

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 13<sup>th</sup> December 2017

The House met at 2.30 p.m.

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

PRAYERS

MESSAGE

REPORT ON NOMINEES FOR ELECTION TO EALA

*(Several Hon. Members stood on the aisle)*

**Hon. Speaker:** Those Members who are standing, please, take your seats.  
Hon. Members, this is a Message from the Senate. It is Senate Message No.4 of 2017.

*(Hon. Members consulted loudly as they walked into the Chamber)*

Surely, how can you giggle like that as you enter the Chamber? Hon. T.J. Kajwang' suggests that person could be working in a sugar plantation.

*(Laughter)*

Hon. Members, Standing Order No.41(4) requires that the Speaker reports to the House any message or messages received from the Senate at the first convenient opportunity. In this regard, I wish to report to the House that on Monday, 11<sup>th</sup> December 2017, I received a message from the Senate regarding approval by the Senate of the Report of the Joint Parliamentary Select Committee on its consideration of the nominees for election as members of the East African Legislative Assembly (EALA). The Senate, by a resolution passed on Thursday, 7<sup>th</sup> December 2017, approved the Report with amendments by deleting the phrase, "13<sup>th</sup> December 2017," and inserting thereof the phrase, "14<sup>th</sup> December 2107" at paragraph six of Page 29.

I wish to communicate that the Senate has approved the said report with amendments and calls upon this House to also expeditiously do the same.

Hon. Members, as you are aware, you have also approved that Motion which was moved by Hon. Katoo ole Metito with amendments reflecting exactly what the Senate has done. Nevertheless, the rules require that I must make this communication.

Thank you.

**PETITION**REVIEW OF THE CROP ACT NO.16 OF 2013 TO RECOGNISE  
BAMBOO AS A SCHEDULE CROP

**Hon. Speaker:** Hon. Members, Standing Order No.225(2)(b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office is in receipt of a petition signed by one Taratisio Ileri Kawe on behalf of Embu Bamboo Farmers SACCO regarding the proposed amendment to the Crop Act No.16 of 2013.

Pursuant to Article 119 of the Constitution, the petitioner is requesting the National Assembly to amend Section 7 of the Crop Act No.16 of 2013 to include bamboo plant as a crop on the First Schedule. The petitioner states that bamboo plant has been in existence in this country since time immemorial but the society has not fully utilised the plant. The petitioner appreciates that if fully utilised, bamboo plant can form a strong pillar of Kenya's future green economy. Further, the petitioner highlights some of the benefits of bamboo plant amongst them, medicinal value, nutritional value, chemical value, environmental benefits and economic value.

The petitioner, therefore, prays that the National Assembly amends Section 7 of the Crop Act to declare bamboo a scheduled crop on the First Schedule of the Crop Act, 2013. Pursuant to the provisions of Standing Order 227, the petition stands committed to the Departmental Committee on Agriculture and Livestock for consideration. I urge the Committee upon appointment of its membership by the House and election of chairperson and vice chairperson, to engage the petitioner, if he so desires, in drafting a legislation to address the petitioner's prayers or communicate to the petitioner their findings regarding the petition.

I thank you.

**Hon. Speaker:** Hon. George Theuri is said to also have a petition.

ALLEGED IRREGULAR ALLOCATION OF LAND IN MOWLEM WARD,  
EMBAKASI WEST CONSTITUENCY

**Hon. Theuri:** Thank you, Hon. Speaker. I have a petition by the residents of Mowlem Ward regarding alleged irregular allocation of Plot L.R. N0.11379/3.

I, the undersigned, on behalf of residents and squatters of Mowlem Ward, Embakasi West Constituency, draw the attention of the House to the following:

THAT, Land Reference Number 11379/3 is located in Mowlem Ward, Embakasi West Constituency, Nairobi County;

THAT, the Mowlem squatters have resided on the said parcel of land since the year 1990;

THAT, in 2016 the said parcel of land was allocated to a group referred to as Kiambu Dandora Group;

THAT, several individuals and groups are claiming ownership of the said parcel of land and allegedly hold title deeds in respect to this particular parcel;

THAT, in the recent past the petitioners have lost their properties due to conflicting orders issued by the National Land Commission and courts;

FURTHER THAT, residents have allegedly witnessed police harassment and brutality occasioned by some land grabbers and conflicts over the said land;

THAT, efforts to resolve this matter with the relevant Government agencies have been futile; and,

THAT, the matter presented in this petition is not pending before any tribunal, court of law or independent body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Lands:

- (i) recommends immediate investigations into the alleged irregular allocation and determines the validity of the current allocations and ensures corrective action is taken;
- (ii) ensures that the Petitioners' plight is addressed; and,
- (iii) makes any other order or direction that it deems fit in the circumstances of the matter.

And your humble petitioners will ever pray.

**Hon. Speaker:** That Petition, just like the other one, is committed to the Departmental Committee on Lands when it is finally formed to investigate the matter but, of course, to do so within the timeliness provided for in the Standing Orders.

### PAPERS LAID

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Civil Aviation (Remote Piloted Aircraft Systems) Regulations, 2017 pursuant to Section 82 of the Civil Aviation Act, 2013.

The Wildlife Conservation and Management (Implementation of Treaties) Regulations, 2017, pursuant to section 109 of the Wildlife Conservation and Management Act, 2013

Sessional Paper No.3 of 2017 on National Policy on Climate Finance from the National Treasury and the Explanatory Memorandum

The Annual Report and Financial Statements of the National Police Service Commission for the Financial Year 2016/2017

The Report of the Auditor-General on the Financial Statements of the Ethics and Anti-Corruption Commission for the year ended 30<sup>th</sup> June 2017 and the certificate therein

*(Hon. (Ms.) Katana crossed the Floor without bowing)*

**Hon. Speaker:** This hon. Member is trotting up. Be upstanding! It is my business to see what is happening. You have been up to where Hon. Mwashetani is, shaking his hands and then crossing over. It is never done that way. You are in your second term. Go to the entrance and do the necessary.

*(Hon. (Ms.) Katana went to the Bar and bowed to the Chair)*

**Hon. A.B. Duale:** Hon. Speaker, during the campaign, she said she controlled all the demons and the witchcraft in Kilifi. I hope they are not here in the House. I further lay the following Papers:

The Report of the Auditor-General on the Financial Statements of the Ethics and Anti-Corruption Commission Staff Housing Mortgage and Car Loan Scheme for the year ended 30<sup>th</sup> June 2017 and the certificate therein.

The Statutory Six Months Preference and Reservation Report for public entities for the period starting January to June 2017 by the Public Procurement Regulatory Authority.

**Hon. Speaker:** Next Order.

## NOTICE OF MOTION

### RECONSTITUTION OF PARLIAMENTARY SERVICE COMMISSION

**Hon. A.B. Duale:** Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to Article 127(2)(c)(i) of the Constitution, the National Assembly appoints the following Members of the National Assembly and the Senate to the Parliamentary Service Commission:

Under Section (c)(i)

- (i) The Hon. Naomi Shaban, EGH, MP;
- (ii) The Hon. Adan Keynan, CBS, MP;
- (iii) The Hon. Sen. Beth Mugo, MP;
- (iv) The Hon. Sen. Aaron Cheruiyot, MP;

Under Section (c)(ii)

- (v) The Hon. Gladys Wanga, MP;
- (vi) The Hon. Aisha Jumwa, MP; and,
- (vii) The Hon. Sen. George Khaniri, MP.

**Hon. Speaker:** Very well.

**Hon. Momanyi:** On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order, Member for Borabu?

**Hon. Momanyi:** Thank you, Hon. Speaker, for giving me an opportunity to rise on a point of order and register my disagreement with the list that has been given from our side. As Members of Wiper Party, we are not agreeable to the list which has been given. The Leader of the Majority Party should know that I belong to the Wiper Party. As Wiper, we have a right to have a slot in the Parliamentary Service Commission. You realise that on the list that has been given by the NASA Coalition, there is no Member from the Wiper Party.

The Wiper Party is a recognised parliamentary party in the House. We cannot have a situation in this country where two people sit somewhere and decide who is going to be where. I invite you to the coalition agreement in the NASA coalition and I want to table it.

Article 2(6) of the said agreement says:

“Constitutional and independent offices will not be subjected to power sharing.”

Parliamentary Service Commission (PSC) is a constitutional office and it must be obeyed. I also invite you to the Constitution under Article 127(2)(ii). It is very clear on the composition of the Parliamentary Service Commission and how Members are given to the National Assembly.

“(ii) Three shall be nominated by the parties not forming the national government, at least one of whom shall be nominated from each House and at least one of whom shall be a woman.”

This Article does not talk of a coalition. It talks of parties. Wiper is such a party in this House. I therefore differ with the list that has been submitted. As I said earlier, I want to invite you to the Article and the clause of the coalition agreement which is so clear. I therefore invite you to give us a ruling on this matter before anything happens.

Thank you. May God bless this House. I hereby table the agreement. We cannot allow that, even if it means dissolving that coalition, we will do so, so long as every Member has a right and every political party gets its right share both in the House leadership and in the PSC. Therefore Wiper has a right to have its nominee in the PSC. I table a copy of the coalition agreement between Wiper and ODM parties in the NASA coalition

*(Loud consultations)*

**Hon. Speaker:** Hon. John Mbadi.

**Hon. Ng'ongo:** Thank you, Hon. Speaker. I have listened carefully to Hon. Momanyi who is a very good friend of mine. He has raised a point of order and I actually sympathise with his position. I want to put this thing into perspective so that it is understood properly. First of all, NASA is a coalition of political parties and that is recognised in law and he is right to bring to the House the coalition agreement. I just want to say that in that coalition agreement, if Hon. Momanyi cared to read carefully, it does not talk about sharing Opposition outside the Executive. Actually, positions that are supposed to be shared as per the coalition agreement are basically if NASA forms the Executive. On the issues of constitutional offices...

*(Loud consultations)*

Hon. Speaker, can you protect me from the Majority Leader and his Deputy. You know how loud the Deputy is.

It is very clear in the coalition agreement that commissions are not to be shared. There is no power sharing. I wanted to start from there.

Secondly, I want to put it very clearly that I made communication to Hon. Speaker's Office on the issue of PSC, and I did so based on powers that I have in the Standing Orders and the Constitution as the Leader of the Minority Party. I wrote two letters to you. There was the first letter and then I wrote another letter the following day overriding the first letter. Before the letters were written, I want to clarify that there were consultations. It is not an individual's decision. I just want to remind my colleague that at times there are organs of the party where you do not belong. One of the organs is the summit. This is a decision that the summit had to discuss. Unfortunately, Hon. Momanyi does not sit in the summit. So, he may not be privy to discussions that went there.

Hon. Speaker, I want to put it clearly that if there are concerns, we have our own internal mechanisms of resolving our disputes. I have a letter from Wiper written to me on the same topic forwarding the name of Ben Momanyi. Unfortunately, the summit did not recommend him. The person who wrote the letter is not mandated at all to direct me on what to do. So, I have already answered to that letter. But I want to take it further that this is a matter that can still be discussed within the coalition. We have our internal mechanism but the direction Hon. Momanyi is taking may not help his cause and I will tell him how. We have two slots in the National Assembly and one slot in the Senate. If you look at that list, it has two Members of ODM and one Member of ANC. I get to understand that Hon. Momanyi wants the slot that went to ANC to go to Wiper.

**Hon. Members:** No.

**Hon. Ng'ongo:** According to the formula he is using...I will qualify what I am saying but the direction Hon. Momanyi is taking is very slippery. I will say that because if you take the

number, the Parliamentary parties among the NASA affiliates, we only have two parliamentary parties. That is the ODM and Wiper. The two have 99 Members. The two slots in the National Assembly will all go to ODM if we use the formula. ODM qualifies for 1.6.

*(Hon. A. B. Duale consulted loudly)*

Yes I have calculated, you know I am very good in mathematics unlike my colleague, the Leader of the Majority Party who went to Egerton and studied something else. I actually studied issues of calculation at the University of Nairobi. At least I have the privilege of knowing numbers. I will tell you for a fact that if you work with that calculation and you get 76 Members of ODM over 99 with two parties, you will get 1.6. So, ODM will take the two slots. You go to the Senate; ODM will take the other slot. So, it is in the interest of the coalition to debate this matter as a coalition issue holistically, without going to constituent parties. If we go that direction, the result may not be pleasant, because I want to have this coalition cohesive, solid and one.

So, in the matter of PSC - I want to ask Hon. Angwenyi to hold his horses because he seems not to be aware of what we are debating - ODM has not taken everything. Of those three names, one is from ANC; only two are from ODM. The issue I am raising is, if Hon. Momanyi has issues, this is a matter he can bring back to the coalition through the right channel. It is not a question of I want my name there and it has to be there. These are just three slots, and we have 134 Members, all qualified to sit in the PSC. I just want to urge for caution that this is not a matter that should be made a subject of debate in the House. We have our organs as a coalition. We have the summit which actually made this decision. Before I wrote the letter recommending the three names, I had to consult with my counterpart in the Senate, Hon. Wetangula, who agreed with this position. I was communicated to from the summit. So I really do not understand why we are grandstanding here.

This is a matter that can be allowed to rest and we go and sort it out as NASA coalition. Hon. Momanyi should have also expressed his personal interest. The Standing Orders require that when you are discussing a matter where you have personal interest... By the way he is right; he is a very senior member, a well-known lawyer in this country, who qualifies to sit in the PSC. But he should have disclosed and declared his interest that he wants to sit there and that, as he has told me, he has been short-changed. I want to clarify to him that he has not been short-changed; he has not been considered. He can still be considered and so this is our matter as a coalition.

Otherwise, thank you very much. I hope I have now explained some of the issues that could have disturbed some Members. I know my colleagues on the other side would be very happy to see.... That is why Hon. Angwenyi is not sympathetic to Hon. Momanyi.

**Hon. Angwenyi:** *(Off record)*.

**Hon. Speaker:** Hon. Jimmy Angwenyi.

**Hon. Ng'ongo:** Hon. Jimmy Angwenyi has just come from a meeting where they have been ordered who should chair committees, and he thinks that is what we are doing on this side. We are not. I am fully in charge here, unlike where you go and get directions from some house somewhere.

Thank you, Hon. Speaker.

**Hon. Speaker:** What is your point of order?

**Hon. A.B. Duale:** Hon. Speaker, the Leader of the Minority Party is trying to deny the membership of this House the right to elect whoever should represent them in the next commission. He says this House has no *locus standi*. Hon. Momanyi read Article 127(2)(c)(i) and (ii) of the Constitution. As the custodian of the Constitution, protection of Standing Orders and the rights of Members, that paragraph (2) is very, very clear. It says:

The Commission consists of—

- (a) the Speaker of the National Assembly, as chairperson;
- (b) a vice-chairperson elected by the Commission from the members appointed under paragraph (c);
- (c) seven members appointed by Parliament from among its members of whom—
  - (i) four shall be nominated equally from both Houses by the party or coalition of parties forming the national government, of whom at least two shall be women; and
  - (ii) three shall be nominated by the parties not forming the national government, at least one of whom shall be nominated from each House and at least one of whom shall be a woman.

It is very, very clear when it comes to parties that do not form the national government. In this case, the parties that do not form the national government are ODM and Wiper. Those are the only two parties which are parliamentary parties within the reading of the Standing Orders. So Hon. Momanyi has raised a serious constitutional issue. Whether it is Momanyi, Makali Mulu, Hon. Rashid of Wajir East, any member of Wiper sitting in this House as per that provision of the Constitution is entitled to a slot.

Hon. Speaker, we want you to give direction tomorrow before I move this Motion, because we will not sit here, even us who are in Jubilee, when one parliamentary party is being muzzled and suffocated by its bigger brother. Hon. Mbadi, yes, you can have 99 Members. I do have 220 Members but I allow them to enjoy their freedom.

*(Loud consultations)*

Yes. I have 220 Members here. You know I am a pastoralist and in the pastoral community your wealth is measured by the number of camels you own. So when I look at Hon. Mbadi grandstanding with 99 Members, I ask myself: Jubilee alone has 172 Members; with our affiliates and independents, we have 220. Each and every Member, even the independents, must have a voice and a vote on who to represent him in the PSC. We should not bring party dictatorship to the Floor. You can exercise your party dictatorship outside, but when it comes to the Floor, the Standing Orders and the Constitution apply.

Hon. Speaker, I gave notice but I want you to address this House tomorrow before we move the Motion on Article 127(c)(ii) and declare and set a precedent and a tradition whether a party known as Wiper, which is a parliamentary party, is entitled to a slot in PSC or not. We need to know it because tomorrow some of us might be having small parliamentary parties and we may want to use this provision.

Secondly, Hon. Mbadi must be honest to the people of Kenya. And he should tell us who the members were in the first list that he withdrew, tell this House why he removed Hon. Memusi, the Member for Kajiado Central and replaced him. You are telling us you have a letter sent to the Speaker; you have withdrawn and sent another one. You say Hon. Momanyi should pass through the summit. Every Member here does not need to pass through a summit to exercise his right under Article 94 of the Constitution. So we need to know what happened to Hon. Memusi. What crime has he committed? Who replaced him? Was he replaced because he is a

pastoralist or a Maasai? We the pastoralists told Hon. Memusi long time ago: Where you have gone, you will not get pasture and water as a pastoralist. We told him. Today I can see it.

Hon. Speaker, in your communication, you should tell the House how many letters Hon. Mbadi has written to you. I write only one letter to the Speaker, because I consult the 220 and the party leader. This culture of... That is why we miss Jakoyo here. He and the late Nyenze used to write one letter but Hon. Mbadi keeps writing letters in the morning, in the afternoon and at night. So, Hon. Speaker, please give us direction tomorrow. Let us see whether Wiper has a slot or not.

**Hon. Speaker:** Hon. Wamalwa, the Floor is yours.

**Hon. Wakhungu:** Thank you, Hon. Speaker. Indeed, this matter is very critical because we know the role that Parliamentary Service Commission plays under Article 127 of the Constitution.

Hon. Speaker, on the NASA Coalition side, it is indeed true that this side is formed of coalition parties and for any decision to be made, there must be proper consultations and participation. Indeed, we have said it before. For example, the House Business Committee (HBC), the one that drives the agenda of this House, sat and said that all coalition parties must be represented. Pertaining to this list, consultation was done. Unfortunately, we have an internal mechanism of resolving the issue that we have at hand. My humble request to you, Hon. Speaker is, the leadership we have here is capable. We are trying to have a bottom up approach. Give us some little time in terms of consultations and in case of any amendment we will come back to you. Meanwhile, the way that Notice of Motion has been given, it is my humble request that it stays. However, before then, as the able leadership of the NASA Coalition, we are going to consult and come back to you. So, I beg for the business to move on. My concern is, if any communication is done to your office, I wonder how the Leader of the Majority Party is able to access it. Does he have a way of getting this accessibility or what? The way I understand it is that this matter was still under consultation and whatever was written pertaining our side.... How does he access our communication from our side to you? That is a concern that our side needs to know. Whatever comes to you pertaining to your office is confidential. We know that you have the capacity and capability and how the information sneaks out is what we are concerned about.

I beg that we move on.

**Hon. Speaker:** The Member for Kisumu West, the Floor is yours.

**Hon. Aluoch:** Hon. Speaker, thank you for giving me a chance. Looking at the Standing Orders, what we have before the House is a Notice of Motion. So, everybody who has spoken on that Notice of Motion should have been ruled out of order, in my understanding of the Standing Orders.

However, that aside, the issue that has been brought before the House, to me is a demonstration of embarrassment and how we are not able to take charge of our own responsibilities. This matter should not have been brought to the Floor of the House. I agree that Hon. Momanyi has got a valid point which is genuine and very grave. The response from Hon. Mbadi is not bad either. However, all what we are listening to points to one issue; that there is dispute within the coalition. It is not within your ambit, Hon. Speaker to deal with that. That is contained under the Political Parties Act. There is a procedure for reconciliation and dealing with disputes under that Act. So, what is being raised before the House should not be there.

Personally, as a member of NASA, I feel embarrassed that all these are coming here. I kindly urge you, Hon. Speaker that this Notice of Motion should remain where it is, no further

discussion on it now so that if there is need to handle this at a later stage...But what we are doing now is actually washing our dirty linen in public, in the House and, it is not in order that way.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Ruaraka, the Floor is yours.

**Hon. T.J. Kajwang’:** Hon. Speaker, it is interesting how this debate has been going on. First of all, you noticed that you do not have a Motion that has been presented before you and which has been proposed by which Members can now debate. However, there are interesting issues of law which I think if not discussed properly will lead Members to think that there is something happening here that is unusual.

Hon. Speaker, you remember that you gave a ruling and this House is a House of rules governed by traditions and precedents. You gave a ruling in this House in the 11<sup>th</sup> Parliament concerning my very good friend, Hon. Mwashetani. In that ruling, you remember Hon. Mwashetani was a Member of FORD-Kenya and was de-whipped by the coalition that he belonged to. And you said in several but very good words that Hon. Mwashetani being a Member of FORD-Kenya and not being a Member of parliamentary party was therefore exercising his mandate at the behest of the coalition that formed the minority party. I think that is a decision which is in the annals. If my friends would care to check, you would find it very consistent with what has happened today. This is because Hon. Momanyi has read the law quite clearly. Article 127(c)(ii) talks about “by the parties not forming the government.” It means that as the Leader of the Minority Party has said, the parties not forming government will give names according to our parties’ arrangement. In fact, to put it crudely, the Orange Democratic Movement (ODM) can donate to whichever party that is not forming the Government at its own discretion. It has nothing to do with the coalition arrangement. This also has nothing with coalition dispute. There is no coalition dispute here. This is about reading the law and then exercising that law according to the mathematical arrangements that works within that political party.

So, let us not create fodder for Jubilee that this afternoon they are very happy and very awake enjoying how many issues are coming from NASA. This is just a matter which we can go back to the law and the ruling of this House and we will find that it is properly done within the law. I request that we stop this debate and wait for that Motion to come. All of us will table that ruling here, discuss it and the Jubilee Coalition will find that even though this morning the Leader of the Majority Party wants us to believe that he is a very generous man who allows everybody to exercise his discretion... The word “guillotine” was used this morning in a meeting in which the President chaired.

Thank you, Hon. Speaker.

*(Laughter)*

**Hon. Speaker:** Maybe we do not need to go further in our contributions because indeed there is no Motion. What has happened is that the Hon. Ben Momanyi rose in his place claiming to be on a point of order and it is within his right to do so. If you look at your own Standing Orders they say at any point, at any stage any Member may rise in their place and claim to be standing on a point of order. Therefore, he was within his right to do so.

However, I think what Hon. Kajwang’ has pointed out is pertinent. This is because if you look at Article 127(2)(c)(i)(ii) they seem to make some distinctions. Part (i) speaks to parties or coalition of parties forming the national government will provide four names, two from each of

the Houses and of course the gender issues. Part (ii) which Hon. Kajwang' had referred to does not make reference to coalition. Just feel free to look at it. It talks of parties and, therefore, Hon. Kajwang' is right to say that indeed the parties and I am attracted to the language he used about the bigger party donating. It is a very attractive suggestion.

So, even if it happens that they may desire to donate, I think it is a good suggestion. Nevertheless, I think I would wish to encourage the Leader of the Minority Party and his leadership to indeed just address this matter. It is a matter I believe you can address because it is within your purview. You can address it quietly without the glare of the television cameras but certainly not at the Press centre. This is because at the Press centre things tend to get worse.

So, Hon. John Mbadi, I would like to leave the matter at that point. Obviously, since this was just a Notice of Motion, obviously, if that matter in the same manner is raised tomorrow when the Motion is being moved, it obviously would then fall to me to make a decision as to whether or not Article 127(2)(c)(ii) has indeed been complied with.

Obviously, if that matter, in the same manner, is raised tomorrow when the Motion is being moved, it will obviously fall to me to make a decision as to whether or not Article 127(2)(c)(ii) has indeed been complied with. We have not gotten there but should it arise tomorrow when the Motion is being debated, appropriate decisions may have to be made on how to progress. For now, there is no need for me to make any ruling because I assume that those allegations are a matter of jest between the two of you. Hon. John Mbadi and Hon. Duale seem to be good friends. Therefore, I occasionally assume that some of the things you say about each other are in jest.

**Hon. Angwenyi:** --- (*Off record*)

**Hon. Speaker:** There is a very old Member of the House who has forgotten the rules of the House.

The other point I wanted to advise Hon. Ben Momanyi is that the photocopy of the document that he purported to table does not seem to show... It is not very legible as to the date it is purported to have been made. It is dated something which is not very legible but it seems to read "February 2017". Unfortunately, being titled "Coalition Agreement" is the type of document I would have expected to bear some signatures and stamp. It could be something that is legible. It is not clear whether it was stamped but certainly, it does not seem to have any signatures. Therefore, in keeping with our rules and standards, it would be inadmissible. I would want to give it back to the owner. It is not part of the records of the House. It is inadmissible for the reasons stated.

Hon. Ferdinand Wanyonyi, the Member for Kwanza.

### NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.31

#### MEASURES TO CURB ROAD ACCIDENTS IN KENYA

**Hon. F.K. Wanyonyi:** Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Standing Order 33, I seek leave of the House to discuss an urgent matter of national importance regarding gruesome road accidents that have persistently rocked various parts of the country, claiming over 40 lives within two days in Baringo, Bungoma, Machakos and, lately, on the 14-kilometre stretch of the road between Sachangwan and Salгаа.

Hon. Speaker, much has been said about the treacherous 14-kilometre stretch of road between Salгаа and Sachangwan that has become the most notorious black spot in the country, where hardly a week passes before a grisly road accident is reported. That deadly stretch of road has claimed many lives over the years.

Besides sending messages of condolences, rebuking drivers and waiting for the next accident to happen, the Government, through the relevant authorities, has done too little to bring a lasting solution to the menace on that stretch of the road. The Salгаа-Sachangwan Road stretch is sloppy, winding and narrow, yet the traffic is heavy. Visibility is limited and the steep inclines do not aid safety, especially for heavy commercial trucks and buses.

Hon. Speaker, appreciating the fact that strict enforcement of traffic regulations will eliminate most of the human errors, it is necessary at this point to rethink the redesigning of the road, while erection of speed bumps could only provide short-term solutions, the construction of a dual carriageway may provide a reasonably lasting solution to the problem.

In this regard Hon. Speaker, I wish with your indulgence, to seek leave of the House to discuss this matter of national concern.

**Hon. Speaker:** Hon. Wanyonyi, you have given Notice of Motion?

**Hon. F.K. Wanyonyi:** Yes.

**Hon. Speaker:** Do you have the numbers?

**Hon. F.K. Wanyonyi:** Hon. Members, please, stand up. The Motion is about Salгаа.

*(Several hon. Members stood up)*

**Hon. Speaker:** Hon. Wanyonyi, I am doubtful if these Members heard you or know what it is that they are rising to support. Nevertheless, you have the numbers.

*(Laughter)*

Maybe, when you move the Motion, they will get the message. Obviously, Hon. Members, the matter that Hon. Wanyonyi has raised is quite urgent. It is a matter that everybody has been discussing for the last few days. I would accord Hon. Wanyonyi such time not exceeding one hour. The House rises at 7.00 p.m. If the House finishes debate on the three Bills that are listed as Order Nos.8, 9 and 10, it can debate this Motion, but not in excess of one hour. If the debate of these three Motions will still be going on, the House will arise at the hour of 6.00 p.m. to enable you to move your Motion. Should the House finish earlier, you should be available to move your Motion. Therefore, it is up to you, Hon. Wanyonyi, to keep on monitoring how business is being transacted.

Those Members who are withdrawing from the Chamber, you have no business to go dragging each other as if you are in a duel. Just walk out gently, like the gentlemen and gracious ladies that you are meant to be. Please, allow us to transact business.

Next Order!

## STATEMENT

### PREPARATIONS FOR INTERMENT OF HON. FRANCIS NYENZE

**Hon. Ng'ongo:** Hon. Speaker, as the House is aware, we have lost one of our colleagues, Hon. Francis Nyenze, EGH, who was the Member of Parliament for Kitui West and the immediate former Leader of the Minority Party.

Hon. Speaker, as a tradition of this House, I just want to make my colleagues aware that usually, when we lose a sitting Member of Parliament, we make some token contribution to defray funeral expenses. Therefore, I have written a letter in the name of the Leader of the Majority Party and the Leader of the Minority Party asking the Speaker for a deduction of Kshs10,000 from each Member. I want to make you aware so that when you see a deduction of Kshs10,000 in your payslip, you know that it went to the funeral expenses of the late Hon. Francis Nyenze.

Finally, I want to make this House aware that there is already a committee that has been constituted to plan and organise the burial arrangements of our brother. The Committee has 10 members of the National Assembly and four staff members. The members of the National Assembly are:

- |                                   |   |                               |
|-----------------------------------|---|-------------------------------|
| (i) Hon. Aden Duale, EGH, MP      | – | Leader of the Majority Party; |
| (ii) Hon. John Mbadi, CBS, MP     | – | Leader of the Minority Party; |
| (iii) Hon. Makali Mulu, MP        | – | Chair;                        |
| (iv) Hon. Patrick Makau, MP;      |   |                               |
| (v) Hon. Gideon Mulyungi, MP;     |   |                               |
| (vi) Hon. Cecily Mbarire, MP;     |   |                               |
| (vii) Hon. Jessica Mbalu, MP;     |   |                               |
| (viii) Hon. Katoo ole Metito, MP; |   |                               |
| (ix) Hon. Chris Wamalwa, MP; and, |   |                               |
| (x) Hon. Joyce Kamene.            |   |                               |

Hon. Speaker, Hon. Makali will be chairing the committee because both the Leader of the Majority Party and I are committed with other things.

Those are the members of that Committee. I do not want to say more because we have already used the Floor of this House to express our sympathies and condolences with the family, friends and relatives of the late Hon. Francis Nyenze.

Thank you, Hon. Speaker.

**Hon. Speaker:** Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, it has been our practice since the 10<sup>th</sup> Parliament. When we lose one of our own, we collectively contribute Kshs10,000 each towards the funeral expenses and to the family of the deceased. So, it has been our tradition. Usually, we do it through the check-off system. I am sure Hon. Nyenze was a great leader and Member of Parliament. I am sure all of us will make that little contribution.

Hon. Speaker, you will have to give us some loan because there are some members who might not even have extra Kshs10,000 in their payslips because of servicing mortgages. It is true. After you take mortgage and car loan, you will hardly remain with anything in the payslip. People must know that. I think it is time people know that Kenyans, through Sarah Serem, have done what they have done. In the 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> Parliaments every time we lose one of our own, each of us contributes Kshs10,000. I am sure the family of Hon. Nyenze will always appreciate the contribution of his colleagues. Parliament is like a school. He is one of our colleagues and I really want to ask Members that once the burial date is set, all of us can spare time from our busy schedule to go and give our colleague, elder and leader a deserving send-off.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Kitui Central.

**Hon. Mulu:** Thank you, Hon. Speaker. As the chairman of the planning committee for Hon. Nyenze's burial, I take this opportunity to thank the Parliamentary Service Commission (PSC), more so you, Hon. Speaker; and the Office of the Clerk for the support you have given to the planning committee up to this time. We have agreed on the key dates. Today evening, we are doing the fundraiser. On Friday, there will be the church funeral service at Christ is the Answer Ministries (CITAM) Church, Karen. Next week on Tuesday, we will be resting our brother. So, I appeal to all the hon. Members to continue supporting us, just the way you have done up to this moment. My appeal is for you to attend the fundraiser this evening. It will just be next to Tintin Restaurant. It will be a very good show for us, as hon. Members, to come and be seen there as we support our colleague.

Once more, I say thank you very much. We appreciate, as the planning committee, what the House is doing.

Thank you, Hon. Speaker.

**Hon. Speaker:** I think Members are accordingly informed. Next Order!

## BILLS

### *Second Readings*

#### THE BUILDING SURVEYORS BILL

*(Hon. (Ms.) Mbarire on 5.12.2017)*

*(Resumption of Debate interrupted on 6.12.2017 – Afternoon sitting)*

**Hon. Speaker:** Hon. Members, there was nobody who was on the Floor and so far, only 15 members have contributed to the debate on this Bill. So, any Member is at liberty to contribute. I see the first person appearing on the screen is the Member for Makueni.

**Hon. Maanzo:** Thank you, Hon. Speaker, for giving me an opportunity to contribute to the debate on the Building Surveyors Bill.

This Bill seems to reproduce the Architects and Quantity Surveyors Act in a way, and does not seem to define who a building surveyor exactly is. We have quantity surveyors and building surveyors. If you look at what this building maintenance means, it is clearly work undertaken by architects, builders and quantity surveyors. Though it is a very good Bill, it should come out clearly on what exactly is to be done by who because once you see the work they propose to undertake; like rehabilitation, reclamation, preparation of maintenance schedules, planning and budgeting, and management of maintenance works, one will appreciate that it is exactly the same job done by architects, engineers *et cetera*.

During the Committee of the whole House stage, we will be proposing amendments so that it is clear who exactly a building surveyor is. This is because the person who is described in the proposed Clause 22 of this Bill is not clearly defined. Probably, they are people who could be working or cannot work by themselves but work under supervision of architects and engineers. Therefore, if there is going to be a law of this nature, it should be clear because construction work is very serious. We have seen what has happened in the country lately. A lot of buildings are collapsing and killing people. There are investments which have been done without input of

architects, quantity surveyors and others. We want to avoid a situation where this particular group of people, who are seeking legislation, end up practising under a law which does not entirely cover their scope of work, and end up forming an association which is a duplicate or could easily belong to other associations, as has already been put forward by other Acts of Parliament.

There is the issue of registration. It is a board. Definitely, according to the Memorandum of Objects and Reasons, it is clear that it will lead to an extra expense. The country has had a policy of reducing boards or organisations which are likely to eat into the budget, especially when there is duplication or when the functions of the new entity being created can easily be accommodated in an already existing entity. There has been a way of reducing boards; by clustering them so that they are under a common management. Therefore, though it is a good Bill seeking to control these particular builders or people who undertake construction works, it needs to be improved so that it captures its scope well.

It can be useful to Kenyans to ensure that we have better quality buildings in the country, quality undertaking and surveying of where buildings will be constructed so that it does not end up being a burden to citizens. It is an organisation which seeks to draw from the Budget. Ordinarily, organisations of this nature like the Law Society of Kenya (LSK) and the Architectural Association of Kenya (AAK) - which control their respective industries - do not draw from the national Budget but members make contributions and are able to run their affairs. Even with regard to this one, we will be proposing amendments so that if the House agrees with the Leader of the Majority Party and passes this as law, then it will be sustained by its members and the law can regulate them.

There is a role for the Cabinet Secretary responsible for matters relating to housing. That is the same department where you find architects, quantity surveyors and engineers under the same umbrella. Therefore, there is a high chance of duplication in this Bill. I will support it especially with further amendments.

**Hon. Speaker:** Let us have Hon. Sakwa Bunyasi, Member for Nambale.

**Hon. Bunyasi:** Hon. Speaker, I spoke to this. I was queuing for the next one.

**Hon. Speaker:** Let us have the Member for Lamu West.

**Hon. Muthama:** Hon. Speaker, I rise to support this Bill because of the current situation that we have experienced of buildings and structures collapsing in the country. We should have regulations and rules that govern and protect the common *mwananchi*, who in one way or the other is a layman. This should also be exercised at the county level so that whatever policies we will come up with are also exercised there so that as we move forward, we all progress like any other country.

**Hon. Speaker:** Let us have the Member for Mwingi Central.

**Hon. Mulyungi:** Hon. Speaker, I rise to oppose this Bill. The reason is because this building surveyor is an ambiguous person. I do not have an idea of who this person is. I speak as an architect in the building industry. The players in the building industry are known. This Bill may be introducing quacks in the construction industry. We know the players in the construction building industry are architects, engineers, quantity surveyors, land surveyors and valuers but I have no idea who this building surveyor is. Looking at the definitions in this Bill, it is not defined who the building surveyor is. It is not even defined where he went to school, which secondary school or university he attended, what his qualifications are or what degree he studied. It is not in this Bill. We could be passing a Bill of quacks to go and construct buildings which will start collapsing again and killing our people.

Clause 22 of this Bill talks about application for registration being made to the board. Clause 30 talks about the financial year of the board. Even the drafters of this Bill did not know what they were talking about. It is completely confusing. Clause 21 which talks about conditions and qualifications is where you are supposed to find out who this guy is. It is not even said who he is. I strongly oppose this Bill. It needs to be taken back to the drafters so that they can tell us who this Bill belongs to so that we can pass it.

Further, Clause 29(a) talks about drawing money from the Exchequer. We know that the Government is struggling to raise money and here we are introducing a Bill of a professional who is not known in the construction industry and who will start drawing money from the Exchequer when the Government is busy reducing our salaries. The money going into this Bill should go into increasing our salaries. It is a wasted effort. If you go to the Statement of the Bill at the end of it, it is very clear that the enactment of this Bill shall occasion additional expenditure of public funds to be provided through the estimates and yet we do not know who this guy is.

I strongly oppose this Bill and propose that it be taken back to the drafters to draft it properly and tell us what the qualifications of those people are.

**Hon. Speaker:** Let us have the Member for Sirisia.

**Hon. Koyi:** Thank you very much, Hon. Speaker for also giving me a chance to speak.

My colleague has come up with something that is really shocking. He is an architect and has served in the Government as an architect. I was also going to support this Bill but according to the architect Member of Parliament of this House who has opposed the Bill with reasons given to this House, we better check if the Bill is correct and if the drafters are correct or they are cheating us.

We have had a lot of problems in this country where many people have died because of buildings that are not constructed properly. They have killed innocent people. It is now high time that when information like this comes to us, we take it seriously and save the lives of our people. I also oppose this Bill because we do not want to lose many Kenyans or have buildings collapsing. People dying without any good reason because they cheat and we pass Bills like this which affect our country and people.

Therefore, I oppose the Bill.

**Hon. Speaker:** Member for Tigania West.

**Hon. Mutunga:** Thank you, Hon. Speaker, for the opportunity to speak on the Motion at hand. I would like to bring to the attention of the House the substandard documents being tabled in this House. There was a Private Member's Motion this morning that among other things did not realise that some laws made in this House have been done away with. The Motion was talking about the Kenya Sugar Board. We did away with the Kenya Sugar Board in 2015. So, we are talking about things that are not correct in this House. Whoever is behind the drafting is not taking time to bring to this House documents that have been thoroughly researched. That particular document went further to say very many things, including reinstatement of the Coffee Development Fund which was also done away with. The Commodities Fund was created. I do not know where this is coming from. We need to be careful as a House. We need to have the right people in the right place, so that we talk about the right things. We do not want to pass legislations which will mislead Kenyans.

I stand to oppose this Bill with reasons. Number one, we are not very clear who building surveyors are. We need to be very clear who they are and where they are anchored in the Kenyan professional lines. We also need to be very clear on what exactly will be done to them and

whether this Bill has followed the right procedure. We know money bills follow a certain procedure. If it is a money Bill, I am very sure that there must have been some consultations. We need to be very clear since it is coming for Second Reading. We need to know whether this Bill has been properly adjudicated by the different committees of responsible persons to ensure it is here in its right condition, and we can give our contributions.

In view of what the professionals in the House are saying, I stand to oppose this Bill. I would like this House to be given an opportunity to have a better drafted Bill that is very clear, and is able to give us proper information that we can act upon so that we pass something that we can stand by.

I oppose the Bill, Hon. Speaker.

**Hon. Speaker:** There being no other Member desirous of contributing to the Bill, I call upon the Mover to reply.

**Hon. A.B. Duale:** Thank you, Hon. Speaker. At the outset, I want to thank all Members who made valuable contribution to this Bill. For record purposes, the Building Surveyors Bill is in this House accordingly and according to the Constitution. It was subjected, by the relevant ministry, to public participation. It passed through the Cabinet. It was forwarded to the House by the Attorney-General of the Republic of Kenya who by law is supposed to forward legislative proposal of the Executive to Parliament.

Once we form the relevant committee, it will look at this Bill and present a report to the House. It is the only time when we shall bring this Bill for the Third Reading. The reason why we have this Bill before this House is to regulate the activities and the conduct of building surveyors. It is very important. The way there is the conduct of lawyers in this country and how doctors carry out their functions, we must have a law that takes care of how we regulate the activities and conduct of building surveyors. That is why this Bill provides for the establishment of Building Surveyors Registration Board, its composition and conduct. There are many quacks out there who are masquerading as building surveyors. They certify buildings and that is why you see many Kenyans dying and buildings collapsing. It is important to have this Bill which will create a body for the building surveyors like the Engineers Registration Board and the one which regulates the medical profession. The Bill says that there will be a registrar who will be the Chief Executive Officer (CEO) of this Board which is supposed to keep the register of building surveyors who are registered under the Act.

These days, there are people who have undergraduate degrees, PhD and Masters degrees, but they have never seen the inside of a university. That is why I totally agree with the Cabinet Secretary, Dr. Fred Matiang'i, that for you to get a degree or pass exams, you must sweat. You do not just sit here, and you get a law degree or engineering degree. There is something I used to hear when I was growing up; university cut off points. What happened to that? When we were going to school, all of us used to aspire to make sure that we get the cut off points for university entrance. When my son gets an A, A- or B plus these days, he meets somebody with a D minus in the university. That is not fair. That is why we must regulate, and have a record of who is a qualified building surveyor. I am sure with your guidance, this Bill will await the Committee to take it through the public participation, look at it and ultimately bring back to the House a report which will set the Motion for the Committee of the whole House.

I beg to reply.

**Hon. Speaker:** We cannot put the Question for the simple reason that a few Members appear to have problems sitting for two hours in the Chamber. They have left. I do not know where Members go to. They like tea too much. It was said that there were very active campaigns

for East African Legislative Assembly (EALA) earlier in the morning. Maybe, Members have been invited by the candidates. We put off the putting of the Question to tomorrow.

*(Putting of the Question deferred)*

Let us move to the next Order.

#### THE PHYSICAL PLANNING BILL

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the Physical Planning Bill 2017 be now read a Second Time.

This Bill was dealt with by this House and sent to the Senate. The Senate of the 11<sup>th</sup> Parliament did not process this Bill. They went home while holding this Bill. We have republished it with the input of the National Assembly, so that we do not go back to the same thing. It is a very important Bill. It was read here in the House on 11<sup>th</sup> October. This Bill seeks to repeal the Physical Planning Act No. 6 of 1996.

This Bill provides for the planning, use, regulation and development of land in Kenya. It is a very important Bill. As you said, you do not know where the Members have gone to. I do not think Members have gone to the lounge to have tea. You need to help us. The tea and those *maandazi* are deteriorating. They are not enticing. Once we form the Committee on Welfare, Service and Facilities, it will deal with the matter. I am sure the media will report that Duale was complaining about tea and *mandazi*. I have all the right to complain because I am a Member of this House and we want to have quality tea and quality service at our restaurant. The hospitality offered there does not befit a Member of Parliament. We can do better.

This Bill is divided into seven parts and four schedules. Let me give a brief background on the Bill. The Physical Planning Bill was first introduced in the House in August 2015. It was considered by the 11<sup>th</sup> Parliament and passed on 16<sup>th</sup> December 2015 by the National Assembly and subsequently sent to the Senate. So, the Senate stayed with this Bill for one-and-a-half years. Now that we have a new Speaker and a new leadership in the Senate, they should take their work seriously the way the National Assembly does. The Bill lapsed in the Senate following the end of the 11<sup>th</sup> Parliament and pursuant to Standing Order No.141(4) of the National Assembly, there was need for its re-introduction. That is why we have it here today.

The Physical Planning Bill provides for a spatial framework for the arrangement and organisation of socio-economic activities on land at the national, regional and county levels and even at the village level. We must have a spatial demarcation of land regarding its use.

This is a constitutional Bill. It gives effect to Article 66(1) of the Constitution which states that the State may regulate the use of any land, or any interest in or right over land in the interest of defence, public safety, public order, public morality, public health or land use planning. The State has powers of compulsory acquisition if it requires land for purposes of defence, public safety, public order and public morality. The Bill has come at the right time. The Government must seize land based on public safety. We must do something about the Salgaa black spot even if it means reintroducing the road that used to pass through the forest.

The Bill also interprets the terms used and gives the object of the Bill in Part 1. Part II talks about the National Physical Planning Consultative Forum and the County Physical Planning Consultative Forum as well as the functions of the fora and their membership. It also provides

for the function of the National Land Commission, the functions of the Cabinet Secretary and the functions of the County Executive Committee responsible for land use.

The Bill respects the role of county governments in planning and development control. Those functions of land have been devolved by the Constitution and reserved for county governments. The Bill also ensures that the County Executive Committee Members are responsible for the formulation of county and urban development policies.

Part V of the Bill provides for the enforcement aspect of this Bill. It tells us what the services and contents of enforcement notice are. It also provides for the requirement of the present development application and services requisition offices.

Part VI of the Bill talks about the establishment of the Physical Planning Liaison Committee, its composition, membership, powers, functions both at the national and county levels. The Bill contains four schedules which deal with the following matters. The First Schedule provides for the procedure of appointment of members to the national and the county physical development forums. The Second Schedule of the Bill provides for the contents of the national, inter-county and county physical plans. The Third Schedule provides for the content of local physical development plans. The Fourth Schedule provides for matters which may be dealt with under development.

It is a very small but comprehensive Bill. All the amendments brought by the Committee and Members of the 11<sup>th</sup> Parliament when it was at the Committee of the whole House have been incorporated in it. So, it is a very rich Bill at this stage. It has all the amendments from the various stakeholders, Members of Parliament and the Departmental Committee on Lands at that time.

Finally, the Physical Planning Bill, 2017 is an improvement of the current Physical Planning Act No.6 of 1996 as it recognises the object of devolution as provided for in Article 174 of the Constitution. This Bill provides for planning, use, regulation and development of land for the benefit of Kenyans. This is a Bill that is very important to this House. It talks about land use, land development both at the national and county levels. Land is a very emotive issue in our country. I am sure Members of the Committee that is going to be established and the House in general will look at this Bill.

I beg to move and ask Hon. George Murugara, Member for Tharaka to second.

**Hon. Speaker:** Member for Tharaka.

**Hon. Murugara:** Thank you Hon. Speaker. I rise to second the Physical Planning Bill which possibly later will become the Physical Planning Act of 2017. It has been brought to the House pursuant to the provisions of Article 66(1) of the Constitution. It is important to point out that in order to bring our Constitution into effect, this House has from time to time passed laws that are provided for in the Constitution so that there is meaning in whatever each Article provides. It is for that purpose that Article 66(2) of the Constitution provides that this House will legislate relevant laws to bring into effect the provisions of Article 66(1). That is the reason we have the Physical Planning Bill before us today for debate and enactment. It is for us to bring that Article of the Constitution into force.

It is very important to note that this Bill repeals the old Physical Planning Act of 1996, which to a great extent, was urbanised. It mostly dealt with urban land and left the rural areas to haphazard planning. This Bill seeks to address both the urban and rural areas. It is my sincere hope that upon its enactment into law, we may actually even have agricultural land being planned so that we are back to the old colonial times when agricultural land used to be planned just like urban lands.

It is also important to note that the Bill brings together the national and county governments so that the two can work in consultation through a consultative forum. The planning that is to take place under the guidance of the national Government is coordinated with what the county governments are also planning. In essence, it means urban areas which mostly would be under the control of the national Government would have plans that would tally with what the rural areas under the county governments have. It is also important to note that it provides for a way of executing the Act through the various functions of the organisations that are being formed to bring the Act into force. These include the national physical development plans, the regional physical development plans, the county physical development plans and the special areas plans, which must all be brought together for purposes of ensuring that our country has a system of planned development.

This House will agree with me that we have left it to the citizens to plan the land for themselves. As a result, we have dotted our country with structures that are not coordinated, not well planned and to some extent, we complain that slums are mushrooming. These are towns that are not planned. Our ambulances and other emergency service vehicles cannot find their way in the unplanned settlements. Our citizens are not well protected because these services are not accessed when they are most needed. This is the reason the relevant Government organs and Ministry have come up with this Bill to try and harmonise whatever plans we have to execute on land planning.

Of course, there is the enforcement bit where our citizens will have to apply for licences and permits to build, construct or develop the land, which is very important. Those plans are under the old Act. The plans are restricted to urban areas. Even in the rural areas, we would be required to present our plans so that our development plans are in consonance with the law and with the plans that have been put in place by the county governments and the national Government. We must emphasise that there is penalty for failure to comply with the Act. Therefore, as we enact this law, we must also inform the citizens that they will be required to ensure that there is a follow-up. They should know that if they do anything that contravenes the Act, there is a penalty. There is an offence that is prescribed and therefore they may find themselves in court charged with contravening the Act.

This is the right time to have this law enacted. It is my humble prayer to the House that this is debated well and enacted so that we can eventually have a Physical Planning Act, 2017 which is going to last for a couple of years. We emphasise that development, just like ICT and other technologies, keep on changing from time to time. The old Physical Planning Act was enacted in 1996, which means it has served us for about 21 years. We wish that this Act will also serve us for another 20 to 30 years before we come up with different sets of laws to govern development.

With those remarks, I beg to second.

*(Question proposed)*

**Hon. Speaker:** Member for Butula.

**Hon. Oyula:** Thank you, Hon. Speaker, for giving me an opportunity to contribute to this very important Bill. This Bill has come at the right time when we have a lot of constructions mushrooming in various suburban and local markets.

I believe that coming up with any construction which has not been planned ruins the face of a town. The mushrooming constructions in various urban, suburban and local markets which

have been haphazardly constructed will cease. I hope the planning officers responsible for implementing this Bill, when it goes through, will make sure that any construction that does not appear in the plan is removed. They should ensure that any old constructions that have created slums in our upcoming urban areas are removed and the plans are brought up. The county governments are now going to have the power to work together with the director of physical planning in ensuring that any upcoming developments in our towns and markets are properly planned. This Bill is very important and should be supported wholeheartedly by this House to ensure that our towns look like other towns in developed countries. This will help us to remove the slums that have created hideouts for criminals in our towns.

With those remarks, I support the Bill.

**Hon. Speaker:** Member for Igembe Central.

**Hon. Kubai Iringo:** Thank you, Hon. Speaker, for giving me the opportunity to contribute to this Bill. I support the Bill. As the Leader of the Majority Party and the seconder have put it, this Bill is meant to cure some of the issues which have been overlooked by builders, planners or those who are charged with the work of seeing how we lay down various structures in various parts of our country. The current Act concentrates much on urban areas. It is a deviation so that, at least, our rural areas can be brought into the picture and be properly planned.

Physical planning is necessary in any environment like schools. It is important to plan our towns in terms of roads and other infrastructure. In some institutions, if you try to put up a structure, you misplace so many structures. At the end of the day, you waste a lot of space, which would have been used properly or you may put a structure where it does not fit.

We have also had cases in some of the schools in my constituency where we are unable to put up administration blocks because, say, the dining hall is at the gate and the toilets are at the other corner of the institution. At the end of the day you find that the best place you can put an administration block is behind the classrooms or behind the dorms which is a displacement. Therefore, this Bill will cure these anomalies. If there are structures which have been put at the wrong place, they can be demolished and put where there is accessibility and where they can properly fit.

We have had cases where fire has broken in our slums and our towns and the fire engine has had nowhere to pass through to get to the destination of where the fire has broken out. People complain that the Government is not assisting them to address those disasters but the problem is the developers and people who have put up structures that have blocked the way. That is where now the issue of penalties come in. If you put up a structure where it is not supposed to be, you should be surcharged, especially if that particular structure is supposed to bring accessibility. The population is growing day in, day out. If we do not manage our land properly and if we do not plan for our institutions and other structures to be put into place, we will find ourselves with no land for some particular important facilities.

People are acquiring land in riparian areas near swamps and flooded areas, they put up buildings and in the process the buildings sink. The alternative would be turning that particular area as an aquarium or a place where we can conserve for recreational purposes. In the process those houses are never assessed, then during the rainy season, some floors submerge in water and it becomes a loss and a danger to the inhabitants. A good example is my town in Maua where people have put up buildings next to the swamp. Once the rain starts, those houses are deserted until the rains subside. With planning we can avoid such areas so that they can be used for other purposes and buildings will be put at the right place.

With co-ordination, there will be proper use of land and we will improve the safety of the land users and the facilities that are put up. We will also save on costs where buildings collapse or save lives and property. The Bill is timely and once it is enacted, it will cure all this. I thank you and I support.

**Hon. Speaker:** Member for Westlands.

**Hon. Wetangula:** I thank you, Hon. Speaker for giving me this chance to contribute to this Bill. I represent an urban constituency. This failure to plan has caused a great deal of a mess in some of the settlement areas where you find people in residential houses have no roads, no sewer lines and many other things. When you look at the old estates that were started in Nairobi, mostly in Eastlands, you realise that they were properly planned. They were done with amenities also being provided. These days developers come up with plans that have no direction. You find houses being built in any direction and now we have crowded areas. If you go to an area like Kileleshwa, it used to be a single House unit, but now we have apartments all over the place. They have caused a lot of stress on the infrastructure in the area. The road, water, and sewer systems are still the same. Fiscal planning must be done with a lot of thought so that it is proper.

Hon. Speaker, you have travelled widely and you have seen how cities are planned around the world. You have seen how land is properly utilised by proper planning. In our country, land is so much demarcated that it does not make any economic sense. So, we feel that if we come up with this Bill and land is properly utilised, we shall realise a lot of benefits from our land. As the population grows, land is not expanding. We need to make use of the little land we have. Even within Nairobi, we have seen people coming to build hotels in residential areas and putting up structures that do not match with the initial planning of the area. We have also seen people building bars close to schools. When you look at some of these things comprehensively, it just boils down to planning. They say, when you fail to plan, you are planning to fail. This is what has happened in this country. We have seen it when disaster occurs especially in slum areas in Nairobi: people just stand and watch because despite the distress calls, the fire engines cannot access some of these areas. There are places, where there is a limit on how much land can be demarcated. Sometimes people have reduced that to the very minimal so that it does not make sense that somebody can even construct something in that area.

When the National Rainbow Coalition (NARC) Government came to power in 2002, the Rt. Hon. Prime Minister Raila Odinga, was the Minister for Lands. He brought down so many structures that are now paving way for the construction of these bypasses. At that time, I am sure most of us did not see the sense in what he was doing, but he had looked at the master plan of Nairobi and he knew that for us to open up Nairobi we needed to construct those roads. That paved the way for the construction of the bypasses that have now eased traffic within the Central Business District (CBD) and many other areas in Nairobi.

We must comprehensively look at how we deal with land in Kenya. Not just in urban areas, but even in the rural areas where most of the land is agricultural. Families with small pieces of land end up subdividing them to portions that are of no value to the users. As we look at this Bill at a later stage, we shall come up with amendments. Even the national consultative forum that has been established and its composition, I can see it has looked at many other aspects, including providing for membership for persons from the National Council for Persons with Disability and other professional bodies. I am sure this will bring on board proper guidance on how to utilise our land in the country.

Thank you for the chance and I support.

**Hon. Speaker:** Member for Ndaragwa.

**Hon. Kioni:** Thank you, Hon. Speaker, for this opportunity to talk on the Physical Planning Bill. I sat through when Members were debating the Building Surveyors Bill and I heard the reservations that some Members from some given professions have. It made me recall the difficulties we had during the 10<sup>th</sup> Parliament when we were trying to get physical planners out of the shadows of the architects. I heard the same sentiments, where the architects were asking whether physical planners have the capacity to work alone without being supervised by architects. This afternoon, we were treated to a similar debate, where I heard some Members wondering whether the new profession, which is not new, has qualified professionals. Some of the Members seated in this House have gone through that training. So, when Members stood and started wondering whether these are Form Four dropouts, it tells you how much we must make sure that we update ourselves with what we are debating because at times we can be accused of many other things.

I say this because the Physical Planning Bill is still going further. We first of all made sure that physical planning is a profession. I know people from the University of Nairobi and other universities who leave with degrees, including PhDs, in this field. To see that now we are even improving on the Physical Planning Act that was passed in 1996 means that this profession is doing well. It also means that the fears that were there in the 10<sup>th</sup> Parliament should be used to help us make sure that we do not become fearful going into the future. When we talk of building surveyors, we are talking of creating opportunities for people to do many other things. And you cannot do everything alone.

This Bill is very useful. Today on our television stations and most of the vernacular radio stations, you will hardly go for an hour without hearing of a land-buying company that has decided to subdivide land, sometimes very, very arable land. In a short while, when you go there, it is a concrete jungle. Without knowing, we are moving to a situation where we are more interested with the short-term monetary gains and not concerned about the future generations and how it will be like long after we are gone. This Bill addresses those kinds of issues. It helps us to even control our greed. If that is not done, then we will have a problem with the way we would want to use our land going forward.

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

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

Land remains and will remain one of the key factors in our economic growth. By and large, we have to make sure that we address its use. This Bill does exactly that. The fact that it helps us to have institutions both at the national and the local level, and it creates how they are going to work together in terms of linkages, makes it possible for me to urge colleagues to support the Bill and make it become an Act as soon as possible. Also, the fact that it has penalties for those who will flout it just for whatever reason, the fact that you will suffer some penalty, is also a very useful inclusion in the Bill.

Colleagues who have spoken before me have talked about the difficulties that we have in this country, especially in urban areas, when we have disasters. Because of lack of planning, you cannot even rescue lives. Lives are lost just because there was no planning or if there was some form of planning, there was no care to ensure that the planning was adhered to and those who did not adhere to it suffer penalties. So, it is important that we support this Bill and ensure that those

of us who are keen on land development will now develop land in a known manner. We develop land so that it is useful to us now and also to generations to come. We have bodies that must be consulted and the persons in those bodies are qualified. You can get it clearly in the Bill, so that we do not allow this asset to continue wasting away.

The stability of any nation has a lot to do with how she uses her land. Our land continues being squeezed because population is growing. If we can come up with clear ways of making sure that we make maximum use of land at a given time, not just for purposes of getting some money out of it, but if it is a question of producing food, let us make sure that the land that was meant for farming is maintained for farming. Those who came to Nairobi a little bit before others - and I see a few Members here - know that you would drive in Kileleshwa and find residential units that were bungalows, single-dwelling units. Today, you would not note the difference between Kileleshwa and Zimmerman, not that there is anything wrong with Zimmerman, but it is good to have a town that is zoned, planned and somewhere, you can see order. These days there is no order. You can put up anything that you wish.

You go into a place and buy a piece of land and you are told it is controlled development where you are supposed to put up a single-dwelling house, but within a short time, your neighbour decides to build seven storeys and the other neighbour does the same. Eventually, you are squeezed out of the area because that is not what you desired. So, to have an orderly way of using land in this country and to have a law of this nature, helping us remain within the provisions of the Act, is a very useful thing. It is helpful because it also helps in ensuring that the country is secure. Where we cannot control land use, even insecurity comes along with it.

We have to pass this Bill as fast as possible. It is unfortunate that, as the Leader of the Majority Party said, this Bill was done back in 2016 and idled in the Senate. We hope that it will not be the case again because it is important to process these Bills for purposes of helping us and our future generations.

With those few remarks, I support.

**Hon. Deputy Speaker:** Let us have the Member for Lamu West.

**Hon. Muthama:** Hon. Deputy Speaker, I rise to support this Bill. After devolution, we are seeing towns coming up in most counties. For example, in Lamu where the national Government is putting up massive infrastructural projects. So, physical planning enables us to know where to put what and what comes first. Giving county governments the power to plan and work in conjunction with the national Government will go a long way in solving the challenges that lie ahead. In towns like Bombolulu, you will wonder at the structures that are coming up which are never planned.

If we do not enact such laws or such a Bill, in the near future, 10 to 20 years to come, we will see towns like Lamu and any other of that kind with similar challenges coming up. So, this Bill is timely and should go through. I should cite an incident that happened in 2015 and 2016 where the State wanted to put up a defence college or a barracks in Lamu for purposes of security of that area. It became so difficult because we do not have such laws in our Constitution. So, this Bill is important and it will go further in solving the challenges so that we can also be like other nations in Europe and Asia where they plan their towns early.

So, I support this Bill.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Let us have Hon. Bunyasi, Member for Nambale.

**Hon. Bunyasi:** Thank you, Hon. Deputy Speaker. I rise to contribute to this Bill. I am completely confused as to whether it is a good Bill or not. I know that when you talk about good planning, it looks like motherhood and everybody needs to support it.

However, reading through this Bill, first of all, if it was just simply prose it would be bombastic without conveying the messages clearly as it should. One, there needs to be clear delineation between what the national Government would do and what the county governments should do out of their own volition. This is so that the county government of Busia would do things differently from Lamu, Machakos, Kwale and so on. There is no need for the national Government or institutions in any way to plan for towns which are far away. They have no such business because all that must be local with local capacity and trade. Recently, a local school in my constituency of Nambale wanted to build a computer lab and a science laboratory. They had drawings which had to be approved in Nairobi. Unfortunately, it has taken about four months and they are not yet ready. The principal and the board members have been travelling up and down with no success. It should be localised. There is no reason for it to get beyond Busia and if there are any guidelines, they should remain brief with interpretation and the professional work being done at the local agencies. We think of our counties as Government institutions with people who have inferior qualifications. That is necessarily not the case. We have these big bureaucrats who may be highly qualified in Nairobi but cannot service the country from Nairobi. With that distinction, although I can see a cascading structure it is not in the sense of the word devolved. It is more like delegated. These ought to be decisions that are made locally and it was my first concern on it.

Secondly, an institution like the consultative forum that has been set up has everybody you can think of. It has CSs sitting in and it runs into nearly 30 people. Those Government institutions do not work. I think that is just a way of getting people to spend a lot of time and sometimes money for those sitting but certainly, a lot of time, it slows down decision making. That kind of thing is complicated and unnecessary. Though this is the proposed planning law, there will be too much planning and little action on this. There is no building that is expected to be built without the approval of planning officers yet they are still collapsing because there is too much bureaucracy and not enough decision making, with very slow response. It is only when buildings fall that you see everyone showing up and running around and so on. Why do we not have a system that does not allow this construction to proceed, that we would be able to inspect in good time, and not wait until we get the casualties that we are getting?

Hon. Temporary Deputy Speaker, I can see a role in which decisions, whether from Nairobi, stand for the national Government; where you want to make strategic decisions, for example, on water towers, where they should be and how that should be handled as a national priority and responsibility; where we make decisions in respect of national and international infrastructure; where you want to make decisions, for example, in respect of environmental sensitive areas like pipelines and things that we do not get into. For the rest of it, allow local governments to make them within devolution of their own decisions and not the ones that must be checked with Nairobi and so on. I do not think that we have seen either quality of governance or expertise application simply because things are coming from Nairobi. I think there are a whole host of problems.

So, my view about this Bill is that whereas the principle of planning is sound like motherhood as I said, the way it is done is a convoluted document that still gives a lot of authority to Nairobi in a devolved system where these things should be done locally. If there is going to be a role for Nairobi, then it must be quality check, perhaps monitoring and experience

sharing across counties but not have them have Executive roles in things that should be done by others.

Having said all that, it is indeed very pathetic the way markets and towns are mushrooming and everybody can see that. There are many towns in this country whose roads look like what you find in Lamu, whose roads were built by virtue of ancientness of the city but not because of lack of planning. It was consistent with the infrastructure and transport arrangements of those days. However, you find modern towns growing even in capital towns of counties and so on in which you cannot move a car through the streets and in case of emergency, vehicles are unable to reach the needy people. Sewers cannot be easily laid because of lack of geometry that supports sewers and so on. These are overall principles that can be drawn, developed and enforced within the administrative and judicial systems within counties and that the national Government will simply share our best experiences and so on. If you put up a building or even assist a whole maze of buildings, what you do in high rainfall areas is going to be quite different from high temperature dry areas and so on. We are not a country that is very good with air condition and so on and so you cannot have one building that is going to be used all over. So, it completely frustrates me when you find that those things still come from Nairobi and nothing new in Nairobi is being done.

We mentioned the role of universities and so on. They have been doing research for a long time. I am sure they have developed or they should have developed arrangements that suit each climate. There might even be cultural aspects related to it. For example, I was looking for simple things and designs of sanitary facilities in schools and if you look at the Ministry, they have basic drawings of rectangular structures. I had to go to the African Medical and Research Foundation (AMREF) to get something that looked responsive to modern sanitary requirements and that has cost saving and so on. It did not come from the planners that do these things in a hierarchical way from Nairobi down to the local areas. For me, I would think this Bill needs serious audit before it is really proposed, otherwise we are just dealing with things because they are there and nobody will bother to read through them. If you read through it you just find how convoluted it is and how there is lack of clarity in it.

Personally, what I would like to seek clearly is the national Government providing guidelines, that there are clear penalties not scattered all over but it should be clear even in that structure in the village that is being put up. If you drive along roads where I come from, you will find a market after every 50 metres. Everybody is building a kiosk, shop, pub and so forth. They are waiting someday for anybody to come and say that this ought to have been the land used or to say the implications of what you are doing are these on health, for example, which is a very important thing as I mentioned. So, instead of all these mess that is being done by technical people, highly qualified as they might be, I think that we need to have laws that are implementable, which others can buy in.

The Second Schedule is an outline for inter-county and county physical development plans. Let me quickly compare that with the Third Schedule, which is dealing with matters that may be dealt with in local physical development plan.

Under population, it talks of population growth and migration density, among other things. There is lack of symmetry even in the completeness of the document. The document still requires a lot more work. It may be relevant in terms of a topic...

**The Temporary Deputy Speaker** (Hon. Cheboi): Your time is over. You have been heard. That is why you were at the World Bank.

Let us hear Hon. ole Sankok.

**Hon. ole Sankok:** Thank you, Hon. Temporary Deputy Speaker. I support this Bill. It has been overdue. If you walk around our urban centres, you will be shocked to realise that our road reserves and riparian areas have disappeared because of shoddy work by physical planners, whom we need to control. Despite the fact that this Bill may have some areas that need to be amended, it expressly states the penalties for physical planners and the channel they should adhere to in advising the Government and the Cabinet Secretary responsible for land. With time, with our population ever increasing and land ever shrinking, we may find ourselves in a situation where our farmlands just disappear. If we continue that way, we may not feed our population.

As you are aware, everybody is coming up with very calculated moves of making quick money by subdividing their land. In this country, one acre produces seven plots. Anybody who can measure using a tape measure, or by counting footsteps, has been taken to be a physical planner and a surveyor. These people have subdivided our farmlands into one-eighth and quarter-acre plots. At the end of the day, because of the increase in population, the land we used to farm on disappears and becomes small towns. Lack of farmland means we have to import foodstuffs. With the control of genetically modified seeds in our country, where will we import food from? Will we import from Uganda or Tanzania – countries which are facing a similar problem? For me, this Bill has come at the right time. We need to control subdivision of our land. We need professionals who can advise.

Part II of the Bill deals with physical planning institutions, so that we can have institutions to train our physical planners and give advice to the CS and whoever is concerned with physical planning. Part IV deals with control of physical development. Under Clause 50, the Bill seeks to prohibit or control the use and development of land and buildings in the interest of proper and orderly development of any area. Kenya is no longer orderly because of rogue physical planners and land surveyors. At the moment, in Narok, there is a whole road with a bridge that has been grabbed, courtesy of land surveyors and physical planners. Last week, the Governor took a bold step because the elections are over. He decided to give the road back to the public. That road is now available for use by members of the public. All of us in Narok were shocked that there was a road that was totally blocked. It was like a bypass for Narok County.

That is why we have been facing the issue of floods in Narok County because of wrong subdivision. Our riparian land has been taken up in Narok and has caused a lot of problems. We have had conflicts after subdivision of the land into eighths of an acre. We now lack access roads for emergency services like fire services. People have subdivided their land so that they can have many plots because there is no order in physical planning. At the end, one may have decided to plan without considering where the road was. We have dead ends of roads and sewage systems because everybody plans according to how they think fit. We need to centralise. Unlike the Member who said physical planning should be devolved, we need to centralise this development so that we know at which order we can control our population. This is because, from the central Government, it will know when it needs a particular farmland and irrigate fertile lands that are dry so as to produce food for our population.

I support.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well, let us hear the Member for Isiolo North. You have the microphone. Proceed.

**Hon. Hulufu:** Thank you, Hon. Temporary Deputy Speaker. I would like to support the Bill. It was put clearly by the Leader of the Majority Party as he introduced this Bill. It seeks to replace the Physical Planning Act of 1996. A lot of issues covered by the current Constitution and other laws such as the County Government Act, which was enacted after the promulgation of

the Constitution of Kenya, 2010, need to be captured in the new law. One specific thing is the role of the county government in the planning process.

In the old Act, we had the local governments, which constitutionally had no much powers compared to the current county governments. This Bill has adequate provisions for guiding the county governments and specifying the roles of the County Executive Committee Member for planning in the planning process. Looking at the provisions of our current Constitution and the importance it attaches to public participation, unlike the Act it intends to repeal, this Bill enhances stakeholders' participation in physical planning processes.

One of the honourable members who contributed to this Bill earlier raised concern about the number of members who are included in the physical planning consultative forums. However, if you have enhanced participation, definitely you will have to provide for a broad spectrum of stakeholders in the consultation process. I would like to specifically point out some special groups which had minimal involvement or participation under the old Act which, under the proposed Bill, have been provided opportunity to adequately participate in consultation forums on physical planning. These are people like representatives of residents' associations. We know that most of our urban centres these days have residents' associations whose members are taxpayers. They are the first people to know most of the time when some rogue officers violate their professional ethics and facilitate grabbing of land. They actually shout and make sure that the malpractices are contained.

Another special group which has been given space to be part of the consultation process are people who live with disabilities. We know that we need as a country – and it is a requirement also under our Constitution – to ensure that people with special interests and who live with disabilities are adequately catered for and of course the Council of Governors.

Again, this particular Bill which I support, also makes provision for neighbouring counties. If they feel that they need to have a joint regional plan, it allows them to do that kind of planning, especially those counties which have some conflict around where the boundary passes. I am sure this kind of inter-county planning, which is provided for under Clause 25, will actually help us to address land-based conflicts so that the two counties can sit together and decide the best use to which, probably, the areas under contention should be put and they can come up with a plan which then they can jointly implement.

The Bill also encourages integration of different types of plans. We know that because land is shrinking, we need to do things which, probably, under the old Act were not allowed. These are things like urban agriculture so that as we do physical planning, we also integrate it. It allows or encourages integration of different types of plans – the physical plans, the sector plans and so on. Again, in as much as the County Government Act requires our counties to do spatial planning, one of the hurdles which has stopped them from carrying out that kind of plan is lack of law, which is formulated at national level to provide some kind of an overall framework. I see some provisions of this proposed Bill also contributing towards that end.

You need to read it very clearly to get the gist of what is being proposed. Much of what is proposed for national level structures, like the liaison committees, are actually to provide advisory to the relevant County Executive Committee (CEC) member on broad matters of planning, strategies and standards, which I think is quite okay. This is so that the other things like the actual planning are left to the counties where actual implementation of the plan is going to take place.

With those few remarks, I support the Bill.

**Hon. Deputy Speaker:** Let us have the Member for Ugenya.

**Hon. Karani:** Thank you, Hon. Deputy Speaker, for giving me this opportunity to support this Bill. Before I continue, let me take this opportunity to thank the people of Ugenya for having overwhelmingly voted for me. It was indeed a very tough contest but because of the trust they had in me, they ensured that I emerge victorious in the last general election.

To continue, I would like to support this Bill on the Floor of the House. Hon. Deputy Speaker, you will agree with me that currently, this country has had a lot of problems because of poor physical planning within our region. We have had cases whereby even the rescue teams cannot access our slum areas when emergency cases arise. This is simply because most of the people have decided to put up buildings without following up the laid down procedures and rules. I hereby take this opportunity to support this Bill which is on the Floor of the House.

We have had cases whereby when emergencies arise, maybe cases of fire break out, most people lose their lives simply because there has not been any good planning within our urban areas. You will agree with me that because of the rogue officers who have not been able to do their work as per the laid down procedures, most people have been putting up buildings even on road reserves. However, with the current Bill, given that the penalties and other issues have been fully laid down how they will be tackled, I believe this Bill will be in a better position to tackle these emerging issues.

I hereby also take this opportunity to bring across some issues which have been emerging from most of our towns. We have some towns which do not even have expansion areas because of poor planning. I support this Bill. When you go to rural areas like where we come from, there are some towns which have been there since time immemorial but because of the poor physical planning, there has been no way these towns can be expanded and as a result, nothing much can be done on the same areas.

Without taking much of your time, I beg to support this Bill.

**Hon. Deputy Speaker:** Let us have the Member for Tigania West.

**Hon. Mutunga:** Thank you, Hon. Deputy Speaker, for the opportunity to contribute to the Physical Planning Bill (National Assembly Bill No. 34 of 2017). This Bill has come at the right time because physical planning basically provides for the special framework for economic activities. What has been happening in this country is that we have done things without necessarily looking at the future of the developments that will take place way after we are done. We plan land because land is a very scarce resource and land has different values based on where it is.

This Bill has come up as an amendment to the Physical Planning Act of 1996. This Act was there and the developments have gone on irrespective of the law. This Act was there and the developments have gone on irrespective of it. This Act lacked considerably in terms of the issues that it captured and the provisions that it made. I am aware of some cities or towns in this country which have no provisions for industrial development land. Land has been taken up by other users and, therefore, those towns cannot grow into cities. They have been completely made incapable of growing. This is because the physical planning aspect of it has not been done properly.

Physical planning has to be about the land user. Where we have cities, we normally look at where to put the Central Business District, the residential areas, the industrial areas, the social amenities and related or requisite infrastructure. In this particular Bill, there are provisions for various facilities to be put in place. Therefore, it goes further to clearly explain how the relationships between the national Government, the authorities that are being established and the county governments will work in order to bring about concerted planning.

This Bill comes up in support of or soon after we have passed a policy on land use. The policy on land use recognises investment, assignment value and also the need to place penalties on land use that is not properly taken care of. I come from the background that our land is diminishing - especially the potential land in this country. We have cities and towns growing towards the agricultural land. At some point in time, we might not have agricultural land in this country if we look at land on face value. This Bill comes in to occasion the need for us to look at land and even designate land for agriculture, industrial development, urban development, infrastructure and others so that we have growth that is coordinated and organised. In most of the developed countries, planning is done even before investments take place. The infrastructural placement is already done so that those who want to invest in a given area can do so without a problem. As we plan for the land, we will have to be sure that in 20, 30, 50 or 100 years to come, we will be able to apportion land for industrial development, agricultural development and so on.

I support this Bill because it captures the spirit of the national Government and the county governments and clearly designates the roles. I refer to Part II, especially Clause 6 which provides for the functions of the National Physical Planning Consultative Forum. I am happy because it is a forum and not necessarily a board. This forum could have been better enhanced if it had also been given an oversight role for purposes of overseeing the implementation of plans and strategies that the country or the national level comes up with.

I support this Bill because it brings about resolution of conflict between different municipalities, counties and the possibility that counties will sit together and agree on the planning across the country.

I support the Bill.

**Hon. Deputy Speaker:** Last on this Bill, we will have Hon. Kanyi, Member for Starehe.

**Hon. Njagua:** Thank you, Hon. Deputy Speaker for giving me this opportunity to comment on this Bill. This Bill comes at the right time as we have just finished discussing the Building Surveyors Bill which goes hand in hand with the Physical Planning Bill.

Kenya is developing at a very high rate. In fact, we are among the fast-developing economies. For this reason, we need comprehensive urban planning which will accommodate our Vision 2030. We also need to place our major towns on the global map by having international up-to-standard planning of roads, buildings and use of land in general. I represent Starehe Constituency and we have a lot of problems when it comes to planning of Nairobi City. In Ngara Ward, we have a case where the survey map of 1952 was altered by physical planners to remove a road called Jadongo Road, which serves the people of Ngara Market and Nyayo Market, to fit a private developer who has gone ahead to build a wall on top of a sewer line. This means that in the next two years, there will be a big problem knowing that the sewer line and the road have been blocked. The road serves the people of Ngara and Nyayo Market with over 2,000 traders. We tried to talk to the county government because good measures must be put in place. This is because physical planners are corrupt and they do not cooperate. We have been trying to talk to them to make sure that we revert to the survey map of 1952 so that we can have the road back and the people of Ngara Ward can continue using the road.

The recent Physical Planning Act which was passed in this House in 2012 is operational but has made little achievement due to corruption. Physical planning departments in counties as well as in the Ministry of Lands in Nairobi are at their worst. This is the major reason for the constant cases of public land grabbing, growing slums and congestion in towns.

As I support this Bill, I would like to say that the physical planners should not be left to be the alpha and omega. If they were to make any major changes, the input of the communities living in those areas should be included in whatever is being changed.

I support the Bill.

**Hon. Deputy Speaker:** I see no other Member interested in contributing to this Bill. Therefore, I do not know if we have instructions on who is to reply. I know it is the Leader of the Majority Party. It is your turn to reply.

**Hon. A. B. Duale:** Sorry, Hon. Deputy Speaker for keeping you.

First, I want to thank the Members who made very immense contributions to this Physical Planning Bill, 2017, which was in the Second Reading Stage. As I said earlier, this Bill was dealt with in the 11<sup>th</sup> Parliament and more specific, the House passed it on 16<sup>th</sup> December, 2015. When it was sent to the Senate, the Senate kept it until the end of the term of the 11<sup>th</sup> Parliament. Pursuant to Standing Order No. 141 (4) of the National Assembly Standing Orders, there was need for reintroduction and that is why we have done so.

It is a very important Bill. It deals with the planning, use, regulation and development of land in Kenya. There are four schedules that are at the end of the Bill. The First Schedule deals with county physical planning development forums. The Second Schedule deals with county physical plans. The Third Schedule deals with the local physical development plans. The Fourth Schedule deals with matters that may not be dealt with in any of the above.

I beg to move that this Bill be read a Second Time.

**Hon. Deputy Speaker:** Looking at the quorum of the House, I will not be able to put the Question.

*(Putting of the Question deferred)*

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

**Hon. A.B. Duale:** Hon. Deputy Speaker, I want your indulgence that we move this Bill to tomorrow because I am doing some consultation with the Office of the Attorney-General and our Legal Department in order to iron out one or two issues on public participation.

**Hon. Deputy Speaker:** That is fine. We move to the next Order. This brings us to the Motion on Adjournment on a matter of national importance that was to be moved by Hon. F.K. Wanyonyi. I cannot see him in the House. He was aware because the Speaker had asked him to be around just in case we clear Order No.10.

**Hon. A.B. Duale:** We can give the Member for Molo to move the Motion on his behalf.

**Hon. Deputy Speaker:** I know the Member for Molo will be very interested in moving this Motion. I am aware that in the morning, he had also approached the Speaker slightly later than the Member for Kwanza. The only option that we have is if he has his written instructions.

*(Hon. F.K. Wanyonyi walked into the Chamber)*

This is very interesting. At least, we have managed to see him. Hon. Wanyonyi, we almost dropped your Motion because you had been advised by the Speaker that as soon as we cleared with Order No.10, we will go to yours. Proceed quickly and move your Motion.

**MOTION FOR ADJOURNMENT  
UNDER S.O 33**

MEASURES TO CURB ROAD ACCIDENTS IN KENYA

**Hon. F.K. Wanyonyi:** Hon. Deputy Speaker, thank you very much. I want to appreciate this opportunity.

Hon. Deputy Speaker, I beg to move that the House do now adjourn, pursuant to the Standing Order No.33.

I want to thank you for giving me the opportunity to move the Motion. It is horrifying. I was coming from my constituency in Trans Nzoia County and I passed through Salgaa where I met the Governor of Nakuru County and Hon. Francis Kuria Kimani, the Member for Molo. I could not help crying after what I saw. The place was not a normal scene. The place was filled with all manner of destruction. I wept. Somebody said even the rich also cry. I cried because of what I saw. The situation was bad. People had died. Hon. Kimani, His Excellency the Governor of Nakuru County and I could not bear the scene of what we saw at Salgaa.

The problem with that road has been big. As you come from my area, you pass through that road. I use it at least three times a month when I am going to my constituency. Every time you pass there, there is always an accident. On that day, I was made to understand that there was a lorry which was coming all the way from Congo carrying rocks. It smashed the Modern Coast Bus which was coming from Kampala heading to Mombasa. The impact was so terrible that over 20 people died on the spot and many others were injured and taken to various hospitals.

We have to do something about that road. It is not the first time. We have had quite a number of accidents on that stretch of the road. In my vernacular, we say that if you see a thorn on the road and you do nothing about it, it will hurt you or your beloved one. I discussed that particular road with people on the spot including the base commander and the county commissioner who were also present with my colleague, Hon. Kimani and the governor. Something urgent needs to be done. I will suggest and hope that our Committee on Implementation, which I am a Member, will ensure this is implemented to the letter. We need street light immediately so that the area is illuminated and people can see ahead. The road is winding, sloppy and the division is very short. You cannot see what is coming or what is 50 metres away. Therefore, we need some street lights on that road.

Secondly, we need to have reasonable bumps immediately the trucks come from Mau Summit through the Molo Junction at the descent. We need some bumps. The bumps that are there do not help at all. There is also livestock. I normally see some animals crossing the road at the stretch. We need to have some strict instruction to the Provincial Administration, so that we do not have animals crossing the road at the stretch. That is a big problem.

Thirdly, I was talking to the NTSA and they said that we need to build a landing ramp from sand on the left-hand side as one goes down the hill. That will help the trucks whose brakes have failed. They would land in that area. They told me it should be built using a lot of sand, so that if a driver feels that he is not able to control the vehicle, then the vehicle can be diverted to that landing ramp zone. Mechanically, I was told that this can stop the vehicle if brakes are not able to hold.

Fourthly, most of the drivers come all the way from Mombasa to countries in our neighbourhood like Rwanda, Burundi, Uganda or South Sudan. Most employers have one driver per truck just because they want to save a few shillings. So, the drivers suffer fatigue from the

long drive all the way from Mombasa to South Sudan, Rwanda, Burundi or all the way to Congo. I spoke to the base commander and we agreed that the patrol police should check the vehicles so that each heavy commercial truck and bus has two qualified drivers. They should also find out whether they are licensed. Sometimes they cheat by having turnboys as drivers. It makes sense to have two drivers for each truck. Fatigue takes its toll on drivers of heavy commercial vehicles because they drive long distances, for example, from Mombasa to South Sudan, Rwanda or Burundi. That is the reason we have regular accidents.

I talked to the Base Commander, a Mr. Kinyanjui who told me that they want to have a resting place between Mau Summit and Molo Junction so that drivers can rest for at least 30 minutes and check the brakes of their vehicles. Most of the drivers are on the steering wheel for long hours without taking a rest. I am told that there is an infrared mechanism which can detect whether the brakes are functional, or if they are very hot and cannot halt the vehicle. Therefore, the resting place between Mau Summit and Molo Junction will give drivers a chance to check the state of their vehicles.

The drivers should also be talked to so that they do not drive their vehicles on neutral gear. When the vehicle is on neutral gear, it is very difficult to control. Most drivers do that. They drive vehicles on neutral gear going downhill. If it hits a bump, of course, it loses control.

I can see my time is over. Even though this Motion does not require seconding, I request that my colleague, Hon. Kimani, be given first priority to speak on it.

**Hon. Deputy Speaker:** Hon. Member for Kwanza that is none of your business. You might actually spoil his chance and yet he is on top of the request list. It is only from one end that this House is run and that is where I am sitting. Therefore, you have finished your contribution. Obviously, you have moved the Motion. This Motion does not require to be seconded. So, I will proceed and very reluctantly do what you have requested just because he is on top of the request list.

Member for Molo Constituency.

**Hon. Kimani:** Thank you, Hon. Deputy Speaker. Accidents along Salгаа and Sachangwan have been very disturbing. As leaders, we should not just give condolences to the families, but do something. We had agreed on most of the things that my colleague has highlighted while moving the Motion.

I will base my contribution on four factors. We need an engineering solution on the design of this road. On this, there are three options that we request the national Government to explore. One of them would be to construct a dual carriageway between Kibunja and Salгаа. In yesterday's accident, the truck ran over 13 motor vehicles that were on the opposite lane. Were it a dual carriageway, most likely the truck would not have hit the 13 vehicles. So, we ask the Government to expedite the process. His Excellency the President promised Kenyans this morning that the process is at an advanced stage. We hope the Government will keep its word and have the dual carriageway done as soon as possible.

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

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

There are two alternative routes that can be used by the trucks. From Kibunja to Salгаа there is the old road that passes through Soin. It just needs some murrum then the trucks can be diverted to use it. Before we had Mai Mahiu Road, there used to be many accidents happening along the Naivasha-Limuru Road. But once the trucks were diverted to Mai Mahiu Highway, accidents reduced.

We also have a tarmacked road from Total Junction passing through Molo, Elburgon all the way to Njoro. Even Hon. Members going to Trans Nzoia or Western do not have to pass through Salгаа and Sachangwan. They can use the Njoro-Elburgon-Molo Road which is tarmacked. If we compel private vehicles to use the road, we are likely to reduce the accidents along that road. On lighting, the Cabinet Secretary for Energy, Hon. Keter joined us and promised to light the road well. Again, we hope the Government will expedite this process.

I also call upon owners of trucks to review the way they recruit their drivers and how they remunerate them. Perhaps, part of the reason these drivers are fatigued is because they do not have alternate drivers. The reason they freewheel is to save some money on fuel because probably they are not paid well enough. I also urge the truck owners to properly compensate the drivers. Most of the drivers sleep in the truck. Maybe it is because they are not given an allowance. When it gets late and they are still on the road, they need to have a good rest so that they can refresh before they can get on the road the next day. The truck owners should also look for people of integrity when recruiting drivers. They should look for people who do not abuse drugs and alcohol and people who care about other people's lives.

My other call is to the drivers of the trucks. In the rare event that the truck's brakes fail, they should not drive for five or more kilometres with the knowledge that eventually they will crash and kill many people. It is possible to take that truck off the road and avoid hitting 13 other vehicles. When you do that, you die and everyone else also dies. We should have drivers who should be willing to sacrifice for the sake of others.

I congratulate residents of that area for the support they have given people who get involved in accidents. However, we urge them not to vandalise road signs.

As I finish, I thank and congratulate the St. John's Ambulance team. They are always at accident scenes to help and yet nobody pays them. They are there to react whenever there is an accident. We need to empower them by making sure they have an ambulance and are well taken care of so that, if there is an emergency they are able to take care of the victims.

Thank you very much, Hon. Temporary Deputy Speaker for giving me this chance.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, it is my desire to remind you that you have a few minutes each to contribute to this Motion.

I will now give this opportunity to Hon. Deputy Speaker who wishes to have a say on this matter.

**Hon. Cheboi:** Thank you, Hon. Temporary Deputy Speaker. I contribute to this Motion with a very heavy heart as a Kenyan and also as a Member of Parliament for Kuresoi North Constituency, where most of these accidents that we have witnessed in the last few days have occurred. The accident which killed seven artistes happened in my constituency near a centre called Kamara. Previously, at that particular spot, we had a tanker explosion and quite a number of my constituents were affected generally.

The last accident happened in Molo and Salгаа in the neighbouring constituencies of Molo and Rongai. That stretch of the road has been a big issue for the last many years. It has been designated as a black spot, but still nothing much has been done to improve the situation. This is not an opportunity to lament and get involved in blame games, but it is a time we need to

look for solutions. One solution I would like to offer is - I heard my friend talk about a place between Molo and Mau Summit. Most of it is in my constituency. We would be very happy if that area is given priority. There are several tracts of land, some privately owned while others belong to the Government. A small section of the forest can be hived-off to make sure that we provide a resting place for drivers because the cost of these accidents is immense to the Government. Therefore, getting a small piece of land which would have ideally been a forest area and giving it to save lives would be something of a priority.

Secondly, there is the issue of the NTSA. The NTSA has been very useful to a large extent, but sometimes they contribute indirectly. Of course, we do not want to blame them because they have been doing a good job. However, in the last few days, there have been complaints generally in those areas; that they place speed gadgets in many sections of the highway and when a vehicle passes, they chase it. When they give a chase, sometimes we could have vehicles causing accidents.

Thirdly, we also need, as my colleague said, to make sure that drivers rest well. Somebody drives a truck all the way to Uganda – and sometimes to South Sudan – because people are chasing it to make sure that they make maximum profits. Some of them are paying loans. We need to start thinking of compelling truck owners to employ more than one driver to ensure that one drives a particular number of hours in a day. Those are things that can be done.

We should also think of reviving some roads we have abandoned for quite some time. At a place called Kibunja, just after the Molo Junction, there has been a route that was used previously. We could divert it, like it has been done in Mai Mahiu, which has saved a lot of the lives that were being lost on the stretch that leads to Nairobi. Those are the kinds of things that we should look at urgently.

Lastly, we should look at setting up bumps and rumble strips. In a particular place very close to where these accidents happen in Total, there has been quite a lot of accidents. We have lost quite a lot of pedestrians along that area near a place called Jogoo. We have made requests that bumps be erected but that has not been done. If it were done, it would also go a long way in saving lives. These are things that should be done very quickly because losing lives is something that is very costly to this nation.

I take this opportunity to send my condolences to the relatives and friends of the victims of those horrible accidents. I hope the Government will move with speed to deal with that situation so that we do not have any more lives being lost.

Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): Wamalwa.

**Hon. Wakhungu:** Thank you, Hon. Temporary Deputy Speaker. First and foremost, I thank Hon. Ferdinand Wanyonyi for bringing this adjournment Motion. As stipulated under Article 95(2) of the Constitution, this House deliberates on issues of concern. During festive seasons, like now, we lose so many Kenyans because of careless driving.

Before I continue, I want to send a message of condolence to the friends and relatives of those who have lost their loved ones through these kinds of accidents. Parliament cannot be having motions of adjournment in perpetuity. We must get a solution because people are dying. I humbly request that we form a committee of inquiry to look into this matter. I remember when I was a small boy, we used to hear of Sachangwan. We have had so many accidents. We have lost a lot of lives between Salgaa and Sachangwan. For how long are we going to debate these two places? We should form a committee to inquire into this so that we move quickly to implement its recommendations. We are losing lives. If the solution lies in widening the lanes, so be it. If it

lies in erecting flyovers, so be it. If it lies in creating a diversion, so be it. We are requesting this House to move with speed and form the committee responsible for transport so that it can look into this matter and ensure that we have clear ways of resolving this issue.

The work of the committee should not be limited to the Sachang'wan-Salgaa stretch. We also lost lives in Bungoma. Recently, we lost the life of the Governor of Nyeri County, and nothing has been done. Where are the traffic police? Where is the NTSA? We need to know the cause of all these accidents. We are losing young Kenyans. We are losing the leaders of tomorrow. About the issue of trucks, the Government should move with speed to re-introduce cargo trains so that we minimise the number of trucks on our roads. Many accidents are caused by truckers who driving long distances because they have targets. They are required do specific number of trips for businesspeople to maximise profits at the expense of lives. The traffic police must do random checks, particularly on truckers. Some of them are very sleepy. They dose off while driving. This has been mainly the cause of accidents by truckers. They drive for long distances. Some of them ferry goods from Mombasa and take them across the borders of our country. That is why they drive long distances. The police must conduct road checks and ensure that each truck driver has a co-driver so that one drives as the other one rests. The police should institute such checks to ensure that accidents are minimised. There must be random checks to remove un-roadworthy vehicles from our roads.

During the Christmas season, everybody puts his car on the road even if a car is un-roadworthy. Vehicle service cards should be scrutinised to establish when vehicles were last serviced. This has something to do with corruption. Police officers take bribes instead of implementing the rules. Lives are being lost because of poor enforcement of the law, and because of corruption perpetuated by traffic police officers. The police officers who are rich are those serving in the Traffic Police Department. We have seen these instances. In terms of enforcement, even the Ethics and Anti-Corruption Commission (EACC) must move in to check the quality of inspections.

If a car is un-roadworthy, it should not be allowed to be on the road. It is very unfortunate. The Jubilee Government...

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Wamalwa, it is just five minutes. We shall have the Member for Nakuru, Hon. Liza Chelule.

**Hon. (Ms.) Chelule:** Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to speak on the same problem that we are facing as Nakuru County. First, let me pass my message of condolence to the families of those who lost their lives thorough the tragic accidents along this road.

About a month ago, we lost potential young businessmen along this road. In about 10 days, we lost seven artists along the same road. Yesterday, we lost a lot of people. As Hon. Wamalwa said, we need to have a committee to inquire into each and every kind of accident in this country so that, through their recommendations, the Government may come up with some kind of enforcement strategy.

Hon. Temporary Deputy Speaker, we have an authority that goes by the name of the National Transport Safety Authority. One of the mandates of the NTSA is to advise the Government on what to do on issues of road safety. Investigations need to be done about the accidents that occur especially along the Salgaa-Sachangwan-Kamara stretch. We need to know the clear mandate of NTSA. I thought their mandate is to investigate road safety and advise the Government on what to do. If it is a matter of constructing a dual carriageway, so be it. If it is a matter of diversion or doing another road for the long trucks, so be it. If it is through

investigation that we get to know that drivers are under pressure of some kind, we need to get some recommendations. I call upon the relevant Ministry to do something about this matter. We are not going to keep quiet as we lose our people. We are suffering as a country.

With those few remarks, we expect the relevant committee of this House and the relevant Ministry to do something about this issue.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. We shall have Hon. Bunyasi from Nambale. I know Hon. Oundo is first on the list. He also comes from Busia and because of seniority I will allow Hon. Bunyasi to have a go at it first.

**Hon. Bunyasi:** Thank you, Hon. Temporary Deputy Speaker. I accept that fully. I know that Hon. Oundo will one day get to this level of seniority by age. So, he is on the way. I will give way for him then.

I want to thank Hon. Wanyonyi for bringing up this Motion for discussion. The road we are talking about is extremely crucial. It is the one that links the central part of this country, Nairobi, western Kenya, Rift Valley, Nyanza, and others. For a long time, there have been accidents on that section of the road. Each time we make exhortations, nothing really happens. I know that some years back there was some talk about putting up a modern trauma hospital in Nakuru, which I thought was a wonderful idea. I am not up to date as to whether it was done or not. We should not wait until it gets to that level. Even when it does, that can help save lives. We need a comprehensive solution to this.

We have NTSA. The suggestion of conducting an inquiry by Hon. Wamalwa is a sound one. In the specific accidents, was NTSA part of the problem? Were the accidents a result of the boisterous, western cowboy style of chasing vehicles? Why do you not just call the police ahead and have the vehicle stopped at the next police barrier? We need to get clarity on that.

Secondly, it just cannot be the drivers. It cannot be that in all these cases, it is either careless or sleepy drivers that are the cause of those accidents. Even the issue of resting, respectable as it sounds... The drivers ought to have rested, say, in Nakuru. Perhaps those coming from the lower side may need to rest there. Of course, we should look at all these options. Insisting on multiple drivers is also a sound idea. However, I think the infrastructure solutions are also important.

The Deputy Speaker, Hon. Cheboi, mentioned that we need to get a dual carriageway. Let us not say that since we want to do a dual carriageway, we start at Rironi and construct it all the way to Total. To me that is just trying to impress. The problem lies at that particular black spot. We need to do something at that section of the road. What was suggested by Hon. Cheboi was sound. Just take the critical sections and hive out land and create... If you want to do a resting place, do that too. However, construct a dual carriageway at the minimum and straighten out the road a bit more. We also need to improve lighting as the Member for Molo mentioned. Again, we need to have as part of the solution, modern enforcement of the traffic laws as opposed to cowboy style of doing things on the road.

The fact that you have the capacity to stop vehicles and fine them does not give you a cowboy status. You just need to be civilised, modern and do things the way people know that punishment is strong if you do not obey the law. What we have said here should be taken with great urgency. We in western Kenya are losing a lot of people on the roads. I am sure people in that area are also losing people. This matter is truly a national concern and so we should follow it up with the suggestion to have the committee in charge of transport conducting an inquiry urgently

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, Hon. Lomenen

**Hon. Ekomwa:** Thank you, Hon. Temporary Deputy for this opportunity. First and foremost, I want to send a message of condolences on behalf of the people of Turkana South to the families that lost their beloved ones in road accidents on our roads. Recently we lost 23 people or more along Nginyang–Kapedo Road. Almost all those people were my relatives. I am really affected.

I support my colleague who has brought this adjournment Motion. My plea goes to the President of this nation, Hon. Uhuru Kenyatta. As he prepares to appoint Cabinet Secretaries, he should be aware of the issue of rampant road accidents. He needs to appoint someone who is very committed. We need someone who can play his role the way the late Hon. Michuki did. What he did is known by every Kenyan. During his time, there were few road accidents in this nation. It was because of strict enforcement of traffic rules on our roads. If we enforce law, we will minimise these accidents. For example, if the law is not enforced, corruption will continue. There is the issue of overloading and over-speeding. If we do not have people who can enforce strict law, that misbehavior will continue. If we put in place a responsible Departmental Committee on Transport and a responsible Cabinet Secretary, I assure you that these accidents will be mitigated and minimised.

It is also good to ensure that our roads are functional and are in a good condition. Remember what happened in Kapedo. It is because of two things that the accident occurred: one is poor roads. The condition of the road from Nginyang' through Kapedo to Lokori is very poor. Two, there are no enough vehicles because of insecurity. So, you will only find one vehicle and everybody will want to use it because it is a security vehicle. Public vehicles cannot be used. For us to minimise road accidents, we have to ensure that our citizens access more roads. The roads that are so busy like the Nakuru-Eldoret-Lodwar must be maintained in good condition at all times.

People travelling in a vehicle are from different backgrounds. Why do we allow a simple driver who is drunk on *chang'aa* of Kshs10 to kill 100 people? With alcohol of Kshs10 you could easily endanger the lives of very important Kenyans. That is negligence. That is lack of commitment in what we do. So for the rules that we set here, we need a CS who is responsible. We need a person responsible to be in charge of the transport department, who will ensure whatever we have said here will be put into action.

I thank you and I support Hon. Ferdinand Wanyonyi for this important Motion. May God bless you.

**The Temporary Deputy Speaker** (Hon. Omulele): The next Member on my list is the Member for Mandera West, but I would like to give this opportunity to the Member for Westlands first, then we shall come to you. I would like the Member for Westlands to go before you Member for Mandera West. We shall follow that order.

Member for Westlands, the mic is yours.

**Hon. Wetangula:** Thank you, Hon. Temporary Deputy Speaker, for this chance. I also want to congratulate Hon. Ferdinand Wanyonyi for bringing this important Motion. One of the things that we must observe is the way our roads are constructed and the way we manage them. One, our roads are not properly marked. Number two is signage. If you go to many countries, the signage is very important. It warns the driver. It gives the driver information. It allows the driver to be able to control speed or even know that the area he is approaching has a particular feature or speed limit. These are some of the things that we do not observe on our roads. You can run all the way from Eldoret to Nakuru and you see very few signages on the road.

There is also road unworthiness of vehicles. The transport inspection unit should make sure they inspect these vehicles regularly, especially long-distance vehicles, so that they are in proper mechanical condition before they are put on the roads.

The other element that we must be checking is the National Transport and Safety Authority (NTSA). When they came they were doing very well, but they have also developed the manners of the police where they jump on the road and start chasing after vehicles and doing all manner of things that lead to these accidents. One of the tragedies that happened over these few days is the loss of nine members of one family in Bungoma. One of those was a Form Three student at Parklands Arya Girls, which is in my constituency. I would like to send my sincere condolence to the families who have lost their loved ones.

We must also look at the issue of implementation. We have very good pieces of legislation but implementation is wanting. We need to look at how to deal with it so that we make sure that those concerned with implementation do their work properly.

Lastly, there is another element that we must also try... It might not look very clear but people must have their eyes checked every now and then. This is one of the causes of accidents because sometimes they do not see properly when they are there driving. When you are going for a driving test or renewal of licence, there should be mandatory eye check so that we know that you have clear vision on the road so that you do not underestimate some distances or some objects on the road.

Sometimes we erect bumps and you find there is nothing to show those bumps are there. If you have never driven on such a road, you will find yourself causing an accident because you do not see anything to warn you that there are speed barriers ahead of you.

I would like to condole with the families. As a country we need to do better than this. We need to improve on how we construct our roads and erect signage at every vantage of our roads so that drivers can be informed properly.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): The Member for Mandera West.

**Hon. Yussuf Adan:** Thank you, Hon. Temporary Deputy Speaker. I sincerely thank Mr. Wanyonyi for having moved this Motion. It is very timely, indeed. Since long ago when Egerton was still a college and I was a student there, I used to hear about these accidents in those areas up to and including yesterday. What are we doing about it? We need not talk and talk and do nothing. What we need to do is to first and foremost find the root cause of that particular accident in that particular area. Why that area all the time? Why these big disasters in that particular area? Recently, religious leaders went there to do cleansing; maybe it was not accepted. They might need to repeat it.

So the first thing I recommend is: Can people in the transport department, very technically competent engineers, first and foremost find the root cause of that accident in that particular area? Once the root cause is identified, then can very quick actions be taken in order to solve that issue? It may be erecting very big bumps so that vehicles slow down as they head to that area. It may include having other roads, like what has just been said, the Mai Mahiu Road and the former Naivasha Road where lorries were told to use that route while the small cars use the other route. Road accidents have drastically reduced in those areas. It may include coming up with a dual carriageway to lessen the impact of the accidents. Without the dual carriageway, when an accident happens and there are two lanes, vehicles coming and going are close to one another and the impact becomes larger. When you have dual carriageway, accidents will not end

up involving 13, 15 or 20 vehicles. Whatever action needs to be taken must come from having identified the root cause of that problem.

In Kenya, we have very rogue driving habits, even here in Nairobi. I was actually shocked by the way a *matatu* handled me yesterday. I was holding my breath for quite some time. There was traffic jam and there was no space. All of a sudden it gave itself some space from nowhere. I even wondered how it got space. This is a very rogue driving habit which the late Hon. Michuki did something about in Nairobi and everywhere else including even in my place where there are no roads; where the road you used in the morning is gone by the time you come back in the evening and you are forced to look for another one. Every vehicle in my area has got *panga* to cut trees and make new roads whenever it is necessary.

The traffic police, a lot of the time, are the cause of accidents. To make the matter worse, we brought something called the NTSA which is becoming worse than the traffic police. It is like loading a problem onto another problem. What we need is for the traffic police to be disciplined, take necessary actions or act on things very quickly, urgently and areas such as Salgaa needs serious attention. Let us stop too much talk and take action. Let us identify the root cause and take actions.

Thank you, so much.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have Hon. Angatia Savula, the Member for Lugari.

**Hon. Angatia:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to the Adjournment Motion regarding the state of the nation concerning the traffic road accidents.

Hon. Temporary Deputy Speaker, I squarely blame the Kenya National Highways Authority (KeNHA) and the National Transport Safety Authority because of the following reasons: The design work of our roads, giving an example of my constituency, at a place called Chimoi Bridge is bad. The road has been designed to have four lanes but when you approach Chimoi Bridge, the lanes collapse into two at the bridge. What happens if you meet a truck driver who is dangerously driving at that bridge? You will definitely cause an accident at that particular place.

Three weeks ago we had an accident at the same place and on several occasions several people have been killed at Chimoi Bridge. We are asking KeNHA to be serious in their work when doing road designs to ensure that they open up bridges so that they allow enough room for both vehicles to pass without affecting each other.

Secondly, these accidents are also caused by lack of adherence to regulations. I remember that the 11<sup>th</sup> Parliament passed a regulation concerning traffic movement. There should be no movement of trucks between 6.00 p.m. and 6.00 a.m. As you drive along the Nairobi-Eldoret Highway you will find traffic jam between Naivasha and Nakuru caused by heavy traffic movement of trucks along that road and yet we have a regulation that was passed by this House that there should be no movement of trucks between 6.00 p.m. and 6.00 in the morning. What happened?

Thirdly, in the same vein, we have the same regulation that bars tractors from transporting cane in sugarcane growing areas like Bungoma, Mumias, Kakamega, Chemelil, Muhoroni, Vihiga and Busia. You know these trucks transport cane at night. The visibility is very poor and secondly they do not have reflectors. You can easily ram into a tractor at night. Then there is a regulation that is supposed to be implemented and enforced by NTSA and the

traffic police. However, what happens in this country is that we are more advanced in corruption than any other African country. We do not implement our policies but we go for kickbacks.

Here in Nairobi, as I happen to be taking whisky along Langata Road waiting to go to my house in Karen, I find a group of NTSA officials along Langata Road towards Karen after Bomas. Their mission is rent seeking activities and yet people are dying on the highways. What business does NTSA have in collecting small bribes in estates where somebody is driving a distance of less than 10 kilometres from a bar to his house and then you are charging him a Kshs10,000 bribe? These NTSA officials must be sacked or we do away with it completely. You have no business chasing a driver in Nairobi in the estates with Alcoblow yet people are dying on the highways. Were you employed to seek rent? Furthermore, this accident according to the media was caused by a driver who was evading arrest from a rogue NTSA official. Do we legislate here to create parastatals that allow people to seek rent in this country? In Kenya we are very poor in policy implementation.

Recently, I was in a small country called Rwanda. In Kigali, they are doing a Kshs700 billion international airport. Talk of Kenya, the greenfield airport you see here is total corruption. What are we doing? The issue is implementation of policy. Let us subject this matter to the Departmental Committee on Transport, Public Works and Housing, they bring a report here then the Committee on Implementation must follow it up to ensure that what we talk here is implemented.

Thank you, so much and I support.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Savula, you would rather have NTSA on the roads in Mumias than on the road to Karen where you reside. Okay. We shall have Hon. Chepkwony Kathambi, Member for Njoro County. I heard you Members saying gender and you also said that you had been skipped many times. I would just like you to note that I actually noticed you when you walked in because I came in together with you. It is now your opportunity to have your say.

**Hon. (Ms.) Chepkwony:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity at least to say or contribute something. Today, Nakuru County where I come from is mourning. We have lost over 40 lives within less than 30 days.

Hon. Temporary Deputy Speaker, the matter raised by our colleague, Hon. Member, is now a serious matter of concern in this country. Sachangwan and Salgaa areas are where most of my people from Njoro Constituency go looking for their daily bread. The issue of accidents must be handled with seriousness this time round. What we need in our country now is serious implementation on every matter which can make us prevent accidents. We need clear markings on roads, appropriate bumps here and there so that we can prevent such accidents.

Hon. Temporary Deputy Speaker, I would also propose that the drivers who drive long distances must be more than two in a truck. This is because long distances make most of our drivers feel sleepy and thus we end up encountering such serious accidents.

Hon. Temporary Deputy Speaker, it is high time we expanded our roads to ease jams and accidents. In Nakuru Country, the road which passes through Salgaa is the same one which goes to Eldoret and back to Kericho and Bomet. In future, I will be requesting our Government to check how we can have an alternative road like Soilo through Njoro, Molo to Kericho and Bomet. I think that will ease the congestion on the Nakuru-Eldoret Road.

Hon. Temporary Deputy Speaker, it is also high time the drivers in this country are qualified. This is because sometimes we have drivers and to some extent they hire drivers who are not qualified.

Hon. Temporary Deputy Speaker, we are requesting the Committee on Transport, Public Works and Housing to start working very quickly, starting with the roads that have caused so much pain and damage in this country.

As I finish, I wish to send a message of condolences to my Nakuru County for losing a lot of lives within Sachangwan and Salgaa.

Thank you very much.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have Hon. Oundo. Hon. Kithua, I have seen you. You do not need to carry your hand. We will see what we can do. You have been here.

**Hon. (Dr.) Oundo:** Thank you, Hon. Temporary Deputy Speaker. I lost my chance to Hon. Bunyasi. Thanks for being kind enough to remember me that I am still in the Chamber.

I stand here to contribute to this Motion, having lost one of my constituents in the pile up that happened yesterday. His name is Mwalimu Rajuayi. I condole with the family. Early this year, I lost another constituent in the same area.

It is we, people of western Kenya, who probably suffer most in the Sachangwan accidents. Probably, if you look at the trend of accidents, there seems to be an emerging trend, which needs to be investigated thoroughly. Research needs to be conducted to ascertain exactly what the problem is. As long as I can remember, there have been accidents in the Salgaa-Sachangwan-Nakuru stretch of that road, all the way to Total. There must be a problem. The NTSA and KeNHA have been created to improve matters, but they have not assisted. The Traffic Police Department has been beefed up to no much difference. It is time to re-look at the management of transport in this country and leave it with the people who understand the pain of accidents. We only remember those who have lost their lives but we quickly forget those who have been maimed and injured, who are living with scars. Some accident victims have been confined to wheel chairs and spinal hospitals for the rest of their life.

The burden they impose on their families is untold suffering. It is time the ministry in charge, the CEC and all the organs in charge of transport in this country woke up from their slumber and took up their roles seriously.

There is no need to continuously pump funds into these bodies yet they are doing nothing to prevent or minimise traffic accidents in this country. As Hon. Savula said, NTSA seems to do well in arresting drunkards and parading on television. They feel happy when they arrest Hon. Members and senior members in society for taking a drink in the neighbourhoods.

They should concentrate on areas that cause the largest number of accidents. Statistics show that out of 100 traffic deaths in this country, as social media frequenters normally joke, only 20 per cent are associated with drunk driving. It would seem the biggest source of accidents in this country lies elsewhere. They need to look at issues in a more critical manner and address the causes of accidents. Obviously, our courts have been a let-down. They have generally treated those who cause death by driving as reckless driving. Death is death.

We need to look at our laws clearly and decide under what provision of the law we can charge traffic offenders. To KeNHA, please mark roads and design roads that can prevent deaths. Sachangwan has killed very many people over the years. This is no longer a problem of drivers and faulty vehicles. It is time you designed roads to minimise accidents.

With those few remarks, I beg to support and send my condolences to all affected by these accidents.

Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): Because Salgaa is in Rongai, where Hon. Raymond is the MP, I would like to give him an opportunity to speak.

**Hon. Koyi:** --- (*inaudible*)

**The Temporary Deputy Speaker** (Hon. Omulele): The very purpose of this adjournment Motion is to debate a matter which occurred in his constituency. We shall then have Hon. Koyi Waluke, who has been sitting here.

**Hon. Moi:** Thank you, Hon. Temporary Deputy Speaker for this opportunity.

The Salgaa-Mau Summit Road has claimed so many lives that it has reached a point where we have forgotten the number of people who have died on this road. It is time the Government walked the talk.

In 2009, there was an accident at Sachangwan which involved a fuel tanker where hundreds of people were killed. The then President, Hon. Mwai Kibaki, and many national leaders, attended the funeral of those affected. It was here that they promised to put up a trauma hospital at Salgaa Trading Centre. Nine years later, this has not happened. Most of the deaths that occur because of accidents is because of the long distances that the affected have to take. They have to go at a provincial hospital almost 30 kilometres away. It is in that process of transporting them to Nakuru that they die.

Even on arrival in Nakuru, the facilities at that hospital are not up to date. I am sad I read in the *Daily Nation* of today, where they call it a Level 5 hospital. It is not. They do not have medicines and facilities to treat those who are affected by accidents. It is time the Government walked the talk. It has been a long time. When the President proposed that a hospital should be established at Salgaa, the National Government Constituencies Development Fund (NG-CDF) Committee of Rongai donated five acres of land for the establishment of that hospital but nothing has happened to date. In 2013, as the MP for Rongai, I visited the Ministry of Health. The PS, Dr. Kassachoon, promised that there was progress in establishing the proposed hospital. She told me that there was a donor partner who had been identified in the United Arab Emirates (UAE), and that they were at work in trying to build the hospital. Nine years down the line, we still talk about the trauma facility as people continue to die.

My plea to the Government at this point, because I would like to give chance to other Members to contribute; is that the proposed hospital must be built. On the section between Sachangwan and Mau Summit, there must be over 200 policemen. There must be so many cars belonging to the NTSA. However, they aggravate the problem. They are supposed to maintain order on the road in order to mitigate accidents. However, they have become a source of accidents. These are two centres of corruption, and everybody knows it. They should not be there.

I hope the Government is building a dual carriageway from Ngata to Mau Summit. We pray that this is done. I plead that the proposed trauma hospital is established.

With those few remarks, I support.

**Hon. Oyoo:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Oyoo, what is out of order? Hon. Koyi, give him just one minute. Let us hear what is out of order.

**Hon. Oyoo:** Thank you, Hon. Temporary Deputy Speaker. I would like to remind my good friend whom I would not want to interrupt, Hon. Raymond Moi, that he is in the Kenya African National Union (KANU) and KANU is partnering with the Jubilee Party. So, the best place to report is, maybe, to complain to the Jubilee Party hierarchy that there is a lot of corruption between Sachangwan and---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Oyoo, you are out of order. All of us here are members of this House and we are allowed to have our say. Hon. Waluke, proceed.

**Hon. Koyi:** Thank you very much, Hon. Temporary Deputy Speaker. First, let me send condolences to the families that lost their loved ones. It is true that all of us are talking about this fatal accident that happened and we have lost very many people in this country.

As a Member of Parliament from Sirisia, I blame two institutions. One is the police. This is because as a Member of Parliament, I have also witnessed that most of the times, they do not do their work properly. You can see a policeman taking money from the truck drivers. That means they are corrupt and they are not working. Every year, we lose at least 4,000 people, especially during Christmas. It is high time that this House takes action when we speak on the Floor of the House like this. We have not seen implementation of Motions or Bills. We cannot just discuss here and then everything keeps quite. You do not see any implementation. Although our work here is to represent our people, most of our talks have not been implemented.

When we saw the accident on television, one officer of the NTSA was chasing the truck because he wanted money. Some of our truck drivers drive when they are tired and then they hand over their trucks to their turnboys. So, they fail because of the long distance. Somebody drives the truck from Mombasa to Rwanda without resting. It is the failure of the police to investigate when they take their licences. Some do not even have licences. They just drive these trucks. This week alone we have lost about 50 people in 24 hours, which is very bad. These people were going for Christmas in their homes. For example, those who died in Bungoma had gone to visit their relatives and one family lost nine people. It was a pity to that man when he was explaining on TV that he lost his wife, his brother, his brother's wife, his son and the entire family. It is so painful.

I noticed that another problem is that the Government – and this is either the Kenya Rural Roads Authority (KeRRA) or the other institutions – has failed because there are old roads in this country. I think we are careless because when we build a new road, the old road will just be left that way. I have seen it in Mau Summit and Molo. There is an old tarmac road which is there. When they built the new one, they left the old one. That is a waste of money. I saw this weekend that they are reviving the old bridge in Athi River. The old road is now being re-carpeted or new tarmac is being put. I think to save money for this country, the Government also needs to check on something like that or make it dual carriageway. We need dual carriageway all the way from Mombasa to...

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Waluke, are you done? I will give you one minute to just wind up.

**Hon. Koyi:** Thank you very much, Hon. Temporary Deputy Speaker, for adding me a minute. I was saying that we need a dual carriageway all the way from Mombasa to Malaba to save lives of our people.

Again, let me take this opportunity to thank Hon. Wanyonyi for having brought this Motion to the House. Let it be implemented. As members of this House, we should not just talk and the public is not seeing the fruits. Members of Parliament are passing Motions and Bills and they are not being implemented.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Okelo.

**Hon. Okelo:** Thank you very much, Hon. Temporary Deputy Speaker. First, allow me to extend my deep condolences. I am in prayers with the families who have been bereaved. Salgaa has become a common phenomenon when you talk about accidents in Kenya. I think it is high time we did put real strategies that will combat this once and for all. As my colleagues had

indicated and would want to put a lot of emphasis on that, right from Molo Junction to Salгаа, there used to be a diversion which can as well be used by heavy trucks to try to avoid these perennial accidents that have claimed lots of lives in that area.

Article 26 of the Constitution of Kenya talks in mandatory terms that every person has the right to life and everything begins there and actually ends there. So, we must do everything within our powers to safeguard the life of every single Kenyan. We must make sure that each truck, particularly those plying longer distances, must have two drivers working interchangeably so that we address the issues of fatigue that have claimed lives of so many. Life is sacrosanct. There is sanctity of life that must be respected and protected. We have lost over 100 lives in the last few days as a result of accidents. Therefore, something must be done.

Based on sanctity of life, we also have lives lost through--- At this point allow me to digress a bit but still on the same subject. Even as we address issues of life, we must also take cognisance of the fact that the police have also contributed quite immensely towards this not just because they have exhibited ineptitude in delivering services on our roads but since 8<sup>th</sup> August, we have lost over 200 lives through the barrel of the gun. So, even as we complain about accidents on our roads, we must also handle the fundamental issue of police meting brutality on very innocent lives. You may think about Baby Pendo who was just six months old, Mutinda who was seven years old and Moraa who was nine months old and you ask whose enemy they were and whose life they threatened. Based on the sanctity of life, we must address this issue wholesomely. We will make necessary noises about addressing issues on the roads together with those that have affected...

A colleague of mine talked about the tractors that ferry sugarcane. At night you will realise that they have no lights and reflectors. If you were driving behind them, you would only realise that they will be the brakes to your car. That has claimed lots of lives in the recent past.

I once again send my very deep condolences. I know going forward, we may also need to get a Motion such as this to talk about police brutality within the Republic of Kenya. Life once lost will never be reclaimed.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have Hon. Murgor Kipkosgei, Member for Keiyo North.

**Hon. Murgor:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to add my voice to this very important Motion of concern to many Kenyans. Road deaths in this country are reaching endemic proportions. If they go on the way they are, it will soon overtake common diseases which are the main killers such as malaria. We must ask ourselves: What is the cause? What has caused this upsurge in road deaths in this country? In my opinion, one of the main causes is indiscipline of the drivers and road users in this country. They over-speed. I remember on Monday when I was coming to Nairobi from Eldoret, I was driving at 100 kilometres per hour. There was this huge lorry which was in front of me. I was driving at 100 kilometres per hour but I could not overtake this huge lorry which means that it was being driven at more than 100 kilometres per hour. Such lorries are likely to cause accidents.

We also have the issue of careless drivers who overtake carelessly and that is how we get head-on collisions. Drunk driving is also part of it. It definitely contributes to accidents in this country. We have talked of drivers' fatigue. Can you imagine somebody driving a lorry weighing 40 or 50 tonnes from Mombasa to Kigali? He has driven for 12 or 18 hours from Mombasa to Nairobi and he has more distance to cover because he has been told that he must deliver at such a particular time and date in Kigali. Therefore, he drives while he is exhausted and that is definitely a recipe for accidents.

We also have public transport drivers. I know this happens. A driver drives from Kitale to Nairobi and he is expected to be back in Kitale the same day. That driver has driven from 6.00 a.m. and in six hours he arrives in Nairobi. He takes another six hours possibly to load the vehicle, put in passengers and he has to drive back again. That means he has driven from 6.00 a.m. and he has to drive another six hours reaching Kitale at midnight. That person is fatigued and is likely to cause accidents.

Let us come to the issue of the roads themselves and their design. I am not an engineer but we see that accidents tend to happen in particular stretches. When we think of the Mau Summit Salgaa area, I fear driving there. In fact, I take roads to Ravine or Kabarnet so as to reach home because Salgaa has become very dangerous. It is steep and when you see those 40 tonne lorries coming down, if you are ahead of them, you are afraid. It is not even a head-on collision you fear since they can knock you from behind. The engineers need to design our roads in the best way.

What do we do? How do we overcome these road deaths? One, we need to construct dual carriageways. Today, I was watching the television and saw the roads in Tanzania. The number of vehicles on those roads is very few but I can assure you that they have dual carriageways. We need dual carriageways from Mombasa to Malaba. That is one way.

The other one is the owners of these vehicles. Hon. Temporary Deputy Speaker...

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Murgor, I would have loved to give you a little more time but there is a lot of interest in this. I will have to move on and give this opportunity to the Member for Matungu, Hon. Murunga.

**Hon. Makokha:** Asante sana, Naibu Spika wa Muda. Huu ni mjadala muhimu. Kwanza ningependa kutuma rambirambi zangu za dhati kwa familia ambazo zimepoteza wapendwa wao. Ni jambo la kusikitisha mno kwa sababu hivi juzi, tulikuwa tunajadili kuhusu vile tunavyoweza kupanua barabara zetu. Sehemu hii ya Sachangwan ni sehemu ambayo wananchi watukufu wa Kenya wamepoteza maisha yao kwa muda. Lazima Bunge hili lichukulie hili jambo kwa uzito kwa sababu si vyema tunavyoendelea kupoteza watu wetu muhimu katika nchi hii.

Sehemu hii ya Kamukuywa ninapokumbuka, ni sehemu ambayo nimesomea. Ni sehemu ambayo watu wengi wamepoteza maisha yao. Si jambo geni kwa Serikali kuu. Lazima kuna mtu ama watu ambao wamelala katika kazi yao.

Kama vile wenzangu wamesema, tunapitisha sheria hapa, tunakaa muda mrefu tukijadili juu ya sheria lakini sheria hii haifuatiliwi na wale wanaohusika. Kwa hivyo ni wakati ambapo lazima wale wanaohusika, wafuatilie na kuhakikisha ya kwamba sheria inapopitishwa, inafanya kazi na waamuke kutoka kwa usingizi. Si vyema kupitisha sheria ambayo haifanyi kazi na haisaidii Mkenya wa kawaida. Ni jambo la kusikitisha. Sehemu hii ya Sachangwan imekuwa kwa mazungumzo kila siku. Siku moja kufuatilia nyingine lazima kuwe na ripoti ya kwamba kuna ajali katika sehemu hii.

Ni wakati ambapo lazima Serikali ama wanaohusika waamke kwa usingizi kwa kazi yao. Wanafaa wafanye kazi vile ambavyo inahitajika. Shirika la NTSA ni lazima lifanye kazi vile ambavyo inahitajika. Nilisikitika kusikia kwa runinga ikitangazwa yakwamba ajali iliyotokea ni kwa sababu maafisa wa NTSA walikuwa wakifuata hilo gari. Ni lazima yule aliyehusika awekwe korokoroni mara moja.

Ninaunga mkono ndugu yangu, Mhe. Wanyonyi. Asante sana kwa Hoja njema kwa wananchi wa nchi hii. Asante sana Mhe. Spika wa Muda.

**The Temporary Deputy Speaker** (Hon. Omulele): Member for Ndia, Hon. Macharia.

**Hon. Macharia:** Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this very important Motion which was brought forth by Hon. Wanyonyi.

We all know that we are a country that displays very high political energy and very low energy when it comes to matters that affect the lives of our people. We are talking right now about road accidents that have claimed so many lives in this country. These are issues that have been discussed in this House before and elsewhere in this country. Therefore, we need to be very radical in the way we address road safety.

I will look at road safety in three ways. One, we have very poor road designs. Our roads are poorly designed. I have had the opportunity and privilege to travel to a number of developed countries. I saw that countries are doing away with meandering roads. If you go to countries like Britain, Spain, United States of America (USA) or China, you see that they are doing away with meandering roads. I had asked about that sometime back. I was told that straight roads are very expensive. We are talking of deaths. So, cheap is expensive. We all know that. If we keep on having meandering roads from here to Busia, Mombasa and Meru we will keep on losing our people. Nobody should think that he cannot die through road accidents. So, let us address the issue of our road designs. I am not an engineer but a driver. I know that when I am driving on a straight road, there are very low chances of causing an accident. They can happen but chances are lower when the road is straight.

The other thing is poor enforcement of traffic rules. We all know what motivates most traffic police officers and NTSA officers is not enforcement of traffic rules. It is how much money they will put in their pockets that day. So, we need to be very firm, especially with NTSA because this has become a cash cow. They have become negative contributors to road safety.

The third thing as I sit down is poor attitude on our roads. We have drivers and pedestrians who have very poor attitude. Please give me 30 seconds. If you use Thika Superhighway, you see a driver who can clearly see it is written “keep left unless overtaking,” but he wants to remain on the right. He is driving at a speed of 10 kilometres per hour and you are behind him driving at 30 kilometres per hour, but he cannot give you way. We need to address our attitude so that we can do away with this issue.

**The Temporary Deputy Speaker** (Hon. Omulele): I gave you an extra minute but it looks like you had many things to say. There is a lot of interest in this Motion.

We shall have Hon. Wanjala Sauti then followed by Hon. Arbelle Malimo.

**Hon. Wanjala:** Thank you, Hon. Temporary Deputy Speaker. First, I take this opportunity to condole the families that lost their beloved ones. It is quite unfortunate that within three days, we have lost the lives of more than 80 Kenyans on the road, especially on specific roads where we have had a problem forever.

This country has become a crying country. All leaders are crying, including the Head of State. I listened to him yesterday when he was addressing the nation. He was talking about these issues. I thought the President would go further and take drastic measures as the head of this country. People must take responsibility in this country. The problem in Kenya is that nobody takes responsibility. More than 80 people died in three days and the Chief Executive Officer (CEO) of NTSA is still seated in his office. It cannot happen like that. This happened in Budalangi when we were campaigning. A whole bridge that costs Kshs1.2billion collapsed even before somebody rode on it a bicycle, motorcycle or drove on it in a car. Nobody has taken responsibility till today. Which kind of a country is this?

As I am talking to you today, Koye bridge right from Usenge to Osieko is almost collapsing. The Government is seeing what is happening. Why should we keep on crying? Do we not have laws? We even buried many people in these places which we are talking about like Sachangwan. What is so difficult in constructing three kilometres of a second road, if they have no money to construct the whole road from Nairobi to Malaba? They should identify these places and see how they can save the lives of Kenyans. People must take responsibility. The CEO of NTSA must be removed from the office.

There are so many potholes on the road that also cause accidents. Nobody blames the the KeNHA. They keep on blaming the drivers and yet these potholes stay on those roads for very many days. When we are budgeting, money is allocated and nobody works on the potholes.

Another mistake we made is to create NTSA and employ people who are not trained. They are just collecting their own rent, as people have called it here. We would have seconded special traffic police officers to NTSA.

We should monitor the trained people so that they do not also engage in corruption. The President told us that the Standard Gauge Railway (SGR) will be used in the transportation of goods to Uganda and Rwanda; that they would replace trailers. We do not want to see trailers on the road. We want everybody to transport their goods using the railway so that we can be safe on our roads. Furthermore, trailers damage our roads. They kill us deliberately and do not care. In Nairobi, we should have one red lane on the left-hand side of every road that *matatus* and buses must use. They should leave it only when they are overtaking. They should overtake and go back to their dedicated lane. This will ensure that they do not inconvenience those of us who want to move fast. I think that is the problem we have on our roads.

I also thank Hon. Wanyonyi for moving this Motion. Even the place where we lost more than 19 people in Bungoma is a black spot. The Chinese are still constructing the road. The Chief Executive Officer of KeNHA has not visited the place to see exactly what has ....

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Arbelle Malimo.

**Hon. Arbelle** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the adjournment Motion brought by Hon. Wanyonyi.

First and foremost, I would like to send my condolences to some two boys herders who were killed in Marsabit County in Hula Hula. The two are young school-going children who were herding around Hula Hula and unknown men came from a forest and shot them dead. Until today, we do not know who killed them. I appeal to the police in Marsabit County to investigate the matter so that it is brought to rest.

Equally, I send my condolences to the families of the people who were involved in the accident at Salgaa. Truly, accidents happen in different parts of this country. It is very unfortunate that every time something happens we come here to discuss it and offer suggestions about what we need to do. We need to start with the institutions that are involved, such as the driving schools. It is because they are mandated to train our drivers. You must have realised that even in this 21<sup>st</sup> Century we have a breed of motor cycle riders who ride everywhere. You could be driving on the road only to be encountered by a motor cycle rider from the opposite direction completely against the traffic law.

We also have drivers who undertake driving courses in two or three days and because we have automatic transmission vehicles that are easy for everyone to drive, one begins to drive on our highways immediately they get the licence. While on the road, if you are an experienced driver, you can easily tell that the driver ahead is either a drunkard or he does not have a clue on how to use the lanes. One Member has actually mentioned that the lanes are clearly indicated,

‘Keep Left’. However, you will find that even if there is no vehicle on the left side of the road, a driver of a big lorry would prefer to stick to the right side of the road. You fail to understand who is responsible for the guidance of these drivers.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Arbelle, I will give you one minute to wind up.

**Hon. Arbelle:** Hon. Temporary Deputy Speaker, as I wind up, I urge the police to pull up their socks so that instead of just putting up road blocks at one particular station waiting for vehicles to drive in so that they can take bribes, they should be allowed to patrol the whole road so that they see who is adhering to the law and who is not.

With those remarks, I support the Motion.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, the time being 7.00 p.m., the House stands adjourned until tomorrow, Thursday, 14<sup>th</sup> December 2017 at 9.30 a.m.

The House rose at 7.00 p.m.