

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 6th December, 2017

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STAFF FROM UASIN GISHU AND MERU COUNTY ASSEMBLIES

The Speaker (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a delegation from the Uasin Gishu and Meru County assemblies. The delegation is visiting the Senate to undertake an in-house training attachment with the respective departments in the Parliamentary Service for a period of one week.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition. They are:

The delegation from Uasin Gishu County Assembly:

1. Ms. Nancy Jepkoech
2. Mr. Elias Koech
3. Ms. Lynet Angela Chepkoech
4. Ms. Caroline Spencer
5. Mr. David Busienei
6. Ms. Sally Biwott
7. Mr. Geoffrey Obaga

The delegation from Meru County Assembly:

1. Ms. Julian Kendi
2. Ms. Joy Gaichugi
3. Ms. Betty Nkatha

(Applause)

Hon. Senators, it is my hope and, indeed, that of all Senators, that the delegation has received useful insights on the management and operations of the Senate and the Parliamentary Service.

On behalf of the Senate and on my own behalf, I welcome the delegation to the Senate. I wish them well for the remainder of their stay.

I thank you.

NOTICE OF MOTION

ALTERATION OF THE SENATE CALENDAR

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to give Notice of the following Motion:

THAT, pursuant to Standing Orders 28 (2) and 29 (4), the Senate resolves to alter its Calendar for the First Session, in respect of the Fourth Part, in order to proceed on recess from Friday, 15th December, 2017, instead of Friday, 8th December, 2017 and to resume on Tuesday, 13th February, 2018 in accordance with Standing Order 28(1).

STATEMENTS

The Speaker (Hon. Lusaka): Hon. Senators, the Senate Majority Leader will proceed to issue a Statement on the *Inua Jamii Kali* Cash Transfer Programme.

STATUS OF THE *INUA JAMII* CASH TRANSFER PROGRAMME

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. The distinguished Senator for Makueni County, Sen. Mutula Kilonzo Jnr., is not here. He is away in court and it is only fair that the Statement is issued in his presence so that he can interrogate the contents thereof. I request that it be put aside for another date when he will be available. I can see Statements (a) and (c) are in relation to his request.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, if the Senate Minority Leader had waited, that is where I was going. I have consulted all these Senators and they have requested that we hold these statements until such time that Sen. Mutula Kilonzo Jnr. will be available in the House, hopefully next week.

Sen. Kwamboka is out on official assignment in Dar es Salaam and Sen. Mutula Kilonzo Jnr. is away with the permission of the Speaker on another responsibility. For Sen. Cherargei, I still wanted to consult his constituents on this Statement because we had shared with him but there are some things that we wanted clarification on before it can be tabled.

The Speaker (Hon. Lusaka): Thank you. I, therefore, defer all the statements until when the Members are present.

STATUS OF KAREBE GOLD MINE COMPANY LTD IN NANDI COUNTY

COMPENSATION FOR PERSONS AFFECTED BY THWAKE MULTI-PURPOSE DAM PROJECT

STATUS OF FEMALE PRISONERS AND CHILDREN
HELD IN PRISONS

(Statements deferred)

MOTION

ALTERATION OF THE SENATE CALENDAR

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to move the following Motion:

THAT, pursuant to Standing Orders 28 (2) and 29 (4), the Senate resolves to alter its Calendar for the First Session, in respect of the Fourth Part, in order to proceed on recess from Friday, 15th December, 2017, instead of Friday, 8th December, 2017 and to resume on Tuesday, 13th February, 2018 in accordance with Standing Order 28(1).

Mr. Speaker, Sir, I do not want to spend a lot of time debating this matter except to give reasons. We should have proceeded on recess as from tomorrow but we have the election of Members to the East African Legislative Assembly (EALA) that will take place between 13th and 14th December, 2017. You will give us the exact communication, whether we will vote on 13th or 14th December, 2017. The Committee that is vetting the Members who will serve is working hard. They had a meeting today and they will have another one tomorrow.

That exercise is important. We have delayed the operationalisation of the EALA. I was in Dar es Salaam over the weekend and our team is playing football today with the EALA team. However, there is an absence of selected Members of Parliament because Kenya has held the constituting of the EALA. It has been delayed because Kenya has not done what we ought to do. This exercise is important. Instead of Senators proceeding on a recess and then be called back, the Rules and Business Committee deemed it fit that we postpone our recess until next week. In any case, we will only come back here on Wednesday next week and Thursday, considering that Tuesday is a public holiday.

I beg to move that this Motion be adopted by this House, to postpone this recess, to alter the Calendar of the House so that we can undertake a very serious and important responsibility of national importance.

I ask the Deputy Majority Leader to second the Motion.

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. I am concerned that the Senate Majority Leader is deviating from the normal practice of this House. On a matter such as this one of deferring the adjournment of the House, I believe this should have been canvassed in the Rules and Business Committee and agreed upon by both sides of the House. It is only fair that if he moves this particular Motion, then he should be seconded by the opposite side – by the Senate Minority Leader – just to show that there is consensus on the matter; that both sides have agreed that there is need to push the recess forward.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, the Senate Business Committee approved this Motion, but the Senate Minority Leader was unable to attend the meeting. I did not want to ambush him and we do want to spend time on this

more or less obvious agenda. That is why the Senate Deputy Majority Leader, who had already been notified in good time and was in the meeting, was going to second as a matter of practice because she was there. However, even then, she was not going to talk. She just wanted to nod or say, "I second," so that we proceed to more important business of the afternoon.

Mr. Speaker, Sir, although I am entitled to 60 minutes, I have only used less than three minutes. I have just consulted the Senate Deputy Majority Leader and she has no problem with the Senate Minority Leader seconding if he is ready. There is absolutely no problem.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, the Senate Majority Leader should not treat the House in such a casual manner. The issue of bipartisanship is very important in any House, especially on matters that have nothing to do with any side of the House. It is not rocket science to second a simple Motion like this. The Senate Deputy Majority Leader does not have to prepare herself and research in the library just to extend the sittings of the House for a few days. This trend should stop.

It is the practice of this House. Yesterday, a Motion was moved here to adopt the Report of the Controller of Budget, which is a bipartisan report. The Report by the Controller of Budget is neither a Jubilee nor a NASA report. I sat here waiting to second that Motion. Upon being moved, the distinguished lady, and I have talked to her and she explained herself to me and I understood her--- However, I am raising it as an example of the continuing conduct that is inconsistent with the norms and practice of this House. She finished moving the Motion and called upon a Senator on the other side to second when we were here.

Mr. Speaker, Sir, even now, I would have expected my distinguished learned junior, the Senate Majority Leader, to have the courtesy of crossing the Floor, like I always do to him and whisper to me saying: "We have this Motion, can we prosecute it together?" It is so simple, but sometimes when we get overawed with things that are not helpful, we forget the basics that hold us together.

Mr. Speaker, Sir, I support the protestation of the distinguished Senator for Vihiga County and call upon you, as the Chair of this House, to encourage that for us to move together, even on matters will be difficult--- There will be matters where we may not see things the same way, but when we talk and agree, we make it less cumbersome and easier to move the House and the country forward in a better version.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, anyone who has been here for some time - at least for me who served in the last Parliament - knows that the word "courtesy" and Sen. Wetangula cannot be used in the same sentence. This is because you cannot imagine that someone can miss the sittings of the Senate Business Committee and has no courtesy to go to the Office of the Speaker to find out what business was canvassed. He has a notice in his office that shows that part of the business is the alteration of the Calendar of the Senate. He has no courtesy to look for me to even inquire what the Senate Business Committee decided.

(Sen. Khaniri crossed the Floor to consult with Sen. (Dr.) Ali)

Secondly, Sen. Khaniri, whom I should encourage to be crossing over to this side as more often as he has done, stood on point of order. When you stand on a point of order

- and Sen. Khaniri reminds us all the time - you must show which Standing Order I breached. When we talk about breaching Standing Orders, we should provide evidence. Rather than say "point of order", you would better say "point of practice." When you say "point of order" you are pointing to a breach of a standing order.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. We cannot sit here and listen to Sen. Murkomen pontificating on irrelevant polemics that do not help this House. Practice, precedence, tenets, courtesy and good behavior are grounded in Standing Order No.1. I expect him, being a lawyer, to know.

When we stand here to raise issues, it is not a test of wills. If we want to test wills, we can test each other until the chickens come home to roost. We are simply saying that you are presiding over a House with two sides. More often than not, we will have matters that are contested. However, where matters are not contested, it is courteous, good practice, good behavior and above all, it unifies the House to have a bipartisan approach. However, when you listen to this kind of infantile chest-thumping, it erodes the confidence that we want to build in each other.

Mr. Speaker, Sir, it does not matter whether I attended the Senate Business Committee meeting or not. You may recall that I even spoke to you on phone on a matter that should have been discussed in the Senate Business Committee. I was engaged in a very serious national issue that has to do with 12th December that he is talking about. That is a very important day in the history of this country.

I do not want to go on for too long, but I want to encourage Sen. Murkomen that he is no longer just a backbencher Senator. You are the Senate Majority Leader in this House and have a duty to bridle your language, be courteous to others and better schooled in your exposition of issues than otherwise what I have seen and heard.

The Speaker (Hon. Lusaka): Order, Senator! Senate Majority Leader, can you call on a Senator to second, so that we make progress?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, you have seen me quietly sit down and listen to a lot of insults from the Senate Minority Leader. I told you that for all of us who worked with him here for the last five years, courtesy and Sen. Wetangula cannot be used in the same sentence. Decency and Sen. Wetangula cannot be used either in the same sentence.

The Speaker (Hon. Lusaka): The Senate Majority Leader, can you call upon a senator to second the matter so that we make progress.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I have quietly sat down and listened to a lot of insults from the Senate Minority Leader. As I said, those of us who worked with him here for the last five years know that that courtesy and Sen. Wetangula cannot be used in the same sentence. Decency and Sen. Wetangula cannot be used in the same sentence.

The Speaker (Hon. Lusaka): Senate Majority Leader, call upon the hon. Senator to second the matter, so that we make progress.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I just wanted to go on record that I have accepted to play quiet and humble because he always reminds me that I am the age of his son. I have always told Sen. Wetangula that every father must be proud of the progress of his son. The fact that I am serving a second term here with my father is something to be proud of and not to be called infantile. It is something to be celebrated. He should be celebrating me every day.

As the Mover of this Motion, I sympathise with Sen. Wetangula's position. When he will revise his language in future, I have no problem accommodating him to second motions. However, today, Sen. Fatuma Dullo will second this Motion.

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

The Speaker (Hon. Lusaka): Yes, Sen. Khaniri.

Sen. Khaniri: Mr. Speaker, Sir, before I raise my point of order, I just want to remind the Senate Majority Leader that humility is not in pronouncement; it is in action. Is he in order to impute improper motive on my leader, the Senate Minority Leader, that the word 'courtesy' and the name 'Wetangula' cannot appear in the same sentence? That is imputing improper motive on his counterpart. Is he in order?

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Wetangula? We need to make progress.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I will not engage in any infantile arguments on this Floor. All I want to say is that we, on this side, cannot and will not solicit to second any motion. Indeed, that is not why we are here. However, we are saying that on matters that are bipartisan in nature, and we will probably need a pronouncement from the Chair--- Extending the Calendar of the Senate is not a Jubilee or NASA matter; it is for all of us. It matters not who moves it, but it matters that both sides be involved.

I would like to inform Sen. Murkomen, the Senator for Elgeyo-Marakwet that I think he is suffering from some illusionary behavior because everywhere he turns he sees the image of the former Inspector General of Police. I would like to encourage him that "Sieke" is not in this House. These are distinguished Senators.

(Laughter)

The Speaker (Hon. Lusaka): Order, Sen. Wetangula! I would like to make a ruling, so that we make progress. The Senate Business Committee discussed the matter yesterday. Unfortunately, the Senate Minority Leader was not there, but he had informed me that he would be away. Since the matter was discussed and the Senate Majority Leader has proposed a seconder - and this is neither a Jubilee nor NASA issue - I will ask the Senate Deputy Majority Leader to second so that we make progress.

Please proceed, Sen. Dullo.

Sen. Dullo: Mr. Speaker, Sir, I beg to second.

(Question proposed)

Sen. Wako: Mr. Speaker, Sir, I beg to support this Motion. However, I would also like to say that it should have been foreseen. I remember, when we discussed the programme, I had a quiet consultation with the Senate Majority Leader and told him that in view of what was happening, we may have to stay longer than the date that we had envisaged as the date of adjournment. I had in mind precisely the reasons that have been given for amending our adjournment date from 8th to 15th December.

I foresaw that we would need to elect Members to the East Africa Legislative Assembly (EALA), a very important matter. Unfortunately, on two occasions Kenya has delayed the EALA from beginning its work. All the other counties had their Members ready, they went to Arusha to be inaugurated but they could not be inaugurated because Kenya had not submitted her list of Members.

As the Senate Majority Leader said, East African Legislative Assembly (EALA) games are going on in Dar-es-Salaam but there is no team from EALA and there ought to be a team from EALA. So, Kenya has not played very well on this one.

Mr. Speaker, Sir, I remember that the in the elections of the former Members we had some problems and we had to amend the Treaty to accommodate Kenya to ensure that our membership is accepted. We were challenged that the way we had elected our Members had not been constitutional. In a sense, we agreed but we had to amend the East African Community Treaty and we had to redo it to ensure that everything complies not only with our Constitution but also with the Treaty of the East African Community. I remember this very clearly because I was involved.

The reasons given are very good. My prayer is that we should have foreseen this. Under the new Constitution, Parliament controls its own calendar. Under the old Constitution, the calendar of Parliament was controlled by the President. He is the one who could adjourn and prolong Parliament. It was all in the hands of the President. Therefore, we should not give the impression under the new Constitution that somehow we have to go to State House to discuss this matter then come to have this Motion. We ought to have foreseen this when we were discussing a similar Motion at the beginning of this term.

Whereas I support, I would like to plead to the leadership of the House to be a little bit more consultative in fixing the dates and the calendars of the Senate so that we do not have to come back to amend the calendar that we have already passed as if we do not know what we are doing.

I support and hope that by the extended date, we should have formed our Committees so that when we come back in January, we hit the ground running.

Sen. Cheruiyot: Thank you, Mr. Speaker, Sir. I rise to support this Motion. Listening to the Senate Majority Leader, there is a very important business which we need to transact. The main reason why I stood up is because I am a Member of the Joint Committee that is handling the EALA business. I want to mention two things. It will be important to update the House so that Members are kept abreast with what is happening in the Committee.

One, we met this morning and tomorrow, we shall table the report which will most likely be voted on the 13th December, 2017. It is really important that we transact this business. Those of us who currently are in Dar es Salaam for the EALA parliamentary games or those of us who have been there, I was there the whole of last weekend up to Tuesday and the one question that the rest of East African Community (EAC) kept asking us is why we have held the entire regional bloc at ransom. It is really unfortunate and we explained to them that it had very little to do with our local politics but had everything to do with the timing of our political season, given that we were heading to presidential campaigns.

Mr. Speaker, Sir, it is imperative that we bring this business to a close on 13th December, 2017. I wish to request Members who may have something that they feel is

useful and needs to be added to that business to avail themselves in the House tomorrow afternoon so that they are given a chance to raise any pertinent issue that they might have.

Mr. Speaker, Sir, I support.

(Sen. Wetangula consulted loudly)

Sen. Dullo: Thank you, Mr. Speaker, Sir. I seconded but I just want to add my voice.

The Speaker (Hon. Lusaka): Order. I think you have pressed your button by mistake. You seconded.

Sen. Kihika: Thank you, Mr. Speaker, Sir. I rise to also support this Motion. I believe it is important that we extend or alter the calendar of the House to accommodate that important business that has not been transacted or completed. Given that we shall be going on a very long recess, it is important that we take care of the issues that we need to handle before the holidays, particularly so, the issue of the EALA.

It is unfortunate that Kenya is holding back the Assembly by not sending its delegation. We have been tasked with the work of sending the delegation and getting the EALA moving and so it is important that we do that before we proceed on recess. That being one of the days next week, I believe that we need to stay on, instead of having to call a Special Sitting. In addition to that, I am sure that we also have the issue of formation of committees in the House which needs to be taken care of before we go on recess. It appears that we have important work that needs to be done. As such, I support this Motion.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, we had already - in one of the committees- agreed that you will call a Special Sitting on 13th December, 2017 and so this Motion forestalls that. It is important that we hang on and finish the process of electing Members to EALA. I hope that the two Houses of Parliament will not engage in irrelevant sideshows that we saw last time. In fact, we would have elected Members to EALA before we went to elections. However, for some strange reasons, one of the Houses of Parliament frustrated the process until the elections could not be held causing a stalemate in Arusha because the Parliament cannot be constituted until all the representatives of the five Member States are in the House of EALA.

Mr. Speaker, Sir, I want to encourage ourselves because the little time we have been sitting since elections, we have done very little work. I hope that whatever that has been piling up between now and the 13th when we vote for EALA, we do as much as we possibly can.

Lastly, Mr. Speaker, Sir, I want to still encourage a bi-partisan approach in the management of non-contentious issues on the Floor of this House.

I support, Mr. Speaker, Sir.

Sen. (Dr.) Ali: Thank you, Mr. Speaker, Sir. I stand to support the Motion. I am a Member of the Committee as well and we have discussed these issues. I hope that we dispense with these issue as fast as possible.

We had a meeting this morning and we intend to have another one this afternoon and hopefully the report will be brought to the House tomorrow so that Members are able to see what is in the report.

Mr. Speaker, Sir, there is something that worries me and I need to say it. This is a House of very distinguished Members but when the two leaders from both sides of the House engage in some type of talk, it is sad. That should not happen. They should talk outside the Chamber. They are senior national leaders and people are watching. We should not encourage that sort of language in this House. When the leadership engages in such things, the Speaker of the House should tell them to get out of the House even if they are our leaders. We should not encourage them.

The Speaker (Hon. Lusaka): Hon. Senators, this is a procedural Motion, we should not spend so much time because we have more serious issues to discuss.

Sen. Haji: Mr. Speaker, Sir, I stand to support the Motion but I want to follow my colleague, Sen. (Dr.) Ali. We are tired of these leaders tongue-lashing each other. They should set a good example to the people they lead and more so when we have guests from the counties. We should rein them in. We should not allow them to continue to do what they are doing.

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir, for giving this opportunity. I would like to join my colleagues in supporting this Motion. It is very important that we deal with the agenda that is before us before we go for recess.

I happen to have been a Member of EALA and Kenya has been the leader in many ways. It is the most respected in the Assembly and its decisions have had a lot of impact in the integration process of EAC. So, inside and outside the Assembly, we have always had a leadership role in the EAC.

Mr. Speaker, Sir, I would like to urge the Committee to speed up their work and present their report so that we can make our minds on who we will elect as soon as possible. I want to urge colleagues that when it comes to electing, now that we have the opportunity to discuss it before it happens, that we really need to look at the balance of the people that we are taking in, it is not just about gender, it is about professionalism. The kinds of professionals that we send to the Community are very important for us so that we are able to balance out, be it our trade or tourism issues which are very important. It is important that as we elect this team, we elect people that we all know will benefit all of us.

With that, I support.

Sen. (Eng.) Hargura: Thank you, Mr. Speaker, Sir. I would like to join my colleagues in supporting the alteration of the calendar. The reason given is well understood. It is a business that we should have done in the last session and now that we have the time, we have to do it.

There have been many questions on the Floor of this House and there were no committees to tackle them. If we could also include that issue of forming the committees, then, over the break, these questions can be addressed and that will also be a good reason for this extension.

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

MESSAGE OF CONDOLENCE ON THE DEMISE OF
KITUI WEST MP, HON. FRANCIS NYENZE

The Speaker (Hon. Lusaka): Hon. Senators, before we go to the next Order, I have a communication to make.

This is a message of condolence on the demise of Kitui West Member of Parliament (MP), Hon. Francis Nyenze, on 6th December, 2017.

It is with profound shock, sorrow and sadness that I join the family, relatives and friends of the late Kitui West Member of Parliament (MP), Hon. Francis Nyenze, in mourning his sudden demise. The cruel hand of death has plucked one of our most steadfast and dependable colleagues from our midst.

On my own behalf and on behalf of the Senate, we send our most sincere and deepest condolences to the family of our brother, the late Hon. Nyenze, the people of Kitui County and, indeed, the entire Kenyan nation at this difficult time.

The late MP was a gentleman and an astute leader who will be remembered for his sound development record, hard work, good demeanor and love for the people of Kitui County. He will be remembered as a leader who served his people and, indeed, the entire Republic of Kenya with dedication and commitment. He had a chequered political career, beginning as an elected MP under the former ruling party, KANU, and later rose to become the Minority Leader in the National Assembly during the 11th Parliament.

He also served as a minister in the Ministry of Environment and Heritage and the Ministry of Sports in 1997 and 2001 respectively. Hon. Nyenze will fondly be remembered as a forthright lawmaker who clearly spoke his mind. The National Assembly will doubtlessly be a poorer House without the hilarious contributions and experience of the late MP. May the almighty God grant his family, relatives, friends, colleagues and the people of Kitui West peace, comfort and encouragement at this dark moment.

May his soul rest in eternal repose.

I will, therefore, give a few minutes to the Members to also join the rest of the constituents and Kenyans in mourning this great leader.

Yes. Sen. Mwaura.

Sen. Mwaura: Thank you, Mr. Speaker, Sir. First, I would like to apologize for moving when you were on your feet. Sometimes we get a bit rusty and forget some House procedures; so, I beg your pardon.

Mr. Speaker, Sir, I stand here to mourn the passing on of Hon. Francis Nyenze; a man who was our Leader of Minority in the 11th Parliament. I remember Hon. Nyenze was a very calm person who would not hesitate to speak his mind on pertinent issues. Indeed, I will forever remember him for his advice when I was still new in the National Assembly.

He advised me that people are usually agitating against each other in the first sixth months after elections but, later on, they mellow and become one. I witnessed that because sometimes when we come from political contests, people are so much radicalized around the parties they support, but eventually, then the spirit of the House prevails and people are able to reach out to each other. In the same vein, that is also how Sen. Haji was advising the leadership of the House.

Mr. Speaker, Sir, Hon. Francis Nyenze has had a very illustrious career. It is not known to many people that, actually, his first party of choice was Ford Asili before he actually became elected on other political parties. That tells you that, as the son of a

pastor – actually his father is a reverend – that he was quite objective and that he could make an opinion of his own.

Hon. Nyenze will also be remembered as having led the minority side at a time when there was great contestation on various issues and he had a way of coming out unscathed. He is one of the very few leaders who, in the last electoral contest, were very clear that he would have wanted Hon. Stephen Kalonzo Musyoka to join the Jubilee side of the political equation. That is very commendable because, clearly, the Jubilee party carried the day.

So, I think he was a very good person in terms of political calculation, evidenced by his survival in Parliament for various terms. In fact, he came back in the 11th Parliament after having a stint outside there for 10 years. It just goes ahead to show he is somebody that has a good political acumen. He was appointed Minister of Environment in the KANU Government and yet still beat all odds to become the Leader of Minority, which is a highly coveted position in our body politics.

Therefore, Mr. Speaker, Sir, we mourn him. I am sure this Parliament would have benefited a lot from his counsel. I am sure that the people of his constituency will now have to go back and elect a Member; and that gap and his contributions would live to be remembered for many years.

So, on behalf of the persons with disabilities, the people I represent here and fellow Kenyans, I rise to mourn a great leader who has fallen but with a great track record.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir, for giving me an opportunity to join you, the House and the country in eulogizing the passing on of Hon. Francis Nyenze, the MP for Kitui West; the constituency that he has served with distinction for four terms.

The late Hon. Francis Nyenze was a distinguished and valued member of our Coalition, NASA. In the last Parliament, he was the Leader of Minority in the National Assembly; a job he discharged with absolute distinction and success for the full term. No single occasion did I, as his leader in Parliament, get any complain of any nature about the manner in which he shepherded the flock of CORD, which included the distinguished Senator who has just been speaking extravagantly about Hon. Kalonzo joining Jubilee, which is wishful thinking.

Mr. Speaker, Sir, Hon. Francis Nyenze, now deceased, has been a Minister in this Country serving under *Mzee Moi* for two terms as Minister for Environment and Minister for Heritage and Sports. Even then, at a fairly young age, he was visibly a committed patriot; a hard worker and a politician who displayed the capacity and flair of construction of bridges between individuals and communities, which would bring harmony to this country.

I have visited the late Hon. Nyenze in his home in Kabati; I have campaigned with him and for him and I can tell this House and the country that he was immensely popular at the grassroots in his Kitui West Constituency and in his home in Kabati. I remember flying into Kabati to campaign for CORD then and for him and one or two of his opponents came forward and pronounced publicly that due to the immense popularity of Hon. Francis Nyenze, they were stepping down from the contest and would support him to be their MP.

Very few politicians get that kind of privilege from their opponents during campaigns. There could be back room deals that pull out opponents but when they come to the fore, in the presence of national leadership, it shows the depth and the level at which the leader is appreciated.

On behalf of my distinguished colleagues in NASA: the Right Hon. Raila Amollo Odinga, His Excellency Stephen Kalonzo Musyoka, who is out of the country, Hon. Wycliffe Musalia Mudavadi and the entire NASA fraternity, I call upon all men and women of good will in the whole country to put the family of the late Hon. Nyenze in their prayers. Hon. Nyenze has left a family that will require prayers and support for them to carry on with the journey of life that the head of their family has left.

We in NASA have lost a pillar, so to speak, of our politics in Lower Eastern. He was a pillar of our politics in our partner party, the Wiper Democratic Movement-Kenya (WDM-K) and a pillar of our politics at the national level. Hon. Nyenze, for the information of the House, has battled a cancer attack for the last couple of years. He has been in and out of hospital even as we saw him discharging his responsibilities as the National Assembly Minority Leader in the last Parliament. He was in and out of hospital battling the dreaded cancer that has finally led to his departure.

May the good Lord rest his soul in eternal peace. May we, as a House, jointly and severally, pray for his family at this difficult moment because this can happen to anyone of us.

Sen. Wako: Mr. Speaker, Sir, thank you for giving me this opportunity to eulogize my dear friend Hon. Francis Nyenze, the Member of Parliament for Kitui West Constituency. I first met him when he joined the Cabinet as a Minister for Environment under the then President, Daniel Toroitich Arap Moi. As a colleague in the Cabinet, I found that he was someone who did his homework. He made valuable contributions to the discussions in the Cabinet, particularly, those that emanated from the Ministry.

It is at that time that I learnt that he was a man who could walk with the mighty and be at home. Importantly, he was a man who identified himself with the people on the ground. When I asked him about this, he told me that he has been with the people most of his life. He also told me that he was a *manamba* in matatus that plied from his area to Machakos. That is where he learnt the art of mixing with ordinary people.

I recall that after the 2013 general elections, we briefly thought that Stephen Kalonzo Musyoka being the party leader of WDM-K could lead our opposition in the House. Under the new Constitution, we should not be talking about the opposition leader but the National Assembly Minority Leader. When we were still thinking about the leadership of NASA, particularly leadership in the House we asked him to look for someone who could be the National Assembly Minority Leader. Stephen Kalonzo Musyoka chose Hon. Nyenze, which shows that he was a man who was very loyal to the leadership of WDM-K. He was very committed. Some of us saw that.

There was that period when we did not know who was going to be the flag bearer of NASA. This is because we did not know whether it was going to be the leader of ODM, WDM-K, Ford-Kenya or ANC. Hon. Nyenze came out fighting for his leader, Stephen Kalonzo Musyoka. Later, when Stephen Kalonzo Musyoka was made the Deputy President in waiting, he said that had he not made that noise, Stephen Kalonzo Musyoka would not have been the Deputy President in waiting.

He was a man with a good sense of humour. He was very humble and pleasant to get along with. We are all going to miss him. On behalf of myself, my family and the people of Busia County, I record our sincere condolences on the passing away of this great politician from Ukambani.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I would like to join you and my colleagues in eulogizing Hon. Francis Nyenze, the Member of Parliament for Kitui West Constituency, who until today has been serving his people with distinction.

The Bible says that God should teach us the number of our days for us to use them well. Inevitably, every one of us is a sojourner. Hon. Nyenze's day has come to an end. No one lives this world carrying the earthly belongings. We all leave this world carrying the deeds we left behind; the manner in which we touched lives and the difference that we made in the lives of others.

I had the privilege and honour of knowing Hon. Nyenze from the media when I was young but I finally met him as a colleague in the National Assembly when I was in the Senate. Many at times we had an opportunity to discuss matters of national importance. Hon. Nyenze was the National Assembly Minority Leader at the time when I served in the Committee that worked on the electoral laws. He, together with Hon. Duale and Sen. Wetangula, were our leaders.

We had extensive consultations when we were working on the amendments to the elections laws. That is when I had almost closer interaction with him. I realized that he was a level headed leader. He was humble despite his many achievements having served as a Minister in the Government of the former President Daniel Arap Moi. This is something that must be lauded.

I feel for the people of Kitui West Constituency and more importantly his family members and his children who must be going through a difficult time. It can be only fair that we pray for that family. We should ask the almighty God to give them strength. I believe that he was a strong believer even as he struggled with the disease. I hope that he had time to mend his ways with God. I am sure that when we say 'may he rest in peace', we actually mean it in the context of eternal life.

This should teach us that we are here today and gone tomorrow. As leaders, we must learn at this point in time to build bridges. We should ensure that we create better relationships, particularly between ourselves and our constituents. We have good interactions as Members of Parliament. Sometimes we joke here and even disagree, but never get to the level where someone is shot, killed or harmed. As leaders, we need to show more of that unity to the country; that we can be of different political opinion – you can be NASA or Jubilee – but the best interest of the country stays and the sanctity of life of every single Kenyan is protected. We should be willing to work as a team.

I, therefore, want to also wish Hon. Raila Odinga, Hon. Kalonzo Musyoka, Sen. Moses Wetangula and Hon. Musalia Mudavadi, the principals of NASA, God's grace and speed even as they mourn the departure of their political ally on their side. I wish them the very best. As Parliament, we are ready to make any contribution towards meeting the funeral expenses and any other cost that we may be requested meet, as we have always done in a bipartisan manner in both Houses.

Thank you, Mr. Speaker, Sir.

Sen. Seneta: Thank you, Mr. Speaker, Sir, for giving me a chance to also join my other colleagues in mourning our colleague. I interacted with him in the 11th Parliament when he was serving as the Minority Leader in the National Assembly. Hon. Francis Nyenze was a very humble and educated man. He was also a role model to some of us who were young politically by then.

On my own behalf, my family and the people of Kajiado County, I wish to send our heartfelt condolences to the people of Kitui County which is also our neighbouring county. We shall miss this humble leader. I pray that God gives peace to his family.

May he rest in peace.

The Speaker (Hon. Lusaka): Yes, Sen. Kasanga.

Sen. Kasanga: Thank you, Mr. Speaker, Sir. I also wish to convey my deepest and heartfelt condolences to Hon. Francis Nyenze's family, constituents of Kitui West, the Wiper Democratic Party, NASA and Ukambani at large.

Hon. Nyenze was a household name in all our homes as we were growing up. Definitely, his distinguished service speaks for itself. We saw his strength and commitment when he was taking oath while carrying an oxygen tank. For sure, that it is something that the youth can borrow.

I also noted from his biography that he was an architect. He actually had his first degree as an architect and it is absolutely encouraging that even professionals can make good leaders. On my own behalf and my family, I wish to share this pain and to pray for his family as well and everyone else who is mourning. I also wish to remind them that we have to accept that it is God's will. He will definitely pave the way for the future.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Thank you, hon. Senators. I can see that all those who wanted to pass their messages of condolences have done so. Therefore, as we wind up, as is our tradition in the House, I do ask that we all be upstanding for one minute in silence.

(Hon. Senators stood up in their places and observed a minute of silence)

Thank you so much. You may sit down.
Let us proceed to the next Order.

MOTION

ADOPTION OF SESSIONAL PAPER NO.6 OF 2016 ON NATIONAL URBAN DEVELOPMENT POLICY

THAT, this House adopts the Sessional Paper No.6 of 2016 on the National Urban Development Policy, laid on the Table of the House on Tuesday, October 10th, 2017.

(Sen. Murkomen on 5.12.2017)

(Resumption of Debate interrupted on 5.12.2017)

The Speaker (Hon. Lusaka): This is a continuation of yesterday's discussion. The Floor is open; we can continue contributing.

Sen. Dullo.

Sen. Dullo: Thank you, Mr. Speaker, Sir. I would like to contribute to this Motion which seeks the House to adopt the Sessional Paper No.6 of 2016 on the National Urban Development Policy, laid on the Table of the House on Tuesday, 10th October, 2017.

It is really important for us, as a country, to first have a policy before legislation. Unfortunately, as it has happened severally, we normally have our legislation and then come up with a policy, yet it should be the other way round. Policy makers should actually come up with the policy before legislation. This policy is really very important especially for urban planning. It is something that we need to take very seriously as a country.

There are a lot of challenges as a result of not planning for our urban areas. As projected, by 2030, half of the Kenyan population will be urbanised. This clearly will pose a lot of challenges if we do not plan properly. This has increased a lot of pressure on so many things, especially inadequate infrastructure. The roads are not accommodating, especially in the cities. There is huge traffic in Nairobi and Mombasa, clearly as a result of lack of proper planning. It is really important for us to have proper planning for urban areas.

Since the policy talks about the counties also doing their own planning, you will find that even in those counties there is no proper planning. When I went round campaigning in Isiolo County, most of the estates there do not have roads that can even enable patients to be taken to hospitals during emergencies. That is very critical. If estates cannot connect to the main roads, hospitals or city centres, it shows that something is wrong. We need to plan properly. This policy should be cascaded down to the county governments, so that they can plan properly.

Poor housing is another challenge that we face when we do not plan properly. People take advantage of that and come up with poor housing which needs to be taken care of.

Mr. Speaker, Sir, if we do not plan properly, there is an effect on the environment. We need to have a place where we are dumping our garbage. If you go round, even in Nairobi today, people are just dumping their garbage everywhere. This has to be stopped. If we do not take care of our environment, it means that we are going to have problems, especially, in terms of health and so many other hazards that come with that.

If we do not have proper planning, there is a challenge of unemployment. Many Kenyans, especially, in Nairobi City County, so many Kenyans are jobless. We need to plan on how we are going to create employment opportunities in counties. There should be proper planning and management to make sure that the population within those cities and counties is taken care of, and that we do not have issues of insecurity where people who are jobless end up doing other crooked things.

This policy framework is very important. It will guide the kind of cities and counties we should have. This is in line with the current Constitution and other legislations. The policy provides for the management of urbanization and urban development in Kenya. If we do this, it means it is a key success to us, as a country, and also to our counties.

Mr. Speaker, Sir, planning for financial management is also very important. If we do not plan for finances, then we are not able to take care of our urban development. It is really important for us to have financial management in place to make sure that we have planned properly for our counties. If we have proper planned cities and counties, it encourages investors to come to invest in our country. However, if we do not do that, it means that this will discourage the investors who are planning to come and invest in our country.

It is very important for us to set aside land so that we can put different institutions in place. If we do not do that, then we will have the challenges of utilizing the taxpayers' money that is meant for other purposes to compensate private landowners. This is the case, especially for the roads that we are creating today; so many people are compensated and moved from the road reserves. If we have proper planning in place, then we can create land that is used for different purposes in place.

Mr. Speaker, Sir, security is also another factor, especially in disaster and risk management. This is something that we need to consider. If we do not do that, then we are going to have a challenge in our cities which will affect the development in those counties and cities.

Mr. Speaker, Sir, this policy was subjected to public participation and different sectors. This is critical. Previously, people would come up with policies and legislations without having public participation. It is important for these policies to be subjected to public participation so that the public is going to also own the process of implementing those policies.

Sustainability is very important. If we do not sustain socio-economic and environmental aspects in our country, then we cannot deal with urban development. That has to be considered.

Let me now turn to the issue of inclusivity, Mr. Speaker, Sir. You will find that mostly policies take care of the middle class while forgetting about the lower class. We need to have all segments and sectors and all vulnerable groups, for example, the people living with disability, to be also considered in this decision making.

For example, we have the People with Disability Act. You will find that most of the buildings are built without considering the people living with disabilities. This is not right because the laws and the Constitution are very clear. The Persons with Disability Act is also very clear. Sometimes a person living with disability wants to climb, maybe to sixth floor. People end up carrying them to 10th or 20th floor which should not happen. Buildings should come up with ramps where interests of various groups are considered.

The issue of good governance is also very important. Unless we have proper governance in place, the issue of urban development might not be considered.

Mr. Speaker, Sir, connectivity is also very important. A lot is happening in the country in terms of connectivity. For example, if I want to go to Wajir from Isiolo, where I come from, Garissa, or Mandera, I do not have to come all the way to Thika to join Garissa and then Mandera. There should be a better way of planning so that we have inter-county connectivity. That will help us to come up with proper development, investment, and good relationships between those counties. For example, Isiolo is going to be a resort city soon. Proper planning has not been done. The land that is supposed to be set aside for the resort city is already not even planned properly.

If we do not have proper planning, then we might not implement what we have planned for. This has to be done properly so that the counties can attract investors and ensure that there is connectivity to those areas. This will enable us to deal with so many problems in our counties.

Again, there is so much flooding even within the counties. People have actually built their houses within drainage systems. A very good example is Isiolo County. Whenever it rains, all the homes are swept away. This is clearly as a result of not having proper planning. As a country, this policy is very useful and important to us. For us to develop, we need to come up with proper policies that will guide us for the proper planning of our urban cities and counties.

I support the Motion.

Sen. Mwaura: Thank you, Mr. Speaker, Sir. From the outset, this is a very timely policy. I want to commend the Senate Majority Leader because he elucidated all the main points yesterday when he was moving this Motion.

Mr. Speaker, Sir, urban development policy is critical in this country. Why is it so? We as Kenyans are really ashamed of how our city or would-be cities are planned. Most of the times we get the opportunity to travel, as leaders, and when you compare what is in those other jurisdictions and what is in this country, it is a big shame.

Sometimes I even wonder; as much as we pride ourselves a lot as being the gateway of Africa and having the City in the Sun, what is it that people find interesting when they come to visit us? It is not because there is nothing here, but maybe because in their own imagination, they think that this is a third world country and, therefore, there is nothing much to see. A city like Nairobi that is full of dirt, congestion and substandard housing that has led to the loss of lives. If we started to describe how we see our cities, we can write pages and pages of it.

Mr. Speaker, Sir, this policy for me has come at the right time to serve two purposes. First, we are increasingly becoming urbanized as a country. Looking at the Gross Domestic Product (GDP) of this country, I think about 60 per cent, if I get the statistics right, is domiciled within the greater Nairobi area. So, that means that if we want to increase the total factor of productivity of this country, then we have to look at how the city is functioning. We have got to ensure that this country is governed properly by the way in which our national capital is administered.

This has to start with the provision of services by the Nairobi City County Government and, indeed, the various national headquarters of Ministries, Departments and agencies that also reside here in Nairobi. Therefore, to situate the problem of urban development is to ensure that we also grow our economy. That is the first aspect that, for me, I see is to model a city that would be replicated in Kisumu, Mombasa, Eldoret, Thika and other emergent cities.

The other aspect that is important is also to build a new Kenya. We have the opportunity of doing away with all that which we have got wrong using the Lamu Port and Southern Sudan Ethiopia Transport (LAPSSET) Corridor. I believe that the LAPSSET Corridor provides us with an opportunity to ensure that this policy is not just another piece of paper or document. When we are constructing the berth there – and I am happy that three of them are already coming to a completion – the rail, pipeline and, of course, the roads so that, then, we can open up the northern side of Kenya.

We can also tap into the southern part of Ethiopia, where about 40 million people reside; basically that is a new country. I am very happy that within the LAPSSET Corridor, about 500 metres of land has been set aside for that so that we can then tap into the newly discovered natural resources like gas in Lamu County and oil, which must obviously be there because there is oil in Somalia; there is also the transportation of oil from Turkana and coal from the Mui Basin in Kitui County.

So, yes, this is not an exercise in futility. It is an opportunity to ensure that this country is able to truly occupy itself as an emerging middle income economy since we are now at the lower middle income state. But I believe that if we are to properly implement this urban development policy with regard to the LAPSSET Corridor project, then we will even expand our GDP between three to eight per cent in the medium term.

Therefore, Mr. Speaker, Sir, some of the issues that are being addressed here in terms of the urban economy need to be looked at very seriously. This policy would ensure, for example, that we deal with issues to do with urban agriculture because we are an agricultural economy. But the manner in which we are doing urban agriculture is questionable because we are not using clean water, but sewage water to provide the groceries for the big population that is in Nairobi currently.

Mr. Speaker, Sir, we need to ensure that we increase the efficiency and effectiveness of our public transport. If you go to a country like Japan, Tokyo has got 24 million people who live and work there. The night population of Tokyo is 11 million. So, ideally, 13 million people commute every day. A population of about 24 million is actually a country like Austria, Hungary or Slovakia, which are small European countries with only 6 million or 7 million people.

Those countries also teach us that it is really not about the population, because sometimes when I engage myself, there is always this misconception about the size of Africa. Africa is sometimes seen as this little county, but if you compare the size of Africa, it is actually the size of the whole of Europe, North America and India combined. So, yes, you are dealing with a very big land mass in terms of development. But at the same time, it has been very well demonstrated by small countries that you can actually use small populations to still run viable infrastructural projects that are transformational and which help the economy to grow.

You do not need to go very far to see that; Rwanda is a very good example of a small African nation within the East African region which has been able to plan. Kigali City is very well planned; you will not find garbage or a lot of congestion there. Therefore, the best that we need to do is to ensure that we also deal with the issue of land.

Mr. Speaker, Sir, I believe that this Senate will also pass the Land Use Index Act so that we regulate the cost of land especially in urban cities. This will enable us to create satellite cities that feed into the mainstream city. This is because part of the challenges of huge infrastructural projects that transform cities is as a result of the cost of land and compulsory acquisition, which is very expensive.

I am even reminded that in the last Parliament, I presented a petition from some farmers from Kilelana, Mashundwani and other places in Lamu so that they could be compensated at that time. So, the acquisition of this land becomes a very big inhibition with regard to urban development.

Mr. Speaker, Sir, I also need to comment about the manner in which we add aesthetics to our urban cities. There is a lot of work that still needs to be done with regard

to how we construct our buildings, not just because of occupancy, but also in terms of how we train our Architects the way in which we build. As we all know, there is a huge housing deficit in this country, and I am very glad that the Jubilee Administration and His Excellency the President has committed himself, in partnership with the private sector, to prove 500,000 houses per year for the next five years.

You will find that we are only concerned with the interiors of the buildings, but we leave buildings out there looking grotesque and, yet, they actually contribute to the aesthetics of a city. The painting is only done within but outside it is just open concrete; that is not something that people take seriously. We have been to other jurisdictions where the greatest touristic attractions are actually the art and architecture of certain iconic buildings and premises within certain cities.

So, that is something that we need to look out for. Even just across the border here in South Africa, they have proper regulations of how you are supposed to repaint your house after a period of time. This has the effect of taking care of the youth programmes just to ensure that the masses have some money in their pockets.

Those are some of the things that the National Urban Development Policy seeks in terms of ensuring that there is proper governance and a robust economy. When you have a running city, then the idea around the very efficiency of that city is the way in which you are able to create jobs for the young people, alleviate poverty and ensure that there is circulation of money within that economy.

Mr. Speaker, Sir, this Policy seeks also to address issues of environment, especially around sustainability of our built up spaces. This is important with regard to the debate around climate change and global warming. Sometimes we are always reminded that Africa is yet to really reap its own dividends for development. This Policy is critical in emphasising on how we can use renewable energy to fuel development.

I am also reminded, and very pleased because I saw that Kenyatta University has gotten into a partnership that will ensure that they are able to provide ten megawatts from solar, which is the way to go. This is so that we do not just have urban development as it were, but also green and intelligent cities where we can use natural light in terms of how we construct and use solar for street lighting and so on.

Those are some of the things that this Policy would seek to address, going forward. Most importantly, it is to ensure that there is recycling of material and creating industries around that. We have had a big dumpsite in Dandora and the sewerage in Ruai. How do we ensure that we can create energy from such refuse from the seven or so million Kenyans who live in Nairobi?

It is a constitutional requirement within the five year time period that this Parliament passes the National Physical Planning Bill. We were able to pass it in the National Assembly in the Eleventh Parliament but then it was not able to be passed here in the Senate because of timelines. One of the things to ensure that we are able to actualise the National Urban Development Policy is to pass that legislation as per the requirements of the Constitution. In that Bill it is very clear in terms of creation of a National Physical Planning Forum where people can actually discuss the way forward with regard to how our cities are going to be planned.

It is important to encourage local action in terms of city development and neighbourhood associations where people come together and plan their own neighbourhoods. There have been some forms of resistance where, for example, you zone

a particular area and say, “This is for low density occupation and that is high density.” This Policy should seek to encourage such so that we have a city that is for low, middle and high income earners.

I imagine that the ambition of this Policy is to ensure that we have mass transit systems through a light rail system and “dualisation” for example of major roads such as the Northern and Eastern bypass. It should also ensure that Kenyans have a choice to live in whatever conurbation they would want to live in within the various segmentations of the city.

I also imagine that with this National Urban Development Policy we will see more accessibly built environments so that Persons with Disabilities (PWDs) can access buildings. That has been the greatest barrier of development and advancement of PWDs. Indeed it has been the essence of the minimalist approach towards how you want to deal with their issues.

It is a timely Policy and a lot can be said about it. Let us pass it but breathe life into this through the various legislations that we will enact for the purposes of the national Government and indeed within the ambit of county governments.

I support.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, thank you for an opportunity to make a few remarks about this Policy. The National Urban Development Policy that has been brought here is a conversation that has been going on for a long time. In sub-Saharan Africa today, the most urbanised country is Zambia with about 87 per cent of its population living in urban centres. However, they live in squalor. It is the most urbanised because people have moved from rural areas into towns but they live rural lives.

The world over, most urban centres evolve and grow with relevant human intervention in terms of planning. In fact, the only known text book cities in the world would be counted as Canberra in Australia, Islamabad in Pakistan, Milton Kane’s in the United Kingdom, Brasilia in Brazil, Lilongwe in Malawi and Dodoma in Tanzania.

[The Speaker Hon. Lusaka left the Chair]

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

These are cities where their government consciously set aside an area – of course there is Abuja in Nigeria. This is where the governments said: “We are moving the seat of our government in this area with serious restrictions on development, proper planning, zoning and so on.”

However, even where the cities grew through historical process the evolution of planning required that you have to keep residential suburbs away from industrial areas which have hazardous waste and material from amenities such as hospitals.

That is why the original Nairobi had an industrial area, which was not a residential suburb of Nairobi. Then we had the up-market neighborhoods like Muthaiga, Lavington, and Karen. Then we had middleclass suburbs, and in the early 1980s, the CDC in collaboration with the Government came up with middle class, fresh graduates and other workers’ suburbs. Then we had Buru Buru Phases One, Two, Three, Four and Five.

Madam Temporary Speaker, this kind of planning is important for orderly management of public dwelling places and developments. Today, because of corruption and sometimes absolute negligence, somebody wakes up and builds a factory in the middle of a residential suburb and it is licensed to start running. Somebody wakes up and starts a water purification plant in the middle of a residential suburb. If you go to Ongata Rongai it has mushroomed. We also have Kitengela and Kiambu, which are the bedrooms of Nairobi. People work in Nairobi and go to further places because residential properties are cheaper.

However, you will find somebody going to Ngong to put up an asbestos plant. All over the world where you find an asbestos plant, the proximity of human residences are strictly restricted. But who cares in this country? You have seen, as you drive to your County of Eldoret, a hazardous fertilizer plant has been put up at Ngeria or is it Cheplaskei. It is in the middle of a farming residential area. Nobody cares whether or not this fertilizer plant will affect people who live there.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senator, maybe for information's sake; it is not a manufacturing factory but for blending.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I have even, under camouflage, visited it to see whether it is the factory that cost Kshs27billion or it is part of the monstrous theft that goes on in this country. I discovered that it is part of the monstrous theft that goes on in this country because it is just for blending fertilizer. There is no way that thing could have cost Kshs27billion. It was just theft, but that is not the point. I will pursue that another day.

The Temporary Speaker (Sen. (Prof.) Kamar): Stick to the Motion, please.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, when we are dealing with these issues, we have to touch on many buttons.

The Temporary Speaker (Sen. (Prof.) Kamar): There is a point of order from Sen. Sakaja.

Sen. Sakaja: On a point of order, Madam Temporary Speaker. I acknowledge that you have asked the Senate Minority Leader to move on from that one point, he mentioned something and maybe many did not notice; that he visited this factory under camouflage. I would like him to explain what 'camouflage' means in this context. Did he go there in a *bui bui* or was he in a hood; in a way that they would not know him? It would be very interesting to understand this.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I am under no duty to make that explanation. I am talking about urban planning and how we live.

If you look at the growth of towns today----, and I am very happy that for the first time since Jubilee came to power they have, in a very tacit single sentence, mentioned Vision 2030. Since Jubilee came to power Vision 2030 and Lamu Port-South Sudan-Ethiopia- Transport (LAPSSSET) became a Kibaki dream. They embarked on a tangent unrelated to those visions, but a tacit mention of Vision 2030 in this policy.

We have to be very serious with what we want our country to be. In the old days, the management of public affairs was very strict and for good reason and good human philosophy. Before we even bring this policy to fruition this country has a serious need for a land tenure system to be thoroughly discussed and debated. For a country that is only 21 per cent rain secure we cannot engage in the luxury that I see going on.

Madam Temporary Speaker, I do not know if you drive to your constituency every other day or fly. If you do, you will see that from Nakuru as you drive on towards Mau Summit to Eldoret, factories are being built on farmlands. They are consuming farmlands that we so much need to produce food and feed this country. Some of the factories being constructed are 20 kilometres apart, meaning that there is no planning. Anybody with money can wake up and decide that they want to put a factory on their land. It never happened that way and does not happen that way in organized countries.

If you put up a factory in the middle of a farmland, the workers in that factory must have a place to stay, hospital, school and recreational areas. By the time all that is provided the farm that can produce enough food to feed 100,000 people per annum is gone.

In urban centers we have designated areas for factories. What do we need to do? When you want to set up facilities like those in many countries except Kenya--- If you walk into Tanzania today with USD5 million to set up a factory and go to the department of industrialization, they will give you free space to put up the factory and grow the economy. It is only in Kenya where land is now a preserve for the privileged speculators. That is why we keep reading everyday that Tanzania, Rwanda and Uganda are now more popular destinations for investors than Kenya.

When you come to Kenya and want an acre of land in industrial area, you are told to pay Kshs450 million, which is USD4.5million. That is about half the cost if the factory that you want to build, yet when you walk to Tanzania you will be given a free one acre where you will build your factory. If you need labour from Kenya, within the protocol of the East African Community, you will have them just walk across the border and give you the engineering and accountancy works you want. They will give you everything else you want.

Madam Temporary Speaker, we need to relook at how we manage our land policy. We will not grow if land is for speculators. We are creating false and fraudulent millionaires, who just grab public land, sell it and become multimillionaires overnight. In the old days you never saw anybody who had land touching the road like we see today, Anybody with land touching on the road wakes up in the morning and builds a shop or whatever he wants and starts demanding the public to give him electricity. The public sends electricity to somebody's shop which is five kilometers away from the grid. When you give him electricity the next day he demands security and water.

You are serving an individual who could have put that shop in an urban centre where shared amenities are cheaper to provide. That is why we used to have - and why we have in English - shopping centers. They are called neighborhood shopping centers or shopping malls. But in this country, anybody with a property touching on the road says that *hii ni shamba yangu*. So what? For the orderly management of a society, we must rein in this.

As I drive to Western and other parts of the country, you find small towns growing into slums. This is happening even in my own headquarters called Chwele, the second largest commodity exchange market in this region with huge amounts of cereals and so on. There is no planning, roads or even water. About five years ago, a small boy aged eight years went to relieve himself in a pit latrine. The latrine had been there for about 20 years, the slab was gone but nobody knew. It sank with him. By the time we got

the *wazima moto* from Webuye, the boy had sunk into the sludge and we pulled out a dead person just because of poor planning.

Such an accident would never occur if you have sewerage system in such an urban area, but we do not have this. We must have somebody to bite the bullet. Rich people who want to enjoy the tranquility and privacy of Lavington are running away from there today. Some are running away to the park to risk living with lions because they have their properties there but the local authority gives a licence and approval to somebody to build a skyscraper next to them. Their families or guests cannot sit by their swimming pool, half-naked as rich people do and enjoy their ambience. It is not possible.

Madam Temporary Speaker, I am sure that in your public duty, you have visited Malaysia. At independence, Malaysia was poorer than Kenya. It was full of slums. The last time I went to Malaysia, my security during my tour was an inspector of police who told me that he had resigned from his job as a bank manager to join the police force because they pay better and there is better housing. As we speak today, Malaysia, as a country, is a better example. If you go to New York, you will find Harlem and all manner of places with criminal gangs and so on. Malaysia, as a developing country, has no single slum. This is because of planning and paying fidelity to their planning.

In Kenya, we have a paper like this which has extravagant language and romantic ideas but those ideas are as good as we shall talk about them. When we finish, five years later, another Cabinet Secretary in the same Ministry will bring another policy just to appear to be working. It is not because they want to change anything. They just want to appear to be working. That is where our problem lies.

Twenty years ago, this country started a slum upgrading policy. We are the headquarters of the United Nations Human Settlement Programme (UN-Habitat) and United Nations Environment Programme (UNEP) for the whole world. What happened to slum upgrading? I am very sure that my distinguished colleague sitting across was a Permanent Secretary in one of the ministries relating to infrastructure. Billions and billions of shillings have been sunk in slum upgrading. The result is that more and more slums have grown. Squalor has increased in the slum. Human waste is the order of the day in the slums. Flying toilets in the slums are a daily hazard.

Kibera is a real estate if we are serious as a country. This is not about blame games. When I say these things here, my colleagues across the Floor sometimes start behaving as if they are being electrocuted. It is as if you are attacking them. We are offering a critique against ourselves. Kibera is massive real estate. You can compress Kibera onto less than 10 or 20 acres with proper planning, condominiums, facilities, schools, dispensaries, and police lines.

The police lines are not for the police who brutalise people the way we were being brutalized but for police who maintain law and order. You can imagine what that will be. Majority of those people who live in Kibera are squatters on public land. We can consciously change the lives of our brothers and sisters living in Kibera, Mukuru kwa Njenga, Mathare and all the slums that we know. Instead of that happening, we have lip service yet money is set aside.

You saw the scandal that was the National Youth Service (NYS). Some Cabinet Secretary was supposed to make roads in Kibera and instead of going to improve the lives of Kibera residents, you go there to play politics and attack Raila. You tell the people that he was a Member of Parliament and what did he do? That is not the issue.

The issue is; as a leader, as a Government, do you consciously want to change the lives of people? That is what is relevant. When you embark on saying that we are doing this because whoever was here was not doing anything and so on and so forth, so what? Do you want to change people's lives or not? That is what is important.

The valley in Mathare could be a silicon valley. We can put the people who live in Mathare in decent dwelling neighborhoods using the money used by people who sit in offices and fret around in this country. Some are building presidential homes with runways, helipads, five swimming pools and ten guest houses. When they die, they will realize that they will only fit in a-three by six feet and no more. We must change our psyche.

We now have devolution. This policy is very short on telling the country what partnership we want to have between the National Government and the devolved units in upgrading the lives of our people. The money we send to the devolved units is barely enough to do anything. We roll out a budget of Kshs2.4 trillion and we give devolved units Kshs304 billion. What percent is that of the Kshs2.4 trillion? You are not formulating policy and law that obligates the National Government from doing important undertakings in the devolved units to change the lives of people using the trillion that is left at the centre. Instead, the trillions left at the centre are now used for populist reasons.

You will hear them say things like, "*nimekuja kuwapatia barabara*" or "*nimekuja kuleta maji*" and so on. Those are populist things and that is how money ends up being ferried away. If this House, the National Assembly and the leadership of this country can sit and decide that, first, we have to arrest the growth of slums; that no slum is going to expand and no new slum is going to be allowed to mushroom through planning, interventions and support from the people. Secondly, we should set ourselves goals and targets that, in the next ten years, Kibera and Mathare slums will be history.

It is not going to be history by the rich going to supplant the poor, taking their lands and turning themselves into billionaires. We are going to change by, for example, doing what they did in Malaysia. For instance, one may be a rudimentary landlord who owns half an acre of land in Kibera with a series of small shacks that give him an average rent of Kshs 3,000 or Kshs 5,000 per door and he may even have 30 doors. The government may come in and say that they are going to build a ten storey dwelling apartment on that half an acre piece of land. In that piece of land, they can put up even three blocks. The government can then inquire how much he was earning from the half acre land; let us say he was earning Kshs 400,000 per month, they can give him sufficient space on those condominiums for him to earn his Kshs 400,000 and live decently and give the rest to others. That is how things change.

But what happens is that we approach someone with a half-acre of land since you are in a position of advantage; you play tricks on him and tell him to move out because you want to redevelop that piece of land. The next day, the title deed will be in some *Bwana Mkubwa*'s name. He will then proceed to the bank to borrow Kshs200 million, which he will never pay. The next thing you know, that piece of land is sold. By doing that, you make even those who are disadvantaged and who need support to be frightened of those who have the ability to support them.

Madam Temporary Speaker, urban centres will not grow without proper planning for sewer systems. When you go to Ongata Rongai, which is now the most vibrant annex to the City of Nairobi, you will find no sewer system anywhere; none! Everybody is

building a house similar to that you would find in Muthaiga or wherever, but you have to sink a septic tank. Those septic tanks are so poorly done sometimes that they contaminate all the underground water. Those who cannot afford to build septic tanks with concrete walls just dig pit latrines. So, the sewerage seeps into the underground water such that when you drill a borehole, you will be drinking the seepage from public toilets.

Then, we still stand loftily and say that we must eradicate dysentery, diarrhoea and other diseases. How do you eradicate diseases when you are so negligent in managing your affairs? It is not possible! Why have we let Ongata Rongai, Kiserian, Ngong and Kitengela grow to where they are without a sewer line yet we have planners? These are people who have been trained and employed by the public to plan, but all they do is to purvey documents from one office to another and pocket *mulungula*! Sen. Mwaura, *mulungula* means a bribe, if you do not know. They pocket *mulungula* and the next day they are just there.

Madam Temporary Speaker, this policy will be as good as its implementation. This policy on its own has got no measures of obligating anybody to follow them. We must bring, from this policy, legislation that outlines the dos and don'ts of planning. I want to live to see the country---

(Sen. (Eng.) Maina took off his coat and walked out of the Chamber)

On a Point of Order, Madam Temporary Speaker! Have you seen what the distinguished Senator for Nyeri County has done? I have never seen, in my close to 25 years in Parliament, a Member take off his jacket and walk away!

The Temporary Speaker (Sen. (Prof.) Kamar): Order! Order, Sen. Wetangula! I thought you were winding up your presentation. You cannot convert yourself from presenting to raising a Point of Order.

The Senate Minority Leader (Sen. Wetangula): I was alerting the Chair.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you.

Can you now raise your Point of Order?

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I just wanted to bring to your attention the gross misconduct that was displayed by the distinguished Senator for Nyeri County, who took off his jacket, threw it on the chair and then walked away in his shirt and tie. I have never seen this in my whole life in Parliament. But I will leave it to you to rule on it. Let me carry on with my contribution.

The Temporary Speaker (Sen. (Prof.) Kamar): If you are still presenting, then you cannot raise a Point of Order between your presentation. Just finish your presentation first.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, a Point of Order is to alert the Chair that there is something out of order. So, it does not matter at what stage you do it; it is just to bring the attention of the Chair that something out of order has happened.

Let me conclude by urging this House that if you look at Article 96 of the Constitution, as the Senate and as Senators, you represent the interests of counties and their governments. You are the custodians of devolution and in each and every of our counties where you were elected – apart from my friend Sen. Mwaura, who stood here

the other day and alleged that he represents everybody – have a legal and moral duty from whichever side you stand---

Madam Temporary Speaker, I remember when we were working on the Constitution, my nephew sitting back there, Sen. Sakaja, displayed some fairly good knowledge of demography, planning and so on. Now that he is the Senator of Nairobi County, I want to hear more of his prowess on how to help Nairobi change than being unhelpful, unproductive and--- Let me not use the word I wanted to use.

Singing day in and day out about Jubilee is not helpful. We want to change the lives of the people of Nairobi regardless of where you stand. The people who voted you to this House are the same who will vote you out for shouting from rooftops about Jubilee without doing anything. This is because human beings watch, evaluate, assess and give us marks for what we do. My nephew, the Senator for Nairobi, in five years, I want to see your proximity to the dysfunctional Jubilee Government changing the lives of the people of Kibera, Mathare, Mukuru kwa Njenga, Mukuru Kayaba and so on.

The Temporary Speaker (Sen. (Prof.) Kamar): I can see an intervention from--- Are those interventions? There is a Point of Order from Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: No, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Yes, Sen. Sakaja.

Sen. Sakaja: Madam Temporary Speaker, it is not a Point of Order.

The Temporary Speaker (Sen. (Prof.) Kamar): Okay. I do not know why it is loading the intervention section---

Sen. Sakaja: There is a problem with the system.

The Temporary Speaker (Sen. (Prof.) Kamar): Okay. That is fine.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, the greatest philosophers of life have always said that the greatest achievement for any man or woman in life is to leave this world better than we found it. There is nothing better than leaving this world with the people we lead better than we found them. That is our ambition, desire and must be our goal. This country with all its enormous resources, both human and physical, must come to terms with how to arrest the mushrooming of little towns everywhere without planning. We must come to terms to ensure that every child born in this country---

Sometimes I pity my friend Dr. Matiang'i. We see him on television saying every child must go to school. Where are the schools and the teachers? I am sure I speak to the minority and majority Senators. My brother, Sen. Wario from Tana River County, I am sure you have schools in your county with children from standard one to eight that has not more than three Teachers Service Commission (TSC) teachers, and you stand here saying, Jubilee forever! We must change the lives of our people. We will only change by converting policy into law and making it very difficult for those who break that law to get away with it.

I beg to support.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, we were alerted of Sen. (Eng.) Maina's conduct a few minutes ago. I had said that it was in between, but Sen. Wetangula started off and actually alerted the Chair. I want to put it very clear that the Speaker's rules are very clear on how we dress when we are in the Chamber or even within the precincts, including the dining area. I want to read this for the sake of

Members who may be new. I did not expect that from Sen. (Eng.) Maina because he has been a Member of Parliament before.

Rule No. 5 on the Conduct of the Senators within the precincts of Parliament says:-

“Senators are required not to enter the Chamber, lounge or dining room without being properly dressed-- ”

What does “properly dressed” mean? It means that the male Senators shall be dressed in a coat, collar, tie, long trousers, socks and shoes or service uniform if you are a service man, religious attire if you are a sworn religious man or such other decent dressing as maybe approved by the Speaker from time to time. Equivalent standards will, of course, apply for the women Senators.

So, out of that point of order, I want to inform Sen. (Eng.) Maina that he is grossly out of order to have removed his jacket inside the Chamber. This House deserves an apology from him.

Proceed, Sen. (Eng.) Maina.

Sen. (Eng.) Maina: Madam Temporary Speaker, before I come to the apology, I want to request that if this rule is going to be followed strictly, could our toilets have a coat hanger? I do not want to go into details, but it is a bit inconveniencing for someone to relieve themselves properly depending on what relieve one is up to, whenever someone has a coat on. Therefore---

(Laughter)

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. (Eng.) Maina! That is information you should have given us before the action that you took.

Sen. (Eng.) Maina: Madam Temporary Speaker, I request that you also use your good office to ensure that these facilities are properly catered for so that we can follow the various rules, and not just this one of the coat. You also testified to me that I am one of the gentlemen who looks properly dressed.

(Sen. Wetangula spoke off record)

The Temporary Speaker (Sen. (Prof.) Kamar): That is why we were surprised, Sen. (Eng.) Maina. Conclude.

Sen. (Eng.) Maina: Well, Madam Temporary Speaker. I assure you that it will not happen again, but I am just wondering how I will handle my coat. I expect some guidance from you. I want to caution you that my friend Sen. Wetangula always wants to “prick” me sometimes. The other day I appealed to him to keep our personal relationship separate from the House. I need your protection from him.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. (Eng.) Maina, it was not just one Senator. Every other Senator was following suit. However, because he raised it from the podium, I told him that he cannot interrupt his own session. We have noted what the reason is. However, it is good that everybody notes the dress code and how we behave when we are in the House. Also, to inform you, there are more rooms for use in this complex. If you find one is inconvenient to yourself, please move to the next one

because we have many. Do not make Kenyans feel as though we have been restrained to only one room. We have more rooms that are useful to us.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, just for the record because whatever you are transacting will be read in the HANSARD years to come, you ordered the distinguished Senator for Nyeri County to apologise; instead he went on a lofty explanation and ended up without an apology. So, your order to him has not been complied with.

The Temporary Speaker (Sen. (Prof.) Kamar): I have not finished with him. I was waiting for him to conclude. Yes, Sen. (Eng.) Maina, you owe this House an apology.

Sen. (Eng.) Maina: Thank you, Madam Temporary Speaker. I am a law abiding citizen of the land. Unfortunately I did not do law which has caused a lot of misery to this country. My friend who is speaking on this did law. Those who did law are used to picking on things that are unnecessary and causing trouble. However, for the sake of good unity and peace of this House and for the respect of the Chair, I will not repeat this again.

The Temporary Speaker (Sen. (Prof.) Kamar): Okay. I think everybody has noted that. As I said there are many rooms around here. Actually, if you look even in that room carefully, I am informed reliably that there is a hanger somewhere. So, please check.

Let us proceed. Sen. (Eng.) Mahamud.

Sen. (Eng.) Mahamud: Thank you, Madam Temporary Speaker for giving me the opportunity to contribute to this Motion on the National Urban Development Policy. This subject has been canvassed for a long time. In fact, if you look at this country, there is a serious problem of planning in urban areas. One wonders who is responsible for various activities within our urban areas and who approves those developments. However, there are actually a lot of haphazard developments coming up in our cities. If you look at Nairobi today, it has expanded and enjoins many towns like Thika all the way to Kajjido. That is why in 2004, the Government came up with the metropolitan development area.

The purpose then was to plan these areas as one metropolitan urban area, but up to today there is no connection between those areas despite the fact that many people who come to work in Nairobi actually live in those cities. If you look at the western side of Nairobi today the level of development in terms of housing - high cost and high rise housing - is a lot and yet, the services for those developments are not there. The last time sewer lines were extended to parts of this city where there were none is a long time ago.

Even in terms of water supply to the City of Nairobi, after the Ndakaini Dam was built in the early 1990s, no major supplier has taken over since then, yet you see the City continuing to develop; this means it will require more water, sewerage systems and roads. So, there are actually a lot of missing links within the development agenda in the cities.

Madam Temporary Speaker, it is important that the Ministry of Transport, Housing Infrastructure and Urban Development has now brought this policy. My hope is that the policy will be implemented this time and not be shelved again. The policy that is before us is important because it tends to come with a national urban policy, realizing that Kenya is urbanizing at a very fast rate. In fact, it is emerging that at least half of Kenyans will live in urban areas by 2030. However, this urbanization comes with challenges of

inadequate infrastructure, services, housing, environmental degradation and also urban poverty and equality, partially as a result of all this.

To deal with these challenges, it is important to have a policy like this one which will later on develop into some legislation. It is the high time that we get serious as a country because urbanization is important for development. There is correlation between development and urbanization, but unless we control the rate at which urban areas are coming up without having the corresponding services, there will be serious challenges. There is a serious case for urbanization because the link between urbanization and development, which includes modernization, cannot be overemphasized. But unless we deal with challenges of urbanization, it will just go to waste.

Madam Temporary Speaker, if you look at the City of Nairobi or any city today, 60 per cent of the population is found in slums. We have talked about slum upgrading for many years now. I will not talk about it because it is coming in another policy that is on the Order Paper on slum upgrading and prevention. We will use it to deal with slum upgrading. But you cannot govern your urban areas if you do not have proper planning in terms of spatial planning and services infrastructure. All this must go hand in hand.

The reason could be because urban planning has been moving from one Ministry to another for several years. However, I know that this policy has been subjected to a lot of public participation. I was the Vice Chair of the Committee on Transport in the National Assembly in the Eleventh Parliament and it was subjected to public and stakeholder participation. Therefore, the product we have today is something that has the input of many people who are concerned.

At the end of every chapter of this policy there are issues that are raised and recommendations to deal with that. This is going to be challenging because the recommendations involve harmonization of various legislations, which is important. So, we must face the challenge so that we can deal with our cities. The more you delay the more slums will come up and the more difficulties in accessing them.

There is no doubt that it is important to have urban planning since we have the United Nations Habitat headquarters here. We also have the United Nations Environment Programme (UNEP). It would, therefore, be important for us to have serious and implementable policies and legislation in terms of urban development.

Madam Temporary Speaker, the challenges we have are not only in Nairobi. Many years ago, towns like Eldoret, Thika and Kisumu were very well planned, but they have also lost that glory. I did my research for my Masters on the sewage works on Sosian River. So, to bring back the glory of our cities and make planning serious, we need to adopt this Policy Paper. When the necessary legislations are brought, the Committee on transport and urban planning will deal with it. If we wait for the Ministry it might take long. Therefore, we challenge the Members here to come up with specific Bills that can legislate on this.

As it is today, there is a lot of disconnect between people who do various things in our cities. The Ministry of Water and Irrigation does its own things and the Kenya Power and Lighting Company does its own things. We were doing some repair works on Uhuru Highway and it was impossible to know where the services were; the water pipes, electricity and telephones. It was actually a nightmare. All these services come under the County of Nairobi, but some are done by the national Government. Therefore it is important that services in urban areas are properly harmonized.

Urban physical policy and local development is also very important. Sometimes Kenyans clamour for land and fight for space. We do not want to see any free space. When we were at the University, Lavington was a special area for rich people. We used to go around the shopping centre and there used to be a big field, which does not exist now. Areas like South C and Eastleigh were for the middle class. Right now there is no proper planning in terms of sewerage system or water supply.

This policy is here at the right time and we, as leaders and citizens of this country, must support it. If we do not deal with this menace, every town that comes up will be chaotic. In fact, you cannot separate Industrial Area from the residential areas and Commercial Area from a residential areas; everything is mixed up.

Madam Temporary Speaker, Westlands was at one time a satellite city and you would not need to come to town if you were living in that part of the city. Unfortunately, there is no space now. Therefore, it is time we freed some space and became very brave to deal with our infrastructure in town. We need to construct tunnels to deal with the traffic jams. What is stopping us is the inability to compulsorily acquire properties that were being acquired in the right way to enable the building of our infrastructure.

As you go to Upper Hill or Kilimani you can rest assured that there is inadequate water supply. They could be getting water from the water bowsers. They are not on public water pipes and sewer lines. The same applies to many other places.

Madam Temporary Speaker, it is high time that whatever we think as a country, we have a Metropolitan Urban Directorate. You can see the heading of this thing but that idea of a metropolitan at one time was a Ministry. The whole idea is to plan areas from Thika all the way to Kajiado as one planning area. However, the thing has never taken place. I urge that this Policy be passed and we spearhead how to make legislation so that we actually bring some sense into our planning and make our cities and urban centres to be economically, socially and environmentally viable so that people can live in healthy environments and enjoy their peace in a very well planned area.

With those very many remarks, I beg to support.

Sen. (Prof.) Kamar: Sen. Seneta Mary Yiane.

Sen. Seneta: Thank You Madam Temporary Speaker for giving me a chance to also contribute and support this Motion on the adoption of the Sessional Paper No. 6 of 2016.

In the last four decades, Kenya has witnessed rapid urban growth in the rates of about 5 per cent and also a great population moving to the urban areas which has also impacted and given a lot of pressure to the Government in terms of funding.

The rapid growth of urban areas has also brought a lot of challenges to the country because of lack of adequate facilities. Many of our urban areas face quite a number of challenges, like lack of water and sanitation, sewerage systems, youth unemployment rates, lack of security and poor infrastructure.

If, today, you walk to all our small urban areas coming up all over the country, not only in Nairobi, but also Kitengela, Kiseraian and other small towns around Nairobi, you will always get that there is traffic jam which is brought about by the issue of us not having enough space. Our roads in towns are not well made, and therefore people waste a lot of time entering and going out of town. Many young and energetic Kenyans waste a lot of time on the roads because of traffic jam instead of putting that energy in productive work to benefit the economy of the country.

I can say that this Policy has come at the right time to provide a framework for the management of our urbanisation and the urban development of Kenya. However, looking at the framework, I think there are many other regulations and policies that are shelved in our ministries that need implementation. As a country, we also need to have a ministry that deals with urbanisation rather than only having the Ministry of Industrialisation which only deals with industrialisation. We need to have a ministry that deals with urbanisation because urban areas also enhance the economy of this country, promote our Gross domestic product and therefore need a lot of concentration in terms of the implementation of the policies.

We need to put a lot of emphasis on planning. Our urban centres are just growing without proper planning. That is why you get people building industries within estates, estates coming up in commercial areas, and petrol stations being built within residential areas. It is a fact that lack of planning has contributed to a lot of conflicts and pollution. In fact, there is quite a lot of noise pollution in our towns. People at night experience a lot of noise pollution coming from churches, bars and restaurants which are within residential areas. I think there is totally a mess in terms of planning of our urban areas.

We also need to have recreation facilities and services in our towns where the urban population can access sports activities, children can access playfields and also our urban area population can relax during their free time. We have, in our urban areas today people who lack even a place to relax even when you are not working. We also have our youth in our urban areas who have no sporting facilities to use during their free time which is why most of the time, you get them being in bars, insecure places because they have no areas to rest or even play during their free time.

In our urban areas, we also need to consider public services like access to schools, hospitals and toilets. In our urban areas today, for example, Kitengela where I come from which is a growing area, there are no enough public toilets within the shopping centre. You therefore, get many people going to help themselves in hotels which are either charging or at times forced to go back to the house because you have no public toilets around.

I think this policy has come at the right time but we need to encourage the Ministry to also try to implement existing laws because there are already existing laws like The Physical Planning Act which can help this country in terms of helping our urban areas to be habitable. This is because right now we have a general problem within our urban areas.

As we try to look into devolution, every county will be having their headquarters. I think it is high time that we, as Senate, try to encourage our counties to finance and plan for their headquarters so that at least we can have better urban areas which also will go a long way in helping our counties in terms of revenue collection. Most of our urban areas contribute quite a lot of tax and revenue to our counties. Therefore, they need well planned management systems so that they can also go a long way in helping our economy to grow.

I, therefore, support this Policy. I think that it has come at the right time.

Thank you, Madam Temporary Speaker.

Sen. Kasanga: Thank you, Madam Temporary Speaker. Let me also give my contribution towards this Policy, which is, indeed, a wonderful document we are seeing here. It has covered all key areas that will make functional cities. I believe this is what we

need and it is long overdue. What makes me happy about the recommendations given is that there is a huge contribution by the counties towards implementation of this document. That is a very positive move because everything is now boiling down to the counties themselves.

The Senate Minority Leader gave a very good presentation and said a lot of the things that I wanted to say and I do not need to belabor some of them. But I have to comment because sometime I wonder what our role is as parliamentarians. Whereas there are Ministries which are supposed to take care of urban planning and infrastructure, there is a lot that we can do as parliamentarians to emphasise and make sure that it is done. For instance, as parliamentarians, we go out for benchmarking trips and when we come back, what contribution do we give from the lessons we learn from outside? So, when one parliamentarian is wondering why a town like Rongai does not have sewers for so long, what has he done about it?

Our city planners have let us down a lot in most of our urban centres. We have heard in the earlier presentation that they give approvals for factories in the middle of residential areas. The question then is; what role do we play as parliamentarians? This is because most of the time, those factories are owned by parliamentarians, who push to get some of these approvals. It makes me wonder how much, then, do we as parliamentarians, love our people? The issues that are outlined here about urban planning, urban land environment, climate and the issue of sustainability are issues that matter to our people.

Regarding the issue of sustainability, today there is a United Nations (UN) report that says how much pollution in Nairobi has escalated to the point where we should be worried about the health of our citizens. This is the case with urban infrastructure, not mentioning the traffic jams and other things. Regarding the issue of urban housing, the Senate Minority Leader mentioned something about the slums, which are growing.

Regarding the issue of urban disasters and risk management, again we have seen instances where a building collapses and we cannot get people out, which has become a very serious issue. There was a report the other day from the National Construction Authority (NCA) that a good percentage of buildings in urban centres are not fit for human occupation. So, as parliamentarians, this would be my question to you as we implement this wonderful document. What is our role? Why are we partaking in issues that are definitely taking us backward, whereas the Ministries have put forward a wonderful document?

So, it all boils down to implementation and I look forward to the legislation that needs to be put in place to advance this wonderful Policy.

I also look forward to our counties adopting this policy. In fact, if it is possible, at one point, we can even rate our county headquarters in terms of their urban development and our beautiful cities.

Thank you very much, Madam Temporary Speaker.

Sen. Mutula Kilonzo Jrn.: Thank you, Madam Temporary Speaker, for the opportunity. First, I would like to respond to something that Sen. Mwaura mentioned about the Physical Planning Bill. The reason we challenge the Physical Planning Bill is because the Ministry of Housing and Urban Development developed a Physical Planning Bill which was contrary to the Land Policy signed by the then Minister in charge, Hon.

James Orengo, now Senator. That Policy required that we prepare something called the Land Use Planning Bill.

I challenge that Bill because it is taking us back prior to 2010. Prior to 2010, the Physical Planning Act has been used by the Government and some functionaries as the excuse to grab land in unplanned areas. That Bill was attempting to create a structure and a monster with a ‘director of physical planning’ which is the reason why the Land Use Planning Bill was proposed.

Lastly, Madam Temporary Speaker, the function of planning, what is called ‘physical planning’ – but the Constitution contemplates ‘land use planning’ under Article 76 – was now being taken back to the national Government and yet the Constitution thought otherwise. So, this Policy is actually late to the extent that I am not sure when we will finally pass it; whether we are going start demolishing the illegally constructed buildings, sky scrapers in city estates; the diversion of rivers in Nairobi so that people can have supermarkets and shopping malls along the river or the buildings on riparian land. What are we going to do?

I have read this document and it does not acknowledge that somebody sitting in City Hall has approved what would be an illegality, because people have built all the way on riparian land. The Senate Minority Leader spoke about people building next to roads. Nobody is talking about people who have built city estates; investments worth billions of dollars over rivers; Kirichwa River is one of them.

Madam Temporary Speaker, while I was reading this, I came across something called ‘disaster management’. I have proposed a Bill – which will soon be published – called the Disaster Management Bill. Since Independence, Kenya, as a nation, does not have a Disaster Management Policy or a Disaster Management Bill. I was following up on the Huruma tragedy because one of the families affected there wanted legal representation. In the course of interrogating the report, I discovered that, in fact, when they went to the site, the people who were attempting to rescue the victims argued for one hour as to who was in charge. We have a department sitting in the Office of the President, another one sitting in national planning, there is another one sitting in what they call “Special Programs” and all these have no clear guidelines.

Although, disaster management has a small print at the back of this National Urban Development Policy, we cannot have a properly planned city without a properly planned disaster management. I am glad that Sen. Sakaja is here, because this is the reason why the people of Nairobi and, most likely, even from my own coalition Members, voted for him. One, we need to have fire brigades at every point in Nairobi. Two, we need to have ambulances at every point in Nairobi. We need a proper functioning traffic management system. It is easier to go to Dubai than travel between Jomo Kenyatta International Airport (JKIA) and Nyayo Stadium Roundabout! What sort of a country is this? So, it is not enough to have beautifully written documents, as Sen. Wetangula points out, without contemplating some of those issues that bother us.

I then address Sen. Sakaja. When I was young, we used to have a river – which is still there – called Kirichwa Kubwa River. Sen. Sakaja knows that now, the river is polluted with sewage. Somebody is dumping sewage in it. That person doing this is prepared to pay the Kshs100,000 fine every time they are caught by Nairobi County officials. Why would we allow people in a city like this one to pollute a river? Why is London famous? It is because of a river.

If you go to Beijing there is a beautiful river passing through it. If you go to Geneva, Switzerland you will be shocked that you can see the bottom of the river in Geneva. What about Nairobi River? That is where you dump everything and every possible waste. This river ends up in Athi River, all the way to the ocean. It is used by the people of Machakos, Kitui and Makueni counties. What is the point of some of these documents if we cannot bother to do the simplest of things?

I grew up in Riara Road where it was nice; we used to walk around the streets. Now, somebody in Nairobi City County thinks it is okay to have 19storey buildings. Sen. Sakaja, what sort of a country has a 19 storey building in the middle of an estate? What would happen if we had a tremor, that you have skyscrapers in the middle of bungalows? Forget about the environmental issue, what about the disaster? It is not feasible that you can have a 19storey building that has proper sewage, drainage and water but Nairobi continues to look the way it is.

When I was President of lottery, Lang'ata, one of the youngest clubs of Rotarians in Africa, I did ten toilets in Kibera slums at a place called Silanga. 'Silanga' is dam in Kikamba.

Nairobi Dam is no longer a dam. I do not know why we call it "dam". We should call it hyacinth dam. It has been consumed. When it rains the froth that comes out on Mombasa Road is evidence of pollution. Somebody is pouring effluent into that dam where there is water. Why was it necessary to have Nairobi Dam? If you check the history of Nairobi, it was for possibility of fires. That if you have a fire, the fire brigades can get water for emergencies. This is the same with Uhuru Park and others.

As we debate some of these issues we should go out there and talk about the things that are affecting the people of Nairobi. I did 10 ablution blocks in 2006 through the Lottery Club of Lang'ata and 14 others in Mathare. Mathare is an amazing place. It has law that is not Kenyan. They do what they want and they pollute the river. There are people who are doing some things on the river and nobody touches them. If you go to our major towns even in Nairobi, for example, Dagoretti Corner, you will not find a functioning public toilet. I am glad Nairobi City County has tarmacked Dagoretti Corner.

Now if you cannot do sanitation, what is the point of planning the big buildings? Sanitation for women and Persons with Disability (PWDs) is urgent. If you go to major cities in the world, those who have travelled, you find that in every place there is a public facility for mothers with children, others separately for PWDs. If you go to the majority of buildings in this country, they do not comply with the Persons with Disabilities Act. There are no ramps or facilities for people who cannot walk or are using crutches. Just like the Disaster Management Policy or the Land Policy, then signed by Sen. Orenge when he was Minister in 2009, would this not be an opportunity for the Senate? Urban planning is part of the functions of counties. This is an opportunity for us to come up with a Bill.

Gov. (Prof) Anyang'-Nyong'o who used to sit here with us - now Governor for Kisumu County - has taken it upon himself to appoint a city manager. Nairobi, just like any other city, should have a city manager. Somebody we can call here and ask him or her questions about the management of this city.

We should strive to make sure Nyamakima, Muthurwa and many markets in Nairobi and other places like Wote become centers of doing good business by making

sure there is no dumping. Sen. Sakaja, I am surprised that it is such a big deal when the Senator of Nairobi clears garbage. Why is it news when the Governor clears garbage? Is that not supposed to be ordinary work? Why do we allow garbage to pile up in Eastleigh Section Four and in Mukuru Kwa Njenga that it becomes a mountain hill and then when you clear it you want people to clap for you? As we debate policy there are certain minimum standards that have not been complied with.

Madam Temporary speaker, under the Urban Areas and Cities Act - and I address Sen. Sakaja - under Section 10, the management of the city of Nairobi is a function both of the national Government and county government. Nairobi County being the centre that gives this country and generates 60 per cent of the Gross Domestic Product should not look like this. When I say “shame on you national government and county government”; it is because they have failed to comply with the law. It is not Governor Sonko’s job alone, it is part of the work of the national government because this is where the centre of power is.

We should have drainages. When it rains for ten minutes in Nairobi you might think Noah is going to come. We have floods in ten minutes. Sen. Sakaja, as soon as the floods go, we have water rationing. How do you want to grow a city that rations water? We have no water running in our taps and now a category of Kenyans called “Water Lords” do “spaghetti connections” in slums. They have made money from just connecting water to people, some basic little things. If we need to pay for Ndakaini Dam to be exclusively used by Nairobi we can do so because 60 per cent of the GDP is in Nairobi. We have money to ensure that there is running water in these urban centers and beginning with the city of Nairobi daily.

In Germany---

(The Temporary Speaker (Sen.(Prof.) Kamar left the Chair and a few minutes elapsed before another Chair took over)

Sen. Mutula Kilonzo Jnr: We are having a protocol hitch! There is no Speaker to address.

(The Temporary Speaker (Sen. (Prof.) Kamar spoke while standing)

The Temporary Speaker (Sen. (Prof.) Kamar): Go ahead mheshimiwa.

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

[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]

Sen. Mutula Kilonzo Jnr: Mr. Deputy Speaker, Sir, in cities all over the world, water used in bathrooms and toilets comes through different systems and you pay differently. So it is possible that we charge Kenyans and persons in urban centers for use of water but then the water and electricity is available.

Sen. Wetangula talked about Bombay which is now called Mumbai. There is no city in the world that has got more people than Mumbai, but their slums look so good that

they have been given accolades for slum upgrading. Even if you acknowledge that these people are going to live in squalor conditions, they are squalor because they do not look like people living in big estates, but those people live in a place that is tarmacked, has electricity and water.

We have distinguished other Kenyans by putting them in slums. There is a slum called Githogoro, which is in Runda. In the middle of billionaires you have a slum. Immediately after Lavington, Amboseli Road, Kawangware 46, there is a place called Congo that Sen. Sakaja knows very well begins there. The same is in Langata. Why do we have to distinguish Kenyans?

Therefore, I support this but the recommendations and the proposals here will not make any sense if they do not end up in legislation that we can enforce. When I was growing up there was garbage collection. We used to have dustbins that we would leave somewhere along the road so that garbage is collected. It was never an issue. It should never be an issue. We should have places where garbage can be collected; we can have water, good markets and security. People are paying so much money for private security and CCTV yet it is a function of government. It is not a function of private citizens to pay for security.

During a tour to Japan I was surprised to discover – and Sen. Sakaja, again, I address you on this – that 70 per cent of the 1,250 CCTV cameras in Nairobi do not have face recognition features. What is the point of having CCTV cameras if you cannot follow a criminal from Kenyatta Avenue to Uhuru Highway and Waiyaki Way because one camera has face recognition and the other one does not? How did that happen? Corruption!

A former Member of Parliament was killed in front of CCTV cameras. I have never seen such brazen acts of violence in front of a camera. It is because those fellows know that from Kenyatta Avenue to Moi Avenue and Tom Mboya Street, they will possibly remove their masks and nobody will recognise them. Mr. Willy Kimani was killed, passed through Nairobi City and the trail disappeared. The other gentleman, Mr. Jacob Juma, was also killed; cold trail. So, let us be serious.

Sen. Sakaja, I am charging you as my friend that this nice looking document is not helpful unless the cities of Nairobi, Kisumu, Mombasa, Nakuru, Eldoret and other major cities are converted to major centres of excellence. People from the counties go to Kigali to benchmark on cleanliness. This country needs prayers. They want to know what President Kagame did so that we do not drop a piece of paper on the street. What did he do to make sure that we do not litter? In the city of Berlin even the trees are numbered. They have a tree registry. You do not cut a tree in Berlin, unless you seek authority. In Tokyo Japan you will not find a piece of paper on the streets. It is possible.

Mr. Deputy Speaker, Sir, we can have trains and all other things, but unless we convert these policies of urban development into good housing for every Kenyan; the one earning Kshs1 million, the one earning Kshs200 a day and the ones who walk to Industrial Area every day--- If you see them walking from Kibera along Mbagathi Way you might think that there is a migration of people. Public transport is the hallmark of any city; that people can be moved from one place to the other without paying much.

Therefore, as I support this Policy and its lateness, I am will hopefully introduce the Disaster Management Bill in the Senate, so we can start making good law out of the time that we will spend in this Senate.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Wario: Mr. Deputy Speaker, Sir, thank you for giving me this chance to support this Paper before me; a very big document. There is a large percentage of people moving from rural areas to urban centres. It means that urban centres are getting large populations from rural areas. In line with this, urban centres should be managed. The only way to manage them is to get good transport, housing, electricity, water and the sewerage system developed in a proper way.

Mr. Deputy Speaker, Sir, to ensure proper development of infrastructure, it would be better to have a Ministry of urban development and industrialisation. The Ministry will be in charge of all infrastructure and the work of rural development will be easier.

There is so much littering in most of the urban centres due to negligence by human beings who are in these big cities. The same could be controlled if the Ministry for urban development and industrialisation was in place.

Since all the points have been eloquently said by my colleagues who spoke before me, I take this opportunity to support the Paper on Urban Development.

Thank you, Mr. Deputy Speaker, Sir.

Sen. (Prof.) Onger: Thank you, Mr. Deputy Speaker, Sir. I stand to contribute to this Motion. I have a great attachment to this Motion because I am the most immediate former Ambassador for United Nations (UN) Habitat and the Permanent Representative. I took part in the negotiation of the New Urban Agenda which we were able to develop in Quito, Ecuador, on 20th October, 2016. Subsequently, before I quit to join politics, we were able to have it passed in the General Assembly on 23rd December, 2016.

I think there is a lot that has been misunderstood when we talk of the New Urban Agenda or the planning for the cities and the original planning of both the cities and other places. I would like to draw the attention of this august House to the fundamental issues that have been raised in this Policy Paper, particularly as it relates to urban governance, urban finance and urban economy. These are very basic elements that we need to apply ourselves to.

What is the meaning of planning? It is now visualised that by the year 2050 the world population will have more than doubled. In the 21st Century, one of the most interesting trends will be in the area of New Urban Agenda – the new urban planning. Left to go the way it is now, in a haphazard manner, we are only creating mountains of slums. There will be no beneficial effects whatsoever to any of the populations that will be staying in those urban centres.

Mr. Deputy Speaker, Sir, this Policy is a little bit out of date because it was meant to spur the debate and discussions as an input towards the New Urban Agenda that we concluded in Quito and in the General Assembly. However, screening through these elements, some of them have been fairly captured. The major interest in any nation or opportunity is that we must capture the whole nation and not just one city – Nairobi. I remember during the negotiations we had to insist--- Of course, at that time I had in mind that Kenya has 47 counties and, therefore, potentially, these are 47 cities that we are talking about. There are also peri-urban centres – centres that are not within the urban centre itself – that will also require equal attention in planning in order to achieve these objectives.

In our negotiations, it was clearly agreed upon by the entire world that these will include national governments, county governments and sub-national county governments.

The sub-national county governments will be the constituency level in our case. We may have some of the urban centres in our respective constituencies. That is tacitly there.

The greatest investment is going to come out of the urban economy. If we plan well and do it right, that is where the rest of the investment from the so-called developed nations is going to come from to bolster the economies of various countries. If you have a haphazardly planned city, nobody will want to invest in it. Normally, there is a scramble for the first line on the street. If the buildings behind the first line are haphazard and are totally unplanned, they will attract no investor whatsoever. Row one, two, three, four should be equally attractive to any investor to put their money there because the Gross Domestic Product (GDP) of any nation is generated from these investments.

If we do not care for this, we are planning for failure. Therefore, it is incumbent upon us and particularly this House to enact enabling legislation to support the new urban agenda because that is the area of growth. It is the area of economic growth. It is the area of socialization.

On the impacts of population, if you consider Nairobi for instance, when I was the Minister for Local Government, Kenyatta Avenue was in a total mess. In wanting to develop infrastructure in this city, we came up with greening and improving the cities. The fountain on that street is a testimony of what we did. I felt that the motorists who wait on traffic for long hours can have their nerves relaxed by the water fountain flowing. It could also relax their minds so as not to get very desperate on the road and cause accidents. They did re-servicing of Kenyatta Avenue. Mombasa, Kwale, Kilifi, Malindi and Busia were also done at that time. I am sorry to say that when I go around these areas, they have gone back to zero.

At that time, we created the Kenya Urban Development Infrastructure Programme (KUDIP) which was supported by the World Bank. The World Bank was willing to support it because they saw that it was an area of improving the poverty levels of people. Any development that must be carried out must ensure that it addresses the needs of the poor. It must be all inclusive. It is not just for the rich to enjoy the benefits accruing from the growth of the economy. It is for everybody. What does that mean? The economic growth must take into account the social elements that encompass that growth. This Policy Paper captures some of these elements. At some later stage, we shall address ourselves to the slum upgrading system because this is one of the eyesores in most of our developments.

We are a bit lucky in Kenya because the 47 counties give us a fulcrum upon which we can predicate our own developments more securely. Proper planning would attract a lot of investments to our counties and make our counties richer instead of depending on the GDP or 60 per cent from Nairobi alone. There is no reason as to why Embu, Tharaka-Nithi, Kisii, Nyamira and Kisumu counties cannot generate a GDP well above the normal GDP that Nairobi generates. That would have enhanced the GDP of Kenya's productivity to a much higher level and the people will enjoy the wealth of this nation in abundance.

What are these social elements that impact that planning? We must take into account the population growth and the population trends. You must take into account the social services that you are going to offer in the planned area. These are things such as schools, hospitals, health centres, roads, infrastructure, energy and many other things.

You may also consider the natural resources that are available within a given county. How do you maximize the use of those natural resources?

The most important thing is creation of jobs. We are all crying that our youth are unemployed yet we have the potential and the capacity. If we do proper planning, we can make our counties very rich. The National Government has a moral duty to make sure that all this planning is inclusive and not just selective. It is important that we cling to these elements.

The second element that we need to look at is environmental concerns. This is because we let our rivers become the dens of garbage. Garbage is sunk in those rivers, then we have very unclean waters. It does not surprise me when I hear that there is an outbreak of cholera, typhoid or dengue fever because they are man-made diseases. They are preventable diseases that need not appear in Kenya today. However, they spread because we have become ineffective in planning for our health services.

We do not do promotive and preventive services that are critical in ensuring that the population is well and safe. It is only a well and safe populations that can be active; to be employed when there are job opportunities. This is the population that can produce and increase your per capita in any given nation. Without that, we are wasting our time.

We now have real opportunity in a devolved system. I am happy that I am in this Senate. One of the areas that I intend to promote with my colleagues, if they are agree, is for us to keenly look at how we can legislate and give a legal framework for some of the things that we achieve progressively and in good time. This is because it is important that we are able to do and control those elements.

We need clean energy. How do we get our energy? Fortunately, we now have the power energy from steam, geothermal, hydro and the windmill from Marsabit and other areas. These are clean energies that will input to the national grid. I hear people making noise that Kenya with about the 60 megawatts production has gone over capacity. In the new urban agenda, the only elements that will spur new jobs and growth is industrialization. If we have major industrialization programmes in this country dotted out in our various counties, we should need more power megawatts than what we have at the moment.

One industry like the iron industry would consume almost five to 30 megawatts in one single round. Therefore, what we are boasting of as enough and excess, is not enough. In fact, we should be looking for more. I encourage investment in clean energy production. As we deliberately move with our planning, we must also ensure that we have enough energy to support all these programmes. We are moving towards a highly industrialized country and becoming industrialized means that we must have enough energy and clean energy at that.

Mr. Deputy Speaker, Sir, I need not talk about pollution because it has its attendant effects. Some of the industries that are discharging their effluent into the rivers and causing a lot of harm, particularly some of the wastes that contain lead substances. These are some of the causes of cancer. If you have noticed lately, there are so many Kenyans who are battling cancer, yet they have been on the same diet all these years. The prevalence rate of cancer has gone beyond our imagination in every other population.

We should stop and ask ourselves why the rate of Cancer is high. I put it to you that it is because we have not done a proper audit within our environment to see what kind of wastes are being discharged into the environment and their effects on the

environment. I put it to you that lead and asbestos are some of the items that easily cause cancer without even much publication. I expect that the National Environment Management Authority (NEMA) to be more keen and proactive in ensuring that, that aspect of law is enforced without much delay.

Mr. Deputy Speaker, Sir, there is a lot that we can talk about urban planning. We should, therefore, have a commitment to plan. That is the first element that we must do as a nation and as counties. We must also commit to finance whatever we want to do in that planning. We must also develop the plans so that they do not end up as white elephants. Then, of course, we should create an enabling governance structure which is important in enhancing that policy. It takes both the national Government and the county governments and also the sub-national urban centers to work together in order to realize that potential.

Mr. Deputy Speaker, Sir, we must also adopt a people-centered approach so that we can carry ourselves together to the future. That way, we will say yes, the new urban agenda will have immense dividends accruing in this nation if we apply it correctly. We will have immense dividends if we also follow the United Nations (UN) New Urban Agenda, which was adopted on 23rd of December, 2016, by the General Assembly and which is now a living document and we need to do it. We now need to get that document and domesticate it with the national policy which is before us. This will enable us to make necessary legislation to function optimally and to the maximum interest of this nation.

With those few remarks, I beg to support this policy paper.

The Deputy Speaker (Sen. (Prof.) Kindiki): That is quite professorial, Sen. (Prof.) Ongeru.

Please proceed Sen. Sakaja.

Sen. Sakaja: From one professor to another!

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator!

Sen. Sakaja: Mr. Deputy Speaker, Sir, kindly allow me to start by passing my condolences to the family of the late hon. Francis Nyenze, who we have learnt passed on today. I have remembered that based on what Sen. (Prof.) Ongeru has spoken about with regard to the environment and cancer. It is sad that we have lost such a great leader. The first time I incidentally met the late hon. Nyenze was when I was in primary school. I had just won the United Nations Children's Fund (UNICEF) International Environmental Debate and he was the Minister for Environment then.

I was in class eight then when he awarded me and he developed a keen interest in me. We have been friends since then. As fate would have it, we got to meet later in the National Assembly, where he was the Leader of Minority and I was a Member in the Majority side and we had a very interesting relationship. I pray that God rests his soul in peace and gives his family strength and fortitude in this difficult time.

I deliberately chose to speak on this Motion on the Sessional Paper after most Members have spoken. I listened to the Senators debate yesterday and today. The reason that I did that is because, as you have heard, a lot of the references being made on this Sessional Paper are directly about the management of Nairobi. Of course we have Kisumu, Nakuru, Mombasa, Eldoret and all the other urban areas, as defined in the

criteria in the Urban and Cities Act. Indeed, I hope that the great concerns that I have heard from the Members of the Senate today and yesterday – you can hear the frustrations and disappointment – on the state of our Capital City. I hope that, then, will then translate to the point when I will be urging my fellow Senators to support certain specific interventions that might be special for the Nairobi City County.

We have heard that all the urban areas contribute 70 per cent to the Gross domestic product (GDP), with Nairobi alone contributing 60 per cent. What this means is that if Nairobi is working and we are able to properly implement the actions proposed in this Sessional Paper, then the rest of the country will grow. If Nairobi becomes a more efficient economy and a more attractive investment destination; if Nairobi is able to grow more businesses and people are able to live more comfortably and in harmony, then if indeed 60 per cent of the GDP is from Nairobi, then the GDP of Kenya in entirety grows. That also means that the sharable revenue that will be available to the rest of the counties also grows.

Mr. Deputy Speaker, Sir, I hope that I will tap on that goodwill because every Member who has spoken has decried the sorry state of things. I am glad because I have also listened to the Senate Minority Leader as well as the Senate Minority Whip when they said that, according to the law that we have today, indeed Nairobi is not the responsibility of the county government alone. I have heard people complaining when His Excellency the President takes special keen interest, in his term of office, on Nairobi City County. This he has shown by meeting with the Governor, his team and with the rest of us, as leadership in Nairobi County. If we just leave Nairobi to the county government alone, it will not progress. If we leave Nairobi to just the resources allocated through the sharable revenue as per the County Allocation of Revenue Bill, we will not be able to manage the city.

Mr. Deputy Speaker, Sir, that is why I have taken time to listen to all the Senators. I have gone through this entire document with a fine tooth comb and I am glad that it even has a very clear implementation matrix of the responsibilities, the priorities, the lead agencies and the timeframe. I want to assure the national Government that has proposed this Sessional Paper and all the stakeholders who participated in coming up with this Sessional Paper that I will be in the lead in oversighting the implementation of this policy paper that we intend to pass.

I also want to assure the people of the city and the Senators, including the Senate Minority Leader because, I have heard many of them say that is the reason why I was elected. They have gone on and on, trying to bring in the politics of Jubilee and NASA. Unfortunately, if that is the kind of politics that you are used to playing in Bungoma, in this urban area called Nairobi, you have to be able to cut across political divides. I received votes from Jubilee and NASA and I am grateful. I will serve all my constituents until 2022 where I will have to wear my Jubilee uniform again as I campaign for hon. William Ruto to be president.

But I am sure that I will still get votes from Jubilee and NASA. That is how we operate in Nairobi because it is a cosmopolitan city with people from all political parties and all communities in this country. In fact, foreign nationalities are in this county and they have acquired residency and citizenship in Nairobi and they are eligible to vote.

Mr. Deputy Speaker, Sir, this document looks at different planks. Most of what I have heard Senators speaking about is manly on one plank; which is on environment,

which is under urban planning and infrastructure. However, it starts with the core of how to manage a city and an urban area. That is urban governance, the process of decision making and implementation. Without getting that bit right, no matter the amount of money that we invest, the grand plans that we have, the ideas that people bring together and the document policy papers we have, we will not be able to achieve the goal of having a world class 21st Century Capital for this country. Therefore, urban governance is the single most important plank.

A lot of the problems are concomitant to lack of proper governance. For example, the lack of resources because of corruption, land grabbing, lack of proper utilization of public places, lack of water, *et cetera*. I am glad that it has been clearly spelled out here about some of the things that need to be done including minimum qualifications for leadership in urban areas. It should be a political leadership that might even necessarily be different from other areas. It includes specialised public participation. Remember public participation within urban areas is a bit different from the rural areas where you will not necessarily find a captive audience on a Tuesday afternoon who can contribute meaningfully. It means then we must devise new ways to engage the public in an urban space.

In Nairobi City, for example, people ask us how we campaigned and tried to convince the 2.3 million voters to vote for us. That is where technology comes in such as the social media and new media in terms of participation so that an average Nairobiian can feel that the priority of development in their specific area has been taken into account. Otherwise, we have such a huge base of people who become apathetic to institutions of governance and leadership because they say these people do not talk to us and even if they have a point they do not listen. That means that we have to redesign the kind of levels of decentralisation in a space like an urban area.

We need to move down to estate committees, formalise and engage them. Let them have elected leadership and recognise them. We need to have different small business associations that we engage with officially. We need to strengthen the capacity of Members of the County Assemblies (MCAs) and those leading at the lowest level. Devolution is based on the principle of subsidiarity and nowhere else does it make more sense than in an urban space. Nairobi is a city of contrasts. The priorities just 100 metres or 10 metres away from each other are totally different. I have heard Members giving some of those examples. The priorities in Muthaiga and Mathare are very different and it is just a stone throw away. The same applies to Githogoro and Runda; Mountain View and Kangemi; Karen and Kibera and Kuwinda Slum which is inside Karen. We need to redesign and rethink the levels through which we engage the people who are living in a space such as Nairobi.

Mr. Deputy Speaker, Sir, I am glad that the Government has moved on to set up the Nairobi Metropolitan Authority which brings together, on top of Nairobi, Kiambu, Kajiado and Machakos. A lot of the solutions that we require for the city depend on those other areas. Nairobi City is growing and soon it will spread into those counties.

Proper governance in a city like Nairobi, and I am glad that this has also been addressed in this Sessional Paper, includes serious and strong public-private partnership. There is so much that we can do just by the public sector alone in a place like Nairobi, Kisumu or Mombasa. We need to engage the private sector because they have also become beneficiaries of an efficient and working capital.

For instance, if you get some of these private sector organisations like Coca Cola, the East African Breweries Limited (EABL), Safaricom, *et cetera* and work with them on a programme to adopt estates and give them space for branding, they can do so. For example, they can adopt Buru Buru Estate and grow trees there for one year and engage the young people. We can also get Coca Cola Company to adopt Pumwani Hospital. We need to do that so that we can focus more on the core service provision as a county. That also provides incentive for them to take action.

There has been no framework for proper public-private partnership. A few years ago, I know a group of business people who even wanted to develop just the streets where they operate. They wanted to do the roads, put cabro paving blocks, lights and to improve the security of the areas, yet they could not get approval to do that from the county government. There is nothing more absurd than that because if these people are partnering with the county government, they should be seen as partners to development, but not barriers. That is why that first plank of urban governance is key.

Today I wrote to the Speaker of Nairobi County Assembly and to each and every member of the county assembly just to understand some of the specific needs that they have in their different wards. If we are not able to build the capacity not just of oversight, but also of representation to be able to hear the voice of the people at the ward level in an urban area, we will not be able to solve these problems.

There is also need to review and harmonise all legislation relating to urban governance and management. We have seen a lot of conflict of laws and demands for different licences when we are getting into construction. The National Construction Authority (NCA) will come today and say something about your plot, tomorrow, the inspectorate from the county government will come and say something different and another day somebody from the Ministry of Transport, Infrastructure, Housing and Urban Development will come and say something different. This should be harmonised, not only for investors' confidence, but also for proper utilisation of the spaces that we have.

The second plank which is important is urban finance. Urban finance creates the pool from which we are able to deliver and to create that world class city that we require. Allow me to also speak more about Nairobi than the rest since I am not very well conversant with them. Having been born in this city and lived here all my life, I might sound unexposed, but I have not been away from this city for one month straight since I was born. I have travelled around the world but I have never been out of Nairobi for more than 30 days straight.

This is a city that I have grown up in. I have seen it declining and I know what used to work and what doesn't. I was born just actually a walking distance from here, in Ngara. I have interacted and I remember when I could walk through town when I was a small boy, it was clean. I have observed the decline. Therefore, if my references focus more on Nairobi, please just allow me, but also that is what I have been mandated to do in this House.

Nairobi has a weak revenue base, poorly performing revenue collection because of corruption, inadequate financial transfers from the central government which is the third principle of fiscal decentralisation and a weak institutional capacity. If you do not address this, no matter the number of investors you bring to the city and the kind of plans we have, we will not be able to sort out the problems.

The reason there is a weak revenue base and poorly performing revenue collection is because there has been a reluctance by the previous administrations to automate revenue collection and fight the cartels within the city. Of course, you cannot fight a cartel that you are part of. That is why I am keen on playing that oversight role to make sure that the more than 140 revenue streams in this city are fully automated. Unless you automate revenue collection and reduce as much as possible the human interaction with cash in terms of revenue collection and reduce the multiplicity of licences required for business people to operate, you will not be able to raise revenues.

I know some businessmen who had to have 17 licences to operate. The lack of information to those businessmen has really affected them. Somebody may just come and tell them that they do not have fire extinguishers and they are fined. The revenue officer will then tell his colleagues to go there again. The next day they get fined because of the first aid box, another day it is the Music Copyright Society of Kenya (MCSK) licence, another day it is the PRSK, and so on. That discourages investment.

Mr. Deputy Speaker, Sir, I will ask for a little bit more time. We need to look at that revenue collection system, accountability mechanisms and user charges. We need to adopt cost recovery pricing strategies to ensure that we have sustainable service provision and computerize that customer base. Through that we will be able to mobilize private capital for urban development.

The third plank is urban economy. We are talking about 70 per cent of the Gross Domestic Product (GDP), mainly dominated by the informal sectors. What are we doing to ensure financial inclusion for the informal sector in the urban areas? A well-functioning urban economy is able to retain local and foreign investment and is a city of equality. However, you must strengthen the industrial base in Nairobi, fast-track regulatory reforms, but promote transparent procedures to allocate industrial land. It is only through industrialisation that we will solve security because the biggest challenge to security is unemployment of our young people.

I am glad, again, that in his inauguration speech, His Excellency the President, reduced by 50 per cent, the electricity tariffs charged in industries between 10 p.m. and 6 a.m. That alone will go a long way in making sure that we increase that base.

Of course, there is the creative economy. Nairobi County is not just the hardware and the mechanics. There is a spirit and soul in this City. There are the arts and our musicians. We have our young people in the creative economy who need to be encouraged and given spaces through which to express themselves and explore. We must see the creative economy as a serious economic frontier; not as a favour. You will be shocked that in a country like Nigeria, the creative economy is the second highest income earner after oil. It is the second biggest contributor to the GDP. We have as much talent in Nairobi, in many of our urban areas and even in the rural areas.

Thirdly, and this is where many Members have based much of their contribution, is urban planning. We have lost track of the zones in the City; of what to build where. Every day I get complaints from people whose children cannot sleep because of discos in the neighbourhood. It is a sorry state. The prices of real estate have gone down. People have mortgages, but they will never get a tenant for that house because of the disco. It even goes to the moral fiber of our society. Our young people are getting exposed to things that they should probably be exposed to after the age of 18. That is why across the City you will find children as young as five or six years old with their parents in bars

during the day. That zoning was there for a reason. There is a reason we had an industrial area.

A lot of issues then come to light. How do we strengthen estate committees to bring to light the infractions on urban planning? How do we legislate on that? How do we develop those guidelines? What do we do with those who have already gone beyond and messed up? Can we just come down hard on them and sort it out or do we say that moving forward we will not allow this kind of establishment in these areas?

Of course, urban renewal is important. We have seen how much very little space it will take to create proper housing and public spaces. These public spaces give people dignity. I am sure you drive down Thika Road on your way to your great county of Tharaka-Nithi. As you pass Githurai on a Sunday, you will see so many people looking for space for recreation. There are many such spaces around. Many of our children are not even able to play on grass because we have allowed people to put up apartments that do not have a single playing field in this City. Those are things that must be looked at. We must have a unified policy on that as well as on urban heritage.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator! Despite mentioning Tharaka Nithi County, I will give you not more than three minutes to put your thoughts together.

Sen. Sakaja: Thank you, Mr. Deputy Speaker, Sir. There is a lot to talk about, but I will just speak in summary. There are many areas to go into. All this is as a result of years and years of poor leadership within the city, from the councillors, the mayors and previous county governments, which I do not hesitate to point out the wrongs they have done.

Moving forward, we need to integrate urban planning and development and make sure that this implementation matrix is taken seriously. This should not be one of those papers that Kenya is known for; just passing papers and a lot of policy documents without clear implementation. I want to promise the people of Nairobi County and by extension the people of Kenya - because of how important Nairobi is to Kenya - that I will be there every single day for the next five years of my term in the Senate to make sure that we create a world class capital everyone will be proud of. Everyone comes to Nairobi for the same thing; to go about their lives peacefully, make something out of themselves and guarantee their children a future. We owe it to them to make sure that we are that kind of a City.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Dullo, are you replying on behalf of the Mover?

Sen. Dullo: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Do not take more than five minutes. Proceed.

Sen. Dullo: Thank you, Mr. Speaker, Sir. I wish to take this opportunity to thank all the Members who have contributed to this particular Motion. I believe it is rather late to have this particular policy because it should have been in place long time ago due to the current concerns that have been raised by Members.

A lot of issues were canvassed and also a lot of good ideas were brought by Members in the debate. Therefore, I believe the relevant Ministry should pick it up and make sure that they have used those concerns and ideas that have been raised. Once we

pass this particular policy, it is important that we should look at other policies and legislation that will be affected by it so that they are all in tandem and this has to be done as quickly as possible.

Finally, as many speakers have said, this concern does not affect only cities in this country. It is important for us to cascade this down to the counties because even counties have similar problems. So, I believe the Ministry should be able to have similar policies and legislation to make sure that we have planned for our counties.

Further, with the Senator of Nairobi City County present, there are a lot of issues affecting this city especially noise pollution in estates. For example, where I stay, you will find bars and restaurants running in those estates, which is wrong. Some of them play very loud music in some areas and especially areas like Lavington and Kileleshwa. In the previous leadership, the City County of Nairobi was licensing those restaurants and bars which is also very dangerous for the children in the neighbourhood and also for the security of people living within those vicinities. Therefore, the Super Senator of Nairobi should help us so that we can have a peaceful and private residence so that we can go and rest whenever we want to go back home.

With those few remarks, I beg to reply.

The Deputy Speaker (Sen. (Prof.) Kindiki): We have Senators for 47 counties in this Chamber and do not have a Super Senator. Anything to that effect is absolutely informal.

Sen. Dullo, would you want to move the Chair to consider anything given that we do not have numbers to proceed? The next would be Division, ordinarily.

Sen. Dullo: Mr. Deputy Speaker, Sir, looking at the number of the Members in the House, and in line with Standing Order No.55(3), I would request you to defer putting of the question to a later date.

The Deputy Speaker (Sen. (Prof.) Kindiki): Having determined that this is a matter that concerns counties and, consequently, considering that as such this Motion would require Division; in light of the request made by Sen. Dullo on behalf of the Mover of the Motion, I direct that the House defers the Division to Wednesday, 13th of December, 2017, considering that Tuesday is a public holiday.

It is so ordered.

(Putting of the Question on the Motion Deferred)

Next Order!

ADOPTION OF THE NATIONAL IRRIGATION POLICY

THAT, this House adopts the National Irrigation Policy, laid on the Table of the House on Tuesday, October 10th, 2017.

The Deputy Speaker (Sen. (Prof.) Kindiki): Is the Senate Majority Leader in the House?

(Sen. Dullo stood in her place)

We even have less than ten minutes, but are you ready in the first instance?

Sen. Dullo: Mr. Deputy Speaker, Sir, looking at the time we have very few minutes to---

The Deputy Speaker (Sen. (Prof.) Kindiki): I asked if you are ready in the first instance.

Sen. Dullo: Mr. Deputy Speaker, Sir, I am not ready. I am requesting if you can defer the Motion.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Resume your seat.

(Motion Deferred)

Next Order!

ADOPTION OF SESSIONAL PAPER NO. 2 OF 2016 ON
NATIONAL SLUM UPGRADING AND PREVENTION POLICY

THAT, this House adopts the Sessional Paper No.2 of 2016 on the National Slum Upgrading and Prevention Policy, laid on the Table of the House on Tuesday, October 10th, 2017.

The Deputy Speaker (Sen. (Prof.) Kindiki): This Motion is to be moved by the same suspect. I think it is practical to defer that Order as well and all the subsequent ones because we have less than nine minutes to the end of our time.

(Motion Deferred)

ADJOURNMENT

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators! There being no other Business, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Thursday, 7th of December, 2017, at 2.30 p.m.

The Senate rose at 6.30p.m.