

# PARLIAMENT OF KENYA

## THE NATIONAL ASSEMBLY

### THE HANSARD

Thursday, 1<sup>st</sup> July 2021

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

### PAPERS LAID

**Hon. Speaker:** Majority Whip

**Hon. Emanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I beg to lay the following Papers on the Table of the House:

Reports and Resolutions adopted by the East African Legislative Assembly (EALA) at the Fifth Meeting of the Fourth Assembly during the period 9<sup>th</sup> to 29<sup>th</sup> May 2021:

- (i) Report of the Committee on Agriculture, Tourism and Natural Resources on the oversight activity on the impact of COVID-19 on food security in the East African Community;
- (ii) Report of the Committee on Accounts to assess the status of implementation of the Assembly's recommendations on the East African Community audited accounts for the East African Health Research Commission and the East African Kiswahili Commission for the year ended 30<sup>th</sup> June 2017 and 2018;
- (iii) Resolution of the Assembly recommending to the Council of Ministries and partner states to enhance measures to prevent illicit financial flows; and,
- (iv) Resolution of the Assembly granting leave to introduce the Community Emblems (Amendment) Bill 2020, the flag at half-mast on specified occasions and events in honour of the EAC founding fathers and other public figures.

Thank you Hon. Speaker.

**Hon. Speaker:** Can we get the Chairperson of the Select Committee on Delegated Legislation, Hon. Kamket?

**Hon. Kassait Kamket** (Tiaty, KANU): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Select Committee on Delegated Legislation on its consideration of the Public Finance Management (Equalization Fund Administration) Regulations 2021, published as Legal Notice No.54 of 2021

**Hon. Speaker:** Next is the Chairman of the Departmental Committee on Defence and Foreign Relations. Let us hear the Vice-Chair, Hon. Tong'i.

**Hon. Richard Tong'i** (Nyaribari Chache, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

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Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Foreign Service Bill (National Assembly Bill No. 8 of 2021)

**Hon. Speaker:** The Chairperson of the Departmental Committee on Lands is next.

**Hon. (Ms.) Racheal Nyamai** (Kitui South, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Lands on its consideration of a Petition regarding historical land injustices committed against indigenous people of Vipingo Community.

Thank you, Hon. Speaker

**Hon. Speaker:** Next Order!

## NOTICE OF MOTION

### ADOPTION OF REPORT ON PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) REGULATIONS

**Hon. Kassait Kamket** (Tiaty, KANU): Hon. Speaker, I beg to give notice of the following Motion: -

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Equalization Fund Administration) Regulations, laid on the table of the House on Thursday 1<sup>st</sup> July 2021 and pursuant to the provisions of Section 205 (1) of the Public Finance Management Act 2012, approves the Public Finance Management (Equalization Fund Administration) Regulation published as Legal Notice of No.54 of 2021.

I thank you.

**Hon. Speaker:** Very well. Next Order!

## ORDINARY QUESTIONS

**Hon. Speaker:** Member for Changamwe, Hon. Omar Mwinyi.

*Question No.215/2021*

### MEASURES TO CURB MENTAL HEALTH ISSUES

**Hon. Omar Mwinyi** (Changamwe, ODM): Hon. Speaker, pursuant to the provisions of Standing Order No. 42A (5), I rise to ask the Cabinet Secretary for Health the following Question:

- (i) Could the Cabinet Secretary state the total number of persons suffering from cases of severe mental health breakdown per constituency?
- (ii) What is the ratio of male to female with regard to mental health patients in the country?
- (iii) What short-term and long-term measures is the Ministry taking to curb increasing cases of mental health in the country?

Thank you Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Health.

The next Question is by the Member for Nakuru Town East, Hon. Gikaria.

*Question No.220/2012*ACTION TAKEN AGAINST SCHOOL HEADS WHO FLAUNT  
DIRECTIVES FROM MINISTRY OF EDUCATION

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker, I rise to ask Question No.220/2021 directed to the Cabinet Secretary of Education.

- (i) Could the Cabinet Secretary explain why a number of secondary school principals across the country and in particular, those from Hillcrest, Upperhill and Nakuru Central secondary schools, in Nakuru Town East Constituency, have continued to defy the directive by the Ministry of Education, against sending students home due to non-payment of dues for the optional school lunch programme?
- (ii) What measures is the Ministry taking against such school heads who flaunt the Ministry's directive that leads to students' absenteeism and other vices as a result of being sent away from schools?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question is to be replied before the Departmental Committee on Education and Research. Next Question is by the Member for Nyatike, Hon. Tom Odege. Those Members who have Questions, just press the intervention button, like you have done now.

*Question No.221/2021*

## STATUS OF WORK UNDERTAKEN TO PREVENT FLOODING IN NYATIKE

**Hon. Tom Odege** (Nyatike, ODM): Thank you, Hon. Speaker. I rise to ask Question No.221/2021 which is directed to the Ministry of Devolution and Arid and Semi-Arid Lands, but I think it was supposed to be the Ministry of Environment.

- (i) Could the Cabinet Secretary state the total number of flood-related incidences responded to by the Government or its agencies and the amount of funds expended to mitigate them in Nyatike Constituency since 2010?
- (ii) Could the Cabinet Secretary further clarify whether the amount allocated for construction of dykes along River Kuja in Nyatike Constituency has been fully utilised, what is the status of the works undertaken so far, and amount paid to the contractor?
- (iii) Could the Cabinet Secretary explain why the construction works have halted and further why dykes were constructed on only one side of the river?
- (iv) What short and long-term measures is the Ministry putting in place to end the perennial floods in the Lower Kuja River in Nyatike Constituency which have negatively affected the economy of the region?

**Hon. Speaker:** Question will be replied to before the Departmental Committee on Administration and National Security.

Next Question by the Member for Kajiado Central, Hon. Memusi.

*Question No.222/2021*

## CRITERIA APPLIED IN SELECTION OF FORM ONE STUDENTS

**Hon. Memusi ole Kanchory** (Kajiado Central, ODM): Thank you, Hon. Speaker. I rise to ask Question No.222/2021 directed to Cabinet Secretary for Education.

- (i) Could the Cabinet Secretary explain the criteria and considerations applied in the selection of form one students to public secondary schools in the country?
- (ii) What is the rationale of students selecting schools which may not be registered for admission despite having preference on those schools?
- (iii) Could the Cabinet Secretary consider publishing the list of students and their preferred choices of schools against the schools they were selected to join?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Education and Research. Next Question is by the Member for Isiolo, Hon. Hassan Hulufu.

*Question No.223/2021*

## CLOSURE OF NATIONAL HOSPITAL INSURANCE FUND OFFICES IN MERTI SUB-COUNTY

**Hon. Hassan Hulufu** (Isiolo North, KPP): Thank you, Hon. Speaker. I stand to ask Question No.223/2021 directed to the Cabinet Secretary for Health.

- (i) Could the Cabinet Secretary explain the circumstances that led to the closure of National Hospital Insurance Fund (NHIF) offices in Merti Sub-County in 2020 and subsequent transfer of staff without replacement thus denying the residents of Merti the much-needed services?
- (ii) What measures has the management of NHIF put in place to ensure reopening of Merti NHIF offices for continued service provision to area residents?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question to be replied to before the Departmental Committee on Health.

Next Question is by the Member for Machakos Town, Hon. Dr. Victor Munyaka.

*Question No.224/2021*OPERATIONALISATION OF KALAMA  
SUB-COUNTY ADMINISTRATIVE UNIT

**Hon. (Dr.) Victor Munyaka** (Machakos Town, JP): Thank you, Hon. Speaker. I rise to ask Question No.224/2021 directed to the Cabinet Secretary for Interior and Coordination of National Government.

- (i) Could the Cabinet Secretary explain why Kalama Sub-County administrative unit, which was approved and duly Gazetted on 2<sup>nd</sup> August, 2017, is yet to be operationalised and funded?

- (ii) What steps is the Ministry taking to ensure that the said administrative unit is operationalised and staffed accordingly, including provision of offices, vehicles, furniture and equipment?

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Administration and National Security. The Next Question is by the Member for Tharaka Nithi, Hon. Beatrice Nkatha Nyaga who has written to request that her Question be deferred to the 6<sup>th</sup>. Her request has been acceded to, so the Question will be placed on the Order Paper as requested on the 6<sup>th</sup> of this month, that is, Tuesday, next week.

Next is the Member for Marakwet West, Hon. Kisang.

*Question No.225/2021*

STATUS OF CONSTRUCTION OF CHUKA–KAANWA-KARENI ROAD

*(Question deferred)*

*Question No.226/2021*

STATUS OF MOIBEN–KUSERWO COMMUNITY WATER PROJECT

**Hon. William Kisang** (Marakwet West, JP): Thank you, Hon. Speaker. I rise to ask Question No.226 of 2021 directed to the Cabinet Secretary for Water, Sanitation and Irrigation.

- (i) Could the Cabinet Secretary explain the status of the Moiben–Kuserwo Community Water Project that was launched in September 2017?
- (ii) What challenges has the project faced and what steps is the Ministry taking to address them?
- (iii) Could the Cabinet Secretary clarify whether the materials used in the project are of the required standard, especially the building materials and pipes?
- (iv) When is the project expected to be completed?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Question will be replied to before the Departmental Committee on Environment and Natural Resources. This ends the first segment of the Order, let us move to part (b) which is requests for Statements.

The first request is by Hon. Peter Kaluma, Member for Homa Bay Town.

**REQUESTS FOR STATEMENTS**

THE COVID-19 PANDEMIC SITUATION IN HOMA BAY COUNTY AND ITS ENVIRONS

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Thank you, Hon. Speaker. This is a request for Statement regarding the COVID situation in Homa Bay County and its environs.

Pursuant to Standing Order No.44 (2) (c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Health regarding the COVID-19 Pandemic situation in Homa Bay County and its Environs.

Hon. Speaker, COVID-19 Pandemic has adversely and negatively affected the residents of Homa Bay County and the surrounding counties in the lake region. The recent increased cases

have severely affected every village in the region more particularly, the elderly and vulnerable persons. It is of concern if the pandemic is not duly addressed and managed as an emergency. The region's population will be decimated considering that the region already has the highest HIV/AIDS prevalence, coupled with weak and inadequate health facilities and systems.

Hon. Speaker, it is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Health on the following:

- (i) What measures has the Government put in place to roll out and intensify mass testing and mass vaccination in order to build immunity across the country and in particular Homa Bay County and its environs?
- (ii) What measures has the Government put in place to develop health facilities in Homa Bay County and particularly Homa Bay County and Migori County Teaching and Referral Hospitals?
- (iii) What steps is the Ministry of Health taking to implement its undertaking previously made to Parliament to elevate Homa Bay County and Migori County teaching and referral hospitals to Level 5 to enable them benefit from grants and other facilities from the national Government?
- (iv) What measures is the national Government taking to establish at least one national referral facility in each county, beginning with the taking over of the former district hospitals now county referral hospitals and having them developed as national referral hospitals?

I thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Chair, Hon. Joshua Kutuny.

**Hon. Joshua Kutuny** (Cherangany, JP): Thank you, Hon. Speaker. The issues raised by the honourable Member are of great concern. They have also come to the attention of the Committee that there is a serious threat of COVID-19 Pandemic in the entire western Kenya and the Nyanza region. It will be a very rigorous exercise for the Committee. We request for 21 days because we might be required to visit the ground.

Thank you.

**Hon. Speaker:** Hon. John Mbadi, what is out of order?

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. I welcome the gesture by the Vice Chairperson of this Committee in suggesting that they will be ready with the Report in 21 days.

Hon. Speaker, I am sure you listened to the statement request by Hon. Kaluma. There are certain immediate interventions that may be needed because the way COVID-19 Pandemic ravages that area, within 21 days, you will find that the casualties will be too many even to manage, or implement strategies that you will want to implement.

Therefore, I was asking whether that Statement can be treated in a way that it can be broken. What I mean is that there are certain immediate actions that may be required. So, you can give a preliminary report specifically targeting Homa Bay and then leaving these other parts of the Statement for the 21 days or even after. However, at least the issue of Homa Bay and the surrounding areas is a matter of urgency. It is an emergency. It must be treated as such.

Finally, as you address this matter, I think you need to get in touch with the county government to give you a factual report and if possible visit the county and see for yourself instead of getting these reports on paper that we have facilities and Intensive Care Units which do not really exist on the ground and people are dying. I request that you make sure you go to Homa Bay

as a Committee and do fact-finding immediately. Make sure you are masked properly because if you just go there and you do not take care, you will also all come back positive.

Thank you, Hon. Speaker.

**Hon. Speaker:** Now it looks like it is going to be a debate. Hon. Wanga, what is your intervention?

**Hon. (Ms.) Gladys Wanga** (Homa Bay CWR, ODM): Thank you, Hon. Speaker. Homa Bay has been mentioned. I just wanted to make a comment or two.

Let me thank Hon. Kaluma for raising this very critical matter at this point. I think the matter of COVID-19 Pandemic has been well canvassed by both Hon. Kaluma and Hon. Mbadi. I want to go to the next part of that Statement that is asking about the status of the Homa Bay Teaching and Referral Hospital. I remember in 2013, Hon. Kaluma and I were with the First Lady in Homa Bay. That is when the request for elevation of the Homa Bay Teaching and Referral Hospital to Level 5 was made by you. Up to date, Homa Bay Teaching and Referral Hospital is still a Level 4 facility.

I also want to use this opportunity to ask about a Bill that I have sponsored on the national hospital referral facilities. What the Bill does is to put accreditation standards so that you do not have to beg anybody to accredit your hospital to a certain level. If you meet a certain criteria, then the hospital automatically moves from Level 4 to Level 5 or from Level 3 to Level 4. I would also like the Departmental Committee on Health to say what happened to the Bill that I sponsored on the national hospital referral facilities. This is because the Budget and Appropriations Committee finished with it and sent it to the Departmental Committee on Health. That is almost a year ago and since then we have not heard about it. That relates to the fact that hospitals such as Homa Bay Teaching and Referral Hospital have stagnated at Level 4 level. The entire region has to go to Kisii which is the only Level 5 facility that we have. This is impeding also in terms of funding for the facility.

I thank you, Hon. Speaker, for the chance.

**Hon. Speaker:** Hon. Kutuny is taking all these points so that when you rise you will respond. You have heard that aspect. Maybe in the meantime we could get... It is not a debate by Homa Bay Members. If all of you wanted to say something you should have made requests. It was Hon. Kaluma. The rest of you are relaxing. Hon. Kaluma, remember there was a response that was given by Hon. Kutuny.

**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Speaker, I have mentioned in the request for statement a situation of emergency. Because of the limitation of the Statement and time, I have not said much. Remember I am saying, year after year, it is known nationally that HIV prevalence in Homa Bay is the highest. That means the population of Kenyans down there have compromised immunity.

As I stand before you, within my constituency alone, I personally know seven people who are being buried. Tomorrow there are about three, including the wife of a person who was my constituency office manager in the last Parliament. I have two other former staff members who have had to leave that hospital to go and be at home. This is because there is no ICU or oxygen. We call it a Level 5 referral facility, but it is not.

The tragedy we have is that in the last Parliament, I brought issues here. You remember when Macharia was the Cabinet Secretary for Health. He came here and in writing, undertook to elevate this hospital following the promise of the First Lady. When Mailu took over the ministry, he also undertook to do so by June 2016. We are in a situation where the only Level 5 facility in southern Nyanza is in Kisii. So, everybody from Homa Bay County, which is half Luo Nyanza,

Migori and Nyamira has to travel that long distance up to Kisii. I was going to request that in as much as this is heavy, issues like mass vaccination can take place immediately. Administrative interventions like this elevation, which was an undertaking made to the Floor, can be reviewed and undertaken immediately so that those grants we give to Level 5 facilities can benefit the people of that region. Otherwise the situation we have today is that you have people falling when they are farming. A *mama* just goes and collapses there. There is no testing. Again they are buried by people who have never known it is COVID-19 Pandemic which has killed them.

So, I request that the Vice Chairperson, even as we wait for two weeks, which I would request you reduce... There are issues you can address with the Ministry of Health and we start dealing with them immediately. Otherwise, our people are now waiting between God and death. That is the situation we have in Homa Bay and that is the emergency with which I raised it.

I thank you, Hon. Speaker.

**Hon. Speaker:** If there has been an undertaking by the Ministry, especially if it was in writing and if the undertaking was given to the House, actually our Committee on Implementation should be given that undertaking and get the Cabinet Secretary for Health or whoever it is. Why should they give an undertaking to Kenyans when they have no intentions of fulfilling what they are undertaking? The reason why the Committee on Implementation was created was to actually make those kinds of follow-ups. If a promise was made in 2015 or 2016, five or six years down the road, it is unfair that the House should be lamenting about it.

Hon. ole Kenta, the Chairperson of that Committee, or whoever else is in that Committee, please swing into action. That Committee is supposed to have a lot of work. It looks like that Committee does not quite manage to appreciate the enormity of the task on their hands.

It is because of these kinds of undertakings that it was decided that as a House, we must have some teeth. In the event a Cabinet Secretary or any other Government functionary gives an undertaking and does not fulfil it, then we can commence the process of dealing with them as we know best.

*(Applause)*

Hon. Kutuny, please respond to the various issues raised.

**Hon. Joshua Kutuny** (Cherangany, JP): Hon. Speaker, I thank you very much. We will deal with this thing holistically because this issue of Homa Bay is very serious. I want to make a commitment that by Thursday next week, we must have come back with a short-term mitigation that the Government is putting in place as we also pursue the rest of the long term strategies that the Government is employing on the ground to ensure that COVID-19 Pandemic is arrested in that region. Therefore, next week we should be back here. We will proceed with the rest.

For the Bill, I am going to issue a comprehensive statement on the number of Bills that have been brought by the Members and their status.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well, the next request is by the Member for Igembe South, Hon. John Paul Mwirigi.

#### SECURITY OF *MIRAA* MERCHANTS WHO PLY MAUA-MANDERA ROUTES

**Hon. John Paul Mwirigi** (Igembe South, Independent): Thank you, Hon. Speaker.



Hon. Speaker, pursuant to Standing Order No. 44 (2) (c), I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security, regarding the security of *miraa* merchants who ply Maua-Mandera routes and other parts of northern Kenya.

On Monday 21<sup>st</sup> June 2021 at about 0830 hours at an area between Jabibar and Bambo trading centers, along the B9 - Elwak Highway, suspected militiamen attacked a *miraa* lorry and killed three *miraa* traders namely, Patrick Mwendwa Murio, Ikumbi Mwenda and Wycliffe Mwenda in cold blood. Such killing are largely attributed to insecurity risk along the way.

It should be noted that there are over 40 police roadblocks, but sadly, their major interest is extorting money from the drivers at each roadblock. In addition to the said police roadblocks, county government have erected collection points and traders are charged more than the normal amount.

Further, people in possession of Kenya Police Reserve (KPR) guns have also introduced their illegal roadblocks along the mentioned road. Of great concern, some of the county bosses have sabotaged entry of *miraa* into their counties terming it illegal despite the crop being recognised as a scheduled crop in the year 2016. This may have been a pointer to the insecurity along the road.

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

- i. Could the Chairperson explain why drivers are asked to pay police officers to provide security and escort along the way?
- ii. Could the Chairperson explain why the KPR are allowed to erect roadblocks along Maua-Wajir-Mandera Road?
- iii. Could the Chairperson explain why and what measures have been taken to make sure that drivers are offered police escort on their way to Mandera and back?
- iv. Could the Chairperson explain whether the Government can consider licensing *miraa* traders and drivers to hold guns for their safety since they pass through sections that are prone to attack from terror groups such as *Al shabaab*?
- v. Can the Chairperson explain why there has been no response from the police whenever they are called upon to attend to an emergency along the mentioned route?
- vi. Could the Chairperson explain why *miraa* transporters are asked to surrender their vehicle together with the commodities to the local drivers without a formal agreement?

I thank you, Hon. Speaker

**Hon. Speaker:** Chairperson of the Departmental Committee on Administration and National Security. Hon. Wangwe, you want to respond?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. I want to thank you. Following your ruling the other day that Chairs must be active, the Chair of the Departmental Committee on Administration and National Security has called me. He is on his way coming. He had just gone to attend to a certain constituency issue pertaining a Member of this House. I take note and I will deliver the message to him.

**Hon. Speaker:** Hon. Mwirigi.

**Hon. John Paul Mwirigi** (Igembe South, Independent): Hon. Speaker, this is a very serious matter for the farmers who send traders to sell their products. So, it will be important for the Chair to be present when the response for this Statement will be brought.

**Hon. Speaker:** The only unfortunate thing is, the Chair himself is not here. The request is being channeled through the Majority Whip. Do we have the Vice Chair to that Committee? Hon. Akinyi Buya Rozaa.

**Hon. (Ms.) Rozaa Buyu** (Kisumu CWR, ODM): Hon. Speaker, I am not a vice chair but I am strong Member of that Committee and I undertake to directly give that information to our Chairperson, even if our Whip is unable to do that. I undertake to do that immediately.

Thank you.

**Hon. Speaker:** Very well. She says she is a very strong Member.

*(Loud consultations)*

Do not ask where the strength is. Hon. Duale and Hon. Pukose, you cannot doubt the strength of the gracious lady. The Member for Igembe North wishes to add. Is he also a strong Member?

**Hon. Maoka Maore** (Igembe North, JP): Hon. Speaker, the two victims are from my constituency and I wish to thank the Member for Igembe South for playing a good neighbour and a good friend to the two young men and their families. I wish to state that I raised the contents of his Statements with the DCI about three days ago. Upon the witness comments, it looks like an *Al Shabaab* attack, but you will notice many of the residents in the area are in the midst of the *Al Shabaab*. They like covering it up so that most of the security agencies lose their track.

Fortunately for these ones, there is a witness or an alibi, a fellow who came with them all the way from Maua to Mandera. He set them up for death and escaped. He is known. His contacts are known. We wish to ask the Government to come out strongly and apprehend the assailants using this contact so that we do not have to blame *Al Shabaab* when it is a criminal enterprise going on in a cartel like way, which is turning out to be deadly, then we end up being like the America's wild west, where if you feel threatened in your business, you wake up with guns and settle scores so that you can have a clean business. I wish to ask the Government to crackdown on this criminal enterprise.

I thank you.

**Hon. Speaker:** It looks like between yourself and Hon. John Paul Mwirigi, the Chair of the Committee may not have a lot of difficulties. You can proffer that information to them so that, at least, for purposes of oversight role and representation, a proper response is given. On the other side, those responsible can take the necessary legal action to pursue the criminals. Hon. Emmanuel Wangwe, try to get the Chair to bring a statement here by Thursday next week.

The Chairperson, Departmental Committee on Education is to give a response to a request for a Statement by Hon. Moses Injendi.

**Hon. (Ms.) Florence Mutua** (Bungoma CWR, ODM): Thank you, Hon. Speaker. I actually have three responses to Statements asked by Hon. Malulu Injendi, Hon. John Mutunga Kanyuithia and Hon. Abdullswamad Nassir. Let me start with the one for Hon. Abdullswamad Nassir, if that is okay with you.

#### GOVERNMENT COMMITMENT TO SUBSIDISED SECONDARY SCHOOL EDUCATION PROGRAMME

Hon. Speaker, on the first one, Hon. Abdullswamad Nassir, Member of Parliament for Mvita had asked: What specific measures is the Government taking to confirm its commitment to

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both the subsidised secondary school education programme as well as 100 per cent transition from primary to secondary education?

The response I have is that the Ministry has taken various measures to confirm its commitment to both the subsidised secondary school education programme as well as the 100 per cent transition from primary to secondary education including the following:

- (a) The Government has continued to disperse free day secondary education capitation at the rate of Ksh22,244 per learner annually to cover tuition, medicare and related expenses to all public secondary schools, including boarding schools which, however, require the learners to cater for the additional cost of boarding facilities. This programme has guaranteed free education to all the students who enrol in public day secondary schools and subsidised education for students who enrol in public boarding secondary schools.
- (b) The Government is committed to ensuring that students' textbook ratio of one to one is achieved by supplying and distributing textbooks to all public secondary schools.
- (c) The Government through the Ministry of Education places all Kenya Certificate of Primary Education (KCPE) candidates in public secondary schools and ensures the same are admitted in the schools to meet the 100 per cent transition target.
- (d) The Government has continued to disburse funds to improve and expand infrastructure in public secondary schools in order to accommodate students and to ensure 100 per cent transition from primary to secondary schools.

The second question was: Did the remarks of the Cabinet Secretary for Education represent the official position of the Government or did it constitute his personal views?

Hon. Speaker and Hon. Members, the remarks of the CS on commitment to both subsidised secondary school education programme as well as 100 per cent transition from primary to secondary education represent the official position of the Government and were not his personal remarks.

The other question was: When will the CS for Education withdraw his remarks instructing head teachers to chase away students having school fees arrears?

As indicated above, the remarks on commitment to both subsidised secondary school education programme as well as a 100 per cent transition from primary to secondary education as being the official position of the Government also include the instructions given to head teachers to take action on students having school fees arrears, and yet some of their parents are able to pay. Without such actions, able parents will abdicate their responsibilities to pay fees and consequently, schools will not be able to support the learners and continue offering quality education. The response to statement is signed by Prof. George Magoha, Elder of the Golden Heart (EGH).

That is one response to Hon. Abdullswamad Nassir.

**Hon. Speaker:** There is a point of order.

*(Hon. (Ms.) Halima Mucheke entered the Chamber in a jacket)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I think there is a stranger in the House. This person next to Hon. Daudi, is she dressed properly? Is that a dress to be worn by a Member coming to the Chamber? I even do not know whether she is a Member of Parliament. You cannot come from Kiambaa by-election and then come to the House straight.

**Hon. Speaker:** Is that Hon. Halima Mucheke? Please, just go to the Speaker's Rules on dressing. What you are putting on now could easily pass for a *gunia*, a sack.

*(Laughter)*

We do not entertain those ones in the Chamber because it is capable of hiding many things. I am sure it is not very cold inside here.

Proceed Hon. Florence Mutua.

*(Hon. (Ms.) Halima Mucheke withdrew from the Chamber)*

#### RENEW OF COLLECTIVE BARGAINING AGREEMENT FOR TEACHERS

**Hon. (Ms.) Florence Mutua** (Bungoma CWR, ODM): Thank you, Hon. Speaker. The second Question by Hon. Abdullswamad was about the issue of the Collective Bargaining Agreement (CBA). I beg to skip the background of Teachers Service Commission (TSC) because I am sure most Members know what TSC does. One critical mandate that I will talk about is, as an employer, Article 41 (5) of the Constitution of Kenya bestows the Commission with the right to engage in collective bargaining which is related to the Question. The Question was: Within which specific timelines is the TSC planning to submit its CBA proposal for teachers in order to renew the current CBA that is about to expire?

In compliance with Article 234 of the Constitution and the judgement of the Court of Appeal, Civil Appeal No. 196 of 2015, the Commission is bound to seek advisory opinion from the Salaries and Remuneration Commission (SRC) before CBA negotiations are commenced.

The TSC duly requested for the advisory from SRC on 1<sup>st</sup> February 2021 and it was on 23<sup>rd</sup> June 2021 that SRC rendered its advice to the Commission. The Commission will therefore commence negotiations with all the relevant unions in the teaching sector from 29<sup>th</sup> June 2021 in accordance with the law. I can confirm that the meetings have been taking place at Safari Park Hotel.

Hon. Speaker, the second Question was: How many Kenya National Union of Teachers (KNUT) members have either not been promoted or have not received salary increments as per the existing CBA?

All KNUT members fully benefitted from the CBA in the first and second phases of the CBA since their benefits were payable within two phases as per the agreement. In terms of promotion, KNUT rejected the Career Progression Guidelines (CPG) and sought orders from court to quash the same. The court directed TSC not to apply CPG to KNUT members. As a result, 16,000 KNUT members were affected in the list of the promotions contained in the CPG because of the court case.

That is the end of the response for Hon. Abdullswamad Nassir.

Hon. Speaker, I have one for Hon. Moses Injendi, Member of Parliament for Malaba Constituency...

**Hon. Speaker:** Hon. Abdullswamad Nassir, just hold on so that the Chair can respond. It is only the third one. Hon. (Ms.) Florence Mutua, you mentioned a Member.

**Hon. (Ms.) Florence Mutua** (Bungoma CWR, ODM): Hon. John Mutunga. He is not around.

**Hon. Speaker:** Yes, Hon. John Mutunga is not here. That one you can skip. Read the one for Hon. Moses Injendi who is in the House.

#### POLICIES AND GUIDELINES ON INTAKE TO TEACHERS TRAINING COLLEGES

**Hon. (Ms.) Florence Mutua** (Bungoma CWR, ODM): Thank you, Hon. Speaker. The Question reads: Could the relevant Ministry explain whether there are any policies in place that guide and address matters intake of applicants to Teachers Training Colleges (TTCs) for diploma course considering the huge demand by secondary school leavers to join such colleges, and how it is operationalised? If not, what measures is the Ministry putting in place to ensure that policies are established to address fairness and equity during TTC intake?

This Question had a lot of interests because many people have been affected.

In accordance with the Constitution of Kenya, 2010, Section 237 establishes the Teachers Service Commission. Among the many functions of the TSC is the review of the standards of education and training of persons entering the teaching service. It is in this spirit that the Ministry consulted with TSC on the requirements for the recruitment to the TTCs. The TSC guided on the requirements, that is, a minimum mean score of C plain and a minimum grade of C plain in English, Kiswahili, Mathematics, one science subject and one humanity subject.

Based on the afore-stated consultation, the Ministry went ahead and carried out an advert on 23<sup>rd</sup> February 2021 on the MI Government platform, and another advert on 25<sup>th</sup> February 2021 in the *Daily Nation*. The interested applicants registered at the zonal education offices in their sub-counties. The returns from the 47 counties revealed that despite the large numbers of interested applicants signing up, only 683 candidates countrywide met the minimum requirements, while 219 applied for the diploma in early childhood education. Requirements for the diploma in early childhood education were only a mean grade of C Plain with no other conditions on the subjects. Applicants with disabilities required a C- (Minus) in all the listed subjects and a mean grade of a C- (Minus) to apply for the diploma in early childhood education.

Consequently, the Ministry wrote to the TSC requesting for a review of the minimum entry requirements. In a consultative meeting on the rollout of the same held on 25<sup>th</sup> March 2021, it was resolved that a re-advertisement be done to communicate the entry requirements more clearly. In addition, more creative advertisements were to be done embracing both print and electronic media to communicate to and educate the public on the new entry requirements. A repeat advert was done on 23<sup>rd</sup> March 2021, in which the returns from the counties were 468 for the diploma in early childhood education and 501 for the diploma in education applicants. The candidates were placed in six teacher training colleges, namely, Thogoto, Igoji, Migori, Machakos, Baringo and Shanzu. There is a list and a table of how they were distributed.

The second question was what action the relevant Ministry was undertaking to address the disadvantaged applicants, considering that so many Kenyans across the country had scored a mean grade of C Plain in the Kenya Certificate of Secondary Education (KCSE), but had one or even more of the following subjects, namely, English, Kiswahili, Mathematics, and any one subject in humanities and sciences below the required score of C Plain. The response reads that the Ministry has held consultative meetings with key stakeholders, namely, the TSC, Kenya National Examinations Council (KNEC), Kenya Institute of Curriculum Development (KICD) and the Kenya Technical Trainers College (KTTC) to discuss the rollout of the diploma in early childhood development and the diploma in primary teacher education. Among the key issues discussed was the development of a teacher education policy and improvement of infrastructure in the old teacher

training colleges. Most of those colleges are quite old. Setting of entry qualifications is undertaken through an established process by the TSC, which takes into account many factors to inform the entry requirements, including analysis against other professions.

Finally, the last question was what action the relevant Ministry was undertaking to address the disadvantaged applicants who scored below the average mean grade of a C Plain but had one or even more of the following subjects, namely, English, Kiswahili, Mathematics and any one subject in humanities and sciences above the required score of a C Plain. The Kenya University and Colleges Central Placement Service (KUCCPS) is a state corporation that provides career guidance and selects applicants for admission to universities, national polytechnics, technical training institutes and other accredited higher learning institutions for Government-sponsored programmes. The disadvantaged applicants who scored below the average grade of C Plain, plus other requisite attainments, are advised to seek other alternatives through the KUCCPS.

Extensive publicity is undertaken to inform students of their options via print and social media. The application process through the KUCCPS is paperless, convenient and data-rich. That notwithstanding, the Ministry continues to engage the TSC and other stakeholders with a view of revising the minimum entry requirements in order to cater for the large number of applicants left out due to the current high entry grade since the colleges are currently lying idle. I can confirm that that is ongoing

**Hon. Speaker:** Let us have Hon. Abdullswamad.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you very much, Hon. Speaker. I had asked two questions. The first one was to the Cabinet Secretary on his roadside declaration about students being sent home. The response coming here is different from what was translated by the head-teachers. He talked about students from public schools and students whose parents are able to pay. What was being relayed was that a majority of Kenyans can educate their children at a time like this when we have the COVID-19 pandemic.

Equally, he talked about public day schools being totally free except for the other issues that come with school needs. In this instance, they need to be aware that there are orphans who are being chased from school and there are also children of people who have no income. Forget about the fact that there are those who have parents who can pay; there are some who do not even have parents. I expected the Committee to ask further why students from public schools were being chased away. With your indulgence, maybe the direction would be that the Committee recommends that a proper circular and communication goes out to all head-teachers and principals in the country, so that they understand the limitations of sending children back home.

Regarding the issue of KNUT, the Commission is right in a couple of instances, but they have omitted others. It is true that prior to my asking this particular question, negotiations had not started. It is after I asked that negotiations started. I would not want to start indulging in this matter because there are negotiations going on and we do not want Parliament to be seen to be preempting the results of that. Prior to that, the issues of the KNUT members were payable in four phases. They have only paid two phases. The third and fourth phases are yet to be paid by some of those members.

The issue of the KNUT rejecting the career progression guidelines was the subject of a court ruling. The courts made a proclamation that the collective bargaining agreement was signed prior to the issue of career progression guidelines.

Lastly, majority of the teachers in Grade C to C5 are yet to benefit from this.

First, we need to avoid roadside declarations by Cabinet Secretaries. Secondly, since there are already discussions, I would prefer that, as a House, we do not engage so as not to be seen to

be fueling issues. We should allow KNUT to continue with those negotiations. When I asked the question, KNUT and TSC had not yet started those engagements. They are actually late.

**Hon. Speaker:** The response is guided by the request. Therefore, your suggestion that the Committee should require this or the other would not be open to the Committee because it is merely bringing forward what has been passed on to them. There was no opportunity for the Committee to know some of the other issues that you may have raised. Perhaps, I will allow the Chair of the Committee to respond and then allow Hon. Malulu Injendi to comment. Do you still have something else on the same?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Actually, it was not related to this. However, if you allow me, I would like to contribute after the Chair has spoken and the other response has been given. It is with regard to something else.

**Hon. Speaker:** Let us allow the Chair to respond. Let us have Hon. Florence Mutua.

**Hon. (Ms.) Florence Mutua** (Busia CWR, ODM): Thank you, Hon. Speaker. I appreciate the sentiments by Hon. Abdullswamad. It would be proper for the Ministry - and I have informed the Cabinet Secretary - to send a proper circular to all schools in regard to what has been raised by the Hon. Member. It would be in order.

When it comes to the issue of the CBA, I can confirm that the TSC did what was right at the right time. They wrote that letter in February. It is the Salaries and Remuneration Commission that has been sleeping on the job and responded to the queries that the TSC had requested. We may be late but negotiations are already going on with the relevant stakeholders. I am sure by mid-July we will see white smoke from somewhere.

I do not want to go into the issue of the KNUT and career progression. You remember that when I became Chair we tried to sit with the TSC and the KNUT to even reach an agreement that the court case should be removed so that all those members can benefit. However, you gave a ruling, Hon. Speaker. So, I cannot say much about that.

Thank you.

**Hon. Speaker:** Hon. Malulu Injendi.

**Hon. Moses Injendi** (Malava, JP): Thank you, Hon. Speaker. I find this response unsatisfactory. My first question asked whether the Ministry has policies. If they are in place, how are they operationalised? If they are not there, what are they doing to address the matter? When you look at the response, it is clear that the Ministry does not have any policy. It is clear that this response does not indicate that the Ministry admits that it does not have this policy and what they are doing to have it in operation. Many students or applicants are left out during intakes. The Ministry talks of how it does some consultations. That is why we have a problem in the Ministry on admissions. Not much has come out from this response. The Ministry has told us that they advertised twice. From this advert, only 683 students qualified. I expected the Cabinet Secretary to inform us of the number of students who applied. This would have indicated to us the number of applicants who were interested in joining, but did not get the opportunity.

After the numbers failed to reach the target, the Ministry told us that they advertised again. I expect them to tell us what they are doing to address this matter. We have seen this in the public universities. Previously, for one to join a public university, he or she had to score a C plus. However, because there were no opportunities, they put this at B plus. Later on, it came to a B minus. Currently, all those who score C plus join public universities. Dr. Matiang'i's regulations and rules controlled exams when there was a lot of cheating. Grades A, B and C plus are not as many as they used to be. I expect the Ministry to look at this. This is happening in the country.

Marking has come down to realistic levels. They should consider revising the university entry grades. This can only happen when you have policies in place.

I want to look at my second question. What action is the Ministry taking to address the matter of students who have a mean score of C plain, but then they do not have a C plain in Mathematics, English....

**Hon. Speaker:** Hon. Malulu Injendi, it looks like you are engaging in a monologue. You have talked about your first question and then you want to go to your second one. If you intended this Statement to be a Question, you should have framed it as such. You are bound by your pleadings. You boxed yourself into a corner. If you had asked a Question, I am sure that the Chair of the Committee would have invited you to attend the meeting when the CS was present, so that you ask him the very good questions that you are asking. Hon. Florence Mutua has read out what she was given.

You are raising very good questions, *lakini ni ile inaitwa kwa Kiswahili gumzo mtaani*. We should not reduce the House to this. The issues that you have raised are very weighty. I believe that if you had gone the route of a Question and the Cabinet Secretary was present and you framed supplementary questions, I am sure that the Committee, you and the entire country would have extracted very good responses which would go towards helping or achieving the objective which you had intended with this request. When you go the route of request for a Statement, I am sure Hon. Florence Mutua will say what she is given by the Ministry. Then, we shall rest the matter there.

I can see that a few others want to weigh in. However, I will not allow them because we do not want to talk because it is fashionable to do it. I have seen your interventions, but I will not allow you to contribute. We do not want to talk to ourselves. The Member has raised very many good issues in the first question. I believe that if you asked the Cabinet Secretary to address them, the country would be better off with the responses.

You can raise them now. However, I am sure Hon. Mutua will tell you what she was told and then we will go for the weekend after that. Go ahead. You should raise those issues through a Question. It does not matter how long it will be because you will get a lot of useful information. They can only be answered by the Cabinet Secretary when he and his team are present.

Proceed with *gumzo mtaani*.

**Hon. Moses Injendi** (Malava, JP): Hon. Speaker, when you want to raise these issues, you are guided by the Clerks-at-the Table on whether an issue can be framed as a Question or Statement. I am guided.

The issue in my second Statement was that we have so many students who scored a C plain grade. Quite a number of them did not score a C plain in Mathematics, English, Kiswahili, and one of the humanities and sciences. Because of this, many of them did not qualify to pursue some courses. You and I went to the university. We are what we are. However, our scores in Mathematics are so poor.

*(Loud consultations)*

**Hon. Speaker:** Whose scores are poor?

**Hon. Moses Injendi** (Malava, JP): I would have explained that to the Ministry. They are not very serious in this particular issue that I raised. Look at the response that the Chair has. They told us that they are working on development of teacher education policy and improvement of infrastructure in TTCs. This has nothing to do with what I raised.



Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Florence Mutua.

**Hon. (Ms.) Florence Mutua** (Busia CWR, ODM): Thank you, Hon. Speaker. I appreciate what Hon. Member has talked about.

The first question was about the TTCs which offer diploma courses in the country. According to the response from the Ministry, it seems that there are quite a number of consultations which are going on between the Ministry and TSC. Once these consultations and the right adverts are done and we have accurate information, we will advise the Member on the policy that the Ministry has come up with without pre-empting what the consultation meetings will come up with. From the response that I have, there are consultative meetings going on the issue of those students who did not score a C plain in English, Kiswahili and Mathematics.

Hon. Injendi, through Hon. Speaker, this Statement says that among the key issues which are being discussed is the development of a teacher education policy and improvement of infrastructure in the old TTCs. It does not mean that is the response. That is one of the things that will be discussed in the consultation meetings which is also important for the education sector.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Hon. Nassir.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Mhe. Spika, nilijaribu kwa muda kupata jicho lako. Nataka kujulisha Jumba hili ya kwamba tarehe 8 Juni, nilileta ardhilhali kuhusu wachuuzi ambao wako katika eneo la Mama Ngina Drive. Kumetokea matokeo kadhaa. Ni muhimu kupata mwelekeo wako. Kamati iliyopelekewa ni ya Idara ya Uchukuzi lakini Kamata inayohusika na utalii waliwasiliana na Wizara ya Utalii na Wizara ikafungua rasmi lakini ufunguzi wake sio vile unavyotakikana. Nahofia isije ikaonekana tumeridhika kwa vile imefunguliwa lakini kiasi. Masuali yalioko bado yanaleta kero kwa sababu huwezi kufungulia watu kwa ubaguzi, wengine wanakubaliwa kufanya biashara lakini mwenye ushanga ama mwenye biashara ndogo ndogo hakubaliwi.

Mhe. Spika tupatia mwelekeo kama kinara wetu. Njia mwafaka itakuwa ipi ili watu wetu wa Mombasa ambao wameumia tayari kila mmoja wao, licha ya hali yoyote bila ubaguzi, waendeleo na biashara zao?

**Hon. Speaker:** Where is the Chairman of the Departmental Committee on Trade, Industry and Cooperatives? He is very sporadic. He was here yesterday, and of course, ones he attends on a Wednesday, he has finished his business. Is he the one making his way in? I see somebody braying like a buffalo. Can you respond, Chairman of Departmental Committee on Trade, Industry and Cooperatives? Parliament starts at 2.30 p.m. not 3.42 p.m. respond now.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. I understand your predicament. I apologise for coming a little late. However, the Committee has finalised plans to invite the Cabinet Secretary to apprise it and address the concerns by Hon. Sherriff Nassir. We are looking forward to prosecute this matter and dispense with it during the short break.

However, it terms of visits to affected locations, I am afraid we will not be able to do that for now owing to the challenges with regard to end of the financial year change over that will not allow Parliament to facilitate the visit to the locations. As soon as that is sorted, probably by 15<sup>th</sup> of July, when Parliament will be ready to facilitate the movement of Members to visit such locations, the Committee will endeavour to visit Mombasa and prosecute the matter.

Many thanks, indeed.

**Hon. Speaker:** Hon. Abdullswamad.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Asante, Mhe. Spika. Nashukuru kauli ya Mwenyekiti wa Kamati ya Idara ya Uchukuzi lakini wakikutana na Waziri wa Utalii, isiwe tumeridhika na kufungulia kiasi. Tunataka wanabiashara wote wafanye biashara zao bila ubaguzi wowote. Tunakubaliana kuwa Bunge liende na nidhamu na masuala mengine. Lakini naomba ikiwa ni kukutana na Wizara ya Afya, kwa sababu sielewi vipi itakua mambo ya afya, wengine wasikubaliwe na wengine wakataliwe. Kwa hivyo, ikiwa ni kukutana na Wizara ya Afya wakutane nao wiki hii na wiki ijayo, wakutane na Wizara ya Utalii. Wakifika wawaone wachuuzi wenyewe ili wasikie kauli yao. Tukiregea hapa jambo hili lichukuliwe na hali ya umuhimu unaohitajika.

Asante Mhe. Spika.

**Hon. Speaker:** I hope the Chairman has now taken note of that. So, do not say you are going to prosecute then we wait for 3.42 p.m. next time. We want you here at 2.30 p.m. Parliament starts at 2.30 p.m. Hon. Haji.

**Hon. Ali Adan** (Mandera South, JP): Thank you, Hon. Speaker. I am guided.

**Hon. Speaker:** The Vice-Chair of the Departmental Committee on Health is to report on progress on a number of Bills but particularly on the Bill by Dr. Pukose Robert.

#### STATUS OF PENDING BUSINESS BEFORE THE DEPARTMENTAL COMMITTEE ON HEALTH

**Hon. Joshua Kutuny** (Cherangany, JP): Thank you, Hon. Speaker. I am going to issue a Statement on Kenya Food and Drug Authority Bill, 2019 and other pending businesses before the Committee.

Hon. Speaker, the Kenya Food and Drug Authority Bill, 2019 was read a First Time on 2<sup>nd</sup> May 2019 and was committed to the Departmental Committee on Health for consideration according to Standing Order No.127(1). The Kenya Food and Drug Authority Bill, 2019 seeks to establish the Kenya Food and Drug Authority, provide for the regulation and management of food and drugs and chemical substances and to provide for the regulation of medical devices and other technologies. The Bill seeks to provide a comprehensive legal framework for the regulation of medicine, pharmaceutical practice, food drug schedule substances, therapeutic, cosmetics and medical service devices.

The Bill seeks to repeal and amend several other existing laws both in the health and agriculture sector by disbanding several institutions like the Pharmacy and Poisons Board. The following are the legislation that are either to be amended or repealed: In the health sector, the Health Act, 2017, the Meat Control Act, Food, Drugs and Chemical Substances Act, the Tobacco Control Act, the Narcotics Drugs and Psychotropic Substances Control Act, the Pharmacy and Poisons Act, the Public Health Act, the Nutritionist and Dietician Act, the Use of Poisonous Substances Act, 27 and the Nuclear Regulatory Act.

In the agriculture sector, the following Acts are going to be affected: The Dairy Act, the Dairy Industry Act, the Animal Disease Act, the Biosafety Act, the Agriculture and Food Authority Act, the Base Control Act, the Milk Substitute Regulation and Control Act, the Fisheries Management and Development Act and the Fertiliser and Animal Foodstuffs Act.

In the trade and industrialisation sector, the Acts that are going to be affected by the same regulation are: The Consumer Protection Act and the Standards Act.

The Committee called for memoranda from the public and various stakeholders who returned an overwhelming response to the effect that the Bill be withdrawn to enable the Executive to come up with one that is in line with government policy and international best standards. In July 2019, the Ministry of Health wrote to the Departmental Committee on Health requesting that the

Bill sponsored by one, Hon. (Dr.) Robert Pukose be withdrawn to allow for consultations aimed at developing a comprehensive Bill to regulate food and drugs. It is on this basis that the Committee deemed it fit to convene a meeting between two ministries; the Ministry of Health and the Ministry of Agriculture together with the sponsor of the Bill Hon. (Dr.) Robert Pukose. In the meeting that was held on Thursday, 27<sup>th</sup> August 2019, it was resolved that the Executive works with Hon. (Dr.) Robert Pukose to harmonise many issues in the Bill and present a unified Bill within 90 days. During the meeting that was hosted by the then Leader of the Majority Party, Hon. Aden Duale, the Ministry of Health and the Ministry of Agriculture, Livestock and Fisheries reported that they had already formed a taskforce that had come up with a draft Bill due for fine-tuning before presentation to the Cabinet.

Hon. Speaker, arising from the aforementioned meeting, the Departmental Committee wrote to your office on two occasions – on 20<sup>th</sup> June 2019 and 2<sup>nd</sup> August 2019 – seeking extension of time by 120 days to consider the Bill. The Committee acknowledges the critical nature of this Bill as it speaks to the quality and safety of food from the farm to the table as well as safety of medicine and health products imported or manufactured in the country, among other provisions.

The Second Schedule to the Standing Orders provides that the mandate of the Departmental Committee on Health is in regard to matters related to health, medical care and health insurance. To this end, the Departmental Committee on Health has the mandate of considering the aspects of the Bill providing for regulation of drugs, chemical substances and medical devices. On the other hand, the mandate of the Departmental Committee on Agriculture and Livestock is in regard to matters related to agriculture, livestock and irrigation; and fisheries development, production and marketing. The Departmental Committee on Agriculture and Livestock therefore has the mandate of considering the aspects of the Bill providing for the regulation of food. Further, the Departmental Committee on Trade, Industry and Cooperatives has the mandate of overseeing the aspect of the Bill related to consumer protection and industrialisation.

The Committee has on several occasions engaged the Ministry of Health to update the Committee on the status of the harmonisation of the Bill. I am glad to inform the sponsor of the Bill, Hon. (Dr.) Pukose, and the House, that the Ministry of Health has finalised the harmonisation of the Bill. Therefore, the Committee has invited the Ministry of Health to a final meeting on Thursday, 8<sup>th</sup> July 2021 to make a presentation on the harmonised Bill. That is next week.

As noted above, the Bill seeks to legislate on matters related to mandates of the Departmental Committee on Health, the Departmental Committee on Agriculture and Livestock; and the Departmental Committee on Trade, Industry and Cooperatives. Therefore, there is need for your guidance on how the Committee shall proceed to consider the harmonised draft Bill. The Committee is scheduled to consider the draft harmonised Bill meant to enrich the current Food and Drug Authority Bill, 2019, sponsored by Hon. Robert Pukose, during the next two weeks and file a report for consideration by this House on or before 15<sup>th</sup> July 2021.

Finally, the Committee lauds the Mover of the Bill for his patience by allowing the Executive to harmonise the outstanding issues in the Bill. We acknowledge that this has taken unduly long but the result and product will be a more effective legislation.

Regarding progress report on business pending before the Committee, I wish to report that the Committee is in the final stages of consideration of three critical Bills and shall be tabling its report next week. The first one is the National Hospital Insurance Fund (Amendment) Bill (National Assembly Bill No.21 of 2021); the second one is the Health Laws (Amendment) Bill (National Assembly Bill No.2 of 2021) and the third one is the Radiographers Bill (National Assembly Bill No.21 of 2021). There is also the Community Health Workers Service Bill of 2020.

Further, the Committee is, next week Tuesday, 6<sup>th</sup> July 2021, expected to hold public hearings on two Private Members' Bills. One is an Amendment Bill sponsored by Hon. Mwambu Mabonga and the other one is the Pharmacy and Poisons (Amendment) Bill of 2021, which is sponsored by Hon. Alfred Kiptoo Keter.

Additionally, the three Bills from the Senate which were expected to be considered by our Committee are still being reviewed by the Budget and Appropriations Committee, pursuant to Article 109 (5) of the Constitution. These Bills are the Pandemic Response and Management Bill (Senate Bill No.6 of 2020); the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bill No.38 of 2018); and the Cancer Prevention and Control (Amendment) Bill (Senate Bill No.6 of 2020). Also, there is the Bill on referral hospitals. Hon. Wanga had sought to know its progress. The Bill on referral hospitals was sent to the Budget and Appropriations Committee on 30<sup>th</sup> June 2020 for scrutiny.

The Committee has no pending legislative proposals. However, the Committee has only five Parliamentary Questions that are pending, which are scheduled to be responded to before the Committee on Thursday, 8<sup>th</sup> July 2021. The first is Question No.131/2020 by the Member for Nakuru Town East, Hon. David Gikaria. The second is Question No.114/2021 sponsored by the Member for Mumias East, Hon. Benjamin Washiali. The third is Question No.186/2021 by the Member for Saboti, Hon. Caleb Amisi. The fourth is Question No.205/2021 by the Member for Trans Nzoia County, Hon. Janet Nangabo. The fifth is Question No.208/2021 by the Member for Starehe, Hon. Charles Njagua.

Thank you, Hon. Speaker.

**Hon. Speaker:** What is out of order, Hon. Millie?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Speaker. I thank the Chair for making that presentation. I am just concerned. I have not heard the position of the Reproductive Healthcare Bill. I know we have the Assisted Reproductive Technology Bill. Sometimes there is confusion between that one and the Reproductive Healthcare Bill, which I have also sponsored. Could he, please, just explain where it is?

**Hon. Speaker:** Not the Assisted Reproductive Health Bill.

*(Laughter)*

Hon. Kutuny.

**Hon. Joshua Kutuny** (Cherangany, JP): Hon. Speaker, allow me to consult further on the progress of that Bill. I will come back with a comprehensive response next week.

**Hon. Speaker:** Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. I want to thank the Chair for that comprehensive report although it misses some critical links. When the Bill was stood down, the Ministry of Health's Permanent Secretary, myself and the Chair of the Departmental Committee on Health, Hon. Sabina Chege, travelled to the United States of America to see how the Food and Drugs Authority is operating in relation to the American agricultural sector because one of the areas this Bill seeks to amend is that of food safety. It is not food security. What agriculture deals with is food security. It does not deal with food safety. In a layman's word, what we mean by food safety is how safe the food that we eat is. For instance, you find that more often as you have meat, there are chemical preservatives that are used on meat. Are the chemicals of the required standards? Who monitors to see that the preservatives that are used on meat meet quality standards? Even the fruits and vegetables that you buy from the market are sprayed with pesticides

and herbicides. How safe are they? You need somebody who can monitor and say that the fruits or tomatoes are safe for human consumption.

As far as issues of standards are concerned, which this Bill is addressing, supermarkets sell food products and some food supplements. Those food supplements must be labelled by their contents.

**Hon. Speaker:** Hon. (Dr.) Pukose, please hold on. I just do not understand the Chairman of the Departmental Committee on Trade, Industry and Co-operatives. He was just standing in front of Hon. Kutuny as he was reading his Statement, and he has now walked out with the short Member for Makueni.

*(Laughter)*

He has not even listened to the Statement. Is it that people do not understand their responsibilities? I was expecting him to be the next one to say something because Hon. Kutuny has raised an issue that falls under his Committee. He looks like a tall mountain with some pygmy.

*(Laughter)*

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. It is key and, at times people do not understand where the Ministry of Trade, Kenya Bureau of Standards (KEBS) and the Ministry of Agriculture come in such a Bill. During our visit to the USA, the Food and Drug Administration (FDA) was able to explain how they operate; and where they come in, in terms of food, drugs and cosmetics. We were able to clarify some of those issues. When we came back, we expected Prof. Boga to submit a report to the Committee and clearly explain their role. I want to thank the Committee for the progress that they have made. I expected Hon. Kutuny to invite me to their meeting on 7<sup>th</sup> July 2021. This is my Bill and I want to see what the Government is bringing on the table so that we can harmonise and give Kenyans what they deserve. I am doing this Bill for posterity and for the country. We need to sit, harmonise and see how best those amendments can be brought to improve what I had done.

**Hon. Speaker:** Indeed, you should be invited. Information on Prof. Boga...

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Prof. Boga.

**Hon. Speaker:** Mboga? Cabbages? Anyhow, it is one of them. You can give that information to the Committee. The Committee will then be in a position to write to Prof. Boga and ask for his input.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Prof. Boga is the PS, Ministry of Agriculture.

**Hon. Speaker:** It does not matter. The Committee of this House can summon anyone. As long as he is in Kenya, the Committee is at liberty to invite him to get feedback.

Hon. Kutuny, please sit with Hon. Pukose and get the information and ask the Clerk to write to that Professor. You should invite him to come and speak to the issue that has been raised by Hon. Pukose.

**Hon. Joshua Kutuny** (Cherangany, JP): I am well guided. We are going to write to all the stakeholders and hold a meeting to come with a way forward on this matter. Next week on Thursday, we will hold a meeting with all the stakeholders that matter to this Committee, including the Chairman of the Departmental Committee on Trade, Industry and Co-operatives and come up with a comprehensive report.

**Hon. Speaker:** You have done well. The House is now informed on the status of the Bill. Let us have Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Thank you, Hon. Speaker, for giving me this opportunity. I first want to thank my Vice-Chairperson because when you gave me the instruction to send the message, the Committee was rather stern. I think he has done well to bring that out. I want to commend Dr. Pukose. He has taken a hard task because this Bill touches on all the sectors that you can think of, KEBS and standards in food. I want to appreciate that he is willing and he has given us time to meet stakeholders. The Committee has not seen a report from PS Boga which could have been key to guiding us because it is so complex and when you invite those stakeholders to a meeting, it is like people are going to war and stakeholder interests. There is a lot of territorialism and stakeholder interest. If Dr. Pukose and those other people will be with us in this meeting, we should be able to get something that will guide this complex and technical Bill, and we can then guide the House on how to get it right without a fight between many professionals in various areas.

Thank you, Hon. Speaker.

**Hon. Speaker:** Well spoken. Hon. Nyamai, do you have an intervention?

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you, Hon. Speaker, for giving me this opportunity. I want to congratulate Hon. Kutuny, the Vice-Chairperson of the Departmental Committee on Health on the way he has made this presentation and the commitment he has undertaken. I want to concur with Dr. Nyikal that Dr. Pukose has taken a big challenge because this Bill involves about 20 departments and it has a lot of interest. I want to encourage the Committee to ensure that those departments do not put their interests first especially with regard to what they do to maintain standards. They must put the country first and ensure that the goal by Hon. Pukose is achieved for the benefit of the country.

Thank you, Hon. Speaker.

**Hon. Speaker:** Member for Ndhiwa, do you want to weigh in?

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Speaker. I want to thank my Vice-Chairman. I also sit in the Departmental Committee on Agriculture. We had a very lengthy discussion with Prof. Boga on how this Bill is going to dismantle other Acts with those capacities and it was not clear how those capacities will be enhanced to continue executing what they were supposed to be doing. We talked about food safety, food security and meat inspection. In the interest of the country, it will be good for all the stakeholders to come together because passing a Bill is one thing but setting its operations is another. I would like Hon. Pukose to share the report from the FDA in the US so that we can harmonise it with the reports of the Ministries of Trade and Agriculture.

Thank you.

**Hon. Speaker:** Very well. All these are very useful contributions. Unfortunately, Hon. Kutuny has taken off.

**Hon. Joshua Kutuny** (Cherangany, JP): I am here, Hon. Speaker.

**Hon. Speaker:** You do not do that. Let us have Hon. Sankok.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker. Hon. Pukose has raised very pertinent issues. It is interesting that when Kenyans hear about food, they think about food security and I think it is because of the poverty levels. Food security is very important with the upsurge of cancer and the media highlights showing how our meat is preserved and how we get cabbages and kales from sewage. Chemicals used to spray our farms such as herbicides and

pesticides are smuggled through Tanzania. Food safety must be highlighted and Hon. Kutuny must take this issue very seriously.

The Chair of the Departmental Committee on Trade, who has just walked out with the short Member, as you said, should be informed wherever he is that he should be very serious on this matter. That is because we will be saving the lives of Kenyans. We do not know if the upsurge of cancer and other diseases is courtesy of what we consume. The media should highlight this matter. I thank Dr. Pukose very much for highlighting this matter. Let us be serious as a House and address it.

The short man has just come in while the tall one, or is it the long one, has not. He was my lawyer when I was being suspended as SONU Chairman at the University of Nairobi. Hon. Kutuny, you can co-opt all the medical professionals in this House to advise you accordingly so that we have a total review of the matter.

Thank you very much, Hon. Speaker, for giving me this opportunity.

**Hon. Speaker:** Can we put a closure to this matter? Hon. Wangwe, do you want to say something before I allow Hon. Kutuny to conclude?

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Speaker. Listening to Members contributing to this issue the way you guided is the right way to go. Initially, through my Office, there have been inquiries whether the matter is to be handled by the Departmental Committee on Agriculture, Livestock and Fisheries or the Departmental Committee on Health. But as you have said, let the Committee on Health take the lead. But all stakeholders are welcome, including the Principal Secretaries in charge of Agriculture and Trade. At the end of the day, whether you manufacture a product or make any item, it is the trade part of it that matters. Therefore, by inviting everybody and the Committee on Health taking the lead is the right direction. I would wish that we go that way so that we can conclude the Bill by Hon. (Dr.) Pukose.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Member for South Imenti.

**Hon. Kathuri Murungi** (South Imenti, Independent): Thank you, Hon. Speaker. I want to commend my colleague and friend Hon. (Dr.) Pukose for this important Bill. In Meru County where I come from, there are many cancer cases. Research has not been done to know the cause of the disease. If you check in all referral hospitals, those cases come from my county. This Bill on food safety is what will tell us what happens, especially with regard to the use of pesticides. There are so many pesticides which are very dangerous and they are still being used. So, I really support Dr. Pukose on this. I would want him to take me with him when he is invited before the Committee so that we can walk this journey together. I also want to be part of this so that I can assist the people of the great Meru County where I come from.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, I want us to get into business, but I can see the Member for Tharaka has placed an intervention.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Speaker. On the side of business for the country, it is extremely saddening that Botswana is able to export its meat to the European and Asian markets at the expense of our country, simply because we are told some of the drugs we use to treat our livestock may not actually be suitable for human consumption. This is where the issue of food safety *vis-à-vis* trade comes in. In Tharaka where I come from, we are livestock

keepers, but we are not able to sell our livestock at good markets simply because some of the drugs we use to treat the livestock are actually injurious and dangerous to human beings. This is a very important Bill and we are going to support it.

Thank you.

**Hon. Speaker:** I do not know whether Hon. Joshua Kutuny wishes to say something. The next business again has to do with health. Hon. Kutuny, you have a lot of commendation from Members. That is what the House was waiting for. We needed to get a comprehensive report like the one you have given.

**Hon. Joshua Kutuny** (Cherangany, JP): Thank you, Hon. Speaker. There is no other better time that such a Bill could come to the House. It is coming at a time when there are many products in the market, including the blue pills that people take recklessly and cost the lives of the most senior members of the society. It is also a time when people are taking some necessary tablets which then change the colour of their skin. We seriously need a regulatory authority. As a Committee, we are going to rise to the occasion and work within the very shortest time to make sure that this is implemented. All stakeholders are going to be involved.

I thank you.

**Hon. Speaker:** Very well. Before we move on to the next business, which I believe you would also be interested in, let us hear from the Leader of the Majority Party.

#### BUSINESS FOR THE WEEK COMMENCING 5TH TO 9TH JULY 2021

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, pursuant to the provisions of Standing Order 44(2)(a), I rise to give the following Statement on behalf of the House Business Committee (HBC), which met on Tuesday, 29th June 2021, to prioritise business for consideration.

Let me take this opportunity to thank the leadership of the House and all Members for the co-operation we have had and diligence exhibited during the consideration and passage of some key Bills, particularly the Appropriations Bill of 2021, the Finance Bill of 2021 and the Supplementary Appropriations (No. 2) of 2021. I am delighted to inform Members that those three Bills were assented to by His Excellency the President on Tuesday, 29th June 2021, which was well within the stipulated timeline before the start of the next financial year today.

During the afternoon Sitting of Tuesday next week, the House will consider the following Bills at the Committee of the whole House:

1. The Kenya National Blood Transfusion Service Bill, 2020.
2. The Parliamentary Pensions (Amendment) (No. 3) Bill, 2019.
3. The Kenya National Library Services Bill.

The following Bills have also been scheduled for Second Reading on the same day:

1. The County Governments (Amendment) Bill (Senate Bill No. 13 of 2018).
2. The Waqf Bill, 2019.
3. The Social Assistance (Repeal) Bill, 2020.
4. The Landlords and Tenants Bill, 2021.
5. The National Hospital Insurance Fund (Amendment) Bill, 2021.

In the evening Sitting of Tuesday, the House will consider the following Bills at Second Reading:

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1. The Impeachment Procedure Bill (Senate Bill No. 15 of 2018).
2. The Radiographers Bill, 2019.
3. The Judicial Service (Amendment) Bill, 2020.
4. The Foreign Service Bill, 2021.
5. The National Cohesion and Peace-building Bill (Senate Bill No. 35 of 2018).

I hope the Chairpersons of the relevant Committees are listening and will be here so that we avoid what we had to do yesterday, which is carrying forward business that should have been prosecuted on account of movers or seconders not being present.

In accordance with Standing Order 42A (5) and (6), I also wish to convey that the following Cabinet Secretaries are scheduled to appear before Departmental Committees as follows:

(i) The CS for the National Treasury and Planning will appear before the Departmental Committee on Finance and National Planning on Wednesday, 7th July 2021 to respond to three questions: Question 71/2021 by Hon. Samuel Atandi on the status of the emergency facility created following the collapse of Imperial Bank and Chase Bank and the issues facing courier services, Question 320/2020 by Hon. Zuleikha Hassan on unpaid pension dues to retired civil servants at the Coast and Question 212/2021 by Hon. Joshua Chepyegon Kandie on the progress made by Kenya Ports Authority in authorising, designing, developing and commissioning of additional grain bulk handling services at the Port of Mombasa.

(ii) The Cabinet Secretary for Labour and Social Services will appear before the Departmental Committee on Labour and Social Welfare on Tuesday, 6<sup>th</sup> July to respond to Question No.191/2021 by Hon. Godfrey Osotsi regarding, the plight of Kenyans working in the Middle East and the death of Ms. Melvin Kandereha.

In this category, the Cabinet Secretary for Health will be appearing on Thursday 8<sup>th</sup> July 2021 before the Departmental Committee on Health. The Vice-Chair did a Report on this. For the record, we responded to Question No.131/2020 by Hon. David Gikaria regarding the challenges faced by the persons holding valid NHIF cards in accessing the health services.

Question No.114/2021 by Hon. David Mucheru, regarding the AstraZeneca Vaccine and any associated side effects, benefits, level of protection and process used by the Government in approving it.

Question No. 196/2021 by Hon. Caleb Hamisi on why the National Hospital Insurance Fund (NHIF) is yet to remit over Kshs3 million owed to St. Raphael Dispensary in Matisi Village, Saboti Constituency.

Question No. 205/2021 by Hon. Janet Nangabo on certain funds the Ministry is yet to remit to the Linda Mama Programme since November 2020.

Question No. 208/ 2021 by Hon. Charles Njagua regarding, the basis for allowing rail and air transport to carry passengers at full capacity during the period of COVID-19 Pandemic while subjecting other means of transport to reduce passenger capacity requirements.

Hon. Speaker, the House Business Committee(HBC) will convene on Tuesday 6<sup>th</sup> July 2021 to schedule the business for the rest of the week.

I, now, wish to lay these Statements on the table of the House.

Thank you.

*(Hon. Kimunya laid the document on the Table)*

**Hon. Speaker:** Hon. Members, it is important that the Chairs of the Committees whose Bills have been read out as coming out for consideration take up the issues seriously. This is so that when they are called out, at least, there is somebody to move the Bills for debate to commence. It is not always nice when Bills have to be stepped down.

Next Order!

## BILL

### *Second Reading*

THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL

*(Hon. Millie Odhiambo Mabona on 13.5.2021)*

*(Resumption of Debate interrupted on 13.5.2021 – Morning Sitting)*

**Hon. Speaker:** I am informed that Hon. Maoka Maore was on the Floor and he has a balance of five minutes. He is the Deputy Majority Whip. He is an assistant. This is because he is--

*(Laughter)*

Hon. Members, since Hon. Maore is absent, we go to any other Member. Unfortunately, on the requests, the one on top is the Member for North Imenti. He could also assist. Kindly, have the Floor.

**Hon. Rahim Dawood** (North Imenti, JP): Thank you, Hon. Speaker. I want to support this Bill.

Hon. Maore Maoka was here. He has just stepped out. He should be back in a few minutes. I want to congratulate the Mover of the Bill, Hon. Millie. However, I have a few issues with it. I will mention them in due course.

This Bill is very important for this country because we need a licensing authority which will put in place how the assisted or test tube babies are made in this country.

We are very far behind. This country has not had a proper law guiding this principle of assisted fertility or reproductive technology. Brown, the first test-tube baby was made in the world about 40 years ago. We have since come far from those days. Nowadays, there are even designer babies. Here we chose the people we want. This includes the colour of the eyes, hair or even if you want a male or a female and many other attributes. Hopefully, we could enhance this Bill so that there is no selection of gender when the embryos are fertilised with the gametes or whatever it is.

Hon. Speaker, this Bill goes ahead on Page 436 to talk about a couple recognised as marriage under the laws of Kenya. We have many single mothers who would want to have a baby, but do not want to be connected with any man. This Bill does not even say what would happen in that case. If there is somebody who desires to have a baby but cannot because they cannot commit to a relationship, then we need to cater for them.

There is also the question of surrogacy. It is there and it says that no compensation should be given to a surrogate mother. It is not easy to carry a baby to term. Definitely, the surrogate mother will experience health complications; and even much after the baby is born and the

surrogate mother gives the baby to the rightful parents. There are health complications involved. So, when we say they are not going to be compensated, it is completely wrong and should be left between the person who is doing surrogacy and the people getting it.

This Bill talks about storage. It says that the embryo can only be stored for a maximum of ten years. How many years can sperms and gametes be stored? It has not been mentioned in this Bill. It only says that the embryo can be stored for a maximum of ten years. There are times patients go for cancer or any other treatment. A male might want to keep his sperm for many years because they would want the wife to have it so that he can procreate in future even if he is not there. However, this Bill mentions it would be a written agreement or consent given by the male. If that would be put into a will, because somebody can forget to put it down in writing that they would be willing for their gametes to be given to a certain lady or something.

I have seen the Report of the Departmental Committee on Health where they have deleted Clause 21. Clause 21 would be in conflict because it says that a person shall undertake assisted reproductive technology only for procreation purposes. However, the same is in conflict with the definition of who the father is in (d) because it says that the man did not donate his sperms for the process of assisted reproduction. Both of them are therefore, in conflict. One says you cannot donate your sperms if it is not for reproduction. How then, would you put that in (d) where it says that a man did not donate his sperms for the process of assisted reproduction and at the time of placing it into the woman, be it an embryo or the sperm. There is no question. If it was donated for procreation, then, there is no reason for a man to refuse it to be put into a woman or to be fertilised.

Hon. Speaker, we need to take care where this is involved. We have seen many test tube babies or fertilizations where the person who has left his sperm in a sperm bank and the baby born has a different colour. There are many cases like this. There is even a song about a person who came from China with a baby with a different colour. We need to be sure that the facilities we are going to have in Kenya will be up to the highest standard. This is so that if today I have put a sperm in a sperm bank, the same thing will be used and not someone else's. Then there is a mistake. The licensing should be very thorough. The laboratories should be very thorough and we should have a proper way of doing those things. I agree that we need this though we need to refine this Bill. I will be speaking to *Mheshimiwa* Millie because there are a few things I think the Committee has deleted that should be there. There are some things we need to rectify like the ones where you are required to pay.

The other issue is while you are carrying the baby and you divorce, what happens? Who then takes the responsibility for the baby? What if the mother then does not want the father to have anything to do with it? If it is a surrogate, what happens if the surrogate is not a real surrogate and runs away with the baby? Those are some of the other issues we need to sort out. I think I will leave it at that because there are many people who want to speak and 001 has asked me, but I would want to know the statutory storage period mentioned in the Bill. It is on 43 but, it needs to be mentioned how much someone is going to pay for that storage. This is because there can be a case of someone agreeing to store and one day that company fails and goes into bankruptcy. What will happen to that storage? Will it get lost and yet someone else had put all his energy into it? We need to know. We also need to know the charges. You could probably be charged - I am just giving a hypothetical figure of Kshs1,000 - when they know you need it after five years. They can even tell you Kshs100,000 or Kshs1 million. Since you are not capable of doing it again, you have to give that money because you need that sperm. Therefore, we need to have a figure put in law with the agreements.

Hon. Speaker, there is one provision which talks about a minor; that it is possible to get from a minor under 18 years. I do not agree with that and this is because the age of maturity is 18 years. A minor should not be put into this kind of situation whatever the case because you are thinking about the future. The future is when they will get to maturity. Additionally, there is another thing in this Bill regarding a dead person. I do not know when you are dead, how you can get it? I just do not know. Maybe, the Mover of the Bill should be telling me how you are going to get something out of a dead person, which I do not think is possible.

Thank you Hon. Speaker and I wish to support, but with amendments.

**Hon. Speaker:** Hon. Sankok, you have the Floor.

**Hon. David ole Sankok** (Nominated, JP): Thank you very much, Hon. Speaker, for giving me this opportunity to also support this Bill and congratulate Hon. Millie Odhiambo for bringing such a Bill. Being a cultural man, I may not mention all that Hon. Dawood was mentioning in broad daylight, but I will try as much as possible to be a bit civil while I am contributing.

The Assisted Reproductive Technology Bill, 2019 has been brought by Millie Odhiambo who very well knows the pain that women and even men who are unable to get children go through. I am civilised but not westernised. I am a Christian believing in Christ within the parameters of our Maasai traditions and cultures. Yes, we know that there is a lot of pain when you are unable to get a child, but in our cultures and traditions, there was this reproductive assisting system in which a child belonged to the community; not a single individual. Therefore, all of us would have children whether biologically or not. In our tradition, a woman is allowed to marry another woman and they get children and the arrangement is that the children belong to the woman who has married another woman or who has paid the bride price. In our tradition, there is no name for a step mother or a step brother because all of us belong to our parents, whether biological or otherwise.

Hon. Speaker, I wish we can incorporate our own cultures in this Bill so that we do not become so much westernised rather than being civilised and forget our cultures and traditions that used to solve such psychosocial traumas. We must accept the fact that town dwellers are more westernised than civilised. They neither know our cultures nor traditions. You come to Nairobi, go to any other city in Kenya and even some urban centres, and find people who may not even know there is a lot of incest. There are those who even marry relatives without knowing. For us the Maasai, we know the clans. We follow clan lines and so many issues. Therefore, for the benefit of these town dwellers, I support this Bill so that we can solve some problems that have emerged not as a result of our cultures, but as a result of us being so much westernised. All these problems could have been solved by our cultures.

This Bill will address and solve many issues. One of the issues is a causal trauma that the victims who are unable to get children go through. They are referred to in demeaning manners: barren or that they are unable to rise to the occasion. Most of them even die using the blue pills that Hon. Kutuny has just mentioned, as they try as much as possible to bear children. Therefore, we will save many lives if we pass this Bill so that they can also get their own children. It will also solve the issue of child trafficking. The child trafficking and child theft that is happening is not for people who can have children like Hon. (Dr.) Pukose or me who has seven children. They are sold to those who are unable to get children because of desperation. So, child trafficking will not be there.

Men are also suffering from slay queens. Men marry slay queens who then ensure that they get any man with a “six pack” the day after and lie to you later that the child looks just like you; from behind. They lie that when you see the medical side of your brain and the child’s, they look exactly like yours.

**Hon. Speaker:** Order! There is a point of order from the Member for Narok County.

**Hon. (Ms.) Soipan Tuya** (Narok (CWR), JP): On a point of order, Hon. Speaker. I just want Hon. Sankok to clarify his point. He is insinuating that men are in trouble because of slay queens and has added so many other things. You know it takes two to tango and I want him to clarify that the same way men are suffering because of slay queens, many women are suffering because of slay kings.

**Hon. David ole Sankok** (Nominated, JP): Thank you, Hon. Speaker. I just want to inform my able women representative who will be the governor of Narok very soon that she and I do not fall in the category of slay queens and kings. We are very safe on this. I was explaining when a slay queen gets a child with somebody who has a six pack, because he cannot get kids, she lies to him that the back of the head called occipital or *kisogo* looks exactly like his. She knows she has never seen his and therefore lies.

(Laughter)

There are so many men suffering but since they will get children through surrogates, this issue will be resolved and they can get their copyright or scanned copy. It will also solve the issue of quacks. What is wrong? Why are you excited?

**Hon. (Ms.) Rozaah Buyu** (Kisumu CWR, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order, Hon. Rozaah Buyu?

**Hon. (Ms.) Rozaah Buyu** (Kisumu CWR, ODM): Hon. Speaker, I am not excited! Is the Hon. Member in order to make assumptions that men are not intelligent enough; they are people who can just be lied to even when they can see the back of somebody's head is obviously not like theirs? They are just useless, gullible and believe anything. Is the Member in order to give such assumptions?

**Hon. David ole Sankok** (Nominated, JP): Hon. Speaker, I was rudely interrupted and do not think I should be engaged in such side shows because I know men are suffering. My MP Hon. Tongoyo has just come in, maybe, because I mentioned Hon. Soipan is a future governor. Hon. Tongoyo is also in the race and is the front runner. So, protect me Hon. Speaker. He is the front runner and Hon. Soipan is around there. It will also solve the issue of quacks because without control, lack of a law or Act on this issue, there will emerge very petty clinics and quacks. Sometimes, we may even get a semblance of a human being.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Rozaah Buyu Akinyi

**Hon. (Ms.) Rozaah Buyu** (Kisumu CWR, ODM): Thank you, Hon. Speaker for giving me this opportunity. At the outset, I support this Bill and am sorry I cannot contain myself. Despite the fact that I support it, I would like to say that the definition of the word 'couple' needs to be expanded. This is because as has already been said, a couple does not necessarily have to be a married. We have some 40 or 50 years old who are single but intelligent and mature enough to make decisions, give consents and get into agreements of using the assisted technology to enable them have a child.

Many times, Hon. Millie has told this House that she does not have a child but I am sure by coming up with this Bill, she has given an answer and opportunity to many women and men who want to get children. But because of lack of information on what to do or because of wrong information, they still have not had children. This Bill gives an opportunity to thousands of men and women in this country to have children of their own.

Hon. Speaker, the creation of the authority is something that makes me support this Bill. The composition of the authority is very intense and has a broad-based membership. You will find that an ordinary man or woman can be a member of that authority, thus giving it the opportunity to get input from not just medical doctors or professionals, but also from ordinary Kenyans. The one thing that stands out for me in this Bill is two words - consent and agreement. For example, I maybe a woman in her 40s and in my dreams, I have always dreamt of having a child who has lots of political power. Then I cast my eyes and see the Speaker being made a spokesman of a whole important region and say that, that is where I am going to cast my net.

The two words 'consent and agreement' protect men who would fall victims of such women. They bring integrity to this whole process of the Bill. Another thing I also like about this Bill is that it protects children who maybe the outcome of this technology. A child is a child regardless of how it comes into this world. It needs to enjoy the full benefits as other children who may have come into this world through the natural process. Another thing which makes me like this Bill is that a condition is set that not anybody or situation will use this technology offered, except on the advice of a medical practitioner where it is ascertained that a couple is unable to have children in the natural manner.

*[The Speaker (Hon. Justin Muturi) left the Chair]*

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Soipan Tuya) took the Chair]*

What I like about this, is that it protects this whole process from misuse. Nobody can just wake up and say: "I do not want to give birth the natural way. Let me go for this technology." There will be no opportunity for that. Everything and all tests must show you are unable to get a child in the natural way for you to partake this technology. As I finish, I would like to thank Hon. Millie for coming up with this Bill. I would like to request her to allow for amendments which I am sure Members will come up with. I for one will also come up with some amendments to enrich this Bill

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have the Member for Makueni, Hon. Maanzo Gitonga.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to make comments on this important Bill. Technology has advanced and in many parts of the world, those sets of scenarios have been projected, are already happening and children have been born through those processes.

On the issue of surrogate mothers, when it comes to the law of this country on the registration of a child who has just been born, a birth certificate is issued and it is likely to bear the name of the mother who has just delivered that child. I believe any efforts to try to change this could be very difficult. Not unless we have a law which guides the system on how the whole matter will happen. Otherwise, there is likelihood of a mother delivering a child that is not hers and had requested for payment but according to this law, there will be no compensation for having taken care of that child for nine months. Then, there is a likelihood that immediately after birth the lady may like the child and admire it. Therefore, there is the need for some law to regulate all those scenarios and many others.

One of the scenarios which is worrying in this Bill – and I am happy we are going to make serious amendments during the Committee of the whole House – is contained in Clause 25 (3) where there are prohibited activities, including cloning and mixing of human beings with other animals and things like that. When it comes to minors, the law about minors cannot be amended in any other way by this Bill. It should not be interfered with because the age of consent is 18 years but if you look at the text, it says: “No person shall obtain a sperm or ovum from a donor under 18 years of age or use any sperm or ovum obtained from a donor under 18 years of age except for future human procreation by the minor.

You see the particular time of obtaining the sperm or ovum. There cannot be an exception in this Bill. We will have to do something about it. If this exception is approved, then it means we are amending another law through this law. When it comes to minors, strictly tie this clause with other laws so that there is no exception for any minor so that by the time they are making a donation, they are not under 18 and they are able to be in full control of their faculties. We must protect minors in this scenario because once they do that, can they be able to sign any contracts or for whatever purposes to have an exception on this matter? I believe minors should be prohibited permanently. No exceptions at all should be allowed even though there is always the argument that there is no law without exceptions. I believe when it comes to minors, given the seriousness of this matter, they should be protected thoroughly.

There are experts in this House on this particular field. There are rights of parents, donors and children. The whole idea of having a baby even at an older age is very emotional and a matter which is very serious. Many people are actually suffering throughout the world. They really want to have their own children through one method or another, which has legal implications. I believe Hon. Millie Odhiambo has done thorough research and has done a comparative analysis of the laws in various jurisdictions of the world other than Kenya. So, I believe for Kenyans who need to have that opportunity, an authority is important. The authority being set through this Bill is important. Most probably, we will come up with a way of making sure that the proposed authority is run by experts and people of serious integrity so that no corruption can take place in this field.

As alluded to by the Member for Kisumu, you may have a certain personality you may want to sire children with, although they may not necessarily be your partners in a marriage. So, there could be theft from sperm banks. While you may think the sperm bank is protected, it might turn out that it is not as strictly protected and theft might occur. Therefore, there is provision for punishment in this Bill. We must be very strict so that if one makes such a mistake and brings into the world a child who is not expected, he or she raises such a child using his or her own resources, in addition to facing the punishment prescribed in this Bill. Otherwise, we will end up with people whose history or parentage is not clear.

There are a number of issues. Bearing in mind that Hon. Millie Odhiambo has done thorough research in putting this Bill together, with the assistance of many experts, we have to make sure that the law is very strict because we are dealing with human life, in which case the two parties may be consenting through a contractual obligation which may be breached. We have to be sure that the parties which are going to do this have the capacity to take care of the particular child. We should also remember that with human beings, you do not know when your life ends. After you have given permission, to what extent will one’s sperms be used after they are dead? Do you know what will happen should one of the parties die when the child is expected? If the father dies when the child is expected, how are you going to ensure that the child is taken care of thereafter to make sure that he or she does not suffer or end up in adoption? When the father dies

while the child is expected and then upon birth the mother also dies, what happens? Who deals with this? What law applies?

We need to look at the whole scenario. The authority being set up has to be very thorough. It has a very heavy responsibility. Probably, the authority should be endowed with a Fund to take care of situations arising through their approval so that we can make sure that human life is protected and that the dignity of a human being remains intact.

We have Part Four with rights of parents, donors and children. Probably, we may be re-looking at the Constitution again so that we have an amendment which takes care of this sort of regime under the Bill of Rights. So, there is a lot of work to be done for this law to come into force, although I know that Hon. Millie Odhiambo is an astute lawyer. We will have people going to court to challenge this law on grounds of it being unconstitutional.

It is a duty to all of us here. We are dealing with a very serious matter. We should make sure that, by the time we release this to Kenyans to apply in the jurisdiction of Kenya, at least, it ties up with reasonable practices with the rest of the world so that we do not go into an extreme or we are not in an old regime when dealing with this matter.

I thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us now hear Member for Tharaka, Hon. Murugara Gitonga.

**Hon. George Gitonga** (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. Allow me, at the outset, to support the Bill and thank Hon. Millie Odhiambo. It is timely. It is a Bill we should all support despite the fact that we feel there may be a necessity for amendments in various areas. At the end of the day, we must have a legal framework to support the aspect of assisted reproduction. Assisted reproduction starts right from the biblical perspective. It was there during the early days. If you were directed to assist in reproduction and you failed to do so, the consequences would be grave as we read from the Bible.

In our African traditional societies, again, it was a common practice for human beings to assist one another in areas of reproduction so that the human race could be carried forward from generation to generation. Technology has now come and it is quite advanced. It comes in to aid couples that are not able to conceive and get children in the normal way.

Therefore, Kenya should not be left behind in promulgating laws that would assist such couples get children through this technology. I have gone through the Bill and I am quite happy with the establishment of the authority, which will actually be regulating, supervising and licensing the reproduction assistance especially because it does provide for qualified persons to sit in that authority or board, so that we do not have quacks coming in to try and run a corporate body whose functions they may actually not know. Therefore, as we provide for this board, we should be keen on what the board is going to do and especially look at prohibited activities. It is important that we set out what a licenced business can do or not do. We know for sure, Kenyans are business minded and we will be setting up clinics all over so that we are able to run the business and make as much money as we can out of this, contrary to the principles, spirit and the tenets of this Bill.

We have made a provision - and this is quite timely - about the rights of parents and donors including the rights of the children so that, when a child is born, we know which law is applicable, what are the rights of the parents to that particular child and, most importantly, what are the rights of that particular child born through a process which is away from normal.

Access to information is also important especially where there is a mishap. You never know what happens to a child at the time of birth. The surrogate or the other mother may die and the former may actually poach as a result of which it may not be possible for that child to know how



it was conceived and born. Therefore, it is important that we have provisions for right of access to information so that whenever that child is an adult at 18 years, he/she can make an application to a relevant authority, to be allowed to get the information regarding its birth.

Licensing is very important because we have talked about quacks. We have talked about shrewd businessmen who would want to exploit this innovative area of technology that is coming to our country so as to make as much money as they can. We need to improve on the provisions as regards the licensing and what the license is going to entail, so that we have a comprehensive legal framework. I have looked at finally the penalties and I think, Hon. Millie, we need to look at Clause 57 and 58. There is a bit of inconsistency here because Clause 57 provides for offences under the Bill and the right punishment that will be meted out if you breach this particular Act. Then, of course, there is a general provision again touching on persons convicted with offences under the Act. The two are distant and separate which I think is not in order, because the first one carries a penalty of a fine not exceeding Kshs500,000 or a term not exceeding five years or both, while the second one which is similar to that one, carries a fine not exceeding Kshs100,000 and an imprisonment term not exceeding two years. All of these are offenses under the Act. One is generalised, the other one is trying to be specific but starts with “contravenes any of the provisions of the Act”, which means 57 covers 58. One of them must be obsolete.

Otherwise, having gone through the Bill, the memorandum, the objects and reasons, this is timely and I support.

Thank you, very much.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Soipan Tuyu): The Member for Emuhaya, Hon. Milemba, you have the Floor.

**Hon. Omboko Milemba** (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to comment on this Bill. I have just been speaking to the promoter and I think she has put in a lot of her time and research. The Assisted Reproductive Technology Bill is basically test-tube babies in simple language that Kenyans can understand. It is what is popularly called as the IVF process. It is foreign to many Kenyans generally in the villages and communities, but it is not that foreign. I also come from a community, like my colleagues, particularly Hon. Sankok has said, that believe in invitro-fertilisation. The communities can be very conservative. Therefore, later on, we should be coming up with amendments that will deal with cultural practices that will hinder the progress of this progressive Bill. We also have the religious practices that will come up. I am happy that one of the speakers earlier spoke to the issue of this going to court at one point in time depending on the cultural and the religious practices of the people and Kenyans who will interact with this Bill.

However, to allay some fears to the extent which I can, the ART is not very new in the world. I think one of the speakers spoke to this. That, by 1977, this was already being done in the world and the first child by the name Lesley Brown had been created in a test-tube. That must have been in England. Today, as we lead to allay the fears, over 9 million people living in the world have gone through this process. Therefore, we are living with them all over the world.

The Bill seeks to regulate the rights and obligations relating to ART and it is very good. It further seeks to regulate the use of ART for people who have challenges with fertility. This is good. It will give them a chance not to be stigmatised on the basis of being unable to have a child for both men and women. The Bill further comes to regulate the obligations in the medical practitioners and people who will be allowed to carry out this activity. For me, this is very good because currently, those practices are going on but underworld. Therefore, non-qualified practitioners are actually doing this job and they are doing it underworld. As they do it, the risks

to the people who obtain are high and even the prices of the people who get those services is very high. I think this Bill is timely so that it can deal with that aspect of those of us who were unable to otherwise get children using the normal invitro-fertilisation procedure.

The Bill creates an authority to deal and even give powers to how those processes will be done. The authority in one of the clauses has a range of powers. The authority therefore will standardise and coordinate those processes. The authority further is basically legalizing those processes of IVF, so that never again shall we have this being done underworld and people having mysterious babies and stories hyping the headlines of newspapers that there are test-tube babies produced.

Further, with this authority, the cost, like I had said earlier, will be reduced. To go through those processes, people pay as high as a million or a lot of money. So, the cost will go down and so on and so forth. This will finally save the public from the stigma of either having a baby or not.

Hon. Temporary Deputy Speaker, on the other hand, there are a few checks that must be put in place. This must be undertaken very delicately when we shall be dealing with the Third Reading of this particular Bill, so that we do not offend the society in any way. That is the biggest challenge that we shall face with the communities, the cultures and the religions that are amongst ourselves. So, attempts to include underage persons who we call children, and coming from the background of a teacher, should at the correct stage be amended so that we are within the understanding of the reproductive health in Kenya and what consent is within our society. That can lead to unnecessary debate that we are, within our ranks, sneaking a change into other laws that has had a lot of talk, arguments and contributions by not only the Kenyans, but also the religious people and the cultural communities. That is something that I wish that the Mover, who is the sponsor of the Bill, will consider.

There is also the danger of embryos that will be... Because now we are giving a license. There are many measures within this Bill on how to control the people who will be given the chance to carry out those test-tube processes. However, we risk having a situation where we shall not just be seeking to get the intra-vitro fertilization, but we shall just go to a shelf and pick children because they will be fertilised already. So, you can just pick human beings and walk away with them. We need certain checks, and to add to Hon. Oku's words, balances must be there to make sure that this is only for the people who deserve to use this particular law. Otherwise, unless checked, people will get out of their ways and sell babies on the shelves. The market will be another level that we need to make another law on either here or those who will be there. Therefore, as I conclude, this is a very good law but it has to be calculated very well to fit in our cultural and religious ecosystem.

I thank you. I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Narok West, what is out of order? Who is on a point of order? Hon. Member, I cannot recognise you behind your mask. Oh! That is Hon. Benjamin Washiali.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. This is Thursday afternoon, a day allotted for Private Member's Business. I have been listening to the contributions of Members and up to around 13 Members have been supporting this Bill. I just wanted to advise Members that we have at one point done some business here against our own interests because we have too many Bills from Private Members still queuing. Even the next Bill is also a Private Member's Bill. I request that should there be any Member with an issue with this Bill, he still has an opportunity to come at the Committee stage and move amendments.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): What is your point of order?

**Hon. Benjamin Washiali** (Mumias East, JP): I am rising under Standing Order No. 95 to request that the Mover to be now called upon to reply.

I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Alright. I will have to...

*(Loud consultations)*

Order, Hon. Members! The Hon. Member for Narok West was on his feet. So, I will allow him and one more on this side, three Members and then we prosecute the Motion by Hon. Washiali. Hon. Gabriel Tongoyo, go on.

**Hon. Gabriel Tongoyo** (Narok West, CCM): Thank you, Hon. Temporary Deputy Speaker. I want to be very brief. I have also understood the concern of Hon. Washiali.

I just want to put a few words on this Bill, which is a very important Bill that was presented to the Departmental Committee on Health where I sit. First and foremost, I congratulate Hon. (Ms.) Odhiambo-Mabona for bringing such a Bill. It is timely. The whole world has embraced technology and Kenya is not an exception. The Reproductive Bill, 2019, seeks to establish an authority. The Hon. Member has done a bit of research on this topic. We have been informed that Kenya has an infertility rate of about 12 per cent. Establishment of such an authority to regulate the assisted reproductive technology will go a long way to help curb this problem.

Hon. Temporary Deputy Speaker, in some of the communities where we come from, we know the importance of a child. In many cases, the intention of every family during marriage is to give birth to children. In many cases, if this fails to happen, the wife mostly becomes the victim of isolation, stigma and even at times violence without establishing the cause. Even some situations of child trafficking occur probably because of such a situation. So, the establishment of such an authority to regulate reproductive technology will help us, as a country, in such a situation. So, I support this Bill.

As a country, we stand to benefit most, then the women of Kenya and the couples in general. We can be able to solve a little bit of some of the problems that we have in our societies. My colleague from Narok, Hon. David ole Sankok, has talked about how, in some of our communities that we come from, the child does not have a particular parent. He may have biologically but socially, a child belongs to all of us. By helping this, we are going a long way to make sure that such problems are solved in the society and, probably, enhance peaceful and harmonious families. This is a timely Bill. We should embrace it as a country.

I thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Marsabit County, Hon. (Ms.) Safia Sheikh. She is not here? Are you here? Okay, do you want to speak to this one?

**Hon. (Ms.) Safia Sheikh** (Marsabit CWR, JP): No.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Okay. Hon. Member for Kwale.

**Hon. (Ms.) Zuleikha Hassan** (Kwale (CWR), ODM): Ahsante, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi hii kuchangia huu Mswada kuhusiana na sheria hii ambayo imeletwa na Mhe. (Bi.) Odhiambo-Mabona ambayo itasaidia watu kupata watoto kwa njia ambazo si za kawaida.

Mwanzo, naunga mkono Mswada huu hususan kwa watu wawili ambao wameoana, wanataka kupata watoto na wana shida kwa sababu ya njia moja au nyingine, na kuwa madaktari

wamesema kuwa bado wanaweza kupata watoto ikiwa watatumia njia hii ya kiteknolojia ambayo inatumiwa pia sehemu zingine ulimwenguni. Kuna maswala tofauti katika huu Mswada ambayo ningependa yaweze kuondolewa wakati tutakuja kwenye Kamati kumaliza kazi ya Mswada huu.

Mwanzo, nataka kutaja sehemu ya Katiba ya mwanzo kabisa, sentensi ya kwanza ya Katiba yetu inayosema kuwa Wakenya tunatambua ukubwa wa Mwenyezi Mungu na muumba wa viumbe vyote. Pia kuna sentensi nyingine hapo mwanzoni, ya tano nadhani, ambayo inasema kuwa kama Wakenya tumesema kuwa tutakuza na tutalinda hali ya afya ya sisi kama watu binafsi, jamii na nchi kwa jumla.

Kitu cha kwanza ambacho ningependa kisiwe ndani ya sheria hii ni neno katika Mswada huo ambalo linaitwa kwa Kiingereza “*donor*” ama yule mwanamke ambaye atapeana yai lake ama mwanamume ambaye atapeana mbegu yake. Kenya ni nchi ambayo wengi wetu tunafuata dini. Kuna Waislamu na Wakristo. Tunajua katika malezi yetu kuwa kuna vile tunapenda jamii yetu iwe na tunapenda kuheshimu ndoa kati ya watu wawili, mume na mke, waliokuja pamoja na kuoana. Kwa hivyo, naunga mkono kuwa ndoa iwe tu ya watu wawili ambao wamekuja pamoja, lakini isiwe ya watu ambao wako nje ya ndoa. Tayari katika jamii yetu ni kitu ambacho hatuungi mkono. Mara nyingi, tunalalamika sana kuwa kuna wazazi ambao wanalea watoto peke yao, sana sana wanawake, ambao tunaita *single mothers*. Ni jambo ambalo Serikali yetu inatafutia suluhu. Kwa hivyo, hii pia itakuwa njia ya kuongeza idadi ya *single parents* ama mzazi mmoja ijapokuwa ni kitu ambacho hatukipendi kwa sababu ya tabia zetu, malezi yetu na uzoefu wetu.

Mengine ni kuwa ile mbegu ambaye baba atatoa inaweza kukaa kwa miaka mingi, hata baada ya yeye kufariki. Mbegu hiyo inaweza kubaki na kutengeneza mtoto. Twawaonea huruma watu ambao hawawezi kupata watoto na ndio maana naunga mkono Mswada huu, ila pia wakati mwingine tufikirie mtoto atakayezaliwa. Je, atahisi vipi kuwa tofauti sana na binadamu wengine? Inawezekana kuwa mzazi wake alikufa miaka mitano iliyopita na baada ya mzazi kufariki, ndio anaanza kuumbwa kutumia teknolojia. Kwa Kiingereza, wanatumia neno “*stigma*”. Hata kama twataka kupata watoto na tuna uchungu, lakini pia tufikirie yule mtoto akishazaliwa maoni yake yatakuwa vipi na pia hatajua mzazi wake. Pengine asijue babake ama mamake ni nani. Kuna huo uwezekano.

Nishafuatiliza sana kesi nyingi huko Uingereza ambapo teknolojia hii imetumiwa kwa miaka mingi sana. Utaona watoto walioumbwa na teknolojia hii wakitafuta wazazi wao wakifika miaka 20 au 30. Kuna mwingine ambaye alipata ndugu zake wengi. Mbegu ya babake ilitumiwa kwa watu wengi sana. Akafanya bidii kutafuta ndugu zake wote. Kwa hivyo, ina machungu fulani.

Kitu kingine ambacho kinanitia wasiwasi ni Kipengele cha 31 kuhusiana na mwanamke kubeba mtoto ambaye yeye hakuchangia yai na ile mbegu ni ya wazazi wengine, yaani *surrogacy*. Yeye peke yake ndiye anabeba mtoto. Kuna nchi kadhaa ulimwenguni ambazo zimekataa hiyo kwa sababu tofauti tofauti. Mojawapo ni kuwa licha ya kuwa mwanamke anasaidia watu wengine kupata watoto, hali yake ya akili na fikira itaathirika kwa sababu anabeba mtoto kisha anapeana. Ukibeba mtoto kutoka siku ya kwanza, inakuwa ni kama wataka kumlinda. Unamwona kama ni mtoto wako na una uhusiano naye ilhali baada ya kuzaa, inabidi upeane. Ndio maana unaona nchi chache zinakataa hiyo kwa sababu kuna athari. Ndio amesaidia watu wapate mtoto lakini, je, athari kwa yule aliyebeba ni zipi?

Kuna jambo lingine ambalo nahofia. Pengine Mheshimiwa hakuwa na nia hii na nafahamu hivyo maanake niko naye siku nyingi, namsikiza na ni mwalimu wangu kwa mambo mengi ya Bunge. Samahani, sina neno lingine la kutumia isipokuwa hili lakini kwa Kiswahili linaitwa “*ushoga*”. Kwa Kiingereza ni “*homosexuality*”. Hii inaweza kutumiwa kama njia ya kupata mtoto hapa nchini Kenya kwa watu ambao wameamua kuwa wataoana mwanamume kwa mwanamume

ama mwanamke kwa mwanamke, kwa sababu bado jamii haijakubali. Kwa hivyo, hiyo ndio wasiwasi yangu kwamba hiyo itatumiwa kama njia ya watu kama hao kupata mtoto.

Kwa hayo mengi na machache, shukran kwa nafasi hiyo.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have Dr. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Speaker for allowing me to contribute to this Assisted Reproductive Technology Bill (National Assembly Bill No.34 of 2019) by Hon. Millie Odhiambo-Mabona.

At the outset, I support the Bill but with amendments. My first proposed amendment is in the constitution of the authority where the Bill states that the board shall appoint the director-general. In the current constitutional dispensation, I suggest that the board recruit competitively. When we leave it to the board to just appoint the director-general, anybody can appoint anyone. What is the criteria? He or she should be recruited competitively. The regulations will guide us on how the board shall competitively recruit the director-general.

This is a good Bill. When we talk about assisted reproductive technology, this is technology which will be used to treat infertility. It could be that you are married, you have your partner, you have attempted on several occasions, but you are not able to get children. The problem might be on the man's side. You may have a low sperm count or it could be a problem on the woman's side. The two of them are assisted to conceive. It could be the man or the woman who has the problem.

When you are assisting people who are married, why should they get somebody else to carry that child? This is where Hon. Mabona will have challenges, especially from the religious sector. It would be proper to remove that section on surrogacy because we want this Bill to move forward. We want this Bill to also assist in terms of, at least, having regulations, guidelines and even licensing those who are qualified to practice. We have gynaecologists who are able to do this work. Once you have an authority, you have regulations that guide on how the process is done. It will become even more affordable. As it stands today, invitro fertilization is very expensive for those who want to do it. Many people who would want to have children cannot afford it. If we make it such that even regional hospitals in Nakuru, Embu, Nyeri, Kisii and all those level five hospitals are able to do it, it will become more accessible and affordable to the general public.

You have to delete that section on surrogacy because it will bring problems, especially from religious people. I know you have good intentions. As my colleague said, it will be misinterpreted to promote homosexuality. When two gentlemen get married, then it means they will look for a woman to carry their baby. They will enter into a consent. That might not help a lot. Let us delete that section on surrogacy and surrogate mothers for the time being, so that it can allow this Bill to go forward. If that is allowed, many people who are in the religious sector will interpret it to be just more than surrogacy for the person who wants to have a child, but she is over 40 years and past menopause. If you are past 40 years and on menopause and you want to get a child, how will you have an egg to donate? It is not possible.

As far as this law is concerned, you cannot clone. A Member said that you can manipulate the eyes and hair. This proposed law does not allow that. It prohibits cloning. We want that to be understood very clearly outside there. Any person should read and understand that Hon. Mabona provides that cloning cannot be done. This is not cloning. It is fertilisation with assisted technology.

With those few remarks, Hon. Temporary Deputy Speaker, I support the Bill with amendments. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, Hon. Washiali has moved a Motion under Standing Order No.95. I have no choice, but to subject it to a Question, so that we can proceed depending on the decision the House takes.

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

Mover.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to reply. With your permission, let me remove my mask because I am social distancing.

Let me take this opportunity to thank all the Members who have contributed to this Bill. Just like in the last Parliament, we have received overwhelming support. There is no Member who opposed the Bill. They suggested very good proposals to strengthen it. We have 14 of them on record, namely, Hon. Nyamai, Hon. Martin Owino, Hon. Chachu Ganya, Hon. Nyikal together with a medical team that helped me, Hon. Maoka Maore, Hon. Dawood, Hon. David Sankok, Hon. Rozaah Buyu, Hon. Daniel Maanzo, Hon. Murugara, Hon. Milemba, Hon. Tongoyo, Hon. Zuleikha and Hon. Pukose. Thank you very much all of you for supporting this Bill and seeing the necessity for it to come at this time.

I know there are several Members who wished to speak. However, they did not get a chance because of time. In the next business on the Order Paper, which is the Sugar Bill - Sugar is sweet - I can see Members from the sugarcane growing region are very eagerly waiting, so that they can take a little bit of the sweet sugar. I want to indicate that Hon. K.J. desperately wanted to speak. Hon. Janet Ong'era, Hon. Shakeel Shabbir, Hon. Esther Passaris, Hon. Eve Obara and others had indicated they wanted to speak.

*(An Hon. Member spoke off-record)*

Procedurally, I am not allowed to donate minutes. I wish I was. I know those Members wanted to support the Bill. I have taken into account all what the Members have said. I really thank them from the bottom of my heart because they have given very valid issues that strengthen this Bill. Perhaps, there are one or two areas where there may be a bit of a challenge. I know this Bill raises very moral and religious issues. I thank the Majority Whip who also wanted to contribute to this Bill. He indicated to me his concerns, especially from the Catholic Church, which I appreciate. We will try very much to include a section that recognises the religious concerns. At the same time, we will underscore the fact that we are religious and everybody has a conscience and allowed within the constitutional limits to practise certain rights.

Just like the time when I brought this Bill in the last Parliament, I am amazed at the numbers of Members of Parliament who have come to me who had children or trying to have children through assisted reproductive technology. One of the Members who got an opportunity to speak spoke on behalf of his wife. He gave me a horror story about what she went through. Because of the way she is stigmatised, she did not want to speak about it. Therefore, he said he would be here and will continue supporting the Bill. A lot of people are struggling.

One of the people who spoke to me is a very young male Member of Parliament who is struggling to have a child through assisted reproductive technology. There is also a woman Member of Parliament who had a child when she was past 40 years through assisted reproductive

technology. I know that because she spoke to me even before she came to Parliament. Hon. Joyce Lay gave her testimony. She got her child through surrogacy because she does not have a womb. There are many women who are unable to have children because of one or two reasons. As much as we want to look into that, let us not victimise them.

I am glad because of the Member who said that in the book of Ruth in the Bible, God punishes you if you do not want to father your brother's lineage. Assisted reproduction is biblical. Hon. Shakeel Shabbir told me that he wanted to speak to this Bill, but he is away. He told me to tell the House that he has four children courtesy of assisted reproductive technology. There are very many Members of Parliament here who had children through assisted reproductive technology. Some may pronounce it and others may not. There are very many women and men who cannot afford it because of their economic status. I am here to speak on their behalf.

I want to end by saying something I had said before, but I want to repeat it. When I go to my constituency, I get amazed. When we sit in a big meeting like this, I notice that people who have Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS) raise their hands because people speak by sector. Fishermen speak. They tell us that they want to finish as fishermen. The watchmen speak. People on Antiretroviral (ARV) drugs speak. They tell me that those who swallow ARVs are there. When you say "*Jo ndile*" we know they are people who take ARVs. They are not embarrassed to say that. The only category that does raise their hands is *luor* because it is stigmatised. These are barren women. They sneak to see me. Even in the Bible, they were laughed at. I am here to speak for *luor* and barren women and men who cannot have children through normal biological means. In the Bible, God blesses you when you protect a given category and one is women who do not have children. I have listened about the issue of the children and I will amend.

In ending, in Homa Bay County, the COVID-19 situation, an issue which was raised earlier on, and even though we were not given an opportunity, is terrible. I normally deal with about 20 deaths in a week because my constituency is the epicentre of HIV/AIDS in the country. That has moved to between 40 to 50 deaths per week. I see the epicentres, but I do not want to mention them now and cause panic. A beach usually has very few people. I know a beach where within the last one month, we have had almost 10 deaths. That is very serious. I have spoken to the Cabinet Secretary for Health.

The county may not be able to deal with this. The Ministry needs to come in and help because our health system is overstretched. People are removed from morgues. I always get information about almost every death. I have a diary where I record deaths because I have to support my people. For instance, if somebody was to be buried on a Friday, people are suddenly told to remove the body from a morgue because it is full and have to be buried. I also call on the national Government to assist.

With those few remarks, I beg to reply. I thank all the Members for their support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Congratulations, Hon. Millie. Once again, this is a Bill that speaks to a real issue affecting many people who may not be able to speak for themselves the world over.

We cannot proceed with putting the Question until when the business will next be scheduled on the Order Paper.

*(Putting of the Question deferred)*

Let us move to the next Order.

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*Second Reading*

## THE SUGAR BILL

*(Hon. Wafula Wamunyinyi on 24.6.2021)**(Resumption of Debate interrupted on 24.6.2021)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): We have a balance of three hours and twenty-six minutes. Hon. Wamunyinyi was moving and had a balance of 26 minutes.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Speaker again for giving me the opportunity to move the Bill. I had just started moving the Bill before I was interrupted last time.

This is an important Bill for an entire sugar industry in this country. We are aware that the sugar industry is on its knees. The farmers of this country, stakeholders, interested parties and workers in the sugar industry are in dire consequences. As representatives of the sugarcane growers in the country, we came together and looked at when and where the problem started. We have had various forums where we resolved that reforms in the industry will be the answer to the problems. It was at that point that we noted that the repeal of the Sugar Act was the beginning of the problems in the industry.

The introduction of the Agriculture and Food Authority Act where sugarcane was put together with other crops under the Act ensured that sugar did not get the requisite attention so that matters regarding the sugar sector are attended with undivided attention. The repeal of the Sugar Act also did away with the Sugar Development Fund. The Fund was always handy in times when factories needed maintenance or needed to be serviced. When they ran short of money or had cash flow problems, the Sugar Development Fund was always available to lend the sugar factories funds for maintenance and servicing of factories, for development and to support out-grower activities among others. But when the Act was repealed, the Sugar Development Fund also died and the levy that used to raise funds for the Fund.

This Bill seeks to restore the old status where we had the Sugar Act and the board in place, so that matters of the sugar industry would be given the required attention and the problems we have will be addressed.

The principal object of the Bill is to reinstate the Act which was repealed through the enactment of the Crops Act. The Bill shall restore the roles of the Sugar Board, currently the Directorate of Agriculture and Food Authority, enacted in 2013. Since 2013, ineffective stewardship of the sugar industry by the Authority has contributed to many problems in the industry including non-payment of farmers, increased cost of production due to inefficiencies in the factories arising from lack of servicing and maintenance of the factories, declining land acreage under sugar because of the discouragement farmers get due to non-payment and failure to control importation of sugar into our country. Cheap sugar is imported into our country by sugar barons and, in fact, our market has been flooded to the extent that even if sugar is produced in the country, there will be no market for it. Even if there was, it will not compete because imported sugar is very cheap.

There is also poor management of sugar companies, lack of research, and cane development initiatives that have been occasioned by the repeal of the Sugar Act which did away with the Sugar Research Foundation. The current Sugar Directorate is not properly equipped and



funded to address the concerns of the industry and therefore the need for us to introduce this Bill that will put in place the Act and the Sugar Board to deal with issues of sugar.

It also intends to strengthen the National Sugar Research Institute to nurture technological advancements that are required and innovations, so that we do not keep the old varieties of cane, old factory technologies and crushing capacities that we had then that we do not need at the moment. Therefore, we need to strengthen the research aspect, so that we get new technologies.

Hon. Temporary Deputy Speaker, the Bill is divided into eight parts and has three schedules. The first part is preliminary, as usual. Clause 2 provides interpretation and definition of terms that are in the Bill. Clause 3 is on establishment, powers and functions of the Kenya Sugar Board. Clause 3 establishes the board as a body corporate, with perpetual succession and a common seal, while Clause 4 provides for functions of the board which include among others, regulations, development and promotion of the sugar industry, and facilitation of equitable access to the benefits and resources of the industry by interested parties; stakeholders, farmers and all those that are involved in sugar matters.

The sugar board will also be responsible for ensuring production of sugar which will be exported to other countries, and participating in formulation and implementation of overall policies for the industry's development.

Clause 5 provides for the composition of the board whose members shall serve for a three-year term, renewable once. Members proposed a non-executive chairman elected by the board from among the representatives and is appointed, and published in the *Kenya Gazette* by the Cabinet Secretary, five representatives elected by the growers and appointed in the same manner, a representative elected by millers from among themselves and appointed by the CS, the Principal Secretary in the Ministry of Agriculture, one person nominated by the Council of Governors to represent it at the board, the PS for the National Treasury and finally, the chief executive officer. This part has proposed amendments. Some members of the Council of Governors think that, that is not enough for them. They have proposed amendments. We will look at them when we get to the Committee of the whole House stage.

Clause 6 provides for the powers of the board. Clause 7 provides for the conduct of business. Clause 8 provides for the powers of the board to delegate the exercise of its powers or functions to any of its committees, established sub-committees or member or officer or employee of the board. Clause 9 provides for remuneration of the board. Clause 10 establishes the office of the chief executive officer. Clause 11 provides for staff of the board. Clause 12 protects any member, officer or employee, or agent of the board, from personal liability to any action done in accordance with the Act. Clause 13 provides for liability of the board to pay damages to any person injured or property destroyed or caused by action arising from the Act.

Part III is about licensing and registration. Clause 14 provides for the requirement of millers to obtain licences to operate mills. Clause 15 provides for the issue of licences and licence fees. The board shall only issue licences to fit and proper applicants with sufficient knowledge, experience and capacity to conduct milling business. Licences will be issued on an annual basis. Clause 16 provides that millers should be registered by the board and their premises of conducting business should be specified in the register.

Part IV is on financial provisions. It provides for the funds of the board and power to impose levies; the levies I referred to. They were also in place in the past, but they must be approved by the CS. It also establishes the Sugar Development Fund, which I mentioned earlier.

Part V is on miscellaneous provisions. Under Clause 25, it provides for an annual general meeting of the representatives of millers and growers. Clause 29 provides for sugar industry

agreements which are agreements negotiated between growers and millers, growers and out-growers, out-grower institutions and millers, and out-grower institutions. Clause 30 provides for the rights of growers. On the rights of growers and according to the proposals when I was drafting this Bill where the question of privatisation was on the table, we said that 51 per cent of the shareholding of all privatised sugar factories should go to the growers and 51 per cent of the representation in the board of directors to milling companies. Clause 31 establishes the Sugar Arbitration Tribunal comprising of a chairperson, qualified for appointment as a Judge of the High Court of Kenya, who shall be appointed by the Chief Justice and four members with expert knowledge of matters likely to come before the tribunal.

Part VI provides for delegated powers. That is under Clause 33 which empowers the CS for Agriculture to make regulations for the effective operation of the Act. We already have regulations which have been published, but I am sure this will also have to be endorsed by the House when the Bill is assented to, to become an Act.

Part VII is consequential amendments. Clause 34 amends the First Schedule of the Agriculture and Food Authority Act of 2013 to delete a reference to the Kenya Sugar Board as a repealed institution. Clause 35 amends the First Schedule of the Crops Act of 2013 to delete sugar as a crop whose breeding would require certification.

Part VIII is on saving and transitional provisions. Clauses 36, 37 and 38 provide for the staff of the current Directorate of Agriculture and Food Authority to be the staff of the board. All property belonging to the sugar directorate shall also be transferred to the board, subject to interests, liabilities, charges and obligations.

The First Schedule provides for provisions of vacation of office, quorum of meetings, disclosure of interests, the common seal, contracts and instruments of the board. The Second Schedule, Part One provides for guidelines for agreements between parties in the sugar industry such as the scope of the agreements and interpretation. Part Two of the Second Schedule provides for the roles of different institutions in the industry, namely, the board, the Sugar Research Foundation, out-grower institutions and the millers. Finally, the Third Schedule provides for provisions on meetings and procedures of the Sugar Tribunal.

When we were in the process of working on this Bill, we looked exactly at what the board should do in addition to what I have said. We undertook a comparative study. I looked at the Brazilian sector and found that the sugarcane division has played a key role in the economic growth and development of the country. According to the Brazilian Bureau of Statistics, there had been tremendous growth of the sugarcane sector estimated at 10 per cent on average in 2017. Improvement in the sugar industry was largely due to the outstanding technological progress in the sugar sub-sector coupled with supportive Government policies. According to the United States Department for Agriculture, Brazil is the world's leading producer and exporter of sugar. Approximately 22.5 per cent, about 40 million tonnes of sugar consumed globally, comes from Brazil.

One of the key issues that I noted from Brazil's case is that there are subsidies and scheduled tax regimes. In Brazil, sugar is not taxed at all and the revenue improvement from the by-products goes back to the industry to support farmers. South Africa has a Sugar Act like ours. It has the South African Sugar Association, an authority mandated to maintain a network of provisions designated to protect the domestic sugar industries against any others. It seeks to protect farmers and the industry in general. It is the highest decision making authority in the industry on common interest for sugarcane growers and sugar millers. The Government has over time invested

in research and development in the sugar sub-sector. This has been noted to have enhanced efficiency and effectiveness in the sugar industry in South Africa.

I have also looked at Uganda that enacted its Sugar Act in 2016. Tanzania has a Sugar Act. Both Uganda and Tanzania have sugar boards that perform the functions that I will mention as I conclude. There are lessons from the international experience given the significant role that the sub-sector plays with regard to the substantial number. They are:

- (a) Improvement of livelihoods both directly and indirectly in the sugar industry.
- (b) Government interventions have come in handy to invigorate activities in the sugar industry.
- (c) Supportive legal frameworks are crucial in the area of sugar production. The case of South Africa greatly facilitates effective enforcement of sugar industry agreements which help to curb exploitation of growers. This is something we can learn from.
- (d) Research and development in the sugar sub-sector can help improve sugar production by enhancing tonnage produced per hectare. Sugar production in Nzoia Sugar Company is now too low because the factory is inefficient as it has not been maintained for the past six years. You do not expect that factory to produce sugar and compete in the market.
- (e) Tax subsidies can also be adopted in the sugar industry to give incentive to investors in sugar production activities.

If enactment and enforcement enhance effectiveness of stewardship of the sugar industry, the following benefits shall be realised:

- (a) Increased employment opportunities.
- (b) Enhanced foreign exchange earnings from increased exports and reduced imports.
- (c) Rise in public revenue arising from various tax regimes. If there is zero-rating aspect on sugar, then the incomes will be higher.
- (d) Increase in public revenue.
- (e) Industrialisation and the benefits that accrue from people in employment and farmers earning their dues.
- (f) Better standards of living. The growers and other stakeholders in the sugar industry will definitely enjoy.

As I conclude so that I allow my colleagues who have been waiting to contribute, this Bill is very important because it will ensure that factories are serviced and they function efficiently and effectively. The workers of the sugar company will not remain unpaid. It will ensure that farmers of this country who supply sugar to factories are paid their dues. It will also ensure that there is control in sugar importation such that there will be no haphazard importation of sugar and importation will only be done after research and ensuring that there is no distortion when it comes to imports and exports. It will ensure that citizen's interests are protected to the extent that the market is not flooded excessively.

Hon. Temporary Deputy Speaker, having said that, I understand that my colleagues want to speak on this Bill because we are all interested. If this Bill goes through, we expect the Government to put in place measures and policies that will ensure that the industry is adequately supported. Unfortunately, I did not see any allocation to support the Government sugar companies that are in trouble in the Budget for this financial year. The Government has not taken any keen interest. From the lessons borrowed from the South African and Brazilian cases, and even the local scene, we have seen that good Government supportive policies have been responsible for flourishing performance in the sugar industry. If we get good policies in our country, there will be no reason why farmers will not benefit.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Wamunyinyi, I should not be interrupting you, but I hope you are winding up.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Yes, Hon. Temporary Deputy Speaker. I beg to move and request my colleague, Hon. Emmanuel Wangwe, to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Did you record your moving?

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Yes, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have Hon. Wangwe.

**Hon. Emmanuel Wangwe** (Navakholo, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to second the Bill, ably moved by the indomitable party leader, Hon. Wamunyinyi. I want to give a synopsis of the issue of sugar in the country. The issue dates back to the 19<sup>th</sup> Century, in 1902, when it was first introduced in Kenya, especially in the western region of Kisumu. That time, we did not have other regions. It was just general. The first organisation that came about was the Kenya Sugar Authority, way back in 1973. That was immediately after the Sessional Paper No.10 of 1965. With that, we have had a dynamic move around between the Kenya Sugar Authority and the Kenya Sugar Board, which came in force in 2001 through the Sugar Act, 2001. The two bodies have seen the sugar industry move to a certain level. But something happened in 2013 when we lost the root of the organisations and, therefore, collapsed the Kenya Sugar Board. That was the genesis of the troubles we are in today. Although the initial plan, through this House, was good, the administration went off the path and we ended up in the situation we are in today as an industry.

The Sugar Bill before the House shall not just help the people of western Kenya, but it shall cover Kenya as a whole. We see sugar industries in Kwale, Rift Valley, Nyanza and Western. They will all be governed by this Act. What is good in this Bill, in a nutshell, is to bring back an administrative body which has teeth to bite and which has the focus of the industry moving forward, namely, the Kenya Sugar Board, which is anchored in the Bill. If it comes into force, the other few proposed amendments will come at the Committee of the whole House stage on the composition and administration of the board. But what is important is that the Sugar Board comes back into force to give direction to the industry. For instance, we lost the Sugar Development Levy. Mumias Sugar Company is in limbo today. It is under receivership. The factory could not access however small credit it needs just because if it was to borrow, it would go to the commercial market. If the Sugar Development Levy was alive, definitely the factory would have gone to the Sugar Board to get some money and manage to move on as it struggles. This Bill by Hon. Wamunyinyi seeks to bring back all these benefits to our farmers.

This Bill also aligns itself with the Constitution which recognises the existence of county and national governments. Agriculture being a devolved function, the issue of farming shall be ably handled by county governments while the industry will be overseen by the national Government. We will see involvement of county governments in terms of cane farming and participation in the board.

What is also good in this Bill is zoning. There has been misunderstanding when we refer to zoning as it is envisaged in the Bill and as it used to be in the initial times. Initially, zoning was simply for a factory and its neighbourhood; the nucleus and the immediate out-growers. The elaborate discussion that the Committee had, stakeholder submissions and the Report of the Committee, for which I want to thank Hon. Tiren for the good work his Committee has done, is that we will not just tie-up one factory to market and attend to farmers. Instead we are going to have various factories put as one, so that in case one factory is not functioning or is under

maintenance, farmers in that region do not suffer and we do not kill competition. Those people who might have thought we are going to kill competition should not worry. We are simply going to provide a market. Our farmers will be supported so that they do not lack where to sell their produce.

The board shall also have a say on importation of sugar. Today, the Cabinet Secretary and the staff at Agriculture and Food Authority, his own staff, sit and decide how much sugar is going to come into the country and when. Yes, we know Kenya is a signatory to regional treaties and there are import quotas, but organisation on how to import is in the hands of the Ministry alone. This time, farmers, millers and county governments, all through the board, shall have a stake to decide when to import. My colleagues are waiting and interested in adding their voices to this Bill. There are various good things in this Bill such as how land acreage is going to be addressed. Research shall also be addressed by the board. Reading the Bill at length, the Report of the Committee and looking at the deliberations of the stakeholders, we shall consider much of their proposals at the Committee of the whole House stage.

With those many remarks, I beg to second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): I take note of the high interest by Members to contribute to the Bill. There is sufficient time, so we should not be anxious about contributing. In the order of precedence, in the absence of the Leader of the Majority Party and the Leader of the Minority Party, we will have the Chairperson of the Committee on Agriculture and Livestock. Hon. Tiren, are you ready to say something?

**Hon. Silas Tiren** (Moiben, JP): Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to the Bill. I want to thank our colleague for bringing it up. The Bill is good. We had an opportunity to look at the Bill and we scrutinised areas that we thought will make the industry a better one. The principal object of this Bill is to create a proper legal framework to govern the sugar sector to address the plight of sugarcane farmers in the country. The House may recall, and it has been said by the sponsor, that the AFA collapsed many State institutions in the agriculture sector into one. This led to crucial sectors, such as sugar being overshadowed or not being attended to as required causing a negative spill-over effect to farmers.

We have also touched many other areas of the Bill. I support the fact that we are re-establishing the Sugar Board. The Sugar Development Levy and the Sugar Development Fund shall address the challenges that the sugar sector faces.

Hon. Temporary Deputy Speaker, the Committee also had opportunity, pursuant to Article 118 of the Constitution and Standing Order No.123(3), to subject the Bill to public participation. The Committee received memoranda from eight stakeholders mainly, the Ministry of Agriculture, Fisheries and Cooperatives, Council of Governors, Sugar Manufacturers Association in Western Kenya Ltd, Natural Justice, the Kenya National Federation of Sugarcane Farmers, Sugar Campaign and for Change, Hon. Saulo Wanambisi Busolo, Douglas, M. Baraza, Moses Khaemba Wasike among others and written submissions from various stakeholders' substantive amendments to the clauses of the Bill.

Various stakeholders raised concerns, which I think have also been raised here. There were a number of key issues amongst them the clustering of the sugar catchment areas into zones. It has been very contagious and is causing a lot of uproar among the stakeholders. Zoning in the past has limited farmers in terms of market access of their produce, millers creating monopolies and other

areas where their interest is allocated. To address this, the Committee will propose amendments to ensure that farmers' interests in terms of markets are taken care of adequately, amongst regulation of sugar imports into the country and criteria to be met before the importation is done. The Committee noted that local industries have become insolvent due to the non-regulation of imports, which is something of concern and needs to be looked into.

There is also need to provide a framework of quality, safety and health control measures related to sugar. This will ensure quality, standardisation, health standards and environmental standards as well as proper frameworks and the Sugar Dispute Tribunal. The sponsor also mentioned something about addressing disputes in the first instance. There is need to provide a framework for inspections of licence, premises and general safety to the environment. Research is also very important and as my colleagues also mentioned. Proper research needs to be done in the sugar sector thus the Committee saw the need to establish a sugar research institute with functions related to research and policy. There is need to provide appointments of crop inspectors with specific functions and frameworks to facilitate the inspection in order to improve on the sector. There is also the need to create framework and functions of the county governments in relation to sugar, guided by the Fourth Schedule of the Constitution.

The Committee will be proposing amongst other functions that will support and improve enforcement and monitor compliance with standards among the sugar value chain to facilitate value addition and product diversification in the sugar sector. This will formulate and implement the strategic plan for the sugar sector, at least, every five years, formulate the guidelines and efficiency of economical transportation of sugar, conduct local and international sugar markets intelligence and advice stakeholders accordingly, and establish linkage with various Government agencies and research institutes to enhance quality assurance in research. These functions are missing in the Bill hence the Committee felt that there is need to add that. We will have opportunity when we come to the Committee of the whole House, so that we can add on what we feel and Hon. Members will look at the Report.

Lastly, it has been envisaged that with the enactment of the Crops Act No.16 of 2013, and the Agriculture and Food Authority Act No.13 of 2013, the challenges that faced the agricultural sector particularly crops, would be effective and adequately addressed. However, this has not been the case and the farmer has borne the brunt. This is not just for the sugar sector alone, but also tea, coffee, cereals and other crops.

The Sugar Bill, 2019 seeks to take the farmers back to their days of glory. The farmers' woes are addressed. It may not be perfect, but it seeks to give the sugar sector its much deserved attention in the country. I wish to state that the enactment of the same will solve the teething problems in the sugar sector.

I urge the Hon. Members to go through the Report as it is a good one. I thank the Members of the Committee who worked together to make sure we have a very good Report. I would like to thank them for the good work.

I support.

**The Temporary Deputy Speaker** (Hon. Soipan Tuya): Hon. Oyoo, Member for Muhoroni, kindly, have the Floor.

**Hon. Onyango Oyoo** (Muhoroni, ODM): Thank you very much, Hon. Temporary Deputy Speaker for giving me the opportunity.

From the outset, Muhoroni Constituency, which I represent, is home to the majority of the sugar industries which include Muhoroni, Chemelil, Kibos and Miwani, which is under

receivership. All these factories have suffered immeasurable interference from the Government because of lack of proper support.

I support this Bill, but will bring several amendments at the Committee of the whole House stage, which I believe will create order in the industry. I am happy the proposals in the Bill have captured salient areas that have been ailing the sugar industry for a long time. For example, financing, through the Sugar Development Levy, which died immediately after it took effect from the Kenya Sugar Board. The second issue is research, that would determine the correct sugar value and train the sugar industry workers. This would reinvigorate and streamline imports and exports. I have seen regulation of imports only in the Bill. However, we will ensure that the Sugar Board once reinstated will be in charge of imports and will control imports. Imports must only be done when it is necessary and should not be the order of the day, so that people who want to go to the Ministry of Agriculture know very well that “the eating house” is through sugar imports.

It has also talked about farmers’ representatives which is key. Every industry must have people of interest, who know the head and tail. We also have people who are being imposed on us. In the main sugar factories like Nzoia, Muhoroni and Chemelil, you will find people being appointed who have no idea about sugar growing and milling. They just come there to facilitate the glut of their appointing authorities for importing sugar. This Bill has, therefore, addressed this very well.

Everyone knows we are the prolific proponent of zeroing. However, I decided to eat my humble pie because the factories which have been receiving are not operational anymore. If we bring zeroing today, we will hurt the farmer who is our elector. The board that will come and we will vote. We must have a Member from Kisii/Narok, Migori/Homa Bay, Kericho/Nandi, Kisumu/Siaya, Bungoma/Trans-Nzoia, Kakamega/Busia and Kwale to form the Sugar Board. I will talk about the rest in the Committee stage. It is a good Bill and we should guard it selflessly and make sure that at the Committee of the whole House stage, we make relevant amendments that will go a long way to help the industry.

Thank you, I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Member for Mumias East, Hon. Washiali Jomo, kindly, have the Floor.

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. First, allow me to thank Hon. Wamunyinyi who has come up with this Bill. It is about reinstating the Sugar Act. I was in this House when we had the older Sugar Act, and the Crops Act, which introduced AFA and the Sugar Directorate, which has put us where we are today.

Kenya is an agricultural country. There is usually an argument that Kenya should not have sugar because people who should have gone back to their farms are instead importing sugar. In fact, that is why we have a lot of sugar in our market that is not produced in this country! That argument, for me, does not hold water because before the Kenyan sugar hits the supermarket or the table, for that matter, it has paid a farmer, an employee, and the management in the sugar sector. Therefore, you can see the number of benefits that the local industry will give to this country.

This Bill is re-introducing the Sugar Act. Under Clause 4, there are several functions to help the industry, for instance, in Clause 4(1)(a), it provides to regulate, develop, and promote the sugar industry. Honestly speaking, it is important that we develop the sugar industry for the sake of farmers who stand to benefit a lot if this industry is developed. On matters regulations, that is one area that I would insist that the sponsor of this Bill should look into. We have had big problems with the Cabinet Secretary for Agriculture, Livestock and Fisheries in terms of the regulations that

would manage this industry. Moreover, you cannot develop this sector if you do not have regulations. Recently, some regulations were gazetted. Looking at them, honestly speaking, they are just there to please some individuals instead of supporting the farmers.

Therefore, I wanted the sponsor of this Bill - and if he does not do it I will do it - during the Third Reading, to introduce a clause asking the Cabinet Secretary to formulate regulations. We must give him time limit. He must put regulations that would manage this industry. We cannot have an industry that is not regulated. Indeed, that is why we have always gone wrong. Therefore, I just want to request, again, that the regulations must be put in place. I am very hopeful that Members will agree with us that the sugar sub-sector should manage itself, so that once this Bill is enacted, then we must give the CS six months, at most, to come up with regulations in line with the Act. Because other Members want to contribute, let me say something that may not necessarily be in this Bill. I want to request - just like the Chair of the Committee on Agriculture and Livestock - that as we reinstate this Act, we also need to reinstate the Act that brought about the research aspect of the sugar sub-sector. It was a key component of the sugar sub-sector as opposed to the current KALRO.

I have been looking at the composition of the Departmental Committee on Agriculture and Livestock, and it is unfortunate because I do not know what happened to Hon. Wangwe since I had put him as the Vice-Chair when I was the Whip. But somehow, when I was checking the Membership of the Committee, I did not see any Member from the sugar growing sector. Going forward, so that the sugar matters are properly handled and tackled in Parliament and Committee level, I am requesting that we approach the Speaker and the leadership of the both sides of the House to get two or three Members from the sugar growing zones to help us articulate the sugar issues. I know eventually this Bill will end up in the Senate and that is where we have agents of sugar barons. I can see it dying there just because of the sugar barons.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Washiali, I am trying to restrain myself from interfering with you. First, you said the Departmental Committee on Agriculture and Livestock is improperly constituted because it does not have Members from a certain region. For sure, you know that is not part of the consideration that the Committee on Selection takes into account. You are now saying that we have sugar barons or agents of sugar barons in the Senate. This is a very heavy point of casting aspersions on Senators. Of course, not unless you want to substantiate, then, you must withdraw and refrain from using such language.

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Temporary Deputy Speaker, I did not mention names. I am saying this because I come from Mumias.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Order, Hon. Washiali! Of course, Senators exist and they are Members of Parliament. So, when you say such a statement, it is improper, not unless you are ready to take the next step of substantiating. So, please, desist from going that direction.

**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Temporary Deputy Speaker, let me withdraw for the sake of making progress on this. I am sure Members have heard what I said. I withdraw.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Washiali, just withdraw unconditionally because you have withdrawn with one hand and are reinstating with the other hand. Just withdraw unconditionally and move on because you have eaten a lot of your time. You can see the light is on.



**Hon. Benjamin Washiali** (Mumias East, JP): Hon. Temporary Deputy Speaker, I wish to withdraw and promise that during the Committee stage, I will introduce some amendments to make this Bill much better.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): That is in order. Let us have Hon. Godfrey Osotsi.

**Hon. Godfrey Osotsi** (Nominated, ANC): Thank you, Hon. Temporary Deputy Speaker. I stand to support this timely Bill and thank Hon. Wamunyinyi for bringing it. Indeed, he is a true party leader who acts and does not lament in funerals like some other party leaders we know.

As it has been said by my colleagues, this is a very important Bill because it is reinstating the Sugar Act which was there previously. As you know, we came up with the Crops Act, 2013, and the Agriculture and Food Authority (AFA), where sugar management is delegated to a directorate just like tea and coffee.

Hon. Temporary Deputy Speaker, AFA is a failed experiment because some of the problems we have in the sugar industry and even in the tea and coffee sectors are as a result of the merger that was done. Farmers have really suffered in terms of non-payment or late payment for their produce, increase in the cost of production, declining land acreage and many other challenges that Hon. Wamunyinyi alluded to. So, this is very timely and as leaders who come from regions that produce sugar, we are in full support of this initiative and we will support it. I have gone through the Report of the Committee and I also want to thank the Committee for their very good input into this. They have made some very good recommendations and I am sure that a few areas in this Bill will be panel beaten at the Committee of the whole House stage, so that we can make it an even better piece of legislation.

I have heard Hon. Washiali talk about regulations. That is where the devil is. We make laws in this House and leave substantial part of the law making in form of regulations to other people who frustrate the implementation of the laws that we make here. So, I would want to support what my colleague, Hon. Washiali, has said that we need to have a timeframe for the formulation and gazettelement of regulations. I am sure that is something that we will deal with at the Committee of the whole House stage.

I will move to the importation of sugar. Import of sugar has been one of the major challenges in the sugar sector and I want to say that although the Bill is recommending other safeguard measures, I wish it would be very explicit on the issue of importation of sugar, so that we only import the deficit. Importers should be made to report on their stocks, sales and any other critical information. The challenge we have is that we flood the market with a lot of sugar which basically means that the farmer, who takes his cane to the factory, does not get the returns he expects.

This Bill has also provided for the right of growers. I have read somewhere in the Report where some of the stakeholders are questioning why we should give 51 per cent shareholding to the farmers. We have failed in the sugar industry because we have not listened to the farmer and the farmer is the most important person. The farmer is the source of the raw material. We have a problem at the Mumias Sugar Company because we disregarded the farmer. When the Company was privatised, farmers were given about 20 per cent. The rest of the shareholding was given to other people. That is why we ended up with problems that we now have in Mumias Sugar Company.

We have other issues like the Sugar Development Levy. I agree with the position taken by the Committee that there is need to increase the levy for imported sugar, the CIS value of the

imported sugar from 5 per cent to 10 per cent. This will greatly help in checking the problem of flooding the market with imported sugar. On the issue of transition, the Bill proposes that the employees who work for the Sugar Directorate will be transitioned to the Kenya Sugar Board. I want to suggest that we must conduct suitability interviews for the employees. It is one thing to have the law and another to have the people who are involved in managing the whole thing. Some of the people who work at the Sugar Directorate are corrupt and they should be taken through suitability interviews, so that we have the right people to work for the new board.

Allow me to digress a bit, but still on the sugar industry. As I stand here, I am wondering why we do not have the sugar taskforce report before us. The report was given to the President, but has not found its legs to this House. It would do justice if we are debating this Bill with the report of the taskforce before us. Several months later, a lot of funds have been used in formulating this Report, yet the taskforce's report is not before Parliament. So, I would like to ask the Chairman of the Departmental Committee on Agriculture and Livestock, through the Committee, to find ways of getting the report to the House, so that we can also discuss it because it has very good recommendation on what needs to be done.

Lastly, on the revival of sugar factories particularly Mumias Sugar Company. All of us from that region, whenever we pass through Mumias Sugar Company, we cry for it. It needs to be a great company, but when you move around there and you see what is happening, you cry for the people of that region. We are asking the Government of Kenya, if you love the people of Western Kenya, do what you are doing to Kenya Airways, to Mumias Sugar Company. We have seen many reports in this House that try and nationalise the Kenya Airways. We have a Bill before us, the National Aviation Management Bill, which is trying to nationalise the Kenya Airways and putting more money from the Ex-Chequer. The same can be done to Mumias Sugar Company. Why is it not being done? At the Committee of the whole House stage, we will introduce amendments, so that private sugar millers that collapsed for one reason or another, are nationalised, the same way we are trying to nationalise the Kenya Airways using tax-payers money. The Mumias Sugar Company, at its best, needs to give a lot of money through taxation and shares to the Kenyan Government, but what are we doing about it? This is a very important Bill. How I wish the Members who talk in funerals from Western Kenya accusing our party leader, are in the House discussing this Bill, so that when they leave and go to funerals, we know they are genuinely working for the people's interest. You can see they are not here, but on Saturday when they go to funerals, they are the best advisors on sugar matters.

With those few remarks, I fully support this Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Osostsi, surely. Members have the freedom to choose when to speak on a matter and when not to speak. Matters of funerals are not subject of discussion here; politics. Let us have the Member for Saku, Hon. Rasso.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Temporary Deputy Speaker. I will start by supporting the Bill. When the Mover, my friend, Hon. Wamunyinyi, was moving the Bill, he did it with a lot of passion and a lot of accuracy in terms of what is needed to revive the sugar industry, make it productive and viable for the farmer. There was an attempt to almost make this a western or a sugar growing belt affair. However, sitting here as a Kenyan from northern Kenya...

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Julius Mawathe, what is your point of intervention?

**Hon. Julius Mawathe** (Embakasi South, WDM-K): Hon. Temporary Deputy Speaker, is it in order for the Member who is currently on the Floor to contribute to debate without putting on a face mask?

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Ali Rasso, just put on your mask. I know the comfort is that you are occupying the whole row, but put your mask on to avoid anxiety.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Temporary Deputy Speaker. In almost a circumference of 30 metres, I am the only person, but thank you, Hon. Member.

There is an attempt to almost make it feel that this is a western Kenya affair or a sugar growing belt affair, but I am speaking as a Kenyan who consumes sugar. People in northern Kenya consume more sugar than people in western Kenya. We take it with tea and with many other beverages that we use. We also take more tea than any other region in this country. That is why we feel that protecting and making this industry robust and viable to the Kenyan population is very important. When you watch news and follow the media, you realise that wherever this issue comes up, it is made to appear like people are fighting over who should be the manager of a particular sugar factory, who should sell what or who should do what. We must move up the scale. This Bill will allow us to do that in terms of putting in place watertight regulations, so that people do not abuse the portfolios they are given and then walk away scot-free.

Hon. Temporary Deputy Speaker, one thing that we, as Hon. Members, must also start thinking about with regard to the sugar industry in Kenya is why we import sugar from Brazil. Why should sugar produced in Brazil be much cheaper than sugar from Mumias? It is a question that begs answers. It is a question that we must begin to reflect on with a view to finding ways of producing this commodity cheaply. How should it be cheaper? As Hon. Osotsi said, if we must inject Kshs5 billion into this sector, we had better do so. If sugarcane is the best crop to grow within the sugar belt - if the climate is good and there is enough water - why would people choose to grow maize instead of sugarcane? Why would farmers feel that sugarcane growing is no longer viable?

As a country and as legislators, we must call upon the Government to disabuse the notion that western Kenya politicians should be the ones to manage this industry because the western Kenya sugarcane growing belt is a central nexus in the Kenyan sugar industry. I believe Kenyans working in that industry pay taxes. It is called “industry” because many people benefit from it. If you are a truck driver, if you sell fuel, if you pack the sugar at the factor or you sell packages there, you benefit. There are many moving wheels around that thing called “industry.” For that reason, I believe a policy must be put in place. Just like we protect coffee, tea and pyrethrum growing, we must also protect the sugarcane growing areas.

Hon. Temporary Deputy Speaker, we used to be told that there are a number of months during which the sugar industries are closed. During that time, no sugar production takes place locally and, therefore, people must import the commodity.

The Bill that we were discussing before was about reproductive health where we use technology. In the sugar industry, more than anything, it is high time we used technology more rapidly, efficiently and productively.

Finally, sugar is sweet. Hon. Wamunyinyi should not believe that just because he is a grower, he can benefit from it. The middlemen make more money than the grower himself. We must turn the wheel around to let the grower and those in the production chain benefit more than those who sell the product at the tail-end or brokers who work with individuals to manipulate the industry.

With those remarks, I beg to support the Bill. I thank the Mover of the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Let us have the Member for Kakamega County. You have about four minutes. Just begin and then you will have a balance of five to six minutes, probably on Thursday, next week. Organise your thoughts.

**Hon. (Ms.) Elsie Muhanda** (Kakamega CWR, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this chance to, at least, add my voice to this Bill which is very key.

We know that every household in Kenya uses sugar. This is a very important Bill. First of all, I want to add my voice to the composition of the board. I wish to enrich the composition by stating that the Bill does provide that there should be people of special groups. In Part II, Clause 5, the composition should include the youth, women and people with special needs.

I support Clause 30 of the Bill which states that sugar growers will have 51 per cent shareholding of privatised sugar factories. This is very important because looking at the sugar industry, with emphasis on the western region, where I come from, farmers have no voice and are deeply frustrated. If you go to Kakamega, many farmers have sugarcane, but it is overgrown. It cannot be cut because the millers dictate when to take the sugarcane. You find that farmers are affected and cannot pay their bank loans. Those same farmers cannot even pay school fees for their children. You find that the poverty level has gone up because of the dictatorship of the millers that choose when to pick cane from the sugar growers.

I support the Bill as it will fight for Awinja and Wanjiku, so that Wanjiku's voice is heard in the Constitution.

Thank you for giving me more time next time to continue contributing to the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You can stop there, Hon. Muhanda. It is 7.00 p.m.

**Hon. (Ms.) Elsie Muhanda** (Kakamega CWR, ODM): Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): You have a balance of six minutes. Make sure that you are in the House next week on Thursday. You will be the first one to continue with your contribution. You can re-organise your thoughts. For the rest of the House, we have a balance of one hour 48 minutes. So, it is not all lost for the Members who are lined up here and the others whom Hon. Osotsi was looking out for. Maybe, they will come next week.

*(An. Hon. Member spoke off-record)*

It is not possible to maintain the positions. However, make sure that you are here next week.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 7.01 p.m., this House stands adjourned until Tuesday, 6<sup>th</sup> July 2021 at 2.30 p.m.

The House rose at 7.01 p.m.