

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 17th July, 2013

The House met at 9.00 a.m.

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

PRAYERS

QUORUM

Hon. Speaker: Hon. Members, strictly speaking and keeping with our Standing Orders, let me read Standing Order 34, which states: -

- (1) "A quorum of the House or of a Committee of the whole House shall be fifty Members.
- (2) If there is not a quorum present when the Chair is taken, at the time appointed for a meeting of the House, immediately after saying the prayer, the Speaker shall order the bell to be rung for ten minutes, and if no quorum is present at the expiration of ten minutes, the Speaker may direct that the bell be rung for a further five minutes, and if there is still no quorum present, the Speaker, shall adjourn the House forthwith to the next sitting."

Hon. Members, looking through the House as assembled now, it is clear and evident that we do not have the requisite quorum. I, therefore, order that the bell be rung for 10 minutes.

(Quorum Bell was rung)

Hon. Members, it is also important that hon. Members are made aware that when the bell is ringing, no hon. Member is permitted to go out. The Serjeant-at-Arms is directed to enforce that strictly.

Let Kenyans know how many hon. Members know that they are supposed to be here at 9.00 a.m. on Wednesday Morning.

Hon. Members, we now have a quorum. So, we may proceed and transact the business on the Order Paper.

PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD

Hon. Angatia: Hon. Speaker, I beg to move the following Procedural Motion: -

THAT, pursuant to the provisions of Standing Order 120, this House resolves that the publication period of the Agriculture, Fisheries

and Food (Amendment) Bill (National Assembly Bill No. 16 of 2013) be reduced from 14 to five days.

Hon. Speaker, the Agriculture, Fisheries and Food Authority Act, 2013 was assented by former President Kibaki in January, 2013. The Act seeks to realign the agriculture sector to the tenets and principles of the new Constitution in order to improve the management of the sector in this country. Hon. Members may be aware that we are remaining with only seven days from today to have the Act commence operation. This Act will collapse the following parastatals in the sub-sector, if it begins operations on 24th July, 2013, seven days from today, as envisaged in the Bill that was passed by the last Parliament: The Coconut Development Authority (CODEA), the Kenya Sugar Board (KSB), the Tea Board of Kenya (TBK), the Coffee Board of Kenya (CBK), the Horticultural Crops Development Authority (HCDA), the Pyrethrum Board of Kenya (PBK), the Cotton Development Authority (CDA), the Sisal Board of Kenya (SBK), the Pests Control Products Board (PCPB) and the Kenya Plant Health Inspectorate Services (KEPHIS).

Hon. Speaker, there will be a serious crisis in the agriculture sector because there are no regulations to govern the operations of the new Agriculture, Fisheries and Food Act. The Cabinet Secretary took over office in May, 2013. It is envisaged that the Act will become operational six months after it has been assented – that is by 24th July, 2013. Going by this timeline, we have only seven days left. We are supposed to elect eight directors countrywide to run the Authority. We are supposed to source for a Chief Executive Officer, through a competitive process, to run the Authority. All this cannot happen within the remaining seven days. That is why I request the House to give us an extension of six months to allow the Cabinet Secretary to put in place structures and systems under which the Authority can become operational and repeal the rest of the outdated Acts relating to the agriculture sector. Therefore, I seek the indulgence of the House to support this Motion.

Hon. Speaker, I call upon the Vice-Chairman of the Committee to second the Motion.

Hon. Speaker: He may proceed.

Hon. Mbiuki: Thank you, hon. Speaker. I rise to second this Procedural Motion seeking to shorten the publication period of the Bill from 14 days to five days, so that the Cabinet Secretary for the Ministry of Agriculture can have time to put in place the essential regulatory framework to ensure that the Act comes into force in the course of time.

Hon. Speaker, we brought this amendment Bill to the House being alive to the fact that the Jubilee Government came into being less than 100 days. At the same time, the Cabinet Secretary and the Principal Secretary in the Ministry of Agriculture are relatively new. So, they need at least six months, so that they can put in place the necessary framework to ensure the successful implementation of the Act. The essence of coming up with this particular Act is to ensure that there is a lot of efficiency within the agriculture sector.

Hon. Speaker, this Act will collapse more than 60 parastatals into less than three authorities within the sector. Therefore, as a Committee, we have gone through this Act. We have interrogated the Cabinet Secretary, and they have humbly requested that we give them at least six months, so that they can also appreciate the magnitude of the

particular Act. Even as a Committee, quite a number of the Members are relatively new. We have less than three hon. Members who were in the previous Committee. So, the Members of the Committee also need to ensure that they are able to capture the spirit of this new Act.

There are several challenges which have been foreseen during the implementation of this Act. That is why we humbly request this House to give us and the Ministry time to ensure that there is a smooth transition from the current parastatals to the new parastatals. We also need to have serious audit of all the assets and liabilities of the over 60 parastatals. So, in order to ensure that there is no anarchy and that this sector does not collapse, we are seeking the support of this House to ensure that this Act goes through.

With those few remarks, I beg to second the Motion.

(Question proposed)

Hon. Njuki: Hon. Speaker this is an important Bill because it touches on a department that is very key and important to most Kenyans. Even as we talk about the Marriage Bill, we cannot have a marriage without food. I would, therefore, like to support the reduction of this time to five days so that we enable the Committee to put in place the framework which will ensure that Kenyans get food in their granaries in good time.

Hon. Wandayi: Hon. Speaker, I also wish to support this Procedural Motion really out of necessity. I am a Member of that Committee and it is apparent that unless the House takes action of shortening the time of publication we might run into a crisis.

It is important to note that although the Government is new and the Cabinet Secretary is hardly in office for more than two months, there has been lethargy or lack of action on the part of Government bureaucracy. This Act was supposed to have come into force within six months from the date of assent by the President. The Government bureaucracy has been inert since that time. It is shocking to realize that just a week to the expiry of that time, the Government has come to the realization that it needs more time to effect this Act.

As we give room for those Acts to come into effect, I think we need to sound a warning to the Government bureaucracy or the Civil Service. They need to take their work seriously. The reasons being given are that there was election; there was a transition and so on. Those are all excuses. We have had Permanent Secretaries in charge of fisheries, agriculture and livestock all this time. Officers have been in place.

I support this Motion, but in future the Government bureaucracy needs to take its work seriously. We are also aware that since this Act is going to have an effect of collapsing a number of parastatals, certain people within the Ministry and parastatals are frustrating this particular Act because they want to safeguard their interests. They want to protect their turfs. This House must come out very clear and strongly---

Hon. Speaker: Hon. Wandayi, I think you are going into the merits of the Bill.

Hon. Wandayi: Hon. Speaker, I support this Procedural Motion.

Hon. (Ms.) Chidzuga: Ahsante mhe. Spika. Nasimama kuunga mkono Hoja hii. Vile vile, namuunga mkono Mwenyekiti wa Kamati hii ya Kilimo kwa pendekezo lake kwamba tupunguze kutoka siku 14 hadi siku tano muda wa uchapishaji wa Mswada huu. Hata hivyo mimi naomba kwamba huu usiwe ndio mtindo.

Mambo ya kilimo hayataki kusogezewa muda. Kila kinachopitishwa na Bunge hili sharti kichukuliwe kwa uzito na kitekelezwe kwa wakati unaofaa na kwa manufaa ya wananchi wetu. Kule Pwani kuna shirika linalojihusisha na nazi. Shirika hili limebaki nyuma kwa sababu ya kukosa mwelekeo na wafadhili wa kutosha.

Naomba Wabunge wakubali tuwapunguzie wanakamati hawa hizi siku wanazotaka lakini haya mambo yatekelezwe kwa haraka kwa manufaa ya wananchi. Naunga mkono.

Hon. A.B. Duale: Hon. Speaker, I support this Procedural Motion. I had the privilege to serve in the last Parliament and when the Agriculture, Livestock, Fisheries and Food Authority (ALFA) Bill came up it was African Growth and Opportunity Act (AGOA) driven. That is why you are not seeing “livestock” mentioned here. The pastoral leadership in the last Parliament decided to remove livestock from the Bill. This is because it is one of the Bills that were being rushed here in Parliament. We realized that if it has to go then it has to go minus livestock. I want to say that the livestock sector is not part of this and we are not asking for the reduction.

The assets and liabilities of those institutions that are being collapsed into one need some time. We have only seven days. It is prudent that the relevant Cabinet Secretary and the entire sector are given the six months required so that a proper systematic audit of the assets and liabilities is carried out. The required officers need to be recruited.

I urge my colleagues that we support this so that the new Cabinet Secretary gets six months to put this sector in order.

Hon. Wanyonyi: Hon. Speaker, I support this Procedural Motion that we shorten this period. Apparently, the Cabinet Secretary and the Principal Secretary are hardly two months in office. We need to give them time. There are so many laws being addressed here. They touch on, for example, sisal, coffee and tea. The request for them to be given more time is quite valid.

I support that we shorten the publication period so that the Ministry is given time to organize its House. The agriculture sector is very important for this country and if we rush it, we are likely to see confusion and it is Kenyans who will suffer.

I beg to support.

Hon. Speaker: Hon. Members, if the Motion is carried then the Bill will be read the First Time and then it will come up for Second Reading in the afternoon. During that time, I want to encourage hon. Members who have not looked at the Act itself to try in the intervening period to familiarize themselves with the Act so as to capture some of the issues raised by the Leader of Majority Party. That way, the debate will be informed by the contents. You will understand why the Chairperson of the Committee is requesting that there be the shortening of the publication period.

(Question put and agreed to)

BILL

First Reading

THE AGRICULTURE, FISHERIES AND FOOD (AMENDMENT) BILL

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

MOTIONS

EXPANSION OF INDUSTRIAL TRAINING LEVY FUND TO INCLUDE SMALL AND MEDIUM ENTERPRISES

THAT, aware that the Industrial Training (Amendment) Act, 2007 provides for the submission of levy for each employee by the employer to the Industrial Training Levy Fund to facilitate the training of persons involved in the industry; concerned with the increasingly high number of apprentices engaging in drug and alcohol abuse after the programme due to lack of employment; noting further that the youth continue to have limited access to training and employment opportunities, this House urges the Government to enforce compliance with Article 55 of the Constitution and Vision 2030 in regard to the youth by expanding the structure of the Fund to include SMEs and setting up a Fund for the purposes of utilizing part of the Training Levy Fund to provide capital for the apprentices who have undergone instruction using the Training Levy to start businesses.

(Hon. Njomo on 11.7.2013)

(Resumption of Debate interrupted on 16.7.2013)

Hon. Speaker: This is the Motion by hon. Jude Njomo and there is a balance of 10 minutes for him to reply, or is he among the number of Members who do not know that Wednesday morning business starts at 9.00 a.m.?

For the convenience of the business to be transacted in the House, it is important to remind Members that when you have a Motion and the House has risen while your Motion is on, you obviously would naturally be given the first shot at the next sitting of the House. If you also remember, we had to ring the Division Bell for 10 minutes at the commencement of the House because Members were still either waking up or on various stages of travelling from their various places. I think we just need to up our game that Wednesday morning, business starts at 9.00 a.m. for avoidance of doubt. We will give hon. Njomo the benefit of the doubt, because we do not know whether he is aware of this procedure and then go to the business on the Order No.11. We will come back to this when he finally arrives.

As you can see, he is just one of those who think that business is transacted like in the village. Hon. Njomo, business on Wednesdays starts at 9.00 a.m. It is now 9.33 a.m. and we are just wondering whether you are ready to proceed. You have a balance of 10 minutes to reply. If you are not ready, then we can proceed.

Hon. Njomo: Hon. Speaker, Sir, I apologize for that, but I can assure the Members that we were busy praying for them. As Catholic Members of Parliament, we

normally hold mass every Wednesday morning. I am sorry it was a bit delayed today and I beg to apologize. We have prayed for you and we know that our prayers will be answered.

I would like to thank all the Members who contributed to this Motion. All of them supported this very important Motion. I thank them profusely for that. This is one Motion that will help our youth to attain technical education. It will help us as a country to create employment for our young people. Kenya is lucky to have a very vibrant youth which is very creative and hard working. Our youth have invented things. We know the M-PESA system was invented here in Kenya and people were coming from all over the world to study it, a brainchild of our Kenyan youth. We have seen our young people even trying to make helicopters. Their minds are creative. We have seen our youths starting businesses without any financial help. Our youths are active and innovative. They are not lazy.

However, we have failed as a country because we have not provided our young people with the necessary technical skills that will help them to move us from where we are to the next level. Countries like Malaysia and China that have become industrialized have done so because they have invested in training their youths. We have a very ambitious Vision 2030 whose purpose is to have the country industrialized by the year 2030, but who is going to fuel this industrialization? Who is going to work in the industries that we are going to start? Are we going to import workers? Are our university graduates going to be our mechanics, carpenters, electricians and computer technicians? It is very clear from the Members' contributions that many of our middle level colleges are being converted into universities. This will eventually mean that we shall have so many graduates, but we shall have not have people to offer services that are supposed to be offered by the people trained by the middle level colleges. No wonder our youths have already started getting into alcohol abuse, drug addiction and such other vices. We have neglected them.

They know they have the capacity to be productive, but we are not giving them an opportunity to be productive. If the provisions of this Motion are implemented, we will ensure that the National Industrial Training Authority is empowered, it can collect enough money and widen its bracket of contributors and then it will enforce the law to ensure that all the employers who are supposed to contribute are contributing. That will give us an avenue to train our youth. I would like to thank hon. Shidiye and hon. Shebesh for introducing an amendment to make this Motion even strong. They replaced the word "urge" with the word "resolves". That will ensure that this Motion goes to the Committee stage, so that the Committee on Labour and Social Welfare may pursue that matter further. I thank them very much for doing that.

Let me thank the Members once again for thinking about our youth. When we train our youth, when we have a strong youth, we shall not have people trying to influence them in the wrong direction. It has happened when they have been introduced to alcohol and drugs. We are also getting into a very dangerous situation when we see some leaders trying to influence our youth in the wrong political direction. Some people are suspected of trying to influence our youth to revolt against the Government. If our youth are well trained and busy, this would not happen. They find that the youths are idle and they want to use them to mess up the Jubilee Government and the good work that has been started by His Excellency the President and his deputy. We know that this is not going to succeed because our youths are not going to accept to be treated that way.

With those few remarks, I beg to move the Motion.

Hon. Speaker: It has been determined that we have quorum. So, I will put the Question.

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

Resolved accordingly:

THAT, aware that the Industrial Training (Amendment) Act, 2007 provides for the submission of levy for each employee by the employer to the Industrial Training Levy Fund to facilitate the training of persons involved in the industry; concerned with the increasingly high number of apprentices engaging in drug and alcohol abuse after the programme due to lack of employment; noting further that the youth continue to have limited access to training and employment opportunities; this House resolves that the Government enforces compliance with Article 55 of the Constitution and Vision 2030 in regard to the youth by expanding the structure of the Fund to include SMEs and setting up a Fund for the purposes of utilizing part of the Training Levy Fund to provide capital for the apprentices who have undergone instruction using the training levy to start businesses.

MECHANISMS TO CONTROL FLOODING OF TANA RIVER

THAT, aware that the heavy rains experienced across the country have caused flooding in many areas such as Tana River; concerned that the Tana and Athi River Development Authority (TARDA) and the Kenya Electricity Generating Company (KenGen) have been draining water from their dams to River Tana; deeply concerned that people living downstream have been displaced, property destroyed and loss of livelihood following the artificial flooding occasioned by those two government agencies; this House resolves that TARDA and KenGen should immediately stop draining water from their dams to River Tana, come up with a mechanism to control the flooding and consider compensating the people who have been affected.

(Hon. Wario on 16.7.2013)

(Resumption of Debate interrupted on 16.7.2013)

Hon. Speaker: The records show that hon. Epuyo Nanok was on his feet. He had a balance of eight minutes. So, if the hon. Member is one of those minded to know when the Sittings of Wednesday mornings are, he may take the Floor. Hon. Nanok is in that category that has mistaken the Sittings of Wednesday morning. Is there any Member who wants to contribute to the Motion?

Going by the request, the first person on the list is hon. Oyugi. Hon. Nanok has forfeited his chance.

Hon. Oyugi: Thank you, hon. Speaker, Sir. I sat here yesterday and promised my friend, hon. Wario that I would speak substantively to this Motion. It is, indeed, hard to listen to what happens in the Tana River and the Tana Delta region.

I also benefited from the knowledge of hon. Wanyonyi who was a former Chief Executive Officer of TARDA. The more he spoke, the more I wanted to speak again because there are several things that a Motion like this explains to Kenyans.

It is unacceptable that several years after Independence some Kenyans are still washed away by floods that are occasionally let out by a corporation that is otherwise supposed to protect and generate power. I was told yesterday that what TARDA and KenGen do is occasionally making radio announcement to inform people living down the plains that floods are coming, without caring about the consequences that happen to the people who live downstream.

Hon. Speaker, Sir, by coincidence, this sort of thing was decided by the House of Lords in 17th July, 1868 in the very known case that you and I know of Rylands versus Fletcher. If you permit me, I will quote the strict liability thought. It says: - "The person who for his own purposes brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it in at his peril, and if he does not do so, is *prima facie* answerable for all the damage which is the natural consequence of its escape".

What essentially this means is that TARDA and KenGen are strictly liable and they do not have to owe any duty of care for the people who live downstream. That particular highlight raised several things. The first thing it raised is the fact that if you bring anything to your land for your own purpose like the TARDA and KenGen have done in the manner of dams, then you owe a specific duty and that you are strictly liable for any damages that the thing that you bring to your land causes, if at all, it does escape in the manner of the flood waters that escape thereby causing mischief. That is the second element of this strict liability thought.

The third thing that ought to be shown which you have already shown is the fact that the thing that you bring does cause damage. We notice that each time TARDA and KenGen release flood water, it washes away human beings and farmlands. It also causes deaths and destruction.

The fourth test of finding out whether there is strict liability on the persons of TARDA and KenGen is foreseeability. This is manifested because we are told that the best they do is once or twice they go on radio and tell citizens downstream that the waters are coming and therefore, they should take care of themselves. Those parastatals do this once they release the flood waters. This is unacceptable under the circumstances especially so if they are supposed to benefit Kenyans.

Hon. Speaker, Sir, I would like to support this Motion because the Government, however much it needs the efforts of TARDA and KenGen, it must come up with specific ways to sort out the people who live down the plains.

The Motion urges the Government, TARDA and KenGen to come up with mechanisms to control the flooding. It should not be a request. Actually, it should be a responsibility because they are strictly liable for all the damages that come as a result of what they do.

Hon. Speaker, Sir, the Motion also asks TARDA and KenGen to consider compensating the people who have been affected. Because they are strictly liable, we are not even requesting them to compensate those people. Hon. Wario together with other leaders and I ought to come up with mechanisms of making sure that the families and the flood victims that have been affected as a result of water being released by TARDA and KenGen are, indeed, compensated.

Of course, I listened to hon. Wanyonyi's reasoning that there are other things that need to be done in terms of securing the flood waters. The Government, TARDA and KenGen ought to move ahead and construct dykes so that the levels of flood waters are sufficiently controlled. The second thing they need to do which of course, I am having further discussion with the other hon. Members is to limit a flood reserve for our dams; a third reserve of our dam will be the one that regulates the levels of water, perhaps storing the water for use in future. You understand that the Tana Delta region is a very interesting region. On one part, there is flooding that leads to loss of life and consequently, a couple of months later there is a dry spell which necessitates the members living along the riverbed go to the river where they are attacked by crocodiles.

The Government ought to construct a third reservoir which I think is one of the proposals that hon. Members have given. If that is done, what will happen is that you will have water to help during the dry spell and water useful for purposes of recreation and can attract tourists and other people who want to go and have leisure thereby bringing income to the Tana Delta region.

The third thing which this Government ought to do which will go a long way in helping create employment and wealth is to establish a river focus centre. A centre like this, in my opinion, will do several things. One, the TARDA and the KenGen will use the centre to issue forecasts on the levels and releases as opposed to just relying on radio. The centre will then be used to release information as to when and how they plan to release the water when it is overflowing.

The second thing is that this centre will provide special notification to publics during flooding. The third thing a centre like this will be doing is to act as an emergency centre to the flood victims when there are floods so that the people who live in the River Tana plains are not left to fend for themselves. There ought to be a bit of responsibility on the part of the Government to include those centres so that the people of that area will occasionally be taken care of.

The fourth thing that I think ought to be done is that as part of corporate social responsibility on the part of TARDA and KenGen, they ought to promote better use of the plains so that the farmers and people living downstream know the best ways to use the place so that they do not have their farmlands flooded and they do not have their livestock being washed away.

Hon. Speaker, Sir, the last thing I would like to say is that the County Government of the Tana region should also have a method of demarcating the river belt region so that people do not use the regions that are flood prone. This will ensure that human beings are safe and we are able to get the very best from the TARDA and KenGen dams in terms of electricity generation.

Hon. Speaker, Sir, with those very many remarks, I wish to support this Motion and urge that amongst many other things, the TARDA and KenGen must come up with sufficient mechanisms of control. Like I said earlier on, one of the things to do is

construct a reservoir which will be used for dual purposes. One is for purposes of providing water during the dry spell and controlling the water.

The second thing in supporting this Motion is that the people whose lives have been lost and livestock and crops swept away, because there is strict liability, need to be compensated.

With those very many remarks, I beg to support this Motion. Thank you very much.

Hon. Speaker: Adan Mohammed Nooru. Hon. Members, this is not very fair. The hon. Member has even forgotten his card, purported to have made a request, and he has gone to stroll outside. This chance now goes to hon. Wangamati.

Hon. Wangamati: Thank you, hon. Speaker, Sir, for giving me this opportunity to join others in contributing to this Motion.

I rise to strongly support this Motion. I want to say that, while we appreciate what the two parastatals, KenGen and TARDA are doing in this country, we are asking if really they are not able to control the water. First of all, if they need water, they should ensure that they control it so that it does not wash away farmers' crops and ordinary *mwananchi* downstream.

Hon. Speaker, Sir, those are big companies which should use experts to make sure that rain water is conserved and is used to generate power. They should also help people living there by introducing irrigation so that farmers can boost agricultural or other farming activities in the area. Those are the companies that we expect to improve agriculture and, therefore, help in increasing food security in this country.

Hon. Speaker, Sir, I have learnt with a lot of dismay that the companies just leave water to runoff and then they inform people downstream to be careful. How will those people be careful? I am certain that this House will take the necessary measures against the two parastatals. A Committee of this House should meet the management of those companies and remind them of their responsibility of assisting people, instead of killing them.

Hon. Speaker, Sir, since they have caused deaths of many people in the last 10 or 15 years, we should ask them to compensate for the deaths and property destroyed. I support this Motion and suggest that this House forms a committee which will visit the site so as to discuss the problem and get a way forward. They should be made to understand their social responsibility. Water should be preserved for use during dry season.

With those few remarks, I strongly support the Motion.

Thank you.

Hon. Iringo: Thank you, hon. Speaker, Sir, for giving me this opportunity to contribute to this Motion. I rise to support the same.

Let me congratulate hon. Ali Wario for bringing this Motion to the House, which I believe does not only touch on what TARDA and KenGen are doing or even what the natural rains do, not only in the Tana Delta, but nationally.

Hon. Speaker, Sir, we see a situation where we are getting people of the Tana and Athi River Basins being affected by natural and artificial floods, if I may call them so. This is because they release water to flow downstream which then destroys people's property. Those two organizations, or even generally the Government is ill-prepared for

whatever disasters that may strike. There could be better ways of draining this water into the ocean or into the rivers.

Hon. Speaker, Sir, this is a big problem nationally, especially when it comes to rain and floods causing havoc all over the country. Those floods become disasters which even overwhelm the Government. After the rains, all the water is drained into the ocean and then we start crying for water again. So, this shows how ill-prepared we are and that we do not have systems of harvesting this water which can be used during the rainy season. At the same time, the same rains flood and sweep away our roads, property, kill people and damage bridges. We incur losses of millions of Kenya shillings or losses which cannot be compensated within a year or two. I believe the money which can be spent to repair the damages caused by the floods, can be used to prepare water barriers, dykes and gabions to prevent those damages from escalating or even recurring.

Hon. Speaker, Sir, if there were proper mechanisms put in place for water harvesting even in the rural areas, like in my own constituency, Igembe Central, it would be good. We have a big problem in my area because after rains, all the roads are rendered impassable and even schools and bridges are swept away. Then we start crying again how to move from point "A" to point "B". Funds are brought from the Road Maintenance Levy Fund or even the Ministry of Agriculture to repair the damages caused, but this is never enough because by the time we clear the damage that was caused by the previous rains, more rains come and cause havoc.

So, I support that TARDA and KenGen should put mechanism in place so that when they are releasing water, they do not release it in flood form such that it displaces people downstream. Instead, let it be done in a way that the volume released is contained in that particular river. When there are no rains, they close all the rivers and dykes, causing shortage of water downstream. So, it should be done in a way that when we have rain, we have water controlled in the main valley. When there is no rain, excess water should be contained.

Hon. Speaker, Sir, when I was campaigning, I told my people that we need to harvest water. We need to place very big water tanks in institutions within my area and harvest rain water. We can use that water during the dry period. We should also dig water pans to collect surface run-off water, which can be used for irrigation and watering of livestock and for other uses, so that we do not waste the water and cause soil erosion. At the end of the day, soil erosion damages our dams. When we repair the damages, another rainy season sets in, and the cycle continues.

Therefore, I strongly support the Motion.

Hon. Speaker: Yes, hon. Elias Bare Shill.

Hon. Shill: Thank you, hon. Speaker. I support the Motion.

Hon. Speaker, my constituency is one of those areas that are affected by the draining of water to River Tana. In our area, TARDA is known as "Tana River Destroying Authority". The KenGen is also known as "Kenya Generating Problems". Those are the kinds of jokes we always make about the two bodies in that area. Why? It is because thousands and thousands of people are displaced. Properties worth millions of shillings are destroyed. People lose their livelihoods. It looks like any other English word when we say it here but in reality, you see children and women who are displaced and who are prone to attack by malaria and other water borne diseases. What do they get in turn? You hear that the District Commissioner (DC) or the District Officer (DO) have

brought some maize for them. That is all that is done through the Government's Special Programme. When we are lucky, we sometimes have the Kenya Red Cross Society chipping in.

Hon. Speaker, this is not a one-day thing. It is something which recurs every time there are heavy rains in the country. The people who bear the brunt of the floods are the very poor members of society. For instance, in Garissa County, the constituencies that are mostly affected are Mbalambala, Garissa Town, Fafi and Ijara. Those are places where people are lacking water for their livestock. I wonder why such kind of water is released in full force while people upstream suffer from lack of water. On the other side of River Tana, there are poor people like the Munyoyaya, the Pokomo and other riverine communities who do small-scale farming. Every time flooding occurs, those communities are really affected. We are celebrating 50 years of Independence. Sometimes I wonder whether those people are really Kenyans. Furthermore, we even do not get apology from the people who cause havoc downstream. We know that KenGen generates energy from the water but we do not even consume that energy. We get electricity through engine powers. We are not even connected to the national grid. So, we do not see the benefit of it.

The TARDA has never developed anything along Tana River. We do not see its benefits. So, it is not only compensation that we need, we need a solution to this problem. There are several hundreds of farmers along River Tana. Just think of yourself being a farmer. You wake up one morning and find that floods have swept across your farmland and destroyed your water pump engine. All the irrigation canals in our farm have been destroyed. You had planted almost 200 mango trees, which have also been swept away. All your crops are gone and you had really invested in that farm. They all went overnight, without warning.

Hon. Speaker, the two organizations always claim that they warn people through radio announcements. Who says that every Kenyan owns a radio set? We do not own radio sets. Even if they compensate us and next time they release the same water again, the same problem will recur. So, we need a solution to this problem. I believe that the Departmental Committee responsible for energy should take this matter seriously and even visit the people who always become victims of those things because the problem cuts across almost eight constituencies. For example, our policy now is to have a million acres of land under irrigation, so that we produce food. How can we hit that target when the few acres of farmland under agriculture get destroyed?

Therefore, we need an answer to this question. We want TARDA and KenGen to be very serious on this issue because they have made children, mothers and some very poor people suffer. I suggest, for instance, in Garissa County, near Danyere, they can dig a canal so that all that water can flow downstream up to where the real desert is, so that we can change the landscape of this country. Israel has done a similar thing. We are a semi arid community. We can generate a lot of food, which can really feed this nation. We must be very serious. Sometimes we see people putting a lot of money in areas which are already developed. The last time I drove through Thika Superhighway, I appreciated its superiority, but wondered whether it was fair that I die of thirst and hunger when we have such infrastructure. So, we must put our priorities equitably, so that everybody feels that he or she is Kenyan. The monsters known as TARDA and KenGen should stop immediately the havoc they are causing us.

With those few remarks, I support the Motion.

Hon. Speaker: Yes, hon. Omulele.

Hon. Omulele: Thank you, hon. Speaker, for giving me the opportunity to speak on this Motion.

Hon. Speaker, the guiding principle in a matter like this one would be found in the case that was rightly cited by my brother, Aghostino Neto – the Ryland versus Fletcher case of 1869. In that case, the facts were on all folds similar to those cited by the Mover of the Motion. Mr. Fletcher had accumulated upon his land a huge volume of water, and this water somehow found a way and escaped from his land and permeated into the land of his neighbour, one Ryland. Mr. Ryland's crops were, therefore, destroyed and swept away by the water that was flowing from the land of Mr. Fletcher. Therefrom emanated this case, which went to the House of Lords and it was determined.

The House of Lords came up with a principle which ought to guide this country in situations like this. The principle states that he who accumulates a dangerous thing upon his property must take care of that dangerous thing and if that thing escapes then the person who kept it must pay for the consequences of the destruction brought about by the dangerous thing. So, the law is clear on this.

Compensation in this situation is not a question. It is a certainty. It is a matter of strict liability. KenGen and TARDA must not be allowed by whatever sort of imagination that they can to avoid compensating the people whose crops and livelihood they destroy by letting this water flow onto their land. We must send this message to them in very clear and unambiguous terms. The law is clear and they must compensate.

The people of Tana River and others affected by this must come up with a list---

Hon. Speaker: Hon. Omulele, you being a lawyer, I have just been listening to you and hon. Neto, you quote very eloquently the famous ruling in Rylands versus Fletcher which is, indeed, a leading authority in this matter, however, this Motion ends at "and consider compensating". Do you think you are really being helpful? You are telling it to consider when you know that according to the decision of the House of Lords in the case of Rylands versus Fletcher actually, it is mandatory. Why are you not helping the people of Tana River by directing that there be compensation and not just considering compensation? Anyway, I am just trying to suggest that---

(Laughter)

Hon. Omulele: Hon. Speaker, that is precisely what I was saying that we must now move and say that compensation is a must in this situation. It is not a question of "probably". It is a must. This is because the law is clear on this matter. The proper way of going about this is that the representatives of those people need to come up with a list of names of people who have been affected by the nefarious activities of those agents of the State so that we come up with a case for compensation. That would be the way forward. It is not a matter for us to legislate here today. This is a concern that falls squarely within the law and a principle of law that is well known - a common law practice.

I stand guided by you, hon. Speaker. I am grateful for that guidance. I think we are speaking the same language on this matter. That must be the way we must move. As much as we want to compensate those people and we must compensate them, we must also look at the pragmatic situation on the ground. We have water that is accumulated and

yet we continuously and on a regular basis suffer from drought and lack of food. Our Government has come up with an ambitious plan that we should probably irrigate one million acres so that we alleviate hunger in this country. If I heard the President well in this House he said that this is a plan that will be implemented. He said that much of the land to be irrigated is in the neighborhood of Tana River and Athi River. This is water that should be used towards that project. TARDA and KenGen must be directed so that the water is used for the good of the people of Kenya by irrigating those one million acres and also compensating the people who suffer from the outburst from the dams.

I am glad to have participated in this debate. The way forward is to compensate those people. Let us get together with the representatives from those eight constituencies and then come up with a list of names of those who have suffered and quantify the damages that those people should be compensated for. We shall help you as advocates and Members of Parliament to do that.

Thank you, hon. Speaker.

Hon. Dido: Thank you, hon. Speaker for giving me this opportunity. I wish to thank my brother, hon. Wario for bringing this Motion to the House. I think through hon. Wario, the people of the larger Tana Basin and the contiguous constituencies have actually come before this House to say that both TARDA and KenGen are not doing what they should do. That is, being able to harness flood waters to use for generating electricity and also supporting irrigation. What we see in this is a matter of gross negligence, incompetence and also lack of continuous growth within our institutions. I think if we must learn about management of flood waters in this country, we must learn from the country of Egypt where at the starting point of the Nile in Jinja, Egyptians have placed their engineers at the dam to be able to measure the flow of water. When you go down to Khartoum, they have engineers to actually measure how much water is going down. Egyptians were able to come up with Aswan Dam which is an artificial dam, that is manmade, to be able to control the waters of the Nile and also to be able to put this water in a reservoir. When you get to Cairo, the Ministry of Water and Irrigation is placed right on the Nile where every morning engineers are able to see the flow of the water and to see how much the Nile has risen over 12 to 24 hours. It is that country where it rains once or twice in a year that is able to provide food and sell surplus to us. Recently, we experienced heavy rains in the months of March, April and May. In my constituency of Saku we lost three people. Properties were swept away in villages and in different settlements and to date, those people have not received any help from the Government or any organization. As Kenyans, we are becoming people who live in plenty yet we suffer from lack of it. All this is as a result of our institutions not being able to carry out their functions effectively and efficiently. Therefore, we fail to harness rain water and at the same time, the Government is happy to provide famine relief to the people from most of those outlying areas. Tana is associated with famine, insecurity and poverty. At this point in time, TARDA and KenGen are liable to compensate the people. They must put their acts together to harness the water properly and make it useful in terms of generating electricity and putting more land under irrigation.

I support.

Hon. Ng'ongo: Hon. Speaker, Sir, when you read this Motion, those of us who do not come from this area, get depressed because if you can learn that it is Government

agencies that cause untold suffering and miseries to its own citizens for years, you realize that as a country, our ways of doing things are wrong.

There is nothing more important than human lives. One of the main reasons why we spend a lot of money to construct dams is to control flooding. If the same dams that are constructed then cause flooding, it is not a question of lack of engineers and resources, but a question of negligence and the uncaring attitude that is developed by the Government over the years. It is high time that the Government agencies are told and made to act in the best interest of the people of this country. If you look at the functions, I want to remind this House that the main function of the National Assembly under Article 95(2) is to deliberate and resolve issues of concern to the people. Therefore, hon. Wario has perfectly played his role to serve and work for the benefit of, not only his people, but for the people of Kenya who live downstream River Tana.

The gift that this House can give to those people is to help them resolve this issue. This can be done, not by setting up any new committee; there is already the Committee on Energy, Communication and Information. I would urge the Chair of that Committee to treat this Motion as a petition from the people living along Tana River to summon and invite TARDA and KenGen to make a presentation to the Committee. They should explain why they have for so many years been careless and not considered that those people have been suffering and come up with a quick mechanism of how they are going to resolve this issue. As you rightly put it, if there are legal parameters in place, then there is no need for this House even to pray that the Government should consider compensating. This is a legal requirement that the Government must act quickly in compensating those people.

The reason why South Korea is more developed than North Korea, Botswana is more developed than Zimbabwe even though they come from almost the same geographical area and Mexico is underdeveloped compared to the United States of America is because, instead of having political and economic inclusive institutions, we have political and economic extractive institutions. Looking at what those two Government agencies have been doing, they are involved in extractive activities as opposed to inclusive activities. It is important that as the National Assembly, we put a stop to this behaviour. I want to thank hon. Wario for coming up with this. Many Kenyans are suffering across the country because of acts of commission, not even omission, by Government institutions. We need to put a stop to this.

Let me digress a bit and say that the Government of Kenya now needs to come up with interventions to try to address issues which I would not want to call calamities, because they are things that we inflict on ourselves. My neighbouring constituency, Nyatike, represented by my friend, hon. Eric Anyanga, suffered serious flooding problem along the banks of River Kuja. This is repeated almost in the major rivers in this country like Trans Nzoia, River Nyando, Yala River, Tana Delta and Athi River. Every year, we complain about flooding. It is high time that, as a country, we came up with specific interventions to address those issues.

In concluding, if hon. Jamleck Kamau was around - I do not know whether he has contributed to this Motion - I would have loved to hear from him telling us that he is taking up this matter. He should even give us a commitment that within three weeks or even a month, he is going to address this issue as a Committee of the House, so that we

can put a stop to some of those crimes that are being committed by the Government agencies.

With those few remarks, I support the Motion.

Hon. Speaker: Well said, hon. Mbadi. It is incumbent upon the Chairs of Committees, when they see Motions that are directed at them because this Motion is directed at the Departmental Committee on Energy, Communication and Information, to be present in the House to get the views of the Members, so that when they sit with those Government agencies and others where issues of this nature are going to be raised, they also have the benefit of the information and knowledge from their colleagues in the House, especially when debating such an important Motion.

Hon. Gichigi: Hon. Speaker, Sir, I rise to support this Motion. In this country, we have enough natural calamities and disasters. As I speak, we have many IDPs. They do not have homes and are suffering from the elements of the weather out there. When we, as mankind, set to create the institution of the Government, the idea was to assist in getting services and improving our lot. If we create a creature which then turns around and becomes a problem and causes untold suffering to its own citizens, then the purpose of having a Government is completely lost. We cannot afford to lose a single life because we want to provide electricity to many people.

I support this Motion and urge the Government and the two organizations to put their houses in order and make sure that the people who are downstream do not suffer. This kind of insensitivity is what has turned people against the Government.

Hon. Speaker, Sir, the project should be created to help the people who live downstream. As some of the previous speakers have indicated, it is important that we create other dams downstream and we use the water that is released from the dams upstream for irrigation. We know for sure that day and night will come. Every other season we will have drought in the Tana Delta. This is particularly downstream. Why do we not use part of our money to construct dams which will be used to harvest this water after it has been released from KenGen and TARDA's dams?

Hon. Speaker, Sir, Articles 42 and 43 of the Constitution make it mandatory that this Government provides a clean and health environment to its people, reasonable standards of sanitation and social security. So, its own agencies are the ones that contravene those constitutional provisions, it is a disaster.

The National Environment Management Authority (NEMA) was not in existence when TARDA and KenGen were constructing those dams. We established NEMA to consider all those factors. It is supposed to consider the environmental impact. It also has to find out the impact of the projects on the neighbourhood and other related areas. They are supposed to stop those sorts of projects even if they are beneficial in other ways.

Hon. Speaker, Sir, I support this Motion. I am aware that maybe one of us is just about to move an amendment to make it mandatory that the Government compensates the people who have been suffering.

Hon. (Ms.) F.I. Ali: Thank you, hon. Speaker, Sir, for allowing me to contribute to this Motion. I rise to support the Motion which I think is very timely. Hon. Wario must have been experiencing those problems for too long. First and foremost, I would like to say that this kind of flooding is induced or it is artificial flooding. The flood waters are deliberately released by the institutions. This causes induced displacement.

When development is done, definitely we expect displacement and destabilization of people's livelihood. However, what is paramount is the responsibilities and duties of the institution that causes that displacement.

Hon. Speaker, Sir, this country has enacted a law on prevention, protection and assistance of internally displaced persons and affected communities. This law gives specific responsibilities to institutions, particularly when development is being done to compensate people who are affected economically, socially and culturally. It is evident from this Motion that TARDA and KenGen have not taken their responsibilities as required by law. When institutions fail to adhere to the law, it is paramount that Kenyans take them to court and seek compensation for failures and losses incurred by the people around the area.

Hon. Speaker, Sir, I want to confirm that the inclusion of development-induced displacement law was meant to discipline institutions like TARDA and KenGen which cause frequent displacement. Such institutions only care about the profit that they make but they do not care about the losses the people who live around that area incur. That law was intended to be a deterrent to institutions that fail to adhere to the requirements. This is because they are also required to prepare families or communities which are likely to be affected by floods or displacement as a result of the development that they are doing.

I support the Motion and request the House to give a serious warning to TARDA and KenGen. The House should urge that the people who live along Tana River are compensated urgently for the social and cultural losses that they have incurred.

I think we need to be firm on institutions which do not adhere to the Constitution and other legislations that they should adhere to. Those institutions should take individual responsibility. We should strictly urge the Managing Directors of both institutions to take individual responsibility for causing this kind of suffering to Kenyans. Kenyans are already poor, and I know that Tana River communities are among the poorest communities in Kenya.

Hon. Speaker, Sir, it is basic knowledge that this kind of artificial flooding or forced displacement is something that can be prevented. However, it is the failure of TARDA and KenGen in not taking institutional responsibility to prevent and mitigate this.

I beg to support this Motion and urge the House to put a deterrent to those practices by institutions so that they take their responsibilities. The Managing Director and the other officers who work on the ground, who are aware of the number of years that flooding has caused destitution among the communities in Tana River, should be punished and take individual liability. They should immediately compensate the affected families and ensure that they put a stop to this artificial flooding.

Thank you, hon. Speaker, Sir.

Hon. Chepkong'a: Thank you, hon. Speaker, Sir. I would like to thank hon. Wario for bringing this Motion to this House. You can feel and empathize with him. You can feel the palpable frustration which those people have gone through especially when there is flooding along the Tana River Delta.

Indeed, hon. Wario's proposal is a transformation Motion that seeks to transform the way in which those people will live henceforth. There are many things that have been done along the Tana River, that is starting from Masinga. This House cannot act in vain.

The way we are speaking, it looks like we are seeking to persuade somebody to do a job that he or she is expected to do.

Hon. Speaker, Sir, secondly, this Motion appears to be begging them to come up with mechanisms to control flooding. I rise pursuant to Standing Order No.54 to move an amendment to this Motion.

I beg to move: -

THAT, this Motion be amended by deleting the words “come up with a mechanism to control the flooding and consider compensating” appearing on the eighth line after the word “Tana” and substituting therefor the words “undertake to construct a dam to regulate and control floods and forthwith compensate.”

This is a very specific Motion. We are not telling TARDA or KenGen to come up with mechanisms. We are telling what they need to do. I am sure they have this in their books but because they do not want to exercise their mandate, some of them are sleeping on their job.

As you heard from most hon. Members who have contributed to this Motion, particularly hon. F.K. Wanyonyi, if the Motion was asking TARDA and KenGen to stop the river from flowing, it would be impossible. It is something which cannot be done. We must do things that are not in vain. We must take action and resolve to do things that can be done in a very reasonable and rational way.

So, I wish to move that this Motion be amended as I have just stated. I am seeking this because there are three other rivers that emanate from Nyambene and Mt. Kenya that flow into River Tana and which are totally unregulated. Already, the river is regulated upstream from Masinga Dam and the rest of the other five dams. But when it flows down beyond there, the people are left at the mercy of God. There is nobody who is helping them, they have been left just to drown or they help themselves. This Motion should be passed to rescue the people of Tana Delta.

Hon. Chanzu: On a point of information, hon. Speaker, Sir.

Hon. Speaker: Do you want to take that information?

Hon. Chepkong'a: Yes, hon. Speaker, I would like to take that information from hon. Chanzu, he is my good neighbour there.

Hon. Speaker: But is he informing you on your amendments?

Hon. Chanzu: Yes, hon. Speaker.

Hon. Speaker: It has not even been proposed.

Hon. Chanzu: Sometimes it is good just to listen. I will not take a lot of time.

Hon. Speaker: What procedure is this that we are adopting?

Hon. Chanzu: Hon. Speaker, I just wanted to inform hon. Chepkong'a and it will not take a lot of his time and, in fact, it is very important.

Hon. Speaker: You may proceed to inform him since he is desirous of that information.

Hon. Chanzu: Hon. Speaker, Sir, in fact the amendment that hon. Chepkong'a is bringing is very vital. But I have just thought about the same and I am suggesting that, instead of saying that they undertake, why can we not say that they should be compelled to control water and also compensate, instead of saying that they should undertake? Let us have them compelled to do the control and compensation. That is the information I wanted to give to the hon. Member.

Hon. Speaker: That is not a point of information, hon. Chanzu. What you would have properly done within the Standing Order is to propose further amendment to the proposed amendment. If you intend that the word you have used, “compel” be in the Motion, then what you would do properly is to propose a further amendment to the amendment.

Hon. Chanzu: Thank you, hon. Speaker, Sir. I stand guided.

Hon. Speaker: Hon. Chepkong’a, you can now finish moving your amendment.

Hon. Chepkong’a: Thank you, hon. Speaker. I think that was rightly said as a further amendment and I thank hon. Chanzu for it. But, in legal terms, I do not think you can compel anyone do to something that is already in the legislation which they are expected to do. I think the use of the word “undertake” is good enough and since hon. Chanzu does not retain me as his lawyers, I can give him a friendly advice which, of course, he will not pay any fee.

Hon. Speaker, Sir, I wish to move this Motion and ask hon. Wanyonyi to support.

Hon. Speaker: Hon. K.F. Wanyonyi. You are seconding the amendment.

Hon. F.K. Wanyonyi: Hon. Speaker, I want to second the amendment. I do not know whether you will allow me at this stage to have my input to strengthen hon. Chepkong’a’s amendment. If I am allowed, I will proceed.

Hon. Speaker: Proceed, but do not take too long.

Hon. F.K. Wanyonyi: I will not take too long, hon. Speaker. First of all, I think it is important for this House to understand that those who may not have taken interest--

Hon. Speaker: Are you seconding the amendment?

Hon. F.K. Wanyonyi: Yes, I am supporting the amendment, hon. Speaker, Sir.

Hon. Speaker: You are supporting?

Hon. F.K. Wanyonyi: I am seconding the amendments, but I want to make some remarks.

Hon. Speaker: I see. Okay, go ahead.

Hon. F.K. Wanyonyi: Thank you, Sir.

Hon. Speaker, Sir, hon. Members in the House should understand that there is a lot of work which has been done on this river. The introduction of amendment by hon. Chepkong’a is very important because the problem of Tana River, the flooding downstream as mentioned is caused by other rivers downstream which the hon. Member has just introduced.

Therefore, I have also checked the facts because I happen to have worked for this organization and I know a lot of work has been done, and a lot of effort has been put in this because there are plans to arrest the situation downstream.

Hon. Speaker, Sir, I have also talked to hon. Wario and he quite agrees with me. All they want to do is to build a grand falls downstream because Tana River originates from the Aberdares.

In the wisdom of the previous governments, there were five dams that were constructed and they are; Masinga, Kamburu, Gitaru, Kindaruma and Kiambere dams. Masinga Dam has the reservoir capacity of over 1.6 million cubic meters. It, therefore, regulates the water coming from the Aberdares.

Hon. Speaker, Sir, the last dam downstream is Kiambere Dam and it is the biggest dam upstream. It controls some water going downstream but thereafter River Tana flows freely and it is enjoined by seven other rivers. The seven other rivers come from Mt.

Kenya and Kiambere. If you have gone to Lamu, you can see the area is flat and during the rainy season, those rivers become very dangerous. That is how the people down the delta have been suffering. So, the amendment that has been brought by hon. Chepkong'a is right because all we are trying to ask the Government to do is to construct a dam that can hold this water and thereafter regulate it downstream. Whenever there is a dry spell, even if there is a lot of water, at least, there is a way of controlling it downstream.

Hon. Speaker, Sir, my request is that this House urges the Government to assist both TARDA and KenGen to fast-track and construct that dam. When I was there, feasibility study had already been done on the Great Grand Falls and also the design work had been done. All what is remaining is implementation by the Government. The question we are asking is: Is it going to be by Build Operate and Transfer (BOT) or by Engineering, Procurement and Construction (EPC), or the Government implements the whole thing in totality?

Hon. Speaker, Sir, we want this House to fast-track this Motion so that the Government gets involved as this has been going on for quite some time. I understand from my own research that plans for the grand falls that hon. Chepkong'a has just suggested is there and it is a matter of implementing it because the design work has been done.

With those few remarks, I want to agree and I support the Motion, but then ask the Government to fast-track the process.

Hon. Speaker: We are not there yet.

Hon. F.K. Wanyonyi: You are ruling well.

Hon. Speaker: You are swallowing before you chew.

Hon. F.K. Wanyonyi: Hon. Speaker, I stand guided.

With those remarks, I second the amendment.

*(Question of the first part of the amendment,
that the words to be left out be left out, proposed)*

Hon. Speaker: Hon. Members, I believe that the matter of that amendment has been sufficiently prosecuted by hon. Wanyonyi and hon. Chepkong'a. I will, therefore, put the Question.

*(Question of the first part of the amendment, that the
words to be left out be left out, put and agreed to)*

*(Question of the second part of the amendment, that the words
to be inserted in place thereof be inserted, proposed)*

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

(Question of the Motion as amended proposed)

Hon. Members, the Motion as amended reads as follows: -

THAT, aware that the heavy rains experienced across the country have caused flooding in many areas such as Tana River; concerned that the Tana and Athi River Development Authority (TARDA) and the Kenya Electricity Generating Company (KenGen) have been draining water from their dams to River Tana; deeply concerned that people living downstream have been displaced, property destroyed and loss of livelihood following the artificial flooding occasioned by those two government agencies, this House resolves that TARDA and KenGen should immediately stop draining water from their dams to River Tana, undertake to construct a dam to regulate and control floods and forthwith compensate the people who have been affected.

(Question of the Motion as amended proposed)

Hon. Bishop Robert Mutua, you will contribute to the Motion as amended.

Bishop Mutua: Thank you, hon. Speaker, for giving me the opportunity to support the Motion as amended.

I would like to begin by saying that what is artificially created can artificially be controlled. I get pained when I look at some of the projects and some of the agents that undertake projects without carrying out impact assessment and putting in place mitigation measures. The reason as to why I am saying this is that in Kenya, we have always talked about creating a drought management authority but we have never imagined that floods and droughts are equally dangerous. Therefore, we should have not only thought of the drought but we should also have thought of the floods and come up with a drought and flood management authority. On the particular case we are discussing, what is required is a flood mitigation strategy that would include dam construction and develop a strategy that would enable the people who have been negatively affected by floods to become positively affected by the same floods, by putting in place mechanism that would enable them to irrigate their farmland using the flood water that has been harvested.

Hon. Speaker, this country has got very weak systems for water harvesting and management yet we complain year in, year out that droughts are our problem. Droughts are not our problem. Our problem is the weak strategies that we employ. Sometimes I tend to think that it is the donor-funded projects that intentionally leave out some components that must go together with the projects. I would like to give an example. When the Thika Superhighway was being constructed, massive loads of sand were extracted from the riverbeds to facilitate the project but no compensation strategy was put in place. In a few years' time, some of those rivers will dry up. While we were doing a good job of creating superhighways, we were not looking at the impact of those particular projects on the other resources that were being used to facilitate the projects.

Therefore, on the particular matter of Tana Delta, the issue of compensation is not negotiable. People have suffered. Some people have died and we have just kept on talking about it. What we need to do now, as a House, is to ensure that compensation goes to the affected people as soon as possible. The second thing we need to look at, which is quite important, is to ensure that other projects of similar magnitude and potential danger are reassessed and measures put in place, so that we do not always become reactive. It is about time we became proactive in terms of prevention of man-

made calamities. We can look ahead. We have sufficient engineers. We have qualified personnel. We have all that it takes to make our projects beneficial, profitable and sustainable to all of us, so that they can deliver the results that we desire.

Hon. Speaker, I am surprised that sometimes we discuss good Motions like this one, which are never implemented. The reason as to why such Motions are not implemented is that sometimes we are not sure where to begin from. I would urge that the Committee responsible for energy takes up this matter immediately. As soon as communication goes to the right people, the Committee on Implementation can follow suit because this is a Motion we cannot just talk about. We have got to implement it, so that the people of Tana Delta can enjoy Vision 2030. We cannot talk about Vision 2030 when some people are crying, others dying and others being swept away by floods from some of the projects that we have constructed along our rivers to benefit this nation. There are people who rely entirely on KenGen and TARDA for supply of electricity and water, but there are others who are dying because of the same water. We have to balance the equation. All of us must benefit from whatever projects and what institutions are in place in this country. It is not fair for only one section of the society to benefit while other people die of the same projects.

With those remarks, I support the Motion as amended and recommend that we get into action immediately.

Hon. Speaker: Yes, hon. Alois Musa Lentoimaga.

Hon. Lentoimaga: Thank you, hon. Speaker, for giving me the chance to support the Motion as amended.

I want to thank hon. Wario for bringing the Motion at the right time. I happen to have worked in the areas affected by the said floods, specifically in Garissa and other places where flood water from River Tana has caused a lot of damage. That was about seven or eight years ago, and I thought the problem had since been solved. To my surprise, it is still causing havoc to the people of that region. What I can tell this House is that people in those constituencies do not get to know when water will flood the area because they do not experience rain. Rain falls almost 200 kilometres away, yet those people experience floods.

What KenGen used to do during our time is that they would make a call that they would release water in three or four days. There is no sufficient time for the information to reach residents downstream that the water is going to be released and that it will cause havoc. The water is then released. The people downstream, for example, in Bura totally rely on the river as a livelihood. Actually, they live on the riparian area. They have no option but to stay there. When the water comes, it destroys all their crops.

The people in those areas are pastoralists, but the Government has been engaging them and teaching them how to grow crops. They took it very willingly. There was assistance by the World Bank and a lot of equipment were bought in order to harness the water for irrigation. The machines are connected to the river and when the water comes, it is really destructive. The water changes course most times and so it destroys property belonging to people living even 20 kilometres away. To get the water to its right course is a massive cost.

Thirdly, when the water is released, it threatens Garissa Town and Bura. We see a situation whereby in the next 20 or 30 years half of Garissa will not be there because of that water. I happened to be part of a project meant to protect the river bank. We used a

lot of money. The question is: What should we use this water for? Even if a new dam is constructed, what is the purpose of the water? The water must benefit the people who belong to that area. The water must be made useful to them. If you just keep the water there and they are not even enjoying the electricity--- In my view the water could be deviated to the drier areas so that it is used for irrigation. This will be in line with the Jubilee policy of expanding irrigation in the country. An area like Dujis would benefit a great deal.

During the dry season, there is a lot of hunger. In Samburu North we feed people on relief food 24 hours and yet when it rains we have a lot of water going to waste. We should not just look at Tana River, but the entire country so that we tackle drought.

I support this Motion as amended. Let us have some action.

Hon. (Ms.) Lay: Hon. Speaker, I would like to support this Motion as amended. It is depressing to hear that artificial flooding is troubling people in this area. We know that a few kilometers away some people are suffering from hunger because they do not receive rains in their areas. Those dams can be used as reservoirs and the water supplied to the drier areas to be used for irrigation and even drinking. We can control this situation.

Hon. Huka: Hon. Speaker, I stand to support this Motion as amended. We thank hon. Wario for bringing this Motion and hon. Chepkong'a for improving it so that we do not talk from the point of view of TARDA and KenGen, but from a compelling position. It is incumbent upon the two companies to put in place measures so that when they release the waters, they do not cause havoc. They need to take responsibility of what they have done and pay the people of Tana Basin.

It is the Government's responsibility to ensure that the people of Tana Basin and any other place where flooding is a problem are protected and their livelihood safeguarded. KenGen and TARDA should make sure that they construct dams downstream which will control floods. They also need to warn people in advance.

When the two began their work, an Environmental Impact Assessment must have been done. It, therefore, implies that there are people who are not doing their work. That is why when they release water the people in Tana Delta suffer. Flooding is a major problem in this country just like drought. The Government has done a lot, but the actions are not commensurate with the problems people have been encountering. We need a long-term plan. We have had very nice proposals, recommendations and architectural plans, but they are shelved.

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

*[The Temporary Deputy Speaker
(Hon. Cheboi) took the Chair]*

It is high time that the Government acts, just like the promise of the Jubilee Government of *kusema na kutenda*. They should say and act.

With those few remarks, I support the Motion as amended.

Hon. M.D. Duale: Thank you, hon. Temporary Deputy Speaker, Sir. I also want to thank hon. Wario for bringing this Motion and hon. Chepkong'a for moving the amendments.

From Garissa County, we are very much aware of the havoc floods cause. They affect Garissa, Tana River and Lamu counties. They cause destruction of property, crops and impoverish people. This water comes about when there is excess rainfall upstream in the rivers which have been mentioned. Also, KenGen and TARDA release water when the dams have reached full capacity. That point should be taken note of. Often there are announcements on the radio to inform people downstream that they are going to release some water and that people should be careful. While we appreciate KenGen and TARDA for their good work of generating and distributing power in this country, which contributes to the general agenda of the nation, those activities should also not impoverish our people downstream.

The measures recommended in the amendments are very valid to put up additional dams, particularly along the rivers which join the Tana River in its course. There is also need to think of ways of diverting the flood waters upstream before they reach downstream, so that they can also be used in other places where they may not cause destruction. For KenGen, particularly in Garissa, often there is spillage of oil, which gets to the farms during the rainy season. This oil affects the crops along the river. The crops die. So, I also ask KenGen to ensure that there is no spillage of oil from the diesel power generation plants.

With those remarks, I support the Motion as amended.

Hon. Kinyua: Thank you, hon. Temporary Deputy Speaker, Sir. I want to start by thanking hon. Wario for bringing this Motion at this time. You will appreciate that most of the floods and other calamities that occur in our country are not acts of God, but some of them are caused by people. In this instance, you will appreciate that the main cause of the floods is negligence by the institutions that have been set up to address those issues and regulate the release of the water that flows downstream.

For example, we had an opportunity of looking at TARDA when we were investigating the management wrangles. There is lack of objectivity in the activities that TARDA is undertaking and there is no clear view of who needs to be where. We also see a lot of incompetence in the way some of the issues are addressed. The high grand falls project is supposed to address this issue. However, with the example of Umaa and Badasa dams, we feel that something needs to be done differently. Otherwise, this will just be a project that will be started and never completed. We must ensure that value for money is achieved and the quality of work is maintained. Again, as we embark on this project, the timeframe within which it has to be implemented also needs to be addressed, so that it becomes beneficial in terms of power and in achieving the Jubilee Manifesto pledge for putting one million acres under irrigation.

There are instances where we cannot do anything in terms of the floods because of the excessive rains. However, we can have some interventions coordinated through those agencies, particularly TARDA, to reduce the effects on the vulnerable groups. It is high time we found ways of resettling the people who live along the river banks and provide them with piped water. We also need to have very clear early warning mechanisms whereby in the event of the excess water, the floods do not get our people by surprise, but they are well prepared for the same. Again, in the event that it has to happen, they must get a well coordinated rapid mechanism unit that is directed properly and people are pulling in the same direction, so that we do not have instances where our

people are suffering and we have to get the Members from those areas to plead to this House for them to be evacuated from the floods.

Again, we must deal with the aftermath, the economic loss and trauma on the affected communities. For the economic loss, compensation is not an option. The compensation is from public coffers and so, in essence, the Government losses because of people not adhering to their roles. For sustainability, we must come up with ways and means of ensuring that we do not lose public funds through negligence. The Government must intervene and compensate the people. It is important for the people who are affected to be compensated.

With those remarks, I support the Motion as amended.

Hon. Kemei: Thank you, hon. Temporary Deputy Speaker, Sir. I want to support the Motion. I wish to thank hon. Wario for bringing the Motion at the right time. Secondly, I thank hon. Chepkong'a for the amendment.

There is a story which has become too familiar in this country that whenever we experience floods, we see Government officials rushing to the affected areas with blankets and mosquito nets in helicopters to try and do something that we could manage to do with better plans. The rivers that we have, particularly River Tana, have the potential of helping this country in terms of meeting its energy requirements; in terms of meeting its agricultural needs and in terms of meeting many socio-economic programmes for the people.

If you look at the areas that River Tana passes before it exits into the sea, especially the Tana Delta, it has the potential of meeting the entire sugar requirements of that county on its own. The sugar-cane that we can grow in the Tana Delta is able to mature within nine months. The cane that is grown in the Tana Delta has a sucrose content that cannot be compared with any other sugar-cane anywhere in that county. The other region that has such a potential is Kerio Valley, but it has not been fully utilized.

I want to support that Motion and make it obligatory for those agencies to do corporate social responsibility along with their expansion programmes. If you look at the memorandum and articles of association of those agencies, it is stipulated that they will expand and harness fully the rivers that they manage. They have not done that. I know they have done a lot to have seven dams that supply power to our nation but we need more of those. We need the irrigation potential that can be drawn from those rivers so that we can grow sufficient food to feed that county.

Hon. Temporary Deputy Speaker, Sir, Israel is the largest exporter of avocados in the whole world. That is a very small nation without sufficient water. It does irrigation and it has managed to be the largest exporter of avocados in the world. I am sure that if we could fully utilize River Tana, Athi River, River Nyando, River Sondu and the rest of the rivers that we have in that country, we can exploit our agricultural potential.

When I began my contribution, I talked about Government agencies rushing to places where there are floods with blankets and other things. We seem to suffer in this country what one diplomat once referred to as selective amnesia. We want to rush and give blankets and mosquito nets and yet, with proper plans, we can harness the potential of the rivers that we have.

I want to specifically request those agencies to look at the irrigation potential of those rivers so that, apart from managing the floods that are basically artificial, we utilize those rivers to do irrigation. When we talk about a million acres to be irrigated, that must

start with River Tana. If we have to meet that as per the Manifesto of Jubilee, River Tana must be the first place to start.

Again, on compensation, if we make it obligatory for those agencies to compensate the people who suffer from those artificial floods, then we should be able to provoke them to start thinking about putting up dams and preventing the negative impact of development in the lower part of those rivers.

Hon. Temporary Deputy Speaker, Sir, with those remarks, I beg to support this Motion.

Hon. Dukicha: Ahsante sana, mhe. Naibu Spika wa Muda. Nasimama kuunga mkono kidete Hoja hii ambayo imeletwa na mhe. Ali Wario. Namshukuru sana mwenzangu kwa kuleta Hoja hii wakati ambao unafaa.

KenGen na TARDA zimekuwa ni mzigo kwa watu wa Tana River na Kenya kwa jumla. Nasema hivyo kwa sababu tangu KenGen na TARDA zianze kujenga mabwawa, wamefuga mamba wengi sana. Kila wakati, watu wetu wanachukuliwa na mamba kando kando ya mto.

Vile vile, mafuriko ambayo TARDA inasababisha yameathiri pakubwa au kuharibu mimea kama vile ndizi na maembe. Sisi katika Tana River tunajivunia maembe. Katika Kenya nzima, sisi ndio tunaongoza katika uzalizaji wa maembe. Vile vile, tunapanda ndizi lakini hatupati faida kwa sababu ya mafuriko ambayo yanasababishwa kila wakati na KenGen.

Mafuriko hayo pia yameathiri kando kando ya mto ambapo mifugo wetu wanalishwa. Sasa hakuna mahali pa kupita. Ng'ombe wanaenda huko, maji yamejaa na mamba ndio hao. Ni hali ya taharuki.

Mafuriko yameathiri sana sehemu za Madogo na Mororo katika Bura Constituency mahali mhe. Wario anatoka. Tuna makaburi yetu ya Waislamu na Wakristo upande huo. Kila wakati mafuriko hayo yakiachiliwa na watu wa KenGen, yanatoa maiti ndani ya makaburi. Mambo haya yanatutia uchungu sana.

Kwa hivyo, ni hili Bunge la heshima lipitishie Hoja hii kwa nguvu ili maji hayo, badala ya kutumiwa kwa njia ambayo inamaliza watu wetu, yatumiwe kujenga nchi na Tana River. Kwa sababu hiyo, hili Bunge linafaa lipitishie kwamba KenGen na TARDA zilipe fidia kubwa sana kwa watu wa Kenya na watu wa Tana River kwa jumla.

Ahsante. Naunga mkono.

Hon. Aden: Thank you, hon. Temporary Deputy Speaker, Sir, for giving me the opportunity. I rise to support that Motion. I would like to take that opportunity to thank my brother, hon. Wario, who is my neighbour on the other side of the same river, for bringing that Motion before that House. When I say that, I think it is clearly understood that the effects that he suffers is what I also suffer on the other side of the river. So, that Motion is important to me and to the people of Mbalambala Constituency, whom I represent.

Hon. Temporary Deputy Speaker, Sir, the floods under discussion in that Motion are definitely caused by the acts of KenGen and TARDA. No amount of excuse should be given to take the blame away from those organizations. I am saying that because in an earlier contribution, hon. Wanyonyi had mentioned something to do with tributaries of other rivers that join that river downstream and cause flooding. From what I know and what was confirmed by hon. Lentoimaga who was once a DC in Garissa and understands that problem very well - there were even the *El-Nino* rains - even if those tributaries drain

their water into Tana River in their full volumes, there will never be any flooding beyond the banks of River Tana. The banks are quite wide because it is a very big river. However, the day KenGen says that it will open the flood-gates of their dams, that is when hell breaks loose. That is when half of Garissa Town gets submerged in water. That is also when half of the towns of Mbalambala, Bura and further down into Tana River County are swept or destroyed completely. I want that statement to be understood very well. The blame on artificial flooding squarely rests on the shoulders of KenGen and TARDA. There is probably lack of proper management of the dams.

The pain is so much to our people because we never even benefit from the national grid whose electricity is generated from the dams whose floods devastate our people downstream. There is no electricity from the national grid in the entire region. So, when we try to explain to our people and tell them that the dams that we are talking about are for the good of our country because they generate power for us, they cannot comprehend. They feel that they are victims who suffer the miseries of other people's comfort. That is from their own definitions.

Hon. Temporary Deputy Speaker, Sir, I want to say that those floods have caused loss of lives. Every time, it is not only the pain of seeing the graves of our ancestors being dug out by those floods, as was just explained by hon. Member before me but, indeed, in that process very many people have been swept away alive. Children have been swept away on their way to schools on the other side of the riverbank or even in their own schools. Schools and hospitals are rendered non-functional for months. We have just come out of that situation.

Hon. Ali Wario has, in the past, asked for a Statement on that matter on the Floor of the House. For many months, it has been devastation on our society. As I stand here right now, the people of Jarajara Ward are victims of such. On those two, the river has changed course because of heavy erosion. The floods come downstream causing so much siltation on what was, otherwise, the original course of the river. That has caused a very strong pressure of water to divert its course into faraway places, thus leaving those towns without water. As I speak here now, the people of Tana River are suffering because of lack of water. The river has migrated its course and is now about 30 kilometers away. It is, indeed, an issue of emergency. But it is currently being addressed.

Hon. Temporary Deputy Speaker, Sir, many people with farms along the river have suffered. Remember, it is not very easy for farmers along the banks of that river to be moved away to higher grounds. The livelihoods of the people who live along Tana River depend on the farms that are along the river. What happens is that we grow very good mangoes, bananas and all the other horticultural crops. But the floods come and sweep them away overnight, including the generator pumps that are used to pump water for irrigation purposes. Any amount of investment that is put in those farms is eroded and washed away just because of - in my view - lack of proper management of the dams.

The amendment that has been made to that Motion is welcomed. I support it but I want to say that we know the truth. Construction of a dam does not take a day; it does not take a month. It could, indeed, take years to complete and it requires budgetary allocation, which does not exist. Does that mean that, even as we compel those two companies to construct that dam, we are telling the people who are living along the banks of Tana River: "Continue suffering for a few more years as the dam is being constructed?" In my view, that is not acceptable. We want those two companies to be

compelled to go and do an assessment of the damage that has been caused by the floods that occurred in the recent rains. We do not even want to talk about very many years in the past, just the floods that occurred recently. Go and conduct a study, compensate the poor farmers and reconstruct schools that have been destroyed beyond repair. We continue pumping Constituencies Development Fund (CDF) money in those schools, year in, year out.

Hon. Temporary Deputy Speaker, Sir, somebody might think that we are constructing schools just around the riverbanks and probably think that the schools should be far away from the river. We are talking about a school that is 10 kilometers away from the riverbanks but because of the floods that occurred in that area, it is entirely submerged. An area of about 10 kilometers from the river is completely submerged under water.

On the suffering and the displacement of people, if you happen to go to Garissa now--- Just before you leave the constituency of my hon. friend, hon. Wario, and you just cross the river to my constituency, you might ask him: "Hon. Wario, what is that refugee camp for?" It is not a refugee camp. If only you were to take the opportunity to pass there, you would notice that. When you go to the other side, you will ask me the same question. Those people are not in refugee camps. Those are our constituents; our people. That problem is real and requires immediate attention by those two entities, who must take responsibility. Why do they have to wait for the water to reach the highest level and then release the gates causing floods? Why can they not release the water in amounts that can be accommodated by the banks of the river? We cannot accept excuses from those two companies and we must compel them to take action. Otherwise, I can tell you, we will just have to wait for the next rainfall season to come and you will find us on the Floor of that House crying again.

Hon. Temporary Deputy Speaker, Sir, the people living along the banks of Tana River, on either side, have suffered long enough and we need to give them immediate attention. It is my sincere hope that the discussions and the deliberations that have taken place on the Floor of this House today will, indeed, go far in terms of alleviating the problems of our people.

Thank you very much.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Chanzu, the Floor is yours. You have about three minutes.

Hon. Chanzu: Thank you hon. Temporary Deputy Speaker, Sir. Unfortunately, when the Chair was giving me a chance to raise a point of order, I was switched off and I have been sitting here desperately. But anyway, thank you.

That is a very important Motion. Going by the issues that have been raised previously, matters to do with floods and disasters should be taken seriously.

Hon. Temporary Deputy Speaker, Sir, there are no studies that have been done properly on many projects that are done in this country. There is a rush to do the projects without caring about the negative impact they may cause. There is an example of a project that is raising water in Loitokitok. They have never cared about what is going to happen along the line. I was able to work on that project better when the people along the line could not get water.

On that one, it is important that the dam is constructed. But just like the previous speakers have said, we have to be very cautious because, sometimes, you ask for a big

thing which will take a longer time. That is the reason we are saying that those two organizations must make an undertaking, first of all, to compensate those who have been affected by the floods. Even the issue of recycling water or getting it back so that it can be used for other purposes is very important but I think it is something that will take a bit of time.

Hon. Temporary Deputy Speaker, there is an hon. Member who has talked about the law and the nuisance that is being caused by those two companies. If we go that way, there is a clear indication that KenGen and TARDA must put measures in place to compensate those who have been affected by the floods all the time. That is also part of the problem that arises out of wastage. When the water is left to go downstream--- In this country, we need water for irrigation and other purposes. When we leave it just to flow downstream causing damage the way it does, it is then a big expense to the country.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Okay. The Mover should now reply.

Hon. Wario: Thank you, hon. Temporary Deputy Speaker, Sir. I would like to donate two minutes to my neighbour, hon. Bowen and another two minutes to my sister who was involved in an accident, to say something about that Motion.

Hon. Bowen: Thank you, hon. Temporary Deputy Speaker. Thank you hon. Wario for donating two minutes to me, at least, to support that Motion as amended.

The suffering that the people of Tana River experience is manmade and it is caused by KenGen and TARDA. Those are the two big corporate companies that do not have regard for human dignity. We know that in most companies there is corporate social responsibility. We are told that KenGen generates electricity from the waters of River Tana but in the neighbourhood of Tana River County, there is darkness. Instead, there is a lot of flood water which has resulted in loss of property, lives and destruction of their land. The TARDA undertakes a lot of irrigation in Tana River County. The Authority produces a lot of rice but the people of Tana River County die of hunger during the dry season. As most of my colleagues have said, we would expect those two agencies to tap the waters of this massive water body to carry out irrigation projects for the benefit of the people of Tana River County.

Hon. Temporary Deputy Speaker, the issue of compensation is not negotiable at all. By the time we pass this Motion, those two agencies should be preparing themselves to compensate the people of Tana River County from today. This is because the situation is unacceptable. It has been going on for quite some time. Again, I want to thank hon. Ali Wario for listening to the cries of his constituents.

With those few remarks, I support the Motion as amended and recommend that the compensation begins from today.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Duri.

Hon. (Ms.) Duri: Thank you very much hon. Temporary Deputy Speaker and the Members of Parliament who are in the House. I thank God I have recovered from the accident. I am with you now. I thank all those who visited me when I was in hospital. I say thank you very much. God bless you, too.

Hon. Temporary Deputy Speaker, the issue of Tana River and floods is a common thing. Whenever there is heavy rainfall, KenGen uses the advantage of releasing all the

water from their dams and our people are affected. If KenGen are ready to drain their dams, they must also be ready to control the water. They should not spoil the properties and lives of the people downstream. Our people depend on crops planted alongside the river, and livestock. When floods come, all the crops and livestock are carried away and lives of people are lost. We only see the Kenya Red Cross Society running up and down distributing blankets and tents but we do not have anybody to talk to about compensation. So, hon. Wario has brought the Motion at the right time, when the people of Tana River County need compensation. We always lack water in Tana River County. The KenGen should show us how to harvest water and preserve it for future use, and not just releasing the water to flow to the Indian Ocean.

Hon. Temporary Deputy Speaker, I do not have much to say. What I am asking for is for the Government to come to the rescue of the people of Tana River County because they are in problems. Year in, year out, they suffer from floods. Therefore, the Government should come to their rescue and compensate them. The KenGen and TARDA should use another way of controlling the water instead of rushing to drain their dams through Tana River whenever there is heavy rainfall. Our schools have been affected. We have uncountable number of IDPs in both Tana Delta and Bura. The lives of some people have been destroyed completely.

Therefore, it is not enough to only have the Kenya Red Cross Society running up and down distributing a few items to the people who have been affected. We want the Government to come to the rescue of the people who have been affected and compensate them adequately. Thank you, hon. Wario for bringing the Motion.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Wario.

Hon. Wario: Thank you, hon. Temporary Deputy Speaker.

May I take this opportunity to thank all the hon. Members who have contributed in support of this Motion and apologise to some of my colleagues who had asked me to donate part of my time to them. The time is not enough. I sincerely apologise.

Hon. Temporary Deputy Speaker, the flood menace is not a Tana River specific problem. It is unique in Tana River because of the population of the river-dependent communities. Those people, whose lives and livelihoods are destroyed year in, year out, have nowhere to turn to. We have the fishing folk, the small-scale farmers and the pastoralists, all of whom depend entirely on River Tana for their livelihoods. We are not sadists to just sit down and watch as innocent Kenyans suffer year in, year out. This House must come up with mechanisms of mitigating this problem. We must raise the red flag at those capitalist institutions controlled by the bourgeoisie, who keep on destroying the lives of our people.

The time when the Legislature would keep on begging is long gone. We are now in a new constitutional dispensation. This House has teeth to bite. It is time we raised the red flag at TARDA and KenGen and hold them responsible for their actions. The two public institutions must be forced to put mechanisms in place to compensate the lives and livelihoods that they affect every year. May I also take this opportunity to specifically thank hon. Chepkong'a for adding value to the Motion. The amendment he introduced has really added value to the Motion.

With those few lines, I beg to move.

The Temporary Deputy Speaker (Hon. Cheboi): Thank you, hon. Wario. Unfortunately, I am not able to put the Question now. Therefore, the Question will be put in the next Sitting.

Next Order!

(Putting of the Question deferred)

MECHANISMS FOR WASTE DISPOSAL IN NAIROBI CITY

Hon. Gakuya: Hon. Temporary Deputy Speaker, I beg to move the following Motion: -

THAT, aware that Kenya and specifically Nairobi, hosts the headquarters of the United Nations Environment Programme (UNEP); cognizant of the fact that Nairobi hosts more than four million Kenyans; concerned that the capital city chokes in waste; further aware that there is no proper garbage collection, safe and friendly disposal mechanisms; concerned that Dandora hosts the largest dumpsite for garbage generated in the city; deeply disturbed that the dumpsite has affected the health of the residents in Dandora; this House urges the Government to, amongst other measures, devise friendly waste disposal that should also include putting up recycling plants within the dumpsites, that will ensure garbage collection and disposal from the point of generation.

Hon. Temporary Deputy Speaker, I seek your indulgence on the bit of urging the Government, whether I should not amend it to read “compel”.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Gakuya, you have your choice. You can generate an amendment using your colleagues. Since this Motion has been approved by the Speaker, proceed and move it. The rest can be handled later.

Hon. Gakuya: Thank you, hon. Temporary Deputy Speaker.

The matter before us is very pertinent. In fact, the issue of garbage disposal has been a very serious matter, especially within Nairobi. The people of Nairobi generate between four million and five million tonnes of garbage per day.

Nairobi has many markets, one of them being Wakulima Market, which churns out a great deal of solid waste. It is important to note that all that waste ends up at the Dandora Dumpsite. Given the fact that Nairobi hosts UNEP, it means that that country is recognized when it comes to handling our environment.

With regard to the history of the dumpsite, it was started in the colonial times and it occupies about 100 acres of land. It is important to note that the dumpsite is full and the garbage is spilling to the doorsteps of residential houses and schools. That is a serious concern. The City Council of Nairobi was the main manager of the dumpsite. It did very little to ensure that the disposal of waste at the dumpsite is friendly and safe to the residents there. Formerly, the idea to have a dumpsite was not a bad one. That is because Dandora by then was not a residential area. Even when the dumpsite came up, it is only vultures that invaded the place. People were living far away. However, the then City Council of Nairobi decided to convert that area into a residential area, and four phases of housing were designed. Those phases are constructed and people are living there.

The dumpsite is neglected totally and nobody is taking serious measures towards its management. The pollution from the dumpsite is affecting residents. There are

airborne and waterborne diseases that are routinely affecting the residents. The Government has promised to listen to the people. I would not want to be a Member of Parliament representing a sick society. I would like to urge the Government to take serious measures towards ensuring that people live in a friendly and safe environment.

So many adverse effects of the dumpsite have been talked about. The schools within the area are performing dismally. That is because the garbage is disposed of along the perimeter walls of schools and their entrances. You will find flies invading classrooms. That obviously affects the performance of students. Mosquitoes in that area multiply in great numbers. So, with all those hazards, the people of that area are affected by so many diseases. It is high time we thought of relocating that particular dumpsite. I am, however, aware that Rome was not built in a day. The Government should think of ways of relocating that particular dumpsite so that people can live good lives.

As I mentioned earlier, that area was not meant to be a residential area. However, the then City Council of Nairobi decided to make it residential. It did not think of relocating the dumpsite. We cannot, therefore, wait and watch people die from the effects of the dumpsite. We have been informed by the media about the insecurity in Dandora. That area is completely uninhabitable. Insecurity in that place is rampant. That is because criminals have their dens in the dumpsite. They strike and then run to their dens in the dumpsite. Property in Dandora has depreciated immensely because of insecurity.

It is clearly stated in our Constitution that the Government should protect its people and provide health services. Article 42 of the Constitution states that every person has a right to a clean and healthy environment, which includes the rights to have the environment protected for the benefit of the present and future generations through legislative and other measures, particularly, those contemplated in Article 69---

Hon. Speaker, Article 70 talks about enforcement of environmental rights. It states that if a person alleges that a right to a clean and healthy environment recognized and protected under Article 42 of the Constitution has been, is being or is likely to be denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.

It goes further to state under Clause 2:-

“On application under Clause (1), the court may make any order or give any direction it considers appropriate-

(a) to prevent, stop, or discontinue any act or omission that is harmful to the environment.

(b) to compel any public officer to take measures to prevent or discontinue any act of omission that is harmful to the environment; or

(c) to provide compensation for any victim of violation of the right to a clean and healthy environment.

The Constitution is very elaborate on that. Before we move to seek redress in court, it is important for the House to do its part and compel the Government to do its job. It is the prerogative of the Government to take charge and protect the people. I would also like to inform Members that Dandora area has become dangerous due to the mismanagement of the dumpsite. That is totally due to ignorance. Anybody who knows the rights of the people should not neglect that dumpsite. It should not be where it is today. Anything is manageable. In fact, just behind Nairobi River, there were heaps of garbage. Several years ago, the famous Michuki Park was impassable. Currently, it is a

very good park and people visit it. That tells us that with a heart to assist and taking responsibility on the part of the institutions that are mandated to do that, anything is possible. NEMA is doing very little. It has never even uttered a word with regard to the Dandora dumpsite. I fail to understand how they are going to support the residents if they cannot utter a word when our people are suffering. I fail to understand what their duty is.

We also have the Ministry in charge of environment. It has done nothing towards that. It is also important to know that whether the area was under the council or not, it is the prerogative of the Government to take charge. I have seen nothing towards resolving that problem from the Ministry of Environment, Water and Mineral Resources. Today, we have county governments and we should not leave that matter to the county government. It is the duty of the Government to protect the people. I really urge the Government to come in and play its part to ensure that, that problem is solved.

Finally, it is important to note that a healthy and clean environment is a basic right of every Kenyan, as envisaged in our Constitution. The Government should be committed to guarantee the residents in close proximity to dumpsites safe and friendly means of disposing the waste. That will add value to the realization of Vision 2030, which identifies the promotion of health as a core focus by reducing the preferences of poor health in our society.

I beg to move the Motion and urge hon. Kamande to second it.

Hon. Mwangi: Hon. Temporary Deputy Speaker, Sir. I rise to second the Motion by hon. Gakuya. It is a known fact to everybody that there is no clear-cut policy on waste management by the Government. In every town in this country, you pass through heaps of garbage. When you go to Mombasa, you do not need to know where it is. But you just need to smell the garbage from Kibarani and you realize that you are entering Mombasa. That is how our towns are. It is high time the Government came up with a clear-cut policy to recycle that garbage. It can be used to manufacture fertilizer. We can turn it into better use. Currently, we are experiencing a shortage of cemeteries. We also have a problem in getting land on which to dispose our waste. We should change even our traditions to accommodate trends which will help us to save our land.

One of the things which I would like to touch on is waste collection in our towns. Some of the vehicles which carry waste are open. If there is a Government agency that has been sleeping on its job, it is NEMA. It is one of the authorities which are sleeping on the job. It is not even advising the people on how to protect their environment. That is one of the authorities that are only collecting money for nothing. This is one of the Motions which we should pass immediately, not only to accommodate the feelings of the people of Nairobi, but also the feelings of the people all over the country.

I beg to second.

(Question proposed)

Hon. (Ms.) Sunjeev: Thank you, hon. Temporary Deputy Speaker, Sir. I would like to start by thanking hon. James Gakuya for bringing this Motion. Like many other Motions that we have discussed, this Motion is very close to my heart. It is a big shame. Once upon a time, Nairobi was known to be the “city under the sun”. Today, Nairobi is identified as the city under the garbage. Why is that? Where exactly did we go wrong? Some institutions somewhere must have been sleeping on the job.

I agree with my fellow Member who has said that when you look at the trucks which carry garbage, they are open. Sometimes, you find the people who are transporting garbage sitting on the trucks in very unhealthy conditions. Nowadays, it is common to read in the newspapers, letters written to the editor by citizens of this country, addressing them to the Governor of Nairobi or any governor, stating that they cannot even pass through certain roads because of the stench. They find such roads completely impassable.

It is a shame that citizens of this country pay for garbage collection which is not collected. I am disgusted when people travel on Uhuru Highway. As you know, we are a country that attracts many tourists. You will find tourists in a bus looking at trucks full of garbage. You can just imagine what they think. They would probably be thinking that we do not observe hygiene in this country. However, that is not the situation. The situation is that we have gone wrong somewhere.

Hon. Temporary Deputy Speaker, Sir, at a certain site in Makadara, I met a youth group which had started recycling garbage. That is their source of income and I find it very commendable. If youths in this country can start such small projects where they earn a living, I do not see why a city of this country cannot find better ways of disposing garbage.

Hon. Temporary Deputy Speaker, Sir, with that, I beg to support this Motion. Before I finish, I would like to say that I also commend the Governor of Nairobi who started the "Clean Nairobi Project" a month ago.

I support the Motion and thank hon. James Gakuya for bringing it before this House.

Thank you.

Hon. Wangamati: Thank you, hon. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I want to thank hon. James Gakuya for bringing this Motion at a time when the entire world is looking at Nairobi as a hub of business in this region.

When we talk about investment and want to attract investors in this country, the leadership of this county and the Government must also be prepared to keep our environment clean.

I used to see Nairobi when I was a youth and it was a clean city, as the hon. Member has put it. It was "the city in the sun". However, Nairobi is now full of garbage and, as Members of this House, we must raise our concerns. The authorities must be reminded that garbage is becoming a nuisance. The cleanliness of our city is, therefore, under question.

I have also visited some cities outside Africa and garbage is recycled. I do not see why, after all that time, Nairobi has not thought of that. It is time that the county or the Government of Kenya thought of recycling garbage in order to reduce it. Garbage should not be thrown as it is.

This city is very important in Africa. Even leaders in Africa would like to learn from Nairobi how we handle garbage. We are facing the same problem even in our small towns like Mombasa and Kisumu. People are not worried about mosquitoes as the hon. Member has put it. You will find flies everywhere.

Hon. Temporary Deputy Speaker, Sir, I support this Motion and urge the Government to allocate some money to the Ministry of Environment, Water and Mineral Resources so that it can start constructing a recycling plant in order for garbage to be

removed from this city and make it clean. This is the only city that we are proud of. In fact, this is Kenya. Nairobi is Kenya and Kenya is Nairobi. We must keep Nairobi clean.

I support this Motion. Thank you very much.

Hon. H.K. Njuguna: Thank you, hon. Temporary Deputy Speaker, Sir. I rise in support of this Motion. We must do something about garbage collection in this country. The Motion focuses on the management of our garbage in terms of collection and in terms of disposal.

We are talking about urbanization. The future of this country is urbanization. We cannot realize the goals of urbanization unless we manage simple issues like garbage collection. When some of us were young and came to Nairobi in the late 1970s and early 1980s, garbage collection in this country was very good. We used to have lorries which were covered. You would not even know that they were collecting garbage or disposing it. However, right now, you can tell. Even on our roads, we are being harassed by lorries that carry garbage because they are open and they smell.

We boast in this county that we house the UN-Habitat whose main focus is environmental conservation and sustainability. However, we are talking about Dandora garbage site which today, in terms of smell and the way it appears, not only is it a health hazard, but it is also an environmental hazard. As a real estate expert, I can tell you with certainty that the land surrounding Dandora garbage site in terms of value is affected negatively.

The issue here is that we should be able to devise alternative methods of handling our garbage like recycling and relocating the garbage sites, so that they are not near human settlement. We are saying that it is a constitutional right in terms of health and in terms of environmental concern globally and nationally.

Hon. Temporary Deputy Speaker, Sir, we know that all our towns have a problem in garbage collection and management. If you go to Mombasa, like we were there recently, you do not need to know that you are in Mombasa. If you go to Thika, particularly in this era of devolution where our towns have not been able to re-organise themselves, you will find that garbage collection and management is a major concern. So, I support this Motion so strongly and if we have to realize the goals and objectives of our organization, we must address ourselves to the issue of garbage collection and disposal thereof. Thank you.

Hon. Korir: Thank you, hon. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion which is on health and environment. For us to be a healthy nation, there are two things that we have to take seriously. One is clean water and second is a healthy and clean environment. I am proud that this Motion has come to cover one of the parts of a clean nation. No matter how many hospitals we may have in this country; no matter how much money we set aside for hospitals and health care, let me tell you that, unless we take precautions and start preventing diseases, we will be doing nothing. So, for us to prevent diseases in this country, first of all, we have to take care of our garbage collection. We have to make sure that our cities are clean.

Hon. Temporary Deputy Speaker, Sir, I would like to go further and urge every county government--- I think this Motion touches on county governments. They should make sure that they set aside a certain percentage of money in every county to provide a good structure of garbage management.

Another thing that we have forgotten in this country, and it can be a very good resource for even our youth and people--- I have seen it outside this country. People have made so much money and became billionaires through the business of recycling. In every town or house in this country, we can have recycling bins so that we can take that recyclable waste and turn it into something else.

Hon. Temporary Deputy Speaker, Sir, for example, China right now is looking for recycled material. If you go to America, Canada – I have a friend in Canada who is making millions and millions of money every day through recycled material. Why can we, as a country, not start a project where every city has a recycling plant or a recycling station? When you walk around and you have a ball gum which you need to throw away, instead of throwing it in the dumpsite, you throw it in the recycle bin and that will ease the congestion in the dumpsite. That is because most of those materials in the dumpsite are recyclable and combustible. So, we can take the stuff we can use as composite and use it as manure/fertilizer. If we do that, I think it will be a very good thing to move forward as a country.

So, I urge the central Government and county governments to act. I think this Motion touches more, not even on the central Government, but the county governments - the 47 counties. A law should be enacted so that they can put aside a certain percentage of their budget to make sure that our cities and environment are clean. That way, we will raise a generation in a clean environment.

Hon. Temporary Deputy Speaker, Sir, that is global problem in the world and, as a country, let us not contribute to global warming. That is because it will affect our next generation.

With those remarks, I support this Motion, so that we can have a structure which will solve our garbage disposal problem.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Ahmed S.S., you would have had some opportunity, but you are very far. So, I might as well give it hon. Manje. Hon. Manje has also withdrawn his. Then hon. Ahmed might be lucky.

Hon. Ahmed S.S.: Thank you, hon. Temporary Deputy Speaker, Sir.

I stand to support the Motion. I have been a mayor of a city. I was the Chairman of the Local Authorities and Funds Accounts (LAFAC) Committee in the 10th Parliament. One of the major problems that were coming to us was the issue of garbage sites. We were going to constituencies and a number of them would talk to the hon. Member of Parliament and local government officials. It became very clear that the issue of garbage cannot be solved at the local levels because there was the question of where to dump the garbage. Whenever they wanted to dump it somewhere, they would find that there is local opposition.

The recommendation of the Committee was that we consider having a national body, some organization like NEMA, whose job will be to access and obtain sites, not only for garbage, but also for cemeteries. Those are the two problems that have bedeviled the local authorities and we feel that it is important that, much as the Motion is covering that issue, we need to nationalize it by way of a body. My proposal was that we look at how we can get a national body like NEMA to look at where to dump our garbage.

Garbage is a major problem in all cities. Now that devolution is taking effect, we want to make sure that it is not politicized for whatever reasons. We must make sure that

our cities are clean. The Mover of this Motion should consult the Leader of Majority Party and come with a Bill or a proposal for having a national body that can look after that issue and operate the garbage sites.

Thank you very much.

Hon. (Ms) Gure: Thank you hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Motion. I rise to support the Motion.

That issue we are talking about is serious. Garbage collection and disposal can raise health issues and can affect the health of human beings, animals and all other living things.

I am an elected hon. Member from Garissa County. If I talk about my county, we have a lot of problems of garbage which lies all over the streets. We do not have segregated sites for dumping and we do not have garbage trucks. The money we have been given as a county is not enough for us because we need to focus on garbage collection.

The Governor is having a hard time in coming up with a structure that will eradicate garbage and make Garissa County conducive for people to live in. A lot of money will go to the structure that I am talking about and he has to spend a lot of money on garbage collection. Garissa County has been forgotten and marginalized and there are minorities who live in that county.

Hon. Temporary Deputy Speaker, Sir, Garissa County has been forgotten and the Governor wants to put it on track so that it can compete with other counties in Kenya. I am urging the national Government and the county governments to work together and come up with a structure that will help Garissa County. The uncollected garbage has attracted animals which eat from those dumpsites. Sometimes, people eat meat from those animals and that can cause diseases.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Order, hon. Gure! You will have an opportunity to contribute further. You will have seven more minutes left for you to contribute in the next Sitting.

Hon. Members, it is now time for us to adjourn this House. Therefore, the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.