

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 3rd December, 2015

The House met at 2.30 p.m.

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

PRAYERS

MESSAGES

Hon. Speaker: There are some Messages from the Senate which will be transmitted. I will deliver them at the point of Statements.

PETITIONS

INCREASED CASES OF HUMAN-WILDLIFE CONFLICT IN MERU COUNTY

Hon. Speaker: Hon. Florence Kajuju. Hon. Members, when you have a petition, just sit at your place and indicate. I have already approved the petition.

Hon. (Ms.) Kajuju: Thank you, Hon. Speaker. This is a public petition on increased cases of human-wildlife conflict in Meru County.

I, the undersigned, on behalf of residents of Kithoka, Nkunga, Tigania West and other parts of Meru County, draw the attention of the House to the following:-

THAT, the residents of Meru County have been engaged in human and wildlife conflict for a long period of time;

THAT, recently, over 300 stray elephants trampled down fences, ruined farmlands and damaged crops and homes and caused injuries and loss of lives;

THAT, the residents of Meru County have suffered extreme crop loss and destruction, hunger and suffering;

THAT, there remains deep anxiety and fear in Kithoka, Nkunga and Tigania West areas and other parts of the larger Meru County due to the continued wanton destruction of crops by the elephants;

THAT, the Kenya Wildlife Service wardens normally take a long duration to respond to the residents' distress;

THAT, concerned that only 20 kilometres of the entire park area is fenced hence making it easier for the animals to stray more often;

THAT, the matter presented in this petition is not pending before any constitutional or legal body,

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources:-

1. Recommends the erection of electric fence covering the entire park and provision of additional forest stations and wardens.
 2. Recommends that the Ministry of Environment, Water and Natural Resource puts in place mechanisms to ensure human and wildlife conflict cease forthwith.
 3. Recommends the quantification and compensation of victims of human-wildlife conflict and such other affected persons and/or families and property as a result of the damages suffered due to the massive destruction of homes, crops and loss of life.
 4. Makes any order or direction that it deems fit in the circumstances of the case.
- Your Petitioners will ever pray. It is dated today, 3rd December, 2015.

Hon. Speaker: I will allow few comments. Hon. Linturi.

Hon. Linturi: Thank you, Hon. Speaker for giving me this opportunity. At the outset, let me say very categorically that I associate myself with this petition. One, as a representative of the people from that great county of Meru, I feel their suffering. Two, I am one of the concerned victims of that wildlife-human conflict. I own land in Kithoka. The people living in that piece of land and its environs have planted a lot of maize and onions and they were eaten by the animals. You wonder whether those young farmers will get food or any money to take their children to school next year.

I want to ask for the intervention of the Committee so that, at least, even the institution concerned – that is Kenya Wildlife Service - is able to compensate those affected farmers who suffer losses when their crops are destroyed.

Thank you.

Hon. Kubai Iringo: Thank you, Hon. Speaker for giving me this opportunity to ventilate a little on this particular petition by my sister, Hon. Kajuju. I come from Meru County and this petition has come at the right time. I would request the Committee to which the petition is committed to do it expediently and urgently. Our people have suffered a lot and this has been a perennial problem. Wildlife-human conflict in Meru has become a thorn in the flesh. Animals not only damage crops, but they also kill people. There is a corridor which joins the Meru National Park to the Mount Kenya Forest where the KWS has taken little, if any, action to separate human beings from animals. The fences that they erected are substandard to the extent that they do not last even for one season. At the end of the day, people live in fear of the animals. They cannot predict their harvests because of the animals.

For example, in Kajomu where we have the Meru National Park, people are ever fighting with animals like monkeys, baboons, buffaloes and other animals. This has become a problem and once the KWS officers are told, they are slow in action. We need them to be fast. They should also erect proper fences. The Committee should deal with this petition as fast as possible, so that we do not continue losing lives.

Hon. Mwadime: Thank you, Hon. Speaker for giving me this opportunity. This problem is affecting all parts of the country. Just as the petitioners pray, the same applies to Taita Taveta County. Wildlife is causing us sleepless nights. The animals interfere with the community simply because fences have not been erected to secure the animals in

the park. For example, this is a very serious issue in Mgeno, Mchambo, Mwakitau, Mwachuma and Godoma in Mwatate Constituency. This has become a national disaster. It is a disaster to my constituents.

Hon. Speaker: Finally, Hon. M'eruaki.

Hon. M'uthari: Hon. Speaker, I would like to also associate myself with this petition. Wildlife-human conflict is a serious menace within Meru. This extends even in the area around Ngaya Forest and Nathi where wildlife has destroyed crops. Even during those very good rains, our crops have been destroyed and we would like the KWS to take action so that, at the end of the day, wildlife does not affect the general livelihood of the people around the highlighted areas and other areas like the Ngaya Forest also in Igembe North.

Hon. Speaker: Hon. Patrick Wangamati.

PAYMENT OF TERMINAL DUES TO FORMER
EMPLOYEES OF PAN AFRICAN PAPER MILLS

Hon. Wangamati: Thank you, Hon. Speaker for giving me this opportunity. This is a public petition on the payment of terminal dues of former employees of Pan African Paper (PAP) Mills Company.

The undersigned, on behalf of 1,200 former employees of Pan African Paper Mills, draw the attention of the House to the following:-

THAT, the Pan African Paper Mill was established in 1974 as a joint venture between the Oriental Paper Mills of India Industries and part of India's Birla Group and the Kenya Government as the World Bankers International Financing Corporation;

THAT, Pan African Paper Mills production capacity was at 120,000 metric tonnes a year at its mills in Webuye and employed more than 30,000 employees, and people directly and indirectly depended on it in Western Province. The mills were placed under receivership in 2009 following mismanagement and misappropriation of the company's resources. Due to the closure, all the employees were rendered jobless and are living in abject poverty. The former employees have not been paid their terminal dues up to date;

THAT, multiple follow ups by the former employees have not received any redress. Efforts to resolve the matter have borne no fruits and the families of the petitioners continue to live in abject poverty.

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

Therefore, your humble petitioners pray that the National Assembly:-

(i) Recommends payment of the final dues to all the former employees.

(ii) Ensures that the petitioners plea is addressed and make any other order and/or directions that it deems fit in the circumstances of this case.

Your petitioners will ever pray.

Thank you, Hon. Speaker, on their behalf.

Hon. Speaker: Let us have a few comments. I can see the Member for Kiminini is excited about that petition.

Hon. Wakhungu: Thank you, Hon. Speaker. I am excited by the issue raised by Hon. Wangamati, who is the Chairman of the Luhyia Council of Elders. I want to thank

him for bringing this petition. Indeed, it is true that Webuye Town goes to sleep by 4.00 p.m. It is unfortunate. It is like life has come to an end for the people of Webuye. About 1,200 former employees have not been paid their dues up to now. I have no doubt that this has contributed heavily to the increased cases of insecurity in that town. It is, indeed, important that the relevant agencies move with speed, so that those former employees can be compensated. They are living in abject poverty. In the area, many children have dropped out of school because of lack of school fees.

For those who had taken loans, the banks are now selling their pieces of land. This is a very serious issue and I would like to emphasize what *Mzee* Wangamati has done. I would also, in the same breath, like to congratulate him. You can imagine that at his age, he has done a lot of research on this matter. It is my humble request that the House moves with speed to help in resolving this issue so that those 1,200 employees, upon whom about 30,000 people rely on, are given their life back.

Hon. Speaker: Hon. Sakwa Bunyasi.

Hon. Bunyasi: Hon. Speaker, this is a very timely petition. I want to thank Hon. Wangamati for bringing it forth. Whereas the immediate reference might be Webuye Town, the truth of the matter is that the 1,200 people come from far and wide, much beyond the region that is directly affected by virtue of the closure of the factory. I have many people in my constituency who worked at the Pan Paper Mills and who were left high and dry. It is because the factory was closed down in a disorderly manner. It all happened at night. Since the issue of transitioning through privatization may come before the House, it is important that issues to do with compensation of the former employees ought to be sorted out prior to the conclusion of the privatization. We cannot allow owners, who have perhaps drawn all the capital they had put in, to ignore the input of labour for which they were under a contractual obligation to pay.

I support this petition strongly because it has a major implication for the region and the many unfortunate Kenyans in other parts of the country who worked at Pan Paper Mills. This is the only facility that employed persons who had various kinds of expertise, for example, forestry, paper processing and so on. This is, indeed, a matter of national concern and it is quite timely.

Hon. F.K. Wanyonyi: Hon. Speaker, I also want to thank *Mzee* Wangamati. For those who do not know, *Mzee* Wangamati is the ex-Mayor of Webuye Town. We have had a problem in that area. The place is now at a standstill. It was an upcoming city in the area but, presently, there is no income being generated in the area as has been said. We really have to do something about this. We used to export paper from Webuye to other countries. We also used to have an afforestation programme but, today, there is nothing.

The former employees should be paid their dues. Those people came from various parts of the region. They are actually suffering. I can say I am one of the victims because many of my kin were working there.

I beg to support.

Hon. Chanzu: Hon. Temporary Deputy Speaker, I want to thank Hon. Wangamati for bringing this petition, which is long overdue. The Grand Coalition Government made an attempt to resolve this matter, but that did not happen. That time, it caused a lot of anxiety and curiosity among the people in that area, especially those who

were involved in employment and the suppliers. It is important that the petition is considered so that a way is found of settling the outstanding debts.

Webuye is strategically located. You can get to the northern parts of Kenya via Webuye as you go to Kapenguria and beyond. It holds so many people from various parts of this country. Therefore, it is important that this petition is looked into and payments made and the factory starts working. I support.

Hon. Speaker: Hon. Diriye, it is time for your petition. Are you short-sighted or what?

PRIORITIZATION OF DEBATE ON TJRC REPORT

Hon. Mohamed Diriye: Thank you, Hon. Speaker. The undersigned, on behalf of the citizens of Kenya, referring to themselves as the National Victims and Survivors Network draw the attention of the House to the following:-

THAT, following the tragic political violence that engulfed Kenya in the aftermath of the 2007 disputed elections, the people of Kenya embarked upon comprehensive reforms aimed at ensuring Kenya transitions into a peaceful, prosperous, stable, inclusive and democratic country where such violence will not recur;

THAT, of the measures adopted to address long-term issues that had contributed to the violence, was the setting up of the Truth, Justice and Reconciliation Commission (TJRC) with a mandate to promote peace, justice, national unity, healing and reconciliation among the people of Kenya by *inter alia*, inquiring into gross violation of human and historical injustices that occurred in Kenya from 12th December, 1963 to 28th February, 2008;

THAT, the TJRC recorded over 40,000 statements and memoranda and held public hearings across the country; concluded its work; and handed over the Report to His Excellency the President, Uhuru Kenyatta, on 21st May, 2013;

THAT, according to the Truth, Justice and Reconciliation Commission Act, the Minister was to table the TJRC Report in Parliament and operationalize the implementation mechanism in accordance with the recommendations of the Commission. Under Section 48(2)(f) of the Act, to monitor the implementation of the recommendations of the Commission and to facilitate their implementation;

THAT, according to Section 49(3) of the Truth, Justice and Reconciliation Commission Act, the implementation of the Report of the Commission should have commenced within six months upon its publication.

THAT, in December, 2013, the National Assembly passed the Truth, Justice and Reconciliation Commission (Amendment) Act so as to provide *inter alia* that the TJRC Report would be tabled before the National Assembly for consideration and that the implementation of that Report shall commence immediately after consideration of the Report by the National Assembly.

THAT, to date, the National Assembly has not considered the Report of the TJRC while the victims and survivors of gross human rights violations continue to suffer.

THAT, the National Assembly's inability to prioritize, debate and act on the TJRC Report is a source of great frustration for thousands of Kenyans still nursing injuries, that is, physical, emotional and psychological from the dark years of our history.

THAT, the issues in respect of which this petition is made are not pending before any court of law or constitutional body.

Therefore, your humble petitioners pray that the National Assembly considers prioritizing for debate the Report of the TJRC that has been pending before the House since 24th July, 2013 without further delay.

THAT, in addition to adopting the TJRC Report, the National Assembly enacts the necessary legislation required to anchor the implementation process in law.

In particular, reparation of victims and that the National Assembly mandates the relevant committee of the House to monitor the comprehensive and effective implementation of the TJRC Report.

Your humble petitioners will ever pray.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Diriye, your petition seems to be petitioning the entire National Assembly. Is it or, indeed, the House Business Committee (HBC) to priorities debate on that TJRC Report?

Hon. Mohammed Diriye: The HBC and the entire House also to some extent.

Hon. Speaker: The HBC to prioritize debate on that Report.

Hon. Mohammed Diriye: Yes.

Hon. Speaker: The Leader of the Majority Party.

Hon. A.B. Duale: It is not the House; it is HBC that has the mandate to give priority. I am sure, to give Hon. Diriye comfort, if you look at the calendar of the Assembly without anticipating debate, today we have a Motion for Adjournment. I can assure you that when HBC meets on 9th February 2016, *Inshallah*, we will give priority to that Report to be debated by the House because it is important to all of us, the country and more so, the people of northern Kenya and the people of Wajir in particular.

Hon. Speaker: The best thing will be for that Report to be prioritized by HBC. The issues Hon. Diriye has raised in the petition really explain the reasons why that Report should be prioritized. They are succinctly clear.

Next Order.

MESSAGES

COUNTY EARLY CHILDHOOD EDUCATION BILL

Hon. Speaker: Hon. Members, I have Message No. 37 of 2015 from the Senate.

Pursuant to the provisions of Standing Order No. 41(4) relating to Messages from the Senate, it requires that the Speaker expeditiously reports to the House any Messages received from the Senate.

In this regard, I wish to report that I have received a Message from the Senate regarding the passage by the Senate of the County Early Childhood Education Bill, Senate Bill, No. 32 of 2014.

Hon. Members, the Message from the Senate states:-

“The County Early Childhood Education Bill, Senate Bill No. 32 of 2014 was published in the *Kenya Gazette Supplement* No. 108 of 11th July 2014 as a Bill

originating from the Senate and was passed by the Senate on Tuesday, 1st December 2015 with amendments and in the form attached thereto.”

Hon. Members, I direct that the Bill be scheduled for First Reading when the House resumes in the next Session.

CLIMATE CHANGE BILL

The Second Message is No. 38 of 2015. This is a Bill from the Senate regarding the passage by the Senate of the Climate Change Bill, National Assembly No. 1 of 2014. The Message from the Senate states:-

“The Climate Change Bill, National Assembly No. 1 of 2014 as published in the *Kenya Gazette* Supplement No. 3 of January 2014. It was passed on Tuesday, 1st of December 2015 with amendments and in the form attached.”

Consequently, the Senate now seeks the concurrence of the National Assembly to the amendments made to the Bill. Hon. Members, I now direct that the Departmental Committee on Environment and Natural Resources considers the said amendments and tables its Report when the House resumes in the next Session.

Next Order.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Thursday, 3rd December 2015:-

The Report of the Auditor-General on the Financial Statements of University of Kabianga for the year ended 30th June 2014 and the certificate therein.

The Economic Report 2014 from the Kenya Institute for Public Policy and Analysis.

Hon. Keynan: Hon. Speaker, I beg to lay the following Papers on the Table of the House Today, Thursday 3rd December 2015.

The Report on Public Investments Committee Benchmarking Visit to Washington DC, USA from 6th to 14th June 2015.

The 20th Report of the Public Investments Committee audited accounts for the following State corporations--- As I do this, allow me to mention the organizations involved so that even as Members contemplate what to do with this Report, they also know that the work of PIC is to examine and look at the audited financial statements of State corporations.

In this particular 20th Report, the audited accounts of the following State corporations are captured:-

Horticultural Crops Development Authority, Kenya Medical Laboratory Technicians and Technologists Board, Kenya Electricity Transmission Company, Kenya School of Law, Pest Control Products Board, Kenya Revenue Authority, Pharmacy and Poisons Board, Kenya Meat Commission, State Corporations Appeal Tribunal, Tea Research Institute of Kenya, formerly known as the Tea Research Foundation, the Pyrethrum Board of Kenya, now called Pyrethrum Directorate under the Ministry of Agriculture and Fisheries, South Nyanza Sugar Company, the Public Procurement

Oversight Authority, South Eastern University, National Biodiversity Authority, University of Nairobi Pension Scheme, National Council for Population Development, SACCO Society Regulatory Authority, University of Nairobi Enterprise and Service Limited, Competition Authority of Kenya, Kenya Tsetse Fly and Trypanosomiasis Eradication Council, National Crime Research Centre, Sports Stadia and Management Board, Unclaimed Financial Assets Authority, the Veterinary Board of Kenya, Youth Enterprise Development Fund Board, Micro and Small Enterprises Authority, the Kenya Vision 2030 Secretariat, Insurance Regulatory Authority, Media Council of Kenya, Engineers Board of Kenya, the Anti-Counterfeit Agency, National Commission for Science, Technology and Innovation, Technical University of Kenya, National Transport and Safety Authority, Brand Kenya Board, Machakos University College, Kenya Investment Authority, Kenya Equipment Product Unit, National Museums of Kenya, Information Communication and Technology Authority, Kenya Rural Roads Board Authority, the Kenya Copyright Board, Geothermal Development Company, Kenya Accountants and Secretarial Examinations Board, Kenya Institute of Public Policy Research and Analysis, Kipchabo Tea Factory, New Partnership for Africa's Development (NEPAD), Kenyan Secretariat, Transition Authority, Uwezo Fund, the Kenya Electricity Generation Company, the Kenya Urban Roads Authority, Consolidated Bank of Kenya, Commission for University Education, the Kenya Re-Insurance Corporation, Kenya School of Monetary Studies, Kenya Universities and Colleges Central Placement Service, Kenya National Assurance Company, Retirement Benefits Authority, Kenya Trade Network Agency, Policy Holders Compensation Fund, National Oil Corporation and Development Bank of Kenya. Some of the audited accounts of those 64 State corporations date back to 1988.

Hon. Speaker, you can imagine how serious that is since you were the Chairperson of the Public Investments Committee for almost two consecutive terms.

I urge Members to consider those two voluminous reports and go through them. It is one effective way of eradicating or minimising corruption, looking at the wastages and the plunders in those particular reports by the Auditor-General. As I table these reports, I urge Hon. Members to go through them and familiarise themselves with them during the long recess.

(Hon. Keynan laid the documents on the Table)

Hon. Mwiru: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-

The Reports of the Departmental Committee on Lands on:-

- (i) The Petition by Residents of Kajiado West Constituency regarding the compulsory acquisition of Land Reference Ngong/Ngong1959; and,
- (ii) Nyali Constituency land issues – Mombasa County.

(Hon. Mwiru laid the documents on the Table)

Hon. (Eng.) Mahamud: Hon. Speaker, I beg to lay the following Paper on the Table:-

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The Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of the Public Petition by Green Pencil Limited, regarding the intervention to have High Quality Road Studs installed on all tarmac roads in Kenya.

(Hon. (Eng.) Mahamud laid the document on the Table)

Hon. Ganya: Hon. Speaker, I beg to lay the following Paper on the Table of the House:-

The Report of the Departmental Committee on Environment and Natural Resources, on its consideration of the Forest Conservation and Management Bill, 2015.

(Hon. Ganya laid the document on the Table)

NOTICE OF MOTION

ADOPTION OF 20TH REPORT OF PUBLIC INVESTMENTS COMMITTEE

Hon. Keynan: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, this House adopts the 20th Report of the Public Investments Committee on the accounts of State corporations, laid on the Table of the House on Thursday, 3rd December 2015.

Hon. Speaker: Hon. Alex Mwiru, are you giving a notice of Motion?

Hon. Mwiru: Hon. Speaker, I do not want to give a notice of Motion because I do not want to anticipate any debate on the Report. Because we are going on recess, we are likely to re-table the same Report for debate. I request your indulgence to give a notice of Motion when we come back for the next Session.

Hon. Speaker: Is this the one on Nyali Constituency?

Hon. Mwiru: Yes, Hon. Speaker.

Hon. Speaker: Very well. Next Order.

STATEMENT

Hon. Speaker: Hon. Mutava Musyimi intends to give a brief report on the various Bills from the Senate that have been forwarded to the Budget and Appropriations Committee.

Hon. Musyimi.

RECOMMENDATION ON SENATE BILLS REFERRED TO THE BUDGET AND APPROPRIATIONS COMMITTEE

Hon. Musyimi: Thank you, Hon. Speaker. As you rightly mentioned, this is a Statement on the Senate Bills referred to the Budget and Appropriations Committee.

Provisions of Article 114(2) of the Constitution state as follows:-

“If, in the opinion of the Speaker of the National Assembly, a Motion makes provision for a matter mentioned in the definition of “a

Money Bill”, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for Finance”.

I put emphasis on the words “in accordance with the recommendation of the relevant committee of the Assembly” as that is the authority that primarily informs my Statement.

On diverse dates in this current Session and previous sessions, you have referred several Motions and Bills from Members of this House and the Senate, seeking the opinion of the Budget and Appropriations Committee on the application of Article 114 of the Constitution to the respective Bills and Motions.

Consequently, the Budget and Appropriations Committee has continually recommended to you and this House on how to proceed on various Bills, Motions and amendments thereto, especially those emanating from Members of this august House. My Committee is thankful to note that in cases that involve the National Assembly Bills and Motions, you have always upheld the letter and spirit of Article 114 (2).

However, save for the various memoranda that we have submitted to your office, the Committee has not had any other opportunity to inform this House on the fate of various Senate Bills that have been referred to my Committee, before or after the First Reading.

It is in this regard that the Budget and Appropriations Committee now wishes to make known to this august House its recommendations on the various Senate Bills namely:-

- (1) The Public Finance Management (Amendment) Bill (Senate Bill No.11 of 2014);
- (2) The Parliamentary Service (Amendment) Bill (Senate Bill No.21 of 2014);
- (3) The National Police Service (Amendment) Bill, 2014 (Senate Bill No.29 of 2014);
- (4) The National Government Coordination (Amendment) Bill (Senate Bill No.30 of 2014); and,
- (5) The Natural Resources Benefit Sharing Bill (Senate Bill No.34 of 2014)

The recommendation of the Committee to the House is informed by the provision of Article 114, as read together with the provisions of Article 109 (5).

The latter Article states that:-

“A Bill may be introduced by any Member or Committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.”

It is the finding of my Committee that since those are money Bills, they can only originate in the National Assembly.

In this regard, the five Bills that I have stated are rendered unconstitutional by operation of Articles 109(5) and 114(2).

It is, therefore, the recommendation of the Budget and Appropriations Committee that this House does not proceed with the said five Bills.

Thank you.

Hon. Speaker: Very well. The House and the Office of the Clerk is accordingly informed as well so that those Bills are not shown as pending. The recommendation is that we may not proceed with their consideration.

MOTIONS

ADOPTION OF SESSIONAL PAPER ON NATIONAL WETLANDS AND CONSERVATION MANAGEMENT POLICY

THAT, this House adopts Sessional Paper No.12 of 2014 on the National Wetlands and Conservation Management Policy, laid on the Table of the House on Tuesday, 2nd December, 2014.

(Hon. (Ms.) Abdalla on 3.12.2015)

(Resumption of Debate interrupted on 3.12.2015 – Morning Session)

Hon. Speaker: Hon. Members, debate on this Motion was concluded earlier today. What remains is for the Question to be put, which I hereby do.

(Question put and agreed)

ADOPTION OF SESSIONAL PAPER ON INTEGRATED COASTAL ZONE MANAGEMENT POLICY

THAT, this House adopts Sessional Paper No.13 of 2014 on the Integrated Coastal Zone Management (ICZM) Policy, laid on the Table of the House on Tuesday, 2nd December, 2014.

(Hon. (Ms.) Abdalla on 3.12.2015)

(Resumption of Debate interrupted on 3.12.2015 – Morning Session)

Hon. Speaker: Again, Hon. Members, this business was concluded in the morning and so, I proceed to put the Question.

(Question put and agreed)

BILL

Third Reading

THE GOVERNMENT PROCEEDINGS (AMENDMENT) BILL

Hon. Speaker: Hon. Members, again you concluded debate on this Bill, so I proceed to put the Question.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

PROCEDURAL MOTION

EXTENSION OF PERIOD FOR CONSIDERATION OF NOMINEES FOR VARIOUS APPOINTMENTS

Hon. A. B. Duale: Hon. Speaker, I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, this House resolves to extend the period for consideration of the nominees for appointment as Cabinet Secretaries, Principal Secretaries and members of the Ethics and Anti-Corruption Commission (EACC), referred to the House during the current third part of the Third Session, by a further seven days from 15th December 2015.

The President's nomination of persons to be appointed as Cabinet Secretaries (CSs) and Principal Secretaries (PSs), under Articles 152(2) and 155(3)(a) and (b), respectively, needs the approval of the National Assembly before appointment. The House Business Committee (HBC), in its meeting on Tuesday, 1st December 2015, envisaged the vetting process to start after the House is notified of the nominations. Indeed, Hon. Speaker, you confirmed this fact through your Communication yesterday, Wednesday, 2nd December 2015.

The Clerk has notified the public, through today's newspapers, to submit any representation by written statement under oath, through an affidavit that they may have on the suitability or otherwise of the said nominees for their respective ministries, within the next seven days, that is, on or before Wednesday, 9th December 2015, at 5.00 p.m. If you bring your representation after 5.00 p.m., it will not be considered because the Public Appointments (Parliamentary Approval) Act is very strict on the timelines it gives for public participation. The Committees will then consider the memoranda submitted by the general public by Thursday, 10th December 2015.

The CS nominees are expected to appear before the Committee on Appointments while the PS nominees are expected to appear before the relevant Departmental Committees on Friday, 11th December 2015, on the venues and times as indicated in today's newspapers, for vetting. The nominees are expected to bring with them original documents such as identity cards, academic and professional certificates as well as letters or certificates of compliance from the EACC, the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), the Criminal Investigations Department (CID) and any of the credit reference bureaus.

The Committees will then write their reports during the three days that will follow, that is, 12th, 13th and 14th December, 2015, including the holiday and the weekend, before consideration by the House by Tuesday, 15th December 2015. Under the Public Appointments (Parliamentary Approval) Act, 2011 the 14 days expire on 15th December 2015. We, therefore, seek to extend the window so that the House can sit on Wednesday and Thursday, 16th and 17th December, 2015 to consider those matters.

It should be noted that this extension is not granted to the Committees, but to the House itself. We expect the Committees to adopt the reports between 12th and 14th December, 2015 for the House to begin debate on the reports and to consider the nominees from 15th December 2015. However, because 15th December 2015 is the last day, we are seeking an extension of seven days to 22nd December 2015. In that case, the House will get seven days to consider reports from close to 10 Committees, including the Committee on Appointments.

We have also received communication from the Chairperson of the Departmental Committee on Justice and Legal Affairs that the Committee was unable to conclude consideration of the persons nominated to be appointed as members of the EACC as earlier envisaged, because the number of Committee members needed to adopt the report is 15, which was not attained today as only 10 members were present. So, we expect them to adopt their report between now and 15th December, 2015.

I take this opportunity to notify the House that in accordance with Standing Order No. 29, I will be writing to you to recall the House from recess for special sittings on 16th and 17th December, 2015 and, if necessary, 18th December 2015 to allow us to conclude the vetting process and any other Bills with constitutional timelines.

For this reason, I seek the House to extend the period for consideration of the nominees for appointment as Cabinet Secretaries, Principal Secretaries and members of the Ethics and Anti-Corruption Commission (EACC), referred to the House during the current third part of the Third Session by a further seven days from 15th to 22nd December 2015. This will give us enough time for consideration of the nominees, as they have been nominated by His Excellency the President.

That is basically the gist of the matter in this House. It is a very clear matter. I would ask my good friend, the Deputy Leader of the Minority Party Whip, Hon. Chrisantus Wamalwa, to second.

Hon. Wakhungu: Thank you, Hon. Speaker. I rise to second this Procedural Motion on Extension of the Period for Consideration of Nominees for various appointments.

We know that this country is bleeding because of corruption. So, it is very important that we must move with speed on the report on the EACC so that we can have those commissioners in place. They can then vet the secretariat immediately. We passed a law here. They were given a time frame of 12 months. So, as the commissioners come, they must move with speed so that that secretariat at the EACC can also be vetted immediately. We know very well that, at the moment, the Cabinet is less than the required 14 Cabinet Secretaries. My humble request is that the Committee on Appointments should also move with speed so that we can do the vetting.

Hon. Speaker, we know that you are the Chairman. I am also a member. We are looking forward to vet them objectively, the way we have always been doing. We are

looking forward to finish vetting with speed so that this House can be recalled back and adopt the report. It can either reject it or accept it objectively.

As we move on, we have been told that there is no quorum. I know that when it comes to the Principal Secretaries, the vetting is done by the departmental committees. It is also my humble request that the Hon. Members of the departmental committees should avail themselves. They should give the requisite quorum so that we can adopt the reports and when we come back before we go for Christmas, we can have a new Kenya.

We had the privilege of Pope Francis visiting this country and His Excellency the President requested for prayers. We want to start a new Kenya, in the New Year, with a good team that is committed to fight corruption.

Thank you, Hon. Speaker. I second.

Hon. Members: Put the Question.

Hon. Speaker: Order, Members! The Question cannot be put before it is proposed.

(Question proposed)

Hon. Members, the mood in the House is that I put the Question. So, I proceed to do so.

(Question put and agreed to)

Hon. Members, before we proceed to the next business, a very serious point was made by Hon. Chrisantus Wamalwa. It may be necessary for Members to refresh themselves on the provisions of Public Appointments (Parliamentary Approval) Act. We should not hear cases of lack of quorum in committees.

Even though we have extended the period by those further seven days, if by the extended period the committees shall not have sat, approved or disapproved the nominees, they will stand appointed. It is fair that there is input from various committee members.

I appreciate, given what I saw in the morning, when Hon. Tom Joseph Kajwang' had to wait for many of you to arrive. It might be challenging because we are in the month of December. For those few days, let us attend our various committee meetings so that we can give our contributions. We do not want people to later say that there was no quorum or nominees were considered in the absence of vital segments of the membership of the committees.

Please, let us avail ourselves from 10th December 2015, in our respective committees to do that job that has been given to us.

I thank you. Next Order!

MOTIONS

ADOPTION OF SESSIONAL PAPER ON NATIONAL VALUES AND PRINCIPLES IN GOVERNANCE

Hon. (Ms.) Kanyua: Hon. Speaker, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No.8 of 2013 on National Values and Principles of Governance, laid on the Table of the House on Tuesday, 22nd April, 2014.

The bit on national values and principles of governance is drawn from the Constitution of Kenya 2010, Article 10, in particular.

Before we go to Article 10, it will be important to look at the policy in detail, especially the history of the country. The policy starts by noting that we have more than 40 ethnic groups in this country. They are actually more than 40. When the actual number is done, it comes to slightly above 70 ethnic groups. However, the recognised ones in our laws and systems have been 42 ethnic groups. So, we have over 42 ethnic groups with distinct cultural and value systems and no semblance of statehood living in our country, Kenya.

Looking at the history of our creation by the European settlers in the 1800s, the history of the one-party system, our removal of Clause 2(a) from the old Constitution and our new democratic environment, it has become important for the country to have a Sessional Paper on National Values and Principles of Governance.

The problem statement has been well done in the policy. Attainment of Vision 2030 is one of the main reasons and drivers why we would need a national policy on Values and Principles of Governance.

The Vision 2030 foresees Kenya as a developed country, as a middle income, where a majority of its citizens would enjoy a quality of life that is acceptable. For us to move to Vision 2030, it is very important for the country to have a set of national values and principles that guide the 42 ethnic communities that live together in this country.

The Constitution 2010 also requires that we abide by Article 10. We should abide by the values that are encapsulated there and those that are shared across all the Kenyans in this country, and those that leaders are particularly called upon to begin to shape.

Hon. Speaker, the National Economic and Social Council had identified the development of a national value system as part of the Council's 2009-2010 agenda. They recognised that the country needed a value system to commit to. Even to those of us who have had time to look at the history of our country; it has become very evident that we need a common value system to subscribe to.

The broad objectives of the policy are to institutionalise the national values and principles of governance as enshrined in the new Constitution. The scope of the policy is to apply to all State officers, public officers and all State organs. It will also apply to all persons in the application or interpretation of the Constitution, in enactment, application or interpretation of any law or in making or implementing public policy decisions. The scope of the policy is far-reaching. Every State organ, public officer and State officer is required to apply the national values and principles in their daily operations.

The policy holds that national values define a people's identity. There are fundamental beliefs of a nation guiding choices, actions and behaviour of its citizens. National values exert influence in the way citizens relate with each other and how communities engage each other. We clearly need a sense of identity in which we share a set of national values that would not allow a citizen to lift a finger against another citizen because that would be the value system of our country. That way, leaders will treat the

offices in which they serve with respect and dignity because that is the national value of our country.

Looking at the challenges that have led to our country not having a good value system, five issues were identified as causing the problems that we have today. It was identified that, as Kenyans, we do not share a strong national identity. A lot of us identify more with the communities we come from other than with the nation. In my case, I am first and foremost a Kikuyu before I am Kenyan. Other persons are Maasai before they are Kenyan. You are Luo before you are Kenyan. You are Taita before you are Kenyan. You are Luhya before you are Kenyan. You are Kamba before you are Kenyan.

We want a country in which Kikuyu identify themselves as Kenyan first, Luhya identify themselves as Kenyan first, Luo identify themselves as Kenyan first and Kamba identify themselves as Kenyan first. If something is good for Kenya, it is going to be good for Kikuyu; it is going to be good for Luo; it is going to be good for Kamba; it is going to be good for Maasai; and it is going to be good even for small tribes like Orma and the El Molo. We all desire a country with a strong national identity. It is a big mark of honour to belong to a country with a strong national identity. We are among the few nationals of a country that go to bad-mouth their country abroad. We all need to learn that in our national value system, standing for our mother country is a strong national identity. When you carry a Kenyan passport, it means something. That is something we all need to work on – having a strong national identity.

It is regrettable that some of the symbols of our strong national identity still need to be developed. I belong to the category of Kenyans who believe in a national dress. It is important that the country gets a national dress upon which we can all relate to. The other thing affecting our national value system is effective representation and leadership. The country will be as good as its leaders in terms of value system. We need to strengthen the electoral system that we work under.

Equitable allocation of resources and opportunities is important in building the national value system. Good governance and sustainable development are equally important in building the national value system. Kenyans need to arise to address the challenges that confront our country. The policy covers very critical areas, including leadership and institutional framework, implementation strategies, value carrier, value drivers and policy implementation role. The National Assembly is called upon to be one of the value carriers and the value driver of the national value system. The policy addresses the question of resource mobilisation, policy outcomes, monitoring and evaluation.

As I celebrate Sessional Paper No.8 of 2013 on the National Values and Principles of Governance, I urge that the matters contained therein be implemented. I ask each one of us to begin to look at Kenya in a new way; to begin to adopt Kenya in a new light and to love our mother country even as we celebrate our cultural diversity. There is nothing as good as our country. We will never get another Kenya. This is the only Kenya that we have.

With those remarks, I beg to move and request Hon. Kajuju to second the Motion.

Hon. Member : Gender Balance!

Hon. (Ms.) Kanyua: Hon. Speaker, hon. Members are reminding me about gender balance. In the new value system, gender equality is also one of our value system.

Thank you, Hon. Speaker.

Hon. Speaker: Proceed, Hon. Kajuju.

Hon. (Ms.) Kajuju: Hon. Speaker, I rise to second the Motion and strongly support the national values and principles of governance that have been properly articulated in this Sessional Paper. This is good guidance that the Government is giving to Kenyans to show them the way forward for this country. Time has come for the President to tell us how we should move and for Kenyans to pick it up and ensure that it is inculcated in our day-to-day life.

I would like to tell hon. Members that this is not a Paper that just came out of the blues. This Paper is a result of a process which was started way back in 2011. A steering committee and taskforce were formed. The then Minister for Justice and Constitutional Affairs ensured that those organs were able to bring on board the issues of national values and principles of governance. There was a lot of public participation because the steering committee and the taskforce then wanted to know from Kenyans the best way to ensure that we implement Article 10 of the Constitution that Kenyans clearly stated that they wanted to live by in 2010.

Several values have been put in the Constitution. We are now trying to ensure that Kenyans understand and implement them through this Sessional Paper. There was a time when we used to have a Government spokesman who had this vision for Kenya. One of the phrases that the Governor of Machakos County – who was then the Government Spokesman – tried to popularise is “*Najivunia kuwa Mkenya*”. Every time I spoke to people then, they would say “*Najivunia kuwa Mkenya*.” That is what this Sessional Paper is trying to do. It is trying to tell Kenyans that time has come for us, as a people, to be proud of our country.

The reason as to why we have to be proud of our country, especially now that we are talking about devolution, is that we have seen situations where our current county leaderships have been talking of 47 governments and one main Government. In other words, they are saying that we have 47 governments and a national Government. We cannot have 48 governments in Kenya. We are people who are guided and presided over by the President, who was elected by the people of Kenya.

Hon. Speaker, it is going to be a defeatist attitude if the people of Kenya think about their counties and bring about disintegration within this country. Instead, we should use our strength through the county governments to bring about integration within the communities, regional situations that we find ourselves in and within the national Government.

Even as I think about Meru County as my county of birth, I must be able to say that I belong to Kenya. The Mover of this Motion has clearly stated that even when we go out of this country, I should not go there and think about myself as a Meru. I should speak about the Kenyan that I am. That is what has helped the United Republic of Tanzania. Tanzanians think about themselves as Tanzanians. They do not have any tribes and communities. I am praying one time one day, even if it is not during my time but the lifetime of my children, that they will think of themselves as Kenyans. Because we are here, and we are elected as the representatives of the people, it is our time, at least, to show the people the way to go. This Paper clearly seeks to strengthen the institutional

framework through which it can be implemented. It seeks to promote a strong legislative framework that is in line with the national values and principles of governance.

Another thing that has brought about a lot of division is political parties. We have seen that there are so many parties in Kenya that confuse Kenyans. It is a good vision that the Jubilee party is coming up to bring all those parties together so that we can emulate other developed countries that have just two parties through which persons can elect their candidates without creating political parties for regions, communities and counties. That is not going to help us and it is not going to help us build Kenya. What we need is a strong national identity. We need to think as Kenyans and think about our patriotism.

The Constitution is good in Article 10 because it talks about regional balance and inclusivity. It talks about us as Kenyans. That is why I am urging this House today to kindly stand up for our national values and principles of governance. Let us take them on board and learn to live with the principles of governance that are in this Sessional Paper.

I, therefore, second.

(Question proposed)

Hon. Speaker: Members, you need to know that you resolved that contribution by each Member will be five minutes. Debate will be for a maximum of one hour. It could take less than that. Hon. Dalmas Otieno.

Hon. Anyango: Thank you, Hon. Speaker. I wish to support this Motion and in doing so, state that this is not the first policy paper we have got on these issues. The papers have been written and they are known by all Kenyans. Policies have been issued and they are known by all Kenyans. The Constitution is very clear, particularly Article 10. What is missing is that the entire leadership of the Republic is treating leadership as a business. Leadership being treated as a business means you invest some capital in it and exploit other factors of production to reap maximum benefits out of it. We are tempted to bring up children who believe you can buy any position with power. You can buy to be an MCA, MP, Senator, President or Deputy President.

If we continue to treat leadership as a business, we are ruining our country and we are definitely going in the wrong direction and no individual will change that course. The weight of the movement towards tribalism, corruption, discrimination, and marginalisation is getting stronger and stronger. We need a counter movement, a revolution, literally, to change the attitudes of Kenyans and hammer those values in Article 10 of the Constitution until we achieve the kind of success we are able to witness in Rwanda. It can be done but we must all believe it.

It is shameful that a committee that was supposed to vet the Ethics and Anti-Corruption Commission (EACC) commissioners could not raise a quorum. That tells what the leadership of this country is thinking about. Twenty nine Members of the National Assembly do not take it seriously that there is an institution called the EACC. If it starts from here, what is the use of publishing this policy? This is not something the President can do alone. Until we all resolve to change the attitude of all Kenyans, we are misleading this country into destruction. It is as if the country is now free-wheeling to a direction it chooses and yet, we have 4,500 MCAs, 349 MPs, 67 Senators, 20 Cabinet Secretaries (CSs) and 21 Principal Secretaries (PSs). All

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those people are treating leadership in this country as business and they are calculating the profit that they must get.

(Applause)

It is time we changed the law so that before you are appointed a CS, PS or in any position of authority where you will be allowed to take rent, we start by a report to the vetting authority of your lifestyle. That can be repeated annually. If you want to make money from a position of authority, leave that position and go and do your business in competition with the rest of the world. We are joking with our country for no reason. Tribalism is breeding corruption, corruption is breeding insecurity and insecurity is breeding disorder. What are we governing?

What we are publishing is not taking us anywhere. We need a clear resolution that time has come and we have to change. We need to look at it carefully and cut off. If you ate through corruption yesterday *kwenda kula pesa zako*. You go and eat your money if it is yesterday and we start today. We will not allow any position of authority to be used to make money so that we breed our children to be able to think of leadership not as a service, but as a business. We were all shocked at the post-election violence time when children were asking us: “*Mama, baba* which is our tribe?” We have gone too far in the wrong direction. We have to agree to change.

Thank you.

Hon. M’uthari: Thank you, Hon. Speaker. I am glad to contribute to this particular Sessional Paper. It is very important. In fact, as a country, we are lost. It is high time we used a Sessional Paper like this to bring us back to the reality. When people have no values, they also have the wrong culture. The culture that we have created is a wrong one. It glorifies theft. Nobody cares where you get your money. Nobody cares what you do. What people are interested in is whether you have the money and you are able to buy anything. This is the wrong approach. This is what is highlighted in this Sessional Paper. This will require many actors.

If we have to reach where we are going, we have to start from the family as it is already highlighted here. When you look at our family values, they are broken down. When the family values are broken down, everything is lost. When you go to the other sectors---We as a country have reached a level where even at the community level, you are asked where you come from. We are just in harmony and together, but when it comes to the community, sometimes, it is as if an individual represents the community. It is not true.

When individuals are in this or the other place, they are there for their own gain and not for the community. So, the 42 tribes in Kenya should agree to have one community called Kenya. It is at that level that we can look at the individuals. We have people in this Republic who are very qualified to do many things, but because of their orientation, again, they are never considered.

It is high time we reconsidered education. The values that we are talking about here should be taught from nursery school. Then, at that level, our children will know that the first thing is belonging. At the moment, children are looking at their ethnic groups. At the end of the day, the question around corruption, maligning our country and lack of

a sense of belonging occur. When you look at other actors like the media, they are concerned about the bad issues in our society. The other day when terrorists attacked Paris, because the French value their country, they never display people jumping from the top of the building or somebody being butchered. When something happens here in Kenya, the worst is displayed. When you display the worst about your country, where are we going? We display fear and even tourists fear to come to our country. We portray a situation like the country is on fire. This does not happen in other countries.

We also have to look at other actors like religious bodies. They have totally failed to instill a proper culture and the right values. We are a society without a value system. People look at other parameters, but not what brings us together. As we adopt this Sessional Paper, it is high time we reflected as it has been highlighted here and come up with the systems already highlighted here. How do we bring nationhood and come together as a people? What do we stand for? What brings us together?

Some of the great leaders in the world may never have got a space in this country because of where they come from and who they are. When they go out, they make good leaders. For example, drivers at the International Criminal Tribunal (ICT) in Rwanda are Kenyans. Even in the famous American universities, there are Kenyans, but they would not get space at home. You will consider their second names to see if they qualify. So, the criterion is never the right one. This is why we need to come up with the nationhood and national values.

Hon. Speaker: Christine Ombaka. She placed a request and disappeared. Member for Emurua Dikirr.

Hon. Kipyegon: Thank you, Hon. Speaker. I also wish to add my voice to the debate on this Sessional Paper, which is a foundation of the values and principles of governance in this country.

Just like my great predecessors who have spoken to this issue have said, Article 10 of the Constitution was crafted in a way that we can all get guidance on the principles and values that are meant to guide our nation. This should put our values to use and make us understand the reasons why we need to have national values and principles of governance. We are having a serious problem. Most of us have been asking whether we are really patriotic and our people have been asking us whether we should say that we are proud to be Kenyans. Many people out there say that they are not proud to be Kenyans, but *wanavumilia kuwa Wakenya*.

If we were to relook at ourselves, all this starts with the leadership either from this House, the Executive or the Judiciary. We are the people who need to make Kenyans proud. We are supposed to initiate and instill those values in our Republic, so that people can understand that we love our nation and we want to move in the right direction. We should have a nation that allows its citizens to have access to all the resources that are in this country. They should have equal access to the economic activities in this country.

One question has been bothering me. The President is the chief executive of this country. He is the only person who has the power and the will to show the nation the direction we are supposed to be taking. That is why we, as Members of this House, always want to follow what the President of this nation does. Sometimes, we only see failure by the people who advise the President either from this House, the Cabinet or State House. They fail to advise the President on the right steps that are meant to be

taken, so that this country can go back on track. The national values that bring us together are peace, equality, love, democracy and patriotism, among others.

When you look around the country today, are we at peace with ourselves? When you listen to statements made by politicians in rallies, you hear one making a very injurious statement and the following day, another one is replying with the same injurious statement. We are leading this country in the wrong direction. We expect our children, who watch and listen to those statements on television, to uphold those values. How do we expect them to uphold those values while they see and hear us making reckless statements? We have heard people telling others to cut others into pieces. We have also heard others telling others to allow people to die, so that some other people can become presidents. There is something wrong which needs to be looked into. We are not at peace with ourselves either as politicians, leaders or Kenyans.

In terms of equality, the way our resources are shared is not good. For example, we have been arguing with Members from pastoral communities to be allowed to access the Equalisation Fund. We need that money so that we can be equal to the rest of the country. We come from areas where nothing has been going on. Sometimes, we wonder when no one wants to take interest in helping those communities. We must walk the talk. We want everybody in this country to be equal, but we must walk the talk.

Another issue that is supposed to bring us together is democracy. This country is a democratic State founded on true democracy.

Hon. Speaker: Very well. Hon. John Nakara.

Hon. Nakara: Thank you, Hon. Speaker for giving me this opportunity. A country's national values are a representation of the paramount values upheld throughout the country.

When we talk about the paramount values that we have to uphold throughout the country, we should ask ourselves whether we are patriotic. When I get out of this country, do I portray the values of my country? Am I proud to talk about Kenya when I am outside the country? Am I proud to tell foreigners how good my country is? Those are some of the questions that we need to ask ourselves. We are talking about national unity. Are we together as a nation? Do we discuss our issues as a nation? Do we answer ourselves when we raise some questions among ourselves before we even take our issues outside the country?

We talk about sharing and devolving power. Are we distributing power across our country? Are we all involved in governing this country? Are we involved in making decisions and taking them to the grassroots level? Those are some of the issues that we need to ask ourselves. Are we practising the rule of law? Are we driving according to the road signs?

Am I abiding by the law of this country? If we do not practise those things on a daily basis, then we will never respect our national values.

We need to ask ourselves whether we respect human dignity in this country. We have places in this country where people do not access clean water in this time and age. With regard to equity, some places get a lot and some places get little. I am so shocked when I see the Senate changing the formula to be used in devolving money. They have put the percentage of the population to be higher than the poverty level. When are the poor people of this country going to have equity in this country when we decide to go by

population instead of poverty levels? Those are the things that we need to ask ourselves. Are we applying social justice to others or is it that we love ourselves more than those who are suffering? Should we have 700 billionaires and millions of poor people?

About good governance, integrity, transparency and accountability, we need to ask ourselves if we are accountable to the money that the Government entrusts in us. Is the Governor accountable to the people that elected him? Can he account for the resources he is distributing to the whole county? If we want to obey and respect our national values, those are the questions that we need to ask.

We will not have national values in this country if we do not have sustainable development in some areas. We must have sustainable development in all the counties of this nation. In some places, we start projects that are not sustainable. Every year, it is the same people who suffer during calamities such as *El Nino*. The question then begs: Do we have sustainable development in those areas?

With regard to national symbols and flags, some institutions do not put the national flags. They do not show the national symbols. You need to be proud of your country. You need to show the colours of your country. Those are some of the things that make us proud of this nation.

With regard to culture, we must embrace it. We must also practise it wherever we go. Thank you.

Hon. Speaker: Leader of the Minority Party. You do not seem to have a card.

Hon. Nyenze: Thank you, Hon. Speaker for giving me a chance to contribute to this very important Motion on national values and principles of governance. Kenyans should know that national values and principles of governance under Article 10 of the Constitution include, among other things, patriotism. This is where you love your country. Under patriotism, you do what it takes to serve your country faithfully. Do Kenyans love their country? If they do not love their country, they are not patriotic. Patriotism is the first value. We need to ask ourselves what could be the reason for not loving your country. Patriotism means that you can die for your country. You are supposed to protect your country. When you go out for trips and meet foreigners, you are supposed to market Kenya as the best destination for investment. Leaders should set the example. You need to start with your family. Preach to your children and neighbours. Leaders have the opportunity to go places and talk to people. Let us preach patriotism so that we love our country. Everybody else loves their country but here in Kenya, some people say, "*Tunavumilia kuwa Wakenya.*" I normally ask them, "Why do you say *mnavumilia* instead of *kujivunia*?" Many of them tell me that because of exclusiveness, they do not feel like they are in the mainstream of the economy of this country.

Every Member who has spoken has said that we are not as united as we should be. The reason is that our leaders are pulling in opposite direction. You could be in Government and others in Opposition, but we could all benefit from constructive criticism instead of fighting all the time. Let us point out the wrongs without harbouring ill feelings and without being taken as if we want to bring down the Government.

The other thing is sharing of power and the face of Kenya. We lack that one. Appointments are skewed towards those who won the election. Friends, relatives and cronies are the ones who are appointed. The other people are left out. This is against the patriotism that I have talked about. The three main things that ail this country - and

everybody knows including primary school children - are corruption, insecurity and tribalism. If we can only address those three things, we will go very far.

If the President has appointed people to the EACC, this House must work with speed to approve those appointments. This Parliament appropriates the budget. We give a big chunk of the budget to EACC, the DPP and the CID to deal with corruption without interference. We have read a lot about the leader from Singapore. If the tigers, that is, the countries of South East Asia---

Hon. (Ms.) Kiptui: Hon. Temporary Deputy Speaker, indeed, this is a very emotive topic. Some of us are very emotional when we talk about it. As leaders, we must be the ones to show the way. Unfortunately, since Independence, this country has taken a nosedive. It is continuing to go down instead of coming up.

We have enumerated our values in the Constitution. However, we do not live by those values. We have a disease in this country whereby we churn out very good papers and legislate good laws but, when it comes to implementation, we go the opposite of our original intentions. It is a very sad situation. As a Member from the other side said, we need a revolution. We need a big bang that will wake us up into sense. We pray God that we remove this spirit of contradiction.

In this country, we say this and do the opposite. Look at how we behave even on the streets. We have no respect for one another. When you go to a bank and you find someone is being served, instead of waiting on the queue for your brother to be served, you jump in front or shout to the teller. You want to be served so that you can go away quickly. That, in itself, shows a very selfish attitude that we have towards one another, lack of respect and even care for fellow human beings.

Hon. Speaker, in our education system, we need to inculcate those values at a very early stage in our children's lives. But do we do that? In our curriculum, what do we see? Even when you teach children during the day about good manners, when they go home, they watch television and see leaders fighting. That, in itself, is a very big contradiction. For instance, in the political arena, we have made politics money driven. If you have no money, voters will see that you have no value. It does not matter what innovative ideas you may have which may help this country to go forward, but you are never given a chance if you are poor. This is because you came in here through your money. Your money voted you in. We have made our politics very expensive to the extent that very soon, we will have no good leaders but only people who have money.

Hon. Speaker, it is high time we met as leaders, went for a retreat and asked ourselves: What are we going to do to turn this country into the right path as it should be? In Kenya, leaders are not regarded as leaders and that is why when we go to the constituency every weekend, we find so many *Harambees*, almost 30 in number. It is because we are looked at as having a lot of money. We are just considered like bags of money or walking Automated Teller Machines (ATMs) without Personal Identification Numbers (PINs). *Ukiguzwa tu*, money should come out. We really need to think about it. I do not care much about how many laws we will enact. My problem is at the implementation stage. May God help this present Parliament to turn Kenya around?

Hon. Speaker: I am advised that it is time for the Mover to reply. Hon. Members, you said one hour. The House does not operate like the *Matatu* industry which has no

rules. You made the decision. It does not matter if you look at me with closed eyes, Hon. Mwaura. Do not wink. I know you wanted my eyes to catch you but it is unfortunate.

(Laughter)

Hon. (Ms.) Kanyua: Thank you, Hon. Speaker. Because we do not have much to say in reply, allow me to give one minute each to Hon. Benjamin, Hon. Isaac Mwaura and Hon. Christine Ombaka. I will use the two minutes to wrap up.

Hon. Langat: Thank you very much Hon. Speaker. I have limited time. In the Report, I have seen what the Committee calls value carriers. One of them is our educational institutions. One of our greatest weaknesses as a country is our education policy. We have established secondary schools, primary schools and universities. In the secondary school section, the policy is that 85 per cent of students should come from local areas and 15 per cent from outside. This applies to the universities as well. We have students who have been in Nyeri Primary School, have gone to Nyeri Secondary School, went to Dedan Kimathi University and have now come back to teach in Nyeri Secondary School.

Hon. Speaker, such a person cannot understand what a national value is. The most important thing we need to do as a country is to change so that students from Kericho County can go to Nyeri County, those from Nyeri County go to Kisumu County and those from Kisumu County can go to Murang'a County. That is the only way people can understand other Kenyans. Otherwise, the way our education is structured, it is like saying this is where I come from. You believe that you are superior because you do not even think there are other people in other areas. I propose that our educational policy should encourage students to go across the counties.

With those remarks, I support.

Hon. Mwaura: Thank you, Hon. Speaker. The greatest challenge of a modern state is that some of the aspects that can be done by other sectors of society like inculcation of values and principles are now being quantified as part of a legal or policy framework. The truth of the matter is that even when we are attempting to actually move from there and make sure that people espouse such principles and values, it remains largely a social endeavour and a function of other forms and mechanisms that are not within the purview of the formal structure of Government.

If you look at our electoral system, with all the corruption and the stealing of votes at the nomination level for political parties, you still find very intelligent people on the Floor of this House; lawyers, doctors and teachers. The most challenging thing in this country is corruption. Corruption is lack of morals. Yesterday, I was listening to the nominees of EACC, the commissioners and it was clear to them that the issue is not about lack of laws. So, I want to say that despite the existence of this policy that is a requirement of---

Hon. (Ms.) Ombaka: Thank you, Hon. Speaker, for giving me this opportunity. I just want to raise one point that national values also mean that we need to be one people and one nation. To be one nation, we need one language that can unify us. We are so lucky that we have Kiswahili and English languages. If you look at Kiswahili, it is not well spoken in certain regions. I am one of the victims who cannot speak good Kiswahili.

Kiswahili should be one of the languages which should be taught in schools and everybody should be able to speak it well so that we use it all the time. That will unify us. Tanzania, for example, has been unified by one language. They do not talk about tribalism. They talk about my brother, my sister because the language has unified them as a nation. We lack that kind of unity through one language. That is my submission to this. Thank you very much.

Hon. (Ms.) Kanyua: Thank you, Hon. Speaker. As the Mover, I really want to support and appreciate all the Members who have spoken on this policy. For the many comments and good values that we have espoused here today, this is the Kenyan nation we want to see.

I also want to emphasize the issue of a strong national identity and a strong national value system. We are among the few communities which do not have a national consciousness that we all agree corruption is bad and shun corrupt people, and that would be a national value system that we all share.

The education system needs to accord to the new value system. We need graduates who are not only hardworking and intelligent, but are also Kenyans of good repute and young people who can guide our country in matters of education. We will be asking the national education system to use the Sessional Paper we have adopted today to guide the civic education and the social studies classes that are being undertaken in our primary schools.

I would like to thank the House and Parliament at this point in time, for adopting a Sessional Paper as progressive as the one we have adopted.

I beg to move.

Hon. Speaker: Hon. Members, I defer putting the Question until later this afternoon, at an appropriate time, maybe when we conclude the next business.

Before we proceed, allow me to recognise a visiting technical team from the United Nations Development Programme (UNDP), who are working together with our Public Accounts Committee, in its endeavour to involve stakeholders in committee undertakings. They are welcome to the Speaker's Gallery.

(Applause)

RATIFICATION OF WTO AGREEMENT ON TRADE FACILITATION

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

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on its consideration of the World Trade Organization (WTO) Agreement on Trade facilitation, laid on the Table of the House on Thursday, 3rd December, 2015 (Morning Sitting) and pursuant to the provisions of Section 8 of the Treaty Making and Ratification Act, 2012, approves the ratification of the World Trade Organization (WTO) Agreement on Trade Facilitation.

I wish to make a few comments before I go to the details of the agreement.

On behalf of the Departmental Committee on Finance, Planning and Trade, and pursuant to Standing Order 199 (6), about presentation of reports to the House, it is my

pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Ratification of the World Trade Organisation Agreement on Trade Facilitation.

The Trade Facilitation Agreement was committed to the Departmental Committee on Finance, Planning and Trade on 19th November 2015, for consideration by the relevant committee. The Committee is mandated under Standing Order No.216 and the Second Schedule of our Standing Orders, to consider all issues touching on both international and internal trade.

While considering the agreement, the Committee was guided by the Treaty Making and Ratification Act, 2012. That is the Act that guided us in that ratifications process.

On 2nd December 2015, the Committee met with the Cabinet Secretaries (CSs) for Foreign Affairs and the East African Community and Commerce to appraise the Members on the contents and provisions of the WTO Trade Facilitation Agreement. From the discussions with the CSs and analysis of the WTO Trade Facilitation Agreement, the Committee noted that this Agreement was concluded under the Doha round of trade negotiations. It was adopted at the 9th WTO Ministerial Conference held in Bali, Indonesia, in December 2013.

In short, this Agreement contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out the measures for effective co-operation between customs and other appropriate authorities on trade facilitation and custom compliance issues.

Kenya, as a member of the WTO, since its creation in 1994, has signed all the WTO trade agreements. As you all know, the WTO is the only global body that deals with rules of trade among the nations in the world. This will ensure there is order in trading and levying of various tariffs among the various countries. I would like to go to the background and the reason why this agreement was necessary before I go to the details of the Agreement.

For a very long time, many traders across many countries have complained about the red tape or inefficiencies in the way goods move from one country to the other. For example, between Kenya and Uganda, it could take several hours or days before movement of goods could be facilitated.

It is not only in Kenya, but it is a global problem. The WTO has a membership of 163 countries. In all those countries, there are challenges of movement of goods across the borders of different countries.

The United Nations Conference on Trade and Development conducted a research and it was estimated that the average customs transaction involve 20 to 30 different parties. One is told to see 40 different people for one transaction. Secondly, it was also found out that one transaction involves 40 documents. Before your goods are cleared, you need to fill a minimum of 40 documents.

The other finding was that it also required filling 200 data elements; some of which are repeated, at least, 30 times. In 30 different forms, you would be required to repeat the same information such as the name of your company and your Personal Identification Number (PIN). This involved keying in and re-keying in 60 to 70 per cent of the same data. All this is very costly and time-consuming.

Therefore, WTO sought to come up with an agreement among the countries to see how we can shorten this process to reduce the number of forms one is required to fill or items required; in short, to facilitate trade among different countries. That is the origin of the Trade Facilitation Agreement which we are approving today. As the name suggests, it is supposed to ensure that there is ease of movement of goods, ease of clearance of goods and ease of general trade.

I want to inform the Members on the contents of the Agreement in general. This Agreement binds the members on different aspects. One of the items is that it binds the members into making sure that they publish and make available information relating to how to import and export goods to that country and those on transit. The information involves the required documents to be filled. The relevant trade laws and the inquiry point contact information should be made available.

If today we agree to ratify this Agreement, just like any other country which will do the same, it will bind us to ensure that all the import procedures that must be done in Kenya, are published on the internet and are accessible.

It also provides that, if any of the governments who are members were to amend their laws relating to taxation or customs, they must ensure that they give an opportunity and additional time to all other governments, traders and interested parties to comment on those new trade-related customs laws, administrative regulations as well as amendments.

In short, this is public participation which our Constitution already provides. It is nothing new. It makes sure there are no new developments which other countries do not understand and yet, they affect business across the world.

The Agreement also provides that the members shall adopt faster clearance for perishable goods that allow release within the shortest time. This is very relevant to Kenya because we export perishable flowers and foodstuffs. The Agreement says all countries who have signed should commit themselves to ensuring that those goods are released within the shortest time possible. It also provides that where those goods are received on weekends or national holidays, the countries must provide facilities to handle those goods because they cannot wait. This is very good for Kenya because we export perishable goods such as flowers.

The other thing which is very important about this Agreement is that it encourages border co-operation between neighbouring countries like Kenya and Uganda. It binds us to ensure that the customs services of Kenya and Uganda co-operate to ensure that the movement of goods is smooth and swift. This is very important to facilitate trade.

Hon. A. B. Duale: *(Inaudible)*

Hon. Langat: I am being harassed by the Leader of the Majority Party. Hon. Speaker, I hope you will protect me from his harassment. I want Members to understand this important Agreement. It is very sad that we are very few people in the House.

The Agreement requires neighbouring countries to ensure border co-operation so that goods can be inspected once and they move. We do not want a situation whereby, for example, Kenya inspects goods then the same goods are inspected by Uganda. That will take extra days. The Agreement encourages us to co-operate with all the neighbouring countries.

The Agreement also binds the country to establish a single window system for filing import and export documents. This is what is happening in Kenya now. Through

KenTrade, Kenya has established a single window system for filing documents to reduce repetitions and avoid walking from office to office. This is already happening in Kenya, but it has been put in the Agreement so that all the countries which have not established the single window system should do so once they have agreed on this.

All countries are not the same. This Agreement provides for special treatment for different countries. For implementation purposes, countries which are considered least developed are given more time to adopt the provisions of this Agreement. This Agreement recognises that countries are at different levels of development. Therefore, it has given a window for different countries to adopt at different times.

Hon. Speaker: Check the clock.

Hon. Langat: Hon. Speaker, let me summarise. In short, this Agreement seeks to expedite the flow of international trade, reduce the red tape and make it efficient for traders to file their documents swiftly with no unnecessary delays.

I request Members to support the approval of this Agreement. Kenya is shortly going to host the World Trade Organisation (WTO) Ministerial Conference at which this agenda item will come. It will be shameful to host the Conference and ask people to approve the Agreement and yet, our country has not done so. We want Kenya to lead in the international forum. I encourage Members to support this Agreement. It is about trade facilitation. It is very nice and it is the right thing to support.

I request the Leader of the Majority Party to second the Motion. Thank you.

Hon. A.B. Duale: Thank you, Hon. Speaker. First, I thank the Chairperson and members of the Committee for burning the midnight oil to save the Executive from an imminent embarrassment. This Agreement was brought before the Committee yesterday when the Cabinet Secretary (CS) appeared before it. The Committee sat and wrote this Report.

The ratification of this Agreement is important at this time because Kenya is hosting the annual WTO Ministerial Conference between 14th and 18th December, 2015. All member countries must complete their domestic ratification process for the Trade Facilitation Agreement to come into effect. Some countries have ratified the Agreement while others are in the process of doing so. Imagine a country that has not ratified the Agreement hosting the Ministerial Conference. That would be very serious. I am sure the Executive can do better. They should not bring this kind of business at the last minute. They should have a plan. I will not say the Executive slept, but somebody somewhere can do better.

Why are we approving this Agreement? What is its benefit for Kenya? We are one of the founder members of WTO in 1947. This Agreement shortens the time it takes waiting for transit goods or for custom release and clearance. It reduces the transaction cost for traders, especially for small and medium enterprises (SMEs). It will improve revenue collection from the current over Kshs1 billion and enhance effectiveness of border control, which is very important for our country. From the current over Kshs1 billion KRA is collecting by being a member of WTO, by ratifying this MoU, we will seal loopholes of tax evasion and tax avoidance and collect more revenue. We will improve the efficiency and integrity of customs agencies. The other day the President talked about carrying out lifestyle audits of KRA staff.

(Loud consultations)

Hon. Speaker, you need to protect me from the second term, because he is old enough in this House to know that there is a procedure where you wait for your time to speak or air your views. You are not part of the Leader of the Majority Party's constituency or leadership. You will contribute later.

So, there are a lot of benefits for our country. Those are the good things that the Constitution 2010 provided to the National Assembly. We now have an opportunity, on behalf of the people of Kenya, to ratify any agreement that the Executive signs with international organisations, governments and institutions all over the world.

People do not know why our colleagues in the Senate were told to leave the Kenyatta International Convention Centre (KICC). The Senators were told to vacate offices because World Trade Organisation (WTO) will have a huge conference there between 4th and 19th December, 2015.

The whole world is coming to Kenya. We have brought the President of WTO, President Obama and the Pope and we will bring more. It is only happening under the leadership of this Government. My good friend, former Minister in the Kenya African National Union (KANU) Government and the Leader of the Minority Party was there. Pope came only once.

Hon. Nyenze: Hon. Speaker---

Hon. A.B. Duale: You will have your chance. He was a former KANU Minister. There was no American President who came. The senior-most who came was an officer from a small junior state department.

Hon. Speaker: Let us go to the Motion.

Hon. A.B. Duale: The WTO is huge for the economy, business and Memorandum of Understanding (MOU). I want to thank our Hon. Members who are here. We will get more agreements and we will ratify and approve them today before we go for the long recess. Then we will join the rest of Kenyans and our President in making sure that the WTO conference is a success.

Thank you, Hon. Speaker. I beg to second.

(Question proposed)

Hon. Speaker: Leader of the Minority Party.

Hon. Nyenze: Thank you, Hon. Speaker for giving me this chance to contribute. I want to thank the Chairman of the Departmental Committee on Finance, Planning and Trade. I urge this House to adopt this report about WTO, so that we can ratify it.

I also want to make a point that even the National Assembly should be given a role to play in negotiating those trade pacts instead of only ratifying them. There are benefits that will be derived from this agreement because global merchandise exports are estimated to increase between USD750 million to USD1 trillion per annum.

Exports from developing countries are expected to increase by between USD170 and USD730 billion per annum because this ratification will make trade easier. The developing countries and the lowest developing countries will benefit more because they derive their revenues from taxation. So, this ratification will simplify trade because we

are living in a time where most of the trade barriers have been removed in many trading blocs. Free movement of merchandise and goods has helped many countries to develop their economies. It is high time we ratified this and adopted this Sessional Paper so that countries will take advantage of that.

We know that when there is delay at the border points - which this ratification will ease - it encourages corruption. This is because when goods cannot move across borders easily, that is when people device ways to do corruption. Therefore, this trade facilitation will bring more benefits. I urge Members to support it. The trade facilitation will also reduce trade costs. We know that this remains very high because of the slow movement of goods and bureaucracies that are increased between borders.

We also know that small and medium size enterprises (SMEs) lose a lot. They cannot compete with the big corporations and multinationals. Since some of those SMEs export goods, this will help them to grow because goods will move faster and they will grow their base.

Based on evidence from 141 countries over a period of 10 years, there have been improvements in trade facilitation and inward flows of foreign direct Investments and foreign trade. Every country that wants to grow has to encourage the inflow of foreign direct investment. When you create an enabling economic climate by addressing security and infrastructure, you make it easier to do business. When you have an educated, but cheap labour force, you create an atmosphere that attracts investments and then reduces taxation. That is what most countries have done to change from Third World to First World countries.

Very recently, China was a developing country. It joined WTO not long ago and because of following the rules of WTO, having cheap labour, well-educated people, good infrastructure and low taxation, China is the second largest economy today. The largest economy on the globe is United States of America (USA) followed by China, Japan, Germany, France and Britain. We have also the emerging economies of the BRICS like Brazil, Russia, India and South Africa. They are catching up because they have done the same. So, let us ratify those trade agreements to make the world economies grow. Let us also be very aggressive in trying to work with WTO so that we can grow our economy by addressing those key areas I have addressed; security, infrastructure, educated work force and an easy environment to do business where taxation is reasonable. Once we do this, we are home and dry. Kenya will move from a Third World country like Singapore did and the Tigers, to the First World country within a generation.

With those few remarks, I support.

Hon. Speaker: Hon. Lati Lelelit.

Hon. Lati: Thank you, Hon. Speaker for giving me this opportunity. It is a great opportunity that the Constitution of our country provides for Hon. Members who represent the people of Kenya across our land, opportunity to ratify any international agreements that involve our country. It is important particularly noting that we live in a globalised world where small things that are done in any corner of the world, somehow filter and affect people even in the remotest villages of our country.

The ratification of this trade agreement is of paramount importance considering that Kenya is a founding member of the World Trade Organisation, if you consider the muscle that Kenya has as a regional player, particularly in the East and sub-Saharan

African region, and if you consider that Kenya will be hosting the first Ministerial Conference of the WTO in Africa. As the Leader of the Majority Party has alluded, there is something good that is coming to Kenya. We will be the first country in Africa to hold a Ministerial Conference of the WTO. We just hosted Obama; we just hosted the Pope. I want to congratulate our country because we are recognised globally.

This treaty provides for efficient customs procedures, speedy and efficient documentation and transparency as goods move across the region. That is very important for this country because there are so many landlocked countries that Kenya helps to transit goods. Faster movement of goods will help our customs and provide efficiency within the systems that we have for goods transfer.

More importantly, this trade agreement will help reduce smuggling of goods across countries. In the last one week, we have been treated to news of people who have been importing some of the most expensive Range Rover vehicles to Kenya disguised as household goods. Consequently, the country has lost millions of shillings in Customs Duty.

This treaty also helps to remove administrative and none tariff barriers. As Members of this House who represent the people of Kenya, we must always be carefully when ratifying such agreements, so that we can get the best deals for our people. Even member countries that play to the rules of international agreements still find the best opportunities for their own countries.

China is becoming a very big exporting country, particularly to the United States of America (USA). Having the best economic advice from their people, the authorities in China have gone round the WTO rules. When they sell goods to the USA, they move quickly and buy US treasury securities to make sure that the Chinese currency remains slow since it is an exporting currency, so that they do not lose on the exports. That is actually the war they have with the USA. However, there is no rule in the WTO that can hinder China from doing what they are doing.

We are in an era of terrorism, and terrorists can use any opportunity. The security of our country must---

Hon. Speaker: Hon. Oburu Odinga!

Hon. (Dr.) Oginga: Thank you, Hon. Speaker, for giving me the opportunity to contribute to this very important Motion.

The Ministerial WTO Conference that we are going to host from 14th to 18th December is very important for our country because it will improve our image internationally. It will make Kenya look a little better than it looks today, where we have very few tourists coming to our country. A very big number of people will come to our country. Kenya is known for attracting people. Once people come to this country, they will always want to come a second, third and fourth time. So, the event is very important for our country.

The WTO is not always friendly to the developing countries. There are a lot of issues, especially in agriculture. We have a lot of issues to do with domestic support for their own agricultural goods, which affects us negatively. There are issues of subsidy for agricultural exports. There are also issues of market access, in respect of which no agreements have been reached. I do not know whether an agreement will be reached. For the first time, we are going to have a treaty which will favour the developing countries.

Africa does not need to access the European market. What we need is inter-regional trade within Africa. We already have integration of the East African Community. We already have a common market treaty signed. The issues being resolved by this agreement are very pertinent to facilitation and fast-tracking of the East African Common Market Treaty. We have issues to do with none-tariff barriers. Those are some of the things that hinder trade. They are neither tariffs nor customs. They are just created by states to make it difficult for goods to move.

If this particular agreement is ratified by, at least, two-thirds of the member states, it will have a very positive effect in easing trade between the member States. As it has been mentioned by the Leader of the Minority, this treaty will have a direct effect on inflows of direct foreign investment. The agreement will also reduce the time taken to clear goods at the Port. It will reduce the number of licences by doing away with those licences which are unnecessary, which only serve to hinder trade between countries.

In our country, we already have a single window system but its implementation has been very slow because a number of Ministries are reluctant to join the single window arrangement because they have dubious ways of doing things, which they would not want exposed through the single window arrangement. This particular agreement will help us to fast-track implementation of the single window system, which will ease trade between countries. It will also introduce ICT, which will reduce human contact. Corruption comes about as a result of the huge documentation that passes through so many hands. This makes it easy for officials to demand bribes.

With those few remarks, I strongly support and urge hon. Members to support the ratification of this agreement because it is the first one that is supporting the development countries, which have not had very fair deals at the WTO.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Sakwa Bunyasi!

Hon. Bunyasi: Thank you, Hon. Speaker. I rise to support the Motion but I have a number of concerns.

First, it is unfortunate that despite the fact that the decision to host the Ministerial WTO Conference was made at least a year ago, this matter was brought to the relevant Parliamentary Committee in the last 24 hours. There is no excuse at all for this not to have been cleared by Parliament.

There are many advantages which have been highlighted by previous speakers. I will not bother to mention them again. What worries me is that the documentation is only discussing the benefits. It is as if it is a free lunch or an easy ride. There are issues that have emerged during the discussion, one of which has been alluded to by Hon. Oburu – the agriculture round of discussions and implications on domestic subsidies, which has been one means by which agriculture in many places has been supported to modernise. Even in America, Europe and elsewhere, that is how they do it. It is different but it is all subsidised. But many of them put severe restrictions.

Of course, it is too late. We must pass this one today. We are going to host the conference in 10 days' time. So, we do not have much time. When dealing with agreements of this nature, we must have a clear assessment of implications on some of the core values that we have talked about. We talked about values of gender. Increased

trade is not going to support women and the youth. Is it going to suppress our agriculture sector?

What does it mean for our very valuable contribution to the world in, say, wildlife management? Kenya has stuck out more than any other country in the world - and I can say that with confidence - to protect her wildlife. How does this facilitation of trade, for example, imply for the movement of tusks and other things that Kenya would consider illicit, which is not what the whole world shares?

I would request that next time as Ministries come to us, we should ask them to do due diligence and give us the benefits and the downside. We can then assign probability to the downside and say, "okay, although we have downsides, the chances that they will occur are small, but they may not be that small," so that we can make an informed judgement as a House.

While I support this, I am just concerned that there is an element of haste because of the slowness with which the major Government Departments dealt with it. But the House ought to be aware that those things have implications for some of the things that we hold dear. This needs to be spelt out, so that the House is better informed in passing those kinds of submissions.

Hon. Gaichuhie: Thank you, Hon, Speaker. I want to support this trade agreement that was adopted in the Ninth World Trade Organisation (WTO) Ministerial Conference in Bali, Indonesia in December, 2013, which I attended. I would like to tell the Members that it contains provisions that will expedite the movement, release and clearance of all goods, including the goods in transit.

It also sets out measures that effectively set out the co-operation between customs and other appropriate authorities. It is an agreement that is going to facilitate the quick movement of goods from one country to the other. This agreement has opportunities that give traders and other interested parties many opportunities. It also reduces time to transit good from one country to the other. If we adopt this agreement, we shall facilitate fast movement of goods. There is a provision to make public any new amended laws and regulations for every participant to chip in and see whether the agreements are good. It gives a window for all the players to come in and amend the laws that we put in place. It also gives a window where members are allowed any judicial appeal in case you are aggrieved by the decisions that are made by Customs.

That window is good because some agreements are closed. This is a very open window. It also allows the release of perishable goods within the very shortest time possible in case of any problem. It says that even after hours, businesses are allowed to continue, so that any perishable goods can continue transiting. It also allows for the storage of the same goods in case they need to be conserved in the appropriate conditions.

Countries that are within borders will create a cross border agency which will co-operate and coordinate procedures to facilitate cross border trade. This will allow countries to agree on things that could be a problem to them. Members are also obliged to share Customs information and verification of information that is provided. So, they are free to verify and see that the information that is there is suitable to facilitate trade in their countries.

I do not want to dwell a lot on this because my Chair moved the Bill and gave out all the reasons why this trade agreement should be ratified. All the other countries within the

region have ratified and we are privileged this year to be hosting the Tenth Ministerial Conference. It would be a shame if our Parliament will be the one that has not ratified a trade agreement that was agreed upon in Bali in December, 2013. Since we have given all the reasons why we think we should ratify this trade agreement, the Members will agree with me that we need to ratify it, like yesterday. Unfortunately, the Ministry delayed in bringing it.

My Chair was trying to give the benefits that the WTO Trade Facilitation Agreement will give and we are saying it is the shortening of waiting time, reduction of transaction cost, improved revenue collection and effectiveness, more transparent and efficient regulatory climate for investors, improvement of efficiency and integrity of Custom agencies, improved relationship between border control authorities and the business community. There will be better functioning of public agencies. The SMEs, which suffer more from administrative burdens than larger enterprises, are expected to benefit considerably from the implementation of the TFA. Agreements will help developing countries attract more foreign development aid, increased custom revenue and reduced incidences of corruption. The delay of goods and more documentation is a window of corruption and we are trying to fight corruption. So, this agreement will help this country to fight corruption.

We are also going to harmonise all the trade documents from different countries and we will have a joint customs operation which will facilitate trade between all the countries.

With those remarks, I support.

Hon. Limo: Thank you, Hon. Speaker for giving me this chance. I also rise to support this ratification agreement. However, there is no reason whatsoever why our country is one of the most expensive countries to import or export goods. The reason for this is lack of efficiency. In trade, a lot of costs are associated with inefficiencies. Most of the costs are related to holding stock.

If you know that it will take a lot of time to get your goods to Kenya, you will tend to stock more. If you stock more, there will be a lot of costs related to stock holding. At the same time, there will be financing costs because you need to go to the bank and get more money, so that you can stock a lot more. As we ratify this, my biggest worry is the preparedness of this country to take advantage of this ratification. Once we ratify, a lot of things will change including the cost related to our ports. I was surprised that we are five times more expensive in terms of passing goods, which are related to either imports or exports, through our ports, than other countries.

In Singapore, it cost around US\$400 per metric tonne while in Kenya, it is over UD\$2,400. We are very expensive and once we reduce, we have to be very careful and take advantage of this reduction. If we reduce and other people use that advantage to trade and as Kenyans we do not use the advantage, then it will not benefit us. As we ratify, we need to sharpen our entrepreneurs in terms of training them and making them aware of the opportunities which are now available through this agreement, so that we can become competitive and attract more entrepreneurs to invest in this country. That way, we can create more jobs and increase our revenues.

The moment we become cheaper in terms of charges in our ports, we cannot benefit if we do not take advantage to ensure that there is a lot of turnover. The benefit which will accrue by reducing our cost will be offset by an increased turnover. Once we do not take

care of that, then we will loss as a country. Even multi-nationals all over the world move towards synergies of services.

In most cases, there are advantages that accrue in terms of synergy when you are sharing services such as HR, accounting and so on, but you will not actually benefit if you are a country with very little turnover. You will end up supporting the rest of the world when you are supposed to benefit. As we ratify these international agreements we must be very careful and ensure that we are prepared to take advantage of those accruing advantages. There is no reason to be inefficient. We can give a simple illustration: If you make your shop expensive so that people take one hour to buy one item instead of taking, say, two minutes you are bound to lose. It is us to change our minds and turn ourselves into entrepreneurs who want to make more sales.

I support, but we must be prepared.

Hon. Nyamweya: Thank you, Hon. Speaker. This Motion has come in timely. My concern is that the Government has been “sitting” on this Motion since 2013 to date when we are hosting the conference. What we are trying to pass today is actually working in the country. For instance, the KRA is already on internet. What we want to pass is already being implemented. It is not something new for us to pass so that the Government can start using it. You know it is like staying with a wife and then you decide to make your marriage formal by going to church to do a wedding. That is what we are doing here. This thing is working.

This will help us, especially on declaration of imports and exports. By using the internet, if you are an importer or exporter, you will be able to know at what point your consignment has reached. This will help you get the documents that are required. If for instance you are exporting flowers, somebody in, say, London will know that you have loaded the flowers in a warehouse and also that the flowers are in the plane. This is because there is a tracking process. The person will be in a position to prepare documents and clear the goods. In effect, this will reduce the cost of doing business. It will bring efficiency.

You could lodge your documents at the Port of Mombasa. If you are exporting your goods, you are required to complete documents for export. The same information will be reflected on the other side when the consignment finally arrives there. The other Government will be in a position to collect revenue without under-declaration. The same thing will happen here. There is no chance that somebody will come and under-declare the goods because it gives a track record and a trail of papers showing how the consignment has moved and the value of the goods. In return, the Government will collect enough tax. The only challenge is that this money collected is never used for its intended purposes.

The other day, I read about something that has come up. The CS can take a loan of up to Kshs40 million. In all fairness, they have no security of jobs and they work under the pleasure of the President. How do they pay the Kshs40 million? If there is audit to be done, before we do it at KRA, let us start with the most recent Cabinet Members. Let us see how their lifestyles are. Let us see the property they have acquired for the few days they have held those positions. You will realize that this country is in a crisis as much as we are trying to put in place systems of efficiency and improve tax collections. Those

charged with the responsibilities have not done a favour to this country and it is because of corruption.

I support this on the issue of tariffs. I also support the issue of increasing trade among the East African countries and the world at large. It will be easier to export to the neighbouring countries because when you go there you will not get problems with customs officers.

With those few remarks, although I am not sure about my time, I beg to support.

Hon. Mwaura: Hon. Speaker, I rise to support the ratification of the treaty. Indeed, Kenya is a transit country. The economy of this country is around the transit of goods and service. So, the Port of Mombasa is very critical in terms of revenue generation for this country. However, there have been complaints from our neighbours Uganda and Tanzania, particularly on how long it takes to actually get goods and services from Mombasa to their countries. Of course, with the advent of the SGR then we expect that there will be a lot of movement of goods. This will also take away the load from our roads. It will also increase efficiency. Therefore, a treaty that seeks to augment that in terms of the procedures at the port is very welcome.

Members will agree with me that there is a lot of inefficiency at the port to the extent where members of the public are told to pay for individuals to actually file their details online. I do not know how that would happen. I had to show that even with the creation of e-systems or the management information systems, the human agency aspect still remains a barrier to trade and development.

Hon. Speaker, we are getting a lot of things from outside the country. With this kind of globalization or free movement of goods and services, we have ended up with a situation whereby we have countries that are manufacturers and others that are basically consumers. Last year, when I was in China, I saw a lot of young men and women working on products so that they could sell them in Africa. This morning I was listening to a programme by BBC and it was being said that China alone has got about one million people within Africa.

When we are importing goods or when we are keen on reducing the various non-tariff barriers, bottlenecks and blockades, what is it that we are actually exporting to the outside markets? We need to ask ourselves that question so that we are not just facilitating others to come and sell their goods here and yet in essence, we increase the balance of payment deficit that is very glaring within our budget.

Recently there has been a reduction in terms of prices of commodities. This is something that I would want to imagine, that as much as we may want to accede to this treaty so that we are compliant as a country, we have to ask questions. What is it that we are doing with regard to enhancement of trade with countries that are basically producing raw materials and countries that are producing for export? How do we increase and have mechanisms to increase that kind of output to the outside world? This is something that we may need to negotiate. I am sure there is a protocol within the World Trade Organization framework which this country can leverage when we have this meeting in December.

The other issue that also comes out very clearly is the fact that we need to ensure that whatever agreements that we make are actually going to create jobs for our people. That efficiency by itself has been properly elucidated. It is going to help Kenyans get

more jobs so that there is increased productivity and more revenue to the Government so that we can improve the quality of the lives of Kenyans.

Hon. Oyoo: Thank you very much Hon. Speaker for giving me an opportunity to add my voice to this very important Motion.

I regret that as I was waiting, quite substantial grounds have been covered by my colleagues on this very important Motion. As Kenyans, we should be fast learners. In everything that happens, we should be able to take notes and make sure that we use it as a case study.

I start by thanking the Kenyan Ambassador to United Nations based in Geneva for putting up spirited efforts to ensure that this important function takes place in this country. There has been a lot of lobbying and jostling. As much as this thing was discussed in 2013, it was known that it will take place in Africa. There has been a lot of jostling around by the emerging economic forces like Brazil to relocate it and take it elsewhere. However, through our able representation by Kenyan Ambassador to United Nations Mission in Geneva, we are finally going to have it here. We should, therefore, reward the efforts of such an able officer. Twenty years ago, Kenya was privileged to host the United Nations Conference on Trade and Development (UNCTAD) when they had those renewed forces of energy courtesy of a good Kenyan who was in United Nations Industrial Development Organization (UNIDO), but we did not learn from it so much until today when we are still busy tabling many papers when we should have been ahead. What does signing of this Agreement stand to benefit us? We have had petty differences in our country; more so, when it comes to trade. We have a lot of imbalances in our trade. We are doing a lot of trade with China today. However, if you look at the balance sheet, you will find that we are exporting to China more than we are importing from them. I believe this thing is really worrying Kenyans; more so, His Excellency the President whose intention is to take Kenya a step forward.

So, this thing will bring the world closer to us so that we are able to analyze and know first-hand that even in the sugar sector --- We have been making noise that there has been proliferation of imported sugar from Brazil and Uganda. We should be able to know when goods arrive and their market prices and whether we can get a better deal elsewhere. It will help us eliminate proliferation of illicit trade which is prompted by bureaucratic differences. We must support our Government and make sure that this thing does not happen for nothing, and make sure that we take it a step forward to enhance our agricultural productivity so that we can also compete. We must be able to go outside there and compete. If it is the sugar industry whose interests I represent, the Government must start thinking of how to produce more sugar and export it, and not have Government officers who are forever thinking of how to kill the sugar industry so that they have room to import it, get more profit and cut deals. This is the way Kenyans should start thinking and I believe this will be a step forward. I urge Members to take interest in what is going to emerge in this conference.

With those few remarks, I support the implementation of this Agreement and Kenyans should support it.

Hon. J.K. Ng'ang'a: Thank you, Hon. Speaker. I also want to support this Motion. After going through it, I have seen that there are a lot of things that we have already passed. In this House, we have passed many rules. I urge Members to try and

make a follow up and make sure that whatever law we have enacted is implemented. We, Kenyans are very good in making laws but, when it comes to their implementation stage, it does not work very well.

Hon. Speaker, remember how people have been talking about the four Asian Tigers who have free trade. We were the ones who started free trade but when it came to its implementation stage, we were unable to move forward. For that reason, I support this Bill. However, we also need to be very careful and have a common stand as a nation on the way we are supposed to follow. We do not have to go in blindly. I know we can take advantage of our economic strength in the Eastern Bloc, but we also need to understand that we have competitors from our neighbouring countries. We need to be very steady and cautious. For example, if you look at our neighbouring country Tanzania, you may think that they are behind us economically but, the way they are moving, if we are not careful, they will take advantage of all our gains and move ahead of us.

Hon. Speaker, we need to be very cautious. Whatever roadmaps we have made, let us make sure that we stick to them and not deviate. I sympathize and get worried because we have a young *Jua Kali* industry. I know many Kenyans are innovative and creative. If we can take advantage of this sector, we will be wealthy. However, all the strengths of those Kenyans go down the drain. As we make those treaties and laws to facilitate our young entrepreneurs, let us make maximum use of our neighbouring countries. Let our young entrepreneurs market our products. I feel ashamed when I see goods imported from India and yet, we can afford to make them in Kenya.

It is high time we made sure that whatever we have passed is implemented. We should make serious follow ups. Those few people who are obstacles to the implementation of these laws should be held liable. We need to tackle the disease of corruption from all corners, if we are going to make any meaningful change.

Hon. Speaker: Mover, proceed.

Hon. Langat: Hon. Speaker, I wish to thank Hon. Members who have contributed. I have taken note of their sentiments. I am happy that all of them are in support of the Motion.

I beg to move.

(Several Hon. Members walked into the Chamber)

Hon. Speaker: Hon. Members, make your way into the Chamber. That looks like Hon. Pkosing. I will be putting several Questions. Let me conclude with this one.

(Question put and agreed to)

There is another Member coming in. Hon. Wanjiku Muhia, please, make your way in quickly.

ADOPTION OF SESSIONAL PAPER ON NATIONAL
VALUES AND PRINCIPLES OF GOVERNANCE

THAT, this House adopts Sessional Paper No.8 of 2013 on National Values and Principles of Governance, laid on the Table of the House on Tuesday, 22nd April, 2014.

Hon. Speaker: I will put the Question which we had earlier deferred on the Adoption of Sessional Paper No.8 of 2013.

(Question put and agreed to)

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

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

THAT, pursuant to the provisions of Standing Order No.33 (a), this House resolves to extend its sitting today until the conclusion of the business appearing under Order No.14, namely, the consideration of the Physical Planning Bill in the Committee of the whole House, and its Third Reading.

I wish to ask Hon. Members to support this extension so that we finalize on this very important Bill, which is about physical planning, to resolve the confusion within our counties and country on the issues of physical planning.

Hon. Members, kindly support the Motion. This Bill has been pending for quite some time. Let us finalise on it before we go on recess.

I ask Hon. Metito to second.

Hon. Katoo: Thank you Hon. Speaker. I beg to second the Motion for extension of time. This Bill is one of those with constitutional timelines. If you look at all the amendments, with the exception of about two or three, they are all from the Committee, save for the ones by Hon. Mwaura. There will not be much debate because the Committee has represented this House by bringing the amendments. Let us be a little patient. We might even finish within the time allocated.

I beg to second.

(Question proposed)

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairman]

(Hon. Kajwang') took the Chair]

THE PHYSICAL PLANNING BILL

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Members, you may resume your seats. Order, Members! A lot of you are still on your feet. If you could, please, resume your seats, including Hon. Members at the back there and those enjoying pleasantries. Order, Hon. Member for Nyeri!

This is the Committee of the whole House convened to consider the Physical Planning Bill (National Assembly No.46 of 2015).

Clause 3

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 3 of the Bill be amended in paragraph (a) by inserting the word “rural” immediately after the word “urban”.

(Question of the amendment proposed)

*(Question, that the word to be inserted
be inserted, put and agreed to)*

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Isaack Mwaura, I notice that you have proposed an amendment for insertion.

However, considering the text of the amendment proposed by the Chair, it would be convenient to start with the Chair's amendment.

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 5 of the Bill be amended in sub-clause (2)—

(a) by inserting the following new paragraph immediately after paragraph (a)—

“(aa) the National Director of Physical Planning”

(b) in paragraph (k) by deleting the word “Institute” and substituting therefor the word “Institution”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Members, you can read the amendment on the Order Paper. The Chair is inserting a new paragraph to create institutions and offices. He is also deleting the names of the institutions which are not consistent with legislation.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the word to be inserted in
place thereof be inserted, put and agreed to)*

Hon. Mwaura: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 5 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (m) –
(ma) a person nominated by a registered body representing a national association of residents;
(mb) a person nominated by the National Council for Persons with Disability.

(Question of the further amendment proposed)

Hon. Mwiru: Thank you, Hon. Temporary Deputy Chairman. I have discussed the amendment with Hon. Mwaura. It is just a matter of introducing the bodies that are also affected in terms of planning, especially in towns and cities and doing an affirmative action in favour of the disabled.

It is agreeable and can be carried.

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Bumula is this a mistake or do you intend to make a submission?

Hon. Otsiula: Hon. Temporary Deputy Chairman, I am in support of the amendment by Hon. Mwaura. It is quite in line.

The Temporary Deputy Chairman (Hon. Kajwang'): If you are in support of the amendment, it is all right. We want to consider those who have a contrary opinion, so that we spend time discussing issues which will be raised.

I can see the Member for Igembe North. I think you are also in support of the amendment.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 5 as amended agreed to)

(Clauses 6 and 7 agreed to)

Clause 8

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 8 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 8 deleted)

Clause 9

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 9 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

Hon. Mwaura, your proposed amendment is an insertion. Having deleted that clause, there is no ground for it to stand.

(Proposed amendment by hon. Mwaura dropped)

(Clause 9 deleted)

Clause 10

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 10 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 10 deleted)

Hon. Manje: On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Kajiado North is on a point of order. There is a beautiful caucus coming up towards the end of the Bar. You can sit next to your colleagues and consult. It is neater that way.

Again, if you do not respond to a vote, this is a voice call and the Chair only hears by the two ears. If I do not hear you, I cannot know which way you are voting. Perhaps you can pay more attention.

The Member for Kajiado North.

Hon. Manje: Hon. Temporary Deputy Chairman, is it in order for the Chairperson not to explain the implication of the deletions because we are just deleting without any explanation?

The Temporary Deputy Chairman (Hon. Kajwang’): If there is a specific issue, you can raise it. The amendments are on the Order Paper and you have considered the Bill. So, I take it that you have considered and reflected on these amendments. However, if there is a specific issue you want the Chairperson of the Committee to explain, he will explain. You see, the intention of the Chair is that we want to spend very little time on this Bill.

Clause 11

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 11 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 11 deleted)

Clause 12

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 12 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 12 deleted)

Clause 13

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 13 of the Bill be amended—

(a) in paragraph (b) by deleting the expression “(b)” appearing at the beginning of the sentence; and

(b) by inserting the following new paragraph immediately after paragraph (b)—

“(c) develop monitoring framework and formulate oversight parameters relating to physical planning”.

Part of the amendment is to correct grammatical errors.

The Temporary Deputy Chairman (Hon. Kajwang’): Members, we are at page 2112 of the Order Paper, for the benefit of Hon. Manje. You can see what the Chairperson of the Committee is proposing. So, I will only stop when there is a specific issue that a Member wants explained.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Clause 13 as amended agreed to)

Clause 14

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 14 and substituting therefor the following new clause—

Functions of the

Cabinet Secretary. 14. The Cabinet Secretary shall be responsible for—

- (a) formulating a national policy on physical planning;
- (b) issuing in the Gazette policy statements, guidelines and circulars on general and specific aspects of physical planning;
- (c) approval of national physical development plans;
- (d) monitoring and overseeing the technical arm at the national level in the performance of their functions; and
- (e) coordinating the national and county levels of planning.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 14 as amended agreed to)

(Clause 15 agreed to)

Clause 16

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 16 of the Bill be amended—
(a) in the opening sentence by deleting the word “Spatial” and substituting therefor the word “Physical”; and
(b) in paragraph (b) by inserting the words “in urban and regional planning or related discipline” immediately after the words “postgraduate degree”.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

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

(Clause 16 as amended agreed to)

Clause 17

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting clause 17 and substituting therefor the following new clause—

Responsibilities of
the National
Director of
Physical Planning.

17. The National Director of Physical Planning shall be responsible for—

- (a) advising the government on strategic physical planning matters that impact on the whole country;
- (b) formulating national physical planning policies, guidelines and standards;
- (c) preparation of national physical development plans;
- (d) coordination of the preparation of regional physical development plans; and,
- (e) undertaking capacity building and technical support for county planning authorities.

This is for purposes of consistency.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Members, the amendment seeks to provide for the responsibilities of the National Director of Physical Planning. You can read them on the Order Paper.

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 17 as amended agreed to)

Clause 18

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 18 and substituting therefor the following new clause—

Responsibilities of the County

Executive Committee member
responsible for physical planning.

18. The County Executive Committee member responsible for physical planning shall be responsible for—

- (a) formulating a county policy on physical planning;
- (b) approving county physical development plans;
- (c) monitoring and overseeing the planning function; and
- (d) promoting the integration of county physical planning functions and sectoral planning levels.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): These are the responsibilities of the member of the county executive committee responsible for environment.

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 18 as amended agreed to)

Clause 19

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 19 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1) The Cabinet Secretary shall initiate, and the National Director of Physical Planning shall finalise, the preparation of a National Physical Development Plan.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 19 as amended agreed to)

Clause 20

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-

THAT, Clause 20 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) The National Physical Development Plan is the basis for—
 (a) environmental conservation, protection and improvement;
 (b) promoting social and economic development including national competitiveness;
 (c) promoting balanced national development;
 (d) optimal use of land and natural resources;
 (e) formulation of national physical development planning policies;
 (f) guiding regional, county and local planning;
 (g) coordinating sectoral planning and development;
 (h) managing human settlements; and
 (i) providing a framework for guiding the location and development of strategic national investments and infrastructural development.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 20 as amended agreed to)

Clause 21

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
 THAT, Clause 21 of the Bill be amended in sub-clause (1)—
 (a) in the opening paragraph by deleting the words “Cabinet Secretary” and substituting therefor the words “National Director of Physical Planning”; and
 (b) by deleting paragraph (d).

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 21 as amended agreed to)

Clause 22

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
 THAT, Clause 22 of the Bill be amended—
 (a) in sub-clause (1) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) policies, strategies and measures necessary to optimise opportunities and potentials and resolve challenges relating to physical development planning in Kenya;”

(b) in sub-clause (2) by deleting the word “Cabinet” and substituting therefor the words

“National Director of Physical Planning”; and

(c) in sub-clause (4) by inserting the word “Secretary” immediately after the word “Cabinet”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 22 as amended agreed to)

Clause 23

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-

THAT, Clause 23 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “one newspaper” appearing immediately after the words “in at least” and substituting therefor the words “two newspapers”; and,

(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) Any person dissatisfied with the decision of the Cabinet Secretary may apply to the Cabinet Secretary for review of his or her decision and the Cabinet Secretary shall consider the same and communicate his or her decision within sixty days of receipt of application for review.”

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Members, I give applause to the Hon. Member for Gatundu South who has just walked into the Chamber. Obviously, Members are excited in the Chamber. He is followed closely by Member for Tetu. Obviously, the writing is on the wall that the Member for Tetu must have done a lot of work to make sure that the Hon. Member for Gatundu South is in the Chamber today.

He is slimmer and neat. He is working out very well.

Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 23 as amended agreed to)

Clause 24

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
THAT, Clause 24 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—
“(1) If there have been no applications for review of the decision of the Cabinet Secretary, or if the applications for review have been heard and determined, the Cabinet Secretary shall submit the draft National Physical Development Plan to the National Physical Planning Consultative Forum for comments.”

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Members, you have looked at it and you have seen it.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 24 as amended agreed to)

Clause 25

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
THAT, Clause 25 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—
“(2) Notwithstanding the lack of a National Physical Development Plan, planning authorities at the county level shall prepare County and Local Physical Development Plans”.

This is to align the functions of both national Government and the county Government.

The Temporary Deputy Chairman (Hon. Kajwang'): Today, I have been very busy with you. Just keep your microphone on. Do not switch it off. I will need you from time to time.

(Question of the amendment proposed)

Hon. Member for Kajiado North.

Hon. Manje: Hon. Temporary Deputy Chairman, I want to oppose this particular amendment because I thought if a county starts planning without the National Physical Planning Development Plan, then we are likely to have counties that are planning for matters that do not cater for the whole nation. So, counties will start subdividing land without considering the national policy on land.

The Temporary Deputy Chairman (Hon. Kajwang'): Chairman, can you explain why we should not have a National Physical Development Plan?

Hon. Mwiru: Hon. Temporary Deputy Chairman, what we are trying to cure here is a scenario where the national Government can have some laxity in planning. They will delay the county government. Because the national Government is supposed to adopt what the county governments have done in planning, it is not necessary that they have to wait for the national planner to do the job. The counties can also do their planning. So, it is important that the counties are also allowed to do planning because there is a national consultative forum, where both the county governments and the national Government consult each other on planning.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 25 as amended agreed to)

Clause 26

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
THAT, Clause 26 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “records” appearing at the end of the sentence and substituting therefor the word “purposes”; and

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) At least three months before the end of the financial year, each public institution of the government that is responsible for the application or the implementation of a National Physical Development Plan shall prepare and submit a status report on the implementation of the National Physical Development Plan to the Cabinet Secretary or the County Executive Committee member responsible for physical planning and the National Land Commission for their purposes”.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): The only substantive thing is in sub-section (2) and substituting the new sub-clause which is bringing the time by which that agency shall prepare and submit the status report.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 26 as amended agreed to)

Clause 27

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
THAT, Clause 27 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 27 deleted)

Clause 28

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
THAT, Clause 28 of the Bill be amended—

(a) in sub-clause (3)–

(i) by deleting paragraph (b);

(ii) by deleting paragraph (c) and substituting therefor the following new paragraph–

“(c) the County Executive Committee member responsible for physical planning for each county involved and any other relevant County Executive Committee member”; and

(b) by deleting sub-clause (5) and substituting therefor the following new sub-clause–

“(5) The National Director of Physical Planning shall provide the secretariat services for the purposes of this section.”

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 28 as amended agreed to)

(Clause 29 agreed to)

Clause 30

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
THAT, Clause 30 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 30 deleted)

Clause 31

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
THAT, Clause 31 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 31 deleted)

Clause 32

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move:-
THAT, Clause 32 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new clause—

“(2) The Regional Physical Planning Joint Committee preparing a Regional Physical Development Plan shall publish a notice of intention to prepare a plan in the gazette and in at least two newspapers with a national circulation”; and

(b) in sub-clause (4) by deleting the words “and approval”.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 32 as amended agreed to)

Clause 33

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 33 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) Within thirty days of the completion of a Regional Physical Development Plan, the Regional Physical Planning Joint Committee shall publish a notice in the Gazette and in at least two newspapers of national circulation informing the public that the plan is

available at the places and times designated in the notice for inspection and that any interested person may comment on the content of the plan.”;

(b) by deleting sub-clause (2);

(c) in sub-clause (3) by inserting the word “Joint” immediately after the word “Planning”;

(d) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) Any person dissatisfied with the decision of the Regional Physical Planning Joint Committee may appeal to the National Physical Planning Liaison Committee and the committee shall consider the application and make its determination within (60) days of the receipt of the application”; and

(e) by inserting the following new sub-clause immediately after sub-clause (4)—

“(5) Any person dissatisfied with the decision of the National Physical Planning Liaison Committee may appeal to Environment and Land Court.”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 33 as amended agreed to)

Clause 34

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting clause 34 and substituting therefor the following new clause—

Approval of
Regional Physical
Development
Plan

34. (1) The County Executive Committee members of all counties participating in the regional physical development plan shall separately approve the plans and submit the same to the National Director of Physical Planning for final approval.

(2) Within thirty days of the completion of a Regional Physical Development Plan or if objections have been heard and determined the Cabinet Secretary shall approve and publish the Regional Physical Development Plan in the Gazette and in at least two newspapers of national circulation.

(3) Before the Regional Physical Development Plan can be implemented, the governors of the relevant counties shall adopt the plan at a joint meeting of the relevant governors that shall be organized by the Regional Physical Planning Joint Committee.

(4) The approved Regional Physical Development Plan shall be deposited with the relevant County Director of Physical Planning.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 34 as amended agreed to)

Clause 35

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 35 of the Bill be deleted.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 35 deleted)

Clause 36

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 36 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “city” appearing immediately after the words “county physical development plan” and substituting therefor the word “local”;
and

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Where a National Physical Development Plan and a Regional Physical Development Plan have not been prepared or approved, county governments may prepare other physical development plans which will be incorporated into the National Physical Development Plan or the relevant Regional Physical Development Plan after they have been prepared and approved.”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 36 as amended agreed to)

Clause 37

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 37 of the Bill be amended by deleting the word “records” appearing at the end of the sentence and substituting therefor the word “purposes”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 37 as amended agreed to)

Clause 38

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 38 of the Bill be amended—
(a) in sub-clause (2) by deleting the words “and the county spatial plan contemplated under section 110 of the County Governments Act.”; and
(b) by inserting the following new sub-clause immediately after sub-clause (3)—
“(4) The county physical development plan shall suffice for purposes of the provisions of section 110 of the County Governments Act.”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 38 as amended agreed to)

Clause 39

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 39 of the Bill be amended by inserting the following new paragraph immediately after paragraph (g)—
“(h) any other purposes that may be determined by the planning authority.”

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Mwaura, you also have an amendment on this clause? The hon. Member being absent from the Chamber, though desiring to prosecute his amendment, his amendment is dropped.

(Proposed amendment by Hon. Mwaura dropped)

(Clause 39 as amended agreed to)

Clause 40

- Hon. Mwiru:** Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 40 of the Bill be amended—
- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause—
“(2) The notice shall be displayed for a period of fourteen days at the offices of the county government and such other places as may be necessary in all the wards within the county.”; and
- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—
“(3) The county planning authority shall hold adequate stakeholder meetings in each ward before the completion of the preparation of the county physical development plan.”

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Rongai, is this an intervention?

Hon. Moi: Yes, on sub clause (3) of Clause 40. I would like him to be specific in terms of the number of days the county planning authority will adequately hold meetings with the stakeholders. Many times, the county planning authority might be afraid to spend much time with the citizens in the wards because they fear that the people may not go along with their development plans. So, they might just go there for a day and then disappear. If we become specific and say that they will spend, say, seven days in that ward, it will be very good.

The Temporary Deputy Chairman (Hon. Kajwang’): Departmental Committee Chairman, could you respond?

Hon. Mwiru: Hon. Temporary Deputy Chairman, maybe, the hon. Member wants to introduce the number of meetings that are supposed to be there but it is also important to note that within the same Bill, we have provided that the matter shall be published in two daily newspapers that circulate in a particular targeted area. Therefore, besides the participation that will take place in the wards, there is also another mechanism through which the participants will be reached.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Bumula!

Hon. Otsiula: Hon. Temporary Deputy Chairman, as much as the Departmental Committee Chairman has explained, in order to ensure that somebody does not take advantage of this situation, it is important for us to provide for the bare minimum.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Rongai and Member for Bumula, your arguments make a lot of sense. What would you want the National Assembly to do? In order for them to go the direction that you want, it involves a further amendment to this amendment.

Can we hear you, Member for Muhoroni?

Hon. Oyoo: Hon. Temporary Deputy Chairman, I support my two colleagues because this matter is very important. We have the National Environment Management Authority (NEMA) requirement which is being defied by many organisations. The NEMA is now doing it without public participation. It should be mandatory that public meetings be held.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Muhoroni, all the comments that you have made are valid and very good. The problem I have with the procedure is that I now have an amendment before me. You should have preferred a further amendment to the amendment to bring on board the kind of things you are proposing. The mood of hon. Members is like they would have voted it in but without it, how do we proceed?

Member for Narok North!

Hon. ole Kenta: Hon. Temporary Deputy Chairman, the word “adequate” is sufficient to take care of the concerns raised by our colleagues. The amount of time required depends on the particular area. Some areas may require more time while others may require less time.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Kajiado West, are you satisfied? You are on intervention.

Hon. ole Sakuda: Hon. Temporary Deputy Chairman, it is actually more of a procedural way of introducing amendments. You can handle it.

The Temporary Deputy Chairman (Hon. Kajwang’): I understand. I am sympathetic to those of you who are commenting on the matter. But after the comments, what do we do with the amendment? There must be a further amendment on the Floor in order for us to transact business.

*(Question, that the words to be left
out be left out, put and agreed to)*

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

(Clause 40 as amended agreed to)

(Clause 41 agreed to)

Clause 42

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 42 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) Within thirty days of the preparation of a county physical development plan, the county planning authority shall publish a notice in the Gazette and in at least two newspapers of national circulation informing the public that the draft county physical development plan is available at the places and times specified in the notice.”;

(b) by inserting the following new sub-clauses immediately after sub-clause (3)—

(3A) Any person aggrieved by a decision of the county planning authority concerning the county physical development plan or matters connected therewith, may within sixty days of receipt by him of notice of such decision, appeal to the county physical planning liaison committee in writing against the decision in such manner as may be prescribed.

(3B) Subject to sub-section (3A), the county physical planning liaison committee may reverse, confirm or vary the decision appealed against and make such order as it deems necessary or expedient to give effect to its decision.

(3C) When a decision is reversed by the county physical planning liaison committee it shall, before making any order under subsection (5), afford the county planning authority an opportunity of making representations as to any conditions or requirements which in his opinion ought to be included in the order, and shall also afford the appellant an opportunity to replying to such representations.

(3D) Any person aggrieved by a decision of the County Physical Planning Liaison Committee under this section may appeal to the Environment and Land Court against such decision in accordance with the rules of procedure for the time being applicable to the High Court.; and

(c) by deleting sub-clause (4).

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Chair, you need to explain this. It looks like a long one. Can you summarise it within one sentence or so?

Hon. Mwiru: Hon. Temporary Deputy Chairman, we are trying to introduce a matter where the planning authority, which is either the county government or the national Government, should take responsibility and publish in the *Kenya Gazette*. We are introducing it in a manner that they are not only supposed to seek participation, but they must also publish it in the *Kenya Gazette*. That is what we are introducing.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 42 as amended agreed to)

Clause 43

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 43 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “one newspaper” and substituting therefor the words “two newspapers”;

(b) by inserting the following new sub-clause immediately after sub-clause (3)—

“(3) On the approval of the county physical development plan no development shall take place on any land unless it is in conformity with the approved plan.”;

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 43 as amended agreed to)

Clause 44

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 44 of the Bill be amended—

(a) in sub-clause (1) by inserting the word “if” at the end of the opening paragraph;

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) On the approval of the county government, the County Executive Committee member in charge of physical planning shall publish a notice in the Gazette and in at least two newspapers of national circulation notifying any interested parties of the proposed amendments to the county physical development plan and the period within which interested parties may make representations to the County Executive Committee member.”;

(c) in sub-clause (3) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) be in conformity with the National Physical Development Plan, Inter-County Physical Development Plan and any existing regional development plan.”; and

(d) in sub-clause (6) by deleting the word “government” and substituting therefor the words “planning authority”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 44 as amended agreed to)

Clause 45

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 45 of the Bill be amended in sub-clause (1) by deleting the word “eight” appearing immediately after the words “development plan after” and substituting therefor the word “five”.

(Question of the amendment proposed)

Hon. Manje: Hon. Temporary Deputy Chairman, I want to oppose this amendment. The meaning of this amendment is that development plan will be changed after every five years. I thought that for the stability of every county government, it should go to eight years because our elections are after five years. If every county government comes into position and starts changing the physical development of the county, then there will be no stability. I thought eight years was based on the stability of every county.

The Temporary Deputy Chairman (Hon. Kajwang’): That makes sense to me. Well, I hope Members you have been informed enough to either oppose it or to affirm it. Shall I put the Question? Member for Kajiado West, proceed.

Hon. ole Sakuda: Hon. Temporary Deputy Chairman, before you put the Question, we needed to do some justice to the provision. We invited a number of stakeholders and there was a feeling that however much you provide for eight years for the stability of the county governments, every administration that comes in after every five years might want to do their own things even if they have the template and documents.

The Temporary Deputy Chairman (Hon. Kajwang’): But if you put it in law, they cannot do it, can they?

Hon. ole Sakuda: No.

The Temporary Deputy Chairman (Hon. Kajwang’): If they do it, they will be violating the law.

Hon. ole Sakuda: That was the feeling of many of the stakeholders.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Manje is saying “put it in law, so that they cannot have the opportunity to joke with it”. Member for Ainamoi.

Hon. Langat: Hon. Temporary Deputy Chairman, I also want to oppose that amendment. We must do things for posterity and not for political expediency where every county government will want to do their thing. That is something that we used to do in the past. This is a new Kenya and the law must be enacted for posterity. Eight years is a good period for us to see the fruits of the plan.

Therefore, may I request the Chairman to withdraw his amendment?

The Temporary Deputy Chairman (Hon. Kajwang’): Okay. Chairman, have the last bite of the pie.

Hon. Mwiru: Indeed, let me have the last bite, Hon. Temporary Deputy Chairman. I understand the sentiments by the Members. What is happening currently is that a lot of developments are coming in at around that period. If we give eight years, a county will not be in a position to change any particular aspect of that planning. It may not necessarily be the time of another Government.

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 45 as amended agreed)

Clause 46

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 46 of the Bill be amended in sub-clause (2) by deleting the word “spatial” appearing immediately after the words “A local” and substituting therefor the word “physical”.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put agreed to)*

*(Question, that the word to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 46 as amended agreed)

Clause 47

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 47 of the Bill be amended by deleting the opening sentence and substituting therefor the following new opening sentence—
“(1) A county government shall prepare a local physical development plan for—”

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put agreed to)*

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

(Clause 47 as amended agreed)

Clause 48

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 48 of the Bill be amended by deleting the words “or an officer in charge of city or municipal physical planning as may be appropriate, but only with the approval of the County Executive Committee”.

(Question of the amendment proposed)

*(Question, that the words to
be left out be left out, put agreed to)*

(Clause 48 as amended agreed)

(Clause 49 agreed to)

Clause 50

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 50 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) Within thirty days of the preparation of a local physical development plan, a county planning authority shall publish a notice in the Gazette and in at least two newspapers of national circulation informing the public that the plan is available at the places and times designated in the notice for inspection and that an interested person may comment on the content of the plan.”;

(b) by inserting the following new sub-clause immediately after sub-clause (1)—

“(1A) The provisions of section 42 relating to the making of representations or objections to the county physical planning liaison committee concerning county physical development plans and to the consideration by the committee of such representations or objections and to appeals shall apply *mutatis mutandis* to this section.

(1B) The provisions of section 43 relating to the approval of a county physical development plan shall apply *mutatis mutandis* to the approval or disapproval of a local physical development plan.”

(c) by deleting sub-clause (2);

(d) by deleting sub-clause (3); and

(e) by deleting sub-clause (4).

(Question of the amendment proposed)

*(Question, that the words to
be left out be left out, put agreed to)*

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

(Clause 50 as amended agreed)

Clause 51

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting clause 51 and substituting therefor the following new clause—

Approval of Local

Physical

Development Plan.

51. The County Executive Committee member in charge of physical planning shall within fourteen days after the approval of a local physical development plan publish a notice in the Gazette and in at least two newspapers of national circulation that the plan has been approved with or without modification and that the plan may be inspected at the place or places and times specified in the notice during normal working hours.

(Question of the amendment proposed)

Hon. Otsiula: Hon. Temporary Deputy Chairman, I just wanted to seek clarification from the Chairman whether “local” means and is limited only to the town area or is it the entire county?

Hon. Mwiru: It is not limited to the town only; it is for the county as a whole.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Bumula, do you have further interventions on this matter?

Hon. Otsiula: Hon. Temporary Deputy Chairman, I think this is going to create a lot of confusion. For example in rural areas, how is the county government going to plan our rural lands?

Hon. Mwiru: Hon. Temporary Deputy Chairman, today even with the current Physical Planning Act that is there, even the rural areas are supposed to be planned in a way. It is only that we have not been implementing this law the way it is supposed to be.

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Bumula, are you worried about the land tenure system or the ownership structure of the local land? This is because planning is a different thing from tenure, is it not so?

Hon. Otsiula: Hon. Temporary Deputy Chairman, I think he has explained to me and I have grasped it.

*(Question, that the words to
be left out be left out, put and agreed to)*

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

(Clause 51 as amended agreed to)

Clause 52

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 52 of the Bill be amended—

(a) in sub-clause (2) by deleting the words “the executive committee member shall submit to the county physical development consultative forum a proposal for the amendment of the local physical development plan and set out the grounds for the proposed amendment” and substituting therefor the words “the provisions of section 44 shall apply with the necessary modifications”;

(b) by deleting sub-clause (3);

(c) by deleting sub-clause (4);

(d) by deleting sub-clause (5) and substituting therefor the following new sub-clause—
“(5) A County Executive Committee member in charge of physical planning may initiate the revision of a local physical development plan after a period of three years after the plan has been approved in accordance with section 51 of this Act or as the need may arise.”; and

(e) by deleting sub-clause (6).

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 52 as amended agreed to)

Clause 53

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 53 of the Bill be amended—

(a) in sub-clause (2) by deleting the words “by the County Assembly” appearing at the end of the sentence; and

(b) in sub-clause (5) by deleting the word “government” and substituting therefore the words “planning authority.”

The reason we have done that is because even a national physical planning is not being approved by the National Assembly.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 53 as amended agreed to)

(Clauses 54 and 55 agreed to)

Clause 56

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 56 and substituting therefor the following new clause—

Power to undertake
development control.

No. 13 of 2011.

No. 17 of 2012.

56. Subject to the provisions of this Act, the Urban Areas and Cities Act, 2011 and the County Governments Act, 2012, the planning authorities shall have the power within their areas of jurisdiction to—

(a) prohibit or control the use and development of land and buildings in the interests of proper and orderly development of its area;

(b) control or prohibit the subdivision of land;

(c) consider and approve all development applications and grant all development permissions;

(d) ensure the proper execution and implementation of approved physical development plans;

(e) formulate by-laws to regulate zoning in respect of use and density of development; and

(f) reserve and maintain all the land planned for open spaces, parks, urban forests and green belts in accordance with the approved physical development plans.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 56 as amended agreed to)

Clause 57

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 57 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A person shall not carry out development within the area of a planning authority without a development permission granted by the planning authority.”; and

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) A person who commences any development without obtaining development permission commits an offence and is liable on conviction to a fine not exceeding five

hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.”

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 57 as amended agreed to)

Clause 58

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 58 of the Bill be amended—

(a) in sub-clause (3) by deleting the word “surrender” appearing immediately after the words “the applicant shall” and substituting therefor the word “provide”;

(b) by deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) The development permission granted by planning authorities shall be subject to compliance with the provisions of any other written law.”; and

(c) by inserting the following new sub-clause immediately after sub-clause (5)—

“(6) Where an applicant does not receive a response for development permission, such permission shall be assumed to have been given in terms of this Act.”

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 57 as amended agreed to)

The Temporary Deputy Chairman (Hon. Kajwang’): This is very symptomatic of a very active committee. They go word for word looking at how we are amending every clause. That means they were looking through it with a toothcomb.

Member for Rongai, what do you have to say on this?

Hon. Moi: Hon. Temporary Deputy Chairman, we are in Clause 58 under the new sub-clause (6) where it states:-

‘Where an applicant does not receive a response for development permission, such permission’---

The Temporary Deputy Chairman (Hon. Kajwang’): Where are you? Where are you reading from? We are at Clause 58, are we not?

Hon. Moi: Clause 58 under the new sub-clause (6).

The Temporary Deputy Chairman (Hon. Kajwang'): Yes, I can see it is the new sub-clause.

Hon. Moi: We should have a timeline for the duration that an applicant has to wait before he begins to assume that permission has been given. He cannot just simply wait for two days and assume that permission has been given to develop his property. If you read carefully, it says:-

“Where an applicant does not receive a response for development permission, such permission shall be assumed to have been given in terms of this Act”.

The Temporary Deputy Chairman (Hon. Kajwang'): Do you want to propose a further amendment to stipulate the number of days?

Hon. Moi: I think it may have been an omission.

The Temporary Deputy Chairman (Hon. Kajwang'): What is your proposal?

Hon. Moi: My proposal is that a timeline be given.

The Temporary Deputy Chairman (Hon. Kajwang'): Which timeline are you talking about?

Hon. Moi: Maybe 30 or 60 days?

The Temporary Deputy Chairman (Hon. Kajwang'): Would you want to speak to it?

Hon. Moi: I would.

The Temporary Deputy Chairman (Hon. Kajwang'): Can you be very firm in your proposal?

Hon. Moi: Hon. Temporary Deputy Chairman, instead of ---

The Temporary Deputy Chairman (Hon. Kajwang'): Can the Chief Whip of the Majority Party help you?

Hon. Moi: Maybe the Chairperson of the Committee can help me.

Hon. Mwiru: Hon. Temporary Deputy Chairman, the Member for Rongai is being very careful.

The Temporary Deputy Chairman (Hon. Kajwang'): As the Chief Whip of the Majority Party is making his remarks, Chair, think that a further amendment will be required. You are the owner of that amendment and, therefore, you have first priority to propose a further amendment.

Hon. Katoo: Hon. Temporary Deputy Chairman, you have said it all. I wanted to bring to the attention of the House that it is only the Mover, who is the Chairman of the Departmental Committee on Lands, who can propose a further amendment.

This is very clear. If I do not receive a reply within two days, I will take it to mean that permission has been granted. We plead with the Chair to think of a timeframe of about 60 days.

The Temporary Deputy Chairman (Hon. Kajwang'): Can we give an opportunity to the Member for Gilgil?

Hon. Ndiritu: Hon. Temporary Deputy Chairman, the Chief Whip of the Majority Party has said it all. If within the county government they have their specific timelines, it can be assumed to apply, but---

The Temporary Deputy Chairman (Hon. Kajwang'): We are creating a law that even people in the county will abide by. Chair, I hope you have considered this.

Hon. Member for Ainamoi, do you have suggestions?

Hon. Langat: Hon. Temporary Deputy Chairman, I support the proposed timeline of 60 days. If you do not receive a response within 60 days, then it is assumed that you have permission. He has a good point. If we leave it as it is, once you apply today, then tomorrow you will say you have permission because you have not received a response.

The Temporary Deputy Chairman (Hon. Kajwang'): Chair, can you commit yourself on this?

Hon. Langat: I would want it to be within 60 days.

Hon. Mwiru: Indeed, the import and spirit of the amendment is one. At the end of the day, we envisioned a scenario where the county is not likely to sit on a person's application papers.

I have no objection to giving a timeline.

The Temporary Deputy Chairman (Hon. Kajwang'): What is your further amendment? Let us deal with it. We have to finish with that further amendment.

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, new sub-clause (6) of Clause 58 be further amended---

The Temporary Deputy Chairman (Hon. Kajwang'): Let me help you, if you do not mind. You could say that we should insert the words "within so many days" after the comma after the word 'permission'. How many days do you wish to propose? How many days should be inserted after the word 'permission'?

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, new sub-clause (6) of Clause 58 be further amended by inserting the words "within 60 days" immediately after the word "permission".

(Question of the further amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Bumula, speak to the further amendment if you think that what the Chairperson of the Committee has said is not good enough.

Hon. Otsiula: Hon. Temporary Deputy Chairman, it is quite okay. However, permission should be in writing. There could be a situation where an officer may casually come on the site where you want to do development and give you permission orally to carry on with the development.

The Temporary Deputy Chairman (Hon. Kajwang'): The Member for Bumula, you want the provision to be clear, but you need to know whom to talk nicely to. The person with your fate is the Chairperson of the Committee. Ask him to move the insertion of the words you want to be inserted and ask Members to support you.

The Temporary Deputy Chairman (Hon. Kajwang'): The Member for Ainamoi.

Hon. Langat: On a matter of procedure, further amendments can be moved by any Member without giving notice.

The Temporary Deputy Chairman (Hon. Kajwang'): The Chief Whip of the Majority Party.

Hon. Katoo: I want to help my colleague. I know he is a good lawyer. Even the Constitution is express that all official communication should be in writing.

The Temporary Deputy Chairman (Hon. Kajwang’): The Member for Bumula, being the lawyer you are, does that settle your anxiety?

Hon. Otsiula: Hon. Temporary Deputy Chairman, I wanted the Chairperson of the Committee to include the word “writing”. I am convinced.

The Temporary Deputy Chairman (Hon. Kajwang’): I have pronounced myself on the HANSARD. So, we will have to move a further amendment to the further amendment.

Chairperson of the Committee, do you want to move a further amendment to the further amendment? It is all right. I am here to deal with it. Can you speak to the HANSARD?

Hon. Mwiru: Hon. Temporary Deputy Chairman, it harms no one; it harms nothing.

The Temporary Deputy Chairman (Hon. Kajwang’): If that is your idea, you have already proposed that “where an applicant does not receive a response for development permission within sixty days, such permission shall be assumed to have been given within the terms of this Act.” Where do you want to insert the other word? You have to move deletion of the word “a” and substitute the word “written”. Can you speak for yourself? I should not speak for you.

Hon. Mwiru: Hon. Temporary Deputy Chairman, alternatively I would say “when an applicant does not receive a response for development permission in writing” Therefore, we should add the words “in writing” after the word “permission” then have the comma after that.

The Temporary Deputy Chairman (Hon. Kajwang’): No, the lawyer I am feels that that is now not certain. The problem now is being written rather than the response. It is clearer when you say: “Where an applicant does not receive written response”. Speak to the HANSARD and say “delete the word “a” and substitute the word “written”. Can you say that by yourself?

Hon. Mwiru: I stand guided because you are a lawyer and I am not.

Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the new sub-clause (6) be further amended by deleting the word “a” appearing after the word “receive” and substitute therefor the word “written”.

(Question of the further amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Kajwang’): We now go back to the further amendment of inserting “within sixty days”.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

We now go back to the original amendment to Clause 58.

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 58 as amended agreed to)

Clause 59

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 59 of the Bill be amended—
(a) in sub-clause (1) by inserting the words “the relevant” immediately after the words “have been prepared by”; and
(b) by deleting sub-clause (3).

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Member for Kajiado West.

Hon. ole Sakuda: No, Hon. Temporary Deputy Chairman.
The Temporary Deputy Chairman (Hon. Kajwang’): Your finger went ahead of you.

*(Question, that the words to be inserted
be inserted, put and agreed to)*

*(Question, that the words to be left
out be left out, put and agreed to)*

(Clause 59 as amended agreed to)

Clause 60

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 60 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)—
“(aa) the National Land Commission;”

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted,

put and agreed to)

(Clause 60 as amended agreed to)

Clause 61

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 61 of the Bill be amended—
(a) in sub-clause (1) by deleting the words “tree cover” appearing in paragraph (b)
and
substituting therefor the word “environmental”;
(b) by deleting sub-clause (2);
(c) by deleting sub-clause (3);
(d) in sub-clause (4) by deleting paragraph (c);
(e) in sub-clause (5) by deleting the words “County Spatial Planning Tribunal”
and
substituting therefor the words “County Physical Planning Liaison Committee”;
clause—
(f) by deleting sub-clause (6) and substituting therefor the following new sub-
section
“(6) An applicant or an interested party who files an appeal under sub-
section
(5) and who is aggrieved by the decision of the committee may appeal
against
that decision to the Environment and Land Court.”

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 61 as amended agreed to)

Clause 62

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 62 of the Bill be deleted.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Member for Kajiado North.

Hon. Manje: Hon. Temporary Deputy Chairman, I want to oppose this deletion because the implication of this amendment is that a developer will not require a licence

from National Environment Management Authority (NEMA). That is the whole meaning of this.

This is a very important law that we are changing today. It has a lot of deletions and amendments. It means that either the original Bill or this Bill is not based on facts.

The Temporary Deputy Chairman (Hon. Kajwang’): Chairman, I am looking at your Bill and the deletion.

Hon. Mwiru: Hon. Temporary Deputy Chairman, we looked at that deletion very keenly as a Committee and we realised that the environmental issues are well taken care of by the Environment Management and Coordination Act. Therefore, it was not necessary to introduce this particular aspect of it within this Act again.

For example, when you want to do development today, you wait for the NEMA report. Before you are given permission by the county to do any development, it will be very hard because NEMA will even take longer time. Therefore, it is better you get permission from the county first and then seek the NEMA impact assessment.

The Temporary Deputy Chairman (Hon. Kajwang’): In any case, if I recall correctly, we have even amended this NEMA Act. So, when the Bill refers to that Act of 1999, it is referring to a repealed legislation. So, it was not useful as it was in the Bill.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 62 deleted)

Clause 63

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 63 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A planning authority shall maintain a register of documents submitted by applicants for development permission and shall issue a submission certificate to every applicant who submits such documents”; and

(b) by deleting sub-clause (2).

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 63 as amended agreed to)

Clause 64

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 64 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A planning authority may levy a development fee against an applicant for development permission.”; and

(b) by deleting sub-clause (3).

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 64 as amended agreed to)

Clause 65

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 65 of the Bill be amended in sub-clause (3) by inserting the word “further” immediately after the words “it may impose”.

(Question of the amendment proposed)

(Question, that the word to be inserted be inserted, put and agreed to)

(Clause 65 as amended agreed to)

Clause 66

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 66 of the Bill be amended by deleting sub-clause (1).

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Member for Kajiado North.

Hon. Manje: Hon. Temporary Deputy Chairman, I want to request the Chair of the Departmental Committee to further amend the amendment so that instead of six years, he takes it to 10 years.

The Temporary Deputy Chairman (Hon. Kajwang’): He is deleting the whole thing.

Hon. Manje: Hon. Temporary Deputy Chairman, if he deletes it, it would mean that if you get permission for development, it will be open-ended to infinity. Even if you get permission, after a few years, the development of that area will change, meaning that you will require more approvals. So, it should not be open-ended.

The Temporary Deputy Chairman (Hon. Kajwang’): He is deleting sub-clause (1). Sub-clause (2) remains.

Hon. Manje: Hon. Temporary Deputy Chairman, it is in sub-clause (1) where we have limitation of time – the lifespan of the development plan.

The Temporary Deputy Chairman (Hon. Kajwang’): I hear you, Member for Kajiado North. Departmental Committee Chair, how do you retain sub-clause (2) if you delete sub-clause (1)? The two sub-clauses are related. If you are going to delete sub-clause (1), you must delete both. If you leave sub-clause (2), it will be hanging and will not make sense in the law. Can you respond to what the Member for Kajiado North and I have said?

Hon. Mwiru: Hon. Temporary Deputy Chairman, what we are considering is sometimes the ability of the developer. Physical planning must take consideration of what is supposed to take place even tomorrow. If you are given permission to put up a building next to an airport and you are told, for example, that you cannot put up more than two stories, the planning has been done in relation to that particular airport. Therefore, we cannot afford to limit the particular person because of the inability of the authority to plan well for a particular county or town.

The Temporary Deputy Chairman (Hon. Kajwang’): I profess no technical knowledge in planning. I only know something about law and legislation. What worries me is that you want to say that there is no period within which an applicant should complete the building works but you want to leave the part which penalises such person. Why would you be penalising if you are going to delete sub-clause (1)? If sub-clause (1) goes, sub-clause (2) must also go. You want to delete sub-clause (1) and leave provision for penalty in sub-clause (2)? You will not penalise anybody because there will be nobody to commit the offence.

Hon. Mwiru: Your explanation makes sense, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Kajwang’): Can you rise and speak on record and see what you must do?

Hon. Mwiru: Hon. Temporary Deputy Chairman, indeed, as you said, if sub-clause (1) goes, sub-clause (2) must also go. There will be no need of penalising a particular person if the period of time is infinity. However, although I agree on this one, it is important to note that sometimes we give leeway for urban authorities not to plan well. For example, we know about the railway lines. We know that they were done during the colonial time. Therefore, it is necessary for our authorities to manage our planning in a sense that they can take even 200 years.

The Temporary Deputy Chairman (Hon. Kajwang’): Departmental Committee Chair, I have no problem with that one. So that we save time, can you make a further amendment to say that Clause 66 be amended by deleting sub-clauses (1) and (2)?

Hon. Mwiru: Hon. Temporary Deputy Chairman, in that case, I propose a further amendment to delete Clause 66 of the Bill. Subclause (1) has already been deleted. So, once we delete (1), then the whole clause is deleted.

The Temporary Deputy Chairman (Hon. Kajwang’): Let me propose this first.

(Question of the further amendment proposed)

We do not want to make law on the Table, but I have seen and I have been advised by the Clerk- at- the- Table that even as we deal with Clause 66, which we are going to deal with, think through Clause 68. We will be coming to it. You are trying to punish some people ahead there in 68 for not having this permission and it is this permission that you are removing. So, think through it so that when we come to it, you have something to tell us. But we do not want to help you make the law here because we think you must have looked at it at the Committee.

Hon. Ndiritu: Hon. Temporary Deputy Chairman, from a practical point of view, I agree with the Committee's deletion of the first one. We have just been discussing about having permission and then you have to go to other authorities like NEMA where you might take a whole year before you start your actual work. It is good to remove the mandatory five years, but still have the (1) which says "may", meaning at that point, you may explain why you did not complete within the five years.

The Temporary Deputy Chairman (Hon. Kajwang'): That makes sense; I did not see it that way. "The planning authority may impose conditions or a fine to be prescribed in regulations on an applicant for development permission for building works where that applicant fails to complete the building works within five years". It makes sense.

I had proposed a further amendment and the Member for Gilgil has raised a very important point. This is the work of making good laws. You all consult. He is saying that even if you remove (1), you will have (2) standalone which says that, therefore, even without (1), the planning authority can impose conditions or a fine if you do not complete the works within five years. So, let me start with the further amendment.

It is upon you Members to decline it because it is you who is voting. I hope I have explained and I have given you the mode to vote wisely. So, Chair, do you want to withdraw or do you want us to take you to the vote?

Hon. Mwiru: Hon. Temporary Deputy Chairman, at that juncture, it is better that I withdraw the further amendment and retain what the Committee had.

The Temporary Deputy Chairman (Hon. Kajwang'): So, speak to the HANSARD and say that you wish to withdraw the further amendment.

Hon. Mwiru: Hon. Temporary Deputy Chairman, I wish to withdraw the further amendment to Clause 66.

(Proposed further amendment to Clause 66 withdrawn)

The Temporary Deputy Chairman (Hon. Kajwang'): The further amendment is hereby withdrawn.

(Question, that the words to be left out be left out, put and agreed to)

(Clause 66 as amended agreed to)

Clause 67

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 67 of the Bill be amended by deleting sub-clause (2).

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 67 as amended agreed to)

Clause 68

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 68 of the Bill be amended—

(a) in sub-clause (1) by inserting the following new paragraph immediately after paragraph(b)–

“(ba) Despite the provisions of subsections (1)(a) and (1)(b)(iii) of this section, in case of any material variations in a development permission, the applicant may apply to the planning authority for development permission.”

(b) in sub-clause (2)–

(i) by deleting paragraph (a) and substituting therefor the following new paragraph–

“(a) a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two months or to both”

(ii) by deleting paragraph (b).

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 68 as amended agreed to)

(Clause 69 agreed to)

Clause 70

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, clause 70 of the Bill be amended—

(a) by deleting sub-clause (2);

(b) in sub-clause (3) by deleting the word “spatial” and substituting therefor the word “physical”;

(c) by inserting the following new paragraph immediately after paragraph (3)–
“(3A) The Cabinet Secretary shall within sixty days of the enactment of this Act make regulations prescribing for the projects that may be classified as strategic national or inter-county projects.”

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 70 as amended agreed to)

Clause 71

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 71 of the Bill be amended in sub-clause (2) by deleting the word “spatial” and substituting therefor the word “physical”.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 71 as amended agreed to)

Clause 72

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 72 of the Bill be amended–
(a) in sub-clause (1) by deleting the words “the development of land has been or is being carried out” appearing in paragraph (a) and substituting therefor the words “a developer commences development on any land without development permission”;
(b) by deleting sub-clause (4) and substituting therefor the following new sub-clause–
“(4) Any party aggrieved with the determination of the county physical planning liaison committee may appeal to the court only on a matter of law and the court shall hear and determine the appeal within thirty days.”; and
(c) by deleting sub-clause (5) and substituting therefor the following new sub-clause–
“(5) A person who has been served with an enforcement notice and who refuses to comply with the provisions of that notice commits an offence and is liable on conviction

to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.”

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 72 as amended agreed to)

Clause 73

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 73 of the Bill be amended—

(a) in sub-clause (1) by deleting the opening paragraph and substituting therefor the following new opening paragraph—

“(1) A planning authority in charge of an urban area or a city shall require an owner, agent or developer of property or land to present a development application for consideration of the planning authority if, after the commencement of this Act—”

(b) in sub-clause (2)—

(i) by deleting the word “occupier” appearing in paragraph (a);

(ii) by deleting paragraph (b); and

(c) in sub-clause (3) by deleting the word “occupier” wherever it appears.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

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

(Clause 73 as amended agreed to)

Clause 74

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, clause 74 of the Bill be deleted.

Hon. Manje: Hon. Temporary Deputy Chairman, I want to oppose this deletion because the implication is that if a developer is given licence and he starts developing things that are not in the interest of the community then the licensing officer cannot withdraw that licence. I think that is not good for the public.

Hon. Mwiru: We wanted to amend this one because the right towards enjoyment of his property cannot be taken away. This is because the Constitution safeguards this in Article 40.

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 74 deleted)

(Clause 75 agreed to)

Clause 76

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 76 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—
“(1) The National Physical Planning Liaison Committee shall consist of—

(a) a representative of the National Land Commission;

(b) the Director-General of the National Environment Management Authority or a designated representative;

(c) the Director-General of the Water Resources Management Authority or a designated representative;

(d) the Director-General of the Kenya National Highways Authority or a designated representative;

(e) the Chairperson of the National Construction Authority or a designated representative;

(f) the Chief of Defense Forces or a designated representative;

(g) a representative of the Council of Governors;

(h) a person nominated by an alliance representing associations in the private sector in Kenya and appointed by the Cabinet Secretary;

(i) a registered architect nominated by an association of architects in Kenya and appointed by the Cabinet Secretary;

(j) a registered physical planner nominated by the Kenya Institute of Planners and appointed by the Cabinet Secretary;

(k) a registered surveyor nominated by the Institution of Surveyors of Kenya and appointed by the Cabinet Secretary; and

(l) an advocate of the High Court nominated by the Law Society of Kenya and appointed by the Cabinet Secretary.”;

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—
“(2) The Cabinet Secretary shall provide the secretariat services to the committee.”; and

(c) by inserting the following new sub-clause immediately after sub-clause (3)—
“(3A) The Chairperson of the committee shall be a person appointed under paragraphs (h), (i), (j), (k) or (l).”

The Temporary Deputy Chairman (Hon. Kajwang’): Clause 76 is about the National Physical Planning Liaison Committee and you can see all those people who

have been put there and all those offices. Members, I am sure you have gone through that list and you are able to sufficiently vote.

Hon. J.K. Chege: Hon. Temporary Deputy Chairman, I recognise the fact that all these people listed here are important for purpose of good physical planning. However, one profession that is missing out is a representative of engineers society. My request to the Chairperson is that we can consider having a nominee from the institution of engineers of Kenya.

The Temporary Deputy Chairman (Hon. Kajwang'): Whip of the Majority Party.

Hon. Katoo: Hon. Temporary Deputy Chairman, I am seeking a clarification from the Mover. If you look at part (f), the Chief of the Defence Forces or designated representative, surely, what is the role of the Chief of Defence Forces in this National Physical Planning Liaison Committee?

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Chairperson, can you take those two together?

Hon. Mwiru: Yes. I will begin with the Whip's question. In planning we also look at security issues more so where we border with the rest of other countries especially when we are developing the national infrastructure data. You will realise we need the defence forces as well so that we can also have the zones. In the Somalia border for example, we need to involve them to know which areas we can afford to zone out even for security purposes. That is the reason we need that in terms of planning. On the other issue, it is true there could be an omission on this. However, if we are to put every profession here, then we are likely to have a very big list.

The Temporary Deputy Chairman (Hon. Kajwang'): Hon. Chairperson, while you are on your feet in addressing the concern raised by the Hon. Member for Limuru Constituency, look at those nominees in (d) and (e). Invariably those are engineers. Whoever is in the National Highways Authority and Construction Authority is usually an engineer. I am aware the one who is occupying it is now an architect and not an engineer. However, all are designated representatives. They can choose to send engineers to ---That is my view.

Hon. Mwiru: Thank you, Hon. Temporary Deputy Chairman for having that hawk eyed kind of a look. Indeed, when we were putting in the Kenya Highways Authority, we were trying to look at the engineers aspect of it. Therefore, your suggestion and look at it is proper.

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Limuru, are you satisfied being an engineer yourself? However, do not try to protect or speak for engineers. Here you are speaking for the National Assembly.

Hon. J.K. Chege: Hon. Temporary Deputy Chairman, I am not protecting my profession but there are key professions which are involved in physical planning unlike the architects, survey and planners. It is important to be specific. The Director-General could designate another lawyer to represent him.

The Temporary Deputy Chairman (Hon. Kajwang'): Alright. Speak to the Chair, Hon. Chege. If you are able to win his favour, he can propose a further amendment. As the Hon. Member for Bumula is making his observations, speak to the Chair to see if he can carry your further amendment.

Hon. Member for Bumula.

Hon. Otsiula: Hon. Temporary Deputy Chairman, this being the National Physical Planning Liaison Committee, the aspect of experience on the part of the people who will sit on this Committee is also very important, especially those listed in (h), (i), (j), (k) and (l).

Part (l) just says “an advocate of the High Court, nominated by the Law Society of Kenya”. That is not sufficient. We also need to look at the experience of this person. It is very material.

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Member for Bumula, the Chair can only work with what is on the Floor of the House. If there is an amendment, either by you or the Chair, you need to state that you are proposing a further amendment because the current amendment is insufficient. This is not the Third Reading. In the Third Reading, you can make several suggestions.

Hon. Member for Muhoroni.

Hon. Oyoo: Thank you, Hon. Temporary Deputy Chairman. Not all professions can be welcome in this small Committee. For somebody to attain the level of an advocate of the High Court, he must be well-versed in the profession. He must have enough experience to qualify to make decisions.

The Temporary Deputy Chairman (Hon. Kajwang’): Alright. It seems you do not have an amendment.

Hon. Member for Rongai, I can see you flicking in and out.

Hon. Moi: Hon. Temporary Deputy Chairman, when this person is nominated by the Law Society of Kenya or by the Institute of Surveyors of Kenya, they would have put some thought to this. They are not going to nominate or appoint a greenhorn to represent them in a Committee like this. They would get an experienced person. The onus would be on the Law Society of Kenya or the Institute of Surveyors of Kenya to nominate an experienced person. When they nominate someone to the Committee, they must feel that the person is qualified enough to represent them.

The Temporary Deputy Chairman (Hon. Kajwang’): I do not see the Hon. Member for Limuru approaching the Chair; therefore, I assume that the issue is not well-spirited.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 76 as amended agreed to)

Clause 77

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 77 of the Bill be amended in sub-clause (2) by deleting the words “National Physical Planning Consultative Forum” and substituting therefor the words “national planning authority”.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 77 as amended agreed to)

(Clause 78 agreed to)

Clause 79

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 79 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) The County Physical Planning Liaison Committee shall consist of—

(a) an advocate of the High Court nominated by the Law Society of Kenya and appointed by the County Executive Committee member in charge of physical planning, who shall be the chairperson;

(b) a representative of the National Land Commission;

(c) a registered physical planner nominated by the Kenya Institute of Planners and appointed by the County Executive Committee member in charge of physical planning;

(d) a registered architect nominated by an association of architects in Kenya and appointed by the County Executive Committee member in charge of physical planning;

(e) a registered surveyor nominated by the Institution of Surveyors of Kenya and appointed by the County Executive Committee member in charge of physical planning; and

(f) two members, being one male and one female, nominated by the county Chamber of Commerce and appointed by the County Executive Committee member in charge of physical planning.”

(b) by inserting the following new sub-clause immediately after sub-clause (2) —

“(3) The County Executive Committee member in charge of physical planning shall provide secretariat services to the committee.”

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang): Hon. Member for Limuru, you are on my list. What do you say? Are you still lobbying? Hold your horses until you get what you want.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 79 as amended agreed to)

(Clauses 80 and 81 agreed to)

Clause 82

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 82 of the Bill be amended in sub-clause (1) by inserting the words “in the prescribed form” at the end of the sentence.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 82 as amended agreed to)

(Clauses 83, 84 and 85 agreed to)

Clause 86

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 86 of the Bill be amended—
(a) in sub-clause (2) by deleting the word “County” appearing immediately after the words “A member of a”; and
(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—
(3) A member of a physical planning liaison committee who does not disclose an interest as required under this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): The Member for Limuru, the light of your console is permanently on. Is there something amiss?

Hon. J. K. Chege: No, it is okay.

(Question, that the words to be left out be left out, put an agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 86 as amended agreed to)

Clause 87

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 87 of the Bill be amended in sub-clause (1) by deleting the word “that” appearing in paragraph (b) and substituting therefor the word “the”.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put an agreed to)*

*(Question, that the word to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 87 as amended agreed to)

Clause 88

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 88 of the Bill be amended by deleting the word “County” wherever it appears.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

(Clause 88 as amended agreed to)

Clause 89

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 89 of the Bill be amended by deleting the word “County” and substituting therefor the word “the”.

(Question of the amendment proposed)

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 89 as amended agreed to)

Clause 90

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, Clause 90 of the Bill be deleted.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 90 deleted)

The Temporary Deputy Chairman (Hon. Kajwang’): Although Hon. Isaack Mwaura is not in the Chamber, the HANSARD should bear that his proposed amendment was to insert words. Having deleted that clause, no insertion is possible.

(Proposed amendment by Hon. Mwaura dropped)

(Clauses 91, 92 and 93 agreed to)

Clause 94

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT, the Bill be amended by deleting Clause 94 and substituting therefor the following new clause—

Pending disputes.

94. All disputes relating to physical planning shall, before establishment of the national and county physical planning liaison committees shall be heard and determined by the Environment and Land Court.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put an agreed to)*

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

(Clause 94 as amended agreed to)

(Clause 95 agreed to)

New Clauses 18A, 18B and 18C

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT the Bill be amended by inserting the following new clauses immediately after Clause

18—

County Director
of Physical
Planning.

18A. (1) There is established the office of the County Director of Physical Planning which shall be an office in the county public service.

(2) The County Director of Physical Planning shall advise and be responsible to the County Executive Committee Member in charge of physical planning.

Qualifications of
the County
Director of
Physical Planning.

18B. The qualifications for appointment as a County Director of Physical Planning shall be similar to those for the appointment of the National Director of Physical Planning.

Responsibilities
of the County
Director
of Physical
Planning.

18C. The County Director of Physical Planning shall be responsible for—

(a) advising the county government on physical planning matters that impact on the whole country;

(b) formulating county physical planning policies, guidelines and standards;

(c) preparation of county physical development plans;

(d) preparation of local physical development plans;

(e) participating in the preparation of regional physical development plans;

(f) undertaking research on matters relating to physical development planning at the county level; and

(g) recommending to the county government the establishment of planning units as may be necessary.

(Question of the new clauses proposed)

(New clauses read the First Time)

The Temporary Deputy Chairman (Hon. Kajwang'): Member for Ainamoi.

Hon. Langat: Hon. Temporary Deputy Chairman, the Chairman of the Departmental Committee on Lands did not do the right thing in moving the Second

Reading of those new clauses. I request you to guide him on how to do it or I guide him on your behalf.

The Temporary Deputy Chairman (Hon. Kajwang'): I beg your pardon. I did not hear the Chairman, but now that it has been raised to my attention, can you repeat?

(Question, that the new clauses be read a Second Time, proposed)

(Question, that the new clauses be read a Second Time, put and agreed to)

(The new clauses were read a Second Time)

(Question, that the new clauses be added to the Bill, put and agreed to)

New clause 85A

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-
THAT the Bill be amended by inserting the following new clause immediately after Clause 85—

Appeals to National
Physical Planning
Liaison Committee.

85A. The provisions of sections 82, 83, 84 and 85 shall apply with the necessary modifications in the case of appeals to the National Physical Planning Liaison Committee.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

First Schedule

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

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THAT, the First Schedule of the Bill be amended by deleting the title and substituting therefor the following new title—

“PROCEDURE OF APPOINTMENT OF MEMBERS OF THE NATIONAL PHYSICAL DEVELOPMENT CONSULTATIVE FORUM”

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(First Schedule as amended agreed to)

(Second Schedule agreed to)

(Third Schedule agreed to)

(Fourth Schedule agreed to)

Clause 2

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 2 of the Bill be amended—

(a) in the definition of the term “planning authority” by deleting paragraph (b) and

substituting therefor the following new paragraph—

“(b) the County Executive Committee member responsible for matters relating to physical planning”; and

(b) by inserting the following new definitions in their proper alphabetical sequence—

“commercial use” includes shops, offices, hotels, restaurants, bars, kiosks and similar business enterprises but does not include petroleum filling stations;

“emerging technologies” include telecommunication installations, information and communications technology parks and aviation services;

“industrial use” includes manufacturing, processing, distilling, brewing, warehousing and storage, workshops and garages, mining and quarrying, power generation and similar industrial activities including petroleum filling stations;

“land use planning” refers to a branch of physical planning encompassing various disciplines which seek to order and regulate land use in an efficient and ethical way;

“physical planning” refers to the active process of organising the structures and

functions to ensure orderly and effective sitting or location of land uses, and it encompasses deliberate determination of spatial plans with an aim of achieving the most optimum level of land utilisation in a sustainable manner.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Kajwang’): Hon. Members, you can see that in Clause 2, the Chairman has re-aligned the definitions of several technical and generic terms. You have looked at them.

So, you are ready to vote.

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question, that the words to be inserted be inserted, put and agreed to)

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

Hon. Mwiru: Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Physical Planning Bill (National Assembly Bill No.46 of 2015) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. Kajwang’) in the Chair]*

REPORT AND THIRD READING

THE PHYSICAL PLANNING BILL

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Physical Planning Bill (National Assembly Bill No.46 of 2015) and approved the same with amendments.

Hon. Gichigi: Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

Hon. ole Sakuda: Hon. Temporary Deputy Speaker, I second.

(Question proposed)

(Question put and agreed to)

Hon. Mwiru: Hon. Temporary Deputy Speaker, I beg to move that the Physical Planning Bill (National Assembly Bill No.46 of 2015) be now read a Third Time.

Hon. Sakuda: Hon. Temporary Deputy Speaker, I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, this is the time to give yourselves thumbs-up.

Leader of the Majority Party.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I want to recognise the contribution of one Hon. K’oyoo. He is representing not only himself, but a whole coalition. I must go on record to thank him. I want him to be applauded because he is a very serious Member from that coalition. I also want to thank my colleagues from the ruling coalition who took their time to pass a constitutional Bill. This is one of the most controversial Bills in the media. There are many things that Mr. Swazuri and Mr. Matiang’i said, but today, it is very sad that nobody is even disputing the amendments of the Committee.

I want to thank the Chairman of the Lands Committee, his Vice-Chairman, the Members of the Committee and the Members who have remained here, including my good friend, Hon. Raymond Moi at the back there, to make sure that as we go home, we fulfill our duty in passing a constitutional Bill. This is a great day and a very good evening.

Hon. Temporary Deputy Speaker, as a good friend of mine, coming from that coalition, you need to crack the whip on the leadership. At least, Hon. Nyenze should have been here because leadership is not only on title, but it is based on performance.

I support.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you, Leader of the Majority. You know of course, when I am on the Speaker’s Chair, I wear the hat of the National Assembly and so, I do not know neither do I intend to know what my right or my left is doing. But it is true that, not only just the leadership on the Minority side, but I think you should have your full brigade including the whole Office of the Leader of the Majority, namely, the Deputy and the Leader and the Office of the Whips including this other side, so that they can set an example and therefore, Members will also have interest in being in the Assembly.

These Members have worked very hard and trying to gag them will be difficult for me. Member for Ainamoi.

Hon. Langat: Hon. Temporary Deputy Speaker, I also want to thank the Chairman of the Lands Committee, my very good friend. He used to be my boss in another Committee in the last Parliament. I want to thank the Committee very specifically because if you look at the amendments, they have amended 99.9 per cent of the original Bill. This means that they sat, scrutinised the Bill and they have checked each and every clause thoroughly. That is why I sat here and said that I am going to support them in all the amendments except one, which I opposed.

Having said that, I want to agree with what the Leader of the Majority has said. This is a very serious Bill and it is saddening that the other side is empty. Of course, our side is not full, but we are better. These are people who normally complain in funerals. They normally go to court to challenge instead of challenging in the House. The Leader of the Minority Party is not here, the Deputy---

The Temporary Deputy Speaker (Hon. Kajwang’): Order, Member for Ainamoi!

Hon. Langat: Allow us to say these things, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Whereas you are right in the comments you have made, but the insinuation that these Members are out of the Chamber because they are preparing or intending to go for funerals; that they are either conceiving or intending to go for funerals and that is the reason they are out of the Chamber today is not proper.

Hon. Langat: I did not say that.

The Temporary Deputy Speaker (Hon. Kajwang’): You know this is occasionally rainy. Today it shines on my right, tomorrow it shines on the left. I have had occasions here where Members to my left have sat with me until very late in the evening. It is an occasional rain---

Hon. Langat: Allow us because today it is our day.

The Temporary Deputy Speaker (Hon. Kajwang’): Whatever the type of rain, the crop will still germinate.

Hon. Langat: Hon. Temporary Deputy Speaker, let me just thank the Members who have stood with this Bill. The land question is very difficult. Personally, I do not like issues of land because they are very controversial. I want to thank the Committee for the job well done. I want to wish the Committee very well. We always support a Committee when it works very well like that.

Hon. Temporary Deputy Speaker, I also thank you for leading us in this very difficult time. It is a bit late and our sugar levels have gone down or our tea levels might have gone down. I thank everybody.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, several of you are requesting to make comments. You do not have to do that at this level because there is a Motion which is coming. In that Motion you can ventilate nearly everything you want to say under the sun. If you permit me, therefore, I wish to defer the consideration of business appearing as Order No.14 to the next practical date that shall be printed in the Order Paper for purposes of taking a vote.

Next Order, please.

MOTION FOR ADJOURNMENTADJOURNMENT TO A DAY OTHER THAN
THE NEXT NORMAL SITTING DAY

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I beg to move:-

THAT, pursuant to the provisions of Standing Order No.28, this House adjourns its sittings until Tuesday, 9th February, 2016 in accordance with the calendar of the Assembly (Regular sessions).

Hon. Temporary Deputy Speaker, at the outset I would like to thank Kenyans who played a big role in ensuring that Parliament discharges its duties. As you are aware, this year we received high profile visitors. In July, 2015 we hosted President Barrack Obama. His visit has sent a message internationally about Kenya's ability despite the terrorist threats that it has to deal with. He has confirmed that Kenya is safe and stable. He has also confirmed that Kenya has a very strong economy in this region and that it is first among equals in Africa.

Last month, His Holiness, Pope Francis, the voice of many Catholics in our country or all--- Nothing is wrong with me. Let me change that: He is the voice of Christ. He spoke to the youth, the political leadership, the Government and the poor people. He showed that you can lead a simple life that is not corrupt. He had soft spot for the poor and the young. He talked to the leaders and the nation as a whole.

During the Third Session and the third part we passed many Bills both public and private. We passed the following Bills: The Court of Appeal (Organization and Administration) Bill, 2015; The Magistrates' Courts Bill, 2015; the Statute Law (Miscellaneous Amendments) Bill, 2015; the Small Claims Court Bill, 2015; The High Court Organization and Administration Bill, 2015; Private Bills; the 2015/2016 Financial Year Budget; the Finance Bill; the Tax Procedures Bill; and above all two critical important Bills, that is, the Companies Act and the Insolvency Act. We also debated several Committee reports and Senate Bills. We adopted a number of sessional papers. Today, we concluded the Physical Planning Bill, 2015, which is a constitutional Bill.

When we resume from recess, *Inshallah*, the House Business Committee will give priority to all the constitutional Bills which have since been published and read the First time. We also have deliberated the National Government Constituencies Development Fund Bill, 2015.

(Hon. Bosire walked to the Bar)

I can see a Member from the other side walking out. No, he is coming to this side. I am very sorry. He is a very good friend of mine. Hon. Bosire was with me in Orange Democratic Movement (ODM) from 2007. So, we are in two different parties but we are great friends. We have walked the long walk.

This afternoon, we have dealt with the report on the ratification of the World Trade Organisation (WTO), Memorandum of Understanding (MOU) that was signed between our Government and the WTO as we wait to host the MC10, WTO Conference

between 14th and 18th December. We have a number of serious Bills namely, the Forest Conservation Management Bill, The Legal Aid Bill and a number of Senate Bills. We also have the adoption of two Sessional Papers which are remaining.

I wish to thank all the Members for rising to the occasion on matters of legislation as a function of Parliament. I want to thank the Office of the Speaker, the Office of the Clerk and the many directorates like the Directorate of Legislative and Procedural Services, Legal, Administration, the Serjeant-at-Arms and many other staff of the National Assembly who contributed in one way or the other immensely and sacrificed their energy and time to make sure that the National Assembly fulfills its mandate in the Third Part of the Third Session. I hope that this break will give our Members time to enjoy Christmas and New Year festivities with their families, constituents and Kenyans at large. I wish each and every one of us, the Members and the staff of the National Assembly, a Merry Christmas and a Happy New Year.

Before I sit, the current war against corruption, in my opinion, should be fought with zeal, energy and the laws that we have. At every stage among our citizens, from the President to the lowest, we must be committed to the war against graft. Never again should corruption be politicised. We should not talk about corruption for the sake of talking about it. Corruption is in the body and the spirit of many Kenyans. It is not only peculiar to the Government but it permeates in the private sector. It even permeates the religious sector, for example, the Kanyaris of this world.

Pope Francis said that preaching the gospel does not require you to be rich. He used a modest car. I am sure the pastors in our country drive the latest models of Range Rover. Let me use the privilege and give an example of Pastor Ng'ang'a and the kind of car he drives.

Let me use the privilege I have to speak to this. Look at the kind of car Pastor Ng'ang'a drives. The Pope used a very good---

The Temporary Deputy Speaker (Hon. Kajwang'): Leader of the Majority Party, you are on the right track, but you should leave out names of personalities who are unable to defend themselves on the Floor of this House.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, the Standing Orders says that I can substantiate.

The Temporary Deputy Speaker (Hon. Kajwang'): I do not want to take you to the route of substantiation. The Standing Orders must reflect the Constitution which says that a man must be condemned after having been heard. You can refer to them as long as you do not mention names. I will allow you to proceed.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, if you give me time, between now and 9th February 2016, I am sure to substantiate the claim I have made with the help of many Kenyans.

When President Obama came, he gave very good speeches. Pope Francis came and gave us good messages. We need to learn from those messages. They are not in vain. We must fight corruption but we should not politicise it. As we go home, all those who are saying that the Eurobond money was lost, both the public and the leaders, have an opportunity tomorrow, to go to the National Treasury and present their facts. If you do not do that then you have an opportunity to walk to the Office of the Director of Public

Prosecutions (DPP) and to the Ethics and Anti-Corruption Commission and state your case.

As the Leader of the Majority Party and Member of Parliament for Garissa Town, I also want to know how the Eurobond money was used, on the basis of the my oversight role. As we wish each other a Merry Christmas and a Happy New Year, let us all go out and fight corruption whether we are in the Judiciary, Legislature, Executive, private sector or in our homes. Corruption kills and deters development.

Let us go out and fight corruption so that when the New Year begins on 1st January 2016, we will have a country that we can be proud of. We should criticise the arms of Government on the basis of facts and figures and not just for the sake of it.

Finally, I want to thank you and the other Members of the Speaker's Panel. You have discharged your duty for long hours, late into the night including tonight. We want to thank you. If I get the opportunity, I will tell your constituents that Hon. T. J. Kajwang' deserves a second term. The Speaker's Panel has done very well. We are proud of you. We are proud of each and every Member. We are all Members of Parliament.

We are all Kenyans. We must preach unity. Today you may be in Government, but tomorrow you may find yourself in the Opposition. Kenya is bigger than all of us. We must build a more cohesive and united Kenya. I wish everybody a Merry Christmas and a Happy New Year.

Those Committees that have a mandate to vet the Principal Secretaries should do so based on the Constitution and the Public Appointments Act. Those of us who have an opportunity to sit on the Committee on Appointments, will also do the same.

We hope that by January, the President will have a fresh, new-face Cabinet that is ready to serve the people of Kenya.

The Temporary Deputy Speaker (Hon. Kajwang'): There are almost 10 requests here. If we go through this list one by one, we will sleep here. I am suggesting that each Member speaks for only one minute so that I do not injure any of you who wants to speak for yourselves and, more specifically to your constituents. This is prime time. It is going to eight O'clock, so your constituents must be watching at home. I do not want to injure your hard-earned presence here. So, you will speak for only one minute and I will keep time. I will switch your microphone off at the last second of the minute.

Let us have the Member for Kajiado North.

Hon. Manje: Thank you, Hon. Temporary Deputy Speaker, for giving me this chance. I take this opportunity to support the Motion for Adjournment. This is the time we should go home and reflect on our country. We were given a very high responsibility by Kenyans and we should take that chance to take this country in the right direction. I would like leaders to note that when we become hard, we dictate the country to be hard. If we play hard politics then all Kenyans become hard. This is the time we should be polite to each other so that other people can copy us.

I also want us to think of the national values we have as a country. Let us be patriotic to our country so that we can live in a good country. Also, corruption is permeating and eating our country and the resources we have. Corruption is as good as stealing. Somebody stealing a cow somewhere in Pokot is the same as a person stealing from the Government. The concept is the same.

I urge all Kenyans to support the President. We have a very good and genuine President. We all know whether in the Opposition---

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Muhoroni.

Hon. Oyoo: Thank you very much, Hon. Temporary Deputy Speaker. At the outset, I want to deny the sentiments of the Leader of the Majority Party that I was here representing the interests of the Coalition for Reforms and Democracy (CORD) and we are very few. Although I am not an engineer, if anybody did a very precise calculation of the Members present in this House, given the high number of the Jubilee side vis-à-vis the CORD side, if you say that I was here with Hon. Bosire representing the interest of CORD against the sizeable number of the Jubilee members who are here, then we are slightly more than the Jubilee side.

Two, I take this opportunity to wish the country's leadership and Kenyans well in this festive period. We are a blessed country. We had high profile visits.

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Narok North.

Hon. ole Kenta: Thank you, Hon. Temporary Deputy Speaker. I also join my colleagues to thank Members and staff of Parliament for the good work they have done. I congratulate the Departmental Committee on Lands for the good Bill they brought to the House.

I would like to tell Kenyans that we should be together. More importantly, we should be fair to one another. In the Cabinet reshuffle, the people of Narok, especially the Maasais, lost two Principal Secretaries (PSs) for no apparent reason. In fact, they were the best PSs. It is because of political differences, oppression or continuation of marginalisation. I urge my people to stand firm and say no to injustice. Let us fight for our space and ensure that we are treated like any other Kenyans and not like underdogs. It is time that we reflected, especially during this festive season, and know where we stand and where we want to go.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Tharaka-Nithi.

Hon. (Ms.) B.N. Nyaga: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. We have done a good job in 2015. We have received two important guests in this country: The President of the United States of America (USA) and the Pope. They talked about how to curb corruption. They talked to us about gender, supporting the youth, praying for our country and supporting one another. That is how we are supposed to be and continue for the rest of our time.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Kajiado West.

Hon. ole Sakuda: Thank you very much, Hon. Temporary Deputy Speaker. Let me say that it is quite an achievement for us as Departmental Committee on Lands. This year one of our Bills has been brought before this House and has been dispensed with. We feel very good. We also know that a number of reports have been tabled. From the legislative point of view, we feel that what the people of Kenya sent us here to do has been done.

As we go to the Christmas seasons, let us remember the message of Pope Francis. He left us a message of forgiveness and love. I pray that going forward; we will not go back to our political cocoons to start pointing fingers at each other.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Kipkelion East.

Hon. Limo: I take this opportunity to congratulate this House for the work done. I wish that we continue like that in the next year and even get sharper.

I also wish to bring to the attention of the leadership of this House that some of the times, the priorities have not been right. Let us get our priorities right so that those important Bills come early.

I also wish to ask the people of this country to continue keeping peace. Let us be together. The people of Kericho and Bomet County have been working together. Let us continue working together even during these changes.

I wish all Hon. Members Merry Christmas and Prosperous New Year. Let us continue working together without looking which side we are in, as long as we are supporting the---

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Limuru.

Hon. J.K. Chege: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to thank the House and particularly the leadership for the work well done.

I thank the Departmental Committee on Lands for this Bill. It will do a lot of good to people like us who are in the neighbourhood of Nairobi where development needs to be organised.

As we break, I wish everybody a Merry Christmas. We must remember that this country is ours and it does not matter which side we sit. We do not have another country to go to. I trust and believe that all of us will preach one Kenya and one country that we love in this holiday. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Taveta.

Hon. (Dr.) Shaban: Asante sana, Mheshimiwa Naibu Spika wa Muda. Pia nami naunga mkono Hoja hii. Natoa shukrani kwa wenzangu kwa ile kazi nzuri wamefanya mwaka huu.

Vile vile, Kenya imepata majanga; kumekuwa na shida Garissa ambapo tulipoteza wanafunzi wengi. Kenya pia imekuwa na matatizo mengine mengi. Lakini juu ya hapo mwaka huu tumepata baraka. Tumepata Rais Obama pamoja na Baba Mtakatifu wa Kikatoliki aliyekuja nchi yetu.

Nataka kuwaombea Wakenya heri njema ya Krismasi na Mwaka Mpya ulio na mafanikio.

Vile vile, nawaomba wenzangu wanapokwenda, waeneze habari njema ya upendo na umoja. Tusimame kidete kama Wakenya tukifurahia nchi yetu.

Asante sana.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Bonchari.

Hon. Opore: Thank you, Hon. Temporary Deputy Speaker.

In the first place, let me say that the Speaker's Panel and the Clerk's Office have worked very hard this year. At the same time, I am very happy because Kenya is becoming a destination for high profile visitors and conventions. That is a very good

thing for Kenya. I take this opportunity to wish the Members and their constituents a Merry Christmas and a happy new year

Thank you very much.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Rongai.

Hon. Moi: Hon. Temporary Deputy Speaker, I would like to thank you for giving me this opportunity to say something. I would like to thank the people of Rongai for the opportunity they have given me to serve them. I should also not forget to thank God for bringing us this far. I would like to thank the Members of the Committee on Lands, especially the Chairman, for working so hard and enabling us to accomplish our mandate.

On that note, I would like to wish everybody a Merry Christmas and wonderful new year.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Tharaka!

Hon. Mwiru: Hon. Temporary Deputy Speaker, let me begin by thanking hon. Members so much for the kind of navigation that we have done this evening to pass this Bill through to the Third Reading. God will increase the zeal and the vigour exhibited by hon. Members this evening.

I also want to thank the leadership of this House for taking us this far within this particular Session. We look forward to meeting again in the next Session. I cannot fail to thank my colleagues, especially those who are Members of the Committee on Lands, who have helped me so much as their Chair to guide them to where we have reached. I also thank the entire membership of this House for showing a lot of respect and being patient, especially knowing that land issues are quite emotive.

I cannot fail to thank the people of Tharaka, who have elected me to this House for the second time.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Igembe North!

Hon. M'uthari: Hon. Temporary Deputy Speaker, let me take this opportunity to thank you and the leadership of this country for their good leadership during this Session. As we break for Christmas, I wish hon. Members a good Jamhuri and Merry Christmas. Let us also be guided by the reflections that we received recently from the Holy Father, Pope Francis – his reminder about oneness and inclusiveness. Let us also reflect on the issue of corruption which starts at the household level, so that we see where we are headed as a people. I hope that during this recess, we, as leaders and the people we lead can lead the process of reflection to look at ourselves and engage with each other with a view to becoming united.

Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you, Hon. Members. From the Speaker's Office, we are so indebted to you for staying until very late, working tirelessly and helping us to push the legislative agenda of this august House. We appreciate the entire membership of the National Assembly. We do these things from the Speaker's Office, taking no credit, with all humility because it is our duty to do it. I hope that we will be available and have more power in our muscles to be able to push the national agenda that is before us.

Merry Christmas to all of you, your families and most importantly, your voters. I pray that God will shine upon them and get the benefit of the deliveries that you are giving them so ably. May God bless you!

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Members, this House stands adjourned until Tuesday, 9th February, 2016 at 2.30 p.m.

The House rose at 8.05 p.m.