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NATIONAL ASSEMBLY

THE HANSARD

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Thursday, 30th November 2023

The House met at 9.30 a.m.

[The Deputy Speaker (Hon. Gladys Boss) in the Chair]

PRAYERS

QUORUM

Hon. Deputy Speaker: I direct that the Quorum Bell be rung for 10 minutes.

(The Quorum Bell was rung)

I direct that the Quorum Bell be rung for another five minutes.

(The Quorum Bell was rung)

Hon. Members, we now have quorum. We may proceed.

PETITIONS

ENACTMENT OF THE BANKERS PROFESSIONAL BILL, 2023

Hon. Deputy Speaker: Hon. Members, I have a Petition here regarding the enactment of the Banker's Professional Bill 2023.

Hon. Members, Article 119 of the Constitution accords any person the right to petition Parliament to consider any matter within its authority. Further, Standing Order 225(2)(b) requires the Speaker to report to the House any petition other than those presented by a Member.

(Several Members walked into the chamber)

I will allow the Members who are standing to be seated. Hon. Members, take your seats quickly.

(Hon. Rahab Mukami and Hon. Jayne Kihara walked into the Chamber)

Hon. Mukami and Hon. Jayne Kihara, I am waiting for you to take your seats. I will proceed,

Hon. Members, in this regard, I wish to report to the House that my office has received a Petition from Susan Nasimiyu Masafu of ID No.29670344 and Mr Charles Ochola Osango of ID No.6056427, representing the banking professionals in Kenya.

Hon. Members, the Petitioner acknowledges the role of the Kenya Banker's Association (KBA), the Kenya Institute of Bankers (KIB) and the Kenya Forex Bureau Association (FBA) and their primary objective of promoting excellence and professionalism within the banking sector through the provision of relevant training research and advocacy.

Hon. Members, in addition to the existing associations, the Petitioner is convinced that the industry requires the establishment of a robust legislative framework that regulates the norms and standards of banking professionals in Kenya thus ensuring professionalism, integrity, and accountability of bankers in safeguarding the interests of customers, and promoting public trust.

The Petitioner explains that the impetus is a result of the collapse of Imperial Bank in 2015 following fraudulent activities. Investigations disclosed that the top management of the bank, including its former CEO, was implicated in a massive fraud scheme that involved concealing non-performing loans, creating fictitious accounts, and siphoning of funds from depositors. Consequently, the bank was closed, and its depositors and investors incurred significant losses, and thereafter concerns were raised about corporate governance in the banking sector.

The Petitioner, therefore, prays that the National Assembly enacts the Bankers Professional Bill which will establish a comprehensive legislative framework that will regulate licensing and certification for qualified individuals with the necessary expertise and ethical conduct to practise banking as well as address consumer protection, fair lending practices, transparency, and dispute resolution mechanisms.

Hon. Members, having established that the matter raised in the Petition is well within the authority of this House; and further, that the matters raised in this Petition are not pending before any court of law, constitutional or legal body, I hereby commit the Petition to the Public Petitions Committee for consideration pursuant to Standing Order 208A.

The Committee is required to consider the Petition and report its findings to the House and to the Petitioner in accordance with Standing Order 227(2).

Thank you. It is signed by the Rt. Hon. (Dr) Moses Wetang'ula, Speaker of the National Assembly.

Hon. (Dr) Robert Pukose, Member for Endebess, has a Petition.

IRREGULAR AND DOUBLE ALLOCATION OF PARCELS OF LAND IN CHEPCHOINA SETTLEMENT SCHEMES IN TRANS NZOIA

Hon. (Dr) Robert Pukose (Endebess, UDA): Thank you, Hon. Deputy Speaker.

I, the undersigned, on behalf the residents of Chepchoina (Phase One (I), Two (II) and Three (III)) settlement schemes in Trans Nzoia County, draw the attention of the House to the following:

THAT, there are over three thousand (3,000) settlers residing in Chepchoina (Phase I, II and III) settlement schemes in Trans Nzoia County;

THAT, residents of Chepchoina Settlement Schemes in Trans Nzoia County are experiencing inter-personal conflicts occasioned by irregular, illegal, fraudulent, discriminative and double allocation of settlement land allegedly by the land officers in Kitale;

THAT, Kenyans who received allotment letters between 2021 and 2023 use police service or other authorities or other illegal means to evict other Kenyans who have resided and developed their farms for the last 29 years having been identified as landless and settled by the Government in 1994;

THAT, hundreds of residents who do not have means to defend themselves are evicted from their farms, thus subjected to physical, emotional and psychological suffering; and, those with illegal, irregular and fraudulent title deeds seek police assistance and protection to evict land owners/families and demolish their homes;

THAT, the settlement officers in Kitale, through alleged bribes, fraud and conmanship practices have continued to discharge and transfer parcels already

developed and settled by Kenyans; including demanding bribes of up to Ksh500,000 from those that request for their parcels to be offered back;

THAT, there are double allocation for parcels of lands not sanctioned by a statutory committee as required under the Land Act, in total contravention of Section 134 of the Land Act, No.6 of 2012 on provision for establishment of settlement schemes;

THAT, irregular, illegal and double allocation of settlement land in Chepchoina Phase I, II and III settlement schemes and fraudulent issuance of title deeds and incessant corruption characterised by demands for huge bribes for Government services have caused unbearable anguish and pain to residents; and,

THAT, in regard to Chepchoina Phase III, landless Kenyans who have resided on the plots for 29 years are yet to receive their allotment letters. On the contrary, the settlement officers decided to sell the parcels of land to unsuspecting Kenyans who were promised that squatters already settled in the farms will be evicted for them to take over;

THAT, during the month of August 2023, over 600 offer letters were issued to private developers, and the landless squatters already settled in Chepchoina Phase III for 29 years are facing looming evictions; and,

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

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

1. Recommend for investigations into alleged irregular, illegal and double allocation of settlement land in Chepchoina Phase I and II and fraudulent issuance of title deeds and incessant corruption characterised by demands of huge bribes for Government services;
2. Recommend that squatters who have settled for more than 29 years in Chepchoina Phase III be given priority during settlement of residents in the area;
3. Recommend for investigations into conduct of settlement officers for failing to adhere to the Land Act, Leadership and Integrity Act, in the course of their duties while settling residents, and that appropriate disciplinary action be taken; and,
4. Makes any other recommendation or action it deems fit in addressing the plight of the Petitioners.

Hon. Temporary Speaker, people are being given new allotment letters for farms settled in. Those who are lawfully in the farm are being evicted. There is a notorious fellow called Momanyi who is colluding with the Directorate of Criminal Investigations (DCI) offices in Endebess and Chepchoina to evict those who are lawfully in the farm. As the Committee looks into this, I pray that they do it expeditiously.

Thank you.

Hon. Deputy Speaker: Thank you. I will allow a few comments on this. Please make them brief. Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much, Hon. Deputy Speaker. Before I comment on Petition No.1, it looks like we have a challenge with the system on this side. After you press, it keeps going off. We have to keep on pressing. I want to request those who are concerned to address this matter.

On Petition No.74/2023 on the enactment of the Bankers Professional Bill, 2023, where two members have petitioned this House to think about a Bill on the regulatory framework for

bankers, I thank the two members of the public who forwarded that Petition through your office.

That is a very important Petition because it will lead to regulation of those in the banking sector just as we are regulating doctors, lawyers and other professionals. It is only that the route they have followed is very long. The shortest route would have been to come with a Bill, either through Private Members or committee, so that it can be fast tracked. The route they have taken will take quite a bit of time and we have no choice, but to go that route.

On the Petition by Hon. Pukose, the issue of double allotment of land is a serious matter in this country and people have killed each other as a result of such conflict. How I wish that in all parts of Kenya where we have such issues, things could be streamlined. In my own constituency in Kitui Town, we are facing serious challenges with some of the allocations within the town. My prayer is that this can be fast tracked so that even as we address the issue by Hon. Pukose, other parts of the country will also benefit.

I support. Thank you.

Hon. Deputy Speaker: Hon. Ferdinand Wanyonyi, Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Deputy Speaker. I want to confirm that what Hon. Pukose has said is true because we share boundaries and at one time, I think this place was in Kwanza, but it was hived off. We are neighbours.

This particular exercise is very dangerous and we have to take action as recommended by Hon. Pukose. We should do that very fast by having a committee, either from this House or wherever, to go and investigate what is happening because very soon you will find people killing each other.

The land officers in Kitale are giving out letters knowing very well that there is nothing that will happen. As I have said, if we take another maybe three, four or five months, something dangerous is going to happen and it will be unstoppable. Therefore, my take is that this House forms a committee to go to the ground and come up with recommendations. However, before that, I have just agreed with Hon. Pukose that the officers on the ground, including the police officers, should be removed. I do not know by what means, but as this House, we recommend that these people should be moved. I know of five people who went to the guy and were given allocation and my investigation revealed that they bribed their way. Without wasting time, let us have a committee, either on land or whatever, to move to Kitale, look at this issue and make immediate recommendations so that the police officers and the guy involved are removed. I think I know him. He is a very a crafty person taking money from left and right.

I support this Petition and ask that this House acts immediately to avoid the aftermath of this particular issue. Thank you very much.

Hon. Deputy Speaker: Member for Sigor, Hon. Peter Lochakapong.

Hon. Peter Lochakapong (Sigor, UDA): Thank you, Hon. Deputy Speaker. I want to second the confirmation by Hon. Ferdinand Wanyonyi on the Petition presented by Hon. Pukose. Indeed, people in Chepchoina Scheme have suffered. It is even getting to a point of becoming a security risk. Therefore, Government officers that are involved in the double allotment and allocation of plots must be brought to book.

Government officers, particularly those working in the lands offices in Kitale must be called out and other Government officers involved must also be thoroughly investigated with a view of bringing them to book. Some of the actions that have been undertaken by these officers have pitted communities against each other and that is what is making me strongly feel that this is becoming a security risk and threat. This is condoning corruption.

When corruption is perpetuated by people who otherwise should be helping Kenyans to do the right thing – they are now the ones causing confusion and problems – they must be investigated thoroughly.

When a committee of this House visits that area, I wish they thoroughly investigate this. I support the Petition by Hon. Pukose.

Thank you very much.

Hon. Deputy Speaker: Thank you. Next Order.

PAPERS

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

1. Report of the Auditor-General and Financial Statement on the National Government Constituencies Development Fund for Othaya Constituency for the year ended 30th June 2022 and certificate therein.
2. Reports of the Auditor-General and Financial Statements for the year ended 30th June 2023 and certificates therein in respect of:
 - (a) Trilateral Development Cooperation in Kenya, Water and Sanitation Sector Project (Credit No. BMZ 201365352) – Lake Victoria South Water Works Development Agency;
 - (b) Kenya Off-Grid Solar Access Project for underserved counties (IDA CR.NO.6135-KE) – Rural Electrification and Renewable Energy Corporation;
 - (c) East Africa's Centre of Excellence for skills and Tertiary Education in Biomedical Sciences – Phase 1 (Loan No.2100150031997) Project – Ministry of Health;
 - (d) Kenya Off-Grid Solar Access Project (KOSAP-SNV) – Credit Number 6135-KE - State Department of Energy;
 - (e) Multinational Kenya-Tanzania Power Interconnection Project (Kenyan Component) (ADF Loan No. 2100150032846) - Kenya Electricity Transmission Company Limited;
 - (f) National Drought Emergency Fund;
 - (g) Receiver of Revenue Statements – Ministry of Defence; and,
 - (h) Study and Capacity Building Fund Project (Grant Numbers CKE 6015 01K, CKE 1043 01F and CKE 1047 01K) – The National Treasury.

Thank you.

Hon. Deputy Speaker: Next Order. Is Hon. Mukami present? Okay, she is here. Hon. Mukami, are you ready?

(Hon. Rahab Mukami spoke off the record)

Okay, you can allow me to reorder the Order Paper, then I will come to you so that we can put the Questions first.

Hon. Members, allow me to reorder the Order Paper. We shall move to Order Nos.8, 9, 10 and 11, and then come back to Order Nos.6 and 7.

Hon. Mukami, will you indulge us for a minute? Allow us.

BILL

Second Reading

THE GAMBLING CONTROL BILL
(National Assembly Bill No.70 of 2023)

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(Moved by Hon. Kimani Ichung'wah on 29.11.2023 - Afternoon Sitting)

(Debate concluded on 29.11.2023 - Afternoon Sitting)

(Question put and agreed to)

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

Hon. Deputy Speaker: Next Order.

POINT OF ORDER

REQUEST TO DEFER PUTTING OF QUESTION ON CONSIDERATION OF REPORT ON CONFLICT OF INTEREST BILL

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

Hon. Deputy Speaker: What is your point of order, Hon. Otiende Amollo?

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Deputy Speaker. My colleague and Co-chairman elsewhere, Hon. Chepkonga, should hold his horses. A point of order can arise anytime. That is why I was patient for the Order to be read. I need guidance on this Bill. I am aware that the Question is to be put on the Bill after the Committee of the whole House was concluded yesterday. However, I bring to your attention that on Tuesday, 28th November 2023, I raised some issues which the substantive Speaker indicated that once the Departmental Committee on Justice and Legal Affairs has tabled its report and we move to the Third Reading, he will give guidance on the same. I have perused the Order Paper and I confirm that most of the issues were carried, but not all. I missed the Committee of the whole House yesterday because we had a Parliamentary Group (PG) meeting. There are still a few issues which I want the substantive Speaker to give us guidance on. There are about three or four specific issues. Therefore, I seek your indulgence that we defer putting the Question to the next sitting so that I can raise those issues for the guidance of the substantive Speaker before the Question is put.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: The substantive Speaker had given guidance on this point. But I can allow the Leader of the Majority Party, and Hon. Chepkonga, as the Chairman of the Committee on Delegated Legislation, to respond.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Deputy Speaker. It is good that Hon. Otiende has indicated that they had a PG meeting yesterday. I commend them for that. The best way to manage political parties is by holding constant PGs. However, you are aware that the substantive Speaker made a Communication yesterday and allowed us to proceed to the Committee of the whole House. That is why many of the issues were ably considered by the Members who were present. Therefore, there is no reason why we should stop at this stage. We should go ahead and put the Question. I also advise Hon. Otiende that next time they have a PG, he should ask *baba* to excuse him, especially when there is critical business on the Floor of the House. I know he will give him permission. The last time we had a PG, Hon. Mutunga requested His Excellency, the President, to excuse him. He excused him because there was critical business on the Departmental Committee on Agriculture and Livestock on the Floor.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Chepkonga, I give you a chance as the Chairman of the Committee on Delegated Legislation.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Deputy Speaker. Hon. Otiende Amollo raised his issue with the Speaker. Thereafter, the Speaker made a comprehensive ruling with regard to the matters he raised. I also listened to him carefully. As a result of the issues that he raised, I also proposed very many amendments to the Conflict of Interest Bill. Fortunately, my amendments agreed with those of the Departmental Committee on Justice and Legal Affairs and, therefore, I abandoned my amendments to allow the Committee to carry theirs. In all ways, those amendments also agreed with those of Hon. Otiende Amollo. He is my friend and I respect him because he is knowledgeable in matters law. It is only that he missed yesterday's sitting in the House. He is also a Member of the Departmental Committee of Justice and Legal Affairs.

Lastly, we do not need to wait for the substantive Speaker to make a ruling. Hon. Deputy Speaker, I know your capacity. You are also a qualified lawyer, having served as a Chief Registrar of the Judiciary. Hon. Otiende Amollo, former Chairperson Commission on Administrative Justice (CAJ), should not demean the Deputy Speaker.

(Laughter)

The Deputy Speaker has capacity to rule on this matter. I invite you to put the Question. Most of these issues raised by Hon. Otiende have been taken into consideration.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: I put a close to this matter because the Speaker already pronounced himself and gave directions. Hon. Otiende's only excuse is that he attended a PG and, therefore, was unable to participate in the Committee of the whole House. You cannot set back the entire House for your personal convenience. As a good legislator, you should have been here to represent your electorate.

On that note, I will put the Question.

MOTION

CONSIDERATION OF REPORT ON THE CONFLICT OF INTEREST BILL

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Conflict of Interest Bill (National Assembly Bill No.12 of 2023).

(Moved by Hon. Kimani Ichung'wah on 29.11.2023 – Afternoon Sitting)

(Resumption of consideration interrupted on 29.11.2023 – Afternoon Sitting)

(Question put and agreed to)

BILL

Third Reading

THE CONFLICT OF INTEREST BILL

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(National Assembly Bill No.12 of 2023)

Hon. Deputy Speaker: Mover.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Deputy Speaker, I beg to move that the Conflict of Interest Bill (National Assembly Bill No.12 of 2023) be now read a Third Time. I request Hon. Nelson Koech to second.

Hon. Nelson Koech (Belgut, UDA): Thank you, Hon. Deputy Speaker, I second.

Hon. Deputy Speaker: Hon. Members, I now propose the Question.

(Question proposed)

Hon. Members: Put the Question!

(Question put and agreed to)

*(The Bill was accordingly read
a Third Time and passed)*

Hon. Deputy Speaker: Next Order.

MOTION

CONSIDERATION OF REPORT ON THE NATIONAL YOUTH COUNCIL (AMENDMENT) BILL

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the National Youth Council (Amendment) Bill (National Assembly Bill No.1 of 2023).

(Moved by Hon. Joshua Kandie on 29.11.2023 – Morning Sitting)

(Resumption of consideration interrupted on 29.11.2023 – Morning Sitting)

(Question put and negatived)

Hon. Deputy Speaker: Next Order.

BILL

Second Reading

THE GERIATRIC BILL (National Assembly Bill No.50 of 2022)

(Moved by Hon. Gathoni Wamuchomba on 29.11.2023 - Morning Sitting)

(Debate concluded on 29.11.2023 - Morning Sitting)

(Question put and negatived)

Hon. Deputy Speaker: Hon. Members, as I had directed earlier, we now go back to Order No.6 on notice of Motion by the Member for Nyeri County. Clerks-at-the-Table, please, read the Order.

*(Hon. George Murugara, Hon. David Kiplagat and
Hon. (Dr) Robert Pukose consulted loudly)*

[Hon. Deputy Speaker]

Silence, Hon. Members. Order Hon. Murugara, and Sir George. Order, Members. Hon. Murugara, Hon. DK and Hon. Pukose, let us be silent. Proceed.

NOTICE OF MOTION

MANDATORY GUIDANCE AND COUNSELLING TO ALL STUDENTS IN SCHOOLS IN KENYA

Hon. Rahab Mukami (Nyeri County, UDA): I beg to give notice of the following Motion:

THAT, aware that most pupils in primary and secondary schools are currently facing ethical behavioural challenges, manifested in the rampant cases of drug and substance abuse, socially unacceptable sexual misadventures and anti-social behaviour that has contributed to their poor study habits, academic underachievement and increased conflict with parents, teachers and guardians; noting that there have been increased cases of school violence in the form of school strikes and burning of schools; cognisant of the fact that a breakup from cultural norms, rising unemployment rates and stress from parents, among other factors, has heightened and negatively affected the students' behaviours in schools leading to increased suspensions or expulsions and drop outs; deeply concerned that students from families experiencing domestic violence, separation, single parenthood, terminal illnesses, among other myriad of problems, are prone to depression; appreciating that there is need for guidance of teenagers at their formative stages in life; this House, therefore, urges that the Government, through the Ministry of Education, introduces mandatory weekly guidance and counselling to all students in primary and secondary schools in Kenya by redefinition of counsellors' roles, restructuring curriculum programmes, implementation of comprehensive school counselling programmes and development of systemic support.

I thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. The next Order is by the Member for Fafi. He had a Request for Statement regarding insecurity. Who is responding?

QUESTIONS AND STATEMENTS

REQUEST FOR STATEMENT

INSECURITY IN FAFI CONSTITUENCY

Hon. Farah Yakub (Fafi, UDA): Thank you, Hon. Deputy Speaker, for giving me this opportunity.

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Pursuant to the provisions of Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security regarding an attack on the Alinjgur Headquarters, Administration Police (AP) Camp in Fafi Sub-County by *Al-Shabaab* militants on 28th November 2023.

On Tuesday, 28th November 2023, at around 2.45 a.m., the AP Camp which is the headquarters of Fafi Sub-County, Fafi Constituency, faced a reprehensible attack orchestrated by the *Al-Shabaab*. The militants used rocket-propelled grenades (RPGs) and other weapons leading to one of our dedicated police officers sustaining injuries to his right foot during this assault. This incident underscores the pressing situation in Fafi Constituency, which necessitates prompt and decisive action by the Government.

It is worth noting that Fafi Sub-county, in Fafi Constituency, spanning an area of approximately 20,000 square kilometres is served by only 57 National Police Reservists (NPRs) stationed across four locations with a single Special Operations Group (SOG) camp. These limited resources pose a significant challenge to the effective countering of the persistent threat posed by the *Al-Shabaab*. It is evident that swift and comprehensive intervention is required and that the Government should expedite the recruitment of more NPRs and the activation of community security organs, particularly “Mawisley”. These continued attacks pose a great danger to the lives of area residents.

It is against this background that I request for a Statement from the Chairperson of the Departmental Committee on Administration and Internal Security on the following:

1. Could the Chairperson provide a detailed account of this recent attack, and shedding light on the circumstances that led to it?
2. What additional resources or support is being provided to strengthen the capacity of security personnel in Fafi Sub-County and Fafi Constituency to respond to the recurring security threats posed by the *Al-Shabaab*?
3. What immediate and long-term measures has the Government put in place to address the recurring terror attacks and enhance overall security in Fafi Sub-county?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: I think that will go to the Departmental Committee on Administration and Internal Security. I hope the Committee responds before we go on recess. Is the Chairperson here to confirm that? Hon. Tongoyo is not there. I am sure he will be informed about that.

Hon. (Dr) Robert Pukose: The Leader of the Majority Party is here.

Hon. Deputy Speaker: Yes. Let us proceed. Chairperson of the Departmental Committee on Finance and National Planning, you have a Response to a Question by Hon. David Kiplagat who is not listening.

(Hon. David Kiplagat consulted with Hon. Nelson Koech)

Hon. David Kiplagat, you had sought a Response. The Chairperson is on his feet to respond to you and you are distracted by the Member for Belgut. Proceed, Hon. Chair, now that I have protected you.

IMPENDING SALE OF UCHUMI LANGATA
HYPER LAND LR NO. 209/12593

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Deputy Speaker. There seems to be *Kamukunji* here between two former speakers of the county assemblies - the County Assembly of Nyeri and the County Assembly of Uasin Gishu.

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On 8th November 2023, Hon. David Kiplagat, who is the Member of Parliament for Soy, requested for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the impending sale of land belonging to Uchumi Langata Hyper, LR No.209/12593, under Insolvency Petition (IP) No.25 of 2018. In particular, the Member wanted the Chairperson to:

1. Explain the circumstances under which the Ministry in charge of the National Treasury and Economic Planning have been reluctant to be enjoined in Uchumi's defence against the impending sale of its Langata property LR No.209/12593 under Insolvency Petition (IP) No. 25 of 2018 yet the Ministry is the custodian of the Government's stake in Uchumi, its assets, and property.
2. Explain the plans the Government has in place in order to rescue Uchumi Langata property from being auctioned at a loss in order to safeguard public interest for posterity as well as protection of other valuable and unsecured creditors from imminent loss.

I wish to provide the Response as follows:

That, the Ministry of Industry, Investment and Trade jointly with the National Treasury submitted a Cabinet Memorandum dated 23rd March 2016 seeking approval for the Government of Kenya to provide an emergency shareholder loan of Ksh1.2 billion to Uchumi as a revival strategy. The Cabinet approval was granted and the Government of Kenya gave a loan that was disbursed to Uchumi Supermarkets Limited in two tranches: Ksh500,000,000 and Ksh700,000,000. The property in subject was surcharged to the loan disbursed and the charge documents were fully executed.

The Ministry of Defence in 2018, through the National Land Commission (NLC), intended to compulsorily acquire the subject parcel of land for use as part of Project 58. As a result, the National Land Commission, through Gazette Notice No.1358, gazetted the parcel of land for compulsory acquisition.

On 7th April 2021, the United Bank of Africa (UBA) went to court seeking to exercise its statutory right to sell the property in subject in Nairobi to recover the outstanding loan amounting to Ksh162 million. However, on 19th May 2022, the court delivered a ruling by which it dismissed UBA bank's application observing that the Government had commenced compulsory acquisition of the said property. Additionally, in this ruling, the UBA indicated it lost interest in pursuing the matter further.

(Hon. Wakili Edward Muriu and Hon. Kaguchia John consulted loudly)

Hon. Deputy Speaker, I beg your protection from these lawyers, namely, Hon. Wakili Muriu and Hon. Kaguchia. They are consulting in too loud voices.

Hon. Deputy Speaker: Please, maintain order, Hon. Edward Murui and Hon. Kaguchia.

Hon. Kuria Kimani (Molo, UDA): However, on 2nd February 2023, the NLC deleted the said Gazette Notice. It is important to note that it is not clear whether the Ministry of Defence is still interested in the compulsory acquisition of the said property.

It is based on the deletion of the *Gazette* Notice that UBA Bank went back to court petitioning the court to set aside the earlier ruling on the subject matter and grant leave to UBA Bank to enforce its security over all that property known as land and enter into possession of the charged land, Uchumi Langata Hyper LR 209/12593.

(Hon. Raphael Wanjala stood along the aisle)

Hon. Deputy Speaker: Order, Hon. Wanjala. You have been pacing up and down the corridor. You can sit down or leave and wait outside, but do not stand menacingly on the isle. Proceed.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Deputy Speaker. It may have escaped your attention that Hon. Wanjala crossed the aisle instead of going all the way back and coming back.

On 5th October 2023, *vide* a letter from Uchumi Supermarkets Public Limited Company (PLC), the acting Chief Executive Officer (CEO) brought to the attention of the National Treasury an impending court ruling which was to be made on Wednesday, 18th October 2023 on the matter. UBA Bank had petitioned that the court grants leave to UBA Bank to:

1. Enforce its security over all that property known as land Uchumi Langata Hyper LR 209/12593 by appointing a receiver of the income over the charged land; and,
2. Enter into possession of the charged property Uchumi Langata Hyper LR 209/12593.

Hon. Deputy Speaker, according to the Cabinet Secretary for the National Treasury and Economic Planning, the National Treasury was not privy to this court matter until 5th October 2023, when the National Treasury received the letter from the acting CEO Uchumi Supermarkets Limited. The National Treasury indicates that the said date, 5th October 2023, was the deadline the court gave for the submission of objections by parties interested in the said property. In this case, the National Treasury and Kenya Development Corporation, formally the Industrial and Commercial Development Corporation (ICDC) were the shareholders and creditors of Uchumi Supermarkets Limited, respectively.

Following the receipt of the letter from the acting CEO of Uchumi Supermarkets PLC, the National Treasury requested the Attorney General's representation in court for the ruling on 18th October 2023 to file for a postponement of the ruling to enable consultations within the Government for a policy decision. On 18th October 2023, the court gave the National Treasury three days to make submissions to the court. Therefore, the court ruling date was postponed to 27th October 2023 and set for 3rd November 2023.

The National Treasury debones that on 26th October 2023, five days before the deadline date granted by the court, the Cabinet Secretary for the National Treasury and Economic Planning, through the Attorney General, submitted an affidavit beseeching the court to decline to issue the orders sought and instead grant that:

1. UBA Bank and the National Treasury leave to conduct a joint valuation of the property; and,
2. UBA Bank and the National Treasury leave to jointly exercise their statutory power of sale over all the property, known as LR 209/12593, by appointing a receiver for the income over the charged piece of land.

On 3rd November 2023, Hon. Justice Alfred Mabeya ruled on the application by UBA Bank dated 29th March 2023. In his determination, the judge determined that the application by the bank had merit. He proceeded to allow the same for the reasons *inter alia* that the company's (Uchumi) failure to review and meet the terms of the Company Voluntary Arrangement (CVA) has had a detrimental effect on UBA Bank as a secured creditor. However, it is key to note that in rendering his decision, the judge points out in paragraph eight, which I will read verbatim.

“I have considered the rival representation of the parties. On 18th October 2023, I was about to deliver the ruling on the present application. However, Mr. Bett, learned counsel for the National Treasury informed the court that he wanted to file an objection on behalf of the National Treasury. I, therefore, set aside the proceeding for delivery of

the ruling on that day and directed that Mr. Bett, on behalf of the Attorney General, do file his objection and response within three days. I reserved the ruling for 27th October 2023. As of that day, the National Treasury had filed no pleading. Once again in deference to the principle of fair hearing, I adjourned the ruling to 3rd November 2023. As of the time of writing this ruling, nothing has been filed. The wheels of justice must roll over and will await no one.”

Consequently, through the Office of the Attorney General, the National Treasury filed a Notice of Appeal on 14th November 2023.

Further, the Office of the Attorney General will explore filing a review of the ruling made by the court such that the orders requested by the National Treasury, with regard to the sale, consider all parties to be enjoined in the valuation of the process. However, having met the National Treasury on this matter, the Departmental Committee on Finance and National Planning observes the following:

1. Among Uchumi's largest creditors is the Government of Kenya, which loaned Uchumi Limited Ksh1.2 billion. The Government of Kenya has a charge on the said property of land. It would have been prudent to make a submission to the court within the allowable window and petition the court for grant of orders based on public interest.
2. The property L.R. 209/12593 was valued at Ksh1.4 billion in 2018, five years ago, while the UBA Bank debt is only Ksh162 million.
3. The National Treasury has clearly treated this matter casually, as evidenced by the inability to file objections to the court proceedings on time, despite the judge even extending the time to give courtesy to the National Treasury to make pleadings.
4. Proper valuation should be done by a valuer and an amount agreed upon jointly between UBA Bank, the creditor for the Ksh162 million loan, and the Government of Kenya. The Government of Kenya here is both a creditor and a shareholder, which means that the entity that stands to lose the most in this particular transaction is the Government of Kenya, as both a shareholder and a creditor to Uchumi Supermarkets Limited.
5. It is unclear whether the income from the proceeds of the sale of the land will be shared among the parties encumbered with the subject parcel of land.

The Committee resolved as follows:

We directed the National Treasury to hold a tripartite meeting with the Office of the Attorney General, UBA Bank and management of Uchumi Supermarkets PLC and report back to the Committee within 30 days. The discussion should centre on three things:

1. Secure the said property and protect the public asset.
2. Undertake a proper valuation of the land to ascertain the actual value of the land.
3. Explore the possibility of compulsory acquisition of the land for use by the Government of Kenya and pay off UBA Bank.

To make a very short summary, UBA Bank lend Uchumi Supermarkets Limited Ksh162 million. Uchumi Supermarkets Limited gave the security of their land as a charge to the property. In the last valuation done in 2018, that land was valued at Ksh1.4 billion. The most logical thing to do as a shareholder is to pay off the Ksh162 million to UBA Bank and take over the property worth Ksh1.4 billion. This matter went to court, and the court granted the National Treasury sufficient time and even postponed its judgment to allow them to make pleadings so that they are enjoined in this case. The National Treasury was not represented in the pleadings, and do not make any submissions. What is interesting and an example of the power of Parliament and the critical role it plays in its oversight role is that, when this Statement

was sought by Hon. David Kiplagat, Member for Soy Constituency on 26th October 2023, the National Treasury filed their petition to the court on the same day.

I am not saying that it is... But it is peculiar that the same day this Statement was sought at Parliament, the submission was made by the National Treasury on the same night. The act of seeking this Statement means that we will save the Government of Kenya Ksh1.4 billion that would have been lost if this property was allowed to be sold at whichever value by United Bank of Africa (UBA).

I beg to submit, Hon. Deputy Speaker.

Hon. Deputy Speaker: Thank you. I will give the first chance to the Member who sought the Statement. Hon. DK, Member for Soy.

Hon. David Kiplagat (Soy, UDA): Thank you very much, Hon. Deputy Speaker. First, I would like to take this opportunity to thank the Chairperson of the Departmental Committee on Finance and National Planning and the Committee for taking the Statement seriously and engaging the party, the National Treasury, so that we can save the taxpayers from losing a whopping Ksh1.67 billion as per the current valuation. You can imagine it was about Ksh1.4 billion five years ago.

I thank the Committee and agree with their recommendations. I call upon the National Treasury, which looking at the entire scenario; you can see there was a collusion to fail to be enjoined in the case so that taxpayers could lose this very important property. I do not know what they had agreed on. At this juncture, I would like to mention the Director of Investments, who was aware of the entire shenanigans. He has played a part in making sure that this property...

An Hon. Member: Name him.

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

Hon. Deputy Speaker: What is your point of order, Hon. Chairperson of the Departmental Committee on Finance and National Planning? You may sit, Hon. DK. Let us hear his point of order.

Hon. Kuria Kimani (Molo, UDA): Hon. Deputy Speaker, the remarks by the Member for Soy impute improper motive on a public servant without a substantive Motion. If he goes ahead to mention the name and make those allegations, he will have to bring a proper Motion to this House. It is important that we give a fair hearing and observe our Standing Orders in our debates in the House.

Hon. Deputy Speaker: Do you want to retract that and proceed?

Hon. David Kiplagat (Soy, UDA): Thank you, Hon. Deputy Speaker. I oblige with the sentiments of the Hon. Chairperson. He has done excellent work, and he is still in the process of investigating. I withdraw the naming now. However, I will do it after the Committee is through with their investigations.

I will bring a substantive Motion on the matter so that we can discuss public officers whose complacency can lead to the loss of revenue and property that belongs to Kenyans. We live in a country where we need to protect its assets and taxpayers from the loss. It is miraculous that after I requested the Statement, the National Treasury said that it was not aware and drafted an affidavit that night. You can see the court's judgment. The judge waited for the National Treasury to file a replying affidavit on the issue, but they failed. Maybe in due course, it will come out clearly who the collaborators and masterminds were who wanted to make a kill out of this deal.

I thank the Chairperson. If you have anything else you are doing in your Committee, I beseech you that this should be a priority because we will save the taxpayer a whopping Ksh1.6 billion. Even without a budget, the National Treasury can use Article 223 of the Constitution to pay off UBA Bank Ksh162 million, and we remain with our assets. The Government can take it compulsorily because we had already loaned Uchumi Ksh1.2 billion, and we have 14

per cent of the shares. I call upon the Committee to take it as a priority and investigate up to the last minute. We call upon the investigative agencies to act on those found culpable so that it can be a lesson to other public servants who will misbehave like this and make us lose money through dubious deals.

Thank you.

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

[The Temporary Speaker (Hon. David Ochieng') took the Chair]

The Temporary Speaker (Hon. David Ochieng'): This is your chance, Hon....

Hon. Omar Mwinyi (Changamwe, ODM): Thank you, Hon. Temporary Speaker. I rise on Standing Order 44 (2) (c) to....

(Technical hitch)

The Temporary Speaker (Hon. David Ochieng'): Hon. Mwinyi....

Hon. Omar Mwinyi (Changamwe, ODM): You gave me the opportunity. That is why I rose. Otherwise, thank you.

The Temporary Speaker (Hon. David Ochieng'): The next chance goes to Hon. Jayne Kihara if she is in the House.

(Hon. (Dr) Robert Pukose and several other Members raised their hands)

Do not raise your hands. This is not a high school. Hon. Julius Rutto, Member for Kesses.

Hon. (Dr.) Robert Pukose (Endebess, UDA): Okay. We are doing it to catch the eye of the Hon. Temporary Speaker.

(Laughter)

Hon. Julius Rutto (Kesses, UDA): Thank you so much, Hon. Temporary Speaker. It is good to remind us that we are not in school. However, one must do an extraordinary action at times to catch your attention.

I want to briefly comment on this Statement. I applaud the Chairman of the Departmental Committee on Finance and National Planning for the swift action upon the Speaker's directive to look into this matter. He has given his response. This particular scenario depicts a...

(Technical hitch)

The Temporary Speaker (Hon. David Ochieng'): Hon. Rutto, go ahead.

Hon. Julius Rutto (Kesses, UDA): Thank you, Hon. Temporary Speaker. I want to weigh in on how this particular matter was undertaken. If you look at the reluctant behaviour of the National Treasury and Attorney-General, you will agree with me that it seems like I should be exempted from making this particular Statement, that there was a clear conspiracy for this act to proceed and subject the public to a loss of more than Ksh2 billion in the asset of Uchumi Supermarket.

This matter was brought to the attention of the National Treasury. Uchumi Supermarket expressly indicated to them to move and respond to the opportunity the court had given for

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objection, but they relaxed. Prior to that, they had made several attempts not only to the National Treasury, but also to the Kenya Development Corporation (KDC), which is a Government parastatal. This parcel of land has a first charge of UBA and KDC, which had given loans to Uchumi Supermarket. They were silent. They did not bother, but they knew that they had charged the same asset.

Hon. Temporary Speaker, I had said again that I need to be exempted to conclude that there was a deliberate conspiracy for this particular land to be disposed of so that it suits the interest of some specific individuals. How come the property was valued at Ksh1.4 billion five years ago, but Government officers are reluctant to protect it? The Public Finance Management (PFM) Act gives the National Treasury absolute responsibility to protect every Government investment and asset for the public interest. The Principal Secretary responded to the Committee that he was not aware of this case. He is apologising now, when the matter had been adjudicated in court and an order issued. That shows how incompetent our public officers are. They deliberately relax on certain matters and only react after they are time-barred, and the assets have been lost.

This should serve as a lesson as the Committee completes its Report. The Committee Report should recommend a path for recourse to ensure that Government officers who have been bestowed with certain responsibilities act with utmost good faith to protect Government assets.

We cannot sell land worth more than Ksh2 billion to settle a loan of Ksh162 million. The National Treasury owns a loan stock of Ksh1.2 billion on the same property as a second charge. The National Treasury is a shareholder with a 15 per cent stake. The Kenya Broadcasting Corporation (KBC) is a Government entity on the same property with a first charge and yet, they are silent. Do you want to tell me that there is a case against the Government and the Attorney-General is unaware? We have to be very serious about the way we manage our issues.

I rest this case as we follow up on this matter. We need to look beyond this matter and investigate the conduct of incompetent officers. What else do they know? Why remain silent until Parliament intervenes in the matter?

The Temporary Speaker (Hon. David Ochieng'): Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. It would be immoral for any Government officer to allow such a property to be sold off cheaply. An acre of property on Ngong Road is currently not worth less than Ksh1 billion. The former Uchumi Supermarket along Ngong Road was located on very prime land.

I agree with the Chairperson of the Committee that we could easily approve a loan of about Ksh160 million if the National Treasury requested for funds. They could rescue the auction of that property as shareholders. They can also agree with the bank to jointly sell the property.

Hon. Temporary Speaker, you are an accomplished lawyer, and you know what happens during auctions. Many lawyers are involved in those things.

The Temporary Speaker (Hon. David Ochieng'): I am not, but go ahead.

Hon. Kimani Ichung'wah (Kikuyu, UDA): I said that many lawyers are involved, and you are a very accomplished one. You know what those in charge of auctioning properties in banks do. Many Kenyans have suffered at the hands of auctioneers and banks. Therefore, we cannot collectively own an asset and suffer when we have the means to do something about it.

It is imperative that the National Treasury, the Principal Secretary, and the Director in charge of investments at the National Treasury act with haste to ensure that the property is not solely auctioned by the bank. The supermarket is still under receivership, but the National Treasury has a duty to protect that investment as one of those that Kenyans collectively own.

We are talking about privatisation and divestiture of Government investments. Officers of the National Treasury who are in charge of investments should look into that. How can the Government secure our investments in Uchumi Supermarkets? They should ensure that we do not lose value for money by having the bank auction Uchumi Lang'ata Hyper land at a throwaway price. Bank officials and auctioneers will collude. Staff of the bank end up buying properties being auctioned through collusion with auctioneers. If the loan amount is Ksh165 million, they will say that the reserve price is Ksh180 million to cover their loan amount, interest and auctioneer's fees. That is what usually happens. I am certain that the Central Bank of Kenya (CBK) could give the National Treasury leeway to get into an arrangement with the bank so that the National Treasury can pay off the loan and gets the first charge, and the receiver liquidates that asset and recovers his money. Alternatively, they can jointly sell it, but we must not allow the bank to auction that property on its own.

I have seen a lot of talk in the media about privatisation. I recently spoke about somebody being financially illiterate on some vernacular radio station, and they took offence. If you are financially illiterate, you are financially illiterate. I am also illiterate in some respects. For instance, I am broadcast illiterate and, therefore, I will not seek to broadcast anything in a studio because I do not know how to do it. But I am financially literate. I have heard many people speak about how the Government is selling off assets. People are not looking at the Privatisation Act, which we passed about three or four months ago. That Act makes it very clear how the Government will divest from investments it made in the past, whether it is through initial public offerings (IPOs), getting into joint ventures with strategic investors or outright sale of some assets.

There is a lot of propaganda out there. I heard them say that the Kenyatta International Convention Centre (KICC) is being sold. About 90 per cent of tenants at the KICC are parliamentary officers. Parliament is paying peanuts because it is a Government-to-Government arrangement. However, it is a prime location in the Central Business District (CBD). You can imagine the amount of money the Government would generate if the KICC were to be leased to a hotel chain with private sector expertise to run conferencing facilities and hotels. That is better than waiting for parliamentary officers to get small corner offices at the KICC, where Parliament pays peanuts. Government ministries never pay for those offices because it is a Government-to-Government arrangement. I am certain that the KICC owes money to other Government agencies. The KICC owes parking fees to the County Government of Nairobi and electricity fees to Kenya Power.

There is a lot of negative propaganda being propagated about the Privatisation Act. Some people are saying that the Government assets are being sold for a song or that there are hidden deals. The law that we passed is very clear on the process of divestiture and how to identify assets that the Government will divest from. It also stipulates how the Government will divest, whether it is through IPOs like what was done with Safaricom and the Kenya Electricity Generating Company (KenGen), or through the input of a strategic investor, or leasing assets like sugar companies in western Kenya and parts of Nyanza. The Government will lease those assets so that Kenyans can derive value from them.

Hon. Omar Mwinyi (Changamwe, ODM): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. David Ochieng'): Hon. Mwinyi, what is your point of order?

Hon. Omar Mwinyi (Changamwe, ODM): Hon. Temporary Speaker, the Leader of the Majority Party is now engaging in another debate. He was just supposed to contribute to the Statement on the impending sale of Uchumi Lang'ata Hyper land and not delve into the matter of the sale of Government properties.

The Temporary Speaker (Hon. David Ochieng'): Which other debate is this?

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Speaker. I said that financial matters are difficult. Understanding divestiture and investments may be difficult for many people.

The Temporary Speaker (Hon. David Ochieng'): Do not go there.

(Laughter)

I will not allow you to insinuate anything against Hon. Mwinyi. You were doing well, Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): It is the Chairperson of the Departmental Committee on Finance and National Planning who is making insinuations behind my back. I hope what he is saying about finance and law is not being captured in the *Hansard*. Divestiture investment and all those things are related. I veered off to speak about divestiture through privatisation because the Government has a substantial shareholding in Uchumi. We cannot afford to lose money as people focus on all the wrong things through negative propaganda. People are focusing on Kenyatta International Convention Centre (KICC) and yet, the Government also has shares in other assets like Hilton Hotel and Intercontinental Hotel, which went under during COVID-19. You may need to ask yourselves if that hotel could be put to better use by Parliament than the Parliamentary Tower that we have built for close to 15 years. We must be unequivocal in ensuring that the National Treasury acts and ensures that, that property is not sold for a song. I beg to support.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. David Ochieng'): Where is Hon. David Kiplagat? Has he left?

(Hon. David Kiplagat spoke off the record)

Okay. The next chance goes to Hon. Pukose. Hon. David Kiplagat, I just wanted you to clarify that the land we are dealing with is on Lang'ata Road and not on Ngong Road. Is that the case?

Hon. (Dr.) Robert Pukose (Endebess, UDA): It is on Lang'ata Road.

The Temporary Speaker (Hon. David Ochieng'): Is it the piece of land right next to Wilson Airport?

Hon. (Dr.) Robert Pukose (Endebess, UDA): Yes.

The Temporary Speaker (Hon. David Ochieng'): Correct. Proceed.

Hon. (Dr.) Robert Pukose (Endebess, UDA): Thank you, Hon. Temporary Speaker. First, I want to thank the Member for Soy for raising this very serious issue. Secondly, I want to thank the Committee on Finance and National Planning for the quick action that it has taken. On Tuesday, I was to Chair a meeting on the 2nd floor of Continental House, and I found the Committee busy following up on this matter. Their seriousness is what will resolve this.

As Hon. David Kiplagat had indicated, the officers involved in this conspiracy are not just immoral, but also unethical. They are infringing on Chapter Six of the Constitution and, therefore, do not deserve to be in office. More often than not, there are technocrats in those offices who say that they have seen Governments come and go. They have always remained in office through deals, but those kinds of officers should not be left unscathed. I think the EACC and DCI are sleeping on the job because those individuals should have been arrested for conspiracy to defraud and steal from the public. There must be something very wrong when a property, whose value was Ksh1.4 billion in 2018, is being sold by UBA Bank at a throw-away price of Ksh162 million. It may be a calculated move where people are planning to steal because there must have been kickbacks and a money trail. As much as the Chairman says we

should not name them, we expect a report to be tabled in this House giving specific details of the individuals, like the Director of Investment and whoever else is involved. They should be arrested, taken to court and prosecuted. Those are my remarks.

The Temporary Speaker (Hon. David Ochieng’): Thank you. Hon. Kaguchia.

Hon. Kaguchia John (Mukurweini, UDA): Thank you, Hon. Temporary Speaker. I strongly support the Report by the Chairman of the Committee on Finance and National Planning, Hon. Kimani Kuria. It is high time that Parliament becomes strict and keen on any financial dealings by Government officials. It is clear there is a conspiracy between Government officials and people who want to connive into taking public property in the deal between Uchumi properties, UBA Bank and the National Treasury for personal gain.

We must ensure that the public servants who serve this country are more patriotic than selfish. If they are not willing, Parliament must put its foot down to ensure they strictly follow the rules. If we allow public servants to be corrupt, the National Assembly will have failed in its duties. I ask the Chairman of the Committee on Finance and National Planning not only to make recommendations on the way forward between the different parties, but also to present to this House a report on the public servants who are involved in this conspiracy. We will then debate and make further recommendations. Secondly, those public servants should be investigated by EACC, DCI, and any other investigative body in the country. This will act as a deterrent for anybody who is eyeing public property for personal gain.

As much as I agree with the Leader of the Majority Party, Hon. Ichung’wah, that the Privatisation Bill carters for how privatisation is done in our country, Parliament must also remain vigilant to ensure that during privatisation or leasing of public property to private investors, nobody will have personal gain. Taking action on the issue of Uchumi will help the country and Parliament to become vigilant in the process of privatisation of Government bodies. We cannot allow individuals who come on board during this process to make personal gains.

We are also aware that Kenyans, at a private level, are also losing quite a lot from those auctions in the recovery of debts owed to banks or other creditors. There has been a conspiracy between the creditors, auctioneers and other interested parties. For instance, private properties have smaller loans than the amount that is recovered from the sale of their property. It is sold, but they do not get any refund on the excess loan payments. This has occasioned huge losses to individuals in this country, who have no voice when their property is auctioned based on what they owe to creditors. This House should take extreme measures on this particular case that is now in our hands.

The Temporary Speaker (Hon. David Ochieng’): Hon. Kaguchia, you have to wind up.

Hon. Kaguchia John (Mukurweini, UDA): This will deter any person who may want to go in that direction and also help us protect public property and private individuals.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. David Ochieng’): Hon. Beatrice, do you want to comment on this?

Hon. Beatrice Kemei (Kericho County, UDA): Yes.

The Temporary Speaker (Hon. David Ochieng’): Okay.

Hon. Beatrice Kemei (Kericho County, UDA): Thank you, Hon. Temporary Speaker. First, I want to thank the Member of Parliament who brought this issue concerning the sale of Uchumi on board. I also want to thank the Committee led by the Chairman of Finance and National Planning. It is very unfortunate to learn that people have come together to sell land at a very low price. Ksh1.4 billion is a lot of money that should have been saved for other investments.

Looking at this, public officers should be taken into task over the same. Just like what my colleagues have said, some of them have served in many Governments. They have been here throughout and have become cartels. We cannot allow people to come over and try to take away public property. We are supposed to be saving every shilling, knowing that the Government of His Excellency William Ruto is trying by all means to ensure that the cost of living comes down, save more and many people to own property. I thank the Committee for the job well done. However, I want the Chairman to go deeper and look into the deeds by those officers. As much as we are saying that we do not need to expose them, it is very important that DK comes with another Motion, as he promised, so that we go into the details of the matter.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. David Ochieng'): Hon. Farah.

Hon. Farah Maalim (Dadaab, WDM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. The issue of privatisation of public properties and companies is a matter that came into the global purview.

The Temporary Speaker (Hon. David Ochieng'): Hon. Farah, I hate to interrupt you.

Hon. Farah Maalim (Dadaab, WDM): I want to talk about the sale and give a bit of a background to understand the philosophy and the psychology behind some of those things and the need for us to protect the interests of our country.

The Temporary Speaker (Hon. David Ochieng'): Okay.

Hon. Farah Maalim (Dadaab, WDM): This whole idea is to rob public property in developing third world countries. The idea of parastatals at the time of Independence was because we did not sufficiently empower indigenous Africans who had the cash and could buy and maintain big organisations or entities like supermarkets and Unilever at that time. All of them had to come into the country. There was going to be super-exploitation by the multi-nationals, and that is why the Government decided to be a strategic partner in all those things.

It created Uchumi Supermarkets, Kenya National Trading Corporation (KNTC), Industrial and Commercial Development Corporation (ICDC), and the banks. The Kenyan Government went into it as a stakeholder, although some of them were privatised over a period of time, and this allowed the market to come in. The idea was to protect our interests.

This is how oligarchs came about; people from outside came and bought our wealth at a throwaway price. This progressively continued to many other strategic interest institutions or entities that were parastatals then. Eventually, you go back to some kind of colonisation. If you do not have economic independence in your country as an indigenous people, then you are still in some form of neo-colonialism. The word 'oligarchs' came about with the privatisation of strategic Government and communist-owned entities in the former Republics of the Soviet Union. That one ended up in the hands of just a few people, and the masses became very poor. Although somebody like Putin is now dismantling all that. This is a very dangerous thing. When you talk about privatising parastatals like the Kenyatta International Convention Centre (KICC), it has to be done in a manner that essentially is still going to protect the public's interest. The reason why companies like British Telecommunication Public Limited Company (PLC), British Railways and British Maritimes will never be privatised is because such a developed country still protects the interests of its indigenous people. It fears that other people will come from outside with strategic interests, and they will literally become their colony. So, this is something that has to be done with a toothcomb. It does not have to be sold. Let us look at all other available ways to look at those things. Even if it is to be sold...

The Temporary Speaker (Hon. David Ochieng'): We are not selling anything.

Hon. Farah Maalim (Dadaab, WDM): It has to be sold to an indigenous Kenyan and nobody else for that matter. Otherwise, we risk taking this country back to where we were in 1963. Thank you.

The Temporary Speaker (Hon. David Ochieng'): I will give Hon. Omboko and Hon. Rindikiri two minutes each, and then we will close this.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Speaker. Let me pick up from where Hon. Farah left off on the psychology of this. Apart from the foreigners coming to take stock and place by purchasing the privatised companies, individuals within Kenya who are actually in advantaged positions like the National Treasury, Ministries, and other places can easily see what is going down and what can easily be sold out. The Uchumi case is not a matter of an international body coming in, but just our players who replaced themselves as the new bourgeoisie after 1963 when we got Independence. They are the ones who are actually going for the properties, including Uchumi. I do not have a lot of time, but I want to advise the smart Chairman that this is basically the real work of Parliament.

(Hon. Kuria Kimani consulted with Hon. Njeri Maina)

Could the Hon. Temporary Speaker tell the nice lady to...?

The Temporary Speaker (Hon. David Ochieng'): Hon. Chair...

Hon. Omboko Milemba (Emuhaya, ANC): Chairman of the Departmental Committee on Finance and National Planning, you need to know that this is the real business of Parliament. You need to get to the root cause of this and bring out what is happening because our work is oversight to help the public. You are on the right track, but you need to move to the next level.

Thank you, Hon. Temporary Speaker.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker. This is a very weighty matter. Hon. Temporary Speaker, you are one person who has come out very clearly on the issues of collateral, and I want to thank you. I want to pick up from what a friend said: This is the only time we have an opportunity to make a clean-up. It is not only happening in the National Treasury but everywhere. As I am talking to you, one of my school's title deeds was given out last week. They went to court, and the judgment has been set for 20th January 2024. Some of the Government Ministries, like the Ministry of Lands, Public Works, Housing, and Urban Development, are rotten, and we cannot hide that. How can we have a case on the property of the Government, and nobody in the Ministry is taking responsibility? I urge the Departmental Committee on Finance and National Planning and other Committees that it is high time that we start reining in on some of those rogue officers who are overseeing back-door selling and privatisation of public properties.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. David Ochieng'): Hon. Kimani Kuria, you have heard what the Members have said about your report. You have the power to give the National Treasury money to repurchase this property, and then the Government can do whatever it wants to do with it. So, the ball is in your court.

We are going to move to the next Order, but before we do that, I will allow Hon. Omar Mwinyi to raise an issue that he wanted to raise.

STATEMENT

MANAGEMENT OF HOUSES AND TREATMENT OF TENANTS ON ESTATES IN MOMBASA OWNED BY NHC

Hon. Omar Mwinyi (Changamwe, ODM): Thank you, Hon. Temporary Speaker. I rise under Standing Order 44(2)(c). I quote:

“A Member may request for a statement from a Committee Chairperson relating to matters under the mandate of the Committee, which shall be made within twenty-one days of the request or such shorter period as the Speaker may direct.”

I stood here on 25th October 2023, and sought for a Statement from the Departmental Committee on Housing, Urban Planning and Public Works. After lengthy deliberations and arguments, the then Speaker who was on the Chair, Hon. Rachael Nyamai, ordered the Deputy Leader of the Majority Party, Hon. Owen Baya, to make sure the Chairperson of this Committee brings a statement within two weeks. I want to inform you, Hon. Temporary Speaker, that this is now the fourth week and I have never even seen the Chairperson neither have I received the reply.

I want you to inform the Committee that we really depend on them. We have a lot of confidence in them because our work is to represent our people. The matter was bordering on illegalities and human rights abuse. I ask you to use your authority to make sure we get the statement before the closure of this House, that is, next week, God willing.

The Temporary Speaker (Hon. David Ochieng’): Thank you. Any Member of the Departmental Committee on Housing, Public Works and Urban Development?

Hon. Mugambi Rindikiri (Buuri, UDA): Yes.

The Temporary Speaker (Hon. David Ochieng’): The issue being raised by Hon. Omar Mwinyi, I am told, is before the Committee. Are you aware?

Hon. Mugambi Rindikiri (Buuri, UDA): Yes, Hon. Temporary Speaker. I am the Vice-Chair of the Departmental Committee on Housing, Public Works and Urban Development.

The Temporary Speaker (Hon. David Ochieng’): Correct.

Hon. Mugambi Rindikiri (Buuri, UDA): The matter that has been raised is within our docket and, yes, it has already arrived at our desk. We shall deliberate it and give the information that the Member requires.

The Temporary Speaker (Hon. David Ochieng’): Hon. Rindikiri, the order is that you give this response on Wednesday afternoon.

Hon. Mugambi Rindikiri (Buuri, UDA): Wednesday afternoon? Yes, I will. We will try.

The Temporary Speaker (Hon. David Ochieng’): Next Order.

MOTIONS

NOTING OF REPORT OF THE KENYAN DELEGATION TO THE 4TH GENERAL ASSEMBLY OF THE EAPA-FSN IN KIGALI, RWANDA

The Temporary Speaker (Hon. David Ochieng’): Do you have a card with you?

Hon. Yusuf Adan (Mandera West, UDM): Yes, I have a card.

The Temporary Speaker (Hon. David Ochieng’): Go ahead.

Hon. Yusuf Adan (Mandera West, UDM): Thank you, Hon. Temporary Speaker, for this chance. I have been waiting for it for the last six months.

I beg to move:

THAT, this House notes the 4th General Assembly of the Eastern Africa Parliamentary Alliance on Food Security and Nutrition (EAPA-FSN), held in Kigali, Rwanda on 7th – 9th of December, 2022 and laid on the Table of this House on Tuesday, 11th April 2023.

The EAPA-FSN was launched in April 2019 to position food security and nutrition at the highest level of political and legislative agenda; and to contribute to the achievement of development objectives of member countries and regional economic blocs. The EAPA is a

membership of 11 countries of the Eastern Africa region as a whole, with the view of benefitting communities and focusing on food realisation of overarching people-centred approach.

The objective of this Alliance is as follows:

1. To create a dedicated alliance for Parliamentarians from the 11 countries of the region and together with the economic blocks within the region to address and discuss critical issues on food security and nutrition.
2. To promote the sharing of experiences and best practices to advance food security and nutrition agenda through Parliamentary action, which aims at strengthening legislative frameworks and policy coherence.
3. To promote the harmonisation of legal and policy framework related to the sub regional and cross border food security and nutrition.
4. To facilitate the creation and strengthen the national parliamentary alliances in the respective countries, which will foster improvement of food security and nutritional agenda in the various countries.
5. To enable collaborations among parliamentarians and parliamentary bodies, Government and other key stakeholders such as civil societies, developmental partners including the UN bodies and international organisations and academia and the private sector and the local communities to enhance food security and nutrition in the region.

The Alliance has been formed by Members of Parliament of the respective countries. Each of the 11 countries has selected two Members. In total, there are 22 Members of Parliament and two Members from East African Community and two from Intergovernmental Authority on Development (IGAD).

The functions of the Alliance are as follows:

1. Strengthening policy and legal framework in support of improved food security and nutrition.
2. Support Parliament on development and revision of policies and legal frameworks relevant to food security and nutrition and the right to adequate food, which is a human right issue.
3. Oversight of Government activities related to the implementation of the approved strategy, programs and plans and the effective use of allocated budgets for food production, food security and nutrition.
4. Raising awareness and promotion of behavioural change by championing actions for food production.
5. To support the creation and strengthening of a national alliance to promote food security and nutrition. In our case we have already formed the national alliance. I am seated between the Chair of Kenya Parliamentary Food Security and Nutrition Alliance and the Vice-Chair.

The membership of the Alliance is voluntary. Members of the EAPA shall consist of Members of Parliament nominated by their various countries — eleven countries. Two members from East Africa Legislative Assembly (EALA) and two Members from IGAD.

This Alliance conducts the Annual Assembly in one of the countries. This 4th General Assembly was conducted in December 22nd in Kigali, Rwanda. Thereafter, there was a general assembly last month here in Nairobi and the guest of honour was none other than our Speaker.

This Alliance tries to ensure that issues of food security and SDG Goal 12 are adhered to by the various governments. For example, you know that our country is a signatory to the Maputo Declaration which says that at least 10 per cent of the country's budget should go towards food production. By the time the Alliance was formed in 2019, none of the 11 East African member countries had reached the stage of giving 10 per cent of their budget to food

security and agricultural development. Now, I have the honour to report that three countries out of these 11 countries have already reached the 10 per cent. Kenya was at 3 per cent in 2019. Looking at the last Budget, we are at 6 per cent. That is an improvement. We hope and pray that, sooner or later, we shall reach the 10 per cent.

The Alliance has an Executive Committee comprising the Chairman, Deputy Chairman, two Members of Parliament from individual countries, one Member of Parliament from the East African Parliamentary Alliance (EAPA) and one member from the Intergovernmental Authority on Development, Inter-parliamentary Union (IGAD-IPU). I have the honour to report that from 2022 to date, Kenya is the chair of the Alliance. I have been elected as the Chairperson of the Alliance for the next three years. We have rotational annual general meetings every year in one of the countries. Therefore, Kenya is being looked at seriously to improve on food security and nutrition because of the position that we hold.

Hon. Temporary Speaker, we expect our parliamentarians to make sure that the various legislations relating to food security and nutrition are upheld. It is our responsibility to make sure that legislative amendments are made where required. We also need to review the budget for agriculture and food production to ensure that the SDG 12 is achieved and the 10 per cent of the budget – as per the Maputo Declaration – goes to food security and nutrition.

The other important responsibility required of us as is to ensure that there is accountability in the funds allocated for food security and nutrition. From our experience and observation, sometimes, funds are allocated and the prioritisation of those funds in terms of food production is misplaced. It is our responsibility as parliamentarians to oversee and ensure that the little funds allocated to food production are utilised to the letter.

Finally, our role is to make sure that we represent our communities such that food insecurity and malnutrition are things of the past. As long as a community or a government is not able to feed its people effectively, we shall remain slaves of other countries who give us small handouts like famine relief and food aid, which we do not need. With the kind of rainfall and climate, Kenya should and must be food secure.

I beg that the House takes note of this Report. I request Hon. Abdul Haro to second.

The Temporary Speaker (Hon. David Ochieng’): Who is the seconder?

Hon. Abdul Haro (Mandera South, UDM): I am. Thank you, Hon. Temporary Speaker, I second.

(Question proposed)

The Temporary Speaker (Hon. David Ochieng’): Hon. Members, I take it that those whose names appear want to contribute to this. The first chance will then go to the Hon. Charles Kamuren. He is the Chairperson of the Food Security Caucus in the country.

Hon. Charles Kamuren (Baringo South, UDA): Thank you, Honourable Speaker. I stand to support this Motion on food security and nutrition.

As it has been indicated by the Chairperson, this is a very important Alliance. I am the Chairperson of the Kenya Parliamentary Caucus on Food Security and Nutrition. We have held several meetings. The most recent one, we hosted the entire East Africa in Kenya. I thank our Speaker of the National Assembly who graced that meeting. The other representatives from the National Assemblies of the countries of East Africa were there and it was very successful. I appreciate our Speaker for that. He did well. He is well-informed on matters of food security and nutrition. His speech was relevant. The other members of the National Assemblies from the other countries praised his speech. The information he shared with us was very relevant, not only to Kenya but to other countries.

Kenya needs to allocate enough money for food production. We need to allocate money strategically to achieve food production. In line with the Maputo Declaration, we need to

allocate at least 10 per cent to agriculture and food production. Previously, we were at around 3 per cent, but now we are at 6 per cent. We are not yet there but we have improved. I appreciate what we have done. The purpose of these alliances is to share the experiences amongst ourselves and to harmonise legal frameworks towards food production. We are talking about what is happening in our constituencies and counties to the young generation, specifically the school-going children and even the ones at home who have not gone to school. We are talking of how to go about the status of kwashiorkor and the plight of the elderly. What do we have to say about them? Right now we are giving money to the elderly people but you know there is so much to be done about the health of elderly people. Diseases are there and we need to prevent them. How do we do that? Food is an enabler that can assist in prevention of diseases. How do we get this food? We need to strategise in production of food and see that whatever food our children eat in schools, improves their immunity. We want to see a specific allocation through the National Government Constituencies Development Fund (NG-CDF) to specifically assist to balance nutrition of school-going children.

Hon. Temporary Speaker, this has come at the right time. We need to support this course, move together, and improve legal structures and policies meant for food production. Thank you. I support.

The Temporary Speaker (Hon. David Ochieng’): Member for Buuri.

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker.

Food security and nutrition is a key factor. It is a basic human right. You recall that this House deliberated on food safety during the budget-making process and slightly before that. The Government is now putting in place measures to deal with food security and nutrition. Whatever food produced, it must meet certain standards. It must be fit for human consumption.

I applaud the Committee for its initiative and the continued collaboration with member countries concerned with this caucus. As we continue to deliberate, we know production of food today is a factor of both natural and man-made reasons. Rain patterns have affected food production in East Africa. There is always a problem whenever we lack rains and the problem is food insecurity. We need to start putting more emphasis on provision of water and farm inputs like fertiliser and machinery. We need to support our people with seeds and agricultural support services. We need to store whatever is produced. I thank the Government because it now has the warehouse receipt system in place.

There is also the element of driers. The Government is providing them to ensure whatever food is produced can now be stored. This means that we shall have secure food production. With that, I support this Committee and urge that we continue supporting the Government in its initiatives to ensure that we have adequate food in this country.

The issue of nutrition is key because we are now starting to focus on the best foods that our people require. Nutrition is a new concept in this country. We have been producing food based on what our scientists and our researchers advise. We have very nutritious traditional foods. The foods are climate adaptive and easily accessible to our people. As a country and region, we are favoured with very nice geographical conditions. We can continue growing nutritious foods.

With that, I support the Committee. I urge that we all adhere to the standards that have been set, both regionally and internationally. Thank you.

The Temporary Speaker (Hon. David Ochieng’): Thank you. The Member from Mombasa, Hon. Zamzam Chimba.

Hon. Zamzam Mohammed (Mombasa County, ODM): Asante sana Mhe. Spika wa Muda.

Ninampongeza Mheshimiwa ambaye ameleta mjadala huu Bungeni. Ushirikiano wa mataifa ya Afrika Mashariki katika usalama wa chakula na lishe bora ni jambo ambalo limeleta mwamko mzuri katika Afrika. Nimekumbuka Mama Samia Suluhu akimwambia Rais wetu

tuwe Waafrika wasiotegemea mataifa ya nje. Alikuwa sawa kabisa kwa sababu anajua kwamba wakati mwingine sisi kama Waafrika tunahadaiwa juu ya njaa. Watoto wetu hawana lishe bora na mengine ya kutudhuru yanaingia katika taifa. Itakuwa bora tukiwapa wakulima wetu mbegu, teknolojia nzuri ya kukuza mazao yao shambani, na kuwapa mbolea na nafasi nzuri ya kunyunyizia mimea shambani. Baadaye, tuwawezesha kuweka mavuno ndani ya maghala yao. Tunafaa kuwapa namna ya kuhifadhi chakula katika maghala ili tusiwe na njaa msimu wa kiangazi. Wao watatoa vyakula katika maghala yatakayolisha taifa.

Hii ni juhudi nzuri imefanywa na viongozi wa Afrika Mashariki. Huenda Kenya iwe na msimu wa kiangazi wakati fulani ilihali Tanzania ni msimu wa kuvuna. Ni vizuri tukiaminiana vizuri kati ya mataifa ya Afrika ya Mashariki. Kama watu wetu wa Kenya wako katika kiangazi, wao wakivuna sisi tutapata chakula. Chakula kitatoka Kenya kusaidia wengine katika kanda hii. Itakuwa tunasaidiana ili watoto wetu wapate lishe bora. Itakuwa hatutoi ule mwanya wa mtu kuja kutwambia, “Leo mna njaa. Kwa hivyo, mimi nitawapa chakula na ninyi mnipe hiki na kile. Kisha nitatoa deni zenu ili mpate chakula.” Hilo halitatokea.

Tukiwa na taifa lililo na chakula na udongo sawa, mambo mengine yote yataenda sawa. Wakati mwingi ule umaskini ndio huchangia Mwafrika kuonekana kama si chochote mbele ya dunia. Viongozi wetu wakishirikiana... Mimi nikiona viongozi wa Afrika Mashariki wamekaa pamoja wakipanga mikakati ya mataifa ya Afrika Mashariki, kama mama kaunti wa Mombasa, husikia vizuri sana. Leo ninampongeza Rais Samia Suluhu kwa juhudi anazofanya kuhakikisha Marais wetu wanakaa kuhakikisha hali inakuwa nzuri. Ninajua huu mkutano ulifanyika katika Taifa la Rwanda. Juzi nimetembelea Rwanda na kuangalia maisha yao yalivyo. Nilisema ni kweli Afrika inaamka. Watoto wa Kiafrika hawawezi kuwa ndio picha za kwashiorkor au marasmus viongozi wetu wakiafikiana tuwe na lishe bora na usalama wa chakula.

Watoto wetu wametumika katika dunia nzima kuonyesha umaskini, na ukosefu wa chakula na afya bora. Hatuna namna ya kulisha jamii zetu, kama Afrika ili tuweze kuwasaidia. Ninaunga mkono Hoja hii ya leo. Nitasema tena kwamba lishe bora na usalama wa chakula unaanza na sisi wenyewe katika Afrika Mashariki, kisha tutaboresha mataifa yetu.

Asante sana, Mhe. Spika wa Muda.

The Temporary Speaker (Hon. David Ochieng’): Hon. Njeri Maina, Member for Kirinyaga.

Hon. Njeri Maina (Kirinyaga County, UDA): Thank you, Hon. Temporary Speaker. I rise to support this timely Motion. A hungry nation is an angry nation. The Government must never vacate its duty to ensure that it has fed its population. I laud the Kenyan Government for ensuring that they have invested in agriculture. We allocated and passed in the main Budget Ksh5 billion for the subsidised fertiliser programme. Further, we have budgeted for the construction of dams like Galana, Thiba, and many others, so that we can ensure that we have protected and safeguarded our people to have food security.

In the same breath, we cannot be speaking about food security and thinking of selling or to privatise Mwea Rice Mills. We know 45 per cent of it is owned by the farmers of Kirinyaga County in Mwea. It is very unfortunate. The courts need to decide and give a clear picture and the way forward on what public participation entails. I want to make myself clear and say that they can sell anything else but not Mwea Rice Mills. Members of Parliament must be here on the Floor of the House to defend and represent the interests of the people who elected them. I cannot let them down in this day and time. I promise them that I will continue pushing for their issues in this House.

The people of Mwea have been requested to attend a public participation meeting in Nyeri. How do you ask them to go and record their grievances in Nyeri, with regard to Mwea Rice Mills? We should make public participation easier and accessible for Kenyans to ensure that it is done at the point of instance. This will enable our people to tell the Government that they do not want Mwea Rice Mills to be sold or given to any private entity. It is the sweat of

their grandparents. They have a right to have a say. I have a duty to ensure that I have communicated that on the Floor of the House. This will ensure that our people are part and parcel of the decision-making of the Government.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. David Ochieng’): Hon. Odanga, Member for Matayos.

Hon. Geoffrey Odanga (Matayos, ODM): Thank you, Hon. Temporary Speaker. Let me also add my voice to the Motion on Noting of Report of the Kenyan Delegation to the 4th General Assembly of the EAPA-FSN in Kigali, Rwanda as moved here by my good friend, Hon. Haji. Food security must be prioritised in any nation. We should detest dependence on food from other parts of the world. The moment we continue relying on imported food, we lose our nationality and pride. We remain beggars. Those who give us food will always hold us to ransom. We will not retain the independence that we, as a country, have.

Giving effect to the Maputo Declaration which proposes that countries should allocate 10 per cent of their budgets to agriculture and food production is very critical. Each one of us should support this particular Motion because it gives credit and supports the Maputo Declaration, so that we have enough food. For instance, we still have stunted and malnourished children who do not get the right diet in this country. They do not have enough quantities and qualities of food as required. This is something we should not have in a country like Kenya. Our Government needs to prioritise food security and look at nutrition. Our children need to be given food in school so that they are healthy. This will prevent them from having stunted growth, kwashiorkor and all diseases that go with malnutrition.

Our Government should ensure that subsidised seeds and fertilisers are supplied to the farmers for planting in all parts of the country. It is raining heavily and the planting season is coming. The Government must plan for this. It should ensure that we have enough seeds and subsidised fertiliser for our farmers to make sure that we have enough food.

I attended a meeting in Kampala recently on the African Grain Trade. It was noted that we do not have enough grains in East Africa. We are importing them from war-torn countries like Russia and Ukraine, yet we have fertile soils and enough rainfall. Hon. Haji, what are we doing? We have a strong workforce which is idle; our youth. How do we put them to use? These are issues that we need to address to ensure that we have food security and good nutrition for our children.

Hon. Temporary Speaker, I support the Motion.

The Temporary Speaker (Hon. David Ochieng’): Hon. Wakili Muriu.

Hon. Wakili Muriu (Gatanga, UDA): Hon. Temporary Speaker, I rise to support this Motion on Noting of Report of the Kenyan Delegation to the 4th General Assembly of the EAPA-FSN in Kigali, Rwanda. Food is a basic need. It is the foundation of Maslow’s Hierarchy of Needs. Food, shelter and clothing are the bedrock of human dignity. The conversation about food supersedes any other conversation, especially when this country has become food insufficient. If this country cannot come up with a green plan to ensure that we eradicate malnutrition among our children and people are not hungry or given food donations, then our policies are missing. We need to re-address and calibrate our policies, especially on food security.

When there was a bit of drought the other day in places like Central Kenya, we heard the cries of people. They said that they wanted to be supported with food. The Government came through at that very moment. However, giving people fish is not sufficient. We need to come up with clear policies before we talk about industrialisation. We need to construct roads. We have to ensure that every area of this country is producing enough food for our people.

I want to commend the Government on its policy in terms of cheap fertiliser, which goes for Ksh2,500. I also want to commend it for the policy to ensure that all the colonial dams

are rehabilitated. This will ensure that our people produce adequate food. Because of climate change, the rainfall is no longer dependable. That is why I support this Motion.

On the issue of food, we can talk about food production, but without addressing the question of whether our primary and junior secondary school students are fed, we will be missing the point. Article 53(1)(b) of the Constitution of Kenya stipulates clearly that every child in this country has a right to quality education. When I look at Sub-Article (c) of the same Article of the Constitution, it stipulates that every child is entitled to quality nutrition. Therefore, the issue of food does not only talk about food for adults. We need to see how the Motion which passed before this Parliament, that every child in primary and junior secondary school, even as we provide them with learning materials, books, desks and good classes... Matters of nutrition are constitutional. Therefore, as we plan to grow green plants, we must make sure that there is enough food. Feeding our children at that level is very critical. That is the only way we can breathe life into Articles 53 and 27 of the Constitution.

[The Temporary Speaker (Hon. David Ochieng') left the Chair]

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

Hungry children cannot learn but well-fed ones will. Our investment in education will bear fruit if they are well-fed, have good nutrition and are healthy. This way, we will get the fruition of our investment.

Thank you, Hon. Temporary Speaker. I support.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Mulanya, Member of Parliament for Nambale.

Hon. Abraham Kirwa (Mosop, UDA): On a point of order Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Member, what is out of order?

Hon. Abraham Kirwa (Mosop, UDA): Hon. Temporary Speaker, I rise on Standing Order 95, noting the mood of the House in support of this Report. Could the Mover be called upon to reply?

The Temporary Speaker (Hon. Omboko Milemba): I wish you had come before I gave Mulanya a chance. I have the discretion not to go in your direction. Now that I had given an Hon. Member, Mr Mulanya, a chance, I will ask him to proceed.

Hon. Geoffrey Mulanya (Nambale, Independent): Thank you, Hon. Temporary Speaker, for giving me this chance to contribute to this Motion despite the attempts by my good friend, Hon. Abraham, to gag my views on the same.

Food security is very important to our nation. We have had this debate in our country for a very long time. We note that we have just come from a very serious drought and hunger in this country. Right now we are blessed with heavy rains. We have also just had a bumper harvest. The problem is that after a year, our people will be suffering again. The question that we ask ourselves as a nation is: are we prepared for the future? I will say no. If we have had a bumper harvest, then one year down the line our people complain about lack of food, I would say that, as a nation, we have failed. I propose that the Government takes serious measures to have enough storage facilities. In cases where we have had a bumper harvest like this year, we should store food that can sustain our nation for more than three years.

We also need to look at the issue of the land tenure system. We talk of food security, but we know very well that we only farm on the available land. As we continue to subdivide this land, in the future, we will not have a place where we will grow our crops. As a nation, we need to come up with a policy that will control land subdivisions, especially the arable ones where farming is supposed to be done. This will ensure we have security for future production.

We should also look at funding agricultural research institutes for farmers to have improved seed varieties that suit the changing climatic conditions. I was in Nambale Constituency and in some areas they told me that the maize they planted was not doing well. We need to have researchers moving around to investigate why crops from this particular seed variety are not maturing, but are rotting on the farm with the heavy rains being experienced. Our research institutes should be well funded to provide us with proper seeds that can withstand the changing climatic conditions.

I also wish to encourage the Government to ensure there is adequate storage of water. Currently, we are experiencing heavy rains in the country. There are floods all over, but do not be shocked that in two years time we will be importing rice from Egypt. We have areas in our country that can produce rice. A good example is Nambale Constituency. We have the Malanga/Mukemo Irrigation Scheme that was surveyed by the National Irrigation Authority, but to date, they have no funds to execute this particular project. If we can have rice as an alternative to maize, during the season for maize farming, when we have short rains, they can also resort to rice farming, which will improve the supply of food to our people.

I, therefore, rise to support this Motion and request the Government to put in place proper mechanisms to ensure that we protect our people from hunger.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Omboko Milemba): Very well, Hon. Members. A Member had risen in his place on Standing Order number 95 that the Mover be called upon to reply, but I used my discretion powers bestowed upon me, to allow Hon. Mulanya, who was already on his feet, to speak on this matter. So, I put the Question.

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

The Mover may proceed.

Hon. Yusuf Adan (Mandera West, UDM): Thank you, Hon. Temporary Speaker. I will give one minute each to Hon. Omanyo and the lady from Kisii.

The Temporary Speaker (Hon. Omboko Milemba): Mover, I thought there was urgency and that is why you were called upon to reply. Just give a chance to two Members only, then proceed to reply.

Hon. Yusuf Adan (Mandera West, UDM): Okay. Thank you very much. Two minutes, each.

Hon. Catherine Omanyo (Busia County, ODM): Thank you, Hon. Temporary Speaker. I support this Motion because our food security and nutrition are paramount. Our country once used to be the food basket of East Africa. If we continue joking around, we will soon be among the people who are malnourished in Africa. People might not come to Kenya to see the animals but the malnourished people in Africa. Food security is a priority and critical to our nation. We have to do something urgently by protecting what we have first. We must not lose it. Also, ensure that we do not engage in things that will bring in Genetically Modified Organisms (GMOs). For instance, the Kenya Seed Company Limited is set to be sold. That will cause the foreigners to control what seeds Kenyans should plant. All Kenyans have to participate in making sure that we have enough to feed our people.

Thank you, Hon. Temporary Speaker.

Hon. Dorice Donya (Kisii County, WDM): Thank you, Hon. Temporary Speaker. When talking about food security...

The Temporary Speaker (Hon. Omboko Milemba): I believe that is Hon. Donya.

Hon. Dorice Donya (Kisii County, WDM): Yes, I am Hon. Dorice Donya from Kisii County, Hon. Temporary Speaker.

The talk about food security has come in on time. Now that there are heavy rains all over, farmers cannot take their produce to the market because the roads are impassable. Therefore, even as we support this initiative, Parliament should open its eyes and factor in infrastructure development so that we do not have farmers' produce rotting at home.

Nowadays many children go to school because of the school feeding programme. If we guard our food security, we will have more children going to school. Some children go to school because they realised that they are given food at school.

I support the Member for championing this initiative. I hope what we are deliberating will be of help to our people.

Thank you, Hon. Temporary Speaker.

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

Hon. Yusuf Adan (Mandera West, UDM): Hon. Temporary Speaker, if it is okay with you, the Chairman of the Departmental Committee on Agriculture and Livestock has asked for one minute. I do not mind donating it to him.

Hon. Temporary Speaker (Hon. Omboko Milemba): No, we do not grant you that one. Proceed and reply.

Hon. Yusuf Adan (Mandera West, UDM): Thank you for the guidance. I beg to reply to the debate on this Report.

What is very critical is that legislators need to ensure that the various legal frameworks for food production and nutrition are given priority. We need to also make sure that the international conventions that we have signed, such as the Malabo Declaration on Accelerated Agricultural Growth, are adhered to. What is very important in a country like ours, whose economic background is agriculture, is family farming. We have very few commercial farms in this country. Family farming is what contributes to our food security and nutrition. Therefore, as parliamentarians, we have to give full support to our small-scale farmers who contribute 80 per cent of the food we have.

This being an era of climate change, we should come up with ideas that will help us to do business unusual. Business cannot be done in the same way because we are no longer able to predict the timing and intensity of the rains and grow our crops the way we used to do it. We have to rely heavily on forecasts from our Meteorological Department, who have done very well this year. They warned us early enough that there would be *El Nino* and, therefore, farmers had to stop their activities a little bit to wait for a lot of water to pass through.

In the education sector, unless our children get adequate and nutritious food, we will never develop. A child's brain development depends on nutritious food. Of course, the most important nutritious food we need to start with is breastfeeding. The milk from the mother is the most important feed for a child, particularly in the first 1,000 days. If a child misses that milk from the mother and is not supported with nutritious food, whichever school you take them to, their performance will be bad.

With those few remarks, I beg to reply.

The Temporary Speaker (Hon. Omboko Milemba): Very well. We shall put the Question at a later time.

Hon. Members, while seated in this Chair, my business is to give you chance to speak on the business before the House. When you move that the Mover be called upon to reply and proceed to vote that it happens, we must go in that direction. The Mover cannot start distributing chances to Members to speak.

Next Order.

APPROVAL OF SESSIONAL PAPER NO.2 OF
2023: THE NATIONAL TAX POLICY

The Temporary Speaker (Hon. Omboko Milemba): Proceed, Chair of Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Speaker. I rise to move:

THAT, this House adopts the Report of the Departmental Committee on Finance and National Planning on its consideration of Sessional Paper No.2 of 2023 on the National Tax Policy, laid on the Table of the House on Thursday, 23rd November 2023, and approves Sessional Paper No.2 of 2023 on the National Tax Policy as recommended in the Report.

Hon. Temporary Speaker, before citing the specific provisions of the policy, it behoves us to understand the motivation behind this policy. Since Independence, our country has had several tax legislations that have guided the tax measures it undertakes. However, there has never been a single policy that acts as a guide for the country to ensure fairness and equity in the tax system. This lacuna has seen the tax system in the country being unpredictable, making it difficult to create certainty in tax rates and bases. The policy is part of the national Government's effort to enhance transparency in tax practices, and it forms the basis for tax reforms and review of existing tax legislation in future. The key challenges identified in the tax system by the National Tax Policy include:

1. A growing tax expenditure.
2. Complexities in taxation of emerging economies and technologies such as online business, cryptocurrencies and digital assets.
3. Low tax compliance.
4. Challenges in international taxation.
5. Lack of guidelines for treaty negotiation.
6. Delay in settlement of tax disputes.

Why do we need a National Tax Policy? The rationale is to grow the tax revenue. The tax reforms within the confines of the National Tax Policy will enhance the domestic resource mobilisation required to finance the Government's development agenda and reduce the country's fiscal deficit. You cannot claim to be independent or sovereign if you cannot finance your budgets. As long as you rely on other people's resources, your independence and sovereignty, as a country, are under threat.

Secondly, this policy provides a legal framework for introducing tax incentives. This policy is, therefore, critical in guiding the management and monitoring of tax incentives to safeguard the tax base and ensure value for money.

Thirdly, it provides guidance, ensures certainty and establishes coherence in terms of any future amendments. Frequent changes in tax laws cause unpredictability and inefficiency in tax administration. This creates distortions which impose additional costs on taxpayers and revenue administration.

This policy also enhances the structures for information gathering and sharing, it provides guidelines for enhancing information gathering and sharing to support revenue mobilisation and protect the tax base.

Hon. Temporary Speaker, in terms of efficiency on how we manage our tax refunds, the tax refund process is lengthy and constrained by inadequate information. The Kenya Revenue Authority (KRA) delays in paying tax refunds thus withhold the working capital of taxpayers and creating liquidity constraints on businesses. This policy seeks to provide guidelines for ensuring timely processing of tax refunds.

Members may recall that the Finance Act of 2023 allows businesses to claim their input in Value Added Tax (VAT) across other tax brackets. This is to provide an even better enabling environment for businesses to thrive, not just by claiming input tax, but also ensuring that the refunds are budgeted for and paid timely to the businesses and, therefore, safeguarding their

working capital - hence addressing complexities in tax legislation and administration. There have been complexities in tax administration and legislation. An example is the computation of tax liabilities, filling of tax returns and the interpretation of various tax laws. These complexities affect the ease of doing business in the country. Therefore, this policy provides guidelines on how to address these complexities in tax legislation and administration.

Hon. Temporary Speaker, in accordance to Article 118 of the Constitution, the Committee undertook public participation. As a result, we received views from 22 stakeholders. Majorly, they lauded the policy, noting that predictability on the levels of taxation is key to supporting business and investment growth in the country. To address the unpredictability of tax rates, the policy recommends a comprehensive review of taxes every five years. The guidelines and principles of tax policy will be vital in enhancing transparency in the tax policies and addressing the challenges that have plagued the Kenyan tax system for a very long time. Therefore, this policy will ensure that there are no frequent tax changes in tax laws, and will strengthen economic operations of our country.

If you recall, we received the Finance Bill around April which takes up to 30th June to be approved. The business environment is uncertain during the months of April, May and June of each year. It is not clear what decisions Parliament will adopt in tax proposals made around that time. After it is passed, in July, apart from this time when we only have two amendments that are touching on taxes, we find a Statute Law (Miscellaneous Amendments) Bill coming around September or October. That, again, changes a few tax rates or the interpretation of a tax law. Immediately after that, we again go to the next cycle. Even after the Finance Act is assented to by the President around 1st July, remember the Finance Act is always litigated in court. Therefore, there is another two months of not knowing what the courts will decide. All this time sets a very bad precedent to businesses. It sends wrong messages. Therefore, many businesses are not able to have proper tax planning. They cannot know areas to invest in and how to be tax compliant.

Even after these decisions are made, it takes time before the KRA updates the system to reflect the new tax laws. This policy is seeking to address this problem so that we have a predictable tax environment such that if you set up a business in Kenya, you are certain that your tax obligations for the next one or two years are not likely to fundamentally change so that we can ensure that we become marketable as an investment destination of choice in terms of doing business.

Hon. Temporary Speaker, the overall objective of this policy is to guide progressive development and administration of Kenya's tax system. The specific objectives include:

1. Offering policy guidance on collection enforcement and negotiation of taxes.
2. Providing the basis of review and development of tax laws.
3. Providing guidelines to stakeholders, including investors, on tax policy matters.
4. Provide guiding principles for the Kenyan tax system.
5. Providing a legal framework for granting tax incentives and concessions to various sectors of the economy.

Some of the things that the Committee recommended for amendment or revision are that the policy should offer solutions to the ailing tax system by promoting equality in tax administration and providing policy guidelines.

For example, Kenya has a huge untaxed informal sector that the Government can tap into by having innovative ways of increasing our tax base. It will also act as a guide to protect taxpayers, support economic development, enhance the country's competitive edge, promote economic diversification, guarantee value for money, and establish tax incentives and exemption scheme that is aligned with Kenya's development agenda. It is paramount to have a policy that protects the rights and freedoms of the taxpayers. This policy is meant to do that.

Hon. Temporary Speaker, the National Tax Policy of 2023 shall create predictability in tax laws by analysing the challenges present in the current tax regime and setting guidelines and objectives to address them. It will be aligned with the medium-term revenue strategy with an aim of economic recovery through the Government's 'Bottom-up Economic Transformation Agenda (BETA).

The guidelines aim to solve the present challenges affecting revenue collection by expanding the tax base, having international best tax practices and developing a framework for granting incentives. The Committee proposes the expansion of the scope of the hard to tax sectors to include the digital sector, which is a large sector that has remained un-taxed. The three sectors are the digital economy, the informal sector and the agriculture sector. The policy shall provide more innovative ways to expand the tax base. There is need to provide alternative ways to tax the informal sector. For instance, there is a possible reason for withholding tax. This may require businesses to withhold them at source when making payments to the hard to tax sectors.

The Committee has proposed amendment to the National Tax Policy to provide for an efficient funding structure that ensures that settlement of approved tax refund is done within six months. Currently, there is no model for tax refunds, and this has created challenges for businesses. Businesses have their funds withheld for long periods of time, hence reducing their working capital. An efficient structure will ensure that the refunds are made within a short period of time and taxpayers can plan ahead.

As it is now, KRA may owe you money on input Value Added Tax. You may be obligated to pay taxes like PAYE and Corporate Tax. You have applied for a refund, but they may not refund you. If you delay in paying them their dues, that money would accrue interest and penalties yet they owe you money. This amendment was critical to ensure that now you can net off your liabilities on other taxes. You may have stopped doing business and KRA owes you money, but you are not in a position to offset that tax against another one. This policy provides that the National Treasury must allocate funds for approved tax refunds so that they can be made within six months after the approval.

Hon. Temporary Speaker, the Committee has proposed to amend the policy to ensure that tax expenditure estimates are explicitly provided in the annual budget estimates presented to the National Assembly during the budget recycle to improve budget transparency. This obligates the National Treasury to publicise reports on annual tax expenditures. Further, it will set out a progressive tax structure that ensures that the marginal rate is not higher than the Corporate Income Tax rate.

Currently, the marginal rate of 35 per cent is 5 per cent higher than the Corporate Income Tax of 30 per cent. That means an individual is taxed at higher rate than a corporate entity, and also a higher tax base considering that individuals are taxed on their gross earnings while corporations can pay for deductions for the expenses incurred in the production of their income. Individuals are not allowed to claim deductions.

Corporate Tax is calculated by taking the profit of an entity minus the allowable deductions and then applying the 30 per cent Corporate Tax on the net income. However, individuals are not allowed to have any deductions on their PAYE. To give an example, when a company makes a profit Ksh100, 000, they are allowed to make deductions of the expenses they incurred to get that income. This is called allowable expenses. Then we take 30 per cent of that net and calculate it as the Corporate Tax. If you go to an individual who earns a salary of Ksh100,000, the only deductible allowance is contribution to the National Social Security Fund (NSSF) to a particular percentage. The rest is applied to one basic rate. It means that salaried people end up paying higher taxes than corporations. This policy seeks to amend that scenario so that we have individuals paying the same tax as corporates. This will also help to

reduce tax planning where some individuals might find it easier to operate as a company rather than an employee of that company.

Hon. Temporary Speaker, some of the views we received from the public were, for example, to allow for deductions if you have children. That means, for instance, if you are a member of a family and the bread winner, the burden on you providing for that family is higher than someone who does not have a family. Those are some of the interesting views that we are saving to allow one to deduct their monthly expenses like food before PAYE is calculated. This tax policy is seeking to have a fair tax structure for both body corporates and individuals paying tax under Corporate Tax or PAYE.

This policy also proposes an amendment to the policy so that pensions are treated using exempt taxation method rather than the current system. Although your contributions are exempted from taxation, your pension is not exempted from taxation. We want to make sure that we have a total exemption to ensure that pensions are not taxed at all. In addition, this will provide for an inflation adjustment every five years to keep the pace with inflation and the high cost of living. It aims at curing the increasing tax burden on salaried people or the payroll-related services and individuals, especially in the formal sector.

The policy will also ensure that the granting of income tax incentive or exemption is only targeted to manufacturing investments. The same is sustained for not less than five years to allow the growth of these sectors and created certainty in the business environment. This is where we have not been doing very well. We come up with tax incentives, whether it is in investment deductions or other tax incentives we give to manufacturers only for us to change them one or two years later. Setting up a manufacturing plant is capital intensive. The issue is not just the capital, but even the time element. Some manufacturing plants take up to five years to set up. If someone comes to the country and takes about a whole five years to set up a plant hoping to benefit from a particular tax incentive only for you to change those incentives along the way, you are definitely going to lose that investor. The policy recommends that tax incentives should only be for manufacturers. The policy provides that such tax incentives shall not be changed for a period of five years to ensure that we give manufacturers enough time to get a return on investment and promote Kenya as an investment destination of choice.

The Policy provides that Excise Duty should only be charged on goods, communications services and other goods categories as captured in the draft policy. It should not include essential goods, basic necessity goods, and food items, whether imported or locally made. Medicament and agricultural-related products should also be exempted from Excise Duty. Traditionally, Excise Duty has always been a sin tax. It is largely supposed to be charged on goods or products that are harmful so that you discourage their consumption. Examples of such products are alcohol, tobacco and gaming products. Over time, we have seen Excise Duty being applied on many other products which are not necessarily luxurious. The amendments we are advocating for - which we have approved as a Committee and we hope this House will agree with us - is to ensure that Excise Duty only remains on those particular items. The policy has approved that only optimal rate of Excise Duty should be charged with the highest predictability to enhance certainty and predictability before any Excise Duty is levied in future.

Hon. Temporary Speaker, we are also looking at ensuring that we get the optimal rate. Remember that the laffer curve dictates that an increase in taxes will lead to an increase in income in terms of revenue collection up to a particular point. Beyond that point, you are going to see a reduction in tax revenues. We are, therefore, advocating to have optimal tax set up, where we have the policy drivers determining the optimal rate so that we have good collections to ensure that any further increase on the laffer curve does not lead to a decrease in tax revenue collection.

The policy also provides that prior to the national Government making amendment proposals to the East African Community Customs Management Act, 2004, such proposals

should undergo public participation and the National Assembly's approval must be obtained. Upon enactment, the regulations should receive the National Assembly's approval as per the Statutory Instruments Act, 2013 and this also...

(Hon. Kuria Kimani's microphone went off)

The Temporary Speaker (Hon. Omboko Milemba): You will have two more minutes.

Hon. Kuria Kimani (Molo, UDA): This will also apply to double tax agreements. The debate we had yesterday about KRA and the airports is a result of the East African Community Customs Management Act, 2004. Our Constitution says that there cannot be taxation without representation, but the East African Community (EAC) Council of Ministers recommend particular taxes through the East African Community Customs Management Act, 2004, and that law is never brought to the National Assembly for approval. We have provided for it in this policy so that as the EAC Council of Ministers make such proposals, they are brought to this National Assembly for approval, in compliance with our Constitution.

The policy will ensure that there is a re-negotiation framework for double taxation agreements to ensure that the instruments are kept up to pace with the current business realities within the relevant countries. We have a lot of double taxation agreements between countries that have not been properly negotiated and have not been brought to this House for approval.

The policy will also provide for the inclusion of an implementation matrix that will guide implementation of the tax policy. The implementation matrix will, among other things, capture timelines, responsibilities, actors and costs. Further, it will provide for an independent entity to oversee the implementation of the policy. This will be required to be submitted to the National Assembly quarterly.

Hon. Temporary Speaker, this policy will also include a risk management and mitigating framework to guide on any risk arising from the policy.

With those many remarks, I beg to move and ask the Legal Counsel, Hon. Muriu, to second.

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

Hon. Wakili Edward Muriu (Gatanga, UDA): Hon. Temporary Speaker, I second the proposed amendment to our taxation laws and policies.

Any country that is in the threshold of economic take off must have certain taxation regimes that are predictable to enable that investors plan as they prepare to invest. Tax is one of the key lines of expenses for investors. Before any investor decides to invest in any venture, including *mama mboga*, he must consider the tax regime and its predictability.

Secondly, this country has about 2.8 million young people who are looking for jobs. Every day I receive calls from young people in Gatanga Constituency looking for opportunities to work. The only way we can ensure that we attract investors who can set up factories and businesses to create employment for our young people is to have a predictable taxation regime.

Hon. Temporary Speaker, there are instances where organisations like Kenya Power negotiate for lopsided power purchase agreements. They purchased very expensive thermal power at the expense of Kenyans' businesses. Our hydroelectric dams are full and ready now. We want to see a total reduction of the amounts on our electricity bills in our homes and factories, so that we can enjoy *El Nino*. It has a bad side whereby we have floods. On the other hand, we expect Kenya Power to reduce electricity tariffs, switch off the thermopower and use the hydropower so that our factories can increase production. The cost of goods and services can become cheaper and factories can employ our people.

Finally, as we straighten our taxation regime and make it predictable, I also urge Kenyans that we have a key responsibility to pay our debts. A country which forgoes repaying its debts becomes an international barrier. The currencies of countries like Ghana, Zambia,

Ethiopia and Sri Lanka are totally devalued. They cannot get any financial support from the international money markets. In exercise of their sovereignties, the Governments in those countries are raiding citizens' accounts and taking away money to pay and support their expenses. As we align our rules and regulations and streamline our taxation rules, I want Kenyans to understand that we must pay our debts and obligations, so that this country can survive and protect our citizens from the adverse effects of failing to do so.

With those remarks, I support the Motion.

The Temporary Speaker (Hon. Omboko Milemba): Hon. Muriu, you were seconding the Motion. Please go on record as having done so.

Hon. Wakili Muriu (Gatanga, UDA): I am sorry, Hon. Temporary Speaker. I was seconding the Motion.

I second.

(Question proposed)

The Temporary Speaker (Hon. Omboko Milemba): Hon. John Mutunga will have the first bite of the cherry.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you, Hon. Temporary Speaker. I wish to commend the Departmental Committee on Finance and National Planning for coming up with this Sessional Paper No.2 of 2023 on the National Tax Policy, which is a guideline for taxation in this country.

The Mover and Secunder have articulated very well that unless we have predictability in the tax regimes, we dissuade our countrymen from doing a lot of business and we do not attract foreign investors. Attraction of foreign investment depends on the cost of the investment. Lack of a predictable tax environment dissuades, in terms of people deciding on where to invest their money. Investments do not come for a few days or years but they come for a long time. Since it is long-term, there is need for predictability. This Sessional Paper on the National Tax Policy is key in ensuring that anyone who is interested in doing business in Kenya knows the exact prevailing tax environment.

Incidental tax changes cause a lot of discontent among citizens. It can also erroneously dissuade investment. I want to be very clear on this. Whenever we have a budget that we are trying to fund, we look at the various ways in which we can get money. A Government can get money in a variety of ways. One of them is international trade. The other one is the changes in the currency, for instance, the evaluation and devaluation of a currency. There are many other ways. The key among them is taxation.

This country has majored a lot on taxation as a source of income. My friends in the opposition use the taxation measure to basically fight the Government unfairly. If you listen to them talking sometimes, they say that Kenya is the most taxed country in the world. They speak without empirical evidence. We cannot have it, unless we refer to some materials. There is no material they can refer to. These are statements made by individuals based on their understanding of a situation that is not documented.

Having a Sessional Paper or policy document that prescribes the tax regime over time is key to enabling us make references and not to allow polarisation of the citizenry by telling them that they are the most taxed country in the world. I do not think there is any evidence to back up such statements. There is need for the prospective investors to know that there will be a spirit of fairness in handling their businesses over time because they will invest for 10, 15 or 20 years. They need to know that there is a stable base upon which they will be required to make payments to our Government for the services and even for the business operating environment. That is why taxation policy is important.

It is also possible for us to make comparisons with other countries. We cannot compare without having a base, document or benchmark. This particular policy statement brings in that benchmark, which is key for us to compare Kenya with Uganda, Rwanda, Indonesia and other countries. In our packaging for investment from other countries or foreign direct investment, we shall talk clearly on having a reliable tax regime. People will not understand the incentives unless they are clearly outlined in a policy document. They may not understand the waivers and process of claiming for the VAT they will probably pay. Some do not even know that there is claim for some of these payments. That is why this policy document is very important.

To wind up, we need such a document so that people can refer to such matters correctly. There was a situation where a Member of Parliament misquoted Kenya Power. He said that there are people and regions that are charged more than others. I went through experimentation of paying for two places in different locations using the payment system.

The Temporary Speaker (Hon. Omboko Milemba): Is Hon. Timothy Toroitich in the House?

Hon. Timothy Kipchumba (Marakwet West, Independent): Yes. Thank you, Hon. Temporary Speaker, for giving me an opportunity to contribute to this very important Motion. I rise to support this Sessional Paper No.2 of 2023 on the National Tax Policy.

I am quite surprised because we do not have a National Tax Policy in this country and this is the first one. That is why there have been problems in this country, in respect of taxation. It is true that the budget of this country is financed majorly through taxation. It is time we had a tax policy that is transparent, inclusive, credible and predictable. This will help us to avoid haphazard taxation of Kenyans through various regimes of law without a proper tax policy in place.

We have had problems in this country. Businesses have moved out of the country because of unfavourable tax policies. We have a sad case in Eldoret, where the proprietor of Mediheal Hospitals is closing shop. Thousands of people in this country will lose their jobs because Mediheal Hospitals are moving to Uganda and Tanzania because of unfavourable tax policies. I call upon the Chairperson of the Departmental Committee on Finance and National Planning to do a comparative analysis of taxes imposed in Kenya compared to those imposed in other countries. Ours must be equivalent to, or even lower than, what other countries impose, so that we attract permanent investors to Kenya.

I am impressed that this Policy will handle matters of double taxation and trans-county taxation. There are many cases in court involving businesspeople who have been double taxed from one county to another. A transporter may be moving from Elgeyo Marakwet through Uasin Gishu County, Nandi County and finally Kisumu County. The transporter has to pay taxes in all the four counties. Our tax regime must be reviewed so that we have a standard formula to avoid double taxation and trans-county taxation, which ultimately injure investors and prevent us from raking in money that we intend to get from taxation.

I support this progressive Policy. I thank the Member for Molo, Hon. Kuria Kimani, who is the Chairperson of the Departmental Committee on Finance and National Planning, for this progressive Policy that will align our tax regime. We will then have a tax regime that is legal, fair, transparent, credible and predictable.

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

Hon. Mugambi Rindikiri (Buuri, UDA): Thank you, Hon. Temporary Speaker. I support this tax policy. However, I would like to point out a few issues of concern in as far as taxes are concerned. There has been a very serious outcry from low-income earners in our country because of the impact that taxes have had on them in the absence of a tax policy. Our taxation regime does not take care of low-income earners. Taxation has discouraged competitiveness amongst small and medium-sized businesses.

We need to be very careful going forward because there have been very serious problems of tax evasion. Many people evade paying taxes, which results in loss of revenue to the country. Once taxes are imposed, consumer prices shoot up, which affects everybody in the republic. Taxation can be an impediment to the economic growth of our country. This Policy will address those factors that have affected many Kenyans. It is true that once we have a tax policy, it will regulate the tax regime and put into force a good system of how taxes will be formulated and at the point at which they will need to be revised. This policy is aimed at aligning the Government goals with the tax regime. That is a very important point that the Committee has brought forward.

We need to encourage foreign investors. Many investors close their businesses because of high cost of doing business. If taxation is very high in the country, foreign investors will go to invest in other countries. We need to ensure that once Kenyans pay taxes, they are utilised for social and economic responsibilities of the Government. This policy is going to align our economic stability, social funding and our investor confidence, and at the same time focus on revenue generation. This policy has come at the right time. Most of the problems that we are experiencing that we hear Kenyans crying about are because we never had a policy. So, going forward, we will see a lot of reviews and adjustments in policies. The Government will address tax matters by having correct registration. So, we will not have issues to do with the complaints that we have heard.

We must pay taxes. There is no country in the world where its citizens do not pay taxes. We must pay taxes because we need service delivery. However, taxes cannot be the only source of revenue. We need to look at how we can make money from other avenues. We should increase our investment so that we have more income. The income can be revenue that can be injected to our economy. I support.

The Temporary Speaker (Hon. Omboko Milemba): Very well. I see a lot of interest on this debate. I can see a number of interventions, including from great minds on economics and finance. However, the last bite will go to Hon. John Kawanjiku. The rest of the Members will have a bite on this next time.

Proceed.

Hon. Njuguna Kawanjiku (Kiambaa, UDA): Thank you, Hon. Temporary Speaker for giving me this opportunity to contribute to this important Bill. I also want to be on record for congratulating the Chairman of the Departmental Committee on Finance and National Planning and his Committee for coming up with such a noble proposal that will move our country forward. Tax is a very emotive topic. We have a lot of backlashes from the community on taxation and how far we can stretch the three million people who earn through payslips. It is very important for a tax policy to be brought on board so that we can increase our tax bracket and stop stretching and overburdening the three million Kenyans who are paying taxes. This Sessional Paper will make sure that we target the informal sector, agriculture sector and the Micro, Small, and Medium Enterprises (MSMEs) and then come up with a methodology that will ensure that everybody who belongs to this country pays taxes because there is no other way of growing our economy and improving development.

There is no other way that the Government earns money or gets revenue apart from taxes. However, there must be a deliberate move to make sure that these policies are not overburdening the only people who are paying taxes. We must also broaden our tax nets and make sure that we collect revenue from the informal sector, where there is no formal ways of collecting tax. When it comes to agriculture, the Government has been collecting its revenue. You will realise that the informal and agricultural sectors bear the biggest load of tax. The money that is collected still goes back to build the informal sector and the agricultural sector.

The KRA must come up with reforms that will help them broaden their network and collect more taxes. These are some of these issues that can be resolved if every Kenyan pays a

very small amount of money as tax. We should ensure that we do not burden our country with loans and debts that are now overboard. We cannot sustain them anymore because we do not have enough revenue to run our country. This country belongs to all of us. We need development, and therefore, we should ensure that these taxes are put into correct use. After collecting enough revenue, we must make sure that the money is put into correct use.

Hon. Temporary Speaker, corruption must be dealt with. There is no way that Kenyans pay these taxes and the money ends up in a few people's pockets. As we support revenue collection, we must also make sure that there is prudent use of these taxes. When it comes to Government projects and civil servants, we must ensure that there are checks and balances such that every coin collected is put into correct use. We must enhance mechanisms of fighting corruption. The EACC must perform its role. We must make sure that the procurement process is adhered to, and once taxes have been collected, they are prudently used.

It is high time we reviewed our tax policy. We should support the Chair and the Committee as they come up with better terms and methodologies of collecting taxes.

With those remarks, I support.

ADJOURNMENT

The Temporary Speaker (Hon. Omboko Milemba): Hon. Members, the time being 1.02 p.m., the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 1.02 p.m.

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