

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 17th February, 2016

The House met at 9.30 a.m.

[The Deputy Speaker (Hon. (Dr.) Laboso) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: Hon. Members, obviously we are not well constituted. Can the Quorum Bell be rung?

(The Quorum Bell was rung)

Hon. Members, we can now transact our business. Can we now have some order in the House? We are now properly constituted and we can begin business.

BILL

First Reading

THE KENYA NATIONAL EXAMINATION COUNCIL
(AMENDMENT) BILL

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

MOTION

REPORT OF THE MEDIATION COMMITTEE ON THE NATIONAL
DROUGHT MANAGEMENT AUTHORITY BILL, 2013

Hon. Deputy Speaker: Hon. Chachu.

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

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the National Drought Management Authority Bill, 2013, laid on the Table of the House on Thursday, December 17, 2015, and approves the mediated version of the National Drought Management Authority Bill (National Assembly Bill No.42 of 2013).

The Mediation Committee on the National Drought Management Authority Bill, National Assembly Bill No.42 of 2010 was constituted by the Speaker of the National Assembly pursuant to Standing Order No.149 (2) of the National Assembly and the Speaker of the Senate, pursuant to Standing Order No.154 (2) of the Senate on 28th October 2015 and 4th November 2015, respectively. The Members of the Mediation Committee were:-

Hon. Joyce Emanikor, MP
Hon. (Dr.) Wilber Otichillo, MP
Hon. Chachu Ganya, MP
Hon. Zuleikha Hassan, MP
Hon. Elmi Mohamed Ibrahim, MP
Sen. Fatuma Dolo
Sen. (Prof.) John Lonyangapuo
Sen. Martha Wangari
Sen. Abdirahman Hassan
Sen. Danson Mwazo Mwakulega

The Committee derives its mandate from Article 113 of the Constitution of Kenya and the National Assembly Standing Order No.149 and Senate Standing Order No.154. The Committee was established to develop a version of the National Drought Management Authority Bill, 2014, which is National Assembly Bill No.42 of 2013 and in particular Clause 4(2) of the Bill that will be presented to both Houses for approval as provided under National Assembly Standing Order No.149 and Senate Standing Order No.154(6). The specific clause of the Bill that was in contention is Clause 4(2). The Committee held its first meeting on 2nd December 2015 and elected Hon. Chachu Ganya and Sen. Martha Wangari as Chairperson and Vice-Chairperson respectively.

The Committee deliberated on Clause 4(2) of the National Drought Management Authority Bill, which was in contention. The Mediation Committee deliberated on the contentious issues and unanimously agreed on a version of the Bill to be presented to both Houses for approval. The agreed version of the Bill is attached to this Report.

Basically, only one clause was in contention and this was whether the National Drought Management Authority should establish offices in all the 47 counties or not. In our mediation, the Senators agreed with the position of the National Assembly that we should only establish offices in drought-prone areas. However, in case of need, this being a State corporation, it will have the powers to establish offices wherever it deems necessary with time. To cut on costs and to ensure smooth operations, we said that to begin with, the National Drought Management Authority should only establish offices for now in drought-prone counties. We all agreed on the clause. As a result, the position of the Mediation Committee is in total concurrence with the both Houses.

I just did the Statement for the HANSARD.

Hon. Deputy Speaker, it is my pleasant duty, pursuant to Standing Order No.155 (1), to present a Report of the Mediation Committee on the National Drought Management Authority Bill, National Assembly Bill No.42 of 2013 for consideration by the House. I also take special note, because this is my own Private Member's Bill and it has taken six years to be enacted, to thank the Members and the Senators, for having passed this new law.

Thank you.

Hon. Deputy Speaker: Hon. Makali Mulu, do you want to contribute on this Bill?

Hon. Mulu: Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute to this Motion. I want to support the adoption of the Report of the Mediation Committee.

Hon. Deputy Speaker: Hon. Mulu, we have forgotten our procedures. Are you seconding the Motion?

Hon. Mulu: Hon. Chachu had not asked me to do it, but I can still do it.

Hon. Deputy Speaker: Hon. Chachu, are you being seconded? Is Hon. Makali seconding the Motion?

Hon. Ganya: Yes. Hon. Makali Mulu is going to second.

Hon. Mulu: Thank you, Hon. Deputy Speaker. I want to second the Mover of the Motion and support the adoption of the Mediation Committee Report as presented to the House. When we discussed the earlier version of the Bill, the House had agreed that there was no need to have these offices in all the counties because while drought is a problem in this country, it is not a problem to all the counties. The thinking of the Senate was that since they take care of the counties, it is important that these offices are in all the counties, but they have now seen the sense that there will be no need of having drought management offices in all the counties. We definitely know that some counties in this country never experience any drought. They could be experiencing some different problems, but not drought.

I support the way Clause 4(2) has finally been formulated. This is also very important to this country now that we are talking about reforms in State corporations. As it is now, the clause will go a long way in ensuring that we do not spend a lot of money on administrative expenses in State corporations. The thinking and the policy of the Government is to have a reduced number of State corporations. I support that move because State corporations have been draining national resources that are meant for development. It is important for us to move resources from Recurrent Expenditure to Development Expenditure and this is the right move towards that direction.

With those comments, I second.

(Question proposed)

Hon. Deputy Speaker: Hon. Onesmus Njuki.

Hon. Njuki: Thank you, Hon. Deputy Speaker, for giving me this opportunity. While I appreciate the work that has been done by the Mediation Committee, I want to be on record that I oppose this Motion. I did the same when it initially came here and I have the same reasons for not supporting it. The reason why we decided to have devolved units of governance was to take resources and equalisation to the people in this country. It is a wrong assumption that counties were created following climatic conditions. We have counties in this country that normally experience hybrid climatic conditions. They have some areas that have very good climatic conditions and the same counties have other areas that are disadvantaged in terms of climatic conditions. Some are so badly hit that you may not even think they are in the same county. Just to say a few, I was in Bomet County the other day and when I went to Chepalungu, I could not believe that it was the same Bomet County that had tea and coffee in some areas. I went to Nyeri County the other day and there is tea and coffee in Mathira, but when you go to Kieni, it is like you are in a different county. If you go to Embu County, Embu, Manyatta and Runyenjes, next to the mountain, are green. They get rainfall even in hot climatic conditions when we are supposed to have drought. Mbeere North, on the other side, which is next to Mwingi and Tharaka, is

almost like Turkana. If you go to Meru, Buuri, which is on the other side of Mount Kenya, it is dry. Actually, the name “Buuri” means “a place with no water”. You would not believe they are in the same county with Imenti South where tea and coffee are grown.

Let me talk about my county, Tharaka Nithi County, especially my constituency, Chuka/Igambang’ombe. Chuka and Igambang’ombe are totally in two different worlds. Chuka is next to Mount Kenya and coffee and tea do well in the area. Every ridge is a river. On the other hand, in Igambang’ombe, even getting food for the cows is a problem. The name “Ngo’mbe” has been crafted in that constituency because it is a place that was known for cows making noise all the time because of lack of food. It is because of this kind of reasoning that I oppose the Motion. When you look at distribution in terms of what constituency should get hardship allowance, Chuka/Igambang’ombe Constituency is not classified under constituencies that get hardship allowance while the neighbouring Tharaka and Mbeere North constituencies have hardship allowances. This is because whoever went to assess the areas used the discretion that the proposed Authority is supposed to use in this case. Maybe they drove along the Meru-Embu Highway and when they saw the green tea and coffee, they decided that this is a constituency that does not deserve any hardship allowance.

I really thank the two Houses of Parliament for meeting and seeking to change the clause and put it to read that the Authority may establish offices in other counties. However, I have a problem with discretion. While the Authority will use its discretion to decide in which county to establish offices, what criteria will they use in this particular case? Will they sit in Nairobi or will they go to the ground to establish the conditions on the ground? Will they be asking for reports? While I believe that there is need to save money in terms of operation costs for the offices, we should establish offices in every county. The size of the offices in terms of manpower should depend on the degree of the aridness of the county in question. That is my position.

I do not support.

Hon. Deputy Speaker: Hon. Daniel Maanzo.

Hon. Maanzo: Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute on this very important Motion. Most parts of the country are actually affected by drought and my constituency, Makueni, is one of them. In fact, the last *El Nino* rains that we had, other than the recent ones, were in 1997. In fact, some children were born, grew up and went up to Standard Two without having experienced any rainfall and when they recently saw a lot of water, some were even washed away. They had never seen such water or even crossed rivers. Therefore, the National Drought Management Authority is very important. One of the common features which happen and has no proper coordination is the distribution of relief food. Time and again, we have made comments that with sufficient water, enough dams and irrigation, we can reduce the effects of drought. Israel is one of the driest parts of the world and they have food security.

Hon. Wakhungu: On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Chrisantus Wamalwa.

Hon. Wakhungu: On a point of order, Hon. Hon. Deputy Speaker. I seek your direction. We are debating a mediated version of the Bill. In our Standing Orders, it is very clear that when we are debating a mediated version of a Bill, we are supposed to contain ourselves to that particular aspect of the mediated Bill. Listening to Members in their contributions, it seems that maybe they are misunderstanding. Please, give direction, so that when a speaker rises to speak, he or she speaks concerning that particular aspect that was being mediated. We are losing

direction. The issue was about offices, but I now hear the Member for Chuka/Igambang'ombe talking of different things and my friend, Hon. Maanzo, talking of things which were supposed to have been done during the Second Reading. So, we need your direction on that, so that we can be specific on the mediated part of the Bill.

Hon. Deputy Speaker: You had already debated the Bill. This is the mediated version after the Second Reading. Hon. Members, let us confine ourselves to this mediated version because we already had sufficient time to debate the Bill during the Second Reading. Of course, Members cannot also be stopped from cushioning the points that they are trying to make.

Continue, Hon. Maanzo.

Hon. Maanzo: Thank you, Hon. Deputy Speaker. He is perfectly in order. In fact, we are restricting ourselves to the mediated version. Part of the offices would help in, for example, relief distribution. If you rely on the office in Nairobi to distribute relief food using the Provincial Administration as it used to be, at times a lot of food is stolen and it never gets to the intended people.

Hon. Deputy Speaker: Let me make one clarification. Everybody seems to be only focussing on Clause 4 and I have not heard Clause 8 being mentioned. Those two were mediated. Hon. Chachu, you also did not mention it in your summary. Clause 8 was also one of the mediated clauses. Press the intervention button.

Hon. Ganya: Hon. Deputy Speaker, Clause 4 (2) is really what we mediated. When the Bill went to the Senate and came back to us, we had a meeting with the Senate before the mediation and we agreed on everything except Clause 4 (2). So, for mediation, that was the only issue in contention which we debated and eventually agreed with the Senators. Just for the record, it is the National Assembly which, indeed, took a position that we should only have these offices only in drought-prone areas while recognising the fact that this being a State Corporation, it has a mandate to establish offices anywhere in Kenya whenever necessary. Also, we debated as the National Assembly and that is the position that we took. That is what took us to mediation. Eventually, the Senators also saw the sense in our position as the National Assembly and agreed with us that we should only have offices, for now, in drought-prone counties, but with the realisation that if necessary, with climate change and these extreme weather conditions happening here and there, in future, they may even establish offices in more counties.

Hon. Deputy Speaker: Continue, Hon. Maanzo.

Hon. Maanzo: Thank you, Hon. Deputy Speaker. I support the mediated version of the Bill in that it has given leeway to the management of the State corporation, so that we do not make a law which ties the hands of the State corporation, We should not make a law that ties the hands of the State corporation, so that it can serve Kenyans as need arises.

I support the idea of establishing offices wherever there is drought, climate change and unusual circumstances in the country, so that the corporation can serve the people and give them food. The law establishing the Authority should be synchronised with other related laws. There is the Ministry under which the Authority falls. The Authority should utilise the particular offices and work with other Government agencies to ensure that drought-prone areas have enough water to enable Kenyans to practise irrigation farming just like in Israel.

With those remarks, I beg to support.

Hon. Deputy Speaker: Hon. Joseph M'eruaki!

Hon. M'uthari: Thank you, Hon. Deputy Speaker. I rise to support the mediated version of the Bill by the Mediation Committee. It is my hope that it is in consideration of the

constitution of the National Drought Management Authority. When the Authority sets up the offices, they will look at each particular county. There are some areas which are wet within a county because they receive more rainfall. There are other areas which are quite different within the same county. Many times, drought-prone areas within such counties are disadvantaged. In Meru County where I come from, areas like Buuri, the greater Meru North, parts of Tigania East and Tigania West, Igembe Central and Igembe North, have big chunks of land within the arid and semi-arid lands (ASALs). They receive erratic rainfall and are, therefore, prone to drought.

However, if you look at Meru County generally, you may think that the entire county is not prone to drought. That is also the case with other counties like Tharaka Nithi and Embu. So, it is my hope that when the Authority considers establishing offices, they will not only look at the counties in terms of the average weather condition, but will also consider specific pockets within given counties, so that some people do not get disadvantaged. As it is now, certain areas within some counties are disadvantaged. There are certain counties that are favoured like those which are considered to be drought-prone. That is where most of the relief or support is sent.

When I consider some of the areas I have been to and have worked in before like Embu County, the area of Mbeere is disadvantaged. In Tharaka Nithi, an area like Igambang'ombe, which is squeezed between counties, is disadvantaged. In Meru County, Buuri area and Meru North are also disadvantaged. Therefore, while setting up offices, they should consider the geographical and climatic conditions of each area and not just the administrative boundaries.

With those remarks, I beg to support.

Hon. Deputy Speaker: Hon. Chrisantus Wamalwa!

Hon. Wakhungu: Thank you, Hon. Deputy Speaker. I rise to support the mediated version of the Bill and thank Hon. Chachu Ganya for this wonderful Bill. The bone of contention was whether the drought management offices should be located in each of the 47 counties or in the drought-prone counties. That was the critical issue.

I support the Report of the Mediation Committee because as much as we have devolved units, this has to do with all the 47 counties. However, because of climate change, some counties, which were previously not prone to drought, have cases of drought today. I agree with the mediated version of the Bill. It is critical because we already have areas like Mandera, Turkana and Marsabit. If you do a trend analysis, you will find that year in, year out those counties are hit by drought. Therefore, it is, indeed, important for those counties to have drought management offices. However, it does not add value to establish such offices in counties like Kiambu, Kericho and Bomet because those areas are not yet classified as drought regions. We appreciate that with the emerging trends as a result of climate change, we can establish an office on a need basis. So, this is not something we should waste a lot of time on. We should understand the logic behind it.

I am requesting Members to move with speed and approve this Motion, so that offices can only be established in drought-prone areas. For regions that are not prone to drought, offices can be considered on need basis because of the climatic change phenomenon.

With those remarks, I support the mediated version of the Bill.

Hon. Deputy Speaker: Hon. David Kangongo!

Hon. Bowen: Thank you, Hon. Deputy Speaker. I stand to support the mediated version of the National Drought Management Authority Bill.

I want to confine myself to the parts that were committed to the Mediation Committee, specifically the creation of drought management offices. There is no need of having offices of

the Authority in all the counties for the reasons given by my colleagues who have spoken before me. We should minimise administration costs that will arise from establishing such offices.

The passage of this Bill will help the people living in drought-prone areas. We also want this House to give the Authority a good budget. We have seen cases where people died of hunger as other people misuse money around here. We have not seen the money that this House approved for mitigation of the *El Nino* weather phenomenon being utilised properly.

Hon. Deputy Speaker, there is a drought management fund in the Bill, which is also very important. Whenever there will be drought leading to deaths as a result of hunger, the money will be used. The fund should be used specifically for the purpose of mitigating drought in such areas. We also need to put people of integrity in those offices to avoid misuse of money like what we have seen in many other Government institutions.

I want to, once again, thank my friend, Hon. Chachu Ganya, who has worked on this Bill for six years. It is a very important Bill.

With those remarks, I support.

Hon. Deputy Speaker: Hon. Kubai Iringo!

Hon. Kubai Iringo: Thank you, Hon. Deputy Speaker for giving me the opportunity to contribute to this important Motion. I thank Hon. Chachu Ganya for bringing this Motion, especially noting that most parts of our country are drought-prone. We need to have a management board to mitigate drought and take caution. Drought costs people who live in ASAL areas dearly.

I support the establishment of management boards within drought-prone areas. However, we should take caution because sometimes drought encroaches slowly in some seasons. Some places are heavily affected, but others are not. Again, the establishment of offices should not be limited to counties alone. At the end of the day, a part of the county is prone to drought and other parts are not. So, the management should look into it. They should have the leeway to establish offices to mitigate drought even in the sub-counties or wards. In some areas, you find that one part of the constituency is very dry and the other part is very wet. In the northern part of Meru, the areas around Nyambene Hills are very well endowed and there is a lot of rainfall, but when you go further down, about seven kilometers in the same constituency, there is drought. So, if we focus on the Authority having offices in specific places without a leeway of establishing others in other places as need arise, we might leave out some places.

We also need to caution the Authority to be proactive especially in matters of drought. In Kenya, we normally react to effects. We started running up and down after the *El Nino* rains to cushion ourselves after the effects when the damage had already been done. Let us get proper weather focusing, so that, at least, this management board can predict what could be happening before it happens, so that they are ready and can save lives, livestock and expenses in trying to correct the damage.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Let us have Hon. Tiya Galgallo.

Hon. (Ms.) T.G. Ali: Thank you, Hon. Deputy Speaker. I support the Motion. The National Drought Management Authority is very important and I support the work they are doing on the ground. Despite the fact that the NDMA is underfunded, they are supporting some of the drought-prone areas. The areas are exposed to long dry spells for many months, for example, four months, the communities are not able to manage themselves and their animals. In Marsabit and Moyale, for example, we have had long drought seasons and in many cases, you realise that

even the provision of fuel subsidy is a big problem. Spares for boreholes and shallow wells are a big issue, but the NDMA officers on the ground respond quickly. They have provided water tracking, food, animal and human medicine to save lives.

So, I thank the Committee for having had this mediation with the Senate and having agreed that there is urgent need to ensure that we have drought management in the areas that are drought-prone. This particular institution has responded well previously. Last year, were it not for the NDMA which provided about Kshs35 million to save lives in Isiolo, livestock would not have survived until the rainy season.

So, I support the Motion.

Hon. Deputy Speaker: Let us have Hon. Marcus Muluvi.

Hon. Muluvi: Thank you, Hon. Deputy Speaker. I also support the Mediation Committee on the position they have taken to locate offices for NDMA in drought-prone counties. A precedent has been set. Those who come from drought-prone areas such as Kitui, Mandera, Garissa and elsewhere have never bothered to ask the Coffee Board of Kenya to establish offices in drought-prone counties because they will serve no purpose. In the same vein, it would be very serious for people from Kericho, for example, to request the NDMA to establish offices in the county which will serve no purpose as the area receives rainfall. There is rainfall every afternoon in Kericho, Bomet and other wet areas. So, I support the position taken by the Mediation Committee and thank my brother, Hon. Chachu, for the initiative he has taken despite the fact that it has taken more than six years.

With those few remarks, I support.

Hon. Deputy Speaker: Let us have Hon. Richard Tong’i.

Hon. Tong’i: Thank you, Hon. Deputy Speaker for the opportunity to also speak to this amendment and a well thought out idea. As you are aware, dynamics in Kenya are changing every day. Climate change is occurring in every part of the country. There are some regions which initially were considered as “bathroom” such as Kisii, but now things are different because of climatic changes all over the world.

When this Committee, in their wisdom, thought that the setting up of an office should reflect the needs and the changes on the ground, I think they were prophetic because they must have looked at the future and figured out there would be need at some point to have even this office located somewhere in Kisii notwithstanding the historical challenges and benefits that the community has had. As I speak now, we are considered a water needy county because of the challenges of climate changes, lifestyle and psycho-social issues which have affected water and other resources that the community has taken for granted, for lack of a better word, in the past.

Therefore, having this office located in such places will enable us to look for ways of feeding the needy parts of Kenya. We should also go out of our way to mitigate and ensure that we reduce the needy parts of Kenya where people require to be given relief food. This should include ensuring that regions which had favourable climatic conditions get support to ensure that they retain the resources that they had which were in turn used to support other parts of the country. Kisii is such a place that needs that kind of a facility and support to ensure that we are not going to drop to the level of getting support from the Government in terms of relief food.

As we establish these offices, it will be critical that even the composition of the office bearers should not be people from regions that have experienced drought alone. They should be people from all parts of Kenya, so that we can have diverse thinking and people who can look at

the bigger picture and not just focusing on the drought-prone areas. They should focus on regions that might easily slide into this category so that we can reduce the burden to the country.

With those few remarks, I support the amendment.

Hon. Deputy Speaker: Let us have Hon. Robert Mbui.

Hon. Mbui: Thank you, Hon. Deputy Speaker for this opportunity to support this Motion on the approval of the mediated version of the National Drought Management Authority Bill. I come from one of the drought-prone areas. I thank the Mediation Committee for coming up with an agreement. It is not always that every time there is mediation we will always come to an agreement. A time might come when we might have a problem of a failed mediation. So, every time mediation between the National Assembly and the Senate succeeds, it is important for all of us to applaud the efforts, so that in future, those that get into mediation will know that we need solutions for the minor disagreements between the two Houses.

Drought affects most parts of Kenya, but some areas are obviously affected more than others and it makes a lot of sense that we do not equalise and treat all the regions the same. Some areas are lucky to have rain and others do not get rain the year round.

So, I support the agreement by the Mediation Committee to set up offices only in those areas that are affected by lack of rains. One of our colleagues has mentioned that most of our counties have a problem, but when you listen to the examples he gave, you notice it is an issue of possibly one ward out of 40 or 50 wards that is affected slightly. Putting up an office in such an area for that purpose would not be economical.

I want to support the Motion because Kenya has scarce resources and we have to be very careful on how we spend our money. It is not prudent to have offices in every county, but those counties that have a problem need to be supported.

I support.

Hon. Letimalo: Thank you, Hon. Deputy Speaker, for giving me the opportunity to support this Motion in a mediated version of the Bill. I also thank my colleague, Hon. Chachu, for pursuing this Bill up to the mediation level.

It is important to appreciate that Kenya is divided into two main zones, namely, highland areas where there is heavy and reliable rainfall, stable economic activity and cash crops like tea and coffee do well, and lowland areas. In the highlands, economic development is at a higher level. If you look at lowland areas, which have been designated as ASAL, the climatic condition is characterised by low and unreliable rainfall. The economic conditions are harsh to the extent that drought persists throughout the year. For that reason, residents from such areas have to depend on the Government to get food aid, water and pasture for their animals. It is not the wish of the people to live in such dry areas. It is circumstances.

For those of us who come from drought-prone areas, we know that during drought seasons, institutions like national game reserves, community conservancies and the Kenya Wildlife Service (KWS) have to construct shallow wells from dry river beds to get water for the wildlife. The same also applies to residents of such drought-prone areas. Because of scarcity of water, people have to dig shallow wells to get water for their people and animals.

I would like my colleagues in the House to appreciate that one of the factors that make conflict associated with cattle rustling to persist is scarcity of important resources like water and pasture. The economic activity in such areas is entirely livestock rearing. So, people have to move with their livestock to get water and pasture. This is where they converge with different communities and scramble for this scarce resource.

There is no need to set up an office in an area where there is no drought whereas you have areas that experience drought throughout the year. Therefore, there is need for that Authority to manage drought. It is also important for my colleagues to note that during the drought season, due to scarcity of water and pasture, livestock owners have to move with their animals in search of these resources to the extent that they even move to places like Mt. Kenya region where water flows throughout the year, but due to the cold weather, many animals die. You experience such kind of problems and at the end of the day, there is poverty. I want my colleagues to appreciate the fact that these different economic zones need to be addressed because you have residents who live in those areas. Therefore, they need support from the Government.

For the reasons I have stated, I support the Motion.

Hon. Deputy Speaker: Let us hear from Turkana. Hon. Nicholas Ngikor.

Hon. Ngikor: Thank you, Hon. Deputy Speaker, for giving me this chance, so that I contribute to this very important Motion.

I want to start by mentioning the issue of putting up offices all over the country which my colleagues have raised. We need to go back to the mandate of the Authority, which is management of drought. When we talk of drought, there are areas in this country which are affected by it. When we talk of this Authority being given mandate to deal with drought, it ties with what the Mediation Committee agreed on. They were trying to make us understand the mandate of the Authority in drought management in those areas. When we talk about this Authority, we talk about planning, information and reports that deal with drought. So, it makes no sense to have offices in the entire country. The information that we are going to get about drought is found in the drought-prone areas. It is better for us to talk about the Authority being the one that will give this country the right information on drought affecting the prone areas. We should also give this Authority a budget to deal with drought in the drought-prone areas.

When we talk about offices being put up all over the country, we cannot talk about tea. We cannot say that we need to open tea offices in the entire country because we need to have those offices. It makes no sense. So, it is good for us to be specific when we contribute on this. The offices will be based where information about drought will be good for planning for the country. When we get information for planning and preparedness, it will give the country direction.

I support this Motion that offices should be opened in drought-prone counties and should even be extended to sub-counties and other smaller units, so that information can be accessed. We should not just rush there and ask where we are going to start and what we are going to do. We will have information because the offices are there other than having the office here in Nairobi alone. It is good for us to have the offices down there, so that information will be available anytime when there is drought or any other phenomenon which affects the people from those drought-prone areas. We should not have offices all over which are not functional.

Hon. Deputy Speaker: Let us hear from Wajir. Hon. Mohamed Abass.

Hon. Mohamed Abass: Thank you, Hon. Deputy Speaker, for giving me this great opportunity.

I want to support the Mediation Committee's Report. The National Drought Management Authority Bill is very important. As you are aware, this country is always having a lot of problems with drought issues. We are losing so many animals. Almost 10 million people are

missing their mainstay. Livestock die in large numbers. Almost Kshs60 billion is lost every time there is frequent drought. Of late, drought has become so frequent.

In the past, most of the time, drought mitigation interventions were supported by donors. That is a very unfortunate situation. This country needs to take things seriously that a third of Kenyans depend on livestock and they lose their mainstay because of drought. The Drought Management Authority will mitigate the effects of drought.

The other thing is that we lack expertise to mitigate drought in this country. In other parts of the world, mitigation is well taken care of. A country like the USA, whose land is covered by snow for about nine months during winter, still survives because they have mitigation measures to ensure food security. They also take care of their livestock unlike in this country where a three-month dry spell leads to loss of both crops and livestock. At such times, people are fed with imported maize. This is not fair for this country at this time.

Another thing that I have noted is that farmers in other sectors get compensation when they lose their crops to drought. However, when farmers lose their livestock due to drought, the Government does not compensate them. Instead, they give them maize as relief food. This is very unfortunate. We need to compensate farmers, so that they can keep on producing livestock. As a country, we need meat and milk. Due to drought, we always experience conflicts in many parts of the country, especially where there are livestock keepers. This is due to lack of compensation for livestock lost to drought. Given the fact that the number of livestock that survives drought is minimal, livestock keepers tend to fight over scarce resources like pasture and water. If we can plan in time, we can save our livestock and take care of the people who survive droughts.

We, therefore, need to have an effective drought mitigating system. The National Drought Management Authority that has been in place for a very long time has been depending on donor funding since it has not been receiving resources from the Government. It is high time we started giving the National Drought Management Authority enough resources to enable them take care of drought mitigation systems. About 80 per cent of this country is ASAL. Ironically, that 80 per cent of our land mass is turning out to be the only area that produces food. What is happening in Galana/Kulalu is a good gesture by the current Government. We are now able to produce more food for this nation.

As Hon. Members may be aware, population has increased in most parts of our highland areas with the size of land decreasing by the day. As a result, food production has decreased. We need to take our priorities to the dry lands and harvest a lot of water. With time, this country can be food-sufficient if we plan well. I believe that the National Drought Management Authority can take appropriate measures.

With those few remarks, I beg to support.

Hon. Deputy Speaker: Hon. John Mbadi!

Hon. Ngónko: I thank you, Hon. Deputy Speaker. I want to support the mediated version of this Bill.

While supporting the Bill, allow me to congratulate the Committee of 10 Members comprising of five Members from each of the two sister Houses. This outcome is a demonstration that our bicameral Parliament is working. It vindicates the requirements of Articles 110, 111 and 112. More specifically, it shows that Article 113 of the Constitution can be respected. We can live within it and work for the benefit of this country. I pray that this spirit is carried forward as the two Houses engage in various legislations, now that we are settled,

although late in our term. I do not think the people of Kenya created a bicameral Parliament by mistake. Now that we have found a new working formula with the Senate, let us respect each other as we continue deliberating on Bills that involve the two Houses, including those Bills that touch on the national Budget and public financial management.

Having said that, I want to agree with those who deliberated and agreed on this mediated version of the Bill. In my view, the fundamental questions are two, namely, how prudently, efficiently and economically can we manage our affairs as a country without compromising service delivery and overburdening the people of Kenya, who are required to fund and support these officers? I agree with my colleagues who said that geographically and climatically, Kenya is not uniform. A county may have diverse geographical and climatic conditions. In constituencies such as mine, there is an area which is so fertile and another area which is dry. By and large, we must also agree that there are areas of extreme drought in this country. This country has areas which are very fertile. We are actually blessed, in my view, because we have a part of this country which can feed other parts of the country if we plan well. We also have other areas that we consider being drought-prone, but which have natural resources that if exploited properly, can also run the economy of this country. Those areas which are facing extreme drought need special attention in terms of drought management. That is why the National Drought Management Authority should focus more on areas of extreme vulnerability to drought. It will not make sense to establish Drought Management Authority offices in areas which do not require constant drought mitigation follow-ups.

That takes me to my last comment, which is the second step. We need to evaluate and look at the positioning of activities of various authorities in this country that are given responsibility to provide services. I do not see why offices which are supposed to give capacity to sugarcane farmers are located in Nairobi's Loresho area instead of being in the sugarcane growing areas of Western Kenya and Nyanza, so that they can be close to the point of service delivery. It does not make sense at all. We need to evaluate the positioning of all our relevant authorities and bodies. I now know that fishing is done through fish ponds, but even before we came to this kind of fish farming, fishing was mostly undertaken in the coastal region, Nyanza and western Kenya. However, you find offices that are involved in management of fishing activities in Thika. This is a demonstration that, as a country, we need to evaluate the positioning of service delivery. The Kenya Meat Commission (KMC), for example, is completely misplaced. We need to take the KMC offices to the points of delivery. Offices in this country are just created for people to get jobs, but not to deliver services to Kenyans. Therefore, there is no value for money in our investments, hence the slow economic growth.

Hon. Deputy Speaker, I support and congratulate Hon. Chachu Ganya, who was leading the team from the National Assembly. The spirit is commendable. We congratulate them for coming up with this mediated version of the Bill. We also congratulate the Members of the Senate.

With those remarks, I beg to support.

Hon. Deputy Speaker: Hon. Members, I can see an intervention by Hon. Nyikal.

What is your point of order, Hon. Nyikal?

Hon. (Prof.) Nyikal: On a point of order, Hon. Deputy Speaker. I rise under Standing Order No. 95. Noting that all the Members who have spoken actually support this Motion, would I be in order to request that the Mover be called upon to reply?

Hon. Deputy Speaker: Hon. Members, we can only put it to vote. As you notice, I tried to sample the different areas of this House, and most of them have now been represented. It is, therefore, up to you to vote.

(Question, that the Mover be called upon to reply, put and agreed to)

Hon. Deputy Speaker: Hon. Members, I will now ask Hon. Chachu to reply. We have a very interesting debate coming up next. All the Members who have not contributed on this debate can make their contributions in the next debate.

Hon. Chachu Ganya!

Hon. Ganya: Thank you, Hon. Deputy Speaker. I want to thank the Members who have contributed to this Report on the mediated version of the National Drought Management Authority Bill. They are Hon. Njuki, Hon. Wamalwa, Hon. Maanzo, Hon. Muluvi, Hon. Mbui, Hon. Tong'i, Hon. Raphael Letimalo, Hon. Abass Mohamed, Hon. Mbadi and Hon. Bowen.

This is a very important Bill and once we pass it, drought management in Kenya will never be the same again. Climate change is a reality we live with. Extreme climatic conditions are being experienced all over the country. Areas that were very dry in the past are now much wetter while areas that used to be very wet, with rains every evening, are now getting drier. As a result, establishing such a State corporation to manage drought and extreme weather conditions is very important for our country.

Drought management will be proactive and drought will never be a disaster in this country again. We will manage drought from its onset. We will also prepare for drought and have timely interventions. In drought management, time is of essence. If you intervene in time, you can save lives and livelihoods. You can also save this country billions of shillings. This Bill will ensure that drought is managed very well and we will be proactive as a country. For the first time, we will have a legal framework for drought management. We will also have a State corporation to ensure that there will be no duplication of roles. Above all, this Bill will ensure that we have a drought contingency fund for the State to use when need arises.

Hon. Deputy Speaker, I am very sure that the President will assent to this Bill. Through an executive order, the State corporation is already in place. What we need is a legal framework to ensure that the State corporation lives as long as necessary, and that it gets the necessary budgetary allocation from Parliament, having been set up by an Act of Parliament.

With these few remarks, Hon. Deputy Speaker, I thank all the Members.

I beg to move.

Hon. Deputy Speaker: Hon. Members who are standing along the corridors or getting out of the Chamber, please do so quickly so that I can put the Question. Settle down somewhere.

(Question put and agreed to)

Let us move on to the next Order.

ACCESSIBILITY TO PUBLIC BUILDINGS BY PERSONS WITH DISABILITIES

Hon. Deputy Speaker: Yes, Hon. Mwaura.

Hon. Mwaura: Thank you, Hon. Deputy Speaker. I rise to move this Motion. From the word go---

Hon. Deputy Speaker: Just move the Motion. Tell us what that Motion you are moving is about.

Hon. Mwaura: I am sorry I do not have a copy of the Order Paper, Hon. Deputy Speaker.

Hon. Deputy Speaker: You do not have a copy of the Order Paper?

Hon. Mwaura: I am sorry, Hon. Deputy Speaker.

I beg to move the following Motion:-

THAT, aware that Article 54(1)(c) of the Constitution provides that a person with disability is entitled to reasonable access to all places, public transport and information; further aware that Section 21 of the Persons with Disabilities Act, 2003 provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them have access to buildings, roads and other social amenities, assistive devices and other equipment to promote their mobility; concerned that over the years, persons with disabilities have not been given the right to enjoy all their fundamental freedoms; cognisant of the fact that accessibility is vital in increasing the mobility of these individuals and reducing the ratio of dependency on people; this House urges that the Government makes the necessary structural design adjustments to all public buildings, Government Ministries, departments and agencies to make them more user-friendly to persons with disabilities, and that the National Council for Persons with Disabilities approves all new public structures to ensure their designs are compliant to minimum accessibility standards.

Hon. Deputy Speaker: Continue moving the Motion.

Hon. Mwaura: Thank you, Hon. Deputy Speaker. This Motion is borne out of the fact that buildings in this country are inaccessible to persons with disabilities. Accessibility is extremely critical to the participation of individuals with disabilities in societies. I take note, for example, that 15 per cent of all people in Kenya have one form of disability or another. A majority of them are those with mobility difficulties. They are not able to move by themselves or perform functions at various instances, not necessarily because they are not able to do them but because they cannot access the very spaces in which they are supposed to perform those functions.

Let me give an example. If a person who is qualified in accounts is invited for interview on the fourth floor of a building that has no lift, even if people offered to push his wheelchair upstairs--- First and foremost, that is indignity. Persons with disabilities face a lot of indignity when they do not access public spaces. When that individual goes for interview, the first challenge would be the attitude of the interviewers. Most reasonably, they would ask themselves: If we have offices on the fourth floor, how will this individual actually come to work?

(Loud consultations)

Hon. Deputy Speaker: Order, Members! The level of consultations is too high. We want to hear the contribution by the Mover.

Hon. Mwaurea: The question would be: Is it that this individual cannot perform the work of an accountant? Maybe he has a bachelor's or master's degree or he is a Certified Public Accountant (CPA) and thus you expect him to perform. It is just that when that building was being conceptualised, the architects never took into consideration the fact that there would be such individuals who would also be employees.

This country is lagging behind in creating a favourable environment for persons with disabilities. It was only after the former President Mwai Kibaki was sworn in on a wheelchair that we were able to modify certain places. Indeed, it is only then that the Persons with Disabilities Act came into force. Even when that happened, Sections 21, 22, 23 and 24 of the Act never came into effect immediately when commencement of the other sections was gazetted through Legal Notice No.16 of 2004. These sections put a premium on the Government to ensure that it modifies the various buildings it has so that they accommodate persons with disabilities. These provisions had their tendered regulations; one, relating to public buildings, access to information on television for those people who use Kenya sign language and also relating to public transport. They only came to effect around November, 2010.

The Government has had five years to do the necessary, but most of the public buildings still remain inaccessible. Indeed, many people would say that the cost of modifying such buildings is high. This Motion seeks to address this challenge. If we can ensure that our public buildings are accessible to persons with disabilities from the design stage, it will mean that no other costs will be incurred as a result of modification. This is because we will have accessible buildings.

Even in our Parliament, we are still very inaccessible to persons with disabilities, especially those with mobility disabilities. I am the Chairman of the Kenya Disability Parliamentary Association and our colleagues on the Floor of this House are not even able to sit with us as they would like. They sit at the back where they can be located. This is because when this building was being refurbished, there was no consideration for persons with disabilities. My very good friend, Hon. Tim Wanyonyi is here. I think he is a true Back-bencher. That is the greatest essence of exclusion; that when we conceptualize the built environment and think about the usability of our public spaces, we do not imagine that persons with disabilities can participate on equal basis with others in matters public.

There is very high level of poverty amongst persons with disabilities. If you look at the number of children that are in school, you will find that very few of them are children with disabilities. The question is why? This is because even the classrooms are not accessible to children with disabilities. If you look at hospitals, you will also find that they are not accessible to persons with disabilities. So, patients with disabilities face challenges when they seek services there. If you look at our courts, even when you are a practising lawyer, you will find that you have to be carried upstairs to attend court sessions.

That insensitivity does not just stop with inaccessible means. For example, you will find that most of the time lifts in public buildings are not working. They also do not have a voice command for those who are visually impaired. This is the case and yet we say that we, indeed, would like to implement the letter and spirit of the Constitution. I think there is no greater barrier than this, that when persons with disabilities are supposed to participate they cannot do so. Primarily, this is because they are not individuals of concern when we are conceptualizing how we build our environment, make our plans, constitute and organize our society.

Hon. Deputy Speaker, there have been many instances where individuals with disabilities have been denied access to public buildings because they are not ordinary customers. When they are seen there they are viewed as beggars and are chased away. Why? This is because they would not ordinarily go to such places. Maybe, it looks obvious that when we constitute our built environment all of us will actually access it.

I want to inform this House that if there is one great challenge that persons with disabilities are facing, it is the non-implementation of the building code and the minimum accessibility standards which have been developed by the Kenya Bureau of Standards (KEBS) to actually give the exact measurements of accessible units, for example, ramps. Those are the issues that are making it very difficult for persons with disabilities to access education, health services, justice and participate in the political process including voting because most of the polling stations are in primary schools. That is a major concern.

If you look, for example, at the 30 per cent preferential procurement, you will realise that the greatest uptake is by women followed by the youth. Persons with disabilities are not able to compete for the reservation that is affirmative action. Why is it the case? These are the inherent systemic discriminatory measures that make them unable to access those offices and participate too. This is a major concern.

Recently, this House passed the National Physical Planning Act that was a constitutional requirement. I had to try very hard and ensure that there was representation of persons with disabilities at the National Physical Planning Consultative Forum. That was the case and yet that is a very critical element in terms of ensuring that the built environment, our development and physical planning take into consideration the needs and concerns of persons with disabilities.

Indeed, when I was moving those amendments, I remember the issue was that we were doing affirmative action. So, this country has not been able to see the demographic that persons with disabilities are an integral part of the society. Their needs and concerns are not a matter of charity, welfare or favouritism but rights that are inherent and inalienable, and for sure entitlements. When we conceptualize disability, we think that it is a concern of other people. We think that it does not affect us and yet we know very well that disability comes with age. Many of us in this Parliament will be affected in one way or the other. Indeed, we say; “today you can go out there and be involved in an accident”.

We have Members of this House who came here when they were physically well but have been affected over time. I will mention them because they are Members of our caucus. They are Sen. Sammy Leshore and Hon. Dennitah Ghati. So, when we are making the built environment and public buildings accessible to persons with disabilities, we are actually insuring ourselves so that incase that happens one will not find it difficult to continue participating on an equal basis with others. This is because your human rights and fundamental freedom in the society are guaranteed.

Indeed, we say “disability is a club, anybody can be a member and there is no application”. I would like to say that, if you look at the institutions that have been given the mandate to execute our building plans, you will find that they have completely failed. Kenya is rowed with stories of collapsing buildings. If you visit various places, you will find that buildings are basically poorly constructed, are not well lit and spaced. People are living in concrete blocks that are slums. That is the general apathy that we find in terms of the construction industry in this country. This is the case and yet the concern for proper housing and accessible buildings remains germane because this country has a very high deficit of buildings.

What is the role of the National Construction Authority (NCA) in ensuring that designs are approved in a manner that is accessible to persons with disabilities and have the mandate to approve?

The National Council for Persons with Disabilities (NCPWDs) should be involved so that they approve that a building should have proper size of doors. If a building has more than three floors, it should have lifts. A building should have toilets that are accessible to persons with disabilities, who can be men or women. We usually have toilets for men, women and the disabled. Does it mean that there are no disabled men and women? That is the insensitivity that we find when it comes to the construction of public buildings. Ideally, there should be four toilets - for men, women, physically disabled men and physically disabled women so that we are not just lumping people together as if they are homogenous.

This country can learn a lot from a country like Sweden. Sweden has been ranked the most accessible country in the world. You will find that there are proper platforms to access public transport and buildings are quite accessible. Making buildings accessible does not just apply to persons with disabilities. Most of us go to shop in supermarkets and you may want to use ramps instead of stairs because they may be more comfortable.

[The Deputy Speaker (Hon. (Dr.) Laboso) left the Chair]

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

I urge the House to see this as being very critical. The issue is not lack of laws because laws are there. However, the issue is poor implementation of those laws. There is also very poor co-ordination. We are waiting for the modification stage. We would like---

The Temporary Deputy Speaker (Hon. Kajwang'): Good morning, Hon. Mwaura. You can have a few seconds so that you can let us know who will second the Motion. Can you press your intervention button?

Hon. Mwaura: Thank you, Hon. Temporary Deputy Speaker. We would like to see that being implemented.

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

I ask Hon. (Dr.) Patrick Musimba to second.

The Temporary Deputy Speaker (Hon. Kajwang'): I do not see Hon. Musimba on my list.

The Hon. Member for Kibwezi West, you have the Floor.

Hon. Musimba: Thank you, Hon. Temporary Deputy Speaker. I rise to second this Motion by Hon. Isaac Mwaura, which is pretty timely.

We need to begin at a point where we reflect as a nation and remember the words of our National Anthem. In its preamble, it talks about accessibility and the rights of each and every individual. As per the statistics shared by Hon. Mwaura, if persons with disabilities make up 15 per cent of a nation of 45 million people, that amounts to 6.75 million people who are being excluded.

Chapter 4 of our Constitution guarantees social and economic rights to each and every Kenyan in their participation and accessibility to services and information, whose bedrock is within Government and its buildings. Every time we visit government institutions it is good to

see the Government as a facilitator that will enable us to achieve our Vision 2030 dreams. These are well espoused within the three pillars namely, economic, social and political. Participation or exclusion of any member of our society amounts to having part of our team not playing. This greatly disadvantages us, as a nation, in terms of our competitiveness and achieving our overall goal of making Kenya the most competitive country.

Hon. Mwaura spoke about the funds and initiatives which we have placed forth and continue to commit budgets towards. They are the Uwezo Fund, the Youth Enterprise Development Fund and the Women Enterprise Development Fund. All these funds require consistent interaction with the Government. As such, it remains a very important pillar and service facilitation for these buildings to have the access that is required.

In the age of information and technology, this sort of access can go beyond just the physical provision of facilities to persons with disabilities to having access to things like tablets. We already have a website namely, *www.mygov.go.ke*, in Kenya which provides this information. This can be provided to all persons with disabilities. They should access whatever services and interactions that are available because 7 million people is a small number to cater for. Access to the free laptop programme should be one of the things which should be extended to this particular group of people so that they are not excluded in the task of nation-building, which is odious and requires all brains.

I will go back to my own experiences while growing up. Many instrumental teachers in my life had disabilities. I will reflect about Mr. Kamagambo and Mr. Wewa who were brilliant scholars. They persevered with their crutches every day to access class. They built a formidable foundation and produced exceptional engineers, scientists and doctors. When we say that we are not going to include or provide these people with the sort of access that they require and the ease to apply their minds to this great task of nation-building, then it is Kenya that loses out. All of us have had moments when we have been sick. One can call those moments, our moments of disability. You know how weak you are when you are in bed at that point. You look at the world in a new light. At that point you can cry out to anything and everything for you to actively participate in your tasks.

As we consider this Motion, I can only cry out and persuade Members of this House and the Government to take it seriously. It is a timely Motion as we look at the budget-making process, which we are about to begin. We should list the number of buildings and provide the funding that is required to improve them. The 30 per cent inclusion in figures amounts to Kshs200 billion. This is a lot of money that if ably mobilised will put us up there.

A country like Sweden will no longer boast about being at the helm of the global field. Kenya takes a monumental lead in the League of Nations. We have shown this sort of leadership in reaching out to the lesser of us. In the Bible, Jesus says: "As you look unto the lesser of us, then you are looking unto me"

That means that that as you serve the least of us, you are serving God. This is a divine cry. As we consider this Motion in our stature within this Parliament, we should provide the necessary resources to move this nation forward.

I thank you Hon. Temporary Deputy Speaker and Hon. Mwaura for giving me this great honour to second this Motion.

(Question proposed)

The Temporary Deputy Speaker (Hon. Kajwang’): The Member for Westlands, is this an intervention or you want to contribute?

Hon. Wetangula: Hon. Temporary Deputy Speaker, I want to contribute.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. You may contribute.

Hon. Wetangula: Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute to this Motion. From the outset, I would like to say that this Motion is about lack of implementation of what already exists in our statutes. We have an Act of Parliament - the Persons with Disabilities Act - which contains provisions on issues of accessibility to buildings, information, public transport and other things. This Act was enacted in 2003. Right now, more than 10 years later, very little has been achieved. We need a proactive way of dealing with issues touching on persons with disabilities. The rights of persons with disabilities are human rights. When we talk about inaccessibility especially to public amenities, we have children denied education because schools are not accessible. Sometimes you want to go to a supermarket to shop but you cannot because the place is not accessible. Government offices are not accessible and the worst place is this Parliament.

I remember we were once invited here as members of the disability fraternity by the then Clerk of the last Parliament when they were refurbishing this Parliament. He asked us to make our contribution on how we wished these Chambers to be designed to be suitable to people living with disabilities because he knew very well that in the 11th Parliament there will be Members with disabilities. When I came here as a Member of this House, I found out that nothing was done even after making our contributions. The minutes are there. That shows that sometimes matters touching on disability are not taken seriously. We would like all concerned authorities whether it is Government or private agencies to take matters touching on disability seriously and implement them. If you travel abroad, you will find that accessibility to various places whether it is a building on the road, public transport, ATM machine or a stadium is easy. You can move with minimal assistance.

I remember a friend of mine was invited for an interview but when he arrived he found that the interviewers were seated on the second floor and the building had no lift. They sent someone to tell him that the interview was not meant for people like him. He was discriminated against just because he was someone with physical disability.

If you look at the Act of Parliament and our Constitution, you will find that Kenya has ratified an international Treaty- the United Nations (UN) Convention on the Rights of Persons with Disabilities. The Treaty talks a lot about issues of accessibility in the environment in which we live in.

On what the Mover says about the design of buildings, I remember when I was working at City Hall we grappled a lot on matters of disability; about how the architects or designers of various buildings should incorporate infrastructure on disability. This is because at the design stage, when they incorporate these things, it is much cheaper than when you start making adjustments to a building. Constructing a staircase or a ramp almost costs the same. It is more expensive to demolish and rectify a building. We require that all buildings, by law, should be accessible to all persons with disabilities. I remember some time ago there was a big conference of persons with visual impairment and they could not get a place to hold their meeting until one of the hotels had to do quick adjustments to make it accessible to them. This shows how serious these matters are. When we say nothing about us and without us, we mean we need to be involved in making decisions affecting persons with disabilities.

Hon. Temporary Deputy Speaker, I have been very active in my constituency trying to create special units in schools to enable children with disabilities access education. It is something we should address. This Motion is not something that is coming out of the blues but something that exists in our laws. We should look at a way in which we can implement it. We should do something. If you read that law, you will find that it says that within five years of that law coming into force all public buildings and places frequented by people with disabilities for public services should be accessible. We need to create that and the Government must do something about it.

I support this Motion but we need to implement what is already in our statutes, otherwise we will keep on complaining and yet nothing is done. As people living with disabilities, we do not want to be treated as second hand citizens. We would like to be given our due rights. We would like all of us to have equal rights. For example, I have been here for three years but I have never been to the Speaker's Office because it is not accessible.

Recently, they put lifts but you cannot fit in the lift with a wheelchair. In fact, two people cannot fit in that lift. I do not know who designed the lift. This shows disability is in the mind and not the physical disability we witness.

Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this Motion. However, I insist that something ought to be done quickly. The National Construction Authority should be proactive and inform people who design our buildings and other facilities that they should incorporate disability-friendly infrastructure so that people with disabilities can access some of these services.

Thank you for giving me a chance to contribute.

The Temporary Deputy Speaker (Hon. Kajwang'): Thank you, Member for Westlands. Let us have nominated Member, (Ms.) Janet Teiya.

Hon. (Ms.) Teiya: Thank You, Hon. Temporary Deputy Speaker for this opportunity to contribute to this Motion.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member, may I know if this could be you maiden speech. In other words, have you been able to get an opportunity to contribute in the House before?

Hon. (Ms.) Teiya: Yes, I have been contributing, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. You may proceed. I just wanted to know so that nobody interferes with you when you are giving a speech.

Proceed.

Hon. (Ms.) Teiya: Thank you, Hon. Temporary Deputy Speaker for this opportunity to contribute to this Motion. I want to thank Hon. Mwaura for this Motion. This is a very important Motion because accessibility has been a major problem to people with disabilities. People with disabilities are entitled to access all places but this is not happening. This has been a problem in public transport. Many people with disabilities cannot get to places they want to go because they cannot use public means. Sometimes a person in a wheelchair may be waiting for a bus but when the buses come, they leave him or her. This needs to change.

In terms of communication or information, these people do not get information or they are the last ones to get information. In public meetings, we do not have translators. Our colleagues with hearing impairment do not get information. They leave public meetings without getting any information.

Most of our banks are not accessible and our colleagues are served outside. This is not good. The banks have to be accessible to everyone because everyone needs confidentiality. In public schools, we have a big problem. Students using wheelchairs have to depend on others because they cannot move on their own to classes. Even sanitation is very poor. There are no disability-friendly toilets. This makes sanitation in schools very bad for the disabled. So, we need change in our schools so that our children can enjoy their rights like others.

Even in Parliament, we have a great challenge. I cannot move through the main doors of this building because there are no ramps. This is another challenge. I can see this country has a problem of accessibility. We urge the Government to make changes in laws or enforce laws so that everyone enjoys accessibility to buildings.

(Hon. Ferdinand Waititu talked on his mobile phone in the Chamber)

The Temporary Deputy Speaker (Hon. Kajwang’): Nominated Member, just one minute. I will give you more time. There is a Member directly in front of you who is actively using his phone. I will throw you out of this Chamber because you are on the national television using your telephone in the Chamber.

Hon. Janet Teiya, you may proceed.

Hon. (Ms.) Teiya: Thank you, Hon. Temporary Deputy Speaker. I have already finished my speech. I support the Motion.

The Temporary Deputy Speaker (Hon. Kajwang’): All right. Thank you very much. Let us now have Mombasa County Women Representative.

Hon. (Ms.) Khamisi: Asante sana, Naibu Spika wa Muda. Kwanza, ninataka kumpatia kongole Mhe. Mwaura kwa kuileta Hoja hii ambayo ni muhimu sana katika maisha ya ndugu zetu walemavu.

Walemavu katika nchi yetu ya Kenya ni takriban asilimia 15. Hawa wanaishi na ulemavu tofauti tofauti. Pia, tuzingatia ya kwamba ulemavu ni kwa njia nyingi. Wengine wana ulemavu wa macho, wengine wana ulemavu wa masikio na wengine wana ulemavu wa vyungo tofauti tofauti.

Katika Katiba yetu ya Kenya, katika kifungu cha 54(c) kinazungumzia umuhimu wa kuwezesha walemavu waweze kutembelea maeneo tofauti tofauti bila matatizo, waweze kupata usafiri bila kuwa na matatizo na pia waweze kupata habari au kupashwa habari bila kuwa na matatizo. Jambo hili haswa la habari naona ni changamoto kubwa sana. Lakini najua Mhe. Mwaura pia ana Mswada ambao haujafika Bunge hili lakini utafuka ambao utazungumzia hasa masuala ya upasaji habari kwa sababu mpaka sasa tunaona vyombo vyetu vya habari havijatimiza sheria ya kushirikiana na walemavu kupata habari kimwafaka.

Pia nataka kusema ya kwamba ndugu zetu wengi walemavu katika taifa hili la Kenya ni masikini. Umasikini huu umesababishwa na yale maumbile walio nayo. Wengi wameshindwa kwenda shule au kwenda kwa taasisi za masomo kwa sababu ya kukosa vifaa vinavyohusika kuweza kuwasomesha wapate taaluma. Hivyo basi wamekuwa wakiishi katika maisha ya uchochole.

Vile vile Katiba yetu inazungumzia zile sheria ama haki za kimsingi. Imezungumzia kuwa mtu hatabaguliwa kwa rangi, kabila, dini na pia ikasema walemavu pia hawatabaguliwa. Hivyo basi tunaona mpaka sasa walemavu katika taifa letu wamebaguliwa.

Tukiangalia majengo yetu mengi haswa ya umma hayajazingatia suala kama hili. Katika benki zetu, hospitali na mahoteli yahajazingatia haya. Hivi karibuni nilikuwa na Mhe. Sen. Godliver katika warsha ya Kamati ya Bunge. Tulipelekwa kwa hoteli moja ambayo inaitwa Medina. Ilibidi tukose kufanya warsha ile kwa siku ya kwanza kwa sababu ukumbi wa mazungumzo ulikuwa umewekwa katika gorofa nambari nne na ilikuwa ni ngazi pekee na kulikuwa hakuna lifti. Basi ilibidi Seneta aweze kuteta sana mpaka ikabidi tuache kufanya warsha hiyo tukasema tuifanye siku ya pili. Iitubidi tuifanyie nje ya hoteli. Hatukuifanyia kwa ukumbi wowote. Hivo basi hata sisi katika Bunge hili, wakati tunaenda kupanga mikutano ya Wabunge, lazima tujue tuna Wabunge wenzetu na Maseneta wenzetu ambao wana hali ya ulemavu.

Mbali na mijengo, tunaona walemavu ambao wanatumia yale magari yao ambayo imetengenezwa kuwabeba lakini hakuna pahali pa kuegesha magari kama haya. Wakati wanataka kuegesha vigari vyao, kunakuwa ni hali ngumu sana. Hivyo basi, swala hili ni lazima lizingatiwe.

Taasisi ya ujenzi ya kitaifa tunayoita kwa lugha ya Kiingereza “National Construction Authority”, inatakikana iweke mikakati na sera mwafaka za kuhakikisha ya kwamba majengo yalioko sasa na majengo ambayo yatajengwa yaweze kufanyiwa ukarabati ama yafanyiwe miundo msingi ambayo itawezesha ndugu zetu waweze kutumia njia hizo pasipokuwa na matatizo.

Najua Kenya imeingia katika mikataba mingi sana ya kiulimwengu katika kutetea haki za walemavu lakini shida ni kwamba hatujazingatia na hatujaweka mikakati na kanuni mwafaka za kuhakikisha sheria hizi tumezifuata kulingana na mikataba na pia kulingana na Katiba yetu. Ikiwa sheria hizi hazikufuatwa ama mtu amezigeuka, basi kutakuwa na sheria gani ama kutakuwa na hatua gani ya kumwadhibu mtu huyu ama shirika lolote ambalo litakuwa limekiuka mikataba kama hii?

Itakuwa vizuri sana washikadau wote kama vile lile shirika la walemavu la nchi yetu kwa jumla, wale wanaangalia mipango ya miundo misingi ya nchi yetu ya Kenya, wale wanaoshughulika katika mambo ya uchoraji, kutoa mapu zile za kutengeneza mijengo katika nchi yetu wakihusishwa. Washikadau hawa wote kabla hawajatekeleza mambo yao katika bajeti zao, ni lazima wafikirie kwamba tuna walemavu hapa Kenya takribani asilimia 15. Hawa tu ndio wataweza kutusaidia sisi kama Wakenya na kuwezesha watoto wetu kupata haki zao za kimsingi.

Watoto wetu wengi, haswa wale ambao hawasikii na wale walemavu wa macho wameshindwa kuona alama za barabara na kwenye majengo. Kunatumika alama za kuonyesha ya kwamba ikiwa unaenda huku unafuata upande fulani. Wakati alama na ishara hizo zinatengezwa hutambulika ya kwamba kuna wenzetu walemavu ambao hawataweza kusoma ama kuzitambua kama vile sisi tunavyoweza kuzitambua. Tunajua tumepata majanga mengi sana hapa nchini kwetu Kenya kutokana na matatizo haya ya kuwa tumeacha kuzingatia walemavu. Walemavu wengi huishia katika majengo ambayo pengine kumetokea moto. Anataka kukimbia atete roho yake lakini unapata kwamba kutokana na majengo yalivyojengwa, mlemavu kama huyu atabakia pale kwenye kiti chake ama pengine yule ambaye anatumia magongo abaki kwenye magongo yake na apatikane na athari kama hiyo.

Tujitayarisha kwa haya mambo ya majanga kama Wakenya ili yanapotokea tujue watu walioko pale jinsi watakavyoweza kusaidika. Tuweke katika akili zetu na tutie maanani kwamba kila mahali katika umma kuna walemavu ambao wanatembea mahali pale na chochote kinaweza kutokea na wakati kimetokea, je hao watasaidika kwa njia gani?

Sisi kama viongozi wa taifa hili la Kenya tunataka tuwe msitari wa mbele kuhakikisha kwamba sheria hizi kweli zimetokelezwa kwa sababu mara nyingi sheria tunazitunga na zinakuwa pale tu kama sheria. Mtekelezaji ni nani na ni nani atakayehimiza sheria zitekelezwe ikiwa kutakuwa hakuna watu wa kuhimiza sheria na kuweka msukumo thabiti wa kuhakikisha kwamba walemavu wana haki kama Mkenya mwingine yeyote? Walemavu hawatachukuliwa tu kwa sababu tumeingia katika mikataba ya kiulimwengu ama kwa sababu Katiba imependekeza hivyo basi sisi tunafanya tu kama kuonyesha. Ni lazima iwe ni haki yao ya kimsingi na ni jambo ambalo litafanywa kwa mikataba vile inavyotakikana. Iwapo yeyote atakiuka, sheria lazima itamfuata.

Kwa hayo mengi ama machache, nataka kutoa kongole tena kwa Hoja hii. Ninamhimiza Mhe. Mwaura alete Mswada Bungeni ili tuuchangia na tuwe na sheria kabambe na mwafaka ya kuwalinda ndugu zetu walemavu.

Asante, Mhe. Naibu Speaker wa Muda.

The Temporary Deputy Speaker (Hon. Kajwang'): The word "kutekeleza" means "implementation"? Is that correct? You know that we have a Committee on Implementation. We also have laws which are self-explanatory. They put responsibilities on various agencies to act. So, it is your role as the member of the Chamber to come and bring those people to account. Your role is oversight. You should make sure that they do what the law expects them to do in those things.

Member for Igembe Central

Hon. Kubai Iringo: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Motion. First, let me thank Hon. Mwaura for bringing this Motion which is very vital and critical at this point in time. Most disabled people have challenges which, maybe, we could be overlooking in one way or the other. When we do things which we need to do like putting up buildings, roads and even vehicles, most of the people who do them are ignorant of these issues and they overlook them because they are physically fit. Each and every human being is a candidate to becoming disabled at one point in time. We should not see those people who were born disabled as the people who are challenged. Even those who are physically fit can at one point in time find themselves on that line of being incapacitated in one way or the other. Personally, I was a victim of a gunshot and that is why I limp because one of my legs was destroyed by somebody who shot me. Some people wanted to kill me but fortunately, I am alive but then I cannot walk the way I used to walk because of that accident. Many of us have such experiences.

When we discuss this issue, let us not look at those who are physically challenged as at that time. Let us look at it like every day we have accidents on our roads, we have thugs waylaying people, we have gangs who go looking for people to kill and everyday people get accidents here and there like falling from trees and other places. So, these challenges are with us. Therefore, when we know that these challenges are manifested in us, we should also appreciate that whatever programmes or projects we undertake like construction of buildings, we should have these challenged people in mind and see to their welfare. As we speak, most of our challenged colleagues who are here cannot walk to the Speaker's seat. They cannot roll with their wheelchairs to where you are seated to talk to you. They will have a challenge with those stairs. Whoever designed this building should have known that. If Hon. Wanyonyi wants to come there he cannot. So, that is a very big challenge.

Like the previous speaker has said, a meeting can be put on the fourth floor and there are no lifts. This becomes difficult for participants who had come all the way to attend the meeting. That is a big challenge. In future we should invest in that. The architects and ministries concerned with housing and construction of buildings should see to it that each and every building constructed is accessible to all. These include those who are on wheelchairs, crutches and even those who are blind so that they can get to that place easily. I request that we amend the last sentence so that we do not give the National Council of Persons with Disabilities the power to approve these buildings. This one might be duplication. I request Hon. Mwaura to amend it to say that if we enact this law and it is entrenched in our laws, it will be the duty of the Ministry of Land, Housing and Urban Development or those who are charged with that responsibility to look at the maps that are used for buildings. Once it is law, we do not need another body to come and do the same. Let the experts like the architects who are trained to do that do their work.

In as much as we are talking about buildings and infrastructure to safeguard the interests of the disabled, we also have challenges in our own cultures and traditions; that people who are challenged in one way or the other are looked at as an abomination. The family detests it. The family does not look at it positively but sees it as a curse from God. You find some communities locking their loved ones who have been born with disabilities in their houses so that they cannot be seen. Some are rescued from those houses where they have been locked for many years. When they come out, even those who could have been assisted through, maybe, physiotherapy or medication or any other way, become incapacitated for life. We should change our attitude and our way of appreciation of these people. Let us not see them as a burden, curse or punishment from God. They are people who should be assisted, taken care of and appreciated like any other member of our society.

With those few remarks I support. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Seme, what is the problem?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, I want to make a contribution. I am also working on an amendment.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, I am recognising you on intervention.

Hon. (Prof.) Nyikal: Okay, I will.

The Temporary Deputy Speaker (Hon. Kajwang'): Do you have an amendment?

Hon. (Prof.) Nyikal: Yes, I have an amendment, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Have you reduced it in writing?

Hon. (Prof.) Nyikal: Yes. That is what I am doing now, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Are you ready to address us?

Hon. (Prof.) Nyikal: I will address you in a few minutes.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. Let us hear the Member for Suba. If the Member for Suba is not in, we can hear the Member for Teso South.

Hon. (Ms.) Otucho: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute.

From the outset, I want to say that we need to appreciate that we have people with disabilities. They are members of our families because they are our brothers and sisters. For a long time, historically, persons with disabilities have been denied fundamental human and civil

rights. Therefore, despite even the provisions of the Constitution under Article 54 that advocates for the rights of persons with disabilities, many institutions have continued to ignore or have failed to implement or comply with the requirements of the Act that protect them.

Even where institutions have tried to comply, the facility that you are likely to see is either a ramp or a parking space. However, when it comes to other facilities like toilets, you may not even find the one which was referred to by Hon. Mwaura. You will find that there is none. Persons with disabilities deserve to be active participants in the workforce and the economy. Therefore, all the concerned bodies and institutions must ensure that buildings have all the facilities that enhance accessibility to allow persons with disabilities access any facility that they may need to access. We have different types of impairment, including visual, hearing, movement, cognitive and even disorders. These various disorders or disabilities vary in degree. They present different needs or barriers that require to be addressed in different ways.

I want, at this point, to acknowledge the work that is being done by the National Council for Persons with Disabilities. The Government has provided special schools for children with disabilities. I also want to use this opportunity to call upon all parents and other people in Kenya who are locking up these children in homes, and those who are ashamed of them to appreciate that nobody ever asks for a child with a disability. Let us take these children to school.

Many resources are going to special schools from the Constituencies Development Fund (CDF) and the National Council for Persons with Disabilities. They are even providing wheelchairs for those who require them. So, let us take those children to those schools so that they can get their basic right, which is education. They are entitled to it.

As I conclude, I want to say that persons with disabilities still have many challenges. It is not only about mobility but also access to employment. They are still being discriminated against. Most of them apply for employment but they are not considered. So, as we address the challenges facing persons with disabilities and continue to advocate for accessibility to public buildings, I also call upon all institutions and employment bodies to recognise that we have qualified professionals with disabilities. Disability is not inability. Those people should be considered. We should also observe the two-thirds rule and ensure that they also get opportunity to be employed.

I want to thank Hon. Mwaura for this very good Motion. We also look forward to the other Bill so that we can support him to protect the interest of persons with disabilities.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang'): There is a Member here who seems not to have his card. You have your card but it is not working. After you have contributed, approach the Information and Communications Technology (ICT) people to make sure that it works. Let us see if we can give you the microphone. Can you just move accross and get to the microphone on the Dispatch Box?

Hon. Karani: Thank you, Hon. Temporary Deputy Speaker. I also want to join other Members in supporting this very important Motion by Hon. Mwaura. I am also a Member of the Catering and Health Club Committee. Sometime back, we were accused in this House of having travelled abroad. In fact, according to some FM radio stations, we had gone there to be taught how to put salt onto food. We felt offended. I travelled to India with the team. One of the things that we wanted to know are the measures which those developed countries take to take care of people living with disabilities.

As you know, as a result of the Constitution of Kenya, 2010, we have had several members living with disabilities with us in Parliament; both in the National Assembly and the Senate. We wanted to know how they are taken care of in meetings, dining places and in other places. I would like to correct the notion that we had travelled on very trivial grounds. We had travelled abroad on a very serious mission. When we present our report to the National Assembly, Members will agree with us that we were really on a noble mission.

The other thing which I would like to point out is very important. The National Assembly is putting up a building next to Continental House. I would like to challenge the leadership of this House to make sure that as they progress with the contract, they put mechanisms in place to accommodate the special needs of Members living with disabilities. This would be an opening.

I am very happy about the supermarkets that we have in our country. Whenever you visit a supermarket, you find that they have reserved some parking just next to the entrance for people living with disabilities. I challenge other institutions like banks and other public places to emulate supermarkets. We pity them. Sometimes we go to public gatherings and it rains during the meeting. You will find that even accessing their vehicles to shelter themselves from the rain is a problem. So, we need to challenge the various institutions in this country to consider the special needs of people living with disabilities as they design the infrastructure of their facilities.

With those remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, the Member for South Imenti.

Hon. Murungi: Thank you, Hon. Temporary Deputy Speaker for catching my eye after queueing here since morning to contribute to the previous Motions as well as this one.

I want to thank Hon. Mwaura and commend him for representing almost six million Kenyans who are living with disabilities. Hon. Mwaura is representing this group as a legislator. I want to thank him.

I support the Motion because what we are talking about in this Motion today is in our Constitution. What we need to do is to ask ourselves why the Constitution is not being implemented the way it should. Some of the issues in this Motion, especially access to buildings, roads and other social amenities are advocated for in the Constitution. I do not think it is very expensive for the proprietors or the owners of the existing buildings to be reprimanded to make sure that they are compliant with these rules so that people living with disabilities can access the services being offered at those premises. The Parliamentary Service Commission (PSC) should see to it that, at least, we start from here. It is unfortunate that a Member has never been upstairs to the Hon. Speaker's Office or to the Clerk's Office because there is no ramp. Therefore, these are the things that we should start from here.

Secondly, as Members of Parliament we have access to Constituencies Development Fund (CDF). We are building schools and other facilities, but are we also adhering to what we are talking about. Are we ensuring that the money we are giving to schools--- Sometimes, we are doing storeyed facilities such as administration blocks. Are we complying with these requirements of the Constitution?

Therefore, if this starts with us, we will be able to move forward. The people who are responsible for the implementation of these guidelines, especially at the county level, are the public works officers who approve building plans. At the national level, we have the Ministry of Public Works and Housing. We should task them to do an audit of all the buildings which have come up after the passing of the new Constitution in 2010. How many buildings are not compliant as at this day?

That is because so many buildings have mushroomed since the year 2010. I have seen so many buildings even in this city that have mushroomed since the year 2010. So, are those buildings compliant? It is important that we make sure that laws are adhered to, to the best of our ability. I am happy that the CDF Board has taken a keen eye on the mainstreaming of Persons with Disabilities (PWDs), especially in the performance contract that has been signed by the Constituencies Development Fund Control (CDFC) and the fund accounting managers in each and every constituency of this country.

Therefore, I acknowledge that the mainstreaming of PWDs, alcoholism and HIV/AIDS is the way to go. Every institution and organization, if they mainstream these issues, we will be moving in the right direction. I thank the Jubilee Government for ensuring that the 30 per cent of the procurement quota goes to the marginalized groups. It is the first Government ever, since Independence, which has recognized that we have people living with disability. I am happy that if we have Ksh1.6 trillion, 30 per cent of that procurement will go to PWDs.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for South Imenti, even if you are talking about PWDs, the issue is not PWDs. The issue in the Motion is the structures. So, limit yourself. Do not go to tenders. Tenders have nothing to do with structures.

Hon. Murungi: Hon. Temporary Deputy Speaker, I am recognizing the efforts that have been---

The Temporary Deputy Speaker (Hon. Kajwang’): No, I want to keep you on the track where you are. I know it is nice to talk about all those things, but keep yourself to designs and works.

Hon. Murungi: I understand where you are coming from, but let me stick to the buildings.

(Laughter)

The Temporary Deputy Speaker (Hon. Kajwang’): Where I am coming from? It is about relevance.

Hon. Murungi: Therefore, let me thank the Hon. Member for coming up with this Motion. I was trying to improve my debate by going to other areas which also have been---

Thank you for the chance that you have given me. I thank the Hon. Member for what he has done. Personally, every infrastructure that will take place in my constituency will adhere to the building code to ensure that PWDs are able to access all the facilities that we will construct. This goes to other Government departments to do the same.

I will make sure that the PWDs will benefit from the 30 per cent procurement quota. Thank you.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member for Seme, how can we help you? I do not see you on my list. Can you have the microphone? Put an intervention. That is the way to do it.

Hon. (Prof.) Nyikal: Thank you. I wish to make three amendments to this Motion. They read as follows:-

- (i) To delete the word “urges” in line 9 and replace it with the word “resolves”.
- (ii) To delete the word “Government” in line 10 and replace it with the following words “National Construction Authority (NCA), Kenya Bureau

of Standards (KBS), National Director of Physical Planning (NDPP), County Directors of Physical Planning (CDPP)".

(iii) Delete the word---

The Temporary Deputy Speaker (Hon. Kajwang'): Sorry, Hon. Member for Seme. Take us gain more carefully. That is to substitute the word "urges" for "resolve".

Hon. (Prof.) Nyikal: The word "Government" in line 10 and replace it with the following words "National Construction Authority, Kenya Bureau of Standards, National Director of Physical Planning and County Directors of Physical Planning".

iii) Delete the word "Makes" in line 10 and replace with the following words:-
"Provides Parliament with a clear plan of action with timelines for making"

Hon. Temporary Deputy Speaker, it will then read as follows:

THAT, this House resolves that the National Construction Authority, Kenya Bureau of Standards, National Director of Physical Planning, County Director of Physical Planning make the necessary structural adjustments to all public buildings, Government Ministries, departments and agencies to make them more user-friendly to persons with disabilities.

The Motion will again read:

"...provides Parliament with a clear plan of action with timelines for making necessary structural designs for all buildings. I hope I am clear.

The Temporary Deputy Speaker (Hon. Kajwang'): Just a minute. Let us clean up this. First of all, I hear you. The reason I have recognized you is because in many of these Motions, you see them first on the Order Paper and Members do not have the opportunity of interacting with them earlier so that they can propose amendments. That is why very rarely we allow that type of amendment to come from the Floor.

You seem to have good intention, but you probably have done it in a hasty manner. You need to clean it up. "Resolves" looks okay. If you are looking at your notes, the first amendment looks okay, but when you mention departments like the National Construction Authority, Kenya Bureau of Standards, National Director of Physical Planning, County Director of Planning and so on, there are three questions that hang in my mind. One, whether in the law establishing those authorities, they have statutory powers to do what you are asking them to do. I would have to check that. It may or it may not. I will have to take time to check that to be sure that, that is the truth.

Two, I see that the original Motion already has several agencies. It is urging the Government to make necessary structural design adjustments to public buildings, Government Ministries, departments, and agencies. It seems to me that it is already talking to all these agencies that you may want to mention. I would advise you, without dissuading you to drop those specific departments that you have mentioned, to remain on the original intention of the Motion. You can suitably change by "resolving" instead of "urging", as you may wish.

Hon. (Prof.) Nyikal: I follow that. Hon. Temporary Deputy Speaker, I discussed with the Mover and he was of the opinion that we should be more direct. I am also aware that we can drop that and leave the word "Government" because the Government will have all those---

The Temporary Deputy Speaker (Hon. Kajwang'): My only problem is that it will take me time to confirm if those departments you are mentioning have the power within their laws to do what you are asking them to do. I have said they may or may not but it will take time. I would have to look at your amendment later on in the office. If you want to move it right now, it is

easier for me if these departments were dropped and you only mention them as agencies. It is your choice.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, I know that structurally, if you put the word “Government” and if you do not go on and put the various departments of Government, it is still within the Government’s power to instruct those departments. If I can persuade the Mover to do that, then we will drop amendment No.2 and leave that as the Government.

The Temporary Deputy Speaker (Hon. Kajwang’): Can you refresh yourself and speak on the HANSARD, on the amendment that you want us to take?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, if I would not know the feeling of the Mover on---

The Temporary Deputy Speaker (Hon. Kajwang’): No. This is not about the Mover. You are the owner of this amendment. So, you are one to one to make the decision.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, I drop the amendment No.2 which says---

The Temporary Deputy Speaker (Hon. Kajwang’): Can you start afresh so that we are very clear on what you want to amend and what you do not want to amend?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, I beg to move the following amendments:-

(i) Delete the word “urges” in line 9 and replace with the word “resolves”

(ii) Delete the word “makes” in line 10 and replace with the following words: “provides Parliament with the clear plan of action with timelines for making necessary structural design adjustments” and so on.

The Temporary Deputy Speaker (Hon. Kajwang’): Just repeat this for me. Provides Parliament with clear what?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, “a clear plan of action with timelines for making the necessary structural adjustments to all public buildings, Government structures---”

The Temporary Deputy Speaker (Hon. Kajwang’): So you move.

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, I move those amendments.

The Temporary Deputy Speaker (Hon. Kajwang’): Can I just give you one minute to explain yourself?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, why I think these amendments are necessary - and I hope that you will give me time to contribute to the Motion as amended - is that all that we are asking for are in the Constitution, in law and even in regulations. All that is required is for the Government to take action and put them in place. That is why I am saying that instead of using the word “urges” I want the word “resolves” which I know is more forceful.

As regards amendment No.2, if this amendment forces the Government to put a clear plan of action with timelines, then we expect that the Committee on Implementation can follow up very clearly and say when this is supposed to be done and check if it has been done. Very often, we pass very many Motions that are saying “urge” but nothing happens. There is no way of monitoring how you are urging and how somebody is doing something they are urged to do. If you have a clear plan of action and that has been resolved, then you are duty-bound to take action. That is the object of my amendments.

The Temporary Deputy Speaker (Hon. Kajwang'): Who shall second these amendments?

Hon. (Prof.) Nyikal: Hon. Temporary Deputy Speaker, I will ask Hon. Wamunyinyi to support the amendments.

The Temporary Deputy Speaker (Hon. Kajwang'): Yes, Member for Kanduyi. I do not see you on my intervention list.

Hon. Wamunyinyi: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to second the amendment. I am not sure what is exciting Hon. Kabando wa Kabando.

The Temporary Deputy Speaker (Hon. Kajwang'): I do not think the Member for Mukurweini is excited but, definitely, nominated Member Sakaja is. I am sure you must be discussing issues of mutual interest. There are similarities in physique. I am sure that he is excited.

Hon. Wamunyinyi: He is my brother. We appreciate the Motion by Hon. Mwaura as it seeks to alleviate the problems that are faced by people with disability. For it to have the strength, not just to wish that we resolve this problem, it is necessary to pass a law that will direct action to be taken. It is a resolution that this House needs to make to ensure that these actions are taken. It is, in fact, intended to increase personal safety and independence of people with disability, so that they are able to move about even in the community, workplaces, homes and so on.

What is important here in this Motion is to ensure that facilities that are available in places like Parliament, for instance, should be able to facilitate Members to move to any part of Parliament buildings so that they can execute their tasks. They should be independent and able to undertake any action that they want. This Motion is very important for us and it is not limited to facilities in places like ours. It should include public institutions where ramps, toilet support equipment and bathrooms should be provided. Public places and even buses should have facilities for people living with disability. Public transport buses should be made to comply to ensure that people with disability are able to board independently, without being supported.

In view of the fact that this is a constitutional requirement, we will be going a long way in ensuring that all Kenyans, regardless of their status in the community, enjoy their rights.

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

Thank you.

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

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Members, let me direct as follows as we discuss the amendments: We should know why sometimes Motions read "urges", and at other times read "resolves". You may do things which may be unconstitutional. They may be constitutional but they can also present logistical problems when it comes to implementation. First of all, in as much as for persons with disabilities, under Article 54 of the Constitution this is a fundamental right, there are those rights which are not under the Fifth Schedule, whose implementation is progressive, for instance, the right to housing, health, *et cetera*. When you resolve as a House, you are making that right more superior to other rights by requiring its enforcement ahead of other rights that have been provided by the same Constitution.

I am just directing; I am not debating. The decision is yours, but you need to know that, that is what we are trying to do. You also need to find out whether the Government is able to implement the resolution of the House in the manner in which you are putting it. There are Bills of Rights in the Fifth Schedule, which we are required to make statutory interventions for their implementation right away. There are those rights which the Constitution has found to be progressive. Those are the directions you need to have in your mind as you debate the amendment.

Hon. Birdi Sunjeev, do you want to discuss the amendment? Remember, we are not on the Motion itself. We are discussing whether or not we should amend it in the manner in which Hon. Nyikal has proposed. Do you want to contribute to the amendment?

Hon. (Ms.) Sunjeev: Yes.

The Temporary Deputy Speaker (Hon. Kajwang’): Please, proceed.

Hon. (Ms.) Sunjeev: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I would like to support the amendment by Hon. Nyikal. The reasons are valid. Going by your direction, it is very important for hon. Members of Parliament to make their worthy contributions to the amendment. I hope you will later on give me a chance to contribute to the amended Motion.

Thank you very much, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Are you done?

Hon. (Ms.) Sunjeev: Yes, I have just said that I hope you will be able to give me a chance to contribute to the amended Motion later on.

The Temporary Deputy Speaker (Hon. Kajwang’): Definitely yes, but we are on the amendment.

Hon. (Ms.) Sunjeev: I just did. I have already given my justification. Thank you very much.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much.

Member for Ndhiwa, you are contributing to the amendment, not the Motion?

Hon. Oyugi: Yes, Hon. Temporary Deputy Speaker. I would like to, first of all, thank Hon. Nyikal for the amendment that he has moved. But even as I thank him and support his amendment, what you have just said is very important. If, as a House, we resolve that the Government makes the necessary structural adjustments, it will simply mean that action should be taken immediately. But this sort of right ought to be sanctioned in a progressive manner. I think one of the things that Hon. Nyikal needs to consider is adding the words “progressively adjusting the structural adjustments”. Otherwise, it is not possible to realize the economic and cultural rights or the rights of marginalized persons through his proposal. I would like us to be fairly clear. It is possible that the intention of this particular Motion is very good. As Hon. Tim Wanyonyi spoke, some things already existed in law. These are the only things that are lacking in terms of implementation. The best way forward, as we try to implement these things, is to, for instance, ensure that the National Construction Authority (NCA), who have the particular mandate of ensuring that physical places are accessible to people with disability, respond to Parliament. A Motion of this kind can even be subjected to the Committee on Implementation. It can be canvassed by the NCA when they appear before the Committee to explain what they have done to meet their constitutional obligations. What Hon. Nyikal has done is good because it gives life to the Motion.

Hon. Sakaja: On a point of information, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Ndhiwa, would you like to be informed by Hon. Sakaja?

Hon. Oyugi: I am happy for him because he wants to run against Governor Kidero. I am happy to be informed by him.

The Temporary Deputy Speaker (Hon. Kajwang’): Nominated Member, this is your opportunity to give the information.

Hon. Sakaja: Thank you, Hon. Temporary Deputy Speaker. I am glad I have supporters from both sides of the political divide. I just want to inform the Member. Of course, I will speak more to it later on, if you give me an opportunity.

Part of the mandate of the Committee on National Cohesion and Equal Opportunity, which I chair, is to look at issues of persons living with disabilities. We are mandated to deal with the specific matter. We met with the NCA yesterday so that they could tell us what they are doing in terms of amendment to the building code. All these issues must be included in the building code for buildings moving forward.

I also invited Hon. Isaac Mwaura, who attended. I am just following up your suggestion that NCA be invited to the Committee. This is an ongoing process. I will be glad to report to the House later on about the progress that has been made by the Committee on this issue.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Ndhiwa, with that information, can you wind up?

Hon. Oyugi: Thank you, Hon. Temporary Deputy Speaker. Hon. Sakaja has rightfully informed me. Before I wind up, let me say that, that is the direction we want to take as a House. To come up with Motions that urge the Government to take certain action without action being taken, in terms of questioning the implementation agencies, would be making this House to act in vain. As Members of Parliament, we ought to be using the time of the House in a manner that gives life to the laws that we make as well as give effect efficiently. That is the way we ought to go.

We should be asking in the next meeting of the Committee on National Cohesion and Equal Opportunity how far they have gone in terms of improving the building code. I will be asking the various engineers how far they have gone in terms of implementing the building code to ensure that the rights of persons with disabilities are not violated.

I would like to thank Hon. Mwaura for initiating the Motion. I also thank Hon. Nyikal for moving the amendment. I will speak adequately to the whole Motion once the amendment is approved.

I support the amendment.

The Temporary Deputy Speaker (Hon. Kajwang’): Alright. Do you support?

Hon. Oyugi: I have said that I support the amendment, and that I will speak formally to the whole Motion.

The Temporary Deputy Speaker (Hon. Kajwang’): You began like you were opposing the amendment.

Hon. Oyugi: No, I did not. Let me make it very clear, I am happy that Hon. Sakaja was listening to me. I raised the concern that we should not be making resolutions when, as a House, we have various tools for ensuring that our resolutions are implemented. I am happy that he was listening because his Committee is already seized of the matter in a manner that gives it life and effect.

Once again, I support the amendment.

The Temporary Deputy Speaker (Hon. Kajwang'): All right. The last one to speak on this amendment will be Member for Mukurweini. Please, do not discuss Hon. Mwaura's Motion because you will be colouring it. Hon. Mwaura's Motion is before the Assembly and it will be treated fairly. To make remarks on a matter you are already seized of as a Committee is fair, but such comments should come in the discussion of the Motion itself, not in an amendment.

Hon. Kabando wa Kabando: Hon. Temporary Deputy Speaker, I rise to oppose the amendment entirely, aware that this is a very sensitive Motion. The tone and content of one's contribution could easily be misconstrued to mean that one is not seized of the importance of the Motion before the House. I do so for purposes of being practical. The spirit of a Motion of this nature is a call, challenge or request to the Executive to put in place the necessary systems that will be enacted into regulations or subsequent Bills or to activate an existing framework in order to actualize a system that will benefit the very spirit that is being called upon by the Motion. I have not seen, for the nearly eight years I have been here, with all due respect to the Member for Seme, Dr. Nyikal, that in a Motion of this nature, we actually list exact administrative actions that need to be taken. Number two, that we even provide timelines in a Motion. Even in the Constitution which is the script for national governance, there are appendices like schedules to guide implementation. In the case of this Motion, and I know people with disabilities are watching and are very keen to know what we are doing in this House, our duty is to make sure that this call is accepted. That is why I will be supporting this Motion as originally stated. Thereafter, the relevant Government agencies, including the National Council for Persons with Disabilities (NCPWD), will embrace this matter.

In the Motion, we urge the Government, and there is only one Government, to put in place the necessary infrastructure to facilitate mobility of people with disabilities. Adding anything beyond that will appear as if we want to micro-manage the call that is originally stated, and that will be disastrous. Again, if we accept the amendments as being proposed by the great leader from Seme Constituency, we will be tying not just Parliament, but the Government to timelines that may not be achievable. I am not saying that it cannot be done today or that the budget allocations should not be done tomorrow, but we need to be fair to the expectations of the people. We also need to be practical and realistic so that the achievements are realised sequentially.

In conclusion, I have canvassed with Hon. Mwaura and even as we sit here, we are still canvassing with him through WhatsApp. I am very sure that the original spirit of this matter is well thought out. So, with a lot of consciousness, sensitivity and appreciating that the buildings we are constructing in Mukurweini, including the constituency office, are being constructed in total compliance with the needs of persons with disabilities, I persuade my great friend to drop the amendment so that we proceed with the Motion.

Hon. (Prof.) Nyikal: On a point of information, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): There is a point of information. Would you want some information from the Member for Seme?

Hon. Kabando wa Kabando: If he allows me to conclude my point.

The Temporary Deputy Speaker (Hon. Kajwang'): I am asking whether you want to receive the information.

Hon. Kabando wa Kabando: Yes, Hon. Temporary Deputy Speaker. I am ready for Seme any time. Seme and Mukurweini are inseparable.

(Laughter)

The Temporary Deputy Speaker (Hon. Kajwang'): Alright. The Member for Seme.

Hon. (Prof.) Nyikal: Thank you, Hon. Temporary Deputy Speaker. Thank you, Hon. Kabando wa Kabando, for accepting to receive the information. The information is that the Persons with Disabilities Act actually has timelines on when certain sections of that Act should come into force. That is really what has not happened. So, my amendment is not to force certain timelines, but to allow the Government to choose its own timelines. That provides progressiveness. That is the position I am coming from.

The Temporary Deputy Speaker (Hon. Kajwang'): The Member for Mukurweini already has that information because it is in the law.

Hon. Kabando wa Kabando, can you wind up within a few seconds?

Hon. Kabando wa Kabando: Hon. Temporary Deputy Speaker, having spent some time trying to explain my fears and trying to intellectually seduce the Mover of the amendment, for purposes of not being---

The Temporary Deputy Speaker (Hon. Kajwang'): Seduction is the art. We are here to seduce both sides.

Hon. Kabando wa Kabando: Hon. Temporary Deputy Speaker and my senior at the University of Nairobi, for purposes of not creating any iota of opportunity to be misunderstood and because there is no harm, although the amendment is not going to have any real legislative impact, I withdraw my opposition to the amendment. I support the amendment so that the Seme spirit is carried.

I support the amendment, Hon. Temporary Deputy Speaker.

(Laughter)

The Temporary Deputy Speaker (Hon. Kajwang'): Order! Order!

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

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

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

(Applause)

(Question of the Motion as amended proposed)

The Temporary Deputy Speaker (Hon. Kajwang'): Now, we proceed to debate the Motion as amended.

Hon. (Ms.) Tobiko: *(Inaudible)*

The Temporary Deputy Speaker (Hon. Kajwang'): Sorry, is there an intervention that I have ignored? I probably may not have ignored it. It may not have been brought to my attention. The Member for Kajiado East, are you on an intervention?

Hon. (Ms.) Tobiko: Thank you, Hon. Temporary Deputy Speaker. Initially, I had intended to contribute to the amendment, but now I can contribute to the Motion as amended.

The Temporary Deputy Speaker (Hon. Kajwang'): No. I have recognised you on account of your intervention. Unless that is the---

Hon. (Ms.) Tobiko: My exact point of concern is if we could further amend the Motion, particularly on the issue of involvement of NCPWD in approving all new public structures. As Hon. Sakaja had mentioned, the Joint Committee on National Cohesion and Equal Opportunity has been engaging the National Construction Authority (NCA). Hon. Mwaura was with us yesterday as we engaged the NCA. I was just wondering whether we will be confusing Government institutions because I do not think NCPWD has the necessary capacity and expertise to approve all public structures. So, I was thinking if we could---

The Temporary Deputy Speaker (Hon. Kajwang'): You have a valid point, but it is a point which you should raise as a contribution to the Motion. If you wanted to move an amendment, you know what you would have done by now. We would be having a text of that amendment. Now that you do not have it, I will give you an opportunity at some point to make a contribution by either opposing or supporting the Motion as it is on the Floor. So, just bid your time.

Hon. (Ms.) Tobiko: Okay, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Suba, where are you? I had mentioned you some time and you were not in the Chamber.

Hon. Ng'ongo: Yes.

The Temporary Deputy Speaker (Hon. Kajwang'): Can you now continue.

Hon. Ng'ongo: Thank you, Hon. Temporary Deputy Speaker. I want to make my contribution to the Motion as amended. First of all, I appreciate the attempts to even further amend this Motion, but I am only urging my colleagues that this just being a Motion, we probably can now reserve any future further amendments to possible legislation, which I know hon. Mwaura or any other Member are likely to bring to this House.

First, allow me to thank hon. Mwaura as a true representative of the people he came to represent in this House. It is not the first time that I see him bring Motions and even use his membership of the Budget and Appropriations Committee to make sure that budgetary allocations go to areas that affect persons with disabilities.

Hon. Lati: On a point of order.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Suba, just hold on a little. Member for Samburu West, you are on a point of order?

Hon. Lati: Yes, Hon. Temporary Deputy Speaker. Hon. Mbadi is a good friend of mine and I have nothing against him. But is it fair for those of us who have been sitting in this House to wait for hon. Mbadi to get a second chance? When you called him the first time, he was not in. Some of us were just sitting here. I respect him and I have all the love for him, but it is not fair for all of us to sit and wait for him to run his errands and come back to the House and overtake the queue. That is my opinion. I say it again that I have nothing against the hon. Member. He is a good friend of mine, but I think fairness would call that if I sat through the House and he went out, he should not have a second chance when I have not had a first chance.

The Temporary Deputy Speaker (Hon. Kajwang’): I will reserve my ruling on that because I do not think it is in any case directed to the Member of Suba. I think it is a discussion to the Speaker on his discretion to recognize members. I will still reserve my ruling on it.

Yes, proceed Member for Suba, without responding at all.

Hon. Ng’ongo: I will not. Hon. Lelelit is a good friend of mine and I know he raised it with a light touch. Actually, I did not walk out. I was just around, and you know where, probably, I could have visited---

As I was making my contribution, I said that this is not the first time that I have seen Hon. Mwaura make very serious and deliberate proposals to help support the people that he represents. I want to tell everyone that, as a matter of fact, physical conditions are never permanent and, maybe, even those of us who do not have visible disabilities--- I say “visible” because you can hardly find someone who does not have any form of disability. I mean those of us who do not have visible disability that is not a permanent condition. Even if you do not have a condition of disability, you have relatives, friends, colleagues and other Kenyans and you are a member of humanity. We need to be sympathetic and deliberate on whatever we can do to support those with different levels of disabilities and as they say “disability is not inability”.

Having said that, Kenyans in their wisdom, through Article 54 of the Constitution, made it deliberate that as we design educational institutions and other facilities, we need to make them accessible to persons with disabilities. That is a constitutional provision. Therefore, it is important that we recognize that in all places, whether in public transport or other facilities, there is reasonable access for those members with disabilities. It is only that we are very slow and reluctant in attempting to implement Chapter Four of the Constitution, which has very good provisions built in it in terms of enjoyment of rights.

Hon. Temporary Deputy Speaker, this Motion is another confirmation of our slowness in terms of actualizing the provisions of the Constitution. How I wish that after passing this Motion, we will have hon. Mwaura move it further to legislation! I even suggest that even though we are talking about public places, public transport and public buildings, even for private buildings, this provision in the Constitution does not confine the enjoyment of those rights only to public facilities. We should go further even to demand that those who are putting up private buildings make provisions for facilities that would enhance access to those buildings by those persons living with disabilities.

It is important - whether it is a public or private institution - that the issue of disability is recognized. I am happy that hon. Sakaja has talked about the Committee on Equal Opportunity looking into this matter, but even without legislation and specific statutes, the provision of the Constitution alone needs to condition us to respect the wishes, desires and needs of the disabled. You will allow me to say that for Article 54, the State has a responsibility. In this case, the Government that is in power must have a progressive strategy to implement the principle of having the disabled occupy at least 5 per cent of public appointments, whether it is elective or appointing bodies.

Many a times, we only hear people complain when the gender principle is violated. We rarely complain when the principle that is provided in the Constitution of having persons with disability fairly represented in our both elective and appointive positions is violated. We do not take cognizance of that. As we approach 2017 and debate the issue of gender principle, we need to also discuss the principle of disability. This is a principle that we need not discuss just in the

confines of accessing buildings, information and institutions, but also in totality as prescribed under Article 54 of the Constitution. That is what I would talk about.

I want to also remind us that just a while ago, there was uproar about Kenya Airways mistreating a disabled person. That report has not been made public. What happened?

Hon. Members: It was not Kenya Airways, it was Fly 540.

Hon. Ng'ongo: No! There was also a case of Kenya Airways. I do not know if there was another one of Fly 540.

Hon. Dawood: On a point of order.

Hon. Ng'ongo: But whatever it is, we need action to be taken against those institutions that are violating laws and not supportive of persons with disabilities. By the way, as I wind up my contribution, I see hon. Dawood is on a point of order. Probably, it would be of benefit. I do not know whether the Temporary Deputy Speaker heard him.

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Suba, wind up your submission. Can you speak to the Speaker?

Hon. Ng'ongo: I was just alerting the Chair, in case he did not hear him. But if you have confirmed you heard him and felt it was not necessary, then I can proceed.

When you go out there in the developed countries, you will see the way persons with disabilities are treated. Then you will really sympathise with our society. This society does not even respect the elderly - those senior citizens of this country. We are in a society that does not respect such people. You will find young people who just joined politics the other day insulting people who have made very serious contributions. I am happy that Hon. Sakaja, who joined politics recently, is not behaving in that way because he is mature. I see---

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member, I know you are making this debate lively because it is around lunch time. You are referring to delinquent Members or Members who throw tantrums. How is that related to issues of disability?

Order, Members! I cannot trace which constituency you come from. Peris Tobiko is the Member for Kajiado East. Do not put up your hand because you are sitting next to her and you have just arrived. She has brought to my attention something which has been lingering in my mind, Hon. Isaac Mwaura. I want us to dispose of this. Your Motion is placing responsibility on an agency which, in law, does not bear that burden. That is what has been running through my mind throughout, even before the amendment by Hon. Nyikal. Everything here seems to be alright until one gets to the last sentence which states:-

“---and that the National Council of Persons with Disabilities approves all new public structures to ensure their designs are compliant to minimum accessibility standards.”

I have asked the Clerk-at-the-Table to bring a copy of the Persons with Disabilities Act under which that Council has been set up. In Section 7, its functions do not include what you are asking them to do. In the National Construction Authority Act Section 5(2) under the functions of the Authority, you will find that the Authority has powers to accomplish what you are proposing. I do not want to waste time on this. Is it possible to quickly amend this Motion so that we give the responsibility to the correct body that has the structure and tools to deal with that information as guided by the law? This is something which the proposer of the Motion would be better placed to deal with.

Nominated Member, can you put your card in the intervention slot? I need to recognise you.

Hon. Mwaura: Thank you, Hon. Temporary Deputy Speaker. I was cognisant of that reality when I was drafting this Motion. Section 24 of the Persons with Disabilities Act gives powers to the National Council of Persons with Disabilities (NCPWD) to issue adjustment orders. Those adjustment orders are about modifying buildings to meet the needs of persons with disabilities (PWDs).

The Temporary Deputy Speaker (Hon. Kajwang'): Is the word "issuing" the same as the word "approving"? "Approving" seems to include the idea of giving out licenses and stating whether a design is correct or incorrect.

Hon. Mwaura: Exactly, Hon. Temporary Deputy Speaker. The National Construction Authority (NCA), which we met yesterday, does not have the capacity or the expertise to do that work. If we were to---

The Temporary Deputy Speaker (Hon. Kajwang'): But the law has provided that they have the necessary tools to---

Hon. Mwaura: No, they do not. Even yesterday when they made their submissions, it was clear that they do not. We may want to work in conjunction with the National Construction Authority. That would make sense. We have the minimum---

The Temporary Deputy Speaker (Hon. Kajwang'): I am trying to save your Motion from being brought down in the sense that it is giving a burden to a body which does not have the authority. If you can quickly amend it, it would be fine. But if you want to sustain it, then we will just put the Question and your Motion may suffer uncalled for consequences. This is a very good Motion which needs to be acted upon by someone.

Nominated Member, Hon. Johnson Sakaja.

Hon. Sakaja: Thank you, Hon. Temporary Deputy Speaker.

(Hon. Wamunyinyi spoke off the microphone)

I am also a party leader, Bwana Wamunyinyi. I can see your beard is growing like mine.

Hon. Temporary Deputy Speaker, I would just like to give the House some insight on this issue. This is a matter that we have been dealing with. As recently as yesterday, we had an interaction with the NCA on this issue. The main motivation for dealing with this issue as a Committee is the fact that---

The Temporary Deputy Speaker (Hon. Kajwang'): Please help us on the specific issue that I have asked Hon. Isaac Mwaura to deal with.

Hon. Sakaja: Even as he drafts the amendment, I was just giving---

The Temporary Deputy Speaker (Hon. Kajwang'): No. He is just thinking through the amendment. Can you help him through and reinforce this?

Hon. Sakaja: The problem is as follows: This country has what we call a building code. The building code that we have was done in 1968. At that time, no one considered matters of PWDs and issues of access. We have only recently created the NCA that has the mandate of reviewing and approving all of those kinds of constructions.

When we met them yesterday, part of the challenges they are facing was that first, there are 10 pieces of legislation regarding the construction industry. Those pieces of legislation need to be harmonised so that the new building code, which is being worked on, is anchored on some piece of legislation. The first thing that needs to be done is to amend the existing law. Even if you pass this Motion today, there is no mechanism to implement it.

The Bill that is being worked on is called the Built Environment Bill, on which we will anchor the new building code. All of Hon. Mwaura's concerns have been put into detail, including minimum width of corridors, the issue of ramps in public buildings, handles in lift and voice-recognition devices in lifts for those who might be blind. All these issues of access have been catered to. Many of our proposals are borrowed from the American Disabilities Act. They have been put in there to make sure that all of those access issues are addressed.

The NCA is the body that is mandated to approve all the constructions to make sure that it is in line with the building code. The first step in the process is to make sure that these provisions are in the building code.

Secondly, the legislative framework through the Built Environment Act transfers that aspiration, which you have mentioned is in the Persons with Disabilities Act. The Persons with Disabilities Act just says that, that must be taken care of. If you would take my advice, you could amend your Motion to state that as the NCA undertakes this work, it provides for the inclusivity of PWDs. The NCPWD can have a member joining the NCA. That will require you to amend the Act that creates the NCA. The Motion cannot transfer the authority of approving buildings from NCA to NCPWD. That means that they will be approving all buildings. The body with the capacity and expertise and is full of engineers, architects and quantity surveyors is NCA.

That is the point of interaction.

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Mwaura, the sponsor of this proposal, we can resolve a thousand things. We can say so much but those fellows at NCPWD also have powers which have been given to them by the same Parliament that is telling them to do this or that. They may as well just tell us to read them the section which allows them to do this or that and ignore you.

Hon. Members, we need something which we can follow up by implementation and then hold them accountable and say: "Why did you not do this and yet, you have legislative power and authority to do it?" We do not want this debate to take too long. I do not know how I can come back to you Hon. Sakaja, but can I hear from Hon. Mwaura? Hon. Sakaja, please hold on.

Hon. Mwaura, please assist us so that we do not take too long on this debate.

Hon. Mwaura: Hon. Temporary Deputy Speaker, I am persuaded by the wisdom of the House. Let us domicile that responsibility to the National Construction Authority (NCA). But they should work in conjunction with the council because they have the---

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Mwaura, when I am hearing one last contribution on this debate, quickly draft an amendment so that we can go for lunch with an amendment before the Assembly.

Hon. Sakaja, I think you will second Hon. Mwaura when he brings his amendment. You can then put the information you want put across now. If you can work together, it will save us time. Member for Kaiti.

Hon. Makenga: Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this important Motion by my good friend, Hon. Isaack Mwaura.

(Hon. Wamunyinyi stood in his place)

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

The Temporary Deputy Speaker (Hon. Kajwang'): Member for Kanduyi, you are still in the old dispensation where people would stand and call for points of order. I am sure you have

served so many terms. Members no longer rise to call for points of order. What is your point of order?

Hon. Wamunyinyi: On a point of order, Hon. Temporary Deputy Speaker. I think we should not get away with this. Arguments have been advanced on this Motion and in the debate, they have been properly explained. I do not want to repeat. Hon. Temporary Deputy Speaker, the Motion is properly before the House and you have approved it.

The Temporary Deputy Speaker (Hon. Kajwang’): It was undoubtedly approved. Even when it is approved, Members are free to debate and find out the best way to reconcile it. That was not an intervention. I do not think that is a point of order.

Hon. Wamunyinyi: Hon. Temporary Deputy Speaker, what was it?

The Temporary Deputy Speaker (Hon. Kajwang’): It was a point of contribution. Can the Member for Kaiti have the microphone?

Hon. Makenga: Thank you, Hon. Temporary Deputy Speaker, for once again giving me this opportunity. At the outset, I want to thank Hon. Mwaura for bringing this important Motion - Accessibility to Public Buildings by Persons with Disability. Having noted that persons living with disabilities are close to about 6 million, there is need to enable them access some of the buildings and communications facilities. I have travelled to many countries in this world, and in the developed countries, people living with disabilities, particularly those who have disability in walking, are provided for. There are provisions for them in public transport. They can access communication means without being aided.

Hon. Temporary Deputy Speaker, therefore, there is need to urge the Government to ensure that people living with disabilities can access public transport just like any other people who are able to move from place to place.

Majority of persons with disabilities are poor. Creation of an environment that does not limit their active participation is important. It is important that, that section of people in this country is considered and an environment is created to ensure their active participation.

I agree with my colleagues who have spoken earlier that buildings should be made in such a way that people living with disability can access them. We should come up with a building code as a minimum and accessible standard for public buildings. This is something that should have been done sometimes back. That is because 50 years down the line, we are still struggling with making laws that seem to discriminate sections of the population. Therefore, that should be entrenched in the law. The bodies or agencies which are concerned with construction should ensure that buildings are made to the standard of accessibility by people living with disabilities.

You also find that even on the roads, people with disabilities are not thought of because access to pavements is not conducive for them. Therefore, I urge Government agencies that are mandated to oversee construction of roads to make provisions for pavements so that people living with disabilities can access them.

There are very few designated areas for people with disabilities. Even in Parliament Buildings, there are very few designated parking areas for their cars to assist them to move without difficulties.

It is important that those designated areas are provided in every institution. They should be more so that they do not encounter any problems when they are trying to park or accessing any building.

Therefore, I support this Motion. It is timely considering that we are 50 years down the line and we are still struggling with some of these laws which seem to be discriminative. Therefore, all buildings---

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Kaiti, I am sorry, that is all the time I had for you but, undoubtedly, you have a few more minutes, maybe, about three minutes. If you come on Wednesday, you will get your three minutes.

We have been on this Motion for some time but still, we have 45 minutes to debate it. So, those of you who still want to put their minds to it, you can come when it will be in the next Order Paper. Let me tell you Members, many of you in the Chamber may think that it is easy for the presiding officer to recognise Members here. There are diverse interests. I have heard many of you complain but until you are here, you do not know the thorns that are here. It is your right to have divergent opinion, including complaining but until you are here, you will not know what we go through.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Kajwang’): Order, Hon. Members! The time being 1.00 p.m. this House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.