

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 22nd November, 2023

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?

(The Clerk-at-the-Table consulted the Speaker)

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

(Several Senators walked into the Chamber)

Serjeant-at-Arms, I am informed that we have the quorum, so you may stop the Bell.

Clerk, you may proceed to call the first Order, please.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM EMBU COUNTY ASSEMBLY

The Speaker (Hon. Kingi): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of a visiting delegation from Embu County Assembly. The delegation comprises seven Members and four officers of the

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Broadcasting and Library Services Committee, who are on a benchmarking visit with their counterparts in the Senate.

I request each Member of the delegation to stand when called out to be acknowledged in the Senate tradition.

1. Hon. Muriithi Kiura - Chairperson
2. Hon. Jane Njue - Vice-Chairperson
3. Hon. Mary Kavinda
4. Hon. Daniel Githinji
5. Hon. Duncan Mbui
6. Hon. Yvonne Mati
7. Hon. Augustine Njeru
8. Mr. Martin Mugendi
9. Mr. Mutugi Njue
10. Ms. Caroline Mbogo
11. Mr. Nicasio Machaki

On behalf of the Senate and my own behalf, I extend a warm welcome and wish you a fruitful visit.

I will allow the Senator for Embu County, Hon. Munyi Mundigi, under one minute to give welcome remarks on behalf of the delegation.

Sen. Munyi Mundigi: Asante, Bwana Spika. Nakaribisha Waakilishi wa Wadi na wafanyikazi kutoka Kaunti ya Embu. Wamekuja hapa kujifunza yale ambayo tunafanya katika Bunge la Seneti. Hapa, tunafanya mambo mengi ikiwemo kutunza ugatuzi.

Yangu ni kuwambia wafanye kazi vizuri na waangalie jinsi ambavyo pesa zinatumika huko. Tunapotoa mgao wa pesa kwa kaunti, mfanyie wananchi kazi kule mashinani.

Kazi nyingine ya Bunge la Seneti ni kuhakikisha pesa ambazo Serikali kuu inatuma kwa serikali za kaunti inatumika vizuri. Haja yetu ni kuona kwamba ugatuzi haurudi nyuma. Tushirikiane na tufanye kazi pamoja. Mambo mengine ambayo tunaangalia hapa ni kilimo, barabara, afya na kadhalika. Tukiwapatia pesa, mtumie pesa hizo kufanya kazi jinsi inavyofaa, ili mwananchi apate baraka.

Mwisho, ni kuwaomba mfanye kazi pamoja na magavana ndio ugatuzi unawiri. Wakati mnataka kuwatimua, muwe mkifanya kazi nzuri ili mkileta gavana hapa, tunamhoji kwa njia inavyofaa ndio tusije tukafanya kazi isiyofaa. Kama ni kuhusu pesa au stakabadhi, mkileta gavana hapa, tunajua mambo ya *accountability*. Hata hivyo, mnatakiwa kwenda kwa Serikali mnapigiwa mhuri ndio tuangalie stakabadhi hizo, kisha msiseme tuko na mapendeleo kwa gavana.

Asante.

The Speaker (Hon. Kingi): Next Order, Clerk.

PAPERS LAID

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

REPORT ON THE FINANCIAL STATEMENTS OF
NYAKACH COUNTY LEVEL IV HOSPITAL

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, Wednesday, 22nd November, 2023-

Report of the Auditor-General on the financial statements of Nyakach County Level 4 Hospital (county government of Kisumu) for the year ended 30th June, 2022.

(Sen. (Dr.) Khalwale laid the document on the Table)

The Speaker (Hon. Kingi): Chairperson, Standing Committee on National Security, Defence and Foreign Relations, proceed.

REPORT ON THE PUBLIC HOLIDAYS (AMENDMENT)
BILL (SENATE BILLS NO.31 OF 2023)

Sen. Cheptumo is not in the Chamber!

(Paper deferred)

Next Order, Clerk.

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

(Sen. Seki stood up in his place)

Sen. Seki, we have long passed that Order.
Proceed Sen. Mbugua.

NOTICE OF MOTION

APPEAL TO COUNTY GOVERNMENTS TO SET ASIDE
LAND FOR PLANTING OF INDIGENOUS TREES

Sen. Mbugua: Thank you, Mr. Speaker, Sir. On behalf of the Senator for Kisii County, Sen. Onyonka, I beg to give Notice of the following Motion-

THAT, AWARE of the crucial role played by indigenous trees in purification of air and combating of climate change, protection against floods and water pollution, in the field of medicine, nutrition and timber production, among other roles;

APPRECIATING that the national Government, through the National Landscape and Ecosystem Restoration Programme, plans to increase the national forest cover to 30 per cent by planting 15 billion trees and, in furtherance of the

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Programme, gazetted 13th November, 2023 as a Public Holiday to allow Kenyans to plant trees;

CONCERNED that the Government is yet to establish elaborate measures for the growing and protecting of indigenous trees and to involve such crucial players as the county governments, hence impeding the sustainability of the programme;

NOW, THEREFORE, the Senate urges the 47 county governments to set aside land and resources to be used in the planting and protection of indigenous trees, in support of the initiatives by the national Government.

Thank you.

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

The Speaker (Hon. Kingi): Statements pursuant to Standing Order No.53(1). Sen. Munyi Mundigi, proceed.

GOVERNMENT SEIZURE OF KSHS17 BILLION OIL CONSIGNMENT AT THE PORT OF MOMBASA

Sen. Munyi Mundigi: Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Energy regarding the seizure by Government of a Kshs17 billion consignment of oil at the Port of Mombasa.

In the statement, the Committee should-

(1) State the circumstances that led to the seizure of the Kshs17 billion oil consignment recently imported into the country through the port of Mombasa disclosing ownership of the consignment.

(2) Clarify the criteria used in evaluation of applications for license for the import and export of petroleum products, stating whether the import of the consignment possessed valid license.

(3) Indicate the point of origin for the consignment, clarifying whether any quality assessment was conducted at the port; and confirming compliance with the standards set by Kenya Bureau of Standards (KBS); and report on the status of the imported oil shipment, detailing any actions undertaken by the Government to address the ongoing input.

Thank you.

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

EMERGENCY RESPONSE INTERVENTIONS
TO FLOODS IN WAJIR COUNTY

Sen. Chute: Thank you, Mr. Speaker, Sir. This Statement is on behalf of my friend, Sen. Abass, who is also my neighbour in my county and here in the Senate.

I rise pursuant under Standing Order No.53(1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations, regarding the emergency response and interventions in place for the residents of Wajir County, facing severe challenges due to *El Nino* floods.

In the statement, the Committee should-

(1) State the number of individuals displaced and the extent of property damage caused by flooding.

(2) Outline emergency interventions currently in place to support the affected residents, including measures to protect or salvage their property.

(3) Report on the number of fatalities that have occurred as a direct result of these floods.

(4) Detail the plans and strategies in place to harness the excess runoff water, given the current water scarcity in Wajir County, including plans for water harvesting for future use in irrigation; and for human and livestock consumption, specifically addressing the trillion cubic metres of water that is currently being lost to the ocean.

(5) Explain how the country is prepared to handle potential outbreaks of diseases affecting humans or livestock, which may arise as a consequence of the current flooding situation in the country.

Thank you.

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

HARASSMENT AND BRUTALITY ON PETER KIPLIMO AND
IRENE CHEMUTAI BY POLICE AT CHEPTULU POLICE STATION

Sen. Cherarkey is not in the Chamber! The Statement is dropped

(Statement dropped)

Sen. Lemaletian, proceed.

PREVALENCE OF THROAT CANCER IN SAMBURU COUNTY

Sen. Lemaletian is not in the Chamber! The statement is dropped.

(Statement dropped)

Sen. (Prof.) Tom Odhiambo Ojienda, SC, proceed.

The Statement is dropped.

STATE OF OPERATIONAL CAPACITY OF
KISUMU INTERNATIONAL AIRPORT

(Statement dropped)

Sen. (Prof.) Tom Odhiambo Ojienda, SC is not in the Chamber! His Statement is dropped.

TRADE VIABILITY OF KISUMU INTERNATIONAL AIRPORT

(Statement dropped)

That brings us to the end of Statements pursuant to Standing Order No.53(1).

Sen. Kibwana, you may proceed. Yours is a Statements that had been dropped yesterday. It has been reinstated. Proceed to read those statements.

GENDER-BASED VIOLENCE IN KENYA'S
POLITICAL SPACE

Sen. Kibwana: Thank you, Mr. Speaker, Sir. I rise, pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on Justice, Legal Affairs, and Human Rights concerning the Gender-Based Violence (GBV) incidents submitted as evidence during the impeachment proceedings of Governor Kawira Mwangaza held on 7th and 8th November, 2023.

In the Statement, the Committee should-

(1) State measures being taken to inquire into the instances of gross violations of women's rights, including sexual threats evidenced in the videos presented during the impeachment proceedings of Governor Kawira Mwangaza, stating how the perpetrators will be held accountable and legal actions being considered.

(2) State actions, if any, in place, to encourage and support women to come forward and report incidents of emotional torment, threats, and harassment.

(3) Recommend legislative interventions, if any, to strengthen the protection of women and men against gender-based violence and harassment, especially in the political arena; and

(4) State strategies and initiatives, if any, by the Ministry of Public Service, Gender and Affirmative Action; in raising awareness and preventing occurrences of such violations against women, especially in political and governmental settings.

Thank you.

I will proceed to the next Statement.

REVIEW OF CHARGES, FEES AND LEVIES RELATING TO
IMMIGRATION AND CITIZEN SERVICES

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1), to seek a Statement from the Standing Committee on National Security, Defence and Foreign Relations on the review of charges, fees and levies relating to immigration and citizen services gazetted in the Kenya *Gazette* No.241 of 14th November 2023 by the Cabinet Secretary for Interior and National Administration.

In the Statement, the Committee should-

(1) Explain the rationale for the substantial increase in fees and levies for the services provided by the State Department for Immigration and Citizen Services, noting that most charges have been increased by over 100 per cent, and provide insights into how the revised fees align with the current high cost of living.

(2) Clarify why public participation was not conducted prior to formulating the new tariff structure; and elaborate on the steps taken to ensure transparency and inclusivity in the decision-making process relating to the new tariffs.

(3) Provide an explanation as to why the revised *Gazette* Notice does not encompass all the services initially listed in the Gazette Notice No.15239 of 2023, No.14240 of 2023, No.15241 of 2023 and No.15242 of 2023 in the special issue of the Kenya *Gazette* No.239 of 7th November, 2023 for charges review, stating the criteria and considerations if any, that led to the exclusion of certain services from the revised Notice.

(4) State reasons for the Ministry's failure to present the subsidiary legislation for approval by Parliament before gazetting, clarifying the process and timeline for parliamentary approval of such legislative changes and the implications of bypassing this crucial step.

Thank you.

The Speaker (Hon. Kingi): Chairperson, Standing Committee on National Security, Defence and Foreign Relations, when your matter was called out, you were not present. Since you have explained reasons why, you may now proceed to lay your Paper.

(Interruption of Statements)

PAPER LAID

REPORT ON THE PUBLIC HOLIDAYS (AMENDMENT) BILL
(SENATE BILLS NO. 31 OF 2023)

Sen. Cheptumo: Thank you, Mr. Speaker, Sir. I apologise for coming late. I am always prompt in this House.

I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 22nd November, 2023-

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Report of the Standing Committee on National Security, Defence and Foreign Relations on its consideration of the Public Holidays (Amendment) Bill (Senate Bills No.31 of 2023).

Thank you.

(Sen. Cheptumo laid the document on the Table)

(Resumption of Statements)

The Speaker (Hon. Kingi): Sen. Crystal Asige, what is your intervention?

Sen. Crystal Asige: Thank you, Mr. Speaker, Sir. I had a Statement under Standing Order No.53(1). It has been given to me here. I wonder if you are also aware of it.

The Speaker (Hon. Kingi): This Statement is not listed for today, Senator. However, I will allow you to proceed to read it. It was not part of the Statements listed on the Order Paper.

Proceed, Sen. Crystal Asige.

HARASSMENT AND REMOVAL OF STREET VENDORS WITH DISABILITIES FROM NAIROBI CBD

Sen. Crystal Asige: 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 on the harassment and removal of street vendors with disabilities from the Central Business District (CBD), by the Nairobi City County Government.

In the Statement, the Committee should-

(1) Provide comprehensive data on street vendors with disabilities in Nairobi, including their locations, overall numbers, and a breakdown by gender.

(2) Provide comprehensive data on street vendors with disabilities, including their locations, overall numbers and a breakdown by gender across the other 46 counties.

(3) Explain the rationale behind the harassment and removal of street vendors with disabilities by the Nairobi City County Government; from their designated business areas to back streets and alleyways, with little to no accessibility provisions and limited safety measures, impacting their businesses and health conditions, stating if adequate notice was given, and whether street vendors with disabilities in other counties are to expect similar removals.

(4) State how many public participation sessions were undertaken involving street vendors with disabilities on the issue pertaining their removal from the Nairobi CBD, if any, stating how many were conducted, and present a report to the Senate on the outcomes of these engagements.

(5) Explain the events leading up to, and the reasons for, street vendors with disabilities being intimidated, assaulted and tear gassed by county officers as described in their Petition submitted to the Nairobi City County Government, on 14th November 2023.

(6) State where County Governments across the country intend to relocate street vendors with disabilities to allow them continue their businesses, if any, shedding light on the accessibility and safety features in place at these new locations, and the timelines set forth for this relocation exercise.

I thank you.

The Speaker (Hon. Kingi): Clerk, read out the next Order.

MOTION

ADOPTION OF REPORT ON THE APPLICATION FOR THE CONFERMENT OF CITY STATUS TO THE MUNICIPALITY OF ELDORET

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the application for conferment of city status to the Municipality of Eldoret laid on the table of the Senate on Wednesday, September 20, 2023 and pursuant to Section 8(6) of the Urban Areas and Cities Act, 2011 the Senate approves the conferment of City status to the Municipality of Eldoret.

(Sen. Onyonka on 5.10.2023)

(Resumption of Debate interrupted 19.10.2023)

The Speaker (Hon. Kingi): This Motion is up for Division. However, we do not have the requisite numbers to carry out division. This order is therefore deferred.

(Motion deferred)

The Speaker (Hon. Kingi): Clerk, call the next Order kindly.

BILLS

Second Reading

THE EQUALISATION FUND APPROPRIATION BILL (SENATE BILLS NO.30 OF 2023)

(Sen. Tabitha Mutinda on 18.10.2023)

(Resumption of Debate interrupted on 18.10.2023)

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The Speaker (Hon. Kingi): This Order is up for Division. Since we do not have the requisite number of delegates to carry out division, this order is also deferred

(Bill deferred)

Second Reading

THE CARE AND PROTECTION OF CHILD PARENTS BILL
(SENATE BILLS NO.29 OF 2023)

(Sen. Miraj on 19.10.2023)

(Resumption of debate interrupted on 16.11.2023)

The Speaker (Hon. Kingi): This Order is also deferred due to lack of requisite numbers to carry out a Division.

(Bill deferred)

The Speaker (Hon. Kingi): Next Order.

Second Reading

THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL
(SENATE BILLS NO. 12 OF 2023)

(Sen. Cherarkey on 31.10.2023)

(Resumption of Debate interrupted on 21.11.2023)

The Speaker (Hon. Kingi): This Order is up for the Mover to reply. However, I am informed that the Mover was suspended from the House this morning. Therefore, this Order is also deferred.

(Bill deferred)

Sen. Chute: Mr. Speaker, Sir, on a point of order.

The Speaker (Hon. Kingi): Sen. Chute, you know exactly how and when you are supposed to rise on a point of order. The circumstances we are now do not warrant a Senator to rise on a point of order.

Next Order.

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(The Clerk-at-the-Table approached the Speaker)

Hon. Senators, Order Nos. 12, 13,14, 15, 16, and 17 are supposed to go to Division in the Committee of the Whole. However, we do not have the requisite numbers to do that. Therefore, those orders are deferred.

COMMITTEE OF THE WHOLE

THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL
(SENATE BILLS NO. 9 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE AGRICULTURAL AND LIVESTOCK EXTENSION SERVICES
BILL (SENATE BILLS NO.12 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE MUNG BEANS BILL
(SENATE BILLS NO.13 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE START-UP BILL (SENATE
BILLS NO. 14 OF 2022)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PERSONS WITH DISABILITIES BILL
(SENATE BILLS NO. 7 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE KENYAN SIGN LANGUAGE BILL
(SENATE BILLS NO. 9 OF 2023)

(Committee of the Whole deferred)

We will proceed to Order No.18.

BILL

Second Reading

THE COFFEE BILL (SENATE BILLS NO.10 OF 2023)

(Sen. (Dr.) Murango on 16.11.2023)

(Resumption of Debate interrupted on 16.11.2023)

The Speaker (Hon. Kingi): At the rise of the House, Sen. Cheruiyot was contributing in his capacity as the Senate Majority Leader. He had a balance of 54 minutes. He is not present therefore; those minutes shall be forfeited. Hon. Senators, the Floor is now open.

Proceed Sen. Mariam Omar.

Sen. Mariam Omar: Thank you, Mr. Speaker, Sir. I wanted to comment on the Statements made.

The Speaker (Hon. Kingi): Senator, we are long past that.
Sen. Olekina, we are on the Coffee Bill.

(Laughter)

As you gather your thoughts, Sen. Olekina, let us hear from Sen. Munyi Mundigi.

Sen. Munyi Mundigi: Asante, Bw. Spika. Mimi ni *Vice-Chairperson* wa Kamati ya Kilimo, Mifugo na Uvuvi. Naipongeza Kamati yetu kwa kazi tuliyofanya. Tulitemebelea kaunti zifuatazo; Kericho, Kisii, Embu, Kirinyaga na Nyeri. Tulikutana na wakulima ambao wamekuwa wakikuza kahawa kwa miaka mingi. Miaka ya zamani, kahawa ilikuwa mambo yote. Tulipokuwa tunayasikiza maoni ya wakulima, wengi walikuwa na kilio kingi. Walisema kuwa wanalima na kufanya kazi zote na hata kuvuna vizuri lakini wakiuza kahawa, kupata pesa ni shida. Tuliachukulia maoni yao kwa uzito kwa sababu kahawa ni mojawapo ya mazao ya fedha katika kaunti 35 za nchi yetu.

Kahawa ni muhimu ulimwenguni. Kahawa huuzwa Kenya na pia katika nchi zingine za ng'ambo. Tuliposikiliza maoni ya wakulima tuliamua kutafuta suluhisho la kuwasaidia wakulima hao kuweka bei ya mazao yao ili waweze kununua mbolea. Sera

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hizi zitawashawishi wakulima waache kukata miti yao ya kahawa. Ni vizuri turejeshe mambo yalivyokuwa zamani. Kaunti zetu na bodi tofauti zinafanya vizuri kule mashinani.

Naaunga mkono Mswada huu na kuomba Seneti izingatie maoni haya ili tuwasaidie wakulima wetu. *Revenue collection* ya kahawa husaidia serikali na kaunti zote. Hili ni jambo ambalo linafaa kuzingatiwa.

Katika kuzingatia swala la kuuza kahawa, tunapendekeza iwe *free market* na watumie dola za Marekani ili wakulima wapate pesa zao kwa haraka. Mambo mengine ambayo tuliangazia yanahusu masaibu dhidi ya mkulima na serikali inayouza kahawa kwa nchi za ng'ambo. Kuna *cartels* zilizoko pale. Ninaomba *national Government and county governments* ziangazie mambo haya ili mkulima asinyanyaswe na apate pesa za kuisaidia familia yake. Tukiyatimiza mapendekezo haya, mkulima ataweza kujikimu na familia yake na vile vile kumudu huduma za afya.

Kwa sababu kahawa ni kila kitu kwa wakulima wa kahawa, wanapaswa kupatiwa mbolea. Baada ya kuvuna na kuuza mazao yao, wakulima hao wataweza kulipa deni. Nashukuru Serikali kwa kutenga Kshs4 bilioni ambayo imesababisha kupungua kwa bei ya mbegu ya kahawa hadi Ksh100.

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

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support this Bill, which seeks to develop regulations on the coffee industry in Kenya. However, as I support this legislation, I would like us to reflect on the introduction of cash crops in our economy. One of the biggest problems we have as a country, in terms of looking at the laws we develop in this House, is that some of these laws we pass need to be designed to support local farmers.

These Bills are intended to create products for other markets and not for food sustainability. I believe there will be a time when we will develop regulations that promote sustainability, cooperation and the building of consensus and synergies between the farmers, the Government, and the private sector as a country.

One of my biggest pet peeves with cash crops is that we develop them to feed the overseas market. This is the way we have designed as a nation. I am one of the most prominent critics of the World Bank and the International Monetary Fund (IMF) because of the dangers they are putting us through. The slavery tenancy they continue inculcating into our culture--- People have been talking about the coffee industry for many years. When I was growing up, the coffee industry supported the local communities. I was having a conversation with one of the clerks, and they told me, 'When farmers were growing coffee when the time came to pay them, some money would be set aside so that at the end of the financial year, these farmers are given money as a bonus. Some of this money would be from their kitty, money they saved to build sustainability.

As I read through the memorandum and objects of reasons to this Bill, the regulations we want to develop to build the coffee industry, we must think outside the box. How do we build cooperative movements that will ensure that a poor farmer in Kirinyaga, Nyeri, Kitale Trans Nzoia and Narok counties can use that coffee plant, produce it locally, sell it, make money, but also be part of a Government initiative that

has developed proper regulations that support the farmer, the private sector and ensure the sustainability of the crop?

We are lamenting daily about the coffee brokers. If you listen to most leaders from Mount Kenya when they are raising their concerns about the coffee industry, they will tell you that cartels have taken it over. However, they will never tell you what we need to do. I believe the Chairperson Committee on Agriculture, Livestock and Fisheries, Sen. (Dr.) Murango needs to look at the regulations and develop regulations that promote the sustainability of the crop. Can we create laws to ensure cartels do not overtake these cooperative movements? I hope I can have some time to sit down and discuss this with the Chairperson who has sponsored this Committee Bill. How do we do away with these vast controls by boards? Since agriculture is devolved, we take these functions to mini cooperatives. We give the cooperatives more power.

If you look at the dairy industry today, we can learn from it. If you go to Githunguri – where I have learned a lot and now exercising the lessons; if you look at "Fresha" as a company in Githunguri Dairies, they have assembled all the farmers who make decisions. When they sell their milk, they know what they will get as a bonus and when they get it. They control the processes. I dare say that the Kenya Dairy Board asks them what they can do better. The Kenya Dairy Board collects this data to go out and say what they have done in the sector while it is the efforts of these farmers.

We should not have a national body that controls the coffee industry. The control should go back to the farmers and cooperative movements. The private sector is working together. If you look at the cottage industry in this country, you will find beekeepers who come together and produce their honey, and instead of selling it in supermarkets, they go to weak markets. They sell their honey in the neighborhood markets and make money.

As we think about legislation, I want us to do away with the formulation of these boards. You set up a board that needs money to run. The farmers will be taxed to fund these boards. We lament about the number of levies and taxes introduced in this country. The day we will do away with the taxes is when we will start developing legislation not to please the IMF or World Bank or create products for the export market but products that support the sustainability of our small economies. I want a farmer in Kitale to have two acres of land where they grow arabica coffee, and when they harvest, they can sell, make money and pay part of the money by a cooperative they formed where the farmer is a Member.

In the last Parliament, there was a Bill we discussed, the Warehousing Receipt Bill. This Bill was thought-out well. We create warehouses where farmers can harvest their products and sell them; they get receipts indicating the market price. The farmer can opt to sell at the price or wait till the market changes. We will give the farmer a bonus of whatever they would have earned more than we are calculating in the current market.

We need to borrow from this legislation, so that the farmer with two acres of land can agree that even if he were to export the product, they would ship it as a cooperative member. I have a few pointers that I want to highlight briefly.

First, although I support this legislation, there is absence of prioritization for the sustainable development of the coffee sector in this country. We need to demystify

further. We need to go to Trans Nzoia County and ask for the coffee farmers' database. If we have this database, anybody else who wants to farm coffee can be registered in the database and be assisted by the cooperative.

Two, another thing that I am not seeing here is that we need to ensure food security and sustainability. The reason why I am not seeing it here is because of the issue of setting up a board.

Agriculture is devolved in this country. The framers of the Constitution were very clear. They wanted food security, sustainability and for us to develop our agricultural sector. The only way to do that is to ensure that we develop clear guidelines and regulations for coffee production, processing and marketing from county to county.

We do not do this often, but I will be very happy to go to Nairobi Show or another big show to see coffee from Narok, Kitale, Nyeri or Thika and people competing based on that.

In my view, those regulations cannot be uniform. The only time you make them uniform is when you want to dance to the tune of the International Monetary Fund (IMF), World Bank and the outside world that wants you to continue feeding them and not really focusing on your own environment.

Mr. Speaker, Sir, we need to encourage research. I am happy that one of the objects of this Bill is to change the Kenya Agricultural Livestock Research Organization (KALRO) to Coffee Research Institute (CRI). Yes, let us set up this research. I love that, but can it be informed by the different environments?

We have seen coffee houses being established as big businesses in this country. It just started a decade ago. If we are not careful, those coffee houses will profit the multinational corporations who own them.

I dare say right now that the two big coffee houses that we have in this country are owned by multinational corporations. This is because, we have failed to educate or illuminate to the public how important coffee is. However, there might be a small part of ownership that is owned by local people.

In terms of this research, I wish there would be some universities that will take it up because they care about what we can gain. They can make sure that there is a small research institute to know whether we can market our coffee effectively by blending different beans. For example, we can even start with a blend from Trans Nzoia and Narok beans grown under different environments. We can blend beans from other areas such as the Rift Valley, sell them and make money just like what the tea industry has done in this country.

Mr. Speaker, Sir, I know you are an advent traveler. However, when you go to these big hotels, you will find Kenyan tea, but it is not marketed as Kenyan tea. It is actually marketed as another brand, for example, Lipton.

This research institute that I support entirely, must now start to look at what it will take us to take the beans from Trans Nzoia and blend with beans from Mt. Kenya Region. Some of my friends in Trans Nzoia have big farms where they grow coffee.

One of the reasons I am also in support of this Bill is because these regulations that we are talking about must clearly define the pricing mechanism to use to market our

coffee. If you go to Starbucks Coffee Company, you will find that Kenyan coffee is not blended or sold as coffee from Mt. Kenya or specific areas. It just says, Kenya. Same to Ethiopian coffee. However, Kenya is different. We are a nation of 45 different tribes with different environments. We need to be proud of that.

The pricing also goes with the issue of transparency and accountability. In the tea sector, people used to trade tea, but all the auctioning would happen in Mombasa. They will take all the tea, get on the train all the way to Mombasa and auction it there. So, the pricing will be decided there based on that auction and not where the tea is produced. Mombasa does not produce tea. So, it is timely that we look at it.

One of the things that I would like us to take away from this Bill is the role of empowering Cabinet Secretaries. We need to empower the County Executive Committee Members (CECMs) in charge of agriculture in counties. For example, if you look at Clause 94 of the Bill, it says-

“The Cabinet Secretary may, in consultation with the Board, make regulations— -
(a) prescribing anything that may be prescribed under this Act”

Why on earth are we giving this Cabinet Secretaries such powers?

Mr. Speaker, Sir, we need to wake up and smell the coffee. Agriculture is devolved. It is true that the Cabinet Secretary formulates policies on different sectors. However, do we really want to give him so much power such that, Governor Natembeya in Trans Nzoia, cannot sit with his CECM, go directly to the people and ask them to work together as a cooperative, come up with policies or a board to make regulations on how they are going to trade and make money?

Everything must be about making money. We make money and live well. Being poor, especially now, is one of the most expensive things you can ever have. It is not that we are poor; our minds are colonized. We do not produce what will help us build our economy. We produce what will help other economies build their own economies.

I have reiterated this, but let me just add more flesh into it. It is imperative that when we blend, we add value. I can see my time is ending. Just like we have a wine connoisseur, we can have one for coffee. They say, when you blend the beans from Trans Nzoia and the beans from Narok, you have this type of coffee. We add value to it. These regulations must also enhance that.

I see my time is running out. I therefore want to end by saying that there is one thing that I do not see here. I wish that the Chairperson can relook into this Bill. I hope that we can talk so that we can change a few things at the Committee on the Whole to make it neater. This is because, you might bring one change and then politics get in the way and they say, they just want it this way. There is no Bill that we pass here that has no interest outside. Most of the Bills we pass here are actually sponsored by lobbies out there. We just come here, fight for them and they continue making all their money.

We need to ask ourselves if we can promote partnerships and collaborations. Can we promote this and make it possible for farmers in Narok, Kajiado and Trans Nzoia? This is because we give this Ministry of Agriculture and Livestock Development a lot of money. Can we promote partnerships and collaborations between the Government, the

private sector, civil societies, that do well, and the farmers to ensure that we leverage on the resources and support the coffee growers?

Finally, it is important to monitor and evaluate your progress. One of the key things that is missing in this proposed legislation is the issue of monitoring and evaluating progress. Nothing should be cast on stone.

I heard someone say that change is constant. The only thing which is permanent is character. When you say you have taken this and you are monitoring it, are people buying it? Are they liking the blended or the unblended coffee? That should now guide us on how to develop and add value so that we can ensure ultimately that the farmer benefits.

Mr. Speaker, Sir, I end by saying, that all this will work well if we ensure fiducial responsibility, accountability and transparency in every sector we attempt to develop. The coffee, dairy and tea sectors are extremely important. It is about time that the Ministry of Agriculture not concentrated most of its time in the offices in Nairobi. The Cabinet Secretary who was a former colleague should now be going to counties and saying, "You know, I get so much money and I am just spending it in the boardrooms."

When he comes to Parliament, he says we lost Kshs16 billion when we were importing rice. Why should we be importing rice yet we can grow it locally? Why can we not develop our agricultural sector?

Mr. Speaker, Sir, my time is up.

I thank you.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, you have the Floor.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I rise to support this Bill. I read somewhere that the more things change, the more they remain the same.

The objective of this Bill is that we have-

"An act of Parliament to provide for the establishment of the Coffee Board of Kenya, and the Coffee Research Institute; to provide for the role of the national and the county governments; provide for the regulation, development and promotion of coffee industry; and for connected purposes."

There is nothing new in the objective of this Bill.

Dear colleagues, this is exactly what the law was when the hon. Speaker was a Member of the National Assembly of Kenya at the beginning of this century. Somebody got misguided and brought a Bill that amalgamated all the boards in the country. The coffee, pyrethrum, cotton and sugar boards, among others, were all amalgamated into some crazy thing called the Agricultural Food Act (AFA). That was the beginning of the problem.

What happened at that time was that the Kenya Sugar Board of Kenya (KSB) had in its books, credit in excess of Kshs6 billion. So, the moment they amalgamated the KSB, that money disappeared. That was the beginning of the collapse of the sugar industry in the sugar belt.

I think somebody had thought that since that money was lying there, the sugar industry was very lucrative. They would use it to then inject into other meaningless boards that were struggling such as the Pyrethrum Board of Kenya (PBK) for them to

become afloat. They were misguided. I, therefore, strongly support that the CBK must be there as a stand-alone just like a KSB should also be there as a stand-alone and so on.

Mr. Speaker, when I say these things, I remember that many countries in the world produce coffee. The number one coffee producer is Brazil followed by Switzerland. Unlike us, Brazil, Switzerland and other coffee-producing countries have various types of coffee brands. However, as Kenyans, we have the best brand called Arabica. Arabica is distinctive. It has a strong aroma and flavour.

What is more with the Kenya Arabica Coffee is that it has an after taste of wine. People who partake of it and pretend they do not take alcohol are there, somewhere in the middle, taking alcohol and having more or less the same effects. They do not have to go to their priest and repent that they partook of alcohol.

It is this uniqueness of the Kenyan Arabica Coffee that keeps on worrying me every day. What went wrong? Once upon a time, in my community, Kakamega and Bungoma counties were serious producers of coffee. However, that enterprise has gone.

It is shameful that the coffee trees were uprooted without caring about where we were as a country. We were not doing badly. Whereas Brazil is number one and Switzerland number two, Kenya is a strong number 16 in the whole world.

Mr. Speaker, Sir, all we needed was imagination from the Government to ensure that we support this particular sector. Where do people need support? Farmers need support on pricing. There is no responsible government that sits there and does not address the issue of the agricultural produce by their farmers.

We must do something about pricing. As you do so, you tweak the price in such a manner that there is no farmer who at the end of a season, declares a net loss. Responsible governments across the world give farmers guaranteed minimum returns.

Mr. Speaker, Sir, my predecessor, the Senator of Narok County, who I thought knew things only about milk, has impressed me. He has talked about the cartels. Do not get it wrong. The cartels we are talking about in coffee sector are not from pastoralists. They are from the coffee-growing areas. In Mt. Kenya, the cartels are the people from there. These people understand the industry so well that they know how to play around with it. They take advantage of the small-scale growers.

In this country, coffee farming supports six million people. Of these six million people, 800,000 are small-scale farmers. Throw your mind to Kilifi County, a small-scale farmer is an innocent person who knows that he will go to the farm, till the land, and at the end of it, there is harvest. They do not know about the complexities of local and international markets, cooperatives and so on.

Mr. Speaker, Sir, the criminals from that area who then becomes part of the cartels take advantage of this family. This is where the Government must come in to protect the farmer by getting rid of the cartels. I congratulate the Deputy President. He has been very strong on the issue of cartels, but he does not finish the statement. He should finish it by saying who those characters are.

One of these days, some people will take a record of people who complete statements. We want leaders who will be completing statements. If the cartel is Sen. Nyamu, name her so that she can then challenge you for defamation and what have you,

then you corner her. God forbid. I have mentioned you because you are the nearest Member next to me.

Mr. Speaker, that leads me to the next problem that affects these farmers. The 800,000 farmers are not the ones who manage the factories. So, the Government must help in ensuring that the management of factories is not done by those cartels, but by people of integrity.

It is amazing that in the midst of poor small-scale farmers, we have billionaires who do not even have a quarter acre of coffee farm. Beyond managing those factories, it is now a stated fact, an agreed experience, that the best way to get the maximum from the small-scale farmers is usually by putting them in cooperative societies.

The emergence of cooperative societies has now become a big problem because the cartels have moved into controlling the cooperative societies. Earlier on in our lives, the cooperative movement was so powerful that the Nordic countries established the cooperative college in Karen. It was a gift from the Nordic countries because of the vibrancy of the cooperative movement in this country. It was a huge institution.

Thanks to cartels and the mismanagement of cooperatives, the cooperative college has since collapsed and has been converted into the Cooperative University of Kenya. I see people celebrating that it is now a university. They do not know what loss it has attracted to the---

Sen. Thang'wa: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): What is your point of order, Sen. Thang'wa?

Sen. Thang'wa: Mr. Speaker, Sir, I would not wish to stop my senior as he is giving his contribution. However, he said that the Deputy President does not finish his statement when he talked about these cartels. Could he kindly finish his statement by mentioning those cartels?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the Senator of Kiambu County is quite right that I should finish the statement. When I was talking about the cartels, I was not talking about the cartels from the point of lamenting that they are cartels or from a point of acknowledgement that they are cartels, it was from a point of science that we have to break the chain.

With all due respect, I mean well. Colleagues create time and go to Cooperative University of Kenya. It is something. If the Nordic countries saw how successful we were, I am afraid the distinguished Sen. Orwoba, probably was in the kindergarten. So, she does not know those glory days.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, you said the Cooperative College is now a university and the change was a result of the actions of cartels. Sen. Thang'wa stood on a point of order and asked you to kindly finish your statement by naming these cartels who contributed to the collapse of Cooperative College that is now Cooperative University of Kenya.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, viewed that way, I owe it to this House. The furthest I can go---

The Senate Minority Leader (Sen. Madzayo): On a point of order, Mr. Speaker, Sir.

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The Speaker (Hon. Kingi): What is your point of order, Sen. Madzayo?

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, ningependa kumsaidia ndugu yangu, Sen. (Dr.) Khalwale. Hakusema kwa nia mbaya ya kwamba Mhe. Naibu wa Rais, anashirikiana na wale watu. Yeye amesema tu kuna wale watu wa katikati ambao nia yao ni kuchukua mapato ya---

The Speaker (Hon. Kingi): So, what is your point of order, Sen. Madzayo?

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, hoja yangu ya nidhamu ilikuwa kuweza kumueka usawa yule *Chairman* wa Kamati ya Barabara na Uchukuzi ili asiweze kumingilia katikati, Sen. (Dr.) Khalwale. Kuna tabia---

The Speaker (Hon. Kingi): Sen. Madzayo, you could have risen on a point of information.

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, nisikize kidogo nami niongee.

Kuna tabia moja ambayo iko hapa ambayo kama ako na *line*, anachukua *line* yake ya kuweza kueleza katika huu Mswada---

The Speaker (Hon. Kingi): Sen. Madzayo, you are out of order. I wish you rose on a point of information. This is because you want to assist a colleague with certain information, but not on a point of order. I overrule that point of order.

Sen. (Dr.) Khalwale, proceed and conclude.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I truly thank the Senator for Kilifi County for informing me through a point of order.

I do not look like that I am running away from the things I believe in, when I stood in public and said that cartels in the sugar industry were finishing my community, I completed the statement. On the spot, His Excellency stood up and said *mambo ni matatu*. Thanks to the *mambo ni matatu*, the nonsense has ended. It is important the people in the coffee sector---

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, in equal measure, can you complete your statement just like you did when---

Sen. (Dr.) Khalwale: Yes. Since the coffee industry collapsed several years ago in our area, where the cartels are now active is in the Mt. Kenya region - I wish I knew their names. You are lucky. I wish I knew you, I would say it here now and you would do nothing.

(Laughter)

They are lucky wherever they are. Let them thank God. Sen. Thang'wa, pick courage. I was a small boy in a town called Fort Hall. I do not think you know Fort Hall. Fort Hall is the town these days called Murang'a. When I was in Fort Hall as a little boy, we used to see coffee. Murang'a and Kiambu counties were beautiful. These ugly buildings you see here in Kiambu County annoy me when I remember the coffee that I used to see. That coffee was giving this country a lot of forex. We have dropped from where we were and are now at number 16.

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The farmers of this country can know that there is nothing in houses where you have to chase people every month to collect your rent of Kshs20,000. Brazil at No.1 coffee grower earns US\$6 billion from coffee. At No.2, Switzerland earns US\$3.6 billion from coffee. That is what we killed when some jokers came and cheated people in Kiambu and Murang'a counties to replace the red soil with buildings.

As legislators, we must fight and help the President in ensuring that this housing programme can succeed, so that people can be moved from that red soil and rich farmland to come and live in the headquarters and leave the land free for development.

I would have loved to continue, but because I can see colleagues queuing, let me give them my time. I strongly support.

The Speaker (Hon. Kingi): Sen. Mumma, please proceed.

Sen. Mumma: Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this Bill. To me, am a bit confused because a government exists in perpetuity. As Sen. (Dr.) Khalwale has said, some research was done in the agriculture sector and a decision was made to amalgamate institutions in the sector and come up with one big institution with departments.

I say so because this is not the first time we have had coffee law. We are trying to go back to where we were before that amalgamation was done. I do not know whether the key thing is just to isolate it from the bigger institution or whether it brings on board key material issues that we will need to look at.

Allow me to ask the Chair of the Committee on Agriculture, Livestock and Fisheries to kindly favour this House with some opinion on what I have just raised. What it means to continue having the institution that is in place then starting to hive out other small institutions of that without bringing an amendment to the law to ensure we have hived out, whether it is the Coffee or Sugar Bill, which is also coming in place. Having said that, Mr. Speaker, Sir, allow me to go into the content.

The Speaker (Hon. Kingi): Sen. Mumma, Sen. Orwoba wishes to inform you. Do you accept?

Sen. Mumma: I accept, Mr. Speaker, Sir.

Sen. Orwoba: I want to inform Sen. Mumma why the Kenya Kwanza Government is intentional on this coffee industry. There are some regulations and details on how we will control the pricing or even just incentivising the farmers to push on the coffee production that cannot be attained within the bigger scope of that bigger organisation that you are talking about are in place. That is why we are being intentional. We are moving all matters about coffee towards specific agencies that will just be dealing with coffee.

That is my point of information.

Sen. Mumma: Mr. Speaker, Sir, I would still request that the Chair addresses the issue that I asked. I did not ask the intentions of Kenya Kwanza on what they want to do with the coffee industry.

Coming to the content of this Bill, again, on the responsibility of the Senate, knowing that agriculture is a devolved function, I would have wanted to see a law that strengthens intergovernmental relations that recognises that agriculture is devolved.

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Therefore, the key function lies with the county governments; one that structures the law in a manner that respects that.

Mr. Speaker, Sir, I would also want to see a law that respects the principles of the Constitution, one that would be centred on the rights of the very people we would want to be helping with this law. This law needs to be stronger in supporting coffee farmers. I have not seen a strength in that. I have seen a strength in establishing an institution that is not different from the coffee board that existed before.

We all know that the coffee board that existed before ended up serving, perhaps people that Sen. (Dr.) Khalwale refers to as cartels. It ended up being a tool that was used by a few wealthy people against the majority of the small-scale farmers.

Mr. Speaker, Sir, when you look at Clause Seven in terms of the persons who are supposed to form the coffee board, I find that the clause does not guarantee in accordance with Article 27 of the Constitution that the necessary gender ratios will be achieved. I request that the Mover of the Bill ensures that he puts in a clause that will ensure once appointments have been done, they respect the constitutional provision under Article 27(8) that requires that appointive bodies must respect the two-third gender rule. This would mean that whoever is appointing must devise a formula that will not violate this.

I also see a pattern that may suggest that the bigger coffee farmers belongs to the national Government and the small-scale farmers belong to the county government. That is a bad fallacy. Clause 7(1)(d) is proposing that two persons of opposite genders representing small-scale coffee growers be nominated by the Council of Governors (CoG).

Clause 1(g) is proposing one person representing an association of coffee farmers nominated by the Cabinet Secretary. Trying to suggest that the bigger-scale farmers belong to the national Government and the small-scale farmer belongs to the county governments. This is splitting hairs. There is no large-scale farmer who is not situated in a county. We must not by these clauses hive off what belongs to the county and give it to the national Government.

When it comes to the function, I would want to see one that requires the board to act in the best interest of coffee farmers and not small-scale or large-scale farmers. This is not just a board that directs farmers on what to do around the prices and on matters relating to licensing, but does not listen to the people.

I have not seen a clause that provides for public participation in terms of decision-making that ensures that the decision that carries the day is a decision that is in the best interest of the farmers.

Mr. Speaker, Sir, as I finalise, I want to speak on Schedule II. In my view, Schedule II has determined the licenses that will be issued by the board, the county governments and the Capital Market Authority (CMA). In that schedule, functions of counties have been given to the board.

This is something that I would want the Committee to relook at to ensure that we are not clawing back on the constitutional functional assignment to county governments and taking mandates that belong to counties, giving them to a board that is in control of the national Government. Therefore, clawing back on county functions.

Whereas I support it, I still insist that we need to find out the rationale. We are going to waste public resources if we have the amalgam of the agriculture institutions carrying out functions, including coffee and then having yet another body similar to the one that did not work for us being put in place. So, I am in very good faith requesting that the Committee consider the issues that I am talking about, so that by the time we pass this law, we are passing a law that is truly people-centred and farmers-centred.

Mr. Speaker, Sir, as I spoke about gender, I forgot one issue in Clause Seven. We need to recognise that coffee is planted in many counties. We might want to have a clause to ensure that members of that board are drawn from the different counties where coffee is grown in this country. It is grown in Mt. Kenya, in Rift Valley and Western Kenya and I believe it can be grown in some areas at the coast like Kwale. We must also ensure representation in that board reflects the different counties that want to participate in coffee growing.

We have not suggested who the chairman is supposed to be appointed by the President should be, but my view is that the chair of this board, must be a coffee farmer.

Thank you.

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

Sen. Chute: Thank you very much, Mr. Speaker, Sir. When I stand here before you today, some people may think that this gentleman and Senator comes from Marsabit County in the North Eastern region or Upper Eastern, what does he know about coffee? However, Marsabit is a coffee-growing county, especially on the Hills of Marsabit Mountain called Sabache. When I was a young boy, we used to go and farm in those coffee plantations. We had the best coffee that came from Marsabit.

Mr. Speaker, Sir, I agree with Sen. Mumma that this is supposed to be a county issue and agriculture is a devolved function. What is happening is that the devolved functions are not being fed with money. The Government is not releasing funds. Counties are able and capable of managing coffee or any agricultural produce in their counties.

Mr. Speaker, Sir, we have 35 counties in this country out of 47, which grow coffee, and we can have even more counties if there could be an institution that can look at other counties that can produce or cultivate coffee trees.

About three months ago, we had an opportunity to visit Jebel Ali Prison and we found Kenyan tea being blended and packed in a warehouse. After it has been packed, it is given a different name or the marking is completely different. The origin of the tea is from Kenya, but after blending it is given different names and it goes to different countries in Asia and even Europe.

I asked the Manager of Kenya Tea Development Agency (KTDA) why we are not doing this blending in a bonded warehouse in Kenya. His answer was that when we import packaging papers, the taxes on them are very high and after packing, selling it also presents a lot of issues. That is the reason we send our Kenya Tea Development Agency, to go and repack our tea in the United Arab Emirates (UAE), Dubai.

If you look at the origin of coffee today, it is from Ethiopia; 1,000 years old. If you go to Ethiopia today, from morning to evening, even at night people are taking

coffee. They do not take tea that much. They take coffee. That by itself is helping the country to cultivate and produce more coffee.

As Sen. (Dr.) Khalwale has said, Kenya is in position 16 in the world, while Ethiopia is in position six, followed by Uganda in position eight. If we manage our agriculture sector well, I am sure we are going to do better than our current position, position 16.

Mr. Speaker, Sir, coffee is planted and consumed worldwide. Today, if you look at the varieties of coffee, Arabica Coffee is mainly cultivated in Latin America, while Robusta is predominantly in Africa. If we look at production of coffee today, the best you can do is 2,300 kilogrammes to 3,000 kilogrammes per hectare.

Today, coffee is the most beloved beverage that is consumed worldwide. The problem Kenya is facing today is the cost of production. This Bill should address the cost of producing coffee per kilogramme. Initially, when we were in school, coffee production was about Kshs30 to Kshs40 per kilogramme. Today, it is from Kshs80 to Kshs100 shillings per kilogramme.

This Bill should also address the problem of pricing of coffee. After the farmers in Kenya have cultivated the coffee and done the hardest work producing that coffee, they only get to know the price of the coffee after the produce has been sold. That is the time they will know the price they have gotten for their coffee.

In fact, the farmers lose control of their produce after it has gone for milling. Once it leaves your farm, you have no control over it anymore. Sadly, it is managed by people who do not even cultivate coffee.

We must have a solution for our coffee cultivation. The first solution is to reserve a price. The Government should establish a reserve price; that the price of coffee or any agricultural produce should not go below this much. Number two, the Government should establish funds to cushion the farmers in case any farmer loses the price they wanted.

The other issue is prompt payment. After they have sold their produce, many farmers, even tea and sugarcane farmers, have to wait for payment for even up to two years. That must change.

The other important issue is to recommend direct sales to farmers, so that a farmer can sell his produce direct to wherever he wants, anywhere in this world. In addition, payment should be done in US dollars because coffee is mainly exported to Europe or Asia.

Another issue is branding of our coffee. The Government should support our farmers to brand their produce as a product of Kenya after marketing it and doing the necessary packing, so that the farmer can reap the maximum profit out of his produce.

The Government has research stations in this country. Therefore, I do not know why they cannot upgrade cultivation of coffee in Kenya by extending research officers to other counties, mainly those counties bordering Ethiopia, which is one of the counties I come from.

Agriculture is a devolved function. It would be prudent for this Government to release funds to the devolved functions instead of having it in law. They have it in law

that agriculture is a devolved function. It is important for our Government to release funds to those counties, so that they can manage agriculture properly.

Finally, if you go to Kiambu, you will find so many coffee trees being uprooted and housing developments coming up in those areas. Once you uproot a coffee tree in a particular place, you need to replace it in any other place where the coffee can grow.

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

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

Mr. Temporary Speaker, Sir, I stand here today to support this Bill. We had the Coffee Board of Kenya (CBK) for many years. I know it is now disbanded and this Bill wants to bring back that board.

There have been talks to set up many boards, but I do not think such boards can do any meaningful thing for us. As Sen. Mumma has said, 35 counties produce coffee. Those counties can come together and come up with their own programmes on how to cultivate, blend, export, sell and bring back the money to those counties. The counties can do that; they can manage it. I urge the Committee to make some amendments if that is possible, so that instead of having coffee boards again, the 35 counties can come together, produce, blend, sell and export their coffee to other countries.

Mr. Temporary Speaker, Sir, I thank you, very much. I beg to support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Wamatinga, you may proceed.

Sen. Wamatinga: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Bill that is originating from a committee that I serve in. I know that Sen. Chute might not have the right information about the existence of the Coffee Board.

I am a product of coffee. When I was in school, all you needed to prove was you had harvested some coffee or your parents owned some and you could go to school. Nobody was sent away from school. That was up until the 80s when the International Monetary Fund (IMF) and the World Bank (WB) came up with the Structural Adjustment Programs (SAPs) that needed to see less involvement of the governments in the cooperative movements and many hands in it. That is where things started going south for us.

(Sen. (Dr.) Khalwale consulted loudly)

I want Sen. (Dr) Khalwale to listen to me.

That was the entry point of the cartels. The few informed cartels took advantage of the less involvement of government. The cartels took advantage of the farmers who were not even aware of where to capture the market. They crippled the cooperatives that brought the farmers together. They ensured that the farmers did not have a collective voice and systematically started bringing them down. That is how one of the prestigious institutions in the name of Cooperative College of Kenya got lost.

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We have had various attempts to revive the agricultural sector through coffee, milk, tea, sugar and even cotton. I am proud to state that even before the Senate Committee on Agriculture, Livestock and Fisheries led by Sen. (Dr.) Murango, an astute farmer, brought this Bill, we have managed to bring before this House various Bills that will ensure that we address this issue that has continued to oppress farmers for the last couple of decades.

Mr. Temporary Speaker, Sir, the SAPs was an American or Western concept of trying to dominate African economies by trying to dictate mechanisms that were only meant to work in societies where communities are highly informed, educated and can regulate themselves, including the ability to work with market dynamics of coming together and achieving economies of scale.

Given the background of most African countries, including Zimbabwe, Zambia, and Kenya, we lost in it because our population, most of which at that time, was highly illiterate. Most of the farmers then were small-scale farmers who were unable to generate economies of scale because they lacked the dynamics to come together.

We are aware that we have the Agriculture Food Association (AFA) that was meant to address the issues. However, even with AFA, there were directorates that were not resourced enough and had only one person sitting at a desk, trying to manage a cash crop or one product. AFA is a disaster to this country. It came and compounded the problems faced by the farmers.

The macadamia industry has also changed. The market today is different after the Corona Virus Disease (COVID-19), when we did not have the luxurious demand for macadamia in Western Countries. Instead of AFA moving with changing times, they denied people licenses to export in-shell macadamia. Our farmers are now cutting down the macadamia trees because the prices collapsed. We must create boards that can work with the dynamics and use the forces of the market, that is, demand and supply, to respond to the farmers' needs.

I agree with Sen. Mumma that the boards must be farmer-centric and in a position to promote democracy. That is why anybody who reads the Bill will see that the county governments will play a central role, including licensing of marketers. That role is currently played by the central Government, which is manned by one desk officer. Needless to say, most of even those desk officers in the directorate have no idea of what coffee is or any other crop for that matter.

The Bill that is before this House intends to cure the gaps that have been there, seal the loopholes that have seen farmers being exploited and ensure that farmers can project the kind of harvest, input and output they will have, including the prices they will get from the product at the end of the year.

Mr. Temporary Speaker, Sir, let me surprise you by stating that there are only three products in this world; milk, coffee and tea; that a farmer takes to the market without knowing when the money will come and how much will come. The farmer has to wait until he is told the price that his produce fetched from the market. The farmers do not have a say on how the money is paid.

When that money is eventually paid, the farmer has no choice on whether it is paid in dollars, Kenya Shillings or Indian Rupees, for that matter. That is why this Bill is before us. This Bill attempts to cure the opaqueness of the market, where the farmers and the consumers cannot come together. I am happy to report to this House that when I went to Colombia with the Deputy President to explore the models that they use there, we learnt that most of the people in their coffee industry are young, educated and highly informed. The coffee farmers there run very effective cooperative societies because theirs is formed based on a willing seller and a willing buyer.

We also want to bring agribusiness in this country into the hands of the young people. The Kenyan population is getting younger by the day. The farmers who are still very conservative hold onto old practices and own the coffee farms. Moving forward, we want to ensure that the younger generation takes up farming as an option. That is why we are talking about agribusiness and the young generation. The only way we can do that is by ensuring that coffee farming becomes attractive to the young people with good returns. Most importantly, when farmers know when they can get their returns, they can plan their lives by ensuring that they get return on investments on whatever they put in the farms. They will know how much and when it is going to come.

Agriculture is a devolved function. However, we know that most of the county governments in Kenya have not built capacity to access international markets. Unlike our neighbour, Ethiopia, which consumes quite a good portion of its coffee, Kenyans consume a very small portion of the coffee that we produce. Therefore, we have to access the international markets. To do this, we need a strong coffee board that can link up the consumers who are in foreign countries and farmers, most of whom are small-scale. We will have a strong say in how they market the coffee, the formation of economic blocs, and most importantly, value addition.

Mr. Temporary Speaker, Sir, most of the farmers have given up on coffee farming. That is why production of Kenyan coffee has reduced from the 30 kilogrammes per bush to only three kilogrammes. We saw it in Ethiopia and Colombia, where their production, on average, is up to 50 kilogrammes per bush. That means that without changing the acreage of coffee that we have in this country, we would be able to double or even triple the production.

Kenyan coffee is one of the highest quality. It is used by most of the countries to blend and improve the quality of their product. Unfortunately, it is then not marketed as Kenyan coffee or product, but rather as other countries product. This has been the case because the regimes that have been there, hitherto, did not have any interest in ensuring that Kenyan farmers and product get their rightful share in the international market.

Moving forward, now that we are facing a challenge of foreign exchange, it is important to know that from agriculture and agribusiness, this country can earn enough foreign reserve. However, that can only happen if we use the right laws and ensure that the farmers get the maximum benefit of farming. Most importantly, we need to ensure that we access the most premium markets that exist in Western countries.

Mr. Temporary Speaker, Sir, I would not be doing justice if I will not mention the effort that the Committee has put in this Bill. We have gone to various counties,

including your own county. We did public participation and spoke with the people who incorporated their views.

We have sat with the executive, cooperatives, small-scale and large-scale farmers, marketers, producers and millers of coffee. This Bill has incorporated the views of all the people. It is a farmer-centric Bill that will ensure that farmers in Kenya will no longer be exploited by people who take advantage because they can get access to markets where the farmers cannot.

Mr. Temporary Speaker, Sir, I thank the Government of the day, led by President William Samoei Ruto. This is because for the first time in the history of this country, they have been able to set the minimum amount of Kshs80. This is an advanced payment that will be used to cushion farmers. Farmers have suffered up to now. However, the Government will be able to address cherry hawking.

Mr. Temporary Speaker, Sir, for the first time in my County of Nyeri, I have seen coffee consumers and farmers come together with people from China, Korea, America and Germany. They are negotiating and getting super deals about their product.

This is only possible because we have made a Bill and the law that we are proposing is going to ensure that when the farmers sell their coffee, they are paid directly without having to go through intermediaries, which has been the case up to now. This Bill, among other Bills that we are bringing from the Committee of Agriculture, Livestock and Fisheries, is meant to ensure that the farmers in this country will never be exploited again.

This is an agricultural rich country. I want to thank the Government of President William Samoei Ruto. He is very intentional, that we cannot continue relying on rainfall to farm. Therefore, by using the new model of the Public Private Partnership (PPP), we are going to ensure that we construct large dams. As it is, we are experiencing heavy rainfall. We can see the destruction that is being caused by the water. Unfortunately, that water ends up in the ocean, and we cannot use it anymore.

Once the big dams are done, I promise Kenyans, as much as things may look as they do today, we are going to revolutionize this country and the way we do agriculture. We will ensure that Kenya becomes one of the leading countries in green agriculture, green energy and green industrialization.

This can only be done if we change the way we have been doing things. By empowering county governments, devolution, farmers and ensuring that we have sound laws in place, it will not only protect farmers, but ensure that cooperative movements are strong to undertake research, as it is in Columbia.

We know that we had some of the strongest research institutions in this country. However, due to underfunding, most of the researchers have left the county and gone to the Western countries. We need to reinforce this and ensure that our research institutes, universities, including the institutions that are mandated with the control of coffee and other agricultural production, work in tandem, so that they can bring the economy, research and the crop in alignment with what is trading in the market.

This cannot be done without utmost political good will. What the Kenya Kwanza Government has brought on the table, to ensure that we formulate all these Bills, is

utmost political goodwill. This is what we are riding on to ensure that we do all the nine Bills that we will be putting before this House. This will ensure that farmers in this country will never again regret being farmers.

Mr. Temporary Speaker, Sir, to dignify the farmers, we will need nothing short of paying them the rightful money in the right time and amount. It is very unfortunate that in this country, even farmers who export their products do not know when they will be paid because they use brokers. As we know, brokerage is weakly regulated in this country. We want to put in place a coffee board that will regulate the coffee sector. This is by ensuring that when the coffee is brought together, consumers or buyers of coffees come, walk in and pick the grade and quantity of coffee they want, so that farmers can attract top dollars.

It is, therefore, my prayer to this House that we support this and many other Bills that will be coming from the Committee on Agriculture, Livestock and Fisheries. In the next two to three years, farmers of this country will know that they have put into place a Government that is mindful of their plight.

Additionally, the multiple *harambees* that we have been doing to ensure that children go to schools and people go to hospital, will be no more. This is because our farmers will be empowered and people will have a higher purchasing power. Therefore, they can access the kind of education and medical services that they need.

Mr. Temporary Speaker, Sir, I support.

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

Sen. Tabitha Mutinda: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Bill. I am very passionate about agricultural matters. As you know, I have a Bill on extension services. This great commodity of coffee plays a key role on the economy of our country.

Let me start with Clause 5(1) of this Bill, which states that-

“The headquarters of the board shall be in Nairobi City County.”

I appreciate the Committee for putting and considering this. I thought they would take it to the regions that coffee is grown. Nonetheless, its headquarters is going to be in this great capital City of Nairobi that I personally represent. I applaud the Committee for that.

Mr. Temporary Speaker, Sir, even before I proceed, I had a small privilege within a small duration to serve in the Committee on Agriculture, Livestock and Fisheries, before I left to give room for the new Members who had not arrived. I had a very good working relationship with the Members of the Committee on Agriculture, Livestock and Fisheries.

I want to appreciate the effort that the Committee has made, led by none other than the Chairperson, Hon. Murango. I also appreciate other Members who have played a key role in putting together this Bill in place. This is one of the Bills that we had said that will be tackled at a Committee level. It is great that they have been able to bring it up.

I note that Clause Seven of the Bill talks about representation. I heard one of our colleagues say that the small-scale farmer has not been considered. However, in my keen reading, I have been able to note that Clause 7(d) states that-

“(1) The management of the Board shall vest in a board of directors consisting of two persons of the opposite gender, representing smallholder coffee growers nominated by the Council of County Governors.”

Part G, talks about representation of coffee farmers. One of the persons is from the largest association of small-scale coffee farmers.

Part H, talks about one person nominated by the cooperative society representing the largest number. I note that it is the largest number of the small-scale coffee association, an indication that even when I go back to the relation of our Bottom-Up Manifesto, the Bill has talked about consideration of the small-scale coffee farmers.

This is because they are still within the smaller market in terms of scale. The Committee has ensured that they are also factored in as far as their representation is concerned. If we still leave a bigger representation for the large-scale farmers, we continue losing the small-scale farmers who also have families they need to support.

This is a business opportunity they need to keep growing. The focus on ensuring the small-scale farmers are part of the Board representation is a big plus in as far as this Bill is concerned.

Mr. Temporary Speaker, Sir, I urge the Committee to look at Clause 8 of the Bill. It states very clearly that –

“A person shall be qualified for appointment as a member of the Board of Directors if that person-

(a) holds a degree from a university recognised in Kenya.”

As we speak, we know very well that we have high levels of study and there are quite a number of degrees. It would be prudent, wise and much weightier if the Committee would narrow and specify the type of degree one needs to hold if they are going to be appointed as members of this Board.

In my opinion, I suggest the Committee to consider a degree holder in the agriculture field because then it becomes much more impactful. The personnel will be able to apply the knowledge and skill that they have gained from the university.

Otherwise, we will have people from all types of study sectors that would want to sit in the Board but might not have a deeper understanding as far as the skill and knowledge is needed in agriculture.

In Part B, I have some different opinion. It states-

“A person shall be qualified for appointment as a member of the board of directors if that person-

(b) has three years’ experience in the coffee sector;”

Colleagues have stated and talked about when coffee farming started in this country. It was way before some of us were born. I do not understand why this Committee should only talk about some mere three years of experience in the coffee sector when I believe we have people with many more years of experience.

That would be much better keeping in mind that we are coming from a place where we had a coffee board which was disbanded. It means then that there were challenges and problems. If we give an opportunity to board members who have little

experience such as three years, then it will be weaker. They should consider and put about 10 years of experience. It is possible and doable. Three years is little.

I note that the only member of the Committee who was here, Senator of Nyeri County, Sen. Wamatinga, seems to have stepped out. It concerns me where these Members are because they need to be taking notes. If this is a Committee Bill it should be taken more seriously. None of them are in the House to note this down. I hope they will consult the HANSARD and get the right input that Members have contributed.

On that note, I urge colleagues that if they have Bills as committees, then they should be in this House to take note of the issues. Otherwise, not putting up Bills, throwing them to us and leaving without being keen on the small amendments that the Members of the House have put in place.

As stated earlier on my Bill; the Agricultural and Livestock Extension Services Bill (Senate Bills No.12 of 2022), I advise that the Committee should consider to put in the Bill the role of extension service officers. They have talked of training but then who is going to offer it? We need experts from the extension service department to ensure they offer quality training of coffee farmers in this country This is in order to improve our quality from where it has been to the current need of the market in place.

We cannot have the same things being done. If we have the same quality, we do not compete well in the market as required. For us to have a higher market niche, we need to improve the quality of the coffee. We can improve it by ensuring our coffee farmers get the training and expertise needed. This will ensure the output in place is of higher value.

Mr. Temporary Speaker, Sir, as the Kenya Kwanza Government one of our key manifestos have been matters agriculture. I thank the President because we have focused on that. It has been a few weeks after the State of the Nation Address which was put across in Parliament. You realize that the cost of fertilizer has gone down from Kshs7500 to retailing at Kshs2500.

For our farmers to maximize profits from any produce - as a student of business - the cost of production has to be considered. The cost comes from the price of fertilizer, pesticides that need to be applied, seedlings required and the quality items needed to ensure quality output. As the Kenya Kwanza Government, we have ensured that the tax for the cost of raw materials have been lowered and hence this lowers the cost of pesticides in the market.

This in turn lowers cost of production. This is the farming process in place. When our farmers go to sell produce, they can compete and maximize profits because they have reduced their costs.

Mr. Temporary Speaker, Sir, I appreciate the Deputy President, he has been a champion as far as the coffee and tea sector is concerned. He has ensured that our farmers are supported and get the right items needed together with funding to maximize produce and the standard quality needed.

As I finish, I would like to talk about the issue of brokers. The Agricultural and Livestock Extension Services Bill (Senate bills no. 12 of 2022), talks of marketing of the

produce in such a way that the farmers will have the opportunity to directly sell their produce to the end user.

This then cuts off the brokers who are in between and continue enjoying more benefits than the farmers themselves. The farmer is the one who has really worked hard but what he gets in return at the end of the day is little because of the brokers.

With the Extension Service Bill, there is going to be access of markets for the coffee farmers so that they can maximize their profits. It will be equal to even more than the sweat of their work.

As a champion of digital literacy, I will not forget to talk about technology. This Bill has yet to highlight much about technology in terms of having a transparent database. It talks about the database for farmers, but not the technology to put a system that captures all the coffee farmers, be they small, middle, or large-scale.

Further to this, a database that can access markets for their produce and guide them to the standards required for the different coffee levels in place. The Kenya Kwanza Government is focusing on ensuring that we increase the number of dams in this country. The dams will enhance agricultural productivity because of the availability of water.

We have had coffee farmers for long, but have not had a coffee pension scheme. I urge this Committee to consider putting in this Bill the Coffee Pension Scheme. When our coffee farmers retire and hand over the farms to future generations, they do not need to continue depending on the same produce. They can sustain themselves with the pension they have in the scheme. This will reduce the challenges the older people end up having because they are not salaried. Salaried people get their pensions. Coffee farmers will have a platform to save and a pension scheme to support them.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Tabitha Mutinda. Sen. Mungatana, proceed.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, thank you for allowing me to contribute to the Coffee Bill, 2023. I was here when the Senate Committee on Agriculture, Livestock and Fisheries chairman moved this Bill.

He talked passionately about the problem that the local coffee producer or farmer has. The coffee farmers are not getting value for the effort and energy they put into producing the coffee. He gave us an example of while he was outside looking at the pricing of the product of the coffee farmer. He found out that the coffee farmer was paid Kshs100 per kilogramme, and the actual market price at the retail was Kshs600 per kilogramme. He lamented about the problems of the local coffee person. The problems they have with the intermediaries. He then proposed that we should support this Bill.

This is an intellectual way to approach issues and look for legislative solutions to the problems of the ordinary person. We in this administration have gone away from making promises to implementation. Some have argued that we are talking too much but not doing much. Those people are not here to listen to the structural, legal framework we are putting in to support reforms.

It is a common trend in the Kenya Kwanza administration that we are not just talking. When we say we want to take this country to a different level, this is not just a political statement; we want to convert actual political statements into fundamental,

tangible legal frameworks that will produce the eventual product we desire, which is to help the common *mwananchi*.

If you look at what we did with the Universal Health Coverage, it was like a dream that people used to think would not happen. How do you reform the National Health Insurance Fund (NHIF)? How do you make it possible to treat someone who has a chronic disease and goes to a Level 4 or Level 5 hospital and gets treatment without paying cent? We have done it. How do you do it in an emergency? We used intellectual capacity.

The thinking capacity within the Kenya Kwanza administration is to put in place not only policy but the legal framework that will address the issues confronting the local person and give them permanency to help this country move forward. Even after President William Ruto leaves office of the President, we will have the four laws that have ensured that Kenyan people have digital health. Kenyans have a new authority guaranteeing free access to medical health and community health promoters. We have left a legacy of change.

In the agricultural sector, we said that we needed to make sure that the labor of the farmer enriches him. This Bill is part of the plan. While moving the Bill, the chairperson of this Committee said he needed to get the full benefit of their labor. Kenyans listening to me, I urge you to understand that it is not enough to come up with a budget of Kshs2 billion to write off the loans of coffee farmers. People would clap for such a President and say he is doing something while in essence doing nothing.

Without structural, policy, and legal framework change, we would have gone to the same old ways of doing things of farmers being exploited while they take loans they are unable to pay. The Government comes in with populist agendas without applying English thinking on issues and writing off the debts. Then, the burden goes back again to the farmer.

Those of us from regions that grow coconut, why do we not get a Kshs2 billion write-off? Why do farmers who grow Mangos, not get Kshs2 billion write-offs? Is it because the President does not come from our place? It was because of a lack of wisdom or a foolish approach to policy issues. When the farmer has a problem with middlemen, the solution cannot be that the President of the day, because he comes from that area, wipes off the debt using public funds. This was a backward approach. What our former Presidents were doing was the wrong way of doing things.

Now, juxtapose that against what we are doing now. Juxtapose that cheap way of doing things that creates a bad feeling amongst all Kenyans with this approach. We are creating a legal framework. What does this legal framework say?

Mr. Temporary Speaker, Sir, the proposed Clause 27(9) of this Coffee Bill 2013 says-

“The holder of a coffee buyer’s license or an entity associated with a holder of the license shall not carry on the business of a commercial miller, broker, roaster, agent or warehouse operator”.

We are trying to cut off middlemen. We are trying to remove the people who used to make the ordinary coffee farmer suffer. We are not doing it through roadside

declarations and budgetary interventions which will not solve the problem. We are putting a legal framework.

In this proposed law, we are saying that if you are a buyer, you cannot also go back through the value chain. This is so that the problem that the common farmer was having; that he does not know the price he was going to sell his coffee beans for, is now solved. This is because that buyer cannot be going down all the way to do that other work that the farmer will be doing.

The same Clause 27 in subclause 11 says-

“A holder of a commercial miller’s license or any other entity associated with such holder shall not carry on the business of a buyer, broker, roaster, or agent.”

This means the miller of coffee beans cannot be on the other side of the value chain production. What has it done? It has removed the idea that people used to create companies, they would be the same people who were buying, they were the agents, and brokers. The farmer is approached by a person who tells him; we are buying this coffee from this factory at this price. The farmer has no way of fighting back. The price is given by what this person thinks because he is the miller, the agent, the broker, and the buyer at the same time.

Mr. Temporary Speaker, Sir, I really congratulate the Standing Committee on Agriculture, Livestock and Fisheries because they have thought through this Bill very well. I am very happy that they have made it clear that this Bill is emancipating coffee farmers from the hands of Agriculture and Food Authority (AFA). AFA was a body that was being used to kill the coffee industry. It was not assisting coffee farmers in any way. They made it very difficult. Even when the coffee reforms were being spearheaded by the Deputy President, through its agents or employees, AFA was still trying to make it difficult so that these reforms do not find it into legislation.

I am happy that as a Senate, we are actually participating in helping the common farmer remove brokers who have been milking them dry. The farmer will now be able to get at least some of the benefits of the labor that they have put in. It is a shame that a farmer can sell one kilogram at Kshs100 and when he goes to the shop, he finds the one kilogram selling at Kshs600. I am very happy to support what this Bill is proposing.

Mr. Temporary Speaker, Sir, so that Kenyans can understand what we are doing here, there was a proposal in this Bill that farmers will now be able to sell and trade with coffee in three ways. The first one is the auction in the coffee exchange. The second one is direct sales and the third one is, any such methods that the Cabinet Secretary may prescribe. This proposed Clause 46 of the Bill is another emancipating section of this Law. This allows the ordinary coffee farmer to be able to do direct sales.

It has been a very strange arrangement where you are not able to sell your coffee. You, who has planted, bought the fertiliser, and the pesticides and made sure that all the inputs are there, cannot sell it the way you want. That is very strange. Why? It was because of the arrangement of this whole sector. It was punitive and exploitative to the common coffee farmer. As I said, it was the same person who was posing as an agent, who was a miller, and a buyer.

Therefore, they would not want you to deal with direct sales, be emancipated, have power, or even be rich, they just wanted you to be rich enough to survive. Just like a cow, give it enough so that it can get enough to live so that we can continue milking. They were not interested in helping the farmer.

Mr. Temporary Speaker, Sir, the Kenya Kwanza administration is truly committed to helping the common person. It is not doing what we call cosmetic changes where things that we do today, wipe it off tomorrow and it is gone. This is a fundamental change. It is not just policy. It has shifted from policy and gone to law.

We are asking every Senator to support this movement so that the local *mwananchi* who has put in all the energy in the growing of coffee can actually benefit from the labor of his work.

There are very stringent requirements in terms of allowing for the movement of coffee from one place to another. We have had people who are just plain thieves. They wait for people to do all the work and then they break in. It was all over in the media at some point where farmers used to just wake up and find the coffee factory has been raided and they have lost this number of bags.

Under this arrangement, it is now going to be very difficult because there is a tracing capacity that is created. This is so that you do not just walk in with coffee from anywhere to sell, you have to explain its origin.

Mr. Temporary Speaker, Sir, the Committee needs to look at my proposal in this Clause. I am looking at the provisions that require a person, who is a buyer not to be a miller, a broker, or an agent. They have provided for a very small punishment for contravention of those provisions. They have said this person will be contravening the law and will be subjected to a fine not exceeding Kshs1 million or twice the value of a coffee or coffee product, whichever is greater; or to imprisonment for a term not exceeding two years or more.

Mr. Temporary Speaker, Sir, a Kshs1 million fine for a person who is doing business that will give him Kshs20 million or Kshs50 million? By seeking that contravention, Kshs1 million is not enough. I propose to the Chairperson to consider enhancing this penalty to at least to Kshs5 million. Jailing them for two years is okay. However, they must enhance the fine so that we can start streamlining the coffee industry for it to be productive for the normal person, who produces this product.

We need to realise that for us to remain competitive in the international market, research must be there. So, I am very happy that they have set up the Coffee Research Institute (CRI).

I listened carefully to the Chairperson of the Committee on Agriculture, Livestock and Fisheries while he was moving the Bill. He said that when they went to Colombia, they visited the research institute there where they have developed over 400 varieties. Some of the varieties in Colombia can even grow to the height where you are comfortable to pick. That is the kind of innovation and research that we are talking about. We would like to support this research initiative that has been put there, so that we can continue to develop our industry. We need to make it productive, resistant to any insect infestation and make it competitive in getting the proper kind of pricing that it requires.

Finally, the financial provisions for this Bill are well thought out. The proposed Clause 59 creates the coffee development levy. This means that automatically, 0.5 percent is going to the county, which is a very good thing. As Senators, many times we forget that our business here is to protect and help counties to grow. It would be very wrong if a country produces a lot of coffee but gets nothing for everything it is doing. I am happy that 0.5 percent of this coffee development levy has been given to coffee-producing counties.

Mr. Temporary Speaker, Sir, they have also given one percent to the Institute. I see my time is almost up, but as I finalise, I urge all Members who will speak to this Bill, to support it. I especially urge them to realise that we have attached the agenda for change as the Kenya Kwanza Government to actual legislative work, so that we are not just talking. We mean business and the transformation of this country and we mean to help our people grow. Even after the exit of our President, we will still have the legacy of having changed the coffee industry for the rest of our foreseeable future.

I fully support this Bill. Thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mungatana.

We now have Sen. Kibwana. Please, proceed.

Sen. Kibwana: Thank you, Mr. Temporary Speaker, Sir. I will be short and precise on this Bill. I support it fully and the Bill has come timely.

I realise that the coffee industry has many challenges and at least this Bill seems to have addressed most of them. We are facing climate change that affects, including drought and diseases, which also affects coffee farming. This has made farmers to switch maybe from coffee to other crops such as horticulture and tea farming.

The fluctuation of international prices has also affected this industry. The farmers often face economic conditions, including the low prices of the beans. Then limited access to credit has also affected coffee farming. If you come to my house, you will only enjoy Ethiopian and not Kenyan coffee. Unfortunately, this is due to the compromise of the quality of the Kenyan coffee.

Education and capacity building are also required in coffee farming. We take it for granted, but always, you may find that new techniques crop up in farming. Brazil and Ethiopia have exceeded and their coffee is regarded the best in the world. Sen. Chute said that Kenya is now at position 16 in coffee and that was sad to hear. We used to be No.1 to No.4.

There has been lack of Government support. So, it is great to see that there is some commitment from the Government to coffee farming. Unfortunately, most of the Members of the Committee on Agriculture, Livestock and Fisheries are not here to gain rich input from colleagues.

So far, what I like about the Bill is that it transfers the mandate of coffee research from the Kenya Agricultural and Livestock Research Organisation (KALRO) to the Coffee Research Institute (CRI). It seems that these amendments will do away with brokers who exploit farmers in the coffee market. The move will also reduce the delays in price declaration and delayed payments to farmers. This Bill speaks to incentives on

value addition, which will make Kenyan coffee fetch competitive prices in the market, improve sales and profit returns.

The last thing that I like about this Bill and I am really happy to support, is a direct settlement system. This system will facilitate some currency transfer of funds directly to the farmers and payments, which are made within five days from the day of produce purchase.

Mr. Temporary Speaker, Sir, I do not need to input much on this one because my colleagues have said it all. However, I emphasize education and capacity building because technology is now a force to reckon with in the world. So, I request that more education and capacity building should be done.

I support this Bill.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, that brings us to the end of contributions on this particular Bill.

Sen. (Dr.) Murango, I believe you are ready to reply. Please, proceed.

Sen. (Dr.) Murango: Asante, Bw. Spika wa Muda. Kwanza, nachukua nafasi hii kuwashukuru wote ambao wamechangia Mswada huu wa Kahawa.

Takribani kaunti 17 zinakuza kahawa. Mabadiliko katika sheria ya kahawa yatafaidi wakulima pakubwa. Hii sheria itaondoa mawakala ambao wamekuwa wakinyanyasa wakulima kwa muda mrefu. Sheria yenyewe pia itatengeneza nafasi za ajira.

Bw. Spika wa Muda, nashukuru Maseneta wote waliochangia na kuunga mkono Mswada huu. Ninaomba swali la mwisho uweze kukiuliza kesho ikiwezekana.

The Temporary Speaker (Sen. Wakili Sigei): We will defer the putting of the question to the next sitting as requested by Sen. (Dr.) Murang'o who is the Mover of the Bill.

(Putting of the Question on the Bill deferred)

Noting that the rest of the Order Paper has got Bills, we will rearrange the Order Paper from the current to Order No.24. Clerk, call Order No. 24.

Sen. Okenyuri, you may proceed to move the Motion.

MOTION

ADOPTION OF REPORTS ON DEATHS OF EDWARD OTIENO ONYANGO, MAUREEN ANYANGO AND MASTER TRAVIS MAINA

Sen. Okenyuri: Mr. Temporary Speaker, Sir, I beg to move the Motion in an amended form pursuant to Standing Order No.62 and the net effect of which will be amalgamation of the Orders No. 24, 25 and 26.

I move -

THAT the Senate adopts the report of the Standing Committee on Health laid on the table of the Senate on 31st May, 2023 regarding inquiry into the

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following- the death of Edward Otieno Onyango on 12th September, 2022 at Mama Lucy Kibaki Hospital due to alleged medical negligence, the death of the Late Maureen Anyango on 7th September, 2022 due to alleged medical negligence at Mama Lucy Kibaki Hospital and finally, the circumstances that led to the death of the Late Master Travis Maina on 11th October, 2022 at the Kenyatta National Hospital (KNH).

Mr. Temporary Speaker, Sir, thank you for prioritising this Motion. We were scared we were going to run out of time. Thank you for considering that especially for our committee. I would want to commend the work that went in more so from the Committee. I am doing this on behalf of the Chairperson of this Committee, Sen. Mandago. If you remember, some of these cases were as a result of a Statement that had been brought forward to the House by Sen. Kibwana.

As a result of this Statement, the Committee went ahead to conduct investigations of the three serious cases. While the Committee conducted investigations on these three cases, there were very sad narrations from the victims' families and the responses we were getting from whoever was around.

Let us look at an instance of Edward Otieno Onyango who was a *boda boda* rider. By the time Edward was getting to hospital, he was left lying on the floor for several hours. When we conducted our investigations, the facility informed us that Edward had refused to sign consent. As a result of that aspect, by the time Edward was going to get treatment from the facility, he had already lost his life.

In a country where we should be providing emergency care to such people--- A normal *boda boda* rider in this country is someone who is tarmacking to put food on the table. The next time they are getting an accident, ignoring giving them special attention is a cause for concern. I hope the respective Ministry that is going to look at this will crack the whip on such rogue facilities and individuals who become negligent. We are losing several lives which we should not have lost otherwise.

If you look at the case of the Late Maureen Anyango, who was 28 years old, - I am slightly older than the late - she had a twin pregnancy. By the time attention was given to her, it was too late. This is another issue of medical negligence that we are seeing. In a country where reproductive healthcare should be a matter of key concern, we need not lose more mothers who are giving birth to life.

Decisions we, as a House, make on such issues, especially the health sector, are matters of life and death. We need to be careful in any other instances that rise and the decisions we eventually make.

Mr. Temporary Speaker, Sir, finally, the saddest of all was the case of Master Travis Maina. This was a sad report because we went to the extent of seeking more information from the Directorate of Criminal Investigations (DCI). DCI gave us our report, we had narrations from the family and the hospital facility. Remember the case of the baby who had a fork jembe stuck in the head? This was it.

We sadly lost this baby because for more than eight hours, the baby had not even been taken for critical care. In as much as the doctors in KNH tried to give explanations to do with issues of neurosurgery, I still could not get it. The Chief Executive Officer

(CEO) should take responsibility for prioritising monetary support to secure admission in hospital over the life of people.

The issue of baby Travis is that they took a very long time to admit the baby because they did not have the amount of money that was required to admit them to hospital. In a country where we are still developing, several of us are struggling. When you look at the set up where baby Travis got injured, they were tilling land alongside other small babies. So, you see an issue of using young children to do labour. Maybe if he had not been found in such a setup, that could not have happened. There were allegations that maybe one of the babies logged the fork on his head. There were also allegations of the parents having fought. I would not want to go to all those specific details.

However, there are those glaring matters that we, as a House, need to seriously look at. Our recommendations were so strong. It would be sad if some of these recommendations are not implemented because they set a precedence for future cases. Someone who intentionally risks or causes the death of someone should face tough penalties. We should not be losing someone due to such issues.

What makes it sad is that most of these people we lost; the late Edward, late Maureen and late baby Travis, were desperate people. They were not Kenyans of means. They never had opportunities like the Members of Parliament (MPs) who are representing them here. If we cannot provide basic medical care to ordinary Kenyans, then I do not see why we should be discussing about their issues this evening.

As I conclude, I am a very sad individual especially having to reminisce some of the narrations that were happening during the Committee's investigations of these matters. I hope that the line Ministry that is going to deal with these matters is going to be keen. Most of the oversight bodies were up to cover for their members. I do not expect an oversight body to cover up and conspire with members who are already proven to be untenable. Otherwise, such an oversight body should call out and scrap off such unscrupulous members.

Mr. Temporary Speake, Sir, I conclude and call my colleague, Sen. Kibwana, to second this Motion.

Thank you.

Sen. Kibwana: Thank you, Mr. Temporary Speaker, Sir. I fully support my colleague. These reports are long overdue. I urge that any time reports are tabled, we need to facilitate and move them with speed. Justice delayed is justice denied.

I fully support. Sen. Okenyuri has given a very good brief. This is all due to negligence and the families of the deceased require justice. I support my colleague.

The Temporary Speaker (Sen. Wakili Sigei): You must second.

Sen. Kibwana: Sorry, I beg to second.

(Question proposed)

Hon. Members, I now invite you to contribute to this Motion.

Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I rise to support these three combined Motions as moved. This is an issue of health. The general principle of this failure to save lives is that the system of health in Kenya is not working. It is dead at the national level and especially at the county level. Therefore, I wish my submission this afternoon to be limited on only one thing, namely, let us clean up this system of health.

I remember in 1976 when I was a little boy in high school, the State of Israel came from Tel Aviv to save 90 Israelis who had been hijacked on a Pan Am Airline. If it was Kenya where thousands of people die from negligence, they could have said “We cannot take our elite forces to Entebbe. It is going to be too expensive for us to go and save those 90 people.”

One of the finest soldiers who ever lived in the history of the military was Yonatan Yoni Netanyahu. Yonatan Yoni was a student in the USA who was in military school. He had qualified to join a medical school in Islo, but Shimon Peres told him you are too smart to be a doctor. You must work for the Israeli Army.

So, when the crisis erupted in Entebbe, since the Israeli Government respects human life, they picked this top brain and waited for him to be airlifted from USA to Tel Aviv. He joined the elite forces, went to Entebbe and they rescued the Israelis who had been kidnapped. It shows what a caring government can do.

Our county governors are totally unable to manage the medical staff or maintain the supply chain of medical supplies. It is so bad that now the common thing in social media is where you see low-level employees in county governments stealing drugs from county hospitals, sub-county hospitals, dispensaries and health centres and selling them to quack pharmacies and quack medics because the supply chain has broken down.

Maybe we should not keep quiet. Governors are facing challenges in managing the medical staff. Sen. Mungatana, you and I were there. When we created the Teachers Service Commission (TSC) into the Constitution. Maybe we needed to also put a health service commission in the Constitution so that they would manage issues of how much one is paid; who will be hired, transferred, disciplined, who will be on leave and those kinds of things. Now, the governors are unable to do it, so what happens is that the system has collapsed.

It is only a few months ago in this House when we passed conditional revenue to try and stock our county hospitals and other facilities with medical supplies. I remember it ran into billions of shillings. Kakamega County was privileged, we got Kshs972 million. Up to now if you go to Matungu Hospital in Kakamega, to Shibwe Sub-county Hospital in Kakamega, Lukuyani or Lugari; there is no medicine in all of them. Where does this money normally go?

Mr. Temporary Speaker, Sir, there is something very unfortunate going on which we must curb. Today, the collections from hospitals are viewed by governors as own source revenue. So they sweep this money from hospitals and put the money on the County Revenue Fund (CRF). Then from the CRF, the money that was raised because of cost-sharing within the hospital is then used to fund trips for the governor and his elite team instead of being ploughed back into the hospital. So, there is work for us to do as Senators and work to be done by the National Assembly to get this problem right.

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I want to end my contribution by giving my heartfelt condolences to the families of these young people who died because of negligence. I further extend the same condolences to the many who are going to die tonight, God forbid, because of a similar offense.

I support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, is your last statement a premonition of what will befall a number of patients who are in various hospitals?

Sen. (Dr.) Khalwale: Not in the least, Mr. Temporary Speaker. That is why I said: "God forbid that it should not happen." I was saying this because these rogue professionals who behave like robots are still in office now. We have not removed them. My contribution was we must clean the system.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Very well. Proceed, Sen. Mariam Omar.

Sen. Mariam Omar: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I stand to add my voice to this Report. I am the Vice-Chairperson of the Committee on Health. We visited most of the county hospitals and made recommendations.

Mr. Temporary Speaker, Sir, the deaths of Baby Travis, Mr. Otieno and Ms. Anyango were due to negligence by doctors. If our doctors took those cases seriously, they would have saved their lives. The emergency care system in our country is in a poor state.

When someone is taken to hospital in an emergency condition, the hospital prioritizes money. One has to pay a deposit before they are attended to. Pursuant to Section 112(1) of the Health Act, emergency medical service is a right. You have to attend to a patient in a medical emergency immediately without asking for a deposit.

Mr. Temporary Speaker, Sir, the Committee also recommends that we have to legalize licensing of ambulances. Most patients die in local hospitals because there are no emergency ambulances on standby. In this report, we have also noted that there is a shortage of nurses. There are so many trained nurses who are not employed yet the county government and the national Government are not employing nurses. If you go to some of our public hospitals, the ratio of nurses to patients is one nurse to 20 patients. This report has recommended that we have to change how our county and national hospitals are managed, so that our people can get proper service delivery.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Thang'wa, please proceed.

Sen. Thang'wa: Mr. Temporary Speaker, Sir, I thank you for giving me this opportunity to add my voice on this report by the Senate Committee on Health. One of the victims, Baby Travis Maina, is from Kiambu County. Master Travis Maina was involved in an accident where a fork hoe or *jembe* was lodged into his head. When the accident happened, the parents of the said child looked for help from nearby dispensary,

all the way to Thika Level 5 Hospital, but they did not get assistance from the hospital and that is why they were referred to the Kenyatta National Hospital.

Mr. Temporary Speaker, Sir, it is sad that the drafters of the Constitution while dividing or talking about the functions that were to be devolved, saw health as one of those functions that they would entrust the governors or the counties with. They refused to devolve education, but agreed to devolve health. If they could not trust the governors with education, I do not know why they decided to trust them with our health.

Mr. Temporary Speaker, Sir, this is a discussion that we should have as a country. Our people are suffering when it comes to health matters at the county levels. In Kiambu County, I like giving examples of home because that is where my people are crying. You might not find medicine when they are needed in the hospitals, especially Thika Level 5, Kiambu Hospital and Igegania Hospital. They are rationing gloves in the maternity wards. If a woman comes to deliver, the nurses do not have gloves because they delivered about 4 or 5 women more than what they expected. Nurses are forced to either wash the gloves or reuse them as they are. It is a sad affair.

Why is all this happening? It is because governors do not understand that health facilities should also be run as mini-counties. This means that every money should be available in every hospital. There should be a revolving fund in every hospital. The managing nurses who work in those hospitals are the accounting officers who should have imprests all the time. If there is an emergency on pharmaceuticals, gloves, blades or even food for the nurses, they can buy.

In some hospitals in Kiambu County, the patients are advised to carry their own food when they are going to be admitted to the hospital. The reason this is done is because they are not buying food for the patients. Somebody sat down somewhere and instead of giving the hospital some imprest to buy tomatoes and cabbage when they need, they decided to give the contract to one person in the whole county. Such suppliers bring you tomatoes worth Kshs100,000 at once. How are the hospitals expected to keep perishable vegetable?

In this report, they say such bodies should investigate. I call on these bodies to not just investigate these matters, but also investigate every hospital because our people are not getting justice when they go there.

Mr. Temporary Speaker, Sir, Baby Travis could have been saved, but ambulances were not available in Kiambu County. You are told the ambulance does not have fuel. The Managing nurse cannot fuel an ambulance because she has to call the governor to authorise for an ambulance to be fuelled to take a child to the hospital. It is sad.

Our governors are micromanaging the hospitals and yet we have nurses, Chief Officers, Clinical Officers and County Executive Committee Members (CECMs) who are learned. They are micromanaging everything. It is not a surprise when you come to Kiambu County and go to the hospital, they prescribe a vaccine or an injection. You might see the governor coming to inject you because they are not letting people work when it comes to executing their mandate.

As I conclude, I wish the Council of Governors (CoG) led by the Governor of Kirinyaga County, Hon. Ann Waiguru, instead of calling press conferences to answer the

Deputy President, they should be calling conferences to call those governors who are not executing their mandate when it comes to health issues at the county level.

The Deputy President was right. There are billions of monies for emergencies at the county level. Ask me, I will tell you about Kiambu County which has Kshs65 million as an emergency fund. They put Kshs30 million in the previous year and Kshs35 million this year. They have even brought a supplementary budget to increase it to Kshs50 million because they want to help people.

Mr. Temporary Speaker, Sir, instead of the CoG saying there is no money, they should put those governors to account what they have done with the emergency fund. For example, Kiambu County has Kshs65 million. What have they done with it? Stop giving chicken, potato vines and whatever else they are giving just to entice people. Instead, turn that money to the emergencies and help our people.

Our people right now do not require chicken. They require good roads to pass. Our people right now need the floods be mitigated. We want to see the drainage systems opened so that the flood water can leave their houses. Otherwise, they will float with their chicken. I wish the CoG would be calling the press conferences to address these issues.

Mr. Temporary Speaker, Sir, the other day, the President launched the kits for Community Health Promoters (CHP). In this report, I would wish that CHPs are involved in running affairs of every county hospital. They should be the contact persons.

Baby Travis's father or mother or whoever was present when that accident happened, could have called a CHP immediately. Maybe that person will have the contacts of the nearest facility or know a certain doctor whom he can call to inform that they meet at Thika Level 5 Hospital and explain that they have a casualty. If these people are utilized well, they will help a great deal.

In Kiambu County, we have another issue of hyenas attacking our people. Within this week, we are going to bury the remains of a boy who was mauled by hyenas at a place called Witeithie. This is the 20th or 22nd person to be mauled by hyenas.

Some of them have gone with injuries to hospitals and some have died while receiving treatment. This is what I am trying to say. You realize there is a problem if you cannot call it an emergency and work around with other departments to get rid of hyenas. What are you doing in that office?

It is very sad because that child is the son of a former Member of the County Assembly (MCA) of that area called Witeithie Ward. I used to work with him when I was an MCA. It has taken the efforts of the area Member of Parliament (MP) and the residents of Witeithie to walk around with *pangas* to hunt hyenas. Imagine in this era we are talking about Kiambu and Witeithie, which is just in proximity to Juja and Thika. Our people are crying about these issues and nobody is listening to them.

This is a matter of Kenya Wildlife Service (KWS). However, when it comes to health, those people who have been attacked and taken to the hospital do not get the medical attention or medicine for such injuries.

As I conclude, when governors appear before the committees, we only ask them about issues that about the mandate of that Committee yet there are other issues.

My Governor appeared before this Committee on Health, but we could not discuss other issues outside the Committee. He has appeared before the County Public Investments and Special Funds Committee and we only discussed the water companies. He has not appeared in County Public Accounts Committee (CPAC) despite being invited about five times.

He has a very good rapport with that Committee. Any time he wants to postpone, he does so. That is why I am saying that we need governors to appear here just like the Cabinet Secretary, Hon. Murkomen, was here today to answer questions that the Chairmen or the Members of certain Committees are not able to ask.

With that, I close by saying that I have that amendment ready to have the governors come on the Floor of this House to answer those questions. I believe that Members will support that.

Thank you, very much Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Kavindu Muthama?

Sen. Kavindu Muthama: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this report of the Standing Committee on Health.

I agree with that report and support it. This runs across all the 47 counties in the country. When people go to hospitals, they cannot be treated despite some of them being seriously sick and need special and immediate medical attention to save their lives.

The Bill of Rights says that everyone is entitled to healthcare. As such, they should be treated. It is so sad that somebody would be taken to hospital and die in the process of admission simply because they have no money for a deposit or down payment.

All these counties are given money. I believe that some percentage of this money is meant for medical attention in hospitals. I do not see why they should not treat people until they die. Another issue that runs across all the counties is that of ambulances. A sick person calls for an ambulance from home and they told, first, to send money for fuel. These people did not know when they were going to fall sick. Many of them do not have money to buy food leave alone fueling ambulances due to the current economic situation. I wonder why counties cannot fuel ambulances. Why do they buy them if they cannot fuel them to pick people and take them to hospital?

On the issues of deaths, we have one case in Machakos where one of the children was taken to hospital walking. They were going to be operated on a growth, which was on the hand. That child died mysteriously. However, I thank God for the County Executive Committee Member (CECM) Health in Machakos. He wrote to the Kenya Medical Practitioners and Dentists Council (KMPDC) to come and investigate that case.

So, there are so many cases that should be investigated that have occurred in mysterious ways that the bereaved members cannot understand. I am also calling upon the KMPDC to move with speed and investigate these matters in Machakos, Kiambu and any other hospital so that the bereaved can be at peace knowing what caused the death of their people.

I support.

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

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, this report by the Committee on Health should be supported by all of us. Like previous Senators have said, it speaks to the health situation in our counties.

I bring to the attention of this House that it is even worse for us who have been partly affected by the flooding in Tana River. Right now, in many of those places where people have been evacuated to higher grounds, there were medical facilities. There were dispensaries and health centres, which used to serve people and reduce the pressure of the bigger hospitals, which are on higher ground.

Right now, there are hundreds of people who are living by the roadside because the roads are normally raised up. We have established camps. Village A and B are placed in a certain place in that order. In these places where they are, sanitary conditions are not the best as I speak.

I am wondering what will happen if an emergency occurs right now. It was all over the public media that one pregnant lady swam across to go and get medical attention at a place that was higher than where they were. This is the reality that our people are living in.

I use this Floor of the House to make an appeal that let us not wait for things to happen and react to the situation. I imagine the national and county governments coming together. They should put in effort so that those hospital facilities that are in the higher areas in Tana River, may be given all the necessary equipment, including emergency response. This is so that all this population that has come up to higher grounds, can be treated. If emergencies occur, they can be attended to.

Mr. Temporary Speaker, Sir, it is very sad today as my colleague has said, to see the Chair of the CoG, having a back and forth with His Excellency the Deputy President of the Republic of Kenya.

I urge the leaders and we, as Senators in this House, the Senate of the Republic of Kenya, that this is not the time to fight. This is not the time to show who is politically strong or relevant, but to pull together.

Mr. Temporary Speaker, Sir, these people should out of their nice cosy offices, spend time with people who are on the roadside, mothers who are hungry and the Kenya Red Cross personnel who are assisting us. They do not have enough to eat or a place. We call them Tiara-ballets or whatever. These canvass to cover their heads for the night.

If only they can come out of their nice comfort zones and see what is happening on the ground, then they would look for solutions instead of having a back and forth. It does not help anyone to know that hon. Rigathi Gachagua or governor Ann Waiguru was right or who was wrong. What we need is leadership to speak with one voice.

This Senate is urging for sobriety amongst leaders. There is no time for politicking now. Can we all go down to where our people are? Can we address the issues? If governors, you have money, please spend it on the people right now. We need the people to have their issues resolved.

I am saying this specifically on issues of medical care. We need to have money put on medical care because I know we have given some money for food. Speaking of my county, the local county governments have put some money aside. The national

Government and the Child Welfare Society have put some money aside for food. However, when it comes to medical supplies, we are having issues.

Mr. Temporary Speaker, Sir, when these heavy waters come, many mosquitoes come. There is a risk of outbreak of waterborne diseases such as dysentery where the waters are stagnant. We are asking that emergency medical equipment be provided to hospitals that are on the higher ground.

Mr. Temporary Speaker, Sir, even if we are to do some quick procuring method, may this be done before anything happens, so that problems that are anticipated can be resolved. In fact, this is the essence of what emergency medical care is about. That people anticipate that anything can happen.

Anything can happen with the people who have moved from the lower ground to higher ground. We want to thank the people who have left the lower ground and come to the higher ground. However, we have already lost three people in Tana River as we are speaking because of the waters that are raging.

We are asking that leadership speak with one voice and because of the situation that is developing and that medical emergencies be planned for. Let us not have a repeat what has happened from what the report of the Senate Health Committee is saying. That people were just sitting there and nothing was being done. Let us also not be found on the same level.

I support.

The Temporary Speaker (Sen. Wakili Sigei): Thank you. Hon. Members, lastly, let us have Sen. Maanzo.

Sen. Maanzo: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to contribute on these very important Motions. They are all about medical negligence and not the only cases, which have taken place in the country.

There are quite a number of cases, which have been reported. One of them was of a young law student who had just been admitted into the bar. He was somewhere on Lang'ata Road when a speedy Government (GK) vehicle hit him and it never stopped.

The number plate of the said vehicle was never recorded properly. He was picked by good Samaritans and stayed somewhere in the KNH, waiting to be given assistance and after three days he passed on.

It was such a huge lose to the family. People taken to public or even private hospitals end up being mishandled. Perhaps, this maybe happens if their own kin are not available and we end up losing lives.

In Makueni County, we have these many accidents of motorbikes due to the very Mombasa Road, which stretches to almost 300 kilometres in Makueni County. We have Makindu Hospital, which is supposed to deal with the emergencies.

In one case at Wote, the medics said they had done a scan, but four people recently passed away at Makueni Level 5 Hospital. They had done the scan and were waiting for a specialized doctor to read the scan and that seems to have taken many hours. Eventually, this young man passed away before getting medical attention.

Mr. Temporary Speaker, Sir, without a doctor who can read the scan, the hospital, doctors or the emergency unit cannot make a further decision. They cannot deal with

patients at that level or refer patients to KNH or other places in accordance with the need of surgery or whoever can make sure that the patient is assisted.

We are calling for efficiency and for more medical personnel to be hired. It was only after I raised the alarm that the County Public Service Board (CPSB) in Makueni then advertised some of these medics' jobs. Unfortunately, they have been sleeping on their job until some people had to die.

Consequently, these cases are many. Unfortunately, I want to say this as a lawyer, it is very difficult to prosecute a doctor for medical negligence. I am sure my good friend, Sen. Dr. Khalwale, will bear me witness that the most difficult thing on earth, not just in Kenya, but the whole world, is to prosecute a medical doctor. How do you establish the negligence as another doctor has to testify?

If you terrorize one doctor who has taken oath to save lives and was doing their level best to save a life, where do you go when you get sick? This is where the biggest challenge is.

In as much as you want to contain and control these cases of negligence, you will have to deal with the doctor another day. It could be your child, friend or yourself. Therefore, if you have been terrorizing doctors around, you will obviously be branded, named and when doctors see you, probably they may not handle you with the kindness you may deserve.

We call upon the medical profession, the counties and even the national hospitals to really equip the doctors sufficiently. Many doctors are willing to serve. In fact, most kind surgeons or doctors you will meet in hospitals went to school with me at Starehe Boys' Centre.

Doctor Griffin used to make sure he trained as many surgeons as possible. Many times I go to hospitals and these young men tell me, we were in school with them. One time, my son was going through surgery and I realized that Mr. Otieno who was the main surgeon went to school with me. He was just one year ahead of me. He really took care of my son; I felt at peace and he came out safely.

Many people do not meet kind doctors. You may find a doctor who is under pressure, mishandled by the counties and has no morale to feel comfortable. Doctors must be made comfortable in this country. Just like lawyers, they begin their careers very badly with very small salaries in the district hospitals, in an uncaring county government.

A doctor has been in the university for seven years, yet he has a very little salary to begin with. They grow and establish their own clinics to run separately from where they work. Surgeons have not been very lucky with patients most of the time. Patients do pass on. It is also good for us and the public to expect that when a doctor is doing their level best, life is likely to be lost.

You cannot entirely pin down a doctor. Most of them mean well. Even the mistreated or demoralised ones still do their level best to save lives. We can only plead and urge them that wherever there is a case, despite the difficult situations, to do their level best. You remember the sad story of a young man whose father was trying to save him. He was a medical student who was about to become a doctor, but got sick. The

father was trying everything on earth to save his life, but he still died in the hands of doctors.

I am sure they wanted to save one of their own. However, this was during the COVID-19 times, and it was very difficult. This was a strange disease that killed many doctors, nurses and medical personnel because they were the first ones to get exposed. Doctors get exposed to strange diseases. When people eat snakes and they catch strange diseases, and nobody on earth has discovered this disease, the first person to be infected is a doctor.

They are dealing with very dangerous virus-oriented diseases from all over West Africa, in the Congo Forest, in Uganda and Kenya. These are diseases, just like COVID-19. By the time they came up with a vaccination, it was a year and many Kenyans had died. I almost died of COVID-19 myself. I had contracted it from a client who did not warn me that he was sick. I had gone to court to represent him because his house was about to be demolished.

I gave him a lift and the next day I was very sick. I heard he was admitted in a hospital and the doctors fought for his life. Doctors also helped me in those difficult circumstances, yet they were very exposed. Therefore, as we deal with these reports, we must look at the other side of the exposure of a doctor. Some of our children are going to become doctors. In fact, there are fewer people now training to become doctors. It has become a crisis. The few nurses and doctors we train are not hired here. They leave the country and go to serve other nations. We are beginning to have a deficit. The same thing is happening with pilots. We train and hire, but we pay them badly. So, they leave for other airlines.

We need to do something about our medical profession here, so that our people do not go for lucrative careers outside. We train yet we do not have enough, so our people continue dying and we blame the doctor for being negligent. There are many cases where negligence has been suspected, especially with brain surgery, which is very delicate. It takes many hours. It takes the same time you will use to fly from Nairobi City County to New York City using Kenya Airways.

That is the same time a surgeon will be on his feet. While the pilot is going to be assisted somewhere midway, the surgeon will not. He will be standing there to save a life for 13 to 15 hours. When he comes out so tired, he goes home to find his wife who has been waiting for many hours to have bread or milk, yet this doctor has not been paid by the county. What do you expect?

The next time the wife will run away. This man will be so depressed. How do you expect him to handle patients when he is depressed because he cannot cater for his own family? We need to look at the wholeness of the matter and the psychological bit of it. We have not done very well with how we check on the medical status of the police, doctors and people who go through depressive jobs. Someone could already be sick, yet he is handling patients.

Mr. Temporary Speaker, Sir, I support. We need to look at the whole policy of the medical profession and have good packages, so that our doctors can feel that we do not

want to see them demonstrating outside hospitals. We want to see them attending to patients. When such a demonstration is going on, it means patients are suffering or dying.

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

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Maanzo. During your contribution, you referred to Dr. Otieno as a young man, only for you to say that he was saving your son. I noticed that he could not have been a young man because he was one year ahead of you at the Starehe School.

Hon. Members, no other Member is seeking to contribute to this Motion. I call upon the Mover, Sen. Okenyuri, to reply.

Sen. Okenyuri: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I beg to reply, first, by appreciating the contributions made by different Senators. Senator for Kakamega; Sen. (Dr.) Khalwale, the 'bullfighter'; Senator for Kiambu County; Sen. Thang'wa, Senator for Machakos County; Sen. Kavindu Muthama, the Senator for Tana River County; Sen. Mungatana alias '*mila mamba*', and the Senator for Makueni County, Sen. Maanzo.

The Senators have given insightful contributions, which, as a Committee, agree largely, especially on medical negligence issues. Different cases worldwide have highlighted how negligence has been dealt with in other countries. Some have lessened the punishment for medical negligence issues, especially in countries with developed healthcare systems.

In our case, where we are still building blocks, we do not need to go in that direction. This Committee gave strong recommendations, which I hope the respective Government agencies will take in and implement - a case like the one for implementing and enforcing the Kenya Bureau of Standards (KEBS) guidelines for ambulances. There should be spelt out guidelines. In most of these cases, ambulances did not have oxygen. If an ambulance has oxygen, there is quick gain before the patient gets to a critical situation.

There is need to review the Kenya Medical Practitioners and Dentists Act to provide professional indemnity and compensation to victims of medical negligence. Ordinary people have no one to stand for them. These medical professionals – Sen. (Dr.) Khalwale as one of the professionals in that area can bear me witness – will always have unions to defend them. However, who supports the people we have lost, like the late Edward Otieno? No one! It has to wait for an inquiry to be brought to this House for them to get redress. Amendment of the Act will ensure the victims are better positioned to seek compensation.

The Cabinet Secretary of Health, in collaboration with the relevant health regulatory bodies, should propose mechanisms for harmonization and disciplinary mechanisms among health professionals to improve indemnity and strengthen accountability. Sometimes, these professionals have immunity against legal proceedings because of the unions I mentioned that defend them.

There needs to be a balance. We do not want to introduce punitive measures to discourage healthcare professionals from giving services in this field. However, we also want people to take responsibility for some of the issues they let go of, and we end up losing the lives of people who would have become future Presidents of this country.

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Generally, the recommendations given resonate. Sen. Mungatana warned county chiefs to spend their allocations wisely. This is because they have the opportunity to show how best they can handle the health function.

Mr. Temporary Speaker, Sir, I recently saw in the news a foetus get breathing support while in its mother's womb. I think this happened in a hospital in Nairobi City County. Months later, the mother has delivered the baby successfully. The baby was named Blessing. Those are the positive stories we want to read. We do not want to conduct enquiries into lives lost through medical negligence.

With those few remarks, allow me to conclude by urging Government agencies that are going to be tasked with this recommendations, to take them seriously. This is because a resolve has been made by the contributions of the Members of this House. As a Committee, we put much of our time and effort in conducting the enquiries. We strongly believe that it is in the interest of Kenyans, the health professionals and our facilities because that is what leadership entails.

Mr. Temporary Speaker, Sir, I reply.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, pursuant to Standing Order No.84 (1), I determine that the Motion does not affect counties. Therefore, I put the question.

(Question put and agreed to)

(The Clerk-at-the-Table consulted the Chair)

Hon. Members, earlier on, we had rearranged the Order Paper to deal with Order No.24. Subject to the provisions of Standing Order No.62, Order No.24 was combined with Order No.25 and No.26. In the circumstances, having dealt with that Motion, Orders No.25 and 26 collapse.

Therefore, I direct that we go back to the Order Paper.

Clerk, call Order No.19.

BILL

Second Reading

THE FOOD AND FEED SAFETY CONTROL CO-ORDINATION BILL (NATIONAL ASSEMBLY BILLS NO.21 OF 2023)

The Temporary Speaker (Sen. Wakili Sigei): Sen. (Dr.) Khalwale, proceed to move the Bill for Second Reading.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I rise to move that the Food and Feed Safety Control Co-Ordination Bill (National Assembly Bills No.21 of 2023) be now read a Second Time.

Before I move this Bill, as a Whip, seeing how late it is in the evening, I think I owe it to you, Members, who adjourn this House with me week in, week out. I laud the presence of Sen. Thang'wa of Kiambu County, Sen. Tobiko, Sen. Okenyuri, Sen. Mariam Omar from Mandera County, Sen. Mungatana and Sen. Wambua in that particular respect.

Mr. Temporary Speaker, Sir, if Members will stand behind this Bill and we pass it into law, it will give effect to an Act of Parliament that will provide for coordination of the public institutions in control of food and feed safety. It also establishes the office of the food and safety controller and provides for the role of the county governments in food and feed safety and for connected purposes.

This Bill, if read casually, is a very light Bill. However, I would like to request Members that I am moving this Bill in a very brief time; if you could just listen and eventually read around it, it is a very important statute.

“The object of the Bill is-

(a) To effectively coordinate the performance of the functions of the competent authorities.

(b) To enhance accountability in the implementation of official control.”

Mr. Temporary Speaker, Sir, to do this, this Bill intends to legislate guiding principles that will include the protection of human life and health and the protection of consumer interests in the conduct of food business and feed businesses.

All of us including our loved ones that we have left back home, had something to eat today and that food was prepared by somebody. It was prepared by some institutions and it exposes this consumer to all manner of challenges and, therefore, this particular guiding principle and the promotion of the use of scientific best risk analysis when we are handling food and feed matters.

Furthermore, there is a need for the promotion of food safety and feed safety and the promotion of fair trade practices in the account of food business and feed business. Finally, but not least, the important guiding principle of the need for efficiency in the performance of official control.

Mr. Temporary Speaker, Sir, running through this Bill, clause by clause, I find myself on Clause Six which is there to establish the office of the Food Safety and the Feed Safety Controller. Clause Seven is for purposes of appointment of the controller of this office.

Very quickly, Clause Eight is there to specify what the qualifications of the Controller of this critical office are. I want to highlight that the person who will take up this national responsibility must convince the panel that he holds a Masters degree in a discipline related to food safety and feed safety and that he has at least 15 years of experience working in a field related to food safety and feed safety; and that he has at least five years experience working in a senior management position. Last but not least, that he meets the requirements of Chapter Six of the Constitution of Kenya. Why meet integrity? It is because when you are handling food, you are in a position to feed people with food, which is bad or laced with poison. So, you must be somebody who subjects himself or herself to the provisions of Chapter 6.

Mr. Temporary Speaker, Sir, in Clause Nine, we are speaking to the function of the Controller. They include-

(1) He will be the coordinator of competent authorities through the implementation of Multiannual Control plan.

(2) Coordinate the development and review of Multiannual National Control Plan.

(3) Monitor and evaluate the implementation of Multiannual Control Plan at the national level.

(4) Liaise with the competent authorities to identify and advise on policy gaps and inadequate regulation in food and feed safety.

(5) To assess the adequacy of food and feed safety preparedness and make recommendations to the relevant competent authorities.

If we can have the office of the controller of the weather, how can we not have the control of food and feed safety? It is so critical. Further to that, we should establish an information management system for food and feed safety in the country, and verify that competent authorities have put in place systems for effective official control.

The next clause is Clause 10. It speaks to the eventuality of a vacancy in the Office of the Controller. Clause 11 speaks to the removal from office of this officer.

The next part of the Bill is food and feed safety by county governments. The law has prescribed the following functions for county governments, namely, county governments will implement and enforce food and feed safety, county governments will license and exercise official control of persons who conduct food and feed business. They will also conduct capacity building on food and feed safety.

In addition, they will conduct public awareness on matters of food and feed safety, and prepare county food and feed safety reports. The county governments are further expected to provide a platform for the consultation and cooperation of the county governments and stakeholders in the implementation of Multiannual Control Plan. They conduct audits to ascertain compliance and enforcement of food and feed safety measures.

They will also coordinate food and feed safety activities, regulate and inform official control, monitor and evaluate implementation of the Multiannual Control Plan.

Mr. Temporary Speaker, Sir, from there, clauses 17, 18, 19, 20, 21, 22, 23 and 24 are procedural and fairly straightforward. Allow me, therefore, to speak to Clause 28. This is in terms of the financial provisions that we are going to put in this law. The financial provisions are comprehensively articulated in clauses 28, 30 and 39 and how we will apply financial control.

Mr. Temporary Speaker, Sir, I wish to draw the attention of Members to two schedules. The First Schedule tabulates the competent authorities that are supposed to be charged with the responsibilities within this law. The responsibilities have been bestowed upon the Ministry responsible for matters relating to public health and medical services, the Ministry responsible for matters relating to veterinary services, crop development and livestock development, the Ministry responsible for matters related to fisheries, the Ministry of Agriculture through the Agriculture and Food Authority, the Kenya Dairy Board, the Kenya Plant Health Inspectorate Services, the Pest Control Products Board,

the Fertilizer and Animal Food Staff Board, the National Bio-Safety Authority and, finally, the Kenya Bureau of Standards.

The Second Schedule is on consequential amendments. All members know what consequential amendments mean. By the dint of instruction of this particular Act, other pieces of legislation will be affected. Therefore, there will be a number of consequential amendments. I will not bore you by going through them one by one. I would just like to draw your attention to the fact that they are going to be there.

With those remarks, I have come to the end of moving this Bill. I ask my sister, Sen. Mariam Omar, Vice-Chairperson and Nominated Senator from Mandera County to second the Motion.

Sen. Mariam Omar: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. Health is crucial. We need the health system to be perfect because it is not good to our body when we consume things that are unhealthy. The objective of the Bill is detailed. The guiding principle and implementation of the Act should be the protection of human life and health. On this, there is a statement raised by one of our Senators and is directed to our Committee on a harmful brand of edible oil, which is, sold to our supermarkets and retail shops. There is also a brand of sugar that is harmful to our bodies that is also sold in our country. If we had this Bill before, that would never happen.

This Bill also touches on the county issues; on the functions of the county government. It specifies the implementation and enforcement of food and feed safety measures, licensing and exercising official control of the person who conducts food and feed business. They will also conduct capacity building on food and feed safety, public awareness on matters of food and feed safety and prepare the county food and feed safety report.

This specifically tightens what we are supposed to do. If this Bill goes through, it means that the food we consume from the county to the national level will be very safe.

Mr. Temporary Speaker, Sir, the rest has been elaborated by the Mover.

I beg to second the Bill.

Thank you.

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mariam Omar, thank you for seconding the Bill. We will deal with the contributions to the Bill when the House resumes.

Hon. Senators, it is now 6:30 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Thursday, 23rd November, 2023, at 2.30 p.m.

The Senate rose at 6.30 p.m.