

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 19<sup>th</sup> September 2013

The House met at 2.30 p.m.

*[Hon. Speaker (Mr. Muturi) in the Chair]*

### PRAYERS

**Hon. Speaker:** Hon. Ng'ongo on a point of order.

**Hon. Ng'ongo:** On a point of order, hon. Speaker, Sir. Thank you for indulging me. I am standing on a point of order that will require Communication from the Chair. I rise pursuant to Standing Order No.198 as read together with Standing Order No.252 and that is public access to meetings of select committees and other house proceedings.

Hon. Speaker, Sir---

**Hon. Speaker:** Hon. Ng'ongo, I have been informed that there is some technical problem with the voice or rather sound. Perhaps, if you do not mind you could come to the Dispatch Box.

*(Hon. Ng'ongo moved to the Dispatch Box)*

**Hon. Ng'ongo:** Thank you, hon. Speaker. As I had earlier indicated, the matter that I have just risen to raise will require Communication from the Chair. That is why I felt it is important to raise it at this time.

Hon. Speaker, I rise pursuant to Standing Order No.198 as read together with Standing No.252 and---

**Hon. Speaker:** Standing Order Number what? Sorry. I think there is some echo.

**Hon. Ng'ongo:** Standing Order No.198 as read together with Standing Order No.252 but it is clearer in Standing Order No.252. These two Standing Orders were actually uplifted from the Constitution, Article 118 and that is public access and participation in parliamentary proceedings. Further, the Parliamentary Service Commission (PSC) chaired by none other than Mr. Speaker has a responsibility under Article No.127 to among others provide services and facilities to ensure efficient and effective functioning of Parliament. However, more importantly under Article 127(6)(d), the PSC has a responsibility of undertaking singly or jointly with other relevant organisations, programmes to promote the ideals of parliamentary democracy.

Hon. Speaker, the particular Standing Orders that I referred to only give the Speaker the powers to exclude any member of the public or the media from particular proceedings of the House and only in the event that the Speaker is satisfied that there are circumstances that require the same.

Hon. Speaker, this morning hon. Ababu Namwamba and I had organised to have a Press conference and we learnt that the media was actually barred from accessing Parliament precincts. They were not only barred from attending the Press conference but even the committee meetings. The Public Investments Committee (PIC) had a very important and crucial committee meeting which required media coverage and on enquiry we were told and alarmed that this instruction came from the Clerk. That is not only irregular but it is unconstitutional because the only office and person who has that power is the Office of the Speaker. That communication, I believe can only be given in the House and I cannot recollect any time you have issued such instructions to bar the media from accessing Parliament.

Hon. Speaker, Sir, this matter needs to be addressed and I would request that even as you address it, we also take it seriously because the PSC which you chair has a responsibility under the Constitution to provide facilities to us and facilitate services that are provided to Members of Parliament. Without a designated place where we would address Press conferences as Members of Parliament, this interferes actually with our functioning and operations as the people's representatives. I request that this matter be addressed by the Chair.

Thank you, hon. Chair.

**Hon. Speaker:** I do not think we need to belabor that point. Anybody who cares to take a walk around the precincts of Parliament will realize that the area next or directly opposite where the Leader of Majority Party currently sits; which is not where he is supposed to sit, is the area designated to be the media centre. It is under construction in the current programmes within the Parliamentary Service Commission.

It is about two weeks ago when I made a tour to familiarize myself with the developments that are taking place there. The information available is that, that media centre will be ready at the same time as the Senate Chamber. This is because they are being done in the same area. But for the time being, when we said that the media moves away from their temporary location so that committees can use that facility, they were given some alternative places where they will be accessing hon. Members for purposes of making Press statements or Press conferences.

The media are aware that they have unfettered access into committees and into the plenary debates of the House. Obviously, as you all know, we do live coverage of Parliamentary proceedings. So, really the media are part and parcel of the House. Unless the Press conference is designed to take place at a point that would be inconvenient to any other activity of a committee of the House or some other office within Parliament, there should be no need for anybody to fetter them. But the media also has a responsibility, and I have said this before, that when they cover proceedings or even attend Press conferences; they should really, as a matter of responsibility or national duty, also cover what hon. Members are saying.

Let them not come to areas where they want to take photographs of hon. Members in compromised positions or hon. Members who dress in a particular way. That has come to my attention. I did not want to make this public, but it is the truth. They have a habit of wanting to take photographs. You see they sit downstairs around the staircase leading to the Speaker's Office. They want to take funny photographs when people are climbing up there. Really, that is not fair; it is unfair. I have evidence of it. So, I do not want to plead to that---

Even when hon. Members want to call them, let us call them at some designated place. We go there and address them on whatever issue that we want to address them on and then after that, they can leave. Let them not start going to some other places where they may not be always welcome. But of course, nobody has denied the media the rights to cover proceedings of committees of the House, unless the chairperson of the committee determines that the matter being discussed is such that, perhaps, for reasons to be given or to be noted requires deliberations in camera.

So, the point hon. Ng'ongo has raised is legitimate. I think we will get the Clerk to, again, re-designate for avoidance of doubt, the area where, temporarily, the media will be addressed by hon. Members whenever they have issues. That is if such place has not been so designated. I think the media are not aware of the place that may be so designated.

I think we will take up the matter and the media will be notified. For the time being, I think this issue about the media being kicked out of Parliament has been blown out of proportion. The media has not been kicked out of Parliament. They were requested to be sympathetic to Parliament; just like we know that there are hon. Members who do not have offices and we are still struggling to make sure that they also have some place from where to work. So, the media was merely requested to temporarily allow committees of the House to occupy and use that facility where they were temporarily allocated. But if committees are not using that facility, and I want to be given the information, then obviously, we cannot let the facility lie idle. We will make appropriate announcements relating to that.

So, I would like to at least for clarity, state from the Chair that nobody is allowed, in terms of Standing Order 252, to bar the media from accessing committees of the House, unless the committee has directed specifically that the media is not allowed. There is nothing that committees are doing which is in secrecy. There is nothing that we do here which is a secret anyway. So, why would we even want not to allow the media to come and see what it is that we do, how we do it and of course, the drama that from time to time we are engaging in, which is part of the job? It is not bad.

I have said time and again, because the media in Kenya also does not seem to appreciate this fact, that there are several methods by which hon. Members express themselves. When hon. Members, for instance, stage a walkout, it is a way of voting. It is a way of communicating. It is like going to war, you have only bows and arrows, and then you find the other side has got submarines and you take off. It is not bad.

*(Laughter)*

It is a way of communicating. If you went to war, but you realized that the other side has such arsenal that it may be futile to engage, it is also a way of expressing oneself. It is not unique to Kenya. So, I do not know why the media in Kenya gets excited when a Member walks out. It is a way of either expressing disgust, unhappiness or voting by absenting himself or herself.

*(Applause)*

This is democracy and that is the way it is the world over.

I have taken some little time because I did not want to be upstanding because some hon. Members were still walking in.

Hon. John Ng'ongo, you have raised a good point. I think the Sejeant-at-Arms and the Clerk's Office are accordingly informed and directed that whenever there is any such issue--- Whenever there are doubts as to whether the media is going to some place which they may be unclear about, it is always fair that the Office of the Speaker, and not necessarily myself, whoever it is; the Deputy Speaker will be at liberty to give directions in terms of Standing Order 252.

Thank you very much.

Next Order.

## PAPERS LAID

The following Papers were laid on the Table: -

The Report of the Assumption of the Office of the President Committee, pursuant to Section 19 of the Assumption of the President Act, 2012.

*(By hon. A.B. Duale)*

**Hon. Speaker:** Let us have the Chair of the Committee on Finance, Planning and Trade. You appear not to have carried your card. You will be a subject of some communication that I am going to make soon when we have many more hon. Members.

May be you can use---

The Report of the Departmental Committee on Finance, Planning and Trade on the Finance Bill.

*(By hon. Langat)*

## REQUESTS FOR STATEMENTS

### VISIT TO CHINA BY PRESIDENT AND HIS DELEGATION

**Hon. Wakhungu:** Hon. Speaker, pursuant to Standing Order No.44(2)(b), I wish to request for a Statement from the Leader of the Majority Party regarding the visit of His Excellency the President and his delegation to China.

Hon. Speaker, Article 95(4) (c) of the Constitution of Kenya, 2010, clearly states that the role of the National Assembly is to play oversight role over the national revenue and expenditure. Therefore, I would like the Leader of the Majority Party to inquire into and report on the following: -

(i) whether the funds that the President was awarded by the Chinese Government were in form of a loan, grant or otherwise;

(ii) the particulars of the award in terms of the full amount of money given to Kenya;

(iii) if the award was a loan, state interest rate it attracts and the repayment period of the loan;

(iv) if it was a grant, what the conditionalities were; and,

(v) the composition of the delegation.

Thank you, hon. Speaker.

**Hon. Speaker:** Let us hear your undertaking, Leader of the Majority Party.

**Hon. A.B Duale:** Hon. Speaker, the Statement request that I have here, which you have signed, does not have the last bit on the composition of the delegation. So, I am not going to include that bit because he has sneaked it into the authorised request. Therefore, I will report back to the House on Wednesday on items (i) to (iv).

Hon. Speaker, hon. Members should not be sneaking additional requests into Statement requests that you have approved.

**Hon. Speaker:** What is your reaction, hon. Wamalwa?

**Hon. Wakhungu:** Hon. Speaker, the President's delegation to China included businesspeople, for value addition to this country. Indeed, when I brought the Statement request to you, the last bit was not part of it. However, common sense dictates that it is of value. It is good for us to know whether some exporters were part of the delegation. It is for purposes of follow up. The additional request is for value addition. It is common sense. I thought that the composition of the delegation is important.

**Hon. Speaker:** Hon. Wamalwa, the Standing Orders, particularly with regard to Members' responsibility relating to accuracy on Statements, would bar you from doing more than what you had initially pleaded, just like pleading in a court of law. If you initially pleaded that you wanted certain things and then you subsequently ask for other things, people would start wondering whether it is proper for you to do so. Maybe, you had forgotten that bit. It may be a legitimate expectation. Maybe, the Leader of the Majority can be magnanimous a bit.

**Hon. A.B. Duale:** Hon. Speaker, of course, as is the practice, any other hon. Member can ask for further clarifications. Of course, I am going to provide the list of the delegation. I was only trying to state the position as per the document that I have, which you had signed. I will provide the list and even provide more information concerning the matter. This is giving me an opportunity to show the bilateral relations, in terms of investment, between China and Kenya *vis-a-vis* other countries that we do not want to deal with anymore, as the Jubilee Government.

**Hon. Speaker:** What is your point of order, hon. Mbadi?

**Hon. Ng'ongo:** Hon. Speaker, I am concerned about two things. The first one was the way the Leader of the Majority Party expressed himself. The only person who can decide what needs to be responded to is the Speaker. I heard the Leader of the Majority Party say that he was not going to respond to item (v) of the Statement request. That is not his discretion. What he could do was to request the Speaker to disallow that bit.

Further, Statement requests are made on the Floor of the House. There is no requirement for hon. Wamalwa to have put a written Statement request for the Leader of the Majority Party. The written Statement request was supposed to be taken to the Speaker's Office for the Speaker to give approval. The Leader of the Majority Party should have heard the Statement request for the first time in the House. There is no requirement for the Leader of the Majority Party to have a written list of items he is supposed to respond to. He should actually pick the request from the HANSARD.

**Hon. Speaker:** Hon. John Mbadi, unfortunately, on this one, you are off the mark. If you put your request in writing, then you are bound by what is in black and white. That is the rule. You cannot change it. What I approved is what the Leader of the

Majority Party has, and he said that is what he is going to respond to. It is not open for people to raise other issues here about which they have not given to the Speaker prior knowledge. So, on this one, hon. Mbadi---

**An hon. Member:**-- *(off record)*

**Hon. Speaker:** No! No! No! Let us not debate this matter. In any event, the Leader of the Majority Party has said he will provide the list. Obviously, once the Statement is made, hon. Members will have an opportunity to interrogate it by way of seeking further clarifications on what will be contained therein. Let us not anticipate what is likely to come out of the Statement. Personally, I have no desire to anticipate what is likely to be contained therein.

Hon. Francis Mwangangi, you are one of the Members who are supposed to request for Statements but you have not placed any request. Do you have a card?

#### IMPLEMENTATION OF SOCIAL ASSISTANCE ACT

**Hon. Kilonzo:** Hon. Speaker, Sir, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Committee on Labour and Social Welfare regarding the implementation of the Social Assistance Act, 2012.

The Act sought to establish a National Social Assistance Authority, whose functions, as outlined in Section 4, are to identify and provide social assistance to persons in need of such assistance, among other functions. The Act also establishes the National Social Assistance Fund, under Section 34, to support the Authority. Therefore, I would like the Chairperson to inquire into and report on the following: -

(i) reasons for the delay in the establishment of the National Social Assistance Authority and the National Social Assistance Fund despite the enactment of the Act in 2012; and,

(ii) when the Authority and the Fund will be established so as to bring into force the provisions of the Act.

Thank you, hon. Speaker.

**Hon. Speaker:** Is there anybody from that Committee?

Yes, hon. Wanga.

**Hon. (Ms.) Nyasuna:** Hon. Speaker, in the absence of the Chairperson and the Vice-Chairperson, I think I will give a commitment on behalf of the Committee that we shall give a response in two weeks' time.

**Hon. Speaker:** That is okay. If it has not been set up in the last one year and it is not the committee that is responsible for setting up, I think it is going to investigate and bring a report. I think it is only fair. If the question was being directed to the Cabinet Secretary, for instance, then you can say that you need the answer even tomorrow, but since the committee will have to call those responsible, take their evidence, discuss them and possibly in your presence, I think two weeks is not really inordinate. What do you think, Mr. Mwangangi?

**Hon. Kilonzo:** Hon. Speaker, Sir, the Statement I am seeking today touches the most vulnerable in our society. I think two weeks is too long.

**Hon. (Ms.) Nyasuna:** Hon. Speaker, two weeks is even too short to do this. Maybe I should even be extending it to three weeks. The reason I gave is that the committee will be meeting the Cabinet Secretary in charge of labour and social welfare

next week on Tuesday. We could then raise these issues with him and then have time to prepare a report. I welcome hon. Mwangangi Kilonzo to join us next week when the Cabinet Secretary is meeting the Committee.

**Hon. Speaker:** Hon. Mwangangi, remember that hon. Nyasuna Wanga also represents those vulnerable members of society. I am sure it is also in her interest to bring to the House a comprehensive report which I think will be in the interest of every Member. So, let us give the committee the two weeks so that they give us something we can use for the people.

#### STOCK THEFT IN NYAKACH

**Hon. Owuor:** Hon. Speaker, pursuant to Standing Order No.44(2)(c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the rampant stock theft in Nyakach Constituency.

**Hon. Speaker:** Sorry, hon. Owuor. We have been informed that there are some technical hitches. We have been requested to be closer to the microphone as they try to solve the problem. Do not put it off, but just move closer in the manner that I am doing, if my posture helps.

**Hon. Owuor:** Thank you, hon. Speaker. Pursuant to Standing Order No.44(2)(c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the rampant stock theft in Nyakach Constituency.

Hon. Speaker, incidences of stock theft in the larger Nyakach area have increased considerably leading to the vicious murder of innocent residents who have fallen victim to the violent theft such as the recent killing of an 80-year-old man, Mr. Henry Oyoo whose son was also killed barely a few months earlier.

In this Statement, the Chairperson should inquire and report to the House on the following: - The number of homes which were raided and the livestock reportedly stolen in the constituency and the number of people killed during the incidences of violent stock theft and the allegations that the security personnel in the area are abetting the crime and if it is true, the measures the Government has taken to address this issue.

Hon. Speaker, we request that you direct that we get this Statement before the day ends. This is because of the urgency of this matter.

**Hon. Speaker:** Did you say by the end of this day?

**Hon. Owuor:** Hon. Speaker, under the Standing Orders you have the discretion to direct--- This is a matter touching on security and I know the Government gets daily briefs from the Regional Commissioners. I urge that you direct that we get a Statement this evening even if you could suspend the other business of the House so that I get a Statement.

**Hon. Speaker:** Are you are saying that we suspend the business of the House?

*(Loud consultations)*

I think hon. Aduma you need to read and re-read the Standing Orders. You stood to request for a Statement from the Chairperson of the Departmental Committee on

Administration and National Security. You did not rise claiming to adjourn the business of the House. So, the two of them cannot be prosecuted simultaneously. You are either seeking the Statement or you want the adjournment of the House. Again, for the latter, you had not given the Speaker notice of it. Anyway, let us hear from the Chairperson of the Departmental Committee. He could be in a position to give you the information by the end of the day – I should not preempt.

**Hon. Abongotum:** Hon. Speaker, I am aware that there is rampant insecurity, especially, stock theft in Nyakach Constituency. This matter is urgent. I know it has been an issue for some time, but because of the normal bureaucracy that we must accept as Parliament, this question has to go to the Cabinet Secretary in charge of interior and national co-ordination and then of course it will be directed to the Inspector-General to respond.

Hon. Speaker, I want to bring this Statement on Thursday next week.

**Hon. Members:** No!

**Hon. Abongotum:** Hon. Speaker, I just want to be practical. So, I will bring it on Thursday next week.

**Hon. Speaker:** I think I want to remind Members about some guide that I gave on 18<sup>th</sup> June 2013 that actually the responsibilities of committees, when a request is made to a committee, the chairperson or the chairpersons, or in their absence any other member of the committee should acknowledge having received the request. Secondly, the committees are to prioritize the requests according to their programme and seek information from the relevant State departments and Ministries. The committee can resolve to request the attendance of the concerned Ministry officials and to inform the Members so that they can accord them the opportunity to interrogate their matters.

This is because, obviously, every committee has some programme of work. The committee may not have anticipated that hon. Aduma Owuor was going to require some answer by the end of business today. Therefore, since the Members of that committee--- I do not know if hon. Aduma is a Member of that committee. However, you obviously know the amount of work that is before you. It is only fair that we should not put our colleagues under undue pressure.

What is your view, hon. Aduma Owuor since you are the one making the request?

We appreciate the matter is about security and others but nevertheless, you see Parliament deals with issues of security from a policy point. The people in the actual administration are not here.

Hon. Aduma.

**Hon. Owuor:** Thank you, hon. Speaker, Sir. I believe I will get a substantive statement. I am aware that the Head of State intends to visit the western region of the country. Kenya is actually undergoing a very difficult moment; I believe the State is on trial with what is happening at The Hague.

I believe that the issues which are happening in Nyakach have been widely publicized and they will take them seriously. As we talk here, I believe even personally, my life has been put to jeopardy. My life is in danger and I believe they will treat it with urgency and we will get a substantive report next week.

**Hon. Speaker:** Very well. Hon. Ndung'u Gethenji, you have two Statements.

FOREIGN TRIP BY MEMBERS OF THE JUDICIARY



**Hon. Gethenji:** Thank you, hon. Speaker, Sir. Pursuant to Standing Order No.44 (2)(c), I wish to request a Statement from the Chairperson of the Committee on Justice and Legal Affairs regarding the foreign trip by members of the Judiciary to the 9<sup>th</sup> Symposium of the Colombian Constitutional Court, a meeting currently being addressed by one Louis Moreno Ocampo.

The Chief Justice, the Deputy Chief Justice and three other judges of the Supreme Court are currently in Columbia leaving only two judges behind. This is a time of crisis in the Judiciary where the Court of Appeal has refused to take up their offices and the Registrar is under investigation. This is not the time for the entire bench of the Supreme Court to be out of the country.

The Ministry of Foreign Affairs incidentally has confirmed that it is not aware of this trip. The Ambassador of Kenya to Brazil who oversees the region and is responsible for Columbia is equally unaware of this trip. In his Statement, the Chairperson should inquire and report on: -

(a) The functioning of the Judiciary considering the other arms of the Government do not seem to be in sync with its activities.

(b) The Constitutional crisis that would engulf the country if anything untoward was to happen to the Members of the Judiciary. They all travelled on a single aircraft which I believe is also against the regulations.

(c) We require a justification of the perks awarded to the Judiciary including the sitting allowances of Kshs.80,000 paid to the JSC members who sit on a daily basis in contrast to the paltry allowances of Kshs.5,000 paid to the Members of the National Assembly who were recently almost subject to restraint of the number of sittings they were meant to have, according to the Salaries and Remuneration Commission (SRC).

Hon. Speaker, I conclude my Statement. Thank you.

**Hon. Speaker:** Departmental Committee on Justice and Legal Affairs Vice-Chair, let us get a response. What may be out of order, hon. John Mbadi?

**Hon. Ng'ongo:** Hon. Speaker, Sir. I am just a little bit disturbed even though I know this Statement must have come to you for approval. The Constitution is supreme and the moment we try--- Listening to this Statement critically, is it not going to lead into discussing either the Judiciary or Members of the Judiciary? There is separation of powers between Legislature and Judiciary. I would hate to see a situation where Judiciary is tomorrow directing us that we should not continue legislating on a particular issue. The same as I would not be happy seeing us trying to micro manage the Judiciary which is an independent institution. I think we need to as much as we register our displeasure with some activities of the Judiciary; we need to be alive and awake to the fact that there is separation of power.

**Hon. Speaker:** Hon. John Mbadi, a while ago a Statement was sought about the President's visit to China.

*(Applause)*

I did not hear you make that protest. Just relax, I will give you all the time to say what you must say. Is it that you have forgotten, hon. John Mbadi, that the National Assembly has an oversight role over all organs of Government including the Presidency

and the Judiciary which are State organs? Are you not trying to gag yourself? Let the Statement come. If it discusses the conduct of a sitting judge, the Speaker will make the appropriate ruling. If it purports to do that but with regard to oversight, it is the business of the Judiciary to interpret all the laws that we make here. We will not interfere with them doing that. It is the business of this House to play oversight role over every State organ. It is in the Constitution; let us not try to gag ourselves. I am the one who approved that Statement, like you rightly pointed out hon. Mbadi. I had seen that if in the response there is an element of discussing the conduct, then as you know, hon. John Mbadi, we will make appropriate interventions.

Yes, hon. Duale.

**Hon. A.B. Duale:** Hon. Speaker, Sir. I have a lot of respect for hon. John Mbadi, but my good friend should be very strategic. Of course, I am entitled to my opinion. The issue hon. Mbadi has raised, on the separation of powers of the three arms of Government, is very clear. You remember, I am the one who tabled the budget of the Judicial Service Commission. If you look at the mandate of the Justice and Legal Affairs Committee of this Parliament and of the last Parliament, one of the key institutions they oversee is the Judiciary.

We must draw a line between and within the Judiciary; where is the independence? The independence of the Judiciary, in my opinion and under law, plays in the individual judges and the judgments they make. The Judicial Service Commission, I remember there was a controversy in this country that they cannot be summoned by Parliament. That is administrative organ of the Judiciary. Some of the members of that organ are not even judges. Hon. former Member of Parliament, hon. Mango is there. Ahmed Nassir is not a judge. There is a bishop there.

Secondly, and as you said it very clearly, my good friend is anticipating debate. It is when we get that report here that we will say that this Parliament cannot discuss this report because it touches on the office and integrity of the Chief Justice and the judges. I think and I totally agree as Parliament, we need to interrogate the expenditure of that trip. We need to establish why both the Chief Justice and the deputy should leave the country. The Committee must find out why, out of the seven members of the Supreme Court, five of them are away on a workshop. The workshop is again addressed by one Moreno Ocampo, a man I have very low opinion of. This is very sad. I agree and I think you have the record straight that, we must know where the boundary of Parliament ends. Our boundary goes to Executive, the Judiciary and it ends somewhere. Where it ends then we will not move, but we do not want hon. Mbadi to curtail the powers given to us by the people of Kenya and the Constitution.

*(Applause)*

**Hon. Speaker:** For avoidance of doubt, it is only fair. I am constrained because it is not necessary for me to read what is obvious to me. But for clarity, so that this matter does not exercise our minds over the weekend in various functions that we may be attending, Article 95 is on the role of the National Assembly. Article 95(5) states: -

“The National Assembly-

(a) reviews the conduct in office of the President, the Deputy President and other State officers and initiates the process of removing them from office; and

(b) exercises oversight of State organs”.

Go to the definition of “State organs” in Article 260. Surely, with this, the matter must now come to rest, is it not? This includes the conduct. So, you are doing your work very well, hon. Gethinji. Hon. Nyokabi, the Vice-Chair of the Committee, you may respond.

**Hon. (Ms.) Kanyua:** Thank you, hon. Speaker, Sir. In view of the matters before the Committee especially the Bills, I will require three weeks. I say this on behalf of my Chair, Mr. Chepkong’ a. So, I require three weeks to bring the Statement.

**Hon. Speaker:** How many days?

**Hon. (Ms.) Kanyua:** Twenty one days.

**Hon. Gethenji:** Hon. Speaker, Sir, as I speak, that symposium is being addressed by the same fellow whom the Leader of the Majority Party has very low regard for, one Louis Moreno Ocampo; it is important that we get this information. What was so urgent that the entire bench save two members of the Supreme Court had to go? I think two weeks would suffice.

**Hon. Speaker:** Hon. Nyokabi, I talked about prioritising business. So, what do you think?

**Hon. (Ms.) Kanyua:** We can do it in two weeks. It is just that we have the Election Campaign Financing Bill and the Marriage Bill as well on the table, but I think in two weeks, we should be able to bring back the answer. In any case, the conference is already going on and what we need to look at are the expenditures and such other matters. So, two weeks will be sufficient.

**Hon. Abongotum:** Hon. Speaker, Sir, I wanted to request the Chairperson of that committee to also comment on the status of the summon that was given to the Judicial Service Commission by that same committee. That Commission was supposed to appear before that committee, but we do not know what has taken place so far. We want to know whether this committee has powers to exercise oversight over all independent Commissions, especially the one that is related to the Judiciary. What is the position? We cannot allow corruption to take place at the Judiciary and this committee is here. We want to know the position. This country is at a loss. Corruption is taking place at the Judiciary and the Judicial Service Commission is saying that they cannot be summoned by the Parliamentary Committee. We want to know the correct position. People cannot hide under the canopy of the Judiciary to steal money from Kenyans.

**Hon. Speaker:** Hon. Nyokabi, you may not respond because hon. Kamama has not looked at his Standing Order No.86 that forbids Members from commenting on matters before a committee until the committee has tabled its report in the House. Since your committee has not tabled your report in that matter, it will be unfair for us to begin debate on what it is that is before you. You need to come with a report, so that it can be discussed.

**Hon. Abongotum:** Hon. Speaker, Sir, I stand guided.

**Hon. Speaker:** Hon. Gethenji, you have another Statement.

#### ACTIVITIES OF CIVIL SOCIETY ORGANISATIONS IN KENYA

**Hon. Gethenji:** Hon. Speaker, Sir, Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairman of the Committee on Justice and Legal

Affairs regarding the activities of civil society organisations registered and operating in Kenya.

This is after being deeply concerned that the activities may not be conducted for and in the interest of Kenyans, but for foreign agents. In his Statement, the Chairperson should inquire and report on: -

(i) if these organisations have acted within their objectives as at the time of registration as NGOs or if registered as trusts at the Lands Office.

(ii) Who funds their activities and for what purposes. How much of this funding is from external donors and for what purposes.

(iii) What are the structures of these organisations.

In jurisdictions like the United States of America, there is the Foreign Agency Registration Act that requires people and organisations that are under foreign control to register with the department of justice when acting on behalf of foreign interests. This law defines the agent of a foreign principal as someone who amongst other things engages in political activities for or in the interest of a foreign principal. The people of Kenya need to know that when they hear the views of a particular organisation, they are in fact speaking for and on behalf of a foreign principal. For example, how many Kenyans know that the International Centre for Transitional Justice has on its advisory board John Githongo and Amb. Christian Wenaweser, who since 2002 has been the permanent representative of Liechtenstein to the United Nations? In 2008, Amb. Wenaweser was elected for a three-year term as the President of the Assembly of State Parties of the International Criminal Court.

Other board members of the ICTJ are: - Kofi Appenteng, Chair of the board, who was born in Ghana, West Africa. He attended preparatory public schools in England before coming to the USA in 1977 to attend Wesleyan University. He graduated from Wesleyan University with a Bachelor of Arts degree in 1981 and received a Junior Diploma from Columbia University School of Law in 1984. He also serves on the Ford Foundation Board of Trustees.

The other is Vincent A. Mai. He has also served on the boards of several non-profit organisations including the Carnegie Corporation of New York and the Council of Foreign Relations. He is the Chairman of the African Advisory Board of the Council on Foreign Relations.

The other one is Minna Schrag, a retired partner in the law firm of Proskauer Rose in New York. In 1994 and 1995, she took leave from the firm to serve at the International Criminal Tribunal for the former Yugoslavia where she was a senior trial attorney and the senior American on the staff of the chief prosecutor, Richard Goldstone. Since her retirement from Proskauer, she served with the US delegation that negotiated for the establishment of the ICC.

In conclusion, a closer look at these boards and advisory councils demonstrate that the parties appear to be inter-linked in one way or another with civil society organisations here in Kenya. For example, Kenyans would need to know which foreign donors funded the presidential petition and the NGOs. Was it foreign funded? If so, who and what are their interests?

**Hon. Speaker:** Which Committee is that directed to?

**Hon. Members:** Departmental Committee on Justice and Legal Affairs.

**Hon. Speaker:** Hon. Nyokabi.

**Hon. (Ms.) Kanyua:** Thank you, hon. Speaker. I am also looking at the same Standing Order No.44(2)(c) and I am not sure if the matters that have been raised fall within the mandate of the Departmental Committee on Justice and Legal Affairs because the matters are about civil society organisations. The human rights ones would probably fall within our committee but the bulk of the human rights and the bulk of other human society organisations now fall within the Public Benefit Organisations Act. I am not sure, looking at the mandate of the Departmental Committee on Justice and Legal Affairs, whether that particular matter really ought to come to the Departmental Committee on Justice and Legal Affairs. The matters that he is raising are really broader on issues affecting the civil society. Thank you.

**Hon. Speaker:** Well, you received the request. Look at it and you are at liberty to even return it or refer it to the Leader of the Majority Party, as suggested in some quarters.

*(Laughter)*

**Hon. (Ms.) Kanyua:** How long will you give us to look at the request?

**Hon. Speaker:** Two weeks?

**Hon. A.B. Duale:** Hon. Speaker, on a light touch, I do not know whether my good friend, hon. Nyokabi from her history of civil society, is running away from this volatile bombshell. After the Office of the Clerk and your office have looked at it and if, in the unlikely event no committee is given that task, I am ready to answer that question. However, I am sure that within the many committees that we have, that matter is very urgent and it touches on some very serious people which I am sure the Member did not raise. I am sure hon. Nyokabi you can talk to your other Chairs and by next week, you will tell us that the request is somewhere.

**Hon. (Ms.) Kanyua:** On a point of order, hon. Speaker, Sir. We are going to look at the request a little more keenly and just see which committee can take up the matter. Looking at Standing Order No.44(2)(c), I am almost sure that the Departmental Committee on Justice and Legal Affairs might not be really the one that is going to be seized of that matter. Thank you.

**Hon. Speaker:** You said two weeks? There was a request for a Statement which came late and this is from hon. David Ouma Ochieng, the Member of Parliament for Ugenya. You may raise it.

#### STATE OF AFFAIRS AT KENYA BROADCASTING CORPORATION

**Hon. Ochieng:** Thank you very much, hon. Speaker, Sir. I also rise under Standing Order No.44(2)(c) and the issue upon which I wish to seek a Statement is with regard to the operations of our only national broadcaster, Kenya Broadcasting Corporation (KBC). It is not a new issue in the House. Last year in March, an issue was already before this House regarding the operations of the KBC and on 14<sup>th</sup> June last year, a report was tabled before this House regarding the operations of KBC. The then joint committees of Energy, Communication and Information and the Housing Broadcasting Committee made a report. I wish to request the Chairman of the Departmental Committee on Energy, Communication and Information to tell the House the status of

implementation of the report of the joint committees of Energy, Communication and Information and also the Broadcasting Committee on the public petition on the state of affairs at KBC as tabled before this House on 14<sup>th</sup> June 2012.

Hon. Speaker, I would also like to know what plans have been put in place by the Government to restructure and reform the KBC to a national public broadcaster, fully funded by the Exchequer. I would also wish to know in the same breath the current level of funding that the Government is giving to the KBC.

Hon. Speaker, I would also like to know what is contained in the current scheme of service for KBC employees and the steps being taken by the Government to review that scheme of service since 1979. The key phrase here is “since 1979”. What has been done in terms of reviewing the scheme of service of the employees of KBC?

Hon. Speaker, I would also like to know whether there is a policy at the KBC for the engagement of short term artists and casual staff and in the same breath, I would also like to know how that policy of engaging short term staff compares with the policy of engaging permanent staff.

Hon. Speaker, on the fifth day of March last year 2012, the KBC staff and the management signed a return to work formula after a lengthy strike that nearly shut down the operations of the corporation. What has been done by the management of KBC to implement that return to work formula?

Hon. Speaker, I would also like to know who sits in the board of KBC and what steps have been taken to restructure the KBC board to comply with the previous recommendations of this particular House.

Hon. Speaker, may this House also be told what the KBC management has done in implementing its own code of regulations as developed in 2009 and as brought before this House.

Hon. Speaker, finally, I also wish to know what steps have been taken by the Government of Kenya and by this particular committee to make the KBC Act responsive to the contemporary developments in broadcasting and to the new Constitution.

Thank you very much.

**Hon. Speaker:** Well, even before the Chair of the Committee responds my intention has been drawn to the fact that this report of the joint committees was tabled on 14<sup>th</sup> June 14<sup>th</sup> 2012 it was never adopted. So, I think it is important to bear that in mind so that even as--- It is up to that current Committee to decide whether to adopt that report and then bring it here or improve on it but maybe hon. Jamleck Kamau can respond.

**Hon. Kamau:** Thank you, hon. Speaker. In view of the fact that the report was not adopted by the House, I think we can sit as a Committee and look at it with a view to perhaps adopt it the way it is and make amendments the way we want. Maybe a duration of about two weeks will be enough for us to do that. So, I think I can give him my report in about two weeks’ time.

**Hon. Ochieng:** Thank you very much, hon. Speaker. I just hope that the Chairman of that Committee realises that if KBC goes down tomorrow, all of us are in darkness. So, I will take two weeks and hold my breath. Thank you very much.

**Hon. Speaker:** I think hon. Chris Wamalwa should have been around to give you the rosary so that you could touch it and pray that KBC does not go down before two weeks.

*(Laughter)*

But I think two weeks are okay?

**Hon. Ochieng:** Yes, and thank you.

**Hon. Speaker:** Very well. Or even hon. Mwachugu has the rosary?

*(Laughter)*

## STATEMENTS

**Hon. Speaker:** That concludes that particular aspect. There is the position by the Chairperson of the Departmental Committee on Defence and Foreign Relations that there are two separate response Statements. Hon. Kamama of Departmental Committee on Administration and National Security and the Leader of the Majority Party have Statements. The Leader of Majority Party, you can give the information on business later. Let us start with hon. Kamama who is responding to a Statement that was sought by Major Muluvi.

### INSECURITY IN KITUI WEST

**Hon. Abongotum:** Thank you, hon. Speaker. Yesterday afternoon, you actually instructed us as a Committee to give response to the Statement that was sought by Major Muluvi of Kitui West. I just want to say that I really apologise that we have not been able to respond to this Statement in good time. The problem has been the usual bureaucracy in Ministries. So, I have taken the trouble of calling the relevant officers and I have actually told them that we want the answer by Tuesday next week. I am sure and I want to confirm that Major Muluvi has really been pestered by his people because of the state of insecurity in Kitui. You all know the issues that took place. People were butchered and so that answer is actually required here as urgently as possible. I want to plead that we be allowed to respond to this request on Tuesday afternoon.

Thank you.

**Hon. Muluvi:** Thank you, hon. Speaker, Sir, for the opportunity. For the purpose of record, I want to state that it is now three months and two weeks since I requested for the Statement. Indeed, yesterday you directed the Leader of Majority Party to bring a Statement to this House today. It was only a few minutes while we were seated here that the Chair of the Committee came to me and told me that he has not been able to get an appropriate answer from the ground.

Hon. Speaker, I want to say this: Since I requested for this statement, 10 people from my constituency have died under the hands of bandits. Between the time I requested for the Statement and today, we have lost six people. The latest was on Friday when three people were met in a shopping centre by the bandits and shot in broad daylight. As I speak here, I have received information from nearby schools. Before the House convened this afternoon, I got information that out of 213 students of a neighbouring school, the headmaster cannot account for 70 students. This shows the gravity and the seriousness of the matter. If between today and Tuesday, the same bandits attack and something goes haywire, it will be very difficult for anybody within the Government to give any justification, whether it is by negligence or design. I want to tell the country that when

that incident happened at around 3.00 p.m. on Friday, I left Nairobi and joined the County Director, the OCPD and many other people and we converged there. I personally slept in that area. That place is called Leluni in Malalani Location of Kitui East Constituency.

**Hon. Speaker:** Did you camouflage yourself?

**Hon. Muluvi:** No, I did not. For the benefit of those who do not know my background, I was a military major in the Kenya Armed Forces. That is why I am taking exception when I hear a question about human rights for civil society being given precedence when Kenyans are dying. In my view, the cardinal responsibility of any serious government is to defend its citizens together with their property.

**Hon. Speaker:** Hon. Muluvi, I think what you are saying is so grave that there is necessity for you to appear before the committee chaired by hon. Abongotum, in the presence of the Cabinet Secretary responsible and other mandarins in the security sector so that you can discuss this matter. I can understand and feel your bitterness because they are the people who elected you and they are Kenyans who require to be protected. But I think it would be better that with seriousness of the matter, you appear before the committee the soonest possible. The Chairman should invite the Cabinet Secretary and the security personnel around that area so that you can discuss that matter in greater detail.

I appreciate there is also need for you to speak to it here so that the people there know that you are not just here talking about other issues – did you say about civil society – but you are concerned about their security. It is important that you raise the issue as you have done. I think it would be even better to go forward and actually have action taken because everybody can feel your concern. It is better that the people concerned be called in your presence and you discuss so that, at least, a proper response is given. You will have also given some input. I do not think it was okay your good friends who are sitting in front of you to appear to be applauding you when you talked about death.

**Hon. Muluvi:** Yes. What I am saying is that, this is the third time for you to give direction on it. I am actually at a loss why it has not happened.

**Hon. Speaker:** What do you suggest we do?

**Hon. Muluvi:** For example, yesterday you directed that the Government brings a statement through the Leader of Majority Party.

**Hon. Speaker:** Hon. Muluvi, because the Chairman of the Committee is here, please, appear before that committee. Hon. Kamama, can you give an indication?

**Hon. Abongotum:** Considering the gravity of this matter, I want to fast-track and actually invite Major Muluvi to our Committee meeting that will take place tomorrow at 11.00 a.m. We have invited the Inspector General of Police and other officers so that he can prosecute that matter in front of all of us.

**Hon. Muluvi:** Thank you, hon. Speaker. But I also want to say this---

**Hon. Speaker:** Are you going to appear or not?

**Hon. Muluvi:** I will be appearing.

**Hon. Speaker:** Appear there and explain all the rest. The Chairman has invited you to the Committee tomorrow at 11.00 a.m. If you are going to appear, you can go and prosecute that matter to the best of your ability.

**Hon. Muluvi:** But there is really very little--- What I also want to say hon. Speaker--



**Hon. Speaker:** If it is very little that can be done, then do not ask the question. If you believe that there is nothing that can be done, then why raise it?

**Hon. Muluvi:** But I want to be heard, I want to make a statement with the Speaker and I will appear.

**Hon. Speaker:** Be there with the Committee because they are the ones who are going to bring the response to the plenary.

**Hon. Muluvi:** But that is not what I am asking.

**Hon. Member:** This is a very serious matter.

**Hon. Speaker:** No, no! It is not about that. Maj. Muluvi is going to appear before the Committee tomorrow at 11.00 a.m., unless you want to go and assist him there. Please do not assist him here now.

**Hon. Mati:** As a neighbour!

**Hon. Speaker:** As a neighbour, I know hon. John Martin Munuve, you may wish to---

**Hon. Mati:** Thank you, hon. Speaker. I am happy that you caught my eye or I caught yours. Sitting here and watching Maj. Muluvi, I can understand the pain he is going through. I would have liked to actually accompany him to hon. Kamama's Committee but, unfortunately I cannot. This is because somebody was murdered in Ngomeni this morning; in my constituency by the same bandits. I have raised this matter before. It is not just a security matter.

This country has a small arms problem. For as long as some people have superior weapons, this is going to catapult this country. Wherever they are, these people who killed Mulungu Mulatia this morning had three AK47 riffles. I do not want to say where they came from but definitely they did not come from our neighbouring country. They are citizens of this country. When this happens, what we are going to have in this country for the next four to five years is that, everybody who losses their relative is going to make sure that they go to this market where some Kenyans can get AK47, and probably get a bazooka or M15 so as to reciprocate and be able to balance violence. Violence begets violence!

We cannot have specific people killing others and going scot free and all that we get is statements. I would have liked to accompany Maj. Muluvi tomorrow morning, however, I am going with the DC to help this community that has lost a person and everybody is sleeping in the bush.

Hon. Speaker, Sir, I know hon. Kamama to be an able chairman. He has security background. I would like that committee to deal with this matter, not just as banditry or isolated murder or even as a small arms problem. That is a national issue. Unless we deal with it as a national problem, we are all going to be captives. Very soon, we will be like Central America where everybody moves with a gun; including children to safeguard themselves.

**Hon. Speaker:** Hon. Munuve, you are debating something which has not even come to the House.

**Hon. Mati:** I am sorry, hon. Speaker. I just thought that I should educate the hon. Members of this good House.

**Hon. Speaker:** I appreciate your feelings about this.

**Hon. Mati:** Hon. Speaker, I was giving some civic education to hon. Members.

**Hon. Speaker:** Hon. Munuve, as you rightly said, you have a security background. Let us now hear a point of order from yet another hon. Member with security background, but who has a bigger rank than that of a major.

Proceed, hon. (Maj-Gen.) Nkaiserry.

*(Laughter)*

**Hon. (Maj-Gen.) Nkaiserry:** Thank you very much, hon. Speaker.

**Hon. Speaker:** Certainly, he is even taller than the major.

**Hon. (Maj-Gen.) Nkaiserry:** Hon. Speaker, on the 11<sup>th</sup> of this month, hon. Kamama spoke passionately on the issue of security in the presence of the Commander-in-Chief of the Armed Forces. He spoke on the same issue about which the hon. Member has just requested for a Statement.

Hon. Speaker, you actually moderate in that seat. There is nothing that the hon. Member is going to tell the committee because he is not a bandit. The simplest thing for hon. Kamama to do is demanding an explanation from the Inspector-General, who has people on the ground, including County Commissioners, who are responsible for security at that level. They should be able to brief the Cabinet Secretary for Interior and Coordination of National Government on how they are handling the situation.

Hon. Speaker, you heard the hon. Member for Nyakach this afternoon, requesting for a similar Statement. We are pushing this matter forward to a week or two days yet it is a matter to do with lives of people. We have people on the ground. We must demand that they provide an answer. Security is a 24-hour business. I do not agree with my friend, hon. Munuve. I think he is inciting Kenyans. It is not fair for him to say that he can go to the market place and buy a gun because we have security apparatus in place, which can defend the citizens of this country. So, I want hon. Kamama to demand that Mr. Ole Lenku and Mr. Kimaiyo explain what is happening in Kitui and Nyakach, because we must stop the business of banditry.

Thank you, hon. Speaker.

**Hon. Mati:** On a point of order, hon. Speaker.

**Hon. Speaker:** Do you want to disagree with him?

**Hon. Mati:** Hon. Speaker, the Maj-Gen has just said that I was inciting Kenyans. What I was talking about is a well trodden path. If you have weapons in the hands of one community, what happens is that the other community balances the situation. I do not know where that market is but wherever it is, people will seek it. The market has got guns. Since one group has got guns, the other group will also get guns from some market.

**Hon. Speaker:** Order, hon. Munuve!

**Hon. Mati:** Hon. Speaker, I never wanted to incite anybody. All I was saying is that there are weapons out there. We know that they are there. They must have come from some market.

**Hon. Speaker:** Hon. Munuve, if you know of some market where people buy guns, then you would be very useful to the committee. Anyway, this is not an opportunity for agreements and disagreements. Let me hear a Member from the neighbouring constituency.

Proceed, hon. Rachael Nyamai.

**Hon. (Ms.) Nyamai:** Thank you, hon. Speaker. I would like to seek your permission to also make a comment about the matter being discussed because it also affects my constituency. I have also sought a Statement about my constituency being invaded by people from the neighbouring constituency. So, I kindly seek your indulgence for this matter to be handled effectively so that all of us, especially those in Kitui County, where members of one community are being attacked seriously by another community are helped. We feel that the matter should be given the seriousness it deserves.

Thank you very much for giving me a chance to also support my colleagues on this matter.

**Hon. Speaker:** More importantly, hon. Members, if you could all appear before the Committee tomorrow since the Chairperson has already indicated that the Inspector-General of Police and other top security officers will be present, it can be good so that you can discuss the matter more holistically.

Yes, Leader of the Majority Party.

**Hon. A.B. Duale:** Hon. Speaker, the Member for Mwingi has made some very serious allegations. Since the Committee has summoned the IGP and other security agents, all these hon. Members should appear before the Committee, so that they can even share information with the IGP and the other officers as to where the gun market is, who is selling the guns and which community is involved. Hon. Munuve said that he wants to go with the DC. When you have the IGP, a DC is a small man. You can go with the DC another day; even on Sunday. Please, appear before the Committee. The issue is very serious. Now that the Chairman of the Committee has invited the IGP, hon. Members from that area should join the committee proceedings, so that the House can act.

**Hon. Mati:** On a point of order, hon. Speaker. I have a problem when an hon. Member of this House belittles the DC, the Deputy County Commissioner and the Superintendent of Police of Kyuso District; and worst of all, when he belittles Mulungu Mulatia, who was murdered in cold blood this morning by bandits who were carrying AK47 rifles. I know something about small arms and big arms. Those bandits had weapons. Whether they collected them on the roadside or bought them at a market, we would also like to walk that path and pick one, so that we can defend ourselves.

Thank you.

**Hon. Speaker:** Hon. Munuve, this is not an opportunity for debate!

Chairman of Committee on Defence and Foreign Relations, you have two Statements to make.

**Hon. Gethenji:** Hon. Speaker, prior to my response, may I also request that I be invited to the meeting of the Justice and Legal Affairs Committee when they meet the IGP?

**Hon. Speaker:** You are a Member of Parliament; you should go there.

**Hon. Gethenji:** Hon. Speaker, I do not know when they are planning to have the meeting.

**Hon. Speaker:** The Vice-Chairperson will get in touch with you.

FATE OF KENYANS LIVING AND STUDYING ABROAD

**Hon. Gathenji:** Hon. Speaker, I will start with a response to a request for a Statement about Mr. Abdi Ali Aden of Kampala International University.

On Friday, 19<sup>th</sup> July 2013, at around 2200 Hours, Abdi Ali Aden, a Kenyan Sixth Year Medicine and Surgery Student at Kampala International University, Western Campus, in Bushenyi District; was attacked by thugs and critically injured. The student was on his way home after attending a meeting of Kenyan students at the campus. He is an official of the Kampala International University Kenya Students Association (KIUKESA), representing Muslims. He is considered not to have been a target, as a Kenya, but was a victim of circumstances.

Following the attack, Mr. Aden fell into a comma and was admitted at the Kampala International University, Western Campus, medical facility overnight and later transferred to Mbarara Hospital on 20<sup>th</sup> July, 2013. The incident was reported at Ishaka Police Station on 20<sup>th</sup> July, 2013 vide Occurrence Book entry OB.ISK.CRR0256/13 and investigations commenced immediately. So far, no arrests have been made but investigations are in progress. A massive security operation is being planned to apprehend suspected criminals.

The Kenya High Commission in Kampala is taking up the matter with the Government of Uganda, through the Ministry of Foreign Affairs, to ensure further investigations into the incident. On receiving information of the incident, the Kenyan High Commissioner in Kampala made frantic efforts to trace his relatives.

Arrangements were made and the student was airlifted to Nairobi on 21<sup>st</sup> July 2013 for specialized treatment where he was joined by his family. He was admitted at the Nairobi West Hospital Intensive Care Unit within Nairobi County. The student has since recovered from the comma and his condition is stable.

The Kenya High Commission in Uganda has reminded the Ugandan authorities of the need to conclude the investigations and bring the culprits to book. However, the statement from the victim is also awaited. This Statement is dated 6<sup>th</sup> September 2013 and it is from the Ministry of Foreign Affairs. It is issued under the hand of Amb. P.N. Ongeso who is the Political and Diplomatic Secretary. He has issued this on behalf of the Principal Secretary.

**Hon. Speaker:** Who has sought that Statement?

**Hon. Gethenji:** Hon. Speaker, it was sought by hon. Aden Abdikadir Omar of Balambala Constituency.

**Hon. Speaker:** Is he present? He is absent not desiring to be present.

**Hon. A.B. Duale:** He is away on parliamentary business.

**Hon. Speaker:** Hon. Gethenji, you may have to read that Statement when the hon. Member is present.

**Hon. Gethenji:** Hon. Speaker, I stand guided.

My second response was sought by hon. Ken Okoth whom I also notice is not in the House.

**Hon. Speaker:** Ken Okoth has been around. What is the Statement about?

**Hon. Gethenji:** Hon. Speaker, it is a Statement on KDF in Somalia and was sought from the Ministry of Defence.

**Hon. Speaker:** I think, in fairness, that might be something that we need to have the hon. Member present so that if there are issues he may wish the country and the rest

of the House to notice, they do so when he is present. The best thing also would be to notify the Member that the Statement is going to be delivered so that he may stay around.

BUSINESS FOR THE WEEK COMMENCING 24<sup>TH</sup> TO 26<sup>TH</sup> 2013

**Hon. A.B. Duale:** Hon. Speaker, pursuant to Standing Order No.44(1)(2), on behalf of the House Business Committee (HBC) I rise to give a Statement regarding the business appearing before the House next week.

The HBC met on Tuesday at the rise of the House to prioritize the business of the House. The HBC suggested that upon resumption from the September recess the House will give priority to the media Bills whose extension was granted by the House.

The two media Bills namely, the Kenya Information and Communication (Amendment) Bill, 2013 and the Media Council Bill, 2013 have now been read a First Time and will be given priority for debate. I wish to bring to the attention of Members the fact that the 90 days required to pass the Finance Bill will lapse on Friday, 27<sup>th</sup> September 2013 next week. Therefore, the HBC has scheduled the Second Reading of the Finance Bill today and seek to do the Committee of the whole House on Tuesday or Wednesday next week to consider all the proposed amendments.

Hon. Speaker, I want to request all Members who wish to bring amendments to the Bill to do so as soon as possible. Let us use the time available from now to submit proposed amendments to the Legal Department for consideration.

Hon. Speaker, on the same Tuesday next week, the HBC has equally scheduled the two National Police Service Bills for consideration namely, the National Police Service Commission (Amendment) Bill, 2013 for Second Reading and the National Police Service (Amendment) Bill, 2013 for the Second Reading. Following a request by hon. Members, we will be seeking your guidance, hon. Speaker on the question of the constitutionality of these two Bills before the commencement of the Second Reading.

Hon. Members, other Bills before the House that have matured for First Reading include: The National Social Security Bill, 2013 and the Law Society of Kenya Bill, 2013. The Departmental Committee on Justice and Legal Affairs has requested to be given some more time to conclude their Report on the two marriage Bills before the Second Reading. Hon. Speaker, other business before the House next week will include the Motion for approval of nomination of Members to the Pan African Parliament.

May I take this opportunity on behalf of the hon. Members to thank the leadership of the House and the staff for a well organized, successful and more resourceful induction workshop. This workshop gave Members a humble opportunity to interact and understand the House procedures. I believe that the training will make a big difference in the conduct of business in the House.

Finally, the HBC will meet on Tuesday, 24<sup>th</sup> September 2013 at the rise of the House to consider business for the rest of the week. I now wish to lay the Statement on the Table.

**Hon. (Ms.) Odhiambo-Mabona:** On a point of order, hon. Speaker.

**Hon. Speaker:** Hon. Millie Odhiambo, I was just about to make an announcement about those cards, but I realized that you were too few. However, today you will benefit from my magnanimity. You may address us from the Dispatch Box.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, hon. Speaker, for indulging me. You know I am usually very diligent and I always carry my card. I think today I had a very busy day.

I just wanted to raise an issue relating to the Statement by the Leader of the Majority Party. One, I wanted to call upon you to give a ruling because of the Parliamentary practice, especially from what I saw in the Tenth Parliament; we were allowed to interrogate. What has been happening is that every time we have tried to intervene in relation to the same in this House, we have not been allowed. I just wanted to get your direction on that.

Secondly, if I am allowed, I just wanted to interrogate in relation to the business that has been laid before us for next week. I am very concerned that we have been doing some work, but a lot of the work we are doing is mainly amending legislative work from other Parliaments. I am concerned that we have a lot of legislative agenda that this House needs to do and that we need to prioritize which is substantive legislative work. There are very few Bills, for instance, the Wildlife Conservation Bill. Largely, three-quarters of the work, if you look at today's Order Paper, it is mainly about amendments although it is still legislative. I would be happy that we have a legacy as the 11<sup>th</sup> Parliament in terms of our own legislative work.

Finally, if you look at the Private Members' business on Wednesday mornings, it is mainly Motions and yet there are some of us who have brought Bills and we do not know the status of the same. We are not informed about the status of the Bills. I want to congratulate your offices because during the induction workshop, we saw where we are. It is slightly much better than what we did in the last Parliament. We included in it the legislative work of Private Members. I have three Bills some of which came for First Reading in the last Parliament, but we do not know where they are. Perhaps, if the Leader of the Majority Party could respond on the issues that I have raised that touch on him, and if you could give direction in relation to the first issue that I have raised, it would be good. Thank you for obliging me.

**Hon. Speaker:** With regard to the issue of interrogating Statements that have been delivered, that has always happened. Members are always given the chance to seek clarification. Of course, we all, even in that workshop, appreciated about the shortcomings of the system. Even if the House interrogated you, you are unlikely to give a Statement different from the one that you come with.

But of course, if the response comes by way of a report of a committee, then it is expected that the committee has looked at various aspects of all the issues that may have been raised. Of course, debate follows. So, there is nothing much that we can do other than require that Members who seek Statements, just like we have done, be present and be alerted that the response to the Statement you sought is going to be made on a particular day, so that the Member is present. In keeping with our tradition, the Member is given the first shot, so that he is able to guide the other Members on the matter being prosecuted.

With regard to matters about business and Bills, if any Member has Bills that are pending it is their legitimate right to write or even seek information relating to where those Bills are from, either from the Clerk's office or the Speaker's office. That information should be made available to the House Business Committee for onward transmission to the plenary in the usual way that we do, either by the Leader of the

Majority Party or the Leader of the Minority Party. That is the tradition that has been put in the new Standing Orders.

So, what the Leader of the Majority Party is doing here is indeed, giving information to the Members as to what has been agreed on in the House Business Committee. There is nothing much and even if we sat here to interrogate him, he is unlikely to give you any more business than the one he has read out because that is the one that has been processed so far. But I agree with you, hon. Millie, that if you have put in legislative proposals, they should be fast-tracked. There is no reason. Even on Wednesday which is a Private Members' day and we only deal with Motions, especially those urging this or the other, those legislative proposals would form very useful Private Members' business. Therefore, the Clerk's Department is directed to fast-track the various legislative proposals, so that Members can debate them as they desire.

But to make the point that even in some of those jurisdictions from where we appear to have borrowed this procedure, sometimes in a year, you hear that they have passed 1001 pieces of legislation. But if you go to those jurisdictions, you will see that when they remove a comma, that is a legislation that has been passed. They put the word "the", that is another legislation that has been passed. So, we are not doing very badly. This is the truth. I am sure hon. Dalmas Otieno has visited some of those jurisdictions and would agree with me. It is just that whenever they amend, that is a new legislation which has been passed. So, it is not very bad to amend, obviously, hon. Millie. The Finance Bill, every year will always be there. As we know, The Finance Bill is like the Statute Law (Miscellaneous Amendment) Bill. It amends very many laws. Indeed, I am surprised that when we are about to begin debate on it, so many Members are not present. It is like the Members have not really internalized the importance of the Finance Bill. It is not good for the Members not to be present because it is a very important piece of legislation.

The laws that it proposes to amend, in my view, require the input of each and every Member that can get a chance to speak to them. You have a deadline as has been explained of 27<sup>th</sup>, but I leave that to you, Members, to decide whether you want to do business here or elsewhere. I do not know where else, but let us move to the next business. Your point is made, hon. Millie. It is a legitimate point and it is going to be addressed.

Hon. Junet, you appear to be burning with something. Do not burn.

**Hon. Nuh:** Hon. Speaker, Sir, I rise to seek your indulgence and guidance on a matter that I feel I should bring to the attention of the Speaker and Members of the House. It is an issue which I feel is cross-cutting. It is an issue that is affecting all the constituencies. As much as they say that matters of the counties are in the domain of the Senate, constituencies form part of the counties that we belong to. So, instead of addressing this matter maybe in funerals or in the Press, I felt that this is the best place to be heard and then come up with a policy on how we can address it as the representatives of Kenyans.

As you are aware, counties are employing people. At the moment, there is recruitment going on through their public service boards. There are advertisements always appearing in the newspapers, that you must have qualifications of a degree and five or 10 years' experience. To be a member of a local land control board, they are saying that you must have 10 years' experience. If you have five or 10 years' experience in a job, why will you leave that job and go to a job somewhere else just because you

want to be employed somewhere else? This is deterring our young people who have just finished university because there is no school that gives experience. There is no supermarket where you can go and buy experience. So, there are young people who have degrees who are rotting in the villages who are not being given opportunity for those jobs.

I feel most obliged that as the representative of the people of Suna East, who have many degrees and are rotting in the streets, I want to put it to the National Assembly that a policy must be created on how this recruitment can be done. This can originate from the Senate but it must come here even if it relates to counties. I must speak here as a representative of the people because maybe there, the guys are very old. So, the 10 years' experience might be found only there. Like in my case, I do not have 10 years' experience. This is my fifth year of working. I feel that there is a lot of injustice happening there. There are people who completed university three or five years ago, but did not get employment anywhere. They do not have the experience because they have been tarmacking for the last five to 10 years looking for serious jobs. There are people who have been strolling in almost all towns looking for jobs. That kind of experience can be found in Nairobi, Mombasa and the big cities. Rural counties need to be considered. They have people who have clear qualifications in terms of educational background and the energy to work for their counties.

I wanted to put that forward because it pained me so much when I saw young people like me who have gone to seek employment in the counties being chased away on the basis that they do not have experience. The only people with experience are the people with grey hair. Young people like us, what experience do we have? The only experience I have is giving birth to one child or two children. Is that enough experience to give you a job? So, I believe that we need to come up with a policy to make sure that we give these jobs to these young graduates. About 75 per cent of our population comprises of people below 35 years old.

**Hon. Speaker:** You must complete.

**Hon. Nuh:** Hon. Speaker, I am seeking your indulgence because this issue cuts across all the constituencies. If I can get the support of one or two Members, we can have a basis on how to fight next.

**Hon. Speaker:** I am sure that is a matter touching on employment. I do not know whether hon. Dalmas Otieno, the way he is looking at me, wants to address it. He is the immediate past Minister in charge of employment or Public Service. On the other hand, hon. Junet, nothing prevents you from coming up with legislative proposals, which should be discussed here. This House can make legislation touching on counties, only that it must go to the Senate for their input. So, there is nothing wrong. You can come up with a legislative proposal that addresses the issues that you have noticed. As you rightly said, they cut across every corner of the Republic. Everybody, I think, has been seeing those kinds of advertisements and the requirements. So, I think what you need to do is to sit with your colleagues. You are seated next to a former Permanent Secretary. So, you are in very safe grounds and he might also address the issue you have talked about; that you have experience of giving birth. The hon. Prof. Nyikal, a medical doctor, will also again assist you in that regard.

**Hon. (Ms.) Odhiambo-Mabona:** On a point of order, hon. Speaker.

**Hon. Speaker:** Yes, hon. Millie Odhiambo. Is it about the latter expression?



**Hon. (Ms.) Odhiambo-Mabona:** Thank you, hon. Speaker. I want to thank hon. Junet for raising that issue and, perhaps, I would want to request him to raise it as a Statement because it is not an issue of counties. Issues of policies and principles are issues of the national Government and I know, for instance, it is not just the issue of age that must be interrogated. It is the issue of age, gender and ethnicity and we have laws that set standards that are not being followed. For instance, the National Cohesion and Integration Act which provided for one-third rule is being violated across every county. So, I know the reason some of us have not raised this is because there is a committee that has not yet been formed, which is the one on Equal Opportunity. The Committee on Equal Opportunity will touch on issues of youth, gender and ethnicity. So, I would just encourage the Leader of the Majority Party again to hasten the formation of that committee because it is a national issue. It is not a county issue. Thank you.

**Hon. Speaker:** Maybe, the Leader of the Majority Party should actually explain this issue because I thought that the issue of the committee not yet being formed had been discussed in the House Business Committee and the Committee on Selection was supposed to meet and finalise that matter. Perhaps, Leader of the Majority Party, you could shed some light on that.

**Hon. A.B. Duale:** Hon. Speaker, as you directed, the Committee on Selection is sitting now and we will table the list covering the issue raised by hon. Millie Odhiambo on Tuesday next week. So, as I am here, the Committee is sitting to ratify.

**Hon. Speaker:** Very well. Next Order. Hon. Abdul Rahim Dawood.

**Hon. Dawood:** Thank you, hon. Speaker. I would like to bring to the attention of the House that the *Uwezo* Fund was launched more than two weeks back, but our people cannot access those funds unless they have a certificate from the Social Services Department. So, whoever has gone to the Social Services Department for the last four to five months to get those certificates has not been given. So, what hon. Junet was talking about is true and I think somebody is sabotaging the fund and the House needs to look at it. If other Members could support me in this, I think we have a problem all over the country. If they do not want those *Uwezo* funds to be disbursed, I think there may be some conspiracy out there. So, the House should be seized of this matter. Thank you.

**Hon. Speaker:** Very well. I think we should go to the next Order. Hon. Members, I will make this clear. As many of you keep withdrawing and as the country keeps saying, you are not passing laws, I will never put any Question on a Bill if we do not have quorum. I am saying this because you know yesterday you concluded debate on the Deposit Insurance (Amendment) Bill, but the Question needs to be put. So, I think it is important that Members bear that in mind. Can we go to the next Order?

## **BILLS**

### *First Reading*

#### THE TRUTH, JUSTICE AND RECONCILIATION (AMENDMENT) BILL

*(Order for First Reading read – Read the First time and ordered to be referred to the relevant Departmental Committee)*

*Second Reading*

THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL

*(Hon. Langat on 27.6.2013)*

*(Resumption of Debate interrupted on 18.9.2013)*

**Hon. Speaker:** Hon. Langat, you had replied and so, I will put the Question. I am advised that we have quorum. So, I will put the Question.

*(Question put and agreed to)*

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

Next Order.

*Second Reading*

THE FINANCE BILL

**Hon. Langat:** Thank you very much, hon. Speaker. I beg to move that the Finance Bill, National Assembly Bill No.2 of 2013, be now read a Second Time.

As I begin the debate on this Bill, I want to echo your comments in saying that, once again, it is very disturbing when we start a very serious agenda and we do not have a quorum. Maybe, there will be a big quorum in a Press conference tomorrow criticising what the House has passed. So, it is very unfortunate. I want to urge the Leader of the Majority Party to ensure that Members are present in the House when a very serious agenda like this one is being discussed.

Hon. Speaker, Sir, having said that, I just want to note from the beginning that if you look at the Finance Bill 2013 compared to the other years, for the sake of our new colleagues, in terms of size it is really a small Bill this time round. I believe it is because most of the issues that had been covered before have already been covered through the VAT Act which we passed recently.

Hon. Speaker, the Finance Bill as has been mentioned is a Bill that carries many small amendments to many Acts of Parliament especially those that are related to finance and taxation. We have looked at this present Bill in my committee and it has touched on quite a number of other Acts. One of them is the Customs and Excise Act, Cap 472. It has also touched a bit on the Income Tax Act, the Value Added Tax Act although my committee had a reservation on that which I think we will deal with in the Third Reading just because of the procedure. We have the Banking Act, the Retirement Benefits Act No.3 of 1997, the East African Development Bank Act, Cap 493 and the Prevention of Terrorist Act No.30, 2012.

Hon. Speaker, in terms of the Excise Act, the Bill seeks to introduce the Railway Development Levy Fund. I will insist that we levy 1.5 per cent on all the imports that come to the country; for the purposes of building a new railway line. I know many hon.

Members might see issues in terms of cost, but when you look at what it is going to do, I believe those of us who come from Mombasa, all the way to Kampala, know that we deserve a standard railway line in this country. I think it is time we took the difficult decision so that we have a railway that is functioning in this country. I think it is only in Kenya or in Africa where systems have not been extended. Somebody said that it has never been extended even by an inch since the colonialists left. In fact, it has actually reduced because some of the railways which were working are no longer working. So, that is one of the areas in terms of infrastructure development which I know, although it is painful, in the output in the future, we are going to have very good investment for this country.

Hon. Speaker, I would like to urge that once this railway fund is created, I would like to encourage the House to legislate on it so that jointly we can monitor the progress of this railway in order to get money. I believe that the new regime will go out of its way to ensure that in the next three to four years, we are able to get our goods from Mombasa to Kampala in three or six hours, not the 12 days that our lorries take.

Hon. Speaker, despite the cost, it is going to be a very good investment and the fund will be administered according to the Public Finance Act, as a fund. Therefore, it will be reinforced for the purpose of the railway development alone; nothing else. Therefore, that really gives a lot hope to this country.

*[The Speaker (hon. Muturi) left the Chair*

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

The hon. Temporary Deputy Speaker, Sir, the other thing this Bill seeks to do, according to the new Constitution is that, Parliament has been denied the power to make any law that excludes any person from paying tax by virtue of their positions. If you look at the Income Tax Act as it is today, it still excludes the armed forces and so, under the amendments which are before this House, it is meant to ensure that everybody pays taxes including the armed forces. I know nobody wants to pay taxes but we must also follow the Constitution which was passed. Even hon. Members of this House are no longer exempted, they now pay taxes like any other Kenyan. Therefore, I would like to urge our armed forces to follow suit so that we follow the Constitution together.

The other amendment that has been put through this Finance Bill is to expand the definition of “place of business” for banking purposes. If you look at the present Banking Act, it says that the place of business is Kenya. That means the Central Bank cannot monitor the branch of, for example, Kenya Commercial Bank in Uganda, Sudan or Tanzania. So, it seeks to expand the place of business for commercial banks even outside Kenya. The Central Bank can still monitor the operations of a bank both inside and outside the country; where the banks have their branches. The Banking sector is properly monitored by the Central Bank.

Hon. Temporary Deputy Speaker, Sir, one other thing which has been covered, as I mentioned earlier, is the Retirement Benefits Authority Act. The main amendment which is being proposed here is that it gives a system whereby those who are managing the retirements should be determined through some qualification criteria. This is because

retirement money is very important as everybody should be sure that when he or she retires, his or her contributions are safe and that one will get the money and retire in peace. So, I agree that there should be a criterion for those who are managing it. They should have some qualifications that are required for them to manage and actually give confidence to the retirees concerning safety of their money.

Hon. Temporary Deputy Speaker, Sir, we also have the East African Development Bank Act, and the amendment being sought is really to make the East African Development Bank, in terms of functions and service to match with the other international bodies. For example, the amendment seeks to make them do the work that the African Development Bank, International Monetary Fund and other international banks do. We can run an East African bank which can help us in this country before we go very far away. So, the amendment seeks to strengthen how the East African Development Bank operates for the purposes that we know we need as development partners before we go all the way to China or the World Bank. We can have our own institutions across which can be of benefit to us.

The other Act which is affected by this is the fines which are levied on banks due to violation of the law. During the last Parliament I was part of a Select Committee that was investigating why the Kenya Shilling was depreciating at a faster rate at some point than it had been doing. In the process, we realized that the penalties for violation of law which are in the Banking Act were slow. It said, if you violate the law, you will be fined Kshs1 million. For a bank, Kshs1 million is just money the bank gets within a day and maybe the banks violate procedures worth hundreds of millions. Therefore, this Act, seeks to increase the fine from Kshs1 million to Kshs5 million. It also seeks to introduce a Bill with penalties, if banks continue violating the law, that should attract a penalty. This is going to prevent the tendency of violating the prudential guidelines and the banking Act regulations and, therefore, give more confidence in the banking sector.

Hon. Temporary Deputy Speaker, Sir, the other thing which has been affected by these amendments is the Prevention of Terrorism Act. This amendment proposes to make collections of funds in whatever way to support terrorism by way of facilities, resources mobilization knowingly, and utilization of knowledge to be a serious crime. It actually proposes to make it a 20-year jail term. In fact, in my Committee, there was a debate that if somebody commits an act of terrorism or he is found guilty of planning an act of terrorism, a 20-year jail term is too punitive. In fact, some hon. Members were saying that this should be a death sentence crime because many people have been killed by terrorists. The only thing that we need to do is to ensure that it is tight so that those who are suspected should be given reasonable opportunity to explain themselves.

Hon. Temporary Deputy Speaker, Sir, those are generally the areas which have been covered by the Finance Bill.

Hon. Temporary Deputy Speaker, we enacted a Value Added (VAT) law the other day. Our procedures do not allow amendment to that law before the lapse of six months, unless we do something else. So, my Committee was of the view that the amendments to the VAT Act have been overtaken by events. The amendments should have been brought before we passed the VAT Bill.

There is one more thing touching on the Income Tax Act. I am sure that hon. Members have seen promotional campaigns being run by some mobile phone service companies. For example, there is *Bonyeza Ushinde*. The Kenya Revenue Authority has

realised that some people are getting good money from such campaigns. Therefore, there is a proposal to include winnings from gaming and betting. It is felt that if you win Kshs10 million, you must pay something, so that the environment can be very conducive for you to participate in that exercise again so, that there is a proposal that winnings from gaming and betting should be subjected to tax, so that everybody contributes to the Exchequer.

Therefore, I would like to urge hon. Members to support the Finance Bill. I want to mention that this Report was prepared in consultation with the Budget and Appropriations Committee, as required by our Standing Orders. So, we have included comments from the Budget and Appropriation Committee, as a main stakeholder. If you look at the Standing Orders, you will appreciate that the Budget and Appropriations Committee is also supposed to conduct some business on the Finance Bill. However, we agreed with the Chairperson of that Committee that we work together and incorporate their comments in our Report, which we have done.

Hon. Temporary Deputy Speaker, we also encouraged members of the public to participate. Organisations like PriceWaterhouseCoopers commented on the Finance Bill, particularly on the huge investment in oil exploration. The Kenya Bankers' Association also came. We listened to them on the issue of Excise Duty, which is now being levied on transaction fees charged by banks. So, we are planning to bring some amendments to the Bill during the Third Reading to incorporate the views of the public. That is what our Constitution says. So, we must consult the public.

We also got representation in the form of a memorandum from the East African Breweries Limited. We have incorporated some of their comments in the Report. We also had comments from the accountants' body of East Africa regarding the Finance Bill.

So, those are the things we are going to transact during the Third Reading in order to make the Bill more---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Wanyonyi, are you rising on an intervention?

**Hon. F.K. Wanyonyi:** Yes, hon. Temporary Deputy Speaker.

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

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, the presentation by hon. Langat is very good but I wonder what is happening with the sound system. He is making a very good presentation but I cannot hear him despite the fact that I am quite close to him. There is something very interesting about this particular Bill but I am not hearing anything. I am straining to hear what he is saying.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you, hon. Wanyonyi.

**Hon. F.K. Wanyonyi:** Yes, please, if something could be done, I will appreciate. Otherwise, he should move to the microphone on the Dispatch Box, so that we can hear him clearly.

**The Temporary Deputy Speaker** (Hon. Kajwang'): We hear you, hon. Wanyonyi.

Hon. Members, on behalf of the Office of the Clerk and the technical department, we really apologise. This afternoon, we have had technical issues. Even from where I sit, I have been trying to strain to be able to hear the hon. Member on the Floor. There is a lot of feedback. However, we are trying to overcome those technical issues. So, hon. Members, I beg your indulgence to suffer a little in silence and try to strain your ears as

much as you can. Just as hon. Wanyonyi has said, I would like to request the hon. Members on the Floor to open up their mouths, so that we can read the movement of their lips properly. I hope that we will overcome the technical issues in a short while.

You may proceed, hon. Langat.

**Hon. Langat:** Thank you very much, hon. Speaker. I am sorry about what my friend is going through but I am very happy that he is very much interested in what I am saying.

In conclusion, I was saying that the Committee will bring a few amendments during the Third Reading to capture the interests of the members of the public who came and made presentations to the Committee as well as those whose comments the Committee approved. In my Committee, we all work together and agree on issues that need to be amended.

Hon. Temporary Deputy Speaker, I am sorry to hon. Members for the technical hitch that has made it difficult for them to follow my presentation. We have tabled the Report. We have also made some copies of a document just to give hon. Members notes about the Bill.

With those remarks, I beg to move.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you very much. Who is seconding the Bill?

**Hon. Langat:** It is hon. Duale, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Please, proceed, Leader of the Majority Party.

**Hon. A.B. Duale:** Thank you, hon. Temporary Deputy Speaker. I hope that hon. Wanyonyi can now hear me.

**Hon. F.K. Wanyonyi:** I can hear you well!

**Hon. A.B. Duale:** Thank you.

Hon. Temporary Deputy Speaker, the Committee Chairman has done very well. On the outset, let me point out the fact that the Finance Bill comes to this House on an annual basis, some 90 days after the passage of the Appropriations Bill by this House. This Bill is of national significance. Again, as you can see, we are just a handful of us. Whichever way it goes, this Bill will affect the lives of our people positively and negatively. So, I hope that hon. Members will take it very seriously.

What does the Finance Bill do? It deals with the taxation measures that will help to facilitate the development of infrastructure. How does it help? The Bill provides for 1.5 per cent Railway Levy Fund, which will help the Government to build a standard gauge railway line from the Port of Mombasa to Malaba. The first railway line, which is about 100 years old, was built by the Indians. The previous three successive regimes of this country could not think of upgrading it. In order to spur economic growth and attain a double-digit growth, the Jubilee Government felt that we must invest in the building of a standard gauge railway line.

It is this Bill that will always look at how to balance, harmonize and create equity and fairness in the administration of the tax system in this country. This particular Bill has been covered under the insurance sector. The main objective of this Bill is to strengthen and consolidate the tax administration of this country. The Finance Bill aims at promoting the growth of the financial sector by looking at the various financial laws and updating them and making sure that--- That is why it is annual so that every year the

financial sector wants to live within an emerging legal framework so that they can play their role in a very competitive global financial market.

Finally, the objective of the Finance Bill is to strengthen the supervision of the financial system. Here we are talking about the Central Bank of Kenya which is the main supervisor of the financial institutions and systems in this country. In a nutshell, this Bill touches on the Customs and Excise Act, the Income Tax, the VAT, the Banking Act and the East Africa Development Banking Act.

On the Customs and Excise Act, the amendments in this Bill seek to introduce a requirement for the Commissioner of Customs to give reasons where he denies an investor the licence of intent to manufacture goods. This is where an investor or a company wants to use the licence of another entity. This, perhaps, was not in the previous law. For this one, the Commissioner must give a reason.

This Finance Bill also enhances cross-border trade. It touches on the withholding of tax. It creates a situation where both the game and betting tax, or where the winners in a casino must equally pay something to the Exchequer. The Chair did very well.

As I said earlier, the Finance Bill is introducing the Railway Development Levy which is payable on all goods imported into the country for home use – the charge is 1.5 per cent. This is meant to build the standard gauge railway network. This is meant to spur growth, ease congestion at the Port of Mombasa and to connect us to our neighboring countries which use our port, railway and roads. This will spur economic growth not only in our country, but also in the East African region.

Hon. Temporary Deputy Speaker, on Income Tax, there is exemption of taxation on insurance premium paid by an employer for a group life insurance. If you look at the critical clauses in this Bill from the Committee's Report – I urge Members to read the Report – Clause 15 deals with payment of taxes before hearing of a tax assessment appeal. I agree with the concern raised by the Committee about the requirement that a taxpayer aggrieved by the reviews of a Commissioner on notice of objection will be required to pay 30 per cent of the disputed tax. I am sure that a relevant amendment will be put in place.

Clause 16 intends to amend Section 114 of the existing Income Tax by taking away the power to compound offences from the Minister or the Cabinet Secretary, in our case now to the Commissioner. Again, here, the Committee is opposed to this change and believes that the power to constitute the committee and deliberations must still remain with the Cabinet Secretary so that he provides checks and balances.

Clause 17 makes directors and senior managers of corporations squarely responsible for the payment of unpaid taxes including other penalties upon conviction for tax fraud. I have seen the Committee's observation. They disagree with this; it is for the House to look at it and see there could be an amendment to that.

Hon. Temporary Deputy Speaker, Clause 7 seeks to exempt goods and equipment used for sports through an amendment to the old Valued Added Tax Act, Cap.476.

I want to thank the Chairman of the Departmental Committee on Finance, Planning and Trade because from the list he has presented of the stakeholders who appeared before him, it looks like they are the key stakeholders within the relevant professional body, for instance, Pricewaterhouse Coopers, the Kenya Bankers Association, the Institute of Certified Public Accountants of Kenya (ICPAK), the Kenya

Revenue Authority – this is their baby - and the East African Breweries. They have written a memorandum.

In conclusion a certain aspect of the Retirement Benefits Authority has been acted on. I know that when we come to the Committee of the whole House, amendments to the relevant provisions will be done.

I did not touch on the Banking Act. I think what I have picked from the Bill on the Banking Act is expanding the definition of “agency”. Banks can introduce and have agents. They could include sub-contracted entities so that Kenyans can get more jobs. This will be done without seeking approval of the CBK. That, in my opinion is good. This way more Kenyans from the micro finance and economic entities will empower our people and create more wealth and have more people introduced to the financial sector.

Hon. Temporary Deputy Speaker, this is a very important Bill that comes annually. It is important for all of us. I am sure that today and Tuesday hon. Members will give their input and bring the relevant amendments.

I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Kajwang’): Hon. Members, we have 10 requests by now. This is the order we will take them strictly, according to how they have come: - Hon. (Dr.) Pukose Robert, hon. Njenga Francis Kigo, hon. Priscilla Nyokabi Kanyua, hon. Tonui Ronald Kiprotich, hon. (Prof.) Nyikal James Wambura, hon. Kobado John Owuor, hon. Mbadi Ngong’o, hon. Kimaru Anthony Mutahi, hon. Mwaura Isaack and hon. Ottichilo Wilber Khasilwa. I do that so that there will be no necessity for Members to approach the Speaker’s Chair. Alright, so let us go that direction. Hon. Pukose.

**Hon. (Dr.) Pukose:** Thank you, hon. Temporary Deputy Speaker, Sir, for allowing me to contribute to the Motion on Finance Bill No.2 of 2013. This is a very important Bill that when looked at, there are several amendments to be done. It is touching on several financial acts; the Customs and Excise, Income Tax, Value Added Tax, Banking Act, Retirement Benefits Act, East African Development Bank Act and the Prevention of Terrorism Act.

This will bring at least some discipline into these areas. One, it is going to make these Acts to be consistent with our new Constitution. These amendments are meant to enrich the Act and streamline areas that we think can be of benefit to Kenyans.

When you look at it, especially when it comes to the areas of sports, where we are talking of exceptions in terms of sports equipment, this is going to assist especially in goods and equipment which qualify for development of sports in this country. In other countries, sports is one of the key areas that need to be supported. In our country, this is an area that we need to also support.

When it comes to amendments, especially when it comes to areas of terrorism and all those other areas, this will also enhance the security of this country. We will be able to look at those who finance terrorism. When you look at the area, it is attracting imprisonment of up to 20 years. I think it will deter people from either directly or indirectly participating in that.



I was also looking at the East African Development Bank Act. It is allowing the East African Development Bank to be at the same level with the African Development Bank. This we saw, especially in the initial banking sector in this country when we used to have the East African Community. After the disbandment of the East African Community, initially all its assets seem to have either been looted or vandalized. They were not well taken care of. Now that we are moving into the East African Community, the East African Development Bank should also have the same status as the African Development Bank. When it comes to areas of development of infrastructure within this African region--- We talk of areas, for example, in this country where right now we are thinking of increased trade between Kenya and South Sudan. In this respect, we are talking of roads, for example, the road from Kitale-Endebess-Losum-Kapchorua and all the way to Juba. This will be able to take off the bigger load that is experienced, especially on the Malaba Road. So, if we are going to have the East African Development Bank, these are areas that we can easily be able to approach and be able to fund some of those major projects to increase trade within those areas.

Of major concern actually is terrorism and also the security of Kenyans, especially what we have seen recently in South Sudan where Kenyans working there are actually facing a lot of insecurity issues. This will be addressed by other agencies.

Otherwise, with those few remarks, hon. Temporary Deputy Speaker, Sir, I rise to support the Bill.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you, hon. Njenga.

**Hon. Njenga:** Thank you, hon. Temporary Deputy Speaker, Sir. I rise to support the amendments with reasons. When I look at the 1.5 per cent railway levy and when I also look at the state in our country, whereby not a single railway line has been built in this country, we see a large population, especially the urban population suffering a lot for lack of transport. After the Mombasa-Malaba Railway is complete, this fund will facilitate in coming up with a commuter railway track which will assist in passenger movement.

I remember one time I was in Italy, Rome and I was surprised at how efficient transportation is. You travel quite fast. I look forward to a time when people will live as far as Nakuru and be in Parliament even in an hour or two hours' time. This makes me feel it is important that these amendments are supported so that collection of this levy of 1.5 per cent from imports can be legitimized.

The other most important thing that I look at is how these railways are going to assist us to be able to take agricultural imports to various parts of this country. As you know, Kenya is basically an agricultural State. If we can have this railway network expanded and enlarged, then I would imagine that it would be much cheaper to transport imports to our farmers and this would make food production much cheaper. At the same time, it would also be cheaper to bring the food to the people because if you look at Vision 2030, urbanization is emphasized. So, I look and dream that one time we will have reached where we can actually be able to compete with other countries because such a fund will make it easier to produce our goods cheaply.

The other most important thing that I look at is the sports equipment being exempt, because as you can see Kenya is becoming a sporting nation. Just the other day we had a person who can do javelin. Javelin has never actually been anything. I look at young people all over this country, whenever they have time they are playing football. I

look at what is happening to athletics and I am thinking making them cheaper so that our people can access them. We can acquire them for our schools. This might reduce the idleness that we have that is even probably making our people become drunkards.

The globalization aspect is actually the emphasis of these amendments, that is especially on transfer pricing; the double taxation agreement. This is going to enhance revenue. The Government is losing a lot of revenue when it comes to matters of double taxation and now making it digital, it will be easier to actually not avoid paying taxes.

On the other hand, we need to integrate ourselves with the rest of the world because the world is becoming just but a global market.

Hon. Temporary Deputy Speaker, Sir, I particularly look at Section 114, where the Commissioner will form a committee which will have an advisory role. In this advisory role, one is given a chance to be treated equally. Reading between the lines, the offender is given a chance to accept his offences and pay taxes and this will reduce a lot of litigations which have made the Government of Kenya lose a lot of money. The punishment to be meted against the directors and others who help companies to evade tax is also a deterrent factor. It will be a deterrent for failing to pay tax and people will comply. The Constitution states that everyone, every State officer must pay tax. With that amendment, I am sure the Armed Forces Canteen Organisation (AFCO) people will pay taxes and then we can be able to raise their remunerations and make them live much better lives. Those who are doing illegal businesses using goods obtained from AFCO will come into the tax paying net.

I am also concerned about winning and betting. We have had a lot of winning and betting going on in our country where people just go home with their money, especially foreigners. Even those who bet and win in our country earn revenue like anyone else. Once this is brought on board, a 20 per cent final tax is levied and no other tax over and above that. I find that quite very positive in that everybody will own Kenya. Everybody will feel part and parcel of this country. Those who come here and bet and win and go away, will leave some revenue for us.

The East African Development Bank is being raised to the status of the World Bank, IMF and ADB and giving the member states powers to even sue this bank. As a matter of fact, they cannot nationalise the assets of the ADB. This gives this bank a wider chance to participate fully. It gives this bank safety from political risks which have made institutions close down. All in all, when I look at this amendment from a holistic approach, I find that it is going to manage the tax and the financial position of our country and raise it to a higher level. Kenyans will modernise their institutions and live much better lives.

These amendments will help us to attain our Vision 2030. I, therefore, support.

**Hon. (Ms.) Kanyua:** Hon. Temporary Deputy Speaker, Sir, I am also happy to contribute to the debate on the Finance Bill and to support the Bill and the amendments that it proposes. But as I do that, I would urge that in the years to come, the Finance Bill is accompanied by an explanatory note. In many legislatures where they pass similar laws like the Statute Law (Miscellaneous Amendments), like what we passed here, that particular law requires explanatory notes.

If you look at the House today, part of the reason why we are few is because not many Members are able to follow the conversation from the policy direction up until when this Finance Bill is introduced. We have very competent staff in this Assembly. If

you look at the Motions, the reports and the drafting that they do, it would not be asking too much to ask the staff that we have and the Clerk's Office to supply explanatory notes to a legislation, so that Members can understand where the policy is coming from, where it is going and why there is need to change policy. That is important.

When I was in the Budget and Appropriations Committee, I raised the matter that we are confronted with the Finance Bill without the parent Act, the substantive legislation and without understanding what is the problem with the law as it existed before. Why must we change it now? Then we have to make quick decisions around supporting some of these amendments. So, while I support the Bill this particular year, I would urge that in the years to come, we have explanatory notes accompanying legislations, so that we understand where we are taking our country. For example, we have the question on the VAT Act even in this particular Bill. We recently passed the VAT Act and there is a fair amount of complaints by the public, especially the matter of processed milk. It has been unfortunate that our Kenyans do not know that there is a long list of items that this House exempted from taxation including sanitary towels. Part of the reasons of collecting more taxation was to be able to subsidize those who cannot afford. Collect more tax, have enough money and then come back and subsidize those members of your society who are poor. For example, the aged, the women and girls in schools who still need sanitary towels.

So, the biggest complaints that we now have on the VAT Act is the question of processed milk, which I think should have received due attention by this House. So, in the face of having the question of processed milk out there, if Parliament goes out and exempts sports equipment, while it is important to also acknowledge that sports is important for our country, the people are complaining most about processed milk and not sports equipment. So, there is going to be a misnomer between what Parliament does and what the people out there are complaining about. I oppose the amendment on the VAT Act and urge that after six months, as the procedures allow us, we look at the VAT Act again and make substantive policy decisions around the items that Kenyans want to be looked at. In the meantime, and in the process, we have to continue emphasising to the public that taxation is important, that we have to pay our taxes. We have to have efficient comprehensive tax regimes and the more laws we pass around making the tax regime efficient, the better for our country. Then in the meantime, the VAT Act should not receive any further amendment until such a time as there is enough consideration on what other items should be exempted.

Hon. Temporary Deputy Speaker, Sir, when laws like this also come, it is also important for us to begin to look at the question of tax breaks. Which are the kinds of groups of people receiving tax breaks in our country? There was a question on whether the tax breaks are bringing in foreign direct investment and we might need to look at those matters a little bit more intensively. I would urge that next year or in the Bills that we have next, we have explanatory notes. We note that women and youth in this country remain outside the financial sectors and we need to start considering very actively how to engage those groups back into the financial sector. An explanatory note on a Bill like this one would help us to do that.

I support the Bill.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Kanyua has raised an issue to do with explanatory notes. In legislative practice in most Commonwealth, that is

taken care of by the memorandum or the objects of the Bill, which appears in this Bill. But I suppose the Member is raising a fundamental question so as to make Members really know what we are doing. We, perhaps, may not be as legislatively aware as the Member who has just spoken and we need to help each other. The Member has raised a question which should be taken up by the Chairs of Committees to inform the Ministries where these Bills come from. This is not our role from the Clerk's Table. These Bills are coming from elsewhere. If they were to come with explanatory notes, it should come from there because that is where they have the drafting instructions.

**Hon. Langat:** On a point of information, hon. Temporary Deputy Speaker, Sir. The Member has raised a very important issue, which I agree with, but I also wish to inform her that before I left the microphone when I was moving the Bill, I informed everybody that there are some notes which have been done at the back there by our Budget Office. They have analysed the Bill clause by clause in terms of what it seeks to do. So, it is there. Maybe she did not get time to get that. In future, it is very important that the Clerk's Office should also facilitate.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Nyokabi, you do not have to prosecute it further. But I suppose I heard the Member saying that you need to break down the issues before us so that Members can follow the policy from which these legislations have been drafted. In a presidential system, the National Assembly is an important legislative arm. Since we cannot say that everybody has reached the same level of legislative information and yet everyone of us must contribute to that legislation, we need a way in which we can break it down in such a manner that every ordinary Member in this House is able to follow and not only bankers, economists, lawyers, accountants and doctors. Every single Member should find it easy to follow the debate so that we can help each other – all the 345 Members of this House. Let us go on. Hon. Tonui.

**Hon. Tonui:** Thank you, hon. Temporary Deputy Speaker. I rise to support the Finance Bill and I am very happy and excited to see hon. Mbadi there because when I moved an amendment in the House last time on sugar, he was the first one to say that I was very ignorant. I think there were lots of comments which he made which I was not able to answer to. When I see him in rallies trying to incite people about the VAT Bill and yet he was the first one to shout it down, I really wonder.

So, as I said, I rise to support this Bill. This Bill is very necessary to ensure that we provide the necessary finance to this Government to implement so many agendas which are pending.

**Hon. Ng'ongo:** On a point of order, hon. Temporary Deputy Speaker.

**Hon. Tonui:** What is your point of order? What I said is what you said. He is disturbing me.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Tonui, if I have not intervened, it means that I am blind.

**Hon. Tonui:** Thank you. I am very excited that this Bill is proposing to introduce 1.5 per cent tax on all imported commodities to ensure that we build a standard gauge railway from Mombasa all the way to Busia or Malaba. This is because the railway system that we have is the one which we inherited from the colonialists. We have never done anything in the last 50 years to improve our infrastructure. The other day when we met with some investors they said that it is cheaper to import any item from Europe to Mombasa than to transport the same from Mombasa to Nairobi. That is a major

difference in terms of the distance and in order to ensure that we reduce the cost of doing business, we must ensure that we invest in this modern electric railway line. Every morning as we come to work from the estates we spend two hours and then we also spend another two hours going back. If we do not do anything to improve the state of transport in this country, I think this economy will never grow and move to where the Asian Tigers are. However, if we deal with the general infrastructure then we will move and we will ensure that the cost of doing business in this country is lowered substantially.

Hon. Temporary Deputy Speaker, I am also excited that this Bill is also touching on retirement benefits. It is trying to streamline that. We need to ensure that the retirement of our people is safeguarded. There are so many fraudsters who are stealing from these retirement-related companies. If we continue tightening these laws, I believe our people will start to enjoy these benefits.

There is also the other issue of sports items and equipment. Most of our youth are unemployed. They are idle in the villages. We need to encourage them to go in that direction of sports. We need to encourage them to participate in athletics, football and all the other sports so that they can earn some income from them and also to reduce the level of idleness. When we go to the villages these days our youth are really exposed to alcoholism. They are taking lots of alcohol because of frustration. So, we must think of ways of ensuring that they are engaged and the best way is ensuring that these items that are related to sports are affordable. I would have wished other items which were in the VAT Act to have been taken care of to ensure that the cost of living is reduced but we understand that everybody is expecting money from this Government. The county governments are demanding money. Everyone is demanding for good roads, health centres, good hospitals and electricity. Where will the money come from? So, we must refine the laws which we have which are related to finance.

I support this Bill.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Fair enough. Hon. Prof. Nyikal.

**Hon. (Prof.) Nyikal:** Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this amendment Bill. This is an extremely important Bill. We are all aware of that. Let me also echo what hon. Nyokabi said. I think it is very difficult for Members who are not technical in any area to follow debate at most times. I think there is a suggestion that we can take up straight away; the memoranda give us good guideline but many times they are actually very short and not detailed enough. I looked at the analysis that hon. Langat was talking about that was left there. It comes too late for anybody to really follow. This is something that somebody needs to get in advance and look at. My suggestion is that the memorandum should be the level of analysis. I do not see anything wrong with that so that when you get the Bill, you look at the memorandum and you actually have all the information that you need. You do not have to go and read all the Acts. I think that is something that we should take up so that most people can contribute.

**The Temporary Deputy Speaker** (Hon. Kajwang’): A workable suggestion which we are taking seriously to the Clerk’s Office is that usually we receive a compendium from the Ministry because they have the drafting instructions analysing the Bill. We probably should create a directory of all Members by way of e-mail so that this information can go much earlier so that Members can be able to use it and compare it

with the Bill which is coming before the House. Thereafter, the memorandum will now be a simple analysis of clauses by clauses which are coming from there or a policy objective of the Bill. We are taking it seriously and we will see how we can go in that direction.

**Hon. (Prof.) Nyikal:** I think that will improve participation. One particular clause which I am concerned with and want to say something about is that one on the Retirement Benefits Authority (RBA). I think this is something that we must take up very seriously. The issue of retirement benefits is a major issue. Many people in this country work for the length of their working life and end up without any benefits they can live on. Therefore, the establishment of a RBA was a good thing and we should regulate it better so that the numerous institutions that will come into place can then benefit the members.

Hon. Temporary Deputy Speaker, we are aware that one of the reasons that we are increasing taxes is so that we can take care of the old persons. If you look at it, many of these people were working starting with Members of Parliament. I know there is an effort to get a Bill to look at the retirement of old Members of Parliament. I know that somebody is working on a Bill to look at war and military veterans. I know that we are looking at many areas for people who have worked. So, I think we should look deeper and broader in the area of retirement benefits. We should strengthen those institutions and, therefore, to that extent I really support this Bill on that matter.

The other area I would like to talk about is the regulation of banks and the Banking Act. Again, we should make it possible for people to get agencies where they can bank easily and strengthen the Central Bank of Kenya (CBK) so that deposits are protected as we discussed yesterday. But one thing that I really want to bring out here is that I do not understand and many economists and finance people have tried to convince me, I do not see why our interest rates are so high in banks. You put money in the bank at 3 per cent and it is rent back to us at 20 per cent. In other countries, when the interest rates go to above 3.0, 4.0 or 6.0 per cent, it is a national crisis. At the same time, we are quite aware that international banks are making huge profits from us. My lay interpretation is that we are literally being robbed by the banks. I think time has come when we have to re-look again at the interest rates that are being charged by banks in this country. Maybe, I expect the next finance Bill should look at this issue. Or we look at the so-called Donde Bill and once again look at the issue of interest rates.

Hon. Temporary Deputy Speaker, Sir, I am a big businessperson but I do not know any business where you are going to make an interest or a profit of 30 per cent. If the bank itself is taking 20 per cent of the money you borrowed - my friend, you are the finance people - where is the profit that will cover that interest? Basically you cannot do any business. People who can try business just give up. So, I think banks are killing us. I do not even understand why when you deposit cash in the bank, you should pay. There are charges - sometimes I said that we are soon going to be charged for breathing air in those banks. That is an area we have to look at. Therefore, strengthening the Central Bank and regulating these banks are important.

Another area I want to look at is the issue of railways. I support the building of railways and the levy, but you must accept that this is a national shame. For 50 years, we have not built one foot of railway line.

**Hon. Members:** Hundred years!

**Hon. (Prof.) Nyikal:** For 100 years, we have not built one foot of railway line. At the time of Independence, the railway was the richest institution in this country. In fact, the railways corporation had more property than the Government. Now it is dilapidated. Look at our roads; we cannot maintain our highways because of the huge trucks on the roads. You even do not want to travel on the roads because of the tankers which do not care because of their size. If you look at the roads, they get destroyed quickly. I think that is something that we need to do to really facilitate development in this country. We can also improve commuter transport in a city like Nairobi. So, I hope when this money is collected, it should be used for the right purpose. But the Chair of the Finance Committee, I am aware that this money is already being collected and yet we are still discussing the law. What happens should we decide not to pass the law, with the money that is already collected? Is this a law that can be backdated? I think that is an area that probably the Committee should look at.

Lastly, on the issue of VAT, I think we should not touch VAT because of the hue and cry that has come out. Whereas I will support sports for the youth and for our economy, I think VAT is very sensitive now. I wondered why, after we had passed the VAT, we are coming again with another thing on VAT. This area demonstrates the need to have explanatory note. I think many of us did not quite understand the difference between being exempt and being zero-rated. So, when we are passing certain things, we believed we were actually supporting Kenyans to get cheaper food. Little did we know that there are inputs that will increase the taxes?

So, with those remarks, I support.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you Prof. Nyikal. Can we go to hon. Kobado?

**Hon. Kobado:** Thank you hon. Temporary Deputy Speaker, for giving the opportunity to contribute to this very important Bill.

Before I do that, allow me to congratulate you for utilizing the digital facility in this Chamber. A lot of money was invested to shift from the analogue to digital platform. We expect to see a closed loop, so that when you log in you should be able to see you are placed in the queue. So, thank you for being digital.

Having said that, I would like to touch on a few areas and I do not want to belabor the importance of this Bill. This is a Bill that touches on several areas of legislation that if implemented properly through amendments, we will really spur the growth of this country. We will also be able to improve the sustainable development in our country. The Government must take quick steps to keep the cost of living low. As we stand now, the situation in this country is bad. The cost of living is untenable; our roads have become death traps. The public vehicles on our roads have become death machines. Insecurity is the order of the day and high levels of inequality and poverty have led to great crime and general insecurity in the country. Therefore, majority of Kenyans are really dissatisfied with the current state of affairs.

Hon. Temporary Deputy Speaker, Sir, I had an opportunity during the recess to go to a place in Eldoret to do *Harambee* for a friend; actually hon. Elijah Lagat. I had an opportunity to interact with our brothers and sisters in Nandi. The position is that majority of Kenyans are suffering. A recent nationwide poll by Infotrack revealed that nearly 60 per cent of Kenyans are unhappy with what is happening. The question in the people’s mind is: Where are our priorities? Does the ordinary Kenyan really matter?

Hon. Temporary Deputy Speaker, Sir, this Bill touches on retirement benefits. The objectives and functions of the Retirement Benefits Authority are to regulate and supervise the establishment and management of the retirements benefits schemes. The Bill also talks about promotion and development of retirement benefits.

In this country today, particularly the corporate sector and even the Government departments, those organizations get human resources from the society. They get them when they are young and energetic and still innovative. These resources are used and when we return them to the society, we return them when they are dilapidated and more or less paupers. We are aware of typical examples in this country. We know of the late Chelegat Mutai, who was a heroine in this country. She died more or less a pauper when she was a heroine in this country. We also know about Robert Matano and Paul Ngei. So, there is need for the organizations that utilize the human resources in this country to ensure that those resources are returned to the society in a better form.

Hon. Temporary Deputy Speaker, Sir, this Bill also touches on transport and more so the envisaged construction of standard gauge railway line connecting Mombasa and Malaba. If that is done, it will be able to ease congestion at the Port of Mombasa and it will be able to offload the pressure on our roads. It will also be able to reduce the cost of doing business. So, that is a worthy idea that we need to look at as leaders and we need to support.

That will also help us deal with road carnage in this country. Transport operations regulations will be looked at afresh and issues to do with compliance with requirements by trailers that are congesting our roads. Issues to do with tyre mass and axle load will be looked at very critically so that at the end of the day, we will be able to have safe roads to make businesses easier for us.

Hon. Temporary Deputy Speaker, we will also be able to look at issues that touch on vehicle dimensions such as the length of rear motor vehicle overhangs that today are causing serious dangers on our roads because we do not have proper compliance with road requirements. We will also address the issue of protection of roads and structures. Our roads are congested. This is demonstrated by the heavy trucks that move on the Mombasa-Nairobi Highway. The roads that we are proud of today may really not last for a long time.

In summary, I want to say that, as leaders, we are not doing much to transform this country. If this amendment Bill is passed, it will help to reinvent this Government. Today we have fewer Ministries but the old jobs and structures are still in place. So, when we talk about taxation, there are areas that the Government can address to generate more revenue. There is need for this Government to shift from bureaucracy to customer-driven government, so that at the end of the day the State can bring down the cost of doing business through improvement.

We should be able to create an enabling environment that will help us to bring in new enterprises and create an environment that will improve productivity. As we speak, Kenya's annual labour productivity stands at only 1.3 per cent compared to China's 10.5 per cent. India's annual labour productivity stands at 7.5 per cent, while that of the United States of America (USA) is 12.5 per cent. So, where are we? Wastage of resources in this country, be it material or human or monetary resources stands at 30 per cent of the annual revenue. So, once enacted into law, this Bill will do a lot.



Hon. Temporary Deputy Speaker, the issue of corruption can also be addressed through this Bill. What comes from the top is gravity-assisted. What moves upwards from the bottom needs some kind of prime mover and engine to push it upwards. Therefore, in order for us to fight corruption effectively, a strong and clear tone should come from the top. It will be gravity-assisted, so that we set the expectation as to where we want to go, as a country. We should commit the necessary resources for the institutions that are supposed to deal with corruption and follow through commitment without exemptions.

With those very many remarks, I beg to support the Bill.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Thank you. You are a classical example of a legislature who takes time to study and research on matters.

Yes, hon. Mbadi Ng’ongo.

**Hon. Ng’ongo:** Thank you, hon. Temporary Deputy Speaker.

Before I go to the Bill, let me say that hon. Tanui is a good friend of mine. He is such a nice legislator that even if he says something that does not please you, at times you feel like you need to forgive him but he should have known that imputing improper motive on another hon. Member is out of order. I do not incite members of the public. I cannot remember when I have ever incited members of the public. He knows very well that what I opposed then was his attempt to exempt industrial sugar from taxation, which I still believe we should not exempt from taxation. Having said so, let me get back to the Bill. I will sort out the rest of the matter with my friend when we get out there.

Hon. Members will remember that when the Budget Estimates were submitted to this House, it was clear that the Government intended to finance a Kshs1.6 trillion Budget. Out of that, there is need to raise revenue to finance it. There was a statement that was read in this House on the revenue raising measures by the Cabinet Secretary for Finance. In that Statement, the Cabinet Secretary highlighted ways and means of raising revenue. The process of actualising that Statement has necessitated the amendments through the Finance Bill. So, the Finance Bill is actually helping the Government to have a legal basis upon which to raise revenue.

Hon. Temporary Deputy Speaker, having looked at the Finance Bill of this year, I know that it has strengths and weaknesses. First of all, let me say that the proposal to amend the Income Tax Act to allow exchange of information between Kenya and other countries with regard to things like double-taxation agreements is long overdue. This helps the Government to seal tax evasion loopholes. Also, there are many Kenyans who are engaged in professional activities. A case in point is our athletes.

Such Kenyans are taxed in the countries in which they do their business. Again, when they come to Kenya, due to failure by those countries to share information with the Government of Kenya, they are taxed again. That is double-taxation. It is provided in our law that if Kenya has double-taxation treaties with other countries, then whatever Kenyan residents pay in those countries are supposed to be reduced from their tax liabilities. However, the process and method of sharing such information between Kenya and other countries has been lacking. So, an attempt to bring this matter into clarity is laudable.

Hon. Temporary Deputy Speaker, the proposal to give powers to the Retirement Benefits Authority to assist other regulatory bodies in ensuring compliance is something we need to support seriously. If there is anything that needs to be guarded jealously is the retirement benefits of Kenyans. When you retire, you would want to continue living in

dignity and respect. This can only happen if whatever you have contributed to a retirement benefits scheme is secured and protected.

There are other good provisions, like repealing the Local Authority Transfer Fund Act, which has outlived its time since we no longer have the local authorities. I would support such amendments. Much as the amendment to the Value Added Tax Act to exempt goods and equipment used for sports looks desirable and a good move that needs our support, I would agree with hon. Priscilla Nyokabi that we need to pass the Act first. If we have to amend it, we should then do it properly. I want to reveal to this House that I have already forwarded a proposal for the amendment of the VAT Act.

There has been talk that the Act can only be amended six months from the day it was assented to but I want to remind hon. Members that there is a provision, under Standing Order No.49(2), that allows the Speaker to waive that requirement. There is a precedent where we amended the Vetting of Judges and Magistrates Act just a short while after its passage. So, I believe that the Speaker will give approval to the amendment, which has been initiated through the CORD Coalition, to bring more essential and basic commodities that Kenyans are crying for to exemption from taxation.

Hon. Temporary Deputy Speaker, there is a negative side of the Bill before us. I support fully the effort and attempt to establish the Railway Development Levy Fund and improve our railway network because a country cannot grow without having in place a reliable and efficient railway system. However, I thought that our Government would be more innovative.

We have spoken a number of times and advised the Government to use the infrastructure development bonds to finance infrastructural projects and development in this country. Taxing and overtaxing Kenyans should not be the policy of the Jubilee Government. If you asked me, additional levy on all imported goods will continue hurting the Kenyan population which is already complaining and crying of excess taxation. I am reluctant in approving any additional tax on Kenyans in whichever way. This is because this country is a net importer. It is a country that is heavily dependent on importation. Any attempt to increase Import Duty and Excise Duty is in itself making life more difficult for Kenyans. I do not think that is desirable.

Hon. Temporary Deputy Speaker, I was looking at this Bill and I thought about what the Cabinet Secretary read before us here. He indicated that Capital Gains Tax would be re-introduced. That is the first thing, when I was checking this Bill, I was looking for. Deliberately, that Capital Gains Tax is left out and you want to tax more poor Kenyans yet the rich ones who are able to build mansions and sell them at exorbitant profits are left to laugh all the way to the bank with their income. I will introduce an amendment to re-introduce the Capital Gains Tax which was suspended for selfish reasons at some point in time. This I know will not be music in the ears of the Jubilee Government, but Kenyans are suffering and we need to think seriously about reducing the individual tax that Kenyans pay in this country. We need to think more seriously about other indirect taxes.

If you look at the Income Tax, that is, the Pay as You Earn (PAYE), someone who earns Kshs38,892 pays tax of Kshs5,600. For the first Kshs10,164 a Kenyan pays 10 per cent of it on tax. The next Kshs9,576 per month attracts 15 per cent. The next Kshs9,576 per month attracts 20 per cent. The next same amount of money attracts 25 per

cent. This is not acceptable. This country is overtaxing its citizens. We need to tell Government to think of more innovative ways of raising revenue.

Let me conclude by saying that I will, again, propose an amendment that any Kenyan who is earning to have only two rates of tax, that is, from Kshs1 to Kshs38,892 per month to pay zero per cent as tax. I am talking about the PAYE. Any amount above that as it is today should attract 30 per cent. The lost revenue which will be about Kshs10 billion to Kshs15 billion, let the Government be innovative and get this money from Capital Gains Tax. The Government should go to the informal sector and tax the *matatus*. It should bring in other taxes which do not directly impact on the welfare of Kenyans.

**The Temporary Deputy Speaker** (Hon. Kajwang’): I am informed that in the tribe you come from, “Ng’ongo” means “humongous” and so I know even if we gave you more time you would still speak because you have humongous knowledge on these things. However, you may have not looked at the Paper which was laid by the Chairman of the Departmental Committee. It says somewhere that they had proposed to introduce reinvestment relief as part of Capital Gains Tax and that they are not taking action as of now because the Cabinet Secretary made a commitment that legislation would be made on capital gains which has not been done. So, you are very right and it is your duty to do so to bring an amendment to insert capital gains taxation when this Bill comes before the Committee. We hope you will help us by bringing this as soon you can so that we do not have to wait for this Cabinet Secretary indefinitely.

Hon. Kimaru.

**Hon. J.K. Bett:** Hon. Temporary Deputy Speaker, I am glad to contribute to this Finance Bill. However, I am saddened by the low turnout of hon. Members as we debate this Bill. This particular Bill is just as important as the Budget itself and we would have expected to have more contributions.

I support this Bill because it broadens the revenue base. We will have more collection from Income Tax, monies put aside as retirement benefits and so on. We have seen that the people who have been most affected in Kenya as we talk of Kenyans being overburdened by tax are the small persons out there. The big fish out there who earn a lot of money have ways of evading tax. We have had people earning super salaries yet they are exempt from Excise Duty when they, for example, import cars just by the virtue of being State officers. We have had parliamentarians being exempt from paying such taxes. This used to happen in the past because right now we are paying. I am glad that out of my salary, say, 30 per cent of it which is about Kshs300,000--- This is information that should go to all and sundry that parliamentarians are paying Income Tax properly to the very last cent. Each parliamentarian pays over Kshs300,000 as tax.

When the tax base is expanded so that everybody pays, that is a good thing. We should not have sacred cows being exempted from paying tax. That amounts to an abuse and something that cannot be understood. If you earn so much, why should you be exempted while the person earning little is not exempted? The removal of that exemption from paying Excise Duty or whatever other tax by virtue of being a State officer is a good thing.

Premiums are paid for insurance which in many cases have been diverted to retirement benefits. This, by any language is tax evasion. You do not pay directly, but you hide certain proceeds that should go to certain people in form of insurance premiums which they will eventually enjoy at the end. I am glad that this particular Bill is removing

such benefits that may go to such people. When we say that there is insurance on imported goods, I believe that in economics if you cannot save or generate so much revenue, you cannot be a spendthrift. We want things done all over. We want roads done, but when it comes to collecting revenue we want to sound good to the general public by saying that tax must come down. The next day you say that roads, schools, and hospitals must be done. Where will this money come from?

Unless we find sources and more importantly the ones that are not tapped--- We have a lot of tax that is not collected. It is not an issue of there not being enough money. It is not the small person who does not pay tax.

As I have said before, it is not the small person who does not pay tax. More often than not, it is the people who earn more money, who have craft ways of evading tax. So, we have seen such levies work before where every time you pay your electricity bill, there is a small fee. I do not know whether it is 3 per cent or whatever per cent. We lamented, but today, we can see the fruits of this taxation. We have electricity almost everywhere in this country to the most rural areas. We still can get power through the Rural Electrification Tax. We have the fuel levy tax, which we enjoy because we get money for the Kenya Urban Roads Authority. If we can tap more revenue and be innovative, people can sacrifice for a short time, then we will get long-term benefits.

The Bill, as it is, is pretty good. I am not saying that it cannot be improved, but for starters, it will help us to achieve most of our objectives. It will create equity among the citizens, so that you do not have any special class of citizens who can, at their leisure, run away from tax. I support.

**Hon. Mwaura:** Asante sana, Bw. Naibu Spika wa Muda. Ninaanza kwa kushangaa kwamba Wabunge 196 wanaweza kuwa katika kikao cha kumfukuza mbali makamu wa kiongozi wa wachache ilhali tukizungumzia maneno ambayo yanawahusu Wakenya, tunakuwa wachache hata mambo ya *tyranny of numbers* hayapo. Kwa hivyo, ni jambo la kufedhehesha sana kuona kwamba mambo ambayo tunafaa kuyazingatia hayapigiwi upato vizuri.

Jambo la pili, katika Mswada kama hii, ingekuwa muhimu kama Bunge lingehakikisha kwamba inakiliwa wa Kiswahili ndiposa Wabunge waweze kuwazungumzia Wakenya kwa lugha ambayo sasa ni ya kitaifa. Fauka ya hayo, ninaunga mkono Mswada huu kwa sababu unahakikisha kwamba Wakenya wataweza kulipa kodi kwa njia sawia. Tunaona kwamba kutokana na vile vipengele vimependekezwa hapa, itakuwa ni rahisi kwa Serikali kupata ushuru kutokana na kampuni mbalimbali ambazo kwa muda zimekuwa zikikwepa kulipa ushuru na hususan kwamba wale ambao watakuwa wakikwepa kulipa kodi watakuwa wakichukuliwa hatua, hata kama wao ni meneja au wakurugenzi wa makampuni makubwa.

Pia, kuna jambo ambalo linashangaza katika kipengele kimoja. Wakenya wana uzoefu wa kutafuta jinsi ya kujimarisha kupitia mbinu kama vile Charity Sweepstake ama kubonyeza. Huu Mswada unasema kwamba ukibonyeza na ushinde, ni lazima ile kampuni ilipe kiasi fulani cha hizo pesa na pia wewe ambaye umeshinda, ulipe. Tunafaa kuwahurumia Wakenya kwa sababu wakilipa kodi kwa Serikali ilhali wenyewe pia wametumia hela kutafuta hiyo bahati na sibu, hili litakuwa ni jambo ambalo hawatalipendelea kwa kweli.

Pia, huu Mswada unahakikisha kwamba ile Benki ya Afrika Mashariki imetiliwa maanani kama benki ya IMF na Benki Kuu ya Dunia. Hili ni jambo la kupigiwa upato

kwa sababu litasaidia nchi husika ambazo ni wanachama kupata kuendesha miradi ambayo itaweza kuwasaidia wananchi wake. Ukiangalia zaidi pale, kipengele hiki kinaendelea kusema kwamba mali ya benki hii isiweze kutaifishwa kwa sababu, kwa ushawishi wa kisiasa, mambo kama haya yanaweza kutendeka.

Bw. Naibu Spika wa Muda, ninashangaa kuona kwamba Mswada huu umependekeza kwamba asilimia 1.5 ya pesa ambazo Wakenya wanatuma kutoka nje ya nchi na mahali kwingi ambako wamekwenda kujitafutia riziki, zitozwe kodi. Pia, zile bidhaa za kinyumbani, kwa mfano, kama zimetolewa ng'ambo hususan na watu ambao wanarudi kutoka mataifa ya kigeni, zinafaa kutozwa kodi. Hili si jambo la kusifiwa. Wakenya wanatuma karibu Kshs1 bilioni kila mwaka kuwasaidia wenzao ambao wamewawacha hapa wakienda kutafuta riziki kwingine na kutoza hizi pesa kodi kama vile ambavyo nimeelewa, basi ninafikiri hili si jambo ambalo litaweza kupigiwa upato. Pia, ile asilimia 10 ya kodi ambayo inatozwa katika mabenki, kuna kasheshe pale kwa sababu kuna fedha zingine ambazo pengine unawekeza tu katika akaunti, tofauti pengine unalipa kodi ya nyumba kila mwezi ama malipo kama hayo. Hili ni jambo ambalo sisi kama Bunge tunafaa kuangalia kwa kweli.

Ni jambo pia la kuimarisha moyo kuona kwamba hii sheria inasema kuwa kama mwaajiri anaweza kulipa bima kwa wafanyikazi wake, basi ataweza kupatiwa afueni kupitia mpango wa kodi. Hili ni jambo nzuri sana kwa sababu wafanyikazi wengi wamelemazwa katika shughuli za kikazi. Hilo jambo litahakikisha kwamba waajiri wengi wanatafuta bima kwa wale ambao wanawafanyia kazi. Huu Mswada pia unaweza kutusaidia sana kupunguza ugaidi kwa sababu unaharamisha zile mbinu ambazo zinaweza kutumiwa kutafuta hela za kufadhili shughuli za kigaidi. Pia, haitakuwa rahisi kwa watu kusafirisha fedha ambazo wamepata kutokana na biashara haramu. Kwa mfano, kuuza mihadarati. Hilo ni jambo ambalo limeangaziwa.

Pia ni jambo nzuri kuona kwamba mameneja au wadhamini wa halmashauri tafauti ambazo zinafaa kuangazia zile pesa za malipo ya uzeeni kwa wazee wetu, pia wawe na kiasi cha kuangaziwa ili wasiwe watapeli. Wanafaa kuangaliwa elimu yao na kiasi chao cha pesa ili wasitumie nafasi zao za umeneja ama kuwa kwenye halmashauri kunyanyasa watu ambao wameweka pesa zao ili waweze kujifaidi wakati ambao wamewacha kazi. Ukiangalia papo hapo katika hicho kipengele, kinahakikisha kwamba hawa wazee wanaweza kulipwa kwa njia rahisi. Hilo ni jambo ambalo linaweza kutusaidia kusonga mbele.

Ni lazima sisi kama Bunge tujionyesha kwamba tuna haki na uwezo wa kuhakikisha kwamba mswala sugu na ambayo yanawaadhiri wananchi wa kawaida yametatuliwa. Pia tunakuwa hapa Bunge ili tuweze kuchangia kwa umahiri na umakini.

Ninaunga mkono.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Before we go to the next speaker, I can see that we have almost 20 minutes to the hour. I have a list of requests and Members who have been waiting for a very long time. This being a Bill, which is really the business that you come here to transact, not a Motion, I do not know how you feel. I do not want to squeeze your time. All of you have 10 minutes as of right, but I do not know if you want to reduce this time, so that five or so people can speak from now.

**Hon. Members:** Three minutes!

**The Temporary Deputy Speaker** (Hon. Kajwang'): No, three minutes is too short. I do not think you can conceive your ideas and deliver them within three minutes.

**Hon. (Ms.) Odhiambo-Mabona:** On a point of order, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Can I hear you, hon. Millie substantially on it? Can you press the intervention button?

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, hon. Temporary Deputy Speaker. I appreciate the concern you have for us especially those of us who have been waiting for long to contribute. However, I would really just want to encourage that this is a debating House and I am seeing a growing trend that we keep rushing Bills because of one day or a few minutes. Unless there is a specific constitutional or legal timeline which I am not aware of, it is okay if we come and debate it on Tuesday so that we do not have this business of rushing Bills. Sometimes we come here and we are told that the time has been reduced to three minutes. There is nothing serious to talk about in three minutes. So, we should just be extending the normal time to Tuesday, Wednesday and Thursday so long as we have the time. During the days of hon. Shikuku, I am told he used to contribute for 20 hours. Just imagine one person doing that and now we have reduced it to 10 minutes. So, really let us not reduce the debating time, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang’): I agree with you hon. Odhiambo-Mabona. The reason I brought it up was because many of you had put in requests but now if you understand, it is because every Member is taking 10 minutes. Do not leave the Chamber. So, if you do not get to speak to this Bill, we still have Tuesday. Actually, we will go into the Committee of the whole House on Wednesday. So that I do not take your time, can we have hon. Ottichilo?

**Hon. (Dr.) Ottichilo:** Thank you, hon. Temporary Deputy Speaker, Sir. I am very thankful that---

**Hon. Kombe:** On a point of order, hon. Temporary Deputy Speaker, Sir. Will I be in order to request the Chair to carry forward the names of those people who want to contribute and will not be able to do so?

*(Applause)*

**The Temporary Deputy Speaker** (Hon. Kajwang’): Well that sounds a very plausible and exciting proposition but as you know the way the Standing Orders are we handle Members when they walk in on the sitting day or the allotted day. So, the only list that we are able to carry is for those Members who have spoken so that they do not speak twice.

**Hon. Ng’ongo:** On a point of order, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Kajwang’): No. I will not allow that because you are “eating” into his time. Can I hear hon. Ottichilo?

**Hon. (Dr.) Ottichilo:** Thank you hon. Temporary Deputy Speaker, Sir. Please give a chance since I have been waiting for too long. Let my voice be heard. Thank you for allowing me to contribute to this very important Bill in this House.

First and foremost, I want to thank the Departmental Committee on Finance, Planning and Trade and the Cabinet Secretary for preparing this Bill. This is a very concise and progressive Finance Bill. If we compare it with the previous Bills, this is very concise and very good. Why am I saying so? This is because this Bill captures very important aspects of our economy and particularly as regards the transport system.

Our railway system has been in the Intensive Care Unit (ICU) I would say probably for the last 90 years. This is a system that has never functioned and even when as a country we decided we wanted to privatise our railway so that we could effectively and efficiently use it, it is like we came from the frying pan into the fire. The famous Rift Valley Consortium which took over our railway system basically looted the railway property and to date there is very little for Rift Valley Consortium to show. So, therefore, for this country to decide to move forward and put up a standard gauge railway from Mombasa to Malaba and hopefully to Kisumu, Luanda and Butere, I believe if this happens it is going to spur a lot of economic development and we are going to really deal with the issue of unemployment during the construction phase.

So, as much as we are going to tax Kenyans to pay for this railway, I believe it is a worthy course. After all we are taxing Kenyans on many aspects, but the money is not put into useful issues. So, I believe this is useful course.

With regard to retirement benefits, many Kenyans work for this country over 30 or even 40 years, but when they retire they do not get their benefits. They live in abject poverty and die miserably because the retirement institution is non-functional and you cannot see anything coming out of that. If you try to go and look for your retirement benefits, and it is just across here you will be shocked because nothing happens. So, we need to completely re-engineer and restructure the retirement benefit institution so that, at least, Kenyans can live a dignified life after they retire. So, to me this is a very progressive step to see that all Kenyans live a good life before their creator calls them.

Hon. Temporary Deputy Speaker, Sir, with regard to the East African Development Bank, to me that is a very good step being taken. It is important that we construct our own bank. The East African Development Bank has been around for many years, but we have never given it the teeth or the immunity it needs. We spend more time going to Washington DC to worship International Monetary Fund and the World Bank and all these other banks. But in return they give prescriptions that cripple this country. So, it important that we promote our own regional bank so that in future our children can borrow money from their own community rather than borrowing from multinationals who are interested in profits and marginalizing the disadvantaged.

Hon. Temporary Deputy Speaker, Sir, in as much as I have said that this Bill is good, I feel that there are many areas where it could have improved in revenue collection particularly in the real estate. We have a lot of money in the real estate but KRA is unable to collect; simply because they have no good scientific system of doing so. I want to tell the Chair and this House, there is technology now to allow KRA to get information on every building and every infrastructure in this country so that they can get a database which will enable them to tax the owners of all these real estates. The technology is not new it is called GIS. This is a system that can be used very effectively and it is based on satellite technology.

With satellite technology, you can collect all types of information you require up to half a metre. Therefore, basically you can collect information on everything, using remote sensing technology. We can create a database on every facility and every property in this country and we will tax everybody. Therefore, we will not need to go for loans or grants to run this country. So, I believe KRA needs to come out of the traditional way of collecting money. Let them adopt Information and Communication Technology (ICT).

The Jubilee Government said particularly that they are digital. I am challenging them, if they want to collect revenue, let them collect the money using digital technology because it is there. If you need free advice, some of us were experts in that and can provide free advice on the same.

To conclude, in terms of security, this country has a security problem. I am very happy this Bill is addressing the issue where people come clandestinely into this country and collect money or acquire property to use for terrorism. I am happy that this Bill is giving a very high penalty for this, over 20 years of imprisonment. In a nutshell, this Bill is good but it can be improved.

On that note, I wish to support the Bill.

Thank you.

**The Temporary Deputy Speaker** (Hon. Kajwang’): Well, except to ask, hon. Ottichilo, whether you can join forces with hon. Mbadi so that your ideas on digital can be applied in taxation of capital gains so that all the people that you say we can tax digitally, from next week, we should be able to get them.

Hon. Wanyonyi, if you are mindful of others, you can do your five minutes so that other hon. Members can also get a few minutes to speak. However, you have a right to take as long as all your 10 minutes.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, first of all, I want to register my displeasure on taxation. As an hon. Member mentioned, we are heavily taxed as Kenyans. I believe that the amendments that are going to be proposed should also look into that aspect. One case which was alluded to by an hon. Member is that an athlete goes out there, sweating all the way only for them to be taxed out there and get taxed again upon returning to the country. This discourages our youth. Some of those boys have not gone to school but they sweat their way all along. It is unfair for us to have them taxed out there and back home.

Secondly, this Bill seeks to improve the infrastructure. I have a concern. We have the so-called Kenya Railway concession about which we were so excited. I do not know what became of it. I believe that the best way of improving inter-state trade within East Africa is improving the railway network. Those of us who come from very far away from Nairobi know that roads are not maintained regularly. The maintenance costs of some of the roads runs to trillions of shillings. Therefore, I would suggest that instead of us wasting money on maintaining roads, we start building our own railway line from Mombasa to Malaba. This will improve business. That is the only way we should go.

Hon. Temporary Deputy Speaker, another thing I want to talk about is the RBA. The Bill seeks to improve the management of retirees’ benefits, including vetting those going to be in charge of the Authority. There is the fear that some of the retirees’ money is sometimes invested very carelessly. I think the amendment is intended at moderating the investment opportunities for retirees. I understand that retirees get only 3.5 per cent earnings from their investment. This should improve because bank interest rates, which as two hon. Members, including hon. Mbadi, mentioned are very high. If you deposit money in a bank, the bank pays you 3 per cent interest. When you go to ask for money from the same bank, they charge you 25 per cent or 26 per cent interest. Therefore, the interest rates for retirement benefit money should improve, so that retirees can live well.

Another thing I want to talk about is the banking industry. This Bills also seeks to improve and expand banking activities. Equity Bank and Co-operative Bank have set up



banking agencies. I hope that with the passage of this Bill, more banks will follow suit, so that banking services can be extended to even kiosks out there.

Last but not least, I think the East African Development Bank--- This is the way we should go as East African citizens. Let us improve this East African Bank. The Heads of State in this region have said that they are going to improve it. We used to have the East African Shilling and it was very strong. During those days, one United Kingdom Pound was equivalent to Kshs18. Today, it is equivalent to Kshs120 or thereabout. So, if we can improve the East African Development Bank so that it starts functioning globally then it will be good for our people. It will greatly improve the East African currency. That way, other currencies in this region will be pegged on the East African Shilling. This will attract more investors.

We need to encourage the East African States to have the region's currency like the Euro. The Euro is very strong in Europe and other European states' currencies are pegged on it. I suggest that given the amendments to this Bill the way to go now is for us in East Africa to have our own shilling. This will enable us have a strong currency and then do business well.

With regard to tourism, in the past there has been weak legislation on terrorists especially those funding it. The penalty for this should be death. This House can pass that. It should be death penalty for anybody found financing terrorism in this region. People have suffered. There are situations where people have died in this city. Some of the terrorist acts are done by our own Kenyans or people from this region. Let us be serious about this matter by passing death sentence to anybody found financing terrorism.

With those few remarks, I beg to support the Motion.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Hon. Nyamweya you are next to speak and you do not have a lot of minutes although you have been here for a long time. Therefore, I am moved to invoke Standing Order No.30 (2) and extend the sitting of this Chamber to 25 minutes to the hour. That will give you about seven minutes to do what you need to do.

**Hon. (Ms.) Odhiambo-Mabona:** On a point of order.

**Hon. Nyamweya:** Thank you, hon. Temporary Deputy Speaker for giving me this chance. I support this Bill, but I am not doing it with a lot of enthusiasm for a number of reasons. Whereas I support the railway levy of 1.5 per cent---

**The Temporary Deputy Speaker** (Hon. Kajwang'): Member for Mbita, I am trying to give this hon. Member enough time to deliver his message in the dying seven minutes of this session. However, I will listen to you.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, hon. Temporary Deputy Speaker. I am sorry for eating into my friend's time, but I would like to request from the Chairman of the Committee or the Clerks' Office for some assistance. I have actually looked at this Bill and at the back and after the Memorandum of Objects and Reasons where you have sections that are supposed to be amended, we do not have some. To facilitate interest even of more Members on this important Bill it is important that that is included in this Bill; it is the normal practice.

**The Temporary Deputy Speaker** (Hon. Kajwang'): Thank you. That must be a grave error, if that is true. I have not checked if that is true though. A Memorandum of Objects and Reasons must have all the Acts that are intended to be amended. So, if there

is a problem I will ask the Clerks' Office to confer with the Chair to make sure that that is done.

Hon. Nyamweya you have only five minutes.

**Hon. Nyamweya:** Thank you, hon. Temporary Deputy Speaker, Sir. I was saying that while we need money to develop the railway, the compounded cost of imports would go up by 5 per cent. So, we are making the lives of Kenyans more expensive, but I support it. At the Committee Stage, I will move to remove the 10 per cent transfer fee with the banks. The person who has an account in the bank is the one who bears this cost. Any amount that the bank charges you, they collect 10 per cent for the Government of Kenya. Even the CDF account and the county governments, this money is going to be levied. Why should the Treasury try to disturb Kenyans who are working so hard? Some of this money that we are going to be given for the CDF is intended to help the poor people. At the Committee Stage, I will move an amendment to have this deleted. We will move the Bill by hon. Mbadi on Capital Gains Tax, so that it is included. If there is a shortfall in the Budget, this should be covered by that.

Another amendment which I am looking at relates to sports. If you want to make us a sports nation, please, exempt everything in sports, so that those who bring sports items are allowed to bring them and then we shall be a sporting nation. You cannot say that somebody who goes overseas can come with sports items duty free. How do you value the items that somebody brings which are not for sale? That is what the clause provides. If an athlete has gone overseas and has come with 100 balls, how do you know that he is not going to sell them? If he has come with 200 sports kitty, how do you know he is not going to sell them? Then, what is the procedure of approving? One has to write a letter to the Ministry of Sports, the Ministry then writes to the Treasury and the Treasury writes to the KRA for you to have the goods released. We are just creating another cartel of businesspeople and it will be unfair for those who are doing fair trade to be subjected to pay duty and then another group in the name of promoting sports in this country is licensed to bring sports equipment without paying any levy or duty.

It sounds good and we are saying that we are promoting sports, but how do you promote sports by allowing 100 people in a year to bring in equipment? Can that encourage sports in this country? We can only encourage sports in this country if we allow sporting equipment to be tax-free. That is the only way you promote it. You promote it from the kindergarten, primary, secondary, institutions of higher learning, universities or colleges. That is when we can say that we are promoting sports. People who travel overseas and sportsmen are already privileged. They have incomes. Let us face the reality. This is a conduit of trying to help some people in the name of promoting sports. Who is a sportsman? I can be one. I can go overseas and come with sporting equipment. The Members can do this. When you come with sports equipment, you can support your constituents and you will be entitled. So, what are we exactly doing as people who are supposed to, first of all, encourage sports? We are allowing a few businessmen to get goods through the backdoor to come and trade. I will move an amendment at the Committee Stage to have this section deleted, so that we will have a fair playing ground for all Kenyans. It should either be free for all or we all pay duty. That is what the Constitution says. The Constitution is very clear. This even goes against the Constitution.

Secondly, we have removed the Income Tax from the Office of the President and the armed forces. Of course, this was long-overdue. Most of those exemptions did not go to the direct beneficiaries. They used to sell the privilege and if you are entitled to import a car, you are given some little money, a letter is processed and somebody brings a car in your name. The Government lost a lot of revenue. The same thing will happen with the sports equipment. There is no difference. If we agree to remove duty and VAT from the Office of the President, the armed forces, prisons and some institutions, then we should remove it from all the other institutions in this country.

Another point that I want to emphasize here is with regard to the Finance Bill. I have looked at it and during the Committee Stage, I would like to bring some amendments. When the Government transfers money from the Treasury to the counties, who pays the 10 per cent levy? This is because it must be paid. That is what the Act says. When the counties pay the workers, they must also pay levy because the person who holds the account is the one who pays.

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (hon. Kajwang’): Order, Member! Hon. Nyamweya, you have a balance of five minutes when the House resumes. Time being 25 minutes to 7.00 O’clock, this House now adjourns to Tuesday, 24<sup>th</sup> September 2013, at 2.30 p.m.

The House rose at 6.35 p.m.