

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 15<sup>th</sup> February, 2018

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.*

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

### PRAYER

### PETITION

#### VARIATION OF BOUNDARIES OF NYANGWETA FOREST IN SOUTH MUGIRANGO SUB-COUNTY, KISII COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I hereby report to the Senate that a petition has been submitted, through the Clerk, by the Governor of Kisii County, Hon. James E. O. Ongwae, for variation of the boundaries of Nyangweta Forest in South Mugirango Sub-County, Kisii County.

The Petition is submitted pursuant to Section 34 of the Forests Conservation and Management Act, No. 34 of 2016, which outlines the procedure to be followed in varying the boundaries of or revocation of a public forest, as well as the factors to be considered in arriving at such a determination. In the present case, the Petitioner prays that the Senate approves the proposed variation of the boundaries of Nyangweta Forest in South Mugirango Sub-County, Kisii County, by excision of 120 acres thereon to avail land for establishment of a Complex comprising:-

- (a) A sugar production plant;
- (b) An ethanol production plant; and,
- (c) An electric power generation plant.

The Petitioner indicates that the County Government of Kisii has entered into a Memorandum of Understanding with an investor for development of the said Complex, and has since obtained the following approvals and licenses:-

- (i) Approval by the County Assembly of Kisii;
- (ii) Environmental Impact Assessment (EIA) License from the National Environment Management Authority (NEMA);
- (iii) Approval by the Kenya Forest Service (KFS); and
- (iv) Approval by members of the public through various stakeholder engagement forums.

*(Some Hon. Senators stood at the Bar)*

Let me allow the Senators to take their seats.

*(Hon. Senators walked into the Chamber  
and took their seats)*

The documents relating to the captioned approvals are annexed to the Petition.

Pursuant to Section 34 of the Forests Conservation and Management Act, as well as applicable provisions of the Petition to Parliament Procedure Act and Senate Standing Orders, the relevant Committee of the Senate is required to consider this matter, and carry out its own inquiry before reporting to the Senate on whether the proposed variation of boundaries should be approved or rejected. Consequently, the Senate will vote on whether to approve or reject the recommendation of the Committee.

Hon. Senators, pursuant to Standing Order 226, I shall now allow comments, observations or clarifications in relation to the petition for not more than thirty minutes.

Proceed, Sen. Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Speaker, Sir, for ably putting it to this Senate House that the setting aside 120 acres for Nyangweta Forest is not done blindly. They have done a very clear survey. They had a public engagement and people's participation who agreed that the only industry that can uplift the economic activities of that section can be done through the establishment of the sugar industry.

A question may be posed why 120 acres and you leave only 18 acres for the forest. I want to put it to the Senate that we have more than compensated for this setting aside of the 120 acres. The county government has actually identified 13 forests located in different parts of the county with a total area of 461 hectares, which is more than 800 acres, in order to give these 120 acres to allow the industry to be carried out. Not only have they done that, there are about 12 forests within the county as follows.

There is Nyangweta Forest itself, which has 18.5 hectares. There is Ndolo Hill Forest, which has 15 hectares. There is Isaria Hill Forest, which has 4.57 hectares. There is Kabogi Hill Forest, which has 25 hectares. There is Ritumbe Forest, which has 10.4 hectares. There is Simbogo Forest, which has 5 hectares. There is Daraja Hill Forest, which has 3.8 hectares. There is also Nyanturago Swamp and Forest, which actually borders my former constituency and Nyaribari Chache Constituency, which has 360 hectares. Emborogo Hill Forest has 8.2 hectares; Kiong'anyo Forest has 4 hectares; Nyakeri Forest has 2.5 hectares; and, finally, Ngeri Hill Forest, which has 3 hectares.

All these forests have a total of 462 hectares, which is more than 800 acres and they are only requesting for 120 acres to put up this important industry within that location. It may also be said that Kisii University has already an adjacent 60 acres of land for the development of the Kisii University Agriculture Department.

This will, therefore, dovetail rightly, very well and firmly in the way of research and complementarity, not only to the people of South Mugirango, but also Bonchari, Bomachoge Chache, Bomachoge Borabu, South Kitutu Chache, Bobasi and Nyaribari Chache. More than seven constituencies and sub-counties will be beneficiaries of this product by ceding away from their own forest.

It may also please this House that in giving this forest, the county has taken further steps. Already the following forests have been gazetted in the following legal

notices: Insaria Hill forest, Legal Notice No. 118; Nyangweta Forest, Legal Notice No. 119; Ndonyo Hill Forest, Legal Notice No. 120; Ritumbe Forest, Legal Notice No. 122 and Isaria-Basi-Masige Forest with Legal Notice No. 123. So, out of twelve forests, already five have been gazetted to belong to the Forestry Department.

I want to also say that---

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

**The Speaker** (Sen. Lusaka): What is your point of order, Sen. Khaniri?

**Sen. Khaniri:** Mr. Speaker, Sir, I have two points of order. The first one is with regard to the speaker who is on the Floor. We all know the provisions of the Standing Orders on comments on petitions. This is because when a petition is read by the Speaker or a Member, it is supposed to be referred to the relevant Committee, where matters that my senior, hon. Ongeris is raising, will be canvassed. We have only 30 minutes for anyone who wants to comment on this petition and you can see that Sen.(Prof.) Ongeris has well eaten into that time; I think he is doing his fifteenth minute. So, I wonder what time some of us will have to comment on this petition if we have only 30 minutes.

I therefore want to advise that the issues he is raising should be raised at the Committee level once the petition has been committed there. That is my first point of order. After you respond, Mr. Speaker, Sir, I have a second one now on the petition.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Ongeris, you can now summarise your intervention.

**Sen. (Prof.) Ongeris:** Mr. Speaker, Sir, I take note of Sen. Khaniri's points. I was only summarising my points in a very succinct manner so that there are no further queries to be raised when the matter comes to the relevant Committee for debate. I wanted to clear any doubts that you may be having in your mind on whether the real procedures have been followed.

I want to submit finally that all the procedures, including the Environmental Impact Assessment (EIA) by the National Environment Management Authority (NEMA) have been done. The Forestry Department and all other relevant stakeholders have been consulted effectively, including the county assembly, which has passed the enabling legal notices, including the gazetting of these notices in order to bring this project on board. I think this was in the last Senate – that is the First Senate – but, unfortunately, it never went through the Committee stage. I want to indulge the House so that this may be now speeded up for conclusion so that the people who signed this Petition do not have to wait longer because they are getting very impatient.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): That is noted, Sen. (Prof.) Ongeris.

**Sen. Khaniri:** Mr. Speaker, Sir, I rise not actually to comment on the petition, but to raise a very pertinent issue. I thank the Governor of Kisii County for taking this route. But whereas the Governor may have very valid reasons in wanting to alter these particular boundaries, I am afraid – and I need your attention here because we will need your ruling on this matter – that getting into this petition and prosecuting it in the usual way we do, we may be contravening the provisions of our own Constitution. I want to refer you to Article 188 which deals with altering of county boundaries, since this amounts to doing so. Article 188(1) says:-

“The boundaries of a county may be altered only by a resolution—

(a) recommended by an independent commission set up for that purpose by Parliament.

That is the procedure and we cannot run away from it.

Mr. Speaker, Sir, if you go ahead and refer this petition to the relevant Committee, we will be going against the provisions of that Article. The solution to this problem lies in the Bill that is before this House – I think it has been published already – sponsored by Sen. Mutula Kilonzo Jnr. I understand it has been published and it should be coming to this House soon.

So, Mr. Speaker, Sir, I urge you; that before you commit this petition to the relevant Committee, to look into the provisions of this article of the Constitution and ascertain that we are not going against our own constitution.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. Sen. Khaniri has actually said what I wanted to say; that we are faced with two problems. My reading of the petition itself is that it is well intended, but it did not actually mention whether it is referring to a county, constituency or ward boundary. Either way, if it is a county boundary, we cannot touch it under Article 188. The bill is here to provide a solution to alter county boundaries and the processes. Maybe you can order that we start the debate on the County Boundaries Bill, 2018, so that we can find a formula if it is a county boundary.

If it is a constituency or a ward boundary it is worse. In the Elections Laws Amendment Bill, I argued extensively with the Senate Majority Leader, Sen. Murkomen, that this Senate passed a law which cut short our hand in dealing with a boundary in a ward or constituency. So, hon. Senators, we have no jurisdiction; and we did that by passing the Election Laws Amendment Bill, although the vote was only won by one vote; that one of Sen. Moi.

Therefore, Mr. Speaker, Sir, maybe we need to interrogate this before we commit it so that we can move procedurally. Otherwise, the recommendation to approve the alteration of the boundary will be very academic, because we cannot do so unless Parliament approves under that Bill.

Thank you, Mr. Speaker, Sir.

**Sen. Cheruiyot:** Mr. Speaker, Sir, I want to agree with the sentiments of my colleague, Sen. Khaniri, about this issue. The very salient points that he raises beg the questions that we have asked on many occasions in this House; what meets the threshold of what can be considered a petition that is brought before this honourable House?

The merits or lack of it are not in question as concerning this petition. But the thing that concerns many of us is that we know that within our counties themselves; that is within wards and constituencies and also intra-counties – between neighbouring counties – we all have challenges and are patiently awaiting – it should be 2019 – when boundaries are up for review to raise some of these questions. So, it would be completely unfair to other counties who also have similar issues but have chosen to wait for the constitutionally mandated time of 2019 to bring up this issue if we give Kisii County undue advantage.

So, Mr. Speaker, Sir, we seek your indulgence and guidance in this matter. How else will we stop other counties that have similar issues from bringing them before this House before 2019?

**Sen. (Prof.) Ongeri:** Mr. Speaker, Sir, before we go to academic discussions, let me put it very clearly that this is not---

**The Senate Majority leader** (Sen. Murkomen): on a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): what is your point of order, leader of majority?

**The Senate Majority leader** (Sen. Murkomen): Mr. Speaker, Sir, I did not hear Sen. (Prof.) Ongeri say "On a point of order" so as to have the Floor again.

**The Speaker** (Sen. Lusaka): He has spoken; I think he is making a clarification on a petition from his county.

Proceed.

**Sen. (Prof.) Ongeri:** Mr. Speaker, Sir, that is exactly what I want to do. There is no alteration of any boundary. In fact, this particular forest is within a ward called Roticho. It, therefore, does not alter any of the regions. All we are looking at is the variation for the establishment of this factory, which can then be helpful and useful to the people of South Mugirango.

I will be quite happy to sit down with Senator Khaniri and Sen. Mutula Kilonzo Jnr and go through the nitty-gritty which do not involve the kind of Constitutional issues that they are raising on the floor of the House.

**Sen. Were:** Mr. Speaker, Sir, the petition needs to be clear on whether we are altering the boundaries; whether we are doing a variation or degazetting the forest or not. Listening to Sen. (Prof.) Ongeri, I think it is about degazetting the forest and not necessarily varying the boundaries. So, they need to be clear on that.

**The Speaker** (Hon. Lusaka): Yes, Sen. (Eng.) Mahamud.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, Sen. Were said it very well. My understanding is that it is not actually a change of boundaries between counties or between wards or constituencies; it is only changing the extent of the forest. This is actually degazetting the forest. We should look at it in that light.

**The Speaker** (Hon. Lusaka): Hon. Senators, having listened to the deliberations, I think we have a competent Committee that can look at this and determine whether they are interfering with the boundaries or degazetting a forest and report back. In view of that and pursuant to Standing Order No. 226(1), the petition stands committed to the relevant Committee; in this case the Standing Committee on Land, Environment and Natural Resources. In terms of Standing Order 226(2), the Committee is required, in not more than 60 days from the time of reading the prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the table of the Senate.

I thank you.

*(Applause)*

## PAPERS LAID

**The Speaker** (Hon. Lusaka): Proceed, Chairperson of Standing Committee on Finance and Budget.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today 15<sup>th</sup> February, 2018:

CRA RECOMMENDATIONS ON EXPENDITURE  
CEILINGS FOR THE FY 2018/2019

The recommendations of the commission on revenue allocation on the recurrent expenditure ceilings for County Assemblies and county executives for Financial Year 2018/2019.

ANNUAL REPORT OF THE COUNCIL OF GOVERNORS  
FOR THE FY 2016/2017

The Annual Report of the Council of Governors for the Financial Year 2016/2017.

PSC EVALUATION REPORT FOR THE YEAR 2016/2017

The Public Service Commission Evaluation Report for the year 2016/2017 on public service compliance with the values and principles of Article 10 and 232 of the Constitution.

ANNUAL REPORT OF SASRA FOR THE FY 2015

The annual report of the Sacco Society Regulatory Authority for the Financial Year 2015.

REPORT ON THE FINANCIAL STATEMENT OF TAITA TAVETA  
EDUCATION FUND FOR FY 2015/2016

Report of the Auditor General on the Financial Statements of the County Government of Taita Taveta education fund for the year ended 30<sup>th</sup> June 2015 and 2016.

REPORT ON THE FINANCIAL STATEMENT OF OLOOLAISER WATER AND  
SEWERAGE COMPANY LIMITED FOR FY 2016

Report of the Auditor General on the Financial Statement of OlooLaiser Water and Sewerage Company limited for the year ended 30<sup>th</sup> June, 2016.

REPORT ON THE FINANCIAL STATEMENT OF NOL-TURESH LOITOKITOK WATER AND  
SEWERAGE COMPANY LIMITED FOR FY 2016

Report of the Auditor General on the Financial Statements of Nol-Turesh Loitoktok water and sewerage company for the year ended 30<sup>th</sup> June 2016.

REPORT ON THE FINANCIAL STATEMENT OF MARSABIT  
EMERGENCY FUND FOR FY 2016;

Report of the auditor General on the financial statements of the Marsabit County Executive emergency fund for the year ended 30<sup>th</sup> June 2016.

REPORT ON THE FINANCIAL STATEMENT OF TAITA TAVETA  
DATU SAWAZISHA FUND FOR FY 2015/2016

Report of the Auditor general on the Financial Statements of the County Government of Taita Taveta Datu Sawazisha Fund for the year ended 30<sup>th</sup> June 2015 and 2016.

REPORT ON THE FINANCIAL STATEMENT OF MWALA WATER  
AND SANITATION COMPANY LIMITED FOR FY 2016

Report of the Auditor-General on the financial statements of Mwala Water and Sanitation Company limited for the year ended 30 June, 2016.

REPORT ON THE FINANCIAL STATEMENT OF MACHAKOS WATER  
AND SEWERAGE COMPANY LIMITED FOR FY 2016;

Report of the Auditor-General on the financial statements of Machakos Water and Sewerage Company Limited for the year ended 30 June, 2016;

REPORT ON THE FINANCIAL STATEMENT OF MAVOKO  
WATER AND SEWERAGE COMPANY LIMITED FOR FY 2016;

Report of the Auditor-General on the financial statements of Mavoko Water and Sewerage Company Limited for the year ended 30<sup>th</sup> June, 2016.

*(Sen. (Eng.) Mahamud laid the documents on the Table)*

**The Speaker** (Hon. Lusaka): Is Sen. Poghio not in the House?  
Proceed, Senate majority Leader.

BUSINESS FOR THE WEEK COMMENCING TUESDAY,  
20<sup>TH</sup> FEBRUARY, 2018

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir I beg to lay on the table the Statement of the Senate Majority Leader on the Business of the Senate for the week commencing 20<sup>th</sup> February, 2018, Pursuant to the provision of Standing Order 46 (2) (c).

*(Sen. Murkomen laid the document on the Table)*

**The Speaker** (Hon. Lusaka): Next Order!

**STATEMENTS**

BUSINESS FOR THE WEEK COMMENCING TUESDAY,  
20<sup>TH</sup> FEBRUARY, 2018

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I would like to issue the Statement of the Senate Majority Leader on the Business of the Senate for the week commencing 20<sup>th</sup> February, 2018, pursuant to the provision of Standing Order 46(2)(C).

Hon. Senators, pursuant to Standing Order 46 (2)(C), I hereby present to the Senate the Business of the coming week. The Senate Business Committee will meet on Tuesday 20<sup>th</sup> February, 2018, to schedule the Business of the Senate. Subject to the directions of the meeting, the Senate will continue with the consideration of the Business that would not have been concluded in today's Order Paper. On Wednesday 21<sup>st</sup> February, 2018 the Senate will proceed to consider Business that will not have been concluded on Tuesday and any other Business scheduled by the Senate Business Committee.

Honorable Senators, the following Bills are due for second reading; the irrigation Bill, The Urban Areas and Cities Bill, The County Governments Bill, Bill No, 11 of 2017; The County Governments Amendment No. (2)(b), Senate Bill No. 7 of 2017; The National Flag, emblems and Names Amendment Bill, Senate Bill No. 8 of 2017; The County Boundaries Bill, Senate Bill No. 6 of 2017; and the Warehouse Receipt Systems Bill, Senate Bill No.11 of 2017.

I take this Opportunity to urge respective Committees to prioritize consideration of the Bills referred to above and table reports on them to enable the House to process the Bills further. As you may note in today's Order Paper, two Bills will be read a first time; that is the Food Security Bill, Senate Bill No.12 of 2017 and The Assumption of Office of the County Governor Bill, Senate Bill No. 1 of 2018. I urge the Committee where the Bills will be referred to consider the Bills and report back to the Senate within the set timelines in the Standing Orders. In the same breath I request all Committees that have pending petitions to consider them expeditiously and submit reports to the House within the set timelines.

Finally, hon. Senators, Standing Order No. 181(1) states:

“There shall be a select committee to be designated the Liaison Committee which shall consist of the Speaker as chairperson and the chairpersons of all select committees of the Senate.”

Allow me to inform the House that the Liaison Committee will today proceed for an induction workshop that is scheduled to be held from today, Thursday, 15<sup>th</sup> February, 2018 to Sunday, 18<sup>th</sup> February, 2018 in Mombasa County. I take this opportunity to remind the honourable Chairpersons that the mandate bestowed upon them requires dedication, commitment, sacrifice and leadership for the Senate to deliver on the promise of devolution. I, therefore, ask all the committee Chairpersons to avail themselves to attend and participate in this important induction to enable them to carry out the tasks ahead of them and wish them fruitful deliberations.

I hereby lay the Statement on the Table of the House.

Thank you.

*(Sen. Murkomen laid the document on the Table)*

**The Speaker** (Hon. Lusaka): Hon. Senators, we also have statements to be requested by the following hon. Senators: Sen. Ledama Olekina and Sen. Khaniri. I do not see Sen. Olekina in the House.

Let us have Sen. George Khaniri.

DELAY IN RELEASE OF FUNDS TO COUNTY  
GOVERNMENTS FOR THE FY 2017/2018

**Sen. Khaniri:** Thank you, Mr. Speaker Sir. Pursuant to Standing Order 46 (2) (b), I rise to seek a Statement from the Chairperson of the Standing Committee on Devolved Government and Intergovernmental Relations regarding the delay in releasing funds to the county Governments for the Financial Year (FY) 2017/2018 and, in particular, to Vihiga County thereby affecting its operations and compromising the objective of devolution.

In the Statement the Chairperson should:-

(1) Explain the respective roles played by the Cabinet Secretary for Treasury, the Controller of Budget and respective County Treasuries in withdrawing money from the Consolidated Fund and from the respective county revenue funds as required by Articles 206 and 207 of the Constitution and Section 109 of the Public Finance Management Act.

(2) State the conditions that must be met, if any, before the National Treasury can order the release of funds from the Consolidated Fund to the respective County Revenue Fund after the enactment of the County Allocation of Revenue Act and the subsequent approval of the cash disbursement schedule.

(3) Table schedules indicating the amount and date of cash disbursement to Counties as contained in the approved Cash Disbursement Schedule for the FY 2017/2018.

(4) State when the National treasury and the Controller of Budget will release funds to the county governments as per the approved Cash Disbursement Schedule for the FY 2017/2018.

Thank you.

**The Speaker** (Hon. Lusaka): The Chairperson of the Standing Committee on Devolved Government and Intergovernmental Relations, please, respond to that.

**Sen. Kinyua:** Thank you, Mr. Speaker Sir. I undertake to give a comprehensive answer in two weeks.

**The Speaker** (Hon. Lusaka): Did you say in two weeks?

**Sen. Kinyua:** Mr. Speaker, Sir, I am a bit confused. Is it the Standing Committee on Devolved Government and Intergovernmental Relations or the Standing Committee on Finance and Budget?

**The Speaker** (Hon. Lusaka): Hon. Members, there is a bit of confusion. Sen. Khaniri requested a statement from the Chairperson of the Standing Committee on Devolved Government and Intergovernmental Relations, but the questions deal with matters of finance.

Sen. Khaniri, can you clarify that?

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir, for the correction; I think it is an oversight. Allow me to amend the statement and substitute the words “the Chairperson of

Standing Committee on Devolved Government and Intergovernmental Relations” with “the Chairperson of the Standing Committee on Finance and Budget.”

Thank you.

**The Speaker** (Hon. Lusaka): The Chairperson of Standing Committee on Finance and Budget.

**Sen. (Eng.) Mahamud:** Thank you, Mr. Speaker Sir. We will be able to give a comprehensive answer in three weeks.

*(An hon. Senator spoke off record)*

My friend, we are dealing with the Budget now and have a very tight programme. I think three weeks will be fair.

**The Speaker** (Hon. Lusaka): Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, the Chairperson of the Standing Committee on Finance and Budget, the Committee that I belong to, is not taking his work seriously. The issue asked affects even his county. Counties are grinding to a halt countrywide. It does not need rocket science to extract an answer as to why funds have not been disbursed and when they will be disbursed. In fact, this is a matter I would have expected the distinguished Senator for Mandera to tell this House that he will bring an answer on Tuesday next week, because it is not a matter that will require research, meetings, conferences or retreats.

**The Speaker** (Hon. Lusaka): Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I understand the dilemma that my Chairman has because we sit on the same Committee. However, I want to tell him that this is one of the instances that you can actually chew and walk at the same time. It is possible to do this very quickly. He should use the Speaker’s office if possible to demand for an answer because it can be given. Three weeks is too long, knowing that counties are suffering.

Thank you.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order Mr. Speaker Sir. I appreciate the question raised by the Senator for Vihiga County. Whereas we, Senators, insist that there are problems within the counties and they are coming to a halt and nothing is going on, the Governors were in the Inter-governmental Budget and Economic Council (IBEC) meeting and there was no complaint by the managers of that money to the extent that anything was grinding to a halt in the counties. That report will be tabled in this House. So, whereas we appreciate the urgency, it is not an outcry that has come formally from governors, even though I appreciate what the Senator for Vihiga County has said---

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

**The Senate Majority Leader** (Sen. Murkomen): I am on a point of order; he cannot be on a point of order. He should know the rules by now.

In my estimation and balancing the two interests, two weeks would be more appropriate.

**Sen. Wambua:** On a point of order Mr. Speaker Sir. With due respect to the Senate Majority Leader, honestly, this matter lies with the Chairperson of Standing Committee on Finance and Budget. He asked for a time limit that all of us feel is too

long. The fact that the governors sat at IBEC and did not raise the issue of finances does not make it any less important than it is. There are counties in this country, including mine, where people are starving. You cannot tell Kenyans to wait for another three weeks for finances to be availed or be told why there are no finances. It reminds me that in the last Session of this House, I raised an issue of security and the same game was played here. We went for recess without that answer being given.

I call upon the Office of the Speaker to rein in this Chairman and make sure that answers to important issues affecting our counties are responded to within the shortest period of time possible.

Thank you.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, through you, I want to encourage the Senate Majority Leader not to attempt to do your work. When issues are raised on the Floor and there is an exchange on whether the matter is urgent or not, he is a stranger to it. This involves the Committee Chairperson, the Questioner and the Chair.

Secondly, the matter brought on the Floor becomes the property of this House. Therefore, the proceedings of Intergovernmental Budget and Economic Council (IBEC) have absolutely nothing to do with this House unless he is telling us that that he sits in IBEC. If he does, he will then have to go further and disclose on whose behalf he sits in it because this House is not aware of any representation in IBEC. The Chairperson of the Finance Committee to which Sen. Mutula Kilonzo Jnr, Sen. Cheruiyot, I and others belong know very well that this answer can be brought by Tuesday if he wants to work.

*Balozi fanya kazi.*

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. Is it in order for the Senate Majority Leader to suggest that since some governors who he has not disclosed, including Makueni County, and I do not hold his brief and neither am I his messenger, sat in a meeting-----?

*(Loud consultations)*

Put this man into order. What is he talking about? I am not his representative neither am I his messenger.

Sen. Murkomen is aware that it is not once, twice or thrice that we have disagreed with IBEC. This Senate has disagreed on their recommendations on division of revenue and we will still reject their proposals. Is he in order to suggest on record that if governors sit in a committee called IBEC chaired by the Deputy President, we as Senators are supposed to sit, wait and clap for them? Is he in order?

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I do not think it is necessary to join in this debate. However, I take exception to the remarks by my good friend Sen. Wetangula that I do not take my work seriously. He knows that I take my work seriously. Given the activities that we are doing now, it is necessary to ask for that time. We will give the answer in a week's time as we will be together in the committee with the hon. Questioner. We will do our best. There is no crisis.

**The Speaker** (Hon. Lusaka): There will be a response in a week's time. I urge all the Members of that Committee to attend.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, the Senate Majority Leader should also attend the meeting.

**The Speaker** (Hon. Lusaka) Yes, they will attend.

*(Laughter)*

**The Speaker** (Hon. Lusaka) Order, Members! Let us move on to the next Order.

#### COAL EXPLORATION AT MUI BASIN IN KITUI COUNTY

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.46(2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Energy regarding Coal Exploration at Mui Basin in Kitui County. In the statement, the Chairperson should:-

(1) Indicate the expected coal yield in tonnes for each of the exploration blocks and the respective live span.

(2) State whether he is aware that concession agreements for Blocks C and D were signed in 2013 and that those for Blocks A and B were signed in 2015.

(3) Explain the steps the Government is doing to fast-track the exploration of coal in Kitui County for the benefit of the people of Kitui County.

(4) State whether the Ministry is considering setting up a coal processing plant in Kitui County.

(5) State what the Ministry is doing to exploit the huge limestone and iron ore deposits in parts of Kitui South Constituency in Kitui County.

(6) Explain what policy, legal and regulatory frameworks govern this sector and the rights and obligations of stakeholders.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I am not a member of that Committee. I can see many members of that Committee are in the House.

**The Speaker** (Hon. Lusaka): Who are the Members?

**Sen. Seneta:** Thank you, Mr. Speaker, Sir. I undertake on behalf of the Chair to give a comprehensive answer in two weeks' time.

**The Speaker** (Hon. Lusaka): Is that okay?

**Sen. Wambua:** Mr. Speaker, Sir, it is okay.

**The Speaker** (Hon. Lusaka): Okay, we proceed.

Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I have two statements to request. I had requested for these statements the last time we were in session, but no feedback was given.

#### MAINSTREAMING OF LEARNERS WITH DISABILITIES IN EDUCATION CURRICULUM

I rise pursuant to Standing Order No.46 (2)(b) to seek a Statement from the Chairperson of the Standing Committee on Education on the Mainstreaming of Learners with Disabilities in the Education Curriculum. In the Statement, the Chairperson should:

(1) State the number of learners with disabilities in various public and private learning institutions in the country;

(2) Table a list of schools for learners with disabilities and the number of learners in each of the schools.

(3) Table a list of schools for learners with disabilities and the number of learners in the respective institutions that are piloting the new education curriculum.

(4) State the measure that the Ministry of Education has put in place to improve the performance of children with disabilities, especially those that have hearing impairment and are faced with linguistic challenges which affect their performance in other subjects.

Thank you.

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir. That is an important area that we need to tackle. I want to thank Sen. (Dr.) Musuruve who is a member of the Standing Committee on Education. I promise that in two weeks' time, we shall be able to provide an answer to that.

**The Speaker** (Hon. Lusaka): Is that okay?

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, that is okay me.

#### ALLEGED ABUSE OF HUMAN RIGHTS OF PWDs

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I am requesting for another Statement. It was in the last Session but I did not get a response.

I rise pursuant to Standing Order No. 46(2)(b) to seek a Statement from the Chairperson of the Justice, Legal Affairs and Human Rights Committee on the alleged abuse of human rights of persons with disabilities.

In the Statement, the Chairperson should:-

(1) State whether the Government is aware that persons with disabilities from Kenya and other neighboring countries are allegedly being trafficked and housed in Nairobi and other major towns in the country.

(2) Further state whether the Government is aware that the said persons with disabilities are used by able bodied people to beg on the streets in Nairobi City and other major towns, against Articles 28, 30, 43 and 54 of the Constitution.

(3) State the measures that the Government has taken or will take to deal with those found culpable of trafficking persons with disabilities and using the said persons to beg on the streets.

(4) Explain the measures that the Government will put in place to repatriate persons with disabilities from the neighboring countries who are involved in begging on the streets of Nairobi and other major towns.

(5) Explain the steps that the Government will take to support Kenyan persons living with disabilities especially those on the streets to come up with sustainable means of earning a living.

**The Speaker** (Hon. Lusaka): Could we hear from the Chairperson of the Justice, Legal Affairs and Human Rights Committee?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, before we hear from him, allow me to ride on that Statement.

When the Chairperson is answering the issues raised by the distinguished Senator, he should tell this House about the National Council for Persons with Disabilities

(NCPWD). This organization owns very prestigious properties in this town. It has Rehema House on Kaunda Street near Corner House and Lornho House. It also has Rehema House in Westlands on Rhapta Road and several other properties that generate income. This Council and its predecessor in title have been in place for the last close to 30 years.

Could the Chairperson also tell this House with proper statistics what interventions this Council has had in each county in this country? It should provide proper statistics. He should tell us if they are represented in all the 47 counties. Have they carried out a demographic campaign to know the numbers and the levels of disabilities that people suffer in each county? How do they assist them in going about with their livelihood especially those who can neither walk, see nor do anything for themselves? There are many. I do not think that there is any Senator here who does not have such people in his or her county.

I am sure that the distinguished Senator for Nairobi City County will be interested in this. The habit that you see on the streets of Pakistan cities where families disable their children to use them as instruments for begging is creeping into our cities. It is a criminal offense. How many people have been arrested and prosecuted for this callous behavior?

**Sen. Kasanga:** Thank you Mr. Speaker, Sir. I do not have an issue with what Sen. (Dr.) Musuruve has brought up but I have an issue with the Statements. I am worried that she is repeating a Statement that she sought last year. Is there a trend? I presented a Statement last year and a similar Statement was presented yesterday by Sen. (Rev.) Waqo. It was to do with the highways. My Statement was fairly detailed because we wanted to interrogate the designs. We are more worried because the construction is going on and we are noticing that the same mistakes are being repeated in the construction of the roads.

Are our Statements not being taken seriously? My Statement has not been responded to. It has been a number of months now. We wish that you direct---

**The Speaker** (Hon. Lusaka): Senator, the Statement lapsed with the last Session.

**Sen. Kasanga:** Mr. Speaker, Sir, are we supposed to bring them back again?

**The Speaker** (Hon. Lusaka): Yes. You should ask afresh.

**Sen. Kasanga:** Thank you, Mr. Speaker, Sir. I am guided.

**The Speaker** (Hon. Lusaka): Could we hear from the Chairperson of the Justice, Legal Affairs and Human Rights Committee?

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

**The Speaker** (Hon. Lusaka): What is your point of order?

**Sen. Sakaja:** Mr. Speaker, Sir, I have two concerns. I do not know if there are specific reasons as to why these Statements are not appearing on the Order Paper. When the Statements are on the Order Paper and one gets it early, even the Chairmen are able to prepare before the Statements are requested. The clerks-at-the-Table can probably inform you if there is a reason. I have noticed this trend from yesterday where certain Statements are missing.

On the two Statements requested by Sen. (Dr.) Musuruve, both of them are touching on the status of life of persons living with disabilities. One of the Statements has been directed to the Committee on Education and the other one has been directed to the Justice, Legal Affairs and Human Rights Committee. This House has a Committee that specifically deals with the status of life of persons living with disability. Her next

Statement may probably be on occurrences on roads on persons with disability. That will then be sent to the Roads and Transport Committee. The reason as to why we have a specific Committee that even has a file, and I chaired that Committee in the last House, is that the Committee has institutional memory on the progress made in realizing equalization of opportunities of persons living with disability.

I beg to suggest that both Statements have been forwarded to the wrong Committees. There is a Committee in this House on National Cohesion, Equal Opportunities and Regional Integration that is supposed to deal with the status of life of persons with disability, women, youth and anyone else who is discriminated pursuant to Article 27 of our Constitution. I ask that you re-designate those two Statements to go to the same Committee that has a history of dealing with these matters.

**The Speaker** (Hon. Lusaka): Thank you, Sen. Sakaja. I want to urge Senators to hand in their Statements early enough. You are bringing the Statements late. They come to the Speaker's desk a few hours to the Session which makes it difficult to have them in the Order Paper. Bring your Statements early enough for them to be put in the Order Paper.

Those Statements will be directed to the right Committees to be able to dispense with them.

Can the Chairperson of the Justice, Legal Affairs and Human Rights Committee give some directions?

**Sen. Cherargei**: Mr. Speaker, Sir, the issues that Sen. (Dr.) Musuruve has raised are of great magnitude and importance in this country. I am in concurrence with Sen. Sakaja. This is because I am in the same Committee with him. Some of those questions should be directed to the relevant Committee which is National Cohesion, Equal Opportunities and Regional Integration Committee. We should not target Committee on Education or my Committee.

We will guide the Chairperson of the specific Committee and ensure that the questions raised are answered.

**The Speaker** (Hon. Lusaka): As I had ruled, they will be redirected and the answers will be provided within two weeks.

#### STATE OF TOURISM IN MALINDI, KILIFI COUNTY

**Sen. Gona**: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.46(2)(b), I rise to seek a Statement from the Chairperson of the Committee on Tourism, Trade and Industrialization on the state of tourism in Kenya especially in Malindi, Kilifi County. In the Statement, the Chairperson should:-

(1) Table the figures of tourists who visited Kenya in 2016 and 2017, highlighting the numbers that visited Kilifi County during the said period.

(2) State whether the Government is aware that the numbers of tourists visiting Malindi have gone down mainly due to pollution in the Indian Ocean which has kept away tourists and investors in the tourism industry.

(3) Further state whether the Government is aware that some investors in the tourism industry, especially those in Malindi, are threatening to close down their investments due to high pollution in the Indian Ocean that has kept away tourists.

(4) Explain the measures that the Government will take to deal with the pollution in the Indian Ocean so as to restore the tourism industry in the country.

**The Speaker** (Hon. Lusaka): Yes, Sen. Faki.

*(Loud consultations)*

Hon. Members, let us consult in low tones.

*(Hon. Senators applauded Sen. Poghiso  
as he entered the Chamber)*

**Sen. Faki:** Thank you, Mr. Speaker, Sir. I wanted to ride on Sen. Gona's Statement; that the Statement should include Mombasa, Kwale, Lamu and Taita Taveta counties because all these counties rely on tourism as part of their major revenue component.

As of recent, we have had drought in the Tsavo National Park and many animals have been suffering and as a result tourism industry has been affected. Therefore, the Chairperson of the Committee on Tourism, Trade and Industrialization, in responding, should also consider the issue of Lamu County where there is a coal plant which will soon be constructed in that area and how it will affect the environment in terms of tourism.

Thank you.

**The Speaker** (Hon. Lusaka): Let us hear from the Chairperson of the Committee on Tourism, Trade and Industrialisation.

**Sen. Kibiru:** Thank you, Mr. Speaker, Sir. I want to confirm that like everybody is saying, in two weeks' time, I will be able to give an answer to those very good questions.

Thank you.

**The Speaker** (Hon. Lusaka): Is that okay, Sen. Gona?

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

**The Speaker** (Hon. Lusaka): Okay.

Proceed, Sen. Mutula Kilonzo Jnr.

#### STATUS OF THE UWEZO FUND

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 46 (2) (b) to seek a Statement from the Chairperson of the Standing Committee on Finance and Budget on the Uwezo Fund.

The Chairperson should, in the Statement, state the following:-

(a) How much money has been disbursed in the Uwezo Fund since the Financial Year 2013/2014;

(b) state the disbursements made to the various constituencies in Makueni County;

(c) indicate whether the funds have been repaid;

(d) state whether the national Government is considering waiving the grants on account of the high default rate by the residents or giving them a moratorium to pay the loans due to the on-going drought and other economic conditions.

Thank you.

**The Speaker** (Hon. Lusaka): Let us hear from the Chairperson of the Committee on Finance and Budget.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, we will give the response in two weeks.

**The Speaker** (Hon. Lusaka): Sen. Mutula Kilonzo Jnr., is two weeks okay?

**Sen. Mutula Kilonzo Jnr.:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Lelegwe.

RAID BY ARMED BANDITS IN SUYIAN AREA,  
SAMBURU NORTH CONSTITUENCY

**Sen. Lelegwe:** Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.46 (2) (b), I rise to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the raid by the armed bandits on Thursday, 1<sup>st</sup> February, 2018, in Suyian area of Elbarta Ward in Samburu North Constituency where two people were killed and more than 2,000 livestock were stolen.

In the Statement, the Chairperson should state the following:

(a) Whether he is aware that the armed bandits suspected to be from a neighbouring community raided Suyian area, Elbarta Ward in Samburu North Constituency and killed two people, namely; 33-year old Dadapon Lesiamito, and 23-year Imerotuni Lepoora, seriously injuring three other people, namely; Longrit Lesiamito, Njelina Lesiamito and Ltanikad Leriare and stole more than 1,400 heads of cattle, 1,200 goats, sheep and five donkeys.

(b) Whether he is aware that the 24 families affected by the raid are faced with starvation following the loss of their only source of livelihood.

(c) Whether he is also aware that efforts by the community to contain the raid yielded no results because the police officers based at Suyian Police Post failed to respond to the community's distress call and that, up to now, the Government has taken no action to pursue the raiders or assist the affected families.

(d) Explain why the police officers failed to respond to the community's distress call and why up to now, action has not been taken to pursue the raiders and recover the stolen animals or even extend humanitarian assistance to the affected families.

(e) Explain why no action has been taken so far to recover the stolen livestock.

(f) State when and how the Government will address the above concerns.

(g) Explain what the Government is doing to permanently address the long standing problem of banditry in the area recalling that, to date, no conclusive action has been taken to address the killing of the 42 police officers in Baragoi, Samburu North Constituency in 2012. This may be the reason the police officers are reluctant to pursue the bandits.

Thank you.

**The Speaker** (Hon. Lusaka): Lets us hear from the Chairperson of the Committee on National Security, Defence and Foreign Relations.

Yes, Deputy Chairperson.

**Sen. Sakaja:** Mr. Speaker, Sir, this indeed, is a serious issue. I know there has been some history in terms of intervention of this House in those areas from the previous Committee and other issues, as well as the Committee on National Cohesion, Equal Opportunity and Regional Integration. So, I should be able to give an answer in two weeks.

**The Speaker** (Hon. Lusaka): Senator, is that okay?

**Sen. Lelegwe:** Mr. Speaker, Sir, you will note from my Statement on my request points No. 3 and 5, that these 24 families are starving because their only source of livelihood has been taken away. You will note in the Statement that on 1<sup>st</sup> February, 2018, livestock were stolen and people were killed, but up to now police officers in Samburu North Constituency are not able to recover even one livestock.

This is the only source of livelihood for these people. So, I request the chairperson, if possible, by Wednesday next week to give a response so that we can know what the government is doing to assist these starving families or any actions being taken to recover their stolen livestock.

Thank you.

**Sen. Sakaja:** Mr. Speaker, Sir, we will do our best to expedite that response. I just urge the Senator that even as we bring the response in two weeks, we can still try to intervene as a Committee as that is going on so that we get a comprehensive response.

I know the response alone or the Statement will not return the cows or sort out the livelihood issue. There is a bigger issue that we need to deal with. The Statement that you want, since you are talking about the Baragoi incident that happened many years ago where there is an investigation going on and other issues, that will take longer than Wednesday.

So, if you want me to respond on one aspect of that Statement, I can do it by Wednesday, but I will need two weeks to give a comprehensive response.

**The Speaker** (Hon. Lusaka): Yes, Sen. Cherargei.

**Sen. Cherargei:** Mr. Speaker, Sir, given the gravity of the issue that Sen. Lelegwe has raised; that the families are now starving, two weeks is a long time for those families based on such a serious issue. By the time the answer is given, they might have died, therefore, it will be a disaster. The Committee should give the matter the urgency it deserves.

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, this is a serious issue. Animals are being taken and lives are in jeopardy, and yet you talk of two weeks. The Senator should take this matter seriously and give us an answer on Tuesday concerning where the livestock is and what the *askaris* have done. They have to do a follow-up and not just say 'two weeks'. By two weeks those animals will have been sold and the Government will not recover anything. We should be more serious.

**Sen. Sakaja:** Mr. Speaker, Sir, this is a matter that I have been dealing with for the last four or five years. By now I am sure that those animals have already been shipped and their whereabouts is unknown. So, let us consult off-line with the Senator together with the relevant Ministries for an immediate urgent emergency intervention. However, we will still give a comprehensive Statement within that time, so that we can give these people food and address their immediate humanitarian needs. However, if you want a comprehensive Statement, we will deliver it in two weeks.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I want to join the Senators who are showing some displeasure with the time the Chair is proposing. To begin with, at the level of common sense, driving 1,000 heads of cattle is not easy. I would expect the Chair, in the interim, to even tell this House that after this Sitting, he will get the Inspector General of Police to send helicopters. If you are in Boeing up there you can see 20 heads of cattle walking, what about 1,200 heads of cattle? Giving affected families' food---

*(Sen. (Dr.) Ali consulted Sen. Cherargei)*

I would wish the Senator who has asked the question was listening. Giving the affected persons food is just a short-term therapy; it is the animals that are their livelihood. That is what we should be fighting to get back. In two weeks' time, those animals will be Oromia in Ethiopia. Some will be in Gedo in Somalia and others in Southern Sudan with the Toposa. A rapid intervention is necessary.

Could the Chairman tell the House whether he will get the police to send aerial surveillance to track these animals and instruct the ground forces to recover them as a matter of urgency?

**Sen. Cherargei:** Mr. Speaker, Sir, I agree that there are so many issues that cannot be dealt with at short notice. However, I want to agree with the Senate Minority Leader that the Chairman should report to this House, at least, by Tuesday on what interventions have been put in place to prevent the humanitarian crisis that we are staring at. He should also report on the recovery status, because those people depend on livestock.

**The Speaker** (Hon. Lusaka): Before you respond, there is an intervention by Sen. Farhiya.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. Speaking as someone from the pastoral community, two weeks is a long time because the conflict will be exacerbated by the fact that there is no response. There will be retaliations and other issues. The faster this can be responded to, the better for both communities. Members from the pastoral communities would rather die than lose their animals. My worry is the repercussions as a result of slow interventions.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Nyamunga before the Chair can respond.

**Sen. Nyamunga:** Thank you, Mr. Speaker, Sir. We are here courtesy of the people at the grassroots. The way we are handling serious issues is not amusing to anybody. We should take our work seriously. I do not know whether the two weeks period to give an answer is just a song that every Chair sings or it is a serious thing. Some of these things may take longer than two weeks while some may need two days. Let us be serious because we are here courtesy of our people at the grassroots.

**The Speaker** (Hon. Lusaka): I can see the subject is generating a lot of heat.

Sen. (Prof.) Imana Malachi.

**Sen. (Prof.) Ekal:** Thank you, Mr. Speaker, Sir. This issue is a lot wider than it has been reported by Hon. Lelegwe. While we are talking about taking care of these families whose livestock has been driven away, this is a problem that the Turkana community lives with every day on a larger scale than probably the one that has been

mentioned here. The reason is that Turkana borders several countries with hostile communities and raids happen every day.

As we talk about taking care of the people in hon. Lelegwe's county, how about getting a comprehensive solution to the whole issue, so that we do not have things like this happening every now and then? Similar requests will be made on weekly basis, especially by me, because this happens almost on a daily basis. Getting a lasting solution is in order.

**The Senate Majority Leader** (Sen. Murkomen): I first of all sympathize with the situation in Samburu, Turkana, Elgeyo-Marakwet and West Pokot. For the benefit of persons here who do not come from those volatile areas in so far as matters of cattle rustling are concerned, it is a big problem.

In fact, when people say that the Chairman should quickly give us an answer on how to recover the livestock, about two weeks ago, a large number of livestock was taken from Elgeyo-Marakwet County towards the direction of Baringo County, particularly the side of Tiaty Constituency. I am sure that even the ones for Samburu are headed in that direction or further to the Turkana side. Last week, the ones from Turkana County were taken towards Tiaty Constituency. The other day, livestock were taken from West Pokot County to Elgeyo-Marakwet County and from Elgeyo-Marakwet County to West Pokot County.

Mr. Speaker, Sir, as leaders who come from those regions, that is, the Senator of Samburu County, the Senator of Turkana, the Senator of Baringo and I are actually tired. I dealt with this issue for a half of the last term, all the time going for funerals. This weekend alone we will be burying three people who were killed one week ago. We are tired. As leaders, we had a meeting with the Cabinet Secretary of Interior and Coordination of National Government. He will visit that region, including Samburu and Turkana Counties. He has also promised that in the first week of March we shall have a marshal plan conference on how to deal with this problem permanently.

I want to urge Sen. Lelegwe, Sen. (Prof.) Imana, Sen. Poghisio and Sen. Moi to be available for this very important project that the Ministry wants to spearhead, pursuant to the directions given by the President so that we can stop this. It happens and then there is a periodic lull before it happens again on a wider scale.

Mr. Speaker, Sir, even as the Chairman is being asked to give a quick answer, I am categorical that we will not find the livestock even if we send someone at the moment. We are talking about a region that is more armed than the country. There are more arms than, perhaps, the entire country itself, with the exception of the north eastern part of the country.

We are dealing with issues of small arms and cattle rustling. I want the Chair of this Committee to walk with us and invite the Senators. Most of the time we leave it to Members of the National Assembly or think that the governors alone can deal with it. With the plan that the Ministry has, we have an opportunity as a region to open up, particularly, Tiaty Constituency up to the parts of Turkana and Samburu Counties to development of such a scale that will discourage many young people who are carrying guns.

I appreciate what Sen. Sakaja said; that we would rather go to the CS and tell him to do something in the meantime for people to get food, shelter and so forth, and come later with a comprehensive answer on how to deal with this issue in the whole region.

This is better than to be told to just come and read a statement. There are some tired statements that come to this House that say:-

“The Government is aware of the situation; such number of livestock was reported missing. The report was made and the Government is pursuing.”

I would rather not have that kind of answer. I would rather wait for more than two or three weeks or even one month and have an answer that is long term.

**The Speaker** (Hon. Lusaka): I direct that---

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

**The Speaker** (Hon. Lusaka): What is your point of information?

**Sen. Sakaja:** Mr. Speaker, Sir, I do not mind to be informed.

**Sen. Lelegwe:** Thank you, Mr. Speaker, Sir. Let me inform the Chairperson. I do not know if he is aware that it was reported in the media that elders of the affected families have threatened to kill their children because they have nothing to give them.

In Samburu North Constituency, for example, there are over 400 Kenya Police reservists and a camp of anti-stock theft of more than 100 officers. There is an Administration Police (AP) camp. However, the cattle were driven from Suyian to a nearby village which is not more than 25 kilometres. The police and intelligence officers are aware of where those animals are. They are pleading with the communities to spare them because they do not want to go die. They are on very low morale because 42 officers were killed in 2012, but the Government did not take any action to bring back their arms, animals or even do anything for the affected families.

So, I plead with the Chairperson that as we give him more time to give us a lasting solution on the concerns raised by the Senator for Turkana County, I would like him also to address the situation in Samburu, Turkana, Baringo and Elgeyo-Marakwet counties. This is because we are losing people, livestock and livelihoods in these areas. We want long lasting solutions from the Government. We think the Government is unable to do anything about Samburu County because you can see people and police officers being killed and the Government is not doing anything six years later.

**Sen. Sakaja:** Mr. Speaker, Sir, let me respond. Maybe my hon. colleagues are misunderstanding what I am saying. I am very well aware of the situation there. Incidentally, this is a matter of coincidence with these things that I have been dealing with. In fact, the area that he is talking about is Baragoi. The ward is called Machola, if I am not wrong.

*(Sen. Sakaja addressed Sen. Lelegwe)*

There had been an issue even with a Member of County Assembly (MCA) called Hon. Lawrence. Is that true?

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

**Sen. Sakaja:** Mr. Speaker, Sir, sorry for addressing him directly. We even signed the first peace deal between the Samburus and Turkanas in Baragoi. There was a lull at some point in that area. I am not sure if Sen. (Prof.) Ekal is aware about what we were able to do in a place called Lokwar and Nakuse in Turkana South between the Pokots and the Turkanas. The peace has held in that area.

Mr. Speaker, Sir, we have gone to many areas and Sen. Zani will tell you this because we were in the Committee together in the last Parliament. From west Pokot

County to Baringo County in a place called Sindai and Tiaty with its terrain. So, when the Senate Majority Leader says he is sure that even at this point those ---

**Sen. Wambua:** On a point of order, Mr. Speaker, Sir. The Senator for Samburu County has asked a specific question. He is dealing with a specific issue, a matter that happened at a date that he has given. Is the Chairperson in order to dwell on the history of conflict in the region?

**Sen. Sakaja:** Mr. Speaker, Sir, I am responding to the specific question that was raised. I am just telling my colleagues that it is not that we are insensitive. We are very sympathetic about the specific issue that has happened now. We are also aware of what has been going on in that area. This is why I am telling Members that I will not come and give a cosmetic statement on the Floor of the Senate on Tuesday, Wednesday or Thursday. If you are used to other Chairpersons just saying: "The Government is dealing with this matter", I will not do so.

However, I am telling Members, as we wait for that comprehensive Statement, I am ready to even walk with the Senator from Samburu County to the offices of the Inspector General (IG) of Police and the Cabinet Secretary (CS), to urge for immediate intervention as we get a comprehensive Statement to deal with the situation. If what we want is just a statement saying that this is being dealt with, that is not what will bring back the cows. The Statement will not feed those families. It is the urgent interventions by Government that will do that.

Finally, as a Committee, we will be willing to interact with this programme that the Senate Majority Leader has spoken about in all those areas and then pick up from what was done in the last committee of the last Parliament.

We had an issue of amendment of the penal code to deal with cattle rustling. Many times cattle rustling happens and the elders say: "Exchange cows and deal with this matter." Meanwhile, people's lives are lost, houses and torched. Those crimes must be taken for the crimes they are. If it is robbery with violence, it is that. If it is arson, it is. There is no such thing as cattle rustling.

I urge this House to support the amendments to the penal code to call those crimes for what they are. You cannot rape women and then you are told to exchange cows. Since these people know that there are no penalties or they are subdued, it is going on and it is now a commercial practice. I am sure – God forbid, again – those cows are in a track heading to Mombasa, slaughtered. They rustle 1,000 cows and you will not trace them not because they are lost under trees or because of the terrain, but because they actually slaughter and transport them and ship them out of the country.

We will deal with the exhaustive issue of cattle rustling around the country. However, on this specific, I urge the indulgence of the Senate. We can deal with the immediate intervention even today. We can even seek leave of the House to walk with him across to the Ministry of Interior and National Coordination and find out what is being done on the ground. Let us not ask for a cosmetic statement on the Floor of this House.

**The Speaker** (Hon. Lusaka): Hon. Members, I wish to direct that you give a comprehensive answer in the next two weeks.

In the meantime, I also direct the Ministry concerned take immediate action within 48 hours to address the plight of those who have been affected in those particular

areas. The senator for Samburu County and other leaders, make a follow-up on that directive.

*(Applause)*

Next Order!

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

*[The Temporary Speaker (Sen. (Prof.) Kamar in the Chair)]*

## **BILLS**

### *First Readings*

THE FOOD SECURITY BILL  
(SENATE BILLS NO.12 OF 2017)

THE ASSUMPTION OF OFFICE OF THE COUNTY  
GOVERNOR BILL (SENATE BILL NO. 1 OF 2018)

*(Orders for First Reading read – Read the First  
Time and ordered to be referred to the relevant  
Senate Committees)*

### *Second Reading*

THE IRRIGATION BILL (SENATE  
BILLS NO. 5 OF 2017)

**The Senate Majority Leader** (Sen. Murkomen): Thank you, Madam Temporary Speaker.

I beg to move that the Irrigation Bill (Senate Bills No. 5 of 2017) be read a second time.

This is a very important Government Bill. The Bill is being sponsored by the Ministry of Agriculture and Irrigation tabled in this House with the consequence of changing the legal framework for management of matters irrigation. This Bill seeks to repeal the Irrigation Act Cap 387. It seeks to accommodate the new order in terms of the Constitution of Kenya 2010. The Bill recognises the responsibility of the national Government on matters food security and the responsibility of counties in so far as managing matters agriculture and irrigation. That is being married together to create an entity and institution that though performs its functions at the national level, will have an interaction with county governments including the county departments of agriculture.

This Bill is anchored in the Constitution. It seeks to create an institution known as the National Irrigation Development Authority (NIDA). The National Irrigation Board (NIB) as it exists now is established via a legal notice. We would like to establish this

Bill under the law and the Act itself, an authority that only does not have representation from national government but also from the county governments.

The Bill seeks to regulate the irrigation sector and provide an environment where the Cabinet Secretary, working together with the institutions established therein, will formulate policies, make legislative proposals to Parliament to provide sector regulation, coordination, guidance, monitoring and evaluation; so that when we talk about irrigation, there must be that coordination.

This country is in a very unfortunate situation where are suffering from serious shortage of food. That is why the other Bill that has been read for the First Time is the Food Security Bill. It is a shame because we have many rivers flowing in the many areas considered to be arid and semi-arid. We have a lot of water that is flowing from Nairobi all the way to Tana River to the Indian Ocean. Little is being done to irrigate the dry areas that are now considered to be arid and semi-arid areas.

If you go to the Kerio Valley region, you have River Kerio and the other tributaries feeding to that river flowing from Metkey in Keiyo South, where you are very familiar, Madam Speaker, all the way to Marakwet, West Pokot, and parts of Baringo County that touches both Tiaty, Baringo Central Constituencies up to Lake Turkana; that very little is being done in so far as irrigation is concerned. A little bit is being done around Turkwel area. The results of the Wei Wei Irrigation Scheme and the irrigation scheme being done in Turkwel have shown that if we were very serious and committed on matters of irrigation, we would be able to deal with matters of food insecurity.

However, we must recognize that irrigation is dependent on other factors. It is assuming that you have a constant supply of water. It is assuming that you are protecting the environment. That means you have put enough resources in Cheranganyi Hills so that you are able to irrigate the parts of Nyanza where Nzoia River flows, again from my county, the parts of Lelan through Kapcherop all the way to Trans Nzoia and Bungoma counties up to Nyanza.

You cannot say you will do that irrigation if there is no coordinated policy and regulation on matters of environment. That means there is an inter-link between matters of protection of environment, water – ensuring that the volumes of water are enough to do that irrigation. You cannot possibly say irrigation, as a function itself, would have just been left to county governments to sit down there and deal with irrigation when; first of all, the amount of money required to do irrigation is such that county governments cannot do so unless in a small scale.

Secondly, most of the irrigation would require attracting investments on matters of technology so that you can properly use the little water you have in the region.

That is why it is necessary to have a Ministry that will work with an institution that will deal with matters of formulation of policies and legislation proposals so that you have a fairly good coordination on matters of irrigation. So that again you do not have a situation where the upper and lower riparian communities are fighting; that a lot of the water has been used to irrigate upstream and the people downstream are not getting enough for livestock or irrigation; that coordination is necessary. The investment also must take into consideration the advantages and disadvantages of damming a particular are vis-à-vis the use of that water across many parts of our country.

The Turkwel situation is very interesting. When it rains you have a lot of water in Turkwel that is just wasted. If you were to irrigate, you would irrigate thousands of

hectares in parts of Kerio Valley which is both Pokot and Turkana. We have just been debating about this issue of insecurity – in fact, there is a project that has been proposed in Kimwarer which will create irrigation for the upper part of the Kerio Valley up to parts of Baringo.

Another one is proposed in Aror, and it is about to start soon, that will irrigate both Marakwet up to Tiaty Constituency which can easily sort out this problem we have been debating here about people stealing livestock. If you irrigate along the Kerio Valley, you will find that even the routes and the paths that cattle rustlers would have used to cross to steal livestock will now not be there because it will be full of crops. You will find that because of the availability of water, there is no need for persons to continue herding very emaciated livestock whose economic advantage is very little. It will be easily so in parts of Marakwet, for example, that people will move to zero grazing and other issues. So, that irrigation is important. That monitoring and evaluation of irrigation is also important.

The Ministry is also supposed to develop general principles and guidelines for promoting development for coordination of irrigation planning among counties. This is so that if you have an irrigation - it can only make sense if you have an irrigation that will take care of not just one county but many - it will foster unity and development across counties and as I said, lead to amicable settling. Part 6 (2) e says:

- (d) Promoting use of efficient irrigation systems across the country.
- (e) Subject to resource constraints, ensure availability and adequacy of water for irrigation and so forth.

All these issues are the guiding principles that are supposed to guide the Ministry that is responsible for matters irrigation, the National Irrigation Development Authority and the Council of Governors when they are making decisions on matters of irrigation and the respective counties.

Sometimes people ask why we should have discussions at the national level on matters of irrigation and not leave it to counties. Let us not forget that our responsibility at the national level and that of this House is to set the National Policy Framework that will guide all matters, not just irrigation but everything whether it is environment, water and livestock. That is really our responsibility as a House.

Madam Temporary Speaker, there is something that is emerging across the country; that the Senate has not yet taken its rightful place in ensuring that in all sectors that are devolved like agriculture, irrigation and matters of roads, we have not done enough work to ensure that there is a proper policy framework that will guide relationships between national and county governments and counties among themselves that are efficient, in order to avoid duplication and wastage of resources.

It is expected that under this Bill, the National Irrigation Development Authority is going to be one entity that will bring together the county and national Governments through an established Board that will be able to discuss matters of irrigation. This is so that you will not find a situation where national Government just wakes up and says that they are going to do irrigation in Kisii County and they have not consulted the county government to see how they are going to do that coordination.

There is one region that really concerns me in matters of irrigation when I talk of the dry areas; the Lake Basin. There is a lot of potential in Kisumu, Siaya and Homabay.

If you look at the reports and the projects that were planned to be put in those places and so forth, there is a lot of potential because we have rivers flowing there---

*(Sen. Nyamunga spoke off record)*

Sorry, Madam Temporary Speaker, I was listening to Sen. Nyamunga. It is an area that we have been discussing something with Senator Cheruiyot; about the expected Koru Dam and the desire to do an irrigation and supply water for people in that region. The potential we have in Nyanza region when it comes to cotton farming, the other kinds of agriculture like sugar and so forth, can be able to change the economy of that region and our country.

I, therefore, urge the Minister responsible for agriculture and irrigation to give this area more focus. This entity alongside the representation of the Council of Governors will have room to guide this nation on matters of irrigation in a fairly coordinated manner that will respect the consultation and cooperation provided for under Article 62 of the Constitution.

Madam Temporary Speaker, there is an institution called the National Irrigation Development Authority that is going to be established with representation of the Principal Secretary. First of all, the Authority has responsibilities as provided in Section 8(2) of the Bill. They will:-

(a) Undertake irrigation development including the infrastructure in national or public and smallholder schemes including schemes which traverse and straddle more than one county. That is so that then they focus on the projects of the bigger scale.

(b) In consultation with county governments, facilitate formation and strengthening of irrigation water users' associations at scheme level for operation, maintenance and management.

Just like we have the water users' associations in other places, we must also consider irrigation water users so that then their interest as an association is---

I am speaking like this because I have a little bit more experience representing a constituency called Marakwet East, as one of those in my county that has had indigenous irrigation schemes that are owned by clans since the 1800s. They have ways of repairing, sharing responsibilities and using the water. They even have a plan that up to such and such an hour, you irrigate this part of this clan or that or up to such and such an hour it is the responsibility of this clan to use the water. That kind of old technology must now be modernised. That will be the responsibility of this Authority to manage issues related to irrigation users.

Section 8(2) d says:

In consultation with the Cabinet Secretary and county governments, coordinate and plan settlement on national or public irrigation schemes, as well as schemes which traverse or straddle more than one county and determine the number of settlers thereof.

There is also:-

(e) Conduct periodic technical and management audits of irrigation schemes to identify problems with scheme infrastructure, governance, management and financing and recommend solutions to the irrigation water users' associations.

(f) Provide technical advisory services on a commercial basis, on irrigation water management, including water harvesting and storage, and waste water recycling for agricultural use to all schemes under appropriate modalities, including agency contracts.

(g) In collaboration with county governments, the private sector, civil society organizations and other stakeholders, provide technical advisory services to community and small holder irrigation schemes concerning design, construction, supervision, administration and maintenance of irrigation infrastructure under appropriate modalities, including agency contracts.

(h) Facilitate linkages between and among the National Government and county governments, private sector, civil society organizations, communities and other stakeholders for the provision of support services to irrigation water users' associations.

(i) In collaboration with county governments, gather information and maintain databases on irrigation development and management, including data on irrigation water supplies, demands, projects, irrigated areas, management performance, and potential for expansion and human resources.

(j) Provide land in national irrigation schemes for public purposes.

The Board will be represented as follows, if you read section 9(1).

It says:

- (a) A chairperson, who shall be appointed by the president subject to subsection (5).
- (b) The Principal Secretary, state department of irrigation or his representative
- (c) The Principal Secretary responsible for finance or his representative
- (d) Seven other members, who shall be appointed by the Cabinet Secretary, and approved by the President, taking into account the various stakeholder interests in irrigation development and management as defined in sub-section(2) below.

2(b) include two representatives of county governments nominated by the Council of Governors and shall be reflective of an appropriate professional, disciplinary and stakeholder mix.

All these must respect the professional qualification of the members so that people are not appointed as reward where they just serve in boards. We must look at the professional qualification of such persons on matters irrigation. You have the Chief Executive Officer and so forth serving in that board.

Madam Temporary Speaker, the rest of the issues are generally matters that are related to management of boards, financial provisions of the Board, dispute resolution, miscellaneous offences and so forth within the Act.

I want to emphasize - because I do not want to belabour the point - the fact that irrigation is important and a function of both levels of government. It is the future of this Republic.

If you want to settle issues that are related to food security in the Republic of Kenya and in the many parts of this country, the next frontier is to ensure that we have proper irrigation as envisaged in this Act and captured by the manifesto of the Government of the day who promised that they will do a lot of irrigation schemes across the country.

This must be demonstrated by ensuring that we give them the necessary legal framework so that they can appoint the people and establish the institutions; that they will not give an excuse in so far as matters of irrigation are concerned.

I beg to move and invite the Chairperson of the Committee on Agriculture, Livestock and fisheries and a former Minister, the Senator for Embu County to second.

**Sen. Ndwiga:** Madam Temporary Speaker, as I stand to second this Motion, I would like to make this House aware that all these conflicts we are talking about here, the next frontier is not the cattle, oil and other resources. It will be about water and availability of the water.

Since independence, this country has seen Sessional papers, developmental papers and all of them gear towards realization of these facts that the next frontier of conflict will be about resources. It is sad that we have not done very much since independence towards realization of settlement of this important issue. We have not empowered our communities to harvest water. At the moment, agriculture being a devolved function, it is very sad that when you visit our counties they are spending so much money. The resource allocation to infrastructure such as roads takes center stage and very few of our counties are concerned or investing at all in water conservation and irrigation today.

Madam Temporary Speaker, if you go round this country, you will see huge institutions that sometimes span over two and half acres of land. However, when you get there, some of them are schools with no water. It is so sad - in fact it is criminal - that managers of these institutions should be called managers at all. Those of us who have travelled know that if you have an institution like the one I just mentioned; our schools, universities and hospitals all over this country should be able to harvest water which can last you for another 12 months. This is not happening.

Two weeks ago I happened to visit a farmer in ukambani - some place. I was surprised, you pass through very arid areas and very miserable farms but you land on this farm it is at its peak and you are surprised. There is irrigation throughout the year. But this farmer has adopted drip irrigation; they harvest water when it rains. When it rains in this country we watch as the rain ferries our top soils to silt our dams and all that water goes to the Indian Ocean. A month after the rain stops we are all 'singing' disaster and hunger.

It is time that this country realised the importance of irrigation; and it has since caught the attention of the government. I am happy that the government has these new programs of irrigation. In going through the Bill and also talking to the ministry involved, you get to know that there are so many dam projects which have been planned and are being constructed in this country. It is an achievement that the government should be lauded for.

As I said earlier, agriculture is a devolved function. At what point - and it involves this House - are we going to insist to the counties on their resource allocation? Just look at any county, what projects are they spending their money on? It is on murraming roads because it is an easier way to scheme off the money. Buying this and that, but when you look at the strategic plans of all these counties, you will be shocked. You wonder if we have governors or technocrats in those counties; do they know what a strategy plan is?

Very few of them do and I know only two who have strategic plans, which can actually be called plans where they have involved experts to develop irrigation and agriculture programs because that is the only way that we can get this country and some

of these counties which we call arid and semi-arid areas to feed itself. If we did what is required of us, afforded our people leadership, this matter of hunger and cattle rustling will be a thing of the past.

Madam Temporary Speaker, there is an issues of environment. As we talk about availability of water harvesting in our forest - I know this time is not dire, but I do remember in the past parliament had to intervene to stop harvesting or destruction of forest. I remember and that is the only thing Honorable Raila Odinga is fondly remembered for – the protection of the Mau Forest. We need leaders who will stand up to people who destroy our environment. It does not matter your political lineage. You must laud that effort because that is what leadership is all about.

This calls for all of us wherever we come from to realise that without protection of environment all these other things we are talking about - development - it is development about what? If you do not protect our environment, most of the things we talk about calling them development will not be realised.

In areas like western province and Nyanza and I am very familiar with those areas. Soon after independence, those used to be bastions of cotton production, what we used to have there. Today we do not have that and I have been talking to a few senators, my colleagues from those areas and it is time that we focused seriously on harvesting water so that we do not have to wait for the rains to grow cotton.

If we want to create employment for our youths, the road is not giving them the small handouts. We have got to go to the ground and develop resources which will generate and guarantee our youth proper employment. Cotton is perhaps one of the most important cash crops in this country. We have protocols with countries like America, Angola but they do not assist or help this country. They assist China and India; those are people who are manufacturing from our resources in Athi River and, other export promotion zones in this country. This is what we need to take to our counties, not only growing cotton but also processing the exportable product.

Further, we need to look at conservation and harvesting water to develop technology that will make sure water harvested will last at least a season or for at least a period until the rains restart.

Such technologies include things like drip irrigation which are available. Once that is done, I believe this country will be food secure and able to create a lot of youth employment. We will be a happier nation.

We need to develop water pans in those areas hit by cattle rustling and in arid and semi-arid areas. So that people do not fight over those resources.

With those few remarks, I beg to second.

*(Question Proposed)*

**Sen. Nyamunga:** Thank you, Madam Temporary Speaker. As we know only 20 per cent of Kenya is arable. That means that the rest of Kenya is either semi-arid or arid. We cannot practice any form of proper or meaningful farming in those areas without irrigation. Our livelihood in Kenya depends on agriculture; anything else will come as number two. Our number one occupation and source of revenue is agriculture.

Water is important; it is life to human beings, animals, plants and vegetation. So, if we do not use it properly, it will be of no use to Kenyans. We talk of Singapore and

Korea and compare ourselves with them all the time. At some stage, we were at the same level of development with them. In the 70s - I do not know which exact year - Kenyan Government gave the Singapore Government a loan of US\$10,000. From that same level of development that we were at par, Singapore and Korea have grown because they have done a few things right. One of the things they got right is the use of water and irrigation. If Kenya is only 10 per cent arable, what does it mean? It means that we cannot rely on rain for agricultural activities. We must seriously work on irrigation. It is the only way forward if we do it properly.

I believe we, as Kenyans, have good infrastructure and policy papers. Anyone who has ever come to invest in Kenya, the first thing they said is that we have enough policy papers. Where do we fail? We fail at implementation where we do not do the right thing. If I may give an example of my county, Kisumu County, as it has been mentioned by previous speakers, it has the best land for agriculture. It has a big lake and the rivers that lead I to it. However, when it comes to poverty and development, we are among the poorest, reason being we do not use our water properly and the irrigation structures are not in place.

For a long time I have heard about the Koru Dam on the Kisumu-Nandi counties border. I believe if this dam can be constructed, the whole of the lake region will be operational and irrigation can be put in place. We do not have to use expensive type of irrigation from Lake Victoria; we can use the rivers which will only need gravity when we construct dams.

When it is dry, animals die and human beings get in trouble. When it is raining, like now we are expecting the rains, there will be floods. Nyando, Muhoroni, Nyakach, Busia and the whole of the coastal region will flood. I do not understand why we cannot fix these things, once and for all. When I was young, the floods and droughts were there. However, up to now, no structures of irrigation have been put in place.

It is important that we walk the talk. We need to construct the dams in strategic areas. This way, we will do away with the challenges brought by drought and floods. Where I come from, people cannot develop. When they do, the rains come and wash away everything. This is something that is known, some people take it as a joke, but it is not. It is unfortunate that it happens.

As I support this Bill, I plead with Members to pass it and it be implemented. Implementation is our biggest weakness. We must not just debate and pass Bills, but we must also implement them. That will help our irrigation and land cover.

At this point in time we should be doing more by planting trees along the rivers. We need to put that structure in place so that we can help in covering the surface. By doing so, it will be easy for us to develop agriculture. Most of our young people are moving to towns with the hope of getting jobs. There is a lot of joblessness in our country. If agriculture can be developed, there will be no need for our young people to look for white collar jobs. They will be able to make use of the structures in place to make money. They will not only do agriculture, but to move forward and do processing to add value to agricultural products. We have structures in the rice industry that are not properly maintained. Therefore, apart from putting irrigation in place, it is also important that we educate our people on how to take care of the irrigation channels. It should not be done only once.

Water distribution is not only about irrigation. In Kenya, water distribution is generally a big problem. In Nairobi, there is water shortage. This is the same case with most of our towns. So, I believe if we concentrate in doing a lot of work in irrigation we should also take care of the domestic water which is lacking. Nairobi is growing, but water is not being developed. On dams, we should increase the number so that we do not have the same dam being used for watering animals, for agriculture and for domestic use. This will ensure we have sufficient water to take care of our daily needs.

Madam Temporary Speaker, I support this Bill. It is a critical one. It is important that we put whatever it takes in place to help this country move forward. Let us give our people what they need so that we live in a humane way. Without water in dry areas, it is a disaster. If you go to Turkana, West Pokot and Baringo, when we have drought for only a month, everybody is in trouble because of lack of water. We do not want to do irrigation projects that will be another source of siphoning Government money.

The Galana Kulalu Irrigation Project cost a lot of money but has not helped the people. I do not know what went wrong. The management was not good. I do not want to imagine 10,000 acres of land being put under irrigation and when it came to harvesting there was nothing that could be explained as there was no harvest. So, those are some of the things that must be put in place and accountability is part and parcel of our life.

With that, I thank you.

**Sen. (Eng.) Mahamud:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this very important Motion. For the first time in this country, we have recognised that irrigation is an important aspect of development and are coming up with a Bill to regulate it. The Bill also promotes the development and management of irrigation in this country. Kenya is said to be an agricultural country, and agriculture is supposed to be the main driver of our economy.

Regrettably, we do little about agriculture since we depend on rain water for our agricultural produce. In fact, no country has developed its food production by depending on rain based agriculture. In the past, we had the National Irrigation Board with limited activities in terms of growing sugar. But now we have the Moi Irrigation Scheme, Ahero Irrigation Scheme and a few irrigation schemes that are targeting certain parts of this country.

This Bill is important because if we want to produce food in this country, we must develop and manage irrigation in Kenya and therefore this Bill is timely. We have many rivers in this country and enough water resources if they are only properly utilized. We have Athi River; many rivers in the Rift Valley and western regions, for example, River Nyando and River Nzoia. There are also many rivers at the coast where you can also have irrigation projects. Therefore, it is important that we pass this Bill so that we can put in place a serious framework for irrigation in this country.

Madam Temporary Speaker, the Bill proposes to put in place a National Irrigation Development Authority which will have activities nationwide. In consultation with the county governments, it will be able to develop irrigation in many parts of this country. In the northern part of the country where I come from, we are told that 40 percent of that land is arable provided you have water. So, if we have water for irrigation, we would be able to produce food for this country.

One of the policies of the national Government is to be food secure and no nation can call itself a nation if it cannot feed its people. Therefore, food security is important

and we can only be food secure when can produce enough food through irrigation. The Bill gives roles to both the national Government and the county governments. The regulation and management shows that there is no conflict. We know that water is devolved but irrigation which is cross-cutting many counties is the mandate of the national Government in terms of regulation and control.

In the Bill, irrigation services are defined and the requirement which is provision of water. Unfortunately, land has been utilized a lot for real estate development. The farmers who used to grow coffee have also turned into real estate. There is a lot of land which has been set aside for cash crop production like tea to earn foreign exchange. I happen to work in the foreign missions one time and wondered what we get out of tea and other cash crops which we send to other countries. We do not add value to our exports. It is high time we provided the land for irrigation to produce food that can improve the livelihood of Kenyans.

If you travel to many parts of this country from village to village or from county to county, you will see in most homes there is no land to do irrigation. Therefore, we need to go out of our way to avail land because without land, water, proper regulations and management and governance structures for irrigation, we can do very little. The Bill proposes all that but it is important that we get serious and Kenyans avail land for irrigation so that this Bill can come to reality.

Madam Temporary Speaker, I have no doubt that if we implement this content of the Bill we would be able to be food secure and change the culture of Kenyans of importing food. We grow maize but when there is shortage we import from Tanzania and other countries. This is a shame and we need to be food sufficient. We have several regional authorities in this country; Ewaso Nyiro Development Authority, Lake Basin Development Authority, Coast Development Authority and Kerio Valley Development Authority. When these authorities came into being, the initial idea was to develop their regions using irrigation but they have not been able to do that.

This Irrigation Authority which is going to be put in place must be given the tools and the means to regulate irrigation in this country. We have been hearing a lot about the Tana Delta and there is one time when we went to grow sugar there and now there is the 10,000 acres which has been mentioned. We need to be serious as a country and focus so that this time it is implemented. I am grateful that we were able to bring this Bill before the Senate, and with this in place, we can change our way of doing things. This is not an option but mandatory that we use irrigation if we need to secure our people and produce food in this country.

With those many remarks I beg to support.

**Sen. (Prof.) Ogeri:** Thank you, Madam Temporary Speaker. I rise to support this Bill. Water is such an important ingredient in our everyday life. If you consider the fact that as human beings, 80 percent of our body mass is water, then you can see who the most endangered species on the planet earth is. The deprivation of water in any form or in any occasion will indeed lead to disastrous results.

Before I go to the merits of the Bill, I have noted that this Bill has consistently said "in consultation with the county governments". However, the Bill does not go to elaborate what nature of consultations would be carried out so that at the end of the day, we do not want to create an act of Parliament eventually which will then develop many disputes. We may end up spending more and endless times in the dispute resolution

mechanisms. The drafters of the Bill should carefully look at that and, rather than create a major problem, see how we can alleviate those problems within the process of this Bill passing through the Committee stage. We should be clear that we are not creating another monster of disputes that will bog us down without a very clear mandate.

Having said that, on merit, I accept that this Bill is long overdue. Clause 3(2) says:-

“Upon the commencement of this Act, no irrigation development may be carried out in Kenya other than this Act.

We have county governments and they may have their programmes. So, let us not limit them in carrying out their responsibilities because that mandate is given to them by an Act of Parliament.

I take consolation in Section 5 of this Bill. In discharging the functions of this Act, there are many provisions of the Constitution that have been brought on board such as Article 10 of the Constitution that deals with governance and devolution. Therefore, all those details must be taken into account.

There is Article 43 of the Constitution which elaborately talks about the economic and social rights. These rights include and are not limited to only health, housing, freedom from hunger, clean water, social security and education.

Article 60 of the Constitution is also there and it deals with land policy. It talks of how the land is to be managed in a given county and the relationship between the National Land Commission and the county governments. It also addresses the issue of how to discharge those responsibilities. This Section also takes into account Article 232 of the Constitution which talks of the efficient, effective and economic use of our resources. Therefore, water qualifies as a major resource that we must effectively use without any problem.

I wish Sen. (Eng.) Mahamud was here. This is because he was our Ambassador to Egypt and he knows the problems that I had to go through when I was an Ambassador in the United Nations Environment Programme (UNEP) when we wanted to create towering dams including the Nandi-Koru Dam that Sen. Nyamunga has talked about.

Little did we know that within our own Ministry of water, we had hydrologists from Egypt who were measuring the water levels of Lake Victoria. We should bear in mind that more than 60 per cent of water discharged to Lake Victoria comes from Kenya and a small percentage comes from there.

We still have these international obligations. We tried to resolve it through the riparian states which include Uganda, Kenya, Tanzania, Rwanda, Ethiopia, South Sudan, Sudan and Egypt but it became a big problem. We might as well get information from the Ministry of Water on what is happening because this is a function that is going to work under their ambit and how we can navigate through those international treaties.

I remember at the time when I was dealing with this matter, we had agreed that there would be no more new settlements being opened up in Egypt. This is because we also needed much water in Kenya. We are almost running into scarcity of water. Anyone of you who goes around in your rural setting have seen the number of mothers and little children carrying jerrycans and trying to go to any possible spring which have unfortunately dried up. That includes the boreholes which have been dug by the Ministry of Water. That portends that there is a disaster in the making.

Therefore, holding of water; conservation of water, apart from using it for agricultural purposes, will also help us to use it for ourselves in all aspects of our social life and social activity. We will use it for the expansion of our economy through irrigation programmes and through the growth of many cash crops. They are numberless. You need not to limit them. Therefore, it is an important area that will help this country move forward.

I had a lot of expectations from the Galana-Kulalu Irrigation Project. For once, I went around and said that Kenya will be a food sufficient country in the not too distant future. Alas, this has not happened. Can we learn some of the lessons on what went wrong in the Galana-Kulalu Irrigation Project so that we can be informed better? We should not just repeat the failures of the past in the subsequent decisions that we make in the establishment of this irrigation Authority. We have a good opportunity and a good chance of learning from our past mistakes and incorporating the new features that will help us to move forward in this irrigation programmes.

There was a time we were debating on desertification in the United Nations (UN) Convention in New York and in Nairobi and I was leading the Kenyan delegation as the Ambassador to the UNEP. One of the areas that struck me was when we were moving, the issue of the effects of desertification particularly in Africa. I saw the developed nations seriously oppose that Convention to come into force. This is because they realized that if that Convention came into force, we would have been the beneficiaries of the resource flow from the north to the south. This is because of their mischievous activities in dealing with their forests; they have destroyed them. If you go to Europe and it rains, it is all acid water. They have no forest of any nature.

We have been lured into carbon credit. It is the exchange for carbon. They can pollute the world and at the end of it say that for our bad practices, in exchange, they can give carbon credit. It is a good thing to get carbon credit because we are the custodian of clean air. But what is happening today is that most of our rivers are drying up.

The other day I crossed over River Sotik while coming from home. It is used to be full of water regardless of the season. However, I could just see patches of water passing through. I just wondered how a river which used to burst its banks and flow over the bridge whenever it rained could be in the current state. Kisii where there is supposed to be plenty of water is currently dry. Therefore, these irrigations schemes should be done. The construction of dams should be a selective exercise. It should be done in a manner with the full understanding that Kenya is moving towards water scarcity.

In order for us to address this problem comprehensively, and that is the reason why I am supporting this Bill, the dams must be equally distributed to all counties. We must be involved to know the benefits that accrue from this kind of a Bill that we are now discussing in this Senate. This will ensure that there are tangible benefits to our people. I do not want us to do something that we will regret later.

This irrigation has a potential of opening up new settlements. With opening up of new settlements, areas that have not been inhabited before, particularly arid and semi-arid regions, will have new populations. With the population growing, this will call for all the social services such as health care and housing. This will make our people happy. They do not have to trek many miles away to look for water for their animals. Every time I watch television I get sick because I see people trying to scoop water from dirt.

When I was a medical officer in charge of Wajir in Sen. (Dr.) Ali's county, in 1968, to be precise, the place was not as desiccated as it is today. There was a lot of water whenever it rained a bit. Whenever it rained you would take more than 12 hours for a trip from Wajir to Buna. Gural, the nearby border of Ethiopia, is about less than 20 kilometres from Buna, yet it took us a whole day to traverse that section because it had rained. Today it is a dry place and yet water tables in the region are very high because of the mountains across Wajir. So, apart from conserving, the aquifers of water should also be replenished.

There is a survey that talks of the plenty of water in Turkana that is able to supply the whole of Kenya. I would like to know the quality of that water. Is it something that we can look forward to as yet another reservoir for this nation and as a natural resource that we can preserve and develop? Just like we value oil, we should also start valuing water because we have realised water is a finite resource.

Without much ado, since I can see the warning light is on, this board must be representative. Every part of the Bill talks of 'in consultation with the county governments,' but when I look at the constitution of the board, it does not reflect that. Can we, please, during the Committee stage, reflect how the county governments will have a stake in it? This is because we, as Senators, will be accused of passing a Bill in this House which does not take into account the interest of the county governments.

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

**Sen. Mwaruma:** Thank you, Madam Temporary Speaker, for giving me this chance to contribute to this Bill. This is a very important Bill in the history of Kenya, given that our country is not food secure. This Bill will serve to turn around the trend.

Most people in Kenya are living in deplorable conditions. They experience famine and are not able to feed their families. When we have such a Bill, then it is imperative that we support it. In Taita-Taveta County, where I come from, we have a lot of land that can be used for farming, but there is no water. We have water bodies, but they are not available to the farms. The water bodies include Lake Chala and Lake Jipe. We also have huge opportunities for irrigation, where we can arrest water after it rains. A lot of water runs into the ocean and I always tell my people that we have no tender for filling the Indian Ocean with rain water. This water can easily be taped using check dams. There are efforts that have been done towards irrigation, but they have been uncoordinated and sporadic. But with such a legislative framework, this will go a long way into improving the nature of approach to doing irrigation.

There are very many problems afflicting people in Kenya, particularly, in Taita-Taveta County. There is poverty, low literacy levels, poor farming, environmental degradation, deforestation and so on. These can be sorted out by this kind of a Bill. Once we have water available for irrigation, we can increase food productivity and income for our people. People will be able to pay for the education of their children. Definitely, their livelihood will be improved.

Our economy basically is agricultural based. Where I come from, we grow horticultural crops and other types of cash crops, but without irrigation the performance is very poor. I am looking at counties that have performed better because of employing irrigation. An example is the neighbouring Makueni County. The incomes of their people have grown significantly because of irrigation. Makueni County is now exporting mangoes in high quantities. They are doing value addition courtesy of irrigation.

Therefore, this Bill must be supported. I would have contributed comprehensively if I had a copy of the Bill. Unfortunately, I have not been able to get hold of a copy of it. In the subsequent discussions on this Bill, I should be able to contribute even better, but we have to support it. We have huge opportunities of growing our economy through availing of water to our people.

With regard to livestock farming, Taita Taveta County is a disease free zone. The Masaais and the Somalis have invested in livestock, but they do not do value addition to their animals because of lack of adequate water. If they had adequate water, they could have feedlots. This is a concept borrowed from Botswana where animals are fattened, slaughtered and exported to earn more income for farmers.

With adequate water for irrigation, we, as a country, can do reforestation and increase our forest cover. In the 1990s, our rivers had adequate water. We used to do a lot of irrigation. Today, we cannot do irrigation from the river sources because of environmental degradation. If we can use the several methods of irrigation that are contemplated in the Bill, we will increase forest cover in our country and have enough rainfall. I am sure in the next 40-50 years, we will have enough forest cover as it was in the 1980s and 1990s.

Madam Temporary Speaker, I beg to support this Motion because our economy is agricultural based. Even if we were to go for the much vaunted industrialization, our industries would be agri-based. If we want to do industrialization, we must produce enough for the industries. For example, we need to produce enough mangoes and tomatoes for the mango and tomato juice industries respectively. If were to employ people, then we must start industries. If we must start industries, we must have raw materials for our agricultural based economy will be gotten from irrigation initiatives.

Madam Temporary Speaker, I beg to stop and urge all of us to support this Motion.

**Sen. Seneta:** Thank you, Madam Temporary Speaker for giving me a chance to also support this important Bill. From the onset, this is a very important Bill. It has come at the right time when Kenya needs to have a framework on food security. It has come at a time when we import food for our people. Whether it rains or not, a bigger percentage of Kenyan families are crying because they are not able to provide food for their children. Food is very expensive in this country. Many Kenyans today cannot afford a meal. Therefore, this Bill gives a framework on development and management of irrigation in our country which is very important because food is not only a basic need, but also a constitutional right.

The most important aspect in this Bill is the issue of water. The national Government, in consultation with the county governments, must put in place strategies to make sure that Kenyans get adequate water either through water harvesting when it rains or constructing boreholes which will be used for irrigation. This House needs to support county governments to come up with strategies that will help them get adequate water for irrigation.

I am also impressed by the issue of capacity building in this Bill. Officers serving in the county government need to be empowered in terms of how to go about irrigation and how to add value to their produce from the farms. We have counties that have huge pieces of land, for example, Kajiado County and other arid and semi arid counties. However, many of them do not have the capacity to do irrigation and add value to their

products. If we build the capacity of our people and show them that they are able to change from other traditional ways of getting water to irrigation, we shall have improved our economy.

Today, we have quite a number of conflicts in our counties because of livestock moving from one county to another. Yesterday, I read somewhere in the social media that the Nairobi County Government is chasing livestock farmers from Nairobi. They want them to go back to their home counties. All these conflicts come up because of the issue of pasture. Therefore, irrigation will help us to get enough food for our people and also get waste for our farms which will help us to feed our animals and help reduce the movement of animals from one county to neighbouring counties.

I got the Bill late. The House should ensure that Members get the Bill on time. As I was reading it, I saw an authority will be put in place to provide irrigation services. This country also needs to look into the works of these authorities. At times, we establish authorities and we fail to get services from them. In the past, we used to have extension services for our farmers from the Ministry of Agriculture. Experts would visit farmers and give them information on how to improve their farming activities. Farmers will get the right information and services through this Board that will be formed by this Authority so that they can do the irrigation services that they need.

Another major thing that I also see in the Bill is the budget. It is also good that counties are advised on the allocation of money to this sector because you cannot just do irrigation with little money. This will improve the budget allocation to agriculture because today, we see counties giving priority to other services like road infrastructure and leaving out agriculture which is a very important sector. This framework will advise or give direction on budget allocation.

Madam Temporary speaker, land or environmental management is also an important thing that I saw in the Bill. It is becoming a big issue where people are just building everywhere without plan. When we separate and zone our lands in order to have agricultural and urban development land, I think we shall improve as a country in terms of agriculture.

Finally, the Bill has also put measures in place with regard to the issue of drought mitigation, which is of great interest because of the lesson that we have learnt already from the very long dry spell. We need drought mitigation measures as a country. At the moment, we do not receive a lot of rain. If we could plan with the little that we receive, we can harness and harvest the water and encourage people to use that water for irrigation purposes.

I support this Bill and urge my colleagues to support it too. I also advise the Ministry to move with speed and implement proposals contained in this Bill so that we can save this country the great amount of money that we spend on food importation and health due to malnutrition. This is a Bill that everyone should support.

**Sen. Cheruiyot:** Thank you, Madam Temporary Speaker, for giving me this chance to contribute to this Bill and share my thoughts as well. From the onset, I support this Bill. I find the thoughts that have been shared in this Bill quite encouraging to us as a country. It is also shocking as has been observed by many of my colleagues who have spoken before, that as a nation, we have survived without this kind of a Bill for this long. This is despite the fact that we consider ourselves an agricultural economy and we say that it is our mainstay yet for a long time, we did not have laws to regulate such an

important facet. It is such a direct and important aspect that affects our economy and even goes into threatening the very livelihood of the country.

I must say that there are many things that I agree with in this Bill. In the next few minutes, I will share my thoughts in the things that have been pointed out herein, my experiences as a legislator and the things that I see and feel that will be important for us to consider as we read through and give our thoughts. Even as we move to the Committee Stage, there are a few things that I also wish to propose that they be changed in this Bill. I know the Sponsor of the Bill will take into consideration all the suggestions that will be brought forth today.

The very first thing that I want to take exception to as specified in this Bill is that there are many times that we get Bills coming into this House establishing such and such an authority. There is one particular issue that I have always tried to raise on the Floor of this House but nobody seems to be listening. That is, for every authority that we set up in this country, it is headquartered in Nairobi City County. Why Nairobi City County specifically? Why are we overcrowding our capital city yet it is so clear and obvious that the facilities in this city cannot support such institutions.

There is no reason why we should not have headquarters of some of these authorities in different parts of this country. When we talk about water, perhaps, we can take its authority to the furthest part of the country up North in Turkana County where Sen. (Prof.) Ekal comes from. It is not that they cannot host it. How will we develop other parts of the country if for every institution that we are coming up with, we want it headquartered here in Nairobi?

The spirit and the thought of devolution was to continue sending resources to the counties and not only financial but even such facilities. How will people from certain parts of the country know that there exist different corners of the Nation, if for every issue to do with the national Government office, we are sending them to Nairobi? We have had enough of this City.

The reason I am taking a lot of time pursuing this point is that I hope that for the first time, somebody can listen to those of us who have been campaigning that we need to move some of these offices from our Capital City and make amends to it. There are other various proposals that have been made about this Authority that we are setting up. For example, in Part II of the Authority under the structure – I am speaking generally about the structure of the Authority – is that:

“The Authority shall exercise all powers necessary to enable it perform its functions under this Act, without prejudice to the generality of foregoing---”

Then they provide a list. Many of the times it says, ‘in consultation with county governments, CSSs’ and such. Yet, when you go to the composition of the Board, you find that this Board has about nine members with only two members from the county governments. I strongly feel that because this is a Bill that, by and large, will encompass a good relation between county and national Government, it would have been better if we had more representatives of county governments, perhaps three or four.

This is because these people will be nominated by the Council of Governors (CoG) based at Delta House here. I want to imagine how much work we are placing on these two people to have a general feel of all the 47 counties and represent the feelings of all of us in that Board. It would have been more important to even have more

representation from counties than we have from people who are generated from the national Government.

The spirit of devolution is such that for every year, as we continue to make progress as a country, we continue to send more resources and functions and even thoughts and organisations of such authorities should be reflective of our desire to say, let us have self-determination amongst our people. Therefore, it is my sincere thought that in this organisation of this Board that is being proposed, the number of two as representatives of county governments is too low.

Madam Temporary Speaker, there is also something that I have noted. As a lawmaker, I am specific in how we use words. We have had court cases and Kenya is becoming an increasingly litigant nation where for every small detail, they end up in court. Yet, some of the ills that are being perpetrated in society right now, people get away with because of how we draft our laws. There is something that I have picked up. It is a general phrase that we use many times when we pass laws in this Parliament. Amongst the qualifications that have been put for the Chief Executive Officer for this Authority is that:

“They should hold relevant academic and professional qualifications.”

This is a generic phrase that we use for almost every other board. What is relevant? If you have a degree, for example, in botany, somebody can argue before a court of law and say he is qualified, because “relevant” means that he is able to read and write. I think we are being intellectually lazy as legislatures if we allow such language to pass. We should get down to the details and state the academic qualifications that are needed for an individual who is about to head an institution that shall be charged with the responsibility of carrying out irrigation programmes in our country.

There is need for better language. That particular phrase should be redrafted. Otherwise, if you leave it that way, we are opening room for people to appoint every person that is available out there. Water studies is a very rare skill that not many people have information on or had the opportunity to study it. Therefore, I think that is something we need to consider and perhaps see a better way of drafting that particular legislation.

There are other ambiguities that I have picked out of this piece of legislation. It says that the Chief Executive Officer shall hold office for a term of three years and is eligible for reappointment for a further term of three years. My understanding is that if you are eligible to be reappointed for a further term of three years, the very specific nature of that communication is that it does not hold the person being reappointed from being reappointed for another term even after having done six years. The language used in this Bill should be specific; that after being appointed for a further term of three years, you do not qualify to be appointed again.

I am not a fan of people being appointed into office then they buy time there and perhaps, stay for more than two terms. As an individual, there is only so much that you can do. After a certain period of stay in a particular office, you cease to become useful. That is what people meant when they came up with phrases like, so and so has overstayed their usefulness in a certain position. Therefore, the language used there is not tight enough. Somebody may exploit it and say, so long as it says another term of three years, it can also be another term after the second term. We need to consider such things.

If we are talking about things like unemployment and how we shall address it; how will our young people in this country get the opportunity to serve this nation, if people who have risen through the ranks and get to the level of being Chief Executive Officers are being appointed for more than six years? There is nobody who has monopoly of knowledge, especially for such an important avenue as this. A term of six years should be enough to be appreciated for having served your country. Please move on and do other things.

One thing that I must really laud the drafters of this piece of legislation is that this is about responsibilities of the county governments as per this regulation; that each county irrigation development unit shall be charged with the responsibility of formulating and implementing an irrigation strategy.

I heard the very good sentiments that were shared by the Senator for Taita Taveta about the envious manner in which they look at the progress that is being made in a county like Makueni which is their neighboring county. It is becoming increasingly clear for those of us that have followed this cycle of devolution. We are now in the second cycle. As we move to the third and the fourth cycles, certain counties will begin to move forward faster than others depending on the people charged with the responsibilities of leading those counties.

Therefore, when you have it in law that every county must have an irrigation strategy of their own, led by a unit that is measured with specific deliverables upon which they can be measured, it is very important so that you can say that at county, for example, Kericho where I represent, our irrigation strategy is as follows. This is how we shall collect, retain and pump our water, and send it to the homes of certain people. We may even find certain corners of the county that are semi-arid areas and have an irrigation plant set up there. As we measure the success and failures of counties, one of the things that we shall be looking up to from now henceforth, is the existence of these irrigation units.

There is also something that has really interested me about the relation between county governments and the national Government on matters, irrigation. That the authorities that exist shall develop a mechanism on return on investment formula resulting from the construction of irrigation schemes using public funds. This is something that is very important. You have seen billions of shillings being put into use yet the public are not assured of a return on their investment.

Every time – as leaders put in public offices - we make decisions on behalf of people. We must assure them that we are taking Kshs5 billion, Kshs10 billion or Kshs20 billion from our public coffers and putting it into certain use and this is how we shall reap that return.

I have seen that in this Bill they are proposing a water service users' fee such that if you construct a dam, for example, in Kakamega County, and you have used either national or county resources, the people whose resources you have used should know that is the plan even before you do the project; that this shall be the project. The homes that we shall supply with water from this particular dam will pay us this amount and after a particular number of years, you will have gained back your money. This is very important.

I have seen it is in line with the national Government programme where we have been told that between now and 2022, the national Government intends to put up 54 or 57

dams. From now henceforth, the public shall be assured that even if these dams are being constructed on loan, there is a return on investment such that in the long run, people will pay back the loan that was used and the Government will continue to earn monies from these particular resources that are being put into these projects.

There is also another important aspect where they say the Cabinet Secretary shall establish an Integrated Water Resource Management. The programmes that we are doing and the dams we are building should not only be---. If they are large to a certain extent, for example, Thwake Dam that is being done in Makueni County, it should identify the relationship framework between the residents of Makueni that will benefit from this and even further downwards to either Taita Taveta or Kitui and the other neighboring counties.

These Integrated Water Resource Management plan shall even come up with a framework where you shall know that despite being the host county of certain national Government programs, you fit into the whole picture of a fabric called Kenya. Such that you do not run into the kind of problems you saw last year when leaders from Murang'a County rose up in arms and resisted a programme that was being done by the national Government because they felt that water was being taken out of their county and it was being fed to residents of Nairobi County. Such issues shall cease to be complaints to be dealt with.

There are many things that I would have wished to say and add on to this Bill. In conclusion, the one area I feel is very important and we all should not forget is how we shall also regenerate and be a water secure country in the present climate. I had the opportunity to address my county assembly – the County Assembly of Kericho this week. I charged them with the responsibility of ensuring that they make use of available research on certain types of trees like the eucalyptus. It has been proven that if you plant them around riparian areas, it leads to the drying up of water sources. Such are the things that we need to consider. We should carry out further detailed studies on the same, so that we can be a water secure nation.

I want to confess that the sentiments that were shared by Sen. (Prof.) Ongeru are things that I have seen in certain corners of my county. There are streams and rivers where we used to swim and bathe when we were young. Right now you cannot even wash your face in the streams and rivers because they are completely drying up. As the leadership, we need to take charge and find a solution to it.

Madam Temporary Speaker, with those very many remarks I support this Bill.

**Sen. (Prof.) Ekal:** Thank you, Madam Temporary Speaker, for giving me the chance to also add my sentiments on this Bill. From the outset, I support it. It is long overdue and should have been passed a long time ago.

Turkana County, where I come from, has suffered from hunger for so long even before Independence. Kenya having been independent for 54 years, you would hope that the governments that have been in place would have done something to stop such catastrophes happening in Turkana. Unfortunately, that did not happen. I hope that with the passage of this Bill changes will start taking place.

I always say that it does not matter how many boards and responsibilities we create. What really matters is what we will do to solve the problem. As a trained scientist, I always want to know where the problem is and then look for a solution. So, if we know

that Turkana suffers from hunger I would expect somebody to go out there and say: "Let us do something to stop hunger every year." Unfortunately, that has not happened.

I am glad that today, as we discuss this Bill, there will be a joint effort between the National Government and county governments. The good thing is that the governor of County No.23 has already stated that the next five years will be spent on looking for water for Turkana and trying to solve hunger problems.

Before coming to the Senate, I used to be the chairman of a body like the one we will create that had the word 'irrigation' in it. I found out that the problem was not lack of money, but lack of commitment and interest to solve the problems. You can pump money into an organisation or board, but if there is no commitment, interest or driving force to get problems solved, nothing will happen.

I found that within these organisations there were also conflicting issues with those who are given the responsibility to get things done. Certain amounts of money were not expected or did not have to go to particular places or counties. As we pass this Bill at least we have counties which have the resources to get things working.

I support this Bill and look forward to having it passed and changes being effected in Turkana in such a way that will ensure that our people will stop suffering from hunger.

Thank you Madam Speaker.

**Sen. (Dr.) Ali:** Thank you, Madam Temporary Speaker. I wish to contribute to this Bill and say that I support it from the outset. The problem with Kenya is not writing good papers. We are very good at that and creating organisations which in the end do not implement anything. I hope that this Bill does not fall in the same category.

We have the National Irrigation Board, but what has it done? The Bura Irrigation Scheme has been in existence for many years. In the early years it used to function very well and a lot of crops used to be produced. But if you go there now you will not find anything. There was the Ahero Irrigation Scheme where there used to be a lot of rice. What is there now? Nothing! The Mwea Irrigation Scheme used to be very good, but nowadays it has many problems. Irrigation is important to Kenya because it will ensure food security, but if we do things in piecemeal and give people small plots of land it might not be very helpful. I hope that the issue of large scale irrigation farms will be introduced, so that commercial farmers come into play and then the country will get enough food.

Clause 5 (k), says that the authority, in collaboration with county governments and other stakeholders, promote the marketing and processing of crops, animal and fish products grown. There will be a lot of complications and infighting over who is supposed to be in charge of these. When you talk of marketing of crops, animals and fish, there will be a lot of problems. There are overlaps with the Kenya Meat Commission (KMC), the Horticultural Crops Development Authority (HCDA), the Kenya Tea Development Agency (KTDA). Issues like these should be avoided. So, we need to do something in the Committee Stage to remove some of these things.

I concur with what my friend, Sen. Cheruiyot, said about the issue of establishing the headquarters. Why do we want to establish the irrigation headquarters here? Why do we not take it to Bura, Hola, and Turkwell or wherever where irrigation schemes are in place? Do we want to do everything in Nairobi? That will not be very helpful.

I also want to comment on the membership of the board that Sen. Cheruiyot also mentioned. We already have the chairman, the Principal Secretaries or their designate

from the State Department of Irrigation, Finance and then we want to give the Cabinet Secretary (CS) to appoint seven more and allow the county governments to bring only two. The county governments should be allowed at least four out of the seven, so that there are three appointees of the CS and then there are other two from the Ministry. That is already five. Why do we want to give everything to the CS to appoint? Given that these are political appointments, somebody who has no knowledge of irrigation or anything to do with agriculture for that matter could get a chance.

When we talk about irrigation, it is not only for crop farmers, but also for livestock farmers. They also need waters in some areas. There should be fair distribution everywhere. I also need to comment on the education issue which he mentioned. We should be very specific. When you talk of generalities and say university degrees, somebody with Bachelor of Arts in home science or Bachelor of Arts in history will be appointed chairman of a parastatal like this. If you get the best and the good advice from the chief executive who is capable, but in a political country anything is possible so we need to be very specific with these issues.

The Yatta canal which was done during the colonial times - at time of the Second World War - by Italian prisoners is still functioning and helping the people of Yatta. While in River Tana, at the Turkwel Gorge area people are dying because they do not have enough food. I will just call it inefficiency, literally. When I am going to North Eastern through Garissa and I pass through Ukambani area, I see big *lagas* dry and big gorges which if a dam was done and water was stored properly we would not be suffering like this. You go to Wajir or the North Eastern, you cannot travel in every rainy season because of floods and that water goes to waste. After one week is when you see water, then the whole place is green.

There is a certain dry area between Modogashe and Habaswein. I do not know whether some body was making fun of it, but he told me they flew over the area with an investor and told him that there were my rice farms, that is the grass which grow in that place after it had rained; and the guy believed it. Nevertheless, after one week, there is nothing. The water in those areas, for example, the Lorian swamp on the Ewaso Ngiro River disappears near Habasorri; a place called the railway swamps.

I saw a research done by the Ministry of Agriculture in the 1970s which stated that if we irrigated that area, it would supply food in Nairobi for 30years; the food harvested from that swam. In Kenya we have no lack of research or people with brains. Unfortunately, I do not know what happens to us once we are given positions of authority or made in charge of something. You forget what you are supposed to do and then you just think of your tummy.

I hope when this Bill comes to the Committee stage, we will scrutinise it properly and do the right things. In cases of the county governments, they have their own problems; we know that as Senators already. However, if there is a relation between the county government and the national Government and we do harvesting of water properly. The small farmers and the women groups are encouraged to do small scale farming in areas like Northern Kenya where there is enough land, then I am sure Kenyans will not suffer because of hunger.

With those few remarks I support.

**Sen. Chebeni:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this Motion. This is a very important Bill seeing that it seeks

to ensure this country is food secure and counties that suffer water shortages make good use of this water which is a scarce resource in our country.

The youths of Kenya today are engaged in agri-business which has been a source of their livelihood owing to the fact that unemployment is on the rise in Kenya. Therefore, I believe that this Bill will facilitate their efforts in the agricultural sector.

With this reason, I support this Bill.

**Sen. (Rev.) Waqo:** Madam Temporary Speaker, I stand to firmly support the Bill because it speaks volume to me as a person. I feel it is the only way our nation can overcome the many problems that we are in today.

One, when you put into consideration the challenge that comes with climate change which has negative impact on eco-systems, water resources, food and also health. Unless we plan in advance then the years to come many of us or the generation that will come after us will face a lot of challenges and that is why we need to support this. Although, we feel that it is already late, but it is better that we pass this Bill and implement it as soon as possible so that we can benefit from it.

The Bill will have positive and great impact on the big four agenda that we are focusing on as a nation. It will take care of our livelihood, health and many things. We all know that without water there is no life. Many of the hon. Members have mentioned how much we have lost in the past and how we continue losing a lot of water. That is why it is important to continue making noise and say it is important for us to harvest enough water.

I was born, brought up and still live in an area that is very dry; where we carry water and we continue carrying water for 20kilometres. You must use Kshs.80and above to get 20 litres of water in today's world. Sometimes it is difficult to even get the 20 litres of water which in the city someone can just flash. For a pastoralist like me, sometimes I feel like I can even transfer the water that I use at home today so that I can help my people on the ground.

The demand on the ground is what pushes us, as legislators, to pass this Bill as soon as yesterday. You know very well that many of our youths are suffering because of lack of employment. This Bill will take care of them. About 70-75 per cent of Kenyans are the young people who are so hopeless today and have nowhere to go. Some are graduates and have no formal employment. Others have gone to drugs, alcoholism while others have been radicalized. It is our responsibility as the leaders today to plan and take care of them.

A lot of our land is arable. If we all visit Israel today, we will see how the Israelites have transformed their desert to a place where they harvest enough food. In Kenya, the soil of the land God has given us is 100 times better than that. Through this Bill, we will be able to move towards that direction of transforming the lives of our people. We will be able to create jobs for them, we will have a healthy society, we will reduce their poverty level and we will be proud of this nation that God has given us. Therefore, I beg to support the Bill.

Thank you.

**Sen. Mugo:** Thank you, Madam Temporary Speaker. I support this Bill and I thank its authors for bringing it. It is timely. My hope is that it will be implemented as soon as possible. The Board that will be charged with its implementation will be put in place carefully to ensure that it has got members who have the interest of the people at heart.

What we have seen many at times is that the funds which are meant to go to the establishment of such authorities, half of it, if not more, does not go to what it is supposed to do. The programs stall and take long to take root. I, therefore, hope that there will be tight security so that those responsible in supervising use of Government funds will tighten the belts. They will be held to account.

This is a timely Bill, and every country should be able to feed its citizens. Food is critical, it is one of our human rights. Feeding citizens is not only by having food security but also food safety. I like to propose - I will be bringing an amendment - that the Permanent Secretary of the Ministry of Health to be a board Member.

I want to emphasize even as we hope not to depend to a large extent on rainfed agriculture but irrigation because of climate change. Even as we move to that area, we should guard jealously against going into it quickly thinking that we will make a lot of food if we plant Genetically Modified Foods (GMOs). I know of a few people who are trying to venture into GMOs who say the seed do not go bad whether there is rain or not enough water. That is why I am emphasising to have the Ministry of Public Health involved for food safety. We know we banned Genetically Modified Organisms (GMOs) with a big reason.

Actually, I understand that the American President is not allowed to eat GMO and do not know who supervises this. We know GMO is said to bring cancer of some sort. In some of the tests that have been done in France and other countries, GMO's were banned but here we are encouraging GMO's.

When we talk of food security, some people are leading our professionals into talking very well about GMO's saying that it is a political decision. When it was banned, it was not a political decision but a health decision after our scientists had done a lot of research from different research organizations, including universities. Even today, they have said until more research is done, we should not encourage the use of GMO because definitely it is not safe food. So, as we encourage irrigation and growth of more food, we must also stand firm on food security.

Madam Deputy Speaker, I see gender is included in the member composition of the Board. We must be firm on that because many at times gender is said to be there but we are not aware of the composition. It should not only involve gender but also professionals because women are the biggest users who are mainly in the food production; they place food on the table. When it comes to water, they are the ones who suffer most for lack of water. Therefore, we must ensure that the people who are involved in this sector are involved in the management of water, irrigation, food safety and food security.

Land use should be taken into account. The National Land Commission (NLC) should also be part of this. Why do I say so? This is because we have seen situations where when the government tries to acquire land for development, the prices sky rocket and money that was budgeted for the project is used for acquiring land. As Africans, we know land is a passionate issue in our hearts but we must now start thinking about land for the public good. We should be able to acquire any land after compensation for development and not double the price to a level that is so high or threefold that all the money that was supposed to go into developing the Authority goes to acquiring land.

We are always complaining that the youth do not have employment. If we have enough land and water for this irrigation then the energetic youth can be employed or

engaged in growing food. When that is done, Kenya will be food sufficient tomorrow. This is because we have good land and labour; all we are missing is water. That is what we are talking about now; non-rain fed agriculture.

When talking about labour, I have always thought about all the street families that we have---. There are many of them in our townships and cities, especially Nairobi. Many a times have I wondered if they can make a home when taken to an irrigation scheme? I wonder if they can get enough food for themselves and for the market. That is an area that I hope that the Ministry in charge of social affairs will think about as we do dams or whatever irrigation. The youth and street families should be thought about. We should think of how we can use them or help them make their own living with dignity.

As we think of food security and irrigation, there should be points where all the communities in those areas can get clean water. This is because public health is about clean water. There is no need of giving people food, yet they continue falling sick. We have to provide clean water for households and livestock. As this authority plans and executes the irrigation schemes, they should also put clean drinking water points into consideration. The planners of the same area should also allow the communities there to get clean water for themselves and their livestock.

I cannot overemphasize the need for this Bill, authority and development because Kenya certainly needed it yesteryear. However, we are happy that it is here now. We should all embrace it. We need to educate our people and inform them that this is a lifeline for them and we should all take care of it. When some of these projects are put in a place, some people see it as a Government thing. It is not a Government thing. It is our thing and lifeline.

I support.

**Sen. Kibiru:** Thank you, Madam Speaker. I was almost getting worried that you have forgotten me. I resonate with this Bill. Having worked in the water sector, I have one or two insights about water.

I also come from a County that feeds Nairobi through irrigation. Kirinyaga County has a lot of irrigation, including the Mwea Irrigation Scheme.

Madam Temporary Speaker, from a strategic point of view, it is important from the onset that we look at the irrigation in a strategic way. I have in mind that the authority should be able to ensure that in the counties where we will do irrigation, there is special planning or mapping to ensure that counties do enjoy comparative advantage. We should avoid a situation where we encourage irrigation and we over produce one type of crop.

When we talk about comparative advantage, we need to see counties producing what they can produce better, given the environment where they are situated. It is important that the authority be able to do that. Sen. Mugo has emphasised a point that I also wanted to emphasis on why for many years the National Irrigation Board has been referred to as “slaves have no use”. That is, when it is translated in Kikuyu or in “*Kikirinyaga*”. So, this idea of giving potable water in areas of irrigation cannot be over emphasised.

Madam Temporary Speaker, the other issue is that we may not be able to separate the irrigation from the environment. As we move around the country, especially in Kirinyaga, you can see farming being encouraged in riparian areas. Currently, the water catchment areas – the riparian areas – are being utilised for cultivation. This is because that is their only area where probably, crops are growing throughout the year. So, as we

look at the Bill, the authority should be able to discourage cultivation in the riparian areas and be able to give water for irrigation to the people who are cultivating those areas.

The other issue is that there is a lot of abstraction of water from the rivers. We have a situation somewhere in Kirinyaga where within a span of less than five kilometres in one river, you have over 15 intakes. These intakes are being developed by the communities because they want potable and shallow water for irrigation. This authority should be able to take care of that because over-abstraction of those rivers is making them dry over a period of time.

Madam Temporary Speaker, on the other issue, if you look at India in terms of enriching the aquifers, they do percolations. They dig holes during the rainy seasons so that the aquifers are enriched. I believe the authority should be able to ensure that there are regulations that will make sure that we dig holes in certain areas, especially where we have water flowing very fast so that we can enrich our aquifers. By doing this, we will be able to have aquifers which are rich because we may not always have water to irrigate. Most of the times we may be forced to dig boreholes. If we enrich aquifers, we will not be digging deeper to be able to get water.

Finally, I would want to say that given that Kirinyaga is one of the areas where we produce a lot of rice for this country, the authority should come up and look at the regulations that have been imposed by the NIB. Those regulations are very punitive and they make people in Mwea to live in abject poverty. Therefore, we need an enabling authority; we do not have to get an authority that comes and starts discriminating or making people poorer or disadvantaged. We need to look at the issue of issuing title deeds to the farmers of Mwea. These farmers have been farming rice without title deeds and they cannot use the farms as collateral and be able to farm well.

Madam Temporary Speaker, with those few remarks, I whole heartedly support the Bill.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Sen. Haji Farhiya Ali.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker, for giving me an opportunity to contribute to this Bill. One of the issues that this Bill will address is food security which speaks to my heart. I come from Wajir County which has 10 per cent of the total land of this country, yet, year in, year out, we go into a food crisis mode because of food insecurity which leads to death of people.

The other reason why I fully support this Bill is because it speaks to the big Four Agenda of the Jubilee Manifesto. Jubilee is my party, therefore, I support the Jubilee Manifesto that we sold to this country and got elected.

The other reason why I support this Bill is because I come from a conflict zone area due to food insecurity. If everybody had food on their table, conflicts could be minimized and the people of Wajir will benefit more because they will stop fighting amongst themselves. For example, yesterday, in my county, people fought because of watering points and three were hurt. This Bill will ensure that there is enough water.

Pastoralism is also a form of livelihood. Therefore, it will provide food security for pastoralist communities. If we had enough water in these regions, some of these conflicts would be minimized. The impact of these conflicts include loss of lives, livestock and vandalizing the very few watering points that exist. When people fight, they sometimes uproot boreholes and stuff like that because the water is simply not enough. People are also displaced.

Right now, we are dealing with a crisis because people have fought and some have been displaced. The animals are still there but the people have been displaced and so they do not have livelihoods. Such a matter escalates water scarcity. If there was enough water, even in the place where I come from, which has huge parcels of land; there will be some form of agriculture. That will also increase the livelihoods of people and job creation for the youth who do not have jobs. Women are more affected when there are conflicts and so if there is enough water, it will relieve the burden for them.

The other reason why I support this Bill is that it guarantees transparency and accountability. I think this is important because Kenyans pay taxes and if the taxes are not used and invested properly, then, we will have an investment without returns. We will spend a lot of money and not get returns. In fact, any agricultural project or anything else that will be implemented in this Bill needs to be assessed carefully so that we do not have white elephant projects whereby a project is initiated without adequate planning which will lead to wastage of resources. That is why the people who live in the areas where the implementation will take place need to be consulted widely.

The other issue is in terms of the social security. My county is one of the recipients of *Hunger Safety Net Programme II* (HSNP). I tell you the families under this programme receive about Kshs5,400 every two months. Those people are much more empowered in that region because even when they do not get the money, they can get credit because people trust them since they know that they have an income. So, for me, such an empowering initiative is very good for this country and good in terms of development.

The other thing that I also relate to food security is health. This is because where I come from, most ailments relate to lack of food. When somebody is hungry, they are much more vulnerable to diseases. This also means that they are less useful in terms of production. So, because of that reason, I fully support that Bill. I think it should have happened yesterday.

**The Temporary Speaker** (Prof. Kamar): Sen. Wetangula, it is your turn.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Prof. Kamar): You have only four minutes and you can continue next time.

**The Senate Minority Leader** (Sen. Wetangula): Madam Temporary Speaker, I have an hour. Right?

*(The Temporary Speaker (Prof. Kamar) nodded)*

Yes and I will exhaust the whole of it.

Thank you, Madam Temporary Speaker, for the opportunity to contribute to this Bill. The premise upon which this Bill is grounded does not fully appreciate devolution. Irrigation is agriculture which is wholly devolved. If we want to have meaningful irrigation programmes in the country, then the skewed manner in which this Bill is crafted makes it very difficult to believe that we are supporting and growing devolution.

At an appropriate time, I will walk through the whole Bill. However, just look at the formulation of the Board and you see how it does not appreciate what devolution is. The membership of the Board is as follows:

1. A Chairperson who shall be appointed by the President;
2. The Principal Secretary – State Department of Irrigation;
3. The Principal Secretary responsible for Finance; and,
4. Seven other members who shall be appointed by the Cabinet Secretary (CS) and approved by the President;

Then further down, they say the members of the Board shall include two representatives of the county governments.

Now, these are 10 members of the Board. Irrigation is devolved and out of 10, you are loading it with national Government and allowing the CoG to nominate only two to represent the 47 county governments.

In a critical sector where any irrigation in this country shall not be done in the clouds, it will be on the ground on the basis of water and land domiciled in some county. So, the leadership of this Board must be of necessity nominated by the counties that they are the centre piece of the action. For example, if you want to irrigate somewhere in Ewaso Nyiro in the North and the PS, Treasury comes from Kiambu here; PS agriculture is from somewhere else – they have to come from somewhere – and all these people that are loaded here do not even know where Ewaso Nyiro is. Their matters will never be articulated ---

Thank you.

**The Temporary Speaker** (Prof. Kamar): Hon. Senate Minority Leader, you have a balance of 56 minutes.

**The Senate Minority Leader** (Sen. Wetangula): Thank you.

### ADJOURNMENT

**The Temporary Speaker** (Prof. Kamar): Hon. Senators, it is now 6.30 p.m. It is time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 20<sup>th</sup> February, 2018 at 2.30 p.m.

The Senate rose at 6.30 p.m.