AUGUST 2013 HANSARD [SENATE]

STATEMENTS

Date 1\textsuperscript{st} August 2013
Member of Parliament: Sen. Dr. Agnes Zani
Contribution She Made On: Management of Oil, Coal and Niobium
In Turkana, Kitui and Kwale Counties

- She said the livestock industry in the country had really not got what it was supposed to get. She gave an example of Botswana where they get their export income from exporting their meat, and it was not a better country than Kenya for Kenya was exporting meat at some point but now it was limping because of corruption.
REQUEST FOR STATEMENTS

Date 1st August 2013
Member of Parliament: Sen. Dr. Agnes Zani
Contribution She Made On: Management of Oil, Coal and Niobium
In Turkana, Kitui and Kwale Counties

She requested a Statement from the Chairman of the Standing Committee on Agriculture, Lands and Natural Resources regarding the discovery of oil in Turkana County, coal in Kitui County and niobium in Kwale County as well as the imminent exploitation of the same. In the Statement, she called upon the chair to address the following issues:-

1. Whether community negotiations have been duly completed before investors are given mining licences?
2. What was being done to address the complaints raised by various communities residing in the counties where the natural resources were found as there had been a lot of complaints especially in the media and communities and heads of county governments were complaining that they had not been involved in this process that is meant to be participative
3. Whether the provisions of Articles 62 and 63 of the Constitution had been taken into consideration in the case of exploitation of Niobium in Kwale County and indication of the land rights or the level of land ownership of Mrima Hills, so that it was clear whether the negotiation is being done on it, in terms of it being a public land or community land.
4. Whether the Government was satisfied that the provisions of Article 69 of the Constitution on obligations of the State to ensure there was public participation in the management, protection and conservation of the environment have been adhered to?
5. Lastly, whether transactions relating to the respective natural resources had been ratified by Parliament as per the requirements of Article 71 of the constitution, and if not what measures the Government was taking to ensure such compliance

Date 1st August 2013
Member of Parliament: Sen. Daisy Kanainza
Contribution She Made On: Management of Uwezo Fund

She requested a Statement from the Chairperson of the Sessional Committee on Devolved Government regarding the disbursement of Uwezo Fund of Kshs6billion. In the Statement, the Chairperson should
1. Confirm whether the Government intends to disburse Kshs6 billion through the CDF model, which is already alleged to be unconstitutional.

2. State whether the Fund is a grant or a loan to the youth knowing that the youth had fallen prey to many false promises;

3. Explain why the Fund could not be managed at the county level in line with the principles of devolution; and,

4. Lastly, state whether the youth, who are the key stakeholders, and the institutions involved, such as the Youth Enterprise Development Fund (YEDF), the National Youth Council (NYC) and the National Youth Service (NYS) had been involved in the arrangements to have the Fund launched soon. We know that the youth had been told to keep off. This is a matter of great concern.
**MOTIONS**

**Date 2 July, 2013**  
**Member of Senate: Sen. Elizabeth Ongoro**  
**Contribution She Made On: Restructuring Of Provincial Administration**

- She supported the Motion by stating that it was timely and appropriate and it called upon them as the Senate, to undertake something that was in order. She further stated that it demanded a policy paper providing a time action plan.

- She pointed out that they were not running out of time with regard to the issue and added that if one listened to speakers; both in the Senate and in the National Assembly, one would realize that Kenya was wounded and rather than deal with the issue, it was covered up in 2008 and the international community was also used to try and deal with it but nothing had worked so far and something needed to be done to protect the future.

- She called upon the Members to look at the Constitution of Kenya and the manner in which the NPSC was created under Article 246 and added that this would clarify the need to support its existence and allow it to execute its mandate to the fullest without interference and all these schemes by the Inspector-General of Police for reintroducing certain aspects that led to the creation of the NPSC.

- She stated that the NPSC was created because there was a need to decentralize too much power that was vested in one person referred who in this case was the Police Commissioner. She pointed out that the commissioner had the absolute authority to control the police units and anyone who fell under his jurisdiction.

- She added that that proposal brought forth would inevitably take the country back and that it was a retrogressive process that if it wasn’t stopped would be detrimental to the country. She further stated that rebranding provincial commissioners; giving them new names and allowing them to hold regional positions was against the spirit of devolution and that is enshrined in the Constitution.

- She pointed out at Article 1(4)(a) that says:-  
  “The sovereign power of the people is exercised at-  
  a) the national level; and,  
  b) the county level.”
She further pointed out that the proposal to have regional level, did not have a firm basis and pillars that support this restructuring and system? She questioned what the regions were and added that the country was moving away from the eight regions to counties? She stated that the new proposed regions were absolutely out of place, their existence was unconstitutional.

She added that their mandate was parallel and contradictory to all other mandates that exist and therefore, by effecting this, parliament would be acting retrogressively and that would not be adding any value.

Date 2 July, 2013
Member of Senate: Sen. Daisy Kanainza
Contribution She Made On: Restructuring Of Provincial Administration

She supported the Motion by Sen. (Prof.) Anyang’-Nyong’o by stating that it was truly unconstitutional for the Government to appoint former Provincial Commissioners (PCs) to hold regional positions. She added that now that there are counties headed by governors there was no need for the regional positions in the police force.

She pointed out that the proposed positions had been fashioned in a way that create a power struggle and looking at the proposed structural amendments and changes in the Police Commission Act and the other one, it was clear there was something fishy happening and it was wrong to investing imperial powers to the Inspector General of Police (IGP).

She further stated that the IGP would be in charge of, one, hiring; two, deployment; three, transferring; and, four, promoting and disciplining officers, which she did not support and which did not advocate because it was unconstitutional.

She stated that she was convinced that the actual purpose of this Bill which was before the National Assembly was ensuring that particular communities remain in certain positions in the police force.

She informed pointed out that she wanted Senators and even Kenyans to know that the real intention of that was for the control of billions of shillings meant for the procurement of equipment and materials seeing the NPSC had been given a lot of money in the Budget.

She called upon the Members to remains strong in their resolve, and added that the Members should also be made aware that even in the military
service, there was a board which is chaired by a civilian who recommends promotion of senior commanders to the President.

She pointed out that if they did not support that Motion, it meant there would excesses of power vested in one person. And she concluded by stating that as Members they should appreciate devolution. She stated that there were no provinces or regions in the new Constitution just county governments and Governors were in a better position to do their work and adding any more positions would be a duplication of roles, which will give our governors a hard time.
MOTION FOR ADJOURNMENT

Date 1st August 2013
Member of Parliament: Sen. Martha Wangari
Contribution She Made On: Adjournment to a Day Other Than the Next Normal Sitting Day

- She supported the Motion by wishing all hon. Senators a good recess. She added that she hoped they will interact with the people they represent, especially in the counties.

- She welcomed the newest Senator for Makueni County by congratulate him and added that she expect that he would bring in new ideas and would not follow the example of those who do not appreciate good democracy. She pointed out that democracy was about competition and devolution and there were no dark forces.

- She also briefed hon. Senators about the actions that had been taken by the Parliamentary Service Commission (PSC) by stating that when they we resumed on 17th September, 2013, they hoped to move to the new temporary Chamber, which would be ready. She further stated that unfortunately, there might not be enough room where they could have some coffee, but the Chamber would certainly be better than where we were.

- She further stated that the PSC was trying very hard to make sure that offices were ready and available for use and congratulated Members, for their perseverance by stating that they had displayed maturity as a Senate and as the Upper House and they would continue doing that, so that the public out there could see the difference.

Date 1st August 2013
Member of Parliament: Sen. Beatrice Elachi
Contribution She Made On: Adjournment to a Day Other Than the Next Normal Sitting Day

- She congratulated the new Senator for Makueni and welcomed him to the House by stating that that was a House where Members do business in a bipartisan manner.

- She further stated that devolution was a new area and that as Members they should pat ourselves on the back because they had done a good job. She further pointed out that the Government had given them more than 38 per
cent of what was agreed upon in the Constitution and therefore they had still surpassed their projections.

- She stated that she knew very well that the first budget would have a lot of challenges, however, we, as the Senate, would have the best budget in 2014. By then, they will have operated within the process and therefore, they needed to thank the President for that.

- She urge the Senate to remain the Upper House as it brought the country together and added that they had been working together and anyone could see that they had seen that the senate could develop the country and be an example to other countries that may want to adopt devolution in Africa.

- She pointed out that as they went on recess, they had a lot of work in the Committees but she hoped that Members would go to their counties to see what was happening there and assist the whole system, especially the county assemblies in understanding the next move with regard to coming up with legislation to deal with the systems that have been devolved.