

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 27th March, 2024

Afternoon Sitting

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Deputy Speaker (Sen. Kathuri) in the Chair]

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, confirm whether we have quorum. Serjeant-at-Arms, ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

We now have quorum, so let us transact business. Clerk, call out Order No.1

PETITIONS

IMPLEMENTATION OF AWARD BY ENVIRONMENT COURT FOR COMPENSATION AND RESETTLEMENT

Hon. Members, kindly, have your seats.

Hon. Senators, we have a petition to the Senate concerning the implementation of an award by the Environment and Land Court for compensation and land resettlement.

Pursuant to Standing Order No.232(1)(b), I hereby present to the Senate that a Petition has been submitted through the Clerk, by residents of Kwale County and Citizens of the Republic of Kenya.

As you are aware, Article 119(1) of the Constitution states, and I quote-

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

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The salient issues raised in the Petition are as follows-

(a) THAT, the Petitioners are the legitimate owners of the property known as Ramisi Phase 1 Block 5056 in Kwale County;

(b) THAT, the petitioners have occupied the said land since precolonial times, having inherited the same land from their fore fathers;

(Several hon. Senators walked into the Chamber)

Hon. Senators, you can have your seats. This is a bit long. Just sit on the nearest seat that you can get.

(c) THAT, measures were put in place to settle the rightful owners on the land which was ancestral;

(d) THAT, to settle the rightful owners, the Government embarked on a settlement scheme which resulted in issuance of offer letters to the squatters;

(d) THAT, the said land is currently being occupied by M/S Kwale International Sugar Company Ltd through forceful and unlawful demolition of housing structures, destruction of property belonging to the squatters and alleging that they were the legitimate owners of the property having been issued with a lease by the government;

(e) THAT, the public having had their property maliciously destroyed were dispossessed of their land, and displaced, in the process, their livelihoods were destroyed without any form of compensation;

(f) The Petitioners through Mkupuo Network Awareness, a non- partisan community-based organization duly registered under the Ministry of Labour and Social Protection, lodged a petition at the Environment and Land Court in Kwale against the Ministry of Labour and Social Protection (1st Respondent), the Director of Land Adjudication and Settlement, Kwale (2nd Respondent), Kwale International Sugar Company Limited (3rd Respondent) and the Attorney General (4th Respondent);

(Several hon. Senators walked into the Chamber)

Hon. Senators, make your way to your nearest seat, Sen. (Dr.) Murango.

(g) In the court petition, the petitioners-

(i) sought to reclaim legitimate ownership of the aforementioned land;

(ii) prayed that the court restrains the Third Respondent from accessing the land in any manner;

(iii) prayed that the court issues a declaration that the act of the company to forcefully occupy the land was unlawful and unconstitutional;

(iv) sought damages against the Third Respondent for breach and/or violation of their rights pertaining to ownership and protection of their property;

(v) prayed that the court issues an order directing the respondents within 90 days of the court's judgement to perform their constitutional duties and forthwith issue certificates of title to members of the public that had been residing in the said land and resettle them; and

(vi) prayed that the court issues an order that M/s Kwale International Sugar Company Ltd bears the cost of the Petition and makes any other judgement that it deems fit in the matter.

(h) THAT, on 27th January, 2023, the Environment and Land Court, Kwale, rendered a judgement in ELC Petition Case No.14 of 2021 (Mkupuo Awareness -Versus - Cabinet Secretary, Ministry of Lands, Public Works, Housing and Urban Development and Others), ordering compensation of the petitioners to the tune of Kshs170 million;

(i) THAT, the court granted 12 months to comply with this decree, which duly expired on 27th January, 2024;

(j) THAT, despite the lapse of the timeframe, this decree has not been complied with to date, causing undue hardship and suffering to the petitioners;

(k) THAT, none of the issues raised in this Petition are pending before any court of law, constitutional or any other legal body.

(l) THAT, consequently, the petitioners pray that the Senate-

(a) intervenes with a view to ensure prompt payment of the compensatory funds due to the petitioners to the tune of Kshs170 million;

(b) owing to the fact that the assessment was for one village named Nikaphu, the Senate also follows up on the compensation of the remaining villages which were not included in the valuation report; and,

(c) intervenes and ensures prompt resettlement of the squatters affected as directed in the court's decree, providing the petitioners with at least five acres each to match the size the Government had previously allocated to them, with the legal representatives of the petitioners participating in each step for oversight purposes.

(Several hon. Senators walked into the Chamber)

Honourable Senators, you can have your seats. That is the end of the Petition. Using Standing Order No.237, I will allow few comments for around 20 minutes maximum. I will start with Sen. David Wakoli Wafula.

Sen. Wafula: Asante, Bw. Naibu wa Spika, kwa nafasi hii. Jambo linalotokota mikononi mwako linahusisha umiliki wa ardhi ya watu wa eneo hilo. Ardhi ni jambo lililoleta mtafaruku na shida miongoni mwa Wakenya. Ukiangalia jamii ya Wamaasai, ulisikia juzi katika Seneti kwamba kuna zogo kati ya wakaazi wa Narok, Kajiado na Machakos, na pia maeneo mengi hapa nchini.

Hao walioleta Ardhilhali hii hapa Seneti, kuna uwezekano kwamba wamejaribu kufuata nyenzo tofauti za Serikali kutafuta haki, lakini kwa sababu ya mirengo ya kisiasa au kitabaka na wale wanaohusika katika Serikali, hawajapata nafasi ya kumiliki ardhi yao.

Ni jambo zuri wameleta Ardhilhali hii hapa na tunatarajia kwamba Kamati ya Ardhi, Mazingira na Maliasili hapa Seneti na kamati zingine husika, zitaweza kuhusishwa na kuleta mwafaka na haki miongoni mwa wakaazi wa eneo hilo.

Bw. Naibu wa Spika, natarajia katika awamu hii ya Serikali ya Kenya Kwanza, tutafunga ukurasa huo wa watu kunyakua ardhi ya wengine pasipo kuheshimu sheria za nchi ya Kenya.

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The Deputy Speaker (Sen. Kathuri): Hon. Senators, I guide that each Member contributing or making a comment to stick to two minutes and I request the clerk to do the timing for me.

Proceed, Sen. Mwinzagu Chimera Raphael.

Sen. Chimera: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I hope the Clerk is mindful of my time.

I rise in support of this Petition. It is common knowledge that I come from Kwale County. It is a sad day for me as a leader from this county to see a Petition of this manner being brought before this honourable House.

Court orders, directives or decrees the world over are issued for a specific and particular purpose. Court orders do not operate in a vacuum and they are not in vain. Once a Kenyan has gone to court and obtained certain orders, then it is incumbent upon state agencies to implement them.

Mr. Deputy Speaker, Sir, we are a country governed by laws and ruled by the rule of law. It is, therefore, shocking that we have such a situation in Kwale whereby a court has pronounced itself on this issue and certain people have refused to implement the orders of the court.

I take this opportunity to congratulate the Mkupuo Organization for making the effort to make sure that we reclaim this land. For long, the people of Kwale have suffered under historical injustices. They have lost land at the hands of unscrupulous investors. These investors must come to Kwale County with the intention of solely investing there. It is wrong to see an investor who is willing to put in money in Kwale and invest in our economy, working round the clock to ensure that they dispossess the people of Kwale of their original ancestral land.

I will say before this honourable House that, as a Senator from Kwale County, and I am sure that if my colleague, Sen. Issa Boy, was present, he would agree with my comments, we will not rest until the rights of the people of Ramisi Phase I, Block 5056 have been realized; and that the people are resettled as per the court order arising from this Petition.

I support.

The Deputy Speaker (Sen. Kathuri): Thank you. Sen. (Dr.) Oburu Odinga.

Sen. (Dr.) Oburu: Thank you, Mr. Deputy Speaker, Sir, for the opportunity. Land grabbing in this country has become a cancer. You will find people who want to invest and sometimes, they come and fall in the wrong hands like land grabbers who mislead them and make them misdirect their investment. The court process drags on for too long yet, some of these people who come to invest are foreigners and every now and then, they get invited to come and hear their cases. This is such a protracted process.

The other serious thing is the disregard of court orders. The Government is supposed to enforce court orders. It is unfortunate that it has become a practice, more or less official, that the Government disregards court orders and says that it will not obey. This encourages other people to disobey and if we continue that way, this country is going into chaos. We must ensure that court orders are respected by the Government and implemented as they are. There are processes of appealing if you are dissatisfied with any

court order. You can appeal to the Supreme Court but you should not disregard court orders. They must be respected.

Thank you very much.

The Deputy Speaker (Sen. Kathuri): Well spoken.

Proceed, Sen. Ndiritu John Kinyua.

Sen. Kinyua: Asante, Bw. Naibu Spika, kwa kunipa fursa hii. Ninaunga mkono Ardhilhali hii ambayo imewasilishwa katika Seneti. Ni dhahiri shahiri ya kwamba mahakama imeamua na kutoa maamuzi kuhusu jambo hili. Ni vizuri ijulikane kwamba kamati itakayoshughulikia jambo hili, kwanza ishughulikie maamuzi ya mahakama kwa kuwa kulikuwa na fidia tayari na mahakama imesema kuwa wanapaswa kupewa zaidi ya Ksh170 milioni.

Ni jambo la kuvunja moyo sana ikiwa waigizaji watakuja na kuwatimua watu mahali walikuwa wanaishi kwa muda mrefu kisha baadaye kuwaita maskwota. Ijapokuwa ni walala hoi, wana haki kisheria kumiliki ardhi hii. Uamuzi wa mahakama unastahili utiliwe maanani. Watu hawa wafidiwe pesa hizo wameitisha. Vile vile, tunataka wapewe nafasi ya kumiliki shamba hilo kwa sababu ni lao. Sijafuatilia maamuzi ya mahakama lakini kwa sababu nchi hii yetu mahakama ikifanya uamuzi, hatuna budi kuzingatia uamuzi huo.

Bw. Naibu wa Spika, Seneti hii imeenda mahakamani wakati sheria zingine zimepitishwa na hazikufuatilia mwelekeo ambao unapaswa. Mahakama iliamua kwamba sheria hizo zirudishwe katika Bunge hili na ziweze kuangaziwa upya. Ikiwa hilo linaweza kufanyika, vile vile, hawa maskwota wanapaswa kupewa haki yao kulingana na uamuzi wa Mahakama.

Asante.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Osotsi.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I also rise to support this Petition. This is a very straightforward matter. I hope the Committee concerned will not spend a lot of time on this. It is a matter involving a court process that gave an order and the order has not been implemented by the responsible agencies.

Secondly, we encourage investors in this country, but let them not take advantage of our people to either take their land or do strange things to them. We had a similar petition with this particular company, Kwale International Sugar Company (KISCO), in the 12th Parliament, but on matters touching on labour rights of the workers of this company.

I am among the Members who went to that company and saw the deplorable conditions in which the workers of this company live in. We are now being told that they have been involved in land grabbing. So, as the Committee looks at this matter, they also need to tell us more about the activities of this company.

I think we have limitations in the Standing Orders. We want to have a situation where the report emanating from a Petition is debated in this House so that when we come up with very specific recommendations, they are implemented and not just the tabling that we do at the moment.

I support.

The Deputy Speaker (Sen. Kathuri): Proceed, Senator for Kericho County and Majority Leader in the Senate.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. This looks like a fairly straightforward matter. In fact, listening to Sen. Chimera, being an advocate of the High Court, we can easily resolve without having to consume the time of the House.

If as alleged, these citizens already have an enforceable court order, then, the only prudent thing to do is to cite those who are supposed to have enforced this order for contempt of court and force them. This is not something that we need to take much time on unless there are other facts which have not been presented before us as the case may be.

Sometimes, when you listen to one side of the story, it is not until the accused also speaks up that you will understand that there might be issues thereon. I suggest to these residents and their Senator, Sen. Boy, can assist these people to perhaps enforce their court order, if the facts are as presented in this Petition.

I thank you.

The Deputy Speaker (Sen. Kathuri): Let us benefit from the contribution by Sen. Boy, the Senator of Kwale County. I will give you three minutes.

Sen. Boy: Asante sana, Bw. Naibu wa Spika, kwa kunipa fursa hii. Kweli, mimi kama area Senator wa Kaunti ya Kwale, shida hii imefika kwa wakati mzuri sana na imefika pahali pake.

Mwanzo, mimi ni area Senator na pia mwanachama wa Kamati ya Ardhi, Mazingira na Maliasili. Hawa watu wa KISCO wamekuwa wakidhulumu watu wa Kwale Kaunti. Watu wameishi pale kwa miaka mingi na familia zao lakini leo wamekuwa maskwota ambao hawatambuliki. Wamesema watakatia wananchi wa Kwale ardhi ya sehemu fulani ili waweze kuishi lakini wamegeuka wakati amri ya mahakama imetoka.

Sina maneno mengi ila kusema kwamba hii Ardhi hali ikifika katika kamati ambayo inahusika, ambapo mimi kama mwanakamati wa Ardhi, Mazingira na Maliasili ikiongozwa na Sen. Methu, Vice-Chairman - Sen. (Dkt.) Lelegwe na wanakamati wenzangu, nitahakikisha kwamba haki ya watu wa Kwale imepatikana kwenye hii shamba ya KISCO.

Bw. Naibu wa Spika, itakuwa jambo mbaya sana kuonekana kwamba wananchi walioishi pale miaka mingi na mahakama imeamua wapewe ardhi hii, leo hawatambuliki. Hii tunahakikisha katika kamati ya Seneta Methu--- Najua utatoa mwelekeo kuhusu ni wapi Ardhi hali hii itaenda katika kamati gani. Nina imani Ardhi hali hii itaenda katika Kamati ya Ardhi, Mazingira na Maliasili. Samahani najuaa wazi.

Kwa hivyo nawahakikishia wakazi wa Kwale wakinitazama katika runinga saa hizi, wasitie wasiwasi. Nitasimama imara---

The Deputy Speaker (Sen. Kathuri): Sen. Munyi Mundigi, what is your point of order? Have your seat, Sen. Boy.

Sen. Munyi Mundigi: Bw. Naibu wa Spika, naunga mkono Seneta wa ---

The Deputy Speaker (Sen. Kathuri): Unaunga au ni hoja ya nidhamu?

Sen. Munyi Mundigi: Hoja. Nataka nimkosoe kuwa anaharibu Kiswahili kuchanganya Kiswahili na Kiingereza kwa kusema "area hii". Angesema eneo hili.

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(Applause)

The Deputy Speaker (Sen. Kathuri): Endelea, Sen. Boy.

Sen. Boy: Asante sana, Bw. Naibu Spika. Kusema kweli ni sawa, nakubaliana nawe. Waswahili wanasema mdomo na ulimi hauna mfupa. Au sio? Kwa hivyo nakubaliana naye.

Bw. Naibu Spika, yangu ni kusema haki lazima itendeke kwa watu wa Kwale, katika eneo la hilo shamba.

Nashukuru mwenzangu, nominated Senator Chimera, ambaye tunashirikiana pamoja. Tukazane tuhakikishe watu wetu wanapata ardhi hii na sawasawa.

Asante, naunga mkono sana Petition hii.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Tabitha Mutinda.

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. I rise to fully support this Petition and congratulate this group called the Mukupuo Network Awareness.

It is very sad that court orders are not being adhered to. You have seen how the issue of the housing levy was taken to court. We, as Kenya Kwanza Government, adhered to those court orders. We are proud that the Bill was assented to last week because we adhered to those court orders. It is so sad that, today, we are still on the issue of court orders not being adhered to.

Mr. Deputy Speaker, Sir, you know that I like doing research. I have tried to look at who the owners of this Kwale International Company are, that are so top in this world that they cannot adhere to court orders. In my research, I realized that Pabari Investment Company and Omni Care of Mauritius are the owners of this company. Further to that, Rajesh Pabari and Kaushik Pabari seem to be the owners of this company.

So, if we narrow the discussion on this issue, these are just two or three individuals not adhering to court orders. It would be prudent to note that as much as we are focusing that this petition goes to the Committee on Lands, Environment and Natural Resources, the issue has been addressed and orders given that the owner should be compensated Kshs175 million.

The issue that is before us is a court order that has not been adhered to. So the Committee on Justice, Legal Affairs and Human Rights should embark on this and ask why this court order has not been adhered to.

(Sen. Tabitha Sen. Tabitha Mutinda's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): We have four minutes. So, one Member of each side.

Proceed, Sen. Ojienda.

Sen. Tom Odhiambo Ojienda, SC: Mr. Deputy Speaker, Sir, I speak in a special capacity. Let me disclose my interest in this matter. I am the advocate for Kwale Sugar International Company. I must disclose on record that I am the lawyer for Kwale Sugar International Company against Mkopuo Network Awareness.

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(Loud consultations)

Sen. Cherarkey: On a point of order Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): There is a point of order from Sen. Cherarkey.

Sen. Tom Odhiambo Ojienda, SC: So, I am declaring that I am the lawyer---

The Deputy Speaker (Sen. Kathuri): Just a minute, Sen. Ojienda. Let me get this point of order from Sen. Cherarkey, your student. Maybe your student wants to challenge you.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I rise under Standing Order No.104.

(Sen. Kinyua consulted loudly)

You know Sen. Kinyua is still in Kenya School of Law. He should be very kind.

Under Standing Order No.104, my brother, Sen. Ojienda, has started it very well. He has just disclosed partially his interests, but the Standing Order is specific that he should tell us the pecuniary and proprietorship interest; he should first declare. So, you need to tell us how much you are being paid to represent the company. As per Standing Order No.104---

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, you are out of order.

The Deputy Speaker (Sen. Kathuri): So, Sen. Ojienda is very much on the right side.

Sen. Tom Odhiambo Ojienda, SC: Thank you, Mr. Deputy Speaker, Sir. I had to declare my interest because Kwale Sugar International Company (KSICO) is my client. More specifically, I handled a case involving Ramisi Sugar Company. I also handled a case against Mkopuo Network Awareness. The respondents lost the case. We won the case before the Kwale High Court. What Mkopuo Network Awareness has come to claim in the Senate and part of what has been established in the Petition is subject to a lot of verification.

Let me confirm that the---

(Loud consultations)

I wish we could have some silence. The question of compensation---

(Loud consultations)

The Deputy Speaker (Sen. Kathuri): Order, hon. Senators. Order Sen. Cherarkey. Senior Counsel Ojienda, the Senator for Kisumu, will be heard in absolute silence.

Sen. Tom Odhiambo Ojienda, SC: Thank you, Mr. Deputy Speaker, Sir. The case on Mkopuo touches on two aspects. Mkopuo Network Awareness lost a case against KSICO for rights to a specific parcel of land. What they won was an early award that

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directed that former land owners or workers of Ramisi Sugar be allotted land. That is the role of the National Land Commission (NLC) and has nothing to do with KISCO. That is a point that the Committee on Lands, Environment and Natural Resources will look at.

Mr. Deputy Speaker, Sir, when we do our cases, we win because we set out proper facts before the courts. You know I am a land expert.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Miraj: Asante, Bw. Naibu Spika, kwa kunipa fursa hii nitoe mchango wangu. Kwanza, nakubaliana na walioleta Ardhi hii hapa yasikizwe. Zaidi, ningependa Bunge hili au taasisi husika ya NLC watuelezee sisi watu wa Pwani maana ya watu walio dhulumika kihistoria. Tunapozungumza hivi sasa, kule Mombasa, Tume ya NLC inazunguka na inahadaa wananchi wangu wa Mombasa.

Haiwezekani kwamba mtu ambaye aliyekuwa Meya wakati huo; wenyeji wanamwita Liwali, alipewa mamlaka ya kusimamia wananchi wa Pwani. Akakabidhiwa ardhi awe msimamizi wa wanaoishi Mombasa. Leo hii amechukua ardhi ile akawaridhisha vizazi vyake. Leo hii watu wa Mombasa wameambiwa watakwenda kununua ardhi na mashamba ambayo ni yao kutoka kwa watu ambao wanaishi ughaibuni. Nataka kujua, ikiwa Seneti ni mbwa ambayo haina meno ama ni Bunge ambalo linatendea haki wananchi wa Kenya.

Wakaazi wa Mombasa hawawezi kununua mashamba kwa watu ambao wamewanyang'anya. Hata ikiwa Rais ametangaza kuwa hakuna mtu atavunjiwa nyumba, sioni kwa nini ushuru wa Wakenya uchukuliwe upewe wale watu ambao wamewadhulumu wananchi wa Mombasa mashamba yao.

Nazungumza hapa kwa uchungu mwingi kwa ile *way forward* ambayo NLC wamepeana kusema ya kwamba sisi watu wa Mombasa hatukudhulumwa. Nataka leo tuambiwe ya kwamba ni nini maana ya *historical injustice* ili tuweze kujua. Hatutakubali---

(Sen. Miraj's microphone was switched off)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, pursuant to Standing Order No.238(1), the Petition should be committed to the Committee on Justice, Legal Affairs and Human Rights for consideration.

Hon. Senators, from where I sit, I request this Committee to expedite this process. Any other Committee that has petitions pending, kindly, in the next 30 days make sure that you conclude on those pending petitions before our committees. Most petitions are from the members of the public and the Senate will not look so good when we do not clear the petitions when they are brought to this House.

(The Petition was committed to the Standing Committee on Justice, Legal Affairs and Human Rights)

Next Order.

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PAPERS LAID

REPORTS OF THE AUDITOR-GENERAL ON THE
FINANCIAL STATEMENTS OF VARIOUS ENTITIES

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today Wednesday, the 27th of March, 2024-

Report of the Auditor-General for the County Governments for the financial year 2022/2023, Volume 1 - County Executives.

Report of the Auditor-General for the County Governments for the financial year 2022/2023, Volume 2 - County Assemblies.

Report of the Auditor-General on Financial Statement of the Municipality of Kilifi for the year ended 30th June, 2022.

Report of the Auditor-General on Financial Statement of Lamu County Women Empowerment Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Isiolo Water and Sewerage Company Limited for the year ended 30th June, 2023.

Report of the Auditor General on Financial Statement of Murang'a County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Nyandarua Water and Sanitation Company Limited for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement on Nyamira County Assembly Car and Mortgage Loan Scheme Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of the Municipality of Kitale for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Turkana County Youth and Women Empowerment Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Migori County Assembly Car Loan and Mortgage Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of Kericho County Assembly Staff Car Loan and Mortgage Fund for the year ended 30th June, 2023.

Report of the Auditor-General on Financial Statement of County Revenue Fund—County Government of Kericho for the year ended 30th June, 2023.

(Sen. Cheruiyot laid the documents on the Table)

The Deputy Speaker (Sen. Kathuri): Sen. Kavindu Muthama, please, take your seat.

Sen. Kavindu Muthama, you are an old Member of this House. Just freeze where you are. You do not need to run.

(Laughter)

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COMMUNICATIONS FROM THE CHAIR

Hon. Senators, I have two Communications to make. We have two delegations both in the Speaker's Gallery and the Public Gallery.

DELEGATION UNDERTAKING PARLIAMENTARY SERVICE INTERNSHIP PROGRAMME

I would like to acknowledge the presence in the Speaker's Gallery this afternoon of eight young men and women who have been in the Senate for the last three months undertaking an internship programme.

The objective of this programme is to provide young people with first-hand experience in the legislative process and to expose them to the intricate world of public policy and public service.

I request each intern to stand when called out so that they may be acknowledged in the usual Senate tradition-

- | | | |
|---------------------------|---|--|
| (1) Mr. David Muthuri | - | Directorate of Social and Economic
Committees (DSEC) |
| (2) Mr. Njogu Githinji | - | DSEC |
| (3) Mr. Oliva Onyango | - | DSEC |
| (4) Ms. Eva Muturi | - | DSEC |
| (5) Ms. Valentine Muchiri | - | Directorate of Legislative and
Procedural Services (DLPS) |
| (6) Ms. Lidya Kawira | - | Directorate of Finance and
Accounting |
| (7) Ms. Lexi Mumo | - | Directorate of Hansard and Audio
Services |
| (8) Ms. Eunice Mugo | - | Directorate of Serjeant-at-Arms. |

On behalf of the Senate and on my own behalf, I wish them well during the programme and their future endeavours.

I request Sen. (Dr.) Khalwale to acknowledge the interns. I saw that you really applauded them when I called out their names. So, please, appreciate them.

Sen. (Dr.) Khalwale: Thank you, Mr Deputy Speaker, Sir. In my capacity and on behalf of the rest of the membership of the House, I congratulate the young people and wish them well going into the future.

The Deputy Speaker (Sen. Kathuri): Thank you.

Hon. Senators, I have another Communication to make.

VISITING KENYATTA UNIVERSITY STUDENTS FROM NDHIWA CONSTITUENCY, HOMA BAY COUNTY

Hon. Senators, in the Public gallery, we have 15 students from Ndhiwa Constituency in Homa Bay County. They are here on a one day educational tour at the invitation of Senator Beatrice Ogola, MP. In our usual tradition of receiving and

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welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

In under one and a half minutes, Sen. Beatrice Ogola, please, welcome the visitors.

Sen. Ogola: Mr. Deputy Speaker, Sir, from the onset, I want to thank you for the opportunity given to the Kenyatta University Students Association (KUSA) from Ndhiwa Constituency where I come from.

On behalf of this Senate, I pass condolences to the Kenyatta University (KU) fraternity for the accident where a number of students lost their lives. As the Senate, we feel with you, and may the Lord rest their souls in eternal peace.

Mr. Deputy Speaker, Sir, Ndhiwa students at KU are very progressive. I want to encourage them and welcome them to the Senate. The Senate protects the interests of the counties. The students know that there is nobody that does not come from a county. So, this Senate takes care of all the interests of counties.

Here in the Senate, we equally have young people like you. We have Sen. Methu, Sen. Hezena Lemaletian, Sen. Orwoba including Sen. (Dr.) Oburu who is the youth leader in other quarters. In this Senate, you have people you can look up to. I encourage you to keep to the path of hard work. Success is not instant coffee, although it was never meant to be easy but keep on working hard.

One thing that I want to leave you with because of the few minutes that I have is that as you go back to your institution, always know where you are coming from, where you are, and where you want to go. Your future is in your hands.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Another one minute for the Senator of Homa Bay County, Sen. M. Kajwang’.

Sen. M. Kajwang: Bw. Naibu Spika, ninashukuru kwa kunipa fursa hii. Vile unavyojua, mimi ndiye mwenye boma kama Seneta wa Kaunti ya Homa Bay. Tunafanya kazi vizuri na Sen. Beatrice Ogola. Anafanya kazi vizuri chini yangu nami ninafanya kazi vizuri juu yake.

(Laughter)

Kwa hivyo, tuko *team* moja na tunashirikiana vizuri sana tukiwakilisha wakaazi wa Kaunti ya Homa Bay katika Bunge hili. Ningependa niwakaribishe wanafunzi wa Chuo Kikuu cha Kenyatta kutoka Ndhiwa. Ningependa niwahimize wasijione kama watu wa Ndhiwa pekee au kama Wajaluo lakini, wajione kama Wakenya. Hii ni kwa sababu wakija hapa Seneti, hata ingawa tunayo tofauti za kisisasa kule nje, wakati tukiwa hapa Seneti, tunawakilisha majimbo yote 47 na sisi sote tunafanya kazi kuhakikisha ya kwamba ugatuzi unafaulu na unaleta manufaa na matunda kwa vijana wetu.

Ningependa pia niwahimize wafanye kazi kwa bidii na wajue uongozi sio kwa siasa peke yake. Wanaweza kuwa viongozi kanisani na *professional settings*---

The Deputy Speaker (Sen. Kathuri): Profesional setting ni kwa taaluma mbalimbali.

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(Laughter)

Next Order.

NOTICE OF MOTION

The Deputy Speaker (Sen. Kathuri): Sen. Jones Mwaruma, please, proceed.

ESTABLISHMENT OF NATIONAL TEACHING AND REFERRAL HOSPITALS IN KENYA

Sen. Mwaruma: Thank you, Mr. Deputy Speaker, Sir, for this opportunity.

I beg to give notice of the following Motion-

AWARE THAT Article 43 (1)(a) of the Constitution of Kenya provides that every person has the right to the highest attainable standard of health, including reproductive health care;

NOTING THAT in Kenya, we have five national teaching and referral hospitals with the Kenyatta University Research and Teaching Hospital in Kiambu County and Moi Teaching and Referral Hospital in Eldoret, Uasin Gishu County, being the only ones outside Nairobi County;

CONCERNED THAT the bed capacity, medical equipment, and human capital in these national teaching and referral hospitals are not sufficient to absorb all the patients seeking specialized treatment;

FURTHER CONCERNED THAT many Kenyans with critical health conditions travel long distances in order to access specialized services in Moi Teaching and Referral Hospital in Eldoret or Nairobi where the other four National Teaching and Referral hospitals are located, leading to high cost of travel, augmented disease and in some cases deaths along the way;

NOW THEREFORE, the Senate urges-

1. The Ministry of Health to-

(1) establish National Teaching and Referral hospitals in the Coast, Eastern, North Eastern, Nyanza and Western regions;

(2) fully equip the National Teaching and Referral Hospitals with modern medical equipment, medical supplies and personnel;

(3) the county governments to allocate more funds to their respective health dockets to adequately cater or facilitate their County Level 5 and Level 6 hospitals in order to enhance provision of critical health services to reduce the demand for such services from the national teaching and referral hospitals.

I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you.

Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Deputy Speaker (Sen. Kathuri): Order, Senators. Sen. Cherarkey, kindly. Let us have the Statements under Standing Order No.53(1). We shall start with the Senator for Uasin Gishu County, Sen. Mandago.

Sen. David Wakoli, proceed.

STATE OF MARKETS IN BUNGOMA COUNTY

Sen. Wafula: Thank you, Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the condition of markets within Bungoma County.

In the Statement, the Committee should-

(1) Report on the state of key markets in Bungoma County including but not limited to Chepkube in Bungoma Town, Misihi, Kamukuywa, Matisi, Bukembe, Mateka, Chwele, Kimilili, Cheptais, Sirisia, Kapkapteng, Kapsokwony, Kabula, Kanduyi Mayanja and Mateka, specifically addressing their viability and functionality of essential services such as water supply, street lighting, infrastructure, waste management and sanitation;

(2) Provide a status update on all market improvements and or expansion projects initiated by the Bungoma County Government from the financial year 2017/2018 to date;

(3) Provide a breakdown of Own Source Revenue generated by the county government from each market from the Financial Year 2018/2019 to date, giving a comparison of the revenue to the total cost incurred for the services construction and market improvement as well as the amount retained from the revenue; and,

(4) State the estimated revenue shortfall arising from the demolitions that happened recently in Kanduyi and Bungoma towns outlining any steps taken.

Mr. Deputy Speaker, Sir, allow me to proceed with my next Statement.

The Deputy Speaker (Sen. Kathuri): Yes, proceed.

SAFETY GUIDELINES AT RAI PAPER MILLS IN WEBUYE, BUNGOMA COUNTY

Sen. Wafula: Thank you, Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labor and Social Welfare regarding the safety guidelines at Rai Paper Mills formerly the Pan African Paper mills in Webuye, Bungoma County.

In the Statement, the Committee should-

(1) Provide a detailed breakdown of all current employees of Rai Paper Mills indicating their respective designations and terms of employment;

(2) Spell out the safety guidelines in place for operating machinery at the factory including the protocols in place in instances of emergency;

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(3) Investigate and report on the three recent incidents that happened at the factory where a plant operator died from being crushed by a winder, another sustained spinal cord injuries and a third operator lost their fingers; and,

(4) Explain the factory's process for compensating workers for work related injuries providing details on the compensation paid in respect of the three aforementioned accidents.

I thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Kinyua, you have two Statements as well.

STATE OF INSECURITY IN RUMURUTI
AREA, LAIKIPIA COUNTY

Sen. Kinyua: Thank you, Mr. Deputy Speaker, Sir. I rise, pursuant to Standing Order No.53 (1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on the state of insecurity in the Rumuruti area, in Laikipia County.

In the Statement, the Committee should-

(1) Provide an update of the status of investigations into the deaths of Mrs. Tabitha Wanjiru Njogu and Mr. Jeremiah Maina---

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Cherarkey what is your point of order?

Sen. Cherarkey: Mr. Deputy Speaker, Sir, just for order, we are following keenly Sen. Kinyuas' Statements, which are on roads and the issue of title deeds. This is not in the Order Paper. Could we be guided properly?

The Deputy Speaker (Sen. Kathuri): Sen. Kinyua how many Statements do you have? First, read the ones on the Order Paper as we sort the other one.

(Sen. Kinyua spoke off record)

PROVISION OF TITLE DEEDS FOR
RESIDENTS OF NANYUKI WARD

Sen. Kinyua: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on the status of processing of land ownership documents for residents of Majengo and Likii villages in Nanyuki Ward within Laikipia County.

In the Statement, the Committee should-

(1) Provide an update on the status of processing of title deeds for the residents of Laikipia County, specifically in Majengo and Likii villages of Nanyuki Ward, stating any challenges encountered in the process;

(2) State when the State Department of Lands and Physical Planning in conjunction with the National Lands Commission (NLC), will issue the affected residents

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with title deeds for their parcels of land while ensuring the accuracy of the land ownership documents; and,

(3) Outline the measures the Ministry of Lands, Public Works, Housing and Urban Development is implementing to streamline and accelerate the issuance of land ownership documents to Kenyans.

Mr. Deputy Speaker, Sir, I have another Statement---

The Deputy Speaker (Sen. Kathuri): On roads?

REPAIR AND REGULAR MAINTENANCE OF
NANYUKI -DOLDOL ROAD

Sen. Kinyua: Mr. Deputy Speaker, Sir, I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Roads, Transportation, and Housing regarding the repair and regular maintenance of the Nanyuki-Doldol Road in Laikipia County.

In the Statement, the Committee should-

(1) Inform the Senate of the current state of the Nanyuki-Doldol road in Laikipia County and state any ongoing efforts for the repair and regular maintenance of the said road to ensure it is of use to the public, further highlighting any challenges faced in repairing or maintaining the road;

(2) State whether the Government has engaged a contractor to carry out repair and maintenance works on the said road, and if not, state plans and timelines for when a contractor would be engaged to address the poor condition of the road; and,

(3) Outline measures, if any, implemented by the Government to ensure that contractors and service providers deliver works, goods and services as per the terms of the tender award to curb delays in service delivery.

I thank you.

Mr. Deputy Speaker, Sir, I have two other Statements that you have approved.

The Deputy Speaker (Sen. Kathuri): I will first confirm. Have a seat for two minutes.

Sen. Orwoba, proceed.

Sen. Orwoba: Thank you, Mr. Deputy Speaker, Sir, I have two Statements.

ALLEGED FINANCIAL IMPROPRIETIES AT UNCLAIMED
FINANCIAL ASSETS AUTHORITY (UFAA)

Sen. Orwoba: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Finance and Budget on alleged financial improprieties at the Unclaimed Financial Assets Authority (UFAA).

In the Statement, the Committee should-

(1) Establish the total amount of funds that have been remitted to the Unclaimed Financial Assets Authority (UFAA) over the last five years.

(2) Investigate discrepancies regarding unclaimed funds amounting to Kshs10 billion that cannot be accounted for, given that only Kshs1.5 billion out of Kshs11.5

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billion has been accounted for, and state any measures the Board has taken against the management in the supervision of the audits.

(3) Establish why UFAA incurred expenses of over Kshs500 million for substandard audit services undertaken, stating the procedure used to procure the services of the audit firms and the role played by the UFAA mManagement in supervising these audits.

(4) State the steps taken to determine the value of unclaimed financial assets in the form of shares that are not currently listed in the Nairobi Securities Exchange (NSE), outlining any measures taken by the Authority to safeguard the shares from decreasing in value and monies made through the sale of shares by way of fiduciary duty as envisioned under Section 143 of the Companies Act.

My second Statement.

REPORTS OF LAYOFFS AT THE STANDARD GROUP AMIDST FINANCIAL CONSTRAINTS

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare on reports of delayed salaries of Standard Group employees.

In the Statement, the Committee should-

(1) State the number of employees on contract and permanent and pensionable terms at the Standard Group.

(2) Confirm the accuracy of claims that employees have not been paid for the last 10 months, providing a timeline for when they can expect to receive their overdue salaries, stating interim measures, if any, in place to support employees who may be facing financial difficulties due to the delay.

(3) State the basis for this delay and establish whether there are plans to restructure the company; stating the measures being taken to protect the interests of the employees in line with Labour laws.

(4) Cause the company to provide regular updates on the progress made towards resolving this issue and steps being taken to rebuild trust and morale among employees.

The Deputy Speaker (Sen. Kathuri): Thank you. Sen. (Prof.) Tom Odhiambo Ojienda, SC, proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Deputy Speaker, Sir, I have two Statements.

OPERATIONALIZATION OF TOWN STATUS CONFERRED TO TOWNS IN KISUMU COUNTY

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Deputy Speaker, Sir, I rise according to Standing Order No.53 (1) to seek a Statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the status of operationalization to town status conferred to towns in Kisumu County.

In the Statement, the Committee should-

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(1) Explain measures in place to prioritize formulation and implementation of policies aimed at operationalization to town status conferred upon Maseno, Katito, Kombewa, Ahero and Muhoroni as towns in Kisumu County.

(2) Elucidate the status of compliance of the County Government of Kisumu with the requirements of the Urban Areas and Cities Act, 2011 with respect to the provision of essential services in the said towns. Furnish the Senate with detailed budget estimates of the costs to be incurred in upgrading the towns.

(3) Provide a detailed budget for the running of each town, including the provisions of services stipulated in the Urban Areas and Cities Act, 2011.

The Deputy Speaker (Sen. Kathuri): Your second Statement.

CONSTRUCTION AND MAINTENANCE OF EXISTING ROADS IN KISUMU COUNTY

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Roads and Transportation concerning the state of construction and maintenance of existing county roads in various sub-counties in Kisumu County.

In the Statement, the Committee should—

(1) Describe the current state of existing county roads in Kisumu County and outline the road network maintenance and improvement plans for the sub-counties in Kisumu County, particularly for Seme, Kisumu Central, Nyando, Kisumu East, Kisumu West, Muhoroni and Nyakach sub-counties.

(2) Provide detailed information regarding the composition of the Kisumu County road maintenance team, their roles and budgetary allocation since its establishment.

(3) Provide a detailed record of the funds set aside for the construction and maintenance of county roads in the said sub-counties, together with the list and status of roads that have been done through the machine-based programme, outlining the budgetary allocation and expenditure since the commencement of works.

(4) Explain the status of county roads that have been constructed and maintained by the County Government of Kisumu during the financial years 2019/2020 to 2022/2023, providing details of all payments made for these works during the said period.

The Deputy Speaker (Sen. Kathuri): Sen. Chute, how many Statements do you have?

Sen. Chute: I have three Statements to read.

WATER SCARCITY IN KORR WARD, LAISAMIS CONSTITUENCY

Sen. Chute: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding water scarcity in Korr Ward in Laisamis Constituency, Marsabit County.

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In the Statement, the Committee should-

(1) State the reasons why the Government has to date not made any lasting interventions to ensure adequate water supply to over 30,000 residents of Korr who have been deprived of access to basic water supply for many years.

(2) Ascertain whether a feasibility study has been undertaken to explore the viability of constructing sand dams across all seasonal rivers in Korr Ward to address the problem of water scarcity.

(3) Outline measures put in place, if any, by the Government to ensure residents of Korr Ward have access to clean water throughout the year.

(4) Shed light on the long-term planning initiatives and policy frameworks in place by the State Department of Water and Sanitation to address water scarcity not only in Korr Ward, but also in other vulnerable areas across Marsabit County.

ELECTRIFICATION OF KORR WARD,
MARSABIT COUNTY

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Energy regarding the status of the electrification of Korr Ward in Marsabit County.

In the Statement, the Committee should-

(1) Outline the plans by the Rural Electrification and Renewable Energy Corporation (REREC) to connect and supply electricity to the residents of Korr Ward in Marsabit County.

(2) Apprise the Senate of any plans by the Government to connect Korr Ward to the power grid transmitting electricity generated from Lake Turkana Wind power.

(3) Provide an update on the status of connectivity of the last mile project in Marsabit County, indicating the scope of the ongoing works.

MAINTENANCE OF LOLOGO-KORR ROAD
IN MARSABIT COUNTY

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Roads, Transport and Housing regarding the maintenance of the Lologo-Korr Road in Marsabit County.

In this statement, the Committee should-

(1) Ascertain the plans, if any, devised by the county government of Marsabit, for the comprehensive construction of the dilapidated Lologo-Korr Road.

(2) Provide clear and definitive timelines for the maintenance works slated to be undertaken on the Lologo-Korr Road, stating the commencement and completion dates.

(3) Outline measures put in place by the County Government of Marsabit to ensure all roads conform to high-quality standards, reducing the need for frequent repairs and inconvenience to the commuters.

I thank you.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM AYANI ESTATE
PRIMARY SCHOOL, NAIROBI COUNTY

The Deputy Speaker (Sen. Kathuri): Before we proceed with the statements. Hon. Senators, let me recognise this other group of students from Ayani Primary School in Nairobi County.

Hon. Senators, in the public gallery we have 140 students from Ayani Primary School in Nairobi City County who are undertaking a one-day education visit to the Senate.

Hon. Senators, in the tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

(Sen. Onyonka and Sen. Tabitha walked beside the Aisle)

Sen. Onyonka and Sen. Tabitha Mutinda, my eyes can see you when you are walking beside the aisles. Who can welcome these students? Sen. Methu, on behalf of your friend, Sen. Sifuna. You have just one minute to welcome them.

Sen. Methu: Thank you very much, Mr. Deputy Speaker, Sir. I wish to welcome the teachers and students from Ayani Estate Primary School in Nairobi.

We apologise that their Senator was here in the morning session and has not been able to join them this afternoon. However, we welcome them, so that they can learn and understand what we do as Parliament. As they work hard in school, they know that the future is very bright for them and that they can also be elected as Senators in the days to come if they put a lot of effort.

The Deputy Speaker (Sen. Kathuri): Sen. Tabitha Mutinda, you have less than one minute to welcome the visitors.

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. As a delegate of Nairobi City County, on behalf also of our Nairobi City Senator, I want to take this opportunity to welcome you to this institution of the 13th Parliament. This is the “Upper” House called the Senate.

It is a House with rules the same way you have rules in your learning institution. The same way you have principals and vice-chancellors, it is the same way we are also guided by rules. We have a booklet that is called a Standing Order that guides us because we are legislators. You can also be in this space as it is not limited to anyone. The future is open for each and every person. Mine is to wish you the brightest future ever.

God bless you.

(Resumption of Statements)

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The Deputy Speaker (Sen. Kathuri): Let us get the next statement from Sen. Mandago. I am told he has delegated to Sen. Miraj.

DIVERSITY AND INCLUSIVITY IN STAFFING AT THE
PARLIAMENTARY SERVICE COMMISSION (PSC)

Sen. Miraj: Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on employment opportunities and representation of the country's diversity in the PSC.

In the Statement, the Committee should-

(1) Present a report on the ethnic composition of staff serving on permanent and pensionable terms in the PSC designating this information to directorates, departments and units.

(2) Supply information on the recruitments conducted by the Commission from 2012 to date, outlining the positions that have been filled and the criteria applied in the selection of candidates for each position.

(3) Furnish the Senate with information on demographic composition of the staff, detailing their gender, age distribution and state the percentage of employees with disabilities.

(4) Outline the measures and policies in place to ensure ethnic balance, inclusivity and equal opportunities for women, the youth, Persons with Disabilities (PwDs) and individuals from marginalised communities within the Commission.

For Sen. Jackson Mandago, EGH, MP, Senator Uasin Gishu County.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Fatuma Dullo.

STATUS OF COMPLETION OF ISIOLO
EXPORT ABATTOIR

Sen. Dullo: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on the status of completion of Isiolo Export Abattoir.

In this statement, the Committee should-

(1) Explain the reasons for the delay in completing the construction of the Isiolo Export Abattoir which was commissioned way back in the year 2006 and provide a report on the status of the completion as well as a financial analysis and any other information, outlining how much money has been spent, so far, whether there have been any budgetary variation, total variation and source of funds.

(2) Provide information as well as contract, if any, on whether any other private companies and strategic partners have been engaged in the completion of the project, whether it is a joint venture or otherwise, how the strategic partners were identified, the scope of work, terms of engagement and how much each company has been paid and which company is currently working on the project.

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(3) Provide a socio-economic cost-benefit analysis to the residents of Isiolo County, neighbouring counties and the country as a whole, explaining whether public participation was conducted on the project as envisioned in the Constitution.

(4) State whether there is an Expert Management Committee on the project, explaining its mandate, membership and criteria used in the selection of the members.

(5) Explain how the company that is allegedly equipping the abattoir was procured and how the process of handing over the expert investor company that is allegedly supposed to take over the management of the abattoir upon completion was arrived at, outlining the terms of engagement, scope of work and copies of any agreement or contracts in the process.

(6) Explain whether there has been any alteration to the original design of the abattoir, outlining any changes made and what necessitated these changes and table the title deed and any other information to prove ownership of the land upon which the abattoir is constructed.

(7) Finally, outline whether there is an existing framework of engagement between the national Government and the county government of Isiolo, noting that the project was commissioned before devolution was in place and whether there are any plans to transfer the project to Isiolo County Government.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Mbugua.

IMPACT OF EXPERIENCED NURSES SEEKING JOBS ABROAD

Sen. Mbugua: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Health concerning the expected impact of trained and experienced nurses seeking jobs abroad on nursing services in hospitals countrywide.

In the Statement, the Committee should-

(1) Disclose the number of Kenyan migrant workers who have been cleared to work as nurses in the diaspora from the year 2021 to date.

(2) Outline the steps the Kenya Medical Training College (KMTC) together with the Ministry of Health is putting in place to increase the intake of students who would like to pursue nursing training, considering the high demand for Kenyan nurses in the country and abroad.

(3) State the ethical considerations taken into account when promoting these opportunities, particularly with regard to potential of exacerbating the shortage of healthcare workers in the country, thereby endangering the lives of Kenyans seeking these services.

(4) Explain any programmes in place to facilitate knowledge and skills transfer from experienced nurses migrating abroad to those remaining in Kenya's healthcare system; or whether there are strategies in place to give incentives to nurses and other healthcare professionals to encourage them to stay and practice in the country, especially in the underserved areas.

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Thank you, Mr. Deputy Speaker, Sir.

PROVISION OF MEDICAL INSURANCE COVERAGE
FOR TEACHERS IN TAITA TAVETA COUNTY

Sen. Mwaruma: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education regarding the provision of medical insurance coverage for teachers in Taita Taveta County.

In the Statement, the Committee should-

(1) Provide a list of the contracted suppliers, medical insurance companies and agents contracted by the Teacher Service Commission (TSC) to offer medical cover for the teachers, including a list of all medical facilities in Taita Taveta County that provide healthcare to the teachers under medical insurance cover in each sub-county.

(2) Provide contractual agreements between TSC and the service providers, detailing the agreed upon mode of payment between the said parties.

(3) State reasons for the delay in payments that has led to these facilities terminating their services to teachers, particularly the teachers in Taveta sub-county, who are currently unable to access medical facilities due to the non-payment of services rendered.

(4) Disclose the amount of debt owed for each medical facility, specifying any steps the TSC is taking to provide a workable payment plan to these facilities and ensure teachers continue to enjoy the benefit of healthcare provision.

Mr. Deputy Speaker, Sir, I seek your indulgence. I have another Statement that I was given from the table and I would like to go through it.

The Deputy Speaker (Sen. Kathuri): Kindly expedite the speed of reading.

NON-PAYMENT OF ALLOWANCES TO MEMBERS OF
TAITA TAVETA COUNTY LANDS CONTROL BOARD

Sen. Mwaruma: Thank you, Mr. Deputy Speaker, Sir. I will increase my speed. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources regarding the non-payment of Taita Taveta County Land Control Board committee members.

In the Statement, the Committee should-

(1) Provide a list of all members of the board, indicating when they were appointed.

(2) Disclose the duration for which they have not received their allowances, stating reasons for the non-payment.

(3) State the total amount owed to each individual member, providing a timeline for the settlement of their arrears.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you.

Sen. Kinyua, can you clear your two last Statements?

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STATE OF INSECURITY IN RUMURUTI
AREA, LAIKIPIA COUNTY

Sen. Kinyua: Thank you, Mr. Deputy Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defense and Foreign Relations on the state of insecurity in the Rumuruti area of Laikipia County.

In the Statement, the committee should-

(1) Provide an update on the status of investigation into the deaths of Ms. Tabitha Wanjiru Njogu and Mr. Jeremiah Maina, who were murdered on Friday, 22nd March, 2024, while coming from an overnight prayer meeting.

(2) Provide the total number of individuals arrested in relation to the deaths, confirming if they have been formally charged in court and disclose whether substance abuse testing was conducted to determine if the individuals were under the influence during the commission of the crime.

(3) State strategies and measures being implemented to combat drug and substance abuse and the consumption of illicit brews in the area.

(4) State whether there are police patrols within Rumuruti and its environs, giving the number of National Police Reservists (NPRs) within the area, especially in African location, Ngomongo, Kandutura and Caanan areas, explaining whether the NPRs are local residents and state their names.

(5) Explain the actions being taken by the National Police Service on “Kinyumba”, a structure that is believed to be sheltering persons engaging in criminal activities.

(6) Outline any measures the Ministry of Interior and National Administration is implementing to ensure that police officers who have overstayed an area do not collude with criminals and that they carry out their mandate effectively.

I thank you, Mr. Deputy Speaker, Sir.

STATE OF SECURITY IN MARMANET
WARD, LAIKIPIA COUNTY

Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on the state of security in Laikipia County, especially Marmanet Ward.

In the Statement, the Committee should-

(1) Provide a report on the state of security in several parts of Laikipia County with particular emphasis on Marmanet Ward, considering the loss of lives and damage to property occasioned by delay in deployment of police officers and state any challenges faced by the Ministry.

(2) State when the State Department of Internal Security and National Administration in conjunction with the National Police Service will deploy police officers to Rimunga Police Post which was constructed by the community yet remains unutilised due to lack of police officers.

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(3) Elucidate the measures the Ministry of Interior and Administration of National Government is implementing to ensure that the residents of Marmanet Ward and other parts of the county enjoy unlimited security to enable them to carry out their daily socio-economic activities with minimum disruption.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Thank you. Next Order.

BILL

First Reading

THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILLS NO.14 OF 2024)

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

Next Order.

BILL

Second Reading

THE COUNTY BOUNDARIES BILL
(SENATE BILLS NO.6 OF 2023)

(Sen. M. Kajwang' on 5.3.24)

(Resumption of debate interrupted on 26.3.2024)

(Division)

The Deputy Speaker (Sen. Kathuri): Majority Whip, what is it wrong with Order No.9?

Sen (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. Indeed, we are alive to the fact that we are supposed to vote this afternoon. We have done the usual mobilization, but we do not appear to be attaining the target, including the Mover of the Bill is not in the House. I would request that we defer that particular business and move on to the next business.

I thank you.

The Deputy Speaker (Sen. Kathuri): Thank you. We defer that business under Order No.9.

(Division deferred)

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Let us go to the Order No.10.

BILL

Second Reading

THE SUGAR BILL (NATIONAL ASSEMBLY BILLS NO.34 OF 2022)

(Sen. Wafula on 21.3.2024)

(Resumption of debate interrupted on 26.3.2024)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, the debate on this Bill was interrupted yesterday, 26th March, 2024. Sen. Sifuna had five minutes remaining. Since I cannot see him around, any other Member wishing to contribute can now key in.

Sen. Cherarkey, you may have the Floor.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. I rise to contribute to the Sugar Bill (National Assembly Bills No.34 of 2022). I know it originated from the National Assembly. I think it goes in line with what we called a sugar industry stakeholders task force report in 2018/2019.

Mr. Deputy Speaker, Sir, as a concern, have you noticed that one television sets in Chamber on both sides are going on and off? I think we need to check with the supplier or the concerned people. It is good that the Parliamentary Service Commissioner is in the House. It impedes your visitors in the Gallery to watch what is happening. It has not just happened today, but severally. We need to invite the supplier.

In opening remarks, in Nandi County, we grow sugar predominantly in Chemase Ward, Tinderet Sub-county, by and large, part of Mosop Constituency and part of where I come from, Mosoriot. Some of us have tried our hand in planting sugarcane across Nandi.

Nandi is a serious catchment area. I know there is a misrepresentation in this Republic that sugar is only grown in Kisumu, Western parts of Kenya, Kwale and other areas. In fact, most factories such as Chemelil Sugar Company, Kibos Sugar and Allied Companies and Butali Sugar Mills depend largely on the sugarcane supply from Nandi and Kericho counties. So, we have a big stake. I was disappointed when the Standing Committee on Agriculture, Livestock and Fisheries decided to only do public participation in Kisumu County; entrenching the continuous marginalization against the great people of Nandi and Kericho counties.

In fact, even out of courtesy from the Clerk's Office, I was never invited for that meeting. However, I assure the people of Nandi that all is not lost. We are still holding this faith in fighting for justice and fairness so that we can no longer be marginalized.

Mr. Deputy Speaker, Sir, I request your office that committees should not move around like exclusive clubs. They should do a proper invitation to the area Senator. I

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think that is a small thing. It is basic courtesy. As the Vice-Chairperson of the County Public Accounts Committee (CPAC), I cannot visit Meru without informing you, as the area Senator. My people in Nandi County are not happy because, we are entrenching the perception that sugarcane is only grown in Kisumu, Vihiga and Kakamega counties. It is very unfortunate. Most of those mills are sustained by the cane supply from Nandi County.

On the second point, I know there are many challenges on the issue of sugarcane development, processing, milling and farmers. Most sugarcane farmers in Western Region and other parts of the country will continue to suffer and get frustrated.

I agree, in as much as cane farmers continue to develop, I am disappointed because the roads that are being used, especially within Nandi in Tinderet and Mosop sub-counties where sugar cane is grown---

We have never seen the cess that comes from Butali Sugar Company or a number of sugar companies that get sugarcane from Nandi. This is because that cess is supposed to be used to maintain and ensure those roads are accessible. This is so that when these sugar factories carry sugarcane from farmers, they should maintain those roads. That is why we saw increased tractor accidents.

During question time, I remember the Senator for Kisumu County raising the issue of tractor accidents. We need to be careful with the low volume roads. We need to ensure that we protect those roads and they go to the next ---

Number three on sugar industry stakeholders statutory report of 2019; I can see that a number of issues have been captured. I have had the opportunity of reading the Committee Report that was tabled yesterday.

I am impressed that a number of amendments have been proposed by the committee led by Sen. (Dr.) Murango, the Senator for Kirinyaga County, the Chairperson of Committee on Agriculture, Livestock and fisheries.

As you are aware, in 2022, the country produced 796,000.53 metric tons. We can attribute this to subsidized fertilizer programme that President William Ruto initiated.

In 2021, it was 700,000.24 metric tons, but in 2022 it increased. There was also a significant growth even in January/December, 2023. In 2022, total amount of sugar that was sold was Kshs4.56 billion. We are talking about a sector that is affecting a number of counties. We have more than 17 sugar mills in Kenya; both private and public. I do not know whether the one from where Sen. Cheruiyot comes from has been included.

Total processing capacity per day is 52,700 metric tons, which is 56 per cent. We are still doing badly because of factory maintenance and unstable cane supply. We must invest in cane development and supply to ensure that we are able to---

Mr. Deputy Speaker, Sir, I will only make five comments then allow my colleagues to contribute. There is a board that has been formed. We had lumped all the crops into one organization; the Agricultural Food Authority (AFA). I am happy with the way we did with the Tea Act. We were able to form a Tea Board and now, we are forming the Kenya Sugar Board.

We will ensure that they focus their energy only on the development of cane and research within which includes the farm inputs, the seeds and the imports. This is so that we do not import sugar at the expense of our farmers. They should also offer advisory

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services to the county and national government. We even have the pricing committee so that farmers are given a better price as per their supply.

On the issue of factory maintenance; you remember sometime in this country, we were told that there is scarcity of sugar because some factories are undergoing maintenance. I would have expected that we ensure there are best practices.

On the issue of weighbridges, we have had cases where they are being tempered such that farmers do not get value of the cane they deliver. I expected that there is Sugar Board, which has been captured to check and ensure that the weighbridges are not tempered with to the disadvantage of farmers in the country. For example, I have seen Butali Sugar Company has opened a weighbridge. As you approach Potopoto, on your way to Kisumu, there is also another weighbridge that I do not know if it belongs to Kibos Sugar and Allied Companies. I do not know whether Kenya Bureau of Standards (KeBS) has checked and approved the Selia weighbridge. I have seen that they have just opened a weighbridge in Selia. This will be the work of sugar board.

Thirdly on Clause 6, I agree on the issue of efficient road networks. In Nandi, we have not seen cess for sugarcane. In Chemelil, Chemase and Tinderet, the roads are pathetic yet Chemelil, West Kenya and Kibos Sugar Factories pay cess. We have never seen value. In Mosop, we supply cane to Butali Sugar Company in Kakamega where my brother comes from, but the roads are pathetic. This is unfortunate and I hope the Board shall find a way of resolving this.

Mr. Deputy Speaker, Sir, on the Finance Act, some Senators had raised the issue of imposed levies. These are issues in the Finance Act and Bill in preparation of the budget and the Kenya Revenue Authority (KRA). These are the levies we pay. People pay tea levy and sugar levy. They are meant for cane development and growth of farmers, within the sugar industry. Therefore, there are not new taxes that are being implemented. Article 219 on the process of taxation is provided for in the Constitution.

On the issue of the Salaries and Remuneration Commission (SRC), this is a monster in Clause 13 that continues to be a threat to the growth of the economy. The SRC have assumed powers, which are not there by setting yet, they are supposed to be advisory. I agree with the wording that the payment shall be determined by the Cabinet Secretary as advised by SRC. That should remain.

Mr. Deputy Speaker, Sir, Clause 18 says-

“(1) A person shall not conduct the business of a miller unless he or she is registered by the Board and the premises in which the business is specified in the register in accordance to the regulations made under this Act.

(2) The Board shall issue to each miller registered under this section a certification of registration specifying---”

This is where we support the bottom-up economic model or Bottom-up Economic Transformation Agenda (BETA) as espoused by Kenya Kwanza. Clause 18(3)-

“No fee shall be charged in respect of registration or certification of registration issued under this section.”

Mr. Deputy Speaker, Sir, this means that ordinary Kenyans do not need to be sugar barons, millionaires or billionaires to get a license. This is in line with what the President espouses on the bottom-up economic model. Remember, there was a law on

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start-ups. We need to encourage more young people if they can get a way of establishing millers. In the past, the issue of sugarcane milling or opening sugar factories was an exclusive of some individuals.

Clause 19 has brought contention where it reads that a miller shall not purchase or accept. This one is zoning. I have seen the Committee report and they are not saying there is exclusive zoning. I am happy because exclusive zoning would have meant a specific farmer for a specific miller after contractual obligation. However, we must also fight cane poaching. This is because, at the end of the day, if we do not bring some sanity and order in the sector, we might find cane poaching becomes a problem.

Where there will be no order in the sector then there will be no investor confidence. Even as we say that we are allowing start-ups within the country, there are investors who would want to invest in this sugarcane industry. We need to ensure that we have stability by ensuring that there is investor confidence and raw materials supply.

I am happy of the wording they have used – geographical area because Kericho, Nandi and Uasin Gishu grow sugarcane. However, as I have said in the past, we have been marginalised. This is our redemption moment for that region.

On accountability on farmers' contracts. This will encourage the confidence of factories to invest in cane development because they have contractual obligation with the farmers. I assure farmers wherever they are, especially the sugarcane farmers that this is not exclusive zoning. This is zoning that will be determined when and approved by the Board and it will ensure that there is proper discipline within that geographical zone. Farmers must also be on the lookout and I am happy of the not less Kshs1 million should one violate.

I have seen many people say that there is exclusive zoning. In the reading of this law, there is no exclusive zoning. Farmer agreement, if there is a breakdown in a factory, for example, Chemelil and you are supposed to take your sugar there, the law has allowed you to do an agreement and deliver to West Kenya Sugar Factory. That translates to the farmer not losing the cane. If we do not do that, the farmer can lose the cane.

Mr. Deputy Speaker, Sir, I assure farmers that this law is work in progress. As one of the sugarcane farmers from Nandi, I see it as work in progress and we can pass it and amend it at any time. Many farmers in Chemelil and other areas gave proposals during the public participation.

On the issue of energy generation, I urge the farmers to know that we can use molasses and jaggery not only to generate energy and electricity, apart from renewable energy. However, we are fighting illicit brews and there are people who use molasses and jaggery to make these brews.

We need to inform them that we need this jaggery and molasses only for livestock and not for human beings in the fight against illicit brews. They say that too much sugar causes diabetes. We need to avoid it so that we do not encourage the consumption of illicit brews. However, the other day, I was told that Mnazi – palm wine is illicit brew, but I know it is good alcohol. I do not why someone would classify palm wine as illicit.

Where I come from, those things we take when our children are undergoing initiation and in initiation ceremonies in Meru and other areas are those kinds of brews. Even where the Deputy Speaker and Senator for Vihiga comes from there are those

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ceremonies that happen around December. We must be respected and Sen. (Prof.) Tom Ojienda SC, should note that with a lot of concern because we might come for legal representation.

[The Deputy Speaker (Sen. Kathuri) left the Chair]

[The Temporary Speaker (Sen. Wakili Sigei) in the Chair]

Mr. Temporary Speaker, Sir, I agree on the issue of traceability of industrial sugar. Let us avoid it so that we do not see what happen many years ago on mercury and the other impounded sugar. I would like to conclude because I only have five minutes. To us, sugar is serious business. The day they will be discussing the issue of sanitary pads, we will not interfere because it will be a concern at that point.

On the issue of court orders and the issue of power, the law should be followed. I agree, but I will be keen when this report will be brought. I want to see if the committee will move the amendments on the issue of zoning, inter-miller agreements and stakeholders and market diversification and confidence.

By and large, this law should protect the farmer more than the sugar barons and the other people who have taken advantage. The liberation must start now. When the President came to office, he talked about guaranteed minimum returns. We can only achieve guaranteed minimum returns if we pass such laws. I am happy because I heard the Chairperson of the Committee on Agriculture, Livestock and Fisheries saying yesterday that the Senate has originated the Cotton Bill, the Coffee Bill, the Sugar Bill, the Rice Bill and the Tea Bill. Therefore, the Senate is the biggest defender of agriculture issues in this Republic.

Mr. Temporary Speaker, Sir, with those remarks, we will wait until amendments are brought and after amendments, I will decide whether to support or not. My position will be known only after I have seen the amendments at the Committee of the Whole. I see Sen. Ojienda smiling and he was mentioned before on many other issues to do with sugar. However, I know he does not consume a lot of sugar because he does not look like he is diabetic. He is not a sugar daddy, but issues of sugar were being mentioned---

Mr. Temporary Speaker, Sir, I beg to defer my support until amendments are done.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi Godfrey.

Sen. Osotsi: Thank you, Mr. Temporary Speaker, Sir, for this opportunity to also make my contribution to this very important Sugar Bill. From the onset, I declare that I support this Bill although I want to agree with Sen. Cherarkey that this is work in progress. The reason I say this is because when I read through the Bill, I see there is an attempt to try address some of the challenges we have in the sugar industry. There are other many other challenges which this Bill has not touched.

In the 12th Parliament, there was an aggressive attempt in this country to address the problems in the sugar industry when the sugar taskforce that was led by former Governor of Kakamega County, Hon. Oparanya, and the then agriculture Cabinet

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Secretary, Mwangi Kiunjuri came up with a very good report. If you read through the report, a lot of things they proposed, if implemented, we would be able to address the many problems we have in the sector. However, to date that report has not been implemented.

It is very disheartening that we are now discussing a private member's Bill when we should be discussing a Government Bill that picks input from that report. That is why I want to fully agree that this Bill is work in progress because a lot of other issues have not been addressed which if addressed would be able to deal with the issues in the sugar industry conclusively.

The most fundamental issue about this Bill is just bringing back the Sugar Board. You know there was an attempt to merge regulation of all the crops in one legislation in the Agricultural Food Authority (AFA). It has not worked and that is why we have this agitation to try have a legislation for each crop.

We have in this House passed laws on tea, coffee and also cotton and are now discussing the Sugar Bill. That clearly means that arrangement of consolidating all the crops under one law has not worked. Sometimes, you wonder what wisdom was there to try put all the crops under one umbrella because we have so many crops. We would end up having so many directorates under AFA.

Mr. Temporary Speaker, Sir, I have also looked at the Bill and I think there are areas where I have concerns. I refer to Clause 29, talking about the Sugar Research Institute, the composition of the Board. They are talking of a number of institutions seconding people but we need to have clarity on the one person nominated by the input supply system.

The Bill does not define what input supply system is; there is an ambiguity here. What is it they are referring to because already the millers and the Government are represented? Who is this inputs supply system? Is it the farmers? We need clarity there because nowhere in that Clause 29 are they making reference to the farmers. It is important that the farmers be represented on every body within the sugar industry because they are the key stakeholders in the industry.

There is also a proposal to have one representation from universities. I do not think it is necessary because we already have a representation from research organizations who are basically experts. Why are we going to university looking for representation when farmers are not represented? We have some ambiguity there, which we will raise during the Committee of the Whole.

On the Sugar Development Levy, there were concerns in the past on how this money is utilized, lack of transparency and equity on management of this fund. However, the Bill goes further to propose how this money will be shared. Whereas I agree that a big portion of this money should go to cane development and productivity which is the key aspect in this sugar industry. I think the sugar industry started going down in this country when we lost focus on matters to do with the cane husbandry and cane development and started focusing on other things, which were not going to generate raw materials for use by these factories.

I fully agree with the proposal to enhance this allocation to 40 per cent because then there will be a lot of focus towards matters of supply and production of raw

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materials which is very crucial to the industry. Taking note that last year, the sugar industries in western part of the country closed because there were no raw materials and that affected the economy of the region. Therefore, a lot of focus should be put around cane development and productivity.

Still on Development Levy, there is a proposal that five per cent should go to farmers' organization and 15 per cent to research and training. A lot needs to be put on farmers' organization because you know we have out grower companies which most of them have died. Out grower companies were a good idea to try provide avenues to enhance cane development and productivity.

Mr. Temporary Speaker, Sir, in my view, five per cent is too little and should be enhanced to 10 per cent. The 15 per cent that is being taken to Kenya Sugar Research Foundation, which is a Government institution, a portion of it should be taken to the farmers' organization to enhance their participation in cane development and other factors.

Mr. Temporary Speaker, Sir, it is proposed that 15 per cent should go towards infrastructure development through Kenya Rural Roads Authority (KeRRA). I am among the people who are saying no to KeRRA. We must critically think of where to take this money because KeRRA in this country has become National Assembly Road Authority. That is the truth and they give money to Members of Parliament (MPs) to maintain roads that the same counties say they are maintaining.

This aspect of KeRRA must be looked. I am proposing that instead of KeRRA, we take this money to the counties, which we can oversight as Senators. We cannot have a scenario where money generated from our sugarcane growing areas is taken to the national institution, which then brings the back the money through Members of the National Assembly. We must look into that one area. The Members who contributed yesterday also had an issue with this aspect of KeRRA. When we go to the Committee of the Whole, we need to look at this matter very critically. Is it worthy to give 15 per cent of the Sugar Development Levy to Kenya Rural Roads Authority (KeRRA) when we have the counties in those areas, which can maintain those roads? We will be there to oversight that.

There is also a proposal on the pricing formula committee. In the pricing formula, they are talking about factors to be considered in determining the pricing formula. They have talked about several factors that I fully agree with. One of them is the aspect of delayed harvesting of cane. It is a cost to the farmers. When there is delayed harvesting of cane, it impacts the farmer and that is a cost. That should be a factor in determining the pricing formula. However, there is one factor that has been omitted. It is an international pricing factor. When we are looking at the pricing, we must look at the pricing factors in other jurisdictions. Why is it that the cost of producing sugar in Brazil and Swaziland here is lower than in Kenya? That is an important factor for consideration in determining the pricing formula. How I wish that, that is included in the Bill.

Clause 59 is very interesting. It talks about the incorporation of farmers' representation in the Board of private sugar mills. I do not know how this will work because this contradicts the Companies Act. I am an investor. I have come to set up a factory in Kenya. You are telling me that in your factory, you must bring in someone else

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as a Director in that company. This can also have a negative effect in terms of investment. Investors will shy away from investing in the sugar industry because of this condition that a farmer whose only contribution is to deliver cane to the factory and is paid for it, has to become a shareholder or a director. I think we have a problem there. It is a contradiction to the Companies Act and it discourages investment.

On Clause 33 on the Sugar Industry Inspectors, I fully agree that the role that these people have is very important, they will be providing oversight over the functions of millers or players in the industry. However, it creates a contradiction in the sense that what is the space of the Kenya Sugar Board? What is the space of the Sugar Industry Inspectors?

Yes, they are appointed by the Kenya Sugar Board, but who are these people? They are not employees. They are just people who are appointed. These people have been given excessive powers that they can misuse and create more problems for the sector. I think we need more clarity as to who these people are. Are they direct employees of the Kenya Sugar Board or they are other third parties who are accredited by the Sugar Board?

If you read Clause 33 further, it says that even Government agencies can be inspectors. Then why do we need Kenya Sugar Board? If we are creating another amorphous group of people called Kenya Sugar Industry Inspectors, then we have a substantive body called Kenya Sugar Board. We are creating contradiction there and I think that has to be harmonised before we pass this Bill.

Although this Bill talks about matters of importation of sugar and issuance of valid licenses, it leaves out a very crucial aspect of repackaging sugar. Sugar is imported into this country, repackaged in Mumias Sugar brands or Nzoia brands and sold to the markets. The Bill is quiet on this.

Even the list of regulations to be created by the Cabinet Secretary is not listed as one of them. This is a problem. Sen. (Dr.) Khalwale knows the effect of this. Even at some point when Mumias Sugar was not crushing sugar, we had sugar branded 'Mumias' on the shelves. Where was it coming from? This is a serious problem that this Bill has not addressed.

The issue in Clause 63 is on the transition of staff. The earlier Bill that had been brought by the former Member of Parliament for Kanduyi, Hon. Wamunyinyi, had a transition clause that was not progressive. It said that the employees who were formerly with the Kenya Sugar Board will not be transitioned to the new Kenya Sugar Board. However, this particular Bill has ironed out that problem. All the staff who were formerly with the original Kenya Sugar Board and those who are with the AFA will all be transitioned to the new Kenya Sugar Board with all their benefits and pension. That is progressive and I fully support. As I said when I was starting my contribution, this is a work in progress. There are many things that need to be fixed here. There are many gaps in the sugar industry that need to be fixed. However, this is a start. Let us give it a try. I look forward to more amendments even when this Bill has been made law.

With those few remarks, I support this Bill and request other Members to also support it. Those of us who have amendments will bring them, so that those ambiguities that I have referred to are dealt with.

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Mr. Temporary Speaker, Sir, I have just remembered one thing about the privatisation of our sugar company. It must be done very carefully. There must be wide consultations. It should not be rushed. In whatever name it is, even if it is coming as leasing or what, it should not be rushed. The communities and the stakeholders must be heard properly.

We should not end up selling our assets to people who are not interested in matters of sugar, but in land, property and quick wins like what happened with the Pan Paper Industry. A Company that is worth Kshs10 billion was sold for only Kshs900 million. Whoever bought the property was only keen to buy the land. The Luhya community lost. We are seeing the same being done for Mumias Sugar and Nzoia Sugar Companies. We will reject and do so strongly.

Sen. (Dr.) Khalwale is our leader in that. He will lead us to reject this privatization, which is earmarked for our sugar companies in the Western Region without involving the people and without looking at the benefits that our people will get.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Munyi Mundigi?

Sen. Munyi Mundigi: Bw. Spika wa Muda, naunga mkono Mswada wa wakulima wa miwa. Miwa hutengeneza sukari. Mimi ni naibu mwenyekiti katika kamati inayohusika na kilimo.

Bw. Spika wa Muda, tulipokuwa tunazungumza juu ya mambo haya, sisi hatukuwa tunaichukulia kuwa ni kitu cha haraka kwa sababu siku hizi Serikali ya Kenya Kwanza inaongea kuhusu mambo ya “pesa mkononi” ama “pesa mfukoni.”

Sisi tumeenda tukaita watu ili watupe maoni yao. Kuhusu mambo ya miwa, karibu kaunti 12 huwa zinapanda miwa, nayo sukari inatumika na Wakenya wote na hata nchi zingine duniani. Tuliangalia mambo mengi kama vile Sen. Osotsi amesema. Tuliona ni vizuri kwa wale watoto wa university ambao wanajua mambo ya Wizara ya Kilimo wanaweza kuenda pale kufunza watu na pia kujifunza vile mambo ya kutengeneza sukari yataendelea.

Jambo lingine tuliangalia ni kuwa tungependa mtu kutoka nje atengeneze kampuni yake Kenya. Tukaonelea kuwa ni vizuri kwa sababu watu wengine ni matapeli ambao wanaweza kuondoka na pesa ya watu wa Kenya. Tukaangalia na kuona kuwa ni vizuri yule anayekuja kuweka kampuni yake hapa Kenya, kuwe na watu kama *directors* ambao watafanya kazi katika hiyo kampuni yake. Pia tuliona kuwa miwa ni kitu muhimu sana na wakati tulipokuwa wachanga, tulikuwa tunasikia vile miwa ilikuwa inasaidia serikali ya Kenya, lakini siku hizi watu wamenyanyaswa. Familia nyingi haziwezi kupeleka watoto wao shuleni na hata watu wanapokuwa wagonjwa, hawawezi kupelekwa hospitalini. Familia nyingi zimeachwa kuwa maskini kwa sababu matapeli waliingilia mambo ya kilimo ya miwa.

Miwa inapopandwa, huwa inakaa mwaka mmoja na miezi nane kabla ya mavuno. Ni aibu sana kuwa kwa hizo kaunti zote, kwa sababu kazi yao ni kulima miwa, hali ya vile wanavyoweza kupandisha uchumi yao haionekana vizuri. Vile vile, chakula na maji imekuwa ni shida na hata shule na hospitali zote zimesambaratika kwa vile wanavyoumia.

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Tuliangalia mambo mengi, sio eti tu tulienda kuita watu tukae pamoja tupitishie. Nimesikia watu wengine wakisema kuwa hawakuweko, kama vile Senator wa Nandi. Lakini kusema ukweli, sisi tulipoenda kule Nandi, watu wa Nandi walikuwa pale lakina Seneta wa Nandi hakupatikana. Mnavyojua huwa anakuwa na kazi nyingi huko nje. Labda alikuwa anafanya kazi ya kuharibia watu majina na tunajua kuwa kama hajahusishwa kwa jambo lolote, yeye huwa anapinga.

Seneti inafaa kuunga mkono mambo ya sukari. Sio tu kwamba sisi Wanakamati wa Kamati ya Kilimo tulienda tukaandika mambo ambayo tumeleta hapa. Tulikuwa na watu wasomi, wakulima na pia watu wa serikali.

Mimi ninaomba kuwa Seneti ikubaliane na maoni yetu ndio tuweze kuona vile tutakavyosaidia mkulima wa miwa ambayo inatengeneza sukari.

Tukienda upande ule mwingine, katika Seneti, tumepitisha mambo mengi kwa mfano mambo ya ndengu kule mashinani, na hata sasa tuko na Mjadala wa Sukari na pia tumeongea mambo ya majani. Kwa hivyo, hakuna tofauti ya mkulima wa majani na mkulima wa kahawa na vitu vingine. Ninaunga mkono nikiomba Seneti yote ikubali maoni ya Kamati ya Kilimo ndio tuweze kusaidia mkulima.

Tukiskia Maseneta wengine wakikuja hapa kusema kuwa hawakuhusishwa ni kitu cha aibu sana. Ni bora tu wasome ili tuweze kuona itakavyokuwa. Huenda ikawa mtu aliitwa lakini vitu hivyo vilikuwa kwenye mitandao na pia watu wengine walisema walipiwe ndege, ilikuwa jambo la aibu sana.

Ninaomba Seneti iunge mkono na iwapo kuna mahali ambapo kuna shida juu ya kilimo, tutaomba tukae chini tesemezane ili tuone pahali tutatatua.

Asante Bw. Spika.

Sen. Chararkey: On a point of order Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Order, Sen. Mundigi.

Sen. Cherarkey, before you take the microphone, Sen. Mundigi, when the Chair asks for your attention, listen.

Nilikusikia ukisema kuwa wewe ni mwenye kiti mdogo wa Wizara ya Kilimo. Ulimaanisha Wizara ya Kilimo ama Kamati ya Kilimo?

Sen. Munyi Mundigi: Bw. Spika ni Kamati ya Kilimo.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, I do not want to inquire as to what your point of order was, but the hon. Sen. Mundigi has concluded his remarks unless---

Of course, that is why I was reprimanding him on the fact that when he has been notified by the Chair that there is a point of order, he should appreciate and take appropriate action by ceding the Chair, but he did not do it. I, therefore, warned Sen. Mundigi.

Sen. Cherarkey: On a point of order Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Chararkey, please proceed.

Sen. Chararkey: Mr. Temporary Speaker, Sir, you know my character has been discussed here. Did you hear Sen. Mundigi, which he needs to expunge, withdraw and apologize before the HANSARD? He said in Kiswahili that “*mimi ninaharibia watu majina.*”

This is not a public market or a public rally where Sen. Mundigi just gets away with anything. If he says that Sen. Chararkey was invited to that public participation, then the Standing Orders demand that you table evidence to show that there was a letter that was received in my office to attend that event. You cannot just be making statements, which you make in funerals and birthday parties by saying “*anatuharibia majina.*”

As the Vice-Chairperson of the Committee on Agriculture, he should have been gracious enough even to say that they did not have enough time or resources to invite some of us, instead of saying “*anaharibia watu majina.*” He should just say those words in funerals and not on the Floor of this House. I demand that he apologizes and withdraws, otherwise, he should table as per the Standing Orders, evidence, including air tickets, the letter of invitation that came from his office inviting Sen. Cherarkey to that meeting; whether I was booked in a hotel. He should table air tickets, booking reservations and also the letter from the Committee on Agriculture, to show that Sen. Cherarkey was invited, but he declined, instead of saying “Cherarkey *anaharibia watu wengine majina.*” Which evidence does he have? Can he table? He must withdraw and apologize because if it goes to the HANSARD, it will be used by somebody else and you know the implications.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mundigi, you have been in this House for the last one-and-a-half years. I believe that you should have learnt the order of how things are done.

Sen. Cherarkey has raised an aspect and besides everything else, the reference to the term “*kuharibia watu majina*” is out of order. I ask Sen. Mundigi to withdraw and apologize on that particular aspect. I will not make comments beyond that on the other comments that Sen. Cherarkey has raised.

Sen. Munyi Mundigi: Bw. Spika wa Muda, mambo ya miwa ilikuwa kwa mitandao kila mahali na watu wa Nandi walihudhuria. Ni vile tu rafiki yangu, Sen. Cherarkey, hakisikia vizuri. Ninasema ya kwamba watu wake walikuwa pale na ile kaunti ambayo tulitembelea ilikuwa kwa mpaka. Kwa hivyo, kama hakisikia vizuri, mimi sikusema hivyo. Kama nimeongea vibaya, mimi nimesema sikusema hivyo.

Kitu kingine ambacho kilifanya tusiende kwa zile kaunti zingine, ni kwamba hatukuwa na pesa na hata tunajua yeye mwenyewe, wakati---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mundigi, I ruled that you withdraw and apologize for that particular comment. I did not give you an opportunity to explain beyond what you have said.

(Sen. Mundigi spoke off record)

Sen. Mundigi, kindly and I am giving you the last warning, apologize and withdraw or else I will rule you out of order.

(Sen. Munyi Mundigi spoke off record)

Sen. Mundigi, for the last time, apologize and withdraw.

Sen. Munyi Mundigi: Bw. Spika wa Muda, ninaomba msamaha na kuondoa.

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The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. If there is one thing that this House should do is to pass this Bill. Even if there are a million amendments that are supposed to be there, this Bill is an admission of how Parliament can fail.

In 2013, somebody came with a Bill in this House canvassing for the establishment of the Agricultural and Food Authority (AFA), which passed but it killed the sugar industry. I agree with many Members, especially with the views of the Senator of Vihiga County, who appears to appreciate the meaning of this Bill. That there are gaps but for starters, let us pass this Bill because we are re-establishing the Kenya Sugar Board. Once you re-establish the Kenya Sugar Board, that is the beginning of recovery.

Mr. Temporary Speaker, Sir, I know you were not there. You were busy in your law firm at that time or probably at the University of Nairobi. What happened is that some tomcats, Treasury mandarins, started salivating for the money in the accounts of the Kenya Sugar Board. They looked at the Kenya Sugar Board and found billions of shillings, but the Pyrethrum Board of Kenya (PBK) account was negative together with others. They wanted to sweep the money, which they did and then disappeared.

In the process, they crippled the livelihood of 25 per cent of Kenya's population that depends on this industry. Arithmetically, that converts at the current population of 55 million Kenyans to 14 million Kenyans, who were adversely affected. Together with that, 250,000 small-scale farmers were shortchanged.

The amount of poverty this has visited in the Sugar belt cannot be described. The once vibrant economy in Shibale market in Mumias has closed down. Kakunga market in Mumias has closed down. In Navakholo the markets have also closed down. Mumias Town itself is the same, just because of the failure of this Parliament. Parliament should never fail. Therefore, I appeal to colleagues to listen carefully to the contributions from Senators from the sugar belt. These are 12 counties starting from Kwale up to the border with Uganda. I thank the Committee through its Chair for coming to Kakamega County.

I want to urge the Senator of Nandi, who is my neighbor, to use kind words to this Committee. They did an excellent job. I saw them, and was in their meeting. They never lobbied me. However, because sugarcane farming is very important, I was interested. They did not even have enough money to go to five or seven star hotels outside Kakamega County, but they lived on. I am proud of this Committee.

This Bill in its First Schedule speaks to the sticking issue of zoning, which is a very pregnant issue. It is a hot brick and if not managed properly, it can be abused. Therefore, I want to support them that we go by the proposals of the taskforce. However, during the third stage, I would like to appeal to the Chair to adopt some of our proposals, so that they become the proposals for amendment by the Chair to give it the weight that it would deserve for us to polish it even further.

If you do not do it very well, zoning which is supposed to kill poaching of cane, can also enslave the farmers in that zone, in the sense that you will be coerced through legislation to deliver your cane to a factory in your zone, whether it pays you well or not, timeously or not, or whether it harvest on time or not. This is why I say we polish it.

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The issue of zoning should also be polished further, so that the issue of weighbridges can be addressed. We must make it an offence punishable under this Bill for any miller to set up a weighbridge in a zone that the miller does not belong to. If you go to Western, you will find wide load, long trucks that can carry harvested cane from end to end. We want to polish this law.

Mr. Chairman, I appeal to you, so that should this miller choose to haul cane for long distances, then they should incur a penalty as they cross from county to another. The issue of poaching of cane from foreign zones is the reason I would like to support this Bill. It says that no single miller should enjoy monopoly, where his investment is more than 30 per cent of the total cane harvested in this country.

Mr. Temporary Speaker, Sir, it is because of the greed of setting up many factories that you find that these people end up poaching cane from end to end. For purposes of enforcement, the police under this Bill, must be authorized to arrest poachers of cane. Those of us who come from the heartland of cane production, for example, Kakamega, Kisumu and Bungoma Counties know what we are talking about.

For the longest time Busia has been part of Kakamega County. When I say it, I do so as a big brother. This law has to speak to harvesting of cane. The reason you heard the Senator of Vihiga speak to the issue of the temporary closure of factories that was there last year is because these poachers were engaged in harvesting of premature cane.

Under this Bill, we must make sure that harvesting of premature cane is criminalized. In this Bill, we are speaking to cane pricing. The proposal in this Bill states that it should be done every three months. You cannot do that. Pricing must be reviewed every month because sugar fluctuates on the national, regional, continental, in Common Market for Eastern and Southern Africa (COMESA) and the international market.

Reviews should be regular, so that we do not lose out. Personally, I know what I am talking about. I am a farmer in Malinya. I grow cane in Kakamega County and supply it to Butali Sugar Mills and West Kenya Sugar Company. It is annoying when one week you supply and because there are no reviews, the following week you see cane is attracting better price. I plead with the Chairperson of the Committee to consider reducing it from three months to one month.

There is an animal in this country under the total and absolute control of the National Treasury called the importation of sugar. Whereas it is a necessity, on the other hand, it is killing our farmers. How? The National Treasury declares an imaginary hypothetical sugar deficit. Cheap imported sugar hits the market and denies local farmers an opportunity to enjoy a better price. I encourage the Committee, at Third Reading, to discourage this reckless behaviour. We must tie down the National Treasury in this manner; that anytime a declaration of a deficit is made and the market for imported sugar is opened, the local farmers must also enjoy and benefit from importation. How? If 100 per cent of imported sugar can be allowed into the market and 50 per cent is allowed for private players, the remaining 50 per cent is given to the Outgrower institutions – Mumias Outgrowers Company (MOCO), Butali Outgrowers Company (BOCO), West Kenya Outgrower Company, Nzoia Outgrower Company and Sony Sugar Outgrower Company. The bottom line is that the benefit of importation will be enjoyed by the

private players and the local producers, so that there is shared prosperity as envisioned in the letter and spirit of the Constitution of Kenya 2010.

In this Bill and I will be specific, we are speaking to the issue of cess. A Member spoke to this issue and took it lightly. He thought money was being taken to Kenya Rural Roads Authority (KeRRA). The Member said it was being given to Members of Parliament. This is not true. In this Bill, the money being taken to KeRRA is for the development of roads in the catchment area, which is exactly what the cess is supposed to do. The Bill is well drafted to that extent. It is not by accident that the Mover of this Bill in the National Assembly is the Hon. Member of Parliament for Navakholo in Kakamega County. In this House, it is the distinguished Senator for Bungoma County. It is because we are the ones wearing that shoe, and we know where it pinches.

If we fix our sugar industry in Kakamega County, our Own-Source Revenue will triple. Mumias Sugar Company has a potential turnover of Kshs24 billion. Butali Sugar Company has turnover of Kshs10 billion. West Kenya Sugar Company has turnover of Kshs14 billion. With this kind of turnover, automatically, our Own-Source Revenue will shoot up. This was the original intention of devolution; that we open up economies of counties, so that they can grow their Own-Source Revenue. I was at an investment conference in Kakamega last week. I looked at it and said that it would be difficult with the quality of thinking to unlock economies. Nothing was inspiring about the sugar industry, yet it is the backbone of Kakamega.

Allow me to speak to the following clauses. I can see my time flying away. I will not speak to many clauses. Clause 38 is on a sugar development levy. The Chairperson to the Committee, please, look at this Clause. You cannot succeed in the sugar industry without the farmer and the miller. Therefore, when you share out the money for the sugar development levy in Clause 38(6)(a), instead of giving 15 per cent to the millers and five per cent to the farmers, you must balance it, so that the miller gets 10 per cent and the farmer gets 10 per cent. It is a symbiotic relationship. If the farmer gets discouraged, the miller cannot have raw material. If the miller gets discouraged, the farmer will lack a market. Let us give it the seriousness it deserves.

The penultimate Clause I want to speak to is Clause 58 on pricing. Clause 58 (3) (c) states that-

“The main objective of the committee shall be to ensure adherence to the negotiated cane processing formula.”

This is the backbone of what I was talking about on shared prosperity. If you do not adhere to it and allow the investors to have a big say because they have the money to influence meetings, then farmers end up being shortchanged.

Finally, Clause 59 speaks to the representation of a grower in the private milling company. Sen. Osotsi missed it by a kilometer. The reason members are allowed to sit as directors is because left on its own, he would shortchange us. It is like taking your goat to the market in Lubao and asking the person who will slaughter the goat to decide the price of the goat without reference to the owner of the goat. Sen. Osotsi, why we need the owner of the goat who is the sugarcane farmer in this case to also speak in the Lubao Market is because if he keeps quiet, his goat worth Kshs12,000 can be sold for as little as

Kshs2,000. Chairperson of the Committee on Agriculture, Livestock and Fisheries, I congratulate you for doing a good job in Clause 59 of the Bill.

Finally, but not least, I thank the new investor in Mumias Sugar Company. He has changed the ecosystem. Shame on criminals who are starting to burn the nucleus canes. We know the criminals and we will go after them. Mumias Sugar Company will never close.

I thank you and support the Bill.

The Temporary Speaker (Sen. Wakili Sigei): The Hon. Sen. Okiya Omtatah, proceed.

Sen. Okiya Omtatah: Mr. Temporary Speaker, Sir, I thank you for the opportunity to address this august House on this important Bill. To begin with, I agree with Sen. (Dr.) Khalwale that this Bill should and must be passed.

The most important thing at this stage is to disengage sugar farming from the Agriculture Food Authority (AFA), so that we can focus on matters sugar without being disrupted by matters Pyrethrum and other crops, which are equally important. By moving away from the AFA, we shall be leaving up to the maxim that bite small and chew finely to avoid constipation. AFA was an extremely messy contraption; too obese to do anything good for us.

Secondly, I thank the Committee who found it appropriate to conduct public participation in Busia. We mobilized farmers from the county and other stakeholders across the region to come and participate and make contributions about the Bill. However, much as we want to pass this Bill, I have some reservations informed by the question of ownership of cane. Tenant farming is still continuing, where farmers become tenants on their own lands as millers own the sugarcane that they are growing on their own land.

We need to interrogate that issue and see what proposals you can come up with to ensure that a farmer is not reduced to a tenant on his own land. Perhaps, that might require a deliberate move towards farmers' cooperatives in the sugar industry, so that inputs and whatever support the national and county governments choose to give, reach the farmers through cooperatives and not through the sugar miller.

The question for out grower companies for me is a no-go area. They demonstrated total incompetence. They were avenues for corruption, oppression and exploitation of the farmers. Most of them were used to stealing money from the same farmers and they mostly became agents of the millers. I would love a situation where the farmers grow the cane, organize themselves into groups, are financed, grow the cane, own the cane and when the cane is mature, they negotiate with the miller. Therefore, they can say, "we have got this much cane. How much are you willing to pay us or we move the next miller?"

The idea of Government support to farmers being channelled through the millers tends to reduce the farmers to tenants on their own land and that for me is unacceptable. Also, the Bill is not very strong on the demand that factories modernize and begin producing more than just sugar from the raw product called sugarcane. There is need for millers to invest in modern technologies. Of course, they are making profits right now

because they are not paying the farmer for the entire value of the sugar cane. If they are compelled to pay the farmer the value of the sugarcane, most would close shop.

An amendment that will push towards modernization of the sugar industry in this country is the one that is also targeting the miller. The miller should pay the farmer for the array of products that are possible and have been achieved in other parts of the world, where we always compare ourselves to and wonder why they are so efficient and productive.

I fully agree with what Sen. (Dr.) Khalwale said that harvesting pre-mature cane should be punished. However, beyond that, what is mature cane? Is it cane that is 15, 16 or 20 months old? I have seen studies done by the millers in this country, which demonstrates that the optimum age for harvesting sugar in this country is 20 months. Since in the last four months the cane tends to grow almost half the size it was at the age of about 16 months. The sucrose content also rises and it is a win-win situation for the miller and the farmer. Therefore, mature cane should be clearly defined in terms of sucrose content and value of the cane. It should not be abstract that pre-mature cane is what you see. It should be determined scientifically through measures, weights and so on.

The question of inputs needs to be addressed. It is a global issue in terms of agriculture in this country and the other areas. Cartels have infiltrated inputs. One time I was having a discussion with my good friend Arap Menjo. He was walking me through the Kenya Farmers' Co-operative (KFC). He told me that in the colonial times, the colonizers had organized themselves in such a way that they controlled the production of seeds through what is now the Agriculture Famers Training Centre (ATC) and so on.

The farmers controlled the production of seeds and made sure they were of the correct quality. Therefore, whatever crop that we were going to grow was of the correct quality.

Mr. Arap Menjo also told me that through the KFC, they could purchase inputs for their farmers, first of all, in bulk to ensure that the prices were lowered. They could also ensure the quality of the inputs, so that the kind of things, which are arising with fertilizers here, where anybody can import fertilizer today, could not arise. The farmers controlled it. Additionally, at the end of the day, they controlled the pricing of the product in confirmation with the other players in the market, so that the farmers were never at the mercy of cartels. However, KFC was destroyed.

Certain arrangements need to be made so that we can protect the farmers from the rogue players in production of seed and other inputs. Perhaps, we should be thinking of these vast Agricultural Development Corporation (ADC) lands and turning them into multiplication centres for quality seed. Since, if you look at how seed in the sugar industry is utilized, they just go and pick sugar cane of a certain age, usually young canes; give to the next farmer to grow and propagate it that way. There is a need to control the seed, so that we know what number of cuttings or ratoons can still be used as sugar cane seed. However, I feel that the first aid is still land, especially if you can recover them from those who have stolen them, and can be put to good use as centers for working in partnership with the Kenya Sugar Research Centers to provide us with quality seed. Those interventions would be of help.

The other thing that has been overlooked is the environmental damage that sugarcane causes. Sugarcane farming is very heavy on the environment. It takes a lot of chemicals, fertilizers and all those things. Many of our water masses have been nitrified. For example, Lake Victoria is virtually a dying lake now due to the farming methods of cane in Western province. Most of the soils within the sugar belt have become too acidic for viable farming. Let nobody cheat you; something must be done to control the growth of cane in the lowlands.

Our swamps have all been drained. We do not have swamps. In my village, we used to have a beautiful swamp called Kakoleit, which means, the home of fish. This is an area where fish used to breed a lot, and then the fish would go down to Lake Victoria during the heavy rains. These swamps have been drained. They are now sugarcane plantations. No wonder there is no fish in Lake Victoria. That is one of the contributing factors.

We must also come up with mechanisms to control and mitigate the environmental damage that sugarcane farming is causing. Otherwise, we might be doing what is akin to cutting down Kakamega Forest, led by Sen. (Dr.) Khalwale, creating temporary jobs by those who will be cutting down the wood and hewing it into timber, and exporting the timber out and reflecting growth in our Gross Domestic Product (GDP). Then tomorrow, when the droughts come and ravage us, we will begin wondering what hit us.

We must embrace sugarcane farming and ensure that it is environmentally friendly. The use of the word “environment” could be misplaced. I personally do not believe in the word ‘environment’. I believe in the word “ecosystem” because environment takes you out of the ecosystem and makes you the boss of the ecosystem, such that it becomes something surrounding that you can exploit. We must create a sugar ecosystem that is sustainable in the sugar farming areas.

On the composition of the board, I notice we still have the question of farmers' representatives. If the experience under the defunct Kenya Sugar Board is anything to go by, you realise that the farmers lacked the capacity to campaign and become directors on the board. At the end of the day, individuals were sponsored by the millers to go and be representatives of farmers on the board. All they did while on the board was farmers' bidding.

We need to look at the composition of the board and how we will ring-fence it in such a way that millers do not sponsor their puppets to go on the board, such that whatever the solution of the board makes is just miller-friendly and never farmer-friendly.

I am also happy that the Bill provides for a major role by the county governments. That provision that the county governments within a cluster of farming cane will come up with the regulations or implementation mechanisms of this Act. This is very important. We must empower our counties to be able to deliver on that mandate. Otherwise, it would just be wishful thinking. It is a mandate that requires a lot of input and so, we must find a way of empowering our counties.

The question of the Kenya Rural Roads Authority (KeRRA) being given money should not be there unless KeRRA is devolved. KeRRA and Kenya Urban Roads

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Authority (KURA) are unconstitutional. We cannot give them money. They need to be put under the Council of Governors (CoG), so that when they execute their role of doing rural roads and urban roads, they are doing it under the supervision of the governors. We only leave Kenya National Highways Authority (KeNHA) to execute national highways.

Mr. Temporary Speaker, Sir, with those few remarks, I undeservedly support this Bill. I support the creation of clusters, where a group of factories in a region is given exclusive mandate within the region, so that there is competition within the region and survival of the fittest within that cluster. Also, the farmer has a choice to choose within the cluster.

This is a well-thought-out Bill. In its essence, the skeleton is faultless. Let us then find a way to ensure that we come up with a body that will serve the broad interests of the Republic of Kenya to become the dominant and preeminent producer of sugar on the continent of Africa and globally.

Thank you, Mr. Temporary Speaker, Sir. I support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Veronica Maina, proceed.

Sen. Veronica Maina: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to debate on the Bill that is on the Floor of this House. At the very onset, this is a Bill that should have happened yesterday or many years ago. It is one day too late, but thank God it is finally here. This is because if there is a sector that has seen confusion, cartels, where farmers have been frustrated by brokers and the market has been manipulated, it is the sugar sector. Unfortunately, those who tend to suffer most are the peasant farmers and many stakeholders, who have held the sugar industry, in spite of the sugar sector in Kenya being in tears.

If there is one sector that has been unpredictable and subject to very - I do not even know what to call the kind of regulation and legislation that it has encountered - is the sugar sector. You will find that the doors of sugar from other region, for example, the Common Market for Eastern and Southern Africa (COMESA), have been opened, sometimes even through the backdoor, just manipulating the market to enable certain individuals to earn from the sugar.

That is why the Sugar Bill, (National Assembly Bills No.34 of 2022) is a very good idea that we were waiting to happen. I congratulate the promoter and the proposer of this Bill, our Senator, having found it fit to bring out legislation that is very well-thought-out and comprehensive. Clause 4 of this Bill has finally introduced the concept of facilitating a board that is supposed to facilitate equitable access to benefits and resources of the industry.

Mr. Temporary Speaker, Sir, that means the Bill appreciates the fact that there has been inequity in the sugar sector in Kenya. We have watched on television instances where farmers in the western region have been left with cane or have taken cane to factories or mills that have collapsed and those farmers have not been paid.

I hope this Bill can introduce a clause to see how such farmers could be indemnified; especially, those farmers who were known to have invested so much and because of distortion in the sugar market, they have suffered losses. Some might never even be able to recover from the loss or collapse that they have seen.

Some of the Members of Parliament (MP) and Senators from the western region could actually be in Parliament courtesy of the politics of sugar. This is because, any time sugar is mentioned in some regions in Kenya, it means either one is correct or incorrect depending on the kind of ideas they are giving about the sugar sector.

Mr. Temporary Speaker, Sir, I have looked at the composition of the board in Section Six of this Bill. The composition is so balanced. It has taken the spread of stakeholders. It constitutes of a non-executive chairperson appointed by the President. It takes on board five representatives elected by farmers, the public and private owned sugar mills, the Council of Governors (CoG), the Principal Secretary Agriculture, Livestock and Fisheries, an appointee of PS, Treasury and a CEO who is also an ex-officio member to the board or the secretary to the board.

This by itself has brought in the very key stakeholders. By the very virtue of how this board has been constituted, it then means that the heated politics and undercurrents that we have experienced in the sugar sector in Kenya can finally be managed.

All those pressures can now be taken up by the board because most of the stakeholders have been represented in the board. We will not have one stakeholder suddenly complaining that they do not understand what is being done by the board because they are not represented. What must bring a smile to the sugar farmers is that they will be represented on the board.

It is also very good that the Bill proposes that the CEO must be a graduate; a holder of some credentials because looking at the kind of a board the CEO will be working with, it then means that they need to be qualified in a certain specialty within the sugar sector and will bring some value proposition to the table.

Mr. Temporary Speaker, Sir, when I look at what the board is entrusted to do, they are comprehensive and very exhaustive. It does not only deal with issues that affect sugar locally, the Bill is also dealing with issues that will affect sugar imported from other regions like Common Market for Eastern and Southern Africa (COMESA). We are already aware that in Kenya, we have seen issues of substandard sugar being imported and the sugar being given to the common *mwananchi* to consume, a produce that does not meet the standard. This Bill then introduces the standardization and offers the legal infrastructure that is required to ensure that any sugar that is intended for consumption has met the expected standards. That is why, I support the Bill. However, I have noted Section 22 provides that licensing of the mills would be issued by the board and would expire on the 30th of June. I do not know why the drafter of this Bill thought of matching the license year to the financial year that is normally undertaken by the Government.

Mr. Temporary Speaker, Sir, this is because Clause 22 provides that a license issued under this Act shall be subject to such conditions as the Board may determine and as prescribed in regulations.

Clause 19(4) states that-

“Every license shall unless earlier revoked, expire on the 30th June next, following the date of issue”.

I do not know why we would have the license expire on 30th June. There is no connection between the license and the financial year. My proposal to Sen. Osotsi or the Chairperson of this Committee would be to consider making the expiry of this license to

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be 31st December on every consecutive year. It does not need to align with the financial year and most of the licenses are issued on annual basis and the year runs from 1st January to 31st December. That is a correction that can be done because putting it in the middle of the year is disruptive to the farmers and the factories. Supposing it is not granted and we are in the middle of a season, it would defeat the purpose.

Mr. Temporary Speaker, Sir, the Bill is comprehensive. It constitutes provisions for a tribunal and the segmentation of different sugar catchment areas in its First Schedule. I find it a very organized legal Bill that is going to push the sector into some form of organization considering the chaos this sector has seen in the last few years in Kenya.

I therefore stand to support the passing of this Bill into law and congratulate the proposer of this Bill.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wamatinga Wahome.

Sen. Wamatinga: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I sit in the Committee on Agriculture, Livestock and Fisheries. I commend the Committee for the effort it has put in this Bill, having worked over the weekends to Mondays.

This is a clear indication that the Committee is dedicated to ensuring that legal frameworks are put in place that will ensure the farmers of this country no longer suffer from the predicament they have been suffering from.

It has been said by many Senators who contributed to this debate that the sugarcane, coffee, tea, macadamia or avocado farmers in Kenya have always been taken advantage of by middlemen because of lack of sound legal framework to protect them. It is unfortunate that most of our farmers who work hard to put meals on their tables end up getting exploited.

Mr. Temporary Speaker, Sir, this Bill is a perfect indication that with good legal framework, farmers can be protected and assisted. Most importantly, this Bill ensures that the levies and the cess collected do not only go into repairing the roads, but research is also given its rightful place in the industry. We know that after the colonial era, there were sound research institutions in Kenya that saw many sectors perform very well. However, as we progressed and corruption became a part of our society, people were taken advantage of and farming was reduced.

The brokers living in big cities took advantage of the poor farmers, their yield, work and input. Most of them ended paying for loans they never took and for inputs, fertilizers and pesticides that they never used. This is because there was lack of a framework that would govern how that is administered. That is why moving forward we are enjoying political goodwill from none other than the President of this country. This has ensured that the farmers are given their rightful dividends and that we put in place sound mechanisms anchored in law that can be enforced to make sure that farmers get their rightful dues.

Mr. Temporary Speaker, Sir, it is very impressive indeed when you listen to the President address every gathering that, yes, we can feed this nation. This has for the last 60 years dodged us but now with the right political leadership under His Excellency (Dr.)

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William Samoei Ruto, we can deliver our farmers from the bondage of brokers. We can ensure that they get the rightful income from their hard work.

Farming and agribusiness will be more attractive to young Kenyans. That is why I commend the Committee on Agriculture, led by my able Chairperson, Senator for Kirinyaga, Sen. (Dr.) Murango. He has ably steered the Committee in formulation and public participation of various Bills on cotton, coffee, tea, macadamia and avocado, which is on the way.

Most importantly, to put in place a sound legal framework that will ensure that farmers do not only get their rightful dues, but are also encouraged and that the government puts the right infrastructure and mechanisms in place to ensure that farmers are no longer conned of their hard work.

Mr. Temporary Speaker, Sir, this is a House of promoters and protectors of the devolution, the committee has seen into it that the role of the county government has not been marginalized, but left at the centre because agriculture is a devolved function. With the spirit that the president gave on his inauguration speech of ensuring that functions are unbundled and followed by the budget, we will see to it that this Bill ensures that the functions of the management of sugar like many other crops that have come before the agriculture committee, becomes a central player at that the county government.

Why is this important? We know that Kenya has been facing the problem of rural-urban migration. The only way to ensure that the rural population, especially the younger generation get into meaningful generation of income is to make farming attractive. How can we make it attractive? We must have legal framework and the right policies in place. However, the most important is the political goodwill to attract and create incentives to the younger generation so that they can pick up farming. It is therefore imperative that we put in place legal mechanisms that will ensure every farmer who plants a seed, also harvest and reap the benefits. That has remained dodgy in many sectors and I am very happy that this Bill seeks to address the issues.

Mr. Temporary Speaker, Sir, we know the sugar industry for all the wrong reasons; poisoned sugar that is unfit for human consumption, sugarcane that does not meet the quality, sugarcane that has been delivered and never been paid for *et cetera*. The issues will be addressed with the introduction of this new Bill and the amendments introduced by this Committee.

I am a very delighted Kenyan to see that; today, what has not been possible for the last 60 years - within one and a half years of us being sitting in this Committee; and the Kenya Kwanza Government, the plan that we promised the farmers in this country is being realised. The Government has subsidised fertiliser. These are some of the benefits that must trickle down to all the farmers, but has not been possible because of the governance and accountability issues and of well-defined legal framework.

Mr. Temporary Speaker, Sir, this Bill will ensure that what the Government subsidised gets to the farmer. It would be unfair not to say that the Government committed itself to all the debts that were owed to the sugarcane farmers and is in the process of doing the same for coffee farmers.

Moving forward, we must ensure that the legal framework that is in place will ensure that farmers are not siphoned off their money. It cannot be the business of

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government for some people to enrich themselves only for the government to come and bail the farmers out. Having a clear starting slate will ensure that farmers of this country will not only enjoy their sweat but are also protected by the Government. That can only be done when it is anchored in a living document as envisaged in this Bill.

There are however a few things that need to be amended as we move on. Having said that, it is also important to say that law in itself is not static. It is a flexible document that will change with time. Some of the clauses will need to be modified so that as we build capacity at the grassroots level, we will ensure that we also put in place regulations, operationalize the law by making sure that some of the impractical clauses can be amended.

The introduction of sectors and zones in the sugar-growing sector is a welcome move. It is not only going to be good for elections but also for the millers to be able to create incentives so that they can get out growers and farmers who will prepare to sell sugar cane to them. In all other farming sectors, I know because I sit in this Committee, we are preparing ourselves, so that by the time we are with our term in this Senate, the history of this country and that of agriculture and the problems that have confronted it in this country will never be the same again.

The commitment from our Chairperson Sen. (Dr.) Murango is that nobody again in this country will stand up and use the agricultural sector as a campaign tool. This is because we are going to do what it takes to ensure that what has been promised for the last 60 years is implemented. That is possible because we have a Government that is coming with a lot of political goodwill to ensure that we deliver the farmers of this country from the yoke and the bondage they have been suffering from people acting as brokers, go-betweens, and marketers.

With the commitment of this Committee and the political goodwill from the national government and the fulfilment of the plan, yes, we will deliver the Kenyan farmers from the bondage of brokerage and oppressors. We want to change this country once and for all.

I support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Tabitha Mutinda?

Sen. Tabitha Mutinda: Thank you, Mr. Temporary Speaker, Sir. I rise to applaud this Committee, the Member from the National Assembly and our Member Sen. Wafula, who has also picked it up and the positive energy that we have seen from all the Members led by the Chairperson, Sen. (Dr.) Murango on the effort they have put in this Bill. We say that God's timing is the best. The Bill is here now. So, we execute it.

My first input is on the definition of the sugar catchment area. In it, you realize that it is an area where farmers are clustered within a suitable sugar catchment area for purposes of election to the Board. Now, if it is only for election, it leaves out a very key important point of cane management that the Committee should note. Even as far as consideration of the catchment is concerned, it is not only for election, but also for ensuring that cane management is a priority so that farmers can benefit from the levies that will be put in place. I have seen that the Board shall focus on activities that will add value. There is also export and local market which is very important.

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I have noted Clause 5(b) and I am very happy because it talks about the extension services. I have my Bill which is already at the National Assembly. I am happy to see that the Board adheres to services such extension for the farmers. Officers that shall be put within the county in the different offices will ensure research is going to be done as stipulated in the Bill.

The Bill stipulates that there be a Sugar Research and Training Institute. It is very key. Proper investment in good research institutes will ensure that the yields will be maximum; the quality will be high and this is a benefit to both the farmers and to the market itself. Research is very key and I am happy to see the extension services in it.

Mr. Temporary Speaker, Sir, I have noted that in Clause 6 it says-

“the board shall comprise of---

The total number in place is nine. It talks about five representatives elected by the growers, two representatives elected by the private sector, the Principal Secretary from the Ministry, and all that. I have looked at other Bills, and when it comes to the composition of board members, the gender issue is very important. Persons with Disabilities (PwDs) are also very important. It is in my proposal that the Committee should, in terms of this Clause, apart from the nine members, add, like, two other members, for example, so that after the election, since at the election point, you cannot probably be able to determine if it is going to be this gender or this particular gender, but any additional will allow the members who are less in terms of gender, to add a member and this takes care of both genders. If women are more, then men cannot get an opportunity to have an additional person on the board. If men are more, women will have an opportunity to add one more person.

In that regard, the opportunity for Persons with Disabilities (PwDs) who need also to be part of this representation of the board will have an opportunity as far as that additional number is concerned. It will be wise and positive that the Committee ensures during the amendment, they can be able to consider that fact so that everyone is well represented in it.

Mr. Temporary Speaker, Sir, on Clause 6(iii), on the Board of Directors, it says-

“Unless a person holds at least a degree or its equivalent in any discipline from any institution---

I have always disagreed with this fact very much. People are seconded to different institutions, to different levels of their work mandates but then I always ask the question - if we have had qualified students from our great learning institutions who have taken their time and identified their lines of discipline in education that they are studying, for example, the field of agriculture, why is it this being an agricultural area, that we should open it up and say, a degree or its equivalent in any discipline? Does it mean even someone who has done psychology is qualified? I am not demeaning, but of course, it is a completely very different field from the agricultural field.

What about the students, the personnel who have taken their time and narrowed their education career to matters of agriculture? It would be wise for the Chairperson and the committee to give consideration or priority to degrees as far as the agricultural field is concerned, of course, from a Kenyan-recognised institution. There is no problem with that, but it should be much more specific so that our students who are out there, who have

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taken their time and narrowed into the agricultural field, have an opportunity and fit into this particular board membership. Out of their knowledge, experience and skills, they will add much more input, putting in mind where we are coming from, and where we are as far as the sugar issue is concerned.

I have noted that Clause 9A imposes a levy or levies upon growers and millers to give effect to the provisions of this Act. This issue of the levy is of course quite sensitive, but as far as I have looked at this Bill, the levies will take care of different issues as far as the development of infrastructure and research institutes are concerned. Administration funds are also needed, but it would be my advice to the committee to consider a single-digit levy as we have done with the housing levy when it comes to mortgage funds. It is a single digit.

It would be wise for the Chairperson, Sen. (Dr.) Murango, to consider a single digit as far as the levies are concerned so that it does not put pressure on the farmers as this board is put in place. The other issue is on Clause 20 licensing and registration. A person shall not operate unless the board upon recommendation by relevant county governments for that purpose. It should be much more specific to the County Executive Committee Member (CECM) Agriculture at the county level. Further to that, for this license to be issued, the Bill should be able to guide in terms of the timelines that are needed to issue this license. It should be issued by the CECM within a stipulated timeline. There is no timeline in this. In some cases, farmers or millers will complain because they have done applications and the timelines are not specified. If people have some hidden agenda they might just delay approving or issuing licenses because there are no timelines. That affects many things. Clause 28(k) talks about breed and promote sugarcane varieties. It is very key so that these institutes can offer the highest quality of seedlings as far as the cane is concerned.

Lastly is on the sugarcane development levy. Clause 38 (6)(d) states that 15 percent shall be applied for infrastructural development and maintenance and shall be managed by Kenya Rural Roads Authority (KeRRA). We know very well that Kenya National Highways Authority (KeNHA) takes care of the highways, Kenya Urban Roads Authority (KURA) takes care of the urban roads and KeRRA the rural roads.

The catchment areas shall be managed by KeRRA. I tend to disagree that these infrastructures should be developed by KERRA. KERRA is a national level body. At this point you realize that these levies are collected at the county level. Why do we want to collect monies at the county level and remit them to the national level? We will not then be supporting devolution. The amendment that the Committee should look at is to mention that these monies collected for development of the catchment areas--- Remember these are catchment areas that go where the farmers are. It would be prudent to say through the Committee of Finance and Budget that this should come as a conditional grant. Monies should be added to the counties, so that the counties are able to develop the infrastructure for the benefit of the farmers within different counties. However, if we give this money back to KeRRA, then we will not be adhering to what the Constitution allows us.

With those many remarks, I support and congratulate the Committee for really taking it with the weight it deserves.

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I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members there being no other Senator who wishes to contribute to this Bill---

Sen. (Dr.) Murango, the Chair confirms that you contributed yesterday to this Bill when you were tabling your report. Therefore, you are not eligible to still speak to it. Kindly resume your sit. I call upon the Mover to reply.

Proceed Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Temporary Speaker, Sir. I thank all our colleagues for taking time to speak to this important Bill. When I made my contributions yesterday, I indeed noted that this is a neglected sector of the economy.

If we took time to plan and organize well as envisioned in manifesto of the Kenya Kwanza administration, then it has the potential to save our country billions of shillings that we use in importing sugar into the country to meet our annual deficit which is slightly over a million tones or below that.

Secondly it will create employment by the fact that millions of farmers will benefit from an organized sugar sector. It cannot be the case that Brazil supplies a quarter of the world's sugar demand. This is just one country. The case cannot be made worse than the fact that the leading producer of sugar in Africa is Egypt, a country that relies on water that traverses the sugar belt regions of our country, from River Nzoia, Sondu, and all the other rivers wash down the stream towards the River Nile. They are able to put the water to prudent use and grow good cane, which they sell to the rest of Africa. It is embarrassing. I am glad that we are finally getting it right to organize this sector to ensure it works for our farmers and the country. It is possible. I know for a fact because I understand the sugar industry well. Upon the passage of this Bill and good follow-up of all the proposals in this Bill, Kenya can be an exporter of sugar to the rest of the COMESA region and global supply chains in about three years.

I thank my colleagues who have taken the time to contribute and raise important points on this issue and their proposals for how they want the sector to be better organized. I have taken a keen interest in the colleagues who, in the breakdown of the sugar levy, are concerned that if you send this money back to the Kenya Rural Roads Authority (KeRRA), what is the assurance that it shall be used to maintain some of our roads? These are good arguments.

For example, if I take the County of Kericho and the sugar factories nearby; West Valley Sugar Company and Muhoroni Sugar Company Limited, they are supplied mainly by a road network that is comprised of both county and national Government. Therefore, there needs to be a balance.

I have engaged Sen. (Dr.) Murango, the Chairperson of the Committee, that when we get to the Third Reading, perhaps, we can break this down further, so that there is a share of that allocation to KeRRA. Those funds must be ring-fenced to maintain the roads that lead to the sugar factories. If this fund were operational in that nature, the Kipsitet/Muhoroni junction between Kericho and Kisumu counties would not be in the kind of state it is in today. This important link road supports the sugar sub-sector in the two counties. However, it is in an extremely deplorable state yet, county governments

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must maintain the feeder roads within the counties. Therefore, this is a conversation that we may want to have.

Sen. (Dr.) Murango, I would like to give you a better idea. I told you that for many of these sugarcane farmer organizations, five per cent is a huge figure to give them from the sugar development levy. Part of this fund would be put to better use if farmers can access factories faster. You can slash and maintain it at one per cent or set it as a static figure of Kshs100 million. These farmer organizations have nothing do nothing more than advocacy. The rest of the important duties have been set up from research, maintaining roads, price stabilization and running the sugar board, which has been broken down.

Therefore, when we get to the Committee of the Whole, we will rely on the wisdom of the Committee on Agriculture, Livestock, and Fisheries.

Therefore, with those many remarks, I beg to reply.

In accordance with Standing Order No. 66(3), I request that you defer the putting of the question to a later date in which you shall nominate.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Subsequent to the request by the Senate Majority Leader, who is the Mover of the Bill, the Division and voting on the Bill is deferred to the next sitting of the House pursuant to Standing Order No. 66(3).

(Putting of the Question on the Bill deferred)

Clerk, next Order.

BILL

Second Reading

THE CONFLICT-OF-INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO.12 OF 2023)

The Temporary Speaker (Sen. Wakili Sigei): Senate Majority Leader, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Temporary Speaker, Sir.

I beg to Move that the Conflict-of-Interest Bill, 2023 (National Assembly Bills No.12 of 2023) be now read a Second Time.

The Conflict of Interest Bill, 2023 (National Assembly Bills No.12 of 2023), was published by the *Kenya Gazette*, No.41 of 2023. Our colleagues in the National Assembly considered this Bill and sometime in November last year, they passed and referred it to the Senate for consideration. At the time of referring this Bill, we had just proceeded on recess. Having come back, I feel that it is time that we consider this Bill. This is an extremely important Bill.

There is no hiding that corruption is a national shame and that one of the avenues that have been identified as the enablers of corruption in this country is this animal called

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the conflict of interest. This where public officials and state officers take advantage of their position to enhance their own personal interest as opposed to public interest. If you do not curb this vice, I am afraid you may not have a country to write about in the next few years to come. Therefore, I urge colleagues, that you take time, listen and debate this Bill with all the energy and vigour that you can summon. If you live in a country where industry pays less than politics, then you know that there is a problem. In a country where industrialists are poorer than members of the political class, because, say, for example, those in the political class and those within the realms of Government are able to flex their policy making position and powers to the advantage of their own interests, against the public good, then you find yourself in a very difficult situation.

This has been one of the greatest inhibitors of growth in our country and that is why our country for so long cannot take off and join the middle-income economies, yet it is blessed with so much potential. Additionally, it should be a country that many people can look up to.

Hitherto, everybody appreciates that we have a well-educated workforce. Our human capital is the envy of the world and that when Kenyans are granted an opportunity they thrive and excel. However, because of issues such as what we are confronting in this particular Bill, we are unable to get to the next level.

Mr. Temporary Speaker, Sir, it is until we all summon our collective strength and conscience to believe that there is a greater sense of moral good when the country thrives even better than you as an individual do. That, when you are granted the opportunity to serve in a public office, be it as an elected official or a public servant, you must remember that it is that poor young man in the village or poor old lady that perhaps walk barefoot, that has granted you the opportunity to use that office to make their life better. I am particularly impressed that this Bill provides that opportunity for us to move in that direction.

I will quickly move to the various sections of the Bill. Article 73(2) of our Constitution provides guiding principles of leadership and integrity. Further, Article 75 requires a State officer to behave, whether in public and official life or sometimes even in private and in association with other persons, in a manner that avoids conflict of interest between that personal interest and their official duties, which may end up compromising your official interest in favour of personal interest. This is a point which I have just taken time to explain, that many countries that have been firm, fluid and fluent on matters corruption and slaying the dragons of conflict of interest, have succeeded and excelled.

When people know that public office is only accessed with a sense and the desire to serve the public, those countries have moved ahead and thrived. Unfortunately, that has not been our story and we must be the generation and Parliament that eventually turns this around.

Clauses 1 to 4 of the Bill provide for preliminary matters. I will not take a lot of time looking into that.

Part III of the Bill, which consist of Clauses 8 to 29, defines the various situations that amount to conflict of interest and imposes obligations to public officers to either avoid situations that will result in conflict of interest or prohibits them from engaging in activities that will make you or put you in a situation where private interest is on a

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collision course with public interest. All these issues are defined in Clauses 8 to 29, so that a public official will not come back and say, I did not know that this was wrong, including the Members of Parliament.

As you debate on a Bill, you are duty-bound to make declaration of interest on this Floor. The same is provided for in our Standing Orders, but now it will be provided in statute. This will enable one to say: “On this matter, I am afraid I may not provide the best of judgment because I know this client or company. I do business with them.” and so on and so forth. This will enable the Speaker to determine that already, as a human being you are biased. It is impossible to divide yourself into two. So long as you are into business or private relationship with an entity or an individual that is before this House, the same applies. All those offences are listed.

Part IV of the Bill, which is Clauses 30 to 38, provides for compliance measures. It tells what you need to do because you are duty-bound. Situations will arise where you are serving in a public office, then something comes across.

Mr. Temporary Speaker, Sir, an advocate of the High Court such as you, it is possible that at one time you will represent an entity which becomes subject to investigations in the Senate. It is provided in Clauses 30 to 38 on what compliance measures you are supposed to take as a public officer, where a private interest has been in conflict and what you are supposed to do. You either recuse yourself or declare the income and assets and liabilities by public officers and your diversions there on.

Part V of the Bill, which comprises of Clauses 39 to 42, provides for the lodging of complaints against the conduct and investigation. It sets out the procedure for reporting any violation of this Act to the Commission and the reporting entities. It provides temporary vacation of office by public officers who are under investigation and stipulates the recommendation that may be made by the Commission to a reporting entity upon the conclusion.

This is where the rubber meets the road. Once it has been declared that there is possible conflict of interest that you did not act in a manner that is in the best interest of the public on what is supposed to happen, the Ethics and Anti-Corruption Commission (EACC) or whatever investigative entities, are to deal with you.

Part VI of the Bill, which is Clauses 43 to 48, are just miscellaneous provisions, which provide for the penalty on issues such as filing of returns and the power of Attorney General (AG) to make regulations and repeal the Public Officers Ethics Act.

Finally, Part VII of the Bill, which is Clauses 49 to 51, is the saving and transitional clauses, which provides for the Public Officers Ethics Act, the Leadership and Integrity Act and many of the clauses, which are being succeeded by this Act.

In conclusion, I urge Senators to take time to read this Bill, debate it and provide insight on how to make it better, given that we have personal interest in this matter because it affects us. It is important that you speak about it and share ways in which the Bill can be made better. I am sure, tomorrow, when the report by the Standing Committee on Justice, Legal Affairs and Human Rights is tabled on this Bill and what Clauses you want us to make better, it will be for the good of the country.

With those many remarks, I beg to move and request the Senator for Kakamega County, our Majority Whip, Sen. (Dr.) Khalwale, to second.

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The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I rise to second the Conflict of Interest Bill (National Assembly Bills No.12 of 2023) as moved. I will be very brief.

I take this House down memory lane. This is not the first time that the matter of conflict of interest is coming before Parliament. In 1971, after the death of Tom Mboya, Prof. Peter Anyang' Nyong'o wrote in his book that he went to Singapore and asked the leadership why Kenya and Uganda were lagging behind when actually they had started on the same footing as Singapore. The President quickly told him that they chose the path of prosperity while we chose to kill Mboya.

Mr. Temporary Speaker, Sir, Mboya was very clear in his mind that it is an open secret that proximity to Government and especially higher office in Parliament, is a way to create great wealth. With this realisation, Mboya went and President Kenyatta formed the Ndegwa Commission. Ndegwa was the then the Chairman of the Central Bank of Kenya, a highly respected banker. Ndegwa, upon interviewing many parastatals, including, the National Social Security Fund (NSSF), the National Health Insurance Fund (NHIF) and others, then allowed public servants to own property and participate in business with public entities. That is when the rain started beating.

The Ndegwa Commission recommendations allowed civil servants to then participate in doing business with public entities. That was the beginning of a real conflict of interest and the rest is history. Therefore, it is not a surprise to those who bother to fight for this country that some of the richest families in this country are unfortunately, the same families that have enjoyed the opportunity to lead the country at the highest level.

I, therefore, support this Bill because it now wants to categorically legislate on the sensitive issue of conflict of interest. The object is to provide for management and regulation of conflict of interest in the discharge of official duties.

Mr. Temporary Speaker, Sir, as the Mover of the Bill has told us, this aims to prevent officials from using positions of power for personal gain. It is very difficult. This is the real meaning of Chapter Six on integrity and leadership.

People in high office dole out special favors to interest groups, members of their families, people they share membership to clubs with, fellow alumni and in the process, the weak lose out. It played out in this House two weeks ago when a little boy had to sell his business worth Kshs800,000 to access opportunity. This is what this Bill is all about; conflict of interest. I, therefore, join the Senate Majority Leader in urging colleagues that we pass this law, so that we move yet again a step closer to realising the meaning of Chapter Six of our Constitution on leadership and integrity.

I beg to second.

(Question proposed)

The Temporary Speaker (Sen. Wakili Sigei): I will call upon any hon. Senator who wishes to contribute to this Bill and I will start with Sen. (Dr.) James Murango.

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Sen. (Dr.) Murango: Asante, Bw. Spika wa Muda. Nimesimama siku ya leo kujiunga na Kiongozi wa Walio Wengi na pia Kiranja wa Seneti, kuunga mkono Mswada ulio mbele yetu. Kwa muda mrefu, wananchi wengi wamekuwa wakikosa huduma katika ofisi nyingi kwa sababu ya ukosefu wa maadili na pia ufasadi. Kwa hivyo, sheria kama hii ni muhimu sana ili kuhakikisha kwamba wanaotafuta huduma kwa zile ofisi, wanapata huduma bora, pasipo ubaguzi kwa sababu hawajulikani au hawachukuliwi kama wahusika wakuu katika zile ofisi.

Bw. Spika wa Muda, siku ya leo, ukienda ofisi nyingi, utapata wale wanaotafuta ajira au kazi ni lazima wawe na uhusiano fulani na mwenye yuko kwa hio ofisi. Kwa hivyo, ile sheria itakayotokea kutoka kwa huu Mswada itakua muhimu sana ili kuhakikisha ya kwamba maadili yanahifadhiwa na watu wanapewa heshima; na Wakenya pia, wanapata huduma kwa njia inayofaa.

Asante.

Sen. Wamatinga: Thank you, Mr. Temporary Speaker, Sir. I also rise to support this Bill.

Abuse of office, corruption, favouritism and nepotism have been some of the key breakers of this economy and this country. This Bill seeks to cure such leakages that have bled our country to where we are today. With this Bill, we will ensure that every Kenyan, as has been envisaged, has and stands the equal opportunity to access opportunities that are open to them.

I support.

QUORUM

Sen. (Dr.) Murango: On a point of order, Mr. Temporary Speaker, Sir. I wish to bring to your attention the fact that we do not have sufficient quorum in this House to continue with business.

The Temporary Speaker (Sen. Wakili Sigei): Serjeant-at-Arms, could you please ring the Quorum Bell for five minutes.

(The Quorum Bell was rung)

Serjeant-at-Arms, continue to ring the Bell for another 10 minutes.

(The Quorum Bell was rung)

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, it is now 6:30 p.m. time to adjourn the House. The House stands adjourned until tomorrow, Thursday, 28th March, 2024 at 2:30 p.m.

The House rose at 6:30 p.m.

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