

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 21st July, 2021

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

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

PRAYER

MESSAGE FROM THE NATIONAL ASSEMBLY

PASSAGE OF THE PUBLIC PRIVATE PARTNERSHIP BILL (NATIONAL ASSEMBLY BILLS NO. 6 OF 2021)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I have a Message from the National Assembly on the passage of the Public Private Partnership Bill (National Assembly Bill No. 6 of 2021).

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No. 41(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage of the Public Private Partnership Bill, (National Assembly Bill No. 6 of 2021).

Pursuant to the said Standing Order, I now report the Message.

Pursuant to the provisions of Standing Order Nos. 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS the Public Private Partnerships Bill (National Assembly Bill No. 6 of 2021) was published vide Kenya Gazette Supplement No. 19 of 26th February 2021 as a Bill to provide for the participation of the private sector, in the financing, construction, development, operation or maintenance of infrastructure or development projects through public private partnerships; to streamline the regulatory framework for public private partnerships; to repeal the Public Private Partnerships Act;

AND WHEREAS the National Assembly considered and passed the said Bill on Wednesday, 30th June 2021, with amendments, in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order Nos. 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the National Assembly's decision on the Bill to the Senate."

Hon. Senators, pursuant to Standing Order No.157, which requires that a Bill originating in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 139, I direct that the Bill be listed for First Reading on Thursday, 22nd July, 2021.

I thank you.

Next Order.

PAPERS LAID

REPORT ON THE BASIC EDUCATION (AMENDMENT) BILL (SENATE BILLS NO. 4 OF 2021)

Sen. (Dr.) Milgo: Madam Deputy Speaker, I beg to lay the following Paper on the Table of the Senate, today, Wednesday 21st July, 2021-

Report of the Standing Committee on Education on the Basic Education (Amendment) Bill (Senate Bill No. 4 of 2021).

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

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Chair. The next report is from the Senate Majority Leader.

Sen. Dullo: Madam Deputy Speaker, I beg to lay the following Papers on the Table of the Senate, today, Wednesday 21st July, 2021.

ANNUAL REPORT OF THE CAJ FOR THE FY 2019/2020

Annual Report of the Commission on Administrative Justice for the Financial Year 2019/2020.

NATIONAL GOVERNMENT BUDGET IMPLEMENTATION REVIEW REPORT

National Government Budget Implementation Review Report for the first nine months for Financial Year 2020/2021.

(Sen. Dullo laid the documents on the Table)

The Deputy Speaker (Sen. (Prof.) Kamar): That brings us to the end of that Order.

Next Order.

STATEMENTS

Hon. Senators, we have two Statements. The first one is from Sen. Were.

STATE OF PREPAREDNESS OF THE MINISTRY OF EDUCATION
TO IMPLEMENT THE JUNIOR SECONDARY LEVEL OF CBC

Sen. Were: Thank you, Madam Deputy Speaker. I rise pursuant to Standing Order No. 48(1) to request for a Statement from the Standing Committee on Education regarding the state of preparedness by the Ministry of Education to implement the junior secondary level of the Competency Based Curriculum (CBC).

In the Statement, the Committee, should-

(1) Explain the extent to which teachers who are to teach at the junior secondary level have been trained to handle the CBC.

(2) Provide statistics on the teachers who have undergone training on CBC and their distribution countrywide.

(3) State whether adequate infrastructure has been put in place for the intake of pupils in junior high schools across the country in the coming two years.

(4) Outline the role, if any, that will be played by the current primary schools in rollout of CBC in junior secondary school.

(5) Spell out the criteria of selection of schools which will qualify as junior secondary schools.

The Deputy Speaker (Sen. (Prof.) Kamar): The next Statement is from the Senator for Baringo County, Sen. Moi.

Sen. Moi: Madam Deputy Speaker, can you hear me?

The Deputy Speaker (Sen. (Prof.) Kamar): We can hear you but we cannot see you.

Sen. Moi: Madam Deputy Speaker, I can see myself. Do you see me now?

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kamar): We now see and hear you. Go ahead.

Sen. Moi: I am indisposed.

FUTURE OF KAZI MTAANI PROGRAM BY THE
NATIONAL GOVERNMENT

Madam Deputy Speaker, I rise pursuant to Standing Order No. 48(1) to seek a Statement---

Sen. Iman: On a point of order.

The Deputy Speaker (Sen. (Prof.) Kamar): Senator, you have said that you are indisposed. Where are you?

Sen. Moi: Madam Deputy Speaker, I am now okay.

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Sen. Iman: On a point of order, Madam Deputy Speaker. Previously, Speaker Lusaka ruled that Senators should not contribute in their cars. So, my brother, Sen. Moi, is out of order.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Moi, I hope you are not in a car.

Sen. Moi: Madam Deputy Speaker, which car?

Sen. Moi: Madam Deputy Speaker, I rise, pursuant to Standing Order 48 (1), to seek a Statement from the Standing Committee on Roads and Transportation regarding the future of the *Kazi Mtaani* Program by the National Government.

In the Statement the Committee should -

(1) State whether there are plans to broaden the scope of the programme beyond casual labour and bring on board more youths to benefit from this initiative;

(2) State measures put in place by the Government to comprehensively address the constant delay of payment of wages to the youth involved in *Kazi Mtaani* initiative;

(3) Explain whether there are mechanisms being put in place to ensure *Kazi Mtaani* is transformed into a sustainable social protection program that trains and equips young people with skills for future job opportunities; and

(4) Spell out measures put in place to ensure that corruption allegations that have marred the program are addressed in order to ensure the programme is run in a transparent manner.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. The next statement is from Sen. (Dr.) Musuruve.

GLOBAL EDUCATION SUMMIT: FINANCING GLOBAL
PARTNERSHIP FOR EDUCATION (GPE) 2021-2025

Sen. (Dr.) Musuruve: Thank you, Hon. Speaker, for giving me this opportunity. I rise, pursuant to Standing Order No. 47 (1), to make a Statement of general topical concern, namely the Global Education Summit: Financing Global Partnership for Education (GPE) 2021-2025.

The United Kingdom and Kenya will co-host a high-level Global Education summit on 29-30 July 2021 in London, UK to lead global action to educate every child.

The Summit will be a platform for parties to chart a way forward to transform education systems in partner countries, through exchanging best practices, examining the latest evidence, hearing from experts and young people around the world as well as learning from what works in other sectors.

A central feature of the Summit will be the ambitious pledges from donors to help the Global Partnership for Education (GPE) reach its target of at least 5 billion over 5 years, along with commitments from GPE partner countries on domestic financing for education. This is critical financing in helping countries transform education systems for more than one billion girls and boys in up to 90 countries around the world.

Coronavirus has worsened the global education crisis, with 1.3 billion children – including 650 million girls – out of education at the peak of school closures. Experts

warn that many children will never return, particularly as countries experience an economic contraction in the wake of the pandemic.

Missing out on education does long term damage to individuals and communities, with girls particularly at risk. The benefits of schooling are transformative and multi-generational - a child whose mother can read is 50 per cent more likely to live past the age of five and twice as likely to attend school themselves.

Even before the pandemic, 9 in 10 school children in low income countries were unable to read proficiently by the age of 10. Since its creation in 2002, GPE has already contributed to getting 160 million more children in school and doubling girls' enrolment in the countries they work in. The US\$5 billion funding will ensure that 175 million children can learn in 87 lower-income countries. In the longer term, this investment could add US\$164 billion to economies in the developing world, lift 18 million people out of poverty, and protect two million girls from early marriage.

On March 15, 2020, the Kenyan government abruptly closed all schools and colleges nationwide in response to COVID-19, disrupting nearly 17 million learners countrywide. The closure of institutions not only affected learners and teachers but it also brought forth numerous economic and social issues, including interrupted and loss of learning, education exclusion, homelessness, nutrition and economic crisis, childcare challenges and increase in teenage pregnancy cases, financial cost implication to households, and sexual exploitation among others. The effects have been more severe for the underprivileged children and their households from the urban poor communities.

According to a 2021 report titled "*Promises to Keep: The Impact of COVID-19 on Adolescents in Kenya*" the impact of Covid-19 on adolescents in Kisumu, Nairobi, Kilifi and Wajir counties, revealed that there were approximately 100,000 early marriages (aged 15-19) among the girls in this study, 32 per cent got married after COVID-19 started, 44 per cent got married because of pregnancy while 16 per cent claimed they would not be married if there was no pandemic.

It is worrying, that the out of school trend has tripled. It is clear that 2015 MDG's were not sustainable in terms of outcome. State parties met and made a global promise of *leaving no one behind*. This promise led to the emergence of the sustainable Development Goals (SDG's) which seeks to ensure that every child has education regardless of the socio-economic background, race or physical disposition of a child. It is against this backdrop of *leaving no one behind* and financing education that the International Parliamentary Network for Education (IPNEd) was formed.

The mandate of IPNEd, which I co-chair with Harriet, MP, UK, seeks to bring parliamentarians together in ensuring that they are advocating for more resources to be diverted to education so that every child has an opportunity to education.

The targets of SDG 4 can only be realized if all leaders of the world are committed to blowing the trumpet of education financing. President Uhuru Kenyatta has been on the forefront in ensuring equity, inclusivity and mainstreaming of the hard to reach children is realized. The launch of the 2018 sector policy for learners and trainees with disabilities by President Uhuru Kenyatta is a clear manifestation of his support of *leaving no one behind*.

In addressing the lacuna therein, parliamentarians across the globe need to deliberately bring their governments to account and push for increased financing in education. The increase in education financing should start from early childhood and progress to primary, secondary, colleges and universities. There is need to ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes by the year 2030 by pushing for 100 per cent transition. Concerted effort is needed from all leaders of the world to ensure that state parties are able to meet their target of every child having education.

Thank you, Madam Deputy Speaker, for the opportunity.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. I can see a point of order from Sen. Khaniri.

SUSPENSION OF IMPLEMENTATION OF VIHIGA
COUNTY BUDGET FOR THE FY 2021/2022

Sen. Khaniri: On a point of order, Madam Deputy Speaker. Last week, I rose pursuant to the provisions of our Standing Order No.47(1) to raise a matter that I thought was of national importance, although it affects Vihiga County; and that was the suspension of the implementation of Vihiga County Budget for the Financial Year 2021/2022.

After very long deliberations on the Floor of this House, our Speaker, directed that two committees; The Committee on Finance, Commerce and Budget, chaired by Sen. Kibiru and the Committee on Devolution chaired by Sen. M. Kajwang', should immediately on Monday 19th, July, 2021, visit Vihiga County, to investigate this matter and report back to the House.

I stayed in Vihiga, after having been there for the weekend until Monday to wait for the committees and all that was in vain. The Committees did not show up.

I eventually read some communication that the governor had written to the Clerk requesting that the visit be pushed from Monday to Friday. The Speaker's directive cannot be in vain. Directives made from the Chair must always be taken seriously and be implemented. I want to hear from the Chairs of the two committees, if they are here present, to tell us, one, why they did not visit Vihiga as directed by the Speaker. Two, to tell this House, the way forward; how they intend to prosecute this matter. Three, to tell us whether the committees of this House work at the whims or convenience of the very people they are supposed to investigate.

The people of Vihiga have very high hopes and confidence in this House, that we will resolve this matter on their behalf, as the custodians of devolution. This is a very important matter. It should be dealt with expeditiously. I want to hear from the two Chairmen, what really happened and how they intend to proceed with this matter.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Before we ask the two chairs to respond to your request, I will allow three Senators to ventilate.

Proceed, Sen. Farhiya.

Sen. Farhiya: Madam Deputy Speaker, I am also in the Committee of Finance, Commerce and Budget. This order was given on Thursday and we were told to go to the

ground on a Monday. Many politicians had already made their own arrangements in terms of where they need to be. The other challenge we had was, there are two committees – a joint committee. The other thing we felt was if, the people we were to meet ---

(An hon. Senator spoke off record)

Please, listen first, I finish, then you can comment. Madam Deputy Speaker, you need to protect me.

The Deputy Speaker (Sen. (Prof.) Kamar): There is a point of order from Sen. Orenge. I had wanted Senators to ventilate before. I did not realise – are you the Vice Chair?

Sen. Farhiya: Madam Deputy Speaker, no, I am not. I am a member.

The Deputy Speaker (Sen. (Prof.) Kamar): Then hold on.

The Senate Minority Leader (Sen. Orenge): On a point of order, Madam Deputy Speaker. This directive was given by the Speaker. It was not given by the Chairs of the committees. In fact, what I was expecting to hear is a message from the Speaker as whether or not his directive had been complied with. We need to hear from the Speaker, and if that is not possible, then I would agree it is better to hear the Chairmen to speak officially and formally for the committees before we can have any interventions. I know that the deputy majority whip is a member of the committee but I think she should allow the Chairs to speak to us formally. That is why we have them; and then it would be easier now to react to the difficulties they may have encountered.

The Deputy Speaker (Sen. (Prof.) Kamar): Let us have Sen. Wambua. I allowed additional comments, so that the Chairpersons can respond properly.

Let us have Sen. Wambua and then Sen. Wetangula.

Sen. Wambua: Madam Deputy Speaker, I will speak to two issues. One, the attempt by Sen. Farhiya to give an excuse as to why the committees did not visit. We have said this many times – a time has come that the Speaker must defend the dignity of that Chair, that, once an order is given by the Speaker, then that is it. It is only the Speaker who can vacate his own orders.

It cannot be that the Speaker has given an order for a committee to undertake certain functions but Members of the committee decide not to and come to explain on the Floor. We want dignity to that Chair.

Secondly, Madam Deputy Speaker, is the issue of the visit to Vihiga. This House of Parliament can never act for the convenience of any other institution in this country. It cannot be that the two committees should wait for the governor to get ready to clean his house before they go to visit and see what has been happening. The orders of the Speaker must be followed all the time by everyone.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Proceed, Sen. Wetangula.

Sen. Wetangula: Madam Deputy Speaker, first, allow me to give unsolicited advice to my distinguished colleague, the Deputy Whip, that she has absolutely no business being an apologist on behalf of erring chairperson of committees. When

committees do not do their work, it is not the duty of the leadership to apologise on their behalf because they are Members of this House. I am also a Member of the Committee on Finance and Budget.

Sen. Khaniri of Vihiga is not a frivolous Senator. He is not a Senator who brings on the Floor of this House very tenuous issues that the Chair can overlook or the House can sweep under the carpet. He does his work well.

He brought here a very important matter that the budget of Vihiga County has been paralyzed and so there is no water, there are no salaries, they cannot put medicines in hospitals and they cannot provide basic services to *wananchi*. I have no doubt that the Chair on that day who is the substantive Speaker himself felt the pain of the people of Vihiga and directed that the committees go to Vihiga on Monday.

The Deputy Speaker (Sen. (Prof.) Kamar): Senator, are you assuming that the other Chairs cannot feel the pain of the people of Vihiga?

(Laughter)

Sen. Wetangula: Pardon!

The Deputy Speaker (Sen. (Prof.) Kamar): Are you assuming that the rest do not feel the pain of the people of Vihiga? Any Chair here would feel.

Sen. Wetangula: The Chair is perpetual. So, whether it was the substantive Speaker or you, the pain was felt by the Chair. It could have been you or another Member of the Panel but it is the authority of the Chair that we are talking about.

The Speaker directed the two committees to go to Vihiga on Monday. At the time I left this Chamber, I heard the Chief Whip of the Opposition, Sen. Mutula Kilonzo Jnr. with whom we sit in the same committee with my distinguished sister here, saying that they were going to arrange either a flight to Kisumu or even choppers to go and mitigate the problem in Vihiga. How that changed is a matter that the Chair must demand a proper, cogent and clear explanation from the Chairs, because the Chair can never act in vain.

When you give a direction, it has only one response; obedience and nothing else. The committees mirror what we do in plenary. We cannot act at the convenience of any of the parties we want to deal with; whether those parties are governors or any other members of the public.

So, Madam Deputy Speaker, I urge that you demand on our Chairs – the Chair in the committee we sit in with Sen. Farhiya who she tried to apologise on behalf and she should not and the Chair of Committee on Devolution and Intergovernmental Relations – explain to the House first, why they did not go to Vihiga on Monday and secondly why they went outside the direction of the Chair to negotiate with a party that is supposed to appear before them to get a convenient date of appearance. Thirdly, they should also explain when they are going to purge this offensive behaviour that is denying the people of Vihiga their rights.

I thank you.

Sen. (Dr.) Langat: Thank you, Madam Deputy Speaker, for also giving me this opportunity to add my voice to what Sen. Khaniri raised. The people from our counties

face a lot of challenges. They see the Senate as an important institution to air their views and expect a lot of solutions.

Your authority as the Speaker is important in the Constitution. Therefore, anybody who does the opposite of what you direct should not be entertained. If we do not take this seriously, it will come down to our committees.

You will remember there is a time when Cabinet Secretaries refused to come to our committees. Had we not stood firm and demanded that they appear, they would not be appearing even now. I support what Sen. Khaniri raised.

Madam Deputy Speaker, I request that you redirect and make sure that the issues affecting the people of Vihiga are addressed accordingly. You need to take this seriously. If you do not do that, soon it will affect issues that we raise in this House.

Otherwise, I seriously support that. The matter should be resolved with immediate effect.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Murkomen, is that on behalf of the Chair?

Sen. Murkomen: Yes, it is on behalf of the Chair of the Committee on Devolution and Intergovernmental Relations.

The Deputy Speaker (Sen. (Prof.) Kamar): Clerks, can you confirm if there is any Chair online? In the meantime, let us listen to Sen. Murkomen.

Sen. Murkomen: Madam Deputy Speaker, I am here officially after the committee this morning tasked me and Sen. Nyamunga to provide an explanation on behalf of the committee, because the Chair is attending a funeral of a relative in Homa Bay.

When the directions were given by the Speaker, it is the same Speaker who should have facilitated the possibility of a committee travelling within three days. Instead of bashing the committees, we have come to give directions on how the staff were going to implement that, having orders given on Thursday.

There are procurement processes and facilitation for Members to travel. It was not practical for Members to travel on Monday and therefore the directive could not be implemented. So, it is the Office of the Speaker to give an explanation of how that directive was going to be implemented.

Secondly, committees require quorum to hold meetings. In our committee, there were no enough confirmations from Members who were ready to travel. I am told it was the same case in the Committee on Finance and Budget.

We were asked to go to Vihiga and meet the governor. If we did not find him, we would have been told that we went there to meet junior officers who did not give us explanation. So, we acted in the best interest of the Senate. Most importantly, Sen. Khaniri was consulted on this issue and it is on record. The Chair reported that he spoke to Sen. Khaniri. If that is not the case, he will take personal responsibility.

He said that he spoke to Sen. Khaniri about the possibility of going to Vihiga on Monday which was unlikely going to work. That is in the Committee's HANSARD. Sen. Nyamunga here is my witness. He said that a practicable visiting time was sought---

Sen. Khaniri: On a point of order, Madam Deputy Speaker. I am here in person. The last time I spoke to the Chair was on Thursday and he assured me that they were

making arrangements for hiring choppers for the committees to visit Vihiga. The next time I spoke to the Chairman was this morning asking him exactly what happened.

So, what Sen. Murkomen is saying is not true. The Chair did not consult me on postponement of the meeting. What I saw is a soft copy of the letter from the governor requesting that the meeting be pushed to Friday. I think that is the only thing I saw.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Murkomen, please, conclude.

Sen. Murkomen: The most important thing is to come with results. We have scheduled a meeting with the governor this Friday. In fact, it will be not physical but on Zoom to agree on the modalities of answering the questions.

Secondly, Madam Deputy Speaker, this is on a light note but serious. The Speaker said we should go to Vihiga on Monday but did not rule when we should bring the report.

I thank you.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Murkomen, that is a new one. Let us listen to Sen. Farhiya finally so that we dispose of.

Sen. Farhiya: Madam Deputy Speaker, I would like to talk about the issue of quorum in our Committee on Finance and Budget. Only Sen. Nyamunga confirmed. The Chair asked on our platform who was ready to go to Vihiga on Monday.

Most importantly, both the governor and Members of the County Assembly (MCAs) were not ready for us. Who were we going to meet? That is another question that we need to answer. My Chair had the intention of us going there to follow the directive of the Speaker. However, practically that could not work.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Do we have any Chair online? We are giving the Chairs the last opportunity if they are online.

Sen. Wetangula: On a point of order, Madam Deputy Speaker. Facts are very stubborn because they remain facts. In the Committee on Finance and Budget where the distinguished lady from Wajir who is a hardworking Member and I have a lot of regard for her because she is very brilliant but that brilliance does not give an attitude to say what is not true on the Floor.

Sen. Mutula Kilonzo Jnr. is a Member of the Committee and he confirmed. I am a Member of the Committee and I confirmed. If she, the Chairman and Sen. Nyamunga were available, then we were five but the quorum is three.

It is casting aspersions on Members of the Committee that we are either irresponsible or not taking our work seriously because we are not available even when the Speaker has given a directive. We were available.

As I finish, Madam Deputy Speaker, we should also not let Sen. Murkomen get away with what he said. He said that they have organised for a Zoom meeting on Friday to decide with the governor how the meeting will be conducted later. They are going to have talks about talks on a matter that is so serious that the Speaker directed that it be dealt with expeditiously.

The Deputy Speaker (Sen. (Prof.) Kamar): Sorry, Sen. Orenge, I did not realise you are on line.

The Senate Minority Leader (Sen. Orenge): Madam Deputy Speaker, I am really worried about the capacity of the Senate to respond to emergencies. It is the persuasion of the Senator for Vihiga that prompted the Speaker to say that you must get to Vihiga by Monday because of the circumstances. It was explained to us that Vihiga was at a standstill and there were no operations going on.

Indeed, I was in Kisumu over the weekend and got information that things are not going on very well in Vihiga County with four County Executive Committee Members (CECM) and the deputy governor undergoing the process of impeachment and bills not being paid.

If the Senate cannot respond to emergencies and the people of Kenya know that there is an emergency in a county yet the Senate cannot get there in time, that undermines the authority of the Senate as an institution.

The former President of the United States of America (USA), George W. Bush, did not make it to victims of Hurricane Katrina on time and that caused him an election. There are circumstances where people take such things very seriously. Other than the word of mouth from the chairpersons of the two committees, we need a statement in form of a message from the Chair. Issues such as procurement have been brought into place but there must be a basis upon which we can act in emergencies. The Speaker has been involved in emergencies. I am aware that the Speaker has sometimes been forced to go on trips that he did not anticipate. In such emergency trips, the Speaker is usually across the border representing the Senate or the Republic of Kenya within a day or less.

As Sen. Murkomen stated, we need an explanation from the administration through the Chair so that in future if there is another emergency, we are not told that the Governor said he is not available and that now they are involved in talks about talks.

(Laughter)

By the time we have talks about talks, the substratum of what you are trying to deal with will be gone. It will no longer be necessary to talk about Vihiga County, a small county with big problems.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I have listened to the ventilations that have come across. In the last sitting of the Senate, the Speaker ruled that the meeting should be held on Monday, 18th July, 2021. When a ruling has been given by the Speaker, no one has the authority to change it. We must stick to the rulings given because if there was an issue, it should have been raised on that day. The chairpersons of the responsible committees should have given us their excuses on that day. The chairperson of the two committees have not responded today. We have tried to look for the communication from the Governor but we have not located it.

I rule as follows; the chairpersons of committees must take their roles very seriously. The chairpersons of the committees are the ones responsible. I say that because our administrative facilitation is the obvious thing when the chairperson of a committee has been asked to do anything. I did not even imagine that there would be choppers to

transport the Senators because the flights to Kisumu operate more than three times a day. Further, Kenya Airways allows us to travel and then pay later. Therefore, that should not be used as an excuse.

I therefore urge the two chairpersons of the responsible committees to move with speed and make sure that they visit Vihiga County as was ordered by the Speaker on Thursday, 15th July, 2021. There must be a reason why the two committees of the Senate were told to visit Vihiga County on Monday, 19th July 2021. We cannot change at this stage and say that the meeting should be held on the Zoom online platform. The two committees must go to Vihiga County physically. I therefore direct that the chairpersons of the two committees convene again and plan to visit Vihiga County so as to undertake that assignment on behalf of this House. A let down by one chairperson of a committee is a let down to the whole House. Our efficiency must be upheld by the chairperson of the committees. I urge the chairpersons of committees to do their work and accomplish that assignment.

(Applause)

Next Order.

Sen. Murkomen: On a point of order, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Murkomen, you cannot give a point of order on behalf of the chairpersons of committee unless you have your own point of order. You do not even know what the chairpersons of those committees would have said.

Sen. Murkomen: Madam Deputy Speaker, my point of order is on how I have understood your direction.

For purposes of clarity, the statement that was brought by Sen. Khaniri was under Standing Order 48 which provides for a statement on a matter of importance to of county-wide, inter-county, national, regional or international concern. When asked, Sen. Khaniri said that it was county or national. That means that the statement was not supposed to be dealt with in the manner in which a committee is supposed to. The Speaker of the Senate used his own discretion to say, 'Go ye and visit Vihiga County'. However, the Speaker, did not say what the Committees were supposed to do after that visit.

(Loud consultations)

We have to be very clear. Sen. Khaniri knows that nobody knows the Standing Orders of this House better than he does. If he wanted to bring a statement in the usual manner that a statement goes to committee for purpose of doing a report, he would have done it. However, he chose to make it a statement of a matter of national importance and the Speaker gave direction that two committees of this House visit Vihiga County.

Madam Deputy Speaker, you should go further to state that the two committees should visit and report back to the House. The timelines and manner of reporting are not provided for under that Standing Order on reporting by the committees of this House.

Sen Khaniri, let us not make this a matter of---

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Murkomen, kindly, address the Chair.

Sen. Murkomen: Madam Deputy Speaker, the Speaker should make a determination for purposes of the future engagements. The committees should have clear direction on what Standing Order a statement has been brought and the timelines that are required for that statement to be reported back. If the report is in the form of a report of the Committee, it should go through the normal procedure of doing a committee report. Otherwise, we would have gone on to Vihiga County on Monday and the chairpersons would have stood on the Floor of the House to say that we went to Vihiga and we are working on the matter and that we would get back to the House on a future date. There has to be clarity.

Secondly, we should function with results in mind. We must focus on substance.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I would like to confirm that out of any statement, the Speaker can make a recommendation. The Speaker rightfully recommended that a visit be done to Vihiga County. After the two committees of this House make a visit to Vihiga County, we do not expect them to come back with nothing. We expect the two committees of this House to go to Vihiga County and come back with a report.

This time, let me be very clear that we expect the two committees of the House to travel to Vihiga County on Friday and report back to the House on Tuesday next week because the secretariat has not said that they cannot process the report of the Committee within two days. The two committees can use their weekend to do the report to be considered by this House on Tuesday, 27th July, next week. That is so ordered.

Next Order.

BILLS

Second Reading

THE COFFEE BILL (SENATE BILLS NO. 22 OF 2020)

Sen. Ndwiga: Madam Deputy Speaker, I beg to move that pursuant to the provision of Standing Orders 14(1) of the Senate that the Coffee Bill (Senate Bills No. 22 Of 2020) be now read a Second Time.

I would like to begin by thanking the Committee on Agriculture, Livestock and Fisheries for the expeditious work that they have done and for their commitment throughout the process of developing this Bill.

I also wish to thank the members of the public who gave us vital information and who responded when we advertised for public participation and gave us vital information that helped us to build this Bill and fashion amendments which I will be moving later in the course of this process.

Members of the public and stakeholders in particular wanted this Bill to encompass their involvement. They wanted to be involved in all the institutions and all the structures that are going to be created by this Bill.

The Standing Committee on Agriculture Livestock and Fisheries, which I chair, is preparing amendments to capture the views of stakeholders in the Bill.

This Bill seeks to reorganize the coffee industry by transitioning the regulatory and commercial aspects which are currently undertaken by the Agriculture and Food Authority (AFA) to the Coffee Board of Kenya.

The Bill further seeks to transition the research of coffee in Kenya which is currently undertaken by the Coffee Research Organization to an independent coffee research institute.

Madam Deputy Speaker, before I delve into the contents of this Bill, I would like to give some background information on the issues revolving around the coffee sector.

The Coffee Directorate which is under the AFA is supposed to manage the development of the coffee subsector. However, the coffee subsector has continued to face innumerable challenges including but not limited to minimal research in coffee, late payment to farmers and lack of extension services which has led to the drop on coffee production in this Republic. Without extension services, that used to be enjoyed by coffee farmers for many years, the coffee industry and the small-holder coffee farmers are unable to produce the kind of quality and quantity of coffee that is desired and that can be produced in this Republic.

Poor governance of the cooperative societies is also one of the issues that we want to cure through this Bill. The coffee cooperative societies have been affected with a lot of corruption. The word corruption is a very lean word. It is theft by some of the cooperative leaders in the coffee sector. I will delve into this matter as I finish the presentation of the body of this Bill.

In a bid to tame the problems in the coffee sector, the President appointed a task force which collected views from stakeholders and came up with a report that had some recommendations. After the recommendations, the task force was converted into an implementation committee. That taskforce went around the country and collected the views of all coffee stakeholders and came up with recommendations which were later developed into regulations which were brought to this House and the National Assembly passed those recommendations.

Therefore, Madam Deputy Speaker, the Coffee Regulations developed by the Taskforce and the Implementation Committee are currently in force. I say this because of late, we have seen some shenanigans which tend to draw back the efforts that have been achieved by the Taskforce which is not a standing Committee on Implementation of the Coffee reforms.

The President, through *Gazette* Notice No.7512 dated 25th September, 2020, converted this Commission to Coffee Sub-Sector Reforms Implementation Standing Committee to coordinate, oversee and monitor implementation of the Coffee Sub-Sector Reforms. In September, 2020, the Committee was converted to the Coffee Sub-Sector Reforms Implementation Committee in a bid to ensure a lasting solution to the problems that plague the coffee industry and agriculture in general.

Due to the foregoing, the Senate in 2019 through the Committee on Agriculture, Livestock and Fisheries developed the Coffee Bill which was eventually published in October, 2020.

With your permission, Madam Deputy Speaker, I shall highlight the various provisions of the Bill. Clause 4 of the Bill establishes the Coffee Board of Kenya (CBK) with the headquarters in Nairobi City County and given the power to establish branches in other parts of the country. before the collapse of the Boards into Agriculture and Food Authority (AFA), coffee farmers had, through their own money and for many years, constructed the buildings in Nairobi City. The coffee exchange is also in Nairobi City.

Madam Deputy Speaker, Clause 6 of the Bill says that the Board shall vest in a Board of Directors, consisting of a Chairperson; the Principal Secretary (PS) responsible for Agriculture, Livestock and Fisheries; the PS for the *Ministry* of Industrialization, *Trade* and Enterprise Development; two persons of the opposite gender representing smallholder coffee growers, nominated by the Council of Governors (CoG); two persons of the opposite gender representing plantation coffee growers, nominated by the CoG; one person nominated by the Research Institute; two persons representing an association of farmers, nominated by the Cabinet Secretary (CS); and, a Chief Executive Officer (CEO).

Madam Deputy Speaker, it is the view of the Committee that a Board that has representation of both the Government and the growers will seriously handle the interests of the farmers. It will also accommodate the interests of the policymakers, that is, the Government.

Madam Deputy Speaker, Clause 26 of the Bill requires county governments to maintain an up-to-date register of coffee growers, nursery operators, coffee cooperative societies, coffee associations and coffee estates in the county. They are also supposed to consider applications for certificates, permits and licenses enumerated under the Second Schedule of this Act. They will also enforce national and county coffee regulations on the coffee industry code of practice, policies and guidelines on corporate governance in coffee growers' institutions.

I cannot over-emphasize that county governments are meant to offer extension services on coffee production and primary processing. They are supposed to inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties in collaboration with law enforcement agencies. They are should also enhance security in coffee growing areas and monitor and report incidences of pests and disease outbreaks to the board and the other relevant Government agencies.

Madam Deputy Speaker, Clause 24 of the Bill further allows counties to develop county specific legislation setting out inter alia, the criteria for application, issuance and renewal of permits and licenses by an applicant within the county. On the other hand, Clause 30 sets out the reasons for canceling a permit or license. Should an applicant be dissatisfied with the decisions of the CS or County Executive Member (CECM) not to issue a license under this Act, Clause 31 provides judicial review.

Madam Deputy Speaker, Clause 37 establishes the Coffee Research Institute (CRI) and its proposed to be in Kiambu County where the Coffee Foundation was premised before the collapse of the Kenya Agriculture Research Institute (KARI) into the Kenya Agricultural and Livestock Research Organisation (*KARLO*).

The Bill further provides that the Institute may establish other branches in other parts of Kenya as it may consider necessary.

Madam Deputy Speaker, it is proposed in Clause 40 of the Bill, that the Board of the Institute comprise the CEO of CBK; the PS of Agriculture, Livestock and Fisheries; PS for National Treasury; the Secretary to the Science Commission appointed under paragraph six of the Second Schedule of the Science and Technology Act; one person representing coffee growers; one person nominated by the Commission for University Education (CUE) representing universities and the CEO of the Board.

Madam Deputy Speaker, Clause 43 of the Bill provides that the Institute shall among other things, prioritise areas for and coordinate research including research in coffee diseases; develop appropriate systems to promote balanced, diversified and sustained coffee development and to optimise coffee production through adaptive and investigative research; disseminate in collaboration with the Board and other research organisations established under the Kenya Agricultural Research Organisation Act and other organisations.

Madam Deputy Speaker, this is why I said I do not want to overemphasize the importance of extension services because in the past, such research findings were done but farmers never benefitted. There was no institution or organisation that would disseminate this information to farmers. However, this Bill establishes functions of the county governments.

The county governments are meant to make sure that we have extension services who will disseminate this information to farmers.

Madam Deputy Speaker, the Committee will propose amendments to address the coffee marketing structure and streamline the payment system, so that the farmers will be paid what is due to them on time. The amendments we intend to propose to this Bill specifically concentrate on the marketing structure of coffee.

Madam Deputy Speaker, at one point, Kenya used to produce an excess of 140,000 metric tonnes of coffee for export. Today, Kenya exports less than 36,000 metric tonnes. The reason for this is that the marketing structure of coffee in this country was left to people to had no interest in the farmer.

I want to highlight a few incidents and the system of the current marketing of coffee in the Republic. When farmers pick their coffee, they deliver it to their cooperative society. Once the coffee is delivered to their cooperative society, it is taken to a miller who will mill the coffee into clean coffee at the first stage. It is what we call parchment. At the miller stage, we get clean coffee for export. What has been happening in this country is that the coffee millers are also the coffee marketing agents.

Madam Deputy Speaker, I want you to imagine a case where the farmers have delivered their coffee to the miller, and that miller is also the marketing agent who will sell the coffee for them. In many instances, the marketing agents are also agents of the buyers. What eventually happens is that once the coffee gets to the millers, it is up to them to decide how much they will pay the farmers. It is like giving your goat to a hyena to herd it for you. It is the millers and the commercial agents who decide how much the farmer will be paid.

Madam Deputy Speaker, as if that is not enough, even before the money is paid to the cooperative societies, some of the cooperative leaders collude with the marketing agents. The money is skimmed at the top so that the farmers are only told how much their

coffee was worth. A big portion of that money is again skimmed by the cooperative leaders to the extent that by the time the farmers get what they are paid, it is such a pittance. That kills coffee farming in this Republic.

At the moment, 80 per cent of all the coffee in this country is handled at the marketing level by less than four players. These four players own mills, they are the marketers and represent the buyers in Europe to the extent that the coffee does not quite belong to the farmer, but to these cartels.

This Bill intends to cure that problem. In curing that problem, the Bill will introduce amendments to introduce a marketing system whereby farmers will be paid their dues directly once the coffee is sold.

We intend to introduce a direct payment system for the farmer so that once the coffee leaves the cooperative society or a grower's factory and goes to the mill, then it is taken to the coffee exchange. From the coffee exchange, it will be no longer the marketing agents who will be in charge of that coffee. At that point, the coffee will still belong to the farmer.

The contracts will specify how much the farmer will pay for milling and how much the farmer will pay the broker who will handle their coffee at the coffee exchange. The farmers will then be paid their monies directly into their accounts. The Bill proposes that the cooperative societies will be paid a 10 per cent for running the factories and so forth. Once that is done, we anticipate that farmers will get back to producing coffee.

Madam Deputy Speaker, we know that the Capital Markets Authority (CMA) has a licensed nine unions. These nine unions are all vertically integrated from the farmer to the factories to the milling. These nine unions have milling facilities. Now that they have been licensed, we anticipate them to market their own coffee. The unions will be able to grow and pay farmers what is due to them. It is not them who will be paying, but it is the Decision Support System (DSS) that we are creating. It will pay the farmers directly. That system will deduct whatever liabilities the individual farmer would have in their cooperative societies. Once that happens, the farmer will get what is due for them.

Madam Deputy Speaker, the marketing agents that I referred to earlier who are handling coffee at the moment are also vertically integrated in respect that they own the mills, they are licensed as marketing agents, and they are also the buyers of the coffee. It is crazy.

Now we want to cure that problem and in curing it, we expect that the farmers of this country will begin to get what is due to them. You go to coffee growing areas and what you see out there is poverty. Coffee has a lot of money. I am happy that this year the prices of coffee have improved. It is because of the introduction of this Bill and there is no other reason, these commercial agents have known that we are after them. It is because of that that coffee prices have picked up this year.

Madam Deputy Speaker, I am proud that I am a member of one of the top cooperative societies in this country called Kibugu Farmers Cooperative Society. This year, we have been paid properly with Kshs110 per kilogram of shell. Just look at me and you see the smile on my face. We are hoping that we will spread this across the country. The problem we want to cure here is that these operators who handle the farmers of coffee do not allow competitors into the market.

That is to the extent that you talk to roasters all over the world and they will be telling you Kenyan coffee is not available. Yes, it is true it is not available because these fellows have their own markets. So, coffee never ends up at the exchange. If it gets there, they also know who is going to buy the coffee and at what price. Coffee has so many grades by the time it leaves a miller. All these grades if you go to the coffee exchange double A of Kenya coffee will be costing so much and AB, PB and all those grades.

Madam Deputy Speaker, if you go to Mombasa when our coffee is being exported in those bags, you do not see those grades because the coffee has been bought. These people manipulate using the grading system to the extent that if they buy Kenyan coffee top grade at whatever price, then they fit prices for the lower grades. After they have done that, they bank all the coffee into one container. The same coffee you go to Europe and other place--- I am a witness to that. The coffee that you find in Starbucks and some places in Europe labelled Kenya Double A is not Kenya Double A. It is a mixture of all grades and they are selling it there at premium prices but the farmer was paid a pittance. This Bill intends to cure that problem.

We are also encouraging local value addition of coffee. Those of us who remember in the olden days - In fact not very old, up to the early 1980s, we used to have affordable Kenyan coffee in our shops. We used to have such brands as Kahawa Ngoma, Kahawa No. 1, KK Kahawa and also another coffee called 20 Cents Coffee. This meant that every household could afford to buy and consume coffee.

Madam Deputy Speaker, part of the problem that we have got in this country is that we produce things which we do not consume. The reason we do not consume what we produce here is by the time the coffee has left the farmer, they cannot afford to get it from the shops. If you go to the supermarkets today, the coffee you find there are out of reach for ordinary Kenyans. This is because we have given the coffee that we ought to have processed which we could consume here. We have given that to these hyenas who take our coffee out there.

We are proposing and we hope that the Cabinet Secretary (CS) is listening - We want to encourage local value addition of our coffee so that we can have Kenyans consuming their own coffee. We stopped producing coffee here because that was an initiative of the then coffee. The reason why that stopped is because on that board there, instead of farmers' representative and people who had an interest and passion for growing and expanding Kenyan coffee, we appointed coffee traders.

Madam Deputy Speaker, these fellows when they went there to the Coffee Board of Kenya instead of following the coffee value addition of lower grade coffees which were not fetching high or premium prices at the exchange, they became traders themselves. If you see the roasting plant which was owned by the farmers in Industrial Area here which eventually was closed and ransacked by I do not know who, you see that plant then you begin to understand where the rain started to hit us in the coffee sector. It is our hope and aspiration that through this Bill, we are going to cure that problem. That we will have a coffee board that is responsive to the interest of coffee growing in this country.

Having said that, I would want also to advise the CS in charge of the Ministry of Agriculture, Livestock and Fisheries in this Republic that at the moment, the Government

seems to be very confused in this matter. The right hand does not know what the left hand is doing. The President appointed a taskforce which was converted to an implementation committee.

Madam Deputy Speaker, however, the CS of the Ministry of Agriculture, Livestock and Fisheries does not seem to recognize that this Commission exists. As a Committee, we have worked very closely with the Commission. They went round the country and that is why we did not bother to also go round the country collecting views. Most of those views which are in the regulations which we passed in this House came from farmers and stakeholders in the coffee sector.

The other issue that we are hearing is that there is an attempt also to introduce regulations through the Ministry where coffee cooperative societies could decide that they want a coffee factory could decide to move out of the cooperative. The essence of cooperative societies is to make sure that people are together and produce together and economies of scale are realized. This is when people are together in big numbers.

Madam Deputy Speaker, this issue is not acceptable. Those of us who know how the beginning of the coffee declined in this country started from those ideas. Those ideas, I know and bet that they are not emanating from the Ministry. I know all the cartels who have been involved in the coffee business. That is the route that they would want to go.

Madam Deputy Speaker, that is the route they want to go such that you will find a coffee factory which produces less than 3,000 kilogrammes of coffee, has nine members. The farmers get nothing because the expenses are high. On the other hand, they have to maintain nine coffee members, a secretary and a manager, pay for licence and so on. We will resist that.

I am happy there are Members of this House who know – I see Sen. (Prof.) Ongeru agreeing with me – where we started losing in the coffee sector. The coffee wars in Nyeri and other places all emanated from this kind of ideas. These are dangerous ideas that cannot and should not be entertained at all.

Let me conclude because I want other Members to contribute to this Bill. I wish to assure Kenyan farmers that through this Bill, we have captured what ails the coffee industry and we want to deal from the marketing side. We hope that the Government will keep its promise to assist farmers in updating the coffee factories in this country with the new and up to date pulping systems, drying pens and so on. I hope when and if that happens, the coffee industry will get back to its former glory.

Madam Deputy Speaker, I know I will be back here after Members contributed. At this juncture, I beg to move that the Coffee Bill be read a Second Time and ask Sen. Murkomen to second.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Committee Chairperson. Sen. Murkomen, proceed.

Sen. Murkomen: Thank you, Madam Deputy Speaker. First, I thank the Committee for accepting and proposing me to second this important Bill on behalf of my colleagues in the Committee. Secondly, I congratulate the Chairperson who is a coffee farmer in his own right, former Cabinet Minister for Cooperatives and a passionate believer in improving the welfare of the common farmer.

We are so privileged to have Sen. Ndwiga as the Chairperson of the Committee on Agriculture, Livestock and Fisheries at a time that we are still undergoing transition in moving from the former centralized to devolved system of Government.

In this House, especially those who came here in 2013, we all know that we did not achieve the kind of transition which was expected under the current Constitution. Sen. Wetangula will tell you that the regime that exists now is such that you have functions devolved to counties, but a legal framework that keeps those functions and recourses at the centre. So then, what we have in the name of the AFA is a form of complete centralization.

I can understand the wisdom that was in the Coalition Government and the Ministry at the time AFA was established, to minimize cost in terms of reducing the number of parastatals. However, the loses outweigh the benefits. The AFA has become one of the biggest causes and an institution that has aided complete failure in the agriculture sector.

As I speak, Madam Temporary Speaker, the agriculture sector is ailing. We rescued the tea sector by having a Bill here which was consultative through formation of a Committee. The coconut, coffee and cereals sectors are ailing too. The Deputy Speaker knows this very well because she co-chaired with Sen. Wetangula the *ad hoc* Committee on matters of maize.

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

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

Madam Temporary Speaker, one of the critical responses from that Committee was that there is no attention of the Government to the cereals sector, particularly maize. It is because AFA was lumped together with many different parastatals with one Director-General. The people in the know and who have had conversations with the management of AFA, will tell you that you bring someone who understands only one crop, then others like horticulture, coffee, tea, coconut and cotton, will suffer. Since Independence, there was wisdom as to why our founding fathers and Government thought that every crop needed its unique management structure.

As I have said, I am glad that our Chairperson is the former Cabinet Minister for Cooperatives and was there at the very critical time in this country's reforms in the Government of the Third President. His wisdom has helped to inform where we should go as a country. That is why we are now dismembering AFA to ensure the institutions that existed before now go back and revive the various crops we have in this country.

The most important thing about this Bill is the separation of powers, functions and responsibilities. Like the Mover and Chairperson of this Committee has rightly captured, we want to separate the person regulating the sector, from the farmer, the marketer and the one milling. The object of this Bill is to ensure that millers, who are the marketers and controllers of their market not just locally, but internationally, are separated in terms of their functions. The marketing, milling and farming should be different.

Madam Temporary Speaker, this should then give an opportunity to a more independent institution in the Capital Markets Authority (CMA) to now look and oversight all the commodities exchange related to coffee matters. It may seem a small and easy exercise. Even this House may be having few Members during this important debate, but I can tell you for people who understand the importance of cash crops like coffee and tea, are few. This is a very serious Bill. In fact, this is the most honourable thing we can do here. We are dismantling cartels and giving power back to the farmer. We are debating and saying we want the farmers to have the control of where their crops go, at a better price and have money in their pockets.

Madam Temporary Speaker, currently, we are having a debate about the economy from different perspectives in this country. Our friends in the Orange Democratic Movement (ODM) are talking about a top-down approach. Theirs is about building big industries, buy Kenya products and so on. I do not want to annoy them, but they were the ones who used tell us that we should not buy any products from Brookside, Safaricom and from all these other companies. Be it as it may, they have now seen the light. They are saying that we build big companies and its effects will trickle down.

Madam Chair, those of us who believe that we need to do a bottom-up approach have an anti-thesis approach. President Biden talks about a bottom-up, middle-wide approach where we ensure that the small-scale farmers, however few they are, or notwithstanding the size of their farms, can benefit through a cooperative society that brings together all these farmers because they will mill their coffee themselves. They have a right to mill their coffee and get whoever wants to buy their coffee at a price they want themselves.

Madam Chair, if you are going to have a commodity exchange for that coffee, let it be regulated by the CMA like other products are being regulated in the market. That is reform and transformation. That is where we want to go as a country. If we have to go there, we need to dismantle the cartels. I have an interest in this sector, and I have been taking lessons from, Madam Chair---

The Temporary Speaker (Sen. Nyamunga): Order, Sen. Murkomen! You do not seem to be coordinated today because you keep on referring to “Madam Chair.” Be consistent.

Sen. Murkomen: Sorry, it should be Madam Temporary Speaker. I recognize your power and authority as a full Speaker in the Chair with all the powers and authority to make a ruling.

Madam Temporary Speaker, I have been taking lessons from Sen. Ndwiga on what happens with coffee, what can be done, what can I do, and whether I can do some small scale farming. While I was taking these lessons, I have relatives who are neighbours and friends of Sen. Ndwiga. I have a very good family member there, and I went up to the farm. He told me that I can plant special coffee and do all I want, but remember there are cartels.

Once sold, it is done. You will deliver you coffee to a certain miller. Even if you negotiated a good a market in New York, California or any part of this world and got somebody to buy your coffee, and you are still going to deliver it through millers, they can even hide it. It can even be exchanged or mixed with low quality coffee to make sure

that you become subservient and you are told that there is nothing you can do because they are the ones who have control of the market out there.

We are proposing an amendment in this Bill that will have the CMA regulating the marketing and the farmer doing what he is supposed to be doing. Everybody gets their licence for what they have to do like farming, pulping or milling. They will get the necessary regulations and licensing so that it becomes very clear who does what in this country.

Madam Temporary Speaker, the other thing this Bill does is to make it clear the functions of the national and county governments. The Constitution expects that the national Government will do policy and assist farmers get international markets and benefits from economies of scale by bring together all farmers across the country.

Clause 6 of the Bill provides for the establishment of the coffee board which is independent from other agricultural boards unlike like the case now. If you look at the composition of that board, you will see that it brings together the farmers and representation of county governments. We have put it clearly that two persons from opposite genders representing plantation coffee growers who are nominated by the Council of Governors (CoG). We also have two persons representing the Association of Coffee Farmers (ACS) nominated by the Cabinet Secretary (CS). We will have people in the board representing small-scale farmers and big farmers

If you look at the functions of the board, it has a responsibility to provide permits and licences as provided for in the Schedule of the Bill to register coffee dealers. This means that if we find that you are an unscrupulous business person; dealing in coffee who is fleecing farmers and using the opportunity you have to create a group of cartels, we can register or deregister you with the authority or a board that has the power and responsibility to do the same.

It also has the responsibility to conduct local and international coffee market intelligence and promotional activities, so that they can help the farmers, including in marketing Kenyan coffee abroad. It also has the responsibility to put in place a framework of capacity building and interaction of various players in the coffee industry because it has an overview of what is happening in the country.

If you contrast that, Clause 23 is on the functions of a county government when it comes to the coffee sector. What is key here is that they maintain an up to date register of coffee growers and nursery operators. This is very important.

Let me just digress a little bit. I came to learn, albeit it was late, one of the reasons why most of the young people in this country are not embracing agriculture or why it does not sound sexy is how it was presented to them. For a long time, agriculture was the patriarch and matriarch of the family's farm. They owned large pieces of land, then the farming itself was done in a very casual manner.

I sometimes pity ourselves because even the young people who are in their 40s and below who have bought farms are doing what we call telephone farming. Somebody is in Nairobi is sending fertilizer to someone. You do not know if anybody is taking care of your crops or livestock. People have farming which is not considered to be financially viable, but it can be very financially viable if you take the right steps. You have the right

seeds, marketing strategy and the scientists who are looking after disease and nutrients for your crops. It is the duty of county governments to go to the ground level.

Madam Temporary Speaker, the other day I tried small scale farming, and for the first time I realized that I have to look for professionals. I asked around for anyone who has a diploma from a Kenya Agricultural Research Institute (KARI) training college or the capacity to do it. Sometimes if you just do things haphazardly---

People must be willing to spend their resources. I know the challenge that the farmers have at the moment is that it is a bit costly for them to follow the proper procedure of having good seeds and good crop protection. However, the Government can give an incentive to people who are doing proper farming by giving them easy loans in the structure and form of the National and Constituency Development Fund (NG-CDF). That is a very important principle that is being perpetuated by the political side I believe in of the bottom-up approach. It calls for looking for the resources that will facilitate farmers to improve their crops and their livestock. In this case, it is the coffee crops.

This will be the function of the county government. The problem with our governors and how Kenyans understood devolution was to have big structures, tall buildings and big offices. This was because of two reasons; one, people appreciate that the governor has done so well because he has a white house for an office. That is fantastic. He has a big office that he spent Ksh500 million to build. However, what if that Kshs500 million was given to farmers to improve their crop production and their coffee. For sure that Government would be appreciated because the farmers are more and they would vote them back.

The legacy is long term because you improve the living standards of the people and they are able to take their children to school. They improve their lives. These are the things that we want county governments to concentrate on to make sure that they give out the necessary certificates and licences, enforce national legislation. When you say that you must not farm near a river, you enforce the national legislation. If we say that you must protect water source to facilitate irrigation, implement that national legislation. That is the role of the county government.

Madam Temporary Speaker, the county government also has a duty to inspect nurseries, pulping stations, warehouses, millers and roasters located within their respective counties. That is the same way we passed a law here that ensures that you can only sell potatoes packaged in 50 kilogrammes. My people in my county have benefited. My county assembly also passed a similar law in Elgeyo-Marakwet County. Now farmers in Lela area and Chebukoria area in Keiyo South who produce potatoes are able to sell their potatoes in the necessary packaging that will ensure they get good prices. This is exactly what county governments are supposed to do.

Monitor and report incidents of pests and diseases outbreaks to the board so that the board can now take action. I felt we should emphasize this because there must be a dichotomy between what the board will do at the national level which is a function of the national Government and what the county government is going to do. We must support the county governments. Those of you who are going to be governors, do everything possible to ensure that you deal with that issue.

Madam Temporary Speaker, something else I want to emphasize in this Bill is part of the research. The Bill brings back and recognizes the authority and power of the CRI and the importance of knowledge and education in ensuring that we have a proper coffee produce in our country. This institute does the responsibility of advising national and county governments on matters research. It has the responsibility of disseminating information and information sharing locally and internationally and improve production and sharing of technology and so forth.

This again is a very important institution staffed with very qualified individuals in the areas of coffee. They will ensure that our country gets necessary information. The issue that we have been suffering in this country with is the problem of not applying education. Research is done by various universities and institutions, but it is not properly applied. We want to ensure that through this Bill, there is interlink between the Coffee Research Institute and the county governments. That the county governments having representation in this board will also utilize resource that is coming from this institution and make coffee production a very lucrative business.

Madam Temporary Speaker, I just want to conclude by saying we have struggled as a Committee. Even though there is a committee that was established by the President and gazetted we have had a problem with the current Cabinet Secretary (CS). The conduct of CS, Hon. Munya is unbecoming. He has become like a direct agent of cartels. He is operating against the same Government he is serving.

The Cabinet establishes a committee that will make sure we take coffee products to commodity exchange. Himself he takes matters into his own hands and gazettes a law that does not operate even under his Ministry so that Capital Markets Authority do not come and regulate coffee as commodity being traded in the country.

I will table the letters doing exchange between the Attorney-General and CS, Hon. Munya. The Attorney-General stops short of telling him that as a lawyer, you should understand what the law is all about. This is what blinds this nation. It is because of the small and short term interests that individuals have in this country.

Madam Temporary Speaker, I pity this because CS, Hon. Munya comes from a region that he should be protecting the farmers. He comes from Mt. Kenya region where most of the farmers are crying about coffee prices. People are cutting their coffees and establishing brick and mortar building flats yet coffee can be more lucrative and employ more people in this country than flats which are being built.

The CS is falling into the hands of cartels. The danger with this behaviour is that it usually opens appendices before election. Your guess is as good as mine. It is because there are incentives that come with cartels when they know that elections are around the corner. They know that politicians and aspirants want money. We want to tell the CS to respect the Cabinet itself and the President who established a committee that wanted transparency and accountability.

Madam Temporary Speaker, as a Committee, we will not get tired raising these issues because the exchanges that we have here cannot go unchallenged. I want to request this House today. Let us debate this Bill robustly today and possibly dispense with second reading tomorrow. This is so that next week we come back to do the amendments in the Committee stage and pass this Bill. It goes to the National Assembly and we sort

this issue. We want to go home back to our counties after this term, if we would have done nothing else for five years, we would have liberated our farmers. That is if we can only do what we are doing in so far as coffee and tea concerned.

I beg to second.

(Question proposed)

The Temporary Speaker (Sen. Nyamunga): Sen. Wetangula, proceed.

Sen. Wetangula: Madam Temporary Speaker, thank you. This Bill is very dear to my heart. I grew up as a little boy. Every Friday afternoon and Saturday morning, we were picking coffee during harvest season. After picking coffee, we would put them in an ox cart and travel to three, four or five kilometres to deliver to the coffee society factory. When the payments came those days, it was an early Christmas for the families. On such a day, we would eat chicken and *chapati*. We would even eat rice which was only reserved for Christmas. Those were the days when the country and Government valued the farmer.

I want, as I support this Bill to salute my brother the distinguished Senator for Embu County. It is not just now that he has shown his soft heart for farmers. When we were in Government together and in Cabinet, he continuously distinguished himself as a protector of farmers. He spoke and acted for farmers. Unlike many Ministers who sat in their comfort zones in Nairobi, I used to meet Sen. Ndwiga in the countryside wearing gumboots and walking in farms to see what the farmers were doing. He visited Bungoma and helped us to set up nurseries. His message of hope to the farmer was something to behold.

Madam Temporary Speaker, today when you look at the state of coffee farming in Kenya, it is a pale shadow of what it used to be. My County of Bungoma in 1959 before Independence lent money to Her Majesty's Government from proceeds of coffee from Bungoma Coffee Farmers Union.

The Bungoma County Assembly premises was constructed from the proceeds of Coffee by the late Mr. Pascal Nabwana in the early 1960s. It is as good as it was then. Imagine with the madness of building brick and mortar everywhere, Bungoma County has not found it necessary to construct another County Assembly because what was constructed from the proceeds of coffee in the early 1960s, is still as good as any new structure today. That is what coffee has done. People went to school from coffee proceeds. Coffee factories used to give bursaries to students.

Madam Temporary Speaker, then the disease of thieves came in. As the Mover said, you now go to a factory coffee, a clerk who has no single coffee plant is the highest paid farmer at the time of payment. It is because of loading kilogrammes and kilogrammes from every farmer. A farmer delivers 50 kilogrammes and the clerk offloads five for himself and credits himself until at the end of the day, he is the number one farmer with no single coffee plant.

Our institutions of governance have to look at not only the white-collar criminals in big Government offices, but even persons in positions of responsibility, that impoverish the farmer down there. Today, when coffee factory elections are held, persons

coming to vote are not real farmers. They are hired goons are criminals brought there with fake registration numbers to vote in one of their own to continue fleecing the farmer.

This Bill seeks to change the management of our coffee industry. I encourage the Mover, Sen. Ndwiga, that there are a few things that he may wish to look at at the Committee Stage, so that we make it even better at that stage. Agriculture is a devolved function. So, I agree and laud the sharing of responsibilities between the National Government and county governments. As we do so, accountability of those manning this important industry must be emphasized.

When the new Constitution came and we brought in the AFA Bill, that was the beginning of destruction of farming in Kenya. We took all crop legislations and lamped them under one composite Act of Parliament. The sugar and pyrethrum industries went. Rice and maize farming were compromised and coffee farming killed. Today, we are now on a reconstruction path. This reconstruction must be people-centred because the farmer is the most important person in any matrix about farming. We are not going to have the bad old days where people were sitting in Kenya Planters Cooperative Union (KPCU) headquarters earning billions of shillings and the farmer toiling and moiling from morning to evening, looks like a beggar. We want to put authority back to the farmer and money in the pockets of farmers.

As we do so, I want the Mover of the Bill to consider several things that I want to point out. One is in Clause 4. With devolution, I do not know why we want to keep the headquarters of this Coffee Board in Nairobi City where no coffee is grown. This is now the cartels in Nairobi City then micromanage the farming in the country. I do not mind the CBK being domiciled in any of the major coffee growing areas, whether Embu, Meru, Trans Nzoia, Bungoma or wherever. That way, people will feel that it is a devolved function. Even Kisii County because Kisii is a major coffee growing area.

Madam Temporary Speaker, we need to decentralize things from Nairobi City and take them to the real producers of the crops. I do not mind my brother, Sen. Ndwiga, hosting this CBK even in Embu where he comes from. Keeping everything in Nairobi City where farmers who want services are sometimes brutalised by not very friendly people, lose their money and have to spend a lot of money in expensive hotels. I want him to consider that.

In Clause 5(1)(d), I do not understand why the Committee wants investment of Board money to be referred to the CS for National Treasury for approval. I thought being a Board corporate, when they want to invest money, their line Ministry is the Ministry of Agriculture, Livestock and Fisheries. It is not a matter of taxation and something that requires the National Treasury. As it is, the National Treasury is so tied down battling how to deal with our runaway public debt, that dealing with coffee money will be one of their least interests.

If you do not trust the Board to handle the finances and you need ministerial approval, then give it to the mother Ministry. I am sure the future CS of Agriculture, Livestock and Fisheries may not be as unreasonable as the one we are experiencing today. So, we will have things done properly.

Clause 7 is on persons who will serve on the Board. I am always very uncomfortable about just saying a person is eligible because he holds a degree from a

university recognized in Kenya. When dealing with coffee, we cannot just have a member in the Board with any degree. Suppose somebody turns up with a degree in Bible and you want him to sit on the Coffee Board?

I saw a university offering a degree in witchcraft. What if somebody turns up with a degree in witchcraft from a university recognized in Kenya and you say this person is now fit to sit in CBK?

(Laughter)

We need to be more definitive in what degree we are talking about. If we are talking about coffee, it must be a degree relevant to crops, more particularly the crop in issue. So, let us not be vague and say a degree from a university recognized in Kenya. We have very weird public officers in this country. A CS will just appoint somebody with a Bachelor's in witchcraft and say he has a degree recognized in Kenya and he should be let to sit in CBK. So, we need to look at that and see if we can change it.

Madam Temporary Speaker, we are in a free-market economy and we should not over-regulate, but bring sanity to the industry. When you over-regulate, you undermine the efficacy of the farmer in producing. There will be too many roadblocks and those licences are normally toll stations and the farmers suffer in the process. For example, in Clause 10, I agree that the Board must perform these functions of regulating and promoting development of the industry, registering coffee dealers and so on. In fact, the regulation, registration and policing must be the pillars.

Madam Temporary Speaker, you heard what the Mover said. That there are people who sit at the top and decide what is grade A, B, C and D. They swindle the farmer, export is as one grade and then take the money. Those are the people that you need to focus on. Get what Safaricom calls a *mulika mwizi* and focus on them, so that you reduce the nefarious activities that hurt the farmer.

There is a provision in some clauses that I want the Mover to really look at. The first one is the provision in Clause 23. I think it is just the language. When you say, "each county government shall," it means that all the 47 counties are obligated, but not all the 47 counties grow coffee. When you say that each county government shall implement the national Government policy relating to coffee, it means that you are going to force Wajir and Mandera counties to implement a coffee policy. I think that you need to find the language. You can say each county government where applicable or where coffee is grown is obligated to enforce the provisions of the clause.

This is so that we do not start having the madness we had with the fish ponds. Even with the study showing that in Wajir and Garissa counties, evaporation rates are over 85 per cent, we saw the Government taking money to construct fish ponds there. You put in fingerlings and within two weeks, all the water has evaporated and money had been stolen. However, in the books of the Government, fish ponds were constructed all over the country. We must have "where it is applicable," so that it is not everywhere.

Madam Temporary Speaker, I also support the need for county governments to engage in quality control which is very good. I have seen a provision where it says that when farmers seek licenses, they should not pay any license fees. That is very important,

although we need to provide a penalty for an errant county government official who levies fees from a farmer when it is said no levies should be applied to the farmer.

More importantly is Clause 26. Sen. Ndwiga should note it because it is very critical. It says:

“A person or entity shall not carry out the business of a coffee grower, nursery operator, cooperative society, coffee association or coffee estate unless such a person is registered by the respective county government in which the business is to be undertaken.”

I would like them to pluck out the words “coffee grower.” If I have my land and the climate where I am is conducive for coffee growing, I do not need to go and register with anybody. All I need to do is find an opportunity to get the nursery seedlings, plant the coffee and deliver it where it can be processed.

At this rate, we are going to create a situation where the county governments will behave how President Museveni used say. Immigration officers think that their duty is to prevent people from travelling, not to help them to travel. The county governments will start thinking that their duty is to prevent people from growing, unless you go to them. Believe me Sen. Ndwiga when you go to them for the permit, you will pay money even if you say a farmer should not pay. This is because a cartel will establish itself somewhere and will deal with this. I think we need to get this overregulation out of this statute.

Madam Temporary Speaker, why I say that should be removed is that when you read Clause 26 together with Clause 27, you see the danger. Clause 27 establishes an offence. It says:

“A person who contravenes the provisions of sub-clause (1) on registration commits an offence and is liable to conviction a fine not exceeding Kshs1 million.”

If a farmer wakes up and plants half an acre of his coffee without that permit, he will be arrested, prosecuted and fined Kshs1 million. Do you see the danger? We need to remove that provision so that we leave anyone with their land who can plant coffee, to do so without restrictions. All you need for quality control is to license pulping, grading and marketing, so that we are more orderly.

Clause 29 says such a licence should be renewed every year. A coffee farmer must go for a license every year for a crop that lasts 100 years? It does not make a lot of legal sense.

Madam Temporary Speaker, on the establishment of the CRI, I do not know what prompted them to say that the headquarters of the institute shall be in Kiambu. Unless you are talking of the existing CRI in Ruiru. There are counties that grow coffee like Kisii, Bungoma and Nyamira. We do not want to start competing. You should say that the CRI shall be the one already established in Ruiru, or something like that. When you say Kiambu, I will ask why not Bungoma, Embu, Meru, Nyeri or Kisii? This ambiguity should be cleared.

The CRI should be liberalized within this statute so that the CRI in Ruiru can open research satellites in Kisii, Bungoma, Kitale or wherever. We have different climatic conditions in various parts of the country. The research should continue so that if

we want to change the cycle of the Meru farmer from *miraa* to coffee, we should have research that brings in various varieties of coffee.

Madam Temporary Speaker, those are some of the issues specific to the statute. I do not know if Sen. (Prof.) Ongeru is here. Yes, he is. He will remember the uproar that we had here when the current Cabinet Secretary (CS) of Agriculture, Livestock, Fisheries and Cooperative Societies, took money from the World Bank, denied all parts in the country and put it in one region. We must take away this discretion from errant CSs.

I urge that we have a provision in this Bill that says donor intervention funds for agriculture, particularly for a crop like coffee, must be equitably distributed across the country in all coffee growing areas. Why would you put Kshs3.6 billion in one area and ignore all the others, yet this money can make a lot of difference for everybody else?

As I finish, coffee has made countries. Brazil is Brazil, Colombia is Colombia and Bolivia is Bolivia because of coffee. Kenya used to be a major coffee growing and exporting country. For those who went to school earlier on like Sen. Ndwiga and Sen. (Prof.) Ongeru, there was a book we read in primary school called the Journey of Mr. and Mrs. Mtapingwa by Kato, Kokogonza and Jack. These fellows left Bukoba to go to Zanzibar for a coffee meeting.

The writer of this book traces a journey of coffee growing in Kenya from Bukoba to Jinja, Mbale, Bungoma, Kitale, Kiambu, Arusha, Dar es Salaam and eventually to fly to Zanzibar. We used to read that book from January to December. At the end of the year in Standard Four, we had walked through East Africa with coffee. That tells you how important East Africa was as a coffee growing area.

Madam Temporary Speaker, can I beg for a little more time?

The Temporary Speaker (Sen. Nyamunga): Can I give you two minutes?

Sen. Wetangula: Five.

The Temporary Speaker (Sen. Nyamunga): There are a lot of interests. Just try to summarize.

Sen. Wetangula: Madam Temporary Speaker, that is okay. That journey tells you how coffee was important. As I talk about coffee, Sen. Ndwiga will tell you. About 20 years ago, Vietnam imported Ruiru 11 seedlings from Kenya to start growing coffee. Today Vietnam is number two to Brazil in the growth and export of coffee. We gave them our seedlings, Ruiru 11. They are now second to Brazil in the growth and export of quality coffee. In Kenya, we are still struggling to reinvent a new statute to manage our coffee. You go to the countryside and I am happy you have put in this Bill extension officers.

When we were growing up, every once a month, a man called *Karakacha* an agriculture officer. In the village they were called *Karakacha*. A *Karakacha* would come to your home and walk around with your father and mother. I used to see him weeping parents for neglecting their coffee. They would go round and see it is not enough to plant coffee. It is more important to look after your coffee. By looking after your coffee, you have an income for your family. We want serious extension services to help the farmer.

Madam Temporary Speaker, I am happy that you have put that in this Bill so that farmers are not just left to themselves. You plant coffee and do not know when to prune

it, top dress, weed, or what to do with your berries if there is frost and you do not know when to spray. This is what they should do. I am happy that you have incorporated this.

As my brother from West Pokot County walks in, West Pokot by the way is now the new frontier for coffee growing. I want the Senate Majority Leader to join this House in condemning CS, Hon. Munya for taking all the money from the World Bank and forgetting that West Pokot, Trans Nzoia, Bungoma, Kisii, Nyamira, Kakamega, and Vihiga counties grow coffee. He takes the money to one region. When we asked him, he arrogantly said I will give them cotton money. Cotton is not the alternative to coffee.

Madam Temporary Speaker, if you go to West Pokot, you cannot tell a farmer do not grow coffee, please grow cotton. They are growing what is suitable for the climate. We want to see that any money whether it is from the taxpayer or donor to benefit all Kenyans regardless of where they come from and where authority for the time being resides. This is so that Kenyans can grow together and be happy as one. One big happy family of Kenyan farmers called Kenyans. Sen. Ndwiga, I salute you because this has been a calling for you. Continue leading this country in the revival of coffee.

Finally, I encourage you to set up a Parliamentary caucus on coffee with voluntary members of all of us who come from the frontier where coffee is growing. This is so that we can review day today existing legislation, bring new legislation, and even lobby donors for supporting this programme so that our people move away from poverty and start living more decent lives than they currently do.

I support the Bill.

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Musuruve will come after Sen. Were. I give this opportunity to Sen. (Prof.) Ongeru for now.

Sen. (Prof.) Ongeru: Thank you, Madam Temporary Speaker for giving me the opportunity to contribute to what I think is the most important Bill, Coffee Bill, 2020 before this House. I say so because there was a time in the history of this country during early years of our Independence when we had this rather disastrous moment of Chepkube.

It was the 'black gold' that gave the name of the coffee. That it was such an important element of our commodity. People travelled and I could see people carrying money in sacks from the banks to go and buy coffee in Webuye, Chepkube and the other areas. This was because the international market was such that it was able to scale the heights of the top most prices internationally.

Madam Temporary Speaker, I know from my county where I come from in both Kisii and Nyamira counties. We have one of the most effective cooperative societies which was the Coffee Society of Kisii. They had the most important imposing building called the Kisii Coffee Building. Whoever was a coffee manager in Kisii was a much bigger person than even the bank manager in terms of rating. This was because he handled a commodity which was precious in the hands of people.

I am saddened that there has been a complete erosion of this commodity that was able to put food on the table, educate our children. That is not only to the secondary level, but the universities and also who were going out of this country. They got education because of coffee that they were earning from the small holding which was properly organized. We were able to deliver the cherries and other things to the coffee freshening

places. Even the small little plot I have in Kitale, Trans Nzoia County I see at the riverbed the coffee building and cleaning facilities which were there and the coffee just disappear like that.

Madam Temporary Speaker, coffee is such a precious commodity and it has a very high value. Sen. Ndwiga has testified today that he smiled to the bank recently when this reorganization came. When we started talking about this coffee and the cartels who had completely taken over, they did not leave any room for anybody to come in. If you came in, even if you were a grower, you were treated as an intruder.

It is because of this noise and the Committee on Agriculture, Livestock and Fisheries which took action and started speaking loudly. Those of us who were the supporters of the Committee from coffee growing areas, we made our noise known. You began to see some level of sanity creeping in. That is why they are fetching the better prices. This is analogous to the tea situation.

Madam Temporary Speaker, recently when we started making noise and we had an Act of Parliament here, I have seen Kenya Tea Development Agency (KTDA) in very frantic manner trying to reorganize the assets. I even saw some of the dividends being paid from non-tea earnings. In other words, the investments they had made in non-tea assets, they are now paying dividends which we never used to get before.

This Bill is seeking to rationalize to control the cartels that have been both the managers of the coffee industry. They have been the marketers and the ones who are collaborating with international buyers. They are one and the same thing. If you check the buyers here and in London, Germany, Egypt or in other places, you will find it is the same group of people who are all over the place. Therefore, the poor little scale holder farmer was held captive of these cartels and they were unable to move.

Madam Temporary Speaker, that is why we started seeing the coffee industry sinking. Similarly, pyrethrum sunk under the same element. I do not know where we got this AFA animal from. It has completely messed up the agricultural industry and more so, having regard to the fact that agriculture is a devolved function. Therefore, there was no order on handling individual crops, particularly coffee, pyrethrum, sugar and tea. This has become a menace to a farmer in this country.

This Senate must, therefore, pump sense into a legal process or mechanism that will restore the dignity and ownership of coffee growing farmers so that they can earn out of their sweat. They put in so much sweat, but get peanuts because the costs are spreadout. By the time the coffee society takes their dues, then the marketeers I call them that for lack of a better word - take the big chunk of the profit, the farmer's net profit is not something to smile about. The farmer is then left in a desolate position.

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

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

So then, what is innovative in this Bill is a company incorporated under the Companies Act in the Capital Markets Authority (CMA) where there will be an exchange for this commodity. That way, at least this commodity will be open out there for the

highest bidder. So, whatever the auction value at CMA, like all other commodities, that will be the price assigned to the farmer.

Mr. Temporary Speaker, Sir, the second innovative part is separating the functions of the national and county government. I will come to that a little later because those functions are clearly spelt out. If we want a controlled system, then we must create those functions. For avoidance of doubt, if you look at the Second Schedule of this Bill, you will see that the coffee buyer's licence is a function of the Board which will be created. Then the independent cupping laboratory licence, warehouseman's licence, coffee liqueur, processing coffee import permit, clean coffee movement and permit for export are functions of the Board.

From No.7 all the way to no.15 is a county government function. That is coffee nursery certificate, commercial coffee millers licence, warehouse licence, coffee nursery certificate, pulping station licence, growers milling license, coffee roasters licence, packaging permit from the county of origin and clean coffee movement permit from the county of origin.

The separation of powers, the Chairperson of the Committee has appropriately apportioned the function. I am bringing this schedule into this discussion is because when you look at the representation at the Board, level, there needs to be a little adjustment so that the county governments get more representation. Although you have assigned two directors who will be nominated by CoG, I would like to see a higher representation. There are many coffee growing counties and we would like to have a higher representation so that they are able to do a good job. If that is impossible, then we must find a way for the CoG to bring in effective Board members who are very effective in the operation of that function.

Looking at Clause 10 on the Board of Directors and their functions, one of their functions is 10(f) – conduct local and international coffee market intelligence and promotional activities, including the application of the Kenya Coffee Mark of Origin. I heard my good friend, Sen. Murkomen, saying that the ODM Party leader said about the mark of Kenya products. This is already contained in this Bill. Therefore, the party leader was not off the mark. He was thinking ahead of the Bill that is before us today.

Mr. Temporary Speaker, Sir, one of the things that the Board will do is to register, maintain and cause to be published an up-to-date register of coffee dealers, coffee growers, nursery operators, coffee cooperative societies, coffee associations and coffee estates in the country. Now, in Clause 23, these are the same functions the county governments are also performing. We need to look at how to iron out so that we avoid duplication of services and functions. I think the Chairperson has already seen that duplication. However, there is no harm in the CoG bequeathing that register to the Board, so that they put in on board and carry out the function.

I see my time is almost up although I would have liked to speak much more.

The one thing that I wanted to bring out is that for the coffee farmer to carry home something tangible, let us encourage county governments to invest in the farmer, whether in the coffee or tea industries and others. Therefore, we should give them a higher responsibility.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, Senator! You still have seven minutes to go.

Sen. (Prof.) Ongeru: Thank you, Mr. Temporary Speaker, Sir. This should be the first function of the county governments in order to encourage the farmer. All these credits coming either from the World Bank, any other Bretton Woods Institutions or the donor countries to the farming industry and particularly the coffee industry, it should find a direct injection to county governments. The county government can then dispense that money directly to the farmer. Very little, if any, should be left at the Board level just for normal administrative functions. The bulk of that money should be transmitted to the county governments and directly to coffee farmers, who can then benefit from new technology and knowledge in the coffee industry.

One of the elements is research into coffee diseases that may affect farmers, provision of fertilizers and farming input. It is important for farmers to be educated on the picking of the cherries, drying them up and even carrying them to the marketing point.

The movement of the coffee from point A to B is very critical because this is a high value commodity. Coffee is subject to thievery by cartels who have not learnt to farm and earn a living through their sweat. They just want to carry away the very little that farmers should earn from their coffee. I believe it is important that any money coming should be a direct injection to the farmer.

I like the idea in the Bill where it talks about value addition. When I travel today, I like buying tea that is made in Kenya. It is pride. When you visit a country and they receive it, you can see a broad smile in their eyes. It is one way of marketing our product. I would like to see a similar thing when you are carrying coffee made in Kenya, so that it carries that name.

Mr. Temporary Speaker, Sir, I think we should get into the element of labeling the grades like AA and BB. We have been taken for a ride for a long time. I think you have heard it from the Chair himself that after labeling, it is all packed in one bag and sold as an AA product. The loser is the farmer who does not get full credit for his product.

Kisii, Nyamira and those other counties that grow coffee will be very happy that as their Senator, I am fully supporting this Bill today. I would like to see it come into law almost immediately if we manage to pass it through the Second Reading and the other processes. If it becomes law, it will be the best gift to the people of Kenya because coffee has suffered so much.

We can now start reviving the coffee farming industry, just as we want to continue reviving the tea, pyrethrum, sugar and cotton industry. These are very critical agricultural products for the farmer. Once the farmer has got all these products in place, we then have value addition to the microenterprises. You will make the farmer the richest person in this country. He will be a happy person and he will be able to contribute to the Gross Domestic Product (GDP) of this country in a much more effective manner than how he has because of the so called marketers and cartels who have taken the earnings on behalf of the farmer. The farmer has no opportunity to recoup some of his earnings.

With those few remarks, I fully support this Bill.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. (Dr.) Musuruve.

Sen (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to support this Bill. It must be noted that from very long time ago, around 1893, coffee was a very important cash crop. I remember that when I was growing up, my grandfather had coffee and tea plantations. These were cash crops that would help families earn income.

Coffee is largely grown in the Mt. Kenya region, particularly Kiambu, and other parts of the country. In as much as we say it used to be cash crop that benefited farmers, it was also a major foreign exchange earner for the country. However, because of cartels in this sector who exploited the coffee farmers, they made farmers uproot their plants.

When I was a lecturer at the Jomo Kenyatta University of Science and Technology (JKUAT) farmers at Karangaita Farm uprooted their plants because coffee farming was not economically viable. We need to support this Bill by Sen. Ndwiga because it is addressing pressing issues that coffee farmers are facing at the moment. They spend a lot of resources and time farming, but returns are zero.

It is only in Kiambu where the coffee plants were uprooted, even in my grandfather's farm, coffee trees were uprooted a long time ago because they did not seem to add any value. This is the kind of situation our farmers find themselves grappling with.

As I said, they spend lot of time toiling on their farms, but their sweat benefits cartels. This also happened in the Mumias Sugar Company and the sugar growing areas. The sugar farmers in Mumias have been facing the same frustrations that coffee farmers are facing in the coffee growing areas. Some of them abandoned planting sugar cane because the returns benefit brokers in this sector. The issue of brokers in farming is real. We have to look for a mechanism of ensuring that we protect our farmers from brokers.

This Bill comes in to protect coffee farmers from brokerage. The Bill talks about separation of powers. It cannot be that the person who farms is the same person who will do the milling and payment. That is corruption at the highest level, which we should not condone. This Bill comes in handy to ensure that the issue of exploiting farmers comes to a stop. It is very clear in this Bill that the person who does the milling is not the same person who farms and decides what to pay.

Mr. Temporary Speaker, Sir, as a country, we have assigned many international laws to protect our farmers and the health institutions. Kenya is a signatory to the Abuja and Maputo declarations that seek to support health and farming. It is important that we stick to the declarations and ensure that we adhere to international standards and laws so that we protect our farmers.

When it comes to farming, the farmer does not only help himself, but also helps the entire society, nation and international community. You will find casual labourers working on coffee farms. This means that if we can manage our farming activities and do away with cartels, we will create job opportunities for our people.

Employment does not have to be through white-collar jobs where you find yourself in a tie, coat and a good skirt or suit sitting in an office. Even blue collar jobs come in handy to support the employment industry. Farmers play a big role. They employ themselves, their friends and their neighbours. They are able to eke a livelihood for themselves. So, there is need for us to ensure that we support and protect farmers. This is what this Bill seeks to do.

Mr. Temporary Speaker, Sir, currently there are so many cartels in the coffee industry. We must do all we can to get rid of these cartels in this sector. When Kenyan coffee is brewed internationally, it is very expensive. Once it is processed outside our country, local farmers cannot afford it because it becomes damn expensive.

There is need for us to ensure that the farmer who plants the coffee is able to afford the same coffee that he planted. Just like cane, you will find that farmers who grow cane are not able to afford buying sugar, yet that cane that they planted is the same cane that will eventually be refined into sugar. This is the irony of ironies. You are the producer, but you are not able to consume what you produce because you cannot afford it.

Mr. Temporary Speaker, Sir, I support this Bill by Sen. Ndwiga. The issue of registration is important. There is need for county governments to ensure that coffee farmers are registered. For example, if someone is a miller, let that person be known by the county government. Let them have a licence to do what they are supposed to do.

When it comes to manufacturing, let the licenses be there so that the farmers are known. They should not only be known but also facilitated and helped and there should be linkages. This Bill talks about linkages. Another frustration that our farmers get and it is not only in the coffee growing areas, sometimes our farmers spend a lot of time doing what they are supposed to do. They plant whatever the cash crops and foods but when it comes to selling they have nowhere to sell.

Mr. Temporary Speaker, Sir, I want to give an example of avocado farmers. Some of them after harvesting avocados, they have nowhere to take them yet they are very expensive. The avocados can be used to make avocado oil. When it comes to the farmers who plant avocados, you will find that they just give the avocados to cows because they have nowhere to take them. There must be linkages to help our farmers know where to take the products that they plant.

When it comes to issues of policy relating to coffee, the register should be maintained by the national Government but it should cascade to the county government. This is so that the county governments are aware of the growers of coffee in the area. Apart from knowing the growers of coffee, they should also know who is licensed. When it comes to licensing, it should not be an issue that is so complicated. Naturally Kenyans are farmers and we have the art of farming. If we have that, it has to be nurtured and harnessed so that we even become professional farmers and skilled in whatever we are doing.

Mr. Temporary Speaker, Sir, farmers need to be encouraged by all means. I have seen farmers very desperate sometimes not knowing where to take their products. I remember there is a year when farmers planted a lot of maize but the maize was rotting in the stores. They did not know where to take their maize yet their children did not have fees. Maybe they do not have National Hospital Insurance Fund (NHIF) or they cannot maintain their own families. It is a sorry state.

We have to look for ways of encouraging our farmers. We have to ensure that the coffee farmers, sugarcane farmers in Mumias, Kakamega and the entire western region are encouraged. We cannot sit on our laurels when farmers are not being

supported. We have to look for a way of ensuring that farmers are protected from brokers.

In fact, what is in the farming industry is just the brokerage that someone decides, I am a farmer and at the same time I am a miller and accountant. It cannot work. There are pains that farmers go through and we have to see how to alleviate these pain. Farmers play a big role in the economy of this country. They should be the first people to be supported.

Mr. Temporary Speaker, Sir, I support this Bill that the Chairperson of the Committee on Agriculture and Fisheries has come up with. I believe that we are going to deliberate on this issue and ensure that it sees the light of the day and ensure that it becomes law. When it becomes law, then the farmers are going to commend this Senate. They will see that we stood in at the right time to ensure that they are not exploited. This issue of the common man being exploited must come to a stop. The common man is exploited in very many ways.

I want to give an example where the common man is exploited. Even the taxi drivers, you see them working so many hours. The youths of this country work very many hours but at the end of the day they do not get the real proceeds from their work because there is a mechanism in place that does not allow them to get directly. We must ensure that people gain from their sweat. Direct investment must have direct benefits. It is painful to have direct investments. You have taken loans from the bank to do direct investment but when it comes to rewards, it is diverted.

Mr. Temporary Speaker, Sir, I can feel the pain of the farmers in Kiambu County, sugarcane farmers in Mumias and Western. They must be protected. There is need to ensure that laws are in place so that when it comes to issues of sugar and coffee farming, they should not be politicized. Policies have to come in place to ensure that our farmers are protected. They have a right to earn from their sweat. They have a right to educate their children, go to hospital and afford NHIF because they must eat from their sweat.

Thank you and I support this Bill.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Shiyonga, proceed.

Sen. Shiyonga: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to support the Bill on coffee by Sen. Ndwiga. I would like to start by congratulating Sen. Ndwiga for both being the Chairperson of the Committee on Agriculture, Livestock and Fisheries where I once served and now he is presenting the Bill on the Floor of this House in plea for the Members to vote for it. This is to improve the lives of Kenyans who belong to the agriculture sector.

To start with, over 70 per cent of the rural households depend on agriculture in Kenya and even globally where agriculture is practiced. Coffee is not left behind because it is part of the agricultural crops that contribute to the growth of the economy both in Kenya and for those countries that are doing agriculture. It is with this in mind that we really need to appreciate this Bill and up the game when it comes to agricultural crops that we value that grows the economy of this country.

Mr. Temporary Speaker, Sir, in the 1980s, we used to see the crop of coffee being a giant. Especially the shareholders of this country's economy came from the

agricultural sector where coffee was part of the value. Right now the crops are being killed one by one. We need to assess and know or retrace where the country went wrong. Where did the systems start failing to fail agricultural commodities that we value in Kenya?

Agriculture is devolved. Somebody somewhere in Kenya still lives in daydreaming that agriculture belongs to the national government. This contributes a lot to the killing of this particular crops we are talking about. The other day we were making noise and we are still even making noise in Western part of Kenya and all those regions that grow sugar. Why are making this noise? It is because somebody somewhere is trying to mislead the world by crapping all that is meant for farmers to make it a national function. We need to leave it aside. We need to leave it for the farmers to breathe their fresh air.

Mr. Temporary Speaker, Sir, the Ministry of Agriculture, Livestock and Fisheries needs to realize. I want to state clearly that they need to realize that it is upon the farmers to uphold and enjoy the benefits that they have invested in and not to be controlled by any sector somewhere.

We have mentioned in the Bill about the boards. We want the boards that are mentioned here to be revamped to look deep into the issues of the coffee farmers. The same way it happened with sugar, cotton and others, we do not want it to happen again. When we are realizing the mistakes that we have done, it is there that we start finding our way back.

Farmers in Kenya need to be protected just as my fellow colleagues have said. It is from these Bills that farmers will be protected because we shall have reference points that are documented. We shall always be referring to a document that is undersigned and passed by the representatives of Kenyans.

Mr. Temporary Speaker, Sir, people tend to ignore a lot of things that are very obvious. One of the things they tend to ignore is agriculture.

Mr. Temporary Speaker, Sir, we want to tell the people of Kenya that we are here to protect them and make policies and Bills like the one Sen. Dullo has presented so that they know that their interests are valued. Not only are they valued but we do not want to leave these interests on a written document. We want them implemented. We want the concerned parties to implement what we document and pass here.

I wish this noise we are making becomes a smile, the way Sen. Ndwiga said he smiles when he is headed to the bank. How I wish that smile is transferred to other farmers in sugarcane, maize, cotton and other industries in Kenya. It is sad talking about corruption because it has killed our economy. Few people behave like they want to control everything they see. We have a Constitution that we value and if we strictly want to follow what is here, then we will not go wrong.

I assure Sen. Ndwiga that we shall support and pass this Bill. Let us stand together and support one another. When we do so, we support the citizens of Kenya and that is how our lives will improve.

Finally, it is our responsibility and that of the Government to ensure that this Bill is implemented. Let us also embrace any other Bill that touches on agriculture and ensure

farmers realise the benefits of agriculture. This is the only way to revive agriculture in our country and improve the lives of farmers.

I support this Bill.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. (Dr.) Zani, proceed.

Sen. (Dr.) Zani: Thank you, Mr. Temporary Speaker, Sir. I beg to support and congratulate the Committee on Agriculture, Livestock and Fisheries for this important Bill.

I just want to contextualize the importance of this Bill by saying that the value of coffee as a percentage of all export goods represented in 2017 is 5.5 per cent. Its share of Gross Domestic Product (GDP) is at 0.22 per cent. This is very high. I suspect the figures would be higher now because this data is a bit outdated. The coffee industry also contributes an average of Kshs23 billion annually in foreign earnings. This comes fourth after tourism, horticulture and tea. This just contextualizes the implementation of coffee in a country where up to 80 per cent of the people practice agriculture.

If you look at the internet and various information on coffee, Kenyan coffee trades very high and is well liked. In fact, it is one of the world's five best coffee in terms of brand. It is well recognized and known. Over time, we have lamented that more could have been done especially value addition.

I heard some Members mention this earlier. I remember we used to say that when we have that level of value addition, the coffee can be exported at better variance, so that we can reap the best because other companies come in and do that. I see the institute that has been put in place has that to also take care of amongst its other responsibilities.

It is amazing that most of the time when we think of coffee and its growth, we think of Mt. Kenya but there are many other areas which grow coffee. Therefore, we are looking at this as a national issue that really touches on various counties as well. They include the Aberdare Range, Kisii, Nyanza, Bungoma, Nakuru and Kericho.

Mr. Temporary Speaker, Sir, I congratulate the Chairperson of the Committee on Agriculture, Livestock and Fisheries. When I looked at this Bill, I thought it is the sort of Bill you would want to have for so many other crop sectors be it tea or pyrethrum and even the coconut we eat. In the Kenyan typology, you find different plants in different parts of the country and they are useful in their communities. Remember apart from the Coffee Bill, we are talking of the tea and coconut Bills. Most importantly, we need to come up with a structure for each of these sectors so that they are cushioned well.

This Bill introduces the Coffee Board of Kenya (CBK) and very important regulatory provisions. It gives clear roles for the national and county governments and enhances that counties can do more to promote coffee. It also talks about financial provisions for the CRIK so that they are able to do research. Their terms of services and how to conduct their business is stipulated. More important is that more research can improve the Sector over time.

Mr. Temporary Speaker, Sir, the Bill is very broad in touching most of these aspects but more characteristically, trying to decipher and have the national and county components and where the intermediary role can be. It also brings out how each of these can play their role to their utmost ability.

Where we have over 250,000 Kenyans employed in the production of coffee, we are talking about a sector that carries very many people. Remember this is just in production sector and we have not talked about the planting, nurseries and export markets. I heard other Senators say that the issue of ensuring better prices becomes very crucial because this means more.

In fact, there is a time when many producers, exporters and users of the product would want to ensure that a fair bargaining price has been put into place. This was a big debate especially in the French beans production. On the whole issue of ethical trade, so much money, time and effort has been put. However, is the price commensurate with what has gone in? I know there are certain countries in Europe which will only buy certain brands from shops where issues of ethical trade have been put into consideration.

Ensuring money in the pocket of the farmer and also market regulation issues were mentioned. I heard Sen. (Dr.) Musuruve speak to this a few minutes ago, saying it is not enough to just produce the product, if you are unable to market it well. It is important to ensure the regulatory schemes are put in place in order to do the marketing.

As I have said, most structures in this Bill, are the same ones we want for tea, pyrethrum, coconut, cotton and all our main sectors so that they can run very well. I remember sometimes back, there was a debate of whether we should have this legislation as separate or one stand-alone legislation for crops. I think what came out from it was that most of these sectors are so particular. So, it would be important to designate and segregate all of them.

Sen. Dullo talked about a parliamentary caucus for coffee within Parliament. Indeed, we need also parliamentary caucuses for all the other important aspects for the various crops. I think that is very important.

Mr. Temporary Speaker, Sir. It is a very well written Bill. Even before I go into the provisions of the Bill, we need to correct the spelling error in line two of Clause 25 (2).

“An applicant for a license under subsection (1) shall submit an application in the prescribed form---”

I think the word there should be “form” and not “from.” That is important because it gives the general provision. As we go into the Committee of the Whole and make our amendments, we can make that necessary amendment so that there is clarity in what we are saying.

This Bill is to ensure the development and promotion of the coffee industry and connected purposes. That coffee board makes it very essential for them to do this with their specific roles and responsibilities which are very clear. I will not go into them.

Mr. Temporary Speaker, Sir, as we bring in our ideas and recommendations, Clause 17 talks about the board and the qualifications. It says:

“(3) A person is qualified for appointment as a corporation secretary if that person—

(a) holds a degree from a recognized university;”

I do not know whether you have this. I propose that it should not just be a degree from a recognized university, but related to the area in which this Bill is dealing with. This

is so that it is someone with a background in agriculture or in something that is useful and one targeted so that this person will be better informed.

Mr. Temporary Speaker, Sir, part three talks about the role of the county governments. It is very clear. Throughout the Bill, the provisions for the national Government have been clearly outlined, but here we have the role of the county governments. I just want to confirm whether the specific responsibility for the county governments has been directly prescribed. I do not seem to be able to pick up on it. I think I saw something like that on the arrangement of clauses.

We have the role of the county governments. I think the intimated understanding is that all the other roles are national and now we are specifically talking about the county governments' role. Rather than have the role of the county governments then the role of the counties a most of the legislation tends to have.

Each of the county governments shall implement the national Government policy relating to coffee and maintain an up to date register. This is one of the things where this Bill brings into place. There is the idea of the registration, licences, processing for licences, reason for rejection of licences, the process of ensuring that another licence is given, the renewal of licences, which is an annual thing, the fee prescribed that has to be paid, and late licensing. This is just to make sure that anybody who is involved in this sector knows exactly what it is that they are doing.

We have the coffee associations and estates. The county governments should consider applications for the certificates, permits and licenses enumerated under the Second Schedule. I think this is what other Members also talked about. The Second Schedule is confounded in the sense that the it has both the issue in authority as the board. I suspect that here we are looking at the board at a national level, and then we the county governments.

This specific clause says that one of the roles of the county governments is to consider applications, certificates and licenses enumerated under the Schedule. It is like they are in charge of all this, yet the schedule itself is very specific. Some sort of cross referencing might be important to say which aspects are to be considered by the county government. I suspect that this is from 7 to 15. Separating that will ensure that the confounding is not there.

The Bill also offers extension services. We were told about we used to have extension officers who were so critical in showing farmers if they were on the right track. We should revive all this in collaboration with law enforcement. It will ensure security in coffee growing areas among others as over akin roles that make it possible for counties to thrive in the production of coffee.

Mr. Temporary Speaker, Sir, Clause 24 says that each county government may enact county legislation. It is very important to get support and making sure that there is a fitting margin between the sector and the counties. This is through the County Executive Commissioner (CEC), who has been given lots of responsibilities, but also through the Members of the County Assembly (MCAs) who are the representatives of the people and can do a lot in catapulting this area.

The regulatory provisions are very clear in terms of the names and location. All these have to be given. I already talked on the licensing and the need for licensing

control. The licensing authority should be able to be put into a place for various provisions.

There is a penalty clause there. For the first time, I am seeing an innovation about confiscation of products apart from a jail term and a fine. This is because these products are very dear. This is also expected to act as a deterrent. I think that is very innovative because most of the clauses for penalties are either financial fines or imprisonment.

Most of these CRI have been in existence for some time. The problem is the funding strategy for them. There is so much that they can do. If you think of now, the time that we have the COVID-19 pandemic and we are thinking about some of the vaccines or innovations---

We know that over time we there have been teams that made breakthroughs in the research for the Human Immunodeficiency Virus (HIV) between the University of Nairobi and Oxford University. Therefore, we want our institutes to lead in terms of providing some of these answers. Most of the time when you have a cursory glance, you will find that the issue is mainly on finances. I really hope that this Bill will be able to put money into research so that all these institutes can do serious research and help farmers.

These provisions are very clear in Clause 43. They are advising national and county governments on the resource requirements, prioritizing areas, facilitating the use of improved production and technology, and establishing adequate feedback systems from agricultural producers. These are very keen. It is a big thing.

The issue of value addition also goes there. Apart from just value addition for the product, we also have value addition in terms of the number of employees that are now coming into the sector. I have looked at the data. When we go to the export market, we have about eight key exporters of coffee. These are organizations and groups that keep employing more people who need to be there.

It says that the institute shall make policy and identify policy. All this is in Clause 43 (2). We also have the Chief Executive Officer (CEO), and their responsibilities and qualifications have been put there. Clause 57 is very important because it calls for accountability of the institution. It is on accounts and audit and the process in which that should be engaged simultaneously.

I think that this gives a very broad and clear perspective of what we expect within the coffee industry. Over time, once whatever we are talking about here is implemented, we will have a situation where we can have increment in terms of production.

One of the strengths of this Bill is the interlinking of all the various key institutions right from the grassroots, the county assemblies, the boards and institutions, the coffee board itself, the responsibilities that have been given to the Cabinet Secretary (CS), the CEC and the provisions for each of these.

Schedule I gives the outlining of how that board should work in very specific terms. It gives the time the board should be called and how they should conduct themselves. If I put in these provisions within the area, then we know that we can get to a point where we can handle our coffee well.

Our coffee is well known as Arabica but with five variances, SL28, SL34, K7, Ruiru 11 and Batian. Those variances are so important from different places. I see Sen. Sakaja. Sen. Sakaja, these variances are in existence and very important. Let me end

because I see my time is up and my red button is about to come up. I congratulate the Chairperson of this Committee and wish him. This is a Bill that was broadly supported. The first time we broadly support it again. The second time we hope it can move quickly into enactment as legislation.

Thank you very much and I beg to support.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Chebeni, proceed.

Sen. Chebeni: Thank you, Mr. Temporary Speaker, Sir. I also rise to support this Bill by Sen. Ndwiga. I think this is a very important Bill in this country. For a very long time, our coffee farmers have been at a disadvantage. The sector has had issues to do with beeping of prices, financial indiscipline, and climate change among other issues but nothing has been done in this sector. This has led to reduced productivity over time, massive financial losses in the sector and decline in performance of the sector generally. This is a timely Bill because the sector needed a complete overhaul. This Bill has just come to do that. It is going to give hope to coffee farmers in Kenya.

There are various provisions in this Bill that I think are very key. First of all, this Bill seeks to separate the roles of the national and county governments. When I look at Clause 23, it gives the roles of the county governments. One of the main roles that it highlights is to maintain an up to date register of coffee farmers, nursery operators among other people. This is a neat way of doing things so that we know who is who and who does what in that sector.

Mr. Temporary Speaker, Sir, the other role of the county government is to offer extension services on coffee production. This is very important. Extension services are very important to farmers because it allows them to understand the general feeling of the coffee growing. These extension officers will help the farmers in solving problems that are to do with growing of coffee generally.

When you look at the provision (g), it talks about enhancing security in coffee growing areas. Not long ago, I think there was an issue somewhere in this country where coffee was stolen. It is very important that we beef up security in coffee growing areas because this is a valuable crop. When you look at (h), it talks about monitoring and reporting of incidences of pests and disease outbreaks at the county level. That is also quite important so that we keep a record of that.

Mr. Temporary Speaker, Sir, when you look at Clause 37, it talks about establishment of a Coffee Research Institute. While there is one in place, but it is very important because this will exclusively deal with coffee challenges especially through research. It will ensure quality production of coffee and this will ensure that we achieve high grade of coffee in the country. Times are changing. We have technological and climate changes.

Therefore, a research institute that will deal with these issues is very important and key in this country. It will advise the national and county governments on resource requirements when it comes to growing of coffee. It will facilitate the use of improved production technology among other things. It will also deal with research on coffee diseases. Therefore, that is a very important clause because research is key and important for the development of this sector.

I want to agree with what Sen. (Dr.) Zani has said. Most of the time we have these institutes but they cannot work well if they are not funded. I am hoping that this institute will be funded so that it can adequately perform its functions to help the coffee growers in the country.

Mr. Temporary Speaker, Sir, when you look at Clause 63, it talks about dissemination of market information. This is a very key provision in this Bill. The institute shall carry out market research and analysis. Many small scale farmers do not know where to go about selling of their produce. A market research and analysis is very important. It goes further to state that they shall disseminate on its findings to all stakeholders.

That is very important because information is power. Everyone has a right to information even the small scale farmers in this country. Information is not known only to very few individuals at the top and the majority of stakeholders are left without knowledge or information on anything to do with coffee. This is a very important provision. The Bill proposes that we will have an open ended sort of communication. Information will be shared to all the persons involved in the coffee growing sector. That is very important. Therefore, nobody will be taken advantage of nor exploited because information will be out there.

Mr. Temporary Speaker, Sir, I do not want to take so much time. I think many provisions in this Bill are okay. It will come to help the coffee farmers in this country who have cried for a very long time. I want to congratulate Sen. Ndwiga for coming up with this Bill. I support.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Mutula Kilonzo Jnr., proceed.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir. I hope to take a short time so that we give an opportunity to the Mover to reply. This is a very important Bill. I would like to thank Sen. Ndwiga and his Committee for this Bill. We have had opportunity to discuss this and Sen. Ndwiga has invited me amongst others who come from coffee growing areas. It might surprise many that we grow coffee in Makueni County and we have amongst the best coffee in the country.

What is more important about this is that coffee farmers both in Makueni County and all over the country are the poorest. That is why I am happy about this Bill. Sen. Ndwiga and his Committee are now translating money into the pockets of Kenyans. I was surprised recently when Sen. Ndwiga informed me that they are now doing up to Kshs140 per kilo. If we were to duplicate this all over the country, the sort of despair you see in Kenya today that we politicians are taking advantage of would disappear.

Mr. Temporary Speaker, Sir, Kenyans are growing coffee and they can make money out of coffee. What is more surprising is that from Stockholm to Berlin, Paris, Milan, Kempten in South Germany, in all those places, the most expensive coffee in any coffee house is the Kenyan coffee. That is the contradiction about coffee farming in Kenya.

I recently travelled to Brazil and they are struggling to grow Robusta coffee which in some cases they end up blending with our Arabica coffee to make world grade coffee. This is a tremendous opportunity through our Committee on Agriculture,

Livestock and Fisheries to ensure that we can transform our counties. Half of this business is out there in the counties so that they can continue getting money from licenses *et cetera*.

Mr. Temporary Speaker, Sir, extension services is something that we must exploit. The varieties of coffee that Sen. (Dr.) Zani was referring to and I had an opportunity to discuss with one of the coffee farmers in Makueni County. He explained to me these varieties. With the sort of research institute that Sen. Ndwiga is referring to, at the touch of a button we will be able to tell the farmer in Makueni County to grow coffee X and do a nursery of coffee Y. In the same breath with the research and doing research on the soil, you tell them these are the inputs you require.

There are companies in Kenya who are doing value addition. One of them is Twiga Foods They come to your farm, take your pH and check your soil then they tell you plant this. After planting they tell you these are the farm inputs. They pay *et cetera* and when you harvest they collect and pay MPESA on the spot. These are private people and Government can do this.

Mr. Temporary Speaker, Sir, these are private and the Government can do this. I have read this Bill in its entirety and asked Sen. Ndwiga questions. There is no reason why our embassies all over the world cannot be the chief marketers of our coffee. What are they doing paying rent of Kshs2 million a month while we should be serving Kenyan coffee? We went for these meetings; I am referring to meetings we had in Brazil and by the end of the day, my head was spinning. The first thing the offer you is Robusta coffee and not water. That is a way of marketing their coffee. We can do this.

I support Sen. Ndwiga. Let us finish this thing quickly and get it out of here. They have done a good job and I do not need to go clause by clause. Just the same way we did the tea Bill, we can do the coffee Bill. That is the way to help that poor Kenyan farmer who has four coffee trees.

Finally, my grandfather was a very poor man and could only educate my father with proceeds from coffee. At some point, they contemplated cutting that coffee. My grandfather passed on and my father was persuaded not to uproot the coffee. My father took me to that coffee and told me it is what educated him. He said it was not making money but I should not touch it because one day, it will. That day, surely, has come through Sen. Ndwiga. This is the way to do it.

Therefore, I support this Bill. Let us take this message everywhere. There is no reason why we cannot sell coffee in the Dubai Expo. When you go to our Embassy in England, you get a cab that is written Kenyan Coffee and not Java. That sort of thing. This is the way to do it. You can find a variety of coffee to grow in even the most arid place in Kenya, provided you find a method of how to do it. I am sure we can do it.

Thank you, Sen. Ndwiga. This Senate would be so much poorer without you.

I support.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, I call upon the Mover to reply.

Sen. Ndwiga: Thank you, Mr. Temporary Speaker, Sir. May I start by thanking all the Hon. Members for their very useful contributions and also the kind words they have said about me and the Committee.

I will not go through all the contributions in detail. I just want to pick from where Sen. Murkomen left, that coffee used to pay school fees and give bursaries. That is where Sen. Mutula Kilonzo Jnr. has ended.

I am a product of coffee. When I went to high school, I never saw a cheque from my parents. I used to go to school with a letter from the manager of our cooperative society, addressed to the headmaster of our school. The letter would request for my admission, promising that my school fees cheque would follow in due course since I was a student of their member. First of all, I did not even know what “due course” was but that is how I went to school.

(Laughter)

That is why I am so passionate about coffee because it is doable.

Now, we have noticed how the sector was wrecked. I believe through this Bill, we will rectify most of the mischief in this sector. I confirm that this Board will be in Nairobi City but the Bill also says that it will open branches throughout the country, wherever coffee is grown. I remember Sen. Wetangula saying that we should not just say “university degree”. We should say “relevant degree”. It is true. If a fellow has a degree in witchcraft from Kitui University, they will not help in the coffee sector. We will check that.

(Laughter)

Mr. Temporary Speaker, Sir, the other areas Members raised is about introduction of a Parliamentary caucus. The days we transformed Kenya Tea Authority (KTA) from an Authority to the Kenya Tea Development Agency (KTDA), we used to have a strong caucus called the Coffee and Tea Parliamentary Association (*COTEPA*). I believe that we should revive that. Even after we pass this Bill, the caucus should be revived because it is not just passing the Bill, but we need to follow and ensure that what we have passed is followed by all those other authorities and institutions that we are creating through the Bill.

Most Members have talked about value addition. The Bills says clearly that we want to encourage value addition. There is no big value addition of Kenyan coffee because Kenyan coffee is not available. The people who mill the coffee are the marketing agency and they take all the coffee to Europe. In this Bill, we now said that we want to encourage value addition. In fact, we want to encourage entrepreneurs to start coffee value addition in Kenya. We have said in the Bill, that we will allow duty free importation of other coffees from outside so that we become importers of coffee from wherever else, to blend with ours for export and other purposes.

Mr. Temporary Speaker, Sir, funding of the Institute is properly captured in the Bill. We have said there will be a levy. We used to fund--- If you wait for the Government to fund any research institute, it will fail. Here, we are saying because this is our Institute as coffee growers, we will fund it through a levy. We are comfortable that way because we used to do it before when we had a vibrant Coffee Institute. We will do it again so that we get the Institute that will serve the coffee sector.

At this juncture, I wish to put on notice the people who benefit from coffee and they are not farmers. If you want money that is labeled “coffee” go and grow coffee. The moment we pass this Bill; no money will be available for fellows in Nairobi City who make money from the farmers that toil. If you look at the coffee value chain, in fact, the poorest paid person is the farmer.

This Bill intends to reverse that trend, so that the farmer is the one who owns the coffee from his farm. Through primary processing and milling, the coffee still belongs to the farmer. When it is sold, the money belongs to the farmer. The DSS we are putting up through this Bill will mean that everybody else will be paid after the farmer is paid, because the coffee belongs to the farmer.

Mr. Temporary Speaker, right now once the coffee leaves the farmer, the farmer does not know what happens to it until someone says, “This is what we are paying for your coffee.” Can you imagine a situation like that? We are surprised that Kenya has no coffee? In a system like that, there will be no farmer who will farm coffee and wait to be given a pittance while everybody is making money.

The truth is that all these players who have been in the market till now and have messed up the coffee industry have already been put on notice. The farmer will be the one who will own their coffee until it is sold and they get the proceedings of that coffee.

Mr. Temporary Speaker, Sir, I am very proud that we have been able to get this Bill this far today. I hope and pray that after we have passed this Bill, the systems we put in place will be followed to the letter to make sure that this happens. One of the problems that we face in this country is that people start issues that are eventually handed over to people who have no interest in all these things.

I, therefore, pray that after we have enacted this Bill, we will be here in the next Senate to make sure that these things have been followed. I am putting the people of Embu on notice that I will seek their vote to come back and follow up on the issues on the Coffee Bill that we would have passed to make sure that all the things that we have passed here are followed to the letter.

Mr. Temporary Speaker, Sir, with those few remarks, I beg to reply and request that you put the question at a later date.

I thank you.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Thank you, Sen. Ndwiga.

Hon. Senators, I, therefore, defer putting the question to tomorrow afternoon.

(Putting of the Question on the Bill deferred)

Next Order.

The Chairperson of the Standing Committee on Finance and Budget is not present.

Next order.

Second Reading

THE SALARIES AND REMUNERATION COMMISSION
(AMENDMENT) BILL (SENATE BILLS NO. 31 OF 2020)

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(Bill Deferred)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Kwamboka.

Second Reading

THE BASIC EDUCATION (AMENDMENT) BILL
(SENATE BILLS NO. 4 OF 2021)

Sen. Kwamboka: Thank you, Mr. Temporary Speaker, Sir. I rise to move that the Basic Education (Amendment) Bill be read a second time. I have a passion for children in this country. This is the second Bill that I am moving. The first Bill that I moved was the Care and Protection of Child Parents Bill. It goes concurrently with this second Bill of basic education.

This Bill seeks to amend the Basic Education Act to ensure that school going children in Kenya are provided with milk. Through this amendment, the national Government shall be required through the respective county directors of education, to supply milk to all pupils in Kenya.

Mr. Temporary Speaker, Sir, I am a beneficiary of *maziwa ya nyayo* during the Moi era. I thank the second President of this country, Mzee Daniel Toroitich arap Moi. He used to think more about the children. Milk has very many benefits. It is very nutritious and it provides proteins.

In this country, you will find that the enrolment of children going to school is low because of poverty. Many children do not go to school because some of them are less privileged and cannot afford food in school. We have a lot of money that is being misused in this country and yet we do not think about our children.

The low number of children, more so in arid and less fortunate areas--- Even in Nairobi there are places in the slums where the children cannot go to school because they cannot afford a meal. I thought that it is wise that the Government should rethink bringing the milk back to school.

Mr. Temporary Speaker, Sir, during our days we used to receive milk twice a week, on Tuesday and Thursday. We used to be motivated by this milk. Nobody wanted to miss going to school because of the milk. If we introduce it in schools, it will help to retain the admission of pupils in school. It will create employment. With the higher number of enrolment of children going to school, we will have a number of teachers required in the schools. Right now, we have teachers who have no places to go to school because of the low number of children in schools.

The milk will also benefit the farmers of this country. We will have many farmers going into dairy farming. Nowadays, dairy farmers even end up pouring the milk because there is no enough market for it. Through this programme, areas like Garissa, dairy farmers can sit down with the county government and see how they can supply it so that it can help our children. Camel milk is good too.

Mr. Temporary Speaker, Sir, through this school milk, we are going to eradicate poverty. Right now people are not keeping cows because they know if they keep more

cows where will they supply the milk? By this one, we have more farmers like one of us who is a dairy farmer, Sen. Olekina. It was last week when he was asking some of us Senators if he can deliver milk to our homes. This will be the best solution because he will find a market so that he can sell his milk and it can benefit our children.

With this milk, it lowers the risk of obesity even in our children. This is because of the high fat which is in milk. It has some nutrients which helps to lower obesity in our children. Milk has got a lot of benefits. We have those children who were born and they did not have the privilege of breastfeeding. Through that, it will enable then enjoy having that milk in schools which will help them grow strong and healthy.

Mr. Temporary Speaker, Sir, I remember this milk used to motivate me very much. When I was in primary school, I used not to miss school because knew very well if I work hard, I would be the top number one, two and three. We used to be given additional milk. That used to motivate us because there is a time I was given four packets of milk. I drank one and went home with three packets. The three packets made us prepare breakfast.

It is not hard for this country to think about this generation of children because they are the future leaders of this country. If we motivate these children, they will work hard in school and they will be the best leaders in this country. As we know, a hungry man is an angry man. Let us motivate our children. Let us make use of this milk and put more benefits to our farmers in this country. With this milk, it will even give us more benefits because we have more products which come through the milk. We have the cheese and more products which can help build this nation.

Mr. Temporary Speaker, Sir, because it is a straightforward Bill, I now beg to ask Sen. (Dr.) Milgo to second this Bill. Thank you.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. (Dr.) Milgo, proceed.

Sen. (Dr.) Milgo: Mr. Temporary Speaker, Sir, I was waiting for you to give me a chance. Thank you. First of all, let me take this opportunity to thank Sen. Kwamboka, the Deputy Minority Whip for coming up with such a wonderful Bill.

This Bill has only amended a very simple clause under Section 38 (a) which is requesting the national Government to consider together with the county governments to introduce the milk that was in schools initially.

Article 53 (1) (c) stipulates the rights of children. The first one is free education. Secondly is shelter and third is nutrition. Our government has done well in terms of free basic education and shelter is not bad. However, when it comes to nutrition, this one has been neglected for a long time yet it is very clearly put there in the Constitution.

Mr. Temporary Speaker, Sir, this is in line with the African Charter on the Rights and Welfare of the Child where Kenya is a signatory. However, this one has been ignored. My Committee on Education has been interrogating issues Early Childhood Development and Education (ECDE) across the country.

We realized that in those institutions, ECDE centers where milk is provided, there was a surge in the number of pupils. In those areas where there was no milk, pupils were few and they would all the time run away to other institutions where milk was provided.

I remember the *Nyayo* milk and Sen. Kwamboka has really spoken to it. Many of our kids would bring that milk and it was very sweet. We would also take it ourselves.

We did realize that it had a lot of nutrients in it and a lot of cream. Children would always look forward to going to school.

Mr. Temporary Speaker, Sir, on issues of great nutrition, particularly to the kids, milk plays a very critical role in enhancing the bone mass. Come the future at old age, the bones as an adult will not break. Milk is seen as something simple but it has nutrients that go a long way to ensure that there is health in the future. Apart from this, in issues of good nutrition, milk is included because it has got a lot of nutrients in it. It has phosphorus, amino acids and calcium important in bone formation.

A study in the journal of nutrition and dietetics spoke to this. Milk plays a very critical role in kids particularly in their later years in school. Those kids that have heard good nutrition including milk have reading skills, command in mathematics, sciences and their development is enhanced. This study is also supported by a study of 1,300 US institutes of health. That children who get healthy food including milk will in later years grow strong. They will be resistant to disease when in school.

Mr. Temporary Speaker, Sir, we have realized cases where many kids are susceptible to diseases. Government has been trying to treat but then prevention is better than cure. This can be prevented by ensuring that there is milk. Sen. Kwamboka has spoken at length that milk can go a long way. If we can supply milk to our kids, they will provide even market for our dairy farmers. It is another way of enhancing economy in our country.

In our Committee, we will amend this Bill by ensuring that in areas where there is not milk, there will be a substitute that has something similar to what is in milk so that we have all these kids in this country having milk.

Mr. Temporary Speaker, Sir, I said when we were interrogating ECDE centers across counties, we realized that there were people who neglected this. Those people who have encouraged Public Private Partnership (PPP) like the World Food program (WFP) are able to feed their kids and they are very healthy. The number of kids in those institutions are many. I support the fact that there should be provision of milk in our schools.

I beg to second the Basic Education (Amendment) Bill, 2021.

(Question proposed)

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators., it is now 6.30 p.m. time to adjourn the House. The Senate therefore stands adjourned until Thursday, 22nd July, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.