

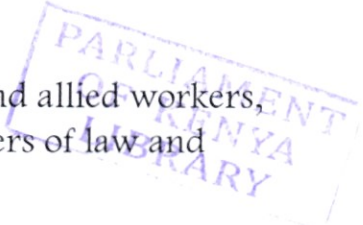


7<sup>th</sup> July 2020



Through

MEMBER OF PARLIAMENT FOR MALAVA CONSTITUENCY.  
HON. MOSES MALULU INJENDI



We the undersigned officials of Kenya Union of sugar Plantation and allied workers, Kabras Branch do hereby petition the Parliament of Kenya on matters of law and workers Constitutional rights and state as follows;

That we are the duly elected and registered officials of the said Union serving the interests of all the workers employed by West Kenya Sugar Company Limited owned by the Rai Family which is situated in South Kabras Ward, Kakamega North District in the Republic of Kenya. That the Union has a valid recognition agreement signed way back in 1997 and we have registered several CBAS.....annext herein is a copy of the Recognition **KUSPAW 01**.

We are petition the **Kenya National Assembly** on the following issues;

**1. VIOLATION OF WORKERS RIGHTS**

That West Kenya is the leading Sugar Company in this Country however since the change of ownership in 2007, the company has refused to employ its workers as required on permanent basis and is using casualisation and contracts to frustrate and exploit workers. Those employees are poorly paid and we have serious discrimination in the terms and condition of employment.

**2. VIOLATION OF THE LABOUR LAWS AND DISRESPECT TO COURT ORDERS.**

That West Kenya Sugar Company is a multibillionaire company and is owned by the rich investors who are using their riches to violet workers rights, disrespect the laws of employment and court orders issued against them.

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The Court issued orders for workers to be allowed to join the union but the employer has been frustrating workers who join union and terminating them for joining union membership.

### **3. OUTSOURCING AND RECRUITMENT OF EMPLOYEES.**

That West Kenya sugar company has been expanding rapidly including building of cane weighbridges in various parts of the country and building of other Milling units like Olepito in Busia and Naitiri Unit in Bungoma yet they are planning to frustrate employees through retrenchment of permanent employees and outsourcing of labour.

This month the company has illegally and forcefully outsourced all the contract employees who have served the company for many years there by losing all their benefits and rights.

We are petitioning that this process is malicious and planned specifically to kill the Union and continue exploiting workers and it shall be reversed.

### **4. MASS TERMINATION OF EMPLOYEES**

That the company has decided to illegally and unprocedurally terminate the services of all the contracted and casual workers without due respect to their rights in employment. This are permanent employees who have been renewing their contracts yearly and have huge amounts of bank loans and co-operative loans which the company guaranteed them for repayment of up to six years.

It's unfortunate that the employer has terminated this employees services without due respect to the government directives that employees should not lose jobs during this **Covid - 19** period.

That over **800 employees** are affected and this will pose an economic challenge to the entire society and the Nation at large.

### **5. FOREIGN EMPLOYEES**

That West Kenya Sugar Co. Ltd is engaging over 200 foreign employees in doing simple jobs that are ordinarily expected to be performed by local citizen of this county. The company is violating the provision of the law on issues of work permits and we have suspected that most of this foreign employees working here in the company do not have genuine work permits.

That without due process the employer is hiding under the KUSHWAHA contractors who are engaging non-expatriates in taking over jobs from local citizens.



That unless Parliament prevails upon the employer to respect our laws, more foreigners are coming to take up our jobs.

That further to this there is racial discrimination between Africans and Asians doing the same job where the foreigners are highly paid and Africans are poorly paid and exploited.

## **6. RIGHTS OF ASSOCIATION AND PROTECTION OF UNION LEADERS.**

That West Kenya Sugar Company Limited is in total disrespect to the workers right of association provided for in **Kenya Constitution Art 36 and 41** and other legislations of the National Assembly which expressly allows workers to have a union.

More so West Kenya Sugar Company has disrespected the rights and protection of Union Branch officials who are fought within the management systems to the extent of being threatened ,suspended, victimized and terminated on account of union activities.

That in fighting the union leaders the company is maliciously and forcefully trying to kill the workers voice so us to continue making profits with workers working under poor condition and evade compensation to workers injured in the course of employment.

### **PETITION'S PLEA**

The Petitions are pleading with the Kenya National Assembly for the following;

1. That all the contracted and casual employees who have served this company for more than 2 years on back to back contracts be converted to permanent employment forthwith.
2. That the Employer be compelled to honor and comply with the ELR court rulings;
  - i) Cause 110/2013 I which he was directed to allow union represents all his workers.
  - ii) Cause 388/2018 in which he was ordered to allow all workers to join union and he should effect union deductions and remit the same to the union.
  - iii) Cause 258/2018 in which he was directed that all the workers are entitled to CBA terms and conditions and ordered to pay all workers in accordance with CBA and pay salary arrears as from 1<sup>st</sup> May 2017.
3. That employer be compelled by the National Assembly to honor and implement the CBA to all its employees without any discrimination whatsoever and covert them to permanent employment terms.

4. That parliament to scrutinize and investigate all foreign employees in West Kenya Sugar Company Limited both in management and those working under KUSHWAHA contractors.
5. The employer and the Management of West Kenya Sugar Company Limited be compelled by law to respect and accord workers their rights more so to respect and recognize all union officials from shop floor to National officials.

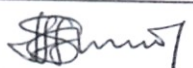



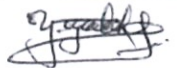
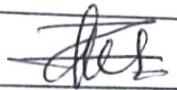
#### PETITIONERS

NO	NAME	ID NO	POSITION	PHONE	SIGN
1	Yusto Murunga Luchivya	11303295	Branch chairman	0720970446	
2	Jeremiah Ingalia Akhonya	14679704	Branch Secretary	0726549272	
3	Nemiah Reaton Muchina	22557152	Branch Treasurer	0705174737	
4	Derek Ouya Mukonyole	6656033	Branch Ass. Secretary	07277022310	
5	Gordon Ochieng' Ogada	21992936	Branch Vice Chairman	0724611856	
6	Evans Makondo	8061475	Branch Ass. Treasure	0725360252	

Dated 7<sup>th</sup>.....this day July.....2020

PETITION TO KENYA NATIONAL ASSEMBLY

We the undersigned being officials of Kenya Union of Sugar Plantation and allied workers Kabras branch which serves employees of West Kenya Sugar Company Limited do hereby on behalf of the workers sign and confirm that we are the petitioners in this matters as attached.

	NAME	POSITION IN BRANCH	ID	SIGNATURE
1.	Yusto M. Luchinya	CHAIRMAN	11303295	
2.	JEREMIAH IAKHO NYA	SECRETARY	14679704	
3.	NEMIAH R. MUCHINA	TREASURER	22557152	
4.	DEREK OUYA MUKONYOLE	ASS/BRANCH	6656033	
5.	GORDON O. OGADA	ASST. CHAIRMAN	21992936	
6.	EVANS MAICOMBOT	ASST. - TREASURER	8061475	

Dated 7<sup>th</sup> July 2020.



AGREEMENT RELATIVE TO RECOGNITION AND  
NEGOTIATING PROCEDURE

Between  
WEST KENYA SUGAR COMPANY LIMITED  
(HEREINAFTER REFERRED TO AS THE "COMPANY")

And  
KENYA UNION OF SUGAR PLANTATION WORKERS  
(HEREINAFTER REFERRED TO AS THE "UNION")

PREAMBLE

The two parties to this Agreement, meeting together in free heart and voluntary association, have fully determined to regulate the relations between them to the interest of Workers and Management. They agree voluntarily to work together to promote and establish mutual understanding and co-operation as follows :-

- (a) The negotiations and discussions between the representatives of the Union and the employer shall be conducted on a representative and authoritative basis.
- (b) That means shall be readily available whereby any issues which may arise affecting all employees or any category of employees covered by this Agreement, can be fully and promptly considered with a view to a satisfactory settlement.
- (c) That the recognised procedure of negotiations and discussions between both parties shall be, so far as practicable, fully known and understood by the workers and by all members of the Management of the  
COMPANY.....
- (d) That an essential factor in successful negotiations and discussions is the clear statement or report of the issue involved and of the resulting decision after mutual agreement between the parties of this Memorandum of Agreement.

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- (e) The ..... COMPANY ..... reserves the sole right to conduct its business and manage its operations and for this purpose, to engage, promote, demote and terminate the services of any worker in accordance with the terms of service agreed with the Union. It is agreed that the ..... COMPANY ..... 's jurisdiction applies to the whole area legally defined in the ..... COMPANY ..... 's leases and to housing or accommodation which may from time to time be provided by the ..... COMPANY .....
- (f) The Union undertakes that the employees who are Union representatives will carry out the duties delegated to them by Management during their prescribed working hours and such representatives will not leave their place of work for any purpose in connection with their duties as representatives without permission of Management. Such permission shall not be unreasonably withheld.
- (g) Security and sanitary staff will, in the event of a strike or other disturbance leading to stoppage of work, continue to perform their normal duties for the protection of the ..... COMPANY ..... 's property and assets in the interest of both parties to this Agreement and the Union agrees that it will use influence to achieve this. The ..... COMPANY ..... agrees to use such employees during the strike solely for their normal routine duties. In the event of continued production during strike action the Union reserves the right to withdraw the services of all employees.

3. NEGOTIATING PROCEDURE

(a) Individual Grievances

An individual employee of the ..COMPANY..... wishing to raise a grievance with which he is directly and personally concerned, shall first approach his immediate superior. In case settlement is not reached, he shall have the right to appeal to the higher levels of Management as soon as possible in accordance with the established procedures. The employee shall be represented by an accredited Union representative at all stages.



ii) No strike, lockout or other action to stop or hinder the operation of the business of the COMPANY..... on a dispute which has been or should be referred to the Committee shall take place until :-

(a) Deadlock has been recorded in the Committee; and

(b) After such deadlock ..... TWENTY ONE ..... days' strike or lockout notice has been given and has elapsed in addition to the statutory period stipulated in the Trade Disputes Act.

4. MODIFICATION TO AND TERMINATION OF THIS AGREEMENT

This Agreement shall come into force on the ...FIFTH..... day of ...FEBRUARY.....19..... and shall continue in force for a minimum period of ...TWO..... YEARS..... Thereafter the Agreement shall continue in force until amended or terminated.

Either party wishing to amend or modify the Agreement shall give ..... THREE ..... months' written notice to the other party with detail of the proposed amendments.

In the event of it proving impossible to obtain mutual agreement to the amendment of the Agreement, then either party may refer the dispute to the Minister for Labour for normal action in terms of the Trade Disputes Act Cap 234.

SIGNED : For the Company

*[Signature]*  
P. MUKUNA KAREM  
MANAGER  
WEST KENYA SUGAR CO. LTD.

SIGNED : For the Union

*[Signature]*  
P. A. OMANGA  
SECRETARY - GENERAL  
K. U. S. P. W.

In the presence of :

*[Signature]*  
COMMITTEE OFFICER  
FEDERATION OF KENYA EMPLOYERS  
WESTERN KENYA BRANCH.

Signed at ..... this day of .....

18th Feb 1977