



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fourth Session

Wednesday, 6th August, 2025 – Afternoon Sitting

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 6th August, 2025

Afternoon Sitting

*The House met at the Senate Chamber,
Parliament Buildings at 2.32 p.m.*

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Clerk, confirm whether we have quorum.

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

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

(The Quorum Bell was rung)

Clerk, if we have quorum, let us proceed.

Hon. Senators, I have a Communication to make.

(Several Senators walked into the Chamber)

Proceed and assume your seats fast.

(Several Senators sat at their places)

Hon. Senators, when the Chair is upstanding, the House should be silent.

Sen. Dullo, the Chair is upstanding.

(Sen. Dullo sat at her place)

COMMUNICATION FROM THE CHAIR**SUBSTANTIATION OF REMARKS MADE
BY SEN. (DR.) KHALWALE**

I have a Communication to make on substantiation of a statement made by Sen. (Dr.) Khalwale, MP, during the sitting of the Senate held on Tuesday, 5th August, 2025.

Hon. Senators, as you may recall, at the Sitting of the Senate held on Tuesday, 5th August, 2025, the Temporary Speaker, Sen. Wakili Sigei, MP, directed Sen. (Dr.) Khalwale, MP, to substantiate utterances made in the course of his contribution to a Message from the National Assembly on the passage of the Equalisation Fund Appropriation Bill (National Assembly Bills No.21 of 2025).

The direction was as a result of a point of order by the Senator for Bungoma County, Sen. Wafula Wakoli, MP, pursuant to Standing Order No.105. As hon. Senators are aware, Standing Order No.105 provides that-

“(1) A Senator shall be responsible for the accuracy of any facts that the Senator alleges to be true and may be required to substantiate any such facts instantly.

(2) If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiate the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order No.121, which is disorderly conduct, unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

(Several Senators walked into the Chamber)

This is a lengthy Communication. So, you can have the seat next to you.

(Several Senators sat in their places)

So, hon. Senators, in the course of his contribution, Sen. (Dr.) Khalwale, MP, made the following comment-

“He has decided to learn the bad manners of the Speaker of the National Assembly, who has reduced himself to an agent of the United Democratic Party, (UDA), running around---”

It is at that point that the Senator for Bungoma County raised a point of order, pursuant to Standing Order No.105, to require Sen. (Dr.) Khalwale, MP, to substantiate the claim.

Hon. Senators, Sen. (Dr.) Khalwale was unable to substantiate his statement as required, pursuant to Standing Order No.105(1), and subsequently requested the Temporary Speaker, Sen. Wakili Sigei, MP, to provide the evidence at the next sitting day, in accordance with Standing Order No.105(2). Having consented to the request, the

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Temporary Speaker, Sen. Wakili Sigei, MP, directed that the Senator substantiates the allegation at the next sitting day.

Pursuant to Standing Order No.105(2), I now invite Sen. (Dr.) Khalwale, MP, to forthwith substantiate the claim as raised in the point of order by Sen. Wafula Wakoli, MP, failure to which Sen. (Dr.) Khalwale, shall be deemed to be disorderly within the meaning of Standing Order No.121. In the absence of such substantiation, the Senator will be required to withdraw the statement and apologise to the Senate.

Sen. (Dr.) Khalwale, you can either table the evidence---

(Loud consultations)

Order, Senators. Let me give Sen. (Dr.) Khalwale some guidance. You can either table evidence to substantiate the statement or simply withdraw and apologise. It is upon you to take the route you feel is the safest, and which can take you to Kakamega safely.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. I understand your advice to me. I want to confirm that I am in a position to substantiate the statement that I made yesterday.

To help me make that substantiation, because it is a grave matter, it is not against a fellow sitting Senator, it is not even about the Speaker of the Senate; it is about the Speaker of the other House. It is a matter that touches on Chapter Six of the Constitution, and the Ethics and Integrity Act. For this reason, I would like the House to allow me, having gathered evidence from Trans Nzoia to Kisumu, Kakamega, Busia, Lamu and Kirinyaga, to invite the ICT Department to play out this evidence, so that I am not belittled to be on a game of witch-hunt.

With your permission, I now want you to allow the ICT to play the substantiation.

An hon. Member: Play it!

The Deputy Speaker (Sen. Kathuri): I do not know the content of what you want to be played. So, I request the Secretariat to take possession, you table it and then I will go and review that evidence.

Hon. Senators: Yes!

Sen. Cherarkey: Then you go and review it!

(Applause)

The Deputy Speaker (Sen. Kathuri): Order, Sen. Cherarkey. You know you have no capacity to direct me on the ruling I should make.

Sen. (Dr.) Khalwale, I have said you table the evidence that you have. I told you there are two things. Table the evidence to substantiate your statement. So, if you feel like you have it, proceed and table it.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I proceed as guided.

Sen. Cherarkey: And I table!

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

Hon. Senators: Play it!

Sen. Cherarkey: Mr. Deputy Speaker, Sir, can he withdraw and seek for forgiveness?

The Deputy Speaker (Sen. Kathuri): Hon. Senators, this is not a simple matter.

Sen. Cherarkey: Yes

The Deputy Speaker (Sen. Kathuri): So, allow me to sleep over this evidence, review it and then give a Communication tomorrow on whether it meets the threshold or not. That has been the procedure.

An hon. Member: On a point of order.

(Loud consultations)

The Deputy Speaker (Sen. Kathuri): I do not know who is out of order. Is it myself? I have directed. The matter rests.

(Loud consultations)

The Deputy Speaker (Sen. Kathuri): Not on this issue until I review this evidence.

An hon. Member: Clarification, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): What are you clarifying?

An hon. Member: What you have ruled on. This is serious.

The Deputy Speaker (Sen. Kathuri): This is not a matter of debate. It is a matter between the Chair and the affected Senator. I will give guidance after reviewing that evidence. It is so ruled.

An hon. Member: On a point of clarification, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Next Order.

(Sen. Wambua consulted loudly)

Order, Sen. Wambua. This is a very simple and straightforward matter. I do not know why you are making noise. I have made my ruling.

Hon. Senators, as you may recall, on 12th June, 2025, I made a detailed Communication on the application of Standing Order No.101, and personal Statements pursuant to Standing Order No.58. In the Communication, I directed hon. Senators to adhere to the provisions of Standing Order No.101 while making contributions to debates in the Senate.

I emphasised that it will be out of order for any Senator to make adverse references to the personal conduct of office holders referred to in the Standing Order without a substantive Motion. However, statements of facts are permissible in debates on a question before the Senate. While the context of the Communication was in reference to Standing Order No.101, the full spectrum of Standing Order No.101 must be appreciated. Specifically, I drew the attention of hon. Senators to Standing Order No.101(4), which it states as follows-

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“No Senator shall impute improper motive to any other Senator or to a member of the National Assembly except upon a specific substantive Motion of which at least three days' notice has been given, calling in question the conduct of that Senator or a Member of the National Assembly.”

In the course of his speech, Sen. (Dr.) Khalwale made comments that imputed improper motive on the Speaker of the Senate and the Speaker of the National Assembly. The two officeholders are Members of Parliament (MPs).

Therefore, Senators, let me not proceed from there because I will determine whether the issue has been substantiated properly. I leave it at that.

Clerk, call the next Order.

The Senate Majority Leader, proceed.

PAPERS LAID

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday, 6th August, 2025-

SESSIONAL PAPER NO.7 OF 2024 ON THE NATIONAL SANITATION MANAGEMENT POLICY

Sessional Paper No.7 of 2024 on the National Sanitation Management Policy.

REPORT OF COB ON NATIONAL GOVERNMENT BUDGET IMPLEMENTATION REVIEW REPORT FOR THE FIRST NINE MONTHS OF FY2024/2025

Report of the Controller of Budget (CoB) on National Government Budget Implementation Review Report for the first nine months of Financial Year 2024/2025.

REPORT OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF LEVEL 4-6 HOSPITALS FOR FY2023/2024

Report of the Auditor General on financial statements of Level Four, Level Five and Level Six Hospitals in Kenya for Financial Year 2023/2024.

SUMMARY REPORT OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF WATER COMPANIES FOR FY2023/2024

Report of the Auditor-General (Summary Report) on financial statements of Water Companies for Financial Year 2023/2024.

*(The Senate Majority Leader (Sen. Cheruiyot)
laid the documents on the Table)*

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The Deputy Speaker (Sen. Kathuri): Hon. Senators, we have a Supplementary Order Paper, please switch to it. It is on your gadgets.

Next is Chairperson, Standing Committee on Delegated Legislation.

REPORT ON ENVIRONMENTAL MANAGEMENT AND COORDINATION
(STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENTS
AND ENVIRONMENTAL AUDITS) (No.2) REGULATIONS,
2025, LEGAL NOTICE NO.71 OF 2025

Sen. Gataya Mo Fire: Thank you, Mr. Deputy Speaker, Sir. I beg to lay the following Paper on the Table of the Senate, today, Wednesday, 6th August, 2025-

Report of the Select Committee on Delegated Legislation on its consideration of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No.71 of 2025.

Thank you.

(Sen. Gataya Mo Fire laid the document on the Table)

(An Hon. Senator spoke off record)

I am laying the said Paper; I will give notice of Motion.

The Deputy Speaker (Sen. Kathuri): The Chairperson Standing Committee on Trade, Industrialisation and Investments, proceed.

REPORT ON CONSIDERATION OF THE COOPERATIVES BILL
(NATIONAL ASSEMBLY BILLS NO. 7 OF 2024)

Sen. Boy: Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 6th August, 2025-

Report of the Standing Committee on Trade, Industrialisation and Tourism on its consideration of the Cooperatives Bill (National Assembly Bills No.7 of 2024).

I thank you.

(Sen. Boy laid the document on the Table)

The Deputy Speaker (Sen. Kathuri): Clerk, let us go to the next Order.
The Chairperson Standing Committee on Delegated Legislation, give the notice of Motion.

NOTICE OF MOTION

ADOPTION OF REPORT ON ENVIRONMENTAL MANAGEMENT AND COORDINATION
(STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENTS
AND ENVIRONMENTAL AUDITS) (No.2) REGULATIONS,
2025, LEGAL NOTICE NO.71 OF 2025

Sen. Gataya Mo Fire: Thank you, Mr. Deputy Speaker, Sir. I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Select Committee on Delegated Legislation on its consideration of the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No.71 of 2025, laid on the Table of the Senate on Wednesday, 6th August, 2025; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to annul the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025.

Thank you.

The Deputy Speaker (Sen. Kathuri): Clerk, let us go to the next Order.

QUESTIONS AND STATEMENTS**STATEMENTS**

The Deputy Speaker (Sen. Kathuri): We have two Statements under Standing Order No.53(1). The first one is from Sen. Sigei Hillary. The Senator is not present? That Statement is dropped.

UTILISATION OF FUNDS FROM VOIDED PAYMENTS
BY BOMET COUNTY GOVERNMENT

(Statement dropped)

Next is Statement from Sen. (Dr.) Lelegwe Ltumbesi. Sen. (Dr.) Lelegwe has approached me requesting that this Statement be deferred to a later date.

PROCUREMENT OF MEDICAL INSURANCE COVER FOR EMPLOYEES
OF SAMBURU COUNTY GOVERNMENT FOR FY2023/2024

(Statement deferred)

Clerk, let us go to the next Order.

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

Hon. Senators, let me rearrange the business on today's Order Paper. We will first dispense off putting the questions on Order Nos.9, 10 and 11, then come back to Order No.8.

Clerk, call the next Order.

MOTION

ADOPTION OF REPORT ON STATE OF MARKETS IN VIHIGA AND BUNGOMA COUNTIES

THAT, the Senate adopts Reports of the Standing Committee on Devolution and Intergovernmental Relations on its inquiry into the state of markets in Vihiga and Bungoma counties arising from statements sought by Sen. Godfrey Osotsi, MP, and Sen. David Wafula Wakoli, MP laid on the Table of the Senate on Tuesday, 1st October, 2024.

(Sen. Mumma on 30.7.2025)

(Resumption of Debate interrupted on 05.08.2025)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, this Motion does not affect counties under Standing Order No.84(1). However, let me first confirm from the Clerk whether we have a quorum to help us put the question.

(Question put and agreed to)

Clerk, let us go to the next Order.

MOTION

ADOPTION OF REPORT ON THE COUNTY OVERSIGHT AND NETWORKING ENGAGEMENTS TO TAITA TAVETA, MOMBASA AND KWALE COUNTIES

THAT, the Senate adopts the Report of the Standing Committee on Health on the County Oversight and Networking Engagements to Taita-Taveta, Mombasa and Kwale Counties, laid on the Table of the Senate on Thursday, 5th December, 2024.

(Sen. Mariam Omar on 05.8.2025)

(Resumption of debate interrupted on 05.8.2025)

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The Deputy Speaker (Sen. Kathuri): Hon. Senators, again, this matter does not affect counties, and since we have quorum, I will proceed to put the question.

(Question put and agreed to)

Clerk, call the next Order.

MOTION

ADOPTION OF REPORT ON THE INSPECTION TOUR OF HEALTH FACILITIES IN WEST POKOT, TRANS NZOIA, AND TURKANA COUNTIES

THAT, the Senate adopts the Report of the Standing Committee on Health on the inspection tour of health facilities in West Pokot, Trans Nzoia and Turkana counties, laid on the Table of the Senate on Thursday, 5th December, 2024.

(Sen. Mariam Omar on 05.08.2025)

(Resumption of debate interrupted on 05.08.2025)

(Question put and agreed to)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, we will now go back to Order No.8.

(Sen (Dr.) Khalwale and Sen. Korir consulted loudly)

Sen. (Dr.) Boni Khalwale, I remind you that when the Chair is upstanding--- I can see you are really testing my cool.

Sen. Joyce Korir, Sen. Boni Khalwale was behaving nicely, until you went to talk to him, then he started laughing.

Clerk, call the next Order.

The Chairperson, Standing Committee on Delegated Legislation, proceed.

MOTION

ADOPTION OF REPORT ON ENVIRONMENTAL MANAGEMENT AND COORDINATION (STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL AUDITS) (No.2) REGULATIONS, 2025, LEGAL NOTICE NO.71 OF 2025

Sen. Gataya Mo Fire: Hon. Deputy Speaker, I beg to move the following Motion-

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THAT, the Senate adopts the Report of the Select Committee on Delegated Legislation on its consideration of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025, laid on the Table of the Senate on Wednesday, 6th August, 2025; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to annul, the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025.

Mr. Deputy Speaker, Sir, my Committee was able to go through the Report of these Regulations. It is unfortunate that quite a number of issues, including public participation, were not observed. The last public participation was carried out in 2018, which is now outdated. We also observed that the impact assessment was not observed.

In this respect, we also had petitioners from the Environment Institute of Kenya, who brought some petitions before this Committee. We thought that the regulator, which is the Ministry, should go back and republish the regulations.

In retrospect, the Committee resolved that these regulations should be annulled to enable the Ministry put its house in order.

I request Hon. Danson Mungatana to second the Motion.

Sen. Mungatana, MGH: Thank you, Mr. Deputy Speaker, Sir. I rise to second this Motion. We are seeking the support of the House to annul the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No.71 of 2025.

For the benefit of the House, when we make laws, the power to make laws remains with this House, the Executive is supposed to only execute the laws that we give them. When we make the law in this House and put a clause saying that the Cabinet Secretary may make regulations, those regulations still need to come back to this House, so that we can look at them to see if they are carried out in accordance with the donated power that we have given to the Cabinet Secretary.

We looked at two things; whether the Cabinet Secretary consulted stakeholders and also, whether he carried out public participation when he was making those regulations. If this was not done, we have the obligation as a Committee on your behalf, hon. Senators, to say that those regulations do not meet the standard that is required by this House.

Two, when we donate this power to the Cabinet Secretary to make Regulations, it is still our power. Under the Statutory Instruments Act, we are required to also check whether the Cabinet Secretary created a document called the Regulatory Impact Assessment (RIA) Report. The Cabinet Secretary must be able to say what impact these Regulations will have on the people of Kenya. It is a simple document.

Mr. Deputy Speaker, Sir, in this case, the Cabinet Secretary in charge of Land, Environment and Natural Resources came before the Committee and told us that she did public participation for these Regulations seven years ago. Hon. Members, surely, a public participation of seven years ago is outdated.

We asked about the RIA report on the Regulations and they were not able to produce it. As a Committee, we were magnanimous and asked the Cabinet Secretary to go back and make amends, which has not been done. We also asked her to go and do public participation because, surely, public participation that was done seven years ago cannot be relevant at this time.

Mr. Deputy Speaker, Sir, the people in the space of the Institute of Environment Practitioners came and made serious petitions before the Committee. The Committee heard their complaints and asked the Cabinet Secretary to go and do it properly.

It will not cost too much time and it will not cost you a lot. Let the people have their say because it is a constitutional requirement that you should subject the regulations to public participation. However, that was not done. For that reason, we recommend to this House that we annul these Regulations. If we annul these Regulations, then the Cabinet Secretary will go and put her house in order before bringing them back in the proper format because we have already said what needs to be done. Unfortunately, the time lapsed before the Cabinet Secretary got back to us.

Under the circumstances, I rise to second on behalf of the Committee and recommend support of this House that we annul these Regulations. The practitioners around the environment space have said that these Regulations have a problem. If the Senate lets them pass, it will be unfair to the people of Kenya. They will be bound by the Regulations that public participation happened seven years ago, even before we took up the mandate in this House.

As I second, I ask Members of this House to support us, so that we do what is right. When we annul the Regulations, we are required to come back, but if we accede to them, we do not have to come back to this House. In this case, we annulled the Regulations and we have come back to this House for your endorsement.

Mr. Deputy Speaker, Sir, I beg to second.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): Hon. Senators, now I open the Floor for debate.

Proceed, Sen. Cherarkey Samson.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I will be brief because this is just to annul the Regulations based on the Report of the Committee on Delegated Legislation. I agree with the Committee on Delegated Legislation chaired by Sen. Mwenda Gataya, and I would like to say the following.

Under Article 10 of the Constitution, one of the cornerstones of any engagement on National Values and Principles of Good Governance is public participation. It is shocking that the Cabinet Secretary concerned went ahead to bring a report on public participation that was done seven years ago. That lame excuse is embarrassing and unfortunate.

That is laziness. How do you bring a report that was done seven years ago? Many things have changed. We did not have Artificial Intelligence (AI) which we now have; children not born then are now in Pre-Primary 1 (PP1) or PP2; and people who had

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disappeared seven years ago have been presumed dead under the law. What are we saying? This is incompetence that we sometimes try to call out. That is incorrigible incompetence. I thank the Committee on Delegated Legislation.

Regarding the Finance Bill of 2013 of Kiambu, the court said that one of the critical ingredients of post-2010 Constitution of Kenya is public participation. I agree with the Committee that any officer in the public space must know that public participation is no longer a privilege, a by the way, *abracadabra* or *brouhaha*, but the cornerstone of modern democracy that we have as a country. Therefore, I thank the Committee for this industrious act on the report they have brought. These regulations must be annulled.

When you look at the Statutory Instruments Act of 2013, there is what we call explanatory memo and regulation-making authority. When you read the objects of that Act, one of the critical issues is public participation and consultation of stakeholders, which was never done. Therefore, that was a clear violation of the Act that put in place the concerned Ministry by bringing these Regulations concerning environmental issues that Sen. Mwenda Gataya's team has brought before the House. Even Section Five of the Act provides for an explanatory memo. You must explain to the public the need, purpose and intention.

The era of operating in mystery in public spaces is no longer there. There is no luxury because we are in a digital age. Even our visitors in the Gallery know more than some of us. This is no longer about night-running. Many Government officers want to operate like night runners, but it can no longer apply in this country. That is my worry. Night-running happens as an exercise in some regions. I do not want to mention those regions because I will receive the wrath from some Members who I know do night-running.

The point that I want to make is that every Government officer, including those in the county governments--- When you see Sen. Osotsi smiling, of course, you know. I have just said he is smiling.

Sen. Osotsi: On a point of order, Mr. Deputy Speaker, Sir. I was smiling because what Sen. Cherarkey, who is my my neighbour, has said is not applicable to me. Where I come from, people are serious Christians and not night runners.

The Deputy Speaker (Sen. Kathuri): Proceed.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, my apologies. I know him as a serious Christian. Every Sunday, he attends a number of churches.

I do not know why Sen. Khalwale is uncomfortable, unless he knows where the night runners are. He can discuss with me during our *chai* and *mandazi* later in the Lounge.

In conclusion, when you look at Section Seven, there must be reasons. The point I am trying to drive home hot and dry is very simple. Officers of counties and the national Government should know that you can no longer operate in secrecy in anything that concerns the public, be it policy, legislative or any action, you must account to the public. The only way to account to the public is through public participation.

I salute the Committee on Delegated Legislation, and I know this will go to the HANSARD. I know that even our courts are watching. I thank Sen. Mwenda Gataya

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because most of the decisions we make on the Floor of the House, sometimes *mutatis mutandis*, courts of law borrow the reason of Parliament because they believe we have more weight because we are the representatives of the people as per Article 96.

To the Mwenda Gataya-led Committee, I celebrate you. This is a direct matter. Let us annul the regulations and call the Cabinet Secretary in charge to order. Let her bring other regulations. We are ready because our business is to legislate, represent and ensure we have proper legislative and policy interventions in place.

Mr. Deputy Speaker, Sir, with those many remarks, and so that I cede ground for my colleagues, allow me to rest my submissions by supporting annulment of these regulations.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Mwinyihaji Mohamed Faki.

Sen. Faki: Bw. Naibu Spika, asante kwa kunipa fursa hii kuunga mkono Ripoti ya Kamati ya Sheria Endelevu ambayo imewasilishwa na Mwenyekiti wa Kamati hiyo, Sen. Mwenda Gataya Mo Fire, kutoka Tharaka-Nithi.

Kanuni hizi ambazo zilikuwa zimechapishwa na Waziri wa Mazingira, Mabadiliko ya Tabianchi na Misitu zilipingwa vikali na shirika lijulikanalo kama *Environment Institute of Kenya of Kenya (EIK)* ambalo ni taasisi inayojumuisha wataalamu wengi wanaohusika na mambo ya mazingira. Taasisi hiyo iliipinga Kanuni hizi kwa sababu hawakuhusishwa. Katiba ya Kenya inasema kwamba sheria au kanuni zinazopitishwa lazima kuwe na uhusishaji wa umma, yaani *public participation*.

Taasisi hiyo pia ilipinga Kanuni hizo zilizochapishwa mwaka wa 2018 ambapo wakati huo mazingira ya kazi yalikuwa tofauti na ya sasa. Kwa hivyo, Waziri na wataalamu wenzake walipokuja mbele ya Kamati, walishindwa kuthibitisha kwamba Kanuni za mwaka wa 2018 ndizo zile ambazo zilichapishwa katika *Gazette Notice* ya mwaka huu.

Vile vile, walishindwa kuthibitisha kwa Kamati kwamba walikuwa wamefanya *Regulatory Impact Assessment (RIA)*. Taasisi yoyote inayotengeneza sheria endelevu lazima ifanye RIA. Wanafaa kufanya *assessment* ili kuhakikisha kwamba Kanuni ambazo wanaleta ziko sawa. Kutokana na hayo matatizo mawili, Kamati ilimpa fursa Waziri kurekebisha au kuzitupilia mbali kanuni hizo.

Katika mkutano uliofanyika tarehe 28 Julai, Waziri alipewa fursa na kukubali kwamba ataziondoa. Kwa masikitiko, hakuweza kuziondoa. Alijua kwamba baada ya muda, Kanuni hizo zingekuwa sheria bila ya Bunge kuzikataa. Kwa hivyo, ni muhimu Seneti ipige kura ya kukubali Ripoti hii ya Kamati ya Sheria Endelevu kwa sababu tunajaribu kulinda maslahi ya Wakenya na wale ambao wataathiriwa zaidi na sheria hizi.

Mara nyingi, taasisi ambazo zinaunda sheria endelevu hazitekelezwi kulingana na Statutory Instruments Act, 2013, ambayo inatoa mwongozo wa kutengeneza sheria endelevu na jinsi ya kuhusisha wananchi katika mambo kama hayo. Kukosa kuhusisha umma na vile vile kuleta Kanuni ambazo zilichapishwa mwaka wa 2018, inapasa tukubaliane na Kamati kwamba Kanuni hizi hazifai kutekelezwa. Kwa hivyo, zitupiliwe mbali kama ilivyopendekeza Kamati.

Bw. Naibu Spika, vile vile Kanuni hizi zinajaribu kuongeza malipo, yaani *fees* ambazo wataalamu wanapaswa kulipa. Zile ambazo walichapisha mwaka wa 2018 ni tofauti na zile wameweka sasa katika sheria endelezi.

Kwa hivyo, Bw. Naibu Spika, ninapounga mkono Ripoti hii, ningependa Seneti ikatae Kanuni hizi na kuzitupilia mbali.

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I have this Communication to make.

(Interruption of debate on the Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATIONS FROM STAREHE BOYS CENTRE AND SCHOOL AND ALLIANCE HIGH SCHOOL

The Deputy Speaker (Sen. Kathuri): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of students from Starehe Boys Centre and School and The Alliance High School. The students are undertaking a two-week service in the Senate under the Voluntary Service Scheme (VSS) for schools. I request the students to stand when called out, so that they may be acknowledged in the Senate tradition.

1.Craig Issa	-	Form 3
2.Dean Karanja	-	Form 3
3.Anthony Mutimba	-	Form 2
4.Daniel Wandili	-	Form 3
5.Collins Njuguna	-	Form 3
6.Melvin Mugambi	-	Form 4
7.Moses Bruce	-	Form 3
8.Enock Mogire	-	Form 2

In our usual tradition of receiving and welcoming visitors to the Senate, I extend a warm welcome to the students, and on behalf of the Senate and my own behalf, wish them a fruitful visit.

I thank you.

The student who was not recognized can also stand to be recognised because I do not have his name here.

(Applause)

Any former student or alumnus of Alliance High School?

Yes, Sen. Mungatana.

Sen. Mungatana, MGH: Mr. Deputy Speaker, Sir, I am an alumnus of Alliance High School. Therefore, I take this opportunity to join you in welcoming the students from the good old school.

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We have a motto there; *Strong to Serve*. I am glad that they have come here voluntarily, which means they are not being paid. They are carrying out the motto that we had even those days; that we remain strong to serve.

Mr. Deputy Speaker, Sir, in many years, I served as the House Captain of Arthur House. I believe one of them must be from Arthur House because we always used to excel in matters like these of giving to community and serving.

I want to tell the students, including those from Starehe Boys Centre and School, that it is the small steps and consistency. If you keep working hard and remain consistent, one day, God will honour your efforts. I encourage you.

Once upon a time, all of us here were young as you and worked our way this side. Through our different professions, we got the support of our electorate to bring us here and we are now making our contributions here. I encourage you to also aspire to one day not sit at the Gallery, but here, fighting for your people's rights and making this country better.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to welcome them.

The Deputy Speaker (Sen. Kathuri): Fair enough. Let us go back to the Motion. Proceed, Sen. Kisang William.

(Resumption of debate on the Motion)

Sen. Kisang: Mr. Deputy Speaker, Sir, I also rise to support annulment of the Regulations as brought by the Chairperson of the Committee on Delegated Legislation, Sen. Mo Fire.

Institutions need to know that law-making is a preserve of Parliament which comprises the Senate and the National Assembly. It is also very clear in Article 96 of the Constitution that our mandate is representation, legislation and oversight.

We are surprised that the Cabinet Secretary for Environment, Climate Change and Forestry relied on public participation that was done in 2018. This is a very dynamic area and with the climate change, things are changing every day. The Cabinet Secretary should have seen it wise to do public participation. Colleagues have said that this is basically either laziness or incompetence.

It is important that we annul these regulations to pass a message to Cabinet Secretaries to whom we have donated powers to do regulations, to ensure that they consult the stakeholders thoroughly. Otherwise, we can pass the regulations in this House and then outside somebody will go to court and the Regulations will be suspended.

Public participation is a good thing. It is very healthy. It is good to engage people; let us hear what they have to say. When we are passing the laws in this particular House, we put notices in the newspapers for 14 days. People come with memoranda, we invite them, we discuss, the committees engage and they can reach a compromise so that it is something that is agreeable to all parties.

I wonder why this particular entity decided to bring a report for a public participation of seven years ago when even the stakeholders have changed. This is basically delaying. These regulations should be in effect already, but because of just

negligence or laziness, we are going back; we are annulling, we are wasting time for our people and we are wasting resources that are not even there.

So, I beg to support and caution the Cabinet Secretary that, please, get back to the Committee, engage, create time and meet otherwise, you are letting our people down.

Thank you, Mr. Deputy Speaker, Sir. I beg to support the annulment of these particular Regulations.

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi Godfrey Atieno, you have the Floor.

Sen. Osotsi: Thank you, Mr. Deputy Speaker. I also rise to support the Motion that the Regulations cited be annulled. The Constitution is very clear that lawmaking is a preserve of Parliament; that is, the National Assembly and the Senate.

The only institution which has the powers to make laws enforceable in Kenya, is Parliament. However, we have allowed other Government institutions to make regulations. Even as they make those regulations, they must ensure that those regulations strictly comply to the Statutory Instrument Act. If they do not comply, then this House has the powers to annul them.

We have instances in Government where they come up with regulations which are not processed as per the Statutory Instruments Act and they regulations run for years. I want to call upon the Committee on Delegated Legislation to be on the lookout, so that such regulations are brought to this House and do what we are just about to do, annul them. They do not have powers to make laws, and they can only make laws with the permission of this House through the Statutory Instruments Act.

I want to agree that if regulations are not aligned to the requirements of the Statutory Instruments Act, particularly on the issue of public participation or compliance to the Constitution, then those regulations should be annulled. There are many other regulations that are currently operating illegally. It is important for us to search around and ensure that those regulations are either passed or annulled by this House.

Mr. Deputy Speaker, Sir, I support.

The Deputy Speaker (Sen. Kathuri): Sen. (Dr.) Boni Khalwale, you have the Floor.

Sen. (Dr.) Khalwale: Thank you Mr. Deputy Speaker, Sir. This is not a casual decision that the House is about to make; it is a decision that is hinged in the Constitution of Kenya. Any attempt by any person other than the National Assembly and the Senate, to make laws should at all times be declared null and void. Why do I say this?

It is because of the Provisions of Article 94 of the Constitution, which states as follows -

“(1) The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.”

In sub-section 5, it goes further to clarify that -

“(5) No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.”

Mr. Deputy Speaker, Sir, this is the import of the annulment that we are all supporting. We would like the Cabinet Secretary, upon receiving the annulment, to realize that she was trying to impersonate Parliament.

In fact, I wonder what became of the Kenya School of Government and if it is still functional, have these 22 Cabinet Secretaries been given an opportunity to sit there, so that they know how Parliament works, how government works, and how the Judiciary works?

I, therefore, strongly support the annulment and laugh at two points. The first one is lack of public participation. I laugh at it and the second one is the suggestion by the Cabinet Secretary that they were contended by the fact that this public participation that they are relying on was done seven years ago.

Why do I laugh at both? I laugh and dismiss the stand of the Cabinet Secretary on public participation because thanks to taking for granted the role of the public. In law making, many pieces of legislation that have gone through this House have always been thrown out by the courts.

Secondly, why do I laugh of the issue of public participation that is seven years old? I would like it to occur to the Cabinet Secretary that a child who was 14 years old, seven years ago is today 21 years old. That child is now an adult who is able to advise us on how a proposed law that we are making is going to affect him or is affecting him.

In fact, it is unfortunate and I think the Clerks-at-the-Table will advise me. We had a Bill called the Public Participation Bill of 2024. I have missed a total of five sittings of this Parliament. Therefore, I do not know whether that Bill was able to pass through. If it has not, then we need to see through the public participation Bill, so that we create the Act for all who care to understand the irreducible minimum for public participation because there are three strong pillars in public participation, which you cannot take for granted, and the Cabinet Secretary better appreciates this.

First, we have the political pillar. Second, we have the pillar on policy, and finally, we have the social pillar. They are not things that can just be wished away. If you do not address these things, that is how we end up with laws that are either in conflict with other laws or the Constitution, or in conflict with the aspirations of the people who have donated their sovereign power to us.

Mr. Deputy Speaker, Sir, I support the Committee that we annul the regulations.

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, Sen. Aaron Cheruiyot, you have the Floor.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I have been trying to get a copy of this Report for a while now, as I wanted to read it and establish the full reasons. Although it has taken a while, I will still comment on a specific issue I feel strongly about.

We live in a country where, for whatever reason, saying bad things about institutions and individuals in public office is now in vogue. Everyone seems to be competing on public platforms, in Parliament or even at the funerals, to say the nastiest things about public institutions and their leaders. As a public figure, I do not understand what people gain from this.

Having some experience, I have taken time to study and reflect on the world as it is today. I have come to appreciate that there is nothing unique about our country. We possess all the indicators and potential of a great Republic. Unfortunately, our obsession with negativity distorts that reality.

If someone were to learn from us, they might conclude that they live in the most corrupt or dysfunctional nation on earth, yet look at what we are doing this afternoon. A Committee of the Senate is annulling regulations proposed by the Executive. You will never see this in any headline. However, if Parliament dares to agree with a proposal from the Executive, the next day *The Standard* Newspaper will run a headline: “*Parliament Disappoints Again.*”

Social media critics, very useless people, some have no record of anything useful they have ever done in this life, yet they are quick to attack this institution. They are highly critical of Parliament simply because they hold a different view. Parliament often makes decisions which, in its wisdom, are considered to be right and in the best interest of the country.

What am I pursuing?

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Boni Khalwale.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am sorry to interrupt the Majority Leader. However, I would like to request the Senator for Kericho to consider withdrawing the unparliamentary remark that the people on social media are useless people. We have many people, including the President of the United States of America (USA), on social media. The President of Kenya has the biggest following on social media. I have a following running in millions on social media. We are not useless. Is he in order to use unparliamentary language against all of us who use social media? Could he be asked to withdraw and apologise?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I know the Senator for Kakamega is an addict of social media and loves that space. Perhaps, he may even have been scrolling his phone. That is why he did not get my comments. I said, there are, “some”. That is very basic and elementary, which I am sure my Whip understands.

It is not a wholesome condemnation of everyone who uses social media. In fact, I was quick enough to qualify that there are people of no known achievements, but have made it their business to disparage this House when it does duty on a certain item to which they disagree with the eventual finding.

I said, today is one such occasion. For example, if Parliament were to agree with the Report of this Committee and vote in support of it, as many of us are inclined to do, it would be a commendable decision. If our Committee on Delegated Legislation is advising us to reject these regulations, then that is a good thing.

Many times, we are criticized and labeled as an appendage of the Executive, accused of agreeing with everything. However, this House has made many great decisions. It does not necessarily mean that disagreeing with the Executive is a great thing. Agreeing with them is equally good. Parliament is independent. It makes decisions based on what is in the best interest of the people who elected us to serve in this House.

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Therefore, I urge that on days like this, when Parliament flexes its muscles and sends a Cabinet Secretary back to the drawing board and disagree with their proposal, just as we agree with them on other days, we must also highlight principled disagreements.

In fact, since my Whip, Sen. Boni Khalwale, has mentioned social media and I know he is an avid user, I trust he will help amplify this moment. Whether through a tweet or a Facebook post, he can showcase the many instances when Parliament has taken a firm stand. When you read some of the commentaries online, you would think Parliament does nothing useful, yet each afternoon, this House transacts business which is meaningful to the country.

The decisions are informed by what is the collective good interest of the people that we represent in this House. They may not necessarily be what someone else want, including a newspaper editor, a commentator on social issues or a particular politician. Unfortunately, our hands are tied in most occasions because we do not work for ourselves. We are simply but employees of other people who sent us here to transact business in their best interests.

This is a very important regulation. The climate change and environment management and coordination is a very topical issue globally. Countries haggle over each other on these positions. In fact, a lot that has been said about other countries that have walked away from commitments that have been made in other places in the climate.

The United Nations (UN) Secretary General, for example, spends tonnes of time speaking on this topic every time he addresses a gathering of the UN or even in public spaces because climate change is real. It is affecting our life on a daily basis. That is why Parliament is telling the Cabinet Secretary to do the right thing; that she must follow the laid-down procedure. We just amended the Statutory Instruments Act and drawn from the power granted by the Constitution, have agreed that Parliament has a final say on this; that the people's representatives will either give you the nod to set the regulations or disagree with you if you do not do it in accordance with the law.

I heard someone say, I do not know who spoke; that Parliament as an institution has failed the country. How can it be that 15 years after the promulgation of the new Constitution, for three terms of Parliament, we have been unable to pass legislation that guides public participation. Institutions, public entities, county assemblies, judiciary and all these bodies are left groping in the dark trying to establish what exactly is public participation.

Citizens are fully aware about this. Many times when you make a decision, it could be a decision as simple as establishing a secondary school in a primary school ground, as is normally the case back in our villages. If you find a primary school that has a lot of space, many times parents may gather and say they want to establish a school. They would call their area MP or Senator or whoever, to help them establish that institution. Then another faction emerges and says they need to be consulted since they are the stakeholders. So, citizens appreciate the importance of public participation. However, as Parliament, we have not done justice to the country.

I know there is a law before the National Assembly on public participation and it has taken a while in our counterpart House. It will be important for us to conclude.

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Actually, it will be a monumental failure on our part if we conclude this session of Parliament without a substantive law on public participation.

Last time, we tried. The then Senator for Busia County, Sen. Amos Wako, brought a Bill before this House and we passed it. Unfortunately, our colleagues in the National Assembly had a different view on how that matter needs to be handled. Being the House that we are, which is the House of reflection as most Senates are, we are waiting what will be the eventual decision on that matter.

Eventually, once they pass that Bill and I hope they will do so during this period when will be in recess, by the time we come back in September, hopefully, if there is no interruption--- I do not know why, but for some very weird reason that each time we are just about to go on recess, you see a notice of an impeachment of a governor. Somehow it interferes with our programmes. Probably we need not to go on any recess if we want governors to survive because I have seen a notice somewhere as well. I do not know for which county, but I am concerned that each time, after we have worked so hard and we are about to proceed on recess ---

The Deputy Speaker (Sen. Kathuri): Just a minute, Majority Leader. What is your point of order, Sen. Eddy Oketch?

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, the Standing Orders of this House are very clear. If there is a member of this House who is anticipating any debate, it needs to be very clear. We are not allowed by our own Standing Orders, to anticipate a debate. If the Senate Majority Leader has some business he is anticipating on us, let him tell us, so that we organise ourselves. Some of us have serious plans for our recess. Anything that comes from him is not a small matter. It is a very serious issue. He cannot just say something that is not there. Is it in order for him to anticipate debate that we do not know about? If he is anticipating one, why can he not just declare it to us, so that we know?

The Deputy Speaker (Sen. Kathuri): Sen. Eddy Oketch, there is something new to disclose? Which county is this?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I know Sen. Eddy Oketch's interest in this matter. It is not the debate. I will choose not to indulge in that conversation.

The point I was making is that even in these matters where county assemblies consult citizens, either with their budget, impeachment proceedings, they struggle. This is because we, as a House, have not provided guidance on who needs to be consulted. Many times, we have read, and I think Sen. Boni Khalwale referred to it, that there are many laws that are unheard of, simply on the basis of lack of proper and meaningful public participation.

As a House, legislation is our constitutional duty. However, we still have not found it worth to guide the country on this issue of public participation and why it is important to do this. It is unfortunate we have been returned to redo our work of legislation because of lack of public participation.

I support this Motion by our Committee on Delegated Legislation. I hope in the course of the afternoon, Sen. Mo Fire will share with us a soft copy of the report on official business platform. This is because beyond the reasons that have so far been

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canvassed, you heard you in the moving notes speaking of good reasons. I believe there are more reasons why you annulled these regulations, Sen. Mo Fire. It would be good for the House to be properly guided.

With those many remarks, I support the decision to annul these regulations. I hope that when the Cabinet Secretary finally gets an opportunity to redo them, he will respect the institution of Parliament because this is not our duty. We are just simple servants of the people who are exercising delegated power.

I thank you.

The Deputy Speaker (Sen. Kathuri): Sen. Eric Okong'o Omogeni, proceed. Chairperson of the Committee on Delegated Legislation, where is the report or is it the Secretariat?

Okay. That will be shared shortly.

(Sen. Sifuna spoke off record)

Is it on the same matter, Sen. Sifuna?

Sen. Sifuna: Mr. Deputy Speaker, Sir, I want to bring to your attention that I have complained previously that my unit keeps failing and, therefore, will not appear on your list. As a leader of this House, I do not want to impute any improper motives on the management of the House. However, now it is becoming increasingly difficult for me to contribute because I will never appear on your screen. I wish that, that issue be resolved because I also have things to say.

Thank you.

The Deputy Speaker (Sen. Kathuri): You appeared on my list this morning. What has happened?

Sen. Sifuna: This is the reason I wanted to attract your attention, because this keeps happening, even yesterday, my unit was failing.

(Sen. Oketch Gicheru spoke off record)

The Deputy Speaker (Sen. Kathuri): No, Sen. Eddy, I can see you on the screen.

Sen. Sifuna: Mr. Deputy Speaker, Sir, that is why the Senate Majority Leader can see things that I cannot see.

The Deputy Speaker (Sen. Kathuri): Can you confirm whether, Sen. Eddy, has removed your card somehow?

Sen. Sifuna: My unit is not working.

The Deputy Speaker (Sen. Kathuri): Who are you informing, Sen. Mohammed Faki?

Sen. Faki: The Report that were are debating is circulated in our *WhatsApp* group. The Senate business is there. It has been shared.

Thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Omogeni.

Sen. Omogeni: Thank you, Mr. Deputy Speaker, Sir. I am rising to support the Motion on the Floor by my good friend, Sen. Mwenda Gataya. Unlike those who have

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not seen it, I have had the benefit of going through the reasons that guided the Committee in rejecting this Report, and I fully support it.

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

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

Madam Temporary Speaker, if you go through the Report, the Cabinet Secretary, with tremendous respect to him, is purporting to bring regulations before this House for adoption basing on public participation that was held more than seven years ago. I mean, how unserious can a Cabinet Secretary holding office in the Republic of Kenya be? Doing public participation seven years ago and then you bring the regulations for adoption? You bring the regulations to the Senate of the Republic of Kenya seven years after public participation.

(Hon. Senators consulted loudly)

The Temporary Speaker (Sen. Mumma): Hon. Members, can we reduce on the consultation and listen to Sen. Omogeni, please?

Sen. Omogeni: Madam Temporary Speaker, there are very good reasons. If you read through this Report of the Committee, there are very valid reasons they have proposed that we should reject these regulations. I am happy that the Senate Majority Leader, for once, has agreed that this House is not a conveyor belt for the Executive. This is because ---

(An hon. Senator spoke off record)

What is out of order? I have stated what he said. Maybe in a lawyer's language---

The Temporary Speaker (Sen. Mumma): Senate Majority Leader, what is your point of order? Sen. Omogeni, please.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, he is even making it worse when he says 'the lawyer's language.' It means then that either the lawyers--- I do not want to get to there.

Let me get to the substance of what he said, which I do not agree with. Did you hear Sen. Omogeni impute improper motive on me as a Senate Majority Leader by alleging that, for once, I accepted that Parliament is not a conveyor belt. I thought on every afternoon, we debate matters of this House and vote as a House, my position on any matter notwithstanding. Therefore, it is completely unfair. He is imputing improper motive on my part claiming that I turned the business of this House into a conveyor belt. Is he in order, Madam Temporary Speaker?

The Temporary Speaker (Sen. Mumma): You have imputed an improper motive.

Sen. Omogeni: Madam Temporary Speaker, what is imputing the wrong motive? What I have stated is on record. If you go through the HANSARD, you will see it.

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The Temporary Speaker (Sen. Mumma): What is on record?

Sen. Omogeni: Madam Temporary Speaker, I am doing this building up on the submissions.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, what is on record and on which record?

(Sen. Sifuna spoke off record)

Sen. Sifuna, please, let the Chair respond to this.

Sen. Omogeni: Madam Temporary Speaker, yesterday we were---

The Temporary Speaker (Sen. Mumma): No, Sen. Omogeni. The Senate---

Sen. Omogeni: What have I done that is out of order?

The Temporary Speaker (Sen. Mumma): He said that you have imputed an improper motive by saying that, for once---

Sen. Omogeni: We can bring a dictionary to define “improper motive”.

The Temporary Speaker (Sen. Mumma): He said that for once he has---

Sen. Omogeni: Can I have a dictionary to look at---

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, if you listen to me, then you will--- It is not about the dictionary. We are not doing the analysis.

(Sen. Omogeni spoke off record)

Please, listen to me. He says you have imputed an improper motive by suggesting that, for once, he is admitting that Parliament is not a conveyor---

Sen. Omogeni: Yes, at least, he is on the good side of history. That is what I was saying.

The Temporary Speaker (Sen. Mumma): Which means he otherwise thinks that Parliament is a conveyor belt.

(Loud consultations)

Sen. Omogeni: I mean, you know the history. We are all---

(Sen. Sifuna spoke off record)

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, this is a matter between Sen. Omogeni and--- Please, clarify what you meant.

Sen. Omogeni: What I meant is that, for once, the Senate Majority Leader is on the good side of history. He is standing with the people of Kenya and supporting the Constitution.

(Loud consultations)

The Temporary Speaker (Sen. Mumma): Sen. Omogeni.

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Sen. Omogeni: That is what I am saying. He is, for once, acknowledging that we have three Arms of Government. We have the Executive, Legislature and Judiciary.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, please, take your seat for a second.

Sen. Omogeni: Madam Temporary Speaker, can you protect me from the Senator for Nandi.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, are you going to listen to the Chair or you are going to exchange with disregard to the Chair?

Sen. Omogeni: The only threat I have is from my good friend, Sen. Cherarkey.

(Sen. Cherarkey spoke off record)

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, please. Sen. Cherarkey, stop exchanging with Sen. Omogeni.

Sen. Omogeni: Protect me, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): No, you need to sit down, then we will protect everyone.

Senate Majority Leader, explain why you said that it is worse.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, he has even made it worse now and turned it into an insult. Firstly, the Senator for Nyamira wants to arrogate himself powers that he does not have. He cannot pretend to be the judge of character in this House.

Secondly, if you want to do so, then he better do it correctly. The Senator for Nyamira is alleging that I am always on the wrong and that it is only today that I am on the right side of history. Is that fair?

(Sen. Sifuna spoke off record)

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, can you let Sen. Omogeni respond or withdraw, please?

(Loud consultations)

Sen. Omogeni: Madam Temporary Speaker, you know now---

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, let me explain this and I would like you to respect the Chair. Your assertion that the Senate Majority Leader is never on the right side of history is imputing an improper motive. Can you substantiate that?

Sen. Omogeni: Yes, I can. When we brought the regulations---

The Temporary Speaker (Sen. Mumma): Can you substantiate?

Sen. Omogeni: That is what I am doing. When we brought the Regulations on Social Health Authority (SHA) on this Floor, you remember the committee brought a report to this House, requesting us to annul those regulations. During that occasion, the Senate Majority Leader whipped Members of that side to disagree.

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The Temporary Speaker (Sen. Mumma): Sen. Omogeni, is that the only occasion, or he does that daily?

Sen. Omogeni: There are more. In fact, I want to applaud the Senate Majority Leader. I do not know why you are giving it a negative connotation.

(Sen. Sifuna spoke off record)

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, please.

Sen. Sifuna: On a point of information, Madam Temporary Speaker.

Sen. Omogeni: I would like to be informed.

Sen. Sifuna: Madam Temporary Speaker, I want to inform the Senator for Nyamira that motive speaks to something in the future. When you are giving a historical account, you cannot be said to be imputing improper motive because there is no motive to do anything. We are saying that the Senate Majority Leader has a history in this House of supporting everything the Executive proposes. That is a fact.

We were actually---

(Loud consultations)

Just a minute. Let me finish.

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, you are informing Sen. Omogeni and not debating.

Sen. Sifuna: Yes, I am informing him. Can I finish?

The Temporary Speaker (Sen. Mumma): Yes.

Sen. Sifuna: When you speak of an improper motive, it is like the example that I gave here, that my unit---

The Temporary Speaker (Sen. Mumma): Sen. Sifuna.

Sen. Sifuna: That is the information I am giving.

The Temporary Speaker (Sen. Mumma): Are you trying to help him to define the meaning of "improper motive"?

Sen. Sifuna: Yes, so that he can properly guide the Chair. Allow me to inform him.

(Sen. Cherarkey spoke off record)

Sen. Omogeni, you are exactly on the right path because motive speaks to future conduct, but the message you have passed is past conduct. The way I understood him---

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, please listen to me.

Sen. Sifuna: Just a minute, let me finish in one minute.

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, if you are affirming what he is saying, what are you informing him?

Sen. Sifuna: I am informing him of the definition of "motive".

The Temporary Speaker (Sen. Mumma): Do not abuse the space to make your own point. Please, sit down.

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Sen. Sifuna: Can I finish? I did not finish.

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, please, sit down. You did not inform him. You are actually analysing instead of informing.

Sen. Sifuna: Everybody knows how they behave here. We were praising him that now he is becoming a good boy.

(Loud consultations)

The Senate Majority Leader (Sen. Cheruiyot): On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, please. Sen. Omogeni, please hold on.

Senate Majority Leader, what is your point of order?

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, this is a problem of people who do not want to listen.

I am rising on Standing Order No.101(4). Sen. Omogeni, if you want us to discuss about each other, I have a lot that I can say about you. However, I respect---

(Sen. Sifuna spoke off record)

The Temporary Speaker (Sen. Mumma): Senate Majority Leader, please focus on the point of order on the issue at hand.

The Senate Majority Leader (Sen. Cheruiyot): I am rising on Standing Order No.101(4). If you want to discuss the conduct of your colleague, you should bring a substantive Motion. Within three days, after the approval of the Speaker, that matter is brought here. I can understand the person who is misinforming him. That is not an information. Perhaps they have not read Standing Order No.101(4).

Madam Temporary Speaker, is it in order for Sen. Omogeni to discuss the conduct of a colleague without a substantive Motion?

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, do you want to respond to that?

(Sen. Cherarkey spoke off record)

Sen. Cherarkey, you are not on the Chair and you are out of order.

Sen. Omogeni: I plead with the Chair to protect me from my good friend and colleague, Sen. Cherarkey.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, please proceed. What has he done that you need protection?

Sen. Omogeni: Every time I step forward to speak, Sen. Cherarkey pops up like a popcorn. Can he allow me to make my contribution?

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, please listen to Sen. Omogeni, and Sen. Omogeni, stop the exchange with Sen. Cherarkey. Please, proceed to your point.

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Sen. Omogeni: Madam Temporary Speaker, I am not trying to impute any bad motive on my good friend the Senator for Kericho. The point I was building is that I agree with his submission this afternoon that we should not behave like we are a conveyor belt for the Executive, and I do not think there is anything out of order. He did state that there is nothing wrong in disagreeing with a proposal that has come to the Floor from the Executive.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, your point was not put the way you are putting it now.

Sen. Omogeni: Is it okay now?

The Temporary Speaker (Sen. Mumma): If it is okay now, you will have to withdraw.

(Laughter)

Sen. Omogeni, please, listen to me. You will have to withdraw because you imputed that this is the only time the Senate Majority Leader is--- Please, let us make progress on this.

Sen. Omogeni: Madam Temporary Speaker, it gets very difficult. You are from my party, ODM. We come here to---

The Temporary Speaker (Sen. Mumma): Senator, the Chair is presiding over the House and not for the party.

Sen. Omogeni: What am I withdrawing, so that I can address my mind and withdraw? Where have I gone wrong?

The Temporary Speaker (Sen. Mumma): Imputing an improper motive on a colleague. Please, do so.

Sen. Omogeni: I apologise if I have imputed improper motive to my colleague.

The Temporary Speaker (Sen. Mumma): Thank you, Senator. Proceed with your point.

Sen. Omogeni: The point I was making is that in this House, we should not always agree with the position of the Executive. We have made mistakes before.

I was making reference to the SHA Regulations. We got a reasoned report from the Committee chaired by Sen. Mwenda Gataya. Since some of us thought that we were going to offend the Executive, people were whipped to disagree with the Report of that Committee.

Madam Temporary Speaker, you know the suffering Kenyans have gone through because those regulations were not well thought out and they did not undergo a qualitative public participation. Therefore, when we are discussing these things---

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, what is your point of order?

Sen. Cherarkey: Madam Temporary Speaker, I rise under Standing Order No.105 on accuracy of facts. When he says Kenyans have suffered because of SHA Regulations, does he have facts to prove it?

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, I rule that as a frivolous point of order. Please, sit down. Sen. Omogeni, please proceed.

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Sen. Cherarkey: It is not frivolous, I have not even---

The Temporary Speaker (Sen. Mumma): I have ruled, Sen. Cherarkey, please sit down.

Let Sen. Omogeni proceed.

(Sen. Cherarkey spoke off record)

Sen. Omogeni: Madam Temporary Speaker, have you heard what he has said? He has said that it seems like the ODM is running the House.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, withdraw what you have just said.

Sen. Omogeni: Let him withdraw. He has said that it seems ODM is running the House.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, can you withdraw your suggestion that the House is being run by ODM? Sen. Cherarkey, can you withdraw? I heard that very well.

Sen. Cherarkey: Madam Temporary Speaker, I will withdraw when the HANSARD is produced.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, can you withdraw? I have ears and I heard it myself?

Sen. Cherarkey: Madam Temporary Speaker, with all respect, I want to see the HANSARD because I never said that.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, I heard that as the Speaker and I am directing that you withdraw it.

Sen. Cherarkey: Madam Temporary Speaker, I withdraw and apologise, but my point has been made.

The Temporary Speaker (Sen. Mumma): Thank you.

Sen. Omogeni: Madam Temporary Speaker, the point I was making is that we were not elected in this House to take and accept everything that comes from the Executive. I am giving you a clear example on the suffering----

(Sen. Cherarkey spoke off record)

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, this is the last time I am warning you. If you keep disrupting the House, I will throw you out.

(Applause)

Sen. Omogeni: Madam Temporary Speaker, I do not know the experience of other Senators, including my good friend, the Senator for Nandi, but I have many people from my County of Nyamira who have had many problems in accessing treatment because of the way SHA Regulations were crafted. We know it. I am saying this with a heavy heart because I came here to fight for the people who elected me. There is no one,

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including the Senator for Nandi, who is happy to see Kenyans who are vulnerable and do not have the financial resources, going to hospitals and not accessing treatment.

Sen. Cherarkey: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, what is your point of order?

Sen. Cherarkey: I rise to under Standing Order Nos.96 and 105 on accuracy of fact and Standing Order No.101 on contents of speech. Is Sen. Okong'o Omogeni in order to state that I am happy when vulnerable Kenyans are suffering, when the issue of SHA is working in Nandi? Is it in order to cast aspersions? He has mentioned me severally and we can check the HANSARD.

The Temporary Speaker (Sen. Mumma): He mentioned you in what context?

Sen. Cherarkey: In bad light by saying that I am happy when Kenyans are suffering. I am like an altar boy.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, please, sit down. You are not going to use this---

Sen. Cherarkey: Madam Temporary Speaker, you also need to be fair. You said you will check with the HANSARD.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, please, sit down so that Sen. Omogeni can respond to the issues you are raising. I have asked Sen. Omogeni to respond to your point of order and you are arguing with me?

Sen. Omogeni: The Senator for Kiambu can inform me.

The Temporary Speaker (Sen. Mumma): Senator for Kiambu, Sen. Omogeni is first responding to the point of order.

Sen. Omogeni: Madam Temporary Speaker, Sen. Cherarkey is a colleague and lawyer. Every law student is told to be very attentive when he is listening to proceedings. I said I do not think Sen. Cherarkey will be happy to see people suffering when they do not access. That is what I said. Is that imputing a bad motive? I said it on a positive note.

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, it has been clarified what you think, is not what was said.

Proceed, Sen. Omogeni.

Sen. Omogeni: Please, take note, Madam Temporary Speaker, that he has interrupted my debate three times.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, I am watching. Leave that to the Chair.

Sen. Thang'wa, you may inform Sen. Omogeni.

Sen. Thang'wa: Madam Temporary Speaker, I want to inform Sen. Omogeni that since the Cabinet Secretary for Health, Aden Duale, banned the use of One Time Passwords (OTPs) at the hospitals, SHA is not working. Reason being, they say they want to use the biometrics. However, the doctors in all hospital are saying they have not been trained on how to use biometrics. Therefore, he was right. He would not want to see Kenyans suffer because SHA is not working in the country. I would want him to go to any Kenyan hospitals today.

The Temporary Speaker (Sen. Mumma): Sen. Thang'wa, you were informing him, not using the opportunity to debate.

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Sen. Thang'wa: I am not debating. That is how I talk, Madam Temporary Speaker. That is how I inform. I can also inform you like that. I come from Kiambu.

The Temporary Speaker (Sen. Mumma): Senator, you have made your information.

Sen. Thang'wa: It is not the tone; it is the message.

The Temporary Speaker (Sen. Mumma): Sen. Thang'wa, you have done the information. That is what I am saying. He is informed.

Sen. Sifuna.

Sen. Sifuna: Just a small clarification, Madam Temporary Speaker. I want you to guide the House on how many times someone can rise on a point of order when another person is standing on the Floor. Guide us also whether it is possible that there is only one person and one Senator, who knows when everybody is out of order, so that he is the only one hogging points of order. Guide us there. Can I raise multiple frivolous points of order without you taking any action on me and can I be the only Senator who sees when people are out of order?

The Temporary Speaker (Sen. Mumma): Yes, Senator.

The Senate Majority Leader (Sen. Cheruiyot): Madam Temporary Speaker, I would also wish to find out from you whether it is allowed for someone to shout and distract the colleagues on the Floor. It cannot be just one Senator. Every time colleagues are speaking, others are shouting and stamping their feet. Can you help this House understand because that is completely disorderly?

The Temporary Speaker (Sen. Mumma): Sen. Sifuna and the Senate Majority Leader, you are speaking to the issue of disruption of debate. To all Members and as the Chair, we will recognize frivolous points of order. We are again cautioning that while you are in the House, you have no permission to speak if you have not been given the opportunity to speak. Those who are speaking across to each other, you stand the danger of being thrown out of the House. That includes you, Sen. Cherarkey.

I am calling on all of you. This is an important debate. I suggest that you listen to every person who is contributing in silence and the Chair is not blind to the fact that she can recognize frivolous points of order. From now on, she will exercise the authority to put a stop to those kinds of interruptions.

Sen. Omogeni?

Sen. Omogeni: Now that Sen. Cherarkey---

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, please proceed on your point. Do not discuss Sen. Cherarkey.

Sen. Omogeni: Madam Temporary Speaker, I have not been stopped from making reference to a point that has been drawn to my attention by my colleague. I am happy that Sen. Cherarkey has drawn my attention to the importance of me, as the Senator of Nyamira, tabling before this House, cases of Kenyans who are residents of Nyamira and who have been unable to access SHA treatment in hospitals. I undertake as the Senator for Nyamira to come with those documents, with the names of people from Nyamira who have not accessed treatment because SHA is not working.

The Temporary Speaker (Sen. Mumma): Do you want to be informed by Sen. Khalwale?

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Sen. Omogeni: Okay, bullfighter.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker and Sen. Omogeni, for allowing me to inform him.

I will also help you when you are presenting those names. I will bring you the registration certificate of St. Mary's Hospital, Mumias where Sen. Sifuna was born, which was founded in 1932. It has always functioned until the SHA came into being. Three weeks ago, the hospital closed down because their claims were not being honoured.

I will bring you that certificate so that you help us to stop the suffering of the people of Mumias and Kakamega because of the closure of St. Mary's Hospital, thanks to the poor funding model of SHA. SHA will not succeed until the funding model is properly addressed.

The Temporary Speaker (Sen. Mumma): You are duly informed. Sen. Omogeni, please proceed.

(Loud consultations)

Sen. Omogeni: Madam Temporary Speaker, the intervention by Sen. Cherarkey was very useful.

The Temporary Speaker (Sen. Mumma): Sen. Omogeni, proceed. I have rejected the point of clarification.

Sen. Omogeni: Thank you, Madam Temporary Speaker. That is why we elected our Senators. We must bring to the attention of the Government of the day the suffering that a policy change is causing to our people.

I have said on this Floor that the interest of any Senator is to ensure that you put smiles on the people you represent. What smile am I putting on people, if every time you go upcountry to your county, you are reminded that National Health Insurance Fund (NHIF) used to help us access treatment in hospitals?

I neighbour a mission hospital called Ichuni, run by the Catholic Fathers, which is the best hospital in terms of facilities. As I speak, many people, including my neighbours, are not able to access treatment in those hospitals. So, what is the purpose of bringing a policy change that brings pain to the people that we are supposed to lead? I want to state on this Floor that if you challenge us to table the documents, I will come with a box of evidence to show you the kind of suffering that Kenyans are going through.

Madam Temporary Speaker, when I was making reference to regulations and building the point that when I went to school, I was taught about cognitive theory, which says once you attain 12 years, you will never think the same. Even a Cabinet Secretary or the Executive should know that when they propose a law to the Floor, the 68 Senators do not have to think the same.

You remember we made progressive proposals to amend the Housing Levy. However, they were rejected because we were told the position of the Government must carry the day. Those taxes have caused a lot of pain. That policy change remains very unpopular in the country. The policemen and everybody is complaining. The pay slip has shrunk. As legislators, we are not given time to assist the Executive, to moderate some of

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these laws, yet that is why we are here. We are here so that when the Government proposes a law, if it is oppressive to Kenyans, we moderate it.

I salute the spirit that I have seen this afternoon, where we are closing ranks to reject these regulations. A Cabinet Secretary cannot pick regulations where public participation was done seven years ago, and say, he or she is gazetting the regulations and they must take effect.

Madam Temporary Speaker, on the issue of public participation, the Committee is telling us that there was no meaningful public participation. In some countries, public participation means that you vote on a proposed legislation. For instance, in Switzerland, any proposed law, like what we are just discussing, you want to deny Kenyans the right of using NHIF to SHA, must be taken to a vote. That is what they call public participation.

Our Constitution has it there that there must be public participation. Next time we enact a law, let us make it clear that for any change in a policy that is as drastic as what I have seen in SHA or Housing Levy, the people must vote on it. That is what we call public participation. In Australia, any change in policy must have the approval of the people. Even proposing that a bar should close past nine o'clock, you take it to the people and they vote. In London, before you even cut a tree to affect the environment and fresh air, you go to the people who pass that policy in a vote.

For the Australians to allow same-sex marriage, just changing the law to say a man can marry another man, they had to go to a referendum. It passed narrowly by 52 per cent. They did not say that we just go and ask people here and there. The people had to vote on it. That is what we call meaningful public participation. What is the purpose of taking a law to the people, they tell you they do not agree, but we still go ahead and enact it?

We are exercising delegated power on behalf of the people who elected us to this House. That is why when the report of the Senate's Committee on Delegated Legislation tells us that there was no meaningful public participation, I fully agree with it. That is what is guiding me this afternoon in stating that I agree fully with the Committee on Delegated Legislation that we should reject these regulations.

Madam Temporary Speaker, at times we want to make it so hard for people who are coming to be investors in this country. Why are countries like Dubai ahead of us? It is because they have made it easy for people to do business and move to Dubai and build homes. However, in this country, we are just thinking about regulations. How will we attract investors if every day you want to put roadblocks? We cannot be competitive.

It is four hours away between here and Dubai. In 1970, Dubai was a struggling Third World country, like us. However, they have progressed because of the policies and regulations that they put in place, that are very attractive. They make the citizen's lives comfortable; they do not overburden them in terms of the tax.

As a country, let us re-examine our taxation policy. If you overtax investors, they will go to other jurisdictions. They will go to Rwanda and look at the tax regime. If they find it more attractive and accommodative, they will move there. Who suffers at the end of the day? It is us. It is the people who come to invest who will provide employment to the many youths who are out there, who are jobless because the Government cannot

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employ everybody. These unemployed youths cannot all be absorbed by the Public Service Commission. Therefore, when we reject regulations that are going to make it burdensome for investors to come, we are doing the right thing as the Senate of the Republic of Kenya.

Madam Temporary Speaker, I want to assure my good friend and neighbour, the Senator of Kericho County, that I did not make my statements trying to impute any bad motive. In a multiparty democracy like where we are, in a liberal democracy under our 2010 Constitution, it is not a crime at times to disagree with the legislation proposed by the Executive. There is nothing criminal. That is why we are a multiparty democracy. That is why we are paid as Kenyans to receive legislations, take them through public participation, make a report to this House and then the House either agrees or rejects. There is nothing criminal about it. Those who are before us have made mistakes; the people who were in this House passed Section 2(A) in 1992. Later on, they realised it was a mistake. Yes, let us learn from history---

The Temporary Speaker (Sen. Mumma): Sen. Thang'wa

Sen. Thang'wa: Thank you very much, Madam Temporary Speaker for giving me this opportunity to also comment on this issue, although I do not know whether to support or oppose the annulment.

I am a little bit confused because of two issues. One, it is what was raised by Sen. Omogeni and Sen. Sifuna. When you see the Senators from the Government side bringing a Motion to annul something from Government, sometimes you ask yourself so many questions. So, I am trying to think what could be the motive.

If you read the Report, it says that the Principal Secretary (PS) for Environment, Climate Change and Forestry, wrote to the same committee on the 25th July asking---

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, what is the point of order?

Sen. Thang'wa: Madam Temporary Speaker, he has started again.

(Laughter)

Sen. Cherarkey: Madam Temporary Speaker and it is on record; point of order is a right. Standing Order No.96 and Article 108 of the Constitution of Kenya, 2010 say, on this Floor, there are no Government Senators. What the Constitution recognises under Article 108 of the Constitution is majority and minority. Is it in order for the Senator for Kiambu County to refer to Government Senators? Is it in order?

The Temporary Speaker (Sen. Mumma): Sen. Thang'wa, can you use the correct language? It is a majority or minority.

Sen. Thang'wa: Madam Temporary Speaker, I said I am not sure whether to support or oppose. The majority and minority side of this House always fight for the same Government. When you mention the name Ruto, they will come up with points of order. When you mention that name, there will always be a point of order. Today, they are telling us to oppose the Government, they have always been defending here. Therefore, I am a little bit conflicted. That is one of the reasons I am trying to understand what they are trying to do.

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Secondly, the Principal Secretary for Environment, Climate Change and Forestry wrote to the same Committee on the 25th July this year, a few days ago, saying, “I have withdrawn the Regulations, give me a bit of time to go and conduct fresh public participation.”

Madam Temporary Speaker, the Government is willing to do fresh public participation, but here we are being told to nullify. For sure, I am not understanding. However, I will support them for only one reason. I will support the annulment because this public participation, which is very important that we consult Kenyans frequently, was done seven years ago. Those who do or conduct public participation are from 18 and above. If we say somebody was 17 years of age, then today they are 24 years. So, that means there is a group of people that would want to comment on this issue.

Madam Temporary Speaker, that is not my point. My point is we understand because we need to consult Kenyans frequently and we understand Kenyans change their mind and it is good to keep on consulting them. As we stand here, there are people we voted for in 2022. In those three years, we have already changed our minds.

Madam Temporary Speaker, when it comes to seven years ago, many people changed their mind on this issue. Even those who were not consulted and are of age now, can be consulted today. Therefore, I am only supporting them on that issue because we have been vindicated. People can change their mind at whatever time. So, for now, I am supporting them because of that. We want the Cabinet Secretary to conduct fresh and inclusive public participations, so that we can hear what Kenyans are saying.

Madam Temporary Speaker, you also recall that we passed a law called the Climate Change Act---

The Temporary Speaker (Sen. Mumma): Sen. Thang’wa, just before you proceed, the last time I checked the records, I think you are a majority Senator. I think what we need to take into account that every Senator here has the freedom to contribute as they wish.

Sen. Thang’wa: Yes, Madam Temporary Speaker, but we rarely see that.

I was saying that if you recall in 2023, this House plus the National Assembly passed or amended the Climate Change Act of 2023, and it goes in tandem with the Environment Management and Coordination Act. So, if we dealt with matters climate or matters environment in the Climate Act, then they could have probably affected these regulations that were drafted seven years ago.

Some stakeholders say they were not consulted. It is always nice. That is why I do not understand. The majority call me in there, but I know myself, I do not understand why they are so much into it that this time we want to listen to the people. However, on some instances, when we are on this floor, nobody wants to listen to the people. That is what we have been saying.

We have indicated and we are happy. This should be the spirit that everything that comes to this Floor, must have been listened to by the people. Let the people be consulted and let there be public participation. That is what they are saying and it has been put out there; “*Sikiliza ground.*” People should be listened to at whatever level and on whatever aspect.

What we are calling for by annulling these regulations is that we call for fresh inclusive engagements.

That is all, and I support the annulment.

The Temporary Speaker (Sen. Mumma): Sen. Sifuna, you may proceed.

Sen. Sifuna: Thank you, Madam Temporary Speaker. I want to start by applauding the Committee on Delegated Legislation led by Sen. Gataya Mo Fire, for this bold position that has led the House to rally behind the entire Committee. When something is wrong, we, as a leadership, have a responsibility to say that it is wrong.

The key reason the Committee has decided that we annul these regulations is because the Ministry responsible is bringing to us regulations claiming that participation of the people was done seven years ago; that was in 2018. Very many things have changed between now and 2018. In fact, seven years ago, I had just been appointed as the Secretary General (SG) of the ODM. There has been a long, long period, this is my eighth year there. There are a lot of things that have changed, including in the political space.

Madam Temporary Speaker, just for perspective and to understand how important it is for the Government to understand that when Parliament passes a law, it is a responsibility of Government to operationalise that law, so that the people can enjoy the benefits of that legislation. It is unconscionable to go seven or 10 years without actually having actualised the law.

I want to give this House the most poignant of examples. There is a Bill that was passed by Parliament in 2017 called the National Coroners Service Bill. In the current context of the discussions about police brutality and the killings that are attributable to the security forces and the difficulty that the Independent Policing Oversight Authority (IPOA) is facing investigating these crimes and actually bringing rogue officers to book, it is unconscionable that eight years later, somebody is sitting on the regulations that would operationalise the National Coroners Service Bill.

This particular Bill would require mandatory reporting of all dates and setting up over coroner service that would investigate all violent, sudden and suspicious deaths and make it easier for the IPOA and the prosecutorial powers to actually go after the rogue police officers.

I am happy that in this particular House, out of the National Dialogue Committee (NADCO) process, in one of the NADCO Bills, we have made a proposal to put criminal penalty on people whose responsibility is to bring these regulations, and who either neglect, fail or refuse to come up with the regulations or sit on them.

I was told a story that there exists a situation in this country that the Head of Public Service Commission (PSC) has abrogated himself the right to approve gazette notices and the gazettement of regulations. Now, as far as I understand the legislative process, the Head of PSC has no legal or constitutional basis to be the one to determine the contents of regulations, when they are gazetted or if at all they are gazetted.

That needs to be looked into because these issues are critical. When we talk about the spectre of extrajudicial killings, people think we are just saying because we like to oppose everything that the Government is doing. However, they have consequences on the standing of the country and the nation that is Kenya on the world stage.

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Madam Temporary Speaker, just recently, we were told that the United States (US) Congress is now reviewing the major non-NATO ally status of Kenya. Part of the review will cover cases of abductions, torture and violence against civilians. It has become difficult for us to find justice against the rogue police officers who have killed our young people. This is caused by failure by people in the Government to put in place regulations for important Bills such as the National Coroners Service Bill.

I will not take more time than that. I appreciate our colleagues in that Committee, chaired by Sen. Gataya Mo Fire, Sen. Faki, Sen. Maanzo, Sen. Montet and the others, including Sen. Boy Juma, for putting their foot down.

The point that the Senator for Nyamira County was making, which I thought was misunderstood, is that every single opportunity, we must validate our space in the constitutional order as a House. There exists separation of powers. The Executive should not know how the House will treat a proposal that comes from them before the proposal lands on the floor. We have been given constitutional power by the people to give an objective view of every single proposal that has come from the Executive. It does not matter if I was elected on the ruling party or the party that is in opposition, as a Member of this House, exercising that legislative power, at the very minimum, should give Kenyans an objective review of that proposal before I say nay or yai.

Sen. (Dr.) Khalwale has just informed me that the hospital where my placenta was cut has now been shut down. It reminded me of the debate about Sen. Kajwang's former university.

The Temporary Speaker (Sen. Mumma): Senator, it is the placenta of your mother.

Sen. Sifuna: The placenta is shared by the mother and the child. I do not think any party can claim whose placenta it is. It is also mine and I can text my mother here to confirm whose placenta it was.

The Temporary Speaker (Sen. Mumma): Proceed, Senator.

Sen. Sifuna: It reminded me of that debate. I do not know if you recall, when Moi University was facing closure and Sen. Kajwang, who went to Moi University, was asking, what he would tell people when they ask him which school he attended? How can you make reference to an institution that does not exist anymore?

I am finding myself in the same dilemma as the Senator for Homa Bay County. I can no longer convince people that I was born in a decent faith-run institution because it has been closed down. We must do everything. In 1982, to find an institution such as that, that was able to safely deliver somebody who can become a Senator for Nairobi City County, was not easy. It breaks my heart that, that has befallen that hospital.

All it takes is for this Government to ensure that the system they have put in place when it comes to management of our health care works. If it works, you do not need to defend it. This is a problem I have. Everyone can see when something is working. If you defend it so hard and the people in the villages there---

I was in a very rural village called Khoome, somewhere in Saboti over the weekend. I can tell you, the question was put to those women. They have lost Linda Mama, the SHA does not work for them. Why do we insist, instead of just taking back this feedback and tweaking the system, the way that the CBK dealt with the questions

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that were raised about voiding of payments? They have told us that they have taken steps to ensure that it will no longer be possible for county officials to void payments.

That is the sort of Government we want; a Government that just listens to criticism and takes corrective measures. I was very pleased when, after bringing the question of university accommodation fees here, the Ministry took steps to correct that. That is what we expect from a government that is responsive; not just being defensive and sending hecklers to heckle us down here in Parliament whenever we raise these issues. I do not want to mention them. I have finished.

Thank you.

The Temporary Speaker (Sen. Mumma): Sen. Tabitha Mutinda, proceed.

Sen. Tabitha Mutinda: Thank you, Madam Temporary Speaker. I rise to appreciate the Committee on Delegated Legislation led by the Senator for Tharaka Nithi County, Sen. Gataya Mo Fire.

I was looking at the issues the Committee examined. Yes, we are trying to address the issue of public participation, which was last conducted in 2015: ten years down the line, according to the report I reviewed. Although some colleagues mentioned 2018, but the report states it was 2015.

I also looked at the issues they raised and they are very valid. One of them concerns the cost or fees to be charged. These fees were proposed ten years ago. We are ten years down the line and things have changed. The Committee felt there needs to be an intervention regarding these fees because the fees proposed at that time were on the higher side.

The other issue I looked at, which the Committee also raised, was the obstruction by community members from accessing resources in the forest. The Committee felt this needs to change because it protects their interests as a community and there should not be obstruction in their ability to access. These are very valid concerns. Such issues can only be addressed when proper, fair public participation is done. People should be given an opportunity to air their views, give their proposals and offer their submissions, so that some of these issues can be addressed.

It is good that institutions respect the process of legislation, a process that requires maximum public participation. That is why committees normally have media budgets. These are budgets entitled to each committee, allowing them to advertise to the public for those who wish to participate in public participation. This enables people to maximally bring in their views.

The Committee is then able to look into those issues and give guidance, see what fits. That is the main reason. It is important to say that if it were just in our space to legislate without public participation, then it would not be fair to the public. These laws are not for us as individuals or members; these laws are for this country and they affect every Kenyan. Therefore, advertisement of the same is very important.

I have also seen that the same Committee on Delegated Legislation was able to question whether the Ministry had prepared and submitted a regulatory impact statement. There was no documentation provided to show whether the public was notified. The Committee found that no documentation could be traced at all. These are very valid concerns. This means the Committee was able to dig deeper to check if any

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documentation existed and to analyse the regulations in place. Are they worthy to be in place in this year, 2025?

Further, from 2015 to date, when we invite most of these public officers or different stakeholders, in most cases, they are normally accompanied by their legal teams. Therefore, I really wonder where the legal department has been. This is laxity for the legal department in the Ministry. They should be the ones advising the Cabinet Secretary as far as all these regulations are concerned. This is because if they had done their part, then we would not be here looking at this nullification.

They should work with speed with the same leadership of the Committee to ensure they submit the right changes after conducting public participation and advising the Ministry. These changes can now be adopted with the current place where we are today in 2025. I speak from where I sit also as a member of the climate caucus led by ours truly, Sen. Kajwang'. This is because today in 2025 we are speaking matters climate change. These are issues that need to be captured in the same regulations.

I feel it is just a matter of the people, the officials or officers who are mandated to be able to undertake their legal mandate have not been up to the task as required. It should be known that public participation is not specific to any person, it is open to all Kenyans, to all stakeholders who want to have and put their input as far as specific legislation is concerned.

As the debate has been going on, I have been keen to hear my colleagues when they talked about the issue of SHA. This is a very important discussion. I speak as a Member of the Committee on Health. We have been out there doing our oversight, visiting different hospitals, Level 5 hospital, the county and sub-county hospitals.

Personally, I have been keen on getting to understand if SHA is working? If it is not working, what is the challenge? Recently, we were in Kilifi County. We were there last weekend. One of my concerns was from the admissions desk, the person who is in charge in terms of receiving payments and also the issues of SHA. We were able to ask as a Committee, whether SHA is working. The response was, yes, it is working. The only challenge that was in place is that there was no digitalisation. People had to leave their ID cards, be given a small form, they fill up. We were also able to interact with the clients or patients in that hospital. We asked them whether SHA is working or not? According to them, they said 'yes.'

Madam Temporary Speaker, they were certain that the process is ongoing. There should be conversations of; this is the specific challenge. It cannot just be generalised that it is not working. It is good to say what specifically is not working. What is the exact problem? What is the exact challenge, but not just a generalisation that a system is not working.

I have heard my Senator talk about the hospital that he proudly says he was born in, which is good and asked, what will he tell the future generation and my generation, if this hospital does not exist? It is the same question I asked today. What will we say if we still continue allowing people to put fire in this country to burn it? Where will we say we are coming from? Which Kenya will we call home?

It is important that we highlight the problem and at the same time, offer a solution to the problem. It cannot just be negative critique without a solution. Leadership

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is identifying the problem. Leadership is also offering the same problem on the same platform. We are not going to get out here in the Senate after 2027 with certificate of either who was shouting more than the other, who had more points of order than the other. It is not about that; it is what we have been able to deliver as a House. There is no law that is for Sen. Boni Khalwale. There is no law that is for Senior Sen. Oburu Odinga. This law is for us as a country and as the people of this nation. That should sink very well, but it is not about the highest shouting person.

With those many remarks, I really appreciate the Committee on the same and urge them through their leadership to fast-track this, so that these regulations are up to date.

Thank you, Madam Temporary Speaker.

Sen. M. Kajwang': Madam Temporary Speaker, I rise to support the recommendation of the Committee on Delegated Legislation that the House should annul the Environmental Management and Coordination, Strategic and Integrated Environmental Assessments and Environmental Audits Regulations of 2025. I have looked at the two main reasons that have been advanced by the Committee. I agree that those reasons are solid enough for this House to be moved to annul those regulations.

The first reason given is lack of public participation. Public participation on these regulations was done in the year 2018. If you live in this country, you know that the political environment and terrain in this country has changed significantly from 2018 to date. Perhaps, even the aspirations of Kenyans have changed. Even the policy and focus of Government has changed. In fact, it has changed significantly.

In 2018, we are talking of the Big Four. In 2018, one very interesting thing is that Sen. Boni Khalwale, and I were riding on the top of a similar vehicle when we were welcoming Baba from the USA and we were teargassed. We were clobbered for six hours. When we got to Gikomba, the traders in Gikomba came out with the sticks and *rungus* and were generally very violent. Sen. Boni Khalwale disappeared. I have not known to date how he got out of my car, but the situation was very tense. That was 2018.

Today, Boni Khalwale is a Chief Whip of the Government. Therefore, the views given in 2018, really, we cannot use them to support or to augment regulations in the year 2025. We have moved full cycle from Big Four. We went to handshake. We went to *tanga tanga* regime. We got into a new Government that started with bottom up. Then, from bottom up, it was shareholders. It was a government of shareholders. After becoming a government of shareholders, it then became a government to whom the most urgent national priority was to eject the Deputy President. Then after that, it became the government of broad-based. Now, at least, the nation has stabilised.

You cannot use public participation of 2018 to support regulations today. A lot of things have changed in this country. In fact, to be honest, if assuming the former Deputy President was involved in public participation in 2018 in these regulations, do you think we will hold the same views that he held in 2018 today? Definitely not. That is why public participation must be timely. It must be current and relevant. It needs to be fresh. It needs to be like news. On that basis, I agree with the Committee that these regulations must be annulled and should be rejected.

The second basis is that when the regulations were published, the fees and tariffs were not included. That is an extremely material feature or aspect of regulations that

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cannot be ignored. This is because the Statutory Instruments Act has a very clear definition of what a statutory instrument is. For avoidance of doubt, it talks about any rule, any order, any regulation, any direction, any form, any tariff of costs or fees. You cannot exclude tariff of costs and fees from such regulation and then give the Cabinet Secretary the power to impose that.

Regarding delegated legislation or statutory instruments, I think in the United Kingdom (UK), they call it secondary legislation. It is this Parliament that has donated the power that has been given to it by the people to the Executive. A debate has been going on in the commons. There has been a concern about what is called skeleton legislation, where Parliament passes a framework or skeleton then says the Cabinet Secretary shall prescribe regulations.

When we were in Turkana, we were in a rush because the President told us that something good was brewing and that if we passed the four Health Acts, then everyone was going to get free medication and free health insurance in this country.

I chair the County Public Accounts Committee (CPAC). Every time governors present their receiver of revenue statements, they tell us that they have grown their own-source of revenue from Levels 1, 2, 3, and 4 hospitals. This is what I ask myself. If they are making so much money out of hospitals, then where is this promise and dream of free and universal health coming from? I expect that in the next financial year, every governor will report zero as fees collected from people in Levels 1, 2, 3 and 4 hospitals.

Look at all the counties, including my own. We have grown our own-source of revenue beyond Kshs1 billion on the strength of hospital fees. Why are we still collecting money from the poor people, yet we are supposed to be having a universal healthcare system and insurance in this Republic? It is because we passed skeleton legislation. We were in a rush to pass the legislation and get out of Turkana and said that the Cabinet Secretary shall prescribe and come up with regulations.

Madam Temporary Speaker, I want to congratulate Sen. Gataya Mo Fire, who chairs the Committee. I keep reminding him that this is one of the most powerful Committees of this House because it ensures that, that power that has been donated to the Executive is not abused. In the past, it has been abused grossly.

I can give you a few examples. I have given the example of the Health Acts. We passed in this House the Fisheries Management and Development Act in 2016 and it is one of the proudest laws. I had just come into Parliament and I was so proud that we came up with a regulatory and legislative framework that was going to open up our blue economy, make our people rich and have them benefit from the natural resources in the seas, lakes and oceans that we have around us.

To date, we have regulations that have not been brought to this House. As a result, the Fisheries Management and Development Act cannot be enforced. Indeed, it is an insult to the fisher folk in this country when we heard the other day that the Kenya Fish Marketing Authority (KFMA) and Kenya Fisheries Service (KFS) are some of the state organisations that are bound to be disbanded because they are offering no value.

When we came up with specific parastatals and bodies to support specific crops, for example, the Kenya Dairy Board (KDB) supports the dairy sector. I have not heard

anyone say KDB should be disbanded. We also have the Coffee Board of Kenya and the Tea Board of Kenya (TBK).

When Mwai Kibaki became President, the policy was consolidation. We came up with one super agency called Agriculture and Food Authority (AFA). However, along the way, it was clear that AFA did not have the capacity to deliver the changes and the dream that was in the strategy for revitalisation of agriculture that was espoused by Mwai Kibaki. As a result, people started divesting. Fisheries, coffee, tea, dairy and even livestock sectors divested.

I believe there is a Livestock Bill before this House. Why should the other sectors divest? However, when it comes to our fish, we are told that that will be too small a parastatal and whatever it will be doing can be done by the Ministry? If that is the case, then let us collapse everything else so that we are equal.

The same absurdity extended to the Cotton Development Act. This House, passed the Cotton Development Bill, which was sponsored by Sen. Beth Syengo, and both Houses agreed. The Bill was sent to the President, but he did not assent on time. Three months later, as an afterthought, the President returned the Bill back to Parliament with a memorandum. What was the memorandum saying? That it is not Government policy to establish additional boards. They went ahead to state that cotton development and management can be done by the line Ministry. We do not hear the same argument when it comes to other crops and products.

I hope that the Committee on Agriculture, Livestock and Fisheries where I sit, has reported back to this House that we rejected the President's memorandum because it was filed outside time. Therefore, what we expect is gazettment of the Cotton Development Act and its implementation, so that cotton farmers can also be considered to be part of this Republic, just the same way farmers of other crops and products have been given protection, autonomy and statutory independence. That is what we expect for cotton and fisheries farmers.

Madam Temporary Speaker, you have seen the Parliamentary Service (Constituency Offices) Regulations being circulated to Hon. Members. That has been the biggest joke in this Parliament. This Senate has failed to influence publication of regulations that will ensure that the Office of a Senator is treated slightly differently from the Office of a Member of National Assembly. The public needs to know this. For example, as a Senator, like the Senator for Nairobi City County, which has 17 constituencies, the money that is sent to support the operations of the Senator is the same amount of money that is sent to a single Member constituency, yet he takes care of 17 electoral units.

I take care of eight. The budget that I have for staff and operations and even office rent can only keep me in one place. I cannot be present in all the eight constituencies or all the 40 wards. It is because our hands are tied by that regulation that defined our offices as constituency offices.

I have been on this argument since the Eleventh Parliament when Hon. Kiraitu Murungi attempted to move an amendment to the Parliamentary Service Commission Act to establish alternative structures that would give specialised focus and attention to the Senate. It was killed in the Eleventh Parliament.

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In the Twelfth Parliament, we tried again. We even went to the United States of America (USA) and visited about five states. We went through state legislatures to understand the relationship between state legislatures and the relationship and operations of Congress and the House of Representatives, and came back with a report.

We proposed amendments to those regulations and they were again vetoed. They were actually vetoed by the other House. At that time, our departed friend, the late Senator for Baringo, Hon. Cheptumo, was the Chair of that Committee. I am glad that before his demise, he had the decency and courage to apologise in this House because he said when he was on that side, he never understood what happens in the Senate.

Statutory instruments and delegated legislation have been used and abused, but people think it is the laziness of representatives in these Houses that leads to that abuse. That we are quick to pass a skeleton of a law then leave it to the Cabinet Secretaries to fill the blanks. Some of them really abused that.

One of the abused statutory instruments was the Equalisation Fund Management Regulations. Those regulations came to this House at the end of the Twelfth Parliament. There was a lot of pressure and the “handshake” scenario. The Chair of that Committee then was the Senator for Mombasa, Sen. Faki.

Sen. Faki had to convince the House to pass regulations that excluded Senators from the Equalisation Fund. The regulations created structures at county level where the money from the Equalisation Fund would be managed through a county technical committee chaired by the county commissioner.

A county government had only one representative that is a County Executive Committee Member (CECM). The National Government-Constituencies Development Fund (NG-CDF) also had a representative in that county technical committee. It went down to the constituency technical committee all the way down to the ward technical committee.

Today, many of us are unaware of what the Equalisation Fund is doing in our respective areas. Even governors do not know what the Equalisation Fund is doing because the money is considered to be from the national Government that is managed through national Government administrative structures.

That is why yesterday we had this problem where the National Assembly has come up with a parallel Bill on the Equalisation Fund because they still think that that money is for their control, but we allowed it to happen. I wish Sen. Faki were here. He would have told us that he promised this House to pass these Regulations to allow access to the Fund because the Fund had not been drawn for a long time, for lack of regulations. He told us here that the Government had promised that they were going to bring amendments. To date, there are no amendments that have been brought. That is why we must annul these Regulations so that no one promises us they will be amended. They will never be amended, out of experience.

Madam Temporary Speaker, I will finalize by calling upon my colleagues, that whatever we are doing in this House is our primary responsibility as elected leaders. A poll was conducted in the United Kingdom (UK) to find out what the public expects of Members of Parliament. Law making was the last priority or the last expectation. If a similar poll was to be conducted here in Kenya, I can tell you that the people we

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represent; their first expectation for a Member of Parliament who include Senators and Members of the National Assembly would be to build classrooms.

Expectation two, to issue bursaries. Number three, to attend funerals. Number four, to issue handouts without fail. Number five, attend rallies where you can insult imaginary and real enemies. Number six would be the issuance of statements. Law making is the least glamorous and is the least considered job of a member here.

Madam Temporary Speaker, I see and admire the new Members of this Parliament. Sen. Sifuna joined in this 13th Parliament. He is here, not just because he is the Whip but because he believes that the core mandate, the critical duty of a legislator is to legislate and not empowerment rallies, even though I saw him doing an empowerment one the other day. However, it is not the money that caught my attention, it was the conversation that caught my attention but that is a story for another day. He knows that being in this House is the reason why the people of Nairobi elected him.

Madam Temporary Speaker, the Senator from Nandi is in this House religiously, even though he is a bit of a noisy one but he knows that that is the core mandate of a Senator or a representative who has been brought here. Let me call upon my brothers and sisters who have been elected, at the end of the day, no one will remember the funerals you contribute to and the handouts you give. Out of my experience, the last person to do a *harambee* is the one who is remembered. The *harambee* you did in 2021, 2022, 2023, in 2026, your opponent will do a bigger *harambee*. He will come with Farouk to do a big *harambee* and all your small *harambees* will have been forgotten but your record and active participation in Parliament will live on.

Today, we went to do prayers for Phoebe Asiyo and everyone remembers her for the Motion she introduced in this House that called for gender equity and opening up the space. People did not eulogize her because she did a *harambee* somewhere and donated desks or because she sorted out some boys in some center. People like Martin Shikuku are remembered for their speeches and statements in this House. For people like George Anyona, it is not because of their donations.

As we head into the weekend, and I know some of my colleagues are going to board choppers, going for empowerment things; please let us focus on policy legislations and regulations that can provide a level playing field for all Kenyans, in order to access opportunities and for all Kenyans to get empowerment. The idea of donating Kshs64 shillings or Kshs1,000 to women groups is tokenism and a handout culture.

Madam Temporary Speaker, the Party that I subscribe to, the ODM party, has always been against using *harambees* as a model for development because they fuel corruption. When someone whose net salary is Kshs150,000 is donating Kshs5 million in one month, that is corruption looking at you straight in the eye and we are not going to grow this country if we continue with this pretense of empowerment rallies and empowerment *harambees*. That cannot be our model for development.

Madam Temporary Speaker, I support.

The Temporary Speaker (Sen. Mumma): Sen. Kajwang', do you want to be informed?

Sen. M. Kajwang': Cautiously, yes.

Sen. Cherarkey: Madam Temporary Speaker, I would like to inform my Chair for County Public Accounts Committee (CPAC), and I like his eloquence, that the ODM Secretary General, Sen. Sifuna, donated Kshs1 million in Saboti, Hamisi. When he says they do not subscribe, there should be clarity on what he is saying.

The Temporary Speaker (Sen. Mumma): Sen. M. Kajwang’.

Sen. M. Kajwang’: Madam Temporary Speaker, that is a frivolous point of information. My Secretary General declared the source of his contribution, which included Members of this House. He fully accounted for it.

With those remarks, I support the Report of the Committee.

The Temporary Speaker (Sen. Mumma): Sen. Seki.

Sen. Seki: Thank you, Madam Temporary Speaker. I also take this opportunity to put my voice on the Report of the Committee on Delegated Legislation, chaired by Sen. Mo Fire, on nulling the environmental report. Sincerely speaking, I support and thank the Committee for going against what is not supposed to be because they were also working under pressure. However, this report has been submitted to this House with stakeholders' engagement. The stakeholders informed the Committee that the regulations the state corporations and the ministries have been using did not pass through Parliament.

It is true that the Government needs to regularize or operationalize regulations that have come to this House. In most cases, we have seen a number of regulations or guidelines that have not come to this House being operationalized by ministries and state corporations, and that becomes a big problem to members of the public and the entire nation. This is in terms of charges, punitive charges, penalties or through the charges that are there in those regulations. It is important for the House that is constitutionally given the mandate to go through these regulations and Acts of Parliament and come up with what is important.

Madam Temporary Speaker, that is why we are supposed to go through public participation as a Senate and Parliament. It is important that this Committee came up with resolutions that we annul these regulations and that was in order.

It would be interesting if this Committee will go through several regulations that are being used in several Acts. It would be good to look at the regulations used in the operationalize of SHA. The same case should happen to the regulations used to operationalize the Hustler Fund. These are important regulations that we need to go through as Parliament and as a Committee. I, therefore, urge this Committee to go through the regulations used in several Acts and which the ministries and state corporations are implementing.

Madam Temporary Speaker, I also support the Committee's recommendations to annul this Report. I thank you.

The Temporary Speaker (Sen. Mumma): Hon. Senators, there are no more requests, I, therefore, call upon the Mover to reply.

Sen. Gataya Mo Fire: Madam Temporary Speaker, I sincerely thank my fellow Members for generously contributing to this important debate, which has generated a lot of interest from across the divide. Many Members have enriched the report of the Committee. Therefore, as the Chairperson of the Committee, I am impressed because the

core business of this House is to legislate and, today, this House has absolved that law as power.

I do not want to go into details of why we recommended for annulment of the report because that matter has been properly processed by quite a number of debaters who have been able to process the whole process.

To sum up, I would request you that pursuant to Standing Order No.66(3) of the Senate Standing Orders, I request for deferment of the putting of the Question to a later date owing to the fact that the House does not have quorum to that effect.

The Temporary Speaker (Sen. Mumma): The putting of the Question is so deferred.

(Putting of the question on the Motion deferred)

Next Order.

(The Clerk at the Table consulted the Temporary Speaker)

Hon. Senators, pursuant to Standing Order No.43, I hereby wish to reorganize the order of business and call that we move on to Order No.23.

MOTION

ADOPTION OF REPORT ON COUNTY OVERSIGHT AND NETWORKING ENGAGEMENTS IN WAJIR COUNTY

The Temporary Speaker (Sen. Mumma): The Chairperson, the Senate Standing Committee on Energy, Sen. Kisang, please proceed.

Sen. Kisang: Thank you, Madam Temporary Speaker.

I would like to move this Motion on behalf of the Chairperson.

I beg to move: -

THAT, the Senate adopts the Report of the Standing Committee on Energy on the County Oversight and Networking Engagements in Wajir County laid on the table of the Senate on Thursday, 17th April, 2025.

Madam Temporary Speaker, I present this Report for consideration and approval by the House, pursuant to Standing Order No.223(6) of the Senate Standing Orders. Pursuant to its mandate under Standing Order No.228(3) of the Senate Standing Orders to provide oversight and to consider all matters relating to fossil fuel exploration, development, production, maintenance and regulation of energy in line with the resolution at its sitting held on 8th October 2024, the Standing Committee on Energy resolved to undertake a series of county visits, which included going to Wajir County, amongst others.

Madam Temporary Speaker, these visits were aimed at assessing key factors affecting the energy subsector at the county level, with a particular focus on historically marginalized counties in the northern frontier, major urban centres and cities, as well as

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other counties situated especially in the north rift. My county, Elgeyo Marakwet, is one of them, where the last mile connectivity is below 40 per cent, with one of the sub-counties standing at around 15 per cent.

Madam Temporary Speaker, in this regard, the Committee conducted an oversight visit to Wajir County on 25th October, 2024. During the visit, the Committee held meetings with the Governor, Members of the County Executive, Members of County Assembly of Wajir and national and regional representatives of Kenya Power and the Rural Electrification and Renewable Energy Corporation (REREC). The Committee also toured Wajir Kenya Power substation and visited key energy-related projects within the county, including the Wajir County Recycling Plant, an industrial park and a teacher's training college in one of the constituencies.

The community is grateful, especially to the Member of Parliament who used National Government Constituencies Development Fund (NG-CDF) to put up a teacher training college. When we were there, they had over 200 Primary 1 (P1) students who were training to be primary teachers.

Madam Temporary Speaker, during these engagements, the Committee sought to establish the status of the last mile connectivity projects implemented by REREC with a particular focus on historically marginalized counties as I have stated in the northern frontier and also northern part of northern Rift Valley.

The Committee recognized that despite significant progress evidenced by approximately 9.7 million Kenyans homes, already connected to electricity, as of late 2024, the pace of connectivity in remote and underserved regions remain a concern, with the government targeting to reach at least 10 million households by the end of 2025 and to achieve universal access by 2030.

In these deliberations, the Committee noted persistent barriers to last mile connectivity, including the high cost of internal wiring for consumers, which remain expensive for many low-income and rural households, especially the arid and semi-arid areas.

Madam Temporary Speaker, in this particular one, we said when homes are being put up, we want Kenya Power to also allow the contractors who are putting up houses to submit the electricity certificate, because sometimes homes are put up, electricians are invited to do wiring, and there are supposed to be additional fees to allow the certificates to be used.

Madam Temporary Speaker, additionally, limited and delayed disbursement of funds to implementing agencies such as REREC has contributed to slow project completion rates. The Committee noted that as of 2023, approximately 75 per cent of the Kenyan households have access to electricity. However, access rates in marginalized counties, particularly those in the northern frontier, remain significantly lower, sometimes below 30 per cent. In fact, the figure “below 30 per cent”, is an overstatement.

As I have told you, a county like Elgeyo Marakwet County, which is not in the northern frontier, is about 32 per cent, with one of the constituencies at 15 per cent. So basically, in the northern frontier, they are below 20 per cent. It is mainly the towns that have electricity.

The Committee observed with concern that Wajir County remains unconnected to the national electricity grid, rendering it dependent on localized power generation. At the time of the Committee's oversight visit, it was established that counties' electricity supply was primarily reliant on four diesel generators. As you know, we are moving away from fossil fuel to green energy, but then they rely entirely on generators. Kenya Power informed the Committee that its substation serving the county relies on four diesel generators, and out of which only two of are owned by Kenya Power. The other two are leased from private entities. During the Committee's visit, one of the generators was not even functional. So basically, they are only on two, while the other was functioning at less than 40 per cent of its total capacity.

Consequently, there is an overreliance on the two leased generators, resulting in frequent power outages and short letting which has undermined security, sparked public unrest, disrupted essential services, and negatively impacted local businesses.

Madam Temporary Speaker, sometime last year, there was an unrest that cost some lives in Wajir County as a result of lack of power. The committee recommended that the Ministry of Energy and Petroleum should give priority to historically marginalised off-grid counties, particularly Wajir, in the future transmission projects and submit feasibility studies for the proposed Garissa-Wajir transmission line.

There has also been a proposal to extend the line from Isiolo to Marsabit, Wajir and Mandera to ensure that this part of the community of Kenya is served by green energy.

Additionally, Kenya Power should procure and install modern energy-efficient generators to replace their outdated ones in Wajir and implement a robust maintenance schedule, reporting progress within six months. We are almost due. As the House resolves and adopts this report, the six months begin for the KPLC to report back to the House.

The Office of the Auditor-General should conduct a special audit of the KPLC's inventory management in Wajir County, focusing on generators and stored electricity materials and submit its findings within three months.

The Committee also recommended that the Ministry of Energy and Petroleum, through its agencies, Kenya Power and the Rural Electricity and Renewable Energy Corporation (REREC), ensures greater transparency in the award of energy sector contracts in the county by adopting clear, public procurement guidelines that give priority to the locals.

This is common across Northern counties, where we have banditry and where there is insecurity. Where contractors are given contracts and after a short while, they take off; they run away from the regions and the projects keep delaying. It runs even up to three, four years and we deny the people services.

The Kenya Power and REREC should give priority and give contracts to the locals because even if there is insecurity, they are used to the area, they know how to operate and undertake the projects without delays.

In conclusion, I wish to commend the Office of the Governor and the County Executive of Wajir County, Members of the County Assembly, representatives of Kenya

Power and REREC, and all the stakeholders who participated in the committee's engagement and provided valuable insight.

With these remarks, I submit and now beg and urge the House to adopt this Report, so that at least we can put Kenya Power and the Ministry on their toes, so that the marginalised counties, the northern frontier, parts of Turkana and parts of the North-Rift are connected to the national grid.

Madam Temporary Speaker, I beg to move and request my Chairperson, the Senator for Siaya County, Sen. (Dr.) Oburu, to second.

The Temporary Speaker (Sen. Mumma): Sen. (Dr.) Oburu, you may proceed.

Sen. (Dr.) Oburu: Madam Temporary Speaker, I rise to second this Motion by my committee as presented by my very able Vice-Chairperson here. The Committee was in Wajir County and Wajir is in dire situation. You will find a huge town like Wajir, which is serving several constituencies, still not connected to the national grid, and it is just using generators. It is high time that these areas are given the attention they need.

At Independence, there was a sessional paper, which was called Sessional Paper No.10 of 1965. This Sessional Paper, which was adopted by the Kenyan government, stated clearly that areas that did not produce high yields in terms of investment over a shilling were not going to be given priority in terms of development.

It was, how much of the yield you bring to the table when a shilling is invested in your area? So, because these areas have a very large tract of land, the land also produces a lot of milk because there are a lot of cattle, the land also has a very productive population who are very good at inventions and in trade and it borders many countries and counties.

These areas have suffered serious neglect since the independence of our country. It is high time that our independent government directed attention to these areas, which have been marginalised. To me, the marginalisation started right at independence because of the policies that were adopted then.

Right now, we have had several changes in government, governments with different policies and we have experiences that we know. For instance, a country like Botswana, which is all arid and semi-arid, in fact almost arid all through, but just because of the minerals they have--- I am sure we have those minerals in this country--- the minerals and the cattle they have, can be sold for the hides which gives them so much money because they export.

We travelled with the Cabinet Secretary of Energy and Petroleum to Turkey; we also travelled to India, and these people are importing hides from other African countries. They told us categorically that they cannot import from Kenya. The reason is that the way we slaughter our animals is still very primitive. We just use the knives to skin our animals. Using the knives to skin animals spoils the skins, and the quality of the skin goes down completely.

We need to establish big abattoirs in this country, in these counties, so that we can properly and professionally slaughter our animals, so that the quality and the earnings from these hides and skins are improved.

Madam Temporary Speaker, I do not want to speak anymore. I did not travel on this particular journey, but I am pleading with the House to support this Report by my committee so that we can move forward.

I want to end by saying that I second the Report and plead with the House to support.

(Question proposed)

The Temporary Speaker (Sen. Mumma): Sen. Cherarkey, you may proceed.

Sen. Cherarkey: Madam Temporary Speaker, let me comment on this Committee Report.

I want to thank the Youth-led Committee on Energy and the child of the Broad-Based Government, Sen. (Dr.) Oburu Odinga, for the good job. As I always repeat that our work should be more in *Mashinani* and in grassroots than any other. I will make a few comments and allow the mover to reply. Let me start from the basics.

Madam Temporary Speaker, Sir, when I heard the mover of the Motion, the Vice-Chairperson of the Committee, speak about the challenges of electricity in Wajir, I was reminded of our visit to Mandera in January. Sen. (Dr.) Oburu, we had similar concerns. It was the same script.

I remember that during our visit to Mandera, people were preparing for Ramadhan. The season was extremely hot. Mandera has four generators, just like Wajir. All of them were dysfunctional. Before we left, Kenya Power assured the people of Mandera that new generators were being brought in. However, the report we received later indicated that two of the new generators had already broken down.

Apparently, due to the hot weather in Mandera, Wajir and the northern part of the country, the generators could not be sustained. I have heard the mover mention that Wajir and Mandera are not connected to the national grid. Garissa is the only one connected, if I am not wrong.

Let me begin with the Fourth Schedule of the Constitution. I have four points to share, then I will cede ground to my colleagues. In the Fourth Schedule of the Constitution 2010, one of the roles of counties in number 22 is energy policy. Number 31 states that energy policy includes electricity, gas reticulation and energy regulation.

I challenge counties that have been marginalised like Wajir that KPLC is not a monopoly under the 2010 Constitution. When we passed this Constitution, Kenya Power ceased to be a monopoly. Counties have the power to reticulate energy, including gas. I challenge counties marginalised by Kenya Power to exercise their constitutional power to produce their own energy. They can be cleared by the Energy and Petroleum Regulatory Authority (EPRA). I know the Chairperson of Standing Committee on Energy is aware that there are small dams and individuals generating their own power. I challenge the governments of Mandera and Wajir to do the same.

I was shocked when in Mandera, near River Bulawayo. This is very interesting. Can you believe that Somalia, which appears unstable, has reliable electricity? Can you believe it that Somalia, despite its instability, has reliable electricity? Across the border is Ethiopia, where electricity is cheaper.

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

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

Mr. Temporary Speaker, Sir, I appeal and challenge the Governor of Marsabit, Wajir and Mandera to engage the national government. Let it act as a guarantor to buy and get electricity from Somalia and Ethiopia. The Kenya Power has decided to marginalise these regions. How can you explain that 60 years down the line, the great people of Mandera, Wajir and Marsabit are still being marginalised by Kenya Power by not being connected to the national grid? It is very unfortunate and shameful.

This Constitution was a liberation for the people of Northern Kenya. The Fourth Schedule, Nos. 21 and 31, give counties the power to generate energy. I urge the county governments of those regions to seek better options. They cannot keep waiting for Kenya Power to bring electricity through Rural Electrification and Renewable Energy Corporation (REREC). The incompetence and lethargy of REREC in this report are clear. I am happy the Chairperson and the Energy Committee have indicted them. All of us know the unreliability of Kenya Power. In fact, when it rains, you are likely to lose electricity. It is as if, when electricity notices the rain, the power disappears.

Mr. Temporary Speaker, Sir, Wajir, Marsabit and Mandera, like any other Kenyans, have a right to access electricity. It cannot be, 60 years down the line, that the people of Wajir, Mandera and Marsabit still do not have access to electricity.

(Sen. Methu consulted loudly)

Mr. Temporary Speaker, Sir, if Sen. Methu understood the seriousness of this matter, he would sit down and listen.

Chairperson of the Standing Committee on Energy, I expected your report to recommend that those counties carry out their own reticulation of energy and gas. We should give them a chance. They cannot be marginalised. We must fight marginalisation by all means.

Even in Nandi, can you believe that 60 years down the line, there are areas in Tindiret, Aldai, Mosop, Chesumei, Emgwen and Nandi Hills such as Kapchongrup and Kapchanga, that still do not have access to electricity? The substation is in Muhoroni, near Sen. (Dr.) Oburu Odinga's neighbour. Yet we do not have electricity.

I am happy that Kenya Power wants to build a substation in Maraba, somewhere near Lelkotet. I personally saw residents of Kipkorgot in Uasin Gishu County demonstrating. They had lost electricity for three days. Those are few days for Kenya Power. There are people who have never seen electricity for one month and Kenya Power does not care. They will just send you the bill, which is even overcharged.

Whenever I am in my local village in my palatial home, the great village of Kapkeben in Mosoriot, I do not see electricity. I stay in the dark. Until the other day, I had to install solar energy in my home so that I can have reliable electricity.

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I wish the Chairperson, Sen. (Dr.) Oburu, could call Kenya Power to order. That is why you saw the County Government of Nairobi City County dump waste in their offices. It was due to their incompetency, lethargy and unreliability. They imagine they are a monopoly. They are not. Which monopoly do they have? The Constitution liberated all of us.

I challenge the northern part of Kenya. I do not want to say Northern Frontier District because that has a very dangerous connotation. My brother, Sen. (Dr.) Oburu, who has been around for some time, knows this. We should be pushing for zero taxation of solar panels, batteries, lithium panels and anything that is environmentally friendly. This will ensure that the northern part of Kenya can use solar energy all the way to Turkana.

I am happy the Committee has captured succinctly and with military precision the issue of solar. We must push for the solarization of the northern part of this country and North Rift, including Turkana, Samburu and other areas that experience abundant sunlight.

Mr. Temporary Speaker, Sir, I am happy for your information: the people who did the job at my home were some of the young men from Bomet County. You need to look for a heifer or as we call it in our language, “*roriat*”, to thank me for giving them some work! In fact, with the current solar panels, you do not even need direct sunlight. You only need UV light. By midday, they are fully charged and can power refrigerators and other appliances.

Chairperson, I challenge you to push the Government to zero-tax the importation of solar panels and lithium batteries. Purchasing one lithium battery costs between Kshs120,000 to Kshs130,000. The panels go for around Kshs15,000, which is a bit more affordable.

Mr. Temporary Speaker, Sir, when you travel to your village in Chepalungu, Chebango and some arears, you will see M-Kopa Solar lights. We need to encourage that. To complement the inefficiency of Kenya Power, let us zero-rate solar technology.

I thank the Chairperson. In fact, we are among the countries discussing climate action. Even as we push for solarization, I can assure you, the Committee on Energy, led by our brother Sen. (Dr.) Oburu Odinga, are able to work with the Climate Change Action Plan that we are pushing as a country.

I want to further suggest that we need to push for wind energy. This is because I have been to northern part of Kenya. There is a lot of wind. Why do we not harness wind and we become eco-friendly, environment friendly, so that the people of Wajia, Mandera, Marsabit and other areas who are not connected to national grid, can have reliability. During their religious festivals, like Ramadan, they really suffer yet they are Kenyans. We must be sensitive to all religions. We want when Christians are celebrating Christmas, when Muslims are on their Ramadan, they should be able to enjoy access to electricity, so that they can celebrate well.

I am surprised and happy. It looks like out of the four generators, one is functioning at 40 per cent, the other one has broken down and the other ones are for private individuals. This is embarrassing that 60 years down the line, one region of this country continues to be marginalised, yet they are Kenyans. We do not want this habit.

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You remember in those days, when the people from Turkana used to come to Nairobi, they used to say, we have come from Turkana, we are now going to Kenya. This is because the tarmac road would start from Kitale. I know Sen. Mandago is conversant with what I am saying.

Number four is on special audit on Kenya Power. Apart from activities within the Wajir, we should incorporate the issue of electricity tokens. You buy a token of Kshs1,000 or Kshs200, within a day or a few hours, it starts beeping signaling low credit. You cannot even sleep. It behaves like an alarm. I want to enrich the report by Committee on Energy. Apart from special audit, can you direct that we do audit on this purchase of electricity tokens and prepaid? This is because that is where corruption is in Kenya Power. I challenge the Committee. Apart from auditing the activities of Kenya power in Wajir, please push for the special audit of the issue of electricity tokens. Many Kenyans suffering. They buy tokens.

I am happy that 26 million Kenyans have received the Hustler Fund. I think Kshs72 billion has been disbursed. I heard my colleagues who the earlier Motion, saying it is Kshs1,000. They do not know that there are Kenyans who are buying tokens of Kshs50 or Kshs100. Is it because they are staying in offices that are air-conditioned? Is it because they have too much in excess that they do not see Kshs500 or Kshs1,000 as money?

When I was studying in Riara Law School, near Kibra, and that Kshs500 or Kshs200 was enough for four of us to buy food when we used to live in high-rise apartments near Kibra. That is Kshs200, yet people are saying that Kshs500 or Kshs1,000 is not enough. It is enough for a family that operates in *Kidogo* economy. Therefore, the audit must be done. There is a huge corruption, especially on prepaid tokens in Kenya Power and Lighting Company.

I know you know in Chebole, Chepalungu or Ndonyo, somewhere in Bomet Central, when an electricity pole falls, Kenya Power will take even two months to erect it. When a generator blows up, Kenya Power will take three months or even a whole year to sort the problem. However, when you fail to pay even Kshs1 to Kenya Power, they will come with lightning speed to hunt you down for not paying your bill but they will never come with the same speed to fix the mess. That is why I want to challenge the Committee. Forget that there were also fake transformers. You remember the scandal of transformers? You must go after them. When you work in Bomet, Uasin Gishu, Nandi, Mandera, or anywhere in the country, you will get one or two primary schools that their transformers blew up. We need audit.

Where did these fake transformers that were purchased in the previous government go to? Is it the reason? To purchase a new transformer is about Kshs4 million plus, which is quite costly and expensive. That is why I support and within six months, we must see that special audit report before the House. We want the people of Wajir to feel the same right as people in Homa Bay, Siaya, and Nairobi.

It is not fair to say there is power rationing yet we are aware that God has been gracious, we have rain and we are hydro-generating. It is good to be fair. The Committee on Energy must summon REREC to appear before our committee. Are they doing their work politically motivated? I have never understood them. I am surprised that they follow

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individuals. They must be called to order. They are the ones in collusion with local contractors. We need to be fair to Kenyans. If there is a project in Siaya, why would you take a contractor from Nairobi? How will the economy of Siaya grow? Why would I take a contractor from here to Bomet, Uasin Gishu, Nandi or Mandera?

Why do you not give it to the local contractors of Wajir to do the job so long as they have capacity? That is how you grow economy. That is the true intention of devolution. I note your change of appearance today, Mr. Temporary Speaker, Sir. It is rare to see you in reading glasses. We must be told the truth. Sen. Mandago has been a governor and he knows the power of giving a job to a local contractor. It will grow the economy; they will spend there. A local contractor will buy *Sukuma wiki* there, he will go to a local club, take one or two for the road and go for Ohangla music. I think the artist is called Prince Indah. The local contractor would take teas and mandazi there. That is how you grow the economy. However, if I give a contractor from Nairobi they job, they will spend the money in Nairobi. We want that money to go there. A local contractor will go to a local church, will contribute in a local village or church. I agree with this committee that REREC and Kenya Power must be called to order. They need to award the local contractors.

I want to also sound a warning. In conclusion, county governments, have pending bills of over Kshs110 billion. I am told there are obtaining fees by some of the county governors. I am told Nairobi is leading with 30 per cent. In Nairobi City County, if you want to be paid, you must be ready part with 30 per cent. I am told in a county like Nandi; they are doing 20 per cent.

So, if you have a pending bill, you go and see governor. If you are good looking, if you are handsome, if you talk very well, you leave 30 per cent. That is what is happening in Nairobi. We were discussing about voiding of payments, if you look even on all these aspects, here in Nairobi, you must pay 30 per cent. When you look at the people being paid among these local contractors of Nairobi, they must part with 30 per cent of their earnings.

The biggest threat to the growth of contractors and business people in Kenya is this issue of undermining and getting what we call obtainer fees or protection fees from contractors. I agree with the Committee. I would want to see this done because he has said six months. I hope, Chairperson, when you report to the House, bring us the list of contractors from Wajir. Let them be known that they come from Wajir. It will be very easy.

I would be excited to get the same for Nandi. I want when REREC comes to Nandi, they should award contracts to local contractors. We have the capacity. We are not saying, favour us. We are not saying, violate the law. Give them the right. Give every Kenyan the right. Therefore, I support this Committee Report and Chairperson---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, you are already off time. Your time is up. You have got no microphone. Give him 30 seconds to conclude.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, I do not know why they switched it off when I was giving accolades to the first born of the Broad-Based Government, Sen. (Dr.) Oburu Odinga. As the Chairperson of the Committee on Energy, he is doing a good

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job and we are proud of his experience. There is no school of experience. It is only people like Sen. Oburu we can learn from.

Mr. Temporary Speaker, Sir, with those many remarks and indulgence, allow me to support and wish the Committee on Energy all the best.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mandago, please proceed.

Sen. Mandago: Thank you, Mr. Temporary Speaker, Sir, for the opportunity. I rise to support the report of the Senate Committee on Energy led by the Senator for Siaya County, Sen. (Dr.) Oburu Odinga.

This Committee has given this House very good information in terms of ensuring that this country is equitably developed. Indeed, as a country, in order to develop and encourage growth of the manufacturing sector, energy or electricity is a basic requirement.

Even as the Government strives to build County Aggregation and Industrial Parks (CAIPs) in every county in this country, electricity will be a factor in attracting the industries to those counties. Therefore, this committee has done a commendable job in informing the nation of the dire need of some counties in this country of being connected to the national grid. It is not acceptable that we do have counties in this country, 60 years after Independence, that are not connected to the national grid.

I thank this administration of Kenya Kwanza, led by President William Ruto, because for the first time, there is a deliberate and affirmative action towards liberation of those regions. We have seen that by the roads that are being constructed to ensure ease of transportation. We are hopeful that there is also a masterplan on energy to ensure that all regions are connected to the national grid.

Wajir, Mandera, Marsabit, Turkana and many other arid and semi-arid counties have good natural clean energy that can be tapped to generate electricity. We have the Lake Turkana Wind Power which was a brilliant idea. Unfortunately, there was a problem of delay and the manner in which the contract was crafted in favour of the contractor.

Today, the cost of that project, in excess of what the project had been procured for, has been passed to Kenyans all over the country without actually consuming power from Lake Turkana Wind Power Project. I also urge this committee that has done a good job to look into the matter of Lake Turkana Wind Power because wind is another form of clean energy that can be utilised in those counties.

When we talk of connecting Wajir, Mandera and other counties to the national grid, we are not saying that the power must be generated through hydro. It is possible to generate large-scale power production through solar firms and wind power and connect the whole of that region to the national grid and even supply extra power for purposes of reducing the cost of energy in the country.

I wish to encourage the committee to pursue Rural Electrification and Renewable Energy Corporation (REREC), which has a clear mandate in terms of developing renewable clean energy to focus on these regions. It does not make sense for REREC and the Ministry of Energy and Petroleum to begin pursuing solar projects in areas where we have hydro or where we already have connectivity to the grid. All renewable energy

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projects for wind and solar should be focused on those regions so that they have consistent power.

Mr. Temporary Speaker, Sir, I also want to ask the Chair of the Committee on Energy to look into the operations of Kenya Electricity Transmission Company (KETRACO) Limited. As I speak, a county like West Pokot is unable to get power for a number of factories that have gone to those regions like the cement factory because there is a transmission transformer that was procured at a cost of close to Kshs400 million.

The transformer was transported from Mombasa. Unfortunately, there was an accident somewhere on the way and the transformer was damaged. The mode of transportation was neither procured nor insured. It has resulted into a loss. Up to date, that transformer has not been replaced.

It means the plan of enabling connectivity in a number of places in the country has been hampered by that. The Cabinet Secretary for Energy and Petroleum and the Senate Committee on Energy must take decisive action on that matter, so that officers who were involved are surcharged to make sure that value for money is gotten.

The same should apply to Lake Turkana Wind Power. Lake Turkana Wind Power would have possibly supplied power to parts of Marsabit. Probably it would have been a model that would have been replicated in all these other counties to make sure that we have sufficient energy.

Counties should also put part of the money we appropriate in this House into ensuring that their citizens, cities and markets have electricity. We have witnessed that when streetlights and floodlights are supplied in the markets, there is more time for people to run their businesses. They extend the time they do business from 6.00 p.m. to 10.00 p.m. This will enable traders to operate at the times they are comfortable with.

Considering that Wajir, Mandera and Marsabit experience very high temperatures during the day, traders and business people, particularly those dealing with foodstuffs, would prefer to trade in the evenings and into the night. Therefore, the requirement for electrification is a basic need for them to go about their businesses.

I believe the recommendation to audit how the assets of Kenya Power are being handled is timely. This should not be limited to Wajir County. The Auditor-General should look at the storage of the assets of Kenya Power. This is because across the country, sometimes you find electric poles that were distributed but were never raised. There are no wires and therefore no connectivity. Two or three years later, you find the poles are rotting there and the projects are not taking off. This is a matter that needs to be looked into.

There is another critical matter. I agree with the Senator for Nandi, Sen. Cherarkey, that Kenya Power, REREC, and all other Government Departments must be deliberate in ensuring that procurement opportunities available in the State Departments are equitably distributed across the country.

Today, we have no shortage of electricians or technicians because the Government of Kenya deliberately decided that we are going to have a Technical Training Institute (TTI) in every constituency in this country. I am happy that that dream is almost being realised 100 per cent because we now have more than 150 TTIs across the

country. That ensures availability of technical personnel to undertake some of these projects in any locality in this country is availed.

There is no reason absolutely as to why REREC should transport a contractor from here to Wajir, Samia or Tana River. If we want to grow the economy and develop this country in an equitable manner, we have to ensure that State departments distribute procurement opportunities across this country. Where possible, an entity like REREC that operates their projects based on constituencies should distribute those procurement opportunities to every constituency in the country.

Mr. Temporary Speaker, Sir, this will have a good effect in ensuring that all Kenyans participate in the growth of the economy of this country. This is so that we do not have a few citizens who will lecture us, telling us that they are the owners of the economy, that the economy begins with them and ends with them and that if they stop international remittances or either stop investing and doing business in this country, the rest of Kenya will stop moving. It is extremely important that these opportunities are well distributed.

I would like to thank this Committee for travelling all the way to Wajir County. We encourage many committees to travel to these far counties, so that we appreciate the geographical vastness of some of these counties and the marginalization that has happened over time, and appreciate the need to come up with programmes that enable those counties and regions to develop in a faster manner and that this country will come to a fairly uniform rate of development across the nation.

Mr. Temporary Speaker, Sir, I feel the time has come to switch off the generators used to generate electricity in this country. We have electricity generators in this City of Nairobi. I do not understand why we still want to consume electricity generated through the diesel power generators in Nairobi where connectivity is almost 95 per cent and the supply from our hydro supplies is sufficient. We cannot sustain individual business men in this country at the expense of other citizens. I would appreciate if those generators were installed in those counties so that we have consistent power. Counties are responsible for health facilities.

County governments have worked hard to establish Level 4 and Level 5 facilities. Those facilities will not operate minimally if there is no reliable electricity. Imagine in a hospital where you are supposed to keep some drugs and vaccines under refrigeration and you have power that is not consistent. It means we shall be exposing citizens of that county to medication that is not guaranteed to have been stored in the required temperatures and in a manner that has the efficacy that is required to treat the diseases they are meant for.

Mr. Temporary Speaker, Sir, these facilities also run maternity facilities. We have new-born units and sometimes there is need for a baby to be put in a nursery and those nursery machines function with electricity. You can imagine what will happen to those babies if we have inconsistent and unreliable power. Therefore, the supply of power and need for electricity is not a luxury, but a basic need that is required to drive all services in the government, the economy and the population.

I support this report and thank the Committee for the job they have done well. I thank you, Mr. Temporary Speaker, Sir.

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The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mandago. Hon. Senators, there being no other Member wishing to contribute to this Report, I ask the Chairperson of the Committee on Energy, Sen. (Dr.) Oburu to reply.

Sen. (Dr.) Oburu: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to reply. I beg to reply and thank my fellow Senators who have contributed to this report and all the comments have been taken kindly because electricity is an essential element of development in any country.

There is no country which can develop without electricity. It is not a luxury but a necessity and when we talk about, there are many issues which arise. Members have raised issues and some of them directed to our report on Wajir but some generally affect electricity supply all over the country. We have noted them and some of them are already being discussed and they will be in other reports, which will be tabled in the House soon.

Pursuant to Standing Order No. 66(3) of the Senate Standing Orders, I request that the question be deferred to a later date.

(Putting of the Question on Motion deferred)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, for the convenience of the reminder of the business of the House, we shall defer Order Nos.12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22. Further, I defer Order Nos.24, 25, 26 and 27 to the next sitting of the House.

BILL

Second Reading

THE TECHNOLIS BILL (NATIONAL ASSEMBLY
BILL NO.6 OF 2024)

(Bill deferred)

BILL

Second Reading

THE TOBACCO CONTROL (AMENDMENT) BILL
(SENATE BILLS NO.35 OF 2024)

(Bill deferred)

COMMITTEE OF THE WHOLE

THE CREATIVE ECONOMY SUPPORT BILL
(SENATE BILLS NO.30 OF 2024)

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(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE BUSINESS LAW (AMENDMENT) BILL
(SENATE BILLS NO.51 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE EARLY CHILDHOOD EDUCATION (AMENDMENT) BILL
(SENATE BILLS NO.54 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE LOCAL CONTENT BILL (SENATE
BILLS NO.50 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE STREET VENDORS (PROTECTION OF LIVELIHOOD)
BILL (SENATE BILLS NO.41 OF 2023)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COOPERATIVES BILL (NATIONAL ASSEMBLY
BILLS NO. 7 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY LIBRARY SERVICES BILL
(SENATE BILLS NO.40 OF 2024)

(Committee of the Whole deferred)

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COMMITTEE OF THE WHOLE

THE LABOUR MIGRATION AND MANAGEMENT
(NO.2) BILL (SENATE BILLS NO.42 OF 2024)

(Committee of the Whole deferred)

MOTION

ADOPTION OF PROGRESS REPORT ON DIVERSITY
AND INCLUSIVITY IN STAFFING OF STATE AGENCIES

THAT, the Senate adopts Progress Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on an inquiry into the diversity and inclusivity in the staff composition of state agencies in Kenya.

(Motion deferred)

MOTION

ADOPTION OF REPORT ON IMPLEMENTATION OF THE SENATE
RESOLUTION ON THE CURRENT STATE OF THE NATION

THAT, the Senate adopts the Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on implementation of the Senate Resolution on the Current State of the Nation made on Wednesday, 24th July, 2024.

(Motion deferred)

BILL

Second Reading

THE STREET NAMING AND PROPERTY ADDRESSING
SYSTEM BILL (SENATE BILLS NO.43 OF 2024)

(Bill deferred)

BILL*Second Reading*

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (No.4) BILL
(NATIONAL ASSEMBLY BILLS No.45 OF 2024)

(Bill deferred)

BILL*Second Reading*

THE OFFICE OF THE COUNTY ATTORNEY (AMENDMENT)
BILL (SENATE BILLS No.47 OF 2024)

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, we may now rise.
There being no other business on the Order Paper, the Senate stands adjourned
until tomorrow, Thursday, 7th August, 2025, at 2.30 p.m.

The Senate rose at 6.18 p.m.