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THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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Tuesday, 3rd December 2024

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: Serjeant-at-Arms, ring the Quorum Bell.

(The Quorum Bell was rung)

Order, Hon. Members. We now have quorum. Clerks-at-the-Table.

MESSAGE

(Several Members stood up in their places)

Hon. George Best, take your seat. Order. Members on their feet, take your seats. *Mama Naivasha*, take the nearest seat. Or this is not Hon. Jayne Kihara on her feet?

Hon. Members: It is.

Hon. Speaker: Take the nearest seat.

APPROVAL OF MEDIATED VERSION OF THE DIVISION OF REVENUE (AMENDMENT) BILL (National Assembly Bill No.38 of 2024)

I have a Message from the Senate on the approval of the Mediated Version of the Division of Revenue (Amendment) Bill (National Assembly Bill No.38 of 2024), by the Senate.

Pursuant to provisions of Standing Order 41(4), relating to Messages to and from the Senate, I wish to report to the House that I have received a Message from the Senate regarding the approval of the mediated version of the Division of Revenue (Amendment) Bill (National Assembly Bill No.38 of 2024).

The Message conveys that on Thursday, 28th November 2024, the Senate considered the Report of the Mediation Committee on the Division of Revenue (Amendment) Bill, 2024, and approved the mediated version of the Bill in accordance with the provisions of Article 113(2) of the Constitution.

You will recall that the Bill was committed to a Mediation Committee pursuant to the provisions of Article 112(1)(b) of the Constitution, following the National Assembly's rejection of Senate amendments to the Bill. Thereafter, following the conclusion of the mediation process, the House considered and approved the mediated version of the Bill on Wednesday, 27th November 2024.

In this regard, the approval by the Senate concludes the bicameral consideration of the Bill in accordance with the provisions of Article 113(2) of the Constitution. I will now proceed

to present the Bill to His Excellency the President for assent in accordance with the provisions of Article 113(3) of the Constitution.

I thank you. Next Order.

PETITIONS

Hon. Speaker: We have a Petition by the Member for Gilgil, Hon. Martha Wangari.

SETTLEMENT OF RESIDENTS OF OLJORAI COMMUNITY

Hon. Martha Wangari (Gilgil, UDA): Thank you, Hon. Speaker.

I, the undersigned, on behalf of the residents of Oljorai Community in Nakuru County, draw the attention of the House to the following:

THAT, Oljorai Farm, previously an Agricultural Development Corporation (ADC) farm, is located in Nakuru County, Gilgil Sub-county, and spans 28,000 acres, divided equally in 1990 into Phase I and Phase II, with Phase I allocated to the Maasai and other minority communities;

THAT, the petitioners and their families have resided on the Oljorai land for nearly 40 years, and with time, they have established permanent and semi-permanent structures, schools, markets, and other social amenities, contributing to the development of the area;

THAT, in 1997, the ADC allegedly sold 8,000 acres of the 14,000 acres (Phase I) to Solai Ruyobei Farm Limited, creating tension and protests among the residents, who had been promised settlement and title deeds by the Government;

THAT, several high-level meetings have been held since 2014 involving the Office of the President, the National Land Commission (NLC), the Ministry of Lands, the Nakuru County Government, and community representatives, to resolve the dispute, but no resolution has been implemented to date;

THAT, in 2016, the Government directed the NLC to finalise the settlement and issuance of title deeds to the Oljorai Farm residents within two months, yet no action has been taken;

THAT, the failure to resolve the dispute has left the residents vulnerable to potential displacement, exacerbating historical land injustices and undermining the residents' social and economic stability; and,

THAT, the matter presented in this Petition is not pending before any tribunal, court of law, or any constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Public Petitions Committee:

1. Engages the Ministry of Lands and Physical Planning, Public Works, Housing, and Urban Development; and other relevant authorities, with a view to investigating and ensuring that agreements reached in prior meetings between the Government and the residents are adhered to.
2. Ensures that the residents of Oljorai Farm in Nakuru County are issued with title deeds and permanently settled on the land they have resided in for the last 33 years.
3. Makes any other necessary recommendation that the Committee deems fit to address the issues raised in this Petition.

And your petitioners will forever pray.

Hon. Speaker: Hon. Sunkuli.

Hon. Julius Sunkuli (Kilgoris, KANU): I would like to support the Petition. Oljorai is a Maasai word meaning, “Thorn Tree”, and therefore, it establishes that the Maasai people who are residents in Oljorai have a historical right to reside there. Unfortunately, the Maasai people who are living in Oljorai have serious grievances that the Government must address. They are being treated as if they do not have any share or right of that land.

In addition to the angle in which the Member has taken, it is also important that the Maasai, as an indigenous group of that territory, have their case investigated in a manner of affirmative action so that we can get to the bottom of this problem.

Hon. Speaker: Hon. Pukose.

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Speaker. I want to support the Petition by Hon. Martha Wangari, Member for Gilgil, also one of the Chairpersons of the Speaker's Panel, for raising the matter of Oljorai. As the Committee looks into it, we have other pending petitions that have been before the Committee, among them, is the issue of the Chepchoina Settlement Scheme which I presented to the Committee. It is now more than a year since that time. I have been expecting that the Committee should visit the site, and not only listen to the petitions here. I hope your office, Hon. Speaker, can facilitate them so that they can go to the ground. As they go to Oljorai, they should go to all other areas where issues and matters of land are concerned. These are matters that concern people's livelihood. They need to be reassured that they are safe and that their houses or land cannot be taken away by other people.

Hon. Speaker: Thank you. The Petition is committed to the Public Petitions Committee which should report back within 60 days. This period will not include the long recess because Committee sittings will be suspended.

Next is the Member for Nandi Hills, Hon. Bernard Kitur.

MISMANAGEMENT OF NANDI TEACHERS' SACCO
AND OWNERSHIP OF MWALIMU PLAZA IN KAPSABET TOWN

Hon. Bernard Kitur (Nandi Hills, UDA): I, the undersigned, on behalf of Kenya retired teachers and residents of Nandi County, draw the attention of the House to the following:

THAT, in the year 2000, 1,787 members of the defunct Nandi Teachers SACCO Society acquired a property through a purchase of Barclays Bank Building at Kapsabet Municipality, 1181/370, herein referred to as Mwalimu Plaza, in Kapsabet Town, Nandi County, at a cost of Ksh12,000,000;

THAT, in the process of purchasing the property, members vide the delegates meeting of 18th March 2000 consented that their dividends of the year 1999 be used to pay the Barclays Bank;

THAT, on 25th April 2000, a down payment of 10 per cent, herein referred to as commitment fee, was paid vide *cheque No.00018479* of Ksh1.2 million, with a further subscription of Ksh10,000 equivalent to 100 shares;

THAT, on 27th December 2000, Barclays Bank transferred the property to the Nandi Teachers SACCO having received full payment of Ksh12,000,000;

THAT, in the year 2003, some teachers were paid Ksh400 as dividends for the year. However, in the following year, 2004, the Nandi Teachers SACCO management, instead of paying dividends, allegedly used the dividends as collateral charge for the building in securing a loan to the tune of Ksh60,000,000 from an off-shore financial institution known as “OIKO”;

THAT, the secured loan of Ksh60,000,000 was credited to the Nandi Teachers SACCO Current Account No. 0137000014, K-Rep Bank Limited, Head Office, on 4th

May 2005, through electronic funds transfers (EFTS) from Co-operative Bank. However, the funds were withdrawn the following day on 5th May 2005 leaving a balance of Ksh64,200 in the account.

THAT, the Ksh60,000,000 was withdrawn on 5th May 2005 in five batches, namely-

- 1.Ksh1,000,000 in cash through Cheque No. 00000000022;
- 2.Ksh5,000,000 through a BCHQ Issued Transfer Debit Cheque;
- 3.Ksh9,920,251 in TFR, Funds Savings A/C 4154000007; and,
- 4.Ksh40,000,000 in TFR, Funds Savings A/C 4154000007).

THAT, in 2015, the Nandi Teachers SACCO defaulted payment of the loan to the alleged off-shore financial institution, *OIKO*. As a result, Valley Auctioneers under instructions, undertook to recover the loan through the sale of the property by public auction on 31st March 2015;

THAT, during the 31st Annual Delegates Meeting on 22nd April 2015, the then Chairman, Alfred Ng'etuny, gave an undertaking that teachers who were members when the building was purchased in 2000, would be considered and given preference in regard to dividend compensations and ownership of the property;

THAT, teachers whose dividends were used to purchase the building have never benefited; and, thereafter, the 1,788 retired teachers later registered a group by the name "Nandi Teachers 2000";

THAT, on 4th August 2016, the Chairman of the Nandi Teachers 2000 wrote a letter to the SACCO Societies Regulatory Authority (SASRA) over the ownership of the said building, who responded in a letter to the Society now known as Trans-elite County/SACCO;

THAT, SASRA in response to the letter by the Chairman of the Nandi Teachers 2000 affirmed the ownership and provided a copy of the attached loan secured by the Society in the year 2002, two years after the payment completion and transfer to the Nandi Teachers SACCO Society;

THAT, in the year 2021, the retired teachers, through their registered group, filed a case in a cooperative tribunal No.347 of 2021 against Trans-elite County SACCO. However, on 9th December 2021, the case was struck out in Kakamega on the grounds that the teachers were no longer members of the Society;

THAT, all the efforts by relevant authorities to have the building revert to the owners have failed to give a satisfactory response and over the years, some members have passed away without benefiting from their savings and investments; and,

THAT, the matter presented in this Petition is not pending before any tribunal, court of law, or any constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Public Petitions Committee;

1. Recommends that investigations be carried out to determine whether the Nandi Teachers SACCO Society officials fraudulently swindled the member's funds as alleged and if found culpable, the officials be prosecuted; and that the retirees who originally purchased the said building be compensated for the loss;
2. Recommends that the property and building known as Kapsabet Municipality 1181/3705806 be reverted to the founding teacher retirees of the Nandi Teachers SACCO Society;
3. Recommends that the Trans-elite County SACCO Society Ltd be compelled to remit rental collections from the property and building from

- 2004 to date to the Nandi Teachers SACCO Society retirees through their Community-Based Organisation (CBO) Nandi Teachers 2000; and,
4. Makes any other recommendations that it may deem fit in addressing the plight of the petitioners.

And your petitioners will forever pray.

Hon. Speaker: Hon. Omboko Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. I rise to support the Petition presented by the Hon. Member. He has clearly articulated the issues concerning the Nandi Teachers SACCO. Yesterday, while you were away, I had the chance to preside over the Committee of the whole House that dealt with the Cooperatives Bill (National Assembly Bill No.7 of 2024).

Teachers in Kenya have suffered under cooperatives because they adopted savings and cooperative structures early enough. They have been mistreated due to inadequate laws, which we were amending yesterday, and by cooperative officials who used the opportunity to swindle their money. The situation in Nandi is reflected in many other small SACCOs established by teachers at the county or former district levels.

My concern is the fact that the Public Petitions Committee has so much load. In the past, Parliament used to assist the public in these matters. Therefore, I urge the Public Petitions Committee to clinically investigate this issue and bring a report to the House. It is crucial that teachers, many of whom are retirees or have unfortunately passed away, receive their refunds or at least some form of relief.

Hon. Speaker: Thank you. The Petition is committed to the Public Petitions Committee. The Committee should report back in 60 days excluding the vacation period.

Hon. Kitur, what you described also looks like criminal fraud. You may also exercise the option of engaging criminal justice agencies.

Hon. Members, before Hon. Brighton Yegon presents his petition, I would like to reorganise the Order Paper a little. We will first address the Procedural Motion listed as Order No.8, followed by Order Nos.9 and 10. After that, we will put the Question on Order No.11. Once those items are completed, we will return to the Petitions and Statements before moving on to Order No.12.

PROCEDURAL MOTION

RESOLUTION TO SIT UNTIL CONCLUSION OF SPECIFIED BUSINESS

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker. I beg to move the following Procedural Motion:

THAT, pursuant to Standing Order 30(3)(a), this House orders that, should the time appointed for adjournment of the House be reached before conclusion of business listed as Order Nos.11, 12, 13, 14 and 15 in today's Order Paper, the Sitting shall stand extended until conclusion of the said business.

As Members are aware, we must conclude some of the critical business because of the impending recess the day after tomorrow. The House Business Committee thought that it would be wise for us to have extended sessions today and possibly tomorrow to conclude business up to Order No.15. We need to conclude the important business listed in those Orders this afternoon.

With that, I beg to move and request the Minority Whip, Hon. Millie Odhiambo-Mabona, to second.

Hon. Speaker: Hon. Millie.

Hon. Millie Odhiambo-Mabona (Suba South, ODM): Thank you, Hon. Speaker. I beg to second.

In seconding, I wish to state that miracles happen. Until recently, we hardly had any cordial conversations with the Leader of the Majority Party. Now, I find myself here seconding his Motions.

(Laughter)

His suggestion is good because Members of Parliament need to conclude pertinent businesses, especially those that touch on Kenyans' livelihoods, before we go on recess.

Hon. Speaker: Hon. Millie, Shakespeare described politics as the art of the impossible.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

BILLS

First Readings

THE METEOROLOGY BILL (SENATE BILL NO. 45 OF 2023)

THE ELECTION OFFENCES (AMENDMENT) (NO.2) BILL
(SENATE BILL NO. 28 OF 2024)

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

Second Reading

THE TAX PROCEDURES (AMENDMENT) (NO.2) BILL
(National Assembly Bill No.46 of 2024)

(Moved by Hon. Kimani Ichung'wah on 3.12.2024 – Morning Sitting)

(Debate concluded on 3.12.2024 – Morning Sitting)

Hon. Speaker: Order, Hon. Members. Those on their feet, take your seats.

(Hon. Jayne Kihara consulted with the Clerk-at-the-Table)

Member for Naivasha, take the nearest seat and leave the Clerk-at-the-Table alone.

*(Hon. Samwel Chepkonga and Hon. Okuome Adipo
stood on the gangways)*

Order, Hon. Chepkonga and Hon. Okuome. Take the nearest seats.

(Question put and agreed to)

(The Bill was read a Second Time and committed to Committee of the whole House)

Thank you, Clerk-at-the-Table. I have been requested by Hon. Murugara George Best to allow him to lay his Paper at Order No.5, so that he can leave to preside over another committee meeting. Hon. George Murugara, lay your Paper and give notice of Motion.

PAPER

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Justice and Legal Affairs on the Vetting of a Nominee for Appointment as Secretary/Chief Executive Officer of the Ethics and Anti-Corruption Commission (EACC).

Hon. Speaker: Go ahead and give notice of Motion.

NOTICE OF MOTION

VETTING OF NOMINEE FOR APPOINTMENT AS SECRETARY/CHIEF EXECUTIVE OFFICER OF ETHICS AND ANTI-CORRUPTION COMMISSION

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in its Report on the Vetting of a Nominee for Appointment as the Secretary/Chief Executive Officer of the Ethics and Anti-Corruption Commission (EACC), laid on the Table of the House on Tuesday, 3rd December 2024 and pursuant to the provisions of Article 250(12) of the Constitution and Section 16(1) of the Ethics and Anti-Corruption Commission Act, Cap 7H, as read together with Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, Cap 7F, this House approves Mr. Abdi Ahmed Mohamud, MBS, for appointment as the Secretary/Chief Executive Officer of Ethics and Anti-Corruption Commission (EACC).

Hon. Speaker: Thank you, Hon. George Murugara. We now go back to Petitions. Hon. Brighton Yegon.

PETITION

Hon. Brighton Yegon (Konoin, UDA): Thank you very much, Hon Speaker.

Hon. Speaker: Hon. Brighton, you came late. This is the second chance I am giving you, and so the least you can do is to apologise to the House for coming late.

Hon. Brighton Yegon (Konoin, UDA): I was about to do so. Hon. Speaker, I apologise for coming late.

alleged financial management in regard to generating power by the KTDA on behalf of smallholder tea farmers in Bomet

ALLEGED FINANCIAL MISMANAGEMENT BY KENYA

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TEA DEVELOPMENT AUTHORITY

Hon. Brighton Yegon (Konoin, UDA): Hon. Speaker, I rise to present a Public Petition regarding farmers' hydropower generation by the Kenya Tea Development Authority (KTDA).

I, the undersigned, on behalf of smallholder tea farmers, draw the attention of the House to the following:

THAT, the Kenya Tea Development Agency (KTDA) as the managing agent for smallholder tea farmers, undertook to initiate projects on behalf of smallholder tea farmers in generating power through hydro-power generation;

THAT, more than Ksh3 billion has been deducted from smallholder tea farmers since 2014 and in particular, those from Bomet County and other surrounding counties in the west of Rift Valley region;

THAT, the proposed hydro-power projects were projected to provide substantial returns, which would have directly benefited farmers by lowering energy expenses in the tea factories, therefore, lowering the costs of production and potentially increasing profits;

THAT, since inception of the project in 2014, more than 10 years after the initial contribution, not a single hydro-power project has been completed and farmers have been left in uncertainty and frustration due to lack of progress in the said projects;

THAT, the expected benefits such as reduced energy costs and increased income have not materialised leaving farmers in financial distress;

THAT, lack of detailed reporting and progress updates on the projects allegedly suggest possible financial mismanagement;

THAT, the matter presented in this Petition is not pending before any tribunal court, court of law or any constitutional or legal body.

Therefore, your humble petitioners pray that the National Assembly, through the Select Committee on Public Petitions:

1. Engages the Ministry of Agriculture and Livestock Development and Ministry of Energy and Petroleum and other relevant authorities with a view of investigating the alleged financial management in regard to generating power by the KTDA on behalf of smallholder tea farmers in Bomet County and other surrounding counties in the west of Rift Valley region.
2. Makes recommendations compelling KTDA to provide a detailed report within 30 days on the status of hydropower projects including how the funds were invested and the reasons for inordinate delay of the projects.
3. Recommends the due compensation of smallholder tea farmers in the affected region where more than Ksh3 billion has been deducted since 2014.
4. Makes any other necessary recommendation the Committee deems fit to address the issues raised in this Petition.

And your petitioners will forever pray.

Hon. Speaker: Thank you. The Petition is committed to Select Committee on Public Petitions to report back in 60 days excluding the long recess days.

Order, Hon. Members.

COMMUNICATION FROM THE CHAIR

DISBURSEMENT OF NATIONAL GOVERNMENT

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CONSTITUENCIES DEVELOPMENT FUND BY 5TH DECEMBER 2024

Hon. Speaker: I wish to bring to your attention especially constituency-based Members that I received a letter this morning from the Cabinet Secretary for the National Treasury and Economic Planning, FCPA Hon. John Mbadi Ng'ongo, on the National Government Constituencies Development Fund (NG-CDF) to the effect that by Thursday, 5th December 2024, he will disburse to the NG-CDF, Ksh5 billion and thereafter disburse Ksh7 billion every month until he concludes in June 2025.

Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Speaker, for that communication. It is informing the House that the Cabinet Secretary for the National Treasury and Economic Planning has confirmed that he will disburse Ksh5 billion at the end of this month and another Ksh7 billion every month until June 2025. This will ensure that we have adequate resources especially for disbursement of bursaries at the beginning of January when our children will be going back to school.

Therefore, I urge the Members, as we go on the long recess, those who have not submitted their proposals to the NG-CDF Board, to push their constituency committees. It is good that the Vice-Chairman of the NG-CDF Committee, Hon. Tandaza, is present because there are a number of constituencies that are yet to submit their proposals.

Hon. Kassim Tandaza (Matuga, ANC): Hon. Speaker, only 90 constituencies have submitted.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Yes, only 90 NG-CDF constituency committees have submitted their proposals to the Board. The rest will not access the money until they submit their proposals. As we go on recess, those who oversee the constituency committees should push them to submit their proposals. The deadline is Friday, 6th December 2024. Before you join the Speaker on the noon Standard Gauge Railway (SGR) train to Mombasa, make sure your NG-CDF Manager and your Chairman have submitted your proposals to the Board. And by 11.00 a.m., be at the SGR Station along Mombasa Road to accompany the Speaker to Mombasa for the East African Legislative Assembly (EALA) Games.

Hon. Speaker: Hon. Leader of the Majority Party, the letter also says that all the arrears for 2023/2024 have been disbursed and cleared. Therefore, the long recess is waiting for you to go and work for the people who elected you. Next. Yes, Hon. (Dr) Oundo. Is it on the same issue?

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Speaker, since you are magnanimous enough to intercede for the people of Kenya, and may the Almighty God bless you abundantly and fill your compound with bouncing castles or whatever you call them, we have unfinished business of the Roads Maintenance Levy Fund. I know it might be part of the ongoing mediation committee, but as you have interceded, is it possible that you also intercede on this matter in the same vein? We have many constituency road committees (CRCs) with arrears for the last financial year. We have unremitted savings from the last financial year. With the heavy rains devastating rural constituencies, our roads are becoming impassable. Can you place your good word and strong position, so that they can look safely at the people of Kenya to ensure that the roads remain passable during this period of heavy rains.

Hon. Speaker: Thank you, Hon. (Dr) Oundo. I promise to do the same. Hon. Rindikiri, do you want to speak on the same?

Hon. Mugambi Rindikiri (Buuri, UDA): No, Hon. Speaker. I, however, thank the Cabinet Secretary, but I have a question. Right now, I have connected my Fund Manager with the Vice-Chairman and he tells me that all the money for the last financial year have been disbursed. However, my Fund Manager does not know whom to believe.

Hon. Speaker: Order, Hon. Rindikiri. Your Fund Manager is not a yardstick for measuring what is going on. Certainly not. He is one Fund Manager out of 290 constituencies. Ask him to go and check with Mr. Mbuno, your manager at the NG-CDF. Hon. John Mbadi is a former Member of this House and a respectable Cabinet Secretary. He walked to the Speaker's office to relay this message and delivered the letter himself. He cannot have done that if it was not based on fact. I will give him the benefit of any the doubt. I encourage you, because you are a very strict man, to tell your Fund Manager to do the needful by travelling to the headquarters to check why the disbursement has not been made. Remember you were told some of the returns that you file are incorrect or inaccurate, which may lead to delays in disbursing the funds.

Yes, Hon. Tandaza.

Hon. Kassim Tandaza (Matuga, ANC): Thank you, Hon. Speaker. It is possible that some Members have not received all the disbursement for genuine reasons. For example, if up to now in one's constituency there are projects which are yet to be approved, the Board cannot disburse money. It is clear that the Board has received all the money, but to some constituencies, they may have not received. There are others who have asked for reallocation and in such a case, there are some documentation which the Board will require. For such reasons, it is possible. But for all the other constituencies where the projects have been approved with no other issues, they have received 100 per cent of their money.

(Hon. Mugambi Rindikiri rose in his place)

Hon. Speaker: Order, Hon. Rindikiri.

Hon. Members, when I used to be a constituency Member of Parliament, I never left it with my Fund Manager to run the mill from A to Z. He would send the documents of approval, which I followed up myself. First, to ensure that I am satisfied the documentation is correct. Secondly, that they have been delivered, thirdly, they have been acted upon and lastly, that the funds have been remitted back to the account. That is not too much to ask of a responsible Member of a constituency.

Yes, Hon. Rindikiri.

Hon. Mugambi Rindikiri (Buuri, UDA): Hon. Speaker, as you put it, I am very strict with the work of my Fund Manager. I have never doubted her. That is why I said they should speak to the Vice-Chairman. She has confirmed that we have no outstanding approvals. Everything is done and it has been always like that. Therefore, strictly speaking, we are not falling in the category of unapproved or outstanding documentation. They have spoken and he is not denying that.

(Hon. Kassim Tandaza spoke off the microphone)

Hon. Speaker: Order, Hon. Tandaza. It is not a matter between you and Hon. Rindikiri. Yes, Hon. Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Speaker, the Ksh5 billion that you mentioned is part of the arrears. The Cabinet Secretary is saying that by releasing the Ksh5 billion, he will have cleared it 100 per cent. In my constituency, I have nothing pending, but I am owed Ksh15 million. That is the situation.

Hon. Speaker: Hon. Makali Mulu, the bottom line is that money is being disbursed. Go and work.

Next Order.

PAPERS

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

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Reports of the Auditor-General and Financial Statements for the years ended 30th June 2021, 30th June 2022, 30th June 2023 and the certificates therein in respect of:
 - (a) Moi Girls Isinya Secondary School;
 - (b) Salvation Army Maiani Secondary School;
 - (c) Lamu Girls Secondary School;
 - (d) St. Bakhita Siakago Girls High School;
 - (e) Moi High School Mbiruri;
 - (f) St. Monica Girls Mulutu Secondary School;
 - (g) Mbita High School;
 - (h) St. Anne's Muthale Girls Secondary School;
 - (i) Maryhill Girls High School;
 - (j) Utumishi Girls Academy;
 - (k) Sacred Heart Mukumu Girls' High School;
 - (l) Analat Secondary School; and,
 - (m) Kibiko Secondary School.
2. Reports of the Auditor-General and Financial Statements for the year ended 30th June 2024 and the certificates therein in respect of:
 - (a) State Department for Parliamentary Affairs;
 - (b) Kenya Local Loans Support Fund;

*(Hon. Phelix Odiwuor, Hon. Mohammed Adow
and Hon. Elisha Odhiambo consulted loudly)*

Hon. Speaker, I pause to allow the Member for Lang'ata and the Member for Gem to finish. I do not know what they are conversing and laughing at.

Hon. Speaker: And the Member kneeling on Caroli Omondi's seat, Hon. Mohammed Adow. That is not how you should be at the chamber.

(Laughter)

Hon. Kimani Ichung'wah (Kikuyu, UDA): I will go on.

- (c) Kenya Citizens and Foreign Nationals Management Service;
- (d) Global Fund Tuberculosis Grant Credit No. KEN-T-TNT 2067 – Ministry of Health;
- (e) Eastern Africa Regional Transport, Trade and Development Facilitation Project IDA Credit No.5638- KE;
- (f) Bura Rehabilitation Development Project Loan Numbers Badea 331, Kuwait 752, OPEC 1154P – National Irrigation Authority;
- (g) COVID-19 Health Emergency Response Project Grant/Credit No. 6598 -KE - Ministry of Health;
- (h) Witness Protection Agency;
- (i) Northern Corridor Transport Improvement Project – IDA Credit No.3930 and No. 4571 -KE – Kenya National Highways Authority; and,
- (j) Mombasa Special Economic Zone Development Project (I) – Kenya National Highways Authority.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Leader of the Majority Party.

Let us have Hon. Wanyama, the Chairperson, Departmental Committee on Sports and Culture.

Hon. Daniel Wanyama (Webuye West, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Reports of the Departmental Committee on Sports and Culture on its consideration of:
 - (a) Senate Amendments to the Gambling Control Bill (National Assembly Bill No. 70 of 2023); and,
 - (b) The Culture Bill (National Assembly Bill No. 12 of 2024).

I thank you, Hon. Speaker.

Hon. Speaker: Thank you. Chairman on the Departmental Committee on Finance and National Planning. Hon. Langat, you do not have your Papers? We will allow you to table them anytime you are ready. We have already dealt with the Departmental Committee on Justice and Legal Affairs. Next Order. We are done with Order No.6, go to Order No.7.

Hon. Members, before we call out Statements as listed, allow me to acknowledge, in the Public Gallery, a group known as Blessed Veterans Self Help Group from Runyenjes in Embu County. Hon. Karemba has asked me to give him one minute to welcome them to the House. Give him the microphone.

Hon. Muchangi Karemba (Runyenjes, UDA): Thank you Hon. Speaker for giving me an opportunity to welcome the Blessed Veterans Self Help Group into this House.

These are the people who have given me an opportunity to serve in this House and represent them. I am very happy and excited because amongst them is my former primary school head teacher and my Standard Five class teacher.

Hon. Speaker: That is very good.

(Applause)

Hon. Muchangi Karemba (Runyenjes, UDA): Finally, I wish to assure them that I will continue serving them diligently as I have been doing. I am particularly happy because the things that have been said here while they are seated there are matters that concern them. They have really been following up on those issues, and they are happy that those things are being discussed.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. On my behalf and that of the House, I welcome the Blessed Veterans Self Help Group to the House of Parliament.

QUESTIONS AND STATEMENTS

STATEMENTS

Hon. Speaker: Let us now go to Statements. Hon. Omboko Milemba, Member of Parliament for Emuhaya. You look bewildered, yet you are listed requesting for a Statement.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Speaker I am not bewildered. I am steady and very much okay. I am supposed to get replies from my Chairman.

Hon. Speaker: Is this for reply? Oh yes, you are right, Hon. Omboko. Hon. Tongoyo, are you ready?

Hon. Gabriel Tongoyo (Narok West, UDA): I am, Hon. Speaker.

Hon. Speaker: Go ahead.

STATUS REPORT OF INVESTIGATION INTO KILLING
OF NICODEMUS ALIJO

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. This is in response to my very good neighbour here, Member of Parliament for Emuhaya, regarding a Statement he sought regarding the sporadic attacks in Emuhaya Constituency. In particular, he wanted to know the status report of investigation into the killing of one Nicodemus Alijo - may his soul rest in peace – from Mesavia Village in Emuhaya Constituency, which was reported in Mbale Police Station under OB No.230210/2024. The Member also sought to know if any arrests have been made. Further, he sought to know the measures put in place by the Government to ensure deployment of additional officers to the Police Station.

Hon. Speaker, I want to state as follows: on 2nd October, the Assistant Chief of Essaba Sub-location in Tongoi Location, Mr. Wycliffe Mandu, reported that he received information from members of the public that they had heard gunshots at Mundila Village. The police officers rushed to the scene where they found the body of the deceased lying on a feeder road, with a gunshot wound. It was established that the deceased was a boda boda rider carrying two passengers from Luanda Town. However, the passengers turned against him, shot him and disappeared with his motorcycle.

Four spent cartridges and one live round of 9mm was recovered at the scene. The case is pending under investigation by the County Criminal Investigation Officer (CCIO), Emuhaya. The theft of the motorbike registration No. KMGL 606Q, Boxer, was circulated to all police stations within the country and the spent cartridges which were recovered from the scene were forwarded to the DCI forensic laboratory for further analysis to assist in the investigation. To this end, by the time I was writing this response, there is no reported arrest made, but the case is pending under investigation through CR948/138 of 2024.

On the measures the Government has put in place in the last six months, a total of 25 officers have been deployed to Emuhaya Constituency. However, the National Police Service (NPS) will continue monitoring the situation and will take any other measures if need arises.

The Statement is signed by Dr Raymond Omollo.

Hon. Speaker: Thank you. Hon. Omboko Milemba, are you satisfied?

Hon. Omboko Milemba (Emuhaya, ANC): No, I am not. My able good neighbour and Chairman, Departmental Committee on Administration and Internal Security, has given a very slim statement about a family and a person who was killed by unknown people. He has not even indicated if there are any hopes that the people who killed that person will be found. He has stopped at that.

It should go on record that Emuhaya and Luanda, which are neighbours and border Luanda Town, have lost more than 19 people in the last two months. I want the Chairman to listen to this. I know it is a matter that is really affecting the people of Bunyore. I wish Hon. Maungu was here. Nineteen people have been killed in a period of two months. Even after losing the one that I sought a Statement on, it should be on record that I have severally been here doing similar statements, but getting the same answers. After the death of this one, two other people... Hon. Speaker, protect me from this team here.

*(Hon. Vincent Musau, Hon. Onesmus Ngogoyo
and several Members consulted loudly)*

Hon. Speaker: Order, Hon. Kawayu. Hon. Ngogoyo, that is not the place where you sit. Do not cause any disorder. Be a good guest.

(Laughter)

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. Even after the death of this particular one, another person was butchered around the same place at a shopping centre. Thugs waylaid, attacked and killed him brutally like an animal. After three days since this particular one, one of the most important traders in Luanda by the name of Phillip Ateka was shot when he was accessing his compound. Yet in the same place, another person popularly known as Bam Bam was also killed. The deaths in Bunyore, let me now use the general area, the Luanda Market and Emuhaya, really need the attention of the Chairman.

I urge the Chairman to go back and talk to the security agencies, so that we can have the police stations that we build using the NG-CDF funds at Ipali, Ebuhaya, and Emurembe, given security officers. He said 25 police officers have been sent there, but we have five police posts that have no officers.

We have a major police station at Hobuyaya in Emusire, where security officers are not willing to occupy. This is despite the fact that when the station was visited by the NG-CDF officers and others from other national offices, they say it was one of the best in Kenya. They would prefer to stick at Em'mbali Police Station which is a small area and far away from the centre of the sub-county. We do not have the police officers he is talking about. Insecurity is really very high. I talked to one of the sub-county officers...

Hon. Speaker: Wind up.

Hon. Omboko Milemba (Emuhaya, ANC): I am winding up. The officer told me that the problem is cultural. That was an insulting answer from an officer of that status. Who said that the problem is cultural? That is an insult from an officer of that status. I am not satisfied, and I wish the Chairman goes back and brings a serious answer, including why the rest of the 19 people were killed in that area.

Hon. Speaker: Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. I really feel the concern of the Member. It is very unfortunate that there have been more reported cases of death, even after this Statement was written. The Statement was very clear. There is an additional officer. If need be, the National Police Service will add more.

You know, I sit together with the Member. Besides the written Statement that I am reading, I discussed with the Member. There is a suggestion of a possible deployment and change of the security officers. I had committed that I would raise the same concern with the Inspector General (IG) of Police. If that, together with the addition of police officers to the police stations that are understaffed will help, the better.

Hon. Speaker: Hon. Milemba.

Hon. Omboko Milemba (Emuhaya, ANC): One minute, Hon. Speaker. I want this to go on record, and very softly, that, unless action is taken in Luanda Town, we shall continue losing many people. We have lost 19 people in two months and the series is ongoing. I want your word on this so that special attention can be given to Luanda.

Hon. Speaker: Nineteen people in a small market like Luanda is something worth your worrying about. So, what are you doing about it?

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, I will raise the issue with the Inspector General of Police.

Hon. Speaker: From what your colleague is saying, these are not just soft murders, they are brutal murders.

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, it is very regrettable. You know, other than this case, we have really had a spike in insecurity in the country, Luanda included. So, I am committing to go and see the IG, together with the concerned Member, for

a possibility of a quick intervention that will include deployment of more officers in addition to the 25 who have already been deployed to the sub-county.

Hon. Speaker: Go ahead and do so.

Response to a Statement by the Chair, Departmental Committee on Blue Economy and Irrigation, requested by Hon. Gideon Mulyungi. Is Hon. Gideon in the House?

Go ahead, Hon. Bowen.

UTILIZATION OF FUNDS FOR SINKING BOREHOLES IN MWINGI CENTRAL

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker. I have a response from the Cabinet Secretary for Water, Sanitation and Irrigation, in regard to the Question by Hon. Mulyungi on utilisation of funds allocated for the sinking of two boreholes in Mwingi Central Constituency.

I refer to his letter dated 6th November, 2024. Water has remained a critical need for Mwingi Central just like any other water deficient constituency in Kenya in the arid and semi-arid belt. The different natural resource endowments, economic opportunities in the drylands and the rising population have made constituencies to have different priorities when determining where and how to fix water challenges. Mwingi Central primarily depends on Kiambere Dam water supply, boreholes, shallow wells, water pans and small dams which are not sufficient to meet the increasing demand for the commodity in the area. It is against this background that the Ministry of Water, Sanitation and Irrigation, through the Tanathi Water Works Development Agency, has drilled Kavoko Primary and Kalesi Primary schools' boreholes. They are currently awaiting the second phase of disbursement for the equipping of the two boreholes.

Hon. (Dr) Gideon Mulyungi, the Member of Parliament for Mwingi Central Constituency, requested for a Statement from the Departmental Committee of Blue Economy, Water and Irrigation regarding the utilisation of funds for sinking of two boreholes in Mwingi Central Constituency. In the Statement, the Member of Parliament sought the clarification of the following issues:

1. Why the implementation of the project was started without public participation of the local residents who had in the first place requested for the project;
2. why construction of the boreholes was halted before the completion despite the full funding having been allocated by Parliament and released for the purpose by the National Treasury;
3. when and how the boreholes were procured, the details of the contractors awarded tenders, the contract sums and the scope of the contract; and,
4. when the exercise will be completed and whether this could be expedited to alleviate the challenges of accessing water by the area residents.

I wish to submit as follows:

The response for the request by Hon. Mulyungi on question one on why the implementation of the project was started without public participation by the local stakeholders and area residents who had requested the project, the two boreholes sites were identified by the local leaders who indicated that the two are very needy institutions in the community. The Tanathi Water Works Development Agency, on behalf of the Ministry of Water, Sanitation and Irrigation, had carried out an initial public participation for the drilling of the boreholes during the ideological survey investigation. Kalesi public participation was conducted on 23rd August 2024 before drilling commenced on 26th August 2024.

The Kavoko borehole initial public participation was held on 29th August 2024 before the drilling commenced on 1st September 2024. Further, the Tanathi Water Works Development Agency did a public participation after consultation for the equipping of Kavoko

and Kalesi boreholes on 14th October 2024 and 3rd October 2024 respectively. The agency has planned to carry out two more public participation forums once the final tranche of the funds is released for the equipping of the boreholes.

Question two is on why the construction of the two boreholes were halted before the completion despite the full funding from the Treasury. It is true that the Kavoko and Kalesi boreholes have been allocated Ksh10 million each totalling to Ksh20 million. However, the funds that have been released by the National Treasury to the Tanathi Water Works Development Agency through the State Department of Water and Sanitation, is Ksh2.5 million per borehole, making it Ksh5 million. The funds were not enough to drill the two boreholes without equipping them. The agents have already drilled the two boreholes with additional funding from savings realised from other projects within the programme. Currently, the agents have started the technical designs for equipping and pipeline extension after which, the process of procuring the constructors to equip the two boreholes will commence immediately the funds are disbursed. Once the constructors have been procured, the agents will start the further public participation before equipping the boreholes.

On question three, the drilling contracts for the Kavoko Primary School borehole was awarded to Rachan Limited, P.O Box 985, Kitui, on 25th July 2024. Drilling commenced on 1st September 2024 and was completed on 5th September 2024 at a contract sum of Ksh3,550,596. The borehole yields about 15 cubic metres of water per hour. The drilling contract for Kalesi Primary School was awarded to Retoki Limited, P.O. Box 385, Kitui, on 25th July 2024. The drilling commenced on 26th August 2024 and was completed on 31st August 2024. The contract sum was Ksh3,883,174. The borehole yields about 3.5 cubic metres of water per hour. The scope of works for each contract involved the drilling, casing, gravelling, flushing development, and 24-hour pumping of the two boreholes.

Hon. Speaker: Yes, Hon. Ngogoyo.

Hon. Onesmus Ngogoyo (Kajiado North, UDA): Thank you, Hon. Speaker. I rise under Speaker's Rule No.9. Earlier on, you read a very comprehensive ruling on how Members should dress in this House. Hon. Bashir is not dressed in accordance with Speaker's Rule No.9. In your Ruling No.82, which you delivered last year, you described the manner in which a Member should appear in the House. Hon. Bashir is even a vice-chairman of a committee and is part of the leadership, yet he does not have a tie. He is not dressed in accordance with your guidance – a very comprehensive ruling which you issued for almost one hour in this House.

I seek your guidance because he is the chairman of a very powerful group that I belong to.

Hon. Speaker: I will guide you. Let Hon. Bowen finish first. Thank you for bringing that to my attention.

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Speaker, the process of the procurement of the two boreholes was through a restricted tendering method, which involves the issuance of bids from registered pre-qualified contractors in our database.

On the last question, the technical designs for equipping and laying of pipes, construction of water kiosks and installation of water tanks at the Kavoko Primary School and Kalesi Primary School boreholes are ongoing. The procurement process for equipping those projects will commence immediately the remaining funds amounting to Ksh15 million are disbursed and the technical designs are completed.

Hon. Speaker: Thank you, Hon. Bowen. Hon. Mulyungi.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Speaker, I am not satisfied with that response because the Chairman of the Committee has been given wrong information by the Agency. The information he has read is not factual, and that is why I raised that issue. The process was very suspicious.

This is a House of records. The Chairman has read a Statement which falsely claims that public participation was conducted. I raised that matter because members of the public came to me complaining that there was a project being done without their knowledge. It is only after they complained that public participation was conducted, which was after the drilling was completed. If the Chairman is convinced that public participation was conducted before the drilling of the boreholes, let him provide a signed list of the attendees who participated in the public participation.

I also want to know why only Ksh5 million was disbursed out of a budget of Ksh20 million, considering that that was the budget for the public participation, which is never touched.

On the third issue, I also want to know why only contractors from very far away were shortlisted to tender, sidelining local contractors who had the capacity to do that work.

Finally, Hon. Speaker...

Hon. Speaker: You are supposed to seek clarification. You are now debating.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Hon. Speaker, I also want to know when the balance of Ksh15 million will be disbursed, considering the financial year has ended.

Hon. Speaker: Hon. Bowen.

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Speaker, starting with the disbursement of funds, a budget is just a projection. All budgets are projections. The budget the National Treasury brings to the House only highlights the amounts of money they project to collect. That is why if they do not hit those targets, they normally propose budget cuts. An amount of Ksh15 million has currently been disbursed to those two projects. I want to promise the Member that I will follow up on the remaining amounts in the next supplementary budget to ensure that the two boreholes are completed.

Sometimes in very expensive projects, all pre-qualified contractors who meet the qualifications are normally considered. It does not matter whether they are local or from far. If there is a qualified contractor from far, he or she will also be considered. He or she does not have to be from the region.

It is very clear from the report that the Tanathi Water Works Development Agency conducted public participation. Given that the report was signed by the Cabinet Secretary, Engineer Mugaa himself, allow me to follow up with him and ask the Tanathi Water Works Development Agency to give the Member the details of the public participation exercise, including the day it was held, and the signed names of the participants.

I submit.

Hon. Speaker: Next is a response to a request for a Statement by Hon. Marianne Kitany, Member for Aldai. Is that Hon. Akujah? Sorry, it is Hon. Namuar.

Hon. Joseph Emathe (Turkana Central, UDA): Thank you, Hon. Speaker. I do not know if the Chairman of the Departmental Committee on Blue Economy and Irrigation, Hon. Bowen, is listening.

Hon. Speaker: The Member wants your attention.

Hon. Joseph Emathe (Turkana Central, UDA): Hon. Speaker, on 13th August at 2.30 p.m., I requested for a Statement regarding incomplete projects in Turkana Central by the National Water Harvesting and Storage Authority (NWHSA). It is now four months down the line. I have asked the Chairman what is going on and I have not received a response up to now.

Hon. Speaker, I request your direction on the same.

Hon. Speaker: Hon. Bowen.

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Speaker, it is true that the Member requested for a Statement about the status of projects in Turkana County. I remember that many Members also raised similar issues at that time. There were many incomplete projects in many constituencies. When we engaged the Ministry and the Cabinet Secretary,

they requested for more time to compile a more comprehensive report, not only for Turkana County, but for the whole country because it is a countrywide problem. I want to ask my good friend, Hon. Akujah, to allow me to engage with the Ministry because they said that they want to come up with a comprehensive report.

Hon. Speaker: When can you bring a response? This Thursday?

Hon. Kangogo Bowen (Marakwet East, UDA): This Thursday.

Hon. Speaker: Hon. Protus, is Thursday okay? Thank you. We will now move to the response to Hon. Marianne Kitany's request for a Statement. Hon. Tongoyo, do you have the response?

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. Yes, I do.

(Loud consultations)

Hon. Speaker: Order, ladies! The gracious ladies at the back, you are disrupting the proceedings.

INSECURITY IN ALDAI

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, in response to the request for Statement by the Member for Aldai, Hon. Marianne Kitany, concerning insecurity in her constituency, allegedly caused by change of security personnel, I wish to respond as follows:

On 1st November 2024 at about 3.00 p.m., Mr Elkana Kiplagat Mugun, a businessman at Kaptumo, was attacked and killed at his gate while returning home. The victim's body was bundled in his motor vehicle, Registration Number KWE 383, a saloon and dumped at Kaiboni Location, approximately seven kilometres from Kaptumo.

(Loud consultations)

Hon. Speaker, there is a lot of noise.

Hon. Speaker: Order, Hon. Members. Hon. Wamuchomba, that *kamukunji* is illegal. Order, Members next to Hon. Tongoyo. Is that Hon. Wakili Muriu?

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, investigation commenced, vide CR772453 of 2024, and 14 suspects were arrested in connection to the murder. They were subsequently taken to court under miscellaneous application and a custodial order of 14 days pending further investigation was obtained. On 5th November 2024, the main suspect, Ismail Kipng'etich Kemboi, was traced and arrested in Sirisia, Bungoma County. On 8th November 2024, he was arraigned before court, through Miscellaneous Application No.E095 of 2024 and, subsequently, a custodial order of 14 days pending further investigation was obtained. The suspects were all placed under investigation by the Directorate of Criminal Investigations in Nandi South Sub-county and will be arraigned for plea taking once investigations are complete.

The body of Ms Felista Chelimo was discovered lying on the road at Kundos area of Koyo Village along Kaboi-Kaptumo Road on 13th November 2024 at about 3.00 p.m. The body had fresh injuries occasioned by a traffic road accident. On the following day, the motor vehicle that caused the accident, Registration Number KNW 368N, a Toyota Premio, was found and taken to Nandi Hills Traffic Police Station. The traffic department is handling the matter vide Inquiry Number IARF3 of 2024.

On the action being taken, investigations were conducted and 15 suspects arrested in connection to the murder of Elkana Kiplagat Mugun and arraigned. An inquest file has been opened to determine the culpability of the driver of the motor vehicle involved in the hit-and-run accident. Investigations are ongoing into the recent spate of stock theft cases involving 30

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cattle. The following suspects were arrested in October in connection to the cases: Lucy Chalag'at, Christopher Maiyo Kipkemoi and Elizabeth Kibet.

The following are some of the measures taken: Increased police patrols, revitalised community policing initiative, arrest and prosecution of perpetrators and offenders, and arrest and prosecution of persons suspected of inciting or participating in violence or aiding the stock theft, thus deterring future conflicts or stock theft.

The last concern was whether there is a correlation between the rise in insecurity and the transfer of security personnel in the sub-county. Deployments are ongoing activities within the Police Service. That is a human resource duty. The Government is not aware that the recent changes in the security personnel at the sub-county level have any correlation with the increase in insecurity in the area.

Hon. Speaker: Hon. Kitany.

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Speaker. I have listened to the Statement. The issues I raised are getting worse. One of the issues I raised was that the transfer of officers in my constituency has created insecurity. All OCPDs, OCSs, ACCs and DCCs in my constituency were transferred at the same time and new officers brought in. A week later, the death I have mentioned happened. In the last one month, three bodies of members of my constituency have been discovered in Terik Ward. This ward borders Kisumu and Vihiga counties. Police officers are unable to track what is happening. The OCPD is complaining about laxity of his officers. Some of his officers are found drunk at work while some are not on duty. There is a lot of laxity in the security situation in my constituency. As much as the Ministry is saying that the transfers have not affected operations, it is far from the truth. The truth is that we are discovering more bodies. This was unheard of until the transfers happened.

On the death of Elkana Mugun, also known as Simba, I am aware that investigations are ongoing. The 14 suspects that were arrested were released because the 14-day custody lapsed. That brought a lot of tension in the constituency. Residents wanted to go back on the streets to demonstrate. We had to cool the tension and tell them that investigations are still going on. As we speak, members of the family are saying that the forensic report has not come out, one-and-a-half months since the death happened and since investigations happened. I do not know how long the investigations will happen, even for a simple forensic report to come out to at least unravel these deaths.

As I speak, the security situation in my constituency is deteriorating. Secondly, the investigation is moving at a far lower pace, if at all it is going on as the Chairperson of the Departmental Committee on Administration and Internal Affairs is saying. Instead of a Statement, we could have a session with the Ministry before the Committee so that I can raise these issues. I never used to have these issues. That is a problem.

Hon. Speaker: Thank you. Hon. Tongoyo.

Hon. Gabriel Tongoyo (Narok West, UDA): Thank you, Hon. Speaker. I agree and she has a right. It is true the police arrested 14 suspects. It is good to appreciate that it is a constitutional right of any suspect to get released on bond, and that is exactly what happened.

Hon. Speaker: Are they out on bond or they were released without a charge? Are they on police or court bail?

Hon. Gabriel Tongoyo (Narok West, UDA): They are on court bail. That is the report I got. Court bail is a constitutional right.

The transfer of security officers is an issue the Member has been talking about. She has even been in several *barazas* talking about the possibility of her being undermined. I believe police officers are professional. They are supposed to work efficiently wherever they are deployed to. I remember we talked and she had issues with some NGAO officers, some of

whom were reinstated to the sub-county. I think it is more of an administrative issue, and not much of a security issue.

Hon. Speaker, if you so guide, because we are going on recess, if the Member feels that she can prosecute the matter better by appearing before the Committee, we can plan as soon as we resume.

Hon. Speaker: If what she has said is true, is it not unusual that you just wake up and transfer all officers from one place? Where is continuity, Hon. Tongoyo?

Hon. Gabriel Tongoyo (Narok West, UDA): Hon. Speaker, it is true and she knows. I raised this issue with the Deputy Inspector-General of Police. We conversed at length with her. Allow me to keep engaging her and see what we can do.

Hon. Speaker: Follow it up. Keep engaging.

Yes, Hon. Mwinyi.

Hon. Omar Mwinyi (Changamwe, ODM): Hon. Speaker, I rose last week to request a Statement on the Export Processing Zone (EPZ) workers. I was promised by the Deputy Speaker, who was then on the Chair, that my matter would be prosecuted this week. I do not know whether it is included among those that are there.

Hon. Speaker: Which Committee did you request for a Statement?

Hon. Omar Mwinyi (Changamwe, ODM): It is the Departmental Committee on Labour.

Hon. Speaker: It is chaired by Hon. Karemba.

Hon. Omar Mwinyi (Changamwe, ODM): I saw him leaving the Chamber.

Hon. Speaker: He went to talk to some special veterans. Clerk-at-the-Table, look up Hon. Mwinyi's Statement and list it for tomorrow if it is ready. We will see if it can be brought up tomorrow in the afternoon.

Hon. Omar Mwinyi (Changamwe, ODM): No problem, Hon. Speaker.

Hon. Speaker: Thank you.

Hon. Tindi Mwale. Hon. Tongoyo, do you have a response to Hon. Tindi Mwale's Statement? He is not here. His Statement is stayed.

(Response to Hon. Tindi Mwale's Statement Request deferred)

Hon. Speaker: The Chairlady of the Departmental Committee on Social Protection, Hon. Alice, are you ready with the response to Hon. Protus Akujah's Statement?

Hon. Alice Ng'ang'a (Thika Town, UDA): Yes.

Is Hon. Akujah here? Go ahead.

DISBURSEMENT OF THE PRESIDENTIAL SECONDARY SCHOOL BURSARY

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Speaker. I wish to respond to a request for a Statement made by the Member for Loima Constituency, Hon. Protus Akujah, regarding the disbursement of the Presidential Secondary School Bursary. In his Statement, the Member sought feedback on the following three areas:

1. What are the reasons for the lack of disbursement of the full amount of Presidential Secondary School Bursary to constituencies in the last two financial years?
2. What plans have been put in place to ensure timely disbursement of all appropriated Presidential Secondary School Bursary Fund for the previous and current financial year?

3. What measures has the Ministry put in place to guarantee that in the future, Presidential Secondary Schools Bursary funds will be released as they are located in the budget and disbursed in a timely manner?

Concerning the first inquiry, I wish to respond that the reason for the lack of complete disbursement of the Presidential Secondary School Bursary Fund for the Financial Year 2023/2024 was due to the low allocation of funds and lack of Exchequer release. Consequently, the constituencies were not financed as expected. The effect of this is that even part of the minimal allocation granted to the sector was eventually not released by the National Treasury due to various reasons, including fiscal challenges.

Concerning the second inquiry, I wish to respond that the Presidential Secondary School Bursary funds are disbursed in two batches yearly: the first and second half. The bursary is constituency-based. All the 290 constituencies are equally allocated. The State Department was allocated Ksh400 million in both Financial Years 2022/2023 and 2023/2024 but obtained only Ksh200 million from the National Treasury, which affected the disbursement.

Of greater concern, the total requirement for the Presidential Secondary School Bursary was Ksh2.56 billion in the Financial Year 2022/2023 and Ksh2.65 billion in the Financial Year 2024/2025. However, only Ksh400 million was allocated, representing only 15 per cent of the total requirement. The plan to ensure timely disbursement of funds for the previous and current financial years will therefore involve regular appraisal and reporting over the next two quarters of this financial year by the National Treasury to the Departmental Committee on Social Protection on measures being put in place to reduce currently allocated funds and all pending balances under the bursary programme. The Departmental Committee on Social Protection shall regularly engage the National Treasury during the course of this financial year to ensure the disbursement of the appropriated funds, as well as pending balances allocated to the Presidential Secondary School Bursary.

In this regard, I wish to respond that the State Department for Social Protection and Senior Citizens Affairs manages the bursary. Henceforth, it will be required to prepare and release Authority to Incur Expenditure (AIE) schedules in a timely manner. This will facilitate the effective disbursement and utilisation of the funds to the counties for the payment of fees for the beneficiaries at the constituency level. Further, the Departmental Committee on Social Protection will involve the State Department for Social Protection and Senior Citizens Affairs and the National Assembly to secure sufficient allocation of resources to the Presidential Secondary School Bursary to enable orphans and vulnerable children from poor families to access secondary school education without hindrances or inconveniences.

Finally, the National Treasury will be required to furnish the Departmental Committee on Social Protection with regular Exchequer releases and additionally commit to releasing 100 per cent of all the Presidential Secondary School Bursary funds for allocation.

Thank you, Hon. Speaker.

Hon. Speaker: Umetosheka?

Hon. Protus Akujah (Loima, UDA): I am not satisfied, Hon. Speaker, because this Statement does not address the issues raised. It has given excuses for the Exchequer releases. Responses 4 and 11 do not go together. The fourth response talks about disbursement of funds happening in the first and second quarters of the Financial Year. Response No. 11 talks about timely disbursement or release of the Exchequer. We are almost six months into the first half of the Financial Year, and nothing has been released so far. Those two responses do not tally.

I come from a constituency that has a lot of orphans because I border some hostile communities at the international borders. We lose our people on a daily basis. Once these children or students qualify for the Presidential Secondary School Bursary, we expect the full bursary to be paid until they finish schooling. Because of the delay in the disbursement of funds, we assumed these students were in school, but we realised they were chased from school.

Considering them for other bursaries like NG-CDF or the county bursary becomes difficult. This is because we are very sure that the Presidential Secondary School Bursary has already taken them up because they are orphans.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Hon. Speaker, thank you for your indulgence. I want to give information to Hon. Chairlady and Hon. Protus on this issue. Presidential Secondary School Bursary is quite thorny. It is never clear when these funds are released. I do not know whether the Hon. Chairlady is aware that about Ksh600,000 per constituency has been released. It is incumbent upon every Member, through their children's officer, to go and check this money. Otherwise, it is spent without Hon. Members being aware.

I suggest that the Hon. Chairlady invites Members or our constituency managers through her Committee so that they can become aware when these funds are disbursed. It is done without the knowledge of Members.

Hon. Speaker: Hon. Alice.

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Speaker. From where I sit, the Exchequer did not release the money in the Financial Years 2022/2023 and 2023/2024. The only money released in these two Financial Years was Ksh400 million, yet it was supposed to be Ksh1.26 billion. However, even with the small amount of money released, the only thing we need to do, as Hon. Mwenje has stated, is to let Members of Parliament know how much money goes to every constituency and the beneficiaries of the Presidential Secondary School Bursary.

Thank you, Hon. Speaker.

Hon. Speaker: Yes, Member for Turkana Central.

Hon. Joseph Emathe (Turkana Central, UDA): Thank you so much, Hon. Speaker. This is a very pertinent issue, especially to those of us from marginalised constituencies. The Inua Jamii Programme operates in such a way that you can check in the system and know the person benefiting from the programme. However, it is not easy for us to know the beneficiaries of the Ksh600,000 Presidential Secondary School Bursary. It is important for the Ministry, through the Chairperson, to also feed these beneficiaries into the system so that we can understand them at the click of a button, as is the case with the Inua Jamii beneficiaries.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Alice, can you do that?

Hon. Alice Ng'ang'a (Thika Town, UDA): Hon. Speaker, I can do that, just as I did with the Inua Jamii programme. I will prepare a list showing the amount allocated in every financial year and let the Members know the amount that goes to their constituencies. However, the Members must also check with the Children's Officers in their constituencies to know how much money has been released to the constituency and the children that benefit from the said amount.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you. That marks the end of statement time.

Next Order. Order No. 12.

THE BUSINESS LAWS (AMENDMENT) BILL
(National Assembly Bill No. 49 of 2024)

(Moved by Hon. Kimani Ichung'wah on 3.12.2024)

(Resumption of debate interrupted on 3.12.2024 – Morning Sitting)

Hon. Marianne, you were on the Floor and have a balance of eight minutes. Proceed.

Hon. Marianne Kitany (Aldai, UDA): Thank you, Hon. Speaker. The other issue that the business laws amendments that are being proposed will look at is the establishment of laboratories for testing any goods manufactured locally or products that will come into this country. That will ensure that all products that get to the shelves have been properly tested and certificates produced. So, in cases where the Kenya Bureau of Standards (KEBS) is not in a position to undertake the testing, the Kenya Accreditation Service (KENAS) will accredit laboratories that can be used for testing all the goods that will be made available to the customers. So, business laws come in handy to ensure that the products the customers consume are of quality and meet the standards set in Kenya.

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

[The Temporary Speaker (Hon. Omboko Milemba) took the Chair]

The other issue that comes with the business laws is the calibration services. Most of the time, customers complain that a bag of cement being sold by one of the cement companies is 40 kilogrammes instead of 50 kilogrammes. Sometimes, we buy a 500-gramme loaf of bread, but when you weigh it, it is 400 grammes. One of the functions that we are introducing in the Standards Act (Cap 496) is the establishment of calibration facilities across the country. These facilities will ensure that the product sold to the customer carries the weight within which it indicates. Sometimes, customers say the bread is not 500 grammes, but it is probably because their weighing scale is not calibrated. So, the amendments to the Standards Act (Cap 496) will ensure that every part of this country has calibration services. Additionally, in cases where we cannot do calibration, we will have accredited calibration service providers to give us calibration.

We have also said that KENAS must accredit any company that will perform conformity assessment in Kenya. This is to avoid situations whereby many conformity assessment bodies in the country seek accreditation services outside the county, thereby denying the country the required revenue and using unknown standards. So, the accreditation service in Kenya will ensure that the services of bodies performing conformity assessments have been accredited here in Kenya.

We are happy that the Leader of the Majority Party has said that he will drop the Scrap Metal (Amendment) Bill because we recently amended the Statute Law (Miscellaneous Amendments) Bill passed on this Floor, which I now understand is in the Senate. However, the Scrap Metal (Amendment) Bill will be re-introduced to this House after about six months. This is because, as a Committee, we have also looked at the whole Act, and there are various amendments that we will propose that cannot be carried out in any omnibus legislation but on its own.

The Special Economic Zones (SEZs) are one area covered under the business laws. Previously, there was a minimum land acreage. However, since land is a scarce resource that does not grow, as a Committee, we have proposed a minimum investment amount that can be put in an area considered an SEZ to encourage investments there. Some of the add-ons we will get in the SEZs are incentives and tax benefits granted to anyone operating there as a developer or an enterprise. A few of those tax benefits are, for example, giving a ten-year moratorium on tax benefits and incentives for companies in the SEZs. We will also introduce a one-stop shop for all enterprises operating in the SEZs. This will make our country a good destination point for investors. Currently, many investors are going to our neighbouring countries because of certain benefits offered there. However, now that we are introducing a one-stop shop where all services will be put together, the investment will become easy for any investor coming into this

country. The other issue is that all the goods produced in SEZs will be treated as being within the customs-controlled area. That is a plus, especially for SEZ manufacturers when taxes are required. So, they will only be charged tax if those products move out of the controlled area.

Regarding Micro, Small and Medium-sized Enterprises (MSMEs), the Kenya Industrial Research and Development (KIRDI) Act is also being amended to ensure that MSMEs benefit from tax incentives that people require to benefit. This goes together with the Startup Bill laid on the Floor of the House, which we have already debated. The tax incentives that the MSMEs will enjoy under these laws that have come up will be enormous.

The last issue that the business laws will look at is the electronic single window system in situations where some companies are exempted from taxation. However, because the single window system did not allow such exemptions, they are still forced to pay levies to use the single system. An example is the persons with disabilities. They are exempted from paying taxes, but when importing an item and using a single window system, they must pay the levies required of the system. Therefore, these exemptions will allow persons with disabilities to enjoy the tax exemptions already given under the Income Tax Act (Cap 47) to pass through the national electronic single window. The Business Laws (Amendment) Bill will benefit the businessman and the consumer, who is the biggest gainer.

Thank you, Hon. Temporary Speaker. I support.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Ambassador Lang'at.

Hon. Benjamin Lang'at (Ainamoi, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Bill on behalf of the Departmental Committee on Finance and National Planning. As you can remember, when the Bill was read for the First Time, the Hon. Speaker gave responsibility to two Committees. These are the Departmental Committee on Trade, Industry and Cooperatives and the Departmental Committee on Finance and National Planning. As you will realise, this is an omnibus Bill touching on different business laws.

The Departmental Committee on Finance and National Planning was given the responsibility of considering Clauses 1 to 19, which are the sections amending the Central Bank of Kenya Act, Banking Act, Microfinance Act and other related laws. We considered the provisions affecting the banking sector to improve its financial stability.

One of the biggest or notable changes is that this Bill seeks to increase the core capital requirements of banks. This is from the present Ksh1 billion to Ksh10 billion progressively in three years. The Committee noted that our core capital in the banking sector has remained at Ksh1 billion for almost 10 years. We are a growing economy, our population and the number of companies operating in this country are increasing. So, we need strong banks that can absorb the shocks in the financial sector. Therefore, this proposal is welcome.

During public participation, we had representatives from the banking sector. Although they agreed with the proposal in principle, they had an issue with the timing. If you ask a bank to get an additional Ksh9 billion within three years, it means they have to sell all their investments and channel to capital requirements. This means they will be unable to lend to the private sector in the next three years.

They added that even if they were to merge because of this requirement. The merging process requires time to be seamless and have the right structures. During the Third Reading, we shall introduce some amendments, especially in terms of the time required to increase the capital requirements. So, we agreed on eight years with some milestones: after three years, they must have Ksh3 billion, Ksh5 billion after four years, and finally, in the eighth year, they required Ksh10 billion.

The other proposals are for non-deposit-taking microfinance businesses. These providers have been operating without a regulatory framework outside the CBK ambit. It is high time this sector is regulated. They do a lot of lending but charge interest up to two or three times the original loan. This Bill seeks to bring all the non-deposit-taking microfinance

providers, including digital lenders, under the CBK regulations. It requires them to be licensed by the CBK so they can give information for purposes of getting them to order.

In Clause 4, the CBK is required to create a code of conduct and implement the licensing requirement for these providers. The other business this Bill brings under the CBK ambit is the credit guarantee business. They are normally charged with underwriting the risk of borrowers for lenders. Clause 9 proposes creating regulations on credit guarantee business licensing under the Central Bank Act.

We also have lenders who give credit to boda boda riders or young men. In fact, we have been investigating a case where they lent to a boda boda, but when the loan had been repaid to 70 per cent, they took away the boda boda without any refund to the rider. Clause 19(1) of the Bill states:

- “(1) A non-deposit-taking microfinance business shall exhibit transparency in dealing with the public and, in particular shall—
- (a) furnish borrowers with accurate information on the procedure and conditions for lending;
 - (b) inform borrowers, prior to the acquisition of a loan, of the financial costs associated with the procurement and servicing of that micro-loan to be met by the borrower.”

Earlier on, one could sign forms without knowing the loan's interest rate or hidden cost. But now, the non-deposit-taking microfinance must inform you of the interest rate and other costs associated with the loan and maintain confidentiality of information relating to the borrowers. In particular, a non-deposit-taking business shall, in the course of debt collection... This has been the problem where you have paid up to 70 per cent, but then the next day, they come for you and forcefully take the asset from you without respect. The proposed amendment in Clause 19(2) states:

- “(2) A non-deposit-taking microfinance shall, in the course of debt collection or loan recovery
- (a) not harass, abuse or oppress a borrower, guarantor or any person in connection with collection or recovery of a debt;
 - (b) not threaten or use violence or illegal means in collection or recovery of debt.”

This has been very common in the boda boda business, but now we have a law. They shall not threaten or use violence or any illegal means to collect a debt.

Part “(c), not use obscene or profane language to a borrower, guarantor, or any person in connection with the collection or recovery of a debt.”

We are simply creating order in an otherwise disorderly sector. We want to create order. We want Kenyans to have confidence. It is not a crime to get a loan....

(Hon. Benjamin Lang'at's microphone was switched off)

The Temporary Speaker (Hon. Omboko Milemba): Add him one minute because he talked about 70 per cent payment but ended up speaking a lot of English. What have you done about these people who have paid 70 per cent of the property they took? One minute, then we go on.

Hon. Benjamin Lang'at (Ainamoi, UDA): Hon. Temporary Speaker, I said that previously, these non-deposit-taking credit providers, including the digital lenders, were not under the regulation of the Central Bank of Kenya. They could do anything, including taking your boda boda, leaving you with nowhere to go. We have now brought them under the Central Bank's control. They will be furnishing information to the Central Bank. I have read Clause 19, which says that, first of all, the borrowers must be given accurate information. For example,

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how much they have paid before someone takes away their boda boda. How much is outstanding? If they take the boda boda, how much was it sold for? And how much will the boda boda buyer get for the amount they have contributed?

I have also said that under clause 19(2), they should not harass, abuse or oppress a borrower. I am simply saying that we are bringing order by bringing these credit providers into the Central Bank's control.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. (Dr) Oundo, you can pick up from there.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. I start by also empathising and sympathising with you and the people of Luanda for the massive deaths and crimes associated with Luanda because my best moments are normally shared with a lady from Luanda.

Allow me also to take this opportunity to comment on the Business Laws (Amendment) Bill. As usual, it is what we call the omnibus law that covers many Acts of legislation. The danger of a number of details being lost in many cases like these is possible, then we end up with Kenyans being saddled with laws or amendments that make their life much harder than they thought.

I want to comment on the amendments to the Banking Act. I will pick up from where the Ambassador has been prosecuting the case. One aspect of life that has destroyed businesses, families and individuals is the case of loans that we take from the so-called hawkers. I will call them hawkers. They entice you with very sweet words while you do not know what is in the details. As you always say, there is always a joke that they send the most petite lady or girl to entice you to take the loan. But the moment you have trouble and want to take action, they will send the meanest-looking man: a bouncer. By the time you leave to call the petite lady, she is not reachable, has probably changed her complexion, and is not the lady you looked for.

I want the Departmental Committee on Finance and National Planning to continuously tighten the regulations so that we save Kenyans. Many times, we, Members of Parliament, receive calls: "*Mheshimiwa*, they have come to take away my cows. They have come and carried away my beddings, and yet I did not even know that my wife took a loan from this microfinance." Any organisation or individual interested in and participating in some money lending process must be regulated to the extent that I must surely know what the terms are and what I am signing for. I must be regularly updated. Many times, you think you have finished paying, then you are ambushed later that you still have a balance that has ballooned. You are told that you left a balance of Ksh10,000, which has ballooned to a huge amount after five years. I hope these amendments will go a long way in addressing these issues.

I have no intentions at all, and I have never dreamed of starting a bank. None at all. My dreams cannot stretch that far. But when I was coming here, one of my constituents, a Chief Executive Officer (CEO) of one of these mortgage finance companies, sent me a message that many banks and financial institutions allow for financial inclusion. If we increase the core capital, we will have big banks that will ignore the small man down there. Let us look at the Equity Bank model. When Equity Bank started, it expanded and allowed the unbankable to be bankable. Look at Fuliza's model, for example. It has allowed unbankable people to have access. In the plea, they said that Ksh10 billion in three years is practically impossible, and all we will be left with are mergers. When you merge, you will have a behemoth that will not listen to the small man.

I am happy that the Committee has considered and stretched that period to several years. Why can we not have a tiered system where, for example, Tier 1 is Ksh10 billion, Tier 2 Ksh5 billion, Tier 3 Ksh1 billion, and also the lowest tier? I can even change my mind that even if I have Ksh100 million, I can start a bank only to serve my friends, probably those we meet across the other side, so we have a common understanding. This will ensure that we manage and never

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exclude anybody else. The moment we exclude anybody in the formal banking system we have shylocks coming into place to fill in the gaps left.

There is a programme in Funyula Constituency where women who sell while sitting down, what they call *abedo* - a word borrowed from our neighbours in Ugenya meaning 'to sit on the ground' - are exploited. You find that somebody gives them Ksh1,000 and, at the end of the day, they have to take about Ksh1,300, as per the principle and the interest. We, therefore, need to continuously review the banking and financial markets to ensure that we address our many challenges.

Hon. Temporary Speaker, the second part of the Bill deals with what I want to call the standards architecture or framework. This involves the Standards Act that deals with the Kenya Bureau of Standards (KEBS), the Kenya Accreditation Services Act that normally sets up Kenya Accreditation Service and, to some extent, also deals with the Special Economic Zones and the rest. Standards all over the world allow a country to do cross-border trading. They allow the world to standardise so that a product from one area is as good as a product from this country.

This is a matter the Hon. Deputy Speaker has been very passionate about and has studiously and relentlessly pursued here. The chemicals, pesticides, or insecticides used in the agriculture sector are imported from countries, yet they are not allowed to be used in the country of origin. You find that Kenya is a dumping ground. Therefore, as the Departmental Committee on Trade, Industry and Cooperatives, one of the amendments we have incorporated to enrich this particular Bill is a requirement that a product will not be sold in this country if it is not widely used in the country of origin. This will ensure that dumping does not happen. They should not give it to us if they cannot take it.

One area that we also dealt with at length was some changes that were being proposed under the Standards Levy to ensure and make it necessary that anybody who does pre-shipment conformity assessment has a tax presence here in Kenya. That is counterproductive; it will be expensive for Kenya, and we have successfully persuaded, honestly speaking, that we let the conformity assessment be done under the terms established by the Kenya Bureau of Standards.

Finally, so that we allow other Members to contribute, is the issue of measurement standards. I have struggled for many years to convince my old mother that the kilogramme of meat today is what she used to buy in the 1970s. I have been unable to persuade her. Every time she sees me, she tells me that I sit in Parliament and asks why I cannot tell the Government to reinstate the kilogramme that was there in the 1970s. We do so because of the issue of calibration.

Hon. Temporary Speaker, I have quite several friends who are engineers. Luckily enough, if you went to the University of Nairobi, especially the Faculty of Engineering, you will definitely have met these gentlemen and ladies. They tell me altitude and weight or measurement have a relationship. They also told me that in this country, the only place you can get the correct weight of an item or a mass is in Likoni. So, it means calibration must be made depending on altitude. We hope that the standardisation of calibrating laboratories and equipment given to Kenyans will improve the quantity of goods and services we buy now.

With those few remarks, Hon. Temporary Speaker, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Irene Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Speaker. I also stand to support this Bill, which we have referred to as an Omnibus Bill because it seeks to amend various provisions of different laws. But in my submissions, I will focus on Clauses 1 to 19 because, having worked in the banking industry previously for 10 years and having had a lot of experience in that space, I am excited about these particular laws because what they seek to do is to bring sanity to the financial and credit lending industry, which as most Members have said, has been subjected to a lot of mischief in the past.

Clause 2, in particular, outlines and introduces penalties on non-compliance, especially the amount indicated there of up to Ksh20 million. This will limit the number of people who qualify for that in the first place because, as Members have indicated, we have a lot of credit lenders out there taking undue advantage of Kenyan consumers and making them get into credit situations that they cannot get out of.

(Hon. Joseph Makilap consulted loudly)

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Makilap, this is not a market for pastoralism *bwana!*

(Laughter)

Just do the correct thing. Proceed, Hon. Mayaka.

Hon. Irene Mayaka (Nominated, ODM): Thank you, Hon. Temporary Speaker. I will proceed to Clause 3 which, for the last 12 years, has not had any changes in the core capital requirements allocated for financial institutions. I like that the Committee has already indicated that they are amending this to eight years and are staggering the periods within which the minimum core capital will be included. But even as we seek to change the core capital requirements for financial institutions, we should also be very keen on the tiers that the banking industry has been put in. We need to define if we are changing to the tiers that the banking institutions have been focusing on with the Central Bank for the previous years, or if we are now introducing a new tier system. That needs to be very clear.

Clauses 5 to 8 outlines the specific penalties, the licensing requirements, the regulations and the code of conduct for all referred to as non-deposit-taking credit providers. This has also been a source for extorting consumers, including where we have consumers who take credit on their electronics and household items, and the items are taken away from them because they are not able to comply. Even as we do this, and the fact that we are introducing regulations on interest, this also prevents the extortion that happens within that particular space.

Clause 12 gives a five-year transition period to businesses, and I hope the Committee is listening to this. I wish I could have the attention of the Vice-Chairperson of the Committee. Even as the Departmental Committee on Finance and National Planning proposes a five-year transition, I will introduce an amendment because I feel like the ongoing clients can be subjected to this. However, if a financial institution or a credit lending institution is onboarding new clients, then the new clients should ideally be subjected to these new laws. If we are onboarding new clients and they are still within the five-year transition period, then we are not curing anything. We need to start seeing the effects of these laws on the clients who are being onboarded. So, I will introduce an amendment to Clause 12 for us to accommodate that.

Clauses 13 to clause 19 speak about the microfinance space. I like that they specified that this will only affect businesses whose annual revenue exceeds Ksh500,000. This is very important because it then classifies and ensures that we do not affect microfinance institutions, which are already assisting Kenyans.

Further, I looked at the Committee reports regarding the public participation they conducted from Kericho, Isiolo, and Siaya counties. We can clearly see that Kenyans have welcomed these particular amendments because they have suffered for a long time from unscrupulous and mischievous lenders. It is also time for us to bring sanity back to our financial institutions. Let me give the example of Chase Bank, which collapsed. There was no anticipation from the customers to note that the bank was going down with their money.

One fine print in terms and conditions used in the banking industry is that you cannot remove your deposits if a bank is about to go under. So, when specifying the core capital

requirements for banking industries and ensuring that this is maintained, we are essentially protecting the consumer, who is the ultimate beneficiary of this particular financial space.

As I conclude so that I give other members an opportunity, I just want to say that, in essence, what this particular law will assist in - and I am specifically talking about Clauses 2 to 19 - is that it will prevent a lot of fraud issues that we are having, mismanagement of funds, and money laundering, which is also one of the issues that are really at a high, including monitoring operations. This is especially true for the local banks because I know international banks comply with the laws of the country they are based in or their mother country, whichever is most stringent. Ideally, we should also ensure that we adhere to the global standards that have been put out there for financial institutions.

So, I want to support this particular Bill and urge Hon. Members also to support it because, as a House, we are seeking to, at the tail end of this, protect the consumers who are the Kenyans that we actually serve.

I submit.

Hon. Wakili Edward Muriu (Gatanga, UDA): Thank you, Hon. Temporary Speaker. I rise to support this Bill with a number of amendments. It is clear that one of the things that the Bill seeks to do is to consolidate financial institutions by bringing in mergers to enhance capital. There is a danger in that. We have seen the challenges of monopoly, especially when it comes to big corporations which become insensitive to pricing. You may have noted over the years that despite Kenyans crying about high interest rates, banks still report billions and billions of shillings in profits. We tried to bring in microfinance institutions to take care of the customers who the commercial banks have rejected. Now, we want to create other giant corporations that are not sensitive to the people. We are missing the point.

We are making a mistake regarding the issue of reverse invoicing in terms of tax procedures. We are saying that when a farmer is supposed to sell certain items...

(An hon. Member spoke off the record)

The Temporary Speaker (Hon. Omboko Milemba): Who do you want to inform, and is he willing to be informed? He is just contributing. Do you want to be informed, Wakili?

Hon. Wakili Edward Muriu (Gatanga, UDA): I am well-educated.

(Laughter)

The Temporary Speaker (Hon. Omboko Milemba): Proceed, Wakili.

Hon. Wakili Edward Muriu (Gatanga, UDA): Thank you, Hon. Temporary Speaker. The Floor is mine. I want to associate the Business Laws (Amendment) Bill with the Tax Procedures (Amendment) Bill to show the folly of bringing in legislation without testing it. I am referring to the Tax Procedures (Amendment) (No.2) Bill of 2024...

Hon. Benjamin Lang'at (Ainamoi, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Benjamin?

Hon. Benjamin Lang'at (Ainamoi, UDA): Hon. Temporary Speaker, the Member mentioned that we are seeking to introduce mergers, which is misinforming the public. The Bill seeks to progressively increase the core capital of different banks from Ksh1 billion to Ksh10 billion in three years. We are not telling banks to merge.

Secondly, in the spirit of relevance, the Member is debating the Tax Procedures (Amendment) (No.2) Bill, which we concluded in the morning. We are currently considering

the Business Laws (Amendment) Bill (National Assembly Bill No.49 of 2024), not the Tax Procedures (Amendment) (No.2) Bill.

The Temporary Speaker (Hon. Omboko Milemba): We have heard you, and the Member has heard you. Proceed.

Hon. Wakili Edward Muriu (Gatanga, UDA): Thank you, Hon. Temporary Speaker. Protect me because this is a House of Debate. Those proposed laws are in this House. Therefore, it is important that we ventilate on them because they affect our people on the ground.

I wanted to demonstrate the folly of tabling untested laws. We are talking about reverse invoicing. Reverse invoicing means that if a farmer who supplies maize to the National Cereals and Produce Board (NCPB) cannot raise an invoice, the NCPB will raise the invoice. The NCPB will ask for details like the farmer's Personal Identification Number (PIN) and address. We will end up in the same situation we were in with the eTIMS.

It is not the right time to introduce taxes in the primary agriculture sector. We need to safeguard our farmers from taxation. Around 70 to 80 per cent of our population works in the agriculture sector. The moment we start bringing in issues of taxation and PINs for my farmers in Gatanga who grow avocados and macadamia nuts and produce milk, they will stop supplying those things. Ultimately, they will eventually be deprived of their income.

Finally, before all those things are put in place, any new ideas need to come with education. First, we need to train and teach our people on eTIMS and reverse invoicing to avoid repercussions. Ultimately, there will be an uproar by the farmers claiming they are paying taxes on their milk, macadamia nuts, and avocados. We will then go back to the same issue.

As I conclude, the issue of fertilisers has come out in the Tax Laws (Amendment) Bill (National Assembly Bill No.47 of 2024). There is a proposal to remove...

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Thuku? Hon. Thuku is on a point of order.

Hon. Kwenya Thuku (Kinangop, JP): Hon. Temporary Speaker, I heard the Member mention the Tax Laws (Amendment) Bill, which is not being discussed today. Is he anticipating debate against the rules of the House?

The Temporary Speaker (Hon. Omboko Milemba): Hon. Wakili Muriu, this is the second time a Member has cautioned you about getting into a matter not on the Table of the House. Ordinarily, this is a House of rules and order. We lay one business on the Table at a time. We are currently dealing with the Business Laws (Amendment) Bill, so please confine yourselves to the rules of relevance.

Hon. Wakili Edward Muriu (Gatanga, UDA): Hon. Temporary Speaker, I close my argument. Thank you very much.

The Temporary Speaker (Hon. Omboko Milemba): Next to speak on this is Hon. Thuku.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Temporary Speaker, for the opportunity to contribute. I was checking with the Clerk-at-the-Table to ensure I am still in the queue.

First, I wish to take this opportunity to support this omnibus Business Laws (Amendment) Bill. I am very happy with this Bill because, for the first time, we are addressing issues that affect Kenyans directly.

As much as I support the Bill, there are areas that I am uncomfortable with. As a legislator, I will propose amendments, especially on the issue of increasing the core capital of our banks to the tune of Ksh10 billion within a span of three years. That is very abrupt. It may be timely, but if we implement it within three years, it will be disruptive to the banking industry. Some upcoming banks were recently registered, and we must give them time to grow. Otherwise, they will be forced to close shop and leave the "big boys" to be the only players in

the industry, meaning that we are creeping back to the dark days when we only had a few banks that monopolised the market. They had created a cartel which controlled lending in terms of interest rates. They got to a place where they would not provide banking services to the so-called small traders. They would not take small monies.

It is only right to increase the term from three to 10 years. We should stagger the same and require that the banks increase their core capital by Ksh1 billion every year for 10 years so that we do not kill the 'babies' coming up the block. We must be alive to that fact if we want to safeguard our customers so they do not lose their deposits.

I am also happy that the Central Bank of Kenya will be looking into the lending practices of microfinance institutions and banks. As my predecessor who has just spoken has said, banks have been reporting supernormal profits when everybody else is making losses. This is simply because they have been left to determine how much they will add above the CBK lending rate, thereby making profits they are not shy to report. In our dialect, we say that once you eat and are full, you should cover your stomach. Banks have been uncovering their full stomachs, yet everybody else is struggling. And they auction our property every day. Therefore, I am happy that after the passage of this law, the CBK will rein in the lending habits of microfinance institutions.

There are instances where I have had to come to the rescue of people, especially students, who fall victim to lending microfinance institutions. They take their laptops to digital lenders in exchange for money. Once they are unable to pay, the lenders take whatever the students have acquired. I am therefore in support of CBK reining in microfinance institutions that shylock.

Credit guarantee businesses have had many issues because they are not regulated. Whenever they issue bonds and claimants come looking for them, the businesses cannot raise the money they guaranteed. The guarantor then loses. Many companies issue performance and bid bonds. They should be regulated and share data with CBK so that they do not issue bonds and guarantees above their capability. Regulation will cushion the guaranteed from losing their investment.

I am in support of the registration of manufacturers with KEBS. So many unscrupulous manufacturers produce harmful, substandard products or do not meet the weight indicated in the package. I have a specific issue with cement manufacturers, which happened to me recently. I engaged a project manager, and he told me that most of the cement we use today does not meet the required international standards. They did a study with the University of Nairobi and found that the standards indicated on the packaging were not met. This Bill would not have come at a better time. It is time KEBS realised that whatever standards cement manufacturers use are not in tandem with the research findings of scholars. They indicate 50 kilogrammes on the package, but in reality, the cement weighs less. We tested at one site with the project manager and found a bag of cement weighing about 43 kilogrammes. It is about time we called out departments sleeping on the job, especially the Weights and Measures Department, so they do what they need to do.

Hon. (Dr) Oundo asked about the difference between yesterday's and today's weights. A kilogramme of meat yesterday is not the same today. Have we changed the calibration of measurement equipment? We are the same people who were there yesterday. We know the mischief in the industry. Once the price is increased, unscrupulous manufacturers and business people reduce weight so that they do not make any losses but still sell products at the same price.

Today, the President commissioned a steel manufacturing factory in the Coast region today. This is another industry we need to rein in. Many buildings collapse because of substandard steel. A Y10 building bar used back in the day is not the same as the one we use today. The KEBS must rise to the occasion and make sure that products being consumed by

Kenyans are of the right standard and weight so that we do not experience the losses we have been suffering.

I support the Bill. I will bring an amendment on the issue of banks' core capital to stagger the requirement within 10 years and not three years as prescribed.

Thank you, Hon. Temporary Speaker.

The Temporary Chairman (Hon. Omboko Milemba): Hon. David Mboni.

Hon. David Mwalika (Kitui Rural, WDM): Thank you very much, Hon. Temporary Speaker, for this opportunity to also say one or two things about this Bill. I am a member of the Departmental Committee on Finance and National Planning. I want to focus on only two clauses to allow others to speak. I want to focus on Clauses 3 and 10.

Clause 3 proposes that banks increase their core capital from Ksh1 billion to Ksh10 billion within three years. Core capital, by definition, is the amount of money required by banks to transact business. It has advantages and disadvantages. One of its advantages is that it reduces the risk of banks collapsing when they face panic withdrawals by customers or when there is a run on banks. Many banks have collapsed because they did not have enough core capital. Two, when you increase core capital, you will have strong banks with huge capital. The banks can even lend syndicated loans. Several big banks can come together and raise capital to fund big projects, which would be an advantage to this country and the economy.

Core capital also has disadvantages. Banks have lent the country to the tune of 45 per cent of total government securities. If we increase core capital, banks will have reduced funds to lend to the Government and the private sector. Some small banks may end up in mergers and acquisitions. With mergers and acquisitions, we will have fewer banks, which may be elite and fail to cater to small depositors. That is another disadvantage which we need to note. If you push small banks too hard, they may collapse.

This country has 38 banks in three tiers. Tier 1 is for the big boys. Tier 2 banks have core capital between Ksh7 billion and Ksh9 billion. Tier 3 has small banks operating between Ksh1 billion and Ksh3 billion. These are the banks we need to be careful with. There are about six of them, and they cannot raise the required funds. They need to be given some time. And we have to admit that they serve their own clientele. Some people cannot go to the big banks. When Equity Bank started, it penetrated small estates. That is called financial penetration. If we force the small banks to increase their core capital, they may collapse, and people may lose their jobs.

Hon. Temporary Speaker, three years is not enough time for the process of merging and acquisition to take place. Therefore, they will collapse because it is difficult to get government institutions like the Competition Authority of Kenya and the Capital Markets Authority. Auditing these banks so they can merge or be acquired takes a bit of time. Therefore, the Committee proposes increasing the period from three to seven years. This is very important so that we give these banks time for the ones who want to merge to do so, those that are going to be sold by their owners to be sold, and the ones who wish to increase their capital will do so. Banks are owned by people. If we pass that they raise this capital within seven years, you will realise that some will struggle to raise it by the seventh year. The proposal is that they raise their capital to Ksh5 billion within three years. This will enable them to move forward.

As we help these banks, it is also good to note that they have forgotten their functions as financial institutions. They have concentrated on lending to the Government. Forty-five per cent of government securities are owned by banks, which is around Ksh2.2 trillion. The economy will grow if this money can be loaned to business people. As much as we help them, they need to come up with a clear programme of lending to the Small and Medium-Sized Enterprises (SMEs), which are the engines of economic growth.

Clause 10 of the Bill proposes to include non-deposit-taking institutions in the ambit of the Central Bank of Kenya. These are institutions which operate without any legal framework.

They do whatever they want, including giving people loans, but do not disclose their interests. As a Committee, we had a case study of the boda boda sector, and the findings were alarming. A boda boda costs around Ksh180,000. But at the end of the day, the boda boda rider pays around Ksh360,000. The most annoying thing is that when he pays Ksh300,000 and fails to pay the instalment for even two months, they repossess the boda boda from him and rent it to another person. By bringing them to a legal framework, we will streamline them, and people will benefit.

Mama mboga and other ladies at home have suffered. Many cases exist where these people even remove roofs from houses if they do not pay. They will bring their qualifications for them to operate. This is important because it will remove quacks from the financial sector.

With those few remarks, I support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Is Hon. Paul Biego in the House? Do you want to speak on this Bill?

Hon. Paul Biego (Chesumei, UDA): No.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Julius Rutto.

Hon. Julius Rutto (Kesses, UDA): Thank you so much, Hon. Temporary Speaker, for allowing me to contribute to the Business Laws (Amendment) Bill before us. As rightly said, this is an amorphous amendment of several laws, more so the Banking Act, the Central Bank of Kenya Act, the Standards Act, the Scrap Metal Act and others.

Firstly, I appreciate my Committee led by Hon. Kuria Kimani. For the last few weeks, we have been going around the country, collecting views and listening to Kenyans on how they want their country and financial institutions to be governed. The views Kenyans gave us have informed the amendments that will be presented later by the Chairman of the Departmental Committee on Finance and National Planning. I will concentrate on the Banking Act and the Central Bank of Kenya Act. The proposal to increase the minimum core capital by the banking institutions or commercial banks, as required by law, is not a new thing. It is not only a Kenyan issue but also an international requirement to ensure that the depositors' interests are protected.

We saw the collapse of some commercial banks like Chase Bank. Up to now, the depositors are still struggling to get back their deposits. The need to increase this minimum core capital is to ensure that the balance sheet of a bank is not only what we see in their fixed assets like land, buildings and investments in securities as a venture to increase their income but also available resources or monies and current assets that are there for the depositors. Many people have said that this might kill the banking sector. However, this is something we need to encourage. Kenyans have now grown and developed their financial literacy. They are not the ones we had yesterday. They have gone to school and know the value of mobilising resources through *chamas*, groups, cooperatives, and individual savers and depositors. The way the world is moving and the encouragement of people to save to access credit, financial payment, and services calls for the need to expand the institution and ensure that the associated risks are managed. The increase in the minimum core capital will ensure that these institutions safeguard the interests of the depositors.

When we had the public participation, we listened to the players in the sector. They justified why we need to look at the time frame that had been recommended to three years. We appreciate that most of these small financial or banking institutions are owned by Kenyans. We will reduce and accept the reduction of time to three years. We will also give the latitude to the multinational banks to override the Kenyan banks and investors. To give room to the Kenyan investors, I agree with many Members who have spoken on the need to re-look at the time frame that has been provided.

The other issue that this Bill is coming up with is the protection of small-scale investors or micro, small and medium enterprises. In this category, we have the *mama mbogas* and boda boda riders. They are subjected to unscrupulous and unregulated business entities, more so the

ones which lend money and credit guarantee businesses. A couple of months ago, we had a case where there were complaints from the boda boda sector. They secure facilities and are given boda bodas. Then, they end up paying it with a huge interest. If you sum the total cost, which is the principal and interest, it surpasses the principal cost and the minimum interest provided by the CBK. This is because they are not regulated. The interest they charge is not regulated. Therefore, they end up killing and taking advantage of Kenyans. They borrow because of the perceived kind of flexibility in this sector. The cost of acquiring that facility or credit becomes too high in the long run.

If you look at how Kenyans secure these assets, they come wailing or crying. They took facilities or boda bodas and paid more than their cash prices in the market. Towards the end of completing the payment, when you fail to repay the money, they collect that asset, disregarding the amount of money you have given them. If you look at the registration, there is no provision for joint registration of that particular asset. This amendment gives leeway to the Central Bank of Kenya to ensure those lenders are regulated and licensed. This will sanitise the sector and ensure the protection of Kenyans engaged in small-scale activities, as well as the boda boda young men and women, allowing them to trade and operate safely within their economy.

Lastly, we welcome the introduction of penalties for non-compliance. We have seen some individuals conducting business with laxity, but with the CBK stepping in to enforce penalties, compliance will be encouraged, and order and sanity in the sector will be maintained. In the long run, Kenyans stand to benefit from their businesses.

Thank you, Hon. Temporary Speaker, I support the amendment.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Nolfason Barongo. Do you want to speak on this?

(Hon. Nolfason Barongo spoke off the record)

Okay.

Hon. (Dr) Robert Pukose (Endebess, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. (Dr) Robert Pukose?

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Temporary Speaker. Would I be in order to ask that the Mover be called upon to reply?

(Loud consultations)

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Members. A Member has risen from his place to ask that the Mover be called upon to reply.

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

Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, from the outset, I would like to thank the Members of this 13th Parliament for the great contributions they have made. We have been keenly listening to the views that they have shared with us. As we prepare for amendments in the Committee of the whole House tomorrow, we will try our best to carry as many of their amendments as possible so we can move together on this.

I want to reiterate three things that have been constantly mentioned. In our informal sector, we have "hustlers" who have been suffering in the hands of lenders who are not licensed

by the Central Bank of Kenya. If a business lends money as a cooperative, it is regulated under the Microfinance Act. If a business operates as a bank, it is regulated under the Banking Act and the Central Bank of Kenya Act. If a business lends as a SACCO, it is regulated by the SACCO Society Regulatory Authority (SASRA). However, other lenders are non-deposit-taking creditors, so they do not fall under the Microfinance Act. They are also not digital lenders, so they do not fall under CBK regulations. That is why they have been lending money to Kenyans, where the interest rate has become higher than the principal amount.

The people who have suffered the most are the boda boda riders. For instance, you may have seen individuals who take up *Lipa Pole Pole* boda boda loans. Once they are about to clear the loan but miss one or two instalments, their motorcycles are repossessed. When you and I take asset finance through a bank and are unable to honour an instalment or two, our cars are not towed. Unfortunately, this happens especially in the boda boda sector.

The passage of this law will now bring those non-deposit-taking microfinance institutions under the purview of CBK. That is why one of the amendments you have seen in the Business Laws is also to amend the Central Bank of Kenya Act to give them that additional mandate of regulating these lenders to ensure the interest rates charged by those lenders...

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Oundo, what is your point of order? You may take your seat, Hon. Kimani.

Hon (Dr) Ojiambo Oundo (Funyula, ODM): It is not really a point of order. I would like the Chairman of the Committee to inform me and the people of Kenya so that they can be aware. This is a question I was asked after I made my contribution. Someone sent me a text asking if M-PESA is going to be regulated. Is it a microfinance? Is it going to be regulated alongside these other digital platforms like Tala? Please inform the people of Kenya so that they are aware.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Proceed, Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, this means that every credit provided by any individual will now fall somewhere. If it does not fall under the Microfinance Act, it means the entity is not a microfinance institution. If it does not fall under the Central Bank of Kenya Act, it means it is not a bank. If it does not fall under the SACCO Societies Regulatory Authority Act, it means it is not a SACCO. Therefore, such entities will have to fall under the purview of the CBK. So, today's Talas will have to adhere to the guidelines of the CBK, including making a full disclosure. One of the challenges we have also seen on these Apps that people borrow from is that there is no full disclosure of the cost and the interest. That is why people end up with an interest of up to 1000 per cent.

Another point I would like to comment on, which I believe was raised by Hon. Muriu, came up earlier today during the debate on the Tax Procedures (Amendment) Bill. It will also be considered at the Committee of the whole House tomorrow. I want to inform Kenyans, especially avocado, tea, and macadamia farmers, that the proposed Tax Procedures (Amendment) Bill protects them by exempting them from eTims requirements. They will be disadvantaged if they are not exempted, as the manufacturers will not want to buy from them. The Finance Act of 2023 provided that no expenses can be claimed if not generated by eTims. The Committee will be amending further tomorrow to increase the threshold from the Ksh1 million turnover per year provided for in the Bill to Ksh5 million. The reason for that increase is that Ksh5 million is a VAT threshold. So, if you have a turnover of more than Ksh5 million, that is when you get to pay VAT. We are exempting our avocado, macadamia, milk and tea farmers from the requirements of eTims for those with a turnover of less than Ksh5 million. I wanted to ensure I informed my good friend, the Member for Gatanga.

Lastly, one of the matters that we are also raising is the requirement for core capital by increasing it from Ksh1 billion to Ksh10 billion.

Hon. Moses Kirima (Central Imenti, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Order, Chairman. There is a point of order from Hon. Kirima.

Hon. Moses Kirima (Central Imenti, UDA): Hon. Temporary Speaker, the point I am making is that there is a lot of noise making led by the Leader of the Majority Party. The other day when I entered the Chamber he said I was making noise as if I was in a market. That hurt me so much. People in my village started attacking me with that. He came in and has been making noise. I have been waiting for this opportunity to tell him that he should not make noise in this House as it is unfair to attack a colleague.

(Laughter)

The Temporary Speaker (Hon. Omboko Milemba): Very well. You have been heard. But I can see the Leader of the Majority Party just sitting somewhere. You may proceed, Chairman. Those were just bragging rights, and they have now been satisfied. Proceed, Chairman.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, I have seen my Leader and Whip of the Majority Party walk in. All they were doing was whipping Members to ensure that we had enough quorum to pass these very good laws for the Republic of Kenya. They were not making noise, as the Hon. Member is trying to insinuate.

These Bills have been processed by the Departmental Committee on Finance and National Planning within a record time of two weeks. Most importantly, we have done public participation in six counties. Once we went to the counties, we got views of Kenyans. This time round, we prepared explanation notes where Members of the public could read for themselves what these amendments were and contribute to that. The input done by the Departmental Committee on Trade, Industry and Cooperatives has enriched this Report. I want to guarantee the people of Kenya and the House that this will be one of the most progressive laws passed by the 13th Parliament of the Republic of Kenya for the good welfare of the great people of Kenya.

With that, I beg to reply, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Members. We have the requisite numbers. I proceed to put the Question.

(Question put and agreed to)

(The Bill was read a Second Time and committed to Committee of the whole House)

Next Order.

Second Reading

THE TAX LAWS (AMENDMENT) BILL
(National Assembly Bill No.47 of 2024)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, we are on the Tax Laws (Amendment) Bill, National Assembly Bill No. 47 of 2024.

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Mover.

Hon. Kuria Kimani (Molo, UDA) Hon. Temporary Speaker, I beg to move that the Tax Laws Amendment Bill be now read a Second Time.

This is one of the most progressive pieces of legislation the Committee of Finance and National Planning has processed. We have proposed an array of amendments that will ensure that we lower the tax burden of the people of Kenya as we maintain principles of supporting local manufacturers. One of the amendments the Committee will propose will be on the digital service tax. We have listened to Kenyans' opinions on the digital service tax. If it is not amended, the risk is that we will have, for example, an online shop in Westlands that sells phones both online and physically in their shop. If we introduce this digital service tax, it will mean that if one buys from the shop, they will not pay the digital service tax. However, they will pay the digital service tax if they order the same product online. The Committee will be recommending to shelve that to a future date.

We also had a great conversation about significant economic presence. One of the amendments that the Committee will be proposing is to define what this significant economic presence is so that it is aligned with the VAT threshold of a turnover of Ksh5 million.

In a bid to fight illicit brews, the Committee is proposing to change the way excise duty is charged on alcoholic beverages from volume-based to being a percentage of the alcohol content so that alcoholic beverages that will have a higher alcoholic content will attract a higher excise duty than the ones that will have a lower alcoholic content. Most importantly, we will also be extending the remission of excise duty when local products like sorghum and potatoes are used as raw materials in alcohol manufacturing, so we encourage sorghum farming and make this sector contribute to the economy.

Another thing that has existed for many Kenyans is the requirement to pay withholding tax within five working days. One of the things that we are now recommending is to make all these taxes payable by the fifth of the following month to give liquidity to our businesses.

There has been a lot of online discussion about tiles. One of the amendments we will recommend to this House tomorrow will be on the excise duty on tiles. The current proposal is to have a 35 per cent excise duty on tiles. That is very stiff. This means that we will increase the cost of tiles and affordable housing. So, we will be recommending amendments to that particular clause. As much as we want to support the local manufacturers, we should also ensure that we protect our affordable housing programme.

We reject the proposal by the National Treasury to increase excise duty on data and airtime to 20 per cent. The status quo of the excise duty on airtime and data should remain at 15 per cent to encourage the uptake of digital jobs and the digitalisation of our economy.

We have also demonstrated that the Laffer curve is real. Continuous increases in the tax rate do not necessarily lead to a rise in tax collection. When we checked the last time the excise duty on data and airtime was increased by this House, between 2019 and 2020, there was a decline in the collection of the excise duty. When they realise that airtime is expensive, people stop talking for five minutes when they make a call and instead talk for four minutes. So, it will not lead to a collection of excess excise duty. That is one of the things that we have disagreed with the National Treasury. We will be recommending that the House reviews that particular matter.

The issue of eggs also arose during public participation on the difference between the table and fertilised eggs. We will be recommending the introduction of an excise duty on table eggs to protect Kenya from the cheap imports we are getting from...

The Temporary Speaker (Hon. Omboko Milemba): Order, Chair! There is a point of order, and it can be accepted at any time.

Hon. Nyikal, what is your point of order?

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Speaker, I am trying to follow the Mover moving this Bill. However, he is moving it in almost an amended form. In fact, it is like he is moving the Report of the Committee and not the Bill itself. So, it is not easy for us who are referring to the Bill. He is bringing in things from the Committee's Report, which probably many Members have not interacted with. It will be in order if he moves the Bill as it is; then, in the process, he can mention what they intend to propose. He should not discuss the Committee's Report. I need your guidance on that.

The Temporary Speaker (Hon. Omboko Milemba): Very well.

Order, Chair! Let us hear Hon. Makali.

What is it, Hon. Makali?

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Temporary Speaker, I agree with Hon. Nyikal. The best way to move the Bill would be to move it as it is and state what the Committee is proposing as amendments. Otherwise, we will get confused. We are looking at the Bill, but...

The Temporary Speaker (Hon. Omboko Milemba): Very well. That is the same as what Hon. Nyikal said.

Hon. Chair, you may expound the Bill and then go to the Committee's amendments. So far, you are doing well. Proceed.

Yes, the Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Speaker, the Chair of the Committee is not moving the Bill in any amended form. He has moved the Bill and talked about it, having been informed by what the Committee Report said. Hon. Nyikal was this morning complaining that committee reports are not circulated. Now, the Committee Report has been circulated. The Chair is simply informing the House and the country of the provisions in the Bill. The Committee, having interacted with members of the public through public participation, has proposed certain amendments. It is only fair to allow the Mover to move the Bill and inform the country what the Committee has done following public participation. Remember, the Supreme Court has guided us on what qualitative and quantitative public participation entails. That is what the Chair of the Committee is doing. He is simply informing the country that what he told us during public participation was not in vain. We will propose amendments. He has not said they have amended. Hon. Nyikal and Hon. Makali know we will amend when we go to the Committee of the whole House after the debate. Let them allow the Chair to finish. They can interact with the Report and challenge anything he says that is not in it.

(Hon. (Dr) Makali Mulu spoke off the record)

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Makali! We can not debate on that. You have been heard. Remember, I gave you a chance, and you spoke on that.

The Chair is doing well. Chair, speak on the Bill and elaborately discuss any amendments therein so we can move forward.

Proceed, Chair.

Hon. Kuria Kimani (Molo, UDA) Thank you, Hon. Temporary Speaker, for your protection. I had the privilege of not just sitting in the Committee when we were doing public participation as we moved around six counties, but also interacting with what the members of the public said. It is, therefore, important that as I speak on these particular matters, I explain what is contained in the Bill, what the members of the public said and what the Committee is recommending so that the House is well informed on these matters.

Hon. Speaker, the introduction of Social Health Insurance Fund (SHIF), Housing Levy, and the increase of National Social Security Fund (NSSF) is a pain for many Kenyans. This is

because the three deductions are first of all based on the gross amount and are not tax allowable for Pay As you Earn (PAYE) apart from NSSF.

This Bill, therefore, provides that those statutory deductions be tax allowable for PAYE so that we can try to increase the disposable income that is available to employed Kenyans. Once their take-home and disposable income increases, it is going to ease the cost of living and increase their purchasing power

Clause 3 of the Bill is proposing to amend the limit for non-taxable benefits related to employment, increasing it from Ksh36,000 to Ksh60,000 per year. This adjustment will address the value of non-cash benefits such as airtime or data provided to employees by their employers which was last reviewed in 2006. This revision will seek to account for the impact of inflation over the years.

Additionally, this proposal will include an increase in the value of non-taxable benefits provided to employees, raising them from a limit of Ksh48,000 to Ksh60,000 per. This amount was last reviewed in 2006 and therefore, this adjustment would want to speak to inflation. The Committee is in support of these proposals, recognising that they have a great potential to increase employees' disposable income and provide the much more needed financial relief.

The repeal of the Digital Service Tax and its replacement with a significant economic presence tax at the rate of 30 per cent on 10 per cent of the deemed profit is contained in Clause 5. The Committee acknowledges that digital services providers enjoy higher profit margins due to lower production costs compared to companies with physical presence and therefore, the adjustment is to align the deemed profit more closely with what would be expected if the companies faced similar cost structure. This is a revenue enhancement measure to ensure that digital service providers pay their fair share of tax.

I had spoken to the issue of minimum tax. The Committee strongly supports the measure for introduction of a minimum top-up tax, noting that it is global adoption in over 60 countries where main key international companies operate. Failing to implement this tax in Kenya could undermine the fair application of tax obligations and potentially allow constituent companies located in Kenya to underpay their share of revenues.

Clause 14 is speaking to introduction of 5 per cent tax on interest, income earned by resident individuals from bonds, notes and similar securities used to fund infrastructure and social services, commonly referred to as infrastructure and green bond. This proposal has raised a significant concern regarding the potential impact in the economy and investment climate. Taxing infrastructure bonds and FOREX transaction as outlined in the Bill could have a far-reaching implication on foreign investment inflows, particularly from portfolio investors.

These investors typically evaluate various incentives before deciding where to invest their funds. So, the introduction of such taxes may make Kenya a less attractive destination for investment, discouraging the much-needed foreign capital. The stock market is also likely to feel the ripple effects. Increased costs associated with trading FOREX and taxation of infrastructure bonds may prompt portfolio investors to reduce their market exposure, and this could lead to a decline in stock prices, reduced market liquidity and heightened volatility. Similarly, the bond market may face challenges. Taxing infrastructure bonds could diminish the appeal to investors seeking stable fixed income instruments. This, in turn, could lead to a higher borrowing cost for infrastructure projects undermining the Government's ability to secure funding for critical development activities. Other countries that have implemented similar measures offer valuable lessons. For instance, India's Security Transaction Tax (STT) on FOREX transaction has been criticised for dampening market liquidity and deterring foreign investment. Similarly, countries like Brazil and South Africa have experimented with taxes on infrastructure bonds to support development projects but these measures have really struggled to attract sufficient investment.

In light of these considerations, while the proposed taxes may generate additional revenue for Government, they also risk undermining foreign investment inflows, market stability and economic growth. As Members of Parliament, it is crucial to carefully assess the potential implications of these measures and balance revenue objectives with the need to maintain a conducive environment for investment and development.

Consequently, the Committee decided that this amendment needs to be dropped so that we prioritise long-term economic stability and growth over short-term revenue. Based on these considerations, the Committee recommends deleting the proposal to tax interest income and from infrastructure bonds. This decision reflects the need to safeguard investment inflows, maintain market stability and support Government's efforts to fund critical development projects through cost-effective borrowing mechanisms.

Clause 20 of the Bill proposes to introduce Value Added Tax on several aviation and aerospace-related goods and services including helicopters, safe crafts, satellites, sub orbitals, spare craft launch vehicles, direction finding compasses, instruments, appliances for aircraft and various aircraft spare parts imported by aircraft providers and businesses involved in aircraft maintenance. Additionally, it proposes the inclusion of VAT on air ticketing. This imposition of VAT on these items could significantly increase the operation costs for aviation companies, leading to higher prices for air ticketing and making air travel less affordable for consumers.

This could negatively impact the aviation sector, particularly in competitive markets where price sensitivity is high. Furthermore, aircraft and repair business which rely on imported specialised parts could face high input costs leading to increased maintenance fees and potentially reduce investment in business expansion. This added tax burden could also lead to delays in maintenance schedules, compromising the safety and reliability of the aviation sector. The introduction of VAT on spacecraft, satellites and launch vehicles may deter investment in Kenya's emerging aerospace sector which requires significant capital.

The volatility of this particular sector and the fact that if you want to repair your plane you can easily fly to a neighbouring country and repair it made us realise that putting this VAT could really cripple that particular sector and make us unattractive as an investment destination. The intention to impose VAT on these goods is, therefore, rejected.

This Committee will be proposing that we drop that particular VAT. The Bill is proposing to impose 25 per cent excise duty on coal or Ksh27,000 metric tank or whichever is higher. Whereas there is need for environmental conservation, considering that coal is a very hazardous product in the environment, there is need to re-look the rates that we need to apply on this particular product. Increasing excise duty on coal would have a potential to increase the cost of cement, and in addition, cost of energy because most of the huge manufacturers use coal as a source of energy, and therefore this is one of the amendments that the Committee will be hoping to bring to the Floor of the House.

The Bill is also re-introducing Rail Development Levy, increasing it from 1.5 to 2.5 per cent. The Committee notes that this represents a 67 per cent increase in levy which will significantly raise the cost of goods and services that rely on rail transport for distribution. The increase in this levy is likely to have a cascading effect on the prices of goods and particularly in industries that rely heavily on rail freight such as manufacturing, agriculture and construction.

Again, realising the need to raise revenue to fund our expansion, it is important that this House considers reducing this. The Committee will, therefore, be proposing to increase this Rail Development Levy not from 1.5 to 2.5 per cent, but to 2 per cent.

As we deliberate this Tax Amendment Bill of 2024, it is also crucial that we prioritise measures that effectively expand our tax base and enhance revenue generation. This may

involve innovative tax policy approaches such as incentivising compliance, simplifying tax procedures, and overcome barriers that hinder our revenue growth.

Hon. Speaker, this Committee has done many things that are aimed at reducing the cost of living, increasing the disposable income available to Kenyans and especially on the salaried Kenyans making it easier to comply with our tax laws. I want to thank members of the public who came in their thousands to give their views. As you have seen in our report, their views were not in vain. They will be considered by the Committee and this honourable House. I want to thank Members of the Committee led by my very able Vice-Chairman, Hon. Lang'at. We went around the country seeking the views of Kenyans. Together with the secretariat, we sat up to 6.00 a.m. this morning from last night to ensure we bring a credible report to this House, incorporated with the views of Kenyans. I want to thank the Committee Members and staff for the great work they have done. In the morning, we were asking ourselves what to do. We did not burn the midnight oil but also the morning oil. We had to trans night for two days to ensure that the reports are ready for adoption by this House.

I beg to move and request the Leader of the Majority Party and representative of the great people of Kikuyu, Hon. Kimani Ichung'wah, to second.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I rise to second. I want to thank the Chairman and all the Members of his Committee for the immense work they did. Many a times, a lot of work is put into legislative work but nobody ever appreciates. Members of the public out there imagine that we only come here to speak for five minutes and vote without having applied our minds.

Members of the Departmental Committee on Finance and National Planning sat until this morning at 5.00 a.m., from last night. I must commend the Chairman, he is not looking his usual self, he looks a bit sleepy. His Vice-Chairman was here as early as 9.00 a.m., together with the Member for Kesses and Member for Baringo North. They both look sleepy. Hon. Ariko is on the verge of sleeping. Many other Members like Hon. Mboni, who is still in the House, sat up to 5.00 a.m., this morning. They wanted to finalise and give us this report.

The Chairman and mover said that this Bill speaks about very important issues. Just like the Business Laws (Amendment) Bill. Hon. Members who never take time to interact with legislation, pick up things from social media and speak about them as if they are factual. As a Member of Parliament, you can speak on matters that are not factual, in a manner that makes people believe you know what you are speaking about. I heard a Member speaking about avocado farmers in the Business Laws (Amendment) Bill. I think it was the Member for Gatanga. You could clearly tell that he had not taken his time to interact with the Bill or bothered to read the Committee's report that was tabled yesterday. If he had read, he would not have used prime national television time to mislead the public or play populist politics.

I want to thank the Chairman because he came very fast. I was watching him from my office and he responded to those issues. Many issues were raised by members of the public during public participation. I was keen when the mover was speaking to them. The courts told us that public participation should not be superficial. It must be quantitative and qualitative. The qualitative bit is showing members of the public that what they said during public participation will be considered as we legislate and pass the Bill.

We are not debating this Bill in its original form but as informed by the Committee. For those who bothered to read the report, the Committee is proposing to remove the Digital Service Tax. The reason is that if you are selling iPhones online and somebody else is selling from a shop or establishment in town, if we charge the Digital Service Tax that was proposed, nobody will sell anything online. Everybody may opt to open an establishment or shop in town so as not to pay.

The same thing with the VAT on passenger air tickets. If I am running a tours and travel business in Nairobi and somebody else is running the same business in Arusha or has a branch

there, if you put VAT on the air ticket in Nairobi, I will opt to process my ticket online and charge my Arusha office. We will be driving away employment in our country. So, the Committee has diligently with a lot of foresight removed VAT on air tickets.

Many people are selling tiles along our major roads. Everywhere people know housing schemes or new settlement areas are coming up. In Kitengela, Kiambu Road or Gikambura-Mutarakwa Road you will see very many small hardware shops having cropped up and selling tiles. The proposal to impose a 35 per cent excise duty on tiles or Ksh300 per kilo would mean for a 25kg box of tiles the price would go up by Ksh7,500. The Committee has proposed to remove this and instead have 5 per cent excise duty or Ksh200 per kilo, whichever is higher. The Chairman will speak to this when moving his amendments tomorrow.

The Committee had proposed to remove excise duty on coal which is a raw material used in cement production. We do not want our cement production cost to go up. We should not remove the entire tax because of issues to do with global warming, climate change and carbon emissions. Coal is one of the culprits of carbon emissions. To discourage this, we are in discussions with the Chairman and will find a compromise instead of removing the entire tax but reduce it. We will reach an agreement as we move on.

The Committee has also proposed taxation on alcohol to deal with the heavy question of illicit drinks and alcohol in our country. We tax alcohol in terms of volume and not the alcohol content. We encouraged people to move away from beer to cheap hard liquor which tends to be very harmful to people's health. People buy *tuquarter* and *tunusu* but the alcohol content of this liquor is at a high of 70 to 80 per cent. Whereas the beer that some people enjoy...

Hon. Temporary Speaker, I can only tell you the milk content in my tea, but I know many beers are at the rate of 4 to 4.5 per cent. I can see Hon. Oundo is smiling, I do not know whether he is disagreeing with the alcohol content in beer. I have conceded, I do not know the alcohol content because I am not a partaker. The Committee is proposing to tax the alcohol content in all alcoholic drinks. If a drink has 40 per cent alcohol content, the tax will be higher than ordinary beer or another alcoholic drink with a 2 or 3 per cent alcohol content. This will generate more income and discourage people from consuming illicit brews with a high level of alcohol content which in many instances is unchecked.

On the manufacturers being asked to pay withholding tax within 24 hours, the Committee is proposing they pay within the first five business working days after the end of the month. This will not only allow the manufacturers to have a little bit more of working capital, but also increase the time required to remit this withholding tax. This will be a good thing for manufacturers because, as I mentioned, they also have a little bit more time to utilise the resources that they have withheld as part of their working capital, at no cost. But after the five working days, they will be levied a penalty and interest if they do not pay.

One of the other issues that many people spoke about when this Bill was published – especially those who appeared for public participation across the counties where the Chairman and the Vice-chairman led their teams in the Departmental Committee on Finance and National Planning Committee – was the VAT levy on our game parks and game reserves fees. I remember watching on television one of the two presenters telling the Committee that the animals that we go to see at Maasai Mara Game Reserve are the same ones that migrate to Serengeti. I am glad that the Committee agreed with them. The lion in the Mara is the same one in Serengeti. Therefore, if you levy VAT on park fees in Maasai Mara, tourists will move away from there and opt to book and go to Serengeti across the River Mara. The wildebeest migration is movement of those wildebeest from Serengeti to the Mara and *vice versa*. It is the same animals. So if our neighbour countries in the region are not levying VAT on park fees we should do the same. This levy will make our parks more expensive than those of our neighbours. So that we do not discourage people from going to our neighbouring countries, we

should do away with that levy. I am not saying there is anything wrong with people going to the Serengeti or other parks in the neighbourhood, but of course our Maasai Mara is the best destination in the whole world. Even our neighbours know that and concede. That is why we must encourage many tourists around the world to visit the Mara. After the Mara, then they can follow the animals into Serengeti but they start with the Mara before going to Serengeti because we are the most hospitable people in the world; it is known. We also have the most beautiful animals, including those wildebeest and lions.

Let me not speak on the issue that the Chairman already spoke to, on the e-tims and invoices. We touched on some of them in the morning, for example, the avocados and agricultural inputs that the mover spoke to in the other Bill. However, on enhancement of investment incentives, Clause 15(4) of the Bill also sought to reduce the rate of capital gains tax from 15 per cent to 5 per cent for firms certified by the Nairobi International Financial Centre Authority. Further, it reduces the threshold of investments that qualify for the lower rate from Ksh5 billion to Ksh3 billion invested in at least one entity incorporated or registered in Kenya within a two-year period. Additionally, the transfer of investments must occur after five years from the date of the initial investment. This speaks to the whole policy on seeking to attract more investments or create investment incentives for people to invest in our country.

Hon. Temporary Speaker, I am skipping so many things to avoid being repetitive and also give others an opportunity. Therefore, I want to end it there. I have spoken to the most salient issues that I wanted to speak to but more importantly, there is the issue of gratuity. Over the past years, people have worked for years, including Members of Parliament who served this House for five or 10 years and retire or their term comes to an end and are paid gratuity at the end of the term. The Committee is now proposing that Kenyans who earn gratuity, since that gratuity was part of the money they contributed while in active service and they were paying taxes, it is not fair that at the end of their service we still tax that gratuity. Therefore, that gratuity is now being exempted from tax. Members who opt for gratuity will now enjoy their gratuity tax-free. This is other than myself, Hon. (Dr) Nyikal and Hon. Makali Mulu who have opted for the pension option. This applies to all Kenyans; it will be that way.

On the question of significant economic presence tax, it is important that I clarify that this was for non-residents and not for Kenyan residents. Therefore, it is important to mention that. The other important thing I would like to mention is on the reliefs; both on the housing levy fund relief and the Social Health Insurance Fund relief. Currently, we have no relief on the housing fund levy, because they got lost with the loss of the Finance Bill, 2024. We also have no relief on SHIF. However, the proposed amendments in this Bill will help us get reliefs that will be tax deductible. It is not just the relief, but the Bill will align what was referred to in the act as NHIF to SHIF so that the reliefs you enjoyed under NHIF will now be enjoyed under SHIF.

More importantly is that we are putting back money to the pockets of Kenyans. When the Departmental Committee on Finance and National Planning traversed this country, people were crying that they are being overtaxed but they want money back to their pockets. The Committee agreed with them, in line with what is being proposed in this Bill, to put back money in the pockets of Kenyans. Every contribution that is deducted in your payslip, either to the housing fund, through the housing levy fund, is now tax deductible. The contribution will be tax deductible upon passage of this Bill. That is why I urge all of you to support this Bill. The 2.75 per cent contributions that Kenyans are making towards the Taifa Care from their payslips will be tax deductible. That means that you will be taxed before you pay your Pay as You Earn (PAYE). Currently, you are almost being taxed twice because you had to pay SHIF and housing fund then they deduct your PAYE. Now those will be factored in on top of your payslip before they start levying PAYE. Therefore, that means for someone, for instance, who is earning about

Ksh100,000, you have about Ksh3,000 back to your pocket. This is putting money back into people's pockets.

Hon. Temporary Speaker, these are some of the good things that we told Kenyans that were lost to the Finance Bill, 2024 because there were gains that were putting back money back into the people's pockets. Of course when Kenyans told us to reject the Finance Bill, we rejected everything but, we know better on what is good for Kenyans. We know Kenyans deserve some money back out of what they are paying in taxes in contributions to SHIF, the housing fund so as to create employment and post-retirement medical schemes. All these are now tax-deductible. I mention here that those tax-deductible deductions are up to Ksh20,000 a month so that we encourage people to save in post-retirement medical schemes to pre-empt the culture of dependency.

The reason many people, including former Members of Parliament, resort to the cash transfer programme when they reach the age of 65 to 70 is because they had not saved for post-retirement medical cover. They find themselves elderly and sickly but no private insurance company can provide them with a medical cover. And because they had not saved for a post-retirement medical scheme, they are left destitute and thus sell their hard-earned properties to take care of their medical bills at an old age. We are now encouraging people to save through these deductions that are tax-deductible, of course, putting more money into people's pockets.

I encourage all of us to support this progressive Bill that speaks to the tax policies of our country that are now trying to create equity and fairness to ensure that everybody in this country who is earning an income becomes a contributor to our tax revenues so that we do not overburden a few people at the expense of raising revenues for our country.

With those many remarks, Hon. Temporary Speaker, I beg to second.

(Question proposed)

The Temporary Speaker (Hon. Omboko Milemba): The first bite goes to Hon. John Namoit. He left, we therefore can have the first bite go to Hon. Makilap.

(Hon. (Dr) Robert Pukose spoke off the record)

No, I am okay. The list is very clear. Hon. Namoit has been here, but he just left. Hon. Makilap, you may proceed.

Hon. Joseph Makilap (Baringo North, UDA): First and foremost, I declare that I support the Report of the Committee and the proposals by the Departmental Committee on Finance and National Planning. Under our Chairman, we were able to visit some parts of this country.

I want to put it on record, wherever we went, Kenyans said that they are willing to pay taxes, but they must be shown what is done with the taxes. Kenyans are very keen to ensure that they have money in their pockets. Kenyans came out with candid proposals during public participation right from Isiolo, Mombasa, Taita Taveta, Siaya, Bungoma to Kericho. Everywhere we went, Kenyans laid facts on the table before us. They said they want to see their taxes trickling to the ground to provide medicine and do roads. They said that the cost of doing business has become expensive because of over taxation.

It is important for Kenyans to know that even Members of Parliament are Kenyans and they are feeling the heat of taxation. We are not an exception to any law of taxation. For instance, on the issue of ceramic tiles and other products of a similar kind, it became very clear that there is only one company that manufactures ceramic tiles in Kenya since we do not allow other people to bring tiles of various sizes, including the ones that are used at our dining places. They came out in their numbers and said no to the tax proposal. The country is not ripe for this

kind of excise duty on imported products. It became clear that we should not create a monopoly but create a friendly business environment.

In Finance Bill, 2023, we tried to impose high taxes on imported products being used to make cement. The consequence was, because there was only one manufacturer in Kenya, loss of revenue. We agreed this time around to make it fair for Kenyans, and we listened to them. On this particular one, our Committee resolved to delete some of the proposals that will come to the Floor so that we build and that we help people in the construction industry.

The Kenya Kwanza administration is embarking on a massive affordable housing project. We should not be increasing tax on the products that will be used to do the housing project at the same time want to have affordable housing. It will be a contradiction of its own kind. To ensure that the prices of the affordable houses remain the same, we must ensure that the prices of materials used do not rise at any time so that this country and the vision of the President of building enough affordable housing throughout the Republic of Kenya becomes a reality and the houses become even much cheaper to construct.

That proposal that will be moved by the Committee at the right time is meant to protect the business environment and not to drive many people out of business by protecting a monopoly. We looked at the proposal and business people with a turnover of less than Ksh5 million per year will be classified under small businesses. We, therefore, removed them from the e-TIMS) integration and provided them with what is called a reverse invoice. Turnover of Ksh5 million is not a lot of money. These are the *mama mbogas* and *boda bodas*. If we do not protect them, then we shall have crippled the local economy in our villages and towns. This means we protect the businesspeople in this particular country.

On what the Leader of the Majority Party and my Chairman said about Jumia and what is called Digital Service Tax, if that was allowed to go through, what could have happened? It means we will be taxing people within a certain perimeter that is served by the internet and those who sell phones in that platform. That means that when they move outside that area, they are not charged. This will create a tax regime that is discriminatory where people outside a certain perimeter are allowed to enjoy selling their products, but when they go to another confined area, they are taxed. That is what is called discrimination in doing business.

Many things have been said including the VAT on helicopters and spacecraft. This is a very volatile area that we must protect. If we make it expensive, someone will pay a pilot maybe Ksh200,000 to fly to Entebbe, do the repairs, and come back to Kenya. Who will have lost business? Kenya.

(Hon. (Dr) Robert Pukose spoke off the record)

No, Entebbe will do business.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Pukose.

Hon. Joseph Makilap (Baringo North, UDA): Uganda, Hon. Temporary Speaker. Let me make it very clear.

Hon. (Dr) Robert Pukose (Endebess, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Pukose on this Endebess?

Hon. (Dr) Robert Pukose (Endebess, UDA): Hon. Temporary Speaker, the Member for Baringo North is referring to Endebess as being in Uganda. The one in Uganda is called Entebbe, and not Endebess. Endebess is in Kenya. Endebess is on the slopes of Mount Elgon in Kenya.

The Temporary Speaker (Hon. Omboko Milemba): That is on the semantics. Proceed.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Temporary Speaker. I know it very well. Let me use another example. A helicopter can fly from Nairobi to Mt Kilimanjaro in Arusha, is repaired and comes back to Kenya. Who would have lost business? It is Kenya. There will come a time when Endebess in Kenya, where my good brother comes from, will have an airport and they will have business.

Other than agriculture, the next economic activity that brings in a lot of income to this country is the tourism sector. Please give me one minute. If we kill the tourism sector, we shall lose the tourism business to our neighbours, who have the same characteristics. A lion in...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Makali Mulu. There are great speakers on this. Just take your time. Proceed.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Temporary Speaker, for your consideration. I really appreciate this opportunity. First of all, I thank the Departmental Committee on Finance and National Planning for this Bill. We wanted to know the original and the proposed amendments so that we appreciate what the Committee has done. I want to go on record that, for the first time, we considered the public participation that was conducted on the Bill. We appreciate that.

Another important thing to appreciate is that the unsuccessful Finance Bill, 2024 had some good clauses, which were very beneficial to Kenyans. I am happy to inform Kenyans that there are a few things in that Finance Bill which have been brought back in this Bill, which will be beneficial to Kenyans. One of them is increasing the amount deductible in respect to contributions to registered pensions, provident funds, individual retirement funds, or public pension schemes from 240 to 360. That means that Kenyans have been given a relief of Ksh20,000 to Ksh30,000 per month. If you contribute to a pension scheme, you will not pay tax on Ksh30,000 of your taxable income per month. That amount will be tax exempt, which is very important for the country.

There is another important matter which I commend the Committee for, because I raised it in the Parliamentary Pensions (Amendment) Bill. We proposed that if one contributes to a post-retirement medical fund, they will get a tax relief of Ksh15,000 per month. Those are good proposals in terms of ensuring that Kenyans have more disposable income.

There is another important matter, which is the removal of tax exemptions in relation to the National Housing Development Fund (NHDF). There will be a tax relief on the money that is deducted every month.

However, there are few things which might harm the economy even more. I am happy that the taxation of infrastructural and green bonds has been removed from the proposal by the Chairman. Those are some of the alternative sources of funds for development. Therefore, if we tax them, we will make the cost of development more expensive, and we will not develop as a country. Immediately the Chairman said that they propose to drop that tax, I thought that that would be very good for the economy. That is the right direction in terms of growing the economy.

The other important matter is the VAT on aircraft. I want to relate that to our tourism sector, which is currently picking up in terms of numbers. If we were to retain the VAT, we would make it very expensive for tourists to visit Kenya. I am happy that the Chairman proposed to drop that proposal. At the end of the day, tourists will have alternatives. As the Leader of the Majority Party said, an elephant in Kenya is the same as an elephant in Tanzania and Uganda. If I can see an elephant in Tanzania at a cheaper rate compared to Kenya, I will automatically be tempted to visit Tanzania. That means that we will reduce the number of tourists coming to our country, who will instead visit our neighbours. That is a very progressive amendment.

The issue of the taxes on coal is also very important. As the Leader of the Majority Party said, we need to discuss that matter. Coal is a key input in cement production. Increasing

taxes on coal automatically means that cement prices are likely to go up, which will disadvantage the Affordable Housing Programme. Those things are connected, and it is important that we get them right. The proposal to reduce the taxes on coal is a positive move in terms of ensuring that we support the Affordable Housing Programme, otherwise, if we were to retain those taxes, they would make cement expensive causing problems for the country.

My last contribution is on the Railway Development Levy being increased from 1.5 per cent to 2.5 per cent. I note that the Chairman has said that they are likely to increase it from 1.5 per cent to 2 per cent. I plead with the Committee to reconsider that increase because our country relies on imported inputs and foodstuffs. Increasing that levy will increase the cost of transportation, which will be pushed to the consumer of the final product. In reality, that move will negatively impact the economy by increasing the costs of almost all products. The Committee needs to rethink that. We will not help the economy if we increase the cost of living at a time when most Kenyans have very little disposable income.

The basic principles of economics are that for you to grow the economy, you need to trigger more demand for goods, so that people buy more, creating room for more production, which will translate to more employment. You will then be able to collect more income tax, VAT and other taxes. Increasing the Railway Development Levy is likely to be compared with the move to increase fuel prices. Chairman and Members of the Committee, we need to look at how much we are supposed to collect with that increase and see whether we could collect that money from another source. Otherwise, that single move can easily negate the entire Bill.

With those many remarks, I support the Bill. I thank the Committee for a job well done. Thank you, Hon. Temporary Speaker, once more, for your consideration in giving me the chance to contribute.

The Temporary Speaker (Hon. Omboko Milemba): Let us hear Hon. David Kiplagat on this. Give Hon. David the microphone.

Hon. David Kiplagat (Soy, UDA): This microphone is shorter.

The Temporary Speaker (Hon. Omboko Milemba): Proceed. You are also...

(Laughter)

Hon. David Kiplagat (Soy, UDA): I think the microphone is meant for persons with disabilities (PWDs), but all the same, I will proceed.

Allow me to first thank the Chairman and Members of the Departmental Committee on Finance and National Planning for working tirelessly to conduct public participation and to ensure that the public's views are reflected in their Report. It is very important that as we develop the country, we let economic aspects of the economy to grow. One of the aspects I want to focus on is the construction industry, especially housing. Housing is an important pillar to the Kenya Kwanza Government and the broad-based Government. It is also one of the pillars of the Bottom-up Economic Transformation Agenda (BETA). It is important that we offer affordable houses to our people. Clause 25(g) proposes to increase the cost of ceramic tiles by imposing excise duty of 35 per cent or Ksh300 per kilogramme, whichever is higher. That negates provision of affordable houses. Let me give an illustration.

Through our oversight of NG-CDF, we have been trying to improve the learning environment of our children. One box of ceramic tiles, measuring 30 centimetres by 30 centimetres, usually costs an average of Ksh1,000. Assuming the cost of production is Ksh1,000, it follows that if you impose 35 per cent duty the cost will increase by Ksh350. But if you impose a higher sentence of Ksh300, the cost of one box weighing 15 kilogrammes will increase to Ksh4,500. Add import duty of 25 per cent, VAT of 16 per cent, which is calculated after imposing excise duty, and the cost of one box will be around Ksh7,500. So, by introducing the words 'or Ksh300,' you will have increased the cost of one box of tiles by a whopping 750

per cent. All Members know that one classroom requires around 30 boxes. Those 30 boxes used to cost you around Ksh30,000. By the dint of this clause, you will need Ksh250,000 to tile one class. If you are generous enough and offer to tile one church, which usually requires around 100 boxes for which you could have donated Ksh100,000, you will need Ksh750,000 to buy the same tiles.

And what are we doing? We are protecting a monopoly in the name of one company. I have been to that company called Twyford, when going through Namanga. You can see the vibrancy of a factory by just looking around. You will never meet a *mama mboga* selling *githeri* to people working in that company. It tells you there is no production taking place. Either they are doing monkey business or bringing tiles from China and package in that factory. A lot of things are going on. I am not an investigative agency, but that is what I have seen. Everywhere a factory has vibrancy *mama mboga* sell *githeri* to people who are working in that factory.

Hon. Kuria Kimani (Molo, UDA): On a point of order.

Hon. David Kiplagat (Soy, UDA): I do not know what the point of order is.

The Temporary Chairman (Hon. Omboko Milemba): You do not have to worry. There is a point of order. Just take your seat.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, my good friend is making a very good contribution.

(Hon. David Kiplagat remained upstanding)

The Temporary Chairman (Hon. Omboko Milemba): Take your seat. This is a House of rules.

Hon. Kuria Kimani (Molo, UDA): He is making a very good contribution, but I invite your ruling. When you speak to the reputation of a business on the Floor of the House without moving a substantive Motion or without any evidence, it could be very detrimental to that particular business. I implore him, unless he has evidence to table in the House, not to discuss a business. It would have far-reaching repercussions on that particular business.

The Temporary Chairman (Hon. Omboko Milemba): Hon. Kiplagat, if you discussed a business, you have to substantiate or withdraw that comment so that we expunge it from *The Hansard*.

Hon. David Kiplagat (Soy, UDA): With that guidance from the Chair, allow me to withdraw.

The Temporary Chairman (Hon. Omboko Milemba): Proceed.

Hon. David Kiplagat (Soy, UDA): I request the Departmental Committee on Trade, Industry and Cooperatives, despite their busy schedule, to visit such factories and see what value they are adding to this country to protect Kenyans and curb against promoting smugglers. When a box of tiles costs Ksh7,500 in Kenya and Ksh800 in Uganda, for sure you will encourage smuggling. To avoid that and to make the cost of housing affordable, I propose that that clause be deleted entirely. The Chairperson says that we can charge 5 per cent. We already have import duty which protects local production. Kenyans are stylish people. We look for quality and style. So there is no way we can camp in one company that has no quality or style. We need variance because we love style. I propose that we delete that clause entirely.

Thank you.

The Temporary Chairman (Hon. Omboko Milemba): Hon. James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker, for this opportunity. I will not say much on this Bill. What I really support is the work of the Committee and the amendments they have proposed. Had they not proposed those amendments, I would have proposed them. That means my major contribution to this Bill will be at Committee of the whole House. If the Committee proposals die during the Committee of

the whole House, then we are back to the proposals we do not want. On the issue of tiles, if the Committee's amendment does not go through, then of course Hon. Kiplagat's fears will come true. The same will happen with VAT on air tickets, Digital Service Tax and excise duty on coal. So I support this Bill on condition that the amendments the Committee has proposed will go through. If the Committee did not propose those amendments, then this is just the old Finance Bill that we rejected that has come with minimal changes. With what the Committee has done, we look forward to the Committee of the whole House. We will support the Committee.

Thank you.

The Temporary Chairman (Hon. Omboko Milemba): Is Hon. John Ariko in the House?

Hon. John Namoit (Turkana South, ODM): Yes.

The Temporary Chairman (Hon. Omboko Milemba): Proceed.

Hon. John Namoit (Turkana South, ODM): Thank you, Hon. Temporary Speaker, for this opportunity to add my voice to this matter on tax laws. As a member of the Departmental Committee on Finance and National Planning, I took part in public participation on various finance Bills across Western and Nyanza regions. What came out clearly is the need for accountability for the taxes we pay as citizens of Kenya.

Hon. Temporary Speaker, Kenyans are ready to pay taxes. However, the Executive and the Legislature must work together. The Legislature must oversee what is being implemented by the Executive. Let me highlight some of the issues that require to be amended. There is something on retirement. This Bill has exempted payments from the pensions and gratuity. For instance, if payment of gratuity is made to an employee, a certain figure which has moved from Ksh240,000 to Ksh360,000 is exempted or tax allowable. I recommend that particular proposal. In addition to that, there are non-taxable benefits that will accrue to an employee. One of them is benefit in kind to an employee. What is tax allowable, in this case, has moved from Ksh36,000 to Ksh60,000, in addition to tax exemptions from employees' gratuity which I have mentioned.

There is also increased meal benefit to an employee right from Ksh48,000 to Ksh60,000 which is a plus. There are also tax benefits. The Finance Bill, 2023, has the Housing Levy which is levied on employees. It is not tax allowable in the current state. However, it is tax allowable in this Bill, including SHIF. I support the amendments in this Bill.

We have the matter of Digital Service Tax which has been changed to Significant Economic Presence Tax (SEPT). What is being taxed is the income that accrues which is deemed profit. In this case, it is 10 per cent. The law proposes to tax 30 per cent of the deemed profit.

The payment of withholding tax and excise tax has been moved to make sure there is certainty in collection of these taxes. This Bill proposes to change the duration from five working days to the fifth day of the following month that the particular tax accrues.

There is also an issue on refund of overpaid taxes. Many taxpayers have overpaid taxes. In this case, there are two options provided by this proposed law. One of the options is to apply for the tax refund. The second option that is provided here is to write off or offset the overpaid tax against future tax liability.

Hon. Temporary Speaker, I support these proposed amendments. There are various amendments in this Bill. The Committee will move its amendments tomorrow. *Kulipa Ushuru ni Kujitegemea*. I support the Bill.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Rindikiri Mugambi.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker. At the outset, I have listened to the Mover of this Bill. I am very highly impressed by the Committee. They took time to listen to the members of the public. They analysed their views. We have

come from a very challenging moment where the Finance Bill was a major topic in this country. The time taken by this Committee demonstrates that this Parliament and Government are ready to listen to Kenyans. This is a very important thing because Kenyans have been saying that we do not listen to them.

I applaud the public because we all watched some of the presentations by various stakeholders. Through this public participation, I discovered that Kenyans are not opposed to payment of taxes. They want an explanation of what happens to the revenue that is raised through taxation. This Report gives some answers to what many Kenyans want to hear. If we have a tax regime that encourages investment, protects the domestic products and enhances domestic services, Kenyans will participate in revenue generation through taxation.

Hon. Temporary Speaker, I note with appreciation that Kenyans understand that our Gross Domestic Product (GDP) is growing, but our tax base is almost stagnating. The Tax Laws (Amendment) Bill is trying to address that we need to strike a balance between our domestic resource mobilisation and reduce over-reliance on debts. This is very important because Kenyans understand the effect of having so many debts. If we increase the tax base which I am sure this Bill addresses by encouraging the growth of domestic production, it will create more revenue and cut over-reliance on the borrowing. The tax regime must not hurt Kenyans. We should not encourage anything that hurts Kenyans. A tax regime must enhance business environment to attract investors and create opportunities for jobs. This Bill tries to raise the digital economy by reducing the amount of tax which is a pass.

You will always see a thriving informal sector: 83.3 per cent of 19.15 million Kenyans work in the informal sector. This is the base for economic growth. We need to encourage this sector to grow. If we continue imposing more taxes on them, it will not grow. We all know that the informal sector will increase from small to medium-sized and eventually grow to become a serious economic base of this country.

Kenyans must know that we cannot exist alone. We need to compare ourselves with other countries, in terms of taxation. We are at 14.5 per cent. Other countries are at 18 per cent, 17 per cent and 20 per cent. We are not badly off. Through this public participation, I saw Chairman trying to explain the importance of increasing our tax volume compared to GDP like other countries. We do not need to spend too much time on this. The digital economy is expanding. That is where many young people are, and it is also where a lot of employment opportunities are being created. Therefore, what this Committee has deliberated on is that we should not impose taxes on telephone and internet data.

Another issue I have noted is the need to encourage local production and enhance our industries. It is not right for anyone to import tiles when we have the capacity for local production. Similarly, whenever we try to impose tax on imported furniture, there are some people who still have appetite for imported items. I hope and believe that through this Tax Laws (Amendment) Bill (National Assembly Bill No. 47 of 2024) and public participation, people now understand why we are discouraging imports by imposing higher taxes on them, so that we can enhance local productivity.

With those few remarks, I once again thank the Departmental Committee on Finance and National Planning and its Chairman. Kenyans now understand better our expectations regarding tax. I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Temporary Speaker. We are back on the Tax Laws (Amendment) Bill of 2024, and I can see that almost everybody is apprehensive. Why are you worried? I am only exercising my role under Article 95 of the Constitution of Kenya, representing the people of Kenya and the people of Funyula Constituency.

The Tax Laws (Amendment) Bill is what it is. It cannot be anything else. What quacks like a duck, is a duck. What swings like a duck, is a duck. What swims like a duck, is a duck. Even if you want to call it a pigeon or a goose, it is a duck.

This Bill contains revenue raising measures. It cannot be anything else but an abridged or a different version of a Finance Bill. We appreciate that the Finance Bill, 2024, that was rejected by the assenting authority in June, contained very good proposals that had to die a natural death because as we always say, if one egg is rotten, the entire basket of eggs is rotten. As we stand here today, I wanted to be very hard but given the fact that my young friend went through a lot in June, I do not want to cause him more stress than what he went through. I am an elder and you must always sympathise and protect young leaders and young people so that they do not have to suffer. I also know my friend, Hon. Makilap was worried because I had promised that I would unleash arsenals to make sure that he suffers.

We also need to be very clear and categorical. The Bill that is published is this Bill. What the Chairman did was to try and talk to the political gallery to try and assuage Kenyans that what was published here is not what is going to be moved. Presuming that what is going to be moved in the Committee of the whole House is going to be accepted, that is being preposterous. We are just anticipating debate that will not be there. All that we need to do as Members of Parliament is to look at this Bill and as we contribute, make reasonable proposals that can be carried forward. That is why I have always said that the period taken from Second Reading to the Committee of the whole House should be adequate enough for Members to prepare amendments and for the committee to have an opportunity to look at *The Hansard* and see what members talked about and the issues they raised.

It is true that they conducted public participation, but they did not reach every single Kenyan. The Member of Parliament who stands here to speak represents, more or less, the views of his constituents in whichever form or is acting on delegated responsibility, so to speak

As I mentioned, it contains very progressive proposals that are going to improve the pockets of Kenyans. I am extremely happy because of what Hon. (Dr) Makali Mulu moved concerning the contributions of post-retirement medical scheme.

If I had time, I would wish that instead of a limit of Ksh15,000, we should have first done an actuarial study to ascertain how much we need to contribute every month in order to have a reasonable medical cover. This is considering that in post-retirement, you are exposed more to life related diseases than when you are young. When you are young, you do not suffer from many diseases just like some Members here are. Time will tell. When you get there, you will know.

If we could increase this figure to probably Ksh30, 000 based on some scientific research or actuarial studies to ascertain how much we need, I believe that Ksh15,000 is low.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Oundo, moderate your language. Which guys do you see suffering here? Proceed.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I am happy about the infrastructure bond. You were going to kill this economy by imposing taxes on infrastructure bond. The Permanent Secretary claims that Kenya has no physical capacity or space to undertake any mega project. The only way we can raise money for such projects is through other means like the bonds. Even in Public-Private Partnership (PPP), they are going to raise funds to do these activities in the money market. And therefore, the moment you impose higher taxes, you are simply killing and retarding this economy.

Allow me to go to a very fundamental issue. The Committee and *Mheshimiwa* Kiplagat raised the issue of excessive taxes on building materials. The cost of a house, whether it is affordable, social housing or normal housing, all depends on the cost of materials in addition to other costs like that of land, labour, finance and so on. The proposal that had been placed under Clause 25 to increase the cost of imported ceramic sinks, wash basins, wash basin

pedestals, baths, bidets, water closet pans, flushing systems, urinal, similar sanitary facilities, imported float glass, imported ceramic materials and so on, was going to tremendously, and strenuously, increase the cost of building houses. When a Member of Parliament talks about something, you should trust and believe. Do not take us on a red herring or assuage us. Be truthful and let us pass the amendment to reduce those tariffs. Probably, as Hon. DK has proposed, delete it completely until we finish this process of affordable housing, then you can reintroduce it.

The issue of coal has been unending debate. We know where the interest is. We know that some big men in this country have immense interest in the cement industry. Simply introduce higher rates so that you continuously dominate. As we always say, whenever you impose taxes, please do so for the benefit of the people of Kenya.

The Leader of the Majority Party said that he only knows the content of tea by the amount of sugar and milk in it. The alcohol content in a typical beer in this country is between 3.5 to 4.5 per cent. It is only the crazy ones that have got 6 per cent and above and therefore, imposing taxes based on the alcohol content is a welcome move. I have always had this belief. Impose high “sin tax” until people stop drinking and smoking, so that they can now compete taking tea with their ladies at home while they suffer.

For us, the people of Funyula and Busia, what we take in plenty does not pass through the normal system; and even if the alcohol content is high, we do not care how much taxes they impose on them. That should be a matter elsewhere. On the issue of railway levy, I hope and trust we are going to reduce it as the Committee has proposed.

I call upon the Executive, be it at national or county level, to ensure that whatever money Kenyans contribute through taxes, let their money make money for them. It should not end up in the pockets of a few people.

With those few remarks, I support the Bill. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Benjamin Lang’at.

Hon. Benjamin Lang’at (Ainamoi, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to contribute on this Tax Laws (Amendment) Bill of 2024.

As you may have noted, this is an Omnibus Bill seeking to amend the Income Tax Act, the VAT Act of 2013, the Excise Duty Act, and the Miscellaneous Fees and Levies Act. As mentioned by our chairman, and as required by the Constitution of Kenya, specifically Article 118, we undertook the public participation exercise. I must say that this was the most extensive public participation exercise ever conducted for any Bill in this Republic. We carried out what we call the county public participation exercise, where we sampled six counties. I personally led a team in the Western region covering Bungoma, Siaya, and Kericho

The Chairman led another team in Isiolo, Mombasa, and the Coastal region. What we heard from the public is this: First, they have no problem with paying taxes. The issue is what we do with the taxes once they are collected. Many Kenyans said they have no problem with paying taxes, but once collected, those taxes must be used in a manner that is beneficial to the public.

Secondly, members of the public were concerned whether the public participation exercise we were undertaking was just an exercise in futility. Some of them said, "We know you guys, you have already made your decision." I want to confirm to them that the public participation exercise was not an exercise in futility. In fact, as the Chairman has mentioned, and I want to repeat, we will propose several amendments at the Committee of the whole House to capture what the public told us. This is a listening committee. We have very radical proposals.

We also held an organized townhouse public participation exercise in Nairobi, where we listened to anyone who had something to say, any recommendations to make, or any comments. The Kenya Association of Manufacturers, the Institute of Certified Public

Accountants, all the audit firms in the Republic of Kenya, the Law Society of Kenya, and individual consultants were all listened to. If you read our report, you will see that all their contributions and comments have been captured, and these will ultimately translate into the proposed amendments.

This Bill, as I mentioned earlier, seeks to amend four tax laws. One of them is the Income Tax Act. There are several good provisions in this Bill that directly affect Kenyans, especially those who are employed. If you can remember, we passed the housing levy but we have not corrected the Income Tax Act. What the Bill says is before you compute the taxes, you must less the housing levy and the social health insurance deduction. What that means is that finally when you compute your taxes it will be less, therefore, your take-home on the payslip will improve.

Two, the Bill provides for the taxation of interest on infrastructure bonds. I want to confirm that when we listened to the public organised groups, they said that was not the correct direction. They said all the people who bring money from outside the country will find Kenya as a bad investment destination because the rates would have reduced. We shall be proposing that we maintain the status quo by removing that provision that requires taxation of the interest on income.

We have so many companies in our Republic that are undertaking their business online. They do not have the physical presence in the country. We have companies like Netflix and Uber that do not have serious physical presence but they are doing business online and they make a lot of money. That is why we said that we need to introduce the Significance Presence Tax where everybody who makes money in our Republic must contribute to the infrastructure of the Republic of Kenya.

On excise duty, it is levied to protect Kenyans from harmful effects of certain items, including alcohol and many other harmful things. One case has been raised here about excise duty on imported ceramics. We had a presentation from stakeholders. When we worked out the mathematics as we were trying to dry run the formulae to see whether it will make sense, we realised that whoever proposed that amendment did not dry run the formulae properly to see its impact that is extremely huge. It is not sensible so, we shall be proposing an amendment at a relevant stage. Kenya is not a ceramic manufacturing country. We are not at a level where we can discourage import. We still need to import because we do not produce enough ceramic in this Republic. We will, therefore, propose an amendment because the effect will be massive in the construction industry.

There was also a proposal to increase excise duty on data and money transfer service from 15 per cent to 20 per cent. We also had presentations from members of the public who said that, as a country, we should not make a tax proposal this year that we will have to amend next year. We need to have a predictable tax environment where if we make a decision today and say, for example, that today we will tax 15 per cent, we will ensure that we protect that decision for the next five or six years as per the national tax policy. If somebody decides to invest based on that specific tax provision, we will not wake up one year later after they have invested Ksh5 billion and start to change that tax regime to the detriment of that investor. As per our national tax policy, the tax regime must be predictable within a reasonable time. I do not want to belabour what has been said.

Let us support this Bill and bring amendments at the Third Reading. I want to join my Chairman in thanking our Members because they spent five days moving tirelessly across the counties. We have worked up to midnight for three days. I also want to thank the secretariat led by Mr. Benjamin Magut for doing...

The Temporary Speaker (Hon. Omboko Milemba): Hon. Beatrice Elachi.

Hon. Beatrice Elachi (Dagoretti North, ODM) Thank you, Hon. Temporary Speaker. I also rise to support this Bill. I want to thank the Chairman and Members because since morning, we have been debating laws which are touching on the citizens. I want to appreciate Kenyans for giving their views. I know a few people were questioning this Bill. I want to thank the National Treasury because they gave an explanation that was very clear. I hope Kenyans read it and realised that taxes are meant to build a better Kenya. As the year comes to an end, we have all been praying to God to see us through this tough year.

I want to thank the Committee for looking into the issue of air ticketing. I knew it was a concern for many. I even questioned what would happen if we imposed taxes on the tourism sector. What if Tanzania decided that as long as a tourist is staying in a hotel located in the park, they do not need to pay a fee? This will lift up the spirits of people in the tourism sector, who are doing their best to ensure they pay taxes.

We should not be talking about the tax on tiles. It is just a matter of telling Kenyans it has been removed by the Committee. These are the small things that make Kenyans angry. They are wondering how it is that we are doing affordable housing and imposing tax on tiles. I want to urge the drafters of the Bill to stop bringing sensational issues. They just make Kenyans angry and by the time we are cooling them, temperatures are already so high.

I agree with the tax on alcohol. Kenyans have money. In Dagoretti North on Friday and Saturday, I see parking lots in entertainment joints full to capacity. Kenyans have money for alcohol

(Laughter)

The tax relief for salaried Kenyans is important. Sometimes, people go to work but they are unhappy. That is why we find ourselves in crisis because civil servants feel they are working for a Government that does not appreciate them. This will bring back the *motisha* to wake up and go to work.

There was an increase in the railway development levy. I believe this means commodities like fuel and food will go up. This will result in another public outcry. Once again, I thank Kenyans for giving their views. Our citizens will enjoy the tax exemption on pension. It is going to help us to take care of the many Kenyans who are in dire need of healthcare and are struggling in their contribution. If you read the untaxed benefits on an employer on the meals, it removes the threshold from 48,000 to 60,000 but it is left hanging. I want the Committee to explain to Kenyans if the capping is per year or per month so that they are aware.

The Bill also gives a good proposal on gratuity. There are Members of Parliament who came in and left and now they are back or you have come in twice and now you have left. There is something we have to do so that you come back into the pension.

When we were doing our orientation, we were explained to... I am hoping many of us will borrow from that and be back on pension so that you do not ask yourself why you have been in and out of Parliament but do not have a pension.

Many businesses moved out of the country. That is where we have to support the Committee. At that time, they felt that the taxes had gone so high so they left us with satellite offices that they deal with in the country. They are still making very good money as much as they have moved their offices somewhere else. This amendment also brings it back so that Government does not lose that tax again. Those who moved offices, we wish you can come back so that you can now employ other Kenyans rather than going online and doing everything online, making serious money but do not want to remit your tax.

In all these, we have to tell ourselves as a House, we have done our best, Cabinet Secretary, Hon. Mbadi, has done his best and Kenyans have understood. We have gone through this process and we are hoping we will end the process with the amendments, the way we have

told Kenyans. From 25th of June, that that cycle will never happen again. We shall always look at our taxes and be able to say, “This will hurt, this will not, how do we come together?” That is why that public participation has been very good. We have had to go back to public participation on the matter of SHIF and SHA. It does not look good. It is something we must never do. We went through public participation, passed the three Bills and now we are doing our own public participation. Even Kenyans are wondering if Members of Parliament are doing public participation on health care, then it means we also do not understand.

So going forward, I want to ask all the ministries, when you are bringing in something to Parliament, try and do as much as public participation before you bring it. Parliament should assist but you should be championing the public participation. I have never seen them using the media like we do during voter registration. If Safaricom is part of the process, why can they not help us through a social corporate programme to do a serious awareness on how Kenyans can register the Taifa Care so that we stop going back and forth?

Waziri, there is a question that comes in the whole questionnaire and it asks you whether you rent or you live in your house. If you say rent, the whole thing takes you to another level. How will the people in the slums apply when it is saying that way? Can they change it and get another question? Everyone will say they are living in their houses because they have realised that one is better. It gives you the right one that you are supposed to pay.

Hon. Temporary Speaker, with those few remarks, I beg to support. Hon. Chairman, thank you for everything.

The Temporary Speaker (Hon. Omboko Milemba): Hon. John Gitonga

Hon. (Dr) James Nyikal (Seme, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Hon. Nyikal?

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Speaker, I would like to raise a very important issue. When we started, I indicated that the Chairman was moving as if he is reading the Report. The Leader of the Majority Party came up and said that the Report was distributed but I kept quiet because I thought that maybe I did not get it. I had tried, even yesterday, to get the Report but I did not. I have gone to the Table Office now but this Report is not available there. If you remember, when I made my contribution, I said that the most important thing about the Bill that we are discussing now is the Committee Report and the proposals of what they will amend. Further, I said that without those amendments, this is just the old Finance Bill, 2024, that we rejected. Therefore, is it possible that we get that Report tonight and read it? This is because I know this will probably be in the Order Paper tomorrow as a Committee of the whole House. What will guide, at least, me is what the Committee has said they will amend. If I do not know the proposed amendments according to the Report, I will be lost and that is the same to many other Members

Hon. Temporary Speaker, I need your guidance on that.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Nyikal. I order and instruct the Table Office to very quickly prepare that Report and circulate it to Members as soon as possible. Thank you, Hon. Nyikal, for raising that.

Let us hear from Hon. Gitonga

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Temporary Speaker. I also rise to contribute to this debate on the Tax Laws (Amendment) Bill, 2024. I want to start by appreciating the process that has been used on public engagement. At the outset, the current Cabinet Secretary did an advert in the newspapers for people to start interacting with this Bill before it even got to this House. I applaud that and the Committee for the engagement they had with the public. We cannot wish away engaging the people in relation to what we do in this House. Today, I read in the media our Leader of the Minority Party, Hon. Junet, saying that we

need to lessen our engagement with the public when it comes to government agendas and Bills in this House. I condemn such pronouncements that would persuade us to say that ...

Hon. Beatrice Elachi (Dagoretti North, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Gitonga. Let me hear that point of order.

Hon. Beatrice Elachi (Dagoretti North, ODM): Hon. Temporary Speaker, is the Member in order to insinuate that Hon. Junet decided that any Bill in this House cannot be critiqued? He said that as we go out there to critique, we should critique what is in the Bill. Do not go and add your own words that are not from this House. Is he in order?

The Temporary Speaker (Hon. Omboko Milemba): Hon. Gitonga, if you want to discuss an Hon. Member who is in this House, you must bring a substantive Motion. Therefore, you need to withdraw those sentiments on the Leader of the Minority Party, Hon. Junet. Given that you indicate that you read it somewhere, and you have not told us exactly where that somewhere is and substantiated or even tabled documents of what somewhere is, you need to withdraw those sentiments. Please retract and proceed with your contribution

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Temporary Speaker, as I retract the statement, I insist that it is important for this House to continue engaging members of the public. We also need to listen to the public more often. Kenyans are right in what they tell this House and the Government because they wish well for this country. It is not in order...

Hon. Kuria Kimani (Molo, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): What is your point of order, Chairman of the Departmental Committee on Finance and National Planning?

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, you indicated that my good brother has to withdraw his statement. He used the words "as I retract", which means that he has not withdrawn or retracted his statement. He should categorically withdraw his statement and apologise before he can continue with the debate.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Gitonga, proceed to withdraw your statement and apologise to Hon. Junet.

Hon. Gitonga Mukunji (Manyatta, UDA): I have withdrawn my statement. You had not instructed that I have to apologise.

The Temporary Speaker (Hon. Omboko Milemba): I now instruct you to apologise.

Hon. Gitonga Mukunji (Manyatta, UDA): Hon. Temporary Speaker, I withdraw my statement and apologise.

The Temporary Speaker (Hon. Omboko Milemba): Proceed.

Hon. Gitonga Mukunji (Manyatta, UDA): We must listen to Kenyans. Let us not blame them when they demand for good leadership from us. Let us also not blame them when they demand for the best from this House, which they gave an opportunity to serve.

Having had experience with the Finance Bill, 2024, which was tabled before us, I took time to interact with Kenyans and to try to convince them about what had been amended. We have to continue ensuring that our engagement is such that we do not set this House against the public. This is one of those Bills that has had such engagement. I am happy with a few things that the Chairman of the Departmental Committee on Finance and National Planning has brought along, which indicate that they listened to Kenyans.

There is the Significant Economic Presence Tax. A few months ago, Starlink came to Kenya and became a big internet service provider (ISP). Such companies should pay taxes to this country to ensure that Kenyans who give money to those companies benefit in terms of taxes accrued. That is a welcome tax for companies such as Netflix, which are found in everybody's household. They use our money but are owned elsewhere.

Taxation on ceramic items and urinals is in bad spirit because it is against what we are pushing in terms of affordable housing. We are building Kenya. The excise duty on ceramic items and urinals will increase the cost on customers.

I welcome the proposal to tax alcohol in terms of the alcohol content. That will ensure that the normal spirits that are killing our young people and turning them into zombies are priced higher. The only issue I have is the fact that we are giving power to the Cabinet Secretary to rate the alcohol content. I will propose a more stringent term to ensure that it is clear that those spirits will be more expensive. Taking agricultural inputs and pest control products from zero rating to exempt will ensure that the companies are unable to claim VAT. I propose a check on that to ensure that we do not make fertilisers and pest control items more expensive.

The tax on coal will make clinker, which is very key in cement manufacturing, expensive. That should not happen. It will also affect cement prices that have been going up, which is detrimental to the Affordable Housing Programme.

The digital economy will be immensely affected by the increase in tax on airtime. It is on record that when there was an increase in tax, there was a sharp decrease on the use of airtime by close to 20 per cent. I propose that that proposal be set aside so that our people can continue to use the digital space without any problem.

I also propose that we continue ensuring Kenyans are engaged. As leaders, we should not be seen to be condemning Kenyans when they speak their minds. It is not fair to blame Kenyans when they express what they think is right for this country. Kenyans want a country where taxes are used in a better way. They want a corruption-free country, and they should actually be encouraged.

The Temporary Speaker (Hon. Omboko Milemba): Hon. John Mutunga.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Thank you, Hon. Temporary Speaker, for the opportunity to contribute. This Bill is important to us. We all know exactly where we have come from, and we know the work the Committee has done to come to this point.

We lost the Finance Bill, 2024. Since then, nothing has stopped. Salaries have been paid and obligations and development needs have been met. The greatest likely loser in such a circumstance is development. In our budgets, we normally consider recurrent costs and suspense accounts, and then consider what to put in development. In most cases, development suffers. Kenya's development is likely to suffer this year. This particular initiative therefore is an innovative way of trying to recapture a lost opportunity. Kenya also lives among other countries. The other countries are growing and developing. We have a people who need development and opportunities. We cannot create opportunities without raising revenue. Finding innovative ways of raising revenue is important for this country.

There are a few areas that I would like to highlight in this Bill because they need a rethink. The Committee needs to look at the essence of zero rating agro inputs, as compared to exemption. In my understanding, zero rating means there is a possibility of introducing taxes. We need to promote agricultural production in this country. To do that, we need to secure the sector. The safeguard measures we can put in place are those that make it difficult for us to easily introduce taxes. The Finance Bill, 2024, had very good provisions. For instance on raw materials on eggs production *vis-à-vis* finished products. We had proposed not to levy any taxes on eggs for chick production, but levy taxes on eggs meant for the table. In the same vein, let us look at the inputs and what is meant for the table.

Hon. Suleka Harun (Nominated, UDM): On a point of order, Hon. Temporary Speaker.

The Temporary Chairman (Hon. Omboko Milemba): What is your point of order, Hon. Suleka? The Chairman of the Departmental Committee on Agriculture and Livestock, take your seat for a while.

Proceed, Hon. Suleka.

Hon. Suleka Harun (Nominated, UDM): Thank you, Hon. Temporary Speaker. I stand pursuant to Standing Order 95. I beg to call upon the Mover to reply. We have heard enough of this Bill.

Thank you.

(Laughter)

The Temporary Chairman (Hon. Omboko Milemba): Hon. Mutunga, finish your contribution before I make any ruling on that. Give him the microphone.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Hon. Temporary Speaker, I hope I have not bored the lady. She sounds quite fed up.

(Laughter)

Let me just highlight a few more clauses that are important. Clause 25 of the Bill is on building materials. It is important to look for innovative ways of raising revenue. On the other hand, if you want to know that a country is actually growing, you look at the consumption of the building materials, specifically cement. It goes with others like consumption of the steel materials, tiles, and the ceramic fittings. If we introduce taxes in this particular area where Kenyans are skilled and others are not skilled at all, what will happen? This is one of the most inclusive areas. This is where you can find classical examples BETA. We need to be careful about the kind of taxes we introduce in some of these areas. This clause needs to be relooked at.

There is also the issue of importation of furniture. Kenyans who can afford to import furniture can pay a little bit more of duty. It is important for us to promote our local manufacturing. In that vein, I agree with the Committee that we need to impose levy on imported materials.

There is also an issue of taxing alcoholic products based on the concentration of alcohol. How did we get here? Could we still be talking about the same thing, if there was no COVID-19? Lifestyle changes occurred during COVID-19. Bars were transferred to the houses. There is mushrooming of liquor stores across the country. People freely, as long as you are 18 years old, buy very concentrated alcoholic products. Again, there are some highly concentrated alcoholic products which are very cheap. They destroy our young children. It is important for them to be made commensurately expensive, so that they are not easily accessible to the young people. When we were young, we did not imagine somebody could drink whisky. These days, they cut across. A very young child consumes very concentrated products. This has not only made people intoxicated and unavailable for productive causes, but it has also brought about lifestyle diseases. The increased cases of gout in this country has led to a great consumption of medical supplies. The relationships make it necessary for us to re-consider the issue of alcohol content. If you go to most of the hospitals and look at the data, you will realise that gout is becoming a major concern in this country. Very young people have gout. In the past, we used to associate gout and arthritis with age. These days, you may not distinguish whether it is arthritis or gout. In most cases, you realise it is gout as a result of consumption of very concentrated alcoholic substances that increase the uric acid levels in the body which bring problems.

Hon. Temporary Speaker, last week we were discussing the issue of revenue sharing which came as a result of the mediation process that had discussed and negotiated the amount of money to be disbursed to the counties of about Kh400 billion. However, Kenyans need to be realistic. The national Government and the county governments are one Government, but

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with devolved units. Therefore, what the counties demanded as per the proposed Budget yet they knew there was no Finance Bill in place, was unrealistic. However, I am glad that the negotiations led to a drop of about Ksh13 billion. As we discuss these issues, let us be aware of the realities that we are facing.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, a Member rose in his place on Standing Order 95.

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

Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, I would like to thank the Members of this House who have really sat patiently, and debated both the Bill and the Report of the Committee. We take note of the matters of concern that have been raised. As we draft the amendments that we hope to bring to the Floor of the House tomorrow during the Committee of the Whole House, I want to give assurance to this House that we will try as much as possible to carry them through.

The remarks that have been made by Hon. Mutunga, on moving from the First Schedule to the Second Schedule and zero rating to exempt, are also a concern that the Committee has noticed, especially for fertilisers and pesticides. Indeed, one of the proposals that we have made is to exempt the final product and the raw materials so that where the raw materials and the final product are exempted, it does not lead to fluctuation or increase in the price of that particular product. I am sure the issue of fertiliser is a key concern to many Kenyans.

Hon. Temporary Speaker, with that in mind, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, we shall postpone the putting of that Question until the next Sitting.

(Putting of the Question deferred)

Hon. Members, before we call the next Order, I want to re-arrange the Order Paper so that the Order appearing as Order 15 comes next. Thereafter, we shall go back to Order 14.
Next Order.

MOTION

INQUIRY INTO THE MATTER OF REDUCTION OF ELECTRICITY COSTS IN THE COUNTRY

The Temporary Speaker (Hon. Omboko Milemba): Mover.

Hon. Alice Ng'ang'a (Thika Town, UDA): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): There is a point of order from Hon. Alice Ng'ang'a.

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Temporary Speaker. Mine is a question. Before the Motion at hand is discussed, the Hon. Speaker had requested for a few issues to be discussed and consulted upon. Were those things addressed, and the Report tabled on the Floor?

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Alice Ng'ang'a. Hon. Chairperson, the Member is referring to a Ruling by the Hon. Speaker which I believe you are privy to. So, as you proceed, could you speak to that too?

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Hon. Vincent Musau (Mwala, UDA): Thank you, Hon. Temporary Speaker. For the comfort of the Member, the Motion I am moving is to adopt the Report of the Departmental Committee on Energy. We can only adopt it once it has been tabled, which was done last week.

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

THAT, this House adopts the Report of the Departmental Committee on Energy on the inquiry into the matter of the reduction of electricity costs in the country, laid on the Table of the House on Monday, 25th November 2024, and approves the lifting of the moratorium on the signing of new Power Purchase Agreements subject to the following conditions –

1. THAT, all intermittent sources of energy, such as wind, and solar, be onboarded on the grid, be fitted with battery storage or general energy storage solutions as a mitigation measure to their intermittency, as well as maintain the system's equilibrium between supply and demand for electricity by strategically discharging storage assets during times of peak, and charging them during times of low demand.
2. THAT, the Ministry immediately stops Power Purchase Agreement amendments that occur midway through the lifecycle of the Independent Power Producers, similar to the case of OrPower 4 Inc, and all subsequent PPA amendments/variations are to be subjected to the National Assembly for approval.
3. THAT, the power generation indicative tariffs both in the FiT and auctions system before gazettelement and all Power Purchase Agreements be subjected to approval and ratification by the National Assembly, and this will also apply to projects still in the pipeline and those not yet operationalized before the imposition of the moratorium. In the transition phase before the formation and operationalization of the IPP office, EPRA will undertake this role as it is currently prescribed in law and is to submit the updated competitive indicative tariffs to guide the process of onboarding of power producers for concurrence with the National Assembly before gazettelement within two (2) months upon passage of the report.
4. THAT, all new power generation plant Power Purchase Agreements (PPAs) to be onboarded to the grid are denominated in Kenyan Shillings. The Committee shall initiate an amendment to the Energy Act, Cap. 314 to effect this recommendation.
5. THAT, the Ministry and EPRA implement competitive procurement of energy projects under an auction scheme modeled similar to South Africa's Independent Power Producer Procurement Programme in order to ensure that Energy is procured competitively and in line with the gazetted indicative tariffs and the Least Cost Power Development Plan to ensure price discovery by selecting only the least expensive power producer that meets the detailed technical and financial evaluation requirements after the bid rounds, failure to which the auction will be deemed unresponsive. Further, the Ministry in conjunction with EPRA to draft and table an approved Renewable Energy Auctions Policy that outlines the transition from the Feed-in-Tariff for advanced projects which must also be in line with the gazetted indicative tariffs, and operationalizes the auction system for consideration by the National Assembly within six (6) months after the adoption of the report; and
6. THAT, within six (6) months upon adoption of this Report, the Business Registration Services (BRS) submits to the National Assembly a report containing a list of the owners, beneficial owners, shareholders and directors of

each entity operating as an independent power producer in Kenya in accordance with Section 93A of the Company Act, Cap. 486. Subsequently, all new power purchase agreements will only be entered into with a power generation entity that has fully disclosed and registered full beneficial ownership in compliance with the Act.

On 22nd March 2023, pursuant to the National Assembly Standing Order 47, the Member for Laikipia, Hon. Jane Kagiri, moved a Motion for the reduction of the cost of electricity in the country. Subsequently, pursuant to Standing Order 218 (2) of the National Assembly, the House resolved that the Departmental Committee on Energy undertakes an inquiry into the operations of Kenya Power. The inquiry aimed to examine the agreements made with Independent Power Producers (IPPs), identify factors affecting electricity cost, including overreliance on IPPs as opposed to available renewable and other energy source and suggest measures to reduce these costs. The Committee was to submit a report to this honourable House within 120 days.

In carrying out the inquiry, the Committee resolved to look at the entire value chain, from power generation to transmission and distribution. The committee deliberated and came up with the following terms of reference for the inquiry:

1. To establish the details of PPAs between Kenya Power and IPPs, including all current PPAs and those under consideration, if any, along with a list of all IPPs and details regarding ownership, stakeholders, directors, and their addresses.
2. To establish the terms of existing contractual obligations between KPLC, the Energy and Petroleum Regulatory Authority (EPRA), the Government of Kenya (GoK), and each of the IPPs. This includes—and is not limited to—contracted capacity, contract tenure, monthly capacity charges, and both fuel and non-fuel costs for each plant.
3. To establish the installed capacity and effective capacity over the last five years and projections for the next five years.
4. To establish the basis for variance in rates charged by KenGen, against the rates charged by IPPs to Kenya Power and the company, including details of unit charges by each independent power producer.
5. To establish the measures that each IPP is taking to reduce the cost of electricity for households, businesses, factories, and other consumers to support the Government's bottom-up economic transformation agenda.

Hon. Temporary Speaker, in this regard, the Committee analysed the overall energy sector, evaluated the electricity sector, legal policy framework, electricity tariff structures, IPPs, jurisdictions, and justification review of PPAs in the country. The Committee further analysed IPPs in other jurisdictions. Specifically, we sent delegations to Ghana and South Africa to understand their models.

It is important to note that our energy mix consists of 90 per cent green energy, basically what we call renewable energy. Our installed capacity is 3.7 gigawatts, which is still insufficient for the population of over 55 million Kenyans. We expect the electricity demand to grow by approximately 5.7 per cent annually between now and 2026.

The pricing trends for electricity in Kenya have also seen quite some changes. Last year, the price for the consumers was Ksh31 per kilowatt/hour. With a small reduction, currently it is trading at Ksh28 shillings. The commercial and industrial prices dropped from Ksh21.5 to Ksh19.8. Although there has been a slight reduction following the moratorium imposed by this House, these prices remain relatively high, adversely impacting both domestic and industrial consumers.

It is important to note that for domestic consumers, our electricity prices are 67.7 per cent higher than the world average and 114 per cent higher than the average prices in Africa.

Further, for commercials, our pricing is 36 per cent higher than the world average and 87 per cent higher than Africa's average. Something must be done about the prices. The first significant issue affecting the sector is the skewed Power Purchase Agreements (PPAs) and how they are onboarded.

The second issue worth noting is expensive take or pay arrangements. These kinds of agreements require Kenya Power Company to pay for electricity generated, whether it is used or not. This leads to financial strain because these costs are usually transferred to the consumer. Additionally, overreliance on Heavy Fuel Oil (HFOs) contributes to high cost of electricity. Therefore, it is imperative for this House to adopt this report in order to address these challenges effectively. In so doing, the House will ensure stable, affordable, and sustainable electricity supply for all Kenyans thus fostering economic growth and improving the quality of life of the population.

In carrying out our mandate, and in compliance with Article 118 of the Constitution, we did extensive public participation. We received over 40 submissions from players in the energy sector, regulatory agencies, and Independent Power Producers (IPPs). We also held over 15 meetings with identified stakeholders among others. As a result of this inquiry, I have sponsored an amendment to the Energy Act on behalf of the Departmental Committee on Energy to introduce a third-party player in the metering and Last Mile Connectivity. If an average Kenyan requests Kenya Power Company to connect them to electricity without the Government sponsored programme of connectivity, they will part with between Ksh300,000 to Ksh400,000. This is the cost of connection for a distance of one or two poles. The cost of these materials out there barely goes beyond Ksh50,000. Therefore, by introducing competition, a third party-player, and opening the scope, we believe that more Kenyans will be connected. We are also going to reduce commercial losses.

Upon analysing the submissions presented, the Committee took note of vital issues along the value chain. Some of them are listed as key observations. First, we have 41 Energy and Petroleum Regulatory Authority (EPRA) approved PPAs that are supplying power to the interconnected system. Second, there is general opaqueness in the disclosure of beneficial ownership of IPPs, majority of them listing foreign companies as shareholders. This is a very serious matter because we are trying to fight the issue of conflict of interest.

We do not know the owners of companies supplying us with power. The owner who is supposed to be an individual is listed with the Business Registration Services (BRS) as another company. When we asked for details about this company, we found out that it is a shareholder of another company listed in Seychelles. We looked at a chain of almost 10 companies before finding out the rightful owner. We looked everywhere and realized that the address of these people does not exist! Part of our recommendations is that they should no longer operate in this country until and unless we know who they are.

It was further noted that the payment structure for most of the IPPs is take-or-pay, which I have already spoken on. We are exposed because our PPAs are modelled in the US currency or the Euro. This is interesting because we should not run away from our own currency to avoid exposing ourselves.

Hon. Temporary Speaker, the Committee noted that some of the lines supposed to evacuate power still remain incomplete. I will speak on the recommendation regarding that issue.

Hon. Temporary Speaker, there is a lack of approved Land Value Index to specify the amount of compensation. The operationalisation of the land value index is key to making sure that energy projects move. This is because from the conception of an energy project to its completion, people suffer a lot of delays. The actual amount also varies from one area to another and there is no specific reference to refer to regarding the actual cost or how much we should pay as wayleave for our energy projects.

Procurement of Independent Power Producers (IPPs) is marred with a lot of irregularities, and is not competitive. The committee did not establish any credible process at all, applied in onboarding of the IPPs. Further, the procurement of new IPPs has not been subjected to Parliament, this being a process that affects many Kenyans.

During our benchmarking in South Africa and Ghana, we observed that the Public Utilities Regulatory Commission (PURC) for Ghana, which is the equivalent to the Energy and Petroleum Regulatory Authority (EPRA) is very independent. Members of its Commission are appointed by the President through a process similar to what we do here for independent institutions. That is an area we need to adjust. In South Africa, we learnt that they have an IPP office, which has greatly improved on the competitiveness of the procurement process in onboarding new IPPs. If you compare the current Power Purchase Agreements (PPAs) being signed in South Africa *vis-a-vis* what we have, we realized that they are only paying 20 per cent of what we are currently paying.

The Committee makes the following recommendations:

That, the Ministry prioritises and fast tracks the completion of priority transmission lines, which are key to reducing technical losses that will improve reliability in electricity transmission.

I wish to couple this with the issue of Public-Private Partnerships. The other day I saw people chasing away the Adani Group, well, for reasons that later emerged. We, however, cannot run away from PPPs. They are important to us as a country.

I wish to tell Kenyans that as we speak, we are paying for expensive power while we have some cheap power somewhere. Why is this so? It is not about its generation, but getting it from where it is generated to where it is needed. Therefore, there are many cases where we are using very expensive thermal generators like the Muhoroni Gas Turbine Power Station. It is 10 times the average cost of geothermal yet we are still using it. This is because that power is under KenGen, and we cannot get it to where it is required. We need these transmission lines. Are we going to expose Kenyans to a further burden of taxing them in order to build these lines? It is not possible and neither is it going to work. The only option is to get competitive partners, procure them in an open competitive manner, and use them to build some of these lines that would otherwise strain our Exchequer.

The Committee further recommends that the Ministry fast-tracks the completion of the Kenya-Off Grid Solar Access Project (K-OSAP) programme in order to promote off grid and mini grid solar systems which will provide an alternative renewable energy source for the expensive diesel off grid generators currently in use in areas not connected to the grid.

The Committee further recommends that the Ministry and (EPRA) implement a competitive process of procurement of energy projects under the Auction Scheme Model, similar to the South Africa's Independent Power Procurement Programme, in order to ensure that energy is procured competitively and in line with the gazetted indicative tariffs. It also recommended that we should have the Least Cost Power Development Plan in order to ensure price discovery by selecting only least expensive power producers that ...

The Temporary Speaker (Hon. Omboko Milemba): Chairperson, prepare to conclude. Your time is over, but go through all the recommendations.

Hon. Vincent Musau (Mwala, UDA): The Committee further recommends that all PPAs be denominated in Kenya Shillings.

The Temporary Speaker (Hon. Omboko Milemba): I will give him some two minutes because that is what is most crucial.

Hon. Vincent Musau (Mwala, UDA): We should delink these projects from Kenya Power (KP) to Rural Electrification and Renewal Energy Corporation (REREC) so that it can concentrate on the commercial aspects.

Hon. Temporary Speaker, the Committee further recommends the following: That within 12 months upon adoption of this Report, Energy and Petroleum Regulatory Authority institutes a fuel pricing formula for the heavy fuel oils (HFOs) based on international domestic pricing factors and the prices published every 14th day of the month in a gazette notice and websites. The Committee shall initiate an amendment to the Energy Act 2019 to effect this recommendation.

The Committee further recommends that all new Power Purchase Agreements (PPAs) being onboarded must have energy storage and those existing ones, we are giving them 24 months so that they can also instal energy storage systems.

We have a myriad of recommendations, but I want to touch on three more. The Committee recommends that within 12 months following the adoption of this Report and in compliance with Section 37 of the Public Audit Act, the Auditor-General carries a special audit on all thermal power generators like Turkana and Kipeto Wind Power, and tables that Report to this House. We feel we got a raw deal and we want to do an audit to get the actual pricing that we should be paying. These prices that we should be paying is what we are going to force these IPPs to pay. And those who do not comply are going to be terminated. That is the recommendation of the Committee.

Further, as I conclude, upon adoption of this Report, the Committee recommends that the Ethics and Anti-Corruption Commission (EACC) and the National Police Service (NPS) conduct investigation on possible conflict of interest on the following persons: Mr Patrick Mwaura Nyoike, who served as Permanent Secretary in the Ministry of Energy and Petroleum between 2003 and 2012, and as Energy Permanent Secretary for being involved in fast-tracking of processes of PPS between Kenya Power and Lake Turkana, despite concerns raised by the National Treasury that the project required further thought before implementation. All this is documented even with the letters.

Secondly, Mr Joseph Njoroge, who served as Managing Director, KPLC from 2007 to 2014, and also as Principal Secretary for Energy and Petroleum from 2015 to 2021. As a Managing Director of Kenya Power, he was implicated in approval of Lake Turkana Wind Power Purchase Agreement, which was signed before the company even obtained a licence to generate electric power. It was also executed without proper legal risk assessment and he was part of the Kenya Power and Lighting Company Board that ignored concerns raised by the World Bank vide board meetings and a letter already documented in our Report.

Hon. Temporary Speaker, let me say that our detailed recommendations are in Chapter 5 of the Report. This matter needs a lot of time to be looked at. It has taken us almost one year, therefore, it requires a lot of time for it to be digested.

As I conclude, on behalf of the Committee, I wish to express my sincere appreciation to the Office of the Speaker and the Office of the Clerk for the logistical and technical support accorded to the Committee during the inquiry process. Also, I acknowledge the contributions made by various stakeholders. And finally, I wish to express my appreciation to the Hon. Members of the Committee who sacrificed their time and made useful contributions. I also appreciate the secretariat that supported the Committee towards production of this Report.

I, therefore, ask this honourable House to support and adopt this Report on the inquiry on the matter of the reduction of cost of electricity. I request my Vice - Chairman, Hon. Lemanken Aramat to second.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Where is Hon. Aramat?

Hon. Lemanken Aramat (Narok East, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity to second this Motion.

The Energy Policy of 2018 urges for affordable, competitive, sustainable, and reliable supply of energy at a low cost in order to achieve county and national development. They need to apply the Energy Policy of 2018.

The Committee wishes that this House immediately stops amendments to the purchase agreement for power generation, inclusive of tariff both at FIT and the auction system before gazetting. All purchasing agreements should be subjected to the approval and ratification of the National Assembly.

According to the global best practice in the energy sector, the acceptable loss is 13 per cent. However, in Kenya, the Kenya Power Company has accepted a loss of 25 per cent. To put it in simple terms, it means that for every four units the Kenya Power purchases from Independent Power Producers (IPPs), one unit is lost. For example, in 2022, Kenya Power encountered a loss of 22.43 per cent. Looking at this figures, you would assume that it is a small figure. Kenya Power went ahead to request the Energy and Petroleum Regulation Authority (EPRA) to allow it to pass 19.9 per cent of its loss to consumers. This loss went up to 14.5 per cent in the previous year. That translates to Ksh35.7 billion per year in losses for the utility.

Inefficiencies have contributed hugely to the cost of power in this country. If we compare ourselves to our neighbouring countries, we pay Ksh23 per unit in Kenya whereas Uganda pays Ksh20 per unit and Tanzania pays Ksh12 per unit. Ethiopia pays better at 6 per cent. If Ethiopia is 3.7 per unit, it means that in Kenya it is seven times higher.

Finally, as a Committee, we recommend that EPRA implements competitive procurement of energy projects under an auction system model that is similar to that of South Africa's Independent Power Producers procurement programme, in order to ensure that energy is procured competitively in line with the Gazette Indicative Tariff and the least cost power development plan. There needs to be selection of the least expensive IPPs that meet the detailed technical and financial evaluation requirements after the bid rounds, failure to which the auction will be deemed unresponsive.

Further, the Ministry, in conjunction with EPRA, should draft and table for approval the Renewable Energy Auction Policy that outlines transmission from the Feed-in-Tariff, which will be in line with Gazette Indicative Tariff. It should also operationalise the auction system within six months.

To cushion power utility firms against high exchange rates usually passed on to consumers, we recommend, as a Committee, that all the new power generating power plants be on-boarded to the grid and they should deal in Kenya Shillings instead of the US Dollar.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Member, start concluding.

Hon. Lemanken Aramat (Narok East, UDA): Yes, Hon. Speaker. I second.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, this is a fairly long Motion.

(Question proposed)

The Temporary Chairman (Hon. Omboko Milemba): Who takes the first bite? Hon. Nyikal.

Hon. (Dr) James Nyikal: Thank you, Hon. Temporary Speaker.

(Hon. Moses Kirima spoke off the record)

The Temporary Chairman (Hon. Omboko Milemba): Order, Hon. Nyikal. I can hear Hon. Moses Kirima. Take your seat, Hon. Kirima. This is not the mountain on the other side. I am very much aware of Members who have not contributed and I will give them a chance.

Proceed, Hon. Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker, for this opportunity. I start by appreciating the work of the Committee.

Hon. Sabina Chege (Nominated, JP): On a point of order.

The Temporary Chairman (Hon. Omboko Milemba): Let me hear the point of order from Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, JP): Thank you, Hon. Temporary Speaker. I have heard you mention a side of the mountain. I just want to confirm that the mountain is one and is united. It was not touched and it remains firm. When Hon. Kirima speaks, treat him as an independent Member, but he is part of the mountain and he is happy with it.

The Temporary Chairman (Hon. Omboko Milemba): Very well, Hon. Sabina. We have heard you. Proceed, Hon. Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Speaker, for the opportunity. I appreciate the work of the Committee. This Committee has done a fantastic job, including during their benchmarking trips. Whatever money was spent on the benchmarking trips was well spent. Power is one of the greatest inputs in development. It is key because it moves the country. Unstable power, leave alone lack of power, is itself very expensive on machinery and establishments such as health facilities. We face the challenges daily. A lot of businesses go under because of power unreliability. Failure to maintain the cost of power and losses of power drive them out. The cost of power in this country is totally unacceptable. I appreciate this Committee because they have shown us that in Africa we are probably the most expensive in terms of power. They have shown us our overreliance on IPPs and the unfavourable arrangement that we have with them which leads to high costs. These PPAs are totally unfavourable to us. I cannot understand why we should pay in dollars. Owners of these companies are not known; they are shady and we do not know whether there is conflict of interest.

I do not want to take much time because many colleagues are interested in the matter. The work the Committee has done is commendable and I support all their recommendations. Those recommendations that require Ministries and other Government agencies to take action should be implemented with immediate effect. The recommendation on the issue of paying in dollars should be implemented like yesterday.

I have enquired why there is so much power instability and lack of power in the western part of the country like Kisumu and beyond. It is because of the Muhoroni gas generation. If you have travelled on that road, the generation at Kipsitet is what causes the problem. We were supposed to have power produced in Timboroa and transmitted to Kisumu. I do not know what happened, but we still depend on that yet it is four times more expensive in terms of production. Why should we go on with that system? I support this Report fully. This is the first time that I am supporting something hook, line, and sinker. What the Committee has done is commendable. Let us adopt and support all the recommendations they have made in this Motion. We could not have done better than them.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Moses Kirima.

Hon. Moses Kirima (Central Imenti, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity to share my thoughts on this Motion. I support it entirely. I will only add that we, as a country, should be very careful on power issues. Kenyans have really suffered under the hands of power brokers. There are some people who have registered strange foreign

companies which have no identity at all; they are amorphous. Their origin or where they emanated from is unknown. They insist on being paid in dollars. To pay these companies in dollars means that we are depleting the little federal reserve that we have in form of foreign currency. This reduces the country's power to make foreign purchase. Therefore, these companies must be registered. I hope the Committee recommended that they should be registered, so that they can come out in the open for them to be known. They are operated by Kenyans. Some of them are registered in foreign countries like Cayman Islands and Seychelles. Unless we register them, they will never come out.

The current cost of electricity only serves the privileged Kenyans. What about the poor ones in the villages who cannot afford electricity? Currently, electricity is only for the rich because they are the only ones who can afford the installation fee. If possible, we must do away with monopoly because that is what has prevented many Kenyans from having power. It is only a few who can afford it. As it has been said earlier, we need to make it open so that whoever wants to come in can do so and provide electricity to Kenyans. If we have contracts like the one Kenya Electricity Transmission Company (KETRACO) had with Adani recently, then it will still fall in the hands of cartels. This will make power more expensive than before. The cartels pay bribes which they must recover. Once they do it, then we will be in total problems again.

I highly commend the work of the Committee. We must try and find a way to attract investors into this country by lowering the cost of power. Currently, in East Africa, Kenya is the most expensive country in power costs, yet we generate it by either water, which is renewable, or geothermal, which is adequate in Kenya. It is only a few power stations which supply power through generators like Kipevu Power Station. There are also a few ones which use fuel to produce power which makes it more expensive, if you consider it per unit. Even in your house, a token of Ksh1,000 is depleted within two weeks, yet you have no factory, you live alone, and there is no one in the home during the day. There is a lot of stealing in this sector. I pray that the Committee goes further to find out who is benefitting from the poor people and taxpayers' money. Who are stealing from us? With that knowledge, I believe we will succeed. If we reduce the cost of power in Kenya, this country will be economically stable and more investors will be encouraged to come by.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Before we give an opportunity to the next speaker, the Chairman of the Departmental Committee on Finance and National Planning will table a Paper.

PAPER

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Finance and National Planning on its consideration of the Tax Laws (Amendment) Bill (National Assembly No. 47 of 2024).
Thank you, Hon. Temporary Speaker.

(Debate on the Motion resumed)

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Dorothy Ikiara.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Temporary Speaker. I wish to join my colleagues in supporting this Report. I also want to thank the Chairman of the Departmental Committee on Energy for tabling this very important Report.

It is important for all of us, as a country, to appreciate that His Excellency the President is very passionate about power connectivity to all households in this country. As he struggles to do that, we are also struggling with the problem of tariffs that are very high. It is important to note that you can have connectivity at no cost at all, but when power tariffs are so high, within a short while, we shall have a country that is in darkness.

I join the Chairman and the entire Committee by condemning the hidden power suppliers who exploit this country by selling their power at very high and unaffordable rates. It is good to make full disclosure of the companies that we are contracting to supply power to our country.

It is also important to note that, as a country, we are struggling with youths who are unemployed, and who will only realise the benefit of being self-employed if we are able to have affordable electricity because many of our manufacturing industries depend on electricity. As long as electricity is expensive, the cost of manufacturing goods, setting up a factory, and, possibly, employing Kenyans would be beyond reach. I, therefore, want to support this Report. Let us see ways and means of ensuring that our power tariffs are affordable so that our local manufacturers and youth can get jobs, and the citizens of this country can enjoy subsidised electricity tariffs at an affordable rate.

Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Sabina Chege.

Hon. Sabina Chege (Nominated, JP): Thank you, Hon. Temporary Speaker.

As I stand to support the Motion by the Chairman, I also want to mention that energy is very important in any Republic or country.

When we were in Naivasha during the leadership conference, I want to recognise the efforts by Hon. Jane Kagiri who raised matters and issues concerning the cost of energy in this country. Many investors choose to go and invest elsewhere because of the cost of energy.

I was just looking at a token that I bought the day before yesterday worth Ksh5,000 and was given 175.1 units. In essence, I only got token worth Ksh3,339.69. It goes further to state other charges worth about Ksh1,660.31. I would wish to request the Chairman and the Committee to intervene on the cost of energy. When you say Ksh1,660.31 out of Ksh5,000 goes to other charges like FOREX and many other things that are incorporated, it then becomes difficult for any businessman to make progress. Remember we are fighting for industrialisation to be realised in this country, where we hope to employ young people and create job opportunities. As I support, I still want to urge the Chairman with his Committee. I am yet to look at the Report, but I will look at it. Perhaps we will have time to discuss it later so that we can put our ideas together and see how we can bring down the cost of energy. I hope that by lifting the previous moratorium, we will also kill monopoly where only a few power providers dominate the market, leading to the high energy costs in this country compared to others.

If we can address that matter of monopoly and make power generation competitive, there are people who can generate power. In Murang'a County, we have many rivers and waterfalls. There is a young boy who, one day, decided to light up the entire village using just a waterfall and a bicycle wheel. Therefore, it is possible. We can do it. Let us support those who are coming up with innovative power generation solutions, so that the cost of energy in Kenya can go down.

I support. Thank you for the opportunity.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Geoffrey Mulanya.

Hon. Geoffrey Mulanya (Nambale, Independent): Thank you, Hon. Temporary Speaker, for the opportunity to speak on this particular Report. We understand that power is everything in our country. We note that our economy cannot run properly if we have crazy power bills that we normally get. We have heard cries that investors are running away from our country simply because of the high cost of power. At the same time, we have a surging

youth problem. There are so many youths who are unemployed, while investors who are supposed to set up industries or factories to employ them are shutting down to go invest elsewhere.

As a Member of the Departmental Committee on Energy, I know we went through a lot of things to come up with this Report. There were shocking revelations on what is happening in this country. We have cases of civil servants who are seated in the comfort of their sitting rooms, but they are making money. They are milking fellow Kenyans and investing for their own generations, while killing the generations of fellow Kenyans who are now paying for their good lifestyle.

I have looked at Recommendation 9 in particular, and it is weighty. I request this House to adopt this Report so that these individuals who were given positions by Kenyans to serve them can be held accountable. Instead of serving, they are now milking Kenyans by using dubious companies to establish companies outside the jurisdiction of our country. They call themselves investors, yet they are fellow Kenyans who are investing in the name of foreigners. Instead of supporting the economy, they are killing it.

I also looked at Recommendation 9(a) on the services offered by the Business Registration Services. It is high time we looked at this particular Act. In this inquiry, you find that a company is registered in Mauritius. When you follow up in Mauritius, you find that it is registered under another company in London. It, therefore, becomes difficult to unearth the real beneficial owners of these companies. However, when we did further due diligence on the same, it came out clearly that they are fellow Kenyans taking Kenyans in circles through the Business Registration Services Act. They exploit this particular loophole to benefit.

I urge that as we adopt this Report, we also review the Companies Act and the Business Registration Services Act to ensure they are simplified. We should not allow a company to disguise itself as a foreign company yet it is a local company. We should introduce beneficial ownership laws to simplify registration of business services so that we can know X, Y and Z are the real directors of a certain company. I support this Report and congratulate the Hon. Chairman for the good work that his Committee did.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Majority Whip.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to add my voice to this very important Motion. I want to congratulate the Hon. Chairman who has ably moved and explained the Motion. The Committee did some good work of coming up with this Report. So, I also congratulate the Members for a job well done.

The heading of the Motion is: Inquiry into the Matter of Reduction of Electricity Costs in the Country. This in itself is very satisfying because of where we are coming from. In Kenya, many people are affected by the high cost of electricity, including those who are employed. Sometimes, the electricity bills are so high that a manufacturer cannot afford to meet the costs. So, the proposed recommendations in this Motion will help the country in a big way.

As we know, Kenyans are very enthusiastic and creative. They work very hard to earn a living. Unfortunately, the cost of electricity incurred in production of goods and manufacturing is extremely high. As a result, many investors have moved to neighbouring countries, to our disadvantage. Maybe, the solution we have been looking for is in this Motion. That is why I congratulate the Committee. They have proposed that all intermittent sources of energy projects like wind and solar energy will be put in the grid and fitted with energy storage solutions. As you know, the world is going green.

We have the natural resources God has given us, especially in the Arid and Semi-Arid Land (ASAL) where there is plenty of sun and heat. We have enough wind we can harvest. The Loiyangalani Wind Power Project is the largest in Africa. We are proud of this, but unfortunately, the people of Marsabit do not benefit. They should consider counties which have

sources of energy. The locals should be the first beneficiaries. When it comes to employment opportunities let us have the face of Kenya, as I always argue in all my debates.

The proposal to use wind energy and onboard solar energy to mitigate environmental wastage is the best in this Motion. It will help our country. Again, the Committee suggests that the power generation indicative tariff both in Feed-in-Tariffs (FIT) and auction system in all PPAs be subjected to approval and ratification before gazette. This is very much in order because it will stop hidden approvals from being passed.

I stand to support this Motion, especially the last paragraph which states that within six months, upon adoption of this Report, the BRS will submit to the National Assembly a report containing a list of owners. We need to know the registered owners so that they can be managed and so that Kenya can also gain.

Hon. Temporary Speaker, with those many words, I want to confirm that I support this Report and congratulate the Committee. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Thank you Hon. Members for your resilience. In that breath, let us give Hon. Gimose a chance to speak on this Motion.

Hon. Charles Gimose (Hamisi, ANC): Hon. Temporary Speaker, I stand to support this Report and congratulate the Committee for the good work. In the first instance, the Committee has proposed stringent measures, which if followed and considered will improve the structure of provision of electricity in this country. I want to say that in the previous instances, power has strangely been rated at a very high cost. The Kenya Power Company has many times produced bills that are too high to the common person.

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Chairperson, Departmental Committee on Agriculture and Livestock. What is it? Order Members! Order Hon. Sabina! What is it?

(Several Members were consulting loudly)

Hon. Temporary Speaker, sorry for that interruption.

The Temporary Speaker (Hon. Omboko Milemba): Proceed, Hon. Gimose.

Hon. Charles Gimose (Hamisi, ANC): Sorry for that interruption. I support this Report in its entirety on the grounds that are stated in it. Power, in the future, will be cheaper for the people of this country. With those few remarks, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Ng'ang'a, do you want to speak on this?

Hon. Alice Ng'ang'a (Thika Town, UDA): Yes, only for one minute.

Thank you, Hon. Temporary Speaker. Let me first say that I thank the Committee and the Hon. Chairperson for coming up with this Report. It is true that in Africa, especially in East Africa, and specifically in Kenya, the cost of power is very expensive. Last night at 2 pm, I purchased power for Ksh15,000 only for Ksh10,000 to go to the intended purpose then the other Ksh5,000 went to what was called 'other charges'. You can imagine that kind of high percentage in terms of cost. It is true we are going to lift this moratorium, but I will keep this message with me, Hon. Chairperson, Kawayu. It is so that I confirm if, indeed, we lift this moratorium, it will reflect in people's bills.

I would like to tell you the reason many businesses in our Republic are going down: it is because power is very expensive. If you relate the consumption of power to the profit you make in business, that is when you realise how expensive power is in this country. The House will support the lifting of the moratorium, but it will be a matter of giving you a very short period of time. If things do not change, we will know that whatever decision we came up with was not the right one. We should not say we are lifting the moratorium and nothing changes

on the ground. We need to change things on the ground so that our people can enjoy using power in their businesses and homes.

Thank you Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Wanjiku Muhia.

Hon. Wanjiku Muhia (Kipipiri, UDA): Thank you, Hon. Temporary Speaker. I rise on Standing Order 95, to beg that the Mover be now called upon to Reply.

(Loud consultations)

The Temporary Speaker (Hon. Omboko Milemba): Order, Hon. Members. A Member has risen at his place on Standing Order 95.

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

Hon. Rindikiri Mugambi.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker. That is the best thing. We have a habit of people coming late only to invoke Standing Order 95. This is a very important Report. I refuse to be disrupted. I have gathered a few things relating to this Report. I want to thank the Committee for a job well done.

This Report has brought out a very clear breakdown of responsibilities. What each department, office, and officer should be doing has come out clearly. It has revealed abuse of office by those entrusted to run the affairs of this State. It has brought out lack of transparency. It has also shown that there is a lot of corruption. It shows that there is a breakdown in the practice of business ethics. This calls for a review of our power policy.

This Report is timely so that people can start apportioning blame. We inherited this Government two years ago and the power issue has been a major problem in this country. Many people are saying the Kenya Kwanza Government is responsible for the high cost of power. This Report has brought it out clearly that these are historical issues that happened over time. That is the reason the Committee has brought up two names of the people involved - they were not part of Kenya Kwanza. We need to apportion blame where it belongs.

The President is trying to marshal this economy forward and we cannot manage if such things are not disclosed for Kenyans to know where the problem started. I support this Report. I outrightly say that we need to implement the issues that have been brought out.

With those few remarks, I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Mutunga.

(Hon. Gitonga Mukunji stood in his place)

Hon. Mutunga, not Gitonga. I mean Hon. Mutunga, the Chairman of the Departmental Committee on Agriculture and Livestock.

Hon. (Dr) John Mutunga Kanyuithia (Tigania West, UDA): Thank you, Hon. Temporary Speaker for protecting me. I share the name 'John' with the Hon. Member. He took the other chance that I was given.

I stand to support the adoption of the waiver of the moratorium. Electricity is key to development. It basically opens up opportunities for people. That is why we all need electricity in all parts of the country. Kenya is endowed with potential for power generation, especially clean or green energy which is required today. We have a lot of potential for wind energy, hydro-energy, geothermal energy, solar energy, and bioenergy. This country has potential for this particular type of energy which is required today in the advent of climate change.

Exploitation of this potential brings about several possibilities for our people and several possibilities for development. It makes power more affordable and, therefore, more accessible to the people. It also enables us to access electricity. I agree with the lifting of the moratorium under the conditions specified by the Committee. These conditions speak more on merits than demerits. They bring reality to the table and enable effective management of power, as it currently stands in the country.

The first condition is that if we are generating power through solar or other intermittent power sources, then we should fit that generation system with energy storage solutions. We must be capable of storing that energy to use at different times of the day. Energy demand is continuous. To address power failures and outages, we need to include storage facilities for energy when utilising alternative energy sources.

I represent a constituency recognised as having significant potential for solar and wind energy—second only to Turkana, which is the leader in this regard. We have an investor who is interested in generating power in Tigania West. This investor is ready to proceed under the conditions of the current moratorium, aiming to create opportunities for impoverished communities along the border of Meru and Isiolo counties.

Additionally, the Committee clearly states the importance of halting amendments to power purchase agreements (PPAs) midway through their term. Making amendments during the lifespan of a power generation cycle can lead to additional costs and opaque arrangements, making power increasingly expensive. It is crucial that once an agreement is signed, it should last through the lifespan.

Furthermore, any future PPAs must be ratified by this House, which also applies to the indicative tariffs for power generation. This means that there will be no under-the-table handlings in the future. Everything will be brought to light. We will openly debate prospective investors, knowing their names and addresses, and we will not have unknown stakeholders involved in investments in this country. It is concerning that some investors remain faceless in this sector, which has been invaded by these opaque investors.

The other conditional provision by the Committee is that the PPAs for the generation plants will be on-boarded into the national grid and ...

(Hon. John Mutunga Kanyuithia's microphone went off)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Mark Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Speaker. The issue of PPAs and the cost of electricity is such a huge concern for us, especially in urban constituencies because we are the largest consumers.

Despite achieving 100 per cent electricity connectivity in our urban areas, several slums in my constituency, such as Cotton City, still lack proper electricity connections. One of the reasons for this is the prevalence of illegal connections and the high cost of electricity. It is particularly unfair that while Buru Buru has power, the slum located just behind it remains in darkness. This disparity highlights the unjust nature of our current situation. The issue at hand is the tariffs and the cost of electricity.

I would like to confine myself to Embakasi West Constituency. Out of the five Embakasi constituencies, I represent the most industrious one. In Embakasi West, we have notable businesses such as Tononoka Steels Limited, which specialises in steel products, Supa Loaf Bakery, which produces bread, Steel Structures Limited, the New Kenya Cooperative Creameries (KCC) and so is the Coca-Cola Company. Even the Kenya Power technical headquarters known as Juja are right outside my constituency. They are actually outside my home yet the cost of electricity to those specific companies is so high that they have been cutting down on staff year in, year out. A company like Tononoka Steels Limited, which

employs about 700 workers, was unable to absorb any new workers this year because of the rising cost of electricity. They have now been forced to consider cutting down on staff. The small enterprises such as the light industries in Umoja and Kariobangi South have closed down because the electricity costs have kept rising.

With this Motion, we have an opportunity to bring down those electricity costs. I specifically spoke with the directors of Supa Loaf Bakery and they told me that if they could reduce electricity costs by half, they could employ about 300 people, 100 of them on permanent and pensionable terms. That is the potential impact of this Motion.

While we support the Motion, we must issue a caution. I am happy that the Chairman of the Committee is still here. If we do not see a change within six months, the Committee must be willing to punish those IPPS because we will know that they have just looked after themselves and ensured that they have profited from the situation. We must be very careful that if we lift this moratorium, we will benefit Kenyans and create jobs. In six months, which is not a long time from now, we will audit that process to ensure that we have brought down the cost of production, created jobs, and helped ordinary Kenyans to get electricity.

The Temporary Speaker (Hon. Omboko Milemba): Hon. John Gitonga.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Temporary Speaker. I also rise to congratulate the Committee led by the Chairman, Hon. Kawayu, for an amazing and well-researched Report. This is one of my areas of expertise. I have interacted with those IPP contracts. I want to confirm to the House that those IPP contracts are the most unfair contracts that this country has ever got into. They do not have a duration, or even our currency as the Kenyan shilling because they know the power of the American Dollar over the Kenyan Shilling. The people who signed those contracts did not mean well for our country.

That brings me to the recommendations by the Committee. One of them is to give ourselves timelines to get out of those IPP contracts and get into new contracts that will work for our nation. That will be important because we have to get out of the shackles of contracts that are signed by dubious people who want to eat the “sweat” of our people without any consideration whatsoever for our country.

We need to push for openness and transparency in our IPP contracts. I have heard many people speak about the Adani Group deal with the Kenya Electricity Transmission Company Limited. Kenyans are not against Public-Private Partnerships. People want PPPs that everybody understands. I would like to inform the Committee that that is going to be quite expensive because the only way to store electricity is through batteries. The most efficient one called lithium-ion batteries are quite an expensive venture which would triple prices. I ask the Committee to reconsider that proposal and explore the right direction to give this country cheaper power in order to move forward.

I also wish to discredit the notion that it is the people that cancelled the Adani Group dealings in this country. We were all in this House when the President said he had cancelled the Adani deals. It is not the public or the people that cancelled the deals. If the Adani Group and the rest want to invest in this country, let there be an advert in the newspapers for competitiveness. Let people participate and come together for us to get the best. Cartels operating the IPPs are people in big Government positions. I propose to the Committee to go ahead and expose them because if we do not do that, we will be seen to be hiding something behind the curtains. The Committee should continue monitoring this issue so that Kenyans get value for their money and the cheaper power that we highly deserve. We are well endowed with solar and wind power. I believe we can get the cost of electricity to below 10 per cent per watt.

The Temporary Speaker (Hon. Omboko Milemba): Mover.

Hon. Vincent Musau (Mwala, UDA): Thank you, Hon. Temporary Speaker. As I address some of the concerns by Members, I also appreciate their contributions which will

definitely enrich our Report. I have heard their concerns, which is the reason we were doing this inquiry in the first place. The cheapest power in the world is from Venezuela. Our power is 2,000 per cent higher than Venezuela's; that is basically 21 times higher! It is crazy. Some of these things are carefully addressed in the Report. We look forward to working closely with the Committee on Implementation. As the Departmental Committee on Energy, we intend to have each and every one of these specific recommendations implemented. We will do a follow-up on every single one of them.

An issue has been raised on the cost effectiveness of battery storage systems. First of all, the Committee talks of energy storage solutions, and not battery storage. The cost of battery storage has been going down and so is that of solar panels. The costs have significantly been going down every other day. The House should note that there are many other emerging technologies like green hydrogen. Tonight, we will be wasting lots of megawatts of power equivalent to steam by having to open up venting. We have to waste steam tonight because we do not know where to take it. The system must have certain levels of voltages. If you oversupply beyond demand, you burn the equipment. This means there is power that we waste at some point in time. Why can we not store it? When you look at our demand curve, during the day we have an excess of about 500MW, which we pay for anyway because we signed dubious take-or-pay agreements.

Hon. Temporary Speaker, in the evening, around the picking time, we are almost load shedding. This means that Kenyans can even get blackouts because of power rationing, yet we wasted 500 megawatts during the day. Store this power. It is cheaper to store it than using expensive power or thermal generators in the evening.

One last statistics which is important for this House is that we are not against Independent Power Producers, but they must do fair business in this country. Thirty per cent of the power Kenyans consume come from IPPs. Seventy per cent of it comes from Kenya Electricity Generating (KenGen) Company which is a Government parastatal. The 70 per cent that we get from KenGen is cheaper than the 30 per cent that we get from IPPs. KenGen supplies us with 70 per cent of the power, but we pay them less than the 30 per cent being supplied by IPPs. Honestly, it cannot work like that. I wish to summarise it like that.

There is also a Member who talked about killing monopoly. The moment we expose this matter and the indicative tariffs and Power Purchase Agreements (PPAs) become a subject of discussion by the National Assembly, then the competition has already come in. There is no way this House will pass dubious contracts. We have two policies that we operate on: Feed-in Tariff and auction. Feed-in Tariff says that the Ministry can gazette tariffs and people can supply power as long as they do not exceed the tariff gazetted by Energy and Petroleum Regulatory Authority (EPRA). But, what happens? People collude and gazette tariffs that are already high and get their friends to supply the power. If we open the market and tell them to go for the auction policy, it is an open tender. What is going to happen? Again, they are also likely to manipulate the process through the technical evaluation. What are we telling them? We are telling them we are going to use both indicative tariffs and competition through the auction policy.

This is how it will be implemented. EPRA will bring indicative tariffs for discussion by this Parliament; the ceilings of which you cannot exceed. People will be told to compete as long as they do not reach those ceilings and we get the lowest tariffs like what Kenya Rural Roads Authority (KeRRA) does. You already know how much a road will cost and the budget. However, you compete against a known budget and you always get the lowest of the bids.

Finally, on monopoly, there is what we call captive power and net-metering. Captive power has already been done by some of the companies and schools. You can install solar panels in your institution or company. Many Kenyans have solar installations that they do not use during the day. We want you to sell that power during the day. Feed it to Kenya Power and

then get those units in the evening, when you need to use the power. They can utilise your units that you do not use during the day and then you get them back when you need power. That is the essence of the net-metering regulations which have already been passed. We are pushing for implementation.

Finally, it is on plant ownership. We have companies which have come here and given us very expensive and raw power deals. We pay them capacity charge. Why do we pay them? When we ask them they say, 'We have to pay because we have to pay for the initial cost of this equipment because thermal generators generally come on board only few hours during the day.' When the term of the IPP ends, say you are given 10 or 20 years, the equipment still remains with the investor, yet you have already paid for it. We found that after expiry of 20 years, this equipment is still in very good and useful condition. After the expiry of the period, we will ask the Auditor-General to audit the equipment so that we know how many more years they can run, chase away the investor, use this equipment under KenGen that is Government run and use the equipment without capacity charge. With those few remarks, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Thank you for your prowess in that area. You have been very clear in explaining some of the things. Hon. Chair, I am happy that I was at Kipevu in Mombasa two weeks ago and one of the companies which had installed the machines there was carrying them to Mauritania and yet those were machines that could still work.

The Kipevu I that has been stopped, engineers there said it can still work. So, we really have issues in that area. However, with the enthusiasm that you have shown, I believe you will drive this process to a level whereby Kenyans can have cheaper power. We shall postpone putting of the Question until the next sitting.

(Putting of the Question deferred)

(An Hon. Member spoke off the record)

The Temporary Speaker (Hon. Omboko Milemba): There is nobody who wants to be informed.

Next Order.

THE PERSONS WITH DISABILITIES BILL
(Senate Bill No.7 of 2023)

The Temporary Speaker (Hon. Omboko Milemba): Mover.

Hon. Alice Nga'ng'a (Thika Town, UDA): Thank you, Temporary Speaker. At least I am happy. I have waited since morning.

I beg to move that the Persons with Disabilities Bill (Senate Bill No. 7 of 2023), be read a Second Time.

The Bill seeks to give effect to Article 54 of the Constitution, restructure the National Council for Persons with Disabilities, provide for the council function and powers, provide for the institutional framework for protecting, promoting and monitoring the rights of persons with disabilities, and to provide for incentives among other related objectives.

If the Bill is passed, it will repeal the current Persons with Disabilities Act of 2003. Following its passage in the Senate and its First Reading in this House, the Bill was committed to the Departmental Committee on Social Protection that I chair for consideration and reporting to this House, pursuant to the provisions of Standing Order 127(1).

In compliance with Article 118 of the Constitution, the Committee, through the placement of an advertisement in the print media, invited the public and interested stakeholders

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to submit memoranda on the Bill. The Committee received memoranda from the following stakeholders:

- (a) The Ministry of Labour and Social Protection.
- (b) The National Council for Persons with Disabilities in conjunction with the Light for the World, Sight Savers and Christian Blind Mission International.
- (c) Democracy and Legal Aid Centre in conjunction with Nairobi Waldorf School.
- (d) Africa Centre for Parliamentary Affairs.
- (e) The mover of the Bill, Senator Crystal Asige, Member of Parliament.
- (f) The National Disability Forum composed of the Kenya National Association for the Deaf, Action for Children with Disability, Kenya Union of the Blind, Kenya Association of Intellectually Handicapped, Sight of Relief Organisation, United Disabled Persons of Kenya, Youth on the Movement Kenya, Northern Nomadic Disabled Persons Organisation, and the National Democratic Institute.

The Committee also invited and held meetings with various stakeholders including the Mover of this Bill.

In aligning the function of the Council with the Constitution of Kenya, the Bill seeks to enhance the powers and functions of the National Council for Persons with Disability by requiring the Council to liaise and consult with the county governments and other relevant agencies. Given the current technological development, the Council is further required to undertake research and recommend development of new technology, including assistive devices suitable for use by persons with disability. In addition, the Bill provides the realisation of various rights for persons with disability which includes rights to equality and non-discrimination, rights to legal capacity, rights to marriage and form a family, rights to privacy, rights to education, rights to work, and rights to health.

In order to encourage compliance, the Bill proposes incentives and penalties. Some of the proposed incentives include financial aid and tax exemption from taxable income of employers of Persons with Disabilities (PWDs). It further makes a provision against harmful practices, torture and cruel treatment against PWDs, and provides for penalties which include Ksh1 million shillings or imprisonment not exceeding years upon conviction.

If the Bill is enacted, it would have the following outcomes:

The National Council for Persons with Disabilities shall be established as a corporate body. There will be a legal framework to promote the rights of PWDs as enshrined under Article 54 of the Constitution.

The obligation will be imposed on both the national and county governments to address the needs of PWDs.

As for the national Government, this obligation will include developing policies on the protection of PWDs, promoting their integration in schools, inclusion in the public service, implementing their procurement measures or entities managed by them.

For the county governments, this obligation will include implementing the national policy and strategy on PWDs, allocating adequate resources to programmes targeting them, promoting their inclusion in the county and public service and promoting mechanisms for their identification for those who are residing within the country.

At this juncture, allow me to make a useful comparison of Kenya with the United States of America on registration disability. The Americans with Disability Act (ADA) protects citizens with disabilities from discrimination having been signed into law by President George Bush in 1990. Their disability inclusion journey began in 1993 with Section 504 of the 1973, Rehabilitation Act which banned discrimination on the basis of disability by recipient. Recipients of federal funds was passed, and this marked the beginning of the longest legislative battle that culminated in the passage of the Americans with Disability Act in 1990. The Act guarantees that people with disability have the same opportunities as everyone else to enjoy

employment opportunity, purchase goods and services, and participate in state and local Government programmes. The role of the federal agencies is to enforce the ADA and other roles that prohibit discrimination on the basis of disability. These agencies are mandated to receive complaints, conduct investigation and issue regulations and guidelines to explain the law. To date, buildings and other areas in USA have to incorporate disability compliance facilities with science.

Unlike other parts of the world, disability inclusion is not simply putting a ramp at the entrance of a building, there are issues of constitutionality. The disability law in Kenya has faced challenges and gaps such as the lack of express provision of the obligation of the county governments which the proposed Bill seeks to address. This emanates from the fact that the current Act was enacted 10 years before the existence of county governments. As an extension of this House, the Departmental Committee on Social Protection has played a significant part in championing for the rights and welfare of PWDs in this Republic and has, in the recent past, made substantial achievements.

This includes the National Council of Persons with Disabilities which had endured long delays of Exchequer funding due to the budget being classified as development. This classification as development expenditure made it prone to budget cuts since it was viewed as a capital item. This also meant the delay in provision of services intended for PWDs, such as assistive devices, education, advocacy and registration. The Committee successfully lobbied for the conversion of the council budget from development to recurrent. As a result, resources from the National Treasury are no longer delayed, and are ring-fenced from budget cuts, and in addition to be identified as, Bottom-up Economic Transformation Agenda (BETA) priorities. The Committee has also overseen the registration and facilitation of over 61,000 households of PWDs undertakings. By March next year, the households will move from 61,000 to 100,000 households.

If this Bill is enacted into law, it will reinforce the work of the National Council for Persons with Disabilities and support its efforts to improve the welfare of persons with disabilities. This includes increasing the current Ksh2,000 monthly stipend to an amount that reflects present economic realities, as well as redesigning the programmes from household-based and individual-based to accommodate households that have more than one person with severe disabilities. For example, currently, providing Ksh2,000 to a family of four children who have severe disabilities is not in order.

The Bill will also enhance the Council's involvement in drafting the National Disability Policy, the reinstatement of disability mainstreaming as a performance indicator in public service, and seek to enhance funding and secure the entrenchment of disability inclusion in the counties. As the House considers this Bill, it is important to note that Kenya is a state party to the United Nations Convention on the Rights of Persons with Disabilities, having ratified it on 19th May 2008. As such, the passage of this Bill will significantly contribute to fulfilling the convention's objectives and aspirations.

In addition, it is important to remember that not all disabilities are the same, and hence the resultant regulations emanating from this law would help streamline specific matters to do with the rights and welfare of persons with disabilities, including severe disabilities.

Further, Kenya has made great progress in its effort to promote disability inclusion. As a result, many nations far and wide benchmark with Kenya in so far as programmes and policies are established to support persons with disabilities are concerned. The Bill before us today comes at a time when the nation joins the world in celebrating the International Day for Persons with Disabilities, which is observed on 3rd of December every year, and which happened earlier today. That is why I am very proud to be standing here today. Under the current government led by His Excellency the President, Dr William Samuel Ruto, the key focus is on the socio-economic empowerment of persons with disabilities. People with disabilities undergo

numerous challenges in their daily lives. They are the ultimate hustlers among us. It is our duty to be their champions and voice in line with the Kenya Kwanza Bottom-up Economic Transformation Agenda and in the spirit of the Constitution.

Last week, I joined other dignitaries and persons with disabilities in commemorating 20-years celebration of disability inclusion in Kenya, an event that was organised by the National Council for Persons with Disabilities and its partners. It was encouraging to note that the many milestones the disability sector has achieved since independence, especially since the signing into law of the Persons with Disabilities Act by the late President Mzee Mwai Kibaki. At the time, the Bill was tabled by the Minister for Gender, Sports, Culture and Social Services, Hon. Najib Balala and seconded by the Assistant Minister in the Office of the President, who later became the Makeni County Governor, Hon Kivutha Kibwana. It obtained huge support in this House, and Hon. Amina Mohammed is on record as having stated that a society judged by how well it treats its disadvantaged persons.

Despite the noble achievement of passing the law, the disability law in its current form does not fully conform to the United Nations Convention on the Rights of Persons with Disabilities, which Kenya ratified in 2008, and the Constitution of Kenya which was promulgated in 2010. The current Bill before the House seeks to give effect to Article 54 of the Constitution and align disability law with the supreme law of the land. For instance, the Bill proposes the introduction of a representative nominated by the Council of Governors to the board of the Council, so that the county governments can also participate fully in the disability inclusion agenda.

Hon. Temporary Speaker, we laud the effort by the National Council for Persons with Disabilities led by its Executive Director, Mr. Harun Hassan, to work with the Council of Governors, led by Ms Mary Mwititi, in creating a county disability engagement framework on matters of disability. It is the understanding that the role of county governments and their vast administrative network and framework needs to be fully included in the law for better coordination. There are numerous areas which the Bill seeks to address including, accessibility challenges in our buildings, as well as employment for persons with disabilities.

Fourteen years since the promulgation of the Constitution, Kenya is yet to achieve the five per cent employment threshold for persons with disabilities, in line with Article 54(2) of the Constitution. As a matter of fact, the status report of the compliance with values and principles in Articles 10 and 232 of the Constitution places the share of employed persons with disabilities in the public service at a meagre 1.53 per cent. This is a signal that they are left behind in the process of nation building and are economically disfranchised.

Gone are the days when disability was viewed simply as a mere special interest group. The World Health Organisation (WHO) states that the global disability prevalence stands at 16 per cent of the general population. The number of persons with disabilities has increased substantially in the past 10 years due to various demographic changes such as rise in population and increase in number of people with non-communicable diseases, who are living longer and age with limitations in functions. It is also equally unfortunate but true that road accidents are playing a key role in causing disabilities, particularly among our youthful population.

I thank members of the public who made their voice heard through their submissions to this Bill. I also thank the numerous stakeholders who gave us important insights to come up with this product. I particularly, thank the National Council for Persons with Disabilities led by the Executive Director, Harun Hassan who is a person with disability. He is a true representative of the people with disabilities, through the constant engagements they held with the Committee since its establishment, lobbying for this Bill and other disability issues.

Following the Committee's interaction with the Bill and the various stakeholders, it is the recommendation of the Departmental Committee on Social Protection that the Persons with Disabilities Bill (Senate Bill No.7 of 2023) be passed by the House, with a few amendments

that will be moved during the Committee of the whole House. The amendments seek to strengthen the Bill and enhance its effectiveness, as observed, during the public participation exercise that the Committee conducted. May the 13th Parliament stand out and be counted in asserting and championing the place of disability inclusion in Kenyan society and its development agenda. I seek the support of this honourable House in the passing of this extremely important Bill.

Thank you, Hon. Temporary Speaker. I beg to move and request Hon. Suleka Harun to second.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Suleka.

Hon. Suleka Harun (Nominated, UDM): Thank you, Hon. Temporary Speaker. I beg to second that the Persons with Disabilities Bill (Senate Bill No.7 of 2023) be read a Second Time. During the consideration of the Bill, the Committee considered all submissions made by the different stakeholders at length. Further, the Committee undertook analysis of the National Assembly and Senate Bills and noted that they were largely similar in content, except for some areas that needed harmonisation. They include, to amend Clause 8 to provide for the requirement for free and full consent in respect of the rights to marry. The Senate Bill provides for free and compulsory pre-primary, primary and secondary education. There is need to provide for the headquarters of the Council as contained in the National Assembly Bill. The term of the Executive Director, as spelt out in Clause 45(4), should be aligned with the Mwongozo guidelines. Clause 63 of the Senate Bill should be amended to spell out a penalty against the offence of the concealment of persons with disabilities. There is need to provide a clause on housing as proposed by Clause 24 of the National Assembly Bill. In addition, the Committee noted the submissions by the Ministry of Labour and Social Protection to Clauses 11, 12, 14, 18, 20, 21, 24, 26, 29, 31, 37 and 40.

Hon. Temporary Speaker, the Committee was of the view that the clauses did not warrant any amendment to include the proposals in the National Assembly Bill, as the Senate Bill had either similar or additional provisions on the same.

The Bill, in Clauses 4, 5 and 8, spells out the obligations and relationship between the National and county governments. Article 20 of the Constitution provides that the Bill of Rights applies to all and binds all state organs and persons, hence the county governments have a role to play in ensuring the realisation of the right of Persons with Disabilities as provided for in Article 54 of the Constitution.

The Bill provides for reliefs and incentives. Further, the Committee noted that reliefs and incentives were only accessible upon application and determination by the relevant Cabinet Secretaries as guided by the law.

I conclude by seeking the support of this honourable House in passing the Bill. Today, as we celebrate the International Day of Persons with Disabilities, it is extremely important and timely to support this Bill. I beg to second. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Very well.

(Question proposed)

Hon. Sabina Chege

Hon. Sabina Chege (Nominated, JP): Thank you Hon. Temporary Speaker. At the outset, I support this Bill. I also congratulate Hon. Alice Wambui Ng'ang'a, Member for Thika Town, for a good job done with her Committee.

When I listened to the stakeholders and how they engaged, I was very impressed because sometimes Bills come and we do not involve stakeholders. The issue of disability or persons abled differently is very close to my heart. During my tenure as the Woman Representative for Murang'a County, I had special schools such as Murang'a School for the

Deaf that is in my county. There is also another school called Percy Davies which is on the side of Maragwa Constituency which normally deals with children with autism. We also have another mission school called Done Orion, which is a Fathers' mission in Kandara Constituency. Every time I visited those homes, I was touched and moved, especially by the caregivers and people who take their time to take care of those children.

Disability has not been taken seriously in the Republic of Kenya and sometimes when they put a ramp on a building, they see like they have covered everything. As I was sharing with the Hon. Chairlady here, you might find a deaf and dumb person in a supermarket and she was just giving me an example of where a child bumped into an adult in a supermarket and she broke something but she could not speak. When the mother was trying to explain and say sorry to this man who was holding the item that was broken, the man was lecturing the mother saying mothers are the ones spoiling our children, and she cannot let this girl who is a grown up to speak for herself and it was painful for the mother to take time to explain to this man that her daughter cannot speak.

As we pass some of these laws, it is important for the public to know that there are things that this House does that really touch on people's lives. If you look at a country like the United States of America (USA), for children who are born or abled differently, there is a fund that is allocated to them. Caregivers are paid so that the mother or parents of that child can either go to work so that they live normal lives or are able to go out. You can have children who were born with disabilities, do not walk, but they have to be taken care of and of course their parents can be fatigued.

Even when we talk about Social Health Authority (SHA) and Social Health Insurance Fund (SHIF), from the primary care to chronic care we need to look at the cover that affects the Persons with Disabilities. One thing I know is that in this country, having such a person is expensive. Apart from the government exempting Persons with Disabilities from tax, access to medication, care, even to buildings, and to education, is also expensive. This is something we need to look at. In my county, and in most of the constituencies, the so called special schools are not special. A class which was used as a nursery, baby class or Standard One is usually set aside. And they stay there and never move.

It is good that we now have the Competency Based Curriculum (CBC). We introduced sign language within CBC so that we will have a universal language. This is because many of our parents come up with their own way of communication. If a child cannot speak, they will have a way to communicate to them. They have a family way that they can communicate. But when such children go outside, she might try to communicate with another child, but because there is no universal way of communication or training, they will not communicate or express themselves. I therefore urge this House that as we look at this very nice and timely Bill, we think of how we can improve our education system and its structures.

It is just the other day that we introduced a number of backseats for Members of Parliament with disabilities to sit on. I am very sure even this House can make a better arrangement, where those Members do not have to really sit at the back, but they can also sit here at the front.

I support the Bill. I commend the Committee and even the person who came up with this Bill from the Senate, and now we are here. I urge this House to pass it quickly. I hope the Hon. Chairman has looked at the implementation period, because sometimes we pass very beautiful laws, but there is no follow-up on implementation. What are the timelines? What are the penalties for the people who are supposed to implement this law?

As I support, I once again say thank you very much, Hon. Chairlady and your Committee. I urge the Members of this House to stand for those people who are abled differently.

The Temporary Speaker (Hon. Omboko Milemba): Hon. James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker. I rise to support this Bill. This Bill does three main things.

One, it harmonises our laws with the Constitution. We have the Persons with Disabilities Act which was enacted before the Constitution, and therefore it is not in harmony with the Constitution. To that extent, the biggest aspect is that it creates roles for the county governments and the national Government, and puts structures on what they should do, what their functions are, and what structures they should put in place. It also aligns the rights of the PWDs with Article 54 of our Constitution. It was in the previous Act, but it was not in line as is expected to be.

The third thing is that it then repeals the old Persons with Disabilities Act. So, to a large extent, it is important. But if one wants to see the details, Clause 4 really brings out very clearly what the two levels of government will do. Clause 6 provides for the rights. The rights of the PWDs are not uniform. There are differences. Children face different issues, like school and development, which adult persons do not. Women face different disabilities. Male adults face different disabilities because of the things they do. This Bill takes care of those.

It actually also establishes a council that recognises the existence of the two levels of government. Therefore, the membership takes that into consideration. It also looks at the reliefs and exemptions that PWDs are entitled to. Persons with disabilities have many needs like assistive devices and tax exemptions. They are entitled to such.

As Members have said, the most important thing is how the Bill will be implemented once it is passed. I will give you the example of a previous Bill which took about five years to be implemented. The access law drove its implementation. Access is important. People should not make assumptions. How do you think persons with disabilities travel? How can they use public transport? Even the roads that are constructed do not take them into consideration. People who make public transport vehicles do not consider that persons with disabilities will use them.

The Kenyan Sign Language Act of 2023 is one of the best access laws that we have. It has worked. I usually see a sign language interpreter during every public meeting that is broadcast on national television. That was implemented around 2007. We have improved with the new Constitution. The Bill recognises the Kenyan Sign Language. As a Member said, there is need for uniformity.

Implementation of the Bill is necessary. We must look at all areas, including infrastructure, education, health and legislation. Do we take care of persons with disabilities? The Bill will take care of all those items once it becomes law and is implemented.

With those remarks, I support the Bill

The Temporary Speaker (Hon. Omboko Milemba): Hon. Dorothy Ikiara.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Temporary Speaker. I want to first thank the Chairperson of the Departmental Committee on Social Protection, Hon. Alice Ng'ang'a, who is also the Member for Thika Town. She has brought the Persons with Disabilities Bill (Senate Bill No.7 of 2023) to the Floor of the House.

I am extremely passionate about this topic. The Bill is close to my heart because I am a mother of a disabled child or a differently abled child, whom I do not call disabled. The child has never woken from bed for 31 years. When people talk about disabilities, I know what they are and how they feel.

There are many forms of disabilities, some visible, and others invisible. Visible disabilities are those that people pronounce themselves on. They are the handicaps that we can see. We can recognise a deaf person or a person with hearing issues. We can see a blind person. I appreciate that Article 54 of our Constitution came in handy to address issues of differently abled persons in our community.

It is important to note that for a long time, disabled people have been left to charity organisations in this country. People think that charitable organisations from western countries can help disabled people in our communities. People think they need sympathy. They think it is only charitable organisations from Western countries that can help disabled persons in our communities. More often than not, it is faith-based institutions that take care of those that have completely been neglected by the society. It is important to note that taking care of a disabled person and, more so, the severely disabled children, takes a heart. The faint-hearted can never take care of such children. Children born with severe disabilities, more often than not, do not see their tenth birthdays. It is not that they are supposed to die at that very early age. It is because there are no systems in place to ensure they enjoy life to the fullest. They have right to live, just like you and me.

Last week, I attended a conference on deafness status in Africa at Weston Hotel. I could see the zeal and the passion of parents who came to listen to what it is that they can do to improve the lives of their deaf children. It is a conference I wish we would have all attended. When they hear of such conferences, parents with such children think that is where their help will come from.

I would like to address the challenges faced by PWDs. I commend the government for what it has done. The Government of Kenya ensures that any disabled child gets a stipend of Ksh2,000 per month through the Social Security Fund. But sometimes the situation is very unfortunate. Once you have a disabled child because of hormonal or other biological changes in the body, chances are that you will give birth to another disabled child. There are parents who have not one and not two but more than three or four children who are holistically and severely disabled. These children need 24/7 care by a caregiver. It is very difficult for one mother to take care of them. In most cases, the children are left alone with nobody to feed them. Children with cerebral palsy or other severe disabilities are not able to feed or bathe themselves. Somebody must do that. God forbid that such children are in families that are not economically stable. Such children, more often than not, are left there with God, counting their days in this world.

It is so hurting that after 20 years since this law was enacted, it is now that this Bill seeks to improve the lives of this category of people. I thank Hon. Alice for coming up with the Bill. I will propose amendments at an opportune time so that caregivers of these children are also considered for a stipend.

Hon. Temporary Speaker, before I conclude, parents who take care of severely disabled children should enjoy tax exemption. They should also enjoy the years that are handed to disabled people. They do not live their lives only; they also live the lives of other people. If my 31-year-old boy was able, he would be in this House as a Member of Parliament. I thank God because His Excellency the President of the Republic of Kenya gave me an opportunity to serve in this House. I always feel that I am serving on behalf of someone who has never and will never have an opportunity of enjoying life like any other. There are people who take care of severely disabled children who have never seen the sun. They do not know who their next-door neighbour is. They cannot turn themselves in bed.

The Temporary Speaker (Hon. Omboko Milemba): Okay, we will give you one minute, please. You are quite sentimental on this Bill.

Hon. Dorothy Muthoni (Nominated, UDA): Thank you, Hon. Temporary Speaker. I imagine a mother in the village who has no economic activity or way of earning a living, but she is supposed to feed and take care of the welfare of a severely disabled child.

We shall address the nitty-gritty in this Bill. It is 20 years down the line, when the principal Act is being repealed. It may take another 20 years to look at this Bill again. Let us tighten the noose at the tip, so that we do not leave out anything that will benefit this category of Kenyans.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Please propose those amendments and the House will support you. Hon. Mwenje.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Speaker. I assure you I will not take much time. Firstly, I wish a happy International Day to Persons with Disabilities (PWDs). I also congratulate the Mover. I was with Senator Asige today. She insisted that I must contribute to one of her Bills. I felt this one was the most appropriate. I congratulate her in absentia, together with the Mover, for the work they have done.

Disability in this country is something that has been pushed to the back. We do not talk about it as often as we should. Most of the elected Members organise medical camps. I organised one which was themed, 'For People Living with Disability', in Embakasi West earlier this year. A lot of them came. Some came from as far as Murang'a, Kiambu and Mlolongo. They all came to Embakasi West in Umoja 3 Disability Centre. I was overwhelmed. We needed doctors and caregivers. I sat down and thought about it. When we organise other medical camps, I only have people from just within the environment. However, the one for PWDs made people travel for 70 kilometres. That is when I realised that there is such a gap in terms of their care in this country. We must realise this is a special category of persons who require some special care. They have been discriminated for so long.

In terms of job opportunities, we get stuck when PWDs who are qualified come and they need jobs, but there are no opportunities for them. All the companies and government jobs do not provide something specific for them. I hope that this new and intensive legislation will start addressing some of these issues. One of the issues I have observed even here in Nairobi is the need for more support for individuals with disabilities. Although we have established autism blocks in some of our schools, they are not sufficient. We should now resort to establishing PWD centres within our schools to address some of these challenges. Many parents are unable to work because they must stay home to care for their special needs children. These parents are highly disadvantaged because they cannot earn a living. They cannot also find special centres to leave their children.

Furthermore, therapy for PWDs is essential, but existing centres are inadequate. I hope that the new legislation will provide for these facilities at affordable rates. I believe that PWD centres should be located in every ward across the country. While we are discussing the establishment of Information Communication and Technology (ICT) hubs in every ward, we also need to ensure the presence of PWD centres. Additionally, the provisions in this Bill, such as access to credit and information, are crucial. For example, in London, blind individuals can navigate their surroundings independently. In Kenya, it would be a nightmare to let a blind person walk from Haile Selassie to Moi Avenue or Kenyatta Avenue alone.

There are many provisions that must be passed to create a conducive environment for PWDs. It is important to remember that being a PWD is not a choice; any of us could have a child with a disability, be related to someone with a disability, or even become a PWD due to an accident. I do not want to state that we are all potential PWDs, but we must recognise that the challenges faced by these individuals could affect us or our loved ones.

Many PWDs possess significant potential. Our colleague, Senator Asige, always delivers captivating speeches and demonstrates the capability of individuals in this special category to contribute meaningfully to our country.

Hon. Temporary Speaker, I hope that the Committee will consider how this Bill will be implemented. The Bill is well-drafted and contains many positive provisions. The question is how we can implement it effectively to realise our shared vision. So far, PWDs have yet to achieve this dream under the 2010 Constitution.

With that, I beg to support.

The Temporary Speaker (Hon. Omboko Milemba): Majority Whip, you may proceed.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you, Hon. Temporary Speaker, for allowing me to add my voice to this important Bill. I would also like to congratulate Hon. Alice and her Committee for a job well done.

In our country, we have many individuals living with disabilities. Unfortunately, in rural areas, families with children who have disabilities often feel compelled to hide them due to embarrassment or the misconception that they are somehow cursed. This stigma prevents open discussion, which means that the available data may not accurately reflect the actual number of PWDs in our nation.

I fully support this Bill because of its significance; it is long overdue. The current Persons with Disabilities Act dates back to 2003, and it does not align with our 2010 Constitution. To create a more inclusive society and improve the status of PWDs, we must ensure that our laws align with the Constitution. It is clear that the highlighted areas are very important. Allow me to highlight some key provisions which will promote the rights of PWDs and ensure that they have access to all the social, economic and political opportunities available.

People living with disabilities are disadvantaged most of the times, and especially, when it comes to education, health or employment even if they are educated. They depend on the caregivers to assist them for example, when taking them somewhere or driving them; and most of the times they are not given the attention that they need.

I support this Bill so that it can ensure that they get access to all social, economic and political opportunities that are available to all persons.

Part Two of Clauses 4 to 5 takes care of the obligations of the national and county governments. The Bill states the specific obligations for the national Government and the county governments which include:

1. Develop policies on the promotion of PWDs.
2. Teach and create enough awareness so that they can know their rights in terms of social media. This is by:
 - (b) Promoting the inclusion of PWDs in the public service.
 - (c) Prescribe minimum standards and guidance to be adhered to by public transport vehicles.

Currently, when you look at our public means of transport, they have not taken into consideration the PWDs. When one needs medical care, and probably, needs to be flown out of the country, it becomes difficult. If you put this into consideration, we would have taken care of our PWDs.

We should also adopt the affirmative action measures in procurement of the national Government's goods and services, and also put into consideration the things that matter to the PWDs by giving them opportunities to do business, and appoint them to all the elective and appointive positions in this country which would in turn help them to support their families just like any other family.

It provides for allocation of adequate resources to programmes that target PWDs. Currently, this is one of the things that we lack as a nation. We should also endeavour to give them identification documents so that we give them the opportunity to vote during elections, and also an opportunity to be elected. We should also include them in all the activities anywhere including schools. Many a times, children with disabilities are marginalised and discriminated; and sometimes, ashamed for doing what they can comfortably do confidently. If we do this, we will give them a better opportunity that will improve their lives.

Part Three of Clauses 6 to 35 speaks on the rights of PWDs. Article 54 of the Constitution reinstates the rights of PWDs to include the right to equality and non-discrimination, privacy, recognition of women, children, youth and older members of the society with disabilities who should also be protected from abuse.

We know very well that PWDs have been abused, insulted and have gone through challenges. When it comes to the benefits, rights or things that they need to have in the society, other people take advantage, and benefit on their behalf because they cannot speak for themselves. Therefore, putting this in place will protect and give them equal opportunities without any discrimination. That is why I strongly support it.

Part Four is about relief and incentives. That is, Clauses 55 to 60. For the few people who work hard and get the opportunity to do businesses, this Bill provides specific reliefs and incentives for persons with disabilities. These include exemptions from income tax and incentives for local manufacturers. These provisions will motivate them. They will live like any other person and borrow money for investment. These reliefs will help and protect them.

I will quickly move to Part Five, which is about enforcement mechanisms. I am very excited about this. This Bill has outlined various offences and penalties to guard against abuse of persons with disabilities. Many of them have been abused and challenged. Sometimes you see a young lady with disability who is pregnant as a result of rape. She cannot even take care of herself and yet she has a child. The penalties that are introduced here will take care of such culprits, and the government will then deal with them. This will protect the interest of our people living with disabilities. As a nation, we will be able to take care of them, guard and guide them as well and hence have a healthy society.

With those few remarks, I support and urge all Members to contribute. Thank you.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Wanjiku Muhia.

Hon. Wanjiku Muhia (Kipipiri, UDA): Thank you, Hon. Temporary Speaker. At the outset, I rise to support. This Bill would not have come on a better day than today, 3rd of December, which is World Disability Day. That is why you see these honourable ladies and great men of this House waiting until this late.

This Bill would not also have come from a great committee than the one led by Hon. Alice Ng'ang'a, the great Member for Thika *Mjini*. As a member of Kenya Disability Parliamentary Association (KEDIPA), we interact severally with this committee and indeed I can attest that it is a great committee. The work in their in-tray is a lot, but they are equal to the task and able to handle it.

I confirm to this House that in 2013, during the 11th Parliament, I amended the original Bill of 2003, which was a 2013 amendment. I then introduced sign language to all our television stations. Many people mistakenly think that television stations woke up one day and started airing news with sign language. That is far from the truth. It was only Kenya Broadcasting Corporation (KBC) which was doing that. It is one thing to make a very good law and another to implement it.

It took months to make this amendment. I kept on going to the Committee of Implementation. Let me declare my interest. I am a mother of a daughter with disability. I know that this community of persons with disabilities is normally neglected in all aspects of life, to the extent that they sometimes do not know what is happening in the world.

It took months until the then Communications Authority of Kenya (CAK) threatened to switch off all television media houses if they did not anchor news with sign language. I am happy that today, all our television stations have complied.

The disability community or persons with disabilities, somehow come second in our country as well as in Africa. We have a whole Ministry and a Cabinet Secretary for animals and Kenya Wildlife Services (KWS) yet we cannot afford a Cabinet Secretary for persons with disabilities. I can attest that the deaf society is close to one million people. They have only been given one representative at the National Council for Persons with Disabilities (NCPWD) to handle their issues while the livestock have a whole ministry. I want us to challenge ourselves today, being 3rd December 2024. We need to evaluate ourselves as leaders and see how many persons with disabilities we have employed in our constituencies and offices in Nairobi even

before looking at the Government. I also urge the Government and corporate organisations to do the same.

I am a Member of KEDIPA which is comprised of Members from the National Assembly and Senate. Today, we celebrate one of our own, Senator Asige who is the drafter of this very elaborate Bill. We also celebrate the Senators who have supported and walked this journey with her. Having said that, I wish to recruit many Members. You do not need to necessarily have a daughter or son with a disability. You may know of a person with disability indirectly maybe, you have employed a relative, somebody's son or a friend to keep this community close to your heart.

In this case, I am recruiting Hon. Dorothy in absentia. I wish to confirm to her that while considering this Bill, the caregivers were deliberated upon very aggressively. The Committee interacted with a number of them. Clause 56 (2) is giving provision for giving a token to the caregivers. It states:

“(2) The Cabinet Secretary responsible for matters related to social protection may on application of a parent or guardian who is indigent and assumes full custody and care for a person certified with severe disability and incapable of catering for their basic needs, grants a long-term social assistance monthly cash transfer of not less than Ksh10,000/= in accordance with the Social Assistance Act.”

We celebrate Senator Edwin Sifuna who brought this amendment and it successfully found its way here. Hon. Dorothy should not worry as the caregivers have been taken care of. We know of many single parents either a father or mother who take care of children with disabilities and cannot work.

I also want to draw the attention of Members to Clause 59 on exemption from taxable income of employers of persons with disabilities. I encourage Hon. Members to employ them. This clause also speaks of assistive devices being exempted. What we need is sensitisation. Today, we pride ourselves as a country because we are not doing very badly. In the past, NCPWD was only located in Westlands. In the last few years, it has been devolved and is in every county though with very limited resources. As a House, we should give this organisation more resources so that it can have money for continuous registration of persons with disabilities and also sensitise the community. The support given by the Government is not known by Kenyans.

I wish to draw the attention of Hon. Members to Clause 20 on education. It is speaking widely on education and how every child has a right to it. This clause seems difficult to implement because it is comparing a child with disability to an ordinary one by saying they must have compulsory education. At times, parents may want their children with disabilities to go to school but this is not practical. I challenge the Ministry of Education to come up with a curriculum and to ensure that there are public schools within a certain radius with special teachers. The Kenya Institute of Special Education (KISE) is doing very well by training teachers. However, I want to note that these teachers volunteered themselves to KISE for the training. We pay for some of them from the NG-CDF funds. So, the Ministry of Education should come up with a formula where we can have many special teachers in every constituency so that children with disabilities do not miss on education. Classes may be there but teachers may not be there.

As I conclude, I wish to say that this Committee needs to be empowered so that it can go through the annual reports and see how much the Government and the corporate world are doing in terms of employment, assistive devices and other enabling avenues for Persons with Disabilities so that it can give the House a Report that can help to tell whether we are improving or not on matters of Persons with Disabilities. Having said that, I want to once more congratulate the Committee and the Chair.

The Temporary Speaker (Hon. Omboko Milemba): Very well. Hon. Jessica Mbalu.

Hon. Jessica Mbalu (Kibwezi East, WDM): Thank you, Hon. Temporary Speaker. From the outset, I congratulate Hon. Alice, the Member for Thika for coming up with this Bill through her able Committee. I also want to congratulate Senator Asige for the Persons with Disabilities Bill (Senate Bill No. 7 of 2023). Today is the International Day of Persons with Disabilities (IDPD) and as leaders and a community, we celebrate with our brothers and sisters living with disabilities. Persons with Disabilities is a special category that is helpless. It needs to be considered and involved in the running of all the activities of the society as the Bill has proposed.

I support the proposal that they get access to all the social, economic and political activities available in the country. That has been highlighted in the Bill, including them being involved in the procurement process. We know that we passed the Public Procurement and Asset Disposal (Amendment) Act in this Parliament that considers the Persons with Disabilities. However, we need to do more so that we can make them feel appreciated and that they are part of us. To ensure that Persons with Disabilities enjoy their rights, we have this Bill before this House. I support it and encourage all the Members to support it so that it becomes part of our laws.

On assistive devices, I have travelled to different countries and it has become a very important sector and an area of concern. Persons with Disabilities need to be given assistive devices. Where I come from, Persons living with Disabilities – babies, women and men – cannot move from point A to B. In fact, they are locked in houses. This reminds me that we need to encourage fathers and mothers not to hide their children in houses. They do that because they cannot access assistive devices to help them move from point A to B.

It is important for us to have sessions where we can speak to Persons with Disabilities. Today we are celebrating them. We need a programme of talking to them and giving them hope. They normally feel discriminated when they are hidden. I am happy that the Bill is talking about the caregivers. Caregivers do a lot of work. It is like having a baby to take care of.

Hon. Temporary Speaker, I am a mother and you know when a baby is small or when you have those old grannies, you must be there 24-7 for them. Now the people living with disabilities grow from young to old. So, I think that we want to support that token of cash - Kshs10,000. I wish it can be higher than that because the caregivers take all their time. They give their all to these people so that they take care of them. I think this is very welcome and I really support.

So much has been said by the other Members. I think all of us should be able to support, and we will be bringing some amendments at the right time just to ensure that we enrich this Bill. So, with those few remarks, I support.

The Temporary Speaker (Hon. Omboko Milemba): Very well, unless Hon. Anthony Oluoch wants to speak on this, which I cannot see. Very well Hon. Anthony Oluoch.

Hon. Anthony Oluoch (Mathare, ODM): Thank you very much. I want to lend my hand in support of this Bill.

At the outset, I want to thank. Hon. Alice Ng'ang'a as well as Sen. Crystal Asige, who I think has been able to show very clearly and exemplify the maxim that disability is not inability. It is noteworthy that this Bill comes on a crucial day like today, the International Day of Persons with Disabilities. The Bill seeks to align itself to not only the Constitution, but the international conventions on persons with disabilities.

Before I get to the main points as to why I support this Bill, allow me to dispense with these two points before I forget them, because they will need to be looked at when we look at this Bill. While I was running through this Bill, especially on Part III, it is very elaborate in terms of trying to synchronise the Bill of Rights of Persons with Disabilities with our Bill of Rights. I have seen it running up to clauses 35, Part III. One very crucial part or clause that

needs to be considered here is one that would align itself with Article 100 of the Constitution on the rights of persons with disabilities to representation and I think this is very crucial, even as we look at other rights.

We have looked at the rights here that align to issues of inclusion in accordance with Article 10, equality and equalisation in line with Article 27, human dignity in line with Article 28, the right to privacy incorporated in line with Article 31 and other rights including Article 54. So, it is important then that we also look at their rights to representation. As I was looking at this, I also looked at Clause 11 of the Bill itself that talks about children and persons with disabilities. I also needed to make this point before I go to my main points of the need to classify what constitutes disability.

Some people think about disability in terms of the severe disability that we know in terms of persons missing a leg or limping or having no eye or persons with albinism. However, I think it is important both at the interpretation and even at the clause, especially the one dealing with children, that we classify various kinds of disability that would otherwise go unnoticed. I have in mind, for example, things like autism. This needs to be clearly defined under the interpretation and so that in Clause 11, when you are talking about children with disabilities, it needs to be clearly indicated how we deal and protect these children, how we teach them and how we handle them both at home and at school.

The other mild disabilities such as Attention Deficit Hyperactivity Disorder, otherwise referred to as (ADHD), would otherwise go unnoticed. We look at these children as probably just naughty, not well brought up. These are small disorders which ought to be defined and taken care of, so that even as our teachers teach in school, units are provided to empower them to deal with this. The other small sort of disabilities that would also go unnoticed would be Oppositional Defiant Disorder, also known as ODD. I have already mentioned autism.

The one that interests me and I have of late been doing a lot of reading on, is a condition called dyslexia. What is dyslexia? A dyslexic is a person whose mind or brain operates differently. There are parts of the brain that helps you to recognise sound, shape and numbers. When these parts of the brain are dysfunctional or not operating at 100 per cent, you then find a person with a disorder that is called dyslexia.

Hon. Temporary Speaker, let me bring to your attention world renowned persons who would otherwise not have been known had there not been some scientific discoveries. One of them was Albert Einstein. Albert Einstein was a world-renowned scientist and a Nobel Prize winner. In his early childhood, he was a slow learner, slow at speech, and eventually it was discovered that this was a dyslexic child. Another person was Thomas Edison.

Thomas Edison is a very important and interesting case. He is the inventor of the light bulb as we know it. Teachers threw out this child for having tried incessantly to teach him and gave up. They called his mother and said, 'come and take your child. Your child is too dumb to learn.' The mother of Thomas Edison came and picked her child, and with tears in her eyes said, 'I will teach my child, my child is not too dumb to learn.'

Albert Einstein said, "If you judge a fish by its inability to climb a wall, it will spend the entirety of its life thinking that it was not able to do anything." I am particularly interested in Clause 11 of the Bill, especially where we are able to define and categorise distinctly and succinctly the various small disabilities that affect our children, which we do not appreciate until it is very late. I sometimes think that I was dyslexic when I was a child. I ask myself sometimes why I could not appreciate numbers. Hon. Temporary Speaker, we shared the same school or college somewhere along the way. If you had beaten me and turned me upside down, I would not learn mathematics. I knew zero about numbers, but I knew many other things and I ended up being a lawyer.

As I support this Bill, I want us to look at the clauses that would be able to enrich it, and also to look at the various ways in which it has been able to enhance inclusion, in which it

will be able to take out stigma. When our children are being brought up, mothers and parents should not end up thinking that this is a curse getting a child that is less able. You do not pray that God gives you a boy or a child, God gives you a boy, sometimes a girl and sometimes God in his own wisdom decides to give you a child who is less able. We must take away this stigma. For this very reason, I will support it with amendments.

We should bring in the question of representation and change the interpretation section so that we categorise those mild disabilities, ADHD, ODD, autism and dyslexic children.

The Temporary Speaker (Hon. Omboko Milemba): Very well. The Chairman, Departmental Committee on Finance and National Planning. Are you speaking on this?

Hon. Kuria Kimani (Molo, UDA): Yes.

The Temporary Speaker (Hon. Omboko Milemba): Proceed.

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, when I saw the great ladies sitting this late in the night, contributing to this very important matter, I felt I should come to commend them and support this very good Bill. This shows the hard work that Parliament puts that at some point, Kenyans do not get to appreciate. It is 10.36 p.m. and these mothers and wives of great Kenyans are still sitting here to make sure that the Bill that supports the most vulnerable people in the society is passed. Therefore, I strongly support the Persons with Disabilities Bill (Senate Bill No.7 of 2023).

Globally, disability inclusion is increasingly recognised as critical to achieving the Sustainable Development Goals (SDGs). Over one billion people, approximately 16 per cent of the global population live with disabilities. Therefore, their inclusion is very pivotal. The United Nations Convention on the Rights of Persons with Disabilities emphasises the need for inclusive development, non-discrimination and accessibility.

In Kenya, we are facing significant challenges despite notable progress. Our Constitution and the ratification of the United Nations Convention on the Rights of Persons with Disabilities in 2008 signalled strong intent. However, the 5 per cent employment threshold for persons with disabilities in the public service remains unmet. It currently stands at only 1.53 per cent. Accessibility to public and private infrastructure continues to lag behind. Support mechanisms such as the monthly stipend of about Ksh3,000 still remains inadequate to address the economic realities that face the households of people with disabilities.

Best practices will inform us in some areas. For example, the United States of America passed the Americans with Disabilities Act that mandates non-discrimination in employment, with federal governments, the equivalent of the county governments in Kenya, actively involved in compliance.

The Bill's focus on preferential procurement for persons-with-disabilities-led businesses is commendable, but it requires robust enforcement mechanisms to match international standards. The European Union (EU) has led the best practice in terms of accessibility where the European Accessibility Act ensures that all products, services and public infrastructure are designed to be inclusive.

The Bill proposes collaboration between the National Council for Persons with Disabilities and the county governments. However, we need to provide additional funding and resources for the implementation strategies that are needed to achieve that great milestone.

Australia leads in terms of investment in technology where investment in assistive technologies is prioritised, with significant government incentives for business innovation in that space. We can deal with the challenges that persons with disabilities face by having assistive technologies. We need to borrow from best practices and ensure that we support persons with disabilities with assistive technologies such as hearing aids. Those technologies will help us to deal with persons with disabilities.

We also need to recognise the role of the counties. We are aware that we have 48 governments, that is, the 47 county governments and the national Government. There must be

collaboration between those two levels of government. That will ensure that persons with disabilities in this country are taken care of and recognised in our laws.

As I wind up, I dare reiterate that this Bill is not just about political rhetoric, but a deliberate action for the people at the bottom of the pyramid, who did not choose to be born with disabilities, but found themselves that way. We must ensure that we protect, save and safeguard their livelihoods. Therefore, I congratulate the Committee for the good work they have done. I also congratulate the Chairlady, Hon. Alice Ng'ang'a, Member for Thika Town, and the sponsor of the Bill, our good friend, Senator Crystal Asige, and all the people that have contributed to the Bill to ensure that being born with a disability or finding yourself with a disability is not a crime. It is something that needs to be supported. They are Kenyans like us. God created us all in his own image. Therefore, we must make sure that all of us live and work collectively and towards the welfare of the great people of this country.

Lastly, there are people we do not celebrate enough: the staff of Parliament. I am looking at our Director of the Table Office, Mr Tiampati, looking at Members walking in to contribute and he is wondering what time he is going to get home. The sacrifice Clerks-at-the-Table and Serjeant-at-Arms who sit into the night make in ensuring Parliament is facilitated to work and achieve its objectives as mandated by the Constitution is commendable. I applaud you on behalf of the people of Molo and the great people of the Republic of Kenya.

With that, I support, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Mover.

(Hon. Suleka Harun raised her hand)

The Temporary Speaker (Hon. Omboko Milemba): Hon. Suleka, you seconded the Bill and we may not give you another chance. You should have spoken more. Mover, proceed.

Hon. Alice Ng'ang'a (Thika Town, UDA): Hon. Temporary Speaker, can I donate one minute to a Member?

The Temporary Speaker (Hon. Omboko Milemba): I am aware and that is why I have allowed you to proceed.

Hon. Alice Ng'ang'a (Thika Town, UDA): Okay.

The Temporary Speaker (Hon. Omboko Milemba): The Mover has donated a minute to Hon. Rutto. Please give him the microphone.

Hon. Julius Rutto (Kesses, UDA): Thank you so much, Hon. Temporary Speaker. From the outset, I congratulate Hon. Alice Ng'ang'a for the good work. The spirit of God has used her to target what the Constitution of Kenya, which we gave ourselves, says. The Constitution expects everybody to be included in discussions about the national cake. You will agree with me that it has taken time for this law to be enacted. It was attempted in 2003. I am happy that Hon. Alice Ng'ang'a has chosen to go the right direction of not being popular with any other Kenyan but the people who deserve to be looked after and given attention.

Two days ago, there was a clip going around of one lady battering a disabled girl who could not defend herself, insulting and beating her up. If you see the video, you will pity her. I condemn the act. This Bill needs to pass so that there are clear procedures and guidelines on how to identify these people, how they can be given opportunities and how they can access education and every right provided in Article 43 of the Constitution. I call upon security agencies to look into the issue that took place in Moiben, Eldoret. I call on security agencies to apprehend the lady and ensure the matter is taken care of.

Thank you so much, Hon. Temporary Speaker.

Hon. Alice Ng'ang'a (Thika Town, UDA): Thank you, Hon. Temporary Speaker. Allow me to thank all Members who have contributed to this very important debate until this

late at night. May God bless them mightily. That includes yourself as well as the Clerks-at-the-Table who are in this House.

(Applause)

Today is a great day. While we were observing the International Day for Persons with Disabilities, at the National Assembly we were also debating this Bill. When I took over as the Committee Chair, we realised that every time money was set aside for the NCPWD, it would reach a point where development budget would be slashed without asking the Council what the money was meant to do. Because it was capital expenditure, they would deduct development money across the Ministry.

Hon. Temporary Speaker, as a Committee, we pushed for the capital expenditure to be removed, and then we put that money as recurrent expenditure. You cannot understand when you are told that buying assistive devices or sunscreen for people with albinism, and money for registration are development expenditures. I know where you come from, people travel far and wide to be registered as PWDs. As we speak today, they do it online. You do not travel across counties or the country to be registered. This is a milestone.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Chairlady, do they still pay some money to be registered? I remember that I really suffered with that bit of payment of money for registration for PWDs.

Hon. Alice Ng'ang'a (Thika Town, UDA): They pay, but they do not pay as much as they used to pay at that time. We will look into it to make sure that they do not pay. There are even some amendments that I will read as my closing remarks. I will move them in the Committee of the whole House.

When we went for Inua Jamii Programme registration last year, they were part of the registration. We registered 61,000 households to be enlisted as beneficiaries of Inua Jamii Programme. We shall register more households again early next year, 2025. As we do that to reach the level of 100,000 households, the population of PWDs in this nation is very high. One hundred thousand households are not a representation of the number of people who have disabilities in this nation. We will also look into the money we give them every month which is Ksh2,000. With the realities of the economy, it is not enough for them. These are the things we should look into to make sure that we take good care of them.

When we were vetting the commissioners of the National Gender and Equality Commission last week, one of the board members was a PWD, Mr Michael Nzomo. He is abled differently. This gentleman was very smart during the interview. I know he will do major contributions there. That is why we need to incorporate all these people who are abled differently to be part of this great society.

When you go to my constituency, Thika, we have Thika School for the Blind, Joy Town Special School and Maria Magdalena Special School. The people who use assistive devices like the wheelchairs use them in an environment which is not conducive. The floors are not levelled. They try their level best to move from one point to another. These are things that we need to look into, so that we can help our people to live comfortable lives.

As I speak today, I am a proud Chairlady of the Departmental Committee on Social Protection where all the vulnerable groups lie. A time like today when I am debating this Bill, I feel very happy knowing that we will help them. We are their voices. We speak on their behalf. I know that they will celebrate, once we pass this Bill. They will be very happy. That is why I call upon all the Members to help me pass this Bill and put a smile on PWDs in our nation. They should know that we not only talk when we are seated here, but also we think about them.

Last year, I also visited my constituency to give out tailor-made wheelchairs for the beneficiaries. I wish you could see their smiles once they got assistive devices. During the

Committee of the whole House, there is an amendment I will propose which is very important. I will propose exemption from taxation for machines, aids and equipment for children with disabilities in the Persons with Disabilities Bill. Currently, it is only adults' devices which are exempted from taxation. This has been a challenge for families and other caregivers like institutions to buy children's equipment with duty or without tax exemption. Special equipment and supplements for children mostly come from outside the country. They are expensive. Therefore, any additional duty or taxation on the products or equipment makes them to be out of reach for children with special needs like those of cerebral palsy, autism and other forms of disability. I would therefore, request that when we go for the Third Reading, Members who have amendments should come forward so that we can make this Bill good for this country, and for the PWDs.

Hon. Temporary Speaker, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Members. We shall again postpone putting of the Question until the next Sitting.

(Putting of the Question deferred)

I want to thank the Members who have been very resilient to stay up to now. When we were given this task of doing the four Bills, it looked gigantic, but you have been very strong and resilient to stay and deal with them. In the near future, we shall propose to the House Business Committee that major Bills and discussions be debated between 7.00 p.m. and 9.00 p.m. Parliament is run through a collaboration of Members and staff who should be able to go back to their homes on time.

Hon. Members, we may be upstanding.

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the time being 10.52 p.m., this House stands adjourned until tomorrow, Wednesday 4th December 2024 at 9.30 a.m.

The House rose at 10.52 p.m.

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