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NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Tuesday, 25th July 2023

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeants-at-Arms, you may ring the Quorum Bell.

(The Quorum Bell was rung)

Clerks-at-the-Table, we now have Quorum to transact business.

PAPERS

Hon. Speaker: The Leader of the Majority Party. Hon. Naomi Waqo, are you the one? Go ahead.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

1. The Draft Veterinary Surgeons and Veterinary Paraprofessionals Act (Veterinary Medicines Directorate) (Amendment) Regulations of 2023 and the Explanatory Memorandum from the Ministry of Agriculture and Livestock Development.
2. The Reports of the Auditor-General and Financial Statements of the Kenya Universities and Colleges Central Placement Service's staff mortgage and car loan scheme for the years ending 30th June 2017, 2018, 2019, 2020 and 2021 and the certificates therein.
3. The Reports of the Auditor-General and Financial Statements of Laikipia East Technical and Vocational Training College for the years ending 30th June 2019, 2020, 2021 and 2022 and the certificates therein.
4. The Observation Report for the 2022 General Election in Kenya from the Elections Observation Group.
5. The Annual Report and Financial Statements of Pwani University for the year ended 30th June 2022 from Pwani University.
6. The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2022 and the certificates therein:
 - (a) Kianjai Technical and Vocational Centre.
 - (b) Katito Technical and Vocational Centre.
 - (c) Achege Vocational Training Centre.
 - (d) Chemasiri Technical and Vocational College.
 - (e) Ndia Technical and Vocational College.
 - (f) Tetu Technical and Vocational College.
 - (g) Ngong Technical and Vocational College.
 - (h) Gatanga Technical and Vocational College.

- (i) Chanzeywe Technical and Vocational College.
- (j) Narok South Technical and Vocational College.
- (k) Gatundu South Technical and Vocational College.
- (l) Mathioya Technical and Vocational College.
- (m) Bunyala Technical and Vocational College.
- (n) Ugunja Technical and Vocational College.
- (o) Nyakach Technical and Vocational College.
- (p) Bureti Technical Training Institute.
- (q) Bumbe Technical Training Institute.
- (r) Matili Technical Training Institute.
- (s) Tseikuru Technical Training Institute.
- (t) Sotik Technical Training Institute.
- (u) Wote Technical Training Institute.
- (v) Masai Technical Training Institute.
- (w) Konoin Technical Training Institute.
- (x) Michuki Technical Training Institute.
- (y) Kenya Urban Roads Authority.
- (z) Higher Education Loans Board.

Hon. Speaker: Thank you, Hon. Waqo. The Chairperson of the Committee on Delegated Legislation, Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

The Report of the Committee on Delegated Legislation on its consideration of the Excise Duty (Excisable Goods Management System) (Amendment) Regulations of 2023 (Legal Notice No.30 of 2023).

Hon. Speaker: Hon. Members, the first Paper to be laid, the Draft Veterinary Surgeons and Veterinary Paraprofessionals Act (Veterinary Medicines Directorate) (Amendment) Regulations of 2023 is referred to the Committee on Delegated Legislation for consideration.

Next Order!

NOTICE OF MOTION

Hon. Speaker: Hon. Umulkher Harun.

Is that not Umulkher? Is the Member seating behind Prof. Bartoo not called Umulkher? Ooh, she is not the one. The nominated Umulkher? Okay, the Member is not here. We will stay her Notice of Motion to tomorrow.

Chairperson, Committee on Delegated Legislation.

ADOPTION OF REPORT ON THE EXCISE DUTY (EXCISABLE GOODS MANAGEMENT SYSTEM) (AMENDMENT) REGULATIONS, 2023

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Excise duty (Excisable Goods Management System) (Amendment) Regulations, 2023 laid on the Table of the House on Tuesday, 25th July 2023 and pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013 annuls the Excise Duty (Excisable Goods Management System) (Amendment) Regulations, published as Legal Notice No.30 of 2023.

Hon. Speaker: Thank you, Hon. Chepkonga.

Before the next Order, Hon. Members, allow me to acknowledge, in the Public Gallery, the following schools:

1. Moi Forces Academy, Kamukunji, Nairobi.
2. Gathera Primary School, Maragwa, Murang'a.

Next Order.

MOTION

ADOPTION OF REPORT ON CONSOLIDATED FUND SERVICE EXPENDITURES FOR 2023/2024 BUDGET ESTIMATES

THAT, this House adopts the Report of the Public Debt and Privatisation Committee on its consideration of the Consolidated Fund Service Expenditures under the Financial Year 2023/2024 Budget Estimates, laid on the Table of the House on Wednesday, 21st June 2023.

(Moved by Hon. (Dr) Makali Mulu on 6.7.2023)

(Debate concluded on 6.7.2023)

Hon. Speaker: The Motion at Order No.8 was debated and closed. We now put the Question.

(Question put and agreed to)

BILLS

First Readings

THE INSURANCE (AMENDMENT) BILL
(National Assembly Bill No.18 of 2023)

THE VOCATIONAL TRAINING BILL
(Senate Bill No.3 of 2022)

(The Bills were read a First Time and referred to relevant Committees)

Hon. Speaker: Hon. Members, before Hon. Chepkonga moves the Motion, in the House Business Committee today, we noted that there is a backlog of Private Members' Business. Lots of Motions and Bills numbering in the hundreds are queuing for processing through the House. Consequent upon that, it was agreed that tomorrow, Wednesday, after Question Time, we will slot some two to three hours to continue with Members' Private Business. Those of you with Motions and Bills if they will be on the Order Paper, be available in the House to prosecute your business.

We are also considering, subject to your convenience, that if we continue having that backlog and I believe many of you bring Motions and Bills because you want them to be processed, debated and passed or rejected, as the case may be, we may consider introducing a

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Thursday morning Private Members Sitting so that we can reduce the backlog of business that is piling. Let us play by the ear and eye and see how tomorrow goes.

From next week we might call upon you to do extra time. We may even require, subject to your convenience, to extend sitting hours by an extra two hours to reduce this backlog. So, all Members with private business that is queuing at the Table Office and in the House, be available at short notice to prosecute your business.

Hon. Chepkonga, you may now move your Motion.

MOTION

ADOPTION OF REPORT ON THE VALUE ADDED TAX (ELECTRONIC, INTERNET AND DIGITAL MARKET PLACE SUPPLY) REGULATIONS, 2023

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, the House adopts the Report of the Committee on Delegated Legislation on its consideration of the Value Added Tax (Electronic, Internet and Digital Market Place Supply) Regulations, 2023 published as Legal Notice No.29 of 2023, laid on the Table of the House on Wednesday, 5th July 2023 and pursuant to the provisions of the Section 67(1) of the Value Added Tax, Act (No. 35 of 2013), approves partly the Value Added Tax (Electronic, Internet and Digital Market Place Supply) Regulations, 2023 published as Legal Notice No.29 of 2023 subject to the Regulation Making Authority, publishing a corrigendum to rectify the error in the provision on offences under Regulation 14.

The main objective and purpose of these Regulations is to provide for a legal framework to enable the Government implement the tax measures necessary for the financing of its economic development agenda. Most businesses have migrated from the real world to the digital space. And as a consequence of that, there are too many people who are trading now in the high cloud without landing on land. There has been serious competition between our local businessmen and businessmen from outside this country. Our own businessmen pay Value Added Tax (VAT) on electronic businesses. Unfortunately, those who are doing business from other countries using electronic means have not been paying Value Added Tax yet they have been sending their invoices to their customers in Kenya and avoiding to pay VAT. So, they have unfairly been competing with the businesses in our country. The end result has been that we have had a skewed market in favour of those who operate from outside this country. The increase in the use of the digital space has opened up the Kenyan market to the outside world, and thus allowing the non-residents to supply digital presence in the country.

The import of this is that such suppliers have not been paying VAT. This Regulation is, therefore, meant to correct that particular mismatch between the local market and the digital market operating outside this country.

The necessity of the Amendment of the VAT Regulation is to ensure non-resident suppliers who account for a large percentage of the digital market space in Kenya must register and account for VAT on supplies made in Kenya. The Committee scrutinised the Regulations in accordance with the Constitution, Interpretations and General Provisions Act (Cap 2), Value Added Tax Act (No.35 of 2013) and the Statutory Instruments Act (No.16 of 2013). The Committee noted that the Value Added Tax Regulations seek to provide for a legal framework to enable the Government implement the tax measures for financing its economic development agenda. The Regulations seek to ensure that the non-resident suppliers who account for a very large part of the business in this particular sector, are registered as vatable in this country.

We considered a number of parameters with regard to the Regulations. They were published on 14th April 2023 and they comply with the Statutory Instruments Act that requires the Regulations to be forwarded to the National Assembly within seven days of its publication.

The second thing that we considered is the adequacy and sufficiency of public participation, and consultation by the regulatory making authority so that they comply with Articles 10 and 118 of the Constitution. Indeed, they complied and supplied the necessary supporting documents to enable us recommend to this House that these Regulations be approved.

The third thing that we considered was that the regulation authority was expected to comply and ensure that all the suppliers of digital businesses in the market are sufficiently and adequately consulted when levying this particular tax on the suppliers. We found that all the parameters that are required under the Statutory Instruments Act were complied with. It is a very short Regulation which contains about five paragraphs.

I, therefore, beg to move and request Hon. Robert Gichimu, the Vice-Chair of the Committee on Delegated Legislation to second this Motion.

I, thank you very much, Hon. Speaker.

Hon. Speaker: Who is seconding? The Vice-Chair, Hon. Gichimu. Give him the microphone. Go ahead *Mheshimiwa*.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Speaker. I rise to second the Motion. The Chairman has substantially covered what the Committee considered in reaching the decision that is before this House save to add that the Committee was also satisfied that after the Regulations were brought before the Committee and published, there was no complaint from any player in the area of digital market and internet with regard to the Regulations.

In that case, the Committee also looked at the public participation that was done by the regulatory making authority and we were satisfied that all the parameters that were supposed to be considered by the Committee on Delegated Legislation were met and fully satisfied.

I must buttress that these Regulations are supposed to capture people who have been operating within the digital market and paying nothing to the coffers of Government through the regime of the Value Added Tax. These Regulations now seek to net and bring them under the same level with the people who have not been operating within the digital space and the internet.

There might not be much to say about this because the Committee on Delegated Legislation's mandate is limited to making sure that the Regulations abide with the Constitution, the relevant statutes, and that public participation done. I confirm just as the Chairman moved, that the Committee did just that.

Without much ado, I seek to support and second the Motion.

Hon. Speaker: Thank you. Order, Hon. Members.

(Question proposed)

Hon. Members: Put the Question.

Hon. Speaker: Before I put the Question, allow me to acknowledge the following Schools in the Public Gallery. They are Don Bosco Secondary School, Manyatta Constituency, Embu County and Ol Moran High School, Laikipia West Constituency, Laikipia County. In the Speaker's Gallery we have Chesinende Girls Secondary School, Kipkelion East Constituency, Kericho County.

Hon. Cherorot, the Member for Kipkelion East has asked me to give him a minute to acknowledge the students. On our behalf, kindly, acknowledge all the schools. The Member for Manyatta Constituency is also here. You, therefore, have two minutes each.

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Hon. Joseph Cherorot (Kipkelion East, UDA): Thank you, Hon. Speaker for giving me this unique opportunity to welcome all the schools that are seated in our Gallery this afternoon and more so, Chesinende Girls from my Constituency, Kipkelion East.

I want to encourage our students to take this opportunity to familiarise themselves with the functions of the Government. In addition to that, I also want to take this opportunity to thank you, Hon. Speaker and His Excellency, the Deputy President for coming to condole with us in my constituency when we experienced the grisly accident that happened at Londiani Junction. I also want to extend my gratitude to my fellow Members who also came to condole with us.

I want to thank the Government for assisting us. I, therefore, take this opportunity to support the Motion on the Value Added Tax (Electronic, Internet and Digital Market Place Supply) Regulations, 2023 because it will go a long way to help our youth.

Hon. Speaker: That matter is not open for debate yet.

Member for Manyatta. You have two minutes.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Speaker, for this opportunity to welcome the students and the visitors in the galleries, especially my good friends from Don Bosco High School, Manyatta Constituency, and also a young school called Kamviu Secondary School that is in the Senate. I want to tell them that this is a House that is very keen to seeing that there is improvement in education. We are here to ensure that our students get the best they can get. This is the same House that passed the biggest budget in the education sector ever since this country got Independence in 1963. It is so that we can see an improvement in what we are doing in the education sector. We are getting young people ready to face the world by equipping them with the right skills.

Hon. Speaker, Don Bosco High School has been catering for our very needy students. It has a lot of equipment because it is a missionary school. So, I also commend the missionaries who run the school. We shall continue supporting our school system and ensure that it performs the best it can.

Welcome all. Thank you very much.

Hon. Speaker: Thank you.

(Loud consultations)

Order, Hon. Members. My screen is full. I do not know if it is full for the debate on the Report of the Committee on Delegated Legislation or it is full just as it usually is.

Hon. Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker. I support the amendment on the regulations as brought by Hon. Chepkonga, the Chairman of the Committee on Delegated Legislation, to approve the Value Added Tax (Electronic, Internet and Digital Market Place Supply) Regulations, 2023, as published in the Legal Notice No.29 of 2023.

If you look at those regulations, you will find that it is only five paragraphs which need to be done. I appreciate that there must be a bit of fairness in terms of VAT. I know that VAT brings a lot of challenges to some people. They think that, maybe, the Government needs to be sabotaged so that it does not manage to collect enough money. That the Government should fail so that they can have something to say in the next election. I want to tell them to hold their horses and allow the Government to perform its duties. This is because every Government has a responsibility to collect taxes to enable it to make sure that its employees are well taken care of and services are provided to wananchi.

It is the same way all of us Members of Parliament demand that all the money for the National Government-Constituencies Development Fund (NG-CDF) has to be remitted to our various accounts so that our projects are completed. We have resumed from our short recess

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and many of us are happy that many of our projects are continuing. This is because whatever taxes the Government collected, it was able to remit all the money that each Member required in his constituency to perform his or her NG-CDF functions.

With those few remarks, I support these regulations.

Hon. Speaker: Thank you. Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, let me just make a few comments on this Motion. I take note of the fact that it is coming shortly after the forceful passage of the Finance Bill, 2023.

Hon. Speaker, in principle, trying to look for areas to get additional taxes is not a bad thing, especially these areas that have previously not been exploited like the electronic, internet and digital market places. It is a good thing. How I wish this kind of thinking informed the drafting of the now ill-fated Finance Bill, 2023. This is because any Government that is considerate of the plight of its people must think twice before bringing on board or before effecting additional taxes on the people. It makes much more sense trying to look for areas which have previously not been taxed, and then tax them, as opposed to continually adding more and more taxes on an already overburdened populace.

This should have been the best approach, rather than doubling the VAT on fuel yet you have got other areas which you could have explored like you are attempting to do with this regulation now. This is my point. In future, the mandarins in this Government should be more considerate towards the plight of the ordinary mwananchi, who is suffering under the burden of taxes.

I am also saddened to note that even as we debate this... You know that we live in a country that is governed by the rule of law. One of the cardinal principles, indeed, values under Article 3 of the Constitution, is that every citizen is under an obligation to respect the Constitution and enabling laws. It is, therefore, a saddening moment that this House can be sitting this afternoon to discuss among other things, new measures to raise taxes when the Government has blatantly disobeyed express court orders which suspended the operationalisation of the Finance Act, 2023. It is, indeed, a very sad day that we are seated here talking normally as if things are normal. What message are we sending to the people? What message are we sending to the international community? What message are we sending to possible future investors in this country if a whole Government can blatantly disregard an express court order?

By now I would have expected the Hon. Kimani Ichung'wah, my good friend, to have invited the Attorney-General here to explain to the Kenyan people, through their representatives in this House, why the Government has refused to obey an express court order which suspended the operationalisation of the Finance Act, 2023. As we sit here, Kenyans are being charged extra taxes when they buy fuel: a taxation which is outrightly unconstitutional and illegal based on the express court order. What example are you people in Kenya Kwanza Government showing the world? What example are you showing us?

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Yes, Leader of the Majority Party. Give him the microphone.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I rise on a point of order because I know the Leader of the Minority Party is a newly crowned lawyer, and I am not one, so he ought to know better than me...

Hon. Speaker: Leader of the Majority Party, lawyers are never crowned. They are admitted to the Bar.

(Laughter)

Hon. Kimani Ichung'wah (Kikuyu, UDA): Maybe it is because he is yet to be admitted to the Bar. I am sure that once he is admitted and joins your ranks and that of Senior Counsel Otiende Amollo, he will be privy to the rule of *sub judice* because the matters that he is going into are before court and are ably represented by Senior Counsel Otiende Amollo. I am sure that since the Leader of the Minority Party has not been admitted to the Bar, he is yet to appear in court. However, if he had the opportunity to appear in court, he would know that it is not fair to mislead the country that there is outright disregard for whatever court orders have been issued. He knows that the Energy and Petroleum Regulatory Authority (EPRA), which is in charge of regulating fuel prices, gave notice way before the court order was issued. Therefore, he cannot prosecute a new case. Since Otiende Amollo is here and he will be appearing in court very soon, I am sure that they know how to transact that business in court. We should not use this opportunity to mislead the country that the Attorney-General has in any way refused to adhere to any court orders.

Hon. Speaker, as the Speaker of the National Assembly, you have set a very good example. The President committed that this is a Government that will adhere to court orders. He knows that since the suspension of the Finance Act, the Government has subjected itself to the courts. We are all waiting just like my friends in the Azimio la Umoja Coalition are waiting for the decisions of the court. We do that with maximum respect for our Judiciary and our laws. Therefore, it is not right for us to get into issues that are *sub judice*. I am sure that the upcoming lawyer, Opiyo Wandayi, has learnt something.

Hon. Speaker: Hon. Opiyo Wandayi, your time was up. I will give you one minute.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, it has never been my wish to get into matters which are *sub judice*. However, it is clear and common knowledge that once a court makes a pronouncement on a matter, unless it is invalid or otherwise overturned through a legal process, it remains an order. Therefore, the Kenya Kwanza Government must comply with that court order. But again, you tell us to go to court, and yet the courts have been captured. The police have taken over the courts and do not allow anybody to go into the courtrooms. You recently saw the police physically manhandling journalists and litigants at Milimani Law Courts. Something is definitely wrong with the management of our courts.

Hon. Speaker: Thank you. Hon. Martha Wangari.

Hon. Martha Wangari (Gilgil, UDA): Thank you, Hon. Speaker. I rise to support this Report of the Committee on Delegated Legislation. I support it because the anchoring law is the Public Finance Management (PFM) Act. That is why even with approval, these Regulations have found their way to this House. A perusal of the brief Regulations indicates that they are basically trying to bring equity to the digital space. If Kenyans are paying taxes, why would we unfairly exempt foreigners?

Secondly, I support the Committee on Delegated Legislation because in the 12th Parliament, there was a lot of mischief from the Executive which used regulations as a backdoor to make laws that had serious ramifications. Even if the Committee on Delegated Legislation does not have the mandate to amend regulations, I pray that you look out for the public good and ensure that these Regulations go through public participation. Where you are not satisfied, do not shy away from annulling them, so that we can align them to the Constitution, the Statutory Instruments Act, and all legal frameworks in this country.

With those few remarks, I support the Motion.

Hon. Speaker: Thank you. Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, allow me to support the Report of the Committee on Delegated Legislation with respect to the Value Added Tax (Electronic, Internet and Digital Market Place Supply) Regulations, 2023. In a typical environment, you try to expand the tax base to include as many players as possible and avoid situations whereby you over-tax individual Kenyans doing their business.

There is a lot of traffic in the digital space, especially by young people and even older ones. There is a lot of money being made and revenue being collected, therefore, as we always say, you must surrender part of what you earn to the public good for purposes of enhancing social welfare.

The problem in this country has never been payment of taxes. The problem has essentially been the way taxes are structured. We do not achieve equity and taxes are burdensome to some categories of people. But most annoyingly, taxes remitted by Kenyans never end up doing what they were supposed to do. That is why you will forever encounter resistance from Kenyans when it comes to the amount of taxes that we are asked to pay.

Hon. Speaker, as I conclude, I must commend the Committee on Delegated Legislation, which you and I had the opportunity to sit in in the 12th Parliament. The first point that we must always look at is whether there has been public participation. Public participation should not just be a farce. It should not be a facade. It must be meaningful. It is hopeless to conduct public participation, Kenyans tell you one thing, and then you come to this Parliament or the Floor of the House and tell us that Kenyans told you nothing. In the just concluded Finance Bill, Kenyans were very categorical. Even subsequent opinion polls that have been conducted are very clear that 71 per cent of Kenyans oppose the imposition of more taxes.

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

[The Temporary Speaker (Hon. Martha Wangari) took the Chair]

I just hope and pray that there was concurrence from Kenyans with regard to these Regulations, and that they are beneficial.

Secondly, I hope that the revenue generated from these taxes will be used to procure drugs in hospitals, build classrooms and obtain textbooks for our schools, pay salaries on time, and support different services as provided for in Article 43 of the Constitution of Kenya.

With those few remarks, I support the Regulations but continuously warn that we must listen to Kenyans. Whatever brute force we use, at one time or another, we must listen to Kenyans.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Order, Members. I am not certain that Members have indicated an interest in this specific agenda. I request that if you are willing to speak to this Motion, kindly put your card in the intervention slot, so that I am able to tell who is speaking to what.

The next chance will go to the Member for Tharaka, Hon Murugara.

Hon. George Murugara (Tharaka, UDA): Hon. Temporary Speaker, I rise under Standing Order 95. We have carefully listened to debate in support of the Regulations. Please, call upon the Mover of the Motion to reply, so that we can move to the next most important business. I ask you to call upon the Mover to reply.

(Loud consultations)

The Temporary Speaker (Hon. Martha Wangari): Order, Members. Hon. Murugara has risen in his position under Standing Order 95 for the Mover to be called upon to reply.

(Loud consultations)

Order, Members. I had requested that you indicate through...

(Loud consultations)

Okay.

Hon. Members, before I put the Question, let me give an opportunity to the Member for Seme. I can see him protesting from his seat. Not many Members have indicated an interest to contribute. If we need to, I will put the Question.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. These Regulations are a good idea because e-business has become the in-thing internationally. That means that a lot of trade is being done worldwide through e-media. That means that people living outside our country are doing big business inside our country. Regulation 3 lists all the areas of concern: downloadable digital content, subscription-based media, over-the-top service, software programmes, electronic data management, music, search engines and so on. That is a big area.

Hon. Temporary Speaker, there is one thing that we must look at as we do this. You will recall that in the disputed Finance Bill, we taxed the digital content. We did not really like it because it was targeting many young people. As much as I support this, it is important to find in the Regulations how we can protect our young people so that those making small monies are not overtaxed. It is in such Regulations that this can be done. Otherwise, it is something that we need because as we move forward to digital trade worldwide, big businesses from outside the country will do businesses here without paying taxes. Later on, we need to look at the Regulations so as to protect the young people even though the tax was reduced from 20 per cent to 5 per cent. Otherwise, I support.

The Temporary Speaker (Hon. Martha Wangari): Thank you, Member for Seme. Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Speaker. I rise to support this. Let me begin by congratulating the Committee on Delegated Legislation for bringing order in dealing with regulations. All regulations must go through the Committee before they are actualised by those who make them. We had a situation where authorities or Ministers were making laws without going through Parliament.

Two, I support this by indicating that finally, in terms of business, we are headed towards e-business and e-commerce. Every other business including those operating on the ground, if I may use the words of the Mover, will soon or later be on the cloud. Therefore, unless we go to the cloud space to ask those trading their big businesses to pay VAT and other taxes, then we shall shrink our tax net. In a country like ours which over-relies on external borrowing that we now want to reduce so that we depend on ourselves, this becomes a very good platform to expand the tax net and bring those who are not paying taxes and are operating under the e-market.

Lastly, on the bit of competition, most of our traders remain on the ground while big businesses are operating on the e-platform and cloud. These businesses enjoy very favourable trade conditions unlike our own traders. I do not think this matter touches on digital content. It is only dealing with the businesses and digital content which we discussed earlier with other matters on this Floor.

Without much ado, I support.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Member for Starehe.

Hon. Amos Maina (Starehe, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute and support this Motion. First and foremost, I want to commend the Mover of this Motion for showing the Government that we can be more creative on matters of raising revenue. That, rather than overburdening Kenyans with taxes or borrowing, there are other ways they can exploit and get revenue to run the affairs of the Government. I think it is a move in the right direction. While we are talking about equity in the online marketing space,

this is a Motion that we should embrace to protect our very infant creative industry. Making sure that we have a level playing field and introducing VAT on content and businesses conducted by non-residents of Kenya will protect our businesses and content creators.

If we get more proactive Motions like this, we will take this country further. Instead of overburdening Kenyans with taxes, we should look for creative ways to incubate our young economy, bring down the cost of living and create equity in the market space so that people can do businesses and raise money to run their affairs.

To the youth, this is a move in the right direction. Most of the youth are in the online businesses. Their biggest competitors have always been the non-residents who do not pay taxes making their online products and content cheaper. Their countries have also embraced very robust digital space technologies. Therefore, these foreigners compete unfairly with our people. I urge the Kenya Kwanza Government to continue bringing more creative ideas rather than thinking about borrowing and taxing the people more.

Thank you very much, Hon. Temporary Speaker. I submit.

The Temporary Speaker (Hon. Martha Wangari): Thank you. The Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Committee's Report on consideration of the VAT (Electronic, Internet and Digital Market Place Supply) Regulations, 2023. As indicated by the Mover and other Members who have contributed, it is indeed true that VAT has been levied on Kenyans providing services on the digital market place, but foreigners providing similar services are not paying VAT in those services. The principle objective of these regulations is to ensure that even foreigners providing services in this country also pay taxes. It is not fair that we levy VAT to our people in the digital market place, but the foreigners supplying the same services do not pay tax.

These regulations are in line with the commitment made to the people of Kenya by the Kenya Kwanza Government; that we shall have tax policies and measures to ensure equity, fairness and certainty in the manner that tax administration is done. These regulations ensure that we do exactly as we promised. A Kenyan supplying goods and services in the digital market place is taxed as a foreigner supplying the same goods and services. The system before was not creating equity between foreigners and Kenyans. A Kenyan cannot supply services in the United States of America (USA), United Kingdom (UK), Europe or the Middle East without paying taxes.

Members of Parliament travel quite often to the countries in the West. We know that whatever little thing you do, including shopping online, getting uber services, and hotel services, there is a tax element to it. The tax is collected upfront from your local or international cards. There was no equity before. We are now creating equity by ensuring that just as you pay taxes to access services from other countries, even foreigners who will supply services here pay taxes to the Kenya Revenue Authority (KRA).

Two, fairness is one of the principles that the tax administration system has created. These Regulations are creating fairness. There is also certainty that foreigners in and outside the country will be able to know our tax regime and VAT rates. Further, they will be able to know what services are liable to VAT. Therefore, they will be complying with our own tax laws just as they comply with tax laws in their own countries.

It is also interesting that many of these companies and corporations that offer Digital Market Place Services, are paying very heavy taxes back in their home countries, including excise duty, but when they come here they do not even pay VAT. This will, indeed, integrate well. It will not just aid in creating fairness, equity, and certainty in the tax administration process, but also ensure that the Kenyan Government is able to tap in new sources of revenue. This is a commitment that the President has made: to be innovative in creating new tax

measures that will ensure we do not overburden Kenyans with huge taxes. I am happy that now, even those of us in the Minority, we are appreciating the need to collect more taxes so that we do not overburden our people with a huge debt burden. This can only happen by innovative ways of widening the tax base. I remember during the Finance Bill debate, many people challenged Government to be innovative and create new ways of...

The Temporary Speaker (Hon. Martha Wangari): Leader of Majority Party, you have 30 seconds to wind up.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, people challenged the Government to be innovative and tap into new ways of collecting revenue. When we spoke about Bottom-up Economic Transformation Agenda (BETA), we said we will expand the tax base. This is part of the expansion of that tax base in order to tap into new sources of revenue to be used to finance Government operations.

Hon. Temporary Speaker, with those many remarks, I beg to support.

The Temporary Speaker (Hon. Martha Wangari): Hon. Justice Kemei, Member for Sigowet/Soin.

Hon. Justice Kemei (Sigowet/Soin, UDA): Thank you, Hon. Temporary Speaker, for the opportunity you have given me so that I can also add my voice on this Report. First and foremost, I want to support the Report that has been brought to the House by Hon. Chepkonga. My colleagues have talked about equity, fairness, and other principles and values. I just wish to point out that this particular Report levels the playing field in terms of trade. A large volume of trade at the moment is transacted through the digital platform. That means if this Report had not been brought to Parliament, we would have continued losing a lot of money. This money will go a long way in providing services to the people and supporting development.

Without much ado, I want to support and thank the Committee for bringing the Report to the House. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Members. Today we have a number of schools. Allow me to recognise the following schools in the Public Gallery:

1. Noonkopir Girls, Kajiado East, Kajiado County.
2. Naromoru Boys, Kieni, Nyeri County.
3. Olasiti Day Primary School, Narok East, Narok County.
4. Umoja Day Secondary School, Laikipia West, Laikipia County.

In the Speaker's Gallery, we have:

1. Kisingo Secondary School, Kibwezi West, Makueni County.
2. Koibeiyon Secondary School, Bomet East, Bomet County.

On behalf of the House and the Hon. Speaker, I welcome you to observe the proceedings of the House.

(Applause)

On that point, I will give Hon. Mwengi Mutuse, Member for Kibwezi West, two minutes to welcome them on his and on behalf of the other Members.

Hon. Mwengi Mutuse (Kibwezi West, MCCP): Thank you very much, Hon. Temporary Speaker, for the opportunity to welcome all the schools and students who are in our Public and Speaker's Galleries together with their teachers to Parliament, the National Assembly. I request them to be keen and listen to the proceedings so that they may learn and get the necessary exposure that will help them in their studies and future lives.

I particularly welcome Kisingo Secondary School, which is near my constituency headquarters in Kibwezi West. I know it is an upcoming school but performing very well. I want to inform them that through the NG-CDF, this year, we will be buying them a bus so that next year they do not have to use public transport to come to Parliament.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): I will indulge the Member for Narok County two minutes as we close on that communication.

Hon. Rebecca Tonkei (Narok County, UDA): Thank you, Hon Temporary Speaker, for giving me this opportunity. I welcome Olasiti Primary School to this House. I also welcome the other schools that have come here for educational tours. As a Member of the Departmental Committee on Education, I feel so privileged to have our children here because I know they learn a lot. Olasiti Primary School is doing very well. I know it will go on record that they have been here and this will add to their good performance. I want to encourage them to work hard because that is the way to go. Education is an equalizer.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you Member for Narok. Back to our Motion. The next speaker will be the Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Speaker, for this opportunity. I rise to support this Report. I also happen to be a Member of this Committee. Modern times call for modern solutions. It is important to understand what this Electronic Internet and Digital Market Place supply is. Regulation 3 is very clear. It has spelt out each and every one of those items that fall within that category, but I would like to point out that there is a lot of business that goes on in that space including educational issues, music, games, movies, platforms for transport like Uber, small cabs and the rest. They all fall within that Digital Market Place. But as some of the Members have said before, the foreign multi-nationals have not been paying VAT on trading in Kenya and doing their business here. Remember, when we trade with them, we are supposed to pay VAT. Basically what this Report has done is that it has levelled the playing field. Just as we pay taxes to them, they also pay tax to us.

The issue of double standards is one of those things that we must always try and get rid of in our deliberations and actions. Recently I saw an example of double standards. Kenya Kwanza said that you cannot hold demonstrations, but their members were allowed to that effect. In fact, some of the members walk around wielding weapons but nobody talks about it or takes action against them. However, when it comes to members of Azimio, any small attempt to even meet two or three people is faced with serious attacks. The same way we are dealing with these Regulations is the same way we should ensure that there is a level playing field in everything.

It is also a very good concept because we are being creative in collecting taxes. This is an alternative way on how else we can collect money. Instead of overburdening that Kenyan who has already been so hard-hit by the cost of living, we have gone out and come up with a Regulation that is going to give us money from multi-nationals and not Kenyans. That is a very good concept. We must also be creative on how we handle our situations as a country. How do we handle issues like demonstrations? We cannot be barbaric and primitive by fighting and clobbering Kenyans because of demonstrations. Let us be creative when raising revenue as well as handling Kenyans. So, let us say: "No further bloodshed."

Hon. Temporary Speaker, I support.

(Loud consultations)

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Members. As I had indicated on this Motion, if you are willing to contribute, press on the intervention button. I have only two Members pending, then we will call the Mover to reply if there is no any other interest.

Member for Kwanza, Hon. Ferdinand Wanyonyi.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Temporary Speaker, for the opportunity. I thank this Committee for bringing this Report. It appears multi-nationals have been doing business here without the Government collecting taxes from them. That is not the right thing to do. Therefore, we support this Report because people were operating outside the regulations, resulting to loss of income and value for money. I agree with Hon. Mbui that we are now being creative as this is a way of collecting revenue.

One should not take this as a punitive move but as a way of looking for money outside the box. The foreigners bring in some goods here without paying taxes which again is an issue of tax collection. I take this opportunity to thank the Committee and ask them to cast the net even wider.

I support the Motion, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Member for Sirisia.

Hon. John Koyi (Sirisia, JP): Thank you very much, Hon. Temporary Speaker, for giving me a chance to contribute to this very important Motion. From what we have seen, many of us do not pay tax in this country. This is the only way to go about it. I believe that our country is now coming up. The digital space will help this country to collect enough revenue from every corner and reduce borrowing from outside. These regulations are good because they are trying to create space for so many things. The internet has helped in many aspects. I believe that paying taxes in most developed countries is mandatory for every citizen. Many businessmen evade paying tax in this country. However, with this digital space that we are creating, I am sure that no one will do it.

Hon. Temporary Speaker, I support the Motion. Thank you very much.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Members. I see there is no more interest on this Motion. I, therefore, call upon the Mover to reply.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you very much, Hon. Temporary Speaker. I would like to thank all Hon. Members who have ably contributed to this Motion. The Members were very relevant in their contributions. However, I would like to make a few clarifications.

Firstly, these regulations do not touch on the Finance Bill that is pending in the High Court. As you know, this Government is law-abiding. We cannot bring regulations or VAT increase through the back door. We are a law-abiding country. We would also like the people on the other side to be law-abiding citizens.

Secondly, as many Members have pointed out, these regulations will create equity or fairness in the market. They will create a level playing ground for all players in the digital world. I would like to thank all the Members who have contributed.

I, therefore, reply.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Members. We have the requisite number.

(Question put and agreed to)

Next Order.

BILLS

Second Readings

THE FOOD AND FEED SAFETY CONTROL COORDINATION BILL (National Assembly Bill No.21 of 2023)

The Temporary Speaker (Hon. Martha Wangari): Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I beg your indulgence and that of the House to skip Order No.12—the Second Reading of the Food and Feed Safety Control Coordination Bill (National Assembly Bill No.21 of 2023). This Bill is before two Committees: the Departmental Committee on Health and Departmental Committee on Agriculture and Livestock. The Chairperson of the Departmental Committee on Health was here. He was supposed to give this information. They are still considering the Report. Being a Joint Committee, they were unable to finish during the recess. However, the Chairperson of the Departmental Committee on Health indicated to me that they will meet this week to try and finalise their Report. Once they table their Report, hopefully, we will continue the Second Reading of the Bill.

I, therefore, beg that you indulge us.

The Temporary Speaker (Hon. Martha Wangari): Thank you. That Order is, therefore, stood down.

(Bill deferred)

Next Order.

THE NATIONAL RATING BILL
(National Assembly Bill No.55 of 2022)

The Temporary Speaker (Hon. Martha Wangari): Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I beg to move that the National Rating Bill (National Assembly Bill No. 55 of 2022) be now read a Second Time.

Article 209(5) of the Constitution confers on Parliament the powers to regulate the exercise of fiscal responsibilities by county governments. By dint of the Constitution, county governments have powers to impose levies and taxes on the people. Parliament is also given powers under Article 209(5) of the same Constitution to regulate the exercise of these fiscal responsibilities by our county governments. Firstly, it ensures that they do not impose taxes and levies that undermine the greater national good. Secondly, it ensures that there is uniformity, certainty and fairness in the taxes and rates that are levied across the country. This ensures that one county does not levy certain rates and taxes that are so obnoxious compared to those of other counties, making the cost of doing business in some counties more expensive than others. This is the reason and object of this Bill which seeks to provide for enhancement, certainty, uniformity and fairness in levying property rates by our county governments, while providing secure source of income or revenue for many of them that are suffering from very low own-source revenue.

Indeed, the country appreciates that our county governments, under the Fourth Schedule of the Constitution, are charged with numerous functions and responsibilities. Kenyans in our constituencies are waiting for all of them to offer them goods and services. Many of the people who expect goods and services are owners of rate-able properties. Some of them, even in major cities like Nairobi, have a lot of non-uniformity and unfairness in the manner in which people pay rates. For instance, in Embakasi East Constituency where Hon. Babu comes from, you will find somebody with five acres of land because that is one of the constituencies within Nairobi where there are still large land owners. However, the amount of money they pay in terms of rates to the Nairobi City County is negligible compared to what somebody in Lavington or Kilimani pays for, say, half an acre or quarter of an acre. We also have slum billionaires in this country.

Hon. Temporary Speaker, you will find someone in Mukuru kwa Njenga or Mukuru kwa Reuben who owns ten acres of temporary structures earning, probably, between Ksh10 million and Ksh12 million from vulnerable and poor people who, he does not offer sanitation facilities. The rates you find them paying, because the land is probably not adjudicated, is negligible. Yet a landlord who is in Kilimani on a block of flats sitting on an eighth of an acre is paying way much higher than even what they are able to collect as rental incomes and income to themselves. It creates a situation where there is no uniformity and fairness. This Bill seeks to create that uniformity and fairness in levying of property taxes by county governments.

The Bill also seeks to consolidate the valuation for rating Acts, that is, Cap 266 and the Rating Act Cap 267 into one. It will now be referred to as the National Rating Act providing a comprehensive and uniform legislative framework. It will regulate how all our county governments across the country levy rates and other levies that they may be levying to house owners.

The Bill also seeks to synchronise the terms and definitions in line with current definitions on valuation of ratable property current practice. These two Acts, Cap 266 and Cap 267 refer to definitions and they are things that were done back then. As with all other professions, even in the valuation profession and those of us who have studied land economics and are valuers, there are new terms and definitions in the industry and, therefore, this Bill seeks to align to that.

It also seeks to identify the mechanisms on how our county governments shall undertake valuation for rating and position of rates on ratable property to reflect the powers that were intended under Article 209(3)(a), for counties to impose property taxes/rates adhering to Article 10 of the Constitution on values and principles of governance and Article 232 to conform to the principle of public finance.

This Bill will also provide for the establishment of the National Rating Tribunal that will be responsible for the resolution of disputes relating to property rating. Today, if the County Government of Nairobi imposed rates on Hon. Robert Mbui, who I know owns quite a number of properties in Embakasi South...

(Laughter)

If Hon. Mbui felt that they were being unfair, he has no recourse. We are creating a recourse so that Hon. Mbui feels that his investments in Kathiani are rated better than those in Embakasi South by ensuring that he has a tribunal he can go to and appeal.

We also enhance the use of appropriate technology in undertaking valuation for rating and rating related purposes. In the past, you had to walk many miles to be able to identify where particular land parcels are. With modern geo-positioning technology, we can use it to identify where a particular piece of land is. There are billionaires who own land in slum areas but because the titles read Mukuru kwa Njenga or Mukuru kwa Reuben... With time, South B Estate or Plainsview has grown into some of those formal slum areas. Therefore, the value of land in that area is not as accurate as it was ten years ago. With modern technology you will be able to geo-position that particular land reference number and know where exactly that land is. You can even estimate the actual size of land.

The Temporary Speaker (Hon. Martha Wangari): Order, Hon. Babu Owino. This is not Embakasi. You do not cross the Floor like that.

(Laughter)

Hon. Kimani Ichung’wah (Kikuyu, UDA): Thank you. You know Hon. Babu Owino might be imagining that he is in Jacaranda grounds, but we must forgive him because he was released the other day from police cells.

I was saying with modern technology it is now possible to get the actual size of land without land valuers having to go and use rudimentary technology to value land. This Bill creates that opportunity for us to use modern technology in undertaking valuation. Technology enhances fairness and certainty. Unlike in the past where you had to talk to, what in Kenyan parlance is known as *kuongea na kitu kidogo or chai* (bribe) valuers to value land for you appropriately, now you will not need that. You will know the value of land in this particular area, the size is this much and similar properties in that area are paying this much.

This Bill also identified the role of counties for the implementation of the objects of the Act which shall include ensuring fair and equitable treatment. It is not fair that there are people in this country... I will give you examples of Kahawa Wendani and Kahawa Sukari. You will find many people, including Members of Parliament, who live in those towns and are paying rates to the County Government of Kiambu or Nairobi. Across the river you will find people who own ranches within the city but they do not pay rates either to Kiambu or Nairobi counties. We must ensure that there is fairness. It is not fair that a person in Kahawa Wendani or Kahawa Sukari is paying rates but another person, probably, because of the position that they hold, do not pay rates. With this kind of Bill there will be fairness. The County Government of Nairobi will levy rates. I know Hon. Mark Mwenje is getting itchy when I speak about these things. It is only fair that every taxpayer pays their due taxes, even on land. It does not matter whether you own a ranch within the city, or whether you own an eighth of an acre like myself. I mean, whether you own no land like the Member of Kisii County or Hon. Nyikal who owns a lot of Karen in Nairobi...

(Laughter)

Hon. Nyikal had raised his hand for me to point to him. I meant that Hon. Clive does not own land in Nairobi but he owns huge chunks of land in Kisii. There will be fairness with this new Bill. We will also ensure that the burden of property rating is shared fairly among the rate payers. That is where I was driving to: if you have more land you pay more and if you have less land, you pay less. You share the burden. The only reason why taxes, levies, and rates are levied on people is because you are the people enjoying the services offered by the county governments. Kenyans are very quick at demanding the supply of goods and services in their neighbourhoods. With the coming up of gated communities, people are selling what we call in my local language *ploti maguta maguta*. Those who understand the language know what it is. Those people who sell serviced plots will market them as serviced plots and what they would do is grade a murrum road and put five poles of solar lighting. They would probably offer one line of tap water to show that there was clean drinking water. They would never tell you when you would build and develop that property. With time, even if there was a borehole, it would not be healthy to use for drinking water. Sinking septic pits, and whatever comes from your sewer system percolates into the water that you drink in those gated communities.

It is, therefore, only fair that they be levied higher rates to ensure that county governments provide them with proper sewerage and adequate water in the gated communities. This goes beyond Nairobi and cities in the rural areas. If today you go to Kikuyu Town a place known as Ndeiya Ng’ombe - because the area was grazing land in the past - big modern estates are being built without the requisite services. We must ensure that county governments have adequate revenues to provide services like roads, water, sewer systems and street lighting so that our people do not fall prey to vendors of land who market it as serviced yet it is not. They

put one tap to show people there is water only for people to build, start living there and realise they have only one line of water that cannot supply more than 1,000 litres per day.

This Bill also takes cognizance of the needs of the county and promotes imposition of rates to boost social and economic development. These are the issues I am speaking to. There are also issues of conducting effective public participation and creating public awareness in the counties. This speaks to an incidence I have witnessed in my county of Kiambu. Without conducting proper public participation and public awareness, the County Government of Kiambu decided to change the rates levied on properties. Lack of public participation and public awareness means that even MCAs approve legislative proposals taken to their assemblies without paying attention to the impact of those propositions on land owners.

Agricultural land and freehold land were previously not ratable, but the County Assembly of Kiambu imposed rates on agricultural land through the Finance Bill of 2017 or 2018. You can imagine a farmer in Ondiri or Mai-a-ihii village, where I come from, and others in Gikambura, Kerwa or some village in Karachuonyo, being required to pay land rates like those imposed on property owners in Kiambu. Such farmer would be required to pay land rates in hundreds of thousands of shillings for a two-acre piece of land. In other words, that farmer would be required to pay rates that are higher than what they produce on that farm.

Therefore, we need to have a legislative framework to ensure fairness and certainty, so that if you are farming in Kikuyu, Kabete or Uthiru, you do not pay the same land rates as somebody who has developed his land or subdivided it and built lots of apartments. A person who is generating more revenue from rental income should pay more rates than a farmer producing food. That way, we will not discourage our farmers.

Hon. Temporary Speaker, I had a trip with you to the Hague way back in 2015 or 2016 and you will remember that as we landed early in the morning, right outside the airport, we saw farmers growing wheat. You will be met with similar scenes in many other cities in the Netherlands because there is a deliberate policy by the government to encourage urban farming. People who undertake farming near cities are encouraged to do so through special tax regimes and administrative policies. Therefore, we should not be encouraging people to build concrete jungles because rental income generates more money yet there is no food.

Today we are crying about the cost of food yet Kitengela and other parts of Kajiado County, as well as lower Machakos, are areas where people can grow food, if they are encouraged to do so. People with freehold land in the counties surrounding Nairobi can farm. The county governments of Machakos, Kajiado and Kiambu should encourage such people to grow food crops. There should be no disparity between those in income-generating activities and those growing food crops. We can, therefore, encourage farming.

This Bill also provides a criterion for delimitation of categories. For instance, the provision for ratable properties has categorised land rates and exemptions. This is what I was speaking to. For instance, county governments could classify certain areas as agricultural land and exempt them from paying property rates because we want to encourage agriculture, and more so food production. The County Government of Kiambu, for instance, could also determine that they want to encourage industry development in Thika. In order to do so, they can reduce the land rates for industries and levy more on those who build houses or farm. In Kisumu, they could decide that they want to create a landing base around the lake. Similarly, investors around the lake will enjoy lower property rates so as to encourage to carry on with such activities.

This Bill will ensure prudent use of funds collected for purposes of operationalising the resultant Act in order to enhance service delivery in our counties by ensuring the existence of transparent and accountable system in county governments. Three or four months ago, I wanted to take a loan from a financial institution and I needed a land rates clearance certificate. At the

County Government of Kiambu Headquarters, you get different valuations depending on which officer you find, his mood or what you offer him. This must be a thing of the past.

Any Kenyan should know through online platforms how much rates their property is subject to. So, you will know at the beginning of the year that your one-acre property in Karachuonyo is subject to Ksh10,000 land rate. Therefore, land rates will no longer be levied at the whims of revenue officers in the county government offices. That is what is happening in our counties right now. I have made reference to the Kiambu County Government offices because I come from that county. I am also a property owner in Nairobi County and I know what happens. The amount of money you will pay in respect of land rates for your property will vary depending on which officer handles your case, which day of the week you go to the office, the mood of the officer serving you, and whether you look like someone they can talk to. So, you are given a bill depending on who you are and how you approach them. We want this to be a thing of the past, so that Kenyans can know transparently through online platforms or through a geo-positioning tag onto a land reference number in Lodwar Town, how much rates they will pay.

Even banks, when advancing credit to members of the public, will know the appropriate value based on the rates being paid. Today, many banks are holding worthless title deeds as security because people colluded with valuers and government officers. So, they have collateral that is valueless. With a proper system created under this Rating Act, we will put some of these things behind us.

Hon. Temporary Speaker, I spoke about the need for effective public participation and public awareness to ensure that members of the public know in advance the chargeable land rates in the various counties across the country. Even as I buy land in Narok County to grow wheat, I should know what rates the County Government of Narok will levy on that land, so that I do my arithmetic and determine whether I will make money from growing wheat. If I want to develop a block of flats in Kitengela or Mlolongo, I will know the chargeable rates in advance. In a way, we also encourage foreign direct investment into our counties from both foreign and domestic investors. We must continuously encourage people to invest across the country. For that to happen, there must be certainty on what is rate-able and the rates people are going to pay.

Hon. Temporary Speaker, lastly, this Bill proposes to introduce four forms of rating. There will be an annual rent of value rates where land is rated annually and one knows with certainty how much to pay annually. There will be an area rate. As I said earlier, with global positioning and modern technology, one should determine the size of land and the amount of rate to be paid - whether it is per square metre, hectare or square foot. There is the improved site value rate and a site value rate in combination with an improvement rate. It is not fair that there are undeveloped properties even within the Central Business District (CBD). There is no improvement on that land. However, you will find that a property that has a 20-storey building, where someone is collecting about half a billion shillings in rent or income pays a rate equivalent to a person using his land within the CBD as a parking lot or renting it out to traders, like the Maasai Market on Tuesdays and respective market days. There must be that distinction on the area, whether land is improved or not.

Hon. Temporary Speaker, I was even speaking about agricultural and non-agricultural land in rural constituencies and rural counties. I believe the Departmental Committee on Lands will consider bringing amendments to make sure there is a clear distinction between agricultural and non-agricultural land. I am very particular on agriculture. I have said this deliberately in moving this Bill because food insecurity is one of the greatest risks we face in this country today.

The housing agenda, vilified as it is, in a way also addresses food insecurity because we are fragmenting our land. The lowest fragmentation was 50 feet by 100 feet some years back.

That is an eighth of an acre. Today, there are fragments of 20 feet by 80 feet with titles in my own county. There are plots that measure even 40 feet by 80 feet. There are the so-called “gated estates” where people are told they are being sold quarter of an acre plots. In some cases, those plots are actually 40 feet by 80 feet. Some are 70 feet by 30 feet plots. In Embakasi, they will tell you that all the plots measure 33 feet by 66 feet.

Hon. Temporary Speaker, we are speaking to those issues. We are saying that we must have those distinctions to ensure that there is fairness. The more we fragment our land, the more we expose ourselves to food insecurity. If we safeguard our land from further fragmentation thus securing more land for agricultural purposes, and encourage farmers by giving them lower property rates on agricultural land, we will encourage even more of our young people to get into food production to address food insecurity. We should discourage the business we are now in currently - what I call *ploti maguta maguta* - where every open space in this country is sub-divided for development of housing estates that have not even been planned for or defined. This Bill will address some of those issues.

The Bill has also provided for the appointment and powers of a valuer to undertake preparation of valuation rolls. It also introduces the office of the Chief Government Valuer with respect to standardisation and harmonisation on preparation and implementation of the valuation rolls across the counties. As I had said, we should not leave it to the whims of revenue officers in our counties to determine what rates to levy on property owners. That becomes a very good avenue for corruption. In my county, depending on which officer you find on which day, you will get a different figure. Funny enough, we all get those figures from the system. I do not know what they do to the system. Some will indicate for you on a piece of paper. Some will generate the figure through the computer system. I do not know how they change their systems. We want a system where we have a chief Government valuer who will rationalise the chargeable rates so that, based on the value of land in different parts of the country, the Chief Government Valuer will standardise and harmonise the valuation rolls across the counties, so that one county does not overtax people as opposed to another, therefore, making some of our counties very unfavourable or unattractive for investments whether by local or foreign investors.

Lastly, Part IV of this Bill contains provisions on valuation for rating, declaration of rateable areas, and methods used for valuation. It also proposes to introduce a valuation cycle of five years with provision that county assemblies can extend the period by a maximum of two years.

The Bill further provides guidance on the preparation and contents of valuation rolls and supplementary valuation rolls, together with alterations, publication and objections thereof, and exceptions provided. It is important that we review whatever valuation rolls we come up with in our counties in every five years. The county assemblies can extend the valuation rolls or whatever they use for rateable areas for a maximum of two years so that all our county governments can apprise themselves with current developments. Massive investments have gone into development of infrastructure in many of our rural areas, whether it is rail or road infrastructure. Areas that were not accessible by road or by rail about five years ago are accessible today or will be accessible in another five years. Therefore, the value of land keeps fluctuating and changing.

Although very rare, other happenings could also devalue land. Therefore, county governments lose opportunity to collect rates from their areas if we go for a long time without reviewing. We want to ensure that our county governments review rateable properties, the rates they are charging, rateable areas, and the methods they use for evaluation every five years, so that they keep appraising their sources of revenue and generate more revenue.

As I was saying during the earlier debate on the Value Added Tax (Electronic, Internet and Digital Market Place Supply) Regulations of 2023, we as the Kenya Kwanza Government

committed right from the campaign period to when His Excellency the President took over as the leader of this nation last year, that this Government will be deliberate and intentional in ensuring that we create new avenues of raising revenue or revenue-raising measures. It is not just the taxation on digital markets, VAT, and other taxes, but also in the National Rating Bill (National Assembly Bill No.55 of 2022).

Hon. Temporary Speaker, we are seeking to create new avenues for our county governments across the county, even Marsabit County where my sister Hon. Naomi Waqo comes from. I know she is working very hard, hopefully, to be the next Governor of Marsabit County. Should that happen, we want to ensure that her and other Members of Parliament here who intend to run for gubernatorial positions have very good sources of revenue. For instance, Nandi County, where Hon. Melly comes from, is one such area. I mentioned Hon. Melly deliberately because I also know that he intends to run for governor. However, he must be here to ensure that the levying on properties and the tea estates in his Nandi County is fair so that he can collect adequate rates on land in Nandi County. We want to ensure that the counties have revenue when he becomes the Governor of Nandi County, and Hon. Naomi Waqo becomes the Governor of Marsabit County, or someone else becomes the Governor of Busia County, and they will not be “crying” for money from the national Government. All the county governors have a big opportunity. I must take this opportunity to thank the governors of Kirinyaga, Tharaka-Nithi and Murang’a counties, who have embarked on shoring up their own sources of revenues within a very short time. We must encourage the governors so that when those of us sitting here with the intent of becoming governors get those positions, they do not start crying out loud about money they have not received from the national Government. By the time governors get money from the national Government, they should have generated adequate own-source revenue to pay their workers so that the money they get from the national Government goes to development. It is not feasible for 90 per cent of our governors to cry for money from the national Government to pay salaries.

As Members of Parliament, we have an obligation to make laws that will ensure that governors have systems for collection of revenue, be it from property rates or levies from massive infrastructural development that we have seen across the counties. On water and sanitation, many people assume that because sewer is part of sewerage system that is filled, it is free. It can only be free when you are excreting waste from your body and flushing it out of your toilet. However, when it gets to the national Government or county government funded sewer systems, you must pay. County governments must ensure that they have metered ways of collecting revenue from sewer waste so that the more one dispenses to their sewer system, the more one pays. You pay to eat. You must also pay for where what you dispense after eating ends up. I say this because I have seen many communities cheer when the Government creates sewer and water systems in their villages, but they do not want to pay for those systems. They forget that the sewerage systems are being put in place to safeguard their own health.

Dr Nyikal, who is a former Director of Medical Services in the Ministry of Health, will tell you. He is a very good doctor. In the estates, the gated communities that I was talking about drill boreholes yet they have between 20 and 30 septic tanks. The water that percolates into the aquifers is polluted and it is the same water that is pumped into their homesteads from those boreholes without being treated. It is always assumed that borehole water is clean water. However, half of it is dangerous to our health, but property developers will never let you know this. As legislators, we have a duty to ensure that the water that our people drink is safe. We also have a duty to ensure that we secure the county governments’ sources of revenue so that they can provide sewer systems, clean and safe drinking water and a secure environment through provision of street lighting in our estates and neighbourhoods.

As I move, I want to encourage all of us to support this Bill and to think about all our neighbourhoods. Those who come from the cities have in mind the housing agenda and being

new owners of property. How will, for example, someone who owns a studio on the fortieth floor of a building in Ziwani pay rates to the county government? On the fortieth floor, he will expect to have clean water for drinking, flushing his toilet and for his shower. Therefore, he must pay something to the County Government of Nairobi for it to provide clean water and sewer services. Those of us who come from rural and peri-urban constituencies should bear in mind the issues I am speaking about. I hope the Chair of the Departmental Committee on Lands - who will second - bears in mind the issues I have spoken to on land that is used for agriculture, so that we also secure and encourage land use for agriculture. When it becomes fashionable and profitable to only build brick-and-mortar, all our agricultural land will end up being used for brick-and-mortar and we will eventually become a net importer of foodstuffs.

Last Sunday, I had the opportunity to visit a farm in Taita Taveta County, and I was impressed with the potential of agriculture in the arid and semi-arid areas of our country. The soil in Taita Taveta is fertile. All it lacks is water. With provision of water, we can turn around our country and make it food secure. However, as we do that, we must bear in mind what will happen to our country 10-50 years to come if we discourage our farmers and young people from practising agriculture through taxes that we levy on farm implements. I must thank the Departmental Committee on Finance and National Planning because they were deliberate during the Finance Bill. I keep repeating that the Finance Act is vilified without paying attention to the good propositions that are in it. Farm inputs and implements have been zero-rated and some taxes have been removed from them to encourage people to get into farming.

As we consider this Bill, I hope that the Departmental Committee on Lands will ensure that we safeguard agricultural land during the Committee of the whole House so that our counties do not only levy rates on properties. Kiambu County is a good example of where there is no distinction between land that is agricultural and land that is for other developments. Farmers are now opting to subdivide their land to build houses because that is the only way they can pay the rates that are being levied by their county government. So, there must be a distinction. A farmer who is growing vegetables in Kikuyu or avocados in Murang'a should not be encouraged to get into housing and subdivide his land into 30 feet by 70 feet plots to generate more money to pay the rates of the county government. Instead, he should grow avocados or vegetables and pay affordable rates to his county government. I propose that the property rates for land set aside for agriculture be almost zero or negligible. It should be 0.0000005 per cent.

(Laughter)

There will be something, but there is nothing. The other day, people were in the streets telling us that they do not want houses, they want food. The place to come and say you want food is here through this Bill. It will make it happen. This is the place that we make sure that we have policies that will encourage farmers to grow crops even in the urban areas. If you go to Kajiado County, the land in Kitengela, Isinya and all the way to Bisil is being used for brick-and-mortar yet it is fertile virgin land. If anything, it is only livestock that have been kept on that land over the years, and they have provided compost organic manure that makes the land very fertile. Therefore, we must encourage our young people in Kajiado, Kiambu and all parts of this country to get into agriculture so that we become food-secure. I must appreciate that food prices are going down.

Hon. Temporary Speaker, when the other day the President said that food does not come from the market, but it comes from farms, people thought it was a joke. He told them that food prices in this country will come down. I am glad even the hateful media houses - those which can rarely write anything good about this administration - at least, today have published news saying that eventually food prices are coming down. That is a good thing. We did the right

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thing by subsidising inputs for agriculture and encouraged people to go back to the farms. I must thank our colleagues from the Minority Party who have seen the wisdom of getting out of the streets and joining other Kenyans in the farms, and the Members of Parliament who have joined us back in the House to legislate and vote on policies that will make food more affordable to the people of Kenya. This is the way we must encourage each other to work. I welcome Hon. Mwenje, Hon. Zamzam and the Member for Starehe back to the House after the short stint in the streets. I am sure they will have time to settle down and learn how to be good legislators by sitting here to discuss issues that touch on the people of Nyamakima and the people of Embakasi West. A sewer line runs through Embakasi West. The Member must tell his people that they must pay for the sewer according to how much effluent they dispense into it.

With those very many remarks, I beg to move and ask the very able Chairman of the Departmental Committee on Lands, Hon. Nyamoko, to second this Bill. He has done a good job. I also thank his Committee because they put in a lot of effort in considering this Bill and tabling a Report in a record time.

Hon. Temporary Speaker (Hon. Martha Wangari): Thank you, Leader of the Majority Party. Before Hon. Joash Nyamoko seconds, allow me to interrupt and recognise students from some schools considering that there is a very high number of students in the galleries, and we have some that are travelling far. Some have even left the galleries.

I recognise students of Kigumo Girls School, in absentia, from Kigumo Constituency, Murang'a County. They were in the Public Gallery, but I am told they have left. Their Member of Parliament, Hon. Munyoro, actually welcomed them into the House.

I also recognise students of Baba Dogo Primary School from Ruaraka Constituency, Nairobi County; Uthinu Girls from Kibwezi West Constituency, Makueni County; and Kanyuambora Boys Secondary School from Mbeere North Constituency, Embu County.

Further, seated in the Speaker's Gallery, are students from St. Bakhita Siakago Girls' Secondary School from Mbeere North Constituency, Embu County, and students from St. Catherine Gaturi Girls Secondary School from Mbeere North Constituency, Embu County.

I welcome all of them to observe the proceedings of the National Assembly. I give this chance to Hon. Joash Nyamoko to second the Bill.

Hon. Joash Nyamoko (North Mugirarango, UDA): Thank you, Hon. Temporary Speaker for giving me the opportunity to second this Bill.

I beg to second. I also want to take this opportunity to thank the Leader of Majority Party for eloquently moving this particular Bill and also for breaking down its elements which has simplified the legislative proposal that we have had opportunity as the Departmental Committee on Lands to go through.

When we interacted with this legislative proposal, we were convicted that it is very progressive. I am very sure it will have a profound impact on revenue collection measures which have been put up by the Kenya Kwanza Government. I am also very sure that the county governments across the country will raise money beyond what they are collecting at the moment.

The National Rating Bill seeks to provide a very comprehensive legal framework on how to levy properties and land in the country. It also provides a mechanism for measuring rate-able properties. There is an element of the appointment of all valuers by setting up a criterion for their appointment. It also provides for the establishment and determination of powers and functions of the proposed National Rating Valuation Tribunal. This is something that we have not had. When we interacted with the Council of Governors, they proposed that it could have been good to have the tribunal set up in the 47 county governments, but we did not find that proposal tenable.

The Bill seeks to give effect to Article 190(2) of the Constitution, as eloquently articulated by the Leader of the Majority Party. The Bill also seeks to actualise Article 209 of the Constitution by providing a uniform legislative framework and a mechanism on how the county governments are going to undertake those functions which have already been highlighted.

Hon. Temporary Speaker, currently, levying of property rates in Kenya relies on the Rating Act, Cap.266, and the Rating Act Cap.267. These Acts, which were enacted in 1956 and 1964 respectively, are outdated and lack a clear legal framework to help the county governments to achieve optimal property rates collection as they are not aligned to the Constitution that we promulgated in 2010 and the devolved system of government. The county governments cannot realise their full potential because they base their collection of rates on these laws, which were passed in the 1960s. That is why it has become very important and prudent for us to re-look at this particular space.

In 2018, the National Treasury, with the assistance of the World Bank, commissioned a study by Adam Smith International on Own Source of Revenue Potential and Tax-Guard Study in the Kenya County Governments. Among the key objectives of the study was to map out counties' local revenue potential base. The study established that the county governments' revenue potential ranged between Ksh55 billion and Ksh173 billion compared to the Kshs35 billion being collected today. The Ksh35 billion does not even fall within the bracket of the potential that we have of between Ksh55 billion and Ksh173 billion.

When they were doing this study, they also determined that most of the revenues which were collected by the county governments, revenue collected from the properties and land rates, is not as attractive as what is usually collected from the parking fees and health facilities. Looking at this potential and the conclusions that were drawn out of the findings of the study, it means that if we implement the recommendations contained in the report on the study, we will facilitate the county governments across the country and even enable the national Government to collect more revenue for the development of the country.

The Bill, therefore, seeks to repeal the Valuation of Rating Tax, Cap.266 and the Rating Act Cap.267, which I have indicated were enacted in the 1960s, and provide for a uniform legislative framework to regulate the national Government and the county governments on imposing rates and valuing of properties as contemplated in the Constitution.

The Bill, too, seeks to provide for enhancement, certainty, uniformity and fairness in levying of property rates by the county governments. In other words, at the end of the day, we are going to have a single legislation that will regulate all the county governments and the national Government, unlike the case today where various county governments have come up with their own rating laws that are in most cases at variance with each other.

Hon. Temporary Speaker, allow me to undertake a clause-by-clause analysis of the Bill so that the House may have a detailed understanding of how it is organised.

As I indicated, the main objective is to have the guiding principles on the application of the Act and use of technology. Clause 3 of the Bill provides the objects and purpose of the Bill, number one of which is to give effect to Articles 191 and 209(3)(a) of the Constitution by providing for a uniform legislative framework. Number two is a mechanism on how the county governments shall undertake valuations for the rating and imposition of rates on rate-able properties. These will also provide an enhanced use of appropriate technology in undertaking the valuation for the rating, rating-related purposes, and also provide for the roles of the Chief Government Valuer in respect of collation of all valuation rolls prepared and deposited by the county governments. What we mean by this is that all the county governments will be expected to undertake or develop valuation rolls which will be posted to the Chief Government Valuer, who will be stationed at the national office. In other words, we will have one Chief Government

Valuer, but the respective valuers from the 47 county governments will develop one valuation roll, which will then be posted with the Chief Government Valuer.

Clause 4 of the Bill provides the guiding principles to the county governments - that, each county government shall, in implementing the provisions of the Bill, adhere to the national values and principles of governance as set out in Article 10 of the Constitution; ensure conformity to the values and principles of the public service as set out in Article 232 of the Constitution, and conform to the principles of Public Finance as set out under Article 210 of the Constitution.

Clause 5 of the Bill regulates the application of the Bill and provides that the Act shall apply to all rate-able properties within the respective county governments. Clause 6 of the Bill, is on use of technology, provides that each county government shall establish or employ appropriate technological systems in the preparation and implementation of the valuation roll or the supplementary valuation rolls.

Hon. Temporary Speaker, Part II of the Bill, which covers clauses 7 to 20, contains detailed provisions on regulating rating, including duty to leverage forms of rating, notices of rating, publication of rating areas, annual rent of value rating, notice of rates, payment of rates, remission of rates, discounts and waivers, enforcement of payment of rates and contribution in lieu of rates.

Part III of the Bill, which covers clauses 21 to 25, contains detailed provisions regulating the appointment and the powers of valuers, including the criteria to appoint valuers. It covers the qualifications for appointment as a valuer, the responsibilities of valuers, powers of valuers and responsibilities of the Chief Government Valuer.

Part IV, which includes clauses 26 to 36, contains detailed provisions regulating the valuation for rating, including general basis of valuation, declaration of rate-able rate areas, methods of valuation, preparation of valuation rolls and supplementary valuation rolls; contents of draft valuation rolls and draft supplementary valuation rolls; alterations of the valuation rolls and supplementary valuation rolls; deposit of draft valuation rolls and draft supplementary valuation rolls; publication of rolls, objections, uncontested draft resolution rules and draft supplementary valuations rolls, and exemptions.

Part V includes clauses 37 to 53 and contains detailed provisions regulating the proposed National Rating Tribunal, including its composition, jurisdiction, proceedings, oath of office for its members, quorum, disclosure of interest by members, its tenure, technical advice, arrangement of its business, its powers, remunerations, members of staff of the tribunal and other workers, evidence and penalty for failure to comply with the tribunal's lawful order, and appeals. Clause 37 of the Bill establishes the National Rating Board.

Part VI, the last Clause 37(6), contains a detailed provision regulating miscellaneous issues, including notices and repeals.

Part VII of the Bill, under clauses 54 to 55, provide detailed provisions on delegated legislation. Clauses 56 and 57 speak about regulations, savings and transitions. The First Schedule contains a detailed provision regulating application for remission of the whole or part of the rate-able payable to the owner of the rate-able property. The Schedule contains a detailed provision regulating contributions in lieu of the rates forms.

The Third Schedule contains the rates and objections form, the Oath or Solemn Affirmation of the Allegiance of the chairperson and members of the tribunal.

Hon. Temporary Speaker, the Bill was read the First Time on Wednesday, 8th March 2023, and was subjected to public participation in accordance with Article 118 of the

Constitution and Standing Order 127 of the National Assembly Standing Orders, a paid-up advert having been placed in the mainstream print media on Thursday, 16th March 2023, inviting members of the public to a public participation meeting or submission of memoranda to the Committee on the Bill.

By close of business on Tuesday, 21st March 2023, the Committee had received submissions from the National Land Commission, the State Department of Lands and Physical Planning, the National Treasury and the Council of Governors, all of which are contained in the Report that we tabled in this House. The Committee sat and did an analysis of the views which were presented by the various agencies that I have mentioned.

Hon. Temporary Speaker, I take this opportunity to thank the Members of the Departmental Committee on Lands for their input and the engagement that we had during the processing of this Bill. Having considered and taken into account the views and the recommendations of the public, including those of the relevant stakeholders, the Committee recommended that the Members do consider this Bill favourably during the Committee of the whole House.

With those remarks, I second.

(Question proposed)

The Temporary Speaker (Hon. Martha Wangari): Hon. Members, before I give you an opportunity to contribute, allow me to recognise more students in our galleries.

In the Public Gallery, we have students of ACK St. Paul Mihuti from Mathioya Constituency, Muranga County, and in the Speaker's Gallery, we have students of St. Francis Girls Mangu from Gatundu North Constituency, Kiambu County.

On behalf of the House, I welcome you to observe the proceeding of the National Assembly.

The first chance goes to Hon. Jackson Kosgey.

Hon. (Dr) Jackson Kosgey (Nominated, UDA): Thank you, Hon. Temporary Speaker. From the outset, I support the Bill.

Clarity of the laws governing land as a principle factor of revenue generation in any country is of great importance and cannot be over-emphasised. It has been said that the rule of law in the ecosystem of investments is a vital source of progress and sustainability in development. It is very important to look at these laws and continue to progressively assess how they aid the governance of our urban centres in relation to their growth and development of our economy.

In this regard, the law must create an environment within which our people can enhance their creativity, flourish and increase their prosperity in building the economy of the nation. The law plays a very important role, especially at this time as we continue to implement and enjoy the fruits of devolution. Some urban centres falling on the boundaries of counties require some clarity of management because they have become sources of conflict between communities that operate in markets and the authorities that are concerned. We have situations where sometimes you never know whether an urban centre falls on one county or the other. As we look at this, we should sort out some of the ambiguities governing the same. By improving our look at our laws pertaining to revenue collection on this area, we are also helping to foster development by strengthening the voices of the people, individually and communally, in terms of when they are required to access justice. When it is made easier for them, it creates some confidence when their rights are violated.

With those remarks, I support the Motion.

The Temporary Speaker (Hon. Martha Wangari): Thank you, Hon. Member.

Next is the Vice-Chairlady of the Departmental Committee on Lands, the Member for Naivasha.

Hon. Jayne Kihara (Naivasha, UDA): Thank you, Hon. Temporary Speaker. Being a Member of the Departmental Committee on Lands, I support the Bill because I am part of it. All that needed to be said has been said by the Leader of the Majority Party and the Chairman of the Departmental Committee on Lands.

This Bill seeks to harmonise the erratic ways of rating properties as has been done. The enactment in 1956 and the next one in 1964 are way before the enactment of the Constitution of Kenya, 2010. This Bill seeks to tighten the loose ends and facilitate the county governments to get the revenues they need, in conformity with the Constitution. With technology in place, this Bill ties all the loose ends to help the county governments that have been complaining of not collecting the taxes that they need to collect. The Bill provides a way other than the erratic ways in which things have been done in terms of collecting tax revenues.

I am part of the Committee. We have gone through the Bill and talked to all the stakeholders, and it is only in order that I support and ask the House to support it.

The Temporary Speaker (Hon. Martha Wangari): Thank you. Next is Hon. Wilberforce Oundo, the Member for Funyula.

(Hon. Kimani Ichung'wah spoke off-record)

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): For 30 minutes? Hon. Temporary Speaker, the Leader of the Majority Party...

The Temporary Speaker (Hon. Martha Wangari): Just to be clear, Hon. Oundo, you have a maximum of 10 minutes.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Speaker, the Leader of the Majority Party recognises my expertise in this area. I have earned over 30 years of experience.

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Martha Wangari): What is your point of order, Leader of the Majority Party?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, I am aware that Hon. Oundo has 10 minutes. I was only signaling the Temporary Speaker that Hon. Oundo is an authority on valuation. He is a Land Economist. If you could be kind enough to add him five or 10 minutes to enrich the debate on this Bill, we will benefit immensely.

The Temporary Speaker (Hon. Martha Wangari): Leader of Majority Party, the Chair has been signaled, but we made these rules. I know Hon. Oundo, being an Economist, will be economical with his words to fit in 10 minutes.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. I must declare that I am a registered valuer who has practised for over 30 years. I have been a lecturer on both valuation and land taxation and I am happy that finally what we set out when we started the cause of land reforms sometime in the 1990s to consolidate and harmonise various land laws or land administration laws is now coming to fruition.

What we are talking about here today is in realm of land administration that talks about issues of titling, registration, taxation and the rest. I am happy we are putting into effect Article 209(3) of the Constitution, which allows the county governments to levy taxes. Some of the taxes they are allowed to levy are land rates, entertainment and licenses for trading and businesses.

The Bill has essentially collapsed two different Acts that we have used for practice since the late 1950s to Independence - the Rating Act and the Valuation for Rating Act. They have combined the two and tried all they could to expand and enrich to fit the requirements of the Constitution of Kenya, 2010.

On the issue of land administration, the central point, to which the Leader of the Majority Party tried to, is the issue of Land Information Management System. During the Committee of the whole House, the issue of integrating the Land Information Management System at the National Land Registry and at the county-level in respect of the valuation rolls has to be central to this particular Bill. I hope the Departmental Committee on Lands has had technical advice to make sure that we incorporate the same. Without the Integrated Land Information Management System, when this Bill becomes an Act, it will just be like the other that we have had before.

In the realm of land taxation, there are a few issues that we must put in place. One, what is it that we are levying a tax on? Progressive legislation has moved away from the reference to land. We are talking about property taxation by expanding the definition of property in law compared to the limited definition of land. The question to answer is what we are taxing. Are we taxing income from the ownership of property? Are we taxing the brick and mortar buildings or the physical attributes of the land? There has been an attempt in the Bill to make it loose-ended such that at any given time, the only rating authority - and in this case, it is the county government - can choose any mode to use in taxation. The public finance section in the Constitution states that there must be uniformity in taxation. There must be some predictability so that if I am an investor in Mombasa and I want to own property, and there is another investor in Sio Port who owns property, we each pay the same amount of taxes.

Therefore, as we move forward as a country, we must make a conscious and deliberate decision on what form of rating we will adopt. Do we adopt improved site value? Do we adopt improved property value? Do we go for area rating? That is the first area in which debate must be exhausted. That is why the Integrated National Land Information Management System (NLIMS) becomes critical because it will tell us what kind of land it is and its current use.

Secondly, and equally important, is the issue of identification of property. The Land Registration Act of 2012 states that boundaries must be delineated and identified using the Geographical Positioning System (GPS). Unfortunately - and I will seek that answer from the Cabinet Secretary for Lands, Housing and Urban Development in due course - the number of title deeds that are on the GPS are very few. Without proper infrastructure in place, the proposal to have uniform application of the law throughout the country will be tedious and may not work. Since the promulgation of the current Constitution, the county governments have been domesticating the Rating Act and the Valuation for Rating Act for purposes of undertaking or preparing a valuation roll to collect revenue.

The third most important thing is the identification of a rate-able owner. Who is a rate-able owner? Who draws the benefits? When is he or she an owner? If one holds a lease for 10 years, can he or she be considered an owner or not? That is a debate that we must have with time because that has been the lacuna in the law. You will find a number of properties where rates have been charged to one party yet someone else derives the actual benefits. We must have that debate as we enrich this Bill.

The most controversial and contentious issue has been the rate track to be applied. In history, land taxation started during the feudal system in the United Kingdom (UK) where it was stated that as land owners derive benefits from public service, they must pay back for the maintenance and expansion of those services. All over the world, taxation has always been an emotive and political issue. If anybody ever doubted the politics of taxation, they must have seen the reality with the recent forcibly enacted Finance Act.

One of the amendments to enrich the Bill will be that before the responsible County Executive Committee Member sets the rates track, there must be adequate and meaningful public participation. In the past, members of the public have made submissions, and submitted petitions and memoranda which have been, routinely, carelessly and casually ignored. Certain pieces of legislation which have very serious consequences are just rammed together.

One of the issues we are now seeing in academia is that in the setting of the rates track, there must be some kind of compelling public participation, so that whatever is said becomes compulsory. In many countries, before you impose a tax, you must have a referendum. Parliamentarians must agree on whether the country will have a referendum or not.

The Bill states that the county government will be the rating authority and all properties in the county will be subject to rating.

The Temporary Speaker (Hon. Martha Wangari): Hon. Oundo, given your expertise and the fact that you hired the Leader of the Majority Party to be your lawyer, I will exercise my discretion and add you five more minutes. I see your time is running out.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you. For the first time, the Leader of the Majority Party has been sympathetic to the majority of Kenyans.

(Hon. Kimani Ichung'wah spoke off-record)

The Bill proposes that the rating authority will be the county government. The Bill also suggests that all properties in the county within the jurisdiction of the county government will be subject to rating. This has been an age-old debate all over the world. If you impose a uniform tax rate, yet the benefits derived from ownership of a property are not uniform, you end up disadvantaging and punishing those who marginally use their property. For example, a peasant farmer in Ndeiya, Kiambu, who extracts very little from his piece of land is being asked to pay the same rates as somebody from Kabete where they collect gold in the form of coffee. It is emotionally unfair and politically disadvantageous.

The thinking has always been that under the Constitution, county governments are allowed to declare an area as an urban area under the Urban Areas and Cities Act. That is the kind of discussion that we must have. Should we punish peasant farmers? There has been an argument of what would happen if somebody put up a residential block. Should the rates be the same? What happens for owner-occupied properties? How would you force a retiree who occupies his or her house, and whose only income is his or her pension, to pay a rate far beyond the rent you would have collected from that particular area? It is a debate that we must continue to have.

The Bill introduces a curious position that is either already in law or in the Constitution - which is that of the Chief Government Valuer. That is an administrative position in the Ministry of Lands, Housing and Urban Development. Without constitutional or statutory powers, the Chief Government Valuer might not instruct county governments to do anything. In any case, it is now important for us to look at the Bill as well as the Land Registration Act so that we anchor the position of the Chief Government Valuer in both Acts.

The other debate is the issue of who a Government valuer is and who a private valuer is. A valuer is a valuer. There is no private, public or Government valuer. It is the same way that a teacher is a teacher whether they teach in private schools or in public schools.

The Sectional Properties Act No.20 of 2020 has brought in new appreciation of the fact that there can be a title in the "air". During our time, we used to ask whose roof it is if you lived in a block of flats. When the roof of a block of flats starts to leak and affects the ground floor, whose roof is it? The Bill must align itself to the Sectional Properties Act No.20 of 2020 so that we can maximise revenue as a result of property taxation.

I appreciate the extra time given. It takes almost 90 hours to train somebody on land taxation. It takes about 360 hours to train an undergraduate student on valuation. I cannot cover all principles at this level. However, it suffices to say that the canon principle of taxation is equity. Is it fair? The second canon of taxation is cost of administration. I am afraid to say that we will be preparing a new valuation roll after five years. It is going to be extremely expensive and cumbersome.

From personal experience, whatever technology you use, you cannot prepare a valuation roll for even a middle-sized town in less than one year because getting documentation to prove ownership is a problem. Registry index maps are not regularly updated and you have to go through the process of updating the same. Getting GPS coordinates and all these things takes a long period of time. In the past, we have been having a 10-year period. In the event that there is a rise in property values, nothing stops a county government from preparing a supplementary valuation roll specifically for that area that they think has improved. For example, the Leader of the Majority Party has been saying that he has a parcel of land behind Lenana High School. When the Southern Bypass went through it, its value naturally shot up. In that event, you can even do a linear valuation to accommodate changes in values.

I foresee a situation where it will be extremely expensive and cumbersome. There is the process of objection, a rating tribunal, and you have to go to the Environment and Land Court. It is going to be extremely cumbersome. We would ask the Committee and drafters of the Bill to consider a longer period so that there is value for money spent preparing valuation rolls.

As I conclude, there are a few issues that need to be clearly understood and, therefore, during the Committee of the whole House, I will spare enough time to prepare adequate amendments. We hope we will have a bipartisan approach to these amendments so that it does not become the debacle that was the Finance Bill, 2023 on the Floor of this House.

Thank you for the extended time. I can now see that friendships do not die even when positions change.

The Temporary Speaker (Hon. Martha Wangari): Ahsante, Mbunge wa Funyula. Nafasi hii nitampa Mbunge wa Mombasa, Mhe. Zamzam.

Hon. Zamzam Mohammed (Mombasa County, ODM): Mhe. Spika wa Muda, nachukua fursa hii kuunga mkono Mswada huu ambao umeletwa na ndugu yetu, Kiongozi wa Chama cha Walio Wengi ndani ya Bunge hili.

Kwa mara ya kwanza, nitakuwa mbunifu na kusema napiga *support* kubwa sana kwenye *Bill* hii kwa sababu imeweza kushika watu wengi sana. Kwanza, alisahau kutaja Gavana wangu wa Mombasa, Abdullswamad Shariff Nassir, aliyekuwa miongoni mwa magavana bora zaidi humu nchini. Aliongoza miongoni mwa magavana ambao wamekusanya ushuru. Ningependa kwanza kumpongeza Gavana wangu Abdullswamad.

Mheshimiwa Spika wa Muda, imekuwa dhahiri shahiri kwamba kuna wale ambao wana mashamba na wamejenga nyumba lakini hawana chochote. Wamekuwa wakitoa ushuru sawia na wale ambao pengine wamejenga nyumba na kuweka wapangaji na wanakusanya mapeni. Kwa hivyo, nimeifurahia sana hii *Bill* ya leo kwa sababu yule mnyonge ambaye hana kitu atapata mwanya wa kutafuta wakati ambapo atakuwa sawa. Anaweza pia kufanya maendeleo na akalipa ushuru sawia na wenzake.

Ningependa pia kumuunga mkono mwenzangu kwa hili; kuna watu ambao walikuwa wameajiriwa lakini sasa miaka imepita na wanafaa kustaafu na katika mashamba yao mijini wamejenga tu nyumba zao. Hawana mpangaji wala yeyote wa kuwasaidia isipokuwa pale ni makao yao. Watu kama hao wasiwekwe sawia na watu ambao wanalipa ushuru mkubwa ule wa kukusanya *rent*. Ikiwezekana, ningependa kwamba watu ambao hawana chochote wasilipe kabisa mpaka wakati ambapo wataanza *kudevelop* yale mashamba yao ndio waweze kulipa ushuru.

Ningependa pia kumpongeza Kiongozi wa Walio Wengi kwa Mswada huu kwa sababu kuna wale ambao wametoka mataifa ya nje na wamekuja kuchukua mashamba hapa Kenya, wamejenga, *wame-invest* na kuweka biashara zao. Huwezi kulinganisha biashara zao na ya Mkenya ambaye biashara yake ni duni. Ushuru ambao unakusanywa usiwe sawia na yule Mkenya halisi. Ikiwezekana huyu wa Kenya atoe ushuru kidogo. Huyu ambaye amekuja kufanya biashara hapa Kenya, atoe ushuru wa juu kidogo. Hata sisi tukienda katika mataifa yao, hatuasazi kule. Tunatozwa ushuru kama yule mtu ambaye ametoka taifa lingine kuja *ku-invest* katika mataifa yao. Kama Kenya, ni muhimu pia tuige mfano huo na tuweze kuwatoza hawa ushuru zaidi.

Juzi nimekuwa Ethiopia na kuna kitu ambacho nilikipata kule na nikatamani kiwe kwenye taifa letu. Kule Ethiopia, mashamba yao hayauzwi kwa watu wa nje. Tunasema kuwa wakuja ni watu ambao wametoka nje ya taifa. Shamba linabaki na kama ni Kenya, basi linabaki ni la Wakenya tu. Utapata watu ambao wametoka mataifa mengine wamekuja wamechukua mashamba yetu na Mkenya anabaki bila chochote. Kule Ethiopia, sheria inawaruhusu wageni kuchukua shamba kwa sababu ya kuwekeza kwa muda fulani. Baada ya muda fulani, wanaachia watu mashamba yao. Lakini hapa Kenya ni tofauti. Mtu ananunua shamba na *ana-enjoy*. Pengine alipata yule Mkenya halisi na matatizo kidogo na kwa sababu hajui thamani ya shamba lake, anaiuza kwa bei ya chini. Yule Mkenya anabaki anahangaika na watoto, na anakuwa maskini. Ningependa sheria ya Ethiopia kuhusu wawekezaji wageni ije hapa Kenya, lakini ni ya siku nyingine ambayo tutaweza kujadili hapa Bungeni.

Kuna pia sintofahamu katika wale ambao wamechukua mashamba ndani ya miji. Pengine walipewa *allotment notice*, lakini ikawa kizungumkuti kupewa *title deeds*. Hili ni jambo ambalo ningependa pia *Leader of the Majority Party* aligusie ili mtu akipewa *allotment notice* baada ya kununua shamba, pengine kwa *county government*, basi ifuatane kabisa na ile *title deed*. Isiwe kuwa mtu anaanza kuzungushwa huku na huku wakati ambapo analipa ushuru.

County governments pia ziangalie jambo hili; kuna mtu amekaa miaka mingi sana kwenye shamba na analipa ushuru. Pengine *amerenew* na analipa tena. Tuangalie pia watu hawa kwa jicho la upole ili hata kama wanalipa ushuru, basi wawe na furaha ya kuweza kulipa.

Masuala ya ushuru yamekuwa donda sugu na yenye utata katika taifa hili. Ningependa kumkosoa kidogo *Leader of the Majority Party* kwa kusema kuwa sisi tulikuwa barabarani. Ninataka kumueleweshwa kuwa hatukuwa barabarani kwa kupenda; hali ya maisha imekuwa ngumu na tata. Hata yeye kesho ana nafasi ya kuingia kule barabarani ajieleze na akasikizwe. Katika jambo hili la mashamba, ninampongeza sana. Hili litaleta uchumi bora katika taifa letu. Kwa wale ambao wana mashamba na pengine nyumba ambazo wamepangisha, nawaomba msiwe mnachelewesha ushuru kwa sababu unatumiwa kujenga taifa. Ushuru ukikawia sana, mambo yanaenda mrama. Unapata kuwa yule Mkenya wa tabaka la chini kabisa anahangaika. Tujibidiishe sana kulipa ushuru na tuangalie kuwa ushuru ukitolewa, basi pesa zikikusanywa ziende kwa mifuko ambayo italeta tajriba katika jamii. Ushuru uende kwenye mifuko ambayo italeta maendeleo katika jamii.

Mhe. Spika wa Muda, pesa hizo ziende kwenye mfuko wa kuonyesha kuwa Wakenya wametoa ushuru lakini kuna maendeleo yanayoonekana. Wale ambao ni wanyonge katika jamii pia nao waangaliwe katika mifuko yao. Hii yote inatokana na kulipa ushuru kwa wakati. Nikiendelea kuunga mkono mjadala huu, ningependa kusema kuwa kule Mombasa County kuna ndugu zetu ambao walikaa kule miaka mingi sana na hawajapata hati miliki za mashamba yao lakini kuna watu ambao wanachukua ushuru wa mashamba yale ilhali wao si wakaazi wa Mombasa. Nimeitwa na wazee ambao ni *Council of Elders* wa Mombasa na wakanilalamikia sana kuhusu jambo hili.

Unapata kuwa mwananchi wa Taifa la Oman ndiye anayekusanya ushuru kutoka kwa yale majumba Mombasa County. Naiomba County Government ya Mombasa ifuatilie jambo hili na mimi kama mama County wa Mombasa niweze pia kulileta suala hili bungeni ili tuweze

kulijadili. Wale wanaolipa ushuru kule Mombasa wameishi miaka mingi kwenye ile ardhi lakini kuna mtu mahali anasema hayo mashamba ni yake ilhali si Mkenya. Tuangalie tunapokusanya ushuru wa mashamba yetu, usiwe ushuru unaokusanywa kujenga mataifa mengine ila uwe unajenga taifa letu. Ni wakati serikali iangalie wale ambao hawana hati miliki na waliokaa katika mashamba hayo miaka mingi wakilipa ushuru waweze pia kupewa *title deeds*.

Mhe. Spika wa Muda, mjadala huu wa leo ni mpana sana. Nawapongeza wenzangu na kutilia pondo ujuzi ambao umejitokeza leo kwa kusema kuwa wawekezaji kutoka nje wasilipe ushuru sawia na Wakenya ila walipe ushuru wa juu kidogo. Hiyo ndio sheria ambayo tunataka. Isiwe kuwa Wakenya wananyanyaswa. Mtu akipata pesa kidogo anawaza iwapo atalipa ushuru ama atanunua chakula. Wakenya waliokaa miaka mingi katika hayo mashamba wapunguziwe ushuru kwa sababu hali ya maisha ni tata sana. Wale waliokuja *ku-invest* kwenye sekta ya ujenzi wa nyumba za magorofa wanakusanya kiasi kikubwa cha *rent* na hivyo basi wanapaswa kulipa ushuru kwa wakati unaofaa.

Mwisho, wakulima watolewe kabisa katika kulipa *rates* ili tuweze kukuza chakula cha kutosha katika taifa hili. Taifa hili linategemea wakulima. Kwa hivyo, tuwapunguzie gharama za kilimo ndio tuweze kupata mavuno mengi, uchumi upande na ushuru ushuke.

Asante sana, Mhe. Spika wa Muda.

The Temporary Speaker (Hon. Martha Wangari): Asante Mhe. Zamzam. Nafasi hii itamwendea Mbunge wa Marakwet Magharibi, Mhe. Timothy Toroitich.

Hon. Timothy Kipchumba (Marakwet West, Independent): Thank you, Hon. Temporary Speaker for giving me an opportunity to contribute to this very important debate on the National Rating Bill. Before joining Parliament, I worked as a Legal Counsel in Elgeyo Marakwet County, and the biggest challenge that we have in this country is duplication of legislation or competing pieces of legislation. The quality of legislation is determined by uniformity. This country devolved law-making powers to the county governments. What has happened is that each county government is making laws to suit its own purpose. Each county has its own legislation. For instance, if you buy land that is adjacent to another county, when taken to court and there are different legislations governing a subject matter, it becomes a challenge for the court to address that particular situation.

We also realise that the biggest challenge that bedevils county governments is collection of revenue. The old source of revenue in the county governments has been a very big challenge. They rely heavily on the National Government for revenue. If we have uniform legislation in the country, there will be an equal application of the law. This will cure the problem of every county government coming up with its own law which, if subjected to the national law, at some point, it becomes incompetent.

There is an interesting provision that I have seen in Clause 72 of that Bill, which states that a county legislation regarding this matter shall be in compliance with this Act. Since we have several legislations in the county governments, each of which applies the law, we will have a situation where if there is conflict between a county government rating on property and the national law, it becomes clear that under Clause 72(a), the national law shall prevail. In my opinion, that is a big achievement by this proposed legislation, which will give a clear hierarchy of laws on the rating of property in this country.

Another added advantage to this legislation is the creation of the National Rating Tribunal which, if put in place, will help in solving matters of property rates. The problem that we have in this country is the backlog of cases in our courts. If we have a tailor-made tribunal that is specifically meant to address disputes of property rates, it will assist in solving disputes in this country.

[The Temporary Speaker (Hon.

Martha Wangari) left the Chair]

[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]

Madam Temporary Speaker... I am sorry, I can see there has been a change of Chair.

The Temporary Speaker (Hon. Peter Kaluma): Never refer to the presiding Speaker as “Madam” again. You know the presiding Speaker is against anything that confuses gender. I am not a member of the LGBTQIA community. I am a biological adult Kenyan male.

(Laughter)

Proceed.

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Temporary Speaker, I stand guided on that matter.

We now have a comprehensive legislation that will handle matters of property rates in this country. As I was saying earlier, we have had haphazard property rate legislation in this country. Each county government has been enacting its own legislation, but we are now going to have a uniform legislation that will provide uniformity on matters pertaining to property rates. I, therefore, fully endorse this legislation, particularly the uniformity aspect.

We have to clearly revisit some pieces legislation because we devolved law making to the county governments where disaster management is a devolved function under the Fourth Schedule, meaning that we have 48 different pieces of legislation on disaster management in this country. Land is also a devolved function, but we have also allowed the county governments to legislate on property rating. Therefore, we have 48 different pieces of legislation on property rating. So, what happens? When there is conflict in a court of law in respect of the Rating Act of County X, it becomes difficult for the court to make a determination. As I said earlier, there is a very clear provision under Clause 72, which states that “county legislation shall be in compliance with this Act” meaning that if a certain county passes a legislation on rating and there is a dispute in the application of the provisions of the law in that county, then we will have checks and balances through the National Rating Act.

Hon. Temporary Speaker, this means that if a certain county passes a certain legislation on rating and there is a dispute in its application, we have checks and balances in the National Rating Act. As a lawyer, I encourage this kind of legislation, especially on devolved functions. In as much as county governments have powers to make laws, we should have a uniform national law to check the excesses of a law that exist in the county government.

Hon. Temporary Speaker, I beg to rest my case.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Toroitich, Parliament normally benefits from your wisdom. I know you are anxious to rest. You are a very experienced lawyer. If the national Government makes laws cutting across all counties, then what will county assemblies do?

Secondly, as you conclude, how can you deal with areas where title deeds have not been issued or where we have community lands like in Masailand and vast areas of North Eastern? How can they be rated in the contemplation of this Bill? For that, do not hurry. You will be added as many minutes as you want to clarify that.

Hon. Timothy Kipchumba (Marakwet West, Independent): Hon. Temporary Speaker, it is not only in North Eastern part of this country that we have challenges of land that has not been adjudicated. In Elgeyo Marakwet County where I come from, my constituency has land that is not demarcated and adjudicated. We have no title deeds in those areas.

We face challenges. For example, under the NG-CDF, we are advised that you cannot allocate money to purchase land if that school has no title deed. We have challenges in addressing such critical areas. I agree absolutely with you that in as much as we have this kind of legislation that purports to provide for property rates, we will experience challenges in areas that are not adjudicated. That is why we call upon the Departmental Committee on Lands to fast track land adjudication in this country and issue title deeds. The Vice-Chairperson is here.

Where I come from, I argue that the biggest challenge that we have in armed conflict in our region is because there is no absolutism in property ownership. Land is communal but it is also not listed under the Community Land Act. If land was registered under the Community Land Act, then it could provide some form of ownership. If the Government is intentional in providing permanent solution to conflicts, then it should provide absolutism in property ownership, so that each person has a title deed of his property. In case of any attacks, an individual will protect his parcel of land. If those people want to acquire securities to get loans in banks, it can assist them. I call upon the Committee to fast track this process. Even if you pass this legislation in this House—I pray it passes because it is good—it will not be applicable to areas that have not been adjudicated and do not have title deeds. When it comes to the application of that law, that is the biggest weakness.

Hon. Temporary Speaker, almost 60 per cent of the owners of land in this country do not have ownership documents. They just demarcate and say this is their land but they do not have title deeds. This means that this law will apply to a section of this country but not the entire country, as envisaged by this particular legislation. That is a weakness that we must address.

Secondly, you have raised a very fundamental issue. Article 191 of the Constitution talks about the issue of county governments making laws. We do not live in isolation. The boundaries that were created under the Constitution 2010 have been effective for 13 years and are new. They separated communities that enjoyed certain cultural practices and rites. A particular county may pass a legislation that is offensive to another area. We should encourage cross-border legislations, especially on counties that share similar ideals. I understand Standing Orders of most of the county assemblies provide for joint sittings between county assemblies of different county governments. I encourage them to sit down and think of cross-border legislations, so that we have uniformity in legislations.

Hon. Temporary Speaker, from 2010 to the current position, there has been a rush to make legislations to effect the Fourth Schedule of the Constitution on devolved functions. However, these laws are a duplicate of other laws of the other county governments. There is a lot of copying and pasting by a certain county to make a law because the Constitution provides that a function is devolved. I will give an example on liquor licensing. Different county governments have different legislations on that subject. Whereas we have the famous *Mututho* law, when it comes to the interpretation by the courts of law, these are two conflicting pieces of legislation. One is a national law that is in existence and was in existence before the coming of the county governments.

Secondly, we now have the county governments which come up with legislations on the same subject matter. When you go to court, there is a problem in interpretation. The Constitution of Kenya devolved law making function to county governments. It is an area that we need to review. We need to re-look at that issue in our Constitution. We should agree that if the national Government has come up with a specific legislation, then there is no need to truncate it further to provide for other provisions which offend the national law.

In my submission, my position and opinion are that the matter has not been fully adjudicated. If a matter is devolved and Senate, which exists to protect the interests of the county governments, proposes a certain Bill which is enacted procedurally, and then the county government makes a law on that particular subject matter, then the national law prevails. That

is my submission. I like the way this Bill has been drafted. It is very clear under Clause 7(2) that county assembly legislation shall be in compliance with this Bill. We cannot deny the county governments the power to make laws because it is provided for in the Constitution. The national law brought by the Senate - because they deal with county governments - should provide a similar provision in its legislations. If a county government makes a legislation involving a devolved function and the Senate has made a similar legislation, there is a clause that the county legislation shall be in compliance with the Senate Bill and the national law shall prevail.

Thank you, Hon. Temporary Speaker. That is my submission.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Toroitich. I hope the committee has listened to you on those aspects. As I have always said, it is a pleasure listening to you. Next is Hon. Ferdinand Wanyonyi, Member for Kwanza and lay cardinal of the Catholic Parish, Parliament Branch.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): What! I did not hear the last sentence. Pardon me Hon. Temporary Speaker, I did not hear the last sentence but thank you for this opportunity.

I will not speak as a lawyer but as an ordinary Kenyan because I have experienced a lot of land conflict. I want to thank the Leader of the Majority Party for coming up with this Bill. From the outset, there are a few things he has mentioned which I feel I should talk about.

First and foremost, land rates by county governments are bound to have favouritism. They should get rid of them and move on to modern things. Secondly, I have noted a dispute tribunal will be set-up in this Bill. We all know that most disputes in this country are being solved by a few *wazee*. These men sit down to solve issues and the one with a heavy pocket carries the day and there is unfair resolution of the issue. So, the dispute tribunal being set up is the right thing to do.

Another issue I have noted is the rise of land cases in this country. I have about five land disputes in my constituency and I do not want to talk about them here because this is not the right place. I come from the Rift Valley which had white settlers and some people grabbed land depending on who they knew in the area. I now have five cases and I do not know what to do. If I let the county government settle these disputes, they will not be done properly because of favouritism.

Hon. Temporary Speaker, I think this is something which you and my friend who has just spoken being lawyers know about. I think the way we are going is good and the dispute tribunal being set up should be evaluated after five years. Somebody said it will be very expensive but we have to move with the times because things keep changing and as they do, we have to check what is not working. I agree that we should evaluate this Bill after every five years because we are in dynamic times and everything keeps changing.

Lastly, this Bill has undergone public participation and there is a lot of input from Kenyans because the wearer of the shoe knows exactly where it pinches. Therefore, I agree with the members of the public because they are learned people. I have read their submissions and there is no need to worry because during the Third Reading we will make amendments. I have seen this Bill for the first time because I am not a Member of the Committee but I have several amendments which I will bring in the Third Reading.

Hon. Temporary Speaker, without wasting a lot of time and repeating what others have said, I think in all fairness we should pass this Bill as it is and make amendments during the Third Reading. I support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Wanyonyi. Next is Hon. Mwenje. Has he left? Hon. Amos Mwago, do you want to speak to this?

Hon. Amos Maina (Starehe, JP): Yes.

Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute on this very crucial Bill. I will start by stating that I support the Bill on valuation and rating of properties. As we know, the land issue in this country is very emotive and it is high time we addressed it once and for all. We have to move with speed and catch up with other counties on land reform matters. In doing so, the first step is to fully digitise land matters so we can eradicate or reduce land related issues.

We are seeing so many land conflicts at the Coast and historical land injustices. Also, land issues where pastoralists are claiming their community land is being invaded in North Eastern and other areas. I think it is high time we digitised land issues. So, when we want to evaluate and rate, we can capture a broader bracket. As at now, if we are to evaluate, we will only address the people affected by the perennial rating issues.

So as to address the issue of collection of more revenue, it is only better we try to fully get absoluteness of ownership of land in this country. If we cannot do so absolutely, we cannot get a higher percentage captured in the rating bracket. Also, we should digitise land so that people can access ownership anywhere in the country including those in the diaspora who have invested in land. This will reduce cases of land grabbing in our counties because of openness brought by digitisation and you can know the status of your land from anywhere.

I think this is the first step in the right direction. We have seen foreign companies mapping Kenya and offering map services in our phones. So, we are able to trace a place and know, for example, the distance from Kericho to Nairobi or even trace the shortest road in a ward. It is only fair for the Government to invest resources in digitising land because it is possible and doable as we can see from *Google Maps* and other technology companies. They trace places in our villages yet they are not in Kenya. So, if the Government invested more in digitising land, I think this matter will be dwelt with once and for all. I seem not to agree with the Leader of the Majority Party when he says that a storey building will be charged more than land used for parking. I am not a land economist but I want to stimulate and incentivize investments in my county. If we encourage a person who owns a parking space in the City Centre to pay lower land rates than the one who owns a storey building, then we will not attract investments. In any case, the one who owns a storey building is also in the rental income tax bracket. He or she contributes more to the revenue in this country than the person who owns an open space. In fact, a person who owns an open space should be charged more so that they can be encouraged to invest and develop the land instead of having idle land.

We also have the challenge of informal settlements. My learned friend has mentioned absoluteness in possession of land. This makes me wonder how people in the informal settlements can acquire title deeds and start paying land rates. You will find an informal settlement in the middle of a very posh area. The value of land remains the same because the locality is the same, but those in the informal settlement cannot pay the same amount as the people living in the posh neighbourhood. We need to look at all these issues because we do not want to disadvantage other people.

As we seek to collect more revenues for county governments, they also need to be accountable and creative. We have a lot of land lying idle in these counties which they do not pay land rates for. Why should we charge the mwanachi more yet county governments do not pay land rates for the idle land? They should come up with ways of utilising these lands and making them profitable. There are very many agencies in this country that have been allocated land by the Government which is not in use. Land is a factor of production. We should maximise the use of land as we are an agricultural country. What happened to planting maize in places like Galana Kulalu?

There are very many creative ways that can help us improve on our productivity. We have a huge land mass that we should put to use. Before we result to rating, taxing and collecting revenue from Kenyans, county governments need to be creative in utilising idle land.

In some places we have overcrowded markets and behind them we have idle land owned by agencies like the Kenya Railways Corporation. This land can be leased to these traders and hence we would collect more revenue from these traders. For example, the land behind Muthurwa and Marikiti markets has been idle for a long time. It is purportedly owned by the Kenya Railways Corporation. At the same time, traders are crowded along Haile Selassie Road to the extent of placing their items on the road; half of the road is filled by traders. The congestion in this area is at another level. The county government should come up with ways of supporting these traders. Let us utilise all the idle land prudently so that people can benefit and for us to collect more revenue.

Hon. Temporary Speaker, fraud and land grabbing is also a big problem for us. In Pangani, in my constituency, we have a problem where some of the people who were issued with leases went back to their countries and others cannot renew the leases. Cartels are harassing people and grabbing land there. Even as we evaluate the land rates, we should check who have been paying the rates. We should also check on the title deeds because this goes hand-in-hand with rating. In some circumstances, the owners of the title deeds are not the payers of the land rates. Someone else who has paid land rates for 10 years claim the ownership of the land whereas the owner of the title deed is not aware that someone else has been paying the land rates. This is a big problem in my constituency. As we purpose to re-evaluate the land rates, we should sensitize people on the status of their land.

Thank you, Hon. Temporary Speaker, I submit.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mwago, before you sit, do you have the Bill?

Amos Maina (Starehe, JP): I had read it.

The Temporary Speaker (Hon. Peter Kaluma): Then I am grateful for your contribution.

Is Hon. Phylis Bartoo in the House? She has stepped out. Let us have Hon. Naomi Waqo, the Member for Marsabit.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to add my voice to this important Bill, the National Rating Bill (National Assembly Bill No.55 of 2022).

We know that matters to do with land are very sensitive to Kenyans. Many families have had land conflicts and many people have lost their lives as a result of this. Land is a gift that God has blessed this country with but we are not making good use of it. We are not utilising it to the maximum. I stand to support this. The 2010 Constitution captures well issues to do with land. It also calls for a complete overhaul on issues to do with land. Article 209 (5) of the Constitution confers on Parliament the powers to regulate the exercise of fiscal responsibility of the county governments. The principal object of the Bill is to provide legislative framework for imposition of property taxes on land and buildings by county governments pursuant to Article 209.

I support the Bill because it consolidates the valuation of the rating and it also identifies the terms used in the existing Acts to provide current definition reflecting the current practice for the valuation of rateability. I fully support this because when we implement this, Kenyans will have uniformity. We will also have less problems. As I said, currently we have a lot of issues to do with land. Our country needs a lot of revenue in the 47 counties. Only a few counties collect revenue that can sustain or help them in development. Unfortunately, because we have not been collecting enough revenue, many counties have been suffering and continue suffering.

Hon. Temporary Speaker, this is the way and it gives us the opportunity to weigh our own weight and see how we can create our own wealth and how best we can give services to our people. When the Bill will be implemented or effected, it will help people so that all the

counties will have a better way of collecting resources, have uniformity and also a better usage of the land that God has given each one of us.

I support and it is my prayer that this will soon be passed and implemented.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Canon Naomi Waqo. Let us have Hon. Josses Lelmengit.

Hon. Josses Lelmengit (Emgwen, UDA): Thank you, Hon. Temporary Speaker, for giving me this chance to contribute to this Bill. I support the National Rating Bill.

There is need for the Government to have a reliable source of revenue and this is a key principle of Kenya's devolution as provided under Article 175 of the Constitution of Kenya.

Article 209(3) empowers counties to impose property rates as a source of revenue. However, the existing legislation on rating does not provide adequate legislation to facilitate preparation of valuation roles and implementation.

The National Rating Bill gives guidelines and regulations that we got from public participation and international standards, so that it can give a uniform baseline for the county governments to implement. Examples are the tabling of prepared draft valuation rolls which contain the owners of the parcels of land, properties and details of properties.

A lot of thoughts went into this throughout. As a Member of the Departmental Committee on Lands we had an extensive input from professionals, valuers and surveyors from across the board. Public participation in this Bill has been enhanced whereby everyone from all sectors has been involved. They have also provided a shortened period of reviewing this land valuation. Since Independence, few inputs have been put into this Bill yet times are changing. This one provides at least five years' life circle. County assemblies have been given an opportunity that they can extend for a period of not exceeding two years. A period of seven years is substantial for review of this Rating Bill.

One area that I have to add that I thought was omitted in this Bill is the issue of land value capture, where the Government would tax developers and property owners if it has added value to property around an area, for example, road infrastructure, sewer lines, water access and such. Those property owners and developers should at least pay more. I will give an example of an area which has been developed by the Government and is 100 metres away from the developers or property owners. It is an area where the Government has constructed good roads, sewer systems and provided water. There is another adjacent area where the Government has not developed social amenities but is probably planning to do them in future. Those two property owners should not pay the same rates. Those are the areas in this Bill that I think should be looked into.

Secondly, I know with digitisation and the current information management systems, the Ministry of Lands, Housing and Urban Development has rolled out *Ardhisasa* platform. This will minimise fraudulent cases on land. It will also provide a clearer picture on this rating as the Government will have access to the real location of these parcels of land and property that need to be rated or tax levied.

I thank the Departmental Committee on Lands for coming up with this proposal and for their contribution. I know that they have worked hand in hand with the Ministry, the National Land Commission and other stakeholders. I also encourage every Member in this House to support this Bill since it is good. As the Government seeks to raise more revenue for development, this is the Bill that we need to say yes to.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Josses Lelmengit. I recognise Hon. Paul Nzengu.

Hon. (Eng.) Paul Nzengu (Mwingi North, WDM): Thank you, Hon. Temporary Speaker, for allowing me to make my contribution on the National Rating Bill.

First, I appreciate the work that has been done by the Chairperson of the Committee. I think the wisdom is clearly recognised. The fact that we have been operating with a law that was enacted in 1956, and another one that was enacted in 1964, defeats the very fact that we have a new Constitution. Aligning the law with the Constitution of Kenya, 2010 is very important particularly, given the fact that now there is a plan to regulate and come up with a framework to really control land rates and land value.

A previous speaker talked about the frustrations that usually arise when county assemblies are allowed to make the laws almost independent of the National Assembly. This is not isolated to the land issue: it is also in other matters that touch on revenue collection. You would find that land that has the same characteristics in Kajiado and Kitui counties, the rates applicable are usually not uniform. You will also find that in Kitui County, for example, in areas which are a little bit more remote like Kyuso Town, compared to a town like Mwingi, the rates are more or less the same. I think this Bill will do a lot of justice.

I also compare that with areas that have mineral resources. For example, you find that both Kajiado and Kitui counties have limestone but when the county assemblies enact the Finance Bill, you find a big discrepancy. For example, limestone in Kajiado County could cost Ksh50, but cost Ksh1,000 in Kitui County. So, the investors who come and want to invest in the value addition of limestone find it difficult to go for the limestone in Kitui County. The Bill will help us in harmonising that. The five years that have been proposed for re-evaluation extendable to two years are good because sometimes, the land would probably remain stagnant while everything is changing. Currently, prices of most commodities have gone up because of the recently passed Finance Bill. The cost of fuel has gone up and the Bill has introduced new taxation measures. That immediately triggers an increase in the prices of most commodities including land.

The only issue that I have is the proposal to tax a five-storey building differently from a single-storey building. If the high-rise building is charged more, it could be double taxation. We should tax the land independent of the property because there are property taxes that are usually levied on the same.

I support the Bill. I hope that we can get an opening to deal with cross-cutting issues. County assemblies are not supposed to come up with their own independent laws when we can initiate a law from the National Assembly that goes to the Senate which will benefit all counties. That will be a good thing. I imagine that the tribunal will come up with a system where if land in Elgeyo Marakwet has similar characteristics to land in Machakos or Makeni, we should have a uniform rating so that Kenyans can benefit from the law in any corner of the country.

I support the Bill.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Nzengu, do you sit in this Committee?

Hon. (Eng.) Paul Nzengu (Mwingi North, WDM): No, I do not.

The Temporary Speaker (Hon. Peter Kaluma): I need a Member of the Committee to speak, so that they can elaborate on some issues.

Hon. Kahindi Paul Katana, I imagine you sit in the Committee.

Hon. Paul Katana (Kaloleni, ODM): Yes, I do.

The Temporary Speaker (Hon. Peter Kaluma): Make your contributions.

Hon. Paul Katana (Kaloleni, ODM): Thank you.

The Temporary Speaker (Hon. Peter Kaluma): You have all the time to contribute and add to the elaborate presentations already made by the Chairperson to help Members understand this law in better detail.

Hon. Paul Katana (Kaloleni, ODM): Thank you, Hon. Temporary Speaker, for giving me this chance. From the outset, I support this Bill because the last time land rates were

changed was in 1965. It is an outdated law. As you know, land issues are very emotive, especially at the Coast. This rating system will give our county governments an opportunity to have their own source of revenue. It will also assist because many large chunks of land at the Coast have been lying idle due to absent landlords, which does not benefit the national Government or county governments. This Bill will give an opportunity to county governments and the national Government to collect revenue from idle lands and any other pieces of land that are within their jurisdictions.

Hon. Temporary Speaker, with the shift from manual to digitization of properties, many people lost land. This also gave an opportunity to some few individuals... I will give you an example of the Standard Gauge Railway (SGR). Some parcels of land were overvalued and some undervalued because there was no uniformity in valuation of land in our country. This Bill will give confidence to the investors because if they want to invest in Nairobi, they will know the rates to pay. And if they want to invest in Mombasa, they will know what they are supposed to do.

This will also deal with property brokers in the country. Many people have been conned because there is no consistency with the law. I want to thank the Chairperson and the Committee. The National Land Commission gave us a very good input on this. The Ministry of Lands, Public Works, Housing and Urban Development with the *Ardhisasa* platform will now have an opportunity to make sure that every land is put into use. I have also taken note that most of the land in the rural areas is not yet adjudicated. We will look for an amendment to make sure that it is not subjected to high rates. I will look for a way to bring an amendment to accommodate agricultural land to cushion farmers. The county government should not give rates to these agricultural lands. We need to motivate our farmers so as to have food security. This Bill has come at the right time.

I hope my colleagues will give their input and pass this Bill because it is timely and can really be a game changer for the local authorities. Governors gave their input in the Committee. If there is anybody who wants to bring an amendment, they can approach the Committee so that we can have a win-win situation. After the passage of this Bill, I encourage the county assemblies to pass concurrent by-laws so that both the national and county governments speak in one voice on land valuation. For a very long time, people have manipulated valuation of properties. Banks have lost a lot because the valuation given is incorrect. With this Bill, valuers will be very careful with the kind of valuation they will do in every county. The banks will be safe with this Bill.

With these few remarks, I support the Bill.

The Temporary Speaker (Hon. Peter Kaluma): Just a minute, Hon. Kahindi. In ensuring that there is no corruption by valuers, what is the Committee recommending in their report, in terms of the provisions that should be in the Bill? I am asking this question because of the last remark by the President about the NLC. Are we making gods who are going to determine...

Hon. Paul Katana (Kaloleni, ODM): We are working on standardizing the value index. When the President made that remark, as a Committee, we had a lot of problems and petitions from the public. I have used the SGR as an example. The valuation of one acre of land on the right side is higher than the one on the left side and this creates a conflict of interest. With these provisions, we will cut deal with valuers because one will know the land rate of a particular county. It is going to stop corruption and manipulation of valuation report by surveyors.

Thank you, Hon Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much. Hon. Paul Biego, Member for Chesumei. He has stepped out briefly to attend to a national issue. Hon. Abraham Kirwa, Member for Mosop.

Hon. Abraham Kirwa (Mosop, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to support the National Rating Bill. This is for sure, a Bill that has come at the right time when our nation is trying to digitise registration of land. The Bill will also help reduce conflicts on land issues. As such, I stand here to support this Bill that is being discussed here and which was also discussed in the Departmental Committee on Lands.

The Bill that we are discussing here is not going to cause any conflict between the national Government and county governments. We know that most of the land issues have been devolved to the county government. What this Bill does, is to bring together the two governments to make sure that we have a standardised rating system that is going to help this nation. Through this Bill, if land in Mombasa and Eldoret is going to be rated, there will be a standard system on how valuers will go about rating the land. At the moment, I think we do not have a standardised system. Anybody can rate land but you do not know how it was done. We have land disputes yet we do not have a tribunal that can attend to these issues. This Bill helps to make sure that a lot of conflicts are reduced. At the same time, it helps us to bring a standardised system which most of the countries in the world use. As such, I support this Bill.

There are a lot of good things in this Bill. It will address issues of succession, freehold and royalties. I commend the Committee for coming up with this Bill. I think we should resume debate on this Bill when we have a full House. This is because this is a very important Bill that every Member should read through and understand as it is good for the growth of this country as well as the protection of those people buying land.

As we discuss rating, we cannot forget to discuss the issue of digitising the title deeds in this country. There is a huge problem on title deeds. You will find one land with two or three titles at the same time. But if it was digitised, then it would reduce the issue of corruption where one land has two or three titles. This digitisation should go hand in hand with valuation rating. I have a dispute in my constituency where there is a problem with a border. These are individuals who are along the Nandi escarpment. The owners of the land have two or three different titles. One came to Nairobi and was able to attain a title deed. Another one from the county government said the border is on a different side. We have sat down several times as it is an issue that has been ongoing for over 20 years. If this National Rating Bill is passed it will address such issues. It will also allow us to digitise so that we do not have a problem where we are confused about where the border is. As such, I support the Bill.

Thank you once more, for the opportunity.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Kirwa. Hon. Stephen Mogaka, Member for West Mugirango.

(Technical hitch)

It is true, Hon. Mogaka. I was questioning where your usual energy had disappeared to. I was struggling to hear.

Hon. Stephen Mogaka (West Mugirango, JP): Yes, Hon. Temporary Speaker. That is the usual me. I think money has been poured on this side of the House so that I am not heard by the nation.

I thank you for giving me this opportunity to contribute to this important legislation. I also thank the Committee which is chaired by my neighbour, Hon. Nyamoko, for thinking and drafting a Bill of this nature.

As I intimated earlier, the country has a Constitution that requires that we have two levels of Government. Their respective functions are found in the Fourth Schedule of the Constitution. Some land is devolved. Therefore, legislation on devolved land falls squarely within the capacity and jurisdiction of our county assemblies. Be that as it may, Kenya is one nation. It is a unitary state. To think of having a national law that standardises the practices and

rates that will apply to all land within Kenya is the most innovative kind of legislation that we must celebrate this Committee for. All of us know that county governments and even the national Government can only render as much services as the revenue they collect. It is, therefore, extremely important for all corners of this Republic to benefit from a legislation that will enable the entire country to collect revenue.

Standardising these rates and practices within the Republic of Kenya creates certainty, particularly to investors coming into the country. They will know that whether they invest in Turkana, Nyamira or Kiambu, the law of Kenya is applicable and comparable from county to county. This will also enable us maximise revenue collection and stimulate the economic multiplier to make sure that we catch up with a two-digit growth rate quickly.

It is important to also note that this law seeks to impose uniform practices by our valuers. I was a practising banker. Valuers give valuations for different purposes. There is valuation for mortgage purposes, open market sale purposes, forced sale purposes when it goes to auctions and sentimental purposes for those who are gambling using properties. One challenge which we cannot run away from is that land adjudication has not expanded to the entire Republic.

Hon. Temporary Speaker, although titling of land in Kenya is not complete, there is no land without an owner. Every land has an owner or people claiming ownership. This kind of Bill should innovate how to create ownership cards for parcels of land that have not been titled, for purposes of rate collection and valuation law.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Stephen Mogaka, what did you say we use *in lieu* of titles? What is that thing you said in law? I am only asking that question as a lawyer. You are saying that for areas which have not been titled people should be given what?

Hon. Stephen Mogaka (West Mugirango, JP): Hon. Temporary Speaker, most of the markets in this Republic, starting from my area markets such as Nyabite, Nyamaiya and Bonyunyu should be given ownership cards. There are no ownership documents *per se*. There ought to be ownership cards that recognise possessory interest in certain market plots. This is used as the basis of collecting rents or rates from those particular ‘owners,’ or possessors of the council or county land that are in markets. This Bill, when it sees the light of day and becomes an Act, should have that provision that persons who claim ownership or proprietary interest to any parcel of land should have some semblance of recognition for purposes of paying rates. Nobody should use or possess land in this country without paying some form of rates. This will incentivise those who are holding lands without being utilised to consider leasing to those who can use them for economic value. By so doing they will be collecting rent which will offset the rates that are required to be paid.

I am happy that there is an inbuilt tribunal within this Bill that is going to resolve any disputes that are going to arise out of this. You know best how courts are congested and if litigation arising out of this Bill were to find their way to court registries then we will be locked there until cows come home.

I am impressed to learn that with this Bill, those of us who are holding idle land will have to contribute to the rates. This alone is sufficient incentive for all of us to put into use every land that is in our possession so that as much land in this country is put into economic use.

I beg to support and thank the people of West Mugirango for sending me here. I know my markets at Nyabite, Kebirigo, Mobamba are going to have a form of basis to pay rates. That way the infrastructure by Nyamira County is going to be improved. I thank you and beg to support.

The Temporary Speaker (Hon. Peter Kaluma): I am searching for Hon. Mark Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Speaker. At the outset, I think this Bill is very timely. It has taken long for us to bring such a Bill in this House and I am proud it has found me here.

Hon. Temporary Speaker, unfortunately land issues have become matters that are split between national Government and county governments. I am sorry I do not think counties have handled this matter well as it should be. I believe this is the beginning of the national Government starting to take charge.

Before I proceed, when the Leader of the Majority Party was moving this Bill, he had a bit of swipe at me by mentioning I may not be too happy with him talking about some individuals in Ruiru who will soon be paying rates. I am keen to remind him, even in absentia, that the law is a double edged sword; it applies to everyone and cuts both ways. It is not just the former presidents but current, future presidents and other big land owners who will be subjected to this Bill which is good.

It is good that the Chairman of the Departmental Committee on Lands is here. My only concern is whether we might end up having a conflict with the counties on this issue. We would not want this Bill after going through all this to end up in court. I am hoping he is liaising properly with the legal team so that we do not have counties fight us on this issue which I support.

The reason some of us refused to support the Finance Bill or most importantly, why I was opposed to the housing levy, is because those of us in Nairobi, more so in a ward in my constituency known as Mowlem... I want them to be given title deeds. That ward has 89,000 people and about 65 per cent of it is unadjudicated so they do not pay rates. If you give these people title deeds and collect the rates as per this Bill, I assure you the 1.5 per cent you are seeking will be there. In that ward alone, you will collect more money than you need from the entire Nairobi in one year. This is something I can assure. I am telling you it is the third most populous ward in Nairobi. Very many of us have developments there and do not have title deeds.

When we spoke about expanding the tax base, this is the perfect example where people will appreciate when you give them title deeds and collect rates. This is something the Committee must think about. I will be present to contribute during the Committee stage. How do you collect rates from land without titles? People are benefiting from sewerage system, water and street lighting. If you start charging them rates, it will give them a sense of ownership of the piece of land they have. They are now demanding roads and other things.

I am sorry during public participation that would have been the right place to bring in this issue, but it is worth considering especially when talking about regularisation in Nairobi where people have built houses on land which others claim is theirs. I will ask the Departmental Committee on Lands to be bold and brave because I have a Motion coming up. Give people title deeds where nobody is claiming. Where there is a dispute, let us have a regularisation plan but give these people titles and eventually you get to collect rates. If you do this, you will not even be thinking of the 16 per cent Value Added Tax on fuel.

Another issue is on developed and non-developed land. This is very key even right here in the Central Business District. We might not agree as Members of Parliament from Nairobi including my colleague from Starehe because there are parcels of undeveloped land in Nairobi. There is one used as a parking area right next to the High Court which is very prime. The value of that parcel of land is probably Ksh3 billion to Ksh4 billion an acre yet there is Re-Insurance Plaza and the Kenya Commercial Bank (KCB) right next to it. Should these two plots of land be paying the same rates? I do not think so. Of course, you do not want to punish the person who has not developed but you ought to push them a little bit so that they are encouraged to develop that piece of land. Therefore, it is very clear how we are going to look at rating even across Nairobi.

There are bigger problems in this county government. I am an advocate. I was admitted in 2012. I have practised for over 10 years. I can assure you there are parcels of land whose rates we are still trying to get. This depends with the officer that you see at City Hall. One officer will ask you to pay Ksh10,000 while another one will ask you for Ksh100,000. In between, the kickbacks are even more than what the county government collects. That is one of the biggest problems with county governments.

That is why this Bill is timely. We can now start thinking of charging different rates, especially in Kiambu and Nyeri. I wish those Members were here. Kiambu is in danger of losing all its agricultural land. In fact, the only areas I expect to be left are the sides of Limuru. The whole of this other side of Kiambu is disappearing to development. Nyeri is suffering the same problem of subdivisions, same as Murang'a. Even the land that my grandfather left has been subdivided between my grandfather's children—my father and my uncles. This is one of the things to discourage.

I believe that how we deal with this Bill is going to assist us. How do we ensure that we even reward the people who dedicate certain portions of their land to plant trees? They have literally created forests on their respective pieces of land. I believe that the National Rating Bill should reward those people in light of climate change.

Hon. Temporary Speaker, I know there are Members who want to contribute and I am looking at the time. I think they deserve 10 minutes each.

The Temporary Speaker (Hon. Peter Kaluma): Do not worry about time. I know Hon. Mawathe will be speaking next, followed by Hon. Nabulindo. Then, whether Parliament likes it or not, we will adjourn for reasons that you know. Look at Clause 16 of the Bill.

Hon. Mark Mwenje (Embakasi West, JP): Unfortunately, I do not have it in front of me now. Perhaps you will remind me what it says.

The Temporary Speaker (Hon. Peter Kaluma): I should never do, but it says that county executive committees will establish payment system for rates. I want your view on this because you are saying that counties are collecting a lot of money and expecting a lot of money from the national Government too.

Hon. Mark Mwenje (Embakasi West, JP): Correct.

The Temporary Speaker (Hon. Peter Kaluma): But the money they collect is not clear. You know the report of the Auditor-General concerning the last two accounts of the County Government of Nairobi.

Hon. Mark Mwenje (Embakasi West, JP): Yes.

The Temporary Speaker (Hon. Peter Kaluma): Over 18 billion or so is alleged to have been lost. Should respective county executive committees or the Kenya Revenue Authority develop this system? That is if we are expanding the tax base and we want this money accountably remitted to the national kitty.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Speaker.

I have a direct answer to that question. As we speak today, the counties have the mandate of collecting the rates. They have failed. As an advocate, I can tell you for sure that I have struggled, especially with parcels of land coming from Eastlands or parcels of land whose rates clearance certificates we could not find for the last five years or so. You end up in a situation where you have to bribe your way in order to get these clearances from City Hall. If we can, we should allow the Kenya Revenue Authority to do it because it has good established mechanisms. We have just recruited more individuals to assist in tax collection. I think it is important for the Committee to relook at this.

Give me just one more minute.

The Temporary Speaker (Hon. Peter Kaluma): One minute.

(Technical hitch)

The Temporary Speaker (Hon. Peter Kaluma): Who is sabotaging Hon. Mwenje? Let him have the microphone.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Speaker. I will just speak for one minute. As long as we can effectively collect... The Kenya Revenue Authority has done it effectively. I know counties may want to compete with us but KRA is better placed. More importantly, we saw it here in Nairobi County when Mike Sonko was the Governor. We agreed to hand over some of these services to KRA. At that point, even when the Nairobi Metropolitan Services (NMS) came to place, there was more effective collection of rates and revenue in Nairobi.

This is a Bill that can change the face of this country. It will help to collect the revenue that is needed by counties so that they do not complain that they do not have funds. With that, I beg to support.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much, Hon. Mwenje. Hon. Julius Mawathe, you are recognised. Proceed.

Hon. Julius Mawathe (Embakasi South, WDM): Thank you, Hon. Temporary Speaker. I stand to support this Bill. It is timely though long overdue. It is formulated as a Bill that will govern the counties in collecting rates. The rates may be different but the law that will oversee and control its collection shall be one.

As we talk about collecting rates, there are too many big and small parcels of land in Kenya that whose owners do not have title deeds. How will rates be collected without issuing titles and knowing the owners of the parcels of land? As we think about this, we should fast-track the issuance of title deeds so that when rates are collected, they are collected from the correct persons. Delays in the issuance of titles encourage land grabbing. When a piece of land has no title and somebody of influence sees that, he may go to the lands office to start fighting for that piece of land that may belong to low income or poor person.

If I may use the people in my constituency as an example, it is about time the Government issued titles to the people of Mukuru kwa Njenga and Mukuru kwa Reuben. If they are given titles, they can go to banks to borrow money and build homes. People of Riara do not have title deeds. A majority of Embakasi South residents have challenges accessing title deeds. They have too many squabbles. A year-and-a-half ago, we saw illegal demolitions happening in Mukuru kwa Njenga in the name of building a road. However, it turned out that people were misled by some unscrupulous people within two Government ministries. The Government chose to kill its own citizens in the name of land. It murdered very many people who were fighting to reclaim their land in Mukuru kwa Njenga. Now that we have a different Government, these people should be recognised as the title owners. They have been living there for the last 57 to 60 years. One of the inspectors told a resident: “*Angalia nyuma ya ID yako na ugiu*” meaning, look at where you come from at the back of your ID. I can give an example of a lady – I choose not to use her name – who is about 58 years old. This lady has been there for the last 15 years. Her identity card says her village is Mukuru, her sub-location is Mukuru kwa Njenga, location is Mukuru kwa Njenga, the district is Embakasi and division is Embakasi in Nairobi, where she was born. Where would she go when she is told “*tutakubomolea*” and that “you can do whatever you want to do”?

It is about time that as we talk about this nice Bill on rates, first of all, consider issuing title deeds to our fellow Kenyans wherever they may be. As we talk about these rates, it might be aiming at specific individuals, but it cuts both ways.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you Hon. Mawathe. Hon. Oscar Nabalindo.

Hon. Peter Nambulindo (Matungu, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute to this good Bill. I also take this opportunity to thank the Committee that worked tirelessly up to this level that they have been able to bring this legislation to the Floor of the House.

This is a very timely and important legislation in this country especially coming at this time when the Government of the day is struggling to collect taxes and rates from the public to implement its programmes. Land in this country is a very big issue because it is the basis of our economic prosperity. It is known all over Africa and East Africa that Kenyans particularly appreciate the value of land. Therefore, this legislation will go a long way in regulating land rates and help the national and county governments on how to levy tax.

We are in the era where county governments strongly depend on the national Government for their revenue to run. That is not supposed to be the case. County governments are supposed to be semi-autonomous or autonomous in terms of their economies. Unfortunately, we live in a country where almost all counties, including Nairobi and Mombasa, which are big with strong economies, still depend on the national Government to run their affairs. There is need for counties to enhance, improve and regularise their tax collection. That begins with land and land rates.

Hon. Temporary Speaker, county governments and the national Government should not levy rates on land that does not have proper ownership documents. The problem in this country is that most Kenyans and most of the businesses do not have proper documentation of the land to show ownership. For example, almost 60 per cent of the all schools in this country do not have ownership documents of the land on which they sit, and therefore, can neither be taxed nor pay rates.

Hon. Temporary Speaker, the only way that we shall register growth in the counties is if they are able to collect enough revenue to run their affairs. We have seen in very many places that, if the Government delays to disburse funds to the counties, even for a month or two, they would go on their knees, and the governors are always crying that they want to shut down the counties. What happens to the money that the counties collect? Unfortunately, in this country, counties do not have any strong oversight. The Members of the County Assemblies (MCAs) who are supposed to oversee the governors are mostly compromised. They are weak in their oversight and when it comes to the Senate, which has the mandate from the Constitution to oversee the counties, it is even weaker. In most cases, we have seen the Senate summon some governors to come before it to answer a few questions, and they would blatantly decline, and the Senate cannot do anything about it. That shows that we have a toothless institution which is supposed to oversee a very powerful institution called the county government.

The Bill also talks about the valuation process, the valuer and the regulations that go with it. The problem in Kenya is the valuation process. In most counties, valuation was done almost 10 years ago and therefore, it is difficult to get enough revenue if valuation of a certain land is that of 10 years ago. In the constituencies for example, valuation was done a long time ago. I can give you an example of Matungu Constituency. Valuation was done in 2014 and since then, no other valuation has been done. The value of an acre of land was put at Ksh400,000 but now, owners of the land are selling it at almost Ksh1 million. There is no way you can do a proper rating with valuation that is outdated. With this law, therefore, I believe we are going to have proper valuation, good valuers and we are going to get the right value of the lands that we are dealing with.

As the Committee goes back to look at the views that Members have given, when they come back to the House, we expect to see good amendments. We are going to support the Bill so that we come up with a good law that is going to help the counties and the national Government to raise enough revenue from land, land-related properties and ownership in this country.

With those few remarks, I beg to support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Nabulindo, do you sit in this Committee?

Hon. Peter Nabulindo (Matungu, ODM): No, Hon. Temporary Speaker. I am an interested party.

The Temporary Speaker (Hon. Peter Kaluma): I was asking that because one thing I love in this Bill is its definition of rate-able owner. It says that for you to be a rate-able owner, you must be a registered owner of the property. I remember when the Cabinet Secretary for Lands was here, very many Members were asking when their areas would be titled? The Bill appears to indicate that those areas which have not been titled would not be paying rates, and I think that is how it should be. Maybe the Departmental Committee on Lands should move as fast as possible in my view and ensure that those areas like Nyanza which have not been titled, are titled immediately. Move now with speed if you want them to pay rates which are taxes on land.

I am also happy with your presentation that we should have very clear criteria or criterion around the rates and their valuation.

Hon. Peter Nabulindo (Matungu, ODM): Yes, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Debate on the Bill will continue.

ADJOURNMENT

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, the time being 7.00 p.m., the House stands adjourned until Wednesday, 26th July 2023 at 9.30 a.m.

The House rose at 7.00 p.m.

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