

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 23rd October, 2024

Afternoon Sitting

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

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum? Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Order, hon. Senators. Sen. Mbugua just take your seat, please.

(Sen. Mbugua took his seat)

Clerk, proceed to call the next Order.

PAPERS LAID

THE 2024 BUDGET REVIEW AND OUTLOOK PAPER

The Speaker (Hon. Kingi): Senate Majority Leader, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Wednesday, 23rd October, 2024-

The National Treasury and Economic Planning, 2024 Budget Review and Outlook Paper.

Mr. Speaker, I beg to lay.

(Sen. Cheruiyot laid the document on the Table)

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REPORT ON CONSIDERATION OF THE PUBLIC TRANSPORT
(MOTORCYCLE REGULATION) BILL (SENATE BILLS NO.38 OF 2023)

The Speaker (Hon. Kingi): Chairperson of Standing Committee on Roads, Transportation and Housing or any Member of the Committee. Senate Majority Leader, would you please lay the Paper on behalf of the Chairperson Standing Committee on Roads and Transportation.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Wednesday, 23rd October, 2024-

The Report of the Standing Committee on Roads, Transportation and Housing on its consideration of the Public Transport Motorcycle Regulations Bill (Senate Bill No.38 of 2023).

Mr. Speaker, Sir, I beg to lay.

(Sen. Cheruiyot laid the document on the Table)

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statement pursuant to Standing Order No.53(1). Hon. Sen. Mwaruma, MP. The Statement is dropped.

OPERATIONS OF TAVEVO WATER COMPANY
IN TAITA TAVETA COUNTY

(Statement dropped)

The Speaker (Hon. Kingi): Sen. Onyonka proceed.
This Statement is dropped.

TERMINATION OF SERVICE OF PROF. STEPHEN KIAMA GITAHU FROM
THE POSITION OF VICE CHANCELLOR AT UON

(Statement dropped)

The Speaker (Hon. Kingi): The Hon. Sen. Chute. Who are you holding brief for?
Sen. Montet: Sen. Chute.
The Speaker (Hon. Kingi): Proceed.

ALLEGED DELAY IN DISBURSEMENT OF GRATUITY TO
WARD OFFICERS BY MARSABIT COUNTY GOVERNMENT

Sen. Montet Betty: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare regarding the delay in the disbursement of gratuity by the Marsabit County government to ward officers who were contracted between 2017 and 2022. In the Statement, the Committee should-

(1) Provide details of all ward officers contracted by Marsabit County during the period 2017 to 2022, specifying their duration of service and the total gratuity owed to them by the Marsabit County government.

(2) Explain the reasons for the prolonged delay in the disbursement of gratuity to these ward officers and provide timelines for the settling of the outstanding gratuity claims. Finally-

(3) State the measures being taken by the county government and address those delays and ensure timely disbursement of gratuity in the future.

Signed by Sen. Chute, Senator for Marsabit County.

The Speaker (Hon. Kingi): Sen. Osotsi proceed.

OPERATIONS OF VIHIGA COUNTY PUBLIC SERVICE BOARD

Sen. Osotsi: Thank you, Mr. 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 operations of Vihiga County Public Service Board.

Regulation No.25(1)(b) of the Public Finance Management (PFM) County Government Regulation 2015 caps county government expenditure on wages and benefits at 35 per cent of the total county revenue. The Auditor-General's Report on the Vihiga County Executive for the years ended 30th June 2021 and 2021/2022 raised concerns about the over-expenditure on wages by the Vihiga County government.

These wage payments were processed through both the Integrated Personnel and Payroll Database, the so-called (IPPD) system, and manual payroll systems. The key issues identified in this report include delays in assigning the unified payroll numbers to staff, recruitment into designations that do not align with the scheme of service or the IPPD system, and the employment of staff on short-term contracts of less than six months.

There are also allegations of nepotism by the officers serving in various offices in the county Executive, which is perpetrated by this County Service Board, where they have employed their relatives.

In the Statement, the committee should-

(1) List all individuals employed by the Vihiga County Public Service Board, both on contract, permanent and pensionable terms from the Financial Year 2021/2022, to date, indicating their positions, department, county or sub-county of residence.

(2) Provide a breakdown of individuals who have been converted from contract terms to permanent and pensionable status, stating whether the due process was followed in each case.

(3) Provide the needs assessment reports, job advertisements, interview analysis sheets, employment agreements or contracts, and all related documentation for the officers employed from the Financial Year 2021/2022, to date.

(4) Explain the reasons for the continued over-employment by the County Public Service Board despite consents raised in the Auditor-General's report and the Controller of Budget (CoB) reports about over-expenditure on wages and salaries.

(5) Provide copies of resolutions from the County Assembly of Vihiga that have halted various employment activities due to the high wage bill and include recommendations from the office of the Auditor-General and the CoB and lastly-

(6) Inquire into allegations of nepotism within the County Public Service Board, senior county officials and the recruitment and promotion of staff within the Executive and state the actions taken to address the recurring audit concerns regarding over-employment and ethnic imbalance in Vihiga County.

I thank you.

The Speaker (Hon. Kingi): Senator for Nandi County proceed.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir, for the indulgence.

RUTH CHEPNG'ETICH MARATHON RECORD AND KENYA'S
SUPERB PERFORMANCE AT CHICAGO MARATHON

Sen. Cherarkey: Mr. Speaker, Sir, I rise pursuant to Standing Order No.52(1) to make a statement on an issue of general topical concern and national importance, namely: Ruth Chepng'etich's incredible performance in shattering the women's Marathon World record and the overall superb performance of the Kenyan team at the Chicago Marathon on Sunday, 13th October, 2024.

Once again, our athletes have brought glory to our country. Ruth Chepng'etich broke the women's marathon world record at the same event where the late legend, Kevin Kiptum set the men's marathon world record last year in Chicago. He also run under two hours.

Ruth Chepng'etich becomes the first Kenyan woman athlete to break the 2:10 barrier in a marathon running. She set the new women's world marathon record at 2:09:56, a gap of almost two minutes over the previous records of 2:11:53, set by Ethiopia's Tigst Assefa at the Berlin Marathon in 2003. This victory also marked Chepng'etich's third consecutive win at the Chicago Marathon in one of the premier marathons across the world.

This year's Chicago Marathon was also a time for remembrance. The organizers respectfully observed a moment of silence at the starting line to honour the late maestro and legend, Kevin Kiptum, the Men's Marathon world record holder. We also appreciate Ruth Chepng'etich for dedicating her win and record to Kevin Kiptum. May his soul continue to rest in peace.

In the men's marathon, John Korir brought home further glory to our country by winning with a personal best of 2:02:04; the second fastest ever recorded in Chicago. He

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was followed by Ethiopia's Mohamed Esa who finished at 2:04:39 and our own who is also my good friend and neighbour in Nandi, the home of champions, Amos Kipruto, in the third position at 2:04:50. Other Kenyans, Vincent Kipng'etich and Daniel Ebenyo also finished strongly.

Mr. Speaker, Sir, it was also dis-heartening to witness a section of the media across the world, castigating unwarranted doubts and aspersions on our athletes; questing their integrity and accusing them of doping without following the due process. These are established standards and procedures including multiple anti-doping tests conducted before and after major competitions.

Ruth Chepngetich's consistent performance, winning the Chicago Marathon three times in a row is a statement of her dedication, resilience and passion for the sport. The harassment she received from the media, especially the western media and some individual outlets after breaking the world record should be condemned in the strongest terms possible. We also expect the Government of Kenya, including the Ministry of Youth Affairs and Sports and Athletics Kenya (AK) to do the same.

Instead of being vilified, she should be celebrated for her hard-earned victory and consistency over the years. We also expect to hear women's voices on this matter. I call upon the Ministry of Youth Affairs and Sports, Athletics Kenya and the National Olympic Committee of Kenya (NOCK) to issue a strong rebuttal and defend the integrity of our athletes from such baseless media accusations.

Mr. Speaker, Sir, I urge the Anti-Doping Agency of Kenya (ADAK) to intensify its vigilance, eradicate rogue agents and coaches who tarnish our athletes' careers and the names of our athletes by sometimes doping them unknowingly. I also call upon our athletes to remain clean and report any suspicious individuals or activities in their training camps.

Athletics Kenya, like any other federation, must hold elections for its officials so as to bring fresh leadership and professionalism, promoting transparency and accountability. Similarly, I urge the Football Kenya Federation (FKF) elections board where campaigns are ongoing - and one of my friends, Tom Alila is running - to conduct its elections according to its constitution and in adherence to Kenyan laws, without hiding behind the Federation Internationale de Football Association (FIFA) statutes.

Mr. Speaker, Sir, I also congratulate our athletes for their outstanding performance at the Chicago Marathon and other major global marathons that happened over the weekend. I also commend Kenya's rising football stars; the Kenya National Under-20 Football Team for qualifying for the Under-20 Africa Cup of Nations in 2025. Although, I do not know whether the Bunge Football Team will qualify.

Additionally, I extend my best wishes to the Junior Starlets who are currently participating in the FIFA Under-17 Women's World Cup in the Dominican Republic. We assure them of our unwavering commitment and support as they continue representing our nation at the global stage and the sports arena.

I thank you.

The Speaker (Hon. Kingi): Next Order.

MOTION

CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS
TO THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS
BILL (SENATE BILLS NO.19 OF 2024)

THAT, the National Assembly amendments to the County Governments Additional Allocations Bill (Senate Bills No. 19 of 2024) be now considered.

(Sen. (Dr.) Khalwale on behalf of the Chairperson, Budget and Finance Committee on 15.10.2024 – Afternoon Sitting)

(Resumption of debate interrupted on 15.10.2024 – Afternoon Sitting)

The Speaker (Hon. Kingi): Clerk, we have the requisite quorum. Hon. Senators, I will now proceed to put the Question.

(Question put)

(No response from the Senators)

Hon. Senators, I am going to put the question because clearly, most Senators were not following this.

We have concluded debate on the consideration of the National Assembly amendments to the County Governments Additional Allocations Bill (Senate Bills No. 19 of 2024).

Hon. Senators, I hope it is clear to you what the question is all about. I will allow the Senate Majority Leader to explain before I put the question, so that we make the right decision.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, this is a straight-forward matter which I wish my colleagues to understand. It is not my Report, but it is Sen. Ali Roba's and Sen. Faki's. It is Sen. Faki, Sen. (Dr.) Hamida and Sen. Eddy who should be explaining. They are Members of the Committee on Budget and Finance.

They rejected the amendments of the National Assembly. That is what is in our Report. When you vote, yes, you will be agreeing with the rejection by our Committee and if you vote, no, it means you do not agree. That is why I plead with colleagues that we agree with the Report of our Committee which is rejecting the amendments by the National Assembly.

The Speaker (Hon. Kingi): It is procedural.

(The Clerk at-the-Table and Sen. Cheruiyot consulted with the Speaker)

The Speaker (Hon. Kingi): Senate Majority Leader, please proceed.

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(Loud consultations)

Order, hon. Senators!

(Sen. Madzayo stood up in his place)

Sen. Madzayo, have your seat.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, having seen how the question that you put is framed, since what is in question is not the Report of the Committee, it is the amendments of the Assembly, we reject them. We vote, no. That takes us to mediation.

The Speaker (Hon. Kingi): Hon. Senators, I will now put the question.

(Question put and negatived)

Next Order.

MOTION

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON
THE SUGAR BILL, (NATIONAL ASSEMBLY BILLS NO.34 OF 2022)

THAT, the Senate adopts the Report of the Mediation Committee on the Sugar Bill (National Assembly Bill number 34 of 2022) laid on the Table of the Senate on Tuesday, 22nd October, 2024, and further that pursuant to Article 113(2) of the Constitution and Standing Order 167 (3) of the Senate, approves the mediated version of the Bill.

(Sen. Wafula 22.10.2024)

(Resumption of debate interrupted on Tuesday, 22.10.2024)

The Speaker (Hon. Kingi): At the interruption of the debate on Tuesday 22nd, the hon. Senator for Nandi County was on his feet and had a balance of 13 minutes.

You may proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I was on Clause 19. I would like to continue thanking your office for the support through the Secretariat and also our colleagues in the National Assembly on this mediation version of the Sugar Bill of 2024.

I would like to assure farmers, especially our sugarcane-growing farmers from Migori, Kwale, Nandi, Kericho, Kakamega, Busia, Kisumu counties, and wherever they are, including Trans Nzoia County, that this is a farmer's best interest mediation version of the Bill, on the Sugar Bill.

I would like to also thank the Senate Majority and Minority leaders for ensuring that we got nominated to the Mediation Committee. We shall not forget their favour, before the eyes of the Lord.

Mr. Speaker, Sir, in Clause 19, we agreed that a miller shall not purchase sugar crop from or accept sugar crop delivered by a grower, and a grower shall not sell or deliver sugar crop to a miller unless the grower is registered or has a valid supply agreement with the miller.

This is because, most of the sugar companies do not do cane development. So, we are protecting them from cane poaching, where a factory develops sugar of a particular farmer, but because of sugar pricing and prevailing factors, they might end up encouraging cane poaching. If factory X has done cane development, in Vihiga, Nandi or Kericho counties, they will not have raw material. That factory ends up closing because of cane poaching.

Therefore, whenever there is a cane development by a particular farmer, they must be an agreement between the miller and the grower to ensure that we avoid cane poaching.

We substituted the zoning into sugar catchment area. According to Clause 2 of the amended Sugar Bill version, the sugar catchment areas will be used for purposes of cane development.

Cane development means processing, researching, delivery, growing, and also for purposes of elections to Kenya Sugar Board. In our schedule, we provided how those cluster areas will look like, and I will be sharing with the Members before I close these remarks. If, for example, sugar factories are doing maintenance, be it Chemelil, Muhoroni, West Kenya, Butali, West Valley, Kibos, Naitiri, among other areas, are doing sugar maintenance, the Kenya Sugar Board shall give them an approval to deliver their sugar when it is mature and ready to another sugar catchment area.

Clause 19 is, therefore, important because it will ensure that we protect both millers and sugar cane farmers. One of the critical issues that I would like to bring to your attention is the issue of nomination to Kenya Research Institute. We have agreed that universities will nominate members to the board to do extensive sugar research so that our farmers continue to benefit from extension services.

Mr. Speaker, Sir, thirdly, we have agreed and amended the issue of Cess, on the issue of sugar Cess in Clause 38. You remember, Members of the National Assembly wanted around Kshs4 billion that was meant for the Kenya Sugar Board to go to the Kenya Rural Roads Authority (KeRRA) and the Kenya Urban Roads Authority (KURA).

KeRRA and KURRA are not constitutional bodies. There is a matter in court so, I do not want to delve into that. That is why we say that the money should remain with the Kenya Sugar Board in consultation with farmers. Two weeks ago, I was in Mosop Sub-County, Nandi County, where they are growing a lot of sugarcane.

I used a road between Kapyemit through Lolgeringe to Kamamut in Kabiyeet. The road is impossible. The tractors that are carrying the sugar cane are destroying the road. The County government of Nandi has been given millions and millions of shillings through sugar Cess, either by Kibos, Muhoroni, West Kenya and West Valley, the newest factory from Kericho. There is nothing to smile about. From Taunet, all the way to

Kapkeben, all the way to Mumbwa, which neighbours Aaron Cheruiyot's county, the roads are impassible, yet there is a lot of money that is paid through Cess.

Mr. Speaker, Sir, in the wisdom of the Committee, which you appointed, we thought the Cess should go back to the Kenya Sugar Board so that they can assist in maintenance of infrastructure. In fact, in the definition, we did not say only roads, we said bridges, murrum roads, grading and access so that farmers in Homabay and Kakamega counties, when delivering sugar cane to either Butere or Mumias, are using well maintained roads. Therefore, I would like to inform the House that money will never go to KeRRA because Members of the National Assembly have an opportunity of taking advantage of the 40 per cent that normally goes to KeRRA.

Number four is on the issue of appointing boards to the private factories. We are against it. Under the Companies Act, you cannot have an outsider sitting in a private company and, therefore, we rejected having a farmer or anybody to sit in a private company's board because it is against the Companies Act, and against best business practices. We agreed and deleted that.

We introduced Clause 19(a), to rectify something. Hon. Members should listen to this carefully. We said-

“A grower may deliver cane outside the sugar cane zone or catchment area, provided that the grower--”

I had explained.

Mr. Speaker, Sir, we are substituting the sugar zone to sugar catchment area. I think Kwale County is part of the catchments, and I am happy the Senator who was our host over the weekend is in the House, Sen. Issa Juma Boy. Kilifi and Kwale counties should be the biggest beneficiary in that region.

A miller may enter into a contract of cane supply with another miller, if his mill is located within the same sugar cane catchment area. Farmers from Kericho and Nandi counties met the Senate Standing Committee on Agriculture, Livestock and Fisheries in the presence of the Senate Majority Leader and I. We agreed that we are going to ensure zoning.

Mr. Speaker, Sir, if you read the Oparanya Report, this Sugar Bill has borrowed largely from the Oparanya Report. For us who come from western region, that Report is what we borrowed from heavily. When we did public participation across the country, we realized that farmers were proposing in line with Governor Oparanya's Report in the last session. That is why we came up with the sugar catchment areas. I have said sugar catchment areas will be for cane development and for the purposes of elections to the Kenya Sugar Board. In fact, I know the questions farmers will ask. For example, Nandi will be part of the central region. This part will be on the other part. We are proposing that the directors to Kenya Sugar Board be rotational.

Finally, on the New Schedule on sugar catchment areas, Central will cater for Kisumu, southern Nandi and Kericho. Remember Nandi does not have any milling sugar factory. We rely on Kibos, Muhoroni, Chemelil, West Kenya and West Valley in Kericho County.

On upper western region, we will have Bungoma, Kakamega, excluding Mumias area, Trans Zoia, Uasin Gishu and Northern Nandi. For us in Northern Nandi, Naitiri and Butali will be nearer. On Lower Western, we will have Mumias, Busia and Siaya.

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On the southern sugar catchment area, we will have Migori, Homa Bay, Kisii and Narok. At the Coast, we will have Kwale, Tana River and Lamu. Those were proposed catchment areas that we hope our farmers will be comfortable with because some counties do not have a factory. For example, in Nandi, we do not have a sugar milling factory. We only depend on Kakamega, Naitiri and Butale. On the other side, we depend on West Valley, Kibos, Chemelil, Muhoroni and West Kenya to deliver our cane.

Mr. Speaker, Sir, looking at this report, I ask my colleagues to support this Mediated Version of sugar Bill for the benefit of our sugar farmers.

Sen. Sifuna had proposed something on Sugar Development Levy Fund. As a committee, we thought it is wise to introduce tax but be managed by Finance Bill. This is because a Finance Bill will be introduced regularly in the financial year.

The reason we want to introduce sugar development levy fund is to cushion and encourage our local milling factories to ensure that we take care of industrial sugar. I know the argument will be that if that industrial sugar tax will be levied, they must transfer taxes to confectionaries such as biscuits and others that use industrial sugar processing. However, it was wise to cushion because we should also look inward.

Donald Trump is talking of making America great again, but you remember that he denied business to China at expense of America. I encourage the House that we protect our local sugar factories.

We wanted to zero rate industrial sugar but of wisdom we decided to introduce at least at the minimum taxes. I hope the manufacturers or the importers of industrial sugar will not transfer that weight to the consumers of confectionaries.

Mr. Speaker, Sir, this is the best we could do. I hope by the end of this year, His Excellency the President should assent to the Bill. Let us agree because our sugar cane farmers are waiting. The one for coffee, milk and tea will come. Let us assist our farmers who are waiting.

This is redemption for the sugar cane farmers. This is the right time to do this sugar sector reforms for the benefit and kill this animal called Agriculture and Food Authority (AFA). We need to have our own directorate of sugar.

The AFA one has killed most of the crops. Coffee and sugar can have their own directorate. We have the Kenya Tea Board. We have one for nuts in Coast and mung beans, so that farmers can be handled as best as their crop.

Mr. Speaker, Sir, allow me to support this mediated version of the Bill and call upon colleagues to support, so that we can expeditiously dispense off with and allow farmers to go back to the business of tilling and ensuring that we have enough sugar. Sugar is very critical. I am so used to sugar nowadays. You know, there are sugar barons, sugar daddies, sugar mommies and that is life.

I support.

The Speaker (Hon. Kingi): Proceed, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, I did not want to interrupt Sen. Cherarkey, but I did not quite get what he said about how the Committee dealt with my amendment. Read the report at page 10, it says the Committee unanimously rejected the proposal to exempt industrial sugar from the sugar development levy. They said there was no justification to exempt only imported industrial sugar from paying the sugar development levy, while all other imported sugar is subjected to the levy.

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Honestly, I have to express my disappointment with the Mediation Committee. I am in the unique position where I am the Senator of the City of Nairobi, but also a sugarcane farmer. That unique position allows me to have perspective of the various interests that we were trying to protect, unlike my colleagues from upcountry, whose perspective was limited, in my view. I very respectfully submit to the perspective of the farmer and the local sugar industries.

Mr. Speaker, Sir, I took time to have a meeting with the Mediation Committee, at least our representatives from the Senate. The Members of this Mediation Committee are personally known to me. I consider them my friends.

Hon. Peter Massara who will be hosting me as his Secretary General (SG) in his constituency on Saturday. We also have Sen. Richard Onyonka and hon. Walter Owino, Member of Parliament (MP) for Awendo is a personal friend and of course, my mother's MP, Hon. John Makali, MP for Kanduyi constituency.

I have even more friends in this Committee, including the MP for Lugari, Hon. Nabii Nabwera, who I know is very passionate about these things. What I try to persuade them to see is that there has to be a distinction in the way in which we treat regular imported table sugar and imported industrial sugar. When we are talking about protecting our farmers, the threat does not originate from industrial sugar.

In fact, it is foolhardy to say that you are protecting local industries when you apply this levy to industrial sugar knowing very well that in Kenya today, there is no single industry that produces white industrial sugar.

I was hoping that a distinction would be made, because as a Senator for Nairobi, the industries that we are talking about account for 60 percent of all employment of the people of Nairobi. These are big stakeholders for city Senators such as myself.

If there is no local production of a commodity, you cannot claim to protect local industry when that local industry does not exist. In fact, I pleaded with the Mediation Committee that they even allow a time frame. It can be a sunset clause that immediately the country is able to produce or have capacity to produce white industrial sugar, then maybe we can introduce this levy.

The reason I was seeking that exemption on this white industrial sugar is that it is used in about everything that we consume here in Nairobi and across the country. It is used in baked goods, confectionaries like sweets, juices, sodas and beer.

Over the period of time that we have seen, although the Senator for Nandi was pleading that the industry should not pass this cost, I can assure you that no manufacturer will take this cost upon themselves. You will see a rise in the cost of these basic commodities. I thought we would try and cushion Kenyans, especially because we are still discussing the high cost of living. There has to be that balance. When I appeared before the members of the Senate who are members of this Committee, I thought I had provided the justification that we needed that exemption to protect industry.

Looking at both the manifestos of the Azimio coalition and of the Kenya Kwanza Government, we leaned heavily on industrialisation. I am aware that it is the desire of both of these coalitions to put in place policies that encourage investment.

Mr. Speaker, Sir, over the period of time that I have been a Senator here, for the past two financial years, because of multiple increase in taxation, in many of these factories, their sales have dropped because of incessant increases of prices due to new

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taxation every financial year. I suspect that this will also put the pressure further on these manufacturers because it will increase the cost of production.

When the cost of production increases and then see higher prices for these commodities, we will have lower sales. This directly translates to shrinking employment in terms of the number of people that can be hired.

Some of our factories here in Nairobi have closed down their entire production lines because they can no longer manage to sustain the cost of wages.

Mr. Speaker, Sir, whereas I wholeheartedly supported the Sugar Bill, especially from the perspective of the farmer, I had hoped that at least on this particular single issue, the committee would accommodate manufacturers as well, so that as we encourage and develop our capacity to produce this commodity locally, there is no need for us to lump this together.

I had a conversation with Hon. Emmanuel Wangwe, who is my neighbour upcountry and also a friend and the Chair of the committee. His explanation was that there have been instances within the industry where people import normal sugar under the guise of industrial sugar.

My argument to him was that in every endeavour in this country, there are people who try to be clever and circumvent rules and so on and so forth. However, it should not be a cause to mete out punishment on the entire industry. Let it be what it is.

I hope that Members of the committee who have not spoken will be a little bit clearer than the Senator for Nandi about what he was saying that the committee was proposing to do with industrial sugar in light of the matters that I have raised. I do not know if he meant that next time the Finance Bill is brought up there will be an exemption. I really did not get the reasoning of the committee. I hope that somebody will clear that up for me.

Other than that, I am in full support of all the other amendments, because these are proposals that we supported here on the Floor during the debate on the actual Bill. I hope that it will assuage the situation on the ground.

I can also confirm that the roads, especially around my rural home, are in a terrible state. We were hoping that once this levy is introduced - now that you have decided that you must take it Sen. Cherarkey - we will see an improvement in the county roads because they will have resources to repair and maintain them.

Mr. Speaker, Sir, with those many remarks, I thank you and support.

The Speaker (Hon. Kingi): Proceed, Sen. Boy.

Sen. Boy: Asante sana, Bw. Spika, kwa kunipa fursa kuchangia Hoja hii. Kama Seneta wa Kaunti ya Kwale, kwa niaba ya watu wa Kwale, naunga mkono hii Sugar Bill.

Kusema ukweli, kule kwetu kuna matatizo mengi, haswa katika Kiwanda cha Sukari cha Ramisi. Juzi tulikuwa na tatizo lililofanya wafanyikazi wa kiwanda hicho kugoma kwa sababu ya usimamizi mbaya. Wafanyikazi huenda kwa karibu miezi mitano au sita bila mishahara.

Bw. Spika, tutakapopitisha huu Mswada, *regulations* nyingi humu nchini zitaweza kutekelezwa vizuri kwa sababu kuna watu wanaoleta sukari kutoka nchi za nje. Sukari hiyo huagizwa kwa bei rahisi sana na kufanya sukari yetu kukosa soko. Kama walivyosema Sen. Cherarkey na Sen. Sifuna, nawaunga mkono kwa marekebisho yatakayofanyika.

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Tuna shida nyingi sana katika sekta ya sukari haswa kule Kwale. Juzi nilisema katika mkutano kwamba kama mwekezaji huyo ameshindwa na kiwanda hicho, basi aletwe mwekezaji mwingine ambaye ataweza kuendesha kiwanda hicho ili wananchi wapate manufaa.

Kinachofanyika ni kuwa huwa kuna mgomo baada ya miezi miwili ama mitatu kwa sababu ya usimamizi mbaya. Kwa hivyo, mimi ninaunga mkono hii Bill.

Kwa hayo machache, asante sana Bw. Spika.

The Speaker (Hon. Kingi): Proceed, Sen. Oketch Gicheru.

Sen. Oketch Gicheru: Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to contribute on this report of the Mediation Committee on the Sugar Bill (National Assembly Bills No.34 of 2024).

Yesterday, I raised an issue of quorum to ensure that as many Senators as possible can contribute to this Motion today. I think this is the most important Bill you can support this year.

I presume that in every home, there is a cup of tea waiting for people in the morning or evening. Whether you take tea with milk, like my friend Sen. Olekina who cannot do his tea without milk, or whether you like strong tea, like my friend Sen. Cheruiyot, who is trying to keep up a good weight so that he plays for us during the East African Community (EAC) Inter-Parliamentary Games (IPG), it does not matter. At the end of the day, you want to have some sugar in it.

The development of the sugarcane industry is very important. The reason I support this report in the form it is in right now is because there are a number of clauses that have really impressed me in the different sections of this mediated version of the Bill. This is particularly because for the first time, we are seeing a Bill on the sugarcane industry that is farmer-centric. It seeks to solve as many problems for the farmer as possible.

The first thought I had today was to celebrate the Bill in general with my friend, Martin Dima. Martin Dima is the current Managing Director of South Nyanza Sugar Company Limited, which is a signature industry in that part of the region where I come from.

South Nyanza Sugar Company Limited is one of the iconic sugar industries and millers that have given a lot of hope to our people in Migori County and in the larger Southern Nyanza region. I think this will also be celebrated by Jared K'opiyo, the Chairperson of the same industry, given the challenges that farmers in Migori County have faced.

I must also pride in the fact that Clauses 3 and 4 of this Bill seek to rethink the entire Kenya Sugar Board (KSB). Perhaps I should also share with you that one of the longest-serving KSB directors who used to represent farmers before rising quickly to be a chairman of the Board was the former Governor of Migori County, Hon. Okoth Obado. He worked hard during his time at the KSB to establish private millers, particularly in Homa Bay. That is Ndhiwa, Sukari Industry Limited, as well as in the Transmara region.

The reason I celebrate this section of the Bill is because by rethinking the KSB, there is a keen and deliberate effort by the two committees, that is the Senate and the National Assembly one, to try and make the sugar industry commercially viable.

I say this because for the first time, we are seeing regulation, development, and promotion of the industry being a function of a board. Secondly, there is a proposal that this board is also going to coordinate the activities of the value chain actors in the industry.

There is nothing that can make the sugar industry as economically and commercially viable as being able to coordinate activities of value chain actors. Sometimes these value chain actors, for instance, jaggery millers, when left to no regulation, development or promotion, cannot make sense of commercial viability of running good industries. The KSB is also going to make sure that it facilitates equitable access to benefit farmers. I will elaborate on that when I look at some of the proposals in terms of benefits that will come from the Government to farmers as well as millers.

I can also see in Clause 4 that this Bill seeks to give the KSB a role to establish linkages with Government agencies and research institutions. For the first time, we are seeing the KSB being proposed to enable farmers to do scientific approach to cane farming. Additionally, the board will monitor any distortion in the sugar market.

I know my brother, Sen. Sifuna, was very keen on the levy on importation of refined sugar. Sometimes, importation can cause a lot of distortion in the market and Kenya Sugar Board is unable to regulate that. The juiciest part of this is that for the first time, the Kenya Sugar Board will work alongside the Kenya Sugar Research and Training Institute under Clause 28(2)(a) and (b) where the Kenya Sugar Research and Training Institute will play an advisory role to the Kenya Sugar Board. We remember that the defunct Kenya Sugar Board did not have the proper scientific basis for developing the industry.

I also celebrate the fact that the board has been mandated under Clause 33, to establish sugar industry inspectors. This is wonderful because some of the problems bedeviling the sugar industry that are affecting farmers, is the disconnect between the Kenya Sugar Board and farmers' plight at the inspection level of the entire value chain. For instance, this Bill establishes the crop inspector. What kind of seed cane should a farmer plant?

Secondly, there is the establishment of factory inspectors. One of the problems that farmers face in places like Migori and the Southern Nyanza Region is that they harvest cane, take it to the factory and then when they get to the factory, they hope that cane weighs so well. Then at the factory, there are weighing machines that have already been doctored in a way that they cannot make the best out of their sugarcane. So, a factory inspector should deal with the problem of farmers in terms of weighing to make sure they are getting proper payment for their cane.

There is also a warehouse and transportation inspector that has been established under Clause 33. This is also fantastic. One of the biggest problems that the sugarcane growers are facing is that tractors have caused many accidents in regions where sugarcane farmers come from. This is because there is no inspector to look at the entire warehouse and transportation chain for sugarcane growers. For example, in places like Migori, Homa Bay, and Muhoroni, at night when people are traveling, you find tractors that have been left by different millers on the road because they are in pathetic condition and therefore, they end up claiming many lives. So, it is wonderful that we are going to have an inspector who can look at that entire chain.

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Close to this is Clause 38 of this Bill, which talked broadly about the sugarcane development levy that is tied together with Clause 39 which ends up establishing the sugarcane development fund. This fund used to be in the defunct sugarcane board, but it was not broadened enough to help the plight of farmers. This one establishes some ways of supporting farmers when they have planted their sugarcane and have contracts with millers and after that, they can benefit in different ways. For instance, I will be happy when Migori farmers get bonuses and loans from different millers, if the sugarcane development fund can allow millers to give them some bonuses and loans.

If you think about it, one of the problems that we have for farmers is that sugarcane takes up to 18 months to mature. During that time, the farmer would have spent so much time on the farm yet, they have problems with school fees. Sometimes, they have medical problems that need a lot of money, and it is so difficult for them to get loans from traditional banks or any other source of financing.

If this fund is made to function, they can now go to their millers and even seek vouchers to take their kids to school, as they wait for harvesting. At the end of the day when they harvest, they can pay back once they get their cut and benefit they will get once they sell their sugarcane.

There is also a very important function that this will help with, which is what I have seen in Migori County, particularly in Awendo and Rapogi areas. Sometimes, farmers are forced to cut and harvest their sugarcane early, then sell them to jaggery millers because they do not have money. This fund will now allow farmers to wait until their sugarcane matures well and give them the best returns.

Lastly, on sugarcane development fund, the hardest part of sugarcane is developing seed cane. Currently, in the sugar industry, seed cane is being developed by KALRO, which is tasked with many other seed developments. We do not have an industry-specific function to help with seed cane development. This fund combined with Clause 28 and 27 that establishes Kenya Sugar Research and Training Institute will enable, for the first time, the sugar industry to develop seed cane for farmers that will make them have the best seeds possible. So, this is a very laudable clause of this Bill.

One of the regulations that will be furthered from this Bill is the problem of leasing in a broader way to combine with this idea of the sugar development fund. The idea of forcing millers to lease the milling facilities is because several problems come about when there is no proper management.

This fund will help us solve that problem. This is because for you to have a good miller, they use the efficiency ratio. The efficiency ratio is whereby if you put 10 tonnes of cane and try to crush it as a miller, you must get one tonne of sugar. That is not a management problem, but an efficiency problem. You should not force millers to lease their facilities just because of a management problem.

Another problem that is facing millers with regards to these leasing problems is the issue of pricing, which has always been left to the importation distortion of sugar. However, the good thing about this Bill is that for the first time, it has established a Sugar Research and Training Institute that will help us think about technologies on sucrose content of cane.

If this Bill goes through, going forward, the sugar industry should not use importation and price sugar as the price of cane, but use sucrose content as the tool for

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pricing cane for farmers. If you are a farmer who has good sucrose content, you should earn more than a farmer with a cane with less sucrose content. This will deal with the duality problem of leasing because of the inefficiency of sugarcane industries, and it will help with the general issue of pricing of the cane prices for farmers.

Lastly, I want to laud the fact that this Bill has also been able to propose a tribunal to deal with disputes in the sugarcane industry under Clause 44. The number of disputes that we are seeing in the sugarcane industry are so many that they cannot be left to only functions of other places like courts to deal with. So, establishing this tribunal will be able to help where farmers have problems with farmers, where farmers have problems with millers and when millers have problems with millers.

Currently, the issue of disputes is generally being dealt with by the Agriculture and Food Authority (AFA). However, the problem with the AFA is that it does not have any teeth to bite. However, the way this tribunal is structured, it will deal with any overarching issues that might need a tribunal to bite. For instance, the issue of poaching of sugarcane is a major issue whether you are within or without the zones that have been prescribed here.

A farmer can enter into a contract with one miller and due to financial issues, they end up selling their cane to a different miller who is not within their out-grower schemes. This tribunal will deal with that kind of sugarcane poaching. It will discipline millers, so that they can develop their own out-grower schemes and make sure that there is sanity for a free market economy in the sugar industry.

Mr. Speaker, Sir, this is a very good Bill. I appreciate all the Members of that Committee that came up with this report. I hope that we will fast-track the passing of this Bill, so that the sugarcane farmers in the country can benefit from such a wonderful piece of legislation. I support the Report.

I thank you so much.

The Speaker (Hon. Kingi): Senator Mungatana, MGH.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I take this opportunity to thank you for giving me a chance to also make my comments on this mediated version of the Sugar Bill (National Assembly Bills No.34 of 2022). May I congratulate the Mediation Committee for the wonderful work they have done. This Bill has gone through both Houses. We had our own disagreements and we now have a version which we can work with.

I know that the Senator for Nairobi City County has raised another issue, which was not accommodated in the mediated version. However, I still believe that he supported the rest of the clauses that were agreed upon. Maybe, we need to find a way to deal with a situation where some important issues are left out. However, on the whole, this is a very good beginning towards implementation of the Sugar Bill (National Assembly Bills No.34 of 2022). We will not debate it afresh, but support the recommendations of this report.

I have debated this Bill before, but the one thing that I loved in this mediated version is the committee observation in Chapter 3. They said, "Having considered the Clauses of the Sugar Bill (National Assembly Bills No.34 of 2022), the Committee observed the sugar catchment areas which cover a number of counties." They went ahead and mentioned the counties that Central, Southern, Lower Western covers. Then they go

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to the coastal sugar catchment area that covers Kwale, Tana River, and Lamu counties, which the committee observed will be used for election of representatives of growers in the Kenya Sugar Board (KSB). The Committee said if this was not done, there is a possibility that counties with many growers gets slots in the board perpetually.

What was the Committee's recommendation? They said that the Cabinet Secretary should put in place regulations after enactment of the Bill, providing that the board positions be rotational among the different counties in the catchment areas to ensure that each county gets a chance to be represented in the KSB.

This mediated version is telling the country that there will be opportunity for counties that may not be producing as much sugar to be in the KSB. These include counties like Kwale, Tana River and Lamu, which produce sugar, but every time the question of sugar is discussed, the coastal sugar catchment area is not considered. It is like we are non-existent, and yet we produce sugar. In fact, in Tana River County in Tana Delta, they found that we are able to do two crops of sugar in one year because of our climatic conditions, which are very good conditions when they did the first tests.

The kind of sucrose content that our sugarcane produces is high quality. Our conditions are similar to the ones in Mauritius and everybody knows that one of the countries that produces extremely good quality sugar is Mauritius. In fact, its economy is dependent on sugar production, clothing and tourism.

Going back to the point, this report seems to recognize that the coastal region is also a producer of sugar cane. In fact, it is deserving of a position on the KSB. The principle of rotation is one that is giving us a voice at the highest level of sugar cane planning and management of the industry. This is important because the needs of sugarcane farmers in Kwale, Tana River and Lamu is totally different from the needs in the other sugarcane catchment areas. It is important for our voices to be heard at the highest level. This has not been happening in the past. I am very happy that this mediated version of the Sugar Bill is inclusive of this rotational principle.

Mr. Speaker, Sir, those who may not be familiar with the rotational principle, maybe I need to give a background of it. In the Pan-African Parliament (PAP), we used to have universal suffrage for the election of the speaker whom we call Pan-African Parliament President. Anybody could contest, but West African countries are small states and have a seat similar to other states. The principle of parity demands that every state has a vote. They used to bunch up together and that way small countries by size and population are able to retain that seat on the western part of the continent of Africa.

What did we do? The African Union intervened and said we must have a rotational principle. The African continent was divided into five regions; the northern, southern, eastern, central and the western region. If the leadership has emerged from one area, then you are not eligible to produce a candidate for that position. It has to go to the other areas until we come back to you.

Mr. Speaker, Sir, this has allowed some sense of fairness. I am happy to see that this rotational principle is being applied in the sugar board elections. A time will come when the sugar catchment area of the coast, meaning Kwale, Tana River and Lamu, will be producing a person to sit at the highest level of decision-making for the sugar board and this will affect all the farmers, and this will cause all our voices to be heard at the highest level.

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There are many reasons to support this mediated version of the Sugar Bill. Nonetheless, the restructuring of the management, the allowance of the voice of the people from the coast to be heard at the highest level and the innovation that came into the thinking will allow other parts of Kenya to also be heard on matters sugar; are beautiful reasons for me to support this Bill.

I urge all of the Members who are going to speak to this Bill to support it with all the other Clauses, but for me, this was the biggest selling point. I thank the committee and my colleagues who are part of this committee for this mediation effort. I support this report.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Ogola, proceed.

Sen. Ogola: Mr. Speaker, Sir, I thank you for giving me the opportunity to add my voice to this mediated report. I want to laud one former Member of Parliament for Ndhiwa Constituency, the late Hon. Joshua Orwa Ojode - a man who had a vision to think for his community. We are proud of this former and late Member of Parliament. Homa Bay County had no working industry. The only industry in Homa Bay then was Capital Fish, which was a private company. It was only concentrated on the fishing sector.

We had an MP who saw it worth initiating work to establish a sugar industry and that was the birth of what today we call the Ndhiwa Sukari Industry in the Ndhiwa sub-county. With this industry, we now had economic activities that our farmers would be engaged in, not limited to our constituency. I happen to be one of the people that Hon. Joshua Orwa Ojode put in place to fight for the establishment of this sugar industry. Amongst them is the late former chair of the County Council of Southern Nyanza, who was then called Councillor Jane Were. May her soul rest in peace.

Then, after Councillor Jane Were, we had Councillor Dorcas Matunga, who was the chair of the County Council of Homa Bay until devolution came in. We had Councillor John Orata, who is alive today and a testament to that struggle to initiate the Ndhiwa sugar industry. We had other outstanding personalities in Ndhiwa Constituency that were put together by this gallant son of Ndhiwa, hon. Joshua Orwa Ojode.

It was not easy because we had to convince communities who thought that with the coming of the sugar industry, they were going to lose their land. Little did they know that the economy of the region would be jump-started. We have farmers who have benefited immensely from the Ndhiwa sugar industry.

Our farmers are able to pay school fees, have money in their pockets, and are economically empowered. However, with all this, there have also been setbacks. I am happy with the progress and that is why I want to support what is before us today. I want to support it because of a few clauses that the Mediation Committee has included.

One of them is Clause 29. This is a clause that talks about the nomination of universities that they are able to nominate. We all know that universities have the sole mandate of research. If they are able to nominate some of their own that will bring in issues that are research-related, then I am happy with this.

First, I would like the Government to consider increasing funding related to research at our universities because universities are centres of knowledge and

research. So, based on Clause 29, I want to support the mediation report. I also want to support the mediation report based on Clause 38.

This mediation committee report addresses the issue of our local roads. I am happy that funds that were going to the Kenya Rural Roads Authority (KeRRA) are now going to go to the county governments.

[The Speaker (Hon. Kingi) left the Chair]

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

Madam Temporary Speaker, I believe that county governments, being governments that are closer to the people, if they have these funds, they will serve our people with the necessary access that is needed.

Let me come back to my community. Ndhiwa Constituency is a constituency that majorly has black cotton soil. Our roads are pathetic because the trailers and lorries from the Ndhiwa Sukari Industry hardly leave our roads in a state in which we can use them well.

If you leave the main road that is tarmacked from Rodi Kopany to Sori Town, when it rains in Ndhiwa Constituency, you can hardly get any road that we are comfortable with. Money has been given to KeRRA and yet, we have no access roads in Ndhiwa Constituency. I would be happy if this money was used for its intended purpose.

Some of the roads that are in a pathetic state include the Ongeng to Kodiera route, a road that mainly serves sugarcane farmers. The roads are not limited to Ongeng to Kodiera Road. We have the Mirogi or Opapo Road and the Ndhiwa-Pala Road.

We also have the Ndhiwa Sidede Road. We have the Meranga Gaena Road. We have the Kowondak-Riat Road that mainly takes you to the actual industry, that is, the Ndhiwa Sukari Industries. We have the Marindi-Konyango-Rabuol Road. We have the Kalamende-Osani Road.

I am just mentioning a few of those roads. My constituency, that is Ndhiwa, is suffering because of a lack of roads, which is worsened by the use of the road by heavy lorries from the Sukari Industries. I support this because if the county governments are going to handle these funds for the improvement of the roads, then other people from my community will be looking up to the upgrading of these roads.

Having been in the Senate, I know that sometimes, the Senate is only so important to the extent to which we fight for funds to go to the counties.

Madam Temporary Speaker, I want these funds to go to the county governments. In any case, the new Constitution envisaged a situation where we would only have two levels of government running development funds, the national and county government. If these funds from Kenya Rural Roads Authority (KeRRA) can be handled by the county governments, then I am happy that from my sub-county, we will be seeing our roads constructed.

[The Temporary Speaker (Sen. Mumma) left the Chair]

[The Temporary Speaker (Sen. Abdul Haji) took the Chair]

I also support this mediation report on the Sugar Bill because of Clause 59. It is a reference to the availability of inspectors. This will ease some of the problems I have had with the Sukari Industries. I do not mention them every other day for any malicious reasons but because this industry that is in Ndhiwa makes the people so proud and we want it to serve them well.

In the past, I have mentioned and brought to the Floor of this House the various accidents that have been occasioned by the sugarcane trailers from the Sukari Industry. Major deaths have been suffered by the *boda boda* riders in my constituency and county, particularly because there are no regulations that bar the trailers from moving in the night.

I remember the last time I brought it here, Hon. Murkomen was the Cabinet Secretary for Roads and Transportation at that time. He promised that this would be addressed because most of these accidents in Ndhiwa occur during the night when it is dark.

Mr. Temporary Speaker, Sir, when these trailers approach you in the darkness, they appear as if the light is from some incoming *boda boda*. Little do the *boda boda* operators know that it is a whole trailer carrying sugarcane that is covering the whole road and this results in the many accidents that our boys and *boda boda* riders have had. If we have the inspectors in place, we would be able to engage the sugar industries and in particular in my case, the Ndhiwa Sukari Industry into some of the best practices that we want them to have.

Mr. Temporary Speaker, Sir, where accidents have occurred, which of course we want to be avoided, we would like a situation where the industry would compensate life and property that has been lost and is not warranted.

Another aspect of the inspectors that I like is that they will be looking at adherence to laws and regulations. One of the key regulations that I would like the industry in my sub-county to be keen on is the physical planning laws. There must be usage for different spaces.

I am talking about the idea of the Sukari Industry and other industries in particular being very cognizant that there are planning laws in this country. Amongst the aspects that I would like the inspectors to be very firm on, is the environmental issues surrounding the industry. Coming back to my constituency, I have heard issues of an environmental nature where waste thrown by the Sukari Industry endangers the lives of our people.

Mr. Temporary Speaker, Sir, I am making a specific example, but it must be spread out to all the sugarcane industries. Particularly because of my interest in the sugarcane growing sector, I will be fighting for our people on the environmental issues and accidents that are caused by these trailers.

Mr. Temporary Speaker, Sir, the only Clause that I am not comfortable with is Clause 59. It talks about the representation of farmers in private companies. There is a mention and it is defined as illegal, that farmers should not be represented in the private companies' boards.

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From my observation and from common knowledge, there are no private citizens in this country. Even the farmers that are served by these industries are not private. So, with the good practice that we propagate and in the spirit of good governance and inclusivity, I would have liked a situation where the farmers have a portion of representation in the private companies' boards because then they will be talking on behalf of the farmers that are being served by the sugar industries.

Otherwise, I support this mediated committee report. We look forward to the economic empowerment of our communities. All we want from the sugar industries is that they operate within the laws and rules of this country. Where is the position of our farmers in the sugar industry or the sugar sector activities in this mediated Bill? Where is the position of our farmers? Our farmers should benefit from their sweat.

Mr. Temporary Speaker, Sir, it was very unfortunate. I have a woman farmer from a ward called Kabuoch North in Ndhiwa Constituency. This is a lady who had taken her time to get into the farming of sugarcane. However, when it came to harvesting and with all the investment the lady had put into her farms, there was nothing she could show for it. That brings me to the issue of taxation. Are we encouraging our farmers to sweat, to farm, to take their time and at the end of it, get nothing for it?

We want a situation where the sugar industry is streamlined, so that when our farmers get into sugarcane farming, they can get something from their sweat; they get returns, can take their children to school, put food on the table and have money in their pockets. This will bring up empowered societies. All I call for is that the research department that will be serving this sector should be strengthened because in other countries, we know that there are species of seeds that grow faster and have major benefits to the farmers.

As I support this, I encourage the Ndhiwa Sukari Industry to keep to the ideals of the late Joshua Orwa Ojode, Ndhiwa community, all we fought for and let our farmers benefit from their sweat.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. Abdul Haji): Sen. Okiya Omtatah proceed.

Sen. Okiya Omtatah: Thank you, Mr. Temporary Speaker, Sir for the opportunity to speak to this very important Motion, because as you know, we have two types of barons in the world. We have the sugar and drug barons. Both are areas that control a lot of money. The sugar industry has a lot of money and if well managed and harnessed, it is an area that will greatly benefit the people of Kenya. I am very happy that this Bill has come and I support it.

Mr. Temporary Speaker, Sir, the first issue for me is that it is breaking away from the Agriculture and Food Authority (AFA). Putting everything food under one umbrella body was a bad idea. This has seen damage, not just of sugar, but of many other crops that had been put under AFA. For me, the fact that sugar is going to stand alone so that its issues can be addressed as stand-alone issues, is the most important gain we are getting here. Once that separation is done, there is still a lot of work that needs to be done on this Bill, but that will come at its own time.

I am also happy that the Bill has moved away from the practice where there was zoning, where farmers were sort of harnessed or tied to a miller. The miller then sort of turned farmers into tenants on their own land. We have gone into catchment areas where

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several millers are clustered in an area and, therefore, they can compete amongst themselves and the farmers can contract with either and will still have the freedom to engage. I believe the development of catchment areas is a development in the right direction.

Mr. Temporary Speaker, Sir, however, I would like us to develop further, so as to see strong co-operatives emerge in the sugar industry, where farmers can organize themselves into cooperatives, be able to borrow money directly or be funded directly, be able to invest in inputs, and then reap the maximum output from their labour.

The other thing is the maturity of cane. There is need to properly educate our farmers because some people think that when they wait for 18 months, it is too long, and yet, the ideal time for the kind of crop that is grown in Western is 20 months. I have seen studies which show that in the last four months, that is, from the 16th month to the 20th month, the crop almost doubles both in size and in terms of the sucrose content. Therefore, both the miller and the farmer benefit.

Mr. Temporary Speaker, Sir, there is need to have mechanisms that can enable or cushion the farmer from the pressures of having to harvest the cane early. Maybe, there can be a receding system or something like that where a farmer can then deal with their immediate cash issues as the crop matures, and then it is harvested at an opportune time.

There is also the issue of the contracts that millers sometimes enter with farmers and these contracts have sometimes resulted in the farmer incurring a lot of losses. The contract seems to protect the miller more than it does the farmer, so that when the cane is damaged in any way, the miller can walk away free. For example, there are some contracts that say when cane is planted and is standing on the land, it belongs to the factory. When the cane is cut, it reverts to the farmer, and between the time when it is cut to the time when it is delivered in the factory, it belongs to the farmer. So, any losses suffered there around are borne by the farmer.

That to me is not acceptable. When the cane enters the factory, it reverts to the factory. There is need to look at those kinds of contracts that seem to disadvantage the farmer, so that there can be proper gain on the part of the farmer, and also have the miller benefit.

Mr. Temporary Speaker, Sir, I also looked at the establishment of the Sugar Tribunal, which is good development. Unfortunately, it is established as a part-time tribunal and I do not know what informed that. This is because, I know there are a lot of issues in the sugar industry that would require a full-time tribunal, not a stand-alone.

There is also the issue of the tribunal's chairperson being appointed by the Chief Justice. They do not qualify whether it will be competitive or not, but the members will be competitively recruited. I hope that in the regulations where the Cabinet Secretary together with the CoG are empowered to make at Section 60, will be utilized to seal those loopholes, so that the recruitment is competitive.

I am happy as someone who has been litigating the question of these tribunals, which are subordinate courts, there has been a habit of having them under the Executive, so that the President can appoint the chairperson and the Cabinet Secretary appoints the members. You then find that when you go before this tribunal appointed by the Executive, you just end up fighting the Executive in its own court.

I have been litigating, and I am very happy to see that the orders I got in the court saying that the tribunals must be under the Judiciary, the Judicial Service Commission (JSC) and the Chief Justice are being implemented in this Act. The Sugar Tribunal is an independent tribunal, independent of the executive, appointed by the Judiciary; and so when the parties go there, be it the Executive or private members of the public, they appear before an independent tribunal, which can dispense justice.

I have also noticed that the tribunal will be funded from the Judiciary Fund, and as you and I know, Mr. Temporary Speaker, Sir, the Judiciary Fund has not been activated. This is a wake-up call to Parliament, especially the National Assembly to implement the Judiciary Fund, which is in the Constitution, so that this tribunal can be funded, otherwise we might run into headwinds and this tribunal will not get funded.

Mr. Temporary Speaker, Sir, my sister, Sen. Ogola, raised the issue of taxes. There are too many taxes on the sugar crop. We pray that the same be reduced and the sugar crop be considered a food crop. Why is it classified like some cash crop with no food value? I do not understand that and yet, most of the sugar ends up on our tables.

The environmental issues have not been addressed in this Bill. One of the biggest problems of sugar farming has been the destruction of water catchment areas. Where I come from, massive swamps that used to hold water, absorb the rainfall and keep water available to the people throughout the year have been drained and dried out, so that people can grow sugarcane. Those environmental issues will need to be looked into after we have passed this Bill so that the farming of sugar is not destructive to the environment.

There should also be restrictions of where you can farm sugarcane and where you cannot farm sugarcane, because if we destroy our water catchment areas, we will be simply stoking disaster.

Water catchment areas in the Constitution and Article 62(g) are defined as public land that belongs to the national Government. It also defines water catchment areas, which include the wetlands. Sugarcane has been very destructive to the wetlands in the manner it has been farmed. If we must grow sugarcane, there should be need for research so that we can have cane which can grow in the wetlands without having to drain the wetlands dry.

Mr. Temporary Speaker, Sir, on the issue of transport, it is true that many accidents occur. This is because, if you are familiar with tractors, they have very narrow heads and the headlamps are almost next to each other. At night, it looks like it is one headlamp which is associated with motorcycles. That has resulted in many accidents because all of a sudden, you get to realize that there is a huge trailer behind the tractor which is coming.

I pray that when the Cabinet Secretaries and the COG make regulations, we should get a way of insisting that these tractors that transport cane are fitted with strobe lights. A strobe light is the kind of thing you see on police vehicles, which flashes when the light rotates. Therefore, if strobe lights can be a requirement for tractors, then that will help avert the many accidents that occur because people assume that they are going to meet a two-wheeler, but they end up meeting a huge truck.

Mr. Temporary Speaker, Sir, sugarcane also has a major problem in this country. I do not see any serious sanctions against the dumping of cheap sugar that has destroyed

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the country. Perhaps, as we go forward, this will be among the issues that have to be addressed, so that whoever dumps sugar in the country will face dire consequences.

We know that some sugar factories are simply created for the purpose of packaging dumped sugar. They hardly have an acre of own cane, nor do they do not have outgrower farmers, but their sugar is all over the shelves. This kind of factories need to be looked into. They need to be addressed, so that they do not become conduits of dumping sugar on the population.

Mr. Temporary Speaker, Sir, you have the question of products that come out of cane. Our sugar industry has been held back due to the fact that the only product that we go for is sugar and ethanol. We dump everything else.

So, the raw materials that are possible to be extracted from the sugarcane are hardly extracted fully. The farmer needs to benefit from all those byproducts that can be made. We, therefore, need to look at and encourage new technologies to come up, so that this can happen.

Mr. Temporary Speaker, Sir, our current factories run mainly obsolete machinery. There might be a need to create a window of opportunity, which can allow our sugar factories to modernize and create a mechanism, through the regulations of enforcing those kinds of requirements, so that efficiencies are realized so that we do not run elaborated sugar factories, which waste most of the crop.

I would also like to contribute to the question of taxation in the sugar industry. I would like to repeat and reiterate that if we do not take seriously the question of how much taxes are imposed within the industry, we are going to kill this industry in the name of taxing them. There are many taxes that are imposed on the sugar crop, on inputs and outputs, and all these things go up to frustrate both the miller and the farmer.

Mr. Temporary Speaker, Sir, before this Bill came up, we have had the issue of outgrower companies. There is a need to re-look at these outgrower companies, to find out whether they are viable vehicles or not, and if they are viable, how they should be handled.

There is a need to look at the assets that these outgrower companies had. For example, in my County, Busia, we have the Busia Outgrower's Company (BOCO), which had assets. When Mumia Sugar Company folded, because they were basically tied by the umbilical cord, BOCO also went under. Of late, I have seen that the new Mumias Sugar Company has been releasing assets of BOCO to an unknown entity. Some tractors have been released. If you go to Busia County, you will find some tractors, which are like ferrying in cane, with the insignia of BOCO on the trailers and tractors, yet, we do not know what kind of arrangement there is.

So, with this sugar board coming in, it will be easy to follow up similar issues to those ones to ensure that the bona fides of the people who are put in charge of these public assets are not in doubt and that, the assets of these private bodies are not lost. There is the question of the levies that come through the sugar taxes or levy.

These are ring-fenced and some of them go into, for instance, development of roads. There is need to ring-fence them and ensure that these things are kept away from organizations that do not have a good track record of building roads like Kenya Rural Roads Authority (KeRRA). Perhaps, mechanisms that are properly articulated in the

regulations are utilized to make sure that the funds get to the farmer, so that if it is for roads, they build the roads.

The question of collections from cess needs to be stressed and made clear. The real work in this Sugar Bill lies in the regulations. I would be urging the governors who come from the sugar belt and the other areas that are going to be affected by this Act, to begin burning the midnight oil to make sure that the regulations that are made under Section 60 breathe life to this Act and seal all the loopholes that are still standing to ensure that the intention of Parliament when enacting this Act, that the sugar cane growers may thrive in the Republic of Kenya are realized. Otherwise, you are not going to get far.

I support this Bill and implore on my brothers and sisters in this August House to also put their weight behind this Bill. If there is anything you are uncomfortable with in this Bill, please, let us hold our fire, so that, at least, we detach the sugar industry from Agriculture and Food Authority (AFA). If we achieve this, we can always come back with amendment Bills to fix whatever we are not comfortable with. However, let us not throw the baby away with the birth water.

With those remarks, I support the Bill, and thank you for giving me the opportunity to contribute.

The Temporary Speaker (Sen. Abdul Haji): Thank you.

Sen. Olekina, please proceed.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. Let me begin by saying that I support the mediated version of the Sugar Bill.

Mr. Temporary Speaker, Sir, this is a country that depends entirely on agriculture and Sen. Mungatana was right to say that in countries where people care about any industry, they invest heavily and lead. I am glad that he mentioned Mauritius. Narok County has been zoned. Rather, it has been termed as the southern catchment area together with Migori, Homa Bay and Kisii counties. One of the things that I support this mediated version of the Bill is that this area is now going to be referred to as a catchment area.

It is imperative that we demystify this Bill, so that farmers out there understand what it is that we are talking about. There has been a lot of competition in terms of the industry players and the milling companies. When they come in, they invest a lot of resources and fund the farmers and the out growers. Immediately, the crop has already grown, someone comes and poaches that cane, and takes it to another region.

I am glad that issue of poaching of cane, or rather the corruption that existed in the industry, both between the farmers and the millers, has now been dealt with accordingly. It is important for the farmers out there to note that the mediated version of this Bill makes it illegal for you to sell your cane to another area when you have a contract with a milling plant. I would like to go as basic as possible.

I will use examples of milling plants that exist in my County of Narok. If you have a contract with a Trans-Mara Sugar Company, and the Company has given you money to buy the seedlings and fertilizer, and to pay for the workers' labour, they expect to take out their expenses, when buying that cane from you. You take the profit and they get their expenses out, as well as getting the product. It is important for you to know that

you cannot sell that sugarcane to any other catchment area, or anybody else from another area if you have that contract. That is very important.

Mr. Temporary Speaker, Sir, it is also important for us to demystify what we have done with this mediated version of the Bill. It now means that if you are a sugarcane grower in Narok, Kisii, Homa Bay and Migori, you belong to one region. The term zoning was complicated. People did not like to deal with the term zoning. Now, you are one catchment area. It is imperative that you are represented in the Board.

My colleague, Sen. Omtatah said that if we can pull out the sugar industry from AFA, there will be sanity. I beg to differ. As a country, it is about time that we stop all these nonsensical authorities. A practical example is that today the cereal millers are complaining and crying. The National Biosafety Authority (NBA), which should essentially be under AFA, is now introducing a fee, which is very expensive and punitive.

This fee was gazetted recently. Remember that we are talking about food security in this country and how the cost of living is very expensive. We are trying to reduce the cost of living because of the actions of this independent authority. We have the Kenya Plant Health Inspectorate Service (KEPHIS), the National Biosafety Authority (NBA), AFA, the Sugar Board and KEPHIS. Each of them have now turned into competing to see which one will punish farmers the most, which one will make it expensive for products which are being consumed in this country, and also those which are exported out.

The NBA without consulting the millers, the farmers and the consumers, decide that when importing wheat, you also pay for testing whether the wheat is Genetically Modified Organism (GMO) when paying your Import Declaration Fee (IDF). Forgetting the debate to GMO in this country. Of course, I do not support GMO at all. However, we do not import wheat from countries. There are already measures that have been put in place, where the countries such Ukraine and Russia that are selling wheat to this country know very well that they cannot export wheat that has got GMO to Kenya. However, the NBA decides to gazette another figure where you have to pay together with the IDF.

Why are we making it so expensive and complicated? My colleagues are saying that details will be on the regulations. Can we just fold all these agencies and put them all under AFA and then create departments among it? The moment you have NBA and any other, they will just continue competing with each other on how to punish farmers.

It is now very expensive to export or import anything agriculture into Kenya. This Senate and the Committee on Agriculture, Livestock and Fisheries must take its time.

Mr. Temporary Speaker, Sir, I will be bringing a Statement tomorrow to understand all these levies. I hope that when we come down to the regulation on this Sugar Board, those levies will either be done away with completely or given a moratorium of about five years, to allow people to develop the cane industry and then revisit after that. I have a big problem about creating all these authorities.

We are creating jobs for a few individuals. Instead of those individuals going out there and helping the industry, they penalise these farmers. I have looked at the amendments that have been agreed upon. I like the fact that we will have a representative appointed by the Cabinet Secretary from the universities. I am glad that he will come from the universities that have done research or that are doing research on sugar. We do not want anyone being appointed to go sit on this Board just because you know so and so.

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I am pushing this country towards adopting meritocracy. Put someone there because they know what they are talking about and know value addition when it comes to sugar.

I wish that we can become like Mauritius. When you go to Mauritius, today, you can buy a lot of different candies and different sugar types. For those who indulge themselves in alcohol, you can get rum out of it. For others who construct low cost housing, you can use some of the sugarcane materials to construct. There is a lot of value addition. Those are the things that we need.

We need people from universities that have got the qualification; people who are constantly developing research to support the industry. It is also important, and I like the fact that the representation in the Board will be rotational. I would like to see someone from Narok County sitting on the Board. I would wish that the term limit in the Board would be one year. You see, we subscribe to the Mwongozo principle when it comes to Board formation. Have nine people, not a huge board.

We have these five areas; the coastal, southern, lower western, upper western and central. When we set up that Board, ensure that there is a person representing at least each of the catchment areas. If you have someone from Kisii this time around, next time have someone from Migori and then Narok. That way, all our interests will be taken into consideration.

I reiterate this issue of taxation. It is an inopportune time to introduce anything to do with taxation. It is very expensive to make ends meet. I hope that if we get it right this time around with the sugar industry, we can now go back and narrow on these authorities. I am particularly interested in this NBA.

I want us to discuss and agree on which way we are going as country on GMO. That debate was so live at some point and everybody thought GMO was to be accepted into the country. Of course, some of us do not believe in it and we do not want that. However, to come in and penalise importers is making it very expensive for us to enjoy *chapati*.

I saw a tourist who came into this country and had a dollar. He said with a dollar, he could have breakfast, lunch and dinner and be left with some little pocket change to enjoy a snack later. Some of the foods that he listed down are tea and *chapati*. I believe with the new introduction of a fee to check whether food has got any Genetically Modified Organism (GMO) component in it, it is going to be more expensive to afford *chapati*.

I want to end by stating the following. Let me look at my notes before I forget them. I am happy that Persons with Disabilities (PwDs) and the youth will have an opportunity to serve in that board. They will be given an opportunity to express their views and be represented. That is important because when you tag along with PwDs and the youth, you are thinking about the future. There will always be institutional memory.

This business of just bringing old dilapidated folks to sit in the board, as if they are the only ones who have got the monopoly of all the wisdom and knowledge of the sugar industry, must come to an end. The youth in the university are taking advantage of the technology advancement. They are looking at ways that each area can realign their own existing resources and push the industry ahead.

I want to end by reminding these authorities that we will not allow them to make it difficult for Kenyans to afford basic commodities, such as food. Agriculture being

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devolved, I would like this Senate to be on the front line. When I bring my Statement on levies which are being introduced and are now killing businesses, I hope that the Cabinet Secretary for Agriculture and Livestock Development, the Director of Kenya Plant Health Inspectorate Service (KEPHIS) and even the Kenya Bureau of Standards (KEBS) will be called here.

There are things that shock me. We have got the KEBS, which we should be supporting completely because of the expertise that they have, but we do not even when it comes to the issue of seeds. This is really shocking if you listen to it. Today, for you to have a type of seed such as beans, you need certification and authority from the KEPHIS. It will take you probably a whole year or two or three years to get permission from the KEPHIS.

You need that seed to be certified then KEBS has to approve. Why not move everything to KEBS, empower it, and build the Agriculture and Food Authority (AFA) to take care of everything agriculture? Since agriculture is devolved, we should encourage county governments to invest heavily in research.

We cannot all be depending on the national Government structure for all policies and also in terms of implementation. We are now going there, yet agriculture is devolved. We need to be clear on how we are going to deal with the issue of food security.

Mr. Temporary Speaker, Sir, allow me to check my notes because I have one more point that I seem to be forgetting, which I think is very important. This is the beauty of technology. There is one more levy which is very important, but I know my time is up. There is an increase in the phytosanitary fees, which has moved from 15 to 337 per cent. What logic are these people using to increase all these fees? This is concerning and everybody out there should be concerned.

As we sit here as Senators, we must be cognizant of what is happening out there. Food is becoming expensive because the Government is making it expensive. Authorities such as KEPHIS are increasing fees. We know that we want buyer safety, but honestly, can we not work with AFA, now that we introduced it, to make it easy? Can we not promote KEBS, so that it is easy to do business?

I want to end by saying this. If you look at the tonnage of wheat or beans grown in Tanzania, 10 years ago, it was at the same level as Kenya. We were producing about 600,000 or 700,000 tonnes of beans per year. However, because of the rigid certification process in this country led by KEPHIS, today, Tanzania is producing over a million tonnes of beans, yet we have stagnated at the same level of 500,000, 600,000 or 700,000 tonnes per year. We will never grow. On top of that, our produce is more expensive than our neighbouring countries.

We need to think of consequences and unintended consequences of introducing these levies. If we introduce these levies, we should ask ourselves what will happen in our neighbouring countries. People will stop importing anything into this country. They will be exporting everything to Tanzania and Uganda, because it is cheaper to do business there than in this country. Many farmers are leaving.

Yesterday, I had some guests from the British High Commission who visited me. They said that all people who had invested in this country from Britain have left because of the fact that we do not have a stable taxation system. It is not predictable.

Today, an agency rises up and decides they are not collecting more money or they need to collect more money, but you do not even see what they are doing to help farmers. It is just a few individuals who end up creating a cartel to sort of make it better for them.

Mr. Temporary Speaker, Sir, one thing that I do not support, and I am happy that my colleague, Sen. Sifuna agreed to it, is where you exempt importers of sugar from paying a certain levy. It is important for us to balance everything.

I thank you.

The Temporary Speaker (Sen. Abdul Haji): Proceed, Sen. Mo Fire.

Sen. Gataya Mo Fire: Mr. Speaker, Sir, I would like to start by saying that this Bill is long overdue. I support the mediated version of the entire Bill.

When we were growing up, we used to hear of very vibrant sugar companies like Mumias, Nzoia and Chemelil. These companies are no longer vibrant as they used to be. This will be purely explained by the level of mismanagement, corruption, embezzlement, and so many inefficiencies related to management of sugar industries.

I have gone through this Bill, which is very broad and has captured many issues. I agree with the team, that if this Act finds its way into the market, it is going to solve quite a number of issues bedevilling the sugar industry.

I want to be very specific on a number of issues that I have noticed that are impressive and are going to make sure that the sugar industry is no longer going to be a cash cow for individuals or mismanagement around the country. If you look at the powers and functions of the KSB, the Bill proposes establishment of a vibrant and strong sugar board, which will be entrusted with quite a number of responsibilities.

If you look at the functions and the way this board is supposed to operate, it states that the board is going to participate in the formulation and implementation of overall policies, plans and programmes of work for the development of the industry. This is very critical because, without overall policies and plans, we will not be able to see any meaning in the whole sugar industry.

At the same time, the body is going to monitor and regulate the domestic market with a view to identify any distortion in the sugar market and advise the Government and interested parties or any other corrective measures to be taken.

This is quite important, especially in the market industry. This is because the board will monitor the greater domestic market to identify any distortion. This is a clear indication that the sugar industry is not going to be the same again.

In the same breath, I have also looked at the establishment of the Kenya Sugar Research and Training Institute. We will now have an institute that is supposed to research on the sugar industry. It is supposed to promote, coordinate, and regulate research in sugarcane and by-products. Also, integrate technologies and management of the practices.

Once we establish a research institute, we will safeguard ourselves against pests and know the kind of disease that bedevil this sector. The same institute will determine and advise the board on the research requirements for sugar research in Kenya, both at the national and county levels.

Considering that agriculture is a devolved function, this is very important. This is because there will be a very serious and elaborate coordination between the national

Government and county government. With this arrangement, the sugar industry is going to be as vibrant as it used to be.

This research institute as well is going to breed and promote sugarcane varieties suitable for various ecological areas of Kenya. The kind of sugarcane variety that is supposed to be found in Tana River County, where my brother, senior, Sen. Mungatana, comes from, might not be the same variety to be found in Narok County or Mumias. So, with this kind of research, we are sure that we are getting the best breed in those specific areas.

Mr. Temporary Speaker, Sir, I have also noticed that in the Bill, we also have established the appointment of sugar industry inspectors. In this Bill the board will appoint qualified sugar industry inspectors for purposes of undertaking its functions under this Act or any other written law. Under this arrangement, a person shall not be appointed as a Sugar industry inspector unless that person holds an academic or professional qualification prescribed by the board.

Mr. Temporary Speaker, Sir, this one is going to keep away quacks and political fraudsters who are looking to find their way in this industry, which is very important. Under this arrangement, the sugar industry is going to regain its glory.

I support this Bill, and hope we will develop many other Bills that are likely to safeguard the interest of the Kenyan farmer.

The Temporary Speaker (Sen. Abdul Haji): Sen. Thang'wa, you have the Floor.

Sen. Thang'wa: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to also contribute to this important Motion on the Mediation Committee on the Sugar Bill. We, as the Senate, came up with this Bill. Then after the Senate passed this Bill, it was of course taken to the National Assembly.

I want to give a chronology of events. This Bill was passed here at the Senate on the 25th April, 2024, then on the 13th May, 2024, the National Assembly was informed. That was 18 days after we passed it here.

After 13th May 2024, the National Assembly passed this Bill with amendments on 1st August, 2024. That is 77 days after it was notified by the Senate. If you add 18 plus 77 days, you get 95 days.

Maybe you are wondering why I am doing the maths. It took 95 days, that is, three months for both Houses to debate and come up with a proposal that requires mediation. This is a Bill that affects the farmers directly, who grow sugarcane, 95 days for both the Houses days.

The reason I am saying that is I wish we could borrow this from how we expedited the removal of the Deputy President. Parliament took a few days. I would want to say---

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

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Mungatana?

Sen. Thang'wa: Mr. Temporary Speaker, Sir, protect me.

The Temporary Speaker (Sen. Abdul Haji): One moment, Sen. Thang'wa, there is a point of order from Sen. Mungatana.

Sen. Mungatana, MGH: This is a dignified House. Is the Senator for Kiambu County in order to create a parallel between a proper mediation process? A Bill that

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originates from the National Assembly comes to the Senate, the Senate raises issues, and those issues are mediated and then the Bill goes back for the mediation process.

Is he in order to bring a parallel between that and an impeachment process that is timed and is constitutional? Is he in order to start being irrelevant to the debate?

Mr. Temporary Speaker, please, dignify this House and bring the Senator to order.

The Temporary Speaker (Sen. Abdul Haji): Sen. Thang'wa, proceed.

Sen. Thang'wa: Mr. Temporary Speaker, Sir, I did not know that Sen. Mungatana holds the SI unit of relevance.

I am bringing a comparison of how the two Houses executed an issue that was supposed to take more days, but they reduced the days to a minimum. Even the days for nominating and approving deputy presidents-designate that is given 74 days, it was done in three hours.

I am saying that can we borrow from that expediency and that efficiency when it comes to passing some Bills that help our farmers like the Sugar Bill? As I stand here, the Coffee Bill that we passed over six months ago, has not seen the light of the day in the National Assembly.

So, it is wrong for Sen. Mungatana to tell me that I am making a comparison. All I am saying is that let us borrow a leaf from what happened when we were trying to impeach the Deputy President, and when we tried to approve the deputy president-designate.

If we did that, our farmers would praise us. This is because if we shorten the period, our farmers would stop suffering.

Sen. Mungatana, MGH: On a point of Order, Mr. Speaker, Sir.

Sen. Thang'wa: Mr. Temporary Speaker, Sir, please, protect me. I cannot be debating with Sen. Mungatana. I am here to debate on the issue of the Sugar Bill, unless he has a problem with me.

The Temporary Speaker (Sen. Abdul Haji): Sen. Thang'wa, there is a point of order, and you understand.

Sen. Thang'wa: Mr. Temporary Speaker, Sir, why is he raising points of order all the time? He was quiet when others were speaking.

The Temporary Speaker (Sen. Abdul Haji): It is as per the Standing Orders. He has every right to raise a point of order.

Sen. Thang'wa: I respect you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Mungatana?

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, let us be dignified in this House and let us be honest to ourselves irrespective of where we are standing in this matter of impeachment.

I have a lot of respect for Sen. Thang'wa. He is our Chairperson in the Senate Committee on Roads, Transportation and Housing. Why bring similarity between those processes? That one was timed for a short period of time, while this one has a longer period of time. Why can he not go to the issues? This House is serious when we are debating matters like the Sugar Bill, which I have just debated. For once, let us put aside politics of trying to score points and hit the points. If you do not have points, you can also sit down.

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Mr. Temporary Speaker, Sir, please, I beg you to bring the House to order. That is all I am asking.

The Temporary Speaker (Sen. Abdul Haji): Sen. Mungatana, I will have to overrule your point of order on the fact that the only comparison the Senator for Kiambu County made was in terms of expediency. He could have taken any other case and used it as an example, but he has the right to choose. I am assuming he chose that one because it is the most recent case that took place in this House.

He is making a comparison on the expediency and saying that we should borrow a leaf on moving Bills as fast as we move other businesses in this House or both Houses. I am also assuming that the impeachment case was handled by both Houses just as this Bill is being handled by both Houses. He is just making a comparison in terms of expediency. Sen. Mungatana, I do not see anything wrong with that. Let us allow him to conclude his contribution.

Sen. Thangwá, proceed.

Sen. Thangwá: Mr. Temporary Speaker, Sir, thank you very much for protecting me. I will be very happy when I walk in the streets of Nairobi and people say that we look alike. I will be smiling because you are protecting me.

I support this report for only two reasons. One of the reasons is the reintroduction of the Kenya Sugar Board (KSB), which was disbanded years ago. This is a board where farmers can articulate their issues and manage sugar cane production. However, I was asking myself whether we are over-legislating as a country. Are we prescribing the law to the people too much that they are unable to perform? When you say that the farmers must have a cooperative and must take their produce to a certain miller, what happened to the free market?

I saw that the National Assembly brought a new clause, which made me a little bit happy. I am going to read it. It says-

“The Bill be amended by inserting the following New Clause immediately after Clause 19.

A grower may deliver cane outside a sugar cane zone provided that the grower has a pre-existing agreement with a miller outside the sugar cane zone.”

That tells you that the sugarcane grower can take the sugarcane to wherever they want. However, the contract is also a problem. We are telling our farmers to take their produce to a certain factory, which is collapsing. Therefore, they cannot sell their hard-earned produce, which they have put a lot of input. We compel them to sell to a certain factory that is collapsing. That is why our farmers are not being productive.

I continued reading and found out that the National Assembly brought a New Clause that says-

“That the Bill be amended by inserting the following new clauses immediately after Clause 19-

A grower may deliver cane outside a sugar cane catchment area provided that the grower has no supply agreement with the miller within the sugar cane catchment area that they are situated in and is not indebted to a miller or an outgrower institution within the sugar cane catchment area.”

We are trying to make growing of sugarcane have a free market, but we are still somehow telling the farmers they cannot do certain things. Sometimes I look at it and

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ask myself if I have a shirt that I want to sell, do I need the Government to tell me where to sell it and who to sell it to? Does the Government need to tell me that I have worn the yellow T-shirt for a long time and need to sell it to another person who would want to wear the shirt?

As a Senate, we need to rethink because we are becoming “over-prescriptionist”, if there is a word like that. We are subscribing and telling people what they should do in the morning, afternoon and evening, instead of trying to help the people manage their own affairs at the county level because we have devolution. I heard someone telling us to prescribe that the tractors transporting sugar cane should not travel at night, instead of having civic education to train the drivers.

Nobody has called for the prescription of the miraa drivers, yet they drive carelessly on our roads causing accidents right, left and centre. However, someone is saying that we should tell the drivers transporting sugarcane to the factories to drive during the day, instead of giving the conditions for driving at night like good light and a siren, if they have to. We do not need to put it within the law because if we do so, we are giving the law enforcers some moment of getting bribes and corruption will be enhanced by this. We need to think about it.

What happened on this Floor of this House a few days ago is an eye-opener. I had a lot of faith with the Senate, but I realized that we are on our own and that nobody is following the law. What do we need? Instead of reintroducing the law to our people, we need to tell them they are free, but make sure we give them civic education on safety, but not the law.

I want to give you an example. During the Moi Era, it was against the unwritten law for you to open your shop when President Moi was in your area. The shopping centres were closed when President Moi came to your area. If you had not closed your shop, the chiefs and the Administration Police (AP) could arrest you because of doing that. During that time, people thought it was the law and they complied until they became civilized and were made to understand that it is their right to open their shops and sell. We are probably doing injustice to our people when we over-prescribe on the issues of sugarcane, coffee and tea. Let us give the power to the Kenya Sugar Board to sit down and decide whatever they want to do.

The New Clause 19B says that a miller may enter into a contract of cane supply with another miller. This means that when the factory of the miller is temporarily broken, a miller is given a leeway to subcontract another miller. It sounds easy and okay, but where does the farmer come in this instance? Where does the farmer come in when there is an oversupply of cane in the miller? If you cannot handle supply, why do we give you an opportunity to subcontract, rather than giving the farmer an opportunity to look for where the price is good and take their goods there? I am saying this with a lot of faith and hope in the legislature that what happened the other day is an eye-opener.

We might be pretending to be doing good, yet we are trying to affirm some organisations like the Agricultural and Food Authority (AFA), which is a failure in this country. That is why the sugarcane, coffee and tea sectors have collapsed. By coming up with this law, we are opening channels of corruption to some agencies, so instead of helping our farmers, we help these agencies.

As I conclude, I would want to commend both Houses because we have looked at the Bill and come up with different amendments. One of them is to protect farmers; that is to regulate sugar imports. Sugar importation is one of the things that has crippled the production of sugar because there are people who are given that work, they overload, or they oversupply sugar. That is why farmers are not benefiting.

There are no sugar factories in Kiambu County, but I have learnt that they pay in losses. If you charge less, the farmers will not supply. The farmers are told they will be paid more; they bring the sugarcane, and then they are not paid. This is why the Government is offsetting billions of loans, and these loans have been taken to pay the farmers.

If the sugarcane miller is not assisting any farmer, why do we need it? We should make this market liberal. A farmer can take the sugarcane everywhere, just like the way all of us are in Safaricom. Nobody came up with a law and told us to go to Safaricom. It is because the services were better there, and that is why people went there. If the sugarcane miller is a good sugarcane miller, people will go there. They do not need the law, but be paid for their produce.

This law brings about transparency and accountability. One thing that I support about the levy is research because we need to do research. Do we only rely on sugarcane, the traditional way of making sugar? We have other produce or crops that we call sugar beets. Do we tell our farmers that sugar beets are easy to grow but produce the same equal kind of product, that is sugar? We need to fund research, and this Bill is bringing about research.

In conclusion, I have looked at the membership of the Kenya Sugar Board, and it recommends a three-year term. Where we are right now, the country is in pain and is protesting because somebody somewhere has proposed a seven-year term for the President, the Member of Parliament and the Senator. For us, the laws we make, we put a three-year term for the members of the boards: the Kenya Sugar Board, the Kenya Coffee Board, and the Communication Authority of Kenya (CAK); every Government parastatal, we give them three years. However, we give ourselves seven years.

Mr. Temporary Speaker, Sir, this is a conversation that this country needs to have. We should not just do what benefits us, as legislators. We should do what benefits the people of Kenya. This is why Sen. Mungatana could not stand it when I compared the expediency of his vote to kick out somebody to his vote to have the people of his county have a sugar mill.

I am done.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, on a point of order.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Mungatana?

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, I was rising to request the Hon. Member to observe that the person I voted against was breaking the Constitution by discriminating against the people of Tana River County by championing for the interest from his region against the specific provisions of Article 10.

I have every right to do so. I will do so today and tomorrow. The Senator for Kiambu also has a right to vote the other way.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Thank you. Sen. Murgor, proceed.

Sen. Murgor: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity also to add my voice to my colleagues.

First of all, I support the Bill because the sugar industry, when it first started in areas that have industries and crops planted, that is, Western, Nyanza and many other parts of the country, was a booming farming business. People managed their lives well because of this crop and they were able to pay school fees for their children to go to school. University and High school students went to school without difficulty because their parents found a new crop, a new cash crop that made them manage life.

Soon, it became even more challenging to have maize plantations in those areas because sugarcane farming took over every piece of land that was available for cultivation. Life went on well in these areas. As soon as the introduction of the free market in those areas, it became a plague and the beginning of the end of the industry, or it introduced many problems. Farmers were not able to manage their lives and their children were not able to go to schools because their parents could not raise school fees. Many things about life became difficult. Cartels that took advantage of the farmers came in. Some of the farmers were not able to remove or cut the cane from the land because they could not afford it.

Every situation took advantage of sugarcane farmers. Those who ran these industries subjected the farmers to vulnerability in that they could not take their crops to the industry. Some of them abandoned the cane at the gates of some of these factories because they had nothing to return home with. It became a crop that was really just left in the hands of the farmers without a way forward that would bring success to the farmers.

The openness of the free market became the beginning of a plague that ate the sugar industry. This is because the authorities did not really enable the farmers, especially when the board was disbanded.

Therefore, nobody stood for the farmer in terms of production and marketing. The introduction of free market became a problem because many businesses or business people brought sugar that was cheaper than the one being produced in Kenya. Therefore, because everybody was free to buy and sell sugar, it ate what was available and produced on the land. Therefore, the industry has collapsed because of that.

In my suggestion, to revive it, it needs a very strong board that will keenly look into the technical know-how of the crop, and also the market; where to take this produce to, so that it enables the farmer to manage reploughing, replanting and buying the inputs. The Government needs to come to the farmers aid and subsidize the inputs if the farmer is expected to produce any bags of sugar. This will enable them to go back to the farm and plant sugar cane.

A lot of research should be done, so that there is modern technology, a modern way of looking into the market, and ways to enable the farmer to be skilled according to the modern technical know-how that there is at this time.

I support. I thank you.

The Temporary Speaker (Sen. Abdul Haji): Honorable Senators, I shall defer calling the Mover to reply, since the Mover is not around. I shall also reorganize the Order Paper and go to Order No.18.

(Reply to the Motion deferred)

Next Order.

BILL

Second Reading

THE COUNTY GOVERNMENT ELECTION LAWS AMENDMENT BILL (SENATE BILL NO.2 OF 2024)

The Temporary Speaker (Sen. Abdul Haji): Sen. Crystal Asige to move the Motion.

Sen. Crystal Asige: Thank you, Mr. Temporary Speaker, Sir. I beg to move that the County Government Elections Law Amendment Bill (Senate Bill No.2 of 2024, be read a Second Time.

This is going to be a very simple submission of this Bill because it is a very simple amendment that I am proposing to this House to consider to move forward and support.

As you know, of course, I have had four other Bills that I have passed with the support of Senators in this House and are now in the National Assembly being considered. Those four Bills are the Persons with Disabilities Bill, the Kenya Sign Language Bill, the Learners with Disabilities Bill, and the Startup Bill.

Mr. Temporary Speaker, Sir, if you will remember, these Bills are quite heavy, weighty and lengthy in terms of the provisions that I have put forward to support the different subject matters and the different interest groups therein. However, today, I bring yourself and the House a very simple amendment Bill, which seeks to make county governments and, specifically, county assemblies more inclusive and more diverse so that Persons With Disabilities (PwD) are fully and meaningfully represented in our local governments. The County Governments Election Laws (Amendment) Bill (Senate Bills No.2 of 2024) seeks to amend the Elections Act, Cap 7, and the County Governments Act, Cap No.265, to increase representation of PwDs, in county assemblies by ensuring that at least five per cent of Members of County Assembly (MCA) are PwDs.

Mr. Temporary Speaker, Sir, the County Governments Election Laws (Amendment) Bill (Senate Bills No.2 of 2024), pardon me. This is geared, to address the historical exclusion of PwDs from decision-making processes by ensuring adequate representation of PwDs in local governments, thereby ensuring that our voices are heard and our interests and needs are taken into account in decision-making across all the 47 counties. Recognizing the historical challenges faced by us - PwDs - when participating in decision-making processes, Article 54(2) of our Constitution mandates the state to

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progressively ensure that at least five per cent of appointive and elected positions are filled by PWDs across the country.

Article 177 of the Constitution provides for the composition of a county assembly, as you know. Specifically, Article 177(c) provides that the county assembly shall include members representing marginalized groups, including PWDs and the youth, as prescribed by an Act of Parliament. With a view to implementing Article 177(1)(c) of the Constitution, Parliament has enacted two laws, as you will know; the County Governments Act and the Elections Act; that prescribe the number of members to represent marginalized groups in the assemblies.

Whereas Section 7(1)(a) of the County Governments Act provides for six seats for marginalized groups, Sections 36(1)(f) and 36(8) of the Elections Act provide for four seats, which brings a little bit of confusion as to which one to then follow; six seats or four seats for marginalized groups. The Independent Electoral and Boundaries Commission (IEBC) has been implementing 36(1)(f) and 36(8) of the Elections Act so far. Despite the statutory provisions that I have just laid out that provides representations for PwDs in the county assemblies, if you look at what is happening today, the representation of PwDs in county assemblies still remains tremendously low.

As we speak, there are approximately 21 counties out of the 47 that have no PwD representation whatsoever, which I believe is a mixture of mischief within the parties before elections and the relevant laws inadvertently creating gaps that create loopholes that are used to circumvent the Constitution. Our Constitution spells out the rights and freedoms afforded to us, PwDs, in this country. Article 54 speaks clearly on the requirement of five per cent representation of PwDs at all levels in the country. To illustrate how these laws have created some confusion that has taken advantage of nominating bodies that leave PwDs across the country without adequate representation, is that the provisions only give a figure for the nomination slots and do not expressly allocate the seats allocated amongst the interest groups.

[The Temporary Speaker (Sen. Abdul Haji) left the Chair]

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

Madam Temporary Speaker, this means that they are just clustered together. They just say six seats will be given to marginalized groups or special interest groups, but they do not actually de-cluster those six to expressly specify how many of the six will be for PwDs, for the youth or the workers *et cetera*. Therein lies the problem. For instance, again I have mentioned that over 21 counties lack PwD representation in the county assemblies, and there are counties which have no representation of youth nor other marginalized groups at all.

Madam Temporary Speaker, the breakdown, in my research I want to show is as follows-

Counties which did not nominate members to represent PwDs include Kwale, Kilifi, Taita-Taveta, Wajir, Marsabit, Isiolo, Meru, Tharaka Nithi, Machakos, Makueni, Turkana, West Pokot, Trans Nzoia, Uasin Gishu, Baringo, Laikipia, Narok, Kericho, Nyamira, and, shockingly, the capital city-right here in Nairobi City County.

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None of the 21 I have just mentioned have any PwD representation and it is a tremendous shame to know that even the capital city, which has a high population of people, including PwDs, has no one speaking for PwDs at the county assembly level.

Counties which did not nominate members to represent the youth include Machakos, Makueni, Kirinyaga, Kiambu, Nandi and Kisii. Counties that did not nominate any member to represent any marginalized group include Garissa, Murangá, Elgeyo-Marakwet, Narok, Kakamega and Kisii.

Mr. Speaker, I am sure you have noticed that your county is implicated in these statistics.

The Bill, therefore, seeks to unbundle these seats envisaged under Article 177(1)(c)---

The Temporary Speaker (Sen. Mumma): Senator, it is now Madam Speaker.

Sen. Crystal Asige: Thank you, Madam Temporary Speaker. I also mentioned Kakamega, which I believe you are a resident of but I thank you for letting me know. The Bill therefore seeks to unbundle the seats envisaged under Article 177(1)(c) of the Constitution as well as Section 7(1)(a) of the County Governments Act and Section 36(8) of the Elections Act. This is to ensure that PwDs across the country, the youth and marginalized groups get a chance to be nominated and represent their respective demographics.

Madam Temporary Speaker, in light of the considerations, I have outlined at the background, allow me to highlight the salient features of the Bill. The Bill has only three simple clauses.

Clause 2 seeks to amend Section 36 of the Elections Act to provide that a political party will be required to submit a list that includes two candidates representing the youth, two candidates representing marginalized groups and two candidates PwDs reflecting the number of wards in their respective counties.

The Temporary Speaker (Sen. Mumma): Sen. Murgor, what is the issue?

QUORUM

Sen. Murgor: Madam Temporary Speaker, pursuant to Standing Order No. 41, I draw your attention to the fact that when I look around, there is no quorum in the House.

The Temporary Speaker (Sen. Mumma): Serjeant-at-Arms, please, ring the bell for 10 minutes.

(The Quorum Bell was rung)

ADJOURNMENT

The Temporary Speaker (Sen. Mumma): Hon. Senators, having failed to attain quorum at the expiry of 10 minutes, the House stands adjourned, pursuant to standing Order No.41(2)(a), until tomorrow, Thursday, 24th October, 2024, at 2.30. p.m.

The Senate rose at 5.43 p.m.