

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 7th August, 2014

The House met at 2.30 p.m.

[The Speaker (Hon. Muturi) in the Chair]

PRAYERS

Hon. Speaker: We have a quorum.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:-
Mr. Moses Kiarie Kuria

*(Applause)**(Loud consultations)*

Hon. Speaker: Order, hon. Members! The new Member might think that he is addressing a rally and start raising his hand up.

PETITION

Hon. Speaker: Hon. Members, pursuant to Standing order No.225 (2) (b), I have a Petition to report to the House. This Petition is signed by one Edward Onwong'a Nyakeriga, the Legal Secretary of the Republican Liberty Party (RLP). The Petition raised to legislation on the subject of anti-homosexuality including the licensing of organisations promoting homosexuality as well as the penalization of homosexual behaviour and related practices in Kenya.

The petitioner in the prayer has included a draft Bill on the subject. The Petition therefore, stands committed to the Departmental Committee on Justice and Legal Affairs for consideration.

The Committee is required to consider the Petition alongside the draft Bill therein and report its findings to the petitioners and the House in accordance with Standing Order No.227 (2).

Thank you.

PAPERS LAID

Hon. Speaker: Hon. Members, that Order is suspended for a few moments. That is Order No.5.

STATEMENTS

RAMPANT INSECURITY IN KAKAMEGA TOWN

Hon. Speaker: As you know hon. Members, today is the day for getting responses. We will begin with the response from the Chair of Administration and National Security to the request made by hon. Raphael Otaalo. The Member is present.

Yes, hon. Asman Kamama.

Hon. Abongotum: Hon. Speaker, hon. Lentoimaga should be able to handle that.

Hon. Speaker: Hon. Lentoimaga, are you the one responding?

Hon. Lentoimaga: Thank you, hon. Speaker. The Statement was sought by the Member of Parliament for Lurambi, hon. Raphael Otaalo.

On 30th June, 2014, the Member of Parliament for Lurambi requested for a Statement regarding the alleged increased cases of insecurity in Kakamega. He stated that in the last few months at least four dismembered bodies have been recovered including a body of a 12-year old pupil which was found near the Winners' Church.

The hon. Member sought to be informed on the following:-

1. The main causes of insecurity being experienced in Kakamega Town.
2. The factors fuelling these killings including religious and political rivalry.
3. Measures that the Government is taking to ensure that the lives and properties of the residents of Kakamega are protected.

The Cabinet Secretary for Interior and Co-ordination of National Government wishes to state as follows. The police is not aware of the alleged recovery of four dismembered bodies in Kakamega Town.

(Loud consultations)

Hon. Speaker, there is loud consultations in the House.

Hon. Speaker: Hon. Members, including those who appear to be welcoming the new Member for Gatundu South, you must introduce him to decorum in the House first; that you do it in low tones.

Proceed.

Hon. Lentoimaga: So, hon. Speaker, as I said earlier the police are not aware of dismembered bodies in Kakamega Town. However, the police are aware that on the morning of 8th June 2014, dismembered body parts of a 12 year old girl were found by a member of the public strewn over an area of about 200 metres in diameter within Kakamega Township. The head and legs were found near the Winners Chapel while the torso was found within the Catholic Sisters compound at Scheme areas. The hands were found near Pentecostal Church. The bizarre incident was reported to the police who visited the scene and preliminary investigations established that the deceased girl, Deborah Achieng, had left her parents home on 7th June, 2014 around 6:00 a.m. after she was sent by her mother to a nearby shop to buy soap before going to school. She was never seen again alive until discovery of her body parts the following day.

The incident infuriated the residents who attempted to set the Winners Chapel ablaze on suspicion that its members were involved. However, police intervened and

investigations were ongoing vide Crime Number 921/608/2014 with investigators following crucial leads which may lead to arrest of the culprits. The incident, though bizarre, is being treated as an isolated case of murder.

The following measures have been put in place to ensure security in the area: Enhancing security patrols, enhancing collection of crime intelligence, implementation of community policing through *Nyumba Kumi* Initiative, conducting surveillance, frequent raids and ambushes in crime prone areas, implementation and review of existing strategies and mechanisms to ensure police efforts are in tandem with the changing crime trends.

Thank you, hon. Speaker.

Hon. Speaker: hon. Otaalo.

Hon. Otaalo: Thank you, hon. Speaker. I also thank the Committee. At least this time you were able to respond to my Statement after five weeks instead of the two weeks you had promised but that is an improvement. I have some few clarifications. I still insist that we had four dismembered bodies in Kakamega Town and this fourth one is the one which made people of Kakamega Town to go to the streets because it had become a habit right from March, April, May until June when we had this fourth body having been dismembered. So, I still feel that the police still have to continue to investigate because I am not satisfied with that Statement.

Secondly, when we look at the area where they are saying that they have beefed up security, there is nothing because we are still having insecurity in the town. I would request the Departmental Committee on Administration and National Security through your orders, hon. Speaker, to have a small team to go to Kakamega Town to see how serious it is because this is a normal situation. Every day and every night we have a problem in Kakamega Town and this situation has to be arrested. Thank you.

Hon. Speaker: So, no clarification sought? You say that you want me to constitute a small part of the Committee to go and investigate?

Hon. Otaalo: Exactly, hon. Speaker.

Hon. Speaker: On that one I will tell you that I think it will be an exercise in futility. I do not know which Members of that Committee has capacities or training in doing criminal investigations better than the police. Unless you are saying that further investigations by those who have the capacity to do so. This is because a committee of the House really cannot begin to go and start examining or even exhuming bodies. How is it going to do it?

Hon. Otaalo: Then I stand guided, hon. Speaker.

Hon. Speaker: However, if there is something you will want the Committee to pursue, then that is fine.

Hon. Otaalo: I still feel that the answer given is not satisfactory because we still have insecurity in Kakamega Town.

Hon. Speaker: You see the issue is that in this Statement the police are saying that they are not aware of dismembered bodies but admit that there was one body of the 12 year old girl. That is what they are saying. Your position is that they are still others.

Hon. Otaalo: Three more bodies were dismembered and that is why when it went to the fourth one is when Kakamega residents became angered and they had to demonstrate in town. So, it is not only one. So, it is a case which had been going on.

Hon. Speaker: The police are saying that even though they are investigating they have not been able to arrest the culprits. Is that so?

Hon. Otaalo: Exactly, hon. Speaker.

Hon. Speaker: So, now you want the Committee to go and look to investigate and find out about the three bodies and this is why I am saying this process is a little tricky. This is because I do not know. Hon. Lentoimaga, you may have served as a District Commissioner (DC) but even DCs are not criminal investigators. So, I do not know unless you have become one since becoming a Member.

(Laughter)

Hon. Lentoimaga: Hon. Speaker, I was going to suggest in order to satisfy the Member because it is really a serious allegation which involves death and it is weighty that maybe he comes to the Committee when we have the Cabinet Secretary and the Inspector-General (IG). He can then hire them so that they can help him.

Hon. Speaker: That may a better thing hon. Otaalo that when they invite the IG you appear so that you can go and pursue that particular aspect of your case.

Hon. Otaalo: Thank you, hon. Speaker.

Hon. Speaker: Very well. Then you must notify the Member when it is that the IG is appearing before you.

Hon. Members, before we go to the next request I wish to--- Hon. Washiali, is it about this matter?

Hon. Washiali: Yes, hon. Speaker.

Hon. Speaker: However, it was put by hon. Otaalo. Are you aware of where those bodies are or what? Why don't you also appear when the IG is there? It would be better. There is nothing we are investigating here unless you just want to speak for the sake of speaking. The best is when the IG and his team appear before the Committee. You accompany hon. Otaalo so that if there are any issues relating to these bizarre incidents that have been described here, then you can raise it with the IG and his team. It is there that the Committee is at liberty to direct the IG and his team to conduct the investigations in the manner that the hon. Otaalo is suggesting. This is because why do we need to do it here when indeed it is possible for it to be done before the Committee? It is easier that way. Here unless you just want to debate. Debating for the sake of debating is also not useful. Or do you want to be heard by the people of Mumias that you also contributed to this? Hon. Washiali, what is it that the people of Mumias East want to hear about this?

(Laughter)

Hon. Washiali: Thank you, hon. Speaker. I happen to be one of the Members from Kakamega County and I want to thank hon. Otaalo for seeking this Statement. However, the issues of insecurity have been contributed a lot by lack of vehicles and even the few vehicles that are there you will find that most times they do not fuel and that is what has contributed a lot to the issues of insecurity. I thought that as the Committee goes ahead to inspect the aspect of insecurity in Kakamega, they should also be considering the number of vehicles that should be sent to Kakamega so that the level of response by our security officers is enhanced. For example, the Officer Commanding Police Division (OCPD) manning Mumias has three constituencies to secure and these include Mumias

West, Mumias East and Matungu. You can see that there is only one vehicle used by the police. This is a vast area which I strongly feel that as they go ahead to investigate, they should also include the aspect of the level of response which is contributed by availability of vehicles.

Hon. Speaker: Hon. Deputy Leader of the Minority, you appear to be attracting a lot of attention to yourself including exciting the newly elected Member of Gatundu South, and the Member of Balambala. Hon. Washiali like I was saying earlier, from where I sit, it would be difficult for me to know how many vehicle police men have in every part of the country. Where as it may be a valid point, it would be best prosecuted if you appeared before that Committee when the Inspector General of Police is summoned so that you can also put it to them that what you are saying, is a situation that does not help in addressing the issue of insecurity. The issue of motor vehicles and the issue of fuel. Yeah, we may not be able to address it here, but before the Committee that will be addressed I believe.

Hon. Members before we proceed, I wish to take this opportunity to recognize the following institutions which are within Parliament and welcome them to the National Assembly. St Lukes Primary School Abosi from Emurwe Dickel Constituency. Karangare High School, Mbeere North Constituency. Anin Secondary School, Keiyo North Constituency. Kalau Primary School, Mwala Constituency. Kabarnet High School and Riwa Primary School from Baringo Central Constituency.

(Applause)

Next Order. The response from the Chairperson of Lands Committee the hon. Alex Mhuri.

Yes, hon. Abongotum.

Hon. Abongotum: Hon. Speaker, I take note of the fact that the new Member for Gatundu South is sitting on the position where the Minority Leader is supposed to be occupying. Would I be in order to actually request that you instruct hon. Midiwo to tell him where he is supposed to be sitting?

Hon. Midiwo: Thank you hon. Speaker

Hon. Speaker: Hon. Midiwo may have assumed a new leader.

(Laughter)

Hon. Midiwo: Hon. Speaker, you know what hon. Abongotum should be doing at this point, is welcoming the new Member of this House. I want to take the opportunity to welcome hon. Moses Kuria and to let him know that here we play by the rules. So I want to inform hon. Abongotum, that I am sitting him here to coach him about the rules of the House.

(Laughter)

As you know in his other life he was not playing by the rules. I am here to make him feel at home and he is so welcome he is in the right place. He is just a temporary visitor. Thank you.

Hon. Speaker: Hon. Alex Mwiru

Hon. Mwiru: Thank you hon. Speaker. I am trying to look around to see whether hon. Bedzimba is around. Thank you I can now proceed hon. Speaker. It is a Statement that was requested by the Member. It is on reasons why the Government of Kenya has taken too long to find a lasting solution to the problem. When will squatters be identified and issued with illegal document for the land they occupy. What are the strategies the Government of Kenya has put in place to prevent eviction of these squatters until a lasting solution is found?

The answers transmitted to my Committee from the Cabinet Secretary is as follows; Reasons why the Government of Kenya has taken too long to find a lasting solution to squatters problem. A request for a permanent solution to the squatter problem has been complicated by:

One, increase in appropriation that create heightened demand for land and as a result, people tend to occupy any available and unutilized space of land regardless of its ownership. Presence of idle and underutilized land left by people who acquire it for speculation purposes and which lies unutilized for long periods thereby attracting squatters who could build shelter or utilize the land for food production.

Three, emergence of perpetual professional squatters. There is evidence to show that many people particularly the coast region squat on several pieces of land, which they sell immediately they are issued with legal documents. Such people create an impression of permanent squatting problem.

On when squatters will be identified and issued with legal documents for the land they occupy, identification and documentation of squatters at the coast and other parts of the country has been a continuous process. As part of the legalization program, which we will begin in the 1960s and intensified in 1986 has seen on over 150 squatter settlement schemes, complete and registered and another 37 proposed for implementation.

During the National Titling program of august 2013, a total of 28,898 squatter households were issued with title deeds and the process continues. It is estimated that in the next three years, squatters in the ongoing settlement schemes will be settled and issued with title deeds. On the Strategies the Government of Kenya has put in place to prevent eviction of these squatter.

(Loud consultations)

Hon. Speaker please protect me I think there is a lot of loud consultations from the Member. I am just seeking your protection because there is a lot of a loud consultation so that hon. Member can hear what I am answering.

Hon. Speaker: You can see how it becomes round, if a Member stands like that one, who is in Mwingi North and the other one is in Kitui somewhere. That cannot be low tone. Honestly, it becomes very difficult for people to follow proceedings.

Hon. Mwiru: Thank you hon. Speaker for protecting me. I was trying to answer on the strategies the Government of Kenya has put in place to prevent the eviction of these squatters until a lasting solution is found. The Government has no plans to evict squatters from public land. Secondly, the squatter regularization program is an on-going process for squatters on reserved public land while a solution is being sought to deal with other squatter on other categories of land. The Government is also in the process of

developing the eviction and resettlement guidelines which will ensure that evictions are done in accordance to the law. Thank you, hon. Speaker.

Hon. Bedzimba: Asante Mhe. Spika. Nimeshukuru kwa jawabu lililotoka kutoka kwa Mwenyekiti wa Kamati kuhusu Ardhi. Lakini niko na maoni kwa baadhi ya majibu. Jibu la kwanza (b). Serikali ibadilishe vyeti vya wale watu walio kodisha Arthi kwa muda mrefu na hawaitumii na haswaa katika maeneo ya makaazi. Jawabu la pili, serikali iharakishe utoaji wa vyeti vya umiliki unaoendelea pwani. Jibu la tatu, serikali imetoa hakikisho ya kuto furusha watu kwenye ardhi ya serikali. Pia imetoa hakikisho ya kwamba wako mbioni kubuni sheria na mwongozo wa ufurushaji na utatuzi wa mizozo kama hiyo. Je, ni lini muongozo huu utakua tayari?

Hon. Speaker: Mwenyekiti

Hon. Mwiru: Asante sana Bw. Spika. Ni jambo nzuri kuona kwamba mwenzangu amefurahia kuwa kuna mambo ambayo Serikali inajaribu kutekeleza ili kutatua shida hii. Lakini siwezi kueleza jambo hili litachukua muda gani. Hata hivyo, tungesaidiana katika Bunge hili ili tuona kwamba sheria kuhusu mambo ya maskuota zimeidhinishwa hapa Bungeni. Kwa hivyo, ningemuomba mwenzangu tushikane mikono ili tuweze kuona kama haya mambo yataweza kutekelezwa katika kipindi ambacho tuko hapa Bungeni.

Hon. Kombe: Asante Bw. Spika. Ningetaka kumuuliza Mwenyekiti kuna mipangilio gani ya kulisafisha Jumba la Ardhi. Kufikia hivi sasa, kuna Makamishina wa zamani ambao bado wanatia sahihi kwa cheti cha kumiliki ardhi, kurudisha tarehe zake nyumba na kubadilisha cheti cha wamiliki ambao hawako. Ni lini kutakuwa na usafishaji wa hilo Jumba? Kuna uchafu ambao umejaa hapo ndani.

Hon. Speaker: Mwenyekiti, angazia mambo ya uchafu.

Hon. Mwiru: Bw. Spika, swali la uchafu halikuwa limeulizwa katika lile swali ambalo lilifika kwa Kamati. Kwa hivyo, ningemuomba Mhe. Kombe aulize swali la uchafu ili niweze kuelezea maneno ya uchafu na vile ambavyo tunaweza kusafisha Jumbe la Ardhi.

Hon. Kombe: On a point of order, hon. Speaker.

Hon. Speaker: Mhe. Kombe, ulianza kuzungumza kwa lugha ya Kiswahili. Labda, ungetoa hoja ya nidhamu. Hauwezi kubadilisha katikati. Hiyo ndiyo sheria yetu.

Hon. Kombe: Asante Bw. Spika. Neno uchafu halijamaanisha takataka zilizoko ndani. Kuna wafanyikazi ambao wanatekeleza uharifu ndani ya jumba hilo. Isitoshe, kuna lile swala ambalo mpaka hivi sasa, sijapata kutoka kwa Mwenyekiti ambalo linalenga mambo ya usikuota. Ningetaka anielezee ni lini ataniletea hiyo Taarifa yangu.

Hon. Speaker: Hapo hakuna kutokuwa na nidhamu kamwe. Umeuliza swali jipya. Kwa hivyo, sitamruhusu Mwenyekiti kuyazungumzia yale ambayo umeangazia sasa hivi. Hon. Gichigi, what is your problem?

Hon. Gichigi: Hon. Speaker, I just wanted to get a clarification from the Chair of the Lands Committee. He has given an good answer, but I would want to know whether the Committee is aware of the measures the Government is taking to, at least, enlist the people in this country who do not have land rather than dealing with this issue of landlessness in an *ad hoc* manner and get into serious problems. Every time the Government identifies some land to settle some squatters, the moment it starts to identify the local squatters, the number multiplies ten or twenty times. Therefore, the Government

should put a plan in place to get a proper data base of these landless people, so that when it gets land or identifies land to settle the squatters, it does not have the problem of the many busy bodies interfering with the process.

Secondly, is the Minister or even the Committee aware that there are what are called professional squatters, who have made a career of settling on a person's land and the moment they are compensated, they move to on to another person's land? They have perfected that to a career.

Hon. Speaker: Hon. Members, sometimes I listen to you pretending to be seeking clarifications and then you ask: Is the Ministry aware? I do not see the Ministry here. How is that supposed to be clarified in terms of whether the Ministry is aware? Hon. Gichigi, the Chair can only respond to the earlier part, but I do not think whether he is the one to talk about the whether the Ministry is aware. Members, do not pretend to have a debate on this. It was just seeking clarification on what hon. Bedzimba had asked.

Most of you do not even know what he had asked and now you think that because it is about land, it is opportunity for you to discuss anything under the sun. That is not the issue. Look first of all, at the issues raised by hon. Bedzimba, the Member for Kisauni. So, it is not an opportunity to discuss land matters, please. I know it is generally accepted that land is an emotive subject, but this is not the opportunity. Hon. Bedzimba was seeking specific interventions from the Committee which have been responded to. Hon. Mwiru.

Hon. Mwiru: Hon. Speaker, as you have rightly said, we are not the Ministry. But for the benefit of hon. Gichigi and the House, as a Committee, already we have directed the Cabinet Secretary to start profiling the number of squatters and IDPs that we probably have in Kenya, so that this can form the basis of our planning in terms of land management in future. Therefore, this is a matter that the Committee was seized of and has already advised the Ministry to profile all the squatters in the country. They must also come up with an Eviction Bill for the purpose of seeing how evictions can be done in this country in a humane way.

On matters to do with professional squatting, that was mentioned a little bit earlier. The failure to profile and to know which households are squatters or who does not have land, is what is causing the professional squatting. A family can squat in a certain county and the same the same family could be squatting in another country. If we can profile and have this data for reference, future planning can be easier for us. This is a move that we need to take towards the future.

COMMUNICATION FROM THE CHAIR

PRESENCE OF CHEIMEN AND CHANGOI PRIMARY SCHOOLS

Hon. Speaker: Very well. Before we move to the next Statement, let me recognise at the Speaker's and the Public Galleries the presence of the Cheimen and Changoi Primary Schools from Belgut Constituency.

Hon. Kamama is to respond to a Statement.

Hon. Abongotum: Hon. Speaker, Sir, before I read the Statement, I want to recognise students from Kabarnet High School who are with us here today. This is one of our top schools in Baringo.

Hon. Speaker: You are out of order. Please, just respond to the Statement. We have said how it is going to be done.

Hon. Abongotum: Hon. Speaker, I was not here when you made the ruling. So, I apologise.

ALLEGED EXISTENCE OF ALIENS IN KITUI SOUTH CONSTITUENCY

Without much ado, I wish to give the Statement from the Cabinet Secretary in charge of Interior and Coordination of National Government on a matter that was raised by the Member for Kitui County, hon. Rachael Nyamai. On 23rd April, 2014, the Member for Kitui South Constituency, hon. (Dr.) Rachael Nyamai requested for a Statement on alleged existence of aliens in Kitui South and Mutha/Mathima Wards in Kitui. The Member wanted to know the following:-

(i) the measures that the Government has taken to ensure that our county is not invaded by aliens in particular through the Kolbio-Bura-Mutha-Kitui, Kolbio-Ijara-Garsen and Kolbio-Garissa roads.

(ii) whether there are aliens in Ingamba, Bangale, Kalalani and Kwa Kaniki areas in Kitui County, and whether they are armed or likely to be suppliers of arms being used by *Al-Shabaab*; and,

(iii) the actual location of polling station number 19 as determined by the Independent Electoral Boundaries Commission (IEBC)

Hon. Speaker, I wish to respond as follows.

On the 12th November, 2013 the Kitui County security team, accompanied by the Senior Warden in charge of the northern sector of Tsavo East National Reserve and Kitui South Game Reserve, visited Kitui South Game Reserve and neighbouring areas on a fact finding mission to establish, among others, the allegations of existence of armed bandits and aliens within the reserve.

The team established the presence of unknown number of people from the Dir community of Somali Republic, Ujejeni, Weiwei, Shekal, Rahawen and Marehani pastoralists from Somalia with an unknown number of livestock. They claimed to have migrated into the country about 18 years after the collapse of former President Siadi Bare's Government in Somalia.

They initially settled in Tana River before they crossed over to Kitui County in search of water and pasture, and encroached into Kitui South Game Reserve, where they have been living to date.

The Government is aware that these people are armed for purposes of protecting themselves and their livestock due to persistent conflicts. However, there is no evidence to prove that the immigrants supply arms to the *Al-Shabaab*.

The Government has taken the following measures to ensure that our country is not invaded by aliens, in particular through Waldena- Mutha Road, which is within Kitui County:

- (i) enhancing collection of intelligence;

- (ii) issuing of a total of 6 new motor vehicles to OCPD, Ikutha, DAPC Ikutha, OCS, Mutha Police Station, and OCPD, Mutomo, which will facilitate police mobility;
- (iii) posting of an OCPD to Ikutha;
- (iv) increased deployment of police officers to beef up patrols within the said area;
- (v) erection of roadblocks on a 24-hour basis, and screening of all motor vehicles transiting through various roads;
- (vi) enhancing of patrols, both foot and motorized;
- (vii) establishment of additional security camps at Iiluni, Enziu and Katumbi markets to boost service delivery;
- (viii) revitalization of community policing and the Nyumba Kumi initiative through sensitization of the local communities;
- (ix) constituting of a county security operation team comprising of officers drawn from the National Police Service, Kenya Wildlife Service (KWS), National Registration of Persons, county government, national Government administration, CID and National Intelligence Service.

The team is mandated to flush out illegal aliens/immigrants from Kitui Game Reserve and the environs, arrest/recover all the illegal firearms/weapons, eradicate all illegal activities within the game reserves like poaching and charcoal burning, verification of Identity cards possessed by all persons living within the area and stepping up of police checks along the roads within Mutomo and Ikutha sub-counties.

Lastly, I wish to table the following document that shows the actual location of polling station number 19 as determined by the IEBC. I will avail that document to the hon. Member.

Thank you.

Hon. (Ms) Nyamai: Thank you, hon. Speaker, for giving me this opportunity. First of all, I would like to appreciate the fact that this Statement has finally found its way here. I have waited for the last four months for the response to be given. I must appreciate that at times things are beyond a Chair's ability to bring forth a statement.

I have several issues with this statement. First of all, I would like to state that as hon. Abongotum, my colleague and friend, who has been in the security profession for a long time--- I would like to point that this Statement is not factual; hon. Abongotum is aware that it is not factual. I discussed it with him just before he read it. I would like to say that the part that has been addressed is under number six where they are talking about what is likely to be done in order to ensure we do not have aliens.

As a matter of fact, we have aliens in Kitui South and they live in the South Kitui Game Reserve. This is a fact that is known by all our security operators, including the office of the Inspector-General, whom I have spoken with. He has informed me that the second proposal for the removal of the aliens in Kitui South, more so in the South Kitui Game Reserve, is on his desk; he is going to ensure that an operation is undertaken to remove them.

Hon. Speaker, the matter in that game reserve is not about the insecurity of my constituency or the insecurity of Kitui County, but is about insecurity of this country because a lot of illegal activities happen there. People who are not Kenyans live in a

game reserve where there is neither a chief nor an assistant chief. They make their own laws and live the way they want.

Hon. Speaker, this is a matter that needs to be taken seriously. I have spoken to my colleague; I looked at hon. Abongotum, when he was reading this Statement, and from non-verbal communication I could tell that hon. Abongotum is aware that what he was reporting was not factual.

Hon. Speaker, there are a lot of illegal activities going on.

Hon. Speaker: What do you want him to clarify? All that you are doing is stating facts. I thought in a situation of this kind, where you make serious allegations that there are very many aliens in Kitui South, and that you have spoken to the Inspector-General of Police--- We did not know that you had spoken to him. and he has admitted they are there. Is it not fair that then you request that this matter be referred back to the Committee until such time that the Committee invites the Inspector-General, so that you can go there and prosecute these allegations? This is because you even tell me that there are liens in Kitui South; what do I do? I do not possess capacity to deal with aliens. That is a function of the Executive.

Hon. (Ms.) Nyamai: Thank you very much hon. Speaker for your guidance. I thought by expressing this I would be showing the seriousness of this matter.

Hon. Speaker: No, no! Show who how serious it is?

Hon. (Ms.) Nyamai: Hon. Speaker, kindly allow me---

Hon. Speaker: I think you have very serious issues which you are raising. Because you said that you talked to hon. Abongotum--- You are even saying that as he was reading the statement, you looked at his face and you thought he did not believe in what he was reading. I do not know how the House is going to benefit from your expertise at physiognomy!

Hon. (Ms.) Nyamai: Hon. Speaker, kindly, allow me to proceed and I will do it very briefly.

Hon. Speaker: Seek clarification?

Hon. (Ms.) Nyamai: Yes, hon. Speaker. I would like to seek clarification on how the posting of an OCPD in Ikutha--- I know that there is already an OCPD, and for a long time we have had one. This makes no difference.

Hon. Speaker, I appreciate the various responses that have been given, but I would like to say that they are not satisfactory; and it is important that this matter be referred back to the Committee. I am willing to avail myself to give the information that I have. I would like to say that this statement has not been given the seriousness, or has not been taken with the, seriousness that it deserves.

As I finish, if the Government of Kenya has decided, or feels, that people can occupy South Kitui Game Reserve, then, as a Member of Parliament, I would say that let that be and let us be given the structures that are provided to ensure that we have safety in that forest. If it is not a game reserve any more, we should have the Government structures that ensure security.

As I finish, hon. Speaker, this is a serious matter and I would like to request you to order hon. Kamama to give it another try, so that we can have a proper response to it, and action taken to remove aliens from Kitui South Constituency; this does not affect Kitui South only but Kenya as a country.

Hon. Speaker: Hon. Rachel Nyamai, with regard to your statement, I have followed every bit of it. In fact, I want to ask: Since they admit that they sent teams of people there to find out who these people were and then they said that they discovered a presence of an unknown number of Dir, Ujejeni, Weiwei, Shekal and others who had crossed over from Somalia and had been living there for the last 18 years, what is the status of those people? I am not asking the question on your behalf, hon. Nyamai. All that I am trying to confirm is that this matter needs to be addressed further.

I think there are very many issues which need to be addressed. The best will not be through a Statement signed by Cabinet Secretary ole Lenku. What is the status of those people? Are they refugees, or have they joined a refugee camp? They even admit that they carry guns to protect themselves. This Statement leaves a lot to be desired. In fact, if I were hon. Kamama I would have thrown it back to the person who wrote it. That is why we need these people to come here and explain themselves. This is a terrible admission of so many irregular things. They want hon. Kamama to come and read a Statement like this one saying that there are people who have been living there from Somalia for the last 18 years and they are not telling us what their status is. They even admit that they are armed. I am sure part of the reason you are raising this matter is because of insecurity. So, what is the Cabinet Secretary trying to say in this response? It is very casual and, indeed, very inconsiderate of the concerns that you have raised, hon. Nyamai.

Hon. Munuve, there is nothing we can say here even if we discussed it further. I can see hon. John Munuve and hon. Makali want to raise the issue. We shall just be talking to ourselves. Do not imagine that the Leader of the Majority Party is just there. He has a lot to say about this. I think the best thing is for this matter to be discussed in the presence of not just the Cabinet Secretary, but all those who are involved, for example the IEBC, the Inspector-General and others. Very many issues have not been responded to. The best thing is for hon. Kamama to set a specific date for this matter to be addressed by those concerned.

Hon. Abongotum: Hon. Speaker, I entirely agree with your position. I also agree with the position of hon. Nyamai and also the position of the Leader of the Minority Party and hon. Munuve, because I have shared with them this matter. There is a lot of laxity within the police force. This did not just happen yesterday! You realize that it has taken 18 years for aliens to come and occupy Kenya; of course, they have firearms. They stay in a game reserve. Actually, when they are there they are not administered by the officials of Kitui or Tana River. They are just somewhere doing their own things.

We will summon the Cabinet Secretary and the Inspector-General of Police to give us a time frame within which these people will be disarmed, and taken to a refugee camp or taken back to Somalia. We will demand that one. This is laxity that we have in this country. The *Al-Shabab* can actually hide in that place and do their own things. We take this matter seriously and after meeting the hon. Members and the Government officials we will come and report to this House.

Hon. Speaker: Next is the Statement sought by hon. Pukose.

Hon. Mwiru: Thank you, hon. Speaker. This is the Statement that was sought by hon. (Dr.) Pukose, Member for Endebes; I can see he is in the House and is looking at me. He was seeking to know the circumstances surrounding the degazettment of the land

being occupied by Members of Chorlim Co-operative Society, the status of the issue and whether the Government will compensate these farmers for suffering a loss caused by forceful evictions. These are the answers.

With regard to the circumstances regarding the degazettment of the land, the land alleged to be occupied by Chorlim Co-operative Society is LR.No.6992/2/ according to the Cabinet Secretary's records. The land was purchased by the then Ministry of Natural Resources from Keld Lund Sorensen on 15th August, 1976 for Kshs320,000 for the purpose of reafforestation. The Ministry cannot degazette this land since forests fall under the Ministry of Environment and Natural Resources. However, if advised by the same Ministry, it can be degazetted.

The status of the issue is as follows. The land is still part of Mount Elgon Forest. With regard to whether the Government will compensate these families, the Ministry is not aware that people were forcibly evicted from this land. However, there are guidelines that apply in the event the Government has to evict people to avail the land for public utility purposes.

Hon. (Dr.) Pukose: Hon. Speaker, I have listened to the answer given by the Chairperson of the Departmental Committee on Lands, and I even had time to discuss this matter with him. The information I have is that the people who occupied that farm were squatters. When time came for the owner of the land to move out, these squatters applied to purchase the land and the Government sent a valuer to do a valuation. The land was sold at Kshs3 million. The same Government send surveyors who did subdivision and allocated the land. The allottees do have allotment letters from the Ministry of Lands. The same Ministry received the money for this land. In the records, it is shown that this land was only gazetted in January, 2013. So, it was gazetted after it had been allocated to this people. According to me, the Committee has not done a good job on this issue; I submitted this Report to the Committee on Delegated Legislation and the Committee on Lands, because we wanted to know whether there was proper acquisition of this land by the Government. That, according to me, has not been established.

The Government has received money from these people, who were forcefully evicted by the Government. The Government later on degazetted the land, which was an irregularity. I request that in your wisdom you refer this matter again to the Committee, so that they do proper investigations and table a Report here. The House should then debate that Report and find a way forward for these deserving Kenyans. We need to know whether the Government can return their money or compensate them at the current market rate; they need to be assisted. That is my request and prayer to you, hon. Speaker.

Hon. Speaker: I am Sorry! So, you are making a prayer to me?

(Laughter)

Hon. (Dr.) Pukose: Hon. Speaker, I know you have a lot but this is an issue that touches on my people who I represent, Endebess Constituency. In this land I have said that the Committee has not actually done enough because this land was gazetted by the Government. It was private land by Sorenso sold to the squatters who were stayed there at the market rate of Kshs3 million. Those people paid and the Government received money from them. The gazettement by the Ministry was done in 2013. So how do you

gazette private land? I was requested that this matter be referred back to the Committee, they do proper investigations, visit the site because they have not done so, call the Cabinet Secretary in the Ministry of Lands, call the Ministry of Environment and let us debate it; then they should present a report to this House which the House can debate and adopt or reject.

Hon. Speaker: We do not want to go that route of reports being brought here. There is no issue which has been brought by way of requiring a report. What I think your request could be acceded to is one in which you suggest that the Committee visits the area; the locus, as they say, to go and establish some of those facts which you are alluding to and then come to the House with proper information. Is that okay with Hon. Mwiru?

Hon. Mwiru: Hon. Speaker, it is a sympathetic situation because here is a scenario where the Government bought that land at Kshs320,000; the same Government received Kshsd3 million from citizens and at the same time they evict the citizens even when the Government has pocketed their Kshs.3 million. I feel the request made by the hon. Member and your guidance from the Chair, I feel that the Committee could do better than just transmitting this request for Statement to the Ministry who give us a Statement to read before the House. If there is a way we can help those Kenyans in that particular area, the Committee is ready and committed to dig further and even visit the area and probably give a report to this House. It is quite necessary that those people are helped at this hour.

Hon. Speaker: That is perfectly okay. Indeed, you can take up the matter now that it has been raised by Hon. (Dr.) Pukose. You can take up this matter because by undertaking an investigation and an inquiry is within the mandate of your Committee. In that way, bring a proper report which can be debated and adopted by the House giving guidance to the Executive on what they should do. You take up the matter and you, Hon. (Dr.) Pukose, make a follow up.

(Hon. Serut nodded)

I can see Hon. Serut is also in concurrence.

Hon. Serut: Hon. Speaker, thank you for giving me this opportunity. Some of the people who were occupying that piece of land happen to come from my constituency. I know they paid Kshs3 million to the Government. That money has not been refunded and by payment of that money, it formed the contract between the Government and the people. Therefore, I think the onus lies with the Government to either acquire that land and compensate the people at market value or let the people return to that particular piece of land. That is my position!

Hon. Speaker: Nevertheless, the direction still stands that the Committee gets seized of the matter, investigates within the context of the mandate of the Committee as per the Standing Orders and bring in a report. I think it is better to assist. We will inform the House in making a decision one way or the other regarding the way forward.

(Several hon. Members stood up in their places)

No! We are not yet got into business! Everybody wants to say something; that the other comes from their constituency. That is not enough. We have said that the Committee will investigate. There is nothing, therefore, to debate. Please, hon. Members--

(Hon. Wanyonyi stood up in his place)

Hon. Wanyonyi, it is not that--- You want to make it a matter by the people of Kwanza. Be heard for a second!

Hon. F.K. Wanyonyi: Hon. Speaker, it is just not being heard.

Hon. Speaker: Then sit!

Hon. F.K. Wanyonyi: Hon. Speaker, it is a question of seeking further clarification because what the Chairman has said and I want to thank you for the direction you have given, it is a whole place in Trans Nzoia. Hon. (Dr.) Pukose, myself and Hon. Wekesa all have the same problem. So, I just want to thank you for the direction you have given. I would want the Committee if it is coming to Trans Nzoia to involve the Hon. (Dr.) Pukose, Hon. Wekesa and me. They should then have a report which should be brought here because it is not just that farm alone. There are two other farms: The Smith Farm and the Mango Farm. Because the Government took it so lightly, there are so many squatters in Trans Nzoia. We have problems. People are running all over the place and we are feeling the pinch. Every other morning, there is delegation upon delegation going to Hon. (Dr.) Pukose; coming to me and I want this to be taken seriously because it not a light matter. We are dealing with people who are suffering; people living below the poverty line; people who have no land. Imagine 68 people going to five acres that were expelled from Mango Farm and they have now multiplied to almost 800. The Committee should take it seriously.

Hon. Mwiru: Hon. Speaker, I just want to know whether the hon. Member is in order to start directing the Committee to do things other than what you have yourself directed and which the House and the Committee are already seized of? Should the Committee go for a matter that it is not seized of? He is trying to say that I deal with the whole county of Trans Nzoia yet I know the matter touches on an area specifically sought by Hon. (Dr.) Pukose.

(Hon. Korir stood up in his place)

Hon. Speaker: Everybody from Trans Nzoia wishes to claim to be rising on a point of order.

Hon. Korir: On a point of order, Hon. Speaker. My point of order is different. I am just wondering if the Leader of the Majority Party is properly dressed in this House today. Please give a clarification.

(Applause)

Hon. Members, before we proceed, I wish to recognize the presence of the following schools; Mount Kenya Baptist Primary School from Nanyuki and Tangur Primary School which is from Marakwet East Constituency.

(Applause)

Hon. Speaker, another school to be recognized is Kagaru Primary School from South Imenti Constituency.

(Applause)

Hon. Members, like I was saying earlier on it is within the functions of a Departmental Committee to investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments. It is in the context of our Standing Order No.216 that I have directed that the Departmental Committee on Lands undertakes an investigation relating to the matters that have been raised by hon. Pukose and bring a report to this House.

Hon. Members: On a point of order, hon. Speaker.

Hon. Speaker: Your point of order is whether the Leader of Majority is properly before the House?

Hon. Members: Yes.

Hon. Speaker: He certainly looks very smartly dressed but he does not have a tie.

(Laughter)

It is proper. You know we are in Africa. You may have noticed that there is a trend set by some of our peers to do away with wigs because we are in the tropics and it can become very hot. We do not need wigs.

Yes, hon. Asman Kamama.

SHOOTING OF UNIVERSITY STUDENT
BY POLICE IN MARALAL TOWN

Hon. Abongotum: Thank you, hon. Speaker. On 27th March, 2014, the Member of Parliament for Samburu West, hon. Lelelit Lati requested a Statement on peaceful demonstration by university students in Maralal that left one person dead and five others injured.

The hon. Member stated that on 13th October, 2014 university students demonstrated in Maralal Town alleging that livestock that had earlier been stolen in Suyian was transported to Isiolo from Marti with full authorization of the OCS. The hon. Member sought to be informed on:-

1. The reasons why the Maralal Police Station refused to fill an OB.
2. What action will be taken against the OCS, Marti for his involvement in cattle rustling
by authorizing an illegal transportation of cattle at night?
3. The plans in place to compensate the family of Tom Lekishorimongi.
4. If it is possible for the Committee to visit Maralal and investigate further this extrajudicial killing.

The Statement from the Cabinet Secretary is as follows. On the night of 26th October, 2013, the Officer-in-Charge of Maralal Police Station received information that 23 heads of cattle believed to have been stolen by armed Turkana raiders at Suyan on 2nd October, 2013 were being transported by a lorry from Marti towards Maralal. The OCS instructed his offices to intercept the lorry and bring it to the station together with the suspected stolen animals. Subsequently, the officers arrested three suspects who were later charged in court vide Police Case File No.CR720/173/2013.

On 29th October, 2013, 15 members of the Turkana community from Marti visited Maralal Police Station and claimed that they were the ones who sold the animals to the suspects and that the cattle were not stolen as alleged. They identified the animals and recorded statements.

However, on 30th October, 2014 at about 10.30 a.m., a group of Samburu youth (students) staged a demonstration within the town, which initially peaceful, but on reaching the gate to the police station, they became unruly and stoned the officers forcing them to take cover. Meanwhile some of the youth remained at the entrance to the report office while the rest ran to the police workshop where the aforementioned animals were locked in. They violently broke the steel gate and drove out the animals towards the gate. The offices managed to recover the animals and returned them to the workshop.

The youth left the station, regrouped and attempted to attack the station once again but were overpowered and repulsed. During the confrontation, one person was fatally injured. The demonstrators were joined by other members of the community and riots ensued during which many members of the public were stoned while several police officers also sustained injuries. The incident was later booked in the Occurrence Book as OB No.16 of 30/10/2013 and OB No.17/30/10/2013.

Hon. Speaker, investigations into the incidents have not been finalized by the Director of Criminal Investigations who took over the investigations on 19th November, 2013 and once the investigations are finalized, appropriate action will be taken against whoever is found culpable.

Further, the Ministry does not have a voted provision to cater for the compensation of the deceased youth.

On whether our Committee is ready to visit Maralal on a fact-finding mission and report to the House, we are willing as a Committee to visit Maralal and come up with a report.

Thank you, hon. Speaker.

Hon. Lati: Thank you, hon. Speaker. I am one man who believes that hon. Kamama is a very hard working and truly committed man. I appreciate the fact that he plans to visit Maralal with the Committee.

Hon. Speaker, it is almost a year since this great man was killed and Tom Kichwas not just a student but was also a student leader and a good man indeed.

I would like to seek clarification from hon. Kamama who I trust very much whether he could give us the timeline as to when he will get to Maralal. This is because it is almost a year since this family lost their son and the Samburu people lost a great student leader. I will appreciate if he can give us a timeline. I know that the Committee is busy but I know that will help a great deal to calm tension as far as the Samburu people are concerned on the killing of that student.

The other matter I want clarified is how long does the public prosecution take to get into cases where somebody has been killed? We have lost a life and it is almost a year and yet these guys are still carrying investigations on the obvious. The Police and OCS, Maralal shot Tom Kich.

Thank you, hon. Speaker.

Hon. (Ms.) Korere: Thank you, hon. Speaker. I would like to seek a clarification from hon. Kamama. If I got the response well, hon. Lati sought a Statement on the so-called cattle rustling which is not cattle rustling as such but a business which is being conducted by tycoons with the Provincial Administration and some security personnel. I have not heard hon. Kamama tell us whether anybody is investigating into that business which has become pain in this country.

Hon. Speaker, secondly, about the extrajudicial killings by the police, this student was killed and what I heard hon. Kamama saying is that the students stoned a police station. Then what led to the killing of this young man and who is responsible for his killing?

Hon. Speaker, I seek clarification on that and I am a very bitter woman because I am lucky to be alive today. I would have been killed by the police a few months ago during a peaceful demonstration. To date, I am still carrying spent cartridges of live bullets which were fired on us as we were demonstrating peacefully in Nanyuki Town.

Hon. Speaker, I have tried to report this matter everywhere but you cannot report thieves to other thieves. I would really want hon. Kamama to tell us what action the Ministry is taking to arrest those who were responsible for killing this young man.

Hon. Speaker: Hon. Kamama, take another one from your Vice-Chair, hon. Lentoimaga.

Hon. Lentoimaga: Hon. Speaker, I do not want to complain to the Chair but I am saying being a local, I think I now understand that the Ministry is not doing very well to actually assist Kenyans and even this House to unearth some of the problems that we face in insecurity.

Hon. Speaker, I was there. I actually visited the place during the fracas. That is the afternoon after Tom was killed. First, the students were not armed at all. They were peaceful; they did not have even a stick. So, it is a lie to say that they were armed.

Two, it has taken too long for the Ministry to tell us about the issue of investigation. Three, normally even in livestock movement regulations, the Government does not allow livestock to be transported during the night even if they are meant to be sold. Even if they are transported during the day, their owners must have a permit. It seems these particular livestock were being sneaked to Isiolo for sale.

So, hon. Speaker, I think it is imperative that we inquire more as a Committee by going to the ground. I want to appeal to you that this Committee has been facing problems because of finances. Whenever we want to go anywhere we are told there is no money. Even the visit to Mpeketoni which is very critical is still pending because we are told there is no money. The same applies to visits to several other places. Were it not for you last time, we could not have gone to Moyale. This Committee is not given enough resources. Every single week there is always an incident somewhere in this country. In fact, not even one incident but several of them. So, I appeal to you to give us direction so

that we can visit these places and inform this House of what is going on. The police are not helping us at all.

Hon. Speaker: You see hon. Members, when you say that you want to go and investigate crime and even visit volatile areas, you will require protection. So, I do not know how much money Parliament can be given that is sufficient to give every committee, policemen and squadrons to allow them to investigate including exhuming bodies. You know, I am just telling you this because of the futility of this particular process. This is because you will go to that place but this incident happened as she says on 13th October. The hon. Lati asked for this Statement on 27th of March.

You announce that you are going to visit the area. You will find just a crowd of 1,000 people and then you say you are investigating when you invite members of the public. That will just be a public *baraza* or rally. This is because investigations are not done that way. So, even as you wish Parliament to avail resources, there must be a limit. Yes, I agree it is fair to visit various areas to go and see for yourself what is happening but to claim that you are there to investigate is not right. You know the kind of investigation Parliament engages in is one in which recommendations will be made for implementation by other agencies of Government, which will include among others a recommendation to do investigation with a view to making arrests.

So, I think we must appreciate. It is true committees can visit but it is visit with a view to establishing certain basics. If you say that you are going to visit Maralal on a given day, I can assure you hon. Lentoimaga you will find a crowd and then you will begin your investigations. I do not know but maybe your clerks will begin taking minutes. I do not know when you will finish that kind of investigation. So, in as much as I appreciate that there is need to go to certain localities, I think it is for the committees to familiarise themselves with some of the issues that have been raised, particularly difficulties encountered with regard to carrying out investigations to ascertain whether or not indeed the agencies of Government required to come up with proper investigations are well equipped.

However, to undertake to go and find out who killed who, surely then I doubt that. There is no Parliament that I know of that ever does that kind of thing; to begin to take statements under oath and other cautionary statements. Hon. Maanzo finds it extremely interesting that a committee could engage in that kind of activity. However, there is need if for instance there are certain issues which prevent those agencies from carrying out their proper functions. I think that is what the Committee would go and find out. If this incident happened so long ago, why is it that no arrests and no proper reports have been made?

However, you see it cannot be that the Committee is going to try to find out who killed who. You will never come back. They will be there for the rest of this session and even when we go for recess in December, you will still not have finished because you do not have the wherewithal to go and undertake that kind of activity. I would want to hear hon. Asman Kamama respond to the various clarifications sought.

Hon. Abongotum: Hon. Speaker, what you have just said is quite correct that of course most committees do not have the wherewithal to conduct thorough and very professional investigations up to and including forensic evidence. So, we can only go for a fact-finding mission and I wish to assure my friend, hon. Lelelit that we will dispatch

members of our Committee to go for a fact-finding mission to Maralal, most probably in a month's time after we are through with the Mpeketoni issue. So, we will do that and then report to the House.

Hon. Speaker, I know it is very painful when you lose a young man and especially a student who is a leader in the university. We will also insist that the Director of Criminal Investigations fast-tracks this investigation so that we can get to the bottom of it, so that those people who were involved in these extrajudicial killings are actually brought to book. We will get in touch with the office, including summoning him together with the Inspector-General so that this case is fast tracked.

Hon. Speaker, on what hon. Korere said about the business of cattle rustling, the Government is investigating it together with these extrajudicial killings to actually find out if that business is really taking place especially in that particular area. I also wish to remind Members and even the House that even the Independent Policing Oversight Authority has taken over this matter and it is investigating it thoroughly. An officer who will be found to be culpable will be dealt with properly and according to the law.

I have answered what my Vice-Chair should have said about investigations taking too long. This has to be fast tracked. We will also insist, through the Cabinet Secretary that in that particular area movement permits be introduced to avoid this issue of stolen livestock moving to other counties. I thank you, hon. Speaker.

Hon. Speaker: Hon. Eng. Mahamud, on behalf of the House Business Committee.

Hon. (Eng.) Mahamud: Thank you, hon. Speaker. On behalf of the House Business Committee and pursuant to Standing Order No. 44(2)(a)---

Hon. Speaker: What is out of order, hon. Letimalo?

Hon. Letimalo: On a point of order, hon. Speaker. I seek your indulgence because I also have a lot of interest in this incident that took place in Maralal. If you can allow me to seek further clarification, I can appreciate. I had requested but probably you may not have seen me.

Hon. Speaker: That is not a point of order, but because of your recent condition I will allow you.

Hon. Letimalo: Thank you so much, hon. Speaker for your indulgence.

Hon. Speaker, I was among the Members of Parliament who flew from Nairobi to Maralal when we got information of this fatal incident. We visited the police station and the entire area. There are three things of concern; that this was a peaceful demonstration, which is also allowed in our Constitution. The demonstrators were unarmed and the cattle that the police allege the youth wanted to get hold of from the police station were actually in the custody of the police where the deceased was killed. We visited the scene, which is about 500 meters from the police station. It is clear that this man was chased to a point where he was shot dead and buried. He must have been killed by the police. Unless the police are above the law, they must take responsibility. My concern and the clarification that I am seeking from the Chair is, if he has been able to establish from the Cabinet Secretary that this fellow was killed and he was actually killed by the police, does the Government through police take responsibility? Do they want to allow this person who is responsible just to go scot-free when a Kenyan has been killed who is

just as important as the police officer? Could they take responsibility? If so, they should be able to compensate the family of the deceased.

Hon. Speaker: Hon. Members, you are just giving stories that you also flew to go and see. You are just talking to yourself. In fact, I have not heard any of you asking whether an inquest file was opened or if, indeed, somebody has been arrested. Has an inquest file been opened to try and establish the cause of death? This is what you should ask if you need proper clarification which should be of assistance. You are giving us stories. Is this the direction this matter should be taking? It is close to a year since an innocent life was lost. It is not enough to be told that there is an Occurrence Book record. The proper procedure should be, if anybody is in doubt as to the cause of death, then an inquest file should be opened in which Members of public, including yourselves who say you flew there, could go to court and give evidence. The court then will adjudicate and make findings as to whether somebody appears culpable, whether police or otherwise. You are just giving me stories! You know, sometimes you also lose direction. Everybody would want to go to the truth, to find the truth. If, indeed, this happened as it is alleged to have happened, who is responsible? Are we following the proper mechanism to try and establish how this happened? When you stand and say you also flew, you were almost killed and you are carrying live bullets or whatever it is that you are carrying, that is not helping in this particular case. An innocent life has been lost. So, as we seek clarification, it must be aimed at trying to help us get to the bottom of the matter. But it cannot be that because we think that we could make some political points - somebody called them the other day *bonga* points- by having spoken to the matter. That is not the issue, we need to go to the root cause. Can we find out who is responsible? Hon. Member for Narok, you also flew? Hon. ole Ntutu

Hon. ole Ntutu: Thank you, hon. Speaker, Sir. I just wanted to request our Chairman, that when the Inspector General visits us in our Committee we call the Members from Samburu Community because they seem to have more information than even the police. A student leader was killed and you need to get facts. As a matter of fact, I am very surprised that investigation has not been conducted. It has been a year since this happened and we have not known what killed him. It is a fact that everybody knows who killed that young man. If you asked, you would be told the name of the policeman who killed the student. So, there is no need of even investigating. We will just tell you who killed him and action will be taken. Thank you. I have a video---

(Applause)

Hon. Speaker: No, even if you have a video or whatever, please, what value does that add? Hon. Members, it is bad enough that a life has been lost. We should be seeking to know the position with regard to investigations. Is it leading to us establishing those culpable? If not, if police are in doubt, is there a possibility of an inquest being carried out? If you say he was killed because he was a Maasai, what do you mean? Every life in this country is valuable. I do not think we need to trivialize matters about Maasai or Turkana or Mbeere or such like. It is a life of a Kenyan. That is what is important. Hon. Kamama, if it is necessary, you can have the Inspector-General present. It will be a good thing.

Hon. Abongotum: Hon. Speaker, I will do that right away. This matter has stayed for too long and we are not getting a lot of progress. I undertake to the House that we will call the Director of the CID to come and confirm to the Committee whether he has opened an inquest file. We will call the Cabinet Secretary to ensure that this case is fast-tracked. Again, the Independent Policing Oversight Authority (IPOA) has also discovered that a lot of information is being hidden. So, IPOA is also on top of this matter and our Committee will take up with the Director of CID and the Cabinet Secretary. We will do this and call all the Members of Parliament from Samburu County.

BUSINESS FOR THE WEEK COMMENCING
12TH TO 14TH AUGUST, 2014

Hon. (Eng.) Mahamud: Hon. Speaker, on behalf of the House Business Committee and pursuant to Standing Order No.44(2)(a), I rise to give the following Statement regarding the Business appearing before the House the week beginning Tuesday, 12th August, 2014.

The House Business Committee met on Tuesday this week and prioritized the business of the House for the part of this week and next week. In this regard, on Tuesday, the House is expected to go into the Committee of the whole House to consider the Victim Protection Bill, 2013. I thank the Committee on Justice and Legal Affairs for tabling their report on the proposed amendments to this Bill. The House will also consider Second Reading of the Finance Bill, 2014, and the Protection Against Domestic Violence Bill, 2013.

On the same day, the House Business Committee proposes that the House will consider a Motion seeking to extend the constitutional timelines for the passing of six constitutional Bills. Three of these Bills have since been published while the remaining ones are unpublished. All these Bills have a constitutional deadline of 27th August, 2014. Two of these Bills have to be considered by the Senate also. It is, therefore, clear that if Parliament is to consider these Bills in detail, it is not possible to pass them by the deadline of 27th August, 2014. Hon. Members, the consequences of not passing these Bills is well known to all of us. We do not want to travel the same route. In this regard, the leadership of the House both the Majority and the Minority, has agreed that and wish to request all the Members to be present in the House on Tuesday next week at 2.30 p.m. to pass the Motion for the extension, which requires a two-thirds majority of the House.

On Wednesday morning, we will continue with the ordinary Bills sponsored by the Private Members including the Order of Precedence Bill, 2014 and the Children (Amendment) Bill, 2014. Later thereafter, we will continue with the ordinary Motions. In the afternoon, we will consider the Second Reading of other Bills. Also, of priority next week is the Motion on the Report of the Departmental Committee on Administration and National Security regarding the inquiry into the tender for the proposed national surveillance, communication, command and control system of the National Police Service. We have also prioritized for debate several Committees' reports including the Report of the Public Accounts Committee regarding the hire of an aircraft for the Deputy President and the Report of the Committee on Regional Integration on the consideration of several East African Legislative Assembly Reports.

Also of priority next week is the report on progress made in fulfillment of international obligations by the Republic of Kenya, submitted by His Excellency the President. It is important for the Members to note that the House has nine sittings before we proceed for the long recess. In this regard, the House Business Committee is of the view that we might start extending our sittings past 6.30 p.m. or resolve to have morning sittings on the remaining three Thursdays, but this should be left to the discretion of the House.

Finally, the House Business Committee will meet on Tuesday, 12th August, 2014, 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 of the House.

Hon. Speaker: Thank you. Next Order!

BILLS

First Reading

THE COUNTY ALLOCATION OF REVENUE BILL

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

Second Readings

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

(Hon. A.B. Duale on 31.7.2014)

(Resumption of Debate interrupted on 6.8.2014)

Well, Members, as you know, your own Constitution, Article 121, places a requirement that before a Question on this can be put, you must quorate. I do not know whether you have the requisite numbers. So, the Question will not be put and the business on Order No.9 is, therefore, ordered to be placed on the Order Paper on Tuesday.

THE FINANCE BILL

The Vice-Chairman of the Departmental Committee on Finance, Planning and Trade, hon. Gaichuhie.

Hon. Gaichuhie: Hon. Speaker, I wish to move that the Finance Bill, National Assembly Bill No.26 of 2014, be read a Second Time.

The purpose of this Bill is to amend laws that affect taxes after the reading of the 2014/2015 Budget. So, this Bill proposes a form of capital gain tax on natural resource income as well as net gains derived from disposal of interest in natural resources. The Bill also proposes to make all corporate and business (employers) expenditures on

employee's vacation trip within the county to be tax deductible allowances. This is in line with the Government policy that is trying to encourage local tourism.

Clause 6 of the Bill subjects natural resource income to Income Tax. It also clarifies that a non-resident person includes both his resident office and all the branch offices within the Republic of Kenya. The Bill also addresses the matter of transfer pricing manipulation. In Clause 12, by proposing an amendment in Section 41 of the Income Tax on special arrangements for tax relief by restricting tax relief on income by multinational companies considering ownership of such companies. The Bill further repeals the Ninth Schedule of the Income Tax on taxation of petroleum companies and replaces the current schedule with a new Ninth Schedule on taxation of extractive industries. This is just to make it in line with the Act that we passed the other day on extractive industries. It also seeks to amend the Competition Act to provide for clarity, to align it with international best practices.

Under the miscellaneous amendments, the Bill in Clause 32 provides for Competition Authority of Kenya to operate a leniency programme. The Bill also seeks to amend the National Social Security Fund Act, 2013, to harmonise it with the relevant provisions of the Retirement Benefits Act (No.3 of 1997).

Clause 33 also proposes to delete the definition of the word 'actuary' as used in the NSSF Act, 2013 and replace it with the definition of "actuary" under the Retirement Benefits Authority Act, which is broader and in line with the international recognised actuarial professional bodies definition.

Hon. Speaker, Clause 34 provides the transfer of Tier II Pension Credit from Pension Fund as well as the Provident Fund to contract out scheme. The key observation here is that, when we were looking at the Bill we could see that, although this Bill is trying to introduce the capital gain on minerals and mining and extractive industries, we remember very well that in the year, 1985, the capital gains on real estate was suspended and the Bill has not addressed that. Therefore, the Committee is planning to bring an amendment on that.

We are also looking at the tax measures on Excise Duty to address concerns of the recent loss of lives occasioned by the illicit brews. When the Government had introduced 100 per cent remission on Senator Keg beer during the Finance Bill of 2012/2013, the same was reduced to 50 per cent. This made Senator Keg beer very expensive and people reverted to illicit brews which have actually caused a lot of deaths. We intend to bring an amendment so that we can see if we can revert to the 100 per cent tax remission so that Senator Keg or any other beer can be cheaper for Kenyans to be able to enjoy their drink instead of reverting to illicit brews.

The Finance Bill, 2014 is proposing the amendment of the Act. The proposed Ninth Schedule on taxation of extractive industry has several allowable expenditure deductions which included, prospecting expenditure deductions; extraction expenditure deductions, rehabilitation--- That is why we want to align it with Petroleum Act which will also offer those very many tax remissions.

We have also noted that when you come to the extractive industry in Kenya; oil and gas industry taxation system in Kenya consists of Corporate Income Tax; Value Added Tax, import duty and royalties. There are so many taxes and we are proposing that the Government should consolidate all these tax laws by formulating an internally

coherent extractive industry tax system devoid of needless conflicts, gaps and ambiguities in tax rules and tax administration. A harmonized tax regime has numerous benefits including reduced compliance costs, simplifying the tax audit process; sharply reduced complexity and lower double taxation risk.

Hon. Speaker, the Finance Bill does address concerns as published, but the effects of continued use of unsafe alcoholic drinks as I was saying, will actually harm Kenya because many illicit brews that are consumed are not netted in the tax bracket. Therefore, if we can give remission of the 100 per cent to Senator Keg, we shall be able to net some tax; although many Kenyans need to pay taxes. We need to also give some exemptions because we need to save life.

The following are the proposed amendments to the schedule:-

Amend paragraph 1 by (a) inserting the following new definition in proper alphabetical sequence, for the following words to make the interpretation of terms used in the extractive industry comprehensive:

“Abandonment/decommissioning,” this means to the process of dismantling well-head production and transportation facilities and restoration of depleted producing areas in accordance with the licence requirement and/or legislation.

We also propose to amend paragraph 7 by inserting the word “prevail” at the end of paragraph 7 (sub-paragraph 2), immediately after the word “Schedule”. The justification of this amendment is to make the sentence complete and provide the intended meaning of the paragraph.

Hon. Speaker, I will just briefly go clause by clause and say why we are proposing the amendments. This Bill intends to incorporate natural resource income and net gains derived from farm output as income that shall be subjected to tax. This measure will ensure that the gains from extractive industry are considerably taxed.

Amendments to Section 4 will bring light to the recent development in the extractive industry. The country has high likelihood of venturing both upstream, midstream and downstream in the oil and gas operations as opposed to previous periods when there were only down streaming operations. Therefore, this change ensures revenue is realized from such activities.

The amendment in Section 5 is meant to mitigate the effects of decreasing number of foreign tourists by encouraging employers and employees to have a one week vacation; although this revenue measure can occasion a loss of Kshs2.4 billion annually. We think the Government policy is in line with promoting local tourism.

Amendment to Section 10 incorporates natural resource income as one that is derived or accrued in Kenya and thereof subject to tax. The amendment to Section 15 ensures that taxes deducted on both sides of the Government are well placed and licensed as to the licensee and the contractor.

Amendment to Section 16 had been introduced earlier on exemption of expenditure on employees’ vacation trips within the country.

Section 18 is just a clean up to harmonize the consistency of the provisions of the law. It is the same as Sections 34 and 35. Section 41 addresses the matters of transfer pricing. Section 53 provides for the filing of provisional returns where the employees are not required to file returns, which is currently outdated.

Amendments to Section 54 seeks to include income from natural resources into tax-fold by including its requirement on keeping records of receipts and expenses to be produced when required by the Commissioner.

Section 54 is a notification that will go a long way in enhancing transparency and tax compliance. The second Schedule is also proposed to be amended, that is paragraph 7(3). The measure is meant to respond to the planned oil pipeline infrastructure development.

As I said earlier, we will repeal Schedule Nine of the Mining Act and include the Extractive Industry Act. The same schedule replaces the one that we have repealed.

Section 21 is about the use of Intellectual Property Rights which shall be restricted by fair, reasonable and non-discriminatory use and not for legal protection. That is the essence of the amendment.

The amendment to Section 23 of the Competition Act is on criteria for determining dominant positions by providing more consideration as holding 40 to 50 market shares. But we have market power of less than 40 per cent of the market share. This broadens the scope of determining market dominance.

The proposed amendment to the Competition Act, 2014 seeks to make it mandatory for a professional body to write to the Competition Authority seeking a waiver of the body's restrictive professional rules. Currently, seeking the waiver or exemption is optional. But this one is now making it a must, not optional.

The proposal to amend Section 30 is a notification of exemption to include a provision that the authority, having consulted the Cabinet Secretary may exclude any category of decision, practices or agreements of undertaking from the application of the restrictive trade practices.

Amendment to Section 40 of the Competition Act, 2014 or appeal to the tribunal by approving that any appeals shall be lodged within 30 days on receipt of a decision. This makes it easier for people to file their appeals in good time. Initially, it was within a very short time.

It proposes to amend Section 89 of the Competition Act, 2010 under failure to comply with the Authority's order by providing for a leniency programme while undertaking volunteers' information and cooperates in the investigation so as not to bear the full imposable penalty. This is to ask that we have a leniency programme within the Competition Authority where people can take information that was not there before.

The proposed amendment of the National Social Security Fund, as I said earlier, is just to keep it in line with the Retirement Benefits Act. This is a Bill to make the tax laws that we have currently to be in line with the proposed amendments and the budget that we read in the current financial year.

With those few remarks, I beg to move and ask hon. Mary Emase to second.

Hon. (Ms.) Otucho: Hon. Speaker, I rise to second the Motion. This is a very important Bill, of course, after the Appropriations Bill. This is the Bill which sets the foundation upon which this nation will collect its revenues for us to realize our budgetary allocations for 2014/2015. Basically, this Bill formulates the proposals announced in the Budget 2014/2015 relating to liability to and collection of taxes and for connected purposes.

I would like to touch on a few areas and especially the amendments. With regard to the Competition Act, No.12 of 2010, this Bill seeks to amend that Act. The purpose is to provide clarity and to align it with the international best practices and also ensure that there is reduced regulatory and transaction costs. We realize that this country has actually suffered the wrath of Kenyans in the recent past because of the high cost of living. When the cost of doing business is high, it contributes to increased cost of goods and services. We need to make amendments and do the right regulations that will help in bringing down these costs. This will ultimately bring down the cost of living.

One of the amendments that this Bill seeks to bring forth is one on the National Social Security Fund (NSSF). It seeks to harmonize it to other relevant provisions one of them being the Retirement Benefits Act No.3 of 1997. We are aware that of late we have lost many Kenyans to illicit drinking. This is because most Kenyans have been unable to afford a decent drink and so they resorted to taking cheap illicit drinks. The Departmental Committee on Finance, Planning and Trade is also seeking to bring amendments that will help manufacturers of the alcoholic drinks to prefer a decent and dignified drink for the ordinary Kenyan. That way, we shall reduce instances of illicit drinks. We will also reduce dramatically the kind of deaths we have experienced in the recent path.

This Bill is critical and, I, therefore, want to urge Members that we need to support this Bill and bring any further amendments that we may find necessary and in particular those that will be seeking to reduce the cost of living. I thank you, hon. Speaker.

Hon. Speaker: You are just thanking. I thought you were seconding. Put it on record, please.

Hon. (Ms.) Otucho: I second.

Hon. Speaker: Hon. Members, I think this is a defining moment for the country to know who understands why we are here. This is the debate on the Finance Bill. I think what I am saying will speak volumes.

(Question proposed)

Hon. Nyenze: Thank you, hon. Speaker. I do support your sentiments. This Finance Bill, 2014 is an important Bill. It will be important for Members to be present because of its importance. I support this Bill. Sometime ago, we approved the Appropriations Bill, 2014. It set out how our taxes would be spent in this financial year. The Finance Bill now seeks to spell out measures that will be used to raise that revenue and collect the taxes.

Section 40(3) of the Public Finance Management Act states that on the same day the budget policy highlights and revenue raising measures are pronounced, the Cabinet Secretary shall submit to Parliament the Finance Bill setting out the revenue raising measures for the national Government together with a policy statement explaining these measures.

[Hon. Speaker left the Chair]

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

Section 40(4) of the same Act states that following the submission of the Finance Bill by the Cabinet Secretary, the relevant Committees of the National Assembly shall introduce a Bill in the National Assembly together with the Report of the Committees on the Bill. I listened to the Cabinet Secretary, Mr. Rotich when he presented the Government Budget Policy highlights. He proposed the following new tax legislation in 2014/2015 fiscal year.

The Income Tax Bill: This will amend the current Income Tax Act, Cap.470.

The Excise Duty Bill: This will introduce a stand-alone piece of legislation to bring excise duty taxation in line with the leading international practices while simplifying revenue collection and Excise Duty administration.

The Tax Procedure Bill: This will require uniform tax, tax administrative procedures for VAT, Excise Duty and Income Tax.

The Inland Revenue Agency Bill and the Border Service Bill will create separate agencies of KRA to improve efficiency in revenue collection and management. Hon. Temporary Deputy Speaker, within the oil, gas and mining industry, the Cabinet Secretary has proposed the replacement of the current Withholding Tax system with an Income Tax on assignment of rights bringing this industry's taxation in line with international tax leading practices. The Cabinet Secretary proposed to amend the current definition of permanent establishment to bring it in line with the Organization for Economic Co-operation and Development (OECD) and UN model convention. These proposals seem to be in line with the changed OECD project with action plan on base erosion and profit shifting action 7 - artificial avoidance of permanent establishment status.

From the foregoing, it is clear that comprehensive and far reaching reforms of tax system in Kenya are necessary in order for us to meet the ambitious development targets in Vision 2030 of this financial year. The Kenya Revenue Authority (KRA) has collected over Kshs960 billion in 2013/2014 Financial Year which is close to 99 per cent of the target set by the National Treasury. I am sure that with more serious enforcement, they can collect over Kshs1.5 trillion. It is good when you have someone good at the helm of the KRA like John Njiraini. He has done a good job. I am sure if he has security of tenure in that office, he can continue to do a better job like he has done so far. I also hope in the next financial year that the central Government shall increase financing to counties from the current Kshs226 billion to over Kshs430 billion which is 45 per cent of what the KRA collected last year. If that is done, the friction between the county governments and the national Government will be reduced because currently the counties are not getting enough and this should be looked into.

The proposal on taxation of extractive industries contained in Clause 23 of the Bill when read together with the proposed new Schedule Nine are good for ensuring that extractive industries benefit Kenyans more. This must be viewed in the context of increasing attractiveness of Kenya as a mining hub of oil, gas, coal and many other minerals that this country is endowed with. I said some time ago that Kenya---

(Hon. A.B. Duale consulted loudly)

The Leader of Majority Party is consulting very loudly behind me; please protect me. I want to make a very important point.

This country has discovered vast amounts of oil, natural gas, coal, limestone and iron ore. There is so much that this country can benefit from extracting minerals. We should not make this country unattractive by taxing these extractive industries so highly. If you tax them highly, Kenya will not be attractive. We should balance so that the taxes will not put them off. I had said that earlier. I said that Kenya would be the richest country in this region of Africa. It is Biblical; it has been prophesied and it is called the land south of Kush. Kush is Biblical and the Quran called it Ethiopia. The country south of Ethiopia is Kenya and so in the Bible it says that this country is blessed with abundant minerals. So, we can make life better for every Kenyan so long as we continue with the exploration; so long as we continue attracting foreign companies to come, extract and put in good structures where tax regimes will not put them off. Every Kenyan's life will be changed and affected in the best way possible.

Hon. Temporary Deputy Speaker, Vision 2030 which we all work towards wants to place this country in middle level income. For us to be a middle level income country within the time bracket that we have put, there must be certain things that are obvious. Economists in this House know that the cost of power has to be fair; the availability of that power has to be assured and so we have to invest so much in power generation. Imagine in Kenya we produce fewer than 2,000 megawatts. Lesotho alone produces over 40,000 megawatts. So, you can see the situation of Kenya and South Africa. That is a giant; we are just a small power producer. We have to improve on that for us to industrialize very fast. We also have to do more infrastructural programmes; the roads, railways and harbours. In everything that we are doing, we have to do that and increase it very fast.

The cost of doing business like hon. (Ms.) Emaase said must be brought down. Our labour must be cheap and we have to ask ourselves: What did the countries that have transformed their economies within one go do? Look at the BRICS; Brazil, Russia, India, China and South Africa. Look at countries like Singapore. Look at Thailand, Indonesia and South Korea. Ask yourself: What have they done to transform their economies and move to middle income levels within two generations? They have done exactly what I have said. Make sure that there is cheap labour; make sure that there is well trained personnel which Kenya has done well in exporting; make sure that there is infrastructure development of road network, railways and harbours; make sure that crime is low; insecurity which has defeated us in Kenya. Make sure that workers are motivated. These countries have laid down rules and they have produced. They have become manufacturers. In fact, manufacturing has shifted from Europe to South East Asia and the other countries in Latin America. That is why these are the fastest growing economies because they embraced manufacturing and not just farming. They build from farming; did value addition; they moved from there to the next level and today they are the ones who are lending money to European countries because they have a lot of reserves.

The per capita is great; they are doing very well and their citizens are happy. In Kenya we have everything. Look at us. We have the best tourist destination, the best beaches, the best animals and everything for tourism but look at insecurity. This is something small but it has kept tourists away. Our hotels are empty. These are some of

the things that need to be fixed. They cannot be fixed by Jubilee alone. It has to be CORD and Jubilee. Let us come together. This is our country. Let us fix it together so that we grow together to the next level.

This Bill has come at the right time and we have effective people in collecting taxes, widening the brackets, so let this money be put into proper use. Hon. Temporary Deputy Speaker, minerals are now found in counties which have been marginalized since Independence like Turkana, Kitui, those in Ukambani and Coast Province. That is where everybody will go for employment. Let us develop roads in those areas. We are not asking for big things.

We have sung until our voices are dry that the Kibwezi-Kitui-Mwingi-Maua-Ethiopia Road should be tarmacked. Let that road be given the first priority. I have talked to the Budget and Appropriations Committee Chairman, Rev. Mutava Musyimi and the Cabinet Secretary. Let that road be tarmacked to open up the limestone mining area because we have the biggest limestone deposits in Africa. That is Muthomo which is Kitui South. We also have the biggest coal deposits in Africa at a place called “Mui Basin” in Kitui. That is the best coal in the world. It is called “lignitecoal”. You can get a lot of energy from one tonne because it burns without smoke. So, it is not one of these things that will bring about climate change by emitting carbon dioxide. Lignite coal is the best and it is found in Kitui in bigger quantities than even in South Africa.

Hon. Temporary Deputy Speaker, this tax regime does not make Kenyans happy. The introduction of VAT has caused a lot of suffering to Kenyans. I appeal to the taxman to make the cost of living easier for Kenyans. This is because he is taxing them to the grave. He should not tax commodities like fuel a lot because Kenyans depend on transport and manufacturers depend on petroleum products and so forth. The taxman should reduce the VAT so that the cost of living can come down.

Many families in my constituency do not take breakfast. They only take a single meal in a day. This is because they cannot afford food because of VAT. I appeal to this Committee and the Cabinet Secretary to make sure that the issue of VAT is sorted out in the next Budget so that the cost of living can be brought down. If you ask all these Members here you will find that the people they represent do not eat decent meals, they walk to their places of work; that is for those who are employed. These people cannot board a vehicle. This is because the cost of living is beyond the ordinary Kenyan. Let us not push Kenyans to the edge because they are already suffering.

The Temporary Deputy Speaker (Hon. Kajwang’): Thank you very much for your very clear discussions.

Yes the Member for Rarieda.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy Speaker for giving me the opportunity to support the Finance Bill, 2014.

As has been eloquently stated by the Leader of Minority Party, the Finance Bill, 2014 aims at those measures which the Government wants to embrace in order to finance the Budget as was proposed.

Having said that, a number of the measures that have been proposed look good. However, as somebody who believes that vulnerable members of our society must be cushioned, I think time has come, looking at the cost of living in this country that we

really must take steps that can increase revenue to the proportions that we need to give our people the services they need.

Hon. Temporary Deputy Speaker, there is no reason why any Kenyan who earns less than Kshs50,000 a month should pay Income Tax. In my view, this is one of the measures that need to be taken. We need serious tax reforms but these tax reforms will make sense if we are able to provide relief to the very vulnerable Members of our society.

One of the things that concern us as leaders in Kenya today is the level of hopelessness that you see around in the country. It is inexcusable that 50 years after Independence almost half the population of Kenya still live in very abject hopelessness.

Anybody who knows the history of Parliament the world over knows that Parliaments evolved because people demanded that the only way they can be taxed is if they also have a say in who represents them. I think a lot more needs to be done. I have always been of the opinion that it will probably make more sense if we seal the loopholes. This is because we keep chasing people who earn Kshs20,000 every day to pay tax. You can tax very many of them but the revenue you get will not account for much at the end of the day.

Hon. Temporary Deputy Speaker, it is a fact that in Kenya today some of the significant tax evasions that would make a difference do not occur with the ordinary Kenyan. They do not occur with the Kenyan in the streets but they occur with those Kenyans with substantial income. You will find these in the upper-middle class and high class of our society. This is the way most countries in the world go. Let us aim to tax more those members of the society who really ought to pay tax. I think that those who ought to pay tax must pay it. However, as we tax them let us follow hand in hand---

Today, I am one person who is convinced that if we were told that we should be taxed more in this House but at the end of the day there is security in the country, there is water where we live and we have smooth roads to areas where we live, we will have no problem with paying more. In any case, and indirectly, we still pay for those services because of the inability of the Government to provide the same. As we go to meaningful tax reforms in Kenya, these are some of the areas that we should think about.

The Leader of Minority Party has spoken about the abundance of mineral and natural resources in Kenya. It is shameful that for over 50 years we still do not have an accurate map of what minerals are available and where in Kenya. Some of these things might look to me like they have been deliberate so that the exploitation of these mineral resources is only done by a few.

The other day, I attended a conference in Kisumu and I was very surprised to learn that my constituency of Rarieda may have commercial amounts of iron ore. In fact, it was even stated that there could be those very precious minerals like titanium in Rarieda. Why has it taken our country over 50 years for us to be told now at a conference that these minerals may be there?

Hon. Temporary Deputy Speaker, we know that resources are everywhere. Kenya has never lacked water because every year, rain water carries away homes in many parts of the country. We have resources everywhere. However, resources are only useful if you can convert them into profitable reserves. I think this is the challenge that a proper mapping of our mineral wealth will solve. After we do the mapping, let us have a taxation

regime which will not scare away investors but will maximize what we get from those reserves.

Hon. Temporary Deputy Speaker, I want to conclude by saying that taxation measures must be undertaken both with a human face and a human soul and I have alluded to the fact and it is not just alluding. However, it is a fact but today a good majority of our people, particularly those of us who represent rural areas, can hardly make ends meet. It is a daily struggle but if we undertake tax measures with a human face and give it a human soul, then we would be able to use the tax money more transparently.

Hon. Temporary Deputy Speaker, I remember in the 10th Parliament we had a very interesting debate when one of my colleagues, hon. John Mbadi had just requested for the revenue account of Government for a certain period of time and it became an issue. It was just like it was an anathema to request the revenue account. Then you start to wonder why it would be so difficult to bring the revenue account for a particular period if somebody somewhere is not maybe very keen on giving the accurate figure. So much as we embark on these tax reforms, let us also be transparent both in the way we collect and in the way we utilise them.

Hon. Temporary Deputy Speaker, as I conclude, I want to say and I have said it before, after we tax we must strike a delicate balance between the demand and the supply side of taxation as well as the demand and supply side of essential goods and services. You remember last year some of us on the CORD side were opposed to the amendments to the Value Added Tax Act but it was not just for the sake of it. This is because while one side was looking at the demand side, we were concerned whether we have the optimal levels of balances between both the supply and the demand side. Ultimately, we were proved right that when you take taxation measures that do not fall in tune with what is pertaining on the ground, it affects everybody indiscriminately.

So, hon. Temporary Deputy Speaker, even as we support this Finance Bill, we hope that the taxation measures that will be taken will have both a human face and a human soul and at the end of the day Kenyans who are really the reason we collect taxes, will derive the maximum benefit from the taxes that we collect.

I support, hon. Temporary Deputy Speaker.

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

Hon. Ndiritu: Thank you, hon. Temporary Deputy Speaker. I also rise to support this Bill and as it has been said, this is the Bill that actualises the proposals that the Government has made in raising revenue to run the Budget.

Hon. Temporary Deputy Speaker, I would first start with the friendly taxes that have been introduced on cheap quality brews, for example, what they commonly refer to as kegs. We know there has been war on illicit brews and we know the dangers that they have caused on our low income members of the society and it is only right for them to be provided with an alternative. I commend this Bill for thinking about those people and coming up with taxes that will reduce the cost of the alternative.

The tax regime on some of our factories or local manufacturers has been an issue. In my constituency, there is a factory that has been there for many years and it has been producing farm implements. However, for some time they have been encountering a lot

of problems where locally manufactured agricultural implements do not attract taxes. They were zero-rated but some parts that they imported would not attract the zero-rating.

They would import parts but when they produce the whole unit that they have manufactured using local labour and materials they would attract a lot of tax. For example, a plough coming from Brazil or China would be exempted or zero-rated and the one that they produce is taxed. It is not exempted from VAT and for that purpose and with the introduction of the 25 per cent tax on imported metal, the parts that they import for their produce are taxed. This makes the equipment very expensive. For that reason, we are facing a closure of a factory that employs between 100 and 150 people. They are saying that they are going to relocate. They will fabricate and manufacture metal in a place like China and then bring them and then they will only employ two to five people as sales persons. This is a great danger that the tax regime needs to look at.

Hon. Temporary Deputy Speaker, I would also want to talk about the National Social Security Fund. The retirement package is a great idea. The problem and the greatest question that I have is: Will the money that will be raised sustained? We know it has been suspended for a while but we know the amount that the workers will be paying will be very high. The question is: Is this money going to be safe given the history of NSSF? Very recently we have been reading of scandals amounting to billions of shillings and we know in the past workers' money has been wrongly used. It is our hope that the Government will do its part in making sure that the taxes or the amount paid will be safe and that it will not be the cash cow for those in authority or those who want to make a quick buck.

Hon. Temporary Deputy Speaker, we know how our people are crying and it is only fair that the tax regime looks at the minimum income that can be exempted from tax. That is raise the relief bar so that now we do not only cover--- We know Kshs10,000 or Kshs11,000 these days is nothing. I hope the Committee will look at the amount of relief such that those earning below Kshs20,000 or Kshs25,000 are relieved so that we cushion the very low income earners.

Part 3 of the Ninth Schedule talks about mining. Recently, the Mining Bill was in the House. Suddenly, Kenya is realising the great potential that there is in our mining sector. As much as we would wish that we do not overtax so that investors do not keep away from our country, this is where we have a regime that is secretive. Those people will never disclose what exactly they are getting from our place. We know we have talked of royalties and corporate social responsibility but the Government should introduce and cushion people who are in mining areas so that they become beneficiaries of the life time fortune that is in their areas.

When these people extract minerals, we know that they need laboratories to identify and verify these minerals. They will tell you that they are taking a sample to their mother company overseas where they will go and will never disclose the actual value. They will tell you they are getting so much gold from so many tonnes of the material they excavate. It is time the Government looked at that and ensures that locals benefit from what comes from their income.

Finally, I would like to talk about the farmers. I represent many peasant farmers. There are issues with the inputs that they use in their farms. We know the Government has been doing something on fertilizers, but that is *ad hoc*. It is not something that is

anchored on policy or permanent. It is something you can get or not. We should drive the Government to come up with measures to help the farmers. Tax reduction will ease or reduce the cost of input for livestock farmers. The Government can reduce or zero-rate tax on livestock feeds, machinery and even the materials that they use to manufacture the feeds. The drugs should also be subsidized so that farmers can produce milk at low cost. That way, their produce will be competitive in the market.

With those few remarks, I support. I can see some sections that have very good ideas, if they are properly implemented. Thank you Temporary Deputy Speaker.

I support.

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

Hon. Dido: Thank you very much hon. Speaker for giving me this opportunity. I want to thank the Finance Committee for bringing this Bill. I think this Bill is really very important and it rests at the core of what Kenya should be. Taxation is the means by which to grow the economy. There is a famous saying by the Kenya Revenue Authority - *Kulipa ushuru ni kulinda uhuru*. I think that is really important. Kenyans are the highest taxed citizens. Basically, our tax regime is “kind of” so inflated that on most of the goods that are either produced here or imported, the inflation rate is very high. Sometimes, it makes doing business in Kenya very unattractive for many. Through this Bill, Kenya should attract investors. But there are many things that must be done for us to address the tax regime, so that it is favorable. That way, investors will come and invest in this country.

At the same time, we must guard against tax evasion and promote tax compliance. I think the current Director-General of Kenya Revenue Authority has done a good job. He has generally met his targets by addressing the critical issues. The area of tax compensation must be well guarded against. I think economic crimes such as the Goldenberg and Anglo-Leasing came about as a result of frivolous tax compensation where individuals do not really work for their money. They want to make money in the easiest way.

The other area in this Bill relates to tax exemption and zero-rated goods. Through Vision 2030, Kenya will be a middle income country. That is the projection. But that has to go hand in hand with industrialization, infrastructure and development. So, for us to be able to meet the pillars of Vision 2030, I think the resource base or the taxation base for this country must be expanded in a big way. I think the Jubilee Government has been able to come up with several funds like the Women Enterprise Development Fund, *Uwezo* Fund and the Youth Empowerment Fund. I think for us to actualize all those funds and to have many other funds to empower our people to alleviate suffering and the back-breaking poverty, it means our targeting for taxation has to improve in a big way. Recently, I was privileged to visit Morocco and also Canada with the Committee on Defence and Regional Integration. We realized that, basically, on everything you buy or any service which is offered, you pay taxation. But those citizens were really very willing to pay those taxes because they said that the services that they are provided with are worth paying the tax. To this end, I think what we must guard against as Kenyans is to work hard, make money and pay their taxes, only for those taxes to be squandered away through corrupt deals and practices. The real value for money is when an individual

pays his taxes. This Bill also addresses the taxation of extractive industries, especially petroleum. I think on this, we have to be really careful because the petroleum industry has been the driver for both inflation and commodity prices. In the world market, when the petroleum prices go down, there is no commensurate reduction at the pump price. That is what we have seen over the years. That is the case and yet, the companies that have been doing exploration and others which have been supplying petroleum products have gained so much from this country while doing their businesses. There are no dividends to the citizenry.

I would like to speak about the rate of income tax applicable to a contractor. In this Bill, it has been said that a resident contractor will pay a tax of about 30 per cent and non-residents 37percent. When you look at most foreign contractors who are doing business in Kenya, more often, you will find that they are being sponsored and supported by their Governments. The locals actually do not get the same support or benefit from their own country. They go to the banks and borrow huge amounts of money. We can easily see a situation where locals can be crowded out of the business of petroleum exploration or trading in extractive industries.

Hon. Temporary Deputy Speaker, I finally want to talk about taxation at the county level. The counties are the new grassroots governments that we have. We hear that there are efforts by those county governments to tax people within their different counties. But from the look of things, if we are going to heavily tax the citizenry at the grassroots, then the efforts of production - if corollary services are not provided - will be hampered.

Hon. (Eng.) Manga: Thank you very much, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this very important Bill.

The Finance Bill is an engine for the Government to drive its economy and its business of serving the people. This Bill seeks to amend many clauses in the financial laws in order to make it easy for businessmen to run their businesses. I wonder why the tax collectors sometimes become merciless and very hard to people. They do not work together with the taxpayers. Without the businesses running, they will not collect any taxes.

I also want to cite this monster called tax compliance certificate, which has become a problem. Sometimes, KRA makes mistakes on taxation. When you go to get the tax compliance certificate for you to get a contract or do business, sometimes they decline and tell you to go and bring Kshs10,000 for them to give you a certificate. Corruption is introduced here. That certificate lasts for six months only. They have now made it better and it lasts for a year. But many business people have been discouraged to run businesses. Sometimes, you have a very small tax problem and they refuse you to carry on with your business by refusing to give you a tax compliance certificate.

If a contractor owes KRA some money, he cannot get that money unless he continues to do more business in contracting. If that is the case, then the compliance certificate should only be there to enable KRA to know that, for instance, hon. Manga, has not complied with the tax provisions. Therefore, they give you the certificate and next year, they make sure that he pays. If I do not have the money, they cannot sell my body. If they refuse me to trade and the tax they are asking for comes from my trade, then they

are cutting the hand that feeds them. So, I urge that the taxman becomes a little bit reasonable. They should be friendly to the taxpayers.

This Bill is important. My Finance Committee has visited some industries like Kenya Breweries and we have listened to them. They have very genuine reasons to ask to be exempted because then, if you do not do that, that cost is transferred to the *mwananchi*. The *mwananchi* becomes hopeless and he takes some drinks which kill him. These amendments should be looked into to make sure that the taxman does not only get the money from the trader, but also makes sure that the trader has a way of trading so that, in future, he can be paying taxes.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Kajwang’): Well spoken. Member for Njoro.

Hon. J.K. Ng’ang’a: Thank you, hon. Temporary Deputy Speaker. Let me begin by saying that I also rise to support this Bill. At times, I normally wonder why we Africans complain, go all over the world begging and seek for assistance and grants. We do not ask ourselves why we go on those begging and borrowing missions abroad and yet, we have virtually everything here in Africa and in Kenya.

Right now, our Head of State and many African Heads of State are in America looking for investors to come and invest in our country and in Africa. As they go round begging, we should ask ourselves why they should go on those begging missions. The major problem with us is that we do not sit down and see how we can tap the little resources and make use of them well. Instead, we regard ourselves as poor and illiterate. If a foreigner comes here and wants to register a company, he or she has to undergo a lot of hiccups. We are the ones who create those problems. If you go to other nations as an investor, you are very welcome. Those hiccups and bureaucracies are not there.

So, I would like to support this Bill. On the other hand, we need to look at the other side of our laws and make sure that we have an easy way of welcoming the foreigner investors. We need to adjust our registration laws for foreign companies. By saying this, I do not mean we do not have to put some proper mechanism of safeguarding and protecting our security, sovereignty and above all, the right of our citizens. We have seen on a number of occasions where foreigners come here to Kenya and to our respective counties or districts and they tend to misuse our people by making them work as slaves.

If we go back to our history, I do remember the white settlers. If we were wise enough, we could not have let them come and become our masters and us their slaves. They came, cheated us and took away our land and natural resources. We become slaves and labourers. Therefore, as I support this Bill, there are some other areas we need to look into so that we can think of going out to look for foreign investors.

Hon. Temporary Deputy Speaker, there is another area I would like us to look into. Once we have received this revenue--- Kenyans are among the heavily taxed citizens in the world. But their sweat goes to the drain. It does not help the ordinary *mwananchi* who is toiling in the coffee, tea, pyrethrum farms. But it ends in the hands of a few individuals. Therefore, we do welcome this Bill. But we need to be bold enough and make sure that whatever we do, especially to the foreign investors, we should balance both sides.

I am saying this because, on a number of occasions, we have seen and we have heard in many countries where foreign investors have come with all manner of promises. They promise governments that they are going to fund them with various donations. But their common objective is not to assist us. They want to come and milk out the little resource that we have. To some extent, they go on destabilizing the sovereignty and the security of the whole nation. We need to be very careful.

There are other good and friendly investors who come with one objective of investing their money. They have the money. But there are others who come in a very shrewd way to exploit us. In fact, there are some who come with the real intention of destabilizing our nation. Therefore, we should be very careful to differentiate our true friends, genuine and bogus investors.

Hon. Temporary Deputy Speaker, I can give a very good example. There those people who came as tourists. They came in with a lot of money but, in actual fact, they were not tourists. They were either terrorists or drug barons. They came and rented big houses and start investing here. But they had ill motive.

Therefore, as I conclude, I would like to say that we, as elected leaders, should come up with Bills, pass them on the Floor of this House and enact them. First of all, we should make sure that the sovereignty and the security of our nation is well protected before we go out looking for that money for assistance. We better remain poor but remain free. We should feel that we are a democratic Kenya. We should not be rich but under foreign bondage.

Thank you, hon. Temporary Deputy Speaker. I support the Bill.

The Temporary Deputy Speaker (Hon. Kajwang³): Thank you. Let us hear from the hon. Member for Kibwezi West Constituency.

Hon. Musimba: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Finance Bill. From the outset, I want to support it. Indeed, it has been one of the Bills which I have been waiting for a pretty long time; especially knowing that we have a constitutional timeline to deliver it.

From the outset, I want to recognize that the greatest resource in our country is human capital. In so doing, we should be moving towards a level where we promote its well-being and nurture it so that, indeed, it can be our biggest contributor to this great economy.

Hon. Temporary Deputy Speaker, our emphasis over the years has been on listed companies. But on proper analysis of our statistics, you quickly recognize that all the listed companies in Kenya only contribute 4.4 per cent of the revenue that we collect year-in, year-out. Thus, it follows that we should be looking and providing a more enabling legislative framework towards growing the bottom-end of our business so that we are able to grow it from small and medium term enterprises to become large corporations. In so doing, we will be promoting intellectual growth. I must say this Bill recognizes intellectual property rights as bestowed. It also aims at nurturing the same in order to grow the opportunity levels within this nation. I think that is the biggest gap.

The overriding factor should be that we should cease from spreading the pain. This is because as we are running and talking about a quota within this nation which should be tax exempt, we should be looking and recognizing that probably, at the inception in 1963, we were looking at growing corporations. But increasing our major

contribution towards our incomes was mostly through consumption tax. Therefore, this should be a challenge to the Committee to look whether we are going to move towards income-related, or do we move completely towards our policies encouraging consumption. But be that as it may, we should not have issues of corruption.

Hon. Temporary Deputy Speaker, I will give a case in point in the Information, Communication and Technology (ICT) sector. In the ICT sector, the revenue authority collects revenue accruing to sales of scratch cards upfront. You have already quantified down the value chain on how much incomes you are going to earn through the tax revenue measures. This should be greatly encouraged so that the issue of compliance is greatly reduced. That is because it also comes at a cost, which most business cannot afford - like audit services. For a basic company, it would run into, maybe, Kshs100,000, which would be barely what that particular entrepreneur is trying to earn.

About the entrepreneur, we should look through this Finance Bill and encourage entrepreneurial growth. Currently, we are looking at 12 million unemployed youths in Kenya and another 8 million people who, although retired from their current employment, are unable to continue contributing to this nation. They have amassed significant capital but they do not have linkages towards deploying the small income. In this particular accord, I want to echo the words of the President when he gave his State of the Union Address in this House and purposed Kshs200 billion towards the youth. We need to model this around. I think this is the point which the Committee on Finance, Planning and Trade should be looking at. We need to convert that Kshs200 billion into the constituencies. This will translate to Kshs790 million per constituency in Kenya for purchases through functions which are already vested under the national Government namely; infrastructure, security and education. Those particular things exist within every single constituency in Kenya. If you look at a retention of, say, 10 per cent of those values and the value per constituency is Kshs790 million, this would translate to Kshs79 million. Unlike the CDF which goes to infrastructural projects, that money would go to peoples' pockets as profits for entrepreneurial growth. This will drive this nation to a whole new level.

On the part of incentive and exempting our employers and making tax deductible towards granting our people vacations, the major tourist destination in Kenya is classrooms. Most people are taking time to add to their knowledge. People are going to our universities in the evening. All those monies are from their pay cheques and yet, there is no incentive whatsoever to actually cushion them to offer tax breaks toward what they are investing in. This does not translate necessarily to any promotion that actually encourages greater productivity which this nation so desires and looks for. As we look at vacation, we could convert all our hotel facilities which will be an interest to employers in Kenya. We could say that as you head to your vacation, it is a place you will get motivational speaking and being revamped through getting new skill sets and knowing what is going around the world. This would provide a very good base.

When you look at the cost base of this nation today, for most business, this has to do with transfer pricing which we are trying to curb. There is, however, no major incentive to businesses to curb that practice purely because a business cannot project its costs. They are not finite! Even for individual consumers, when you look at our energy costs, you cannot predict what your next electricity bill will be, although your salary is

constant. So, if you are attempting to make savings, the next savings of this nation will be torn down by certain core centres. I think the underlying thing is to convert our core-centres to revenue centres which will then enable this nation mobilize a lot of savings and this will translate to investments. Right now, Kenya stands as a pure net importer. When you look at our currency fluctuations and stability which has been a bit stable in the last couple of months, you realize that we are not able to cushion that against imports and profitability vis-à-vis what employments are going to be there. Businesses thereby lack the necessary human capital to keep growing.

I want to talk about wastage and wellbeing. If our major focus in this Finance Bill would be to curb and reduce the wastage in this nation – wastage at individual, business and national levels - I will give an example of education. You will find schools in one locality having completely different cost basis. This is even when they are within the same locality and they procure the same goods and services. There is disparity in how much fees or surcharges accruing to the students. A major source of expenditure is always education. In this regard, we will be calling upon the Ministry in charge of Finance to extend things like IFMIS to schools in the country. This will greatly improve our economy.

For the interest of time, I would like to support this. I will be bringing amendments to the Committee on Finance, Planning and Trade. Those amendments will ultimately make Kenya competitive and provide greater opportunities for our nation. Thank you, hon. Temporary Deputy Speaker.

Hon. Wangamati: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity. I rise to support the Bill and also commend the Committee for what it has done. When you go through the Bill, you will realize that there are amendments that improve it, and I agree that we need to support it.

There is one thing that is happening in this country. Those who are in elected positions never look at the uncontrolled expenditure in this country. In Kenya, expenditure is always going up. Nobody wants to look at the expenditure and even the structures we create do not last. Today, we create a structure to look into this and that and then after six months or so, that same structure becomes an unnecessary expenditure again. We do not want to be firm and control our expenditure. Kenya would be a rich country. Whatever is collected – the revenue department is doing much in terms of collection of funds – is wasted. People do not want to curb the wastage that is in their ministries or sectors. I am really worried about this fact. Look at education! Since the Government introduced, somehow, free education – children are bought books now – you will be alarmed to learn that many schools do not have text books. Maybe we started it, yes, but after a year or two, the schools do not have the text books.

Why? It is because we are not responsible. We are not keeping it. We are not seeing that this is the need for our children. It becomes difficult that--- With the new Constitution, we have county governments. If you down there and hear the stories from county governments, it is alarming. Our elected leaders cannot talk about this issue because even the collections that the county governments are collecting are adding a burden to ordinary Kenyans. But the money they are collecting is going into their pockets. They earn their salaries and I am worried. I am worried for our system. As a House, we have to look at this system. The Departmental Committee on Finance should

also be concerned with this expenditure rather than being concerned with only income which is, at times, wasted.

With those few remarks, hon. Temporary Deputy Speaker, I support this Bill.

Hon. Tonui: Hon. Temporary Deputy Speaker, thank you for giving me this opportunity to contribute to this Bill. I want to say that I fully support this Bill. It is unfortunate that we are not many in this House when we are dealing with such a very important Bill. This Bill is to authorize the Government to tax us as Kenyans so that we can build this country. Without taxes, there is nothing much we can do. We cannot even be free as a country. So, we must always pay tax as a people to run our affairs. That is how we can get our true freedom. I am happy when I see the Head of State being in the USA, not to beg for donor assistance, but to look for investors. I believe that is a very good initiative because what we need in this country is to build it through investments and partnership; but not going on begging missions. So, I support it.

I want to commend Kenya Revenue Authority (KRA) for their efficiency in collecting taxes. KRA has been enabling us to collect taxes to run the various sectors in this country. We are able to fund, both the national Government and the county governments because of the efficiency of KRA. I understand that from the latest results from the taxation measures is that they are meeting their targets and, therefore, we must commend them. Through the money we are getting, we are able to provide a better road network in this country. We are able to provide water and the basic commodities in this country. We are able to provide electrification and even deal with infrastructure in our schools. That is because we need to improve the infrastructure in our schools. So, that is why we need this taxation. I only wish that we think outside the box on the issue of the Eurobond. I am happy that the Government initiated this; that we need it so that we can make the cost of investment go lower by having the interest rates lower. The Eurobond loan to our banks will lower rates and enable most of our people to engage in business. Some of the measures which we have in this Finance Bill include dealing with capital investments unlike the natural resources that we have. I know some people invest in things like land. You buy a piece of land at a cost of Kshs1 million and let it lie idle for two or three years and sell it at a cost of Kshs5 million. That difference between what you spend to buy that piece of land and what you are selling is under the Capital Gains Tax. That is what we need to be taxing so that people can be using the resources effectively and not to invest in such resources for speculative purposes. That is important.

Hon. Temporary Deputy Speaker, in this Bill, we are trying to encourage tourism; people to visit the various tourism spots in this country and, more so, after what we have faced through terrorism. There are a few foreigners who are now visiting this country as tourists. We need to encourage locals to visit our hotels at the Coast and Maasai Mara, so that we do not lose jobs in those places. In this Bill, there is what we call tax deductible allowance for employees in various sectors in the Government. So, that is being dealt with here and I believe it needs to be encouraged. There is also what we are calling transfer pricing manipulation which multinationals are engaging in. What the multinationals are doing is of great disservice to this country. They transfer most of the money which they make in the local branches of the companies. They transfer the profits they make to foreign branches and what they show in their books is something small so that this country loses out in terms of Corporate Tax. This needs to be dealt with and I

believe this Finance Bill is handling this issue adequately so that we do not lose the taxes which this country deserves from the multi-nationals.

There is also the issue of the Competition Act. We are amending the Competition Act so that it is clearer, transparent and it can be predictable. That is what we are doing under this Finance Bill. I believe this is a good way to go now that in some certain sectors--- Like where I come, we grow tea. The people who are giving us nightmares are the tea brokers in Mombasa. Those are cartels in Mombasa. They agree on the prices to buy our tea. So, this Competition Act and the way we are dealing with it is to ensure that we really encourage competition in buying commodities such as tea at the Tea Auction. So, I appreciate this.

Hon. Temporary Deputy Speaker, it is unfortunate that when we are dealing with this Finance Bill, we are not addressing the issue of *Ad Valorem* Tax which is affecting our farmers. This is a levy on tea only and it is only the Kenyan tea in East Africa which is being charged the *Ad Valorem* Tax. Other countries like Uganda do not have this tax. Rwanda does not have such a tax but, in Kenya, we have an *Ad Valorem* Tax which is highly disadvantaging our farmers. This is what we need to address and it is not being addressed in this Finance Bill. I believe that at the right stage, we will need to bring an amendment to this Finance Bill so that we address the issue of *Ad Valorem* Tax so that our farmers can, at least, get something to smile about because this tax is too much for our farmers.

On the Kenya National Examination Council (KNEC), I would have wished that we would have given some tax exemptions to our Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate of Secondary Education (KCSE) examiners an allowance for marking the exams. This is currently being taxed from last year which I believe is a bit unfair. That is because there are many people within this Government and the private sector who, when they go out from their places of work, they get paid a per diem. Some of them are paid as much as Kshs100,000 per day, but those ones are taxed. The meager earnings by our teachers are taxed. Some of them earn as little as Kshs20,000 when they move out of their homes during the school holidays to marking centers to mark KCSE and KCPE. For a whole month, it is just a payment of Kshs.20,000 which is taxed. We need to give them a tax exemption.

There is also the issue of Capital Gains Tax. On the issue of real estate, this one is not being introduced which I believe is fair; that we do not introduce tax on real estate to encourage people to invest in housing. We need to improve the state of housing for our people. We need to encourage investors in the housing sector and this Bill is not bringing in the Capital Gains Tax on real estate. It is exempting it and I welcome it. There is also the issue of mining rehabilitation expenses. This is not being addressed. As we become a mining nation; as we are discovering more and more minerals, we need to get a comprehensive Bill on mining and, more so, on taxation. There should have been something to deal with rehabilitation expenses after mining. After a company has exhausted minerals in a particular area, there should be certain taxes to take care of rehabilitation of the exhausted mines.

There is also the issue of petroleum. We thank God that we have discovered oil and gas in this country. I think that is a great blessing to this country because it will transform the economy and create employment for our people. This is highly welcome.

So, we need to refine our laws to be in line with what we are discovering. That is captured in this Bill. Issues to do with petroleum products are covered here. It is good to prepare in advance now that we are moving in that direction, so that the environment in which the investors operate in is predictable to enable them invest in Kenya without any fear---

Hon. Mbui: Thank you very much, hon. Temporary Deputy Speaker for giving me this opportunity to support the Finance Bill. First, I would like to thank the Committee for a well done job. From the amendments that they have proposed, they have done their homework.

Hon. Temporary Deputy Speaker, we all know that all nations in this world have to collect taxes in order to run their affairs. In Kenya, for example, we have the national Government and the county governments which will be financed through the taxes that are collected. Of course, we all know that, currently, our national Budget is quite high.

However, as we look at these budgets, we need to ask ourselves what services we get from the two levels of governments. In particular, I would like to address myself to the county government briefly. We have realized that we are a highly taxed nation and we raise taxes in order to provide services. A huge percentage of this money is currently being given to the county governments. However, those governments, unfortunately, are not providing the basic services that they are supposed to.

We know that Kenyans are not uncomfortable paying taxes but they are definitely uncomfortable not getting the services that go hand-in-hand with the taxes that they pay.

I want to point out that some of the counties, unfortunately, spend our money on issues that are not of concern to the county. We have seen counties that spend their money on services that should be provided by the national Government. At the end of the day, what happens is that our overheads in the counties go up and do not benefit our people.

Hon. Temporary Deputy Speaker, our Government has talked about the high cost of living. It has told us that it will ensure that the cost of living will be brought down. We know that Kenya is a highly taxed nation. There are dangers to that high taxation.

The first one is economic growth. We say that we would like to grow our economy by double digits and then we go ahead and highly tax the people and the business community. Unfortunately, this is a double edged sword. Yes, you will raise the money but then, you discourage investment. It is important that the Cabinet Secretary for National Treasury looks at a delicate balance on how much we tax and how much we encourage investments in this country.

Out of this huge taxation, of course, the cost of living goes up. There is a lot of stress on our people. We come back to the House and start trying to come up with legislation and rules that will try to bring down the cost of alcohol. If you look at Excise Duty that has been brought up so that we can reduce the cost of alcohol, you will find that alcohol consumption is due to the fact that Kenyans are stressed. If the taxation came down, obviously we will not be stressed very much.

I want to support the proposed amendment to Section 5 of the Income Tax that basically talks about expenditure on vacations. There is a proposal to reduce taxation on expenditure on vacation trips to destinations in Kenya paid by the employer on behalf of the employee. Obviously, this will go a long way in ensuring that our hotels at the coast

or within the country are not closed permanently. You have heard about other countries insisting that Kenya is currently unsafe. But, again, we need to consider how to improve our security so that we do not have to encourage Kenyans to spend money within the country.

Hon. Temporary Deputy Speaker, finally, as we look at the proposed tax measures, I want to remind the House about the East African Community Treaty. We are a member of a trading bloc with other countries and we have signed a treaty. One of the things that we need to consider, and this is something that the Departmental Committee on Finance, Planning and Trade needs to look at, is to ensure that we harmonize our taxes with the taxes of the other countries within the region.

It is unfortunate when you find that all our countries charge different VAT rates and yet, we are supposed to be trading amongst ourselves. What happens is that some of the countries get disadvantaged and it becomes very complicated for a business person within this region to trade. So, let us encourage as much as possible harmonization of taxes.

As we come up with these Bills, let us look at what is being charged in the different taxes within the region. After all, as a country, we are trading a lot within the region. Therefore, we need to ensure that, that is supported.

We have the East African Legislative Assembly (EALA) and in this House, we have a Committee on Regional Integration which is constantly being bombarded by the business community on the issues of harmonization of taxes. So, I propose that we look at ways of bringing our taxes to be *in tandem* with the ones of the other countries within the region.

Hon. Temporary Deputy Speaker, I support the Bill. Thank you.

Hon. (Ms.) Sunjeev: Thank you very much, hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this very important Bill. I stand here today to support this Bill with a few reservations which I shall state very soon. However, I stand supporting this Bill as the daughter and the representative of the Asian community who really contribute so much in terms of taxes in our country.

The Temporary Deputy Speaker (Hon. Kajwang’): Although on a light note, you do not represent the Asian community except then that you are speaking the voice of those businessmen and people of Vohra who are in that world making money for Kenya.

Hon. (Ms.) Sunjeev: Thank you. I stand guided. I was about to say that I also stand as a very proud Kenyan.

The Temporary Deputy Speaker (Hon. Kajwang’): That is because you represent everybody. You are one of those who are members of the whole nation.

Hon. (Ms.) Sunjeev: That is correct. Hon. Temporary Deputy Speaker, I was going to say that I also represent the many Kenyans who contribute to the taxes in our country.

I would like to say that, at this point in time, this Bill comes at an opportune moment since the mining sector has become alive. At this point in time, I know what I am about to say has been repeated by many other Members of Parliament and so, I will try not to be so repetitive. Had Kenya not taken into consideration the consequences of taxation in the mining sector, then what has happened in Uganda would be most likely

happening in Kenya. So, I am quite happy that we are embracing the taxation in the mining sector.

Hon. Temporary Deputy Speaker, I would also like to say that it really perturbs me that in the exempt persons section, we have not yet included our very brave athletes. During these tough times our country is going through, whereby insecurity is targeting the amount of revenue that we are earning, I feel that it is extremely unfortunate that we are taxing the people who are actually flying our flag internationally. So, I would like to urge the Committee to take that into consideration and include athletes as exempt persons.

Hon. Temporary Deputy Speaker, I would also like to add that as much as we say that Kenya has a high rate of taxation. We tax our businesses up to 44.2 percent of the income that is earned and the profit of the income that is earned, whereas Uganda charges 36 per cent and Rwanda charges 29.9 percent. What does that tell us? That tells us that in one way, we are trying to attract investors to come and invest in our country. We are also, at the same time, trying to punish them by high taxations. So, perhaps this, in the future, means that we might be in a situation where the taxes will be lower. I would also like to add that the high level of corruption is one contributing factor in high taxation. That is because if we put a check on the corruption that takes place in our country, I believe we will be able to earn more revenue. As we earn more revenue, we will be able to reduce the taxes. This is my opinion. I hope one day it will be a reality. I would also like to urge that we also, as citizens, believe that if services are provided to our citizens, then it is alright to be taxed at such a rate.

Further, I would also like to comment on the penalty that is being charged to defaulters. For those defaulters whose charges not calculated properly; that is, the incorrect collections--- I also applaud the fact that we will be actually going after those businesses which evade tax. Kenya is at a very strategic position, being a country that is not land-locked. It is a very highly advantageous position to the whole of East Africa. This is something that we have to take very seriously in so far as all treaties are signed. I would also like to say that we, at this juncture, are trying to make taxation internet-savvy. But in many instances, when businesses and citizens try to submit their taxes via the internet, the system is not able to support the submissions. I think that is an area which is very grey and needs to be looked into.

Lastly, I would like to quote from the Bible where Jesus said: "Give unto Caesar that which belongs to Caesar." I would like to, once again, support this Bill but, I would like the Committee to look the amendment of having our athletes as exempted persons for taxation.

With those few remarks, I beg to support and thank you.

The Temporary Deputy Speaker (Hon. Kajwang'): I should also remind you that you may apply yourself to the Standing Order No.114 and see if, by yourself, you are able to attempt to make those amendments, just in case somebody in the Committee is not persuaded enough to take your view. My advice would be that you do it as early as possible, because then under that Standing Order, you will have to trade negotiations with the Cabinet Secretary involved. So, you need to take it up. They will feel relieved that you have done so.

Hon. (Ms.) Sunjeev: Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Kajwang’): Member for Nyaribari Chache.

Hon. Tong’i: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to also contribute to this very important Finance Bill. We all appreciate that the Finance, Planning and Trade Committee has done a very wonderful job. They have done very good work in coming up with such a Bill. We appreciate that the Government cannot function without the money coming from us in form of taxes. But having said that, we have a duty, as Kenyans, to ensure that the money that is collected by the Government is used wisely. By so doing, then we will bring down the cost of living, which then affects the quality of life of our people.

We all appreciate that, sometimes, our Government has not been very experienced in terms of using the money very well. We have institutions where procurement is done in a haphazard way. The bill of quantities that you get from the counties, the civil servants and the Public Works Department, sometimes, are photocopies of what was done ten or fifteen years ago. When you ask for one, they simply copy and paste and do not change anything. If you went to the Public Works today to ask for a bill of quantity, they are likely to give you one that includes clearing of the bush even when there are no bushes in the middle of Nairobi. That clearly goes to tell us that there is a lot of work to be done and we all need to encourage them to do the right thing. Therefore, this Bill will enhance our taxes and this will go a long way in helping Kenyans to get value for money.

Without appearing to be repeating what has been said by my colleagues, I will try as much as possible not to say what has been said. But there is something which is very important to this economy and to all of us as a new frontier for the economy. Those are the future markets. That is the way to go. What happens in the future market is that we cushion the infrastructure development and ensure that we raise the money locally for our infrastructural development. We should raise the money to enable our people who have entrepreneurial skills to go to neighbouring countries and use the money that they borrow in Kenya at low interest rates for purposes of developing housing and other development projects.

The same concept has been used in China and has worked very well for them. That explains why the Chinese have cheap money compared to other countries in the world. That is why the Chinese investors are able to come to Kenya and compete with us at very advantaged positions than what we are able to do. What they have done differently from us is that they have used the future markets. They have used the money they collect from the future markets, which otherwise would have been idle in their accounts and used it constructively for the good of the citizens. The future markets will be such a wonderful thing that will happen to Kenyans. We will use that money to cushion our infrastructural development.

We will collect the money which then will be put under the National Mining Corporation, which will be so much. For example, if today we estimated the cost of our oil industry, for purposes of explaining my point, at US\$1 trillion, we can float that money in the international market through the Nairobi Exchange and the foreigners will come and buy that market. When they buy the oil, that money will be put into our economy. It will be sitting in a box and then we will be able to borrow it to put it into

infrastructure and also lend to Kenyans who are willing to use it for purposes of creating opportunities for other Kenyans. That way, we will grow the economy.

The other thing that the National Mining Corporation, in conjunction with the future market will do is: They will be able to manage the mining sector a lot more economically. Our people will then be able to have enough money that is required to develop the mining industry.

We all appreciate that the mining industry is one of the most expensive investment a country can get into. If we have those successful future markets, we will be able to have enough money - probably more than we need - to invest locally, without having to look at the foreigners who have money to spare in terms of exploration. That way, two things are likely to happen - our youths will get employment and local people will also get jobs because the companies doing the explorations and exploitation will be Kenyan-owned. The incentive for them will be so high to hire the local people and, that way, we will be able to address the concern of social economic challenges which comes about when you have an investment such as the oil that has been discovered in some parts of North Eastern.

I think the future market is the way to go. We need to support it and we need also to support this Bill. The foreign currency we will get from the future market is massive and is mind-boggling. The numbers are so huge that when we get to think of it, we start appreciating that the future for Kenyan is actually going towards that direction.

I must take this opportunity to congratulate the Government for taking that initiative because soon, we are going to have Nairobi Stock Exchange (NSE) starting that future market, which I think is the way to go. That is one way of getting the foreign currency, employment for our youth and the local experts to develop their knowhow so that they can be trusted with the responsibility; which otherwise, is being handled by the foreigners. If you go to North Eastern, most of the works being done there at the higher level, none of them is being done by a Kenyan. I think we need to have the capacity to develop that and the monies to invest in it.

With regard to the Bill, I want to quickly mention that the county governments should up their way of collecting taxes. This is because before devolution, the local governments were able to---

The Temporary Deputy Speaker (Hon. Kajwang'): Hon. Member for Nyaribari Chache, we are discussing the Finance Bill in respect to the national Government. Therefore, keep on the road which is relevant.

Hon. Tong'i: Thank you, hon. Temporary Deputy Speaker. I am ably guided. I only want to encourage them to use the taxes wisely. We are just encouraging the central Government to do the same. I also want to propose an exemption to the pension paid to retired teachers. We all know that the retired teachers have been to court for many years wanting to be paid their pension. Many of them have waited and, unfortunately, passed on without tasting their pension money. It is shameful on the part of the Government.

It is unfortunately pity that the money which was awarded to them has not been paid. When it will be paid finally, it is going to be taxed. My proposal is that, that money - and I will take it up when that money will be finally paid and I hope it will be paid soon - should be tax exempted.

I want to thank the Committee for doing such a wonderful job and thank the Chair for giving me the opportunity to contribute to such a wonderful Bill.

With those remarks, I support the Bill.

Hon. Onyura: Thank you very much hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Bill. It is a very important Bill because it is part of what will make our Government and state activities to be operational and to run well.

I support the Bill. I looked at the section dealing with regulation of competition. It is important that in business, competition be put on a level playing ground. Regulations should be clear and open. They should be easy to interpret and also transparent. The Government should not be involved in business. The Government should be a referee. It should be there to regulate. I urge that Government gets out of business. Any of the businesses that the Government owns like the parastatals and so on should be privatized so that we have a fairer competition when it comes to business competition. We know that the Government, because of bureaucracy and complacency, tend to be inefficient and slow. So, it should get out of business.

I have also noted the provision on NSSF. The improvements happening to NSSF are geared to bringing it closer to being a pension scheme rather than a provident fund which it is now where workers are paid in lump-sum and it becomes difficult to provide for their livelihood. When they are given a lump-sum, they tend to misuse the money. Sometimes, it is just a loss because somebody is paid the money and he gets into a bus to travel and he ends up losing the money. I support this idea of trying to support NSSF for it to be a proper pension fund.

The Bill will assist very much in streamlining taxation. It is important that that continues to be done. Our tax laws need to be improved in order to make them easier to understand and apply. As the rules become easier to apply, understand and interpret, that enhances compliance as well. In that breath, I must also commend the Kenya Revenue Authority (KRA) for doing a good job in terms of collecting revenue for this country. They are hitting their targets very well. All I can say is that I encourage the leadership in that Authority to do whatever it takes to give incentives to those who work there and to keep the staff encouraged and motivated. I know that this has happened before, but it is something that needs to be kept up.

I noted that there is provision on mining. This is an old sector in terms of legislation and regulation. It is now that we are modernizing it. Just the other day, we were discussing the Mining Bill in order to bring it up to date and have it properly controlled and ensure that it benefits the country and the local communities where minerals are found.

The Temporary Deputy Speaker (Hon. Kajwang’): Hon. Member, I think it is appropriate that you may want to come next week and finish off the five minutes that are in the balance so that you can finalize your argument on the Bill.

Hon. Onyura: Much obliged.

The Temporary Deputy Speaker (Hon. Kajwang’): I want to thank you, Members. I know there are other people who made requests, but we are not able to reach you. I see Member for Kipipiri and hon. Muchai. I know that you are the voice of the workers out there. I know that the Member for Kipipiri is an authority on taxation. On

Tuesday, when this matter will appear on the Order Paper, we will prosecute it some more.

ADJOURNMENT

Hon. Members, the time being 6.30 p.m. the House stands adjourned until 12th August, 2014 at 2.30 p.m.

The House rose at 6.30 p.m.