REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. III NO. 50

THE HANSARD

Wednesday, 19th June 2024

The House met at 9.30 a.m.

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

PRAYERS

Hon. Speaker: Hon. Members, we have quorum to transact business. Clerk-at-the-Table.

PETITION

Hon. Speaker: Hon. Mark Mwenje. His Petition is stayed to next week.

Next Order.

PAPERS

Hon. Speaker: Leader of the Majority Party.

Hon. Owen Baya (Kilifi North, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Reports of the Auditor-General and financial statements for the year ended 30th June 2023 and the certificates therein in respect of –

1. Bomas of Kenya Limited.
2. Kenya Forest Service (KFS).
3. Water Resources Authority.
4. Higher Education Loans Board.
5. Kenya Water Institute.
6. University of Nairobi Press.
7. Kenya Medical Supplies Authority (KEMSA).
8. Tourism Regulatory Authority.
9. National Youth Council.
10. Kenya Utalii College.

I thank you, Hon. Speaker.

Hon. Speaker: Next Order.

QUESTIONS AND STATEMENTS

REQUESTS FOR STATEMENTS

Hon. Speaker: Hon. Joseph Namuar, Member for Turkana Central. Is he in the House? Hon. Lillian Siyoi, Member for Trans Nzoia County. Hon. Fatuma Masito, you may raise your question to the Departmental Committee on Labour.

UNFAIR LABOUR PRACTICES BY DIAMOND LEISURE
LODGE BEACH AND GOLF RESORT

Hon. Fatuma Masito (Kwale County, ODM): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Labour regarding the unfair labour practices by Diamond Leisure Lodge Beach and Golf Resort formerly known as Leisure Beach and Golf Resort.

Article 41(1) of the Constitution provides that every person has the right to fair labour practices. Every worker has the right to fair remuneration, and reasonable working conditions, among others. Despite the above stated constitutional safeguards, Diamond Leisure Lodge Beach and Golf Resort continues to subject its employees to unfair labour practices. The Kenya Union of Domestic Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA), Ukunda Branch, has severally received complaints by staff on the violation of workers' rights. They disregard employment laws by paying workers poorly, unfair termination of employment and non-implementation of the Collective Bargaining Agreement (CBA) of 2019 to March 2020.

The Union at various stages has tried to engage consultative meetings with the hotel to resolve the issue brought forward by the staff unfairly terminated by the hotel and to ensure adherence to implementation of the Collective Bargaining Agreement (CBA). Efforts of the Union have, however, been futile considering individuals such as Mr Wycliffe Jumaisi, John Jira, Ms Margaret Laban, Mr Lazarus Shangawa, Mr Kachocho Mare, Mr Idi Ali, Mr Kenneth Wanyonyi, Mr John Dalu and Mr Laban Litlitunda, are yet to be paid their terminal dues upon their unfair termination.

It is against this background that I seek a statement from the Chairperson of the Departmental Committee on Labour on the following:

1. What action has been taken to ensure that Leisure Lodge Beach Resort complies with the Shop-Level (Service-Level) Agreement entered into on 9th August 2021 with the Kenya Union of Domestic Hotels, Educational Institution and Hospital Workers Union, as well as implementation of the CBA of 2019 to March 2020.
2. Why the hotel formerly known as Leisure Lodge Beach Hotel has unlawfully failed to make payments of terminal dues and arrears of the stated employees and provide time lines when the payment will be received.
3. Explain whether compensation provided by their employer is for the unfair treatment and their experience.

Thank you.

Hon. Speaker: The Chairperson of the Departmental Committee on Labour, Hon. Karemba? Is any Member of the Committee here? Leader of the Majority Party, bring the response in two weeks.

Hon. Owen Baya (Kilifi North, UDA): Much obliged.

Hon. Speaker: Hon. Mary Emaase, Member for Teso South.

DELAYED REMITTANCE OF PENSION TO PENSIONERS OF THE KBC

Hon. Mary Emaase (Teso South, UDA)**:** Hon. Speaker, pursuant to Standing Order 44(2)(c), I rise to request for a Statement from the Chairperson of the Departmental Committee on Social Protection regarding Delayed Remittance of Pension to Pensioners of the Kenya Broadcasting Corporation.

The Kenya Broadcasting Corporation established the Kenya Broadcasting Corporation Staff Retirement Benefit Scheme under Defined Benefit Scheme in 1991.

In 2010, The National Treasury issued Circular No.18 of 2010, directing conversion of all defined benefit schemes in the public sector to defined contributory schemes. Notably, the Kenya Broadcasting Corporation Staff Retirement Benefit Scheme still operates as a defined benefit scheme. While there are no pending employee and employer remittances to the pension scheme, the total unremitted contributions without interest stood at Ksh1,646,696,274 as at December 2023.

(Technical hitch)

Hon. Speaker: Try the microphone next to you.

Hon. Mary Emaase (Teso South, UDA)**:** Additionally, in 2018, the Court in the Employment and Labour Relations Court (ELRC) Case No.1352, KBC versus Kenya Broadcasting Corporation**,** ruled in favour of the Pension Scheme.

(Technical hitch)

Hon. Speaker: Hold on, Hon. Mary. Clerk, what is happening? Give her the microphone again. Can you try that one now?

Hon. Mary Emaase (Teso South, UDA): The National Treasury through its Circular No.13 of 2023, directed all State corporations to budget and honour their staff pension obligations, including the arrears. It is unfortunate that the Kenya Broadcasting Corporation has continued to contravene the said directive. The inordinate delay in remittance of the pension to the pension scheme has caused anguish and financial distress to the affected pensioners. It is against this backdrop that I seek a statement from the Chairperson of the Departmental Committee on Social Protection on the following:

1. Why has the Kenya Broadcasting Corporation Staff Retirement Benefit Scheme not transitioned from defined benefit scheme to defined contributory scheme as per the Directive of the National Treasury.
2. Explain the reasons for non-remittance of pension dues from both the employer and employees deducted by the employer to the pension scheme.
3. What action is being taken to remedy the situation so that the affected pensioners receive their dues.

Thank you.

Hon. Speaker: Chairperson of the Departmental Committee on Social Protection? He seems not to be in. I direct the Leader of the Majority Party to bring a response in two weeks.

Hon. Owen Baya (Kilifi North, UDA): Much obliged.

Hon. Speaker: Is Hon. Joseph Namuar in the House? He seems not. Question stayed to next week. Hon. Lillian Siyoi? Question stayed to next week.

(Request for statements by Hon. Joseph Emathe and Hon. Lillian Siyoi deferred)

I will indulge Hon. Mark Mwenje. Let us go back to Order 4.

Hon. Mwenje, go ahead. I can see that your Petition is very long. Try to go through it quickly.

PETITION

OWNERSHIP DISPUTE OF LAND PARCEL L.R. NO. 209-11970 – DANDORA/MOWLEM AREA, EMBAKASI WEST CONSTITUENCY

Hon. Mark Mwenje (Embakasi West, JP)**:** Thank you, Hon. Speaker, for your indulgence.

Hon. Speaker: Hon. Mwenje, common decency requires that you apologise to the House for coming late.

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

I apologise for coming late. I had rushed to the Table Office to correct the same.

I, the undersigned, on behalf of the residents of Embakasi West Constituency, who are the members of Amani Self-Help Group, draw the attention of the House to the following:

THAT, the undersigned Members and their families have been residing in Mowlem area Kangundo Road in Embakasi West Constituency, in land LR/No.2091970 since 2000.

THAT, initial survey details had indications that the same was designed as public land, hence lacking a title until one was allegedly possessed and issued on 15th October 2010.

THAT, the members who were initially 74 are now a large and enterprising community of over 260 residents.

THAT, the members have constructed permanent houses and shopping centres on the land parcel including social amenities, schools with electricity and water connectivity.

THAT, the subject land is now being claimed by Mr Charles Munene Gatimu and Ms Catherine Karegi Kamanja who proceeded to secure a grant on 15th October 2010.

THAT Mr Charles Munene Gatimu previously served as a senior demolition officer with the defunct City Council of Nairobi while Ms Catherine Karegi Kamanja's husband was a senior officer at the Survey of Kenya and Ms Catherine Karegi Kamanja working with the then Ministry of Lands in Nairobi.

THAT under the circumstances which the two, Mr Charles Munene Gatimu and Catherine Karegi Kamanja obtained the said grant, excluding Mr Charles Karegi Kamanja, whose name was on the subject letter of allotment issued on 20th July 1993 have not been explained.

THAT the Department of Lands in Nairobi issued out two letters of allotment, one to Charles Arap Sigei, Charles Munene Gatimu and Catherine Kamanja Department of Lands.

THAT these persons used their positions to illegally register themselves as the owners of the said property.

THAT a similar letter of allotment was issued by the said Department of Lands to Amani Self-Help Group for an un-surveyed residential plot.

THAT it is unclear how a title grant could be processed when the members of the said Amani Self-Help Group were on the subject land parcel.

THAT, the title grant for the subject land parcel LR209-11970 was signed then by Zablon Agwata Mabae on 15th October 2010 when the members of Amani Self Help Group had been in occupation for over 10 years.

THAT, on 4th February 2009, Mr Charles Munene Gatimu alone swore an affidavit accompanied with a letter to the Director of Surveys claiming that he had lost the deed plan No.176452, LR209-11970.

THAT, in response to the said letter, a license surveyor Mrs Roko Mala advised the Director of Surveys of Nairobi to issue a certified copy of the said deed plan and release the same track service by a letter dated 12th January 2009.

THAT, efforts by Amani Self Help Group to access the correspondence file from either the Chief Land Registration Officer of Nairobi or the Director Land Administration has been futile.

THAT, the initial land parcels surrounding the subject land LR299611 have registration numbers with four digits while LR209-11970 has five digits. A confirmation that the said title grant could have been superimposed in the area to secure a title which has got no records.

THAT, it is incumbent upon the officials of the Ministry of Lands, Public Works, Housing and Urban Development to clarify as to whether due process was followed in processing grant LR209-11970.

THAT, the Cabinet Secretary, through officials of the Ministry of Lands, Public Works, Housing and Urban Development make available the letter of application for allocation of the land by Charles arap Sigei, Charles Munene Gatimu, Catherine Kamanja, respective approvals, and any premium payments made.

THAT, efforts to resolve the matter with the relevant Ministry and agencies have been futile.

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

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

1. Establishes the status of ownership of LR20911970, under Dandora/Mowlem Area, Kangundo Road of Nairobi in Embakasi West Constituency vis-à-vis the allegedly illegally acquired title deed held by the private developers.
2. Intervenes to have the Government through the Ministry of Lands, Public Works, Housing and Urban Development avail or table all legal documents regarding to ownership of LR209-11970 in Dandora/Mowlem Area, Kangundo Road in Embakasi West Constituency.
3. Makes any other order or direction it deems fit in the circumstances.

This Petition is presented by me as the Member of Parliament for Embakasi West. I thank you for your indulgence once again. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Mark Mwenje. We will commit the Petition to the Public Petitions Committee. It is required to report back in 60 days. Is Hon. Nimrod or the Vice-Chairman here? Yes, Hon. Janet. Will you report back in 60 days?

Hon. Siyoi and Hon. Namuar, I already directed that your Statements be pushed to next week. However, on your intervention, I direct them to be in the Order Paper tomorrow at 2.30 p.m.

Next Order by the Leader of the Majority Party.

PROCEDURAL MOTION

EXEMPTION OF SPECIFIED BUSINESS FROM PROVISIONS OF STANDING ORDER 40(3)

Hon. Owen Baya (Kilifi North, UDA): I beg to move the following Motion:

> THAT, this House resolves to exempt the business appearing as Order No. 12 in today's Order Paper from the provisions of Standing Order 40(3), being a Wednesday Morning, a day allocated for business not sponsored by the Majority or Minority Party or a Committee.

If you look at Order 12 on the Finance Bill, the nation is waiting for debate on this matter. As you gave your direction yesterday, we should spend today morning and afternoon, and tomorrow, consolidating our thoughts and debate on the issues of the Finance Bill. This is an important matter. Therefore, we move that we exempt it from the provisions of Standing Order 40(3) so that we start robust debate for this House to make an informed decision on the Finance Bill at the end.

I request Hon. Osoro to second.

Hon. Speaker: Say that you beg to move.

Hon. Owen Baya (Kilifi North, UDA): I beg to move and request Hon. Osoro to second. You can only say "I second" if you want.

Hon. Speaker: Hon. Osoro.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Speaker. Indeed, we have a lot on our tray this week and early next week. For that reason, I second.

(Question proposed)

Hon. Speaker: Do I put the question?

Hon. Members: Yes.

(Question put and agreed to)

Next Order.

BILLS

Second Reading

THE CARE AND PROTECTION OF CHILD PARENTS BILL
(Senate Bill No.29 of 2023)

(Moved by Hon. Beatrice Kemei on 18.6.2024)

(Debate concluded on 18.6.2024)

(Several Hon. Members walked into the Chamber)

Hon. Speaker: Order, Hon. Members on their feet. Take your seats. Take the nearest seat.

(Question put and agreed to)

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

(Hon. Peter Kaluma stood in his place)

Hon. Speaker: Order, Hon. Kaluma. You sit on this Chair. You know very well that it must be contemporaneous with the decision by the Speaker if you want to call Division. You know you have failed in your attempt to lobby for support. Go ahead.

(Hon. TJ Kajwang' spoke off the record)

Hon. Kajwang' you have a second bite at this Bill at the Committee Stage. It is entirely up to you. The Speaker has no dog in this fight.

Next Order.

First Reading

THE KENYA ROADS (AMENDMENT) BILL
(National Assembly Bill No 31 Of 2024)

(The Bill was read a First Time and referred to the relevant Committee)

Second Readings

THE PUBLIC SERVICE INTERNSHIP BILL
(National Assembly Bill No.63 of 2022)

(Moved by Hon. Naisula Lesuuda on 24.4.2024 – Morning Sitting)

(Resumption of debate interrupted on 12.6.2024 – Morning Sitting)

Hon. Speaker: Hon. Naisula, I want to stand down your Bill. I know it has a balance of 33 minutes. Because of the importance of Order No.12 and the direction I gave yesterday, you should indulge the House as well. I direct that your Bill be given priority on Wednesday next week.

Hon. Naisula Lesuuda (Samburu West, KANU): Much obliged, Hon. Speaker.

Hon. Speaker: I am sorry, but you heard my direction yesterday. You have also passed a Motion to exempt this morning from the kind of business like your Bill.

Hon. Naisula Lesuuda (Samburu West, KANU): Well directed.

Hon. Speaker: Next Order.

THE FINANCE BILL
(National Assembly Bill No.30 of 2024)

Hon. Speaker: Chairman of the Departmental Committee on Finance and National Planning. As the Chairman moves the Bill, Hon. Members, you recall my direction yesterday. We will have the Bill moved and debated the whole of this morning. This afternoon at 2.30 p.m., apart from the preliminaries, we will go straight to the Bill. If there is continued interest tomorrow morning, we already created a sitting. From 9.30 a.m., we will go on with debating the Bill. Subject to continued interest, we will continue in the afternoon and, regardless of what will be obtaining on the Floor, the House Business Committee directed and recommended that the question will be put tomorrow afternoon.

Those of you who want to speak to this Bill have this morning, this afternoon, tomorrow morning and part of tomorrow afternoon.

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

Hon. Speaker: Yes, Hon. Nyikal. What is your point of order?

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Speaker. I raise this in relation to the Finance Bill, particularly the Report. I am seeking your guidance. That is the main issue. The Report on the Bill, as you had indicated yesterday afternoon, would reach us later, and it did. However, I want your guidance on the procedure that this Report followed. Ordinarily when we have a Bill, it would come in the First Reading then go to public participation as this one did. The Committee would then do a report which would come to you, after which you would approve it for tabling. After it is tabled, it then becomes a public document that can be discussed. It helps us to discuss the Bill and this is what we are about to do. If the Bill goes through the Committee of the whole House and the Third Reading and is passed, it goes to the President for assent. That is the procedure.

In this case, when the Committee had apparently finished the Report and it had probably been signed by Members from both sides of the divide, Kenya Kwanza and Azimio, then it…

Hon. Speaker: Order, Hon. Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Speaker, I am seeking your guidance. If you let me complete, then you can give me the guidance.

Before that happened, this Report was actually presented in a Kenya Kwanza Parliamentary Group meeting, which definitely was chaired by the President. Even if it is in his capacity as the leader of that coalition, he was definitely taking part in legislation. Members of the Committee from the Azimio side were not in that meeting. The Report then came back and, as far as I know, you had to go through it late afternoon yesterday. As you are aware and as you promised, about 6.50 p.m. it was tabled after you approved it. About 10.30 p.m., it was uploaded and we looked at it. My concern is that we seem to have breached the process. This is because we had input from the Executive, that is, the President, before what we would have expected. The Bill should go to the President after the Third Reading and if he has any views, he will then bring his reservations and suggestions. But we jumped the process.

Hon. Speaker: What is the issue?

Hon. (Dr) James Nyikal (Seme, ODM): The issue is that the Report went to the President and he had an input before it came to us. I am raising this because there is precedence. The only reason the Building Bridges Initiative (BBI) process was ruled against in court was that the President then participated in it before the correct time. It, therefore, ceased to be a Wanjiku issue. I looked at this and saw some parallel and wondered, have we once again jumped the boat and opened this Bill, if we pass it, to other people taking actions on it because we did not follow the correct procedure? I raise this in very good faith so that we look at the division. The Legislature does its work to completion then takes it to the Executive instead of having the Executive start legislation before their time comes. It is in very good faith that I raise this.

Hon. Speaker: It is in very good faith, but you have just made a general statement. What do you want the Speaker to do?

Hon. (Dr) James Nyikal (Seme, ODM): I want the Speaker to rule that the Report we have and that will guide us already has input from the Executive, which it should not have. This is because the Executive should come later after we pass the Bill at Third Reading. What guidance do you give? I think this is a very important constitutional issue and your guidance will be extremely important.

Hon. Speaker: Thank you, Hon. Nyikal, for raising that point. Hon. Members, I do not want to open debate on this. I have read the Report cover to cover. Number one, I have seen no reference in that Report to any meeting that you are talking about. Number two, caucusing among formations in Parliament in a democracy is normal. Just as the majority side caucused, I am also aware and I provided space, as your Speaker, for the minority side to caucus last evening. And you did.

(Applause)

Both caucusing is legitimate and legal under our Standing Orders and the Constitution. Both caucusing and their outcomes cannot and will not be part of any Report before the House. Indeed, if you have read the Report, like I have, it has no reference to the majority side or minority side caucus. Therefore, the Bill before the House is proper. The Report that was tabled upon my approval is available to every Member. You may debate the Bill and refer to the Report. You may debate the Bill without reference to the Report. You may debate the Bill without reference to any of the two. It is up to you. But the Bill is properly before the House. I now call on the Chairman of the Committee to move the Bill.

Hon. Kuria Kimani (Molo, UDA): Thank you very much, Hon. Speaker, for your guidance. I rise before you today with a sense of gratitude and appreciation for the opportunity to speak to this greatly esteemed august House. The Departmental Committee on Finance and National Planning has fulfilled its mandate as outlined under Standing Order 245 by examining and assessing the Finance Bill of 2024.

Hon. Speaker: Chairman, start by moving the Bill: "Hon. Speaker, I beg to move that the Finance Bill be now read a Second Time". Then you go on with your contribution.

Hon. Kuria Kimani (Molo, UDA): Thank you. Hon. Speaker, I beg to move that the Finance Bill of 2024 be now read a Second Time.

Hon. Speaker: Excellent. Now you can proceed.

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, I rise before you today with a sense of gratitude and appreciation for the opportunity to speak to this greatly esteemed August House. The Departmental Committee on Finance and National Planning has fulfilled its mandate as outlined in Standing Order 245, by examining and assessing the Finance Bill of 2024. The procedure commenced with a comprehensive briefing on the Bill's substance, followed by interactions with diverse stakeholders who shared their viewpoints. Subsequently, the Committee carefully deliberated upon the stakeholder's comments vis-a-vis the provisions of the Bill.

I greatly thank members of the public, especially the ones who appeared before the Departmental Committee as stakeholders and those who came for a public hearing at KICC and gave us very insightful views that have improved the report on the Finance Bill of 2024. Although these people breached the Data Protection Act by sharing our numbers with Kenyans, I thank the Kenyans who called us and wrote to us through SMS. Some were generous enough to send us Ksh1, Ksh2 and Ksh10 to confirm whether our numbers were authentic. I have written to the Clerk of the National Assembly for guidance on what to do with the Ksh168,000 that has been sent to my M-Pesa. This is because receiving these gifts from members of the public is against the laws of this Republic. Later, I will be seeking your guidance on what to do with the money because I tried reversing the Ksh1 and Ksh2 transactions but it was impossible because it accumulated to hundreds of thousands. I thank Kenyans for their generosity and tell them that their views are well received.

I would like to draw your attention to an important issue concerning Kenyan's tax revenue collection. Over the past decade, our tax revenue as a share of GDP has remained stagnant at approximately 15 per cent. This stagnation is a cause for concern the country needs to develop favourable tax measures to balance between relying on our socio-resource mobilisation and depending on debt. This Bill proposes to raise a total of Khs346 billion to support the expenditures that will be passed by this House through the Appropriations Bill. Notably, this expenditure is going to lead to the highest allocation ever to county governments at Ksh401 billion. This is the first time the allocation to counties, through equitable shares, has exceeded the Ksh400 billion mark.

As this House debates raising revenue for this country, I encourage our Hon. Members in the Senate, our county assemblies and our county governments to also prioritise ways of raising own-source revenue. I specifically loud Embu, Murang'a and Nakuru counties that have exceeded their own-source revenue share. Once counties generate their own-source revenue, it reduces pressure on the national Government to collect revenues for conducting county functions through the equitable share. In comparison with African countries' tax revenue as a percentage of GDP, Botswana is at 24 per cent, Mauritius at 18 per cent and Zambia at 17 per cent. Kenya is lying behind with a tax revenue collection of 14.1 per cent as of 2022. These countries have managed to achieve higher tax revenue collection rates which highlights the need for us to reassess our tax policies and explore more effective measures that favour the business environment and enhance revenue collection. The Kenyan Government has embarked on a tax reform agenda through the Medium-Term Revenue Strategies (MTRS), aiming to increase the tax-to-GDP ratio to 25 per cent by 2030. This reform is crucial for aligning Kenya with its regional peers and ensuring sustainable economic growth through improved domestic resource mobilisation.

The reason why there is an increased debate on taxation in this country is because we have 20 per cent of Kenyans contributing to 80 per cent of our taxes. That means there is a need to have a robust expansion of our tax base. If everyone in this country pays their equitable share of taxes, then we will not have to weigh this on the 20 per cent who are paying 80 per cent of our taxes.

I would like to highlight a significant aspect of Kenya's economy. Over the past decade, we have witnessed the emergence of employment opportunities, especially around the digital marketplace. This contributes to a significant economic evolution. Furthermore, the majority of jobs created during this period have been in the informal sector. As of 2022, approximately 83.3 per cent of the 19.15 million Kenyan workers have been employed in the informal sector, reflecting the crucial role of the informal sector in our economy. This shows the importance of developing policies and strategies to regulate and support this vital segment.

The Finance Bill of 2024 had several tax proposals that will enable this country to increase its tax base, especially increasing its revenues. The Committee carried out public participation and deliberated the matters which informed our decisions. For instance, Clause 2 of the Finance Bill 2024 is expanding the definition of digital content monetization to include all creative work. The Committee noted that not all creative works generate income. To align with international best practices, it is very necessary to specify that only those generating income are subject to tax. The Clause also talks about the definition of software, which includes software and royalties in the definition of software and royalties. To safeguard the interests of distributors in this sector, the Committee decided to delete this proviso and exclude the distribution of software from this definition.

There has been a notable change in the global arena of tax administration, where governments or parliaments change tax laws to align with court decisions. I think a case in point is the Seven Seas case versus Kenya Revenue Authority (KRA) in Kenya, where there was a contestation of the definition of royalties to include software. Globally, the most popular one is the case of the engineering firm in India over the definition of software. We appreciate that in as much as it is an improvement to our jurisprudence and our laws to make law processes that align with the decisions of courts, we need to be careful not to abuse the power of law legislation to negate the judgments made by our courts.

Clause 4 proposes to reduce the period for claiming deferred realized foreign exchange losses from five years to three years. The Committee supports retaining the current period, allowing businesses to recover foreign exchange losses over five years instead of the proposed three years, especially during these times of uncertainties in the global market and the de-dollarisation of the markets. For example, we have seen some of our global leaders backing their currencies through gold as opposed to the most popular used currencies such as the US dollar.

Clause 6(b)(2) proposes to exempt reimbursement of expenses incurred for asset purchasing during official duties by public officers, which was extensively discussed with stakeholders. The Committee ultimately decided to remove this amendment that aimed to exclude public officers from taxation on employment of benefits received as reimbursements for asset acquisition. This decision was driven by concerns by members of the public that such an exemption would unfairly discriminate against private-sector employees and could potentially be abused. As framed in the Bill, there is no definition of what these assets are. We, therefore, stand a risk of public officers buying houses or factories using taxpayers' money which will not be subject to tax. The best way would have been to treat public officers the same as private officers. If we allow private officers to be exempted from tax on payments made to them for assets, you might find them being paid in terms of assets just for tax planning and tax avoidance.

Clause 8 proposes to repeal the digital service tax and replace it with a significant economic presence tax a rate of 30 per cent on 20 per cent deemed profit. This committee acknowledges that digital service providers typically enjoy a higher profit margin due to lower production costs compared to companies with physical presence. Therefore, the adjustment aims to align the deemed profit closely with what will be expected in those companies if they face similar cost structures. This is a revenue enhancement measure to ensure that digital service providers pay their fair share of tax.

Additionally, and notably, the Committee proposes amending this Clause to include a gradual increase in the rate from 1.5 per cent to 3 per cent and not from 1.5 per cent to 6 per cent as proposed in the Bill. This is to ensure there is swift implementation of this adjustment. This has been one of the most confusing Clauses to the members of the public. This tax is not on digital content creators. This tax is for applications like Uber Eats and Jumia. It is imposed on the owners of the platform and not on the consumers or the people making those deliveries. This has been endorsed by the best practice rule of the Organisation for Economic Cooperation and Development (OECD) countries to have uniformity globally on taxation around the digital market place.

On Clause 9(12H), there is a proposed introduction of the minimum top-up tax. This Committee strongly supports this measure noting its global adoption in over 60 countries where many of this key multinational companies operate. Failing to implement this tax in Kenya would undermine the fair application of tax obligations, potentially allowing constituent companies located in Kenya to underpay their share of revenues. This amendment is aligned to the multilateral instruments on profit shifting and base erosion that this House approved a month ago. Again, this is another misinterpreted Clause. The minimum top-up tax simply means that when a multinational company operates in Kenya as a group company and has a lower tax rate in its country of origin than that of Kenya, the company will be required to pay this minimum top up tax. This again, is to align ourselves with best practice.

Clause 9(12H) proposes an introduction of motor vehicle tax at the rate of 2.5 per cent of the value of the vehicle. With this Clause, the Committee notes the following: Section 3(2) of the Income Tax Act defines what constitutes an income upon which a tax is chargeable under the Act. The proposed motor tax is levied on an asset and not on income as described by the Income Tax Act. The proposal to cap the levy at Ksh100, 000 makes this tax discriminatory and non-progressive. This essentially means that those motor vehicles that have a value of Ksh4 million and below would have paid the fair tax of 2.5 per cent, but those vehicles that have a higher value of 2.5 per cent would have paid a less commensurate percentage of that motor vehicle tax. The proposal will have adverse effects on the insurance taking behaviour of motor vehicles earners and further lead to negative effects on the insurance sector.

Hon. Speaker, notably also, commercial vehicles which are subject to advance tax would, therefore, amount to double taxation. We noticed concerns from the members of the public. Commercial vehicles take third party insurance. Third party insurance is a flat rate of Ksh7, 500. Therefore, if we impose 2.5 per cent on a matatu that, say, is worth Ksh4 million, it means that the motor vehicle tax on that matatu would be Ksh100, 000. Considering that most of them struggle to even raise a Ksh7, 500, that would be quite punitive and would lead to them not taking the regular insurance for their motor vehicles.

From the foregoing, the Committee recommends, therefore, the deletion of the proposed motor vehicle tax.

(Applause)

Hon. Speaker, on Clause 10, there is a proposal to limit the deductibility of an employee's contribution to a post-retirement medical fund to Ksh10,000. This Committee recommends increasing the limit to Ksh15, 000. This is to encourage a saving culture for a post-retirement medical scheme. This is an improvement from our last year's amendment where we introduced the relief. Therefore, we urge the House to adopt this amendment.

Hon. Speaker, you will note a concept called "black tax." There are several reasons why majority of Kenyans, especially middle-income earning Kenyan are struggling. One of them is because they have to support their aging parents. Some of them contributed many of their years in public service to serving the people of this country. We are, therefore, providing for an incentive for them: that when you are actively in service, please save for your post-retirement medical scheme. When you make that contribution, it will be tax allowable up to Ksh15, 000 a month. This will help when we grow old, that is, during the times when parents will rely on their children to support them in their old age. The times when children were seen as investment needs to end. When someone reaches the age of 18 years, they should be encouraged to thrive independently and support themselves. By investing heavily in our retirement during our active years, we can ensure that we are able to support ourselves. This is not to mean that we do not support our parents but we are just saying we need to work hard to make sure that we put measures such as saving for our post-retirement medical scheme so that we do not burden our children with our medical costs when we are old and not working.

Hon. Speaker, Clause 12 proposes to introduce the advance pricing agreement. This Committee supports the proposal since it will enhance revenue determination in entities that belong to multinational groups or trade with related persons. Further, this will lead to seamless implementation of the agreements. The Committee recommends enactment of regulations. I need to emphasise that the Committee recommends that KRA enact regulations to address circumstances where KRA cancels advanced payment agreements to allow the taxpayer the right to appeal, among other concerns. This proposal is also meant to align with our tax laws on international best practice and prevent profit shifting and base erosion.

In Clause 21(d)(j), the Committee endorses the Bill's proposal to introduce withholding tax on interests from bonds, notes or securities with a maturity of less than three years. This measure aims to promote long-term investment and ensure that Government revenue from such payments is consistent with other forms of income.

Clause 23 proposes subjecting amateur supporting associations taxation. This Committee acknowledges that while the proposal aims to tax these associations, it recommends deleting the proposal to foster investment in the sector and encourage the nurturing of sporting talent. This decision is intended to incentivise and support the management of youth talents through sporting activities. An example is the Talanta Hela initiative. We have seen athletic camps across the country. On this proposal to introduce taxation on Talanta Hela initiative and all the athletic camps in this country, we are saying, please let us allow these sectors to thrive. Let us support talent and let us also support our young people to make their money through talent and these amateur supporting associations.

In Clause 25(b)(i), the Committee retains the 15 per cent preferential tax rate for the construction of 100 units of affordable housing. This incentive aims to encourage and stimulate investment in affordable housing sector across the country.

In Clause34 (a)(i),(Aa) and (Ab), the Committee proposes to delete the proposed Value Added Tax (VAT) on aircraft spare parts. This decision was considering that many airlines' operators in the country provide maintenance and repair services to both international and domestic airlines. Implementing a tax on aircraft spare parts would increase the operational cost for airlines in Kenya. Potentially hampering the country's competitiveness as a regional aviation hub. This amendment aims to support the growth in this emerging sector within our country.

Clauses 34 and 35 are about the provisions under the proposed amendment on the VAT Act. The Committee adhered to several guidelines including zero rating only the most essential consumption items for household and agricultural inputs, exempting inputs used in the manufacturing of medical services, safeguarding the financial sector by restricting VAT on services, taxing goods and services where only value is added in the production process and exempting specific inputs to include local industries.

Based on this, the Committee proposes to zero rate items such as ordinary bread, unleavened bread, gluten free bread, inputs and raw materials supplied to manufacturers of agricultural and pest control products, agricultural pest control products and transportation of sugarcane from farms to milling factories.

Hon. Speaker, a question has been asked why sugarcane and not any other product. I would like to tell Kenyans that out of all the agricultural products that we have in this country, the bulkiest one in terms of weight is sugarcane. Therefore, the largest cost in value addition on sugar is the transportation of sugarcane.

Additionally, we have proposed zero rating of locally assembled and manufactured mobile phones, among others. Last year, this House made a decision to zero rate local assembly of mobile phones. As a result of that, we have seen institutions such as the African Device Assemblers of Kenya assembling a total of 400,000 phones every month. They have created employment for over 1,000 Kenyans. In fact, they cannot even satisfy the demand on the supply of the mobile phones to this country. We want to tell Kenyans that it is possible to manufacture our things here. We do not have to import these things from other countries. Let us support our manufacturing. Let us make sure that we use the locally manufactured products.

The Committee further recommends exempting several products from VAT including the issuance of credit and debit cards, foreign exchange transactions, sanitary towels, diapers, and services to local film agents. Clause 39 of the Bill proposes the removal of provision granting relief on excise duty to manufacturers of excisable goods and providers of internet data services. The Committee recognises that excise duty similar to VAT considers input and output tax for manufacturing of excisable goods. Therefore, removing Section 14 of the excise duty would prevent manufacturers from deducting excise duty thereby potentially raising production costs and necessarily leading to higher prices to consumers. This deletion aims to safeguard Kenyans from increased prices of essential commodities.

It is the East African Community (EAC) practice that excise duty on inputs become a tax allowable expense to manufacturers. The risk of passing Section 14 as proposed in the Bill would mean that we would potentially make it cheaper for someone to go and manufacture in a different country and then import into this country duty free. This Committee was very conscious on the need to protect our manufacturers and make sure we buy Kenya and build Kenya.

Clause 42 addresses excise duty on goods where the Committee is guided by the following policy criteria:

1. To exempt from excise duty certain locally manufactured products so as to promote local industries;
2. To exempt certain products so as to curb increases in consumer prices; and,
3. To improve the ease of administration of excise duty

Based on these criteria, therefore, the Committee recommends the following: exempting vegetable oils, fertilised eggs, and clinkers from excise duty. I would like to explain the difference between these eggs. We have what you call table eggs; these are the ready to eat eggs. It is what we eat at our restaurant or our homes. We have incubated eggs or what you call fertilized eggs; these are ready to hatch. These are the ones that give us the one-day-old chicks. As a poultry farmer, when I went to buy my one-day old chicks, I was told that I needed to wait for four months before I get them. This means that the supply of fertilised eggs in this country is much lower than that of table eggs. However, we need to protect our eggs from imported eggs from other markets.

You will recall that a few years ago, Kenyans were eating eggs from Uganda. This was at the expense of eggs that are laid by our own chicken here. It is implausible. It defeats any reason why we should allow an egg laid in a different country to land into our country at a cheaper price than eggs that are being produced by our farmers here. So, we have, therefore, introduced imposition of excise duty on imported table eggs, imported onions, and imported potatoes. This will ensure that we protect our onion, poultry and potato farmers, especially in Molo and Nyandarua. Based on these criteria, the proposal to exempt vegetable oils and fertilised eggs for incubation from excise duty amongst other things is what we used under this consideration.

Further, in keeping with the tax system's predictability, the Committee proposes to maintain the excise duty on imported motorcycle, plastic, onions, potatoes, among others. I have explained that the excise duty has been proposed only on imported completely assembled motorcycles. We have local capacity of our manufacturers assembling our own motorcycles. Let us ride motorcycles that are assembled in Kenya.

Hon. Speaker, importing completely assembled goods from China means three things: firstly, we are exporting our jobs to another country. Secondly, we are eroding our foreign exchange because once we do importation of those goods, we have to use our dollars. And that is where it took us last year with the deterioration of the Kenya shillings going to as low as Ksh167. Thirdly, we are certain of the quality of that particular product because you can go to that plant or factory to ascertain the quality of the products. In addition to that, we will be creating employment to our young men and women in this country.

With regards to excise duty in services, the Committee was guided by the need to keep the consumer prices for certain services low and to ensure stability in terms of the rate of excise duty. Based on these criteria, the Committee proposes to maintain the prevailing rates on money transfer services by banks and financial institutions and money transfer services by cellular phone providers. You have heard the popular phrase, '*Tuma na ya kutoa'.* So, we want to make sure that that *tuma na ya kutoa* is not increased so that we retain the current rate that is on our cellular mobile transfer services.

Clause 44 of the Bill proposes an increase in the import declaration fee from 2.5 to 3 per cent. The Committee did not agree with the proposal noting that the reduction of the rate of import declaration fee from 3.5 per cent to 2.5 per cent in the Finance Act, 2023 occasioned a significant revenue loss amounting to at least Ksh10 billion, hence hurting the implementation of the Financial Year 2023/24 Budget. The two supplementary budgets have led to a very huge cut on our expenditures. One of the decisions we made last year to reduce IDF from 3.5 to 2.5 per cent led to a revenue loss of 10 billion shillings.

Clauses 45 and 48 of the Bill propose the introduction of an Eco Levy to mitigate environmental damage and pollution caused by imported finished products in Kenya. The Committee emphasizes that this levy should exclusively apply to imported finished products, therefore, safeguarding local manufacturers who are already adhering to what is called the Extended Producer Responsibility.

Regarding stakeholder feedback and to mitigate price impacts on social goods, the Committee recommends excluding motorcycles, bicycle tyres, wheelchairs, three-wheel motorized vehicles, which you probably know as 'tuk tuks' and wheelbarrows, from this Levy. Additionally, the Committee proposes reducing the Eco Levy for select finished goods. These adjustments are intended to balance environmental protection with consumer affordability and local manufacturing interests especially in the area of e-waste. When you import a phone, one day, that phone will ultimately ‘die’. So, we are proposing to have a restoration fund which provides resources to ensure at the end of the life of that product, there is money that is used to either reuse, recycle or restore the impact of that product to the economy. That fund is already working for those who are doing mineral exploration in this country. When you dig up a quarry or do mineral exploration, you are required to pay a bond so that when you finish your exploration, there is money to restore that land to its original state. This is by either converting it into a dam or feeding it up. So, this proposal is similar to that. We have seen this work in other countries; at the end of use of a phone or a computer, they are taken to be either reused or recycled.

It is also important to mention that the responsibility of the payment of this Eco Levy is not on the consumer, but on the manufacturer in that country of origin. This is in line with best practice. It has been introduced in Tanzania and several other countries. Most of these larger manufacturers are more than willing to pay this Eco Levy to make sure that at the end of the life of that product, they are able to collect, reuse or recycle to prevent the eroding of our environment.

Clause 47 introduces the Export and Investment Provision Levy to address the trend of decline in exports and increase in imports even for goods manufactured locally. The levy’s objective is to safeguard the local manufacturing sector against unfair trade practices, enhance its competitiveness, enforce a sustainable and inclusive export environment.

The Export and Investment Provision Levy is expected to have several impacts on the manufacturing sector. It will support local manufacturing aiming to increase the sectors contribution to GDP from 7 per cent to 20 per cent in 2027, seeks to level the playing field for local manufacturers struggling against cheaper imports and reduce overreliance on foreign goods and services. This levy will generate revenue to facilitate the development of the manufacturing sector and incentivise investments by Micro Small and Medium Enterprises (MSMEs).

Based on this, the Committee proposes imposing the Export and Investment Provision Levy on articles such as leather products and imported foot wear, denatured ethyl alcohol, ceramic sinks and wash basins among others. Additionally, the Committee supports the proposal to exempt kraft liner and uncoated kraft paper and billets from the levy.

Regarding the motor cycles, the Committee suggest implying the levy only on fully built imported motorcycles. This measure aims to promote local manufacturing, enhance competitiveness and support sustainable economic growth in our great beloved country, Kenya.

Clauses 51 and 57 proposes the integration of electronic Tax Invoice Management System (eTIMS) with data management and reporting system. The Committee acknowledges the implementation challenges of eTIMS especially, on our small-scale or subsistence farmers and microfinances. Therefore, the Committee proposes that we exempt these farmers and small businesses with a turnover of less than Kshs1 million from this registration and impose that responsibility on the traders so that they use reverse invoicing.

To address this issue, the Committee is guided by the international jurisprudence process called *de minimis non curat lex*. That, the law does not concern itself with trifle matters that can hinder even tax administration. This is why we are proposing exception of subsistence farmers and MSMEs with a gross turnover of below Kshs1 million from this requirement. This exemption aims to facilitate their participation in the formal business transactions without the burden of electronic invoicing requirements.

Furthermore, the Committee suggests to KRA to ensure guidance so that this operationalisation is addressed effectively. These guidelines will provide clarity and ensure smooth implementation while supporting the integration of small-scale farmers and MSMEs into the formal economy.

Clause 56 address the issue of agency notices. This is aimed to resolve ambiguities regarding their validity. The Committee recognises the necessity to provide a mechanism to lift agency notices in Kenya, where taxes have been fully paid, pursuant to a court order. This provision seeks to ensure clarity and fairness in tax enforcement practices, allowing the timely removal of agency notices once obligation has been met through a judicial process. By establishing clear guidance for lifting agency notices, under these circumstances, the proposal aims to uphold legal compliance while safeguarding Kenyans rights and maintaining the integrity of our tax administration.

Clause 61 proposes removal of restrictions that require owners of affordable units to obtain prior written consent from the Affordable Housing Board before selling their units. The Committee supports this amendment citing the concerns from the public, that this provision on the Affordable Housing Act infringes on the constitutional right to property. By advocating the removal of this requirement, the Committee seeks to uphold property rights and ensure that home owners have the freedom to manage and dispose their affordable housing units, without unnecessary bureaucratic hurdles.

Clause 63 proposes granting KRA access to personal data. The Committee raised concerns that this proposal does not meet the constitutional threshold outlined in Articles 31(c) and (d) of the Constitution of Kenya. Additionally, the Committee notes that Section 51 of the Data Protection Act specifies conditions under which exemptions might be applicable. Moreover, Section 60 of the Tax Procedure Act (TPA) empowers the commissioner or authorised officer with a warrant to access any necessary data for administering tax laws. These considerations, therefore, show the need for carefully alignment with constitutional and legal provisions, regarding privacy and data protection in implementing this proposal.

The decline in levy collection continues to impact on highways, urban and rural roads. Recent heavy rains and flooding caused by El Nino have further damaged our roads. Therefore, there is need to provide more resources through the Appropriations-In-Aid (AIA), to the State Department for roads to ensure we have sufficient resources for the repair of our roads especially the low volume seal roads.

Exploring innovative approaches such as targeted initiatives, simplified tax process, and enhanced taxpayer education will encourage voluntary compliance and broaden participation in the formal tax system. By bringing more Kenyans into the taxpayer fold, we will align our tax revenue collection with the economic expansion thus enabling us to finance crucial investments in infrastructure, social programmes, and sustainable development.

Hon. Speaker, by addressing these issues proactively and maintaining effective tax policies we strive to increase our tax revenue collection, in line with our economic potential. This will strengthen our fiscal position allowing for investment in key sectors such as social welfare programmes and infrastructure development, therefore, fostering sustainable economic growth to benefit all Kenyans.

As we deliberate the Finance Bill of 2024, it is important to prioritise measures that will effectively expand our tax base and ensure revenue generation. This may involve innovative tax policy approaches such as incentivising compliance, simplifying tax procedures and overcoming barriers that hinder our revenue growth.

There are other two proposals that are very critical to this economy. One of them is the amendment on excise duty on cigarettes where we are applying preferential rates per centilitre to filtered and unfiltered cigarettes. We witnessed heart-breaking confessions from victims of throat cancer, after 25 years of smoking. They said, they started with unfiltered cigarettes and then moved to filtered cigarettes.

As a result, there has been demonstration globally that there is a direct relationship between cigarette smoking and many forms of cancer especially, throat and lung cancer. It has been demonstrated that changing taxation on cigarettes actually impacts the consumption of these products and has subsequent impact on reduction of cancer cases.

Hon. Speaker, on alcoholic beverages, the proposed amendment to shift from taxation by volume to taxation by alcohol content, is also a great welcome policy idea. This aligns with best practice globally. It means that alcoholic drinks with higher alcohol content will have a higher excise duty than those with lower alcohol content. This will make higher content alcohol more expensive. Most importantly, in the fight against illicit brews, it will ensure there is safer alcohol available for those who want to consume it.

As a country, we have accepted there are those who take alcohol and those who do not. So, those who take should be given access to safe, affordable and healthy alcohol. This will discourage illicit brews. As we robustly engage in the contentious Finance Bill and critic it, we must realise that it aims to collect only Ksh346 billion from a proposed Ksh3.9 trillion.

We, therefore, request this House, our departmental committees, oversight committees, and Kenyans to interrogate the expenditure side of this Budget as they interrogated the financing side. That will lead to a more robust Budget-making process. It will reduce and prevent budgeted corruption and maintain fiscal discipline in the use of our resources by the Executive. One of the credit cases we face is the tax deficit on what will be used. This House, in its oversight role, can do a great job in reducing that tax deficit and ensure that the tax paid from the hard-earned money by Kenyans is spent correctly for the success and prosperity of the great Republic of Kenya. With that, I beg to support.

Hon. Speaker: You beg to move.

Hon. Kuria Kimani (Molo, UDA): With that, Hon. Speaker, I beg to move.

Hon. Speaker: Who is seconding you?

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, I request my very able Vice-Chair, (CPA) Ambassador Benjamin Langat, the MP for the great people of Ainamoi in Kericho County to second.

Hon. Speaker: Hon. Benjamin.

Hon. Benjamin Lang'at (Ainamoi UDA): Hon. Speaker, I rise to second the Finance Bill of 2024. I want to start by thanking the Office of the Clerk, our secretariat staff, and our Members for the good job. I also thank you for the good support that you accorded our Committee. This Finance Bill has been one of the most canvassed Finance Bills. We organised a public participation exercise that went on for almost 10 days. During that exercise, we informed Kenyans that the exercise that we were doing was not a public relations exercise; it was a very serious exercise. I want to inform Kenyans that we heard them. We have included their views in the recommendations of the Report that was tabled yesterday by the Committee Chairman. I want to thank Members of the Committee. Sometimes we sat late into the night.

As a Committee comprising Members from both sides of the House, we were 99.9 per cent unanimous in our deliberations. This House has already passed the Budget Estimates for the Financial Year 2024/2025. Any Member who voted for the Budget Estimates for the Financial Year 2024/2025… The Budget Estimates for the Financial Year 2024/2025 will be funded by the Finance Bill of 2024. So, all of us who supported the Budget Estimates for the Financial Year 2024/2025 should rise to the occasion and support the Finance Bill of 2024.

When we went to the last elections, we were given terms of reference. One of them was that we must stop borrowing. To stop borrowing, we must generate our own revenue. Therefore, even as we talk about protecting Kenyans – which we have done – we must help our country raise revenue, so that we can stop the shame we get from borrowing. As I said, the Committee listened to the views that were shared in the public participation exercise and it has proposed removal of all the negative items that are in the Bill. Therefore, this House should unanimously support and vote for the Bill.

I want to go to the specific issues that were mentioned in the Bill. Kenyans should note that the Bill which was tabled in the House is a proposal. This House has the power to amend or change it. We can amend everything in that proposed Bill. Therefore, Kenyans should not fear. We are here to protect Kenyans and our country. The Bill proposes to amend the Income Tax Act, the VAT Act, the Excise Duty Act and the Miscellaneous Fees and Levy Act. On a more specific issue, the Bill proposes to introduce what we call "Significant Economic Presence Tax" that will target all the international organisations that are mainly doing business within our country through online systems. They make money here and take it to their counties and we are getting less money from them. We must make sure that everyone who does business in the country contributes to our economy and our tax income. Therefore, the Committee supports the introduction of Significant Economic Presence Tax system, so that we make sure that we tax everyone who is doing business in our country and contribute to our economy.

The law as established now, gives our companies five years to recover their tax in what we call the "tax foreign exchange rate." The Bill proposes to reduce that provision from five years to three years. When we considered the opinions of the public, we agreed to move the necessary amendments and maintain the status quo. That means that we did not agree to reduce the number of years. It is good that our companies are given sufficient time to recover their losses. We shall be introducing a recommendation to delete that clause that proposes to reduce recovery of foreign losses and exchange losses from five years to three years.

The Bill proposes to reduce what we call "Motor Vehicle Tax." This was the most contested clause of the Bill. Every presenter who appeared before the Committee was opposed to it. If you read Section 3 of the Income Tax Act, it says that income tax will be charged on the income of individuals and companies. We tried to check whether the motor vehicle tax fits into the income tax definition. Our honest opinion was that it was misplaced. A motor vehicle tax is not even an income; it is like an asset tax. So, if we tax your asset – a car – today, tomorrow we will introduce a land tax and a house tax. We should remain within the law. We, therefore, concluded that these taxes do not fit the definition of income tax. The Committee was unanimous in recommending that we must remove this tax which will make Kenyans suffer. Therefore, I want to inform Kenyans who told us about the motor vehicle tax that we have listened to them and we have proposed to remove it so that we reduce the cost of living in this country. Those who are talking in bad light and lying about this Clause of the Finance Bill should know that we have recommended its removal. So, Kenyans should relax

The Bill proposes under the Income Tax Act to introduce Advance Pricing Agreement between the KRA and multinationals entities. Multinationals operate a very complex financial system. Sometimes they do tax planning so that, as a country, we lose. We want to make sure that everyone contributes their fair share of tax. We support the Advance Pricing Agreement for enhancement of revenue from multinational entities. This way, they will contribute their fair share of tax.

This Bill also proposes to increase the non-taxable amount of pension from Ksh20,000 to Ksh30,000 per month. Retired Kenyans must be cushioned because they supported the country for over 60 years. We should not tax an individual up to their retirement. We are proposing to cushion them by increasing the non-taxable amount from Ksh20,000 to Ksh30,000.

Hon. Speaker: Your time is over, Hon. Benjamin. Give him one minute to wind up.

Hon. Benjamin Lang'at (Ainamoi, UDA): Hon. Speaker, give me one minute.

Hon. Speaker: I have given you one minute. Finish up.

Hon. Benjamin Lang'at (Ainamoi, UDA): On the proposed Eco Levy, the Committee is of the view that we must protect local manufactures. The Bill proposes to have Eco Levy to protect the environment and local manufacturers from imported goods. We unanimously agreed to support our manufactures by applying the Eco Levy on finished imported goods. For our local manufactures, we will have arrangements to protect the environment. The Levy will only apply to foreign finished products.

Hon. Speaker, I beg to second and support.

(Hon. David Ochieng' and several Members stood along the gangways)

Hon. Speaker: Order, Hon. Members. Take your seats. Hon. Ochieng' take your seat.

(Question proposed)

Hon. Opiyo Wandayi, okay.

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker. Given the importance of this Finance Bill, many Kenyans are following us. To distinguish between fact and fiction being put out there by this honourable House, I seek your indulgence that we have every Member speak for five minutes instead of 10 minutes so that we all contribute.

Thank you.

Hon. Speaker: Hon. Members, according to a Motion that we passed at the begging of this Session, the Mover of this Bill has 45 minutes, which he expended; the Seconder has 15 minutes; the Leader of the Majority Party and the Leader of the Minority Party have 15 minutes; and each Member speaking has 10 minutes. Hon. Bowen is suggesting that we reduce it to five minutes.

(Loud consultations)

Order. Is Bowen's proposal supported?

(Loud consultations)

Let us start with 10 minutes that you passed. As usual my screen is full.

(Loud consultations)

Order. We already have 10 minutes. Nobody needs to propose the same. Five is what he is proposing.

(Several Members spoke off the record)

Do we go with five or 10 minutes?

(Several Members spoke off the record)

It is not quite clear. Let us start with 10 minutes and see how far it goes. Let us have Hon. Robert Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Speaker. When we were all elected, we took oath of office to defend the Constitution. The spirit of Articles 1 and 95 of the Constitution...

(Loud consultations)

Hon. Speaker: Order, Hon. Members. The matter of five or 10 minutes is now moot. We will see how to revisit it later. Those of you who are given a chance to speak, if you exhaust your points before your ten minutes lapse, you can yield the Floor so that somebody else can get the opportunity. Go on, Hon. Robert.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Speaker. In the spirit of Articles 1 and 95 of the Constitution, I stand to represent the more than 50 million Kenyans who have asked this House to reject this insensitive, punitive, ill-advised piece of legislative mistake.

In the 10 years that Uhuru was the president of this country, we had Finance Bill every year but only one had very serious contention. The contention that was there was the introduction of 8 per cent VAT on fuel. The Kenya Kwanza regime has been in office for less than two years. The two Finance Bills they have brought to this House have elicited too much contention from Kenyans that I think there is something that is seriously wrong.

The controversy of the 2023/2024 Finance Bill even got our Head of State a nickname. They call him 'Zakayo', the tax collector. We must move away from the tendency of imposing, every year, punitive taxes on Kenyans. Kenyans have not even recovered from the negative effects of the 2023/2024 Finance Bill. That Bill drastically reduced the disposable income of Kenyans. We increased PAYE, increased the NSSF, increased the National Health Insurance Fund (NHIF) and introduced a Housing Levy. Now, we are proposing to move to Social Health Insurance Fund (SHIF), which is even higher.

It has been very painful for Kenyans. They were hoping that this year things would be better considering that in the last election campaigns they were told that there would be *pesa mfukoni,* which means money in the pockets. We have realised that what this regime wanted was not to put money in anyone's pocket but to take any money that was in the pockets of Kenyans.

The cost of Government services has gone too high that our children cannot even afford to have Identity Cards (IDs). We have to stand firm and reject a Bill that proposes to increase tax to the already overburdened Kenyans. We were told to tighten our belts. I know the intention is to hit us hard in the first three to four years, but some people might lose their lives because of hunger and stress. What do you do with them when they are six feet under in 2026/2027? We were told to tighten our belts, but as we tighten our belts, it is shocking to see the excesses that this Government is involved in.

Hon. Speaker, we are taxing Kenyans to raise money to run the Government, yet we have excesses. We allocate Ksh600 million to repair and paint houses that were built with Ksh400 million. It is very painful. Then, we are told to tighten our belts. Two hundred million shillings was used on a return trip on a chartered plane to the United States of America (USA). This is not acceptable. All these are begging missions. We live beyond our means.

I seek the attention of all the Members who passed the Finance Bill, 2023 and later on told Kenyans that they did not have time to read it. Listen keenly now. If you did not read it, listen to us. Oppressive tax policies do not make good economic sense. Last year's proposal intended to raise Ksh214 billion. Because it was oppressive, Kenyans did not pay as expected. We collected only Ksh131 billion out of that Finance Bill which was only 53 per cent of the target. The more burden you put on people, the more likely that they will look for ways to avoid that tax. We have to be careful. We were warned that people would evade taxes, but we did not listen. We were warned that it would lead to job losses. Many companies left this country and are now producing elsewhere. This has led to the rise in unemployment. We were warned that the tax increase is always passed to the common man. The hustlers of this country, the mama mboga and boda boda rider, are the ones who will carry the burden. Any time taxes go up, it is not the big fish who pay them. When you increase the cost of fuel, they pass it onto the consumer who is mama mboga. She is the last person in the chain. So, we have to be very careful.

The 2024 tax proposals are as oppressive as the ones in 2023. We have not fully implemented the 2023 proposals like Electronic Tax Invoice Management System (eTIMS). We are now discussing how we will remove it. There are those taxes on *chamas* that we have not implemented. We have brought other major proposals. I heard that the tax proposals of 2024 have been reduced. The Bill that we hold in our hands has not been amended. What you are listening to is hearsay. What guarantee do we have that the proposals we have been told about here will pass, when we go into the Committee of the whole House? We can be hoodwinked into believing that these proposed amendments will be passed and then they are opposed last minute and we lose out. We will oppose this Bill from the beginning up to the end.

I do not know who conceived the proposal of VAT on bread. You have put your hands in the pockets of salaried Kenyans and business people. They pay for profits that they do not make on turnover tax and now you want to tax our children. You are putting your hands in the pockets of our children because the biggest consumers of bread are our children in secondary school. That is how they spend their pocket money. Some of these proposals are totally ill-advised.

Hon. Speaker, I do not understand what they were thinking about, drinking or smoking when they came up with the proposal of VAT on financial services, money transfer and M-pesa. It is very unfortunate. Some of these proposals like 25 per cent excise duty on edible oil and 2.5 per cent on motor vehicles tax are preposterous. I believe that all these proposals were a smokescreen. If you read the 48 laws of power, it talks about leading people in the wrong direction until they lose focus. We have concentrated on the proposals that are very clear, but the real intention was to do what this Committee has proposed. We will think things are now okay and then they will increase Road Maintenance Levy (RML) and the import duty. That is their intention. The net effect is likely to be that this Finance Bill may be collecting almost as much, if not more than, as the previous proposal.

I stand in solidarity with Kenyans who said that this Bill must be rejected in totality. I ask the Inspector-General of Police to stop interfering with Kenyans when they are exercising their democratic right to picket. Kenyans have a right to defend themselves. When they see the Constitution being mutilated, their pockets being ravaged, their children unable to go to school and are unable to put food on the table, they have every right to defend themselves. Can the Inspector-General of Police concentrate on defending the country and stop interfering with Kenyans? This unfortunate and kindly revolution is unstoppable. When we were in the streets, you could call Hon. Raila Amolo Odinga or Hon. Stephen Kalonzo Musyoka and ask them to tell the troops to go back. Whom will you call when you pass this Bill?

I oppose the Bill. Thank you, Hon. Speaker.

(Loud consultations)

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

Hon. Owen Baya (Kilifi North, UDA): Thank you very much, Hon. Speaker. Speaking on the Finance Bill on the heels of my counterpart from the Minority Party is interesting. I tried to get something from what Hon. Mbui said that was useful on the Finance Bill, but I could not get any. I just heard him shout about *maandamano,* but we forgive him.

The Finance Bill is one of the important documents that comes to Parliament. It is part of the budget cycle. As we go through it, a Finance Bill comes to the House. We have the opportunity now to look at Finance Bill, 2024. A Finance Bill is a document that contains revenue raising measures. This Finance Bill must be looked together with the Budget Policy Statement (BPS) that we passed in this House. It complements the Budget that we passed in this House. We have to raise revenue and resources so that we can finance the budget. These two documents must be looked at together.

When we received the Finance Bill, we tabled it here. It was a proposal from the National Treasury. When a proposal comes to the House, it needs to be debated. It cannot pass the way it has been brought. It is scrutinised by the House. The Constitution gave us the opportunity to do public participation which is a key plank in passing laws or legislations in this House. The National Treasury makes wild proposals that come to the House. However, it is up to this House to sit down, debate and look at them, and see whether they are fair revenue raising measures for the country.

We had thorough public participation where Kenyans spoke their feelings on the Finance Bill. They talked to the Committee and raised their voices about contentious issues in it. They were captured by the Committee that includes Members from the Minority Party and Majority Party. They listened to Kenyans and made changes to the Finance Bill. During the Committee of the whole House, the House has the power to make amendments to the proposals that came from the National Treasury. Therefore, to say that we reject the Finance Bill in totality at this time is to reject the mandate that we were given by the people. They gave us mandate to debate here, and approve or disapprove business of the House. This is the process we are undertaking.

The Budget created a deficit. There are three ways of dealing with budget deficits. We can reduce, borrow or tax. These measures are available and what remains is for this House to decide on how we will move forward. The Committee listened to the proposals that were brought from The National Treasury. The proposals did not go unchanged by the Committee. The proposal of 16 per cent Value Added Tax on bread was dropped. There is a proposal in the Report for that to be dropped. It is a win for Kenyans. We will, therefore, not have the 16 per cent rise on bread in the Finance Bill, 2024. Kenyans are safe; and Hon. Mbui and the children in school can have bread without the proposed Value Added Tax of 16 per cent.

We heard complaints about the Motor Vehicle Tax of 2.5 per cent. The Committee listened and dropped it and Kenyans do not have to pay. The Eco Tax that had been proposed by The National Treasury was studied and looked at by the Committee and they said that we can only levy Eco Tax on imported finished products. Products that are manufactured in this country will not attract the Eco Tax that had been proposed. That is a win for Kenyans which I celebrate.

There was a lot of taxation on payslips and the people who had loans were suffering. This Committee has re-organised taxation within the payslips and there will be more money in people's pockets from their payslips. There are many gains in this Report but not in the Finance Bill, 2024 which will go into making the Finance Act. As we move forward, I am sure many people will look at how Kenyans have gained. In the budget, the National Government – Constituencies Development Fund (NG-CDF), will have more money than before because it was proposed in the budget and is going to be financed in the Finance Bill, 2024.

Hon. Opiyo celebrated the other day that Political Parties' money has been returned to the budget and was very ecstatic. I said that the money has to come from somewhere, the Finance Bill, 2024 to finance the political parties.

The women…

Hon. Opiyo Wandayi: On a point of order, Hon. Speaker.

Hon. Speaker: What is your point of order?

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Owen Baya was doing fairly well until he mentioned my name in respect of the Political Parties Fund. The Fund is not a favour to anybody or any political party. The threshold set in law has not been met in this regime. I, therefore, ask you, Hon. Speaker to compel Hon. Baya to withdraw those very unfortunate remarks and apologise profusely not only to me, but to the House and Kenyans in general.

Hon. Speaker: Hon. Owen.

Hon. Owen Baya (Kilifi North, UDA): It is very true that the Budget has money for political parties. The money comes from a source which is the Finance Bill, 2024. I am still within my limits of speech. We have a budget that we must finance to ensure resources, services and development go to Kenyans. We have to pay approximately, Ksh1 trillion of servicing the debt, by having money which is raised by the Finance Bill, 2024. We have to make hard decisions as a country in order to take it forward. I read somewhere that if you want to be a good person, go and sell ice cream but to be a leader, you have to make hard decisions.

Hon. Speaker: Your time is up and you have to make the hard decision of sitting down.

(Laughter)

I acknowledge schools in the Public Gallery. They are Kibirichia Boys Secondary School, Buuri Constituency, Meru County and Thigaa High School, Maara Constituency, Tharaka Nithi County. On my behalf and that of the House, I welcome you all to Parliament.

Mama Zamzam.

Hon. Zamzam Mohammed (Mombasa County, ODM): Ahsante sana, Mhe. Spika, kwa kunipatia hii nafasi ili nichangie huu Mswada wa Finance Bill, 2024.

Hon. Speaker: Hon. Members, as Hon. Zamzam speaks, looking at the screen, I may be persuaded to extend contribution time to five minutes but let us see how we go on.

Hon. Zamzam Mohammed (Mombasa County, ODM): Wakenya wameamka. Vile hii *Finance Bill, 2024* iliratibia mkate*, edible oils* na vitu vinavyomgusa mwananchi wa kawaida kama vile magari, ilikuwa njia moja ya kuwaondolea Wakenya shetani iliyobaki ndani mwa hii *Bill*. Wakenya wamemakinika na ukiwaona wanaingia barabarani wenyewe bila 'Baba' jua kuna shida. Hii Finance Bill, 2023, Wakenya wameikataa maana nao, walilazimishiwa Housing Levy. Tusidanganywe kuna kitu Wakenya wamekubaliana nayo. Mwenye alipanga mambo ya kutoza ushuru mingi kwa mkate alifikiria kitu gani? Ninapoangalia pesa ambazo zimekadiriwa kukusanywa na matumizi yake, Wakenya wamefinywa. Hata ukipiga paka na kumfungia ndani mwa chumba, atakung'ata.

Wakenya sasa wameanza kutuandama pamoja na Rais na *messages* maana wameamka. Tutacheka leo, wengine wakiskia raha na wengine watapiga kura 'Y*es'* lakini mkumbuke huu Mswada sio wenu tu. Utadhuru vizazi zijavyo na utafika wakati ambampo hautakuwa Bungeni na wazazi, watoto na ndugu zako hawatakuwa na uwezo na wataskia kugandamizwa. Kwa hivyo, tunapotunga sheria, tuangalie kama ni ya kusaidia ama kumharibu Mkenya wa kawaida. Bajeti ambayo imetengewa Ofisi ya Rais ni karibu *Ksh7.9 billion,* ilhali ya Naibu wake imeratibiwa *Ksh4.5 billion*. Hawajaonyesha ratiba ya vile hii pesa itatumika pale. Pesa ambazo zinaenda kwa mwananchi ni duni kabisa. Ukiangalia upande wa *Health,* wanaingiza na mkono huu kisha kutoa *16 per cent* kwa wagonjwa wanaougua saratani. Tunataka kupigana na saratani. Akina mama wanaugua saratani. Huu ugonjwa umewafikia maskini ambao hawajiwezi. Wakenya na Wabunge wenzangu, tunaelekeza wapi taifa hili ikiwa tunaongeza *tax* mpaka kwa magonjwa?

Mkate, maziwa na kadhalika pale ndani ya State House ni Ksh13 bilioni. Naiangalia na kusema jamani tuoneni haya. Mgala muuweni ila haki yake mpeni. Huyo tunayemnyang'anya hizi pesa kwenda *kufund* vitu vya starehe ni mtu anayelia kwa Mungu kila siku asubuhi akiamka: "Mwenyezi Mungu, ninatoka ndani ya nyumba yangu. Nishukishie riziki kwa mikono yangu niweze kulea watoto wangu." Lakini, tunaenda kukata katika ile ruzuku yake. Kwa mfano, mkenya anatoka nyumbani na mshahara wake ni Ksh50,000. Katika Ksh50,000, Ksh24,000 yote inakatwa na Serikali. Hiyo ni *tax* peke yake. Mara ni Pay As You Earn (PAYE) sijui na nini. Kisha anabaki na Ksh26,000 huku ana gharama ya stima na maji atakayolipia. Anafaa anunue unga na apeleke mtoto shule. Wakenya wamechoka.

Hon. Speaker: Order, mama Zamzam. There is a point of order from the Chairman of the Committee.

Hon. Kuria Kimani (Molo, UDA): Asante sana Mhe. Spika. Nimesikia rafiki yangu Mheshimiwa Mbunge wa Mombasa akisema kuna kodi imewekwa kwa wagonjwa wa saratani. Ningependa anieleze ni kipengele kipi katika huu Mswada kinachoongea kuhusu hilo. Haya mambo ya *kumisinform* ama kudanganya Wakenya kwa mambo kama hayo kwa sababu ya siasa ni makosa. Haifai kufanyika.

Hon. Speaker: Mama Zamzam, that is a fair challenge. Order. Can you point out which clause says so?

Hon. Zamzam Mohammed (Mombasa County, ODM): Ngoja. Nipe nafasi Mheshimiwa Spika. Nitauangalia kisha nione kipengee kilipo. Lakini kiko.

(Loud consultations)

Nipigieni kelele. Mimi sijali. Nitawambia ukweli. Wakenya wanahangaika. Mmekuja hapa mkiwa mmelipwa pesa. Mmepewa pesa nyingi kuja kuua Wakenya katika Bunge hili.

Hon. Speaker: Order. Order, Hon. Members. Order, KJ. We were doing so well in terms of decorum and production from Members until we reached here.

Order, Mama Zamzam! Standing Order 91 states that every Member is responsible for the accuracy of any fact they allege. The Speaker does not get involved in your allegations until you are challenged. The easy thing is not to raise your voice when a colleague challenges you. The easy thing is to say this is found in clause this and that of the Bill and it ends there. That is how you discharge your responsibility. The challenge becomes legitimate if it is not in the Bill. The decent thing to do is to withdraw and move on with your other contributions.

(Hon. Kassait Kamket spoke off the record)

The Speaker needs no assistance, Hon. Kamket.

Hon. Zamzam, point out to the Chair of the Committee if it is in the Bill. Just withdraw and move in to your other contributions if it is not. We are going to have orderly debates, Mama Zamzam.

Hon. Zamzam Mohammed (Mombasa County, ODM): Asante sana, Mhe. Spika. Ninafikiri nimechanganyikiwa na ile *import duty* na hii ya hospitali. Ninataka niwaambie kitu kimoja. Mhe. Spika, nimekubali.

Hon. Speaker: Order, Hon. Zamzam. Iondoe halafu uendelee kama haiko.

Hon. Zamzam Mohammed (Mombasa County, ODM): Haiko, Mhe. Spika. Lakini pesa wanazotenga kwa matumizi ni nyingi. Kwa hivyo nimekubali.

(Hon. Zamzam Mohammed spoke off the record)

Hon. Speaker: Order, Mama Zamzam. Take your seat, Mama Zamzam. Order Mama Zamzam.

Mheshimiwa Zamzam, wewe ni Mheshimiwa na mama wa heshima. Nami nakuheshimu sana. Wewe huongea Kiswahili sanifu na husema mambo yanayoeleweka. Kuanza kujibizana na wenzako *across the Floor* ni kushusha heshima yako. Sasa ninakuambia uondoe ulichosema. Sema kwamba hakiko na uendelee na mambo mengine. Kubishana na kupiga kelele haina faida kwa hili jumba.

(Hon. John Mbadi spoke off the record)

Order, Hon. Mbadi. Hon. Mama Zamzam, withdraw and proceed. Hon. Mbadi wants to mislead you. Give Mama Zamzam the microphone.

Hon. Zamzam Mohammed (Mombasa County, ODM): I withdraw.

Hon. Speaker: Well done. Proceed now.

Hon. Zamzam Mohammed (Mombasa County, ODM): Sasa *naproceed.* Lakini, kila mtu ametoka kwao na amepigiwa kura zake akija kwa hili Bunge.

Hon. Speaker: Just proceed without complaining.

Hon. Zamzam Mohammed (Mombasa County, ODM): Hata. Nitalalamika kwa sababu yule mzee wa nywele nyeupe amenitukana. Hata *stove* ya kupikia wameiongeza *3 per cent.* Naangalia *motor cycle* na wale wa bodaboda ambao *walipromisiwa* mambo yatakua shwari. Waliambiwa "tutafanya, tutatenga, na tutafanya hivi na vile." Wameongezewa *3 per cent* katika *custom values*. Hata tairi ya boda boda, gari na *wheelbarrow. Wheelbarrow* ina tairi. Mmeongeza ushuru kila mahali kama mumeongeza shilingi tisa kwa *fuel.* Mgala muuweni ila haki yake mpeni. Mlidanganya wananchi na mkasema mtasaidia boda boda na mama mboga katika Jumba hili. Mmepewa laki moja moja kuja kupiga kelele.

Hon. Speaker: Order, Hon. Zamzam. Yes, Hon. KJ. What is your point of order?

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I am standing on a Standing Order that provides for a Member to be relevant when debating. The Hon. Member has been on a tirade misinforming this House and by extension misinforming the nation on gossip peddled on social media and headlines. This gossip is what she has brought into the House.

(Loud consultations)

Hon. Speaker: Order, Hon. KJ. Take your seat. Order, Hon. Members.

I want us to have decorum in the House. When you stand on a point of order from now going forward, tell me which Standing Order you are standing on. Hon. Zamzam, the etiquette of debate is such that you immediately resume your seat when a colleague says, "point of order". You do not lose your time. You resume your seat. You hear the point of order then you proceed. What you are doing is wrong. You are raising your voice and menacing your colleagues with fingers and so on the moment you hear "point of order". It is not good. Finish your contribution. Your time is almost up.

Hon. Zamzam Mohamed (Mombasa County, ODM): Mhe. Spika, pengine nikizungumza kwa upole Wakenya watanisikia. Wakenya mmeuzwa na Serikali mlioichagua. Ushuru kwa mkate, *edible oils* na magari ulikuwa ni *drama* tu, shetani yumo ndani ya Mswada huu. Wamejilimbikizia pesa za starehe huku wakisahau mahitaji ya Wakenya. Ninaomba mtusaidie kuwasaidia.

Asante sana, Mhe. Spika.

Hon. Speaker: Yes, Hon. KJ.

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I rise on a point of order on Standing Order No.91 which says that Member should be responsible for the statements they make on the Floor. All the matters the Hon. Member has prosecuted do not exist in the Finance Bill we are debating. She has talked about tyres, wheelbarrows and issues that have been canvassed here by the Chairperson of the Departmental Committee on Finance and National Planning. The Chairperson has mentioned that locally assembled motor vehicles are not subject to some of these taxes. She is misleading Kenyans because those provisions are not in the Bill.

Hon. Speaker, kindly rule her out of order.

Hon. Speaker: Order! Thank you. Unfortunately, she has already left the Floor. So, I cannot make a ruling against her.

Hon. Members, there is a Bill and a Report before you.

(Several Members stood along the aisle)

Order, Members! Take your seats.

There is a Bill and Report of the Committee before you. The Mover of the Bill extensively referred to the Report and pointed out a number of provisions that have been dropped. You may be convinced or not but when debating, you should refer to the Bill and you are also at liberty to refer to the Report. No one will be tailored to have one track. You can refer to both. What I will not allow you to do is to say things that are neither in the Bill nor the Report as Mama Zamzam has tried to do.

Let us hear from Hon. Wachira Karani.

(Hon. Millie Odhiambo-Mabona spoke off the record)

Yes, Hon. Millie Odhiambo. What is your point of order?

Hon. Millie Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Speaker for your guidance. I stand with a lot of respect and concern about what you have said. I appreciate what you have said that we can refer to both the Bill and the Report of the Committee. However, one of the rules of debate in this House is that you can go outside those two, as long as you can relate it to the Bill and Report. Asking us to narrow our contributions is gagging us.

Hon. Speaker: Order, Hon. Millie! Take your seat. No one is being gagged. The rules of debate are very clear. You can make conjecture and reference to matters known to you. However, when you are challenged by a colleague, you have a duty to respond relevantly. The Speaker is not here to gag anyone. I will not gag anyone, including you Hon. Millie.

Hon. Wachira Karani, you may proceed.

(Hon. Junet Mohamed spoke off the record)

Yes, Hon. Junet Mohamed.

Hon. Junet Mohamed (Suna East, ODM): I thank you, Hon. Speaker for your guidance. Having said that, can you…

(Hon. Ruth Odinga stood in front of Hon. Junet Mohamed)

Hon. Speaker: Order, Hon. Ruth Odinga. It is out of order to stand between a Member on his feet and the Speaker.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, you have guided us well. Members need to understand that we are currently debating the Bill in its original form. The Report merely presents the Committee's recommendations on what actions we should take. The Bill has not been amended yet. When a Member mentions the 3 per cent tax on wheelbarrows and hand carts, they are referring to the current version of the Bill. Any amendments to the Bill can only be made in this session. The proposals made at the State House can only be approved on this Floor. That was just a press conference. We can only refer to the Bill and the Report. Those provisions will only take effect when the Bill is amended on the Floor.

Hon. Speaker: Order!

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Speaker, my first point under Standing Order 83 has been made by Hon. Junet. It is important that the majority does not diminish debate on technicalities. Everything the Chairperson of the Departmental Committee said is yet to be moved. We are at liberty to discuss everything on the Bill as it is. In that respect, we cannot be limited.

Two, Hon. Didmus Barasa is wearing an unparliamentary hat. Can you guide him to be parliamentary? Later on, I will address these matters. Could Hon. Didmus Barasa remove that village hat?

(Laughter)

Hon. Speaker: Hon. Members, I have listened to all of you. I listened to the Mover of the Bill and he acknowledged the contents but stated that he would be dropping some of the provisions in the Committee of the whole House. This is in *The Hansard*. Now, when you are attacking the Bill, it is fair to refer to what your colleague has said.

(Hon. Raphael Wanjala consulted loudly)

Order Hon. Wanjala. I am giving you carked rules. *The Hansard* is there to bail out Members. If your colleague says that they said something when moving the Bill, then that is legitimate. Everyone should debate the Bill before the House but you should not lose sight of the Report which I encourage you to read.

Hon. Wachira Karani, you have the Floor.

Hon. Wachira Karani (Laikipia West, UDA): Thank you, Hon. Speaker for this opportunity to contribute.

Before the Committee brought this Report here, Kenyans had been getting information from talk shows, radio and newspaper analysis and judged the Report. I have visited several places in my constituency, read the messages sent to me, and reviewed the Report presented by the Committee. The information out there is contradictory. I decided to communicate with my voters and asked them to list the contentious clauses. They complained about the 16 per cent VAT tax on bread, the tax on edible oils, the 2.5 per cent tax on motor vehicles, and the Eco Tax. I promised them that I will approach the Departmental Committee on Finance and National Planning to address these issues. I am happy that the Committee, led by the able Hon. Kimani, has reviewed all those taxes. The 16 per cent VAT tax on bread has been removed. The 2.5 per cent motor vehicle levy has also been removed.

I thank the Chairperson of the Departmental Committee on Finance and National Planning for work well done. They listened to what was communicated to them and did a thorough job on it.

I support, Hon. Speaker.

Hon. Speaker: Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, let me make the following comments concerning the Finance Bill 2024. I want to pick from where Hon. Robert Mbui left. We have been around for some time. As a matter of fact, this is my 12th year in Parliament. Even before that, I was living in Kenya. What is so unique about this Government is that for two years in a row, the matter of the Finance Bill has been causing hullabaloo, commotion and pandemonium and young children are going to the streets. We have had Finance Bills since 1963 – during President Jomo Kenyatta's, President Moi's and President Kibaki's time. Recently we had them during President Uhuru's time. However, in this regime, for two years in a row, the Finance Bill has been causing serious problems for Kenyans. This exposes the regime as totally insensitive to the plight of the people.

(Hon. Kassait Kamket spoke off the record)

Hon. Speaker: Do you want information from Hon. Kamket?

Hon. Opiyo Wandayi (Ugunja, ODM): Certainly no, Hon. Speaker. How can Hon. Kamket inform me? Really? No!

This raises the question of who advises this Government in terms of economics and finance management, leave alone politics. For politics, we can deal with it later. Who advises this Government, because it seems to make mistake after mistake?

Following the outcry that happened after the 2023 Finance Bill was unveiled, I had thought that this Government would be wiser this time around. What we have seen is a worse case. As they say, the more things change, the more they remain the same. I have read the Bill in its entirety. I have similarly read the Report of the Committee chaired by my good friend, Hon. Kimani Kuria. If you look at the Report of the Committee together with the amendments it is proposing to make to the Bill, you come to the conclusion that the structure of the Bill is changing fundamentally. This flies in the face of the provisions of Standing Order 48. At some point, perhaps

Hon. Speaker, I will be calling upon you to consider asking the Chair to withdraw the Bill and introduce a new one because its character is changing. Why is its character changing? Under Article 201(a) of the Constitution, some of the principles that govern public finance management are openness, accountability and public participation. If you come out of the blue and tell us that you have removed the taxes that had been introduced in the Bill, it goes against the principles of public finance management. That is turning a Public Finance Bill into a personal property that you can change at will.

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

Hon. Speaker: Yes, Chairman. Order, Leader of the Minority Party.

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, again, I rise on a point of order on misinformation. The Leader of the Minority Party has made reference to the Public Finance Management Act. He has said that if changes are made to this Bill, it will have to be redrafted. The question of public participation remains. Is he purporting that everything that the public says is just an exercise in futility and the Bill should not change? Why were we using taxpayers' money and time to reason with members of the public if we cannot propose changes to the Bill?

Hon. Speaker: Leader of the Minority Party, proceed. Give him the mic.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, obviously, with all the tremendous possible respect, that was not a point of order. The Chair can advance that argument when he gets time to reply. Let me proceed this way. Kenyans are already overtaxed. If you look at Kenya vis-à-vis the rest of the world, you would be forgiven to conclude that Kenyans are some of the most taxed human beings on earth. Therefore, any responsible Government would be looking at ways of lessening the tax burden on Kenyans, and not increasing it as this Bill attempts to do. Despite the recommendations contained in the Committee's Report, which look very flowery, we have always been reminded that the devil is in the details. I am aware, even though this is not part of the Finance Bill; that, there are plans to increase the Road Maintenance Levy. Of course, the amendment will come separately. The moment you increase the Road Maintenance Levy by even a shilling – let alone the nine shillings being proposed – the ripple effect is enormous in all sectors of the economy. The loser is the common Kenyan taxpayer. Therefore, this is a case of giving with one hand and taking back with the other hand. It is not helping the situation.

This economy has become too hostile for foreign investors and, indeed, for local investors. We have documented cases of manufacturers who have shifted from Kenya to neighbouring countries as a result of the unbearable tax burden that keeps shifting. You cannot be sure because it is so unpredictable that no sensible investor can put their money in this country. To make matters worse, we are witnessing what could be compared to the state capture that happened during President Jacob Zuma's regime in South Africa. I will explain shortly.

If you take the case of the manufacturing sector, and specifically the steel and cement manufacturing sector; that sector is now under total control of one player, who is being assisted as we watch. Indeed, Parliament is complicit in contributing to the creation of a monopoly in the steel and cement manufacturing sector. We have a case where this particular manufacturer is the only person who has the capacity to manufacture billets used in the manufacture of steel; and clinker used in the manufacture of cement. This same manufacturer has the support of these people. He is compelling his competitors to buy raw materials from him. To make matters worse, he is compelling them to buy certain minimum quantities. The situation is such that in order for you to buy from me billets or clinker, you must buy quantities worth a minimum of USD100,000, and you must pay me in US Dollars. I also deliver when I want. Would you expect him to compete favourably with the rest? I will name him. It is the owner of Devki Steel Company and the owner of Simba Cement. I think his name is Guru. We must name and shame these people, if we are to rescue our country from the clutches of state capture.

Hon. Speaker, we must do so.

Hon. Owen Baya (Kilifi North, UDA): On a point of order, Hon. Speaker. I am happy with this debate and the information that is coming out. I rise under Standing Order 9. I would like my friend, the Hon. Leader of the Minority Party, to substantiate his remarks. He said he must buy from me; he must do this and that. Where is that factual information? He can do better by giving us facts rather than treat us to hearsay. You can do better than just say things.

Hon. Speaker: Order! Order! Both of you are veering off the track. Let us avoid the temptation to discuss people who cannot defend themselves on the Floor of this House.

Go on, Hon. Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, I will leave it at that. Hon. Baya, stop holding brief for these characters. It does not help. Let me tell you from my experience in this Parliament; they will never assist you in the constituency.

Hon. Speaker, where we have now reached is a situation of helplessness. No wonder young boys and girls are coming out in their numbers on the streets facing police truncheons, water cannons and tear gas – something which is unprecedented in this country. It reminds me of a play by celebrated Professor Francis Imbuga called *Betrayal in the City*. I know you are a literature person, Hon. Speaker. If you read that play…

Hon. Speaker: I read it a long time ago.

Hon. Opiyo Wandayi (Ugunja, ODM): You read it? Yes. There is a character by the name Jasper Wendo. He was lamenting that ‘We have waited for independence. We were hopeful for good things. Independence came and now we have got nothing else to look up to or forward to.’

(Hon. Wandayi’s microphone went off)

Hon. Speaker: He has 15 minutes. Is his time up? Your time is up, Hon. Wandayi. Finish up in one minute.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Speaker, that is the situation that our young children are finding themselves in, in this country. They have already lost hope. They are not seeing any hope in us as their leaders. Therefore, they have taken it upon themselves to come out to the streets to defend their rights. As they do so, those who are in charge of the instruments of the State, especially the Inspector-General of Police, must be cautioned not to misuse those instruments to interfere with the enjoyment of constitutional rights by Kenyans who are free to picket, demonstrate, do sit-ins and indeed ‘capture’ Parliament because Parliament has seemingly become rogue.

I oppose.

Hon. Speaker: Hon. Osoro.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Speaker. Listening to my colleagues from the other side of the House, it is clear that one need not be a rocket scientist to know that they are playing populist politics as far as this Report is concerned. You will be left wondering whether they are contributing to the debate on the Report before us or they are giving us theories and stories that are unnecessary.

I will qualify my statement with the following points. Last week, when the Budget Estimates were presented before this House, and even when the Chairman for the Committee on Budget and Appropriations was highlighting some of the Votes in the Budget, some Hon. Members across the political divide were very happy. He did say that Ksh500 million had been added to the National Government Affirmative Action Fund (NGAAF). The Committee Chairman went ahead and said that the NG-CDF got Ksh10 billion and that each constituency would get extra Ksh30 million.

Everybody here was very happy. In fact, the Hon. Members who represent the counties, commonly known as Women Representatives, posted a message appreciating His Excellency the President, saying, 'Your Excellency, we are very happy that you have added us Ksh500 million. We pray that next year you add a similar amount or even a bigger amount to the Ksh500 million.'

Hon. Speaker, I do not understand. You cannot eat your cake and still have it. You cannot say that you support what the Executive is doing in terms of funding areas that touch on your interest and not show them where they will get this money from.

Hon. Speaker: Hon. Mbeyu, what is your point of order, and under which Standing Order?

Hon. Gertrude Mwanyanje (Kilifi County, ODM): Hon. Speaker, I may not quote the point of order but mentioning Women Representative in terms of this Budget…

Hon. Speaker: Then you are out of order. Resume your seat.

Hon. Gertrude Mwanyanje (Kilifi County, ODM): Hon. Speaker, Hon. Osoro…

Hon. Speaker: Order! Hon. Mbeyu, I have made it very clear that I will give you opportunity to make every point you want but for purposes of having an orderly debate, tell me under which Standing Order you are raising the point of order. Therefore, since you cannot cite a Standing Order, you have lost your chance.

Go on, Hon. Osoro.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Speaker. Everybody is very happy that the kitty of every Woman Representative will get additional Kshs30 million and every constituency will get extra Ksh50 million. Considering the tax base and our taxes going back into the years, that means there was need for us to expand our tax base in order for us to get money that we need for development.

Hon. Speaker, the other day a Member raised the issue of the intern teachers who were suspended and some who working on contract basis, citing the need for them to be employed on permanent and pensionable basis. That also needs money. Our collection is not sufficient to meet the Ksh4 trillion Budget that was read in this House. That then raises some questions. What do we do? Do we increase our borrowing ceiling and start looking for money from external sources? No. We need to expand our tax base, but not at the expense of Kenyans. It is actually a double benefit.

We need to expand our tax base while focusing on manufacturing and local production. I will single out two very important factors. This Report by the Committee on Finance and National Planning proposes to increase Excise Duty on motorcycles that are fully assembled outside Kenya by a country like China and other countries. That Excise Duty will be increased on only fully assembled motorcycles or finished products. What does that mean? Locally assembled motorcycles will have a competitive price edge. Factories will increase in our industrial parks as investors set up assembly plants for motorcycles. That means creation of the employment that we promised our people. That is a positive development.

Secondly, this Report proposes to increase Excise Duty on imported table eggs. It does make sense. I do not see Hon. Clive here, who is a good poultry farmer. He rears over 10,000 chicks on his farm and sells eggs across Gusii region. He can tell you that his competitors import eggs from either Uganda or Tanzania. What does this Report propose? This Report proposes to increase the Excise Duty on imported eggs from neighbouring countries so that we support local farmers in Murang'a County including Hon. Gisairo, who is a poultry farmer.

On the positive side, this Report removes Exercise Duty on eggs that are brought for hatchery. These are eggs brought for production, and not table eggs.

(Hon. Owen Baya spoke off the record)

They are fertile eggs. I am being guided by Hon. Owen Baya. I hope he is right.

Hon. Speaker, while debating this Report, we need to be very factual and tell Kenyans the truth. You cannot, on one hand, say that you want this Government to create jobs and on the other hand, you encourage importation of goods.

Hon. Speaker, can you imagine that in this era, we still depend on imported sanitary pads and diapers from India and China? What does this Report do? It increases Excise Duty on imported sanitary pads and diapers to support local manufacturers of these items. That is a proposal by the Kenya Manufacturers Association, who complained about importation of such commodities. The Committee listened to them. Have you ever asked yourself here …

Hon. Zamzam Mohammed (Mombasa County, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Zamzam, what is your point of order, and on what Standing Order?

Hon. Zamzam Mohammed (Mombasa County, ODM): I am standing on Standing Order 83. Mhe. Spika, mwenzangu amekuwa akikadiria ule ugavi ambao umetolewa katika *Finance Bill*. Amezungumzia ugavi wa bajeti ambao unakuja kwenye mkoba wa hazina ya Mama Kaunti na mkoba wa hazina ya NG-CDF. Mhe. Spika ukipiga hesabu, ugavi huo wa Ksh500 milioni unaenda kwa wananchi sio kwa viti vya akina mama. Unaenda kwa wananchi katika kazi ya *empowerment* ili wakuze uchumi. Pia, unaenda katika ukuzaji uchumi. Lakini, zile pesa ambazo tunaulizia ni zile ambazo zimeenda kwa makadirio ambayo hayachangii kukua kwa uchumi, bali ni ya mambo ya starehe. Kwa hivyo Mhe. Osoro, usiwadanganye wananchi kwa kusema kwamba wameletewa Ksh500 milioni wakati mkono wa pili umechukua mabilioni ya pesa.

Ahsante sana.

Hon. Speaker: That is an argument. Go on.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you very much, Hon. Speaker. I was struggling to understand what she was saying.

When I talked about additional Ksh500 million going to NGAAF and additional Ksh10 billion going to NG-CDF, I meant that...

Hon. Speaker: I have ruled her out of order. Proceed with your argument.

Hon. Silvanus Osoro (South Mugirango, UDA): Thank you, Hon. Speaker. I was saying that it is important for us not to whip emotions through populist politics at the expense of supporting manufacturers to set up industrial bases in Kenya. That is very important, Hon. Speaker.

Looking at the arguments by my colleagues, and going by the Report of the Committee, there will be reduction on some taxes and dropping of other taxes altogether, thus creating a ripple effect on our budget. That means we lose about Ksh53 billion in terms of the Budget

Estimates. The question this House should ask itself is which Vote should be reduced by Ksh53 billion. Do we drop Ksh10 billion from the NG-CDF allocation? Do we drop Ksh500 million from the NGAAF allocation? Or do we drop the extra Ksh15 billion allocation to the county governments? Those are the questions that we should be asking ourselves. All these other stories of people complaining and raising issues unnecessarily are wrong. Let us restrict ourselves to this Report. This is not politics. We all know that this is very important for this country as it affects our growth and the growth of our economy.

With those remarks, I support the Report.

Hon. Speaker: Hon. Rachael Nyamai.

Hon. (Dr) Rachael Nyamai (Kitui South, JP: Thank you, Hon. Speaker. I support this Report. I have listened to the Chairperson as he moved the Motion for adoption of Report. I have also listened to the Vice-Chairperson, Hon. (Amb.) Benjamin Lang'at, as he seconded it.

Hon. Speaker, I am convinced that I cannot be very happy with the Budget and at the same time pretend to be unhappy with the Finance Bill that is supposed to fund that Budget. The proposals by this Committee to amend the Finance Bill have made this Bill very good and highly acceptable, especially after dealing with the matter of taxation of bread and motor vehicles, among others.

I also support this Bill because it gives additional money to the counties. The county governments have been getting about Ksh385 billion. This the biggest amount we have ever seen. This Bill gives additional Ksh15 billion to the county governments. I am seated next to the very sharp CPA Hon. Mbadi, who told me, 'If you are not sure of the figure, say "approximately". Approximately Ksh15 billion extra has been allocated to the county governments. This money is for road projects, healthcare, agriculture, construction of markets water development, and other projects. What else do I want, Hon. Speaker? I want money to go to Kitui, Makueni, Machakos and Embu county governments for such projects.

Hon. Cecily Mbarire said that the most difficult thing to do is to raise money for the county governments through Own Source Revenue (OSR) initiatives. What is contained in this Bill is a step in the right direction in terms of giving additional money to the county governments.

Hon. Speaker, this Bill provides additional money to NG-CDF, which is the best public Fund in this country overseen by Members from across the political divide. The NG-CDF, as the best monitored, most evaluated and most successful public Fund, is getting Ksh30 million per constituency. Members on the side I am seated — I used to sit here when I was in Azimio La Umoja-One Kenya Coalition Party — should support this Bill because of the additional money allocated to NG-CDF. This is because our children are going to get more money.

Yesterday I watched a girl I have been paying fees for. Let me stick to the Bill.

Hon. TJ Kajwang' (Ruaraka, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Order, Hon. Kajwang'. Hon. Kajwang' what is your point of order?

Hon. TJ Kajwang' (Ruaraka, ODM): It is about the gracious lady who has just spoken. The last time I checked, she was in Azimio La Umoja-One Kenya Coalition Party, through Jubilee. Could it be that those positions have changed or could it just be a misleading statement?

Hon. Speaker: That is not a point of order. Go on.

Hon. (Dr) Rachael Nyamai (Kitui South, JP)**:** Thank you, Hon. Speaker, for your wisdom. I knew he wanted to distract me.

Hon. Speaker, I was saying that I watched on social media one of the girls I pay fees for in the streets during the demonstrations. She had written me a message the previous day. I asked her why she was in the streets yet she had complained to me about taxation on motor vehicles and bread. I have just shared the video with CPA, Hon. Mbadi. The girl told me that she was not in the streets concerning the Finance Bill, but she was doing her TikTok videos. She was swinging very nicely. She told me that she was there because she wanted to get views for her TikTok page. In the video, she said that she could not find stones because the community that provides stones was missing in action. So, she was wondering where the stones were.

Hon. Speaker, going back to this Bill, it is important to note that the Finance Bill for the previous year has made Kenya the 27th fastest-growing country worldwide. I want to ask the Members seated on my side to look at *The Financial Times*. Kenya is the 27th fastest growing country in the world because of the Bill that we passed last year.

Hon. Speaker, because of passing a good Bill, led by the Chairman of the Departmental Committee on Finance and National Planning, the Nairobi Stock Exchange is now the best stock exchange in the world. That is not according to Rachael Nyamai or the Speaker of the National Assembly or the President of this country, Hon. (Dr) William Samoei Ruto, but according to *The Financial Times*.

Hon. Speaker, education is an equaliser. This Bill proposes an allocation of approximately Ksh656 billion to education. Some of us found our way here because we went to school. Our parents never saw a classroom. My own parents never stepped in a classroom. My father was not literate. He was an assistant chief, but he was not literate. So, I am only here because I got education. Let us support this Bill for the Ksh656 billion that is going to education.

I also support this Bill because it is giving an opportunity to our industries. The Bill is proposing a taxation for phones that have been assembled outside Kenya. However, the four companies that are set up in Kenya are being given opportunity and those phones are not going to be taxed. We would like these companies to continue working so that they can hire our boys and girls, and we can have technicians working there.

Hon. Speaker, concerning sanitary towels, the proposed taxation is on sanitary towels and pampers from outside the country. Those who have set up production plants in Kenya, hiring our children, are not going to be taxed. This is an effort towards job creation.

This Bill is also proposing an additional Ksh15 million per constituency towards electricity for the last mile connectivity. Hon. Members, what else do we want? We must tell Kenyans the truth – that, the Government has decided to light up this country. We need to extend the working hours. We need to ensure that there is energy in our villages, including Mutomo, Ikutha, Kanziko and Kasaala. They must have power so that they are able to work longer and provide jobs.

Hon. Speaker, every country aspires to have a net budget. I want to go to the figures, and I will be careful as advised by my friend here. I had never looked at Hon. Mbadi’s eyes nicely before but today I looked directly into his eyes. His eyes are very good. He has told me that...

An Hon. Member: On a point of order, Hon. Speaker.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Let me finish.

Hon. Speaker, in the Financial Year 2021/2022, the Budget deficit was approximately Ksh747 billion. In the Financial Year 2022/2023, according to CPA Mbadi and the Chairman of the Departmental Committee on Finance and National Planning, the Budget deficit was Ksh846 billion. In the Financial 2023/2024, the deficit increased to Ksh908 billion. But now, courtesy of the good Departmental Committee on Finance and National Planning, led by the Chairman, Hon. Kimani Kuria, the projected Budget deficit is Ksh597 billion.

Hon. William Samoei Ruto is going to provide a balanced budget for this country. Watch this space. Watch this space, Hon. Members. He has promised to provide a balanced budget where we will not have to borrow.

Hon. Speaker, did the Committee listen to Kenyans? Yes, it did. The Committee went all over the country and that is why they have dropped the proposed taxation on bread and motor vehicles, among a myriad of other things.

I am, therefore, calling upon everyone, for the love of this country and the fact that we are not only interested in...

Hon. Speaker: Your time is up. Cynthia Muge.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Speaker, for giving me an opportunity to add my voice to this Bill. From the outset, I want to state that I support this Bill.

There seems to be an acute shortage of knowledge regarding what a Finance Bill is. As I listen to people speak about this Bill, I am left wondering whether it is me or them who do not understand what the Finance Bill is all about.

Hon. Speaker, the rallying call to reject the Finance Bill in its entirety is a very irresponsible comment to make because of the importance of a Finance Bill. Allow me to link the Finance Bill and the Appropriation Bill. The Finance Bill is the one that finances the Appropriation Bill. Therefore, without the Finance Bill, we can as well declare that we do not have an Appropriation Bill.

The Appropriation Bill is the legal framework that gives all of us the monies that we need for the various projects that we want to implement in our constituencies. I support this Bill on many grounds. I am a sugarcane farmer, and I represent people who farm cane. The Finance Bill, as read together with the Committee's Report, proposes removal of the cane transportation tax. It has zero-rated that provision. That gives me a reason to support this Bill. I come from a county that does farming, production and processing of tea.

Hon. Speaker, when I read the Committee's proposals on removal of tax tea packaging materials, I became happy. Therefore, I support the Bill. The Eco Levy has been up for discussion for a very long time. From the Committee's Report, I have gained a better understanding of the Eco Levy. I support this Levy because it promotes environmental conservation.

Hon. Speaker, if you import a finished product, you must as well give us some money to be able to manage your waste. This is a levy on imported finished products. There is a levy that has been proposed on onions, potatoes and table eggs that are imported. This is the true spirit of Kenya. We support local production. We must support the prioritisation of locally produced goods. It is fair that the farmer of potatoes in Molo and the farmer of onions in Trans Nzoia are given priority. If you feel like you need to import, then you must be able to pay tax.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): On a point of order, Hon. Speaker.

Hon. Speaker: Order, Cynthia.

Yes, Otiende Amollo, Senior Counsel. What is your point of order and under what Standing Order?

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Speaker, I rise under Standing Order 90. I have listened carefully as my colleagues on the other side spoke. However, I am aware that under Standing Order 90(2), one must declare pecuniary interests. I am aware that my colleagues attended a meeting this morning – Hon. Osoro is looking straight at me – where pecuniary interactions were undertaken. Could any Member speaking start by declaring that they have pecuniary interest and then support?

Thank you, Hon. Speaker.

(Laughter)

Hon. Speaker: Order, Hon. Otiende Amollo. You are grossly out of order for misreading Standing Order 90, misleading the House and raising a frivolous point of order.

Go on, Hon. Cynthia.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Speaker. In my submission, I have clearly declared interest in representing the sugarcane and tea farmers.

Hon. Speaker: I have ruled him out of order. Ignore him and proceed.

Hon. Cynthia Muge (Nandi County, UDA): Thank you, Hon. Speaker. I am well guided. I support this Bill in its entirety. I also wish to give assurance to Hon. Robert Mbui. This is because, in his speech, he was worried about what would happen if we were hoodwinked by the proposals of the Committee. He is an outstanding Member of this House. Together, we will ensure the proposals the Committee puts forward in the Second Reading are considered so that the people of Kenya can benefit from this Bill.

Allow me to compare the Finance Bill of 2023 and 2024. Last year, I was pensive about the Finance Bill 2023. Today, I am happy to have taken part in the passage of that Bill, as hard as it looked. This is because some of the provisions put in that Bill are finally bearing fruit. The Finance Bill for 2023 mentioned the clinkers plant; this year, it was opened in Turkana County. The local production of clinkers has reduced importation of the same by close to 90 per cent. If that was not a win in last year's Finance Bill, I do not know what it is.

On the issue of imposing a tax on importation of tyres, we should consider Maxxis and Yana tyres, which are locally produced, as opposed to Michelin and Bridgestone tyres. This does not bar anyone from using them. It is a way of promoting local tyres, which will be more affordable. However, if you have the means and feel like your class is Bridgestone tyres, you can go ahead and use them.

I listened to Hon. Opiyo Wandayi, the Leader of the Minority Party. He said that this Government has been making one mistake after another. If the result of such a mistake is the Kenya Shilling strengthening against the US Dollar in the foreign exchange market, I am proud to be associated with those mistakes. If they include the ease of doing business in this country that is growing better every day, then I am proud to be associated with those mistakes. I continue to support the Finance Bill 2024 because we will have a better future, economy, and other things that will come with it. So, I support it in totality.

I would also like to speak to GenZ, as they have been referred to. I appreciate that generation of young people who fight for their rights and space in person. You noted that they did not spoil or vandalise any shops in town. They were picketing in peace and showing placards of what they wanted to be addressed. I am proud to be associated with them. I also appreciate this Committee for listening to those young people of this country and implementing some of the suggestions they gave. I appreciate the work done by the Chairperson of this Committee. We will be here during the Committee of the whole House to support this Bill. We will ensure it goes through so that we can honour those young people.

Hon. Speaker, I support the Bill.

Hon. Speaker: Hon. Junet Mohamed.

(Hon. Millie Odhiambo-Mabona spoke off the record)

Order, Hon. Millie. You are the mother of this House. This is a young first-termer. You should guide her rather than heckling. Order, Hon. Millie. I honoured you by calling you the mother of this House. It is your duty to mentor young first-termers and not to heckle them.

Go on, Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, Hon. Millie has graduated to a grandmother.

Hon. Speaker: Go on, Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Thank you, Hon. Speaker. I stand to oppose the Finance Bill 2024. When it was tabled for the First Reading, I took a copy. I said to myself it was not made on earth but somewhere else. This is because no human being can sit somewhere and craft such a Bill for people living on earth. I am saying so because this Bill attacks a human being from all sides: his stomach, head, and legs. One cannot move, eat, sleep, or travel. That is what the Bill seeks to do. It seeks to tax everything under the sun, from bread to tyres of *mkokoteni*, boda bodas, wheelbarrows, and even wheelchairs of the disabled people. If all this is taxed, what will they tax next in the cycle of the next financial year that is just eight months away? Basically, everything has been taxed, and the next one to be taxed is oxygen.

Hon. Josses Lelmengit (Emgwen, UDA): On a point of order, Hon. Speaker.

Hon. Speaker: Order, Hon. Junet. Hon. Lelmengit, what is your point of order, and under which Standing Order?

Hon. Josses Lelmengit (Emgwen, UDA): Thank you, Hon. Speaker. I stand under Standing Order 91. Hon. Junet should clarify that levies are only applicable to imported assembled motorcycles, not locally assembled and manufactured ones. This is to ensure that Kenyans know the truth.

Thank you, Hon. Speaker.

(Applause)

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker, I have not spoken about that. I talked about rubber. I did not speak about assembled and non-assembled. You must be in a different House or the Uasin Gishu County Assembly.

(Laughter)

I will proceed with my argument, that this Bill was done without the input of serious technocrats. This is proof that this Government lacks technocrats. During the campaigns, they said they had a plan and put everything flowery in it. I can now see they are governing this country without a plan because it can recommend this kind of a Finance Bill on earth. This regime has entered into the process of governing without a plan. The people entrusted with the development of this Bill want to bring this Government down, and it is coming down too fast.

I want to inform Members that where the rubber meets the road is in this House. This Bill can be manufactured anywhere: inside a bar, hotel, or home. But at the end, it has to be passed here. That is why they say there is no taxation without representation. Members will be held responsible for taxing Kenyans, not the authors of this Bill who will be nowhere to be found. The people who will vote to the question “as many as are of that opinion, say aye or nay” are us. Today, we have the opportunity to stand with the people of Kenya and defend our electorate against harsh imposed taxation that will make life hard. You are taxing bread, which is someone’s stomach; rubber, which is someone’s mobility; money transfer and services. People cannot afford to buy anything. What has remained? There is nothing else left except death.

The general principles of taxation are known. I have interacted with Finance Bills for the 11th or 12th time. Tax must be equitable, simple, and efficient. In the last financial year and the one before, we discussed Income Tax. Today, we have come up with an electronic Tax Invoice Management System (eTIMS). Tomorrow, we may come up with a "K-tax." Hon. Speaker, how many times will we change the taxation procedure in this country? We are discussing economic growth; however, how will this kind of Bill enhance economic growth in this country? Is that what we are telling Kenyans? Let me say this...

Hon. Kassait Kamket (Tiaty, KANU): On a point of order Hon. Speaker.

Hon. Speaker: Hon. Junet, there is a point of order. Hon. Kamket, under what Standing Order?

Hon. Kassait Kamket (Tiaty, KANU): Hon. Speaker, I rise pursuant to Standing Order 176. Hon. Junet has spoken vehemently against the Bill; however, he has powers under Standing Order 176.

I have read the Committee Report, and it does not have a dissenting opinion from any of its members. Members from the Minority side supported this Bill. These are Members that he, as the Minority Party Whip, nominated to the Departmental Committee on Finance and National Planning. If he is true to his word, I challenge him to exercise his powers under Standing Order 176 to de-whip those Members.

Hon. Speaker: Hon. Junet

Hon. Junet Mohamed (Suna East, ODM): Hon. Speaker. We are now in the Plenary of the House and not in the Departmental Committee on Finance and National Planning. The decision on the Bill will be made on the Floor of this House, not in the Committee. Where Hon. Kamket comes from, when you collect cattle, you share with everyone, but this is now a different scenario on the Floor of the House and not dealing with cattle.

Having said that, when you are interrupted like this, you lose your thought process. Going back to what I was saying about this Bill, the Committee, in its wisdom, has proposed certain changes. That is a step in the right direction, but it is not enough. This is because there are other things that we need to deal with by bringing amendments or shooting down the Bill in its entirety.

Let us be sensitive to the people of Kenya because it is the ordinary person who is paying for what we are processing here, not just us. We are going to make life difficult. For example, we passed the Finance Act, 2023/2024 last year. How much money have we collected using it? We did not reach our targets. That is proof that higher taxation does not necessarily yield higher revenues. On the other hand, lower taxation yields higher revenues. If we make the taxation process easy and simple, everyone will want to pay, so we will collect money. However, when we highly tax people, they will look for ways to evade or not pay, which is the norm. It is known all over the world, and it is not rocket science. Let us…

Hon. Speaker: Your time is up, Hon. Junet. Let us have Hon. Didmus.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Speaker, for allowing me to add my voice to this very important Bill, the Finance Bill, 2024/2025.

I am guided by three things when deciding whether to support or oppose the Bill. First, this is very important, and the country must understand this; no country across the world has developed without the support of local manufacturers. We have been lamenting for many years that Kenya is a one-way traffic, where we only import. We have manufacturers who have set up factories in our country and employed less than five people. What they do is import finished products to distribute, yet they get all the support from the Government of Kenya and taxpayers.

Secondly, the problem that this country is facing, which is a time bomb, is the lack of employment for the surging young population. The Government alone cannot absorb millions of Kenyans seeking jobs. The private sector plays a pivotal role in ensuring that we have employment opportunities so that Kenyans can have the bargaining and purchasing power to put food on the table. The private sector should be supported.

I heard the Leader of the Minority Party say that this country only favours a few individuals trading in cement and steel. I urge the Leader of the Minority Party, Hon. Opiyo Wandayi, who is my very good friend that he has an opportunity to set up steel and cement manufacturing factories in this country. Before the last general elections, they had many meetings with the business community of Dubai and Qatar. Hon. Opiyo Wandayi has every reason to set up a factory and run it the way he wants. You can even say you must wear a black suit to buy from this factory, and nobody will take you to court.

The third thing that makes me support this Bill is that when the proposals were first debated across media houses in this country, a number of punitive things came up. These included taxes on motor vehicles, diapers, sanitary towels, and motorcycles. But we have since engaged, and I have had a robust discussion with the Chairman of the Departmental Committee on Finance and National Planning. He has assured me that the contents of his Report recommend amending these proposals. I am also aware that, as a Member of Parliament for Kimilili Constituency, I have the power to amend this Bill, including the title of the Bill and any clause I feel we should change.

This Bill read together with the Report, and of course, the proposed amendments and my intelligence will make it better. I am convinced that we are going to protect local manufacturers. Kenya has been lagging behind by even importing toothpicks, something that is made with very low technology. We import diapers, something that even Hon. Junet Mohamed can set up a diaper manufacturing firm in Migori. We are simply saying the Bill gives the rich people of this country and the very many associations that can access funding from banks in this country an opportunity to become entrepreneurs so that they can set up factories that will produce things that have been zero-rated and will have a competitive edge over those manufacturers who have been importing things in this country.

We have had discussions with ladies of this country, and I have had discussions with girls and women from my constituency. They raised concerns about the hygiene of diapers imported from China. On this basis, we persuaded the Chairman of the Departmental Committee on Finance and National Planning to persuade his Committee to consider imposing an Eco levy on sanitary towels imported to this country while zero-rating the locally manufactured ones.

With the passage of this Bill, I am convinced and energised to find money and set up a factory in Kimilili that will produce sanitary towels, diapers, toothpicks, and tyres. Hon. Speaker, I have listened to Members from the Minority Party side vehemently oppose this Bill. They have said it proposes an increase in taxes for tyres of wheelchairs, wheelbarrows, and motor vehicles that are used locally by many people. I do not blame them. Reading is not easy. This Report of the Finance Bill that the Chairperson of the Departmental Committee on Finance and National Planning and his team produced is voluminous. I do not blame them. For you to read it, you must be committed. I challenge them to read it. Even if the Chairperson of the Departmental Committee on Finance and National Planning has proposed changes that include zero-rating tyres, eggs, and locally assembled motorcycles, we, as a House, have all the powers to propose similar proposals. If the Committee does not put forth these proposals during the Committee of the whole House, we all have the power to move ahead and come up with those amendments.

We have been grappling with the problem of unemployment in this country. There are many factories in this country. This Bill will stop people whom I refer to as conmen. These are industrialists who set up industries in this country, but they do not manufacture anything. They do not employ anybody. They employ an accountant who processes things from foreign countries and distributes them. That is why the Committee was intelligent enough to insist on locally assembled goods. If you import various parts, there should be evidence of assembling. You are required to employ Kenyans to assist you in assembling and estimating the cost of these parts.

As the Member for Kimilili Constituency, I am exercising my constitutional powers and authority. I have the power to amend every clause of this Bill. I am alive to the fact that the reason the people of Kimilili brought me to this House is to ensure that the road from Rashid to Chebukwabi is tarmacked. I should also ensure that we have a Huduma Centre that is fully equipped and functional. I should also source for funds to tarmac the road from Maeni to Kapsokwony.

For these reasons, I stand here as a proud Kenyan and Member of Parliament supporting this Bill. I assure Kenyans who are listening to me that if any clause in this Bill is punitive to them, I will bring amendments. You do not throw the baby out with the bathwater. The Members of the Minority Party, like Hon. Junet Mohamed, presided over a regime in the last Parliament that committed serious financial atrocities. You do not speak for Kenyans. People who speak for Kenyans are in Government like me. When you speak, the country bleeds. When I do it, it listens.

I thank you, Hon. Speaker. I support the Bill.

Hon. Speaker: Commissioner Makau.

Hon. Patrick Makau (Mavoko, WDM): Thank you, Hon. Speaker. At the outset, thank you for giving me this chance to voice my sentiments on this Bill.

Hon. (Eng) Paul Nzengu (Mwingi North, WDM): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Nzengu, what is your point of order? Which Standing Order is it under?

Hon. (Eng) Paul Nzengu (Mwingi North, WDM): I rise under Standing Order 1.

Hon. Speaker: It is not available to you. That is for the Hon. Speaker.

Hon. (Eng) Paul Nzengu (Mwingi North, WDM): I seek your guidance, Hon. Speaker. Looking at the interest of Members, I implore you to allow the cards not to be removed over the lunch hour so that we can continue in the afternoon.

Thank you, Hon. Speaker.

(Laughter)

Hon. Speaker: Is it for you not to lose your slots?

Hon. Members: Yes.

Hon. Speaker: That is a fair request. The Serjeant-at-Arms will guard the House. If your cards are left in the slots, they will be safe. Hon. Patrick, proceed.

Hon. Patrick Makau (Mavoko, WDM): Thank you, Hon. Speaker. I will restrict myself to the Finance Bill 2024. When I was going through this Bill, I was very optimistic. I had thought that this Government would redeem itself, given that Kenyans underwent serious suffering resulting from the proceeds of the 2023 Bill.

When I looked at this Bill, I wondered. I am listening to Members who claim to be from the sugar-farming areas. I come from an area where bread is the order of the day. This Bill has not defined bread. They spoke of gluten and bread. When you come to Mlolongo and Athi River, most hustlers trade in bread in the form of *mandazi*, *samosas*, and the like. It broke my heart when I saw the proposal for bread to be subjected to 16 per cent VAT.

As I stand in this House, I have looked at Clauses 9, 25, 23, 35, and 63, and I sometimes wonder about the Executive's advisers regarding this Bill.

In this Government's manifesto, they said that they were going to take care of the hustlers—*mama mbogas* and boda bodas. However, when I look at this proposal, none addresses their well-being.

Regarding the proposal that wanted to amend the Data Protection Act, Cap 2(114C), I wish to remind our colleagues on the other side that yesterday, we had Members whose accounts were frozen, including the then *tanga* ones, because the same Data Protection Act was misused. Today, if someone proposes that our personal data be given to the KRA and our Government can come into place, someone might say that you owe the Government Ksh100 million in taxes. It is high time this is understood. Let us say no to such proposals.

I have looked at the Report and I know that the Departmental Committee on Finance and Planning has done something. However, we must be cautious. There is no way I will sit here knowing that the Government must fund its budget. We must look at what is happening to the collected taxes and why Kenyans are not paying taxes.

I join speakers who said we should lessen the tax brackets so that Kenyans pay less and be encouraged to pay more taxes, and hence realise the monies that we want to finance the budget with.

I am also concerned about the proposal protecting some investors. I come from a constituency which hosts all the cement factories.

It is true that there is only one supplier of billets. This Bill proposes a 17.5 per cent tax. That means that they were going to protect the monopoly of that investor so that no other manufacturer would find a place in the market. I agree with Members that this country needs industrialisation. We cannot industrialise when we give one investor monopoly power to be the only person determining who will be in the steel industry. This was really going to kill the industry around here.

Clinker is an essential element in the production of cement. If we tax the cement as proposed in the Bill, which is about 10 per cent, even the affordable housing we are discussing will not be possible. If this Bill addresses clinker being zero-rated, the cost of cement and construction will come down. I do not see this Bill helping Kenyans the way it is. I stand here to oppose it in totality. Hon. Speaker, we had a set of amendments. Let us look at them as a House to make the Bill neat to benefit all Kenyans. I thank you.

ADJOURNMENT

Hon. Speaker: Hon. Members, you may be upstanding. It is now 1.00 p.m. The House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.00 p.m.

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