to pass a motion that they do not have these debts; that they are not going to pay them, how will you force them? How will you force the Homa Bay County Government to pay a debt which was incurred by people they do not even know? We know where these debts came from. First of all, we denied our county councils money; we denied down the taxes that they used to collect – the graduated personal tax was taken over; Pay As You Earn (PAYE) was taken over by the national Government. We denied them the taxes that they used to collect from dogs and cows. They collapsed because they just did not have the funds. They were relying on market dues. Up to now, the County Council of Nairobi, which is now called the Nairobi County Government, is collecting parking fees---

I beg to support.

Sen. Orenge: Mr. Deputy Speaker, Sir, I gave two minutes to Sen. Hassan.

Sen. Hassan: Mr. Deputy Speaker, Sir, I am here just to remind the Senate of its responsibility; its responsibility is to protect the interests of the county.

(Applause)

Do not speak as if you are representing largely and fully the interest of the national Government. You might be in an arrangement of a coalition which forms the Executive, but your interest in this Senate is defined. There can be no better interest than to give a clean slate to our counties to start afresh, notwithstanding how these debts were acquired, because it is the responsibility of that national Government that was here to pay these debts.

I do not feel it is appropriate for the people of Mombasa to start on the devolution agenda on account of a debt acquired from sources or departments that they do not know. We talk as if we are ignorant of the fact that municipalities were little condominiums for the national Governments. They were managed by town clerks who took direct authority and direct instructions from the national Government, the Permanent Secretary and the Minister in charge of Local Government. Let me remind you, again, Senators; your people elected you here to defend their interests and no other interests.

Sen. Orenge: Mr. Deputy Speaker, Sir, if ever anybody was in doubt about what the Senator from Mombasa has just said, there was one time when the late hon. Oloitiptip said: “There are only two leaders in the country;” and that is the President, who was in charge of the national Government, and then the Minister for Local Government, who was Oloitiptip. This is because he was in charge of all local authorities. If you go and look at the Local Government Act and look at the powers of the Ministers, which were implemented and executed by the Minister for Local Government, the power to incur

debts, transfer property and assets, you will realise that the county council will never do it without the authority of the Minister for Local Government. The most important question we have to ask ourselves is that, do we want to create county governments which are going to operate in a situation where they are debt ridden? The French Philosopher, Rousseau once said: "Man is born free, but everywhere he is in chains." So, we are giving birth to county governments, but they are everywhere in chains. Just the other day in Nyeri, the Governor could not go into offices because the workers were on strike and an auctioneer had closed the gates. That is a big national shame. If we are aware of our responsibilities, we cannot allow that to happen.

Mr. Deputy Speaker, Sir, I want to plead with my colleague, Sen. Billow, that these debts are being paid on account that they were never incurred by the county governments, in the first place. They were incurred by a component of the national Government as it operated at that time.

Sen. Billow: On a point of order, Mr. Deputy Speaker, Sir. Is the Senator in order to mislead the House that the county governments are taking over only liabilities when, in fact, they are also taking over the assets of the local authorities? In fact, the value of the assets in most local governments far exceeds the liabilities that those county governments are taking over.

Sen. Orenge: Mr. Deputy Speaker, Sir, if ever there was anybody out of order, it is the Senator for Mandera. He is totally out of order because that would mean the assets, including land, that the Mandera County Government owns will be disposed of to pay debts. I mean, that will be a wrong beginning because a lot of these assets really are in terms of land and fixed assets. But liquidity is almost zero. They cannot take care of these debts. Therefore, I plead with my fellow distinguished Senators to support this Motion.

Mr. Deputy Speaker, Sir, I withdraw my earlier request. If the numbers are there, we should proceed to vote. I would want it to go on record as to who rose to the occasion to support the county governments and those who were against the county governments.

(Loud consultations)

The Deputy Speaker (Mr. Kembi-Gitura): Order! Order! I note that Sen. Orenge has withdrawn his earlier request, which he had made informally. Now, before I put the Question, again, I would like to draw your attention to Standing Order No.69, which you are now very familiar with, where we have to make a ruling on whether or not this matter affects counties. You are aware that when the amendment came up, the ruling was that it affected counties. My ruling now is that according to Standing Order No.69, this Motion affects counties. Therefore, when I put the Question, each county delegation shall have one vote only as in the past. If the head of delegation is not here, then the designated person or Senator from that delegation will then be allowed to vote. I draw your attention to Standing Order No.73 on the Roll Call, because we are going to proceed to a roll call; and also to Standing Order No.74, again on the procedure when we get to a roll call. I do not intend to read it, but you can look at it in your Standing Orders.

In which case now before I put the Question, I would direct that the Division Bell be rung for eight minutes and then we shall proceed to vote. So, let the Division Bell be

rung for eight minutes. In the meantime, we can have the names of the Tellers for the Ayes and for the Noes.

(The division bell was rung)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Members, the Teller for the Ayes will be Sen. Ongoro while the Teller for the Noes will be Sen. Sang.

The Senior Deputy Clerk will proceed to call out the names in the presence of the tellers. When called out, each of you, as Senators will rise in your place and declare ascent or descent to the question. As you are aware, you will vote yes, no, or abstain. There is no fourth option.

DIVISION

ROLL CALL VOTING

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

AYES: Sen. Bule, Tana River County; Sen. Chiaba, Lamu County; Sen. Haji, Garissa County; Sen. Harguara, Marsabit County; Sen. Hassan, Mombasa County; Sen. Kajwang, Homa Bay County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. Mbuvi, Nairobi County; Sen. Munyes, Turkana County; Sen. Leshore, Samburu County; Sen.(Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Moi, Baringo County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Musila, Kitui County; Sen. Kagwe, Nyeri County; Sen. Mwakulegwa, Taita-Taveta County; Sen. Ndiema, Trans Nzoia County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Orengo, Siaya County; Sen. Wamatangi, Kiambu County; and, Sen. Wako, Busia County.

NOES: Sen. Billow, Mandera County; Sen. Kembi-Gitura, Murang'a County; Sen. (Prof.) Lesan, Bomet County; Sen. Melly, Uasin Gishu County; and Sen. Sang, Nandi County.

Teller of the Ayes: Sen. Ongoro

Teller for Noes: Sen. Sang

The Deputy Speaker (Sen. Kembi-Gitura): Order, hon. Senators! The results of the roll call are as follows.

AYES: 27

NOES: 5

ABSENTIONS: Nil

Hon. Senators, as you are aware this is a Motion that requires 24 votes to go through, under Article 123(4)(c) of the Constitution. Therefore, in view of the votes that have just been read out, I declare that the Motion is carried.

(Question carried by 27 votes to 5)

MEASURES TO ADDRESS ROADS DEVELOPMENT
ACROSS THE COUNTIES

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order, hon. Senators! The Senate is still in session. Please, consult quietly. Sen. Moi and Sen. Sang, order!

Proceed, Sen. Musila.

Sen. Musila: Thank you, Mr. Deputy Speaker, Sir. I beg to move the following Motion:-

THAT, noting with concern the skewed infrastructural development in Kenya, particularly in the road sector; aware that without suitable roads to connect all counties the nation cannot meaningfully achieve the development goals envisaged in our Vision 2030; noting further that in his Presidential Speech on the occasion of the State Opening of Parliament on 16th April 2013, His Excellency the President promised the nation to “improve local roads so that our people can move freely across our nation;” the Senate resolves that the national government takes immediate steps to correct the skewed roads development in Kenya and requires the Department of Transport and Infrastructure to submit to the Senate through the Senate Committee on Energy, Roads and Transportation an annual report of roads development programmes covering all counties in Kenya, beginning July 2013.

Mr. Deputy Speaker, Sir, in this Motion, I want to draw the attention of the Senate to the historical development of infrastructure. I want to emphasize right from the outset that I am not laying blame to any part or county of this country, because what we want is to correct the imbalances of development, so that we may move forward as a country, in accordance with the new Constitution.

As we are all aware, the development of infrastructure in Kenya since 1963 has been skewed and there is no argument about this. This is simply because the policy of successive Governments since Independence has been based on two factors. First, it was based on the false premise that the rural network should cover the so-called productive areas. Therefore, those areas that were deemed “unproductive” were left out of any roads development. Also, and this was very wrong, those in power made sure that the areas they came from got paved roads. Therefore, if your county did have luck to have any person in power, then it was too bad for you. That is history and we cannot dwell on history. We must forget history and move forward.

Mr. Deputy Speaker, Sir, the policy that I have just talked about is responsible for the skewed development of the roads network in Kenya. I have some statistics here to prove my point. The least ten counties in this country with paved roads are as follows: Mandera County, which has zero paved roads; Lamu County, zero; Marsabit, zero, Wajir, zero; Garissa, zero; Isiolo, 0.3 per cent; Tharaka Nithi, the home of the Senate Majority

Leader, 0.4 per cent; Samburu, 0.8 per cent; Migori, 0.8 per cent; Migori, 0.8 per cent; Nyamira, 1 per cent. I can go on and on and you will clearly see that the road network in this country has been skewed. We have counties like Nairobi, our Capital City, with 10.3 per cent of all the paved roads in Kenya. Kiambu has 7.1 per cent; Nyeri, 4.4 per cent; Baringo, 3.7 per cent; Turkana 3.7 per cent, *et cetera*. In a nutshell, ten counties of this nation occupy nearly 50 per cent of the tarmac roads in this country. The remaining counties share the remaining 50 per cent. The point that I am emphasizing is that history has not been very kind to a number of counties in this Republic.

Mr. Deputy Speaker, Sir, happily, the new Constitution gives us hope that we can correct these imbalances. Chapter 11 of the Constitution, which created the devolved Government, Article 174 (f) gives one of the objects of setting up county or devolved government as to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya. Article 174 (g) indicates that the purpose of devolved government is to ensure equitable sharing of national and local resources throughout Kenya. That is the Constitution. Therefore, if we have to go by that Constitution, we must ensure that there is equitable sharing of national and local resources throughout this country. One way of sharing is ensuring that infrastructure that has been skewed is corrected.

Mr. Deputy Speaker, Sir, there are many benefits that this country will get out of the development of infrastructure across the country. It will connect all counties of the Republic. There will be immense economic and social benefits if we did this. First, we will create the inter-county trade. We emphasize so much about international and East African Community trade, but do not know that we are missing a lot of trade within this country itself. I will give an example. There are some counties which produce a lot of food, for example, vegetables in Nyandarua County, and yet, there are areas in this Republic where people do not have the benefit of eating vegetables. In Nyandarua, for example, they will even feed cattle on cabbages because they have no market. But if the road network is good, I see a day when traders in Nyandarua will be sending their cabbages and carrots to North Eastern Province if the roads are made. We have camel milk in North Eastern which is very nutritious, going to waste because they cannot transport it. In Meru, for example, there is *miraa*, but it is a nightmare for it to reach places like Mandera because there are no roads there. So, I am emphasizing the inter-counties trade through improved infrastructure.

Mr. Deputy Speaker, Sir, most developed countries thrive on domestic tourism, where nationals of that country travel inter-state or inter-county to visit and know the country and also give money to those areas. Many of our Kenyans do not know this country, simply because means of access to those areas are difficult. If we opened roads you will find people from North Eastern going to Coast, Nyanza and vice-versa. We will be touring our country and, in that way, get the benefits. Also there will be national cohesion which lacks often.

When roads are constructed, people will travel. This will increase national cohesion and, above all, create employment. All these roads will get mushrooming towns along them and employment will be created. By asking that we do these roads, we will not be re-inventing the wheel. I will give an example of the People's Republic of China.

Since the beginning, China developed towards the east and the south. They forgot the west, but they have now realized the potential of those areas. Therefore, those areas that were left behind by the previous governments of that big country are now getting attention. If you visit China now you will find the attention of the Chinese Government shifting to those areas that were left behind in terms of development. So, let us not feel bad about it. The Kenyan situation is not unique. Every country at one point or another begins somewhere. As they move on, they realize that the areas that have lagged behind have a lot of potential. For example, only a few years ago we did not know the potential of Turkana County, but we now know that Turkana County is going to be producing oil. In the past, nobody thought about building a road to Turkana because it was felt that it was not productive. Recently, coal was discovered in Kitui County in large quantities. If properly managed, this is going to benefit this country by reducing the electricity cost. Those are areas with potential which we are discovering now, but there are many more others. There is iron ore in Tharaka Nithi. There is gold in western Kenya. All we are lacking is connecting infrastructure to those areas.

So, I am envisaging a situation where this country is going to be inter-connected with paved and tarmacked roads so that the kind of views that the Senator for Kakamega made, that some areas are more developed than others, will be a thing of the past. I say we make no apologies because that is the history of this country. We must forget the past, move forward and ensure that we correct these imbalances. Therefore, I am calling upon the relevant departments to ensure that beginning July this year, subject to approval of my Motion by the Senate, we will ensure that they bring a programme to the Committee of the Senate showing what they are doing that particular year in order for the Committee to satisfy itself and later report to the Senate so that it is kept abreast of the infrastructural development of this country; so that at the end of the day we can speak of a country that is evenly developed as envisaged in the Constitution. This country will be cohesive due to connectivity through travelling and this is economically viable because people from all counties will be trading among themselves. This will be a great nation in future if we can follow that infrastructural development.

Madam Temporary Speaker, Sir, therefore I plead with my colleague Senators to support this Motion. In doing so, they will be playing their role of ensuring that there is equitable allocation of resources to all the counties of this Republic.

I beg to move and request the hon. Senator for Nyeri, Sen. Kagwe to second the Motion.

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

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

Sen. Kagwe: Madam Temporary Speaker, I rise to second this important Motion that has been moved by a Senator with a good grasp of the issues of Kenya, having been a provincial commissioner and having travelled across this nation and seen the disparity that is there between counties in as far as infrastructure development is concerned.

From the outset, I believe that these are reports that should have been coming in, in any event to every constituency from the beginning, but that not having been done, we now have a chance to relook at how the reporting of the construction of roads should be done in Kenya. As we start this new dispensation of county governments, it is only fair and important that a report is given to every county, not only from this particular Ministry, but from all other Ministries. Activities going on in each county should be given in a report at the end of every year from the various Ministries for the benefit of us in the Senate to know what is happening in our own counties.

Madam Temporary Speaker, it is true that some counties in this country do not have any tarmacked roads. It is unfair. It is only right that every county should feel that they are part and parcel of this country. Every county should feel that, as they say, “*Najivunia Kuwa Mkenya*”. For people to feel they are Kenyans like others. It is only right that when they travel to one part of Kenya, they see a replica of themselves and a replica of the developments in their own counties.

The former President, Mr. Kibaki, is on record for having made great effort in the construction of roads in Kenya. If you travel around this nation, there are various new roads that have been built all over this country. We must go beyond there to sustain his legacy and to keep the construction of roads going. This must be done in a conscientious manner. We must construct roads in a conscientious manner in order to address the issues raised in this Motion.

In addition to this, this is also a time for this Ministry to start doing some research and find out how else we can construct proper roads unlike the way we have always done. There is new technology in the area of roads construction and infrastructure development. There is technology now where chemicals are being used in some parts of the world. Material existing in a county like soil can be mixed with chemicals that harden the roads in such a manner that is as good as tarmacked, but at 50 per cent of the cost of tarmacking.

Even as we talk about the paving of roads, let us keep in mind the fact that there should be research. We must not always follow the beaten track. If we follow the old technology then the cost of construction will overwhelm us. Therefore, we must think differently. We must ask ourselves whether there are local materials we can use to construct roads so that we do not get cost constraints.

We should not be talking about bitumen and by-products of oil as materials for constructing roads. If you go to Rome, roads are basically built with stone work. We have a lot of stone work in Kenya. We also have labour in Kenya. If we combine our local materials with our local labour, it is possible to construct a lot of roads.

One of the handicaps that we have always had is that we have always assumed that we must get bitumen, tarmac, and so on to construct roads at massive costs per kilometre. Let us be innovative and think anew. One of the reasons I would like to believe that the Cabinet is being filled with new faces, is to be able to address new ways of doing things. Therefore, I urge that if we, indeed, want to create opportunities for Kenyans, one of the biggest advantages of construction of roads is that they provide a lot of labour; they employ many young people. If you think about it, the development by Germany and the United States of America (USA) were simply based on infrastructure

development. Infrastructure development employs a lot of people and has a huge multiplier effect. Therefore, I would like to support this Motion and urge my fellow Senators to support it. More importantly, I would like to urge this Ministry to act positively and to think in a new manner of doing things.

Madam Temporary Speaker, it is also necessary for the Ministry to re-classify the roads because if we follow the beaten track, we will have only certain roads being constructed by the respective Ministry. Most counties do not have classified roads. Even as we move this Motion, what is going to happen is that they will continue constructing those roads in only areas where the roads have been classified. Therefore, I think re-classification is necessary. The Ministry can make it possible that in each county, there is a road that is classified as one that is supposed to be attended to by the central Government. Otherwise, you will find that the money that is going to the counties will be used by some counties on infrastructure while others will not. Even where there are roads, for example, in a county like Nyeri, the inequality is huge. Kieni constituency constitutes 52 per cent of Nyeri County, which is also a semi-arid area and classified as such, yet if you go to Kieni Constituency, there are no roads worth talking about. Even within the counties themselves, there is inequality. Therefore, inequality exists county to county and exists within the county itself. So, in balancing this matter, it is necessary for the Ministry to look at this imbalance wholistically, reclassify their roads, use new materials and think scientifically. In so doing, we will succeed.

With those few remarks, I support this Motion.

(Question proposed)

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

The Senate Minority Leader (Sen. Wetangula): Thank you, Madam Temporary Speaker. I support the Motion. Hearing my brother, the Senator from Nyeri – one of the most favorite counties in the country – speak the way he did, I feel very happy that we are approaching this process of correcting historical imbalances in a bipartisan manner, and that this country must develop equitably and, at some level, equally.

Madam Temporary Speaker, the road network is critical for development and if you look at the report that Sen. Musila was referring to, the table on observations says that counties that have more roads covered are again the most economically strong, while those with poor roads are economically challenged. This is a reality; you look at the matrix provided and you see that some parts of the country enjoy a very vast and robust road network while others have nothing.

But, Madam Temporary Speaker, we all know the history of this country and I think as a Senate, we do not want to drive with our eyes on the rear view mirror; we want to move forward. We know what the successive past three regimes did in promoting and entrenching imbalance in development in the country. But this is now a new dispensation; it is time for us to correct these imbalances.

Madam Temporary Speaker, there are many, many parts of this country that are immensely productive, but have no road networks. If you go to a county like Trans Nzoia, which is the granary of Kenya – one third of the cereals of this country in terms of

maize is grown in this county – yet there is hardly any road infrastructure there. If you want to drive from Kitale to the Uganda border called Suam, if it starts raining and you are there, you must sleep in your car or look for some place to sleep, probably a villager's home. The same can be said of West Pokot, Bungoma, Kakamega, Busia, and Siaya; name it. I think it is now time for us to start thinking of how to correct these imbalances. The other day, we were flying over Ukambani with my brother, Sen. Musila, and we could see tarmac roads running from central and stopping as you enter Ukambani. Again, this is something historical that we regret, but we must correct it. It is now time that we realized that every part of this country is productive; every part of this country has a potential.

I do not intend to amend the Motion, but I would expect some colleagues from the northern part of Kenya to amend this Motion to include a provision of light rail lines that will be able to move produce and livestock from places like Marsabit, Loiyangalani, and Isiolo to the markets. It even makes more sense to have those light rail lines to also take off pressure from the roads because more often than not, we have very heavy trucks on these roads and because of the compromising quality assurance that we have in the country with some of our engineers not doing a very honest job, you will find that a new road cannot last even three years because of overuse and over-loading. So, having light rail systems complementing the roads even in very high potential areas – production areas like Nyandarua – to bring farm produce to Nairobi, it will ease the pressure on the roads, it will preserve the roads and protect them.

One other thing, and I agree with the Senator for Nyeri, is on the changing technology. Obviously, our economy may not allow the tarmacking or the paving of all roads in the country. But there are some technological developments that have emerged from Europe, South Africa and China where you use certain materials that make murrum roads as firm and as durable as tarmac roads; and they can be kept in that condition for three or four years without regular maintenance. These are some of the things that we expect the new Ministry dealing with roads and transport to start embracing so that as we do tarmacked roads in many parts of the country, especially in parts with very heavy and regular rainfall, we also need to find a system of maintaining earth roads in conditions that are as good as any other road.

Madam Temporary Speaker, if you go to Uganda – because my constituency borders Uganda – if you cross from Lwakhakha into Uganda, that is what they are doing. The murrum roads there are as good as the tarmac roads, and it is an area which is very productive, but we cannot access that market because from our side, there are no roads! I want to urge that as many Senators as possible support this Motion, but more importantly – and we have been discussing this with a few colleagues – I think we need to have a bipartisan approach, with both the Majority and the Minority, to bring a Senate Bill that defines our responsibility *vis-a-vis* the national Government in provision of services. Now, we are asking the department of roads to give us reports; we want the department of education to give us reports; we want the department of energy to give us reports; we want reports from virtually all departments of government and we may not be able to achieve this through Motion after Motion. I want to urge that we develop a Senate Bill that becomes a law, that obligates every department of Government and every Ministry

that is doing work that touches on our counties and that is going to reduce inequalities in development so that they are obligated regularly either annually or half yearly to file reports with the Senate so that the Senate can be able to look at this and define our direction as to what we want to do.

Madam Temporary Speaker, without proper road networks, many, many parts of this country will remain marginalized. If you go to places like Mandera and Wajir – which are very productive areas – and to places like Kajiado, where it rains for two weeks and you think this is a tropical area; yet they have no communication. For you to travel from Kajiado--- What is the capital of Kajiado?

Hon. Senators: Kajiado Town.

The Senate Minority Leader (Sen. Wetangula): For you to go to a place which is very close by, in Magadi, you have to come back to Nairobi in order to get to Magadi; something which is very, very embarrassing 50 years after Independence. Yet when you cross from Kajiado to Magadi, the entire area looks very productive, very green and very good for agriculture, and this can be said of everywhere. So, I want to urge that as we support this Motion, we should start broadening our thinking; that we need reports from every department. I want to urge the Mover of this Motion to, perhaps, talk to one or two colleagues who have more time than me to bring an amendment to include light rail systems that will be able to complement the road network in this country for faster growth.

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

Sen. Haji: Thank you very much, Madam Temporary Speaker, for giving me yet another opportunity to contribute to this very, very important Motion.

Madam Temporary Speaker, the current Constitution recognizes that there are areas of this country which are really marginalized and, therefore, every effort must be made by the Government to ensure that this marginalization does not continue and that it should be corrected as soon as possible.

Madam Temporary Speaker, the question of roads, which was brought by my best friend, hon. Musila, is coming at the right time when we have a Senate, which is supposed to protect the interest of the devolved government in every respect. The marginalization in terms of roads is real and nobody can really deny it. As I stand here, I remember in 2007, I wrote to His Excellency President Mwai Kibaki, about the state of roads in my constituency then, Ijara, particularly between Mombasa, Malindi, connecting us in Ijara. There is a road which is called Garsen-Ijara Road and it is only 68 kilometers. All I was asking for was just a murrum road; not even a tarmac road; and also small bridges and drifts which are properly done so that it is passable in all weather. The then Head of Civil Service was told to take action about this road. I have a letter which he wrote to the Permanent Secretary, Roads – who is now the Minister in charge of Roads and a very good gentleman – and at that time hon. Nyachae, another elder and close friend of mine was the Minister. I remember visiting the office and he also directed that this road should be worked on. You will be surprised that up to this moment, that road is not passable. To make it worse, we suffer when there is no rain because of poor drainage; because the road has black cotton soil and there are so many drifts.

A journey which maybe should take you one hour will take you four hours because of those problems. To make it worse, when it rains, it turns into a river. Right now, many parts of Garissa County, particularly Ijara, are not accessible because of the rains. The Tana River has flooded the roads, including the road I am talking about. There is also a bridge which was built with Kshs700 million to connect Ijara Constituency with Tana River so that people could access the tarmac road from Garsen to Garissa or to Nairobi. The western side of the bridge is, up to this moment, not passable because it has never been worked on yet the country had spent Kshs700 million. So, when we talk about poor road network in this country and marginalization, it is real. I sometimes think that both the Senate and even the National Assembly should take an opportunity - particularly the Committees which are responsible for communication and roads, to go out of this Capital City, Nairobi, and see the suffering of the people in many parts of our country.

Madam Temporary Speaker, as we all know, there is no development that can be achieved without communication. Communication is vital because as I said, if an area is marooned because of the river or because of the rains and the floods, and people cannot even afford to hire a plane to drop food, you can imagine the agony which people go through. Therefore, we urge the Government that this matter should be taken seriously and something should be done. The only road we are asking to be tarmacked is the Garrisa-Wajir-Mandera Road which connects us to Ethiopia and Somalia. We are not asking for tarmacked roads within our urban areas. Our county is very dry and it is not necessary that there should be tarmac. If we have proper murram roads and the drifts are worked on so that they are passable, the hue and cry by people due to lack of roads will be minimized.

With those few remarks, I strongly support this Motion.

Sen. Wako: Thank you for this opportunity to speak to this very important Motion on infrastructure. We all know that for any development to take place, you have to begin by improving the state of infrastructure. We know that the Roman Empire grew because of the roads that had been laid to connect the various parts of the empire where people and goods and animals could freely move. Let us not forget the trade. Infrastructure is not only for the free movement of persons. Infrastructure facilitates the free movements of goods and services. One of the great contributions by the previous Government was the emphasis on the improvement of infrastructure which benefited many areas but left out others. I am sorry to say that Busia was one of those which did not benefit.

I will agree with what has been said about marginalised areas. However, we are not just thinking about the traditionally marginalised areas; the north eastern region, among others. As far as the road infrastructure is concerned, Busia is also a marginalised area and that must be taken into account. If you look at the notes that we have just been supplied, you will see that Busia County is one of the counties which have less than 1 per cent of paved roads. That is the only county in Western Province which has less than 1 per cent of paved roads. Therefore, the idea that we, as the Senate, should be receiving annual reports on this is a noble idea.

We should not just be receiving annual reports to inform us on what has happened in a particular year. I am proposing an amendment which will be moved by Prof.

Anyang'-Nyong'o – I hope that you will give the Senator (Professor) an opportunity because he has an amendment that we have discussed – which will also obligate a report on the projected development for the subsequent years so that as we are informed on what has happened in the current year, we are also informed about the development being expected. When they come back in the following year, we should take them on regarding what they have done and whether they fulfilled what they had planned to do in the subsequent years.

In Busia, we only have 113.7 kilometres of paved roads. This is the road to Busia from Kisumu; the road that goes through Malaba to Uganda; the road between Mumias and Busia and the road between Funyula and Lake Victoria. When I was campaigning, my people told me not to confine myself to paving roads in towns but to go and meet the people inside. When I went inside, I was horrified by the state of the roads there. These are the roads in South Teso, Funyula and Budalang'i. No wonder there has been no development in Busia because although the farmers are very good, they cannot take their produce to the market and even to Busia where they can sell them to the extent that Busia Town depends on foodstuff like cabbages, tomatoes, among others, which has been brought in all the way from the Rift Valley because the road from the Rift Valley to Busia is tarmacked. Farmers who produce food within Busia cannot move from Agenga or from Changara to Busia to market their products. As we seek the development of infrastructure, I would like to make a special plea for those counties which are mentioned as having less than 1 per cent of paved roads. One of those counties is Busia County. We can then move on to those counties which have earned a 2 per cent of paved roads and so on so that we are at par with others.

I agree with the idea that we should not only depend on Motions to have these reports but develop a Senate Bill which will obligate all the Government Departments to bring these reports to us. The Standing Committees; eight of them, were not set up for nothing. They cover the whole spectrum of Government. Therefore, if we can develop a Senate Bill so that reports come in as a matter of course rather than because a Motion has been moved and endorsed by this Parliament, that would be better. My Committee on Legal Affairs and Human Rights will embark on that immediately. We will be having a retreat this weekend where all these issues will be discussed. One of the issues is on the development of a Senate Bill to talk not only about such reports but also to provide for our relationship with the National Government and the National Assembly and with the county governments, among others.

With that, I beg to support.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I rise to support this Motion. I would like to say that it is coming at the right time when we are discussing about the finances to be used in the year 2013/2014. If there is one sector that will require funding more than the others, in the first year of devolution, it is that of roads.

There are counties in Kenya where moving from one place to another is simply a nightmare. There are also parts of this country where children below the age of 10 have never seen a car. The reason for this is because there is no road network that any car can ride on including our own Government vehicles which should be taking officers to see our people. That is why we hear about some primitive activities going on in some parts of

Kenya like cattle rustling. This would easily be harnessed and stopped if there was a proper road network. When I hear my colleagues saying that they have a problem with the road networks in their counties, I do not know whether they know the kind of impact we are talking about. I am talking about two types of roads.

Those of you who have had road networks since 1963, which is 50 years ago, have enjoyed their bit except that the roads are not everlasting. So, you have come back to where we are. There are some counties that have no single road network which has ever been opened. I want us to look into these two scenarios. While others are looking for money for the rehabilitation of roads, others like me from West Pokot County, those from Turkana County, Elgeyo Marakwet County and Trans Nzoia County who are my neighbours have no road network. The only one road that we are told is tarmacked leads from Nairobi to Southern Sudan and coincidentally passes through Kapenguria and we do not use it. There is a road from Eldoret to Kitale which is about 70 kilometres. We used to take about 40 minutes here but now you have to chew about two hours on the road.

I do not know whether my colleague, the Senator from Turkana, has ever gone home since he was elected because of the road. He has to think about it before going. This is my proposal on top of what we are asking. We are asking that as we get reports through the Committee on Energy, Roads and Transport, that we also have the masterplan for all the roads, in the entire country, to each county so that when we are allocating money, we look at each sector and not the money being given to each county. I need to know how many roads have been opened in West Pokot this year and in Mandera, among other areas. We should also look at the activities being carried out to see whether they are repairing roads or constructing new roads so that they open up the country well.

In the new Constitution, Article 204(2) talks about the Equalisation Fund and says;

204. (1) "There is established an Equalisation Fund into which shall be paid one half per cent of all the revenue collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly.

(2) The national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible."

Roads, to me, are a priority before anything else. At the Kapenguria District Hospital, which is now a county hospital, you will find that patients who are taken there need blood and yet we do not have a blood bank. We are told that this is the only hospital other than the referral hospital in Nairobi, Kenyatta Hospital and the Moi Teaching and Referral Hospital that uses a lot of blood. When you follow this, you will know that patients, who are supposed to access medical care; who are supposed to be carried using stretchers are carried using human hands. By the time the patients get to the hospital, they require blood and water so as to be stabilized. What does this mean? This means that there are no roads. This is a priority area before anything else happens. We passed a Motion the other day about the future expansion of universities in every county.

How do you expect students from Malindi County to go to West Pokot County to study Education? How are they supposed to go? The issue of roads has to be addressed.

We now have goods which are manufactured in Kenya. We are supposed to send these goods outside so as to grow our economy. We are also supposed to open up and get jobs for our youth. How are the manufactured products supposed to leave the factories to the markets? For example, the latest market opportunity is in South Sudan. The road to South Sudan has not been repaired since 1980 when it was built. I hear that we even sell water from here in South Sudan. How does it reach there? We need to also look at roads that join the heartbeat of Kenya to the neighbouring countries, so that there is a fast flow of goods.

Madam Temporary Speaker, lastly, there are huge rivers in some parts of Kenya. For example, in West Pokot County, we have five huge rivers which you cannot cross. We need bridges. The other day four people were swept away in Mwino just because they were struggling to cross the river. They were two school children and two adults. We cannot even budget for a Kshs5 million footbridge. This Motion can address this issue. We want to see how much expenditure goes to roads per county before we talk about other sectors.

Madam Temporary Speaker, I support this Motion.

Sen. Kisasa: Madam Temporary Speaker, I support this Motion. I come from Kilifi County where we sometimes take even four hours from the airport to get to town. That is barely some few kilometres from the main roundabout, that is, Changamwe Roundabout.

Madam Temporary Speaker, the road networking or infrastructure is the backbone of any area. This is because once the road is done, then everybody is helped, whether they are using a bicycle, bus or whatever. So, without roads, this will be very difficult for us. Kilifi has only one tarmac road, that is, the main road. I am even surprised to hear that we have 2.1 per cent nationally. That is the only road from Mombasa going towards the North Coast. There is a lot of produce from the interior, but there is no way that we can access the market in good time. It is so hard even for the patients to get to the nearest hospitals bearing in mind that the only main hospital is the Kilifi District Hospital. We will really be advantaged if we get a good road network. We will be proud and also feel that we are part of the Kenyan community.

Madam Temporary Speaker, I beg to support this Motion.

Sen. (Prof.) Anyang'-Nyong'o: Madam Temporary Speaker, I rise to support this Motion that was moved by my good friend, Sen. Musila. I also appreciate the contributions made by my colleagues.

Madam Temporary Speaker, before I move on, I would like to propose an amendment, which I will read. I have already given it to the Clerk's Office and I am sure that it is being printed. The amendment is simply that everywhere you find the word "roads", we add "and rail roads" to cover the concerns of Sen. Wetangula and other speakers who have said that it is much more economical in certain places to do light rail roads. We have seen in many cities and counties, for example, Puerto Rico, the City of Sweden, Spain, Italy or The Netherlands, that the roads are made of stones, but at the same time, they have railways or rails on which street cars move. Now if we develop both

roads and railroads, we shall give ourselves the very economic option of making sure that we do something that will last and help in the connectivity very effectively.

Madam Temporary Speaker, in that regard, the Motion will read:-

“THAT, noting with concern the skewed infrastructural development in Kenya, particularly in the road and rail road sector; aware that without suitable roads and railroads to connect all counties, the nation cannot meaningfully achieve the development goals envisaged in our Vision 2030; noting further that in his Presidential Speech on the occasion of the State Opening of Parliament on 16th April 2013, His Excellency the President promised the nation to “improve local roads so that our people can move freely across our nation;” the Senate resolves that the national government takes immediate steps to correct the skewed roads and railroads development in Kenya and requires the Department of Transport and Infrastructure to submit to the Senate through the Senate Committee on Energy, Roads and Transportation an annual report of roads and railroads development programmes covering all counties in Kenya, beginning July 2013 and projections for subsequent years.”

Madam Temporary Speaker, as some of the contributors today – I think it was Sen. Wetangula and Sen. Kagwe - mentioned, the construction of roads is something that has seen tremendous technological improvement over the last couple of years, and distinguishing just between bitumen roads and earth roads is actually being stuck in the past. There are many more ways of making roads, as our colleagues have said, that we should look into; and we have plenty of raw materials for doing so in this country. This includes bricks, sand and so on. We have an institution in Industrial Area for doing research on roads. Some of these institutions should have given this knowledge and technology to the Government a long time ago.

Therefore, if we use both roads and railroads, we shall tremendously reduce the cost of roads construction. Take, for example, Kisumu County, the tarmac road that was built many years ago from Muhoroni to Kisumu is completely broken down, and it is impossible to ride on. In fact, it would be better to remove the tarmac altogether and just leave the murrum. So, at the moment, we have a nightmare travelling in the sugarbelt. Further, if you go into the sugarbelt, transporting sugar cane from the farms to the factory is impossible, because we use earth roads. When it rains – and of course, it rains a lot in the sugarbelt – there are a lot of problems. We know that when the Mehta Family ran the Miwani Farm, they used light rails to transport sugar cane from their farms to the factory. If you go everywhere, there is sugar economy, including Fiji and Brazil, you will find that the light rails are the ones used for transporting sugar cane from the farms to the factories. Now, that technology is available and has been improved upon. Therefore, if we pass this Motion with the amendment, as we have proposed, we shall save ourselves a lot of money and introduce tremendous efficiency in our communication system.

Madam Temporary Speaker, I was just looking at the counties in the Lake Basin; what I call the Lake Basin counties of Nyamira, Kisii, Migori, Homa Bay, Kisumu, Siaya, Busia, Kakamega and Bungoma. If you put these nine counties together, they have about nine million people. If you look at it geographically they are easily interconnected

by railways, which is much cheaper than roads. If you mix roads and railroads, it is even cheaper. Then, if you add the lake in transporting goods from Kisumu to Sio Port, Homa Bay and so on, you would even cut the tremendous cost that we now incur of going by road from Kisumu to Homa Bay. It does not make sense when you can spend a shorter time having marine transport from Kisumu to Homa Bay. I do believe that the East African Railways and Harbours in those days was conscious of this, and that is why they developed maritime transport in the lake. Once you have the concept of roads and railroads, you will easily use maritime transport, because when you are moving heavy goods from Kisumu to Homa Bay, you will use less resources doing them on the lake rather than using the roads.

We have always thought of access roads to the rural areas and mentally, we have always been prepared to think of these roads as earth roads, but it is much more expensive to maintain these earth roads than if we made them tarmac roads. It is in the rural that there is little traffic but whenever it rains, whatever traffic, be it cars, motorbikes or bicycles is endangered. Immediately after the rains, the roads are usually impassable so they have to be maintained. If you look at the amount of money used by the Constituencies Development Fund (CDF) or the Local Authority Transfer Fund (LAFT) - it is a lot of money. If that money was projected ahead of time and used to make tarmac roads, I tell you we would have spent less money doing infrastructure in the rural areas than we are doing at the moment. The idea that came to us of rural access roads in the 1970s, I think people like Sen. G.G. Kariuki are responsible for it, the mentality should end and we should think of having proper roads in the rural areas which are less expensive than earth roads.

As Sen. Wetangula was saying, the technology of making roads using soil is available and has been used elsewhere but personally, I would rather go the rail road's way and the tarmac roads way even in the rural areas because they last long. If you go to Lang'ata and Kileleshwa, there are access roads done by the colonialists. Those roads have existed up to today. In a place like Woodley Estate, I have never seen the City Council of Nairobi going to Woodley to repair the tarmac roads there. This used to happen because there was no corruption and the traffic used to be light. So, why do we give people earth roads rather than build access roads like the mzungu did here using tarmac which has lasted for over 50 years?

Mr. Speaker, Sir, this Senate should help in the thinking process of the nation and help the counties build infrastructure by adopting this Motion as amended by me.

Just to remind the House, I moved that the Motion be amended by-

(a) inserting the words "and rail-roads" after the word "road" and "roads" in the second line.

(b) inserting the words "and rail-roads" after the word "road" in the 8th and 11th lines

(c) deleting the full stop at the end of the Motion and inserting the following words in place thereof, "and projections for subsequent years"

If we do this, we shall have added tremendous value in policy making in the roads and infrastructure Ministry that we have now. We shall have really helped our counties embrace a new infrastructure development programme that will be less costly and much

more durable. Further, in doing this, we shall also bring a thought among our counties if they are going to make proposals for infrastructure development, they will have to think of their neighbours. I have already spoken of the lake basin counties which in terms of infrastructure can easily be grouped together in planning and infrastructural development programme.

With those few remarks, I beg to move.

Sen. G.G. Kariuki: Madam Temporary Speaker, I was ready to proceed with the original Motion but when an amendment was put forward, I found it more convenient to support the amendment because it has added value to the Motion. There is no change other than adding value.

The issue of the road network and the railway line in this country is not a matter to spend a lot of time talking about because all of us know where we have come from, that is, in terms of counties and also the past after Independence. The biggest programme is that when we took over the country, we found infrastructure concentrated in areas where the white men and women had their own land. Those roads were improved for the purpose of taking their produce to the market. That took this country so many years to bring about the vision that an African could do the same things given an opportunity to do that. That is how economic structure acquired disparity. Those who were there were there for themselves. The Africans who took over immediately also became the same people who thought that to be there is to improve what they have for their own area. That situation continued for a long time and even today, unless we change the situation, the mentality is still the same that before you think about making a road between Laikipia and Baringo, you start asking what the economic value is. But how can you talk about the economic value when you have not done the road so that it can improve the economic value? That will be a big problem because we start our projections from the side. For example, if you want to build a road between Laikipia and Samburu, you must not start thinking about how many vegetables or bags of maize are going to come from Samburu. You have to know that once you create a road network, all the economic consideration will definitely be achieved.

Mr. Speaker, Sir, we all know that a road is the mother and father of any development anywhere in the world. There is no difference between our problem and that of Uganda and Tanzania. The road network is very important because if you want to improve our security, then build roads. I want to support Sen.(Prof.) Lonyangapuo who said that security problems can be solved when the road is in good condition. For example, if you have an access road like we do have in Lakikipia, Nyandarua and Nakuru, and it is not passable, then during the time of crisis and during the rainy season, security forces cannot reach where the problem is because of the road network. We have to start changing our doctrine of survival because we can only start feeling a sense of survival when we see a road network. At one time I was in charge of security in this country and this was a major problem, and it is still a major problem even today.

Regarding the issue of health, if a person is in Maralal or Baragoi, to get the sick person--- unless you use a helicopter, to get him or her to Nyahururu District Hospital which is 300 kilometres is impassible. What do you expect? Most of them die on the road. It is a serious matter that needs to be taken very, very seriously because the road is

the best thing, if we agree not just to ask the Government to give us reports. I want to support those who are suggesting, not just the road network like this Motion has been amended – and I support the amendment very strongly – but I want to add something; that the road network, especially in areas where it has been neglected. People are talking about marginalization but I want to use the word “neglected” because there were many factors which were considered by those economists who were there before us. They thought differently from what we are saying.

Therefore this Senate, Madam Temporary Speaker, needs to see beyond 50 years to come. What are we likely to achieve in the next 50 years, comparing it with the past 50 years? Because these are the things which have brought us here and we have to direct this country or to aim high and to think critically. Otherwise, if we keep on talking about the road between my house to another, it is not going to pay us any benefits. According to the Constitution, rural access roads are now under county governments.

Madam Temporary Speaker, it is true and it is known by all of us that access roads have been used by those officers as a way of making money all these years, because you create a road now in July and after four months, the same road is finished; it is washed away. There must be a new technology of some kind, including supervision, which we can use. We should get rid of all these people who have been messing up with road making and maintenance, because I think that is where the problem lies. When I was looking at the new Cabinet, I was praying to God; are we going to get new people or the same people who come to look for money? Someone said that about Kshs300 billion is wasted away in corruption and stealing. I hope this is going to change with the new people. I do not know what the people think the new Cabinet Secretaries are going to bring here. They are the same people in the same environment. We need to manage these new people before they are polluted. Do not take them very seriously; they are our children, our brothers and sisters, and they live with us. They have the same problems that you and I have. You would not mind getting Kshs4 million a month or a day, if it can come by, but I think let us not--- As a stand here, we are saying that we are quite happy that we are going to have new people with new ideas. But you can easily get new people with more technology of stealing than those we have.

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

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

(Question of the amendment proposed)

Proceed, Sen. Wangari.

Sen. Wangari: Thank you, Madam Temporary Speaker. I rise to support the Motion as amended and I have two reasons for that. Last Sunday, we celebrated Mothers Day in this country and, for me, I still think that, that was the saddest Mothers Day ever. We are still not where we are supposed to be because the rate of child mortality and maternal deaths in this country is still very high.

Madam Temporary Speaker, when the President was reading his Speech during the Joint Opening of Parliament, I picked up something on the things the Government needs to do in the first 100 days. What caught my ear was the provision of free maternity

care in this country. If we are talking about free maternity care and we can still not access those services in the hospitals, health centres or in the dispensaries, then it will still be an exercise in futility.

Madam Temporary Speaker, when I listened to the nominee who has been nominated to the docket of health as a Cabinet Secretary, when he was put to task to explain how he will implement the free maternity care, he was quick to add that he will first focus on giving a waiver on the cost at the local level – and that does not even get to Kshs20,000 – to something about Kshs2,500 per person. Without infrastructure, this will not happen. I happened to have visited Samburu County through the road between Nyahururu and Maralal, and I will tell you that I thought I was not in this country anymore. I thought I had left Kenya! I am only imagining as a mother – and having gone through what women go through in this country – if I am subjected to that road to access maternity care--- We have lost pregnant women on the road; we have lost children who would have been saved because the infrastructure is not in order.

Madam Temporary Speaker, the insecurity in this country is also a challenge because it is rising. This is because of poor infrastructure. When the roads are impassable, that means that criminals also take advantage of that bad situation to attack citizens. When you are driving at almost zero kilometers per hour – to actually attack our citizens. So, it cannot be overemphasized that we need to give this issue the seriousness it deserves. This will also help us to achieve our Vision 2030 and the Millennium Development Goals, which include lowering of maternal deaths and child mortality. This can only be achieved if we have good infrastructure.

Madam Temporary Speaker, I beg to support the Motion as amended.

Sen. Sijeny: Thank you Madam Temporary Speaker, for giving me this opportunity. I beg to support the Motion. It is high time that Kenya was ranked as one of the most developed countries in the world. You cannot purport to be developed if your infrastructure is wanting.

We have been bragging about the Thika Super Highway but this is not even a dot of what is expected of Kenya. Using that as an example, we have seen that trading between Nairobi County and Thika County and any other area which you can access using the Thika Super Highway becoming easier. When infrastructure or road networks are developed, Kenyans will get access to basic institutions like hospitals.

We know that some areas are very remote and do not have roads. Even women who are heavy with children die on the way to hospital and this continues to increase poverty because the human resource is lost. When roads are good, for instance, around Lake Victoria, transporting commodities like fish becomes easier because it does not get spoilt and the locals benefit. When we have proper infrastructure, we avoid a lot of unnecessary expenditure by the Government because road repairs are reduced and we can utilise the money to develop other areas. The cost of running businesses improves and, therefore, this improves the economy and reduces poverty levels.

I, therefore, with those brief remarks, support the Motion as amended.

Sen. Moi: Madam Temporary Speaker, I thank you for giving me this opportunity to support this Motion by our colleague, Sen. Musila. While supporting him, one thing we need to recognize is that roads alone are not a solution to our transport problems. I

was very happy that Sen. (Prof.) Anyang'-Nyong'o raised this issue. It is important to develop other sectors around the transport system; mainly, air, water and railway. That would help us reduce the strain on our roads. It is also important to develop link and access roads in all areas especially in the agricultural areas.

My Committee on Energy, Roads and Transport which is made up of very able and competent Senators - who are up to the task - met yesterday. We had our first meeting and considered our work plan for the year 2013. The Motion that Sen. Musila has brought falls, absolutely, under our mandate and we have scheduled a series of meetings with key stakeholders in the Government and in the private sector to brief the Committee on various issues. The Committee has resolved to be proactive and we will initiate our first meetings with Cabinet Secretaries and Principal Secretaries in the line Ministries after they are sworn in. I intend to propose recommendations to some of the perennial problems facing this sector.

The roads in our counties are in a poor state. That has been said by my colleagues who have spoken before me. The situation has been made worse by the heavy downpour we have been receiving in many parts of our country. If the Senate approves this Motion, it will be easier for the citizens of this country to monitor and audit the state of their roads and road repairs on an annual basis.

The approval of this Motion will also bring about equitable development of our road networks in the 47 counties and eventually improve the status of local roads. This will enable our people to move freely across the nation as embedded in the Presidential Speech. I would like to also support what Sen. (Prof.) Lonyangapuo talked about with regard to trade and opening the roads to go all the way to South Sudan. It is very sad that at this time, Uganda is the country benefitting from trade with South Sudan as opposed to Kenya and yet it was Kenya who put their best foot forward to ensure that our brothers and sisters in South Sudan got their Independence. However, due to lack of development with regard to our infrastructure, we have let others take the cream and benefit from our work. This is very sad, indeed, but we hope that with the support of the Senate to the Committee, we will readdress these issues.

In this regard, I would like to assure this House of my Committee's commitment in overseeing and ensuring that once this Motion has been approved, we will do our part to ensure that what the Senate wants, it will get.

With those remarks, I support.

Sen. Leshore: Thank you Madam Temporary Speaker. First and foremost, I would like to support this Motion and to urge all Senators to support it because without proper infrastructure in our counties, we cannot move an inch in matters of development. Where I come from; Samburu County, whenever we are travelling to Nairobi, we say that we are going to Kenya just because of the poor road network. The road network is very bad that even last month, when schools were opening, we had to travel for 12 hours to reach Nyahururu which is only 180 kilometres away. The bus fares shot up from Kshs500 to Kshs2,000. That affected parents. Without proper road network in counties like Samburu, Pokot, Baringo East and Turkana, cattle rustling will never end. We need to open up those counties so that cattle rustling is reduced and even stopped.

Sen. Moi has said that we also need to improve other sectors affecting roads like the water system and railway line. I fully support the Kenyan Government initiative of the Lamu Port-Southern Sudan-Ethiopia Transport (LAPSSET) railway, pipeline and road network project. Once we open this – since the road will pass through Lamu, Garissa, Isiolo, Samburu, Baringo East, Turkana and Marsabit – we will have opened up those areas and trade between those areas and South Sudan, Ethiopia and our counties will improve greatly.

Madam Temporary Speaker, I want to thank the Senator for Kitui. If Kitui, Garissa, Tana River, and Mombasa do not have a good road network no trade between those counties can go on smoothly. I stand to support this Motion fully and urge all my colleagues to support it.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, we have to proceed. I believe that the issue has been interrogated enough on whether or not to amend this Motion. But before I put the question, I wish to draw your attention to the fact that this Motion affects counties and so does the amendment. The Senate will now proceed to a roll call Division on the amendments as proposed by Sen. Anyang'-Nyong'o.

Sen. (Dr.) Machage: Madam Temporary Speaker, we may not have the numbers to get the threshold to pass this important amendment and it would be sad if we lost it. You could use the necessary Standing Order to defer it and let us ventilate. We have a lot to talk about as we wait for the numbers.

The Temporary Speaker (Sen. Ongoro): Sen. Anyang'-Nyong'o, do you wish to say something as we interrogate the issue further?

Sen. (Prof.) Anyang'-Nyong'o: Madam Temporary Speaker, I would want to move that we defer the putting of the question to the following day, in which case, the Speaker can then nominate the time when the question can be put----

(Technical hitch)

The Temporary Speaker (Sen. Ongoro): Hon. Senators, I refer to Standing Order No.51 and want to agree with the proposal put forward by the two Senators, Sen. (Dr.) Machage and Sen. (Prof.) Anyang'-Nyong'o and allow debate on this Motion on the amendments to continue until such time that we will have the numbers required.

Sen. (Dr.) Machage!

Sen. (Dr.) Machage: Madam Temporary Speaker, thank you very much. May I congratulate Sen. Musila for bringing this very important Motion which, if adopted, will be of much benefit to the counties.

Madam Temporary Speaker, the debaters who have been on the Floor have been very diplomatic, indeed, to absolve blame on the previous Governments on the exact situation. I may not be that diplomatic because it is painful sometimes not to say the truth. More often than not when a legacy is being drawn on what the previous President has done, they say that he has built roads and they are very good, just because some people have had that benefit, looking at the beautiful Thika Highway and the good roads in Kiambu and elsewhere. They think that, that is Kenya. That is not Kenya.

Sen. Wamatangi: On a point of order, Madam Temporary Speaker. The roads in Kiambu are, to say the least, in a pathetic condition. Is it in order for Sen. (Dr.) Machage to imply that the roads in Kiambu are beautiful when, indeed, our people are suffering? If he has to make references, it is important that he refers to the state as he may want to portray the roads in Kenya without implying that the people of Kiambu are not suffering from poor roads like other Kenyans?

Sen. (Dr.) Machage: Madam Temporary Speaker, indeed, looking at the document that has been tabled here today, Kiambu is number two on the list of the best endowed areas in this country, having 909.8 kilometres of tarmac road, which is about 7.1 per cent. It is second only to Nairobi, which is 10.3 per cent. When you look at areas like Marsabit, Migori and so on, with zero per cent of tarmac road, really, is it not important that we say the truth and call a spade a spade and not a big spoon? Here is a situation where we are talking about equitable distribution of resources. The road network has a proportion that is direct to other development in the community. Schools, hospitals, electricity networks and water pipes will always be built along the roads and so on. So, if you have a poor road network distribution, all these other factors are hit. With the amendment proposed by Sen.(Prof.) Anyang'-Nyong'o, it is a shame that the rail network that we have in the country is only that which was developed and established by the colonial masters. Not an inch has been increased since then. Of course, the rail network was only sent to the highlands where the Whiteman lived. The grid with which it was built is obsolete now. Actually there is need for total overhaul of the rail network in this country; not only an establishment of new networks but also an overhaul of the current network which is obsolete. We have what I would call intentional politicalisation of road network development because of the greed to control the economic strength of Nairobi and other big towns of this country. Look at Taveta, there is no road from Taveta to Nairobi. There is no proper road from Isbania, through Narok to Nairobi. So, the produce from that place does not reach the market in Nairobi, so again the Kiambu people can harvest. That is the truth; politicalisation of the road network development, making sure that the commodities that are produced in other areas of this country do not reach the market. This is an intentional, well calculated, well planned and implemented move by the previous governments. We need to make a difference. We need to make a change now that we have gone into a devolution system of government. We have to say the truth. If we hide the truth, then the truth that will be hidden will hit us and hit us very hard. We must make a change of knowing that truly it is only 10 per cent of the 47 counties that take up over 50 per cent of the total roads paved in this country. It is a shame. It is that 10 per cent that control the economy of this country. It is the same 10 per cent that control the best schools in this country. It is the same 10 per cent that controls the best hospitals in this country. It is the same 10 per cent that has a high literacy rate in this country.

Sen. Wamatangi: On a point of order, Madam Temporary Speaker. The direction that my colleague is taking is not helpful to the cause of this Motion. He is indeed trying to politicize---

The Temporary Speaker (Sen. Ongoro): Please draw our attention to what is out of order. You rose on a point of order.

Sen. Wamatangi: Madam Temporary Speaker, what the Senator is insinuating is not right. There has been no politicisation of either the roads or schools. There has been skewed development for other reasons.

The Temporary Speaker (Sen. Ongoro): Senator, you are making a contribution which you can do when you get your time. Draw our attention to what is out of order.

Sen. Wamatangi: Madam Temporary Speaker, I draw the attention of this House to the fact that the Senator needs to confine himself to what is relevant to this Motion without politicising his contribution.

Sen. (Dr.) Machage: Madam Temporary Speaker, I am a politician. Look at Nyamira, Busia, Elgeyo-Marakwet, Migori, Samburu, Tharaka Nithi, Isiolo, Garissa, Wajir, Marsabit, Lamu, Manderu and so on, what do you see? Those are the marginalized areas of Kenya. They have very high potential but have been intentionally marginalized. This must be corrected. I know I am stepping on some people's nerves on this but let the truth be said. That is the only way we can say that we have identified the problem.

Let us depoliticise road network development; that is all the prayer I am making as a politician. I cannot talk about anything else but politics, because that is what I am. The issue here is equitable distribution of resources. How much resources were used to build those road networks in those top ten, and how much have the other regions lost in the 50 years of Independence? That is the truth. If we have not begun thinking of what to do, let us go into what I call affirmative action on development of road networks; intentional affirmative action. Let us increase the road networks in north eastern Province, which was hitherto known as the Northern Frontier District. Let us improve the road network systems in Nyanza. It is an open secret that because of our political situations; because of our outbursts in politics, we lost a lot; and that is the truth. But let us now know that this is a different Government under the able leadership of President Uhuru; therefore, let us have a difference.

Thank you, Madam Temporary Speaker.

Sen. Kittony: Thank you, Madam Temporary Speaker. It is clear that the road issue, indeed, in this country is a thorn in the flesh to all of us.

Madam Temporary Speaker, I would like to commend the Mover of this Motion because it has come at a very appropriate moment. If there is anybody who has traversed Kenya--- We have the figures here and we have seen what it is and, indeed, it is now time that this Senate makes a difference. I believe the Committee on Energy, Roads and Transport should, as a matter of priority and urgency, tackle this issue. Because if we hear and if we all narrate our experiences and problems that we have come through and seen, including loss of life because of road infrastructure, then the stories continue; it is painful and it is long.

Madam Temporary Speaker, I would just like to remind ourselves that we have been governing our country for the last 50 years and some of us, when we were growing up, we were privileged to pass through some tarmacked roads a few times. Talking of my county of Kitale, we had tarmacked roads and, in the process in between, you find that those roads have now been covered with murrum. So, it is a challenge that the Senate and the Governors have – to put road priority as number one so that we may be able to see a difference in our leadership. As a Senate, I feel that this is the appropriate moment for

this august House to take up this challenge as a priority as I commend and support this Motion.

Traversing Kenya is very painful. The other day, I was in Nyanza. I wish Senator Orenge was here. I had gone to his place and asked him; you have been in Parliament for many years, where are the roads in your constituency and the whole of Nyanza? This is the situation in most parts of the country. The challenge is here and the Committee mandated to do this work should do it to the satisfaction of Kenyans by putting the very experienced people with proper research plans and programmes in place.

I also want us to remind ourselves about our roads. If you look at some of the roads being considered to be tarmacked, for instance, the Ziwa-Kitale Road, you will see that they were done by unscrupulous contractors and you cannot even tell whether they were tarmacked. The challenge lies with the Senate and especially the Committee mandated to carry out this work to make sure that even if construction work of a road network is contracted, the outcome is a proper and clean job which has been supervised and done to the satisfaction of Kenyans.

I support the Motion.

Sen. Ndiema: Thank you Madam Temporary Speaker. I stand to support this Motion. I want to thank Sen. Musila for introducing this important Motion that touches on the development of this country.

The road networks and the transport sector in general contribute immensely to socio-economic development of any area; whether you are talking about security, health or education. This is important. Equally important is equitable distribution of the transport network. I support the amendment to include the railway lines. When you look at the counties which were categorised as those in need of the equalisation resources, you will see one common denominator in all. This is the fact that they all lack good road networks. The solution to economic development in those areas is probably good road network.

It is time that we considered good road network as a right because without it, we cannot talk about all the other rights that are enshrined in our Constitution. It has been mentioned here that policies, in the past, favoured areas which were considered to be high potential. However, let me say that as we discuss this important issue; let us not forget that the so-called high potential areas also have their problems. For instance, Maasai Mara is a high potential area in terms of wildlife.

The Temporary Speaker (Sen. Ongoro) Order, Senator! You still have seven minutes left. So, when the House convenes at 2.30 pm, if you wish to continue, you will have more time then.

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, it is now time to interrupt the business of the Senate. The Senate now stands adjourned until 2.30 pm this afternoon. I also want to draw your attention to Standing Order No.51(3) that reads:

“(3) Despite paragraph (2), the Speaker may, on the request of a Senator, defer the putting of the a question to the following day in which case the Speaker shall thereupon nominate a time at which the question shall be put.”

I, therefore, wish to announce that the question will be put in the afternoon.

The Senate rose at 12.30 p.m.