



**THIRTEENTH PARLIAMENT**  
**THE SENATE**  
**OFFICIAL REPORT**



**Fifth Session**

**Wednesday, 3<sup>rd</sup> June, 2026 at 2.30 p.m.**

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 3<sup>rd</sup> June, 2026

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

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

### PRAYER

#### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Speaker** (Sen. Kingi): Clerk, do we have quorum?

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

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

*(The Quorum Bell was rung)*

Hon. Senators, we now have quorum. We will now proceed with the business of the day. Clerk, kindly, call the first Order.

### PAPERS LAID

**The Speaker** (Hon. Kingi): Senate Majority Leader.

#### EQUALISATION FUND THIRD QUARTER REPORT FOR FINANCIAL YEAR 2025/2026

**Sen. Wakili Sigei:** Thank you, Mr. Speaker, Sir. On behalf of the Senate Majority Leader, I beg to lay the following Paper on the Table of the Senate today, Wednesday, 3<sup>rd</sup> June, 2026-

The Equalisation Fund Third Quarter Report for Financial Year 2025/2026 on the implementation of the Equalisation Fund.

Thank you.

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*(Sen. Wakili Sigei laid the Document on the Table)*

**The Speaker** (Hon. Kingi): Next Order.

### NOTICE OF MOTION

#### ALTERATION OF THE SENATE CALENDAR FOR THE FIFTH SESSION

**Sen. Wakili Sigei:** Mr. Speaker, thank you once again. On behalf of the Senate Majority Leader, I beg to give notice of the following Motion-

Notwithstanding the resolution of the Senate made on 17<sup>th</sup> February, 2026 regarding the approval of the Senate Calendar and pursuant to Standing Order No.32(4), the Senate resolves to alter its Calendar for the Fifth Session, 2026, in respect of Part III, to proceed on recess from Friday, 19<sup>th</sup> June, 2026, and to resume regular sittings on Tuesday, 14<sup>th</sup> July, 2026.

### QUESTIONS AND STATEMENTS

#### STATEMENTS

**The Speaker** (Hon. Kingi): Statement pursuant to Standing Order No.53(1); the Senator for Bungoma County, Sen. David Wafula Wakoli. That Statement is dropped.

#### ACCOUNTABILITY OF CESS COLLECTION IN BUNGOMA COUNTY

*(Statement dropped)*

#### INCREASED CASES OF MISSING CHILDREN

**Sen. Kibwana:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare on a matter of national concern regarding the alarming rise in cases of missing children in the country.

Mr. Speaker, Sir, in the recent past, Kenya has witnessed a disturbing rise in cases of missing children, many of who have tragically ended in death, while the whereabouts of others remain unknown. Recent heartbreaking cases, such as those of five-year-old Travis Wanjohi and one-year-old Mary Wanjiru from Nyeri County, who were found dead on 30<sup>th</sup> March, 2026 and 10<sup>th</sup> April, 2026 respectively, have shaken the conscience of the nation and exposed glaring gaps in our child protection systems, investigative processes and community-level responses.

Equally of concern are the many reported cases that remain unresolved. Luther Mwangi, a five-year-old autistic child from Dandora, Nairobi, went missing on 15<sup>th</sup>

April, 2026 and is yet to be found. Neville Kibui from Kangemi, Nairobi, and Precious Jepchirchir from Kamoiywo Village, Nandi County, who went missing on 29<sup>th</sup> August, 2025 and 4<sup>th</sup> March, 2025 respectively, also constitute part of the statistics of missing children who have never been found. The pain endured by families searching for their loved ones is immeasurable and the urgency to act cannot be overstated. This matter is not only about statistics, but about the lives of innocent children whose future have been cut short or remain uncertain.

In the statement, the committee should address the following-

(1) An annual breakdown of the number of missing children reported to the State Department for Children's Services, formerly the Directorate of Children's Services and the National Police Service (NPS), from 2021 to date.

(2) The status of investigations into the deaths of Travis Wanjohi and Mary Wanjiru from Nyeri County, as well as findings from other cases where missing children were later found dead.

(3) The established protocols for responding to reports of missing children, including specific steps taken to trace Luther Mwangi, Neville Kibui and Precious Jepchirchir.

(4) The existing coordination mechanisms between the police, children's offices, schools, hospitals and local administrators in handling cases of missing children.

(5) The measures being implemented to strengthen child protection systems, prevent abductions and provide psychological, psychosocial and other support to families of missing children.

Thank you.

**The Speaker** (Hon. Kingi): Senator for Kilifi County, Hon. Stewart Madzayo.

KUCHELEWESHA KWA UJENZI WA  
BARABARA KUU YA MOMBASA-MALINDI

**Sen. Madzayo:** Asante, Mstahiki Spika. Nasimama, kwa mujibu wa Kanuni ya Kudumu ya 53(1) ya Seneti, kuomba kauli kwa Kamati ya Kudumu ya Barabara, uchukuzi na Makazi kuhusu ucheleweshaji mkubwa wa ujenzi na ukarabati wa Barabara Kuu ya Mombasa-Malindi. Hususan, unaonzia sehemu za Shimo la Tewa hatimaye kuvuka daraja na kuingia maeneo ya Mtwapa, Mzambarauni hadi mbele ya Majengo Kanamayi na hatimaye kuishia sehemu ya Kikambala.

Barabara hii ndiyo uti wa mgongo wa uchumi wa eneo la Pwani nchini Kenya. Inaunganisha jamii mbalimbali, inachochea sekta ya utalii, inawezesha biashara na inasaidia maelfu ya wananchi kujipatia riziki. Hata hivyo, licha ya ahadi za mara kwa mara na uwekezaji mkubwa wa fedha za umma, mradi huu umeendelea kucheleweshwa kwa miaka mingi, hali ambayo imewaacha wakazi na watumiaji wa barabara wakikumbwa na msongamano mkubwa wa magari, uharibifu wa magari, ongezeko la gharama za usafiri, hatari za kiusalama, pamoja na kupotea kwa fursa za kiuchumi.

Mheshimiwa Spika, ucheleweshaji huu kwa muda mrefu umegeuka kuwa chanzo cha malalamiko na mateso kwa wananchi, wafanyibiashara, wawekezaji na wageni wanaotembelea maeneo hayo ya pwani. Kile ambacho kinapaswa kuwa alama ya

maendeleo, sasa kimekuwa ishara ya kutotekelezwa kwa ahadi na kushindwa kufika makataa yaliyowekwa.

Katika kauli hiyo, Kamati inapaswa kujibu masuala yafuatayo-

(1) kutoa taarifa ya kina kuhusu hali ya sasa ya mradi wa barabara kuu ya Mombasa hadi Malindi, ikijumulishwa asilimia ya kazi iliyokamilika katika kila mradi, hatua muhimu zilizofikiwa hadi sasa na muda unaotarajiwa kukamilika kwa kazi iliyobaki;

(2) kueleza sababu za ucheleweshaji kwa muda mrefu na utekelezaji wa mradi huo, ikiwemo changamoto za kimkataba, kifedha, kiufundi, upatikanaji wa ardhi, uhamishaji wa huduma za umma au masuala ya kiutawala na kubainisha wanaohusika, waliohusika na kushindwa kukamilisha mradi ndani ya muda uliopangwa na;

(3) kubainisha kiwazi hatua zinazochukuliwa na serikali ili kuharakisha kukamilishwa kwa mradi huo na kuhakikisha kuwa kazi iliyobaki itakamilishwa kwa wakati unaofaa.

Asante, Bw. Spika.

#### NIGHT TRAVEL BAN FOR PSVs ALONG MALINDI-GARSEN-LAMU HIGHWAY

**Sen. (Dr.) Mungatana, MGH:** I thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on a matter of countywide concern regarding the decade-long ban on night-time travel for public service vehicles along the Malindi-Garsen-Lamu Highway, specifically the Lamu-Witu-Garsen stretch.

Mr. Speaker, Sir, this prolonged curfew, active since 19<sup>th</sup> July, 2014, has severely crippled the local economy, causing public transport operators to lose an estimated Kshs2.95 billion in direct gross ticket revenue, alongside severe capital stagnation from underutilised vehicle assets. Despite a late May, 2026 High Court ruling in Garsen suspending the night-travel curfew, local police commanders have maintained the roadblocks, citing a legal standstill and a lack of explicit counter-directives from the Inspector General of Police and the Ministry of Interior and National Administration. This operational gridlock has triggered massive friction, culminating in three separate strikes where frustrated transport operators blocked the highway with long-distance buses.

In the statement, the committee should address the following-

(1) The legality and justification for local law enforcement continuing to enforce the night-travel roadblocks despite the late May, 2026 High Court order suspending the curfew.

(2) The exact measures being taken by the Ministry of Interior and National Administration and the Inspector General of Police to issue clear directives to regional security heads to resolve the enforcement of the deadlock.

(3) The security interventions in place to safely open up the Lamu-Witu-Garsen stretch for night travel considering cargo transporters are already permitted to use the route.

(4) The economic recovery plans or mitigations proposed by the government to support the local PSV operators who have suffered Kshs2.95 billion in revenue losses.

Signed by Sen. (Dr.) Danson Mungatana, Tana River County.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Let us move to statements pursuant to Standing Order No.56(1)(b). The Chairperson of the Standing Committee on Land, Environment and Natural Resources, proceed.

ACTIVITIES OF THE STANDING COMMITTEE ON  
LAND, ENVIRONMENT AND NATURAL RESOURCES

**Sen. Faki:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.56(1)(b) of the Senate Standing Orders to make a statement relating to the activities of the Standing Committee on Land, Environment and Natural Resources during the period between January, 2026 and April, 2026.

Honourable Speaker, the Senate Standing Committee on Land, Environment and Natural Resources is established under Standing Order No.228(4) of the Senate Standing Orders and is mandated to consider all matters relating to lands and settlement, environment, forestry, wildlife, mining, water resource management and development and the climate change.

During the period under review, the committee held a total of 23 sittings during which it considered three Bills, seven Petitions and 17 statements. The committee is in the process of finalising the following seven petitions, namely-

(i) The petition by the Cultural Environment Care Society concerning conversion of LR No.209/2378/1 Pumwani Majengo from public to private.

(ii) The petition regarding the eviction of Korogocho community living along the Nairobi River corridor after declaration as a special planning area.

(iii) The petition by all the Olekesi community members regarding land injustices against the community members living in the Olekesi, Narok West constituency of Narok County.

(iv) The petition on the threats, intimidation, harassment and eviction of residents of Ganda Ward by private developers.

(v) The petition regarding the eviction from the property LR No.CP and ARCH/00219 excision of LR No.209/6738;

(vi) Petition regarding unlawful land rights in Kahawa Sukari, Kiambu County.

(vii) Petition regarding public land grabbing in Kithima Location in Meru County.

Additionally, the committee has received responses on five statements, which have been duly dispatched to the relevant Senators and 13 other responses from the Ministry of Lands, Public Works, Housing and Urban Development that have just been received and are awaiting physical appearance from the relevant Cabinet Secretary and will thereafter be dispatched to the relevant Senators who sought the statements.

Honourable Speaker, the committee further considered the status of county projects funded under the conditional allocations. These include the Financially Locally-led Climate Action Programme (FLoCCA), the Kenya Climate Smart Agriculture Project

(KCSAP) and the Water Sanitation Development Project (WSDP). The committee observed that progress in implementing conditional allocation projects varied across counties. The committee has since received submissions from eight counties, namely Homa Bay, Migori, Nandi, Kericho, Nairobi, with the most recent meeting being with the County Government of Bungoma at the committee's sitting held on Tuesday, 28<sup>th</sup> April, 2026.

Further, the committee engaged the counties of Kwale and Kilifi on Financing Locally-Led Climate Action (FLLoCA) programme during a joint visit to the counties with the Standing Committee on Finance and Budget on 27<sup>th</sup> and 28<sup>th</sup> March, 2026, respectively. The committee is currently considering the Real Estate Regulation Bill (Senate Bills No.35 of 2023) and is in the process of considering the submissions. I will be submitting a report on the Bill before the next reporting period.

The Natural Resources Benefit Sharing Bill (Senate Bills No.6 of 2022) is still under mediation. There are challenges in calling for the first mediation meeting arising from the varied calendars of both Houses. The committee is, however, seized of the matter and is making efforts to ensure that consideration will be completed by the next reporting period.

Lastly, on the Mining (Amendment) Bill, 2025 (Senate Bills No.22 of 2025), the committee will conduct public participation on the Bill in Vihiga, Kakamega and Migori counties on Friday, 15<sup>th</sup> and Saturday, 16<sup>th</sup> June, 2026 and thereafter table its report.

In conclusion, I wish to thank Members of the committee, your office and the office of the Clerk of the Senate, for the continuous support accorded to the committee in undertaking its work.

I thank you.

**The Speaker** (Hon. Kingi): The Chairperson, Standing Committee on National Cohesion, Equal Opportunity and Regional Integration or any member of that Committee.

ACTIVITIES OF THE COMMITTEE ON NATIONAL COHESION,  
EQUAL OPPORTUNITY AND REGIONAL INTEGRATION

That statement is deferred.

*(Statement deferred)*

Now, Hon. Senators, I will allow comments on the statements that have been sought for not more than 15 minutes. If you get an opportunity to speak, kindly, do so for not more than three minutes.

Hon. Kavindu, proceed.

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir, for this opportunity. I wish to comment on the statement by Sen. Hamida Kibwana about the alarming rise of cases of disappearing and missing children. Our children are important. I do not know what we should do as a government to protect them.

When I was growing, children belonged to everyone. Anyone that met a child on the road cared and protected that child. If the child was misbehaving, they could even be punished by anybody who is not their parent. However, these days, the society no longer cares about our children. We are never concerned about them. If you meet them on the streets, you cannot stop them and ask where they are going or where their home is. Children must be protected.

I agree with Sen. Hamida that the committee concerned should go far and above to ensure our children are protected. Parents go through a lot of pain, especially those whose children go missing and they are never found, whether dead or alive. They live with an unending pain since they lost a child and never buried them. That remains a great pain.

I, therefore, support this statement. Something must be done about our children. Thank you.

**The Speaker** (Hon. Kingi): Sen. Tabitha Mutinda.

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, I rise to support the statement on missing children in this country. I first convey my sincere condolences to the families of those who have lost their young ones. I also condemn the rising cases of our young children disappearing.

As Sen. Kavindu has mentioned, years ago, children used to belong to the community. If a neighbour saw me misbehaving, which I did not, they were entitled to take a whip and cane me. That made one adhere to good morals. However, today, things have changed. You cannot touch someone's child because it becomes chaotic.

Teachers are also becoming afraid of disciplining our children as the children we are raising today are different. Things have changed. I have seen head teachers sending students home. If a student raises an issue, they have made a decision to send the children home. This is because they have the responsibility of answering to the authorities what happened or how a fire started. Therefore, everyone is fearing. However, is this where we need to be?

We ask our young ones to give room for talks and communication because there is a big disconnect. Truth be told, our children have their own ways of doing things. Guardians, parents, the community that is vested with this responsibility and everyone is running away. It is a very sad situation.

As I conclude, imagine in this time and era, it is young children of age 10 being used to abduct little ones. I saw a case in Dandora, Nairobi, where a young girl had coordinated an abduction of a child within the neighbourhood. She was so comfortable like an innocent person.

We need to have proper engagements with our young ones. Can you tell us what to do because this country cannot go on like this? Every life is important. Every child deserves a better life. I ask our little ones to kindly let us see how to better the environment that we live in.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): The Senator for Nairobi City County, Hon. Sifuna.

**Sen. Sifuna:** Mr. Speaker, Sir, I will take a very different trajectory. The Constitution of this country guarantees every person the rights to life and to equal

protection of the law. The responsibility to protect life and property in this country will never shift from the state.

I disagree with my two sisters who have spoken before me that Kenyans have somehow stopped caring about the children. It cannot be true. It is the responsibility of the government to make sure that our children are safe. We used to be taken care of by both the state and the people.

Over the weekend, Sen. Kavindu knows that I was at the African Inland Church (AIC) Siandai, Machakos. The person who gave us a sermon that day read to us Proverbs 29: 2, which says that when the righteous are in power, the people rejoice, but when the wicked rule, the people mourn.

Mr. Speaker, Sir, sometimes my faith is tested. I had to ask the reverend if really God listens to the tears of Kenyans. People are crying all over this country. If it is not missing children, it is murdered children. If it is not murdered children, it is children being burnt in dormitories in our schools. If it is not that, it is Ebola. The country is mourning all over the place.

By the way, I have listened to the people who have been charged with securing us, the Cabinet Secretary for Interior and National Administration. First, everyone saw how he arrived at the school on the morning of the fire at Utumishi Girls Secondary School. We were embarrassed for the leadership of this country. He is on record and we will never tire reminding Hon. Murkomen. He says that the entire state surveillance has been tied to political leaders in this country. That he knows where Sifuna sleeps and what time I go to sleep. That surveillance should be dealing with these criminals. How is it possible that they follow us around, but cannot track and find the children that have been taken away before they are murdered?

I saw a documentary from *Aljazeera* the other day confirming what Hon. Murkomen was telling us; that the state surveillance with the connivance of some of the mobile service providers in this country are the ones giving away locations of people who they disagree with politically, so that they can be abducted. We have to be honest. It is the responsibility of the state to protect these children. They have failed in that particular responsibility.

Lastly, I have heard Sen. Mungatana also cry that the people of Tana River County are also crying. Despite a court order lifting or suspending that curfew, nobody is respecting court orders. Sen. Mungatana, that is why, we, in Linda Mwananchi, want to revert to the values in our Constitution. The rule of law starts with respect for court orders.

Recently on this question of Ebola, even after our courts put a halt to that project until we give proper answers to Kenyans, our government does not care. They are going on with the project. Reports show that activities are going on there and nobody is bothered that our own courts in this country stopped that particular project until we give answers to Kenyans.

**Sen. Cherarkey:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): What is your point of order, Senator for Nandi?

**Sen. Cherarkey:** Mr. Speaker, Sir, I rise under Standing Order No.105. While I agree with the other part of what he has said, is it in order for the Senator for Nairobi City

County to allege that operations at Laikipia Air Base, which is a protected area, are ongoing? Could he table evidence on his allegations that construction of a quarantine facility at Laikipia Air Base is ongoing? We know he is not even a watchman, leave alone a military officer. Could he table the evidence?

**The Speaker** (Hon. Kingi): Hon. Senator for Nairobi City County, you have indicated and alleged that a court order was obtained regarding the issue of Ebola. You have gone ahead to say that despite that court order, work is still being undertaken at Laikipia Air Base. Could you substantiate those allegations?

**Sen. Sifuna:** Mr. Speaker, Sir, first of all, I am happy that the Senator for Nandi agrees with me that the wicked are in power in this country. That was the first part. Secondly, it is a fact that there is a court order. It is also a fact that activities have been reported, including military aircrafts from the United States (US) having landed at the facility and I can bring those videos.

Mr. Speaker, Sir, I want to beseech this House, just the way we play videos during impeachment of governors, you allow us to play those videos here, so that it is not just one person sitting in an office and saying that I was unable to substantiate.

**The Speaker** (Hon. Kingi): Hon. Senator, do you wish to have time to substantiate?

**Sen. Sifuna:** Yes, because I do not think that anyone here was going to challenge on matters that are known to everyone.

**The Speaker** (Hon. Kingi): Sen. Sifuna, I will give you up to tomorrow. You may now proceed to conclude your remarks.

**Sen. Sifuna:** Make arrangements for me to play videos of American aircraft landing at Laikipia Air Base.

**The Speaker** (Hon. Kingi): Hon. Senator, how you are going to substantiate will remain in your hands. I have given you up to tomorrow to come and substantiate those allegations. For now, just conclude your thoughts.

**Sen. Sifuna:** Mr. Speaker, Sir, for clarity, previously when colleagues in this House have brought materials that needed to be played for the House, arrangements were not made, the way we make arrangements during impeachment proceedings for that media to be played.

Mr. Speaker, Sir, I want to say it here. If tomorrow I am not allowed to play my videos here, then we will have a problem. As a Member of this House, we are tired of frivolous points of order yet he knows what the situation in this country is.

I thank you.

**The Speaker** (Hon. Kingi): Proceed, Sen. Cherarkey.

**Sen. Cherarkey:** Mr. Speaker, Sir, I rise to support the statement regarding the Mombasa-Malindi Road where you come from. That is your county and we are proud of you as the fourth Speaker of the Senate.

Mr. Speaker, Sir, allow me to congratulate you for the successful presidential visit which you and other colleagues in that region did well on. I know the future is bright.

**Sen. Sifuna:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Cherarkey:** But I am just congratulating the Speaker?

**Sen. Sifuna:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.120 on relevance. I do not see any relevance of your weekend tours to the statement that has been brought forward by the Senator for Tana River, that is Sen. Mungatana. Please, keep stories of the tours that have been done by the outgoing regime out of this House because we are not interested with those things. Let us address issues that have been brought to the Floor of the House. He needs to demonstrate how relevant it is to the statement by Sen. Mungatana.

**The Speaker** (Hon. Kingi): Hon. Cherarkey, you may proceed.

**Sen. Cherarkey:** Mr. Speaker, Sir, in fact, I wanted to tie it up. The Senator for Nairobi City County should learn to listen because he always talks. I said that courtesy of the leadership tour that was led by you and His Excellency the President, these are some of the issues that should be discussed. They include infrastructure within Kilifi and the larger coast region. That was the nexus. My brother, this is not the Wangamati funeral where you spoke down on everybody.

I agree with Sen. Madzayo who is a ranking Member of this House. I want to confirm to the House this. Even in the budget, these are some of the engagements we are doing within the Broad Based Government to take care of our infrastructure.

Mr. Speaker, Sir, as part of the leadership of this country, you are aware that courtesy of the National Infrastructure Fund (NIF) of Kshs5 trillion, some of the roads will benefit from that. We hope when we visit you in Kilifi, which we have done on several occasions, those are some of infrastructural developments that will take place in this country.

I thank the Senate Minority Leader for bringing up this issue. We will work together. I know that the Cabinet Secretary for Roads and Transport, Hon. Davis Chirchir, who normally works in silence, will ensure that section of the Mombasa-Malindi Road is fixed. He is also doing something in Nandi. Most roads including Chavakali-Kapsabet, Nandi Hills-Simaki and Selia-Kaiboi-Kapkatembu are being fixed. The one from Timboroa all the way to Mamboleo in Kisumu is also being fixed. Even in Vihiga, there are a number of roads that we are fixing courtesy of the Prime Cabinet Secretary. We are doing the same in Mombasa.

We must ensure that the road to Singapore remains unstoppable. The airport in Narok is also being worked on. We must ensure roads are fixed even in this city. There is one in Northern Kenya all the way from Wajir, Kotulo, Tarbaj, Isiolo and Nairobi that is being fixed. The same is happening in Embu.

No one should say that this is the outgoing regime because this is the regime that will take Kenya to Singapore. The fact that you have many people attending your rallies over the weekend does not translate to votes. Ask some of us. The fact that you are on *TikTok* videos, those are not votes. The journey to Singapore will remain unstoppable. We need roads that will ensure---

Mr. Speaker, Sir, I know that under your leadership and that of the President, Dr. William Ruto, we will go far. People like Sen. Sifuna *wanaweza osha mikono lakini hawatakula nyama. Watanusa harufu tu.*

Mr. Speaker, Sir, with those many remarks, I support these statements.

**The Speaker** (Hon. Kingi): Next is Sen. Mwinyihaji.

**Sen. Faki:** Asante, Bw. Spika, kwa kunipa fursa hii kuchangia kauli kutoka kwa Sen. Madzayo na vilevile Sen. Mungatana. Barabara ya Mombasa-Kilifi-Malindi ni muhimu sana katika usafiri na miundombinu katika kaunti za pwani. Nafikiri barabara hiyo ilianza kutengenezwa kabla ya mwaka 2020. Hata hivyo, mpaka sasa ambapo ni miaka mitano baadaye, barabara hiyo haijakamilika. Wenye magari wanaotumia barabara hiyo wanapata gharama kubwa za kurekebisha magari yao kwa sababu kuna kipande kuanzia Mzambarauni mpaka Sun N Sand kule Kikambala ambapo barabara ni mbovu.

Barabara hiyo ina umuhimu sana kwa watu wa Kilifi na Mombasa kwa sababu mazao mengi kutoka Kilifi kwenda Mombasa yanapitia pale. Vilevile usafiri wa watu wanaokwenda Malindi na Garissa unategemea barabara hiyo. Kwa hivyo, ni makosa kwamba barabara hiyo imekaa bila kukamilishwa kwa muda huo wote.

Kwenye barabara ya kwenda Nakuru, kuna karibu wanakandarasi 10 katika sehemu tofauti tofauti. Mwanakandarasi yule amekuwa akijenga daraja ya Mtwapa kwa muda. Amezika mbuzi mzima na hadi leo hajafanya chochote. Ni masikitiko kwamba kuna mwanakandarasi ambaye anaendelea kupoteza wakati kwa sababu barabara hiyo ingekuwa imekamilika kufikia sasa.

Kuhusiana na *curfew* ilioko Lamu, tangu itangazwe hadi sasa ni zaidi ya miaka 12 na inaendelea kila mwaka. Sisi tunajua kisheria kwamba *curfew* ina muda maalum. *Gazette Notice* ambayo inatangaza *curfew* lazima iletwe katika Bunge, aidha Bunge la Kitaifa au Seneti, kwa sababu tuliona wakati wa COVID-19, *Gazette Notice* zote ambazo zililetwa kuhusu vizuizi vilivyokuwa vimewekwa kwa wananchi kutembea au kuzuru maeneo tofauti. Zilikuwa zinaletwa Bunge tunaziangalia katika Kamati ya *Delegated Legislation*, pamoja na Kamati ya Kudumu ya Seneti ya Usalama wa Taifa, Ulinzi na Uhusiano wa Kigeni na baadaye wanawapa nafasi ya kuendelea ama kuzikataa. Walakini, *curfew* hii imekuwepo kwa kipindi cha miaka kumi na miwili. Nimekuwa katika Bunge hili kwa zaidi ya miaka minane. Mpaka leo, hatujaona hiyo *curfew* ya Lamu ikiletwa hapa ili ijadiliwe na kuonekana kama je, inafaa au haifai.

Mhe. Spika, kuna maeneo mengine ambayo yana changamoto nyingi za kiusalama lakini hatuoni *curfew* huko wala *curfew* ikiwekwa, sio ya miaka kumi na mbili. Inakuwa ya miezi miwili au tatu au ikienda sana miezi sita na baadaye watu wanaruhusiwa kuendelea na biashara zao bila matatizo.

Asante, Mhe. Spika, kwa kunipa fursa hii.

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

**Sen. Munyi Mundigi:** Asante, Bw. Spika, kwa kunipa nafasi kuchangia mjadala ambao unaendelea wa the *Senate Minority Leader* kuhusu barabara ya Mombasa-Kilifi-Malindi. Ningependa kusema kwamba, Serikali ya Kenya Kwanza imejaribu kwa sababu kama tunavyojua, kwa kipindi cha takriban mwezi mmoja, contractor wengi wamelipwa pesa lakini wengine wamezembea kazini. Ningeomba watu wote ambao wamelipwa pesa warudi kazini. Vile vile, Wizara ya Barabara na Uchukuzi inafaa kuangalia *contractors* ambao wamezembea kazini. Baadhi ya barabara zimekwama. Ningeomba warudi ili mwananchi asherekee hii serikali.

Vile vile, tunaomba *dual carriage* kutoka hapa Nairobi hadi Kenol na pia *expressway corner* zote, kutoka Makutano hadi Meru. Hii ni kwa sababu, ikiwa hawa

*contractors* watafanya kazi haraka, ndivyo ushuru utapatikana ili kusiwe na upungufu wa pesa. Pesa zitakuwa mingi na wizara zote zitafaidika.

Bw. Spika, pia naunga mkono Kauli ya Sen. Hamida Kibwana kuhusu wizi wa watoto. Ningetaka kufahamisha *Senator* wa Nairobi City County, Sen. Sifuna, na ambaye pia atakuwa *the Senate Minority Leader* wa 2032, katika serikali itakayokuja, kuwa serikali ni mimi na wewe. Ikiwa sisi tunaona watoto wanaibiwa na huwezi kusema, kwani itakuwa ni Rais ameiba watoto ama ni mimi au ni mkubwa wa *security*? Haitawezekana. Ningeomba mimi, wewe na yule mwingine tuwe na utu. Tukiona kitu chochote kimefanyika, tuseme.

Vile vile, serikali inafaa kujaribu kuleta vifaa vya kusaida watoto wakipotea waweze kuonekana.

Walakini---

*(Sen. Mundigi's microphone was switched off)*

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

**The Senate Minority Leader** (Sen. Madzayo): Asante Mheshimiwa Spika.

Kwanza, natakupatia dadangu, Seneta Hamida kongole kwa Kauli aliyoleta kuhusu upotevu au kuuawa kwa watoto wadogo. Suala hili la kwamba watoto wanaiibiwa ama wanapotea ama wanapatikana wakiwa wamekufa ni suala la kusikitisha sana. Mzazi ambaye amepoteza mtoto wake mchanga hawezi kujua ameenda wapi na hatimaye atampata au la. Janga linaingia katika familia.

Ni jambo la kusikitisha kuua mtoto wa mwenzako ama kudai mtoto wa mwenzako ni wako. Ni kama kusema katika zile hadithi za alfu lela ulela kwamba, unaweza kupata mtoto si wako lakini ukasema kama si wangu basi atakuwa wako. Kwa hivyo, ikiwa kuna kesi, basi, useme akatwe kati kati. Huyo mtoto atapotea. Hakutakuwa na mtoto tena.

Kwa hivyo, jambo kama hili ni la huzuni sana. Nataka kusema kuwa ingekuwa jukumu la serikali kuona ya kwamba hakuna mtoto atakayepotea au atakayepatikana akiwa amekufa. Katiba husema, uhai unatunzwa na serikali. Kwa hivyo, mtoto mdogo akipotea, ni jukumu la serikali kumtafuta na kumregesha kwa mamake. Jambo la kusikitisha ni kwamba, watoto kama hawa wanapatikina wamekufa. Ni jukumu kubwa sana kwa serikali kujihusisha vilivyo kuona hakuna mzazi ambaye atapoteza mtoto wake. Hakuna aliyependa apate mtoto wake amekufa.

Asante.

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

**Sen. Mungatana, MGH:** Asante Bw. Spika.

Ningependa kuongea kuhusu barabara kuu kutoka Mombasa-Kilifi-Malindi. Sisi watu wa Tana River County huwa tunakuza maembe mengi sana. Soko letu kubwa la haya maembe liko Mombasa. Imekuwa mtihani kubeba maembe kutoka Tana River ufike Malindi. Kutoka Malindi, ilikuwa barabara ni nzuri. Sasa mwanakandarasi aliyeingia, imekuwa miaka na mikaka, hamalizi kazi. Imekuwa mtihani sasa. Wakulima wetu wa maembe wanapata shida. Malori yanaharibika njiani. Kwa hivyo, nasimama kabisa kuunga mkono hili wazo la kuwa kamati ya Bunge husika wachunguze wapate kisa

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haswa na kina chake ni nini. Kwa nini hii barabara haimaliziki na haimaliziki kwa wakati?

Vile Vile, ni kama Mombasa kuna shida kwa sababu wakati walipokuwa wanajenga ile barabara kwenda *airport* nayo imeenda miaka na mikaka. Barabara ya *airport* haimaliziki. Kila siku watu wanakwama kwa *traffic jam* na imekuwa shida. Halafu, sasa kule kulipomalizika imeingia sasa upande huu wa Mtwapa. Kwa hivyo, tunataka kamati iangalie. Hii *statement* inatuathiri sana na tungetaka ipewe kipaumbele. Ikiwezekana waikalie haraka tujue ukweli wa mambo ni nini. Sisi sote, watu wa kaunti za Tana River, Lamu na Kilifi tunaumia kwa sababu soko letu kubwa liko Mombasa.

Asante Bw. Spika.

**The Speaker** (Hon. Kingi): Hon. Senators, we have spent more than the 15 minutes that I had allocated to this comments session. We will therefore move to the next Order.

Clerk, please proceed to call the next Order.

### MOTION

#### ALTERATION OF THE SENATE CALENDAR FOR THE FIFTH SESSION

**The Speaker** (Hon. Kingi): The Senate Majority Leader, please proceed.

**The Senate Majority Leader** (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to move-

THAT, notwithstanding the resolution of the Senate made on 17<sup>th</sup> February, 2026 (approval of the Senate Calendar), and pursuant to Standing Order 32(4), the Senate resolves to alter its Calendar for the Fifth Session, 2026, in respect of Part III, so as to proceed on recess from Friday, 19<sup>th</sup> June, 2026 and to resume regular sittings on Tuesday, 14<sup>th</sup> July, 2026.

Mr. Speaker, Sir, this has come as a request from the Senate Liaison Committee, on a number of committees that have backlog in works that are pending before them and are relying on this system of meeting only once, twice or at most, three times in a week. It is actually twice at most, for most committees and as we are drawing near the end of this term of Parliament, many of them will complete the term without returning valuable work, some of which is very crucial for the records of this House.

Therefore, the Senate Business Committee (SBC) acceded to the request of the Senate Liaison Committee to take time. Many of them will be retreating to the usual places that they normally do to conclude on Bills, Petitions and Statements. So, basically, it is a variation of the slated recess, which was supposed to be two weeks to make it three weeks. This is a fairly straightforward matter.

I do not know if the Minority Leader is listening to conclude on it.

Mr. Speaker, Sir, I beg to move and request that he seconds.

**The Senate Minority Leader** (Sen. Madzayo): Asante Mstahiki Spika. Ninaunga mkono.

**The Speaker** (Hon. Kingi): Senator for Nandi take your seat.

*(Question proposed)*

Honourable Senator, of course, the Floor is open for debate, but this being a procedural Motion, with your concurrence, I will proceed to put the question. Do I have your concurrence? Thank you.

*(Question put and agreed to)*

The Ayes have it.  
Next Order.

## **BILL**

### *Second Reading*

#### THE STATUTORY INSTRUMENTS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.3 OF 2024)

**The Senate Majority Leader** (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. I beg to move that the Statutory Instruments (Amendment) Bill (National Assembly Bills No.3 of 2024) be now read a second time. This is the third or fourth Statutory Instruments amendment Bill that we are moving this cycle. It is a bit untidy, but, unfortunately, work has to be done.

You will recall that as part of the National Dialogue Committee (NADCO), we came up with a very comprehensive amendment to various sections of our statutory instruments amendment Bill. Subsequent to that, I think there was a high court decision on certain elements of the Statutory Instruments Act, which our counterpart House had included in an omnibus amendment Bill. The courts held that it was illegal and, therefore, as a consequence of that, they began another Bill which we concluded on and was assented to sometimes last year.

There is a Statutory Instruments (Amendment) Bill that is before the Committee of the Whole of this House separate to this. This space is getting a bit more crowded. I wish we could do better and amalgamate them. It is something which I hope that our Justice, Legal Affairs and Human Rights Committee because they have interacted and I have seen their report on No.2 and No.3 because this is No.3. Number 1 is the one that is before a Committee of the Whole. I think we have done amendments and reported progress. We need to vote on it.

There is No.3 of 2024, which I have equally seen what the Committee on Justice, Legal Affairs and Human Rights is proposing to the House. There are certain things they disagree with in principle and how they wish this be pursued. There is a neater way to deal with this because we have had in the past instances where a Bill that speaks to the same topic comes in quick succession to the House for amendments. It can even confuse stakeholders because somebody may end up reading and thinking, "Ah, we gave our

submissions just the other day” and they miss the fine print of determining whether it is Number 1 or 2.

This Bill seeks to achieve my proposal, which after moving this Bill, I will be making to the Justice, Legal Affairs and Human Rights Committee, which is to find ways in which we can collapse perhaps through the amendment at the Committee of the Whole stage, so that we have one Bill to carry all the proposed amendments instead of carrying it as two Bills.

I know the challenge is that the one that is in No.2 is a Senate Bill and this is a National Assembly Bill. In fact, if you asked me whichever carries the favour of the House would still be fine because either way, the Bill must go through both Houses of Parliament.

What is contained in the Statutory Instruments Amendment Bill No.3 of 2024? This Bill was published in the Kenya Gazette Supplement No.27 of 2024. The principal object is to amend the provisions of the Statutory Instruments Act of 2013. This is part of the Acts that were quickly rushed at the rise of the 11<sup>th</sup> Parliament, the first term of the Bicameral Parliament where many Bills were being passed to try and conform the country to the demands and spirit of the Constitution of Kenya, 2010.

Many afternoons, if you listen, we move Bills to amend those that were enacted as early as 2013. Subsequently people discovered they were going to present challenges. That process of cleaning up will take a while. I do not think even in the life of this Parliament or the next, we will have concluded because the law is a living thing. Some things obtaining today in subsequent days new information will come in or people will perceive things differently. That is why it is our duty as Parliament. We must always be alive, willing and ready, as a House, to rise to the demands of our population in terms of conforming our laws to the dictates of what the situation is in the country.

Significant provisions of this Bill particularly those contained in clauses 4, 5 and 7 were carried and incorporated in the Bill No.1 of 2023 which I had mentioned earlier that is already assented to. There are certain provisions in the present Bill that were not carried in particular clauses 6 and 8, which address the lapse and continued operation of statutory instruments and provisions as follows.

This is where it gets interesting. If one reads the report of the Justice, Legal Affairs and Human Rights Committee, which is in our tablets, they particularly take great exception to clause 6 which calls for a repeal of Section 21 of the Act, which provides for automatic revocation of statutory instruments 10 after the instrument was made and the manner and duration for which the life of a statutory instrument maybe extended.

This is a very complicated matter because we are talking about matters that are in the thousands because statutory instruments contain regulations governing so many things. Basically, these are the nuts and bolts of Government. They dictate how this or the other item is handled, how this office operates, including us here in Parliament. We have our own instruments which we must adhere to.

The Justice, Legal Affairs and Human Rights Committee argues, and I am sure there are Members of that committee who are in the House - I hope they will be patient enough to contribute, so that we benefit from their perspective on this matter. They argue that a blanket revocation goes against the spirit and letter of our Constitution. Even if it

was a proposal to carry out department by another, then they would consider because there are certain State Departments that have these statutory instruments in their thousands while others have maybe one or two. If we pass a law that wholly revokes the 10-year rule on all the statutory instruments, it will create some legal problems or perhaps, even create room for abuse. In that report, they have gone on to explain how as a committee we can treat this issue, something that is up for debate.

Clause 8 amends also Section 27. It is inserting a new Subsection 3 which provides that a statutory instrument that will otherwise stand automatically revoked on any date before the day of commencement of this provision shall continue to operate and to have effect as if the instrument has not been automatically revoked on that particular date. This seeks to address the legal uncertainty arising from statutory instruments that have already been deemed to have expired under the 10-year automatic revocation regime which is a current obtaining legal framework.

Mr. Speaker, Sir, this introduces a saving and validating provision to ensure that any statutory instrument that would otherwise have stood automatically revoked before the commencement of this amendment continues in operation and has effect as if it had not been automatically revoked. I have seen this done with regulations. Sometimes even Members of Sen. Mwenda Gataya's Committee, on Delegated Legislation, come before us. You know that by operation of law, when the Cabinet Secretary submits regulations before us, we have a 30-day period within which to consider, to either accept or reject and make a determination on that matter. However, many times, I have seen the Committee come and request us by way of Motion because that is the only way provided for in law, if the House can extend time for itself. This is because, that 30-day period is the time we set for ourselves as a House. They request that matter to be considered for another 21 days. I saw such a request last week, but I do not know on which regulations. Clause 8 seeks to provide that kind of arrangement for this item.

It is, therefore, necessary for Parliament to consider these two clauses so as to provide clear provisions on when and how statutory instruments lapse and the circumstances under which they may continue. I do not believe that the converse is true because there are people who argue that we should leave the law as is; that it does not matter, once it lapses, it does. There are situations, like times of epidemics when we had this challenge. Those of you who were here during the COVID period, we had such a challenge where it became difficult for the Houses of Parliament to physically convene and we had to do certain extensions such as this on regulations and many other things.

Therefore, Mr. Speaker, Sir, even though you may not agree with the way in which this amendment proposes extension of life of statutory instruments, it is not right to say that we leave it as an open-shut case such that, once the 10-year regime period lapses as is the case right now, then it stands revoked. There may be better ways of doing it, which is what I want to hear people say. That is why we are lawmakers and we convince each other by way of reason. I am not seeing the Chairperson of the Committee of Justice, Legal Affairs and Human Rights (JLAC) but I am sure there are Members of that committee who are here and they will guide us in their perspective.

We will also listen to the opinion of the rest of the Members. I am willing to be persuaded on how to better handle this situation because while I see what the drafters and

the originators of this Bill wish to cure, I am not very comfortable with the way in which it is proposed to be cured. That is why we exist as a House because lawmaking is like sausage making. It is not necessarily beautiful, but the product is nice and tasty at the end of it. Therefore, we have to push and haggle around until we figure out a way of how to handle the situation.

Mr. Speaker, Sir, with these remarks, I beg to move and request the Senator for Nandi, Sen. Samson Cherarkey, to second. I thank you.

**Sen. Cherarkey:** Thank you, Majority Leader, for ably moving the Statutory Instruments (Amendment) Bill (National Assembly's Bill No. 3 of 2024). The Senate is a good House. Although we are bicameral, all the laws that we have received from the National Assembly are always given priority. I hope our brothers, in the principle of reciprocity, will also fast-track some of our Bills. We would not want to make the National Assembly a graveyard of Senate Bills. I hope that under your leadership and the Senate Business Committee (SBC), it should come to their attention because one of my Bills has stayed in the National Assembly for quite some time.

Mr. Speaker, Sir, the definition of a statutory instrument is that it is an order or a rule of any decision-making entity that we have given powers. In Articles 93, 94 and 96 which define Parliament as both the Senate and the National Assembly, one of our cardinal roles or the important critical role of Parliament is the law-making. Therefore, we must guard it jealously because the moment we lose touch with the law-making process, we are no longer Parliament.

In the principle of Thomas Aquinas and J.J. Rousseau, the power we enjoy is donated and delegated. Therefore, when we pass a law in this House, the Statutory Act demands that the Cabinet Secretary or the entity given power must give rules and regulations through the power of statutory. It is therefore important that as a House, we guard this.

I am expecting to listen to the Committee on Delegated Legislation. I am also told the Attorney General appeared on a number of occasions before the Senate and they tried to insist that upon expiry of some rules and regulations or statutory instruments under the Act, they wanted a blanket cheque. If there are rules and regulations that were gazetted 10 years ago, for example, why would the Ministry or any entity want to continue to perpetuate them?

Even with the Acts of Parliament, and I agree with the exiting remarks of the Majority Leader, where he said that we are not comfortable on how this was arrived at because even an Act of Parliament is subjected to a flexion of time or even an amendment. It cannot be the rules and regulations that were passed 10 years ago are given a blanket cheque. You will be overtaking the cardinal rules of national values and principles of good governance, which include public participation and parliamentary scrutiny. This is one of the objects in Section 4 of the Statutory Instruments Act of the Parliament of the Republic of Kenya. There is the public participation and the explanatory memorandum, which, for example, 10 years ago in 2015, might not have been given by Cabinet Secretary at that given point in time.

Mr. Speaker, Sir, the Committees on Delegated Legislation and JLAHC, and it has to go on record that during my time when I was the Chairperson of JLAHC, I was the

top, followed by Sen. Moses Kajwang', when he was chairing the County Public Accounts Committee (CPAC) and as Sen. Sifuna said in the morning, I should also be given flowers. Sen. Faki was my member and we should not allow that. The process of lawmaking should be guarded.

The other day, there were regulations on the cost of water. We must review them from time to time. It is not fair to the Ministry. For example, if we were charging Kshs2 per litre or water tracking in estates 10 years ago, it would then be in the interest of the Cabinet Secretary for Water, Sanitation and Irrigation to bring those rules and regulations for review with the prevailing circumstances that have changed over time.

Mr. Speaker, Sir, looking at the introduction, I will only comment because this is a very brief Bill so as to allow my colleagues to also comment.

There is an amendment of Section 11, where it says that when it comes to the attention of the Cabinet Secretary, in accordance with Subsection (6), it must be gazetted within seven days through the Kenya Gazette. How many Kenyans can access the Kenya Gazette? I visited the Government Printer and it does not look good. I hope in the budget, they can allocate more funds to ensure the efficiency of the Kenya Gazette because you and I, Mr. Speaker, Sir, apart from being keen sometimes, you might not see some of these regulations. The Constitution provides that after adequate public participation, we must ensure that all Kenyans have access, that there is a nullity to submit notice to Parliament on publication and even put it in Parliament's website. The drafters of this amendment know that Parliament is mostly watched, is mostly looked at and is most assessed. If there is any institution in this country that is properly assessed, it is Parliament. Therefore, in this proposal, it should be in the Parliament's website that the statutory instrument is a nullity because there exists bad manners with some of the civil servants in this country.

I know in law they say *la ignorancia en su máxima* where ignorance of the law is no excuse. Some of the overzealous civil servants and the corrupt who are a few in the civil service, can take advantage and use expired rules and regulations against wananchi. I, therefore, appeal that in the interest of the country, we must ensure that in the Parliament website, the statutory instrument is a nullity. We owe that to the country and I have said that as a Parliament, we interact with our people on a daily basis. I wish that even in our meetings, our political rallies and engagements, we could take the time to be fair. I listen to our colleagues explaining that we have approved more money to counties, yet, it is our obligation as Members of Parliament.

Mr. Speaker, Sir, there is the report on resolution. Parliament shall stand on that nullity. We have had cases when expiry of rules and regulations has been done. It has a nullity. It is null and void. This annulment must be published in public and I have given the reason as to why. Therefore, I will convey to the House the regulatory making authority.

So, we must be notified that Parliament has annulled regulations and rules under the Statutory Amendment Act. This is a good proposal which Sen. Mungatana and colleagues in the Committee on Delegated Legislation must and should look into. Even Members of Parliament should be aware that there are many regulations that are usually passed without the notice of Parliament. That is why I was raising the issue of the

Elections Amendment Act, that even as Kenyans go to elections next year, they must elect Members who understand, who comprehend and are competent in the lawmaking process is. Sometimes it is embarrassing when you sit in a forum and you hear your colleague, a Member of Parliament, speaking about a law that does not exist. It shows that there is ignorance.

I know the Independent Electoral and Boundaries Commission (IEBC) had postponed the qualifications of Members of Parliament and governors, which is provided for by the Constitution or the President. Those are well taken care of, but not for Members of the County Assemblies (MCAs). I know sometimes that leadership does not come from education, but education gives you the ability to think, reason, comprehend and understand.

Mr. Speaker, Sir, the annulment must come through the clerk of the relevant House, be it Clerk Nyegenye or Clerk Njoroge on the other side and of course, yours truly, Speaker Amason Kingi, should communicate in the Senate or Speaker Moses Masika Wetangula should communicate in the National Assembly or the Lower House.

Upon the receipt of the communication from the Clerk, this shall be gazetted within 14 days. I hope the Government Printer will get enough resources because sometimes most of these things are taken to the Government Printer, but they do not get to that level. Section 27, where I will finish my comments on, says any statutory instrument that was in operation and would otherwise stand automatically revoked on it before shall continue to operate and to have effect as if it had not been automatically revoked on the date. On this one, this is unfair even though I agree with the rest.

The Attorney General of the Republic of Kenya appeared before one of the committees. If it is 10 years as far as the law has been provided, why would you automatically want to renew? It should stand revoked. I have used an example. If you had traffic rules and regulations, in 2015, there were no CCTV cameras on the roads. There were no newer models of vehicles. I am told that in the Senate's parking, you only get Toyota Prado 120 and 150. However, when you go to the former House of my brother, the Deputy Speaker, you see high-end Mercedes Benz S500, GLE LC 300 and Lexus 570. When you cross to the Senate, the vehicles look like those of MCAs. So, this will change with time.

I meet my colleagues at the parking area. I wish Sen. Maanzo was here. This is because some of the vehicles in the parking area normally have a permanent mechanic who is trying to fix them. So, we must ensure they bring it back. If it is automatic revocation, for example, if you are giving rules and regulations in 2015---

Mr. Speaker, Sir, I know you were in Parliament before. Imagine the regulations about traffic when there were no speed guns. The Cabinet Secretary for Roads and Transport is now telling us to automatically renew in 2026 yet we have Artificial Intelligence (AI) speed guns and CCTVs in our corridors. We also have other issues that have come with the changes even in the usage of vehicles. Some of the vehicles are now more advanced than the Mercedes Benz 1, 2, and 4. So, we must ensure that it will not happen. I want to appeal to the Senate Majority Leader, as I second, that we cannot allow automatic---

In conclusion, in the last session, you were the Governor and Sen. Madzayo was your Senator. Sen. Olekina, Sen. Faki and I were around. We used to update Covid-19 regulations. For example, imagine if Ebola lands in Kenya today, we might need to update the regulations after some time because of the changes. I want to ask the Committee on Health to start preparing for rules and regulations on management of Ebola because it is just next door in Uganda. There are 15 cases that have been reported.

We want to thank the Government for ensuring that Malaba Border, where you led us for Senate Mashinani, the surveillance and quarantine facilities are up to date. I also want to appeal to Kenyans who are using ‘panya’ routes to access the country, I know not most of them come through the Malaba, Isibania and Namanga borders--- We must ask Kenyans or anybody coming into the country to use the proper borders, so that they are screened. It is not fair for my colleagues to block the Government for political expediency. We know the activists in court are being used by people who are playing politics. It is better for those activists to say that prevention is better than cure. You do not need to have a disease in the country to prepare. We know this disease is infectious.

I hope when the rules and regulations will be brought by the Chairperson, Sen. Mwenda Gataya, on the prevention of Ebola disease and other pandemics, we will pass them as a House. I know that is the next step. We should not live in isolation. You and I know that Mombasa Port, all the way to Democratic Republic of Congo (DRC), is a corridor with truck drivers. We must be alert.

I have seen the Permanent Secretary (PS) and Cabinet Secretary (CS) for Health Hon. Aden Duale give out information on how they will handle the issue of Ebola. They must bring those rules and regulations to the House, so that we can sit and consider them. So, on the automatic renewal or revocation of this matter---

*(Loud consultation)*

Mr. Speaker, Sir, you should not give him a chance to raise a point of order. I am discussing serious issues. These are matters of life and death. You know he thinks these are matters of Linda Mwananchi or is Linda Mwananchi not in good faith?

With those many remarks, since my neighbour is feeling uncomfortable, allow me to rest my case there and second the Statutory Instruments (Amendment) Bill, 2024.

I hope to listen to Members of the Committee on Delegated Legislation.

However, on the aspect of automatic renewal of rules and regulations, as a House, if we allow that, we will lose our power, which is residual, that we have been given by Kenyans through the ballot. Even as we go into 2027, we expect more rules and regulations from elections, pandemics and many others. This House must rise up to the occasion.

Mr. Speaker, Sir, I thanked you the other time and many people were uncomfortable, but let me thank you properly this time. Under your guidance, when we went on recess, there was a court ruling, especially on the County Public Accounts Committee (CPAC) reports. You created a process where there are automatic procedural processes on issues, rules and regulations. So, the Committee on Delegated Legislation cannot have a reason not to consider rules and regulations that have been given by the

Ministry when we are on recess. Through your Solomonian guidance and support, you have been able to allow committees to function automatically.

With those many remarks, allow me to second this Bill.

**The Speaker** (Hon. Kingi): Sen. Olekina, kindly take your seat.

*(Sen. Olekina took his seat)*

*(Question proposed)*

The Floor is now open for debate.

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir, for this opportunity to make my remarks on the Statutory Instruments (Amendment) Bill, 2024.

As has been explained by the Majority Leader, these proposed amendments are supposed to clean up the existing Statutory Instruments Act, so that a number of provisions in that law are aligned with the Constitution of Kenya. They should also provide a framework for better application of the provisions in the current Act.

From the onset, I want to agree with Members who have spoken earlier that the power to make laws is the responsibility of Parliament. It is not the responsibility of any other person or body. That clarity is very important. This is because we have seen so many instances where you see people coming up with regulations and rules, which they start implementing without the input of this House.

Just about two weeks ago, in my own county, the police, the Officer Commanding Police Division (OCPD) and the county commander came up with some regulations to stop processions. In my county, when the *boda boda* youth lose one of their own, they mourn them in a very celebratory manner. They will hold processions on the road and carry the body and celebrate. The police have stopped that. They are arresting the youth for participating in that yet, those rules or regulations have not been processed by this House.

We have a lot of such incidences happening all over the country. Government officers have made themselves small parliaments, where they make regulations and rules and they do not refer to this House. I think it is time we enforce the provisions of the Statutory Instruments Act, so that it is only this House that has the powers to make law. Any other person who has the responsibility to come up with delegated law has to be approved by this House.

We have seen many cases, even within our Ministries, where Cabinet Secretaries have come up with regulations, which are not approved by this House. I think the Committee on Delegated Legislation should identify such regulations and annul them because this law is very clear on the process of how to handle delegated legislation.

I also want to agree with Sen. Cherarkey that there should not be any situation that calls for automatic renewal of regulations. When regulations expire and need to be renewed, they have to come to this House for input before they become law because scenarios and conditions change. I support these amendments.

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

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

Mr. Deputy Speaker, Sir, I also agree with the Majority Leader that we have so many pieces of Bills which have been proposed to amend the Statutory Instruments Act. It would be nice if they all are consolidated into one Bill, so that we handle it once and for all.

Speaking of Article 94(5) of the Constitution that requires Parliament, that is Senate and National Assembly, input into the delegated legislation, this House also has a responsibility to process all agreements that are signed between our government and another government. We are beginning to see a culture where the Government is entering into either bilateral or multilateral agreements with other nations and they are not subjected for parliamentary scrutiny. The relevant committees must be on the watch out.

It saddens me when you see an Hon. Member of either the Senate or the National Assembly defending the Government for not providing those agreements for scrutiny before the House. It is our responsibility to scrutinise every treaty or agreement that is signed between our nation and other nations. I emphasise that because even as we talk about statutory instruments, we should also talk about the treaties and other agreements that our nation has signed without coming to this House legally. It is important we insist that such agreements be brought to this House.

Mr. Deputy Speaker Sir, for example, everyone is asking about what is contained in the Government to Government (G2G) agreement in this country and we are not getting answers. If the G2G agreement was brought to this House and it had issues that were going to affect the lives of our people indirectly or directly, then this House would rise to the occasion.

It is important that as we discuss the statutory instrument law, we must also insist that all treaties and agreements that affect our nation--- As at now, we are talking about Ebola, which Sen. Cherarkey was trying to explain. However, we are asking; where was the agreement? Was it ever brought before the Houses of Parliament to be debated and scrutinised before being approved? We want a scenario where every bilateral, multilateral agreements and treaties must have an input of this House.

**Sen. Cherarkey:** On a point of order, Mr. Deputy Speaker, Sir.

**Sen. Osotsi:** Mr. Deputy Speaker, Sir, I tried to raise a point of order when he was speaking and I was not given a chance. He should allow me to finish my statement before he brings his frivolous point of orders.

**The Deputy Speaker (Sen. Kathuri):** Just a minute Sen. Osotsi.

**Sen. Cherarkey:** Mr. Deputy Speaker, Sir, in the first instance, there is no frivolous point of order in this House under Standing Order No.98. I think he might not understand since he was in the Lower House.

Secondly; under Standing Order No.105---

*(Loud consultations)*

The Deputy Speaker is a respected *Njuri Njoke* Elder. He is beyond Parliament, he is on another level; he talks with the higher beings.

Under Standing Order No.105, is it in order for the distinguished Senator for Vihiga County and one of the removed Orange Democratic Movement (ODM) deputy party leaders to allege in the House that the biosecurity agreement that was signed in 2015 should have been brought in the House yet, that biosecurity agreement that was signed between Kenya and America was done under President Uhuru Kenyatta? Is it in order to allege that it was done the other day?

Could he table evidence of such or he withdraws and apologises because the biosecurity agreement is guarded under Article 2(6) of the Constitution? When international treaties and other instruments are signed, they become part of the law. Is he aware? I am worried that if he is not aware, he might mislead the public when he appears in other Linda Mwananchi rallies.

**The Deputy Speaker** (Sen. Kathuri): What is your point of order?

**Sen. Cherarkey:** My only concern is whether it is in order for him to mislead the House that the biosecurity agreement was signed the other day? It was signed in 2015. Could he look for President Uhuru Kenyatta to raise that document?

**The Deputy Speaker** (Sen. Kathuri): Sen. Osotsi, you have heard his point of order, please, clarify.

**Sen. Osotsi:** Mr. Deputy Speaker, Sir, Government is a going concern. I did not specifically refer to the Kenya-Kwanza Government. I said "government". Number two; we are specifically referring to the Ebola isolation centre issue. When you talk about by safety, there are many aspects of it in that agreement. Could you refer to that specific Ebola isolation centre? Is there a specific agreement that was passed by this House?

Mr. Deputy Speaker, Sir, if you allow Sen. Cherarkey---

**The Deputy Speaker** (Sen. Kathuri): Sen. Osotsi, why are you addressing Sen. Cherarkey?

**Sen. Osotsi:** No, I just want to bring to your attention that sometimes, you should not allow him to bring frivolous point of orders because Sen. Cherarkey is a chief government propagandist. He comes to speak propaganda on the Floor of the House and you allow him. Allow me to finish my presentation.

**The Deputy Speaker** (Sen. Kathuri): Sen. Osotsi, it becomes difficult to be protected when you digress. Both of you are now diverting to being out of order.

**Sen. Osotsi:** Mr. Deputy Speaker, Sir, Standing Order No.105 should not be misused.

*(An hon. Senator stood up in his place)*

**The Deputy Speaker** (Sen. Kathuri): As I am giving guidance, there is an hon. Senator who is standing; sit down briefly. You should also not make noise from your side trying to direct me on what to do, Sen. Cherarkey.

Sen. Osotsi, stop digressing and using other words just to spice your discussion. Similarly, you have severely referring to Linda Mwananchi, which is not in this

House. Could you also refrain from doing that? I do not think it is good for you or your colleague to use unpalatable language.

Sen. Osotsi, conclude.

**Sen. Osotsi:** Thank you, Mr. Deputy Speaker, Sir---

**The Deputy Speaker** (Sen. Kathuri): You are a good debater, but today, Sen. Cherarkey has diverted your mind. Focus and make your point.

**Sen. Osotsi:** Mr. Deputy Speaker, Sir, we will have another opportunity to look at the issue of misuse of Standing Order No.105, particularly by my friend, Sen. Cherarkey.

Let me finish by saying that this Bill is timely and those amendments must be aligned to the Constitution, particularly Article 94(5), so that Parliament does not lose its authority to make laws.

Mr. Deputy Speaker, Sir, I support.

**The Deputy Speaker** (Sen. Kathuri): Next is Sen. (Dr.) Mungatana Danson.

**Sen. (Dr.) Mungatana, MGH:** Thank you, Mr. Deputy Speaker, Sir. I rise to oppose sections of these proposed amendments. Some of the proposed clauses are very good, but I am very opposed to Clause 8, in particular. If I may read, Clause 8 of the Statutory Instruments (Amendment) Bill (National Assembly Bills No.3 of 2024) says-

“Section 27 of the Principal Act is amended by inserting the following new subsection immediately after subsection (2).”

The new subsection says-

“Any statutory instrument that was in operation and would otherwise stand automatically revoked on any day before the commencement of this provision shall continue to operate and to have effect as if the instruments had not been automatically revoked on that date.”

Mr. Deputy Speaker, Sir, this provision is giving regulatory-making authority, like departments in the ministries and parastatals, the power to make regulations in 1964 and the same to be automatically renewed in 2026. You can see the ridiculousness behind these proposed amendments.

The Statutory Instruments Act requires that if as Parliament, we donate our power to the Cabinet Secretary to make regulations, then those regulations, if approved by Parliament and are gazetted, will only be effective for a period of 10 years. After 10 years, that donated power must come back to this House through the Committee of Delegated Legislation, so that again we look at the relevance of that power or regulation that we gave to them.

It does not make sense, for example, for the Cabinet Secretary for Agriculture and Livestock Development to make regulations in 1963 and then, after 1973, the same regulation automatically continues without that Cabinet Secretary coming before Parliament to say, look, I need to extend these regulations and my reasons are this and that. Then the Committee on Delegated Legislation will look at the reasoning that the Cabinet Secretary is giving and agree or disagree with him.

What this amendment proposes is to make Cabinet Secretaries another source of making law and to give them permanent powers to make laws in this country. This cannot hold. I am urging all Members of this House, when it comes to the Committee Stage, let us oppose any section that purports to take away the power of law-making from the

Senate and from the National Assembly. I am even surprised that this Bill is emanating from the National Assembly. How can you take away the power that was given to you by the Constitution and by the people of Kenya, that you will be the only person to make laws and then you donate this power and say it is permanent to the Cabinet Secretary who is proposing a regulation or a rule?

Maybe I want to give a background. In the Senate Committee on Delegated Legislation, the then Attorney General, Hon. J.B. Muturi, sent one of his officers and he sought to extend about 10,000 regulations which had already lapsed after the mandatory statutory period of 10 years. So---

**Sen. Faki:** On a point of information, Mr. Deputy Speaker, Sir.

**Sen. (Dr.) Mungatana, MGH:** Mr. Deputy Speaker, Sir, yes, I will yield because he is a Member of the committee.

**Sen. Faki:** Mr. Deputy Speaker, Sir, the number of regulations was 1,764 or 1,735, not 10,000. There were 1,760 or thereabouts, but not 10,000.

**Sen. Gataya More Fire:** On a point of information, Mr. Deputy Speaker, Sir.

**The Deputy Speaker (Sen. Kathuri):** Yes, you can also inform. Also if Sen. Mungatana ---

**Sen. Gataya Mo Fire:** Thank you, Mr. Deputy Speaker, Sir. I want to inform my member, Sen. (Dr.) Mungatana, those regulations were close to what Sen. Faki is saying; they were about 1,668.

**The Deputy Speaker (Sen. Kathuri):** So, which is which?

You may proceed, Sen. (Dr.) Mungatana.

**Sen. (Dr.) Mungatana, MGH:** Mr. Deputy Sir, either way, they were about 1,000. In my mind, they were about 10,000, but we were sitting in that committee, and the Attorney General wanted over 1,000 regulations to be extended from different ministries.

If you look at how this works, those Cabinet Secretaries did not come before the Senate Committee on Delegated Legislation to ask for the extension. Those Cabinet Secretaries did not come to give justifications for why they want those regulations that are 10 years old to be extended. Those Cabinet Secretaries were hiding behind the Attorney General and saying that because the Attorney General is the lawyer for the government, he can represent us.

We took a very firm stand as the Senate Committee on Delegated Legislation that the Attorney General cannot purport to come and seek an extension for over 1,000 regulations without the regulation-making authority itself presenting itself before the committee and justify why they needed those extensions. We rejected. So, what did they do? They went back. The Attorney General of Kenya went back because it is an office that is in succession. The current Attorney General now thinks that the only way to deal with this problem, instead of the Cabinet Secretaries presenting themselves before the committee of the Senate, is to make the extension automatic because we rejected it at that time.

If our colleagues in this Senate can see what we are seeing, some of these regulations were very oppressive. Some of these regulations were outdated. They cannot

keep up with even the current state of technology. How can a Cabinet Secretary just say that the regulation he set up 10 years ago should automatically start again?

Mr. Deputy Speaker, Sir, this automatic renewal is what we are against and we are urging this Senate to reject this proposed amendment. We must stand firm. We must not yield this power and I will give you a reason. We go through a very long process in this House to make a law. We go through the First Reading, Second Reading and we debate to persuade each other in the Second Reading Stage. Then we go to the Committee of the Whole Stage. In committee, we also debate those amendments. We approve or refuse those amendments. Then we go to the Third Reading, where there is also another opportunity to debate.

After that, the process takes us to the National Assembly and the National Assembly goes through the same process before it goes to the President. Can you imagine a situation where we now create space for the Cabinet Secretary to make regulations? The Cabinet Secretary comes with these regulations before our committee. When they come before the Senate committee, they have not followed the steps. They have not followed public participation. They have not advertised in the newspapers. Some of those regulations have not even complied with the provisions of the Constitution.

So, we look at those regulations and we tell them, look, in the parent Act that gave you this power, you are supposed to follow these steps. Some of the cabinet secretaries are notorious. They just do not follow the law as it is required. Therefore, we send them back, we tell them we cannot approve this. Some of them are very good. I do not want to mention names here, but some cabinet secretaries who have been members of this House, whenever they appear before the Senate Committee on Delegated Legislation, they have performed, but some of them are not performing.

Imagine this situation, these people who have been given this authority by this House are not following what is required. Then the same people, maybe that regulation was passed because maybe the committee at that time was not keen enough, 10 years ago, two parliaments away, two Senates away. Now, the same regulation automatically becomes renewed. That is not acceptable.

So, I am urging the House to totally reject this amendment that is proposed here under Clause 8. I am urging colleagues to refuse completely. Let us be keen because I have already seen here that the Majority Leader has written proposed amendments at the committee stage. Those amendments will have the effect of giving Clause 8 power. It will give it effect. So let us be vigilant. When we come to Committee of the Whole, let us reject these amendments.

In fact, let us file our own amendments to those amendments, deleting those proposed amendments. We must reject because we cannot give this power to a regulation making authority. Why? Some of the regulations are very punitive. Our people are being told to pay some charges, for example, you want to extract water, you pay this amount. So, imagine if after 10 years, without justification, those regulations are renewed.

I am only debating this clause and I am saying again and again, it must sink in the Senate; those who are following online and those who are in the House, that we must reject Clause 8 and we must file amendments to the proposed amendments that will give effect to Clause 8 of this Bill. We must unite for the sake of our people because this one

is obviously, because the Senate Committee on Delegated Legislation rejected the then Attorney General's approach, so he has gone there and crafted something to make automatic renewal of regulations. It is wrong. It is against the spirit of the Constitution. The people who make laws are the Members of Parliament, not the Attorney General, not the cabinet secretaries. We only donate this power and you must follow what is supposed to be done and then if it has stayed for 10 years, surely, that must come again back to the Senate and to the National Assembly for review.

So, we must not let this pass on principle. We must reject this and I strongly reject Clause 8.

I thank you, Mr. Deputy Speaker, Sir.

**Sen. Maanzo:** Thank you, Mr. Deputy Speaker, Sir. I am one of the members of the Committee on Delegated Legislation and I want to give the genesis of this.

Mr. Deputy Speaker, Sir, you and I have served at the National Assembly for 10 years. The Statutory Instruments Act came to power in 2013 and therefore by 2023, a lot of statutory instruments expired. In fact, this was sneaked in the Finance Bill, 2024, which was rejected by the people of Kenya. It was deleting Section 21 of the Statutory Instruments Act, which says that statutory instruments last 10 years. What cabinet secretaries who have a problem reorganising the statutory instruments should do because they need public participation, is to come to the committee and they have done that all the years just before the instruments expire and seek extension. That happened at one time, the Cabinet Secretary for Agriculture and Livestock Development came before the committee, sought extension and had enough time to make new regulations. The reason is, most of the regulations under this, seek more payments from the services offered through different Acts of parliament. Therefore, they are taxes. It is another way of giving a blanket opportunity to tax Kenyans without public participation and proper consultation. It is excess taxes.

When you look at the issue of making an amendment under Clause 8 to make sure that these regulations automatically become law or automatically extended - some of them expired in 2023 – therefore, you cannot now make legislation to bring back to life regulations which died in 2023. It would be an absurdity and an illegality. Kenyans will go to court and annul this particular piece of legislation.

I have seen a similar amendment also, another amendment Bill, which is seeking to delete Clause 21. It has got the same effect. In fact, any other amendments around here, I have seen the one reducing the fine from what it used to be if you break these rules, for instance, Kshs1 million, is being reduced to Kshs20,000. This means that whoever was being punished for breaking the law, then will have a very easy escape. Therefore, I support Sen. Mungatana in all his submissions. I believe other members of this Committee will support and say that the statutory instruments should be rejected. We are going to bring in amendments and delete all this section at the Committee of the Whole, so that this bad law does not go to the public. If they tried in 2024 to sneak it through the Finance Bill, a matter which does not touch finances or remotely deals with finances - I really urge the House to reject these laws. They are going to be punitive to the society. Kenyans have been overtaxed. The cost of living is high, and I cannot stand

in this Senate and pass a law which is going to see Kenyans taxed more than they are being taxed today.

I thank you, Mr. Deputy Speaker, Sir. I reject.

**The Deputy Speaker** (Sen. Kathuri): Sen. Faki.

**Sen. Faki:** Asante Mheshimiwa Spika, kwa kunipa fursa hii.

**The Deputy Speaker** (Sen. Kathuri): Kwanza tumpe mwenyekiti nafasi, atupe ushauri kidogo kwa sababu ana jukumu lingine.

**Sen. Gataya Mo Fire:** Thank you very much, Mr. Deputy Speaker, Sir. From the onset, I have captured quite a number of presentations made by members of this House, especially members of the Committee on Delegated Legislation. We have had a very rough time, especially in this committee, where I remember in one particular case, we received some regulations which were effected way back in 1968 on the National Construction Authority (NCA). Those regulations came to this Committee almost 50 years later, around 2024. One would imagine the number of changes that have taken place, yet quite a number of agencies do not adhere to the provisions, including those on disability, firefighting equipment, fire exits and others. Many changes have been effected since 1963.

I oppose this arrangement, especially Clause 8, which Sen. Mungatana has strongly prosecuted. It proposes to expunge the provision requiring regulations to expire after 10 years. This would be detrimental because within 10 years, we expect many changes, especially on regulations touching on taxation and other issues on statutory instruments.

We have seen cases where regulatory bodies in ministries, departments and counties make their own regulations without adhering to checklists. These include regulations on public participation and impact assessments. We have even questioned the new arrangement where entities go through My Gov, a Kenyan Gazzette that is not widely circulated.

Some ministries do publications without engaging committees, making it difficult to engage those bodies. When we travel domestically to counties, we educate Members of County Assemblies (MCAs) on how to check regulations that do not adhere to the parent Act. This would be detrimental to the House. Regulatory registration means we donate powers to regulation-making authorities; the ministries, departments and even the counties.

I urge the House to ensure that this clause is deleted. Otherwise, ministries could bring regulations that remain for more than 10 or even 20 years, which is such a long time. That is why we have the provision to donate these powers to ministries, departments and even counties, through county assemblies. We cannot allow regulations to exist for such periods without review. That is why we have the provision requiring regulations to expire after 10 years, so they return to the House for moderation and ensure they align with the parent Acts.

Hon. Deputy Speaker, I support this arrangement. However, we must allow the expiry provision of 10 years to be considered. I support.

**The Deputy Speaker** (Sen. Kathuri): Sen. Faki.

**Sen. Faki:** Asante, Mheshimiwa Naibu Spika, kwa kunipa fursa hii kuchangia Mswada wa marekebisho ya sheria ya kanuni za kisheria, yaani, statutory instruments. Kwanza kabisa, najiunga na Maseneta wenzangu ambao wamechangia Mswada huu hapo awali.

Pili, sina pingamizi za kimsingi kwa kifungu cha kwanza, cha pili, cha nne na cha tano. Nina pingamizi sana kwa kifungu cha nane ambacho kinaipa wizara ama shirika linalotengeneza kanuni hizi kuendelea baada ya miaka 10, kinyume na sheria iliyopo sasa. Kanuni zile zinafaa kuisha baada ya miaka 10.

Lengo na madhumuni ya kanuni ni kusaidia kuendeleza sheria. Sehemu zingine zinaitwa, “sheria endelevu”, kwa sababu zinatumiwa kutia nguvu sheria zinazopitishwa na Bunge. Sheria hizi mara nyingi zinatengenezwa na wizara ama shirika linalohusika na taasisi ama huduma fulani kama huduma za maji, afya na kadhalika. Kwa vile Bunge halina wakati wa kuangalia mambo madogo madogo, wizara au shirika huachiwa jukumu la kutengeneza kanuni ambazo huletwa hapa bungeni baadaye kuthibitishwa.

Katika kudhibitisha kanuni hizi, tunakagua mambo kadhaa. Kwanza tunaangalia, je, zinakinzana na Katiba ama sheria iliyoziunda? Je, wamehusisha umma, yaani, public participation? Je, sheria hizi zinakinzana na haki za binadamu na sheria zingine? Tukichunguza vitu hivyo vyote na kuhakikisha kwamba sheria zile ziko sawa, ndipo tunapitisha sheria zile na zinatumiwa kwa mda wa miaka kumi.

Hii haifanyiki Kenya pekee. Nchi zingine kama Uingereza na Australia ambazo tumekopa sheria nyingi kwao pia zina maisha ya miaka 10. Baada ya miaka 10, sheria inakufa na kuna fursa ya wizara ama shirika kuomba kuongezewa mwaka mmoja ili wajipange kutengeneza sheria mpya.

Hii ni muhimu kwa sababu inatoa fursa kwa wizara kuziangalia sheria upya baada ya miaka kumi. Hili ni jambo nzuri kuwepo katika sheria hii, lakini linataka kuondolewa ili sheria zile zitumike miaka nenda, miaka rudi, bila ya kuwa na nafasi yoyote ya kuziangalia upya. Kwa mfano, mwaka 2023 kama alivyosema Sen. Mungatana, Mkuu wa Sheria aliandika barua kutaka kuzifufua sheria 1,760. Baadhi ya sheria hizi zinahusiana na mambo ambayo hayamo tena katika nchi yetu. Kwa mfano, kuna moja inayo unganisha benki mbili; enki ya Greenrise International na benki nyengine.

Sheria kama hizo zilikuwa zimetumiwa na wakati wake umeisha kwa hiyo hakuna haja ya kuzirejesha. Lakini kwa sababu kulikuwa na utepetevu katika ofisi ya mkuu wa sheria, hawakuweza kuziangalia kwa undani. Walitaka sheria zote ziekwe kwa basi moja na kupitishwa bila ya kufuata kanuni.

Kwa hivyo, marekebisho ya kutaka kuondoa hili pendekezo la muda wa miaka 10 yatakuwa yamerejesha Seneti mambo mengi. Hii inamaanisha sheria zote 1,760 tulizozikataa zitarejea tena na kuwa sheria katika nchi yetu. Sheria nyingine zilifanywa kabla ya ugatuzi. Sheria ya Statutory Instruments Act ilipitishwa 2013. Hii inamaanisha sheria zote zilizopitishwa nyuma ya sheria hii zitapata uhai mpya na kuweza kutumika.

Baadhi ya mambo tuliyoshuhudia ni kwamba ijapokuwa kuna huduma zimegatuliwa, baadhi ya wizara hupuuza Bunge hili katika kuleta kanuni bungeni. Hivi majuzi, tumeona baadhi ya sheria zilizopitishwa katika wizara ya uchukuzi hazijafikishwa Seneti. Sheria zingine za mambo ya ardhi pia hazijafikishwa Seneti.

Ikiwa hatutakubali sheria hii, sheria zote ambazo muda wake umeisha zitarejea tena upya na kupata uhai mpya. Kwa hivyo, naunga mkono baadhi ya vipengee katika Mswada huu. Hata hivyo, napinga vikali Kifungu cha 8 kuhusiana na kuondolewa kwa muda wa kuhudumu kwa sheria hizi.

Mwisho, Bw. Naibu Spika, kuna jambo la msingi ambalo linafaa kuangaliwa. Kwa mfano, kuna kanuni ambazo huletwa katika Seneti na pia Bunge la Kitaifa. Sisi tunaweza kuzikataa lakini Bunge la Kitaifa liseme ziko sawa. Kama sheria nyingine yoyote, inatakina kuwe na *mediation* baina ya Seneti na Bunge la Taifa ili tuangalie tofauti ziko wapi.

Mswada huu hauna kifungu ambacho kinatoa nafasi ya *mediation*. Kwa vile Miswada hupitishwa na Bunge ama *Parliament*, mara nyingi Miswada kama hiyo hupotea kwa sababu hakuna nafasi ya kuwa na *mediation* ama uwiano baina ya Bunge la Kitaifa na Seneti kuhusiana na kanuni ambazo zinatengenezwa na wizara pamoja na mashirika katika wizara hizo. Ipo haja ya sheria hiyo kurekebisha ili kuwe na nafasi ya kuhakikisha kwamba iwapo Seneti na Bunge la Kitaifa zinatofautiana tuweze kupata nafasi ya *mediation* ili kuunganisha yale ambayo yamekosekana kabla ya sheria hiyo kukubalika na kutumika.

Naunga mkono Mswada huu. Hata hivyo, lazima Kipengee cha 8 cha Mswada huu kiondolewe ili ibaki kuwa sheria ama kanuni zinazotengenezwa na mashirika ya kiserikali zitumike kwa muda wa miaka 10 baada ya kupitishwa.

Asante, Bw. Naibu Spika, kwa nafasi hii.

**The Deputy Speaker** (Sen. Kathuri): Next is Sen. M. Kajwang’.

**Sen. M. Kajwang’**: Mr. Deputy Speaker, Sir, I rise to comment on the Statutory Instruments (Amendment) Bill. It is just that Members of the committee are the ones who have contributed to it largely. They would have also benefited from views of those who do not sit there on a regular basis.

The role of Parliament is clearly defined in the Constitution. The Constitution says in Article 94(5) that-

“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.”

The primary body to which legislation and law-making has been delegated by the people is Parliament. Over the years, and this is a problem that applies across the Commonwealth, a lot of parliaments have become lazy and opted for skeleton legislation. To fill the gaps, they have resorted to subsidiary legislation or statutory instruments.

Statutory instruments have a place in terms of efficiency and providing further details on matters that cannot be captured in the Constitution and statutes, but over the years, it has been abused. That problem is in Kenya and many parliaments across the Commonwealth.

Ultimately, Article 94(5) vests that responsibility to Parliament and not the Executive. We have created a system where most of the times Parliament legislates only one-third and the other two-thirds is done by the Executive through statutory instruments.

Mr. Deputy Speaker, Sir, I share the concern raised by the Chairperson and other Members of the Committee on Delegated Legislation with regards to statutory

instruments that were in operation on or before 21<sup>st</sup> January, 2024. I find this to be a curious way of legislating, that we are amending Section 27 of the Statutory Instruments Act to say that any statutory instrument that was in operation on or before 21<sup>st</sup> January, 2024, shall continue to operate and to have effect as if the instruments had not been automatically revoked on that date.

The instruments that were in operation on or before 21<sup>st</sup> January, 2024, perhaps could have been 10 years old as compared to the Constitution that we currently have. There should not be any difficulty for the Executive to re-subject those statutory instruments to public participation and Parliament and get parliamentary approval for them to continue being in force.

Mr. Deputy Speaker, Sir, not too long ago, we had a meeting with the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs. I believe you must have chaired that meeting where Madam Aurelia Rono, who is the Principal Secretary (PS) in the Office of the Prime Cabinet Secretary, appeared before the Liaison Committee. I am convinced that the Executive has the capacity to re-subject all these statutory instruments to public participation and adhere to the provisions of the Statutory Instruments Act. Therefore, I join my colleagues in saying that amendment of Section 27 is mischievous and this House must vote against it.

If we wanted to do a proper amendment to the Statutory Instruments Act, there are a few issues that have been of concern over the years which must be dealt with. I can see that this particular amendment was to deal with that Section 27, so as to allow the Attorney-General and the Executive to have a free ride. There are a few things I would have wanted that we look at when it comes to statutory instruments and amendment of this particular Act. Firstly, if law-making is the exclusive domain of the Legislature or Parliament and if statutory instruments still form part of our laws and regulations, should Parliament concern itself with substance or form when considering statutory instruments?

Right now, the Statutory Instruments Act requires of Parliament that when a statutory instrument is laid on the Table, the relevant committee shall consider it and only bring back a report if it wants that statutory instrument annulled. It does not have to report back on its approval or observations. In fact, sometimes committees do nothing. I am not talking about this particular committee because it has been industrious.

We have seen delegated legislation committees that decide to do nothing on statutory instruments that are presented to them, then they become law after 28 days because that is the provision. There is an automatic effectiveness after 28 days if the committee does nothing.

At the tail end of the last Parliament, regulations on the Equalisation Fund were brought to this House. Every Member who debated on the Floor of this House agreed that they were bad. The problem was that those regulations had been pending for a very long time and counties that had been marginalised for a long time felt that the Senate was holding on to money that should have gone to them.

I wish Sen. Faki was here because he was then the Chairperson of the Committee on Delegated Legislation. A promise was conveyed to this House from the National Treasury that we pass those regulations to allow money to trickle to the counties. They gave an undertaking that they would bring amendments to the regulations, but we refused

to cede to that request. What happened is that the committee failed to report back to the House. Therefore, the regulations took effect automatically.

Could the Committee on Delegated Legislation scrutinise the substance of regulations? Right now, what the Committee on Delegated Legislation is required to do is to look at the regulations to confirm whether it is in accordance with the Constitution of Kenya; whether it infringes on the rights of freedoms of citizens; whether it infringes on the rule of law; whether the matters there cannot be better taken care of by statutes and that it is not to impose taxation but it does not go into minute details.

The other day, I saw it published in the newspapers draft regulations to do with renewable energy particularly on solar water heating systems. The proposal was that in every plan approval across the country, there must be provision for a solar water heating facility or solution.

As good as that is, in Nairobi in this month of June, when it is extremely cold, it might not be practical in Mombasa, Turkana and certain parts of Nyanza. So, if you get regulations of that nature, that make it mandatory to have a solar water heating solution in every corner of the country, you are opening the door for rent-seeking. Someone will come to your little shack in the village and tell you that we shall not approve until we see solar water heating in it.

If such regulations came to the House, are the hands of Parliament bound that they cannot get into the substance? If public participation was done, and if it ticked all the other boxes, can Parliament say that this is an impractical regulation? I would like that if we want to give good effect to the Statutory Instruments Act, we look at that aspect.

Secondly is on the issue of mediation. We have situations where the National Assembly has considered regulations concurrently with the Senate, and arrived at different results. That came out clearly in the first, in the 11<sup>th</sup> Parliament. The then-Senator for Meru County, Sen. Kiraitu Murungi, proposed some amendments to the Parliamentary Service Commission Act. In those amendments, he proposed that the Commission could set up a sub-committee to look at the affairs of the Senate, because the Act was written with a unicameral Parliament in mind.

Mr. Deputy Speaker, Sir, many of us supported the amendment, and we thought that it was a good idea, so that there is focus. We were not splitting the Commission, we were just bringing focus on matters to do with the Senate, so that there is also focus on matters to do with the National Assembly. Afterwards, we were required to come up with regulations to give effect to the thinking, and to give effect to some of the things that nowadays we enjoy, like the oversight funds.

We were taken round and round in circles. We came up with draft regulations, the other House rejected those regulations, and that was the end of it. We do not have a procedure for mediation when the two Houses fail to agree. That, in my view, should have been the urgency that the Hon. Kimani Ichung'wa, who is the promoter of this Bill from the National Assembly, should have looked at.

We had put in law the issue of expiry of Statutory Instruments that they shall expire in 10 years. I agree with my colleagues who say that we will not support that inclusion of the amendment of Section 27 that wants to revive, exhume and bring back to life regulations that expired on the 24<sup>th</sup> of January, 2024.

The other one is on the date on which statutory instruments take effect. There are certain statutory instruments that have been crafted in such a way that the effective date is clear. However, there are those that require publication in the Gazette for them to take effect. Sometimes you find very funny games being played at the government publisher that it takes forever for regulations to be published in the Gazette, and therefore even when people have gone through all the processes, those regulations cannot be effected. One of the cases that we have had in the past was the Public Benefit Organizations Regulations, 2025. They took forever for them to be published, and it threw that sector in a limbo.

Mr. Deputy Speaker, Sir, can Parliament consider having the power to review or nullify regulations *suo moto* without being prompted or even on the basis of a petition? Regulations originate from the Executive. They are drafted by the Executive, and once we approve them, they take effect. What is the process of annulling a regulation that perhaps was approved by Parliament, but which has turned out to be a national pain, impractical and inconsistent with the policy and the aspirations of the people? Can we grant ourselves that power? Yes, we have the power to amend legislation. We have the power to amend statute. Do we have the power to propose an amendment to a regulation once it is in force? Perhaps Sen. Mungatana will educate us on that. However, it is extremely dangerous. If Parliament has the power to amend the parent Act, but then the regulations that give effect to it, then it seems to be something that we cannot touch unless it originates from the Executive. Those are some of the things that we need to look at to amend in the Statutory Instruments Act.

Mr. Deputy Speaker, Sir, we must address the failure to bring regulations. In the climate change space, we came up with the Climate Change Act. We established a Climate Change Fund way back in 2016. To date, the Climate Change Fund has not been established. Why? Because the regulations have never been brought to Parliament, and that is 10 years. No one wants to do it because they want the money to remain in the parent ministry, because they know that the minute you establish a Fund, it is ring-fenced and there is greater scrutiny.

Mr. Deputy Speaker, Sir, as someone within that space, it would be my desire for us to push for the actualisation of the Climate Change Fund. There is a lot of money this country is committing to climate change adaptation and mitigation, and that is why we are a leader in Africa. Whenever we go for those meetings out there, Kenya has a lot of case studies and good examples. If you look at Financing Locally-Led Climate Action (FLLoCA), it is a model that is being studied by many other countries. If you look at our 47 counties, each county has got a Climate Change Fund. Each county has a climate change fund regulation, but we have failed to come up with a national climate change fund regulation. As a result, some of the climate change money is at the National Treasury, some in the relevant ministry, and some of it is in the Presidency. It is scattered all over the place.

I believe that if we were able to consolidate and provide good clarity, it would even be possible that out of this Climate Change Fund, we can come up with a green bank, which can be the prime sponsor or financier of climate adaptation and climate mitigation efforts in this country. However, what do we do with the Cabinet Secretaries

(CSs) who have failed to bring those regulations to this House? Those are the consequences that we must put in the Act to ensure that we compel them to do so.

Mr. Deputy Speaker, Sir, I want to conclude by reminding my fellow colleagues that we have a very sacred duty, which is only granted to this Parliament. Let us not give and yield our responsibility to the Executive. There are certain Executive directions. If you go to the strict definition of statutory instruments, it includes even tariffs, taxes and proclamations. Sometimes you wake up and find that the National Transport and Safety Authority (NTSA) is coming up with new fines and instant fine solutions without subjecting those matters to Parliament.

Mr. Deputy Speaker, Sir, recently we visited South Africa with the County Public Accounts Committee. We sat through the interrogation of the books of accounts of one of the big metropolitan cities in South Africa. It turned out that the management of the metropolitan city decided to turn off the instant fines. Out of instant fines, that city was generating 2 billion rands annually. They turned it off, and so they were now writing fines on paper. You know the kind of rent-seeking that would be, because if your fine was a thousand rands, someone would write 100 rands on paper and pocket the rest.

Things like tariffs, penalties and fines are statutory instruments in the strict definition of statutory instruments in this Act. They should come to Parliament for consideration. We must find a way of getting into the substance, because it is not just a matter of NTSA convincing us that they did public participation. It is not just NTSA giving us a list of participants. We must also be able to look at those matters to confirm that indeed whatever they are proposing is something that is reasonable.

In any case, in my view, if counties like Nairobi City County wanted to increase their own source revenue, they could set up an effective traffic management system, which other cities have done. It is embarrassing.

Whenever we travel to Cape Town, Abidjan, even Addis, even if you are in an Uber in the middle of the night, they will stop at the light, because they know if they jump the light, there is a fine that will follow them. Governor Sakaja could do that and I can tell you, with our driving habits, if it is properly enforced, if the roads are properly done, if we have a proper public transport system, the instant fines or traffic fines alone could yield enough money to enable Nairobi to develop her markets, hospitals and other facilities.

I reject the amendment to Section 27, but I also would pray that this amendment, let it be taken back, so that we have a much more comprehensive assessment of that space, so that we do not donate the power of Parliament to the Executive.

*(Interruption of debate on Bill)*

**The Deputy Speaker** (Sen. Kathuri): Honourable Senators, before we proceed with other Senators wishing to contribute, allow me to make this communication.

**COMMUNICATION FROM THE CHAIR****VISITING DELEGATION FROM GITIJIWE METHODIST  
CHURCH FELLOWSHIP, MERU COUNTY**

I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of a visiting delegation from Methodist Church Kenya (MCK) Men's Fellowship from South Imenti Constituency in Meru County, who are paying a visit to the Senate on the invitation of the yours truly, the Deputy Speaker and Senator for Meru County.

Honourable Senators, I request each member of the delegation to stand when called out, so that they may be acknowledged as per the Senate tradition-

- (1) Mr. Layford Gitonga
- (2) Mr. Jediel Mutuma
- (3) Mr. George Ntere
- (4) Mr. Stanley Nkonge
- (5) Mr. George Mburugu
- (6) Mr. Julius Mutwiri
- (7) Mr. Eliud Meme
- (8) Mr. Edward Gitonga
- (9) Mr. James Kinyua
- (10) Mr. Franklin Muriungi
- (11) Mr. David Nkoroi
- (12) Mr. Patrick Muriungi
- (13) Mr. Charles Nkoroi, and,,
- (14) Mr. Julius Mbaabu.

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

Now that I am on this Chair, I really want to welcome this team from Meru to the Senate. South Imenti is where I served as a Member of Parliament for 10 years, and now they voted me as the Meru Senator. Since I cannot do much from here, Sen. Eddy Oketch, please, welcome this delegation from Meru, but I can see you are not at the level of the Njuri Ncheke.

**Sen. Oketch Gicheru:** Mr. Deputy Speaker, Sir, the level of Njuri Ncheke that I have been introduced to, with your wisdom, anytime I come to your office, the generosity to take tea, is the level of Njuri Ncheke in terms of wisdom, not age. I have drunk a lot from your wisdom, time without number. Perhaps the guests should know that I have been involved in the cases of Meru the entire time I have been in this Parliament.

When Meru was facing a lot of tides, I entered this Parliament and this House to be particular, and in the first impeachment of the Governor of Meru, it is you, Mr. Deputy Speaker, who made sure that the wise people could be put in that committee, and I think we did a fantastic job.

In the subsequent impeachments also, that brought stability to Meru. I have really been very vocal in terms of participating there, and I think that the stability in Meru now is courtesy of the wisdom that this House has had.

I have also been involved in the issues of Meru most recently in my Committee on Finance and Budget. I was involved in the issue where Meru was almost being stopped from getting funds. Together with Sen. Tabitha and the Members of that committee, we refused that Meru cannot be denied its monies here, because of monies owed to foreigners.

Mr. Deputy Speaker, Sir, with those, you can agree that I am a Njuri Ncheke, in terms of my wisdom. I welcome this wonderful delegation. I think in the context of the honour you have given me to welcome them, I must just thank them for sending you to this House.

It is a sheer coincidence that they have come here to learn a number of things from Parliament. I wish them well, but the biggest thing you have learnt is that your own wisdom in sending to this House our own Deputy Speaker, who is now the sitting Speaker in this session, was not in vain.

We keep on praying that the wisdom can continue guiding you from what you learn here to make Meru stable, so that the years that Meru lost in the squabbles that were there at the beginning, we can stabilise them.

Continue giving your support to our Deputy Speaker here, so that whether you are sending him back to this House in the subsequent year, or otherwise promoting him to other more prominent Njuri Ncheke role, that would be nice.

Enjoy being here. I hope that you will give me the same courtesy when you will be leaving the House. There is a tradition which he has of greeting guests outside the chambers. I will be able to share more wisdom that is more practical than what I am able to share here in the chamber.

I welcome you.

**The Deputy Speaker** (Sen. Kathuri): Thank you, for the kind words. I think you are the best choice for that work.

*(Resumption of debate on Bill)*

**Sen. Olekina:** Mr. Deputy Speaker, Sir, I rise to make a brief comment on the Statutory Instruments (Amendment Bill) (National Assembly Bill No.3 of 2024).

My colleagues have already highlighted the dangers of allowing the Executive to control legislation. Parliament has been given the power of the purse. When it comes to the issue of the power of the purse, Parliament is the one that drafts legislation. In fact, in this Senate, we pronounce ourselves through Motions and Bills. We are also guided by the Constitution, that is set there to be able to provide a neater way of ensuring equity.

There are so many things that we talked about grandfathering of provisions that existed in the past. One of the things that I have looked at in this Bill is that the draft of the Bill introduces discipline and makes sure that there are timelines, deadlines of the regulatory making body to be able to set up those regulations, but mischievously now introduces Section 27.

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When I was consulting with my colleagues, particularly those who are in the National Assembly, they made me aware of this mischief, which really does not help us in any way, because the needs of Kenya in 2013 were completely different from the needs of Kenya today.

Today, we have Mr. Gen Zs, whose needs are completely different. We have the Gen Alphas, whose language some of us may not even understand. It is imperative, and I think the framers of the Constitution, if you look at Article 94, were quite clear in terms of trying to accommodate the change that will come in future.

When the National Assembly introduces this section, which I am going to read for people to be able to understand and to demystify further, to say that-

“Section 27 of the principal Act is amended by inserting the following new subsection immediately after subsection 2.

“Any statutory instrument that was in operation and that would have otherwise stand automatically revoked on any day before the commencement of this provision shall continue to operate and have effect as if the instrument had not been automatically revoked on the date.”

That is the issue of contention. Why do you set a sunset clause? I want to demystify further to go to the Constitution. When it comes to the issue of the Equalisation Fund, there is a sunset clause which had already been put there of 10 years or something like that.

If we now go back and do that, we have to amend the Constitution to check how the people who live in Narok are. Have they been able to have some form of equity with the people who live in Meru? Things are different. So, I think for neatness sake, discipline is welcome. It is important to make sure that the Bill, whenever there is any delay on implementing any laws that are passed Parliament, is made aware.

There are consequences because you are told that you must set up regulations. There is nothing wrong with rigidity and accountability. Laws must be rigid for us to have some form of development. However, when we continue with the laws or regulations that were pre the new Constitution that lapsed, that is a shortcut. Bring them back to Parliament. Let us have a conversation and subject them to public participation. Where we see that the needs have already changed in terms of those regulations, we adopt the current changes.

If you look at what is happening now, a good example with the laws on motor vehicles, there are clear regulations which are being introduced by the National Transport and Safety Authority (NTSA). They state that everyone who drives a car will now be required to have an inspection sticker annually. That is something completely different and new. We are copying other nations. There is also an economic aspect in it. There is an economic cycle which is being introduced. One, that says private entities can have inspection centres. It is either you share the cake or you make it easy for everyone to access it. What we were yesterday is not what we are today. Our circumstances of yesteryears are different from that of today. So, I think this clause is mischievous.

It is important that all of us are aware that these regulations will determine how investments come into this country. If there are particular or certain regulations, for example, with the Central Bank of Kenya (CBK), or by different pieces of laws that

would otherwise require investment to be done in a different way now, but were much friendlier before, when we introduce this clause, we then go to the previous prerequisites. Most of them may not even be very difficult to achieve than the ones of today.

We all know that we are living on borrowed times. Therefore, we should be aware that any piece of legislation that we draft has got consequences; those which are directly intended or otherwise. The intended consequences in this amendment is to bring in discipline, rigidity and accountability, when it comes to the issue of enacting legislations and regulations. However, there are unintended consequences which are being mischievously introduced in amending Section 27 of the principal Act.

Leave Section 27 of the principal Act intact. Bring all those regulations that have lapsed back here. We have the Committee on Delegated Legislation. Let it go through them and see whether the circumstances have changed. By doing so, also subject it to public participation, let Kenyans be aware.

There is this debate that people talk about Kenyans objecting to everything, but it is because we are much wiser than we were yesterday. It makes us question everything.

Today is a Wednesday. For whisky drinkers, the ones who drink whisky on a Wednesday, they are the real whisky drinkers. This is because they have a conversation with that drink. Those who drink on Saturday, drink either to celebrate the achievement of the week or a game that has been won or lost. Those who sit down on a Wednesday, still have two more days of the week. That whisky is asking them what they are running away from this time. They are still trying to figure out how they are going to solve the challenges of Thursday and Friday. You cannot compare a whisky drinker on a Wednesday and that of Saturday. Saturday is celebratory. It is a day to rest. Wednesday is a day to think and reflect how to carry out duties on Thursday or Friday; two more days of work.

Today is a Wednesday. So, whisky drinkers go reflect on what this Senate is talking about when it comes to the issue of legislation. I know we have a lot of them in the Lower House. So, today ask yourself why is it that Sen. Mungatana took time and said, no, this is mischievous? Why is it that Sen. M. Kajwang' took time and said, no, Sen. Olekina, we should object to this amendment? Why is it that when it comes to discipline, everyone is applauding the drafters of this amendment?

So, I, definitely, support my colleagues who have taken their time to educate us. Here, we consult and have a conversation. I think I will be joining you this evening for a glass of whisky. We can have a conversation with it and then maybe, it will guide us.

**Sen. (Dr.) Mungatana MGH:** On a point of information.

**Sen. Olekina:** I would love to be informed.

**The Deputy Speaker** (Sen. Kathuri): Proceed, Sen. Mungatana.

**Sen. (Dr.) Mungatana MGH:** Mr. Deputy Speaker, Sir, my grandfather, my father and I do not partake of that Wednesday fellowship, Sen. Olekina is inviting us to. Just to inform him. Maybe, Sen. M. Kajwang' can.

**Sen. Olekina:** That information was very important, but like I said, we are living on borrowed times. So, it should not matter how you live your life. It should not matter who loves or hates you. It does not change who you are. You just get up and move. It

does not matter how many haters you have or how many people vote for you because they think you are a saint.

I talked about a conversation. I think everything that is happening now, our forefathers and parents went through the same thing in stages. They had those conversations. Sometimes, to borrow from one of my favourite artists, being a witness is more than enough. So, we are now witnesses of what is happening in this country; some of the things we like and some we do not.

They always say the majority will always have their way, the minority will have their say. When we come here, we highlight challenges that we are facing. In this lifetime, we will be vindicated if we are not listened to. We are living on borrowed times. Therefore, when we sleep or have a conversation with a glass of whisky in the dark, we can stand firm and say we stand by what we did.

Currently, the entire country is in a mood that I cannot even explain. All of us are campaigning left, right and centre. In fact, if you look at the Senate, it is empty. Why? Everybody is trying to seek their votes to get back here next year or become a governor or whatever. We tend to forget what brought us here, which is to work for our people and there are dangers to that.

Mr. Deputy Speaker, Sir, right now, very few of us are aware that in the next few months, we are about to experience something that has not been experienced on earth in 150 years; a super El Nino and we are not prepared. I have a statement to that effect, hopefully, I will read it tomorrow. Hypothetically speaking, there should have been a regulation that guides counties on how to prepare for an El Nino.

Our forest cover was almost 30 per cent 10 years ago. Now, due to deforestation, we have mudslides which we never used to have 20 years ago in some parts of Kenya. It is a common factor now because we have destroyed our forests and thus, circumstances of yesteryears and today are not the same.

Mr. Deputy Speaker, Sir, to conclude, I plead with my colleagues that we take time to understand the consequences intended and unintended of any piece of legislation that we pass in this House.

I support with amendments.

**The Deputy Speaker** (Sen. Kathuri): Sen. Eddy Oketch, proceed.

**Sen. Oketch Gicheru:** Thank you, Mr. Deputy Speaker, Sir for this opportunity to also put my thoughts on this amendment Bill.

If you read our Constitution, the one that the people are keen on the most is Article one of the Constitution, which talks about the power of the people and the sovereignty that comes with it. That sovereignty must always belong to the people by all means possible who then, have donated it to their elected leaders. Those elected leaders, in one way or another, might find themselves in a situation where the Constitution enables them to delegate those powers given to them by the people.

If not checked or if left to be delegated in perpetuity, a delegated power can be abused. That is the sense of why we always have the Statutory Instruments Act. The ultimate House that has the power given to them directly by the people, is the House of Parliament. Therefore, that House of Parliament goes ahead and makes laws. The ministerial agencies and departments can vary them in terms of regulations or any

form of rules that they might generate because of this particular Act of Parliament; the Statutory Instruments Act.

Regardless of whatever powers that are given to this ministerial organisation, this mother Act does not allow them to be overbearing. That is why, in the wisdom of all the parent Acts that you will see in any jurisdiction, you will not find a statutory instrument given to ministerial departments and agencies or otherwise, delegated institutions in perpetuity. The parent Act can be there in perpetuity, but those who have delegated power cannot have these regulations in perpetuity.

The wisdom is because, the environment in which our laws work and are implemented keep on changing. It is always in the wisdom of the Constitution that the people must always be consulted.

Mr. Deputy Speaker, Sir, when I read this amendment Bill, its every other section is a decoration, apart from Clause 8. This House, which has demonstrated to be a solid and sober House, must interrogate Clause 8 of this amendment which says that-

“Section 27 of the principle Act be amended by inserting the following new subsection immediately after Section 2”.

That will be Section 3 that says-

“Any statutory instrument that was in operation and that would otherwise stand automatically revoked on any day before the commencement of this provision shall continue to operate and to have effect as if the instruments had not been automatically revoked on that date.”

If you look at that recommendation, it means that the thousands of regulations that were there prior to the Constitution, 2010 and not reviewed, would stay as they are. That allows the rules and regulations to continue in perpetuity and become law in and out of themselves without a people review process. For that people review process, we have the Committee on Delegated Legislation that is supposed to review anything that comes from the ministries.

I think this will be so dangerous for the country and the people that, we need to ignore everything else, but scrap off this entire section of the law. Why am I saying this? I have served in three committees in this House and every single time I interact with rules and regulations that have been there prior to the Constitution, 2010 and some that came after the Constitution, 2010. Remember, these rules and regulations should ordinarily not take more than a decade because if they take more than a decade, they start becoming law in and out of themselves.

I have interacted with laws and regulations in different departments that make it totally impossible to operate in the current constitutional order in a way that can empower people. I will give you examples, so that you see why this could become very dangerous. I serve in the County Public Investments and Special Funds Committee (CPISFC) together with Sen. Osotsi, who is my Chairperson and I am his Vice-Chairperson in the Committee.

If you read the Public Finance Management (PFM) Act that was developed after the new Constitution was promulgated, Sections 182 and 184, for instance, empower counties to own entities that can run some of the basic services in our counties such as water provision. Do you know that despite the fact that we have allowed these counties

to own things such as the water companies, the adjunct local authorities have not been able to transfer some assets to county entities so that they can run the water companies autonomously?

The regulations that run things like the asset books for counties are impossible to implement to the extent that these Water Service Providers (WSPs) are forever struggling. They are struggling with loans they cannot pay because the existing regulations have made it impossible for WSPs to own the loan books that we have in counties. Now they are sitting with water work agencies that continue to take loans on the backdrop of WSPs and give these WSPs a lot of burden.

Mr. Deputy Speaker, Sir, if you look at things like material, plant and equipment in counties, vehicles and all the instruments of production that were owned by the adjunct county councils, previously municipalities and local authorities that now do not exist in our structures that can make water service provision in our counties work properly, they are impossible to take from those water agencies to WSPs because of regulations that cannot be reviewed. You can imagine if they become law in themselves and sometimes they make the operations of the county entities extremely expensive.

I will give you an example. If today the County Government of Migori or the County Government of Siaya or the County Government of Wajir--- Let me even take those Nordic counties that experience extreme weather conditions. If they were to, for instance, drill a borehole, do you know that the regulations for drilling boreholes alone, the county government must go through almost seven regulations and all of these regulations are compliance regulations that are tied to a fee.

You find that for you to do one borehole, a county government probably will just need to hire a rig and then do a proper borehole at about Kshs1 million, but because they have to go through steps of different kinds of compliance regulations that have a fee tied to them, then they need to incur an extra cost of about Kshs200,000 to Kshs300,000. In some cases, like in the northern counties, they end up paying up to Kshs400,000 in compliance regulations. You have to pay the National Environment Management Authority (NEMA) some money; you have to pay the Water Service Regulatory Board (WASREB) some money; you have to pay all these different agencies that have been put under regulations that do not exist and want to squeeze money from all these counties just to dig a borehole.

So, a borehole that could have been dug at Kshs900,000 to Kshs1 million, ends up costing Kshs1.5 million. If you were to compute that amount to, say, a county that needs even twenty boreholes at Kshs500,000 extra cost, that means that this county is going to lose a cost of almost another 10 boreholes that they could have done without these regulations. This is the kind of environment that we are operating in.

If you leave this kind of Bill to pass in the Senate and allow it to go with those kinds of existing regulations that are going to continue in perpetuity without that review, I think it will be a disservice to the intent that the Constitution wanted when it allowed us to create the mother or the parent Act for which there has to be a review and going back to the people after every decade.

It is not only in the areas that I have talked about in the devolution family. Of course, the devolution family suffers the most. However, if you look at simple things

like--- I come from Lake Victoria and my people, together with the people of the Senator for Homa Bay, who has just spoken, are fisher folk. One of the biggest areas that you will find a swath of young people and even older people who do not have economic opportunities, trying to make sense of life for themselves, is actually in the lake.

Today, one of the biggest innovations that is actually sustaining the lake is what we call cage fishing. In fact, there is one of the biggest cage fishing farms in the continent called Victory Farms that is actually based at Sindo in Homa Bay County, where my brother, Sen. M. Kajwang', comes from. This particular farm employs 1,000 people directly. It has one of the biggest value chains that is trying to put a plate of fish on every Kenyan's plate today. They are doing about 49 million fish a day. I can tell you for a fact that they have the capacity to make sure that 600,000 tons worth of fish, which is a deficit in this country, is achieved in our lifetime. They cannot do it by themselves. They can do it when they empower fisher folk around them and around the lake to start having smaller fish caging facilities in the lake.

If you look at the ministerial regulations around access to compliance for the fisher folk in Lake Victoria, for somebody to be able to do fish caging or even just get a consent to access the lake, there is a regulation for it. You must pay a fee. The Beach Management Units (BMUs), I hope I do not use any jargon that Sen. Nyamu will not understand, because maybe she does not do fish farming. The BMUs are experiencing a lot of problems in terms of regulations that have been put there on a simple act of simply going to put a fish cage in their own water and start fish farming and plug into the distribution chain that Victory Farm has done across the country with all their depots.

To give you a perspective, a fish cage that can carry about 10,000 fingerlings that will then grow to big fish can cost about Kshs150, 000 to put up. A farmer can go out and get a loan anywhere to put this up, but for them to pass the regulations that have been put together by different ministerial requirements, they can actually depart with almost Kshs50,000. So, the cost of regulation is preventing these farmers from possibly starting this business. This is among the thousands of regulations that we have in this particular Bill that we want to pass. I can go on and on and on.

If you look at our Land Act, the provision on land and survey regulations that we have today makes it almost impossible, totally impossible, for people to embrace electronic transactions in land transactions in this country. If you look at the older frameworks, they create a lot of friction where simple technology could have been put in place, like block chain technology or digital signatures. If I am in the US today, and I want to buy land in Kenya, I cannot interact with digital signatures to buy land because regulations still want to depend on simple paperwork that were pre-Constitution of Kenya, 2010.

So, the moment we pass this Bill, the way it is, we will be unable to deal with these regulations that have not caught up with the ongoing opportunities that we have in the land survey, as well as land purchase agreements.

I can go on and on. Even if you look at the agricultural sector, there is the Agricultural and Food Authority (AFA), which affects you and me, and crop regulations. You remember that there have been regulations that the generic crop regulations, for instance, have criticised certain crops and somehow suffocated their specialisation

element in such a sector that it is so difficult for them to get some subsidies that you qualify for. For instance, why should AFA allow for coffee and maize to be subsidised and not miraa, or sugarcane, because of special classification of these crops? Why would those regulations exist when if you go to Nyanza today, if somebody is not in the fish industry, they are in the sugarcane industry? So, it means that whatever coffee and tea farmers are benefiting from, whether they are classified as high-end cash crops or otherwise, miraa should get the same kind of treatment. Why should that regulation pass because it is being bypassed with this particular section of the law?

So, I have a problem with this section of the law. Let all the regulations that have been there, that have passed 10 years, be brought back to the Committee on Delegated Legislation of Parliament. Let them go back to the people. Let them have public participation. Let this committee of this House approve of them continuing to work. Otherwise, the ministry is trying to have a serious back channel of just creating laws on its own. If we are not careful with these kinds of laws, they will seriously affect different sectors. Right now, do you know there is a regulation that requires that all the companies that are in the Nairobi Security Exchange must be able to do something they call ESG, which is Environmental and Social Governance instrument under something they call IFGR, so that that compliance can be able to create a cost division in all these particular companies?

The cost of implementation is not talked about. Its impact on service, for instance, banking, where compliance is, is a big issue. Compliance in the banking sector will affect Absa, Equity Bank and the different bank departments, and make it almost impossible to provide services. So, we must look at this in totality. I wanted to request fellow Senators that this particular Clause 8, we must not allow it. So, while I do support this---

*(Sen. Oketch Gicheru's microphone was switched off)*

**The Deputy Speaker** (Sen. Kathuri): Give him one minute.

**Sen. Oketch Gicheru:** Thank you, Mr. Deputy Speaker, Sir. While I support this Bill, in the other sectors that it has been put, I wanted to draw the attention of this House and all Senators to this particular Clause 8, that I think we should amend by deleting it in entirety for us to be able to pass this Bill. Otherwise, we will leave ministries to start their own ways of making laws without allowing Parliament to go through a process of consulting the people who are supreme in the lawmaking. We must go back to public participation. The 1,000 regulations that we have seen in this country must be reviewed in the context of the law and allow the House of Parliament to do its work by making laws.

Therefore, I support with amendments, a specific amendment, of deleting Clause 8 in its entirety.

I thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kathuri): Very well. Honourable Senators, having no other Senator willing to contribute, I call upon the Mover to reply. Since the mover is not around, I defer the reply of the Bill.

*(Reply to the Bill deferred)*

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

Hon. Senators, we will reorganise the Order Paper. Order No. 10 to 21 are Divisions, so I defer all of them.

**BILL**

*Second Reading*

THE NARCOTIC DRUGS AND PSYCHOTROPIC  
SUBSTANCES (CONTROL) (AMENDMENT) BILL  
(SENATE BILLS NO.1 OF 2024)

*(Bill deferred)*

**BILL**

*Second Reading*

THE ENVIRONMENTAL MANAGEMENT AND COORDINATION  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO.66 OF 2023)

*(Bill deferred)*

**COMMITTEE OF THE WHOLE**

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL  
(SENATE BILLS NO.3 OF 2024)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE NUTS AND OIL CROPS DEVELOPMENT BILL  
(SENATE BILLS NO.47 OF 2023)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE HERITAGE AND MUSEUMS BILL  
(SENATE BILLS NO.8 OF 2023)

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*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL  
(SENATE BILLS NO.10 OF 2024)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE ENVIRONMENT LAWS (AMENDMENT) BILL  
(SENATE BILLS NO.23 OF 2024)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE SPORTS (AMENDMENT) (NO.2) BILL  
(SENATE BILLS NO.45 OF 2024)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE PUBLIC AUDIT (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILLS NO.4 OF 2024)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE COUNTY HALL OF FAME BILL  
(SENATE BILLS NO.18 OF 2023)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE PUBLIC FUNDRAISING APPEALS BILL  
(SENATE BILLS NO.36 OF 2024)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL  
(SENATE BILLS NO.3 OF 2024)*(Committee of the Whole deferred)*

**The Deputy Speaker** (Sen. Kathuri): We will move to Order No. 22. Clerk, proceed.

**BILL***Second Reading*THE AUTISM MANAGEMENT BILL  
(SENATE BILLS NO.19 OF 2025)*(Sen. Nyamu on 14.05.2026)**(Resumption of debate interrupted on 14.05.2026)*

**The Deputy Speaker** (Sen. Kathuri): This Motion is open for debate. We are on Order No.22, Sen. Ososti. If there is no Senator willing to contribute, I will call upon the Mover to reply.

**Sen. Nyamu:** Thank you, Mr. Deputy Speaker, for this opportunity. The Autism Management Bill (Senate Bills No.19 of 2025) is highly anticipated by families and Kenyans living with autism and parents who have been raising autistic children on their own without any support from the state.

The proposals in this Bill include autism being covered under the Social Health Authority (SHA), structured diagnosis, structured therapy and support for families. It also has a human right approach for adults who are living with autism. We look forward to having these families recognised and accommodated in the society.

They should also get support from the Government, through the Ministry of Education and the Ministry of Health, so that these families do not have to struggle with this condition without any aid from the state. From the public participation we held, there was a concern on the other many neurodivergent conditions, not just autism. There are other conditions as well that needed to be included in this Bill.

*[The Deputy Speaker (Sen. Kathuri) left the Chair]**[The Temporary Speaker (Sen. Veronica Maina) in the Chair]*

Madam Temporary Speaker, I hope as we go for Division after Members' debate, we will enrich the Bill further. The whole point is to ensure that the children feel included, cared for and families do not feel left alone. Autism is a huge burden, as it came out during the pre-publication scrutiny stage in the committee. We were lucky to have one Senator in the Committee on Health who is raising a seven-year-old son who is autistic and had a wealth of contribution towards this Bill. Many changes were brought forward.

Madam Temporary Speaker, pursuant to Standing Order No.66(3), having no requisite quorum, I request that we defer the putting of the question.

Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Karen Nyamu. The putting of the question is now deferred.

*(Putting of the question on the Bill deferred)*

*(The Clerk-at-the-Table consulted with the Temporary Speaker)*

**The Temporary Speaker** (Sen. Veronica Maina): Next Order.

### MOTION

#### ADOPTION OF REPORT ON FOOD AND FEED SAFETY CONTROL COORDINATION BILL (NATIONAL ASSEMBLY BILLS NO.21 OF 2023)

THAT, the Senate adopts the Report of the Mediation Committee on the Food and Feed Safety Control Coordination Bill (National Assembly Bills No.21 of 2023), laid on the table of the Senate on Tuesday, 28<sup>th</sup> April, 2026, and that pursuant to Article 113(2) of the Constitution and Standing Order 167(3) of the Senate, approves the mediated version of the Bill.

**The Temporary Speaker** (Sen. Veronica Maina): The Mover of this Motion is the Vice-Chairperson of the Mediation Committee, but he is not here. I believe Sen. Wakoli is the one who was supposed to move this Motion, but he is not in the House. Therefore, the Motion is deferred.

*(Motion deferred)*

Let us move on to the next Order.

**BILL***Second Reading*THE COUNTY GOVERNMENTS (AMENDMENT) BILL  
(SENATE BILLS NO.39 OF 2024)

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Mbugua is not in the House. Therefore, that Bill is also deferred.

*(Bill deferred)*

Let us move on to the next Order.

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

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Fatuma Dullo, MP, is not in the House. The Bill is also deferred.

*(Bill deferred)*

Let us move on to the next Order.

**BILL***Second Reading*THE COUNTY GOVERNMENTS LAWS (AMENDMENT) BILL  
(SENATE BILLS NO.14 OF 2025)

**The Temporary Speaker** (Sen. Veronica Maina): The Mover is Sen. Abdul Haji, but he is not in the House. Therefore, the Bill is deferred.

*(Bill deferred)*

Let us move on to the next Order.

**BILL***Second Reading*THE AGRICULTURE AND FOOD AUTHORITY (AMENDMENT)  
BILL (SENATE BILLS NO.13 OF 2023)

**The Temporary Speaker** (Sen. Veronica Maina): Sen. James Murango is also not in the House. That Bill is also deferred.

*(Bill deferred)*

Let us go to the next Order.

**MOTION**ADOPTION OF REPORT ON SESSIONAL PAPER NO.1 OF 2025  
ON FOREIGN POLICY OF THE REPUBLIC OF KENYA

THAT, the Senate adopts the report of the Standing Committee on National Security, Defence and Foreign Relations on Sessional Paper No.1 of 2025 on the foreign policy of the Republic of Kenya, laid on the table of the Senate, on Tuesday, 31<sup>st</sup> March, 2026.

**The Temporary Speaker** (Sen. Veronica Maina): The Chairperson of the Standing Committee on National Security, Defence and Foreign Relations is also not in the House. Therefore, that Motion is deferred.

*(Motion deferred)*

Let us go to the next Order.

**MOTION**NOTING OF REPORT OF LIAISON AND SELECT  
COMMITTEES DURING THE THIRD SESSION (2024)

THAT, the Senate notes the Report of the Liaison Committee on the activities and operations of Select Committees during the Third Session (2024) pursuant to Standing Order No.224(2), laid on the Table of the Senate on Wednesday, 28<sup>th</sup> May, 2025.

**The Temporary Speaker** (Sen. Veronica Maina): The Chairperson of Liaison Committee, that is Sen. Kathuri, is not in the House. The Motion is also deferred.

*(Motion deferred)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, that brings us to the end. There being no other business on the Order Paper, the Senate stands adjourned until tomorrow, Thursday, 4<sup>th</sup> June, 2026 at 2.30 p.m.

The Senate rose at 5.58 p.m.