



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fifth Session

Tuesday, 29th September, 2026 at 2.30 p.m.

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 29th September, 2026

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Deputy Speaker (Sen. Kathuri): Serjeant-at-Arms, kindly ring the quorum bell for 10 minutes.

(The Quorum Bell was rung)

The Deputy Speaker (Sen. Kathuri): Clerk, read the first order.
The Senate Majority Leader through the Majority Whip.

PAPERS LAID

ANNUAL STATUS REPORT ON IMPLEMENTATION OF THE EQUALIZATION FUND FOR FINANCIAL YEAR 2025/2026

Sen. Wafula: Thank you, Mr. Deputy Speaker, Sir. I beg to lay the following paper on the Table of the Senate today, Tuesday, 29th September, 2026-

The annual status report on the implementation of the Equalization Fund for financial year 2025/2026 on behalf of the Senate Majority Leader.

(Sen. Wafula laid the document on the Table)

The Deputy Speaker (Sen. Kathuri): Next order. Chairperson of the Committee on Justice, Legal Affairs and Human Rights (JLAHR).

REPORT ON THE VETTING OF HON. FATUMA IBRAHIM
ALI AS NOMINEE FOR APPOINTMENT TO THE PSC

Sen. Wakili Sigei: Thank you, Mr. Deputy Speaker, Sir. I beg to lay on the Table of the Senate a Report on the vetting of Hon. Fatuma Ibrahim Ali, the nominee for appointment to the position of female non-member of the Parliamentary Commission, the Parliamentary Service Commission (PSC).

(Sen. Wakili Sigei laid the document on the Table)

NOTICE OF MOTION

REPORT ON THE VETTING OF HON. FATUMA IBRAHIM
ALI AS NOMINEE FOR APPOINTMENT TO THE PSC

Sen. Wakili Sigei: Thank you once again, Mr. Deputy Speaker, Sir. I beg to give notice of the following Motion-

THAT, taking into consideration the recommendations of the Standing Committee on Justice, Legal Affairs and Human Rights in its Report on the vetting of Hon. Fatuma Ibrahim Ali, the nominee for the appointment to the position of female non-member of the Parliamentary Service Commission, laid on the Table of the Senate on Tuesday, 29th September, 2026, and pursuant to the provisions of Article 127(2)(d) of the Constitution and Section 9(2) of the Parliamentary Service Act, and Standing Orders No. 77(3), the Senate approves the appointment of Hon. Fatuma Ibrahim Ali as a member of the Parliamentary Service Commission.

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

MOTION

NOTING OF COUNTY FISCAL PERFORMANCE
MEASUREMENT INDEX REPORT 2026

THAT, the Senate notes the County Fiscal Performance Measurement Index (CFPMI) Report, 2026, laid on the Table of the Senate on Thursday, 6th August, 2026.

(Sen. Cheruiyot on 6.8.2026)

(Resumption of debate interrupted on 23.09.2026 – Afternoon Sitting)

Do we have a quorum to put the question? If we have a quorum, I would also like to ascertain that the matter does not affect counties.

Order Senators. Sen. Osotsi, I know your mind is still in Vihiga. You are not yet in the House.

(Question put and agreed to)

Next order. Proceed, Sen. Ltumbesi.

BILL

Second Reading

THE LIVESTOCK PROTECTION AND SUSTAINABILITY BILL
(SENATE BILLS NO.32 OF 2024)

(Sen. (Dr. Lelegwe Ltumbesi 5.8.2026 - Morning Sitting)

(Resumption of debate interrupted on 24.9.2026)

Sen. (Dr.) Lelegwe Ltumbesi: Thank you, Mr. Deputy Speaker, Sir. I beg to reply to the Livestock Protection and Sustainability Bill (Senate Bills No.32 of 2024).

I thank the Senators who contributed on this very important Bill. This is a Bill that has come at the right time, when our livestock are being massacred by Government forces. It is sad that the Government of Kenya is protecting other people's properties, but sees the livestock of Kenya and the people of Samburu as anything else that can be dispensed with, and which can be related to a bandit; where forces whose duty is keeping law and order decide to massacre livestock at the watering points and grazing fields when children less than 14 to 18 years are looking after them.

This Bill that has come at the right time, At the Committee of the Whole Stage of this Bill, we should propose amendments that can protect the destruction of property and livestock. The people of Samburu or the pastoralist communities depend on livestock. When the Government of Kenya wipes out their livestock, then you leave families without anything to depend on. I know there are no clauses in this Bill that protect livestock, but I know the Constitution of Kenya protects the right to property. It protects the people of Kenya from hunger and from the deprivation of livelihoods.

Therefore, I thank the Senators who contributed to the Bill. I am sure most of them will come and make appropriate recommendations so that we deter Government forces from the pretext of whilst carrying out their duties of pursuing bandits, they kill our livestock and say that bandits were hiding among the livestock, including even calves and goats. I do not know how a bandit can hide among goats or calves.

Therefore, we urge the Government of Kenya and ask the Cabinet Secretary for Interior and National Administration to come forward and tell Kenyans who gave the instructions. We also ask how those families will be taken care of before the Government of Kenya compensates them.

Thank you, Mr. Deputy Speaker, Sir. Pursuant to Standing Order No.66 (3), I beg that the putting of the question be deferred to a later date. I beg to reply.

The Deputy Speaker (Sen. Kathuri): Very well, Sen. Ltumbesi. The putting of the question is deferred.

(Putting of question on the Bill deferred)

In addition, due to the reasons given, we are unable to transact business under Order No.10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22. That business stands deferred.

BILL

Second Reading

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

(Bill deferred)

BILL

Second Reading

THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILLS NO.29 OF 2023)

(Bill deferred)

MOTION

ADOPTION OF REPORT ON COOPERATION AGREEMENT BETWEEN THE NATIONAL GOVERNMENT AND THE NAIROBI CITY COUNTY GOVERNMENT

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the Cooperation Agreement between the National Government and the Nairobi City County Government laid on the Table of the Senate on Wednesday, 15th July, 2026.

(Motion deferred)

MOTION**ADOPTION OF REPORT ON CONFERMENT OF CITY STATUS
TO THIKA MUNICIPALITY IN KIAMBU COUNTY**

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the conferment of City status to Thika Municipality, laid on the Table of the Senate on Wednesday, 15th July, 2026 and, that pursuant to section 8 (6) of the Urban Areas and Cities Act, approves the conferment of City status to Thika Municipality.

(Motion deferred)

MOTION**ADOPTION OF REPORTS OF THE COMMITTEE ON DELEGATED
LEGISLATION ON TRAFFIC RULES AND NTSA REGULATIONS**

THAT, the Senate adopts the Reports of the Select Committee on Delegated Legislation on its consideration of the –

(i) The Traffic (School Transport) Rules, 2026 (Legal Notice No. 11 of 2026;

(ii) The Traffic (Motor Vehicle Inspection) Rules, 2026 (Legal Notice No. 13 of 2026); and

(iii) The National Transport and Safety Authority (Operation of Commercial Vehicles) Regulations, 2026 (Legal Notice No. 14 of 2026);

laid on the Table of the Senate on Wednesday, 10th June, 2026; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to **annul** the Traffic (School Transport) Rules, 2026 (Legal Notice No. 11 of 2026; the Traffic (Motor Vehicle Inspection) Rules, 2026 (Legal Notice No. 13 of 2026); and the National Transport and Safety Authority (Operation of Commercial Vehicles) Regulations, 2026 (Legal Notice No. 14 of 2026).

(Motion deferred)

COMMITTEE OF THE WHOLE**THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL
(SENATE BILLS NO. 8 OF 2026)**

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

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE SEEDS AND PLANT VARIETIES (AMENDMENT)
BILL (SENATE BILLS NO. 4 OF 2025)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE ELECTRONIC EQUIPMENT DISPOSAL RECYCLING
AND REUSE BILL (SENATE BILLS NO. 5 OF 2025)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE CULTURE BILL (NATIONAL
ASSEMBLY BILLS NO.12 OF 2024)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COMMUNITY HEALTH PROMOTERS BILL
(NATIONAL ASSEMBLY BILL NO.53 OF 2022)

(Committee of the Whole deferred)

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

(Committee of the Whole deferred)

Next Order.

MOTION**MAINSTREAMING A FRAMEWORK FOR CLEAN COOKING**

THAT AWARE THAT, Article 42 of the Constitution guarantees every person the right to a clean and healthy environment, which includes access to safe energy options;

FURTHER AWARE THAT, over 900 million Africans, including more than 90% of households in Kenya's rural areas, still rely on traditional biomass (firewood, charcoal, animal waste) for cooking, resulting in high levels of indoor air pollution that cause premature deaths, particularly among women and children;

CONCERNED THAT, in Kenya, indoor air pollution has been linked to over 23,000 annual deaths, with women and girls bearing the disproportionate burden of time spent collecting firewood and cooking, limiting their education and economic opportunities;

NOTING THAT, traditional cooking methods contribute significantly to deforestation, greenhouse gas emissions, and climate vulnerability at the county level, undermining national commitments under the Energy Act, 2019, the Climate Change Act, 2016, and Kenya's Nationally Determined Contributions (NDCs);

RECALLING THAT, the Africa Clean Cooking Summit (Paris, 2023) mobilized USD 2.2 billion in commitments for clean cooking, and the International Energy Agency has recommended urgent financing and policy action to achieve universal access by 2040;

ACKNOWLEDGING, the efforts of some counties, development partners, and private sector actors in piloting clean cooking projects, but recognizing that these remain small-scale and fragmented;

NOW THEREFORE, the Senate resolves that the: -

i) Council of Governors develops county-level policies, frameworks, and budgets that mainstream clean cooking into devolved energy and health functions;

ii) National Treasury and Ministry of Energy prioritize clean cooking in financing frameworks, including results-based financing and blended finance models to de-risk private investment;

iii) County Governments incorporate clean cooking targets in their County Integrated Development Plans (CIDPs) and ensure public institutions such as schools, health facilities, and prisons adopt clean cooking solutions;

iv) National Treasury and County Governments to fast-track letters of authorization to unlock carbon finance markets (Article 6.2 and CORSIA) for clean cooking projects; and

v) County Governments engage the private sector actors, and community organizations to expand clean cooking access, create local jobs, and reduce pressure on forest resources.

(Sen. Kibwana on 9.9.2026 - Morning Sitting)

(Resumption of debate interrupted on 16.9.2026 – Afternoon Sitting)

Sen. Hamida Kibwana is not in the House, so that business is deferred as well.

(Motion deferred)

Let us move to the next Order.

Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, Sen. Wakili Hillary Sigei.

MOTION

ADOPTION OF REPORT ON PETITION ON LIMITATION OF THE TENURE OF NOMINATED MEMBERS OF COUNTY ASSEMBLIES

Sen. Wakili Sigei: Thank you, Mr. Deputy Speaker, Sir. Receive my apologies. We had initially prepared ourselves to deal with the Motion that I have just tabled. Nonetheless, we are ready to proceed. I appreciate you for giving us the opportunity.

I beg to move-

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights (JLAHR) on a Petition by Mr. Laban Omusundi and others concerning limitation of the tenure of nominated Members of County Assemblies (MCAs) to a single term of five years, laid on the Table of the Senate on Tuesday, 8th September, 2026.

Mr. Laban Omusundi is a public interest litigator in this country. He has presented a number of petitions, not only before the Standing Committee on Justice, Legal Affairs and Human Rights, but also before many other committees of this House. I would like to appreciate him for his ingenuity and his role as a public interest litigator, similar to what my colleague, Sen. Okiya Omtatah, who is also a member of this Committee, has done before. I appreciate his expertise and the work he has done, including in relation to this petition.

The grievance raised by Mr. Omusundi in this petition is that there is no legislation in place to guide the term limits of nominated MCAs in the Republic of Kenya. In his view, the absence of such legislation has led to the misuse of nomination

slots by political parties. What was previously used as a tool to achieve affirmative action has, in some instances, been abused. Some individuals have been nominated more than once at the expense of other deserving cases. Therefore, in his petition, Mr. Omusundi asks that the relevant legislation be initiated through the relevant Committee, in this case JLAHRC, to establish a legal framework limiting the tenure of nominated MCAs to a single term of five years.

When this petition was filed, it was committed to the Standing Committee on Justice, Legal Affairs and Human Rights on 15th July, 2026. Mr. Omusundi's concerns stem from the provisions of Articles 193 and 194 of the Constitution of Kenya, 2010. He termed these concerns as legitimate because those provisions guide how nominations ought to comply with constitutional requirements. For instance, Articles 142(2) and 180(7) of the Constitution impose term limits on the offices of President and Governor to a 10-year term limit, two terms of five years each. He argues, therefore, that similar legislation should be enacted for nominated MCAs to enhance the affirmative action objective that the nomination mechanism is aimed at.

Mr. Deputy Speaker, Sir, upon receiving the petition, we engaged a number of stakeholders, including MCAs, Members of this House and other stakeholders in the political space to determine whether it was necessary to legislate on these term limits. One of the issues we considered was a comparison with local practice in Kenya, the region and other jurisdictions, to determine whether such legislation would be appropriate. We received varying positions. The issue of nomination is tied to political parties. As you may recall from your time in the National Assembly, even before the Constitution of 2010, nominations were largely the preserve of political parties. They remain so today.

The reason we nominate individuals is, at times, to appreciate those who have contributed largely to the growth, development and support of a political party. It also ensures that those who participate in the political process but are unsuccessful in elections are still able to serve and represent the people and special interest groups. In Kenya, they are used to represent marginalised communities, the youth and other categories of persons who require representation. It is expected that political parties will utilise the nomination slots available to them to achieve those purposes.

While we acknowledge that this is an important petition, it also raises a critical issue of public interest. Apart from elected members, there is a need to have nominated members who represent special interests and specific groups within our society. For instance, where a county assembly does not meet the constitutional gender threshold through elected members alone, a gender top-up list is used to attain the required representation. However, the question of whether political parties should be restricted to nominating an individual for only one term is one that the Committee grappled with extensively.

Many stakeholders who submitted their views voiced varying positions. Some supported limiting nominated MCAs to a single term of five years. However, the majority were of the view that the matter should be left to the discretion of political parties, as long as they comply with constitutional requirements relating to gender, youth representation and the inclusion of marginalised and special interest groups.

Generally, they said we should not interfere with the current legal position on how political parties nominate, and whether we should limit or not. The justification advanced was that if we limit, the political party that has the mandate to nominate would be micromanaged by a legislation that would block them from making sure that the people whom they nominate carry and advance the aspirations and interests of the political party. Therefore, as to whether or not we are talking about a two-five-year term, or a one-five-year term, that should be a preserve of the political parties.

From the observations that were received and the submissions that were analysed from various stakeholders, the Committee was convinced that we should not accede to creating that limitation of a timeline of a five-year single term or five years. However, as a rider, the political parties must ensure that in every nomination they make, they comply with the statutory provisions and the Constitution. To ensure loyalty to the political parties and advancement of the objectives and the interests of the political parties, the mandate and the discretion should be left to the political parties.

Therefore, the recommendation, that came from the Committee is that we should not accede to the request in the petition. Consequently, in the view of the Committee, the petition by the petitioner, Mr. Omusundi, was declined with reasons that I have advanced. This is to ensure that we leave political parties to be independently managed by those who are statutorily mandated to do so and also by the Constitution in terms of the timeline within which an MCA should be nominated.

Mr. Deputy Speaker, Sir, part of the extended justification is the provisions of the Constitution on limitation of the Office of the Presidency to a two five-year term, as well as that one of the governor. Other than that, we leave out the rest.

Otherwise, Mr. Speaker, Sir, I appreciate the support that we got from the stakeholders and the submissions that we received. We also had generous contributions from Members of the Committee on Justice, Legal Affairs and Human Rights in the course of considering this very important petition. This is because we are headed to a political season and an election year, where this, among other very important issues in law and management of our political parties towards the General Election, will come into play.

This particular petition had previously been filed in the form of a proposal to an amendment to the Elections Act and, unfortunately, it did not pass. When it came in as a petition with those considerations and the concerns that were raised by stakeholders as well as the analysis by the Members of the Committee, the petition was declined.

Mr. Speaker, Sir, I equally appreciate your office and that of the Clerk for the support that was advanced to Members of the Committee, as well as the stakeholders who appeared before us in processing this petition.

I, therefore, move and ask Sen. Maanzo, who is a Member of Justice, Legal Affairs and Human Rights, to second this particular Motion.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. I am a Member of the Committee on Justice, Legal Affairs and Human Rights, and also a Member of the united alternative government.

We went through this petition which simply asked that any nominated MCA be nominated once; or for one term. Once we went through it, the justification given was not

sufficient. The constitutional and statutory provisions are there in the Elections Act. Therefore, I want all the nominated MCAs in Kenya, both in the Government and the opposition, to know that this House and the Committee on Justice, Legal Affairs and Human Rights said no to this proposal.

We wanted it to be free so that any person who serves a political party can be nominated as many times as that political party pleases, so long as they follow the Constitution and the statutory provisions which exist. Limiting it to once term and the various variants that are looked at when nominating somebody – we have the youth, people living with disability and a minority in a certain area like in a county. Therefore, all that cannot be controlled and put down to just one term of nomination for MCA, as requested by Mr. Omusundi.

Therefore, I second this Motion and urge this House to support the position that we settled on.

Thank you, Mr. Speaker, Sir.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): I now open the Floor to Members wishing to contribute. I will start with our elder, Sen. (Dr.) Khalwale, CBS.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, let us reflect on what Mr. Omusundi is trying to achieve. He might have spoken to nominated MCAs, but he could as well have spoken to nominated Senators, Members of the National Assembly, Persons Living with Disabilities (PWDs), and the youth. This is a broader subject than the Committee thinks. With all due respect to the Chairperson of the Committee, this is a classical case where a single Kenyan has appreciated the intention of the Constitution, let alone an entire Committee.

The population of women who are competing for nomination in Kenya is 52 per cent. The population of youth competing to be nominated is 35 per cent. The population of PWDs competing for nomination is 2.7 million people. How can we, with such a huge pool of deserving Kenyans, nominate anybody more than once? When will the others benefit? Even if the Committee on Justice, Legal Affairs and Human Rights has refused this petition, we would like Kenyans listening to Parliament today to know that Mr. Omusundi has provoked us sufficiently. We are going to make the necessary amendments to the legislation to give effect to the Articles of the Constitution that want certain groups to be nominated.

Mr. Deputy Speaker, Sir, when I was serving in the National Assembly, there was a particular lady who managed to be nominated three times.

An Hon. Senator: *Gani huyo?*

Sen. (Dr.) Khalwale: Three times, Sen. Aaron Cheruiyot.

An Hon. Senator: Which one?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, because she is my good friend, I do not have to offend her and her family. However, she was not deserving.

The intention was to give an opportunity to nominated Members to learn the ropes so that at the next election, they could go and compete. Why do you want to be baby-sat

when you have been nominated for five years? What were you doing? You are supposed to not only participate in your work in your respective House or county assembly, but also know how to work the voters on the ground.

Mr. Deputy Speaker, Sir, it is unfair to the 2.7 million PWDs that any member can be nominated to this House again and again; to the National Assembly again and again; or to the county assembly again and again. What is worse is that not many people might have the kind of talents that Sen. Sifuna has. Some nominating leaders of political parties end up nominating girlfriends, relatives, and some even nominate their children.

(Sen. Korir spoke off record)

Do not interrupt me. You will have your time. Sen. Joyce Korir, we are talking about the qualification for nomination. Today we are discussing you positively.

Any Senator opposing this is confirming that they would rather please the people who are currently their colleagues at the expense of the rest of the women who voted for them before they came here. For nominated colleagues who are here, it should be nothing personal. In fact, it is an honour and privilege that out of 52 per cent of Kenyan women, you managed to be nominated. That is good enough.

Mr. Deputy Speaker, Sir, as an advocate for the interests of women, I insist that advocates of women in this House should not just be advocates of some women; they should be advocates of all Kenyan women. All Kenyan women are not just in our 47 counties, the Senate or the National Assembly. They are sourced from wherever they are.

Finally, so that I allow colleagues to contribute, this petition has pricked me in another way. Since some political party leaders end up nominating in a partisan way, we should also make another decision. That is, the person who presents herself as a woman representative should not be voted for by all voters in that county. That woman who wants to be a woman representative should be voted for by the women in that county. When you ask me to go and vote for a woman Member of Parliament (MP) in Kakamega, what do I know about special interests of women that that woman representative is going to represent? We should allow women in a county to vote for the person they want elected.

Let me tell you what used to happen during the Kenya African National Union (KANU) days. During those days, people who used to be favoured to become officials of Maendeleo ya Wanawake used to be either wives or girlfriends of politicians. Let us keep out of the affairs of women when they want to choose who is best suited to represent them. There are lawyers in this House. When did you see non-lawyers voting at an election of the Law Society of Kenya (LSK), when the LSK wants its chairperson? The LSK asks only lawyers to make that decision. If women make a decision on who should represent them, we should allow only women in that county to make that decision.

Finally, I want to send my greetings to all the women of Kakamega to realise how hard I work to make sure that their interests are expressed in this House.

(Applause)

Mr. Deputy Speaker, Sir, I oppose.

(Laughter)

(Interruption of debate on Motion)

The Deputy Speaker (Sen. Kathuri): Order, hon Senators. Let me make this communication before we proceed.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION UNDERTAKING AN ATTACHMENT PROGRAMME

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery, this afternoon of seven young men and women who are in the Senate undertaking an attachment programme. The objective of the programme is to provide young people with firsthand experience in the legislative process, and to expose them to the intricate world of public policy and public service. They have been assigned to understudy our staff in various directorates of the Senate.

(Sen Maanzo spoke off record.)

Order, Sen. Maanzo!

I request each of the attachés to stand when called out so that they may be acknowledged in the Senate tradition-

1. Mr. Zephania Emanyen Ekutan - University of Nairobi
2. Mr. Owen Toyota - Kenyatta University
3. Mr. Kennedy Mwangemi - IKenyatta University
4. Mr. Nathan Mbela - Catholic University of Eastern Africa
5. Mr. Emmanuel Kipng'eno - Management University of Africa
6. Ms. Tumaini Kithome - Riara University
7. Ms. Ng'ang'a Fidelis - Mount Kenya University

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to you. On behalf of the Senate and on my own behalf, I wish you a fruitful learning programme.

Thank you.

(Applause)

Let me give this opportunity to the leadership of the House. Senate Majority Leader, you have the Floor.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, to contribute to the petition or to welcome the visitors?

The Deputy Speaker (Sen. Kathuri): To welcome the delegation, I will also allow one minute to the Chairperson of the Committee on Education.

Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. I want to appreciate this chance, on behalf of the Senate, to welcome and recognise visitors who have taken the time this afternoon to join the plenary session of the Senate as they watch us deliberate. This is part of their learning experience. You cannot say that you have worked in Parliament without having had the opportunity to witness us debate, interact and do the kind of things that we do. Therefore, I do welcome these students. I hope that in the course of their study, they will get to see all the nuts and bolts of the institution that is Parliament.

I take pride in one more thing, Mr. Deputy Speaker, Sir. In my community, there is a story of a cow and chicken. A cow gives us milk silently, but a hen gives us eggs and makes a lot of noise about it. I am saying this because during my time as a Commissioner in the Parliamentary Service Commission, I chaired the committee that designed the internship programme that these students are enjoying. I do not like blowing my own trumpet, but each time I watch students such as these, I feel proud of the decisions that we made.

Even in the Directorate of Legal Services, there used to be a lot of problems because very many lawyers were applying because they were interested in serving in Parliament. We designed it in such a way that we could only take 15 trainee students per year, and from all the counties. Therefore, if your county got an opportunity this year, we would have to exhaust all the 47 counties before we go back to your county again. That was passed in the policy of the Parliamentary Service Commission led by yours truly. Therefore, I celebrate and appreciate this work that has been done for the students to enjoy this.

I thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Is it the same practice in the current Commission?

The Senate Majority Leader (Sen. Cheruiyot): We may have to ask. I cannot see any Commissioner in the House.

The Deputy Speaker (Sen. Kathuri): Sen. Joyce Korir is a Commissioner, and she is here.

The Senate Majority Leader (Sen. Cheruiyot): The Vice-Chair of the Commission is actually behind me. I do not know if they kept the practice. A lot has changed, and I have a lot of things to say. I have seen a report on vetting of Hon. Fatuma. I will say it during that time.

The Deputy Speaker (Sen. Kathuri): Are you a cow or a chicken?

The Senate Majority Leader (Sen. Cheruiyot): I am the cow; I did a lot without making a lot of noise in rallies, unlike some of my friends.

The Deputy Speaker (Sen. Kathuri): Yes, the Chairperson for Standing Committee on Education.

Sen. Betty Montet: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to join you in welcoming the student attachés to the Senate.

Mr. Deputy Speaker, Sir, in the time that we have worked in the committees, which is the best place to get the best experience, we have had these attaches joining the Committees because they get to see the Senators at work. I encourage them to take their work seriously, especially in the committees they are going to be attached to. I have always told the attaches to leave their phones away when they are in the committees and they will learn a lot, because that is where all the work for Senate is done. Please take advantage. By the time you will be leaving here, you will have had a good experience and say that you have worked with the leaders of this country.

I wish you all the best.

Thank you.

(Resumption of debate on Motion)

The Deputy Speaker (Sen. Kathuri): Very well, let us hear the voice of a lady who was elected from the county. Sen. Muthama Agnes Kavindu, proceed.

Sen. Kavindu Muthama: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity, even though I did not request for it.

The Deputy Speaker (Sen. Kathuri): You are the first one on the list.

Sen. Kavindu Muthama: It is good to nominate people, and we should not limit their terms. However, I advise them to go out there, campaign and be elected, because it is more powerful to be elected than to be nominated. Yes, you can legislate, but when it comes to voting, you have no power to vote. It is okay for them to be nominated even ten times because for one to be nominated, she must have served the party. Some of them actually campaigned even more than the people who are on the ground.

I support this, but I also encourage them wherever they are that once they are nominated, they should also go out there and campaign. Face the men *Mundu khu Mundu*.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Senate Majority Leader, I lost your intervention when I gave you the opportunity to welcome the visitors. Proceed and give your comments now.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, this is a very interesting conversation about what happens in our political parties. Mr. Laban needs to---

Mr. Deputy Speaker, Sir, I do not know why, I have seen--- We are yet to meet the Parliamentary Honors Committee for this year. I do not know who the nominees are. I am actually told the meeting is tomorrow. However, in my fair proposal, Mr. Laban Omusundi needs to feature very prominently in that list because of the number of times he trains our minds to think, approach and see things differently.

He takes his time to petition this House on various issues. Sometimes we agree with him, while other times the committee does not, like they have not agreed with him this time. It is a mark of a Kenyan who believes in the institution of Parliament, and that it is our duty and responsibility to right all the wrongs, be they legal or otherwise, including cultural.

I have had the opportunity to sit on tables where nomination decisions are made, and there are many dynamics to this issue of nominations. I see my good friend, Sen. Osotsi, smiling. He is a party veteran who has previously been accused of using that opportunity to reward himself. I do not know whether it was true, but that is what I heard from another party where I used to be a member. I hope he does not do that in the new party when my friend, Sifuna, finally succeeds to find a home. I hope he will not put Osotsi anywhere near nominations.

(Laughter)

In those deliberations, there are many things that a party leadership considers. I have heard colleagues talk about campaigns and things like that. There are also situations where, during a nomination exercise, for one reason or the other, those that have had the opportunity to work in big political parties--- I am now talking about serious political parties, and they are not more than two in this country presently. I am talking about the United Democratic Alliance (UDA) party, and the Orange Democratic Movement (ODM); parties where you struggle to get nominations across the country near a general election exercise.

If you speak to those that have been secretary generals or served on the election board, they will tell you it is a season of madness in political parties. Sometimes, things just go wrong for reasons you cannot even explain, and you do not have the resources, the time and sometimes it is violent. You understand how if you have a party ticket for some of these political parties, you are almost 90 per cent already in Parliament.

If, for one reason or the other, a party feels that they gave a certificate to so-and-so but are not certain whether they were fair to another individual, that becomes part of what parties do to balance out these things; be it in Senate, National Assembly or even the county assemblies. In the county assembly sometimes that is also the case. You understand how Member of County Assembly (MCA) elections are very competitive in certain parts of the country, and to get the popular party's ticket is not an easy exercise. You find that women who have been so competitive, but for one reason or the other, did not eventually end up make it to the shortlist.

Of course, the question in many people's mind is where are you going with this, because the objection is not the nomination, but a repeat nomination. I will explain better. From my experience as a legislator, you actually get better in legislation with time. That has been heavily demonstrated many times. You can see that in seasoned legislators, even just by how they make their contributions, their passion for their House, and the quality of their debate. The more times people get an opportunity to serve in these Houses, including in our legislatures in the county assemblies, the better they become.

There are people who the party wants to appreciate for their industry. For example, let me just use my good friend, Sifuna, again. I see him in his rallies with constant faces that are supporting him and cheering him on. I know people may sometimes say certain things, but I know those people; some of them are my friends who I was with in Jubilee in 2017 and the rest. After people have made that kind of contribution to the party, that becomes their area of specialty.

I have come to know that managing affairs of a political party is a totally different ball game to running and campaigning. You can be very good at campaigning, but managing the affairs of a political party is not an easy exercise. If there are people who have carved out that area as their area of expertise, that they lend their competence in either electoral disputes area, managing nominations or going around with party leaders and things like that, grant them the opportunity! What is the problem? Because it is their contribution to the political cycle.

I, therefore, completely disagree with my good friend, the bullfighter, who said that those of us who, for one reason or the other, that if we disagree with Mr. Laban, we are dismissive of the rest of the people that do not have the opportunity. I do not know whether that is a policy of his party, because I know the bullfighter, just like every leader from western Kenya, has a party also. No, he has a party. He is my friend and I am aware. He told me he even wanted me to be the deputy party leader. However, I told him I do not see him going very far, so I will not be party to it.

Mr. Deputy Speaker, Sir, the committee made the right decision. It is important that we grant people the opportunity. Maybe we may want to limit it because, for sure, if you go now beyond the second going to the third, then you must be having very unique and rare skills.

Mr. Deputy Speaker, Sir, the Chairperson of Justice, Legal Affairs and Human Rights Committee wants to inform me. Since they handled this petition and met Laban, I am sure he has useful information which I would not mind.

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

Sen. Wakili Sigei: Mr. Deputy Speaker, Sir, I would like to inform the Senate Majority Leader that the committee has proposed that if we must limit nomination, it can only be a two-term limit of five years each. That is a recommendation that the committee ought to have made to either reject or accept. Otherwise, we have observed that a two five-year term limit can be enacted as law.

I thank you.

The Senate Majority Leader (Sen. Cheruiyot): That is useful information. Great minds think alike. I was not party to the committee's deliberations, but I am glad that they also saw it that way. At least by the time you are doing your second term, you can also get into the hustle and push of trying to get elected, and things like that.

There have been quality nominations, including in this House. We had a colleague who was nominated by the Orange Democratic Movement (ODM) Party in the past two sessions of the Senate, Hon. (Prof.) Agnes Zani. I do not normally rank colleagues because I listen to all of them fairly. However, each time she took the microphone, the House would go silent because her contributions were quality, and they kept getting better with time.

I know she was part of the team that the late former Prime Minister Raila Odinga put together with the President, and she led the ODM team in that exercise. I believe that is experience that was tapped into because of the long period she served in Parliament. If the committee thought of it that way, maybe the challenge now to you, Sen. Wakili, as the Chairperson of the committee, is that nothing limits you from leading us in that direction. If you proceed that way, we will appreciate.

Mr. Deputy Speaker, Sir, I do not want to be long at this, because I know many colleagues want to contribute. Those are my contributions and thoughts.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Onyonka Richard.

Sen. Onyonka: Thank you, Mr. Deputy Speaker, Sir. I am tremendously enjoying this discussion and debate. Sometimes some of us wish we would spend more time engaging on the petition by Mr. Omusundi.

On this discussion by Mr. Omusundi, at a personal level, I have been asking myself; what happens to these gentlemen from western Kenya? One of them is called Omtatah, another one is Omusundi, and the other one is Sifuna. Which water are these people drinking? Public interest, fighting for the weak, and bringing issues which are constitutionally ambiguous and clarifying them.

After listening to this debate, especially the issues that the Senate Majority Leader has raised, my colleagues, I think we need to give a lot of accolades to some of the nominees who have been through this House and the National Assembly. For some of us who have been on the other side, I have tremendous respect for a lady in this House, and that is Sen. Mumma. She carried the ODM Party when it was very difficult. Commissioner Korir is also an incredible person. She has been wonderful. We also have Sen. Muthama here, and my sister, Sen. Essy Okenyuri. When you look at our excellent leader, Hon. Crystal Asige, she is really talented and has been amazing in championing issues. At a personal level, there is somebody with whom we started the ODM Party, her name is Hon. Janet Ong'era. She was actually nominated twice because she was the Chief Executive Officer (CEO) of ODM Party for 15 years.

There are cases where somebody should be nominated twice. Maybe what the committee can do is to create a clarification, because what this Motion was trying to cure is the narrative of the unfairness of having some Senators or MPs who have participated for one term of five years, and have done exceptionally well in the Senate – like my sister and colleague whom I have a lot of respect for – Sen. Tabitha Mutinda. You have done exceptionally well in all the committees, and you are somebody I would want to give a second term. However, if this is abused, then it becomes a problem.

The second issue is what we are curing. When somebody serves for one term, they never get their pension. If we were to create a win-win situation, we should allow somebody to serve two terms to enable them get pension. If somebody serves for two terms and they have not served in any other office beyond two terms, the best thing they can do is to let it be.

Mr. Deputy Speaker, Sir, this House has been reasonably good in terms of picking out and interpreting issues and challenges affecting us. The Kenyan Constitution, which is an incredible document, was trying to cure the issues of affirmative action, whether it is about women, PWDs or affirmative action through gender parity. This House must seize the moment and ensure that whatever legislation we bring to the House is fair, reasonable and enables people who have worked in this honourable House to appreciate that at least they were given a chance to serve.

So, in a way, with a few amendments, I do not want to dismiss what Omusundi was trying to cure. If we can come up and limit the number of times; for example, if you

get nominated twice, that is enough. However, we have many of our members who have the capacity and have settled in these murky waters of politics who can move on. In that case, our parties should continue supporting those individuals if they are strong so that they create a critical mass of people who would want to run for these positions.

Mr. Deputy Speaker, Sir, this is one of those Motions that makes me happy to work in this House.

I thank you.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Joe Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Deputy Speaker, Sir, for the opportunity to also add my voice to this particular report by the Justice, Legal and Human Rights Committee that is based on the petition by Mr. Omusundi.

From the outset, I do not agree with the committee's recommendations. The reason for that is that nominated slots are affirmative slots. That is why they are normally given to women and sometimes to PWDs. That then being the case, it is important that we also give opportunity to other women and PWDs. I would not, therefore, support a situation where somebody is nominated a second time. One time should be enough to allow a particular nominee to have built leadership; and to have gathered courage to seek elective positions in the next elections. Most importantly, we should also allow others an opportunity to be nominated, to learn leadership skills and gather enough courage to seek elective seats in the future.

Mr. Deputy Speaker, Sir, it is said that what a man can do, a woman can do better. We have nothing against our women because we are husbands and fathers to daughters. Therefore, we want to promote the interests of women. However, like Sen. Khalwale has said, we have many women. If you have been lucky, for example, to be nominated once, it is important that you cede that position to another woman to also be nominated like you.

Do you know why Sen. Sifuna has become very popular? It is because the youth can associate with him. When we get positions and then we want to stick to them, that means that those who are young may not get an opportunity to be nominated. We also have many people living with disabilities. Therefore, we cannot legislate here and say that somebody with very good skills deserves another seat. There are many Kenyans with better skills. An individual's skills, knowledge and wisdom cannot be seen until and unless one is given an opportunity to prove themselves. For that reason, I am opposed to this.

Mr. Deputy Speaker, Sir, somebody must graduate. One cannot be in primary school all the time. Once you complete primary school, you need to get to the next level, which is senior school. If one is nominated once, they must graduate, and in the succeeding election, seek an elective position. Otherwise, we will have people sticking to positions for a long time, and they will not create an opportunity.

However, Mr. Deputy Speaker, Sir, allow me to differ with Sen. (Dr.) Khalwale on the position of women representatives. He suggested that we should escalate this to men, or to have a particular recommendation that women representatives be elected by only women. I want to remind Sen. (Dr.) Khalwale that Article 97 of the Constitution states that we shall have 47 elected women. They do not to the National Assembly just to

represent the interests of women. That is why we must correct everybody who calls them ‘women representatives,’ because they are not women representatives. They are representatives who are women. Therefore, they do not just represent the interests of women. Those are affirmative seats so that women can be elected to represent the interests of both men and women. I would not recommend that they be elected by women, because they also represent the interests of men. That is why they are woman representatives; a representative who is a woman, and not a representative of women.

The only thing that I would suggest, if we were to get to that particular kind of debate, is that they also be elected once so that after the first term, they seek election in a single constituency, or something like that, because they only compete with women. That way, they can allow other women to also be elected to hone their leadership skills. I do not know whether we can make an amendment, but we should not have a situation – for many reasons, including those that Sen. (Dr.) Khalwale has raised here – on how these particular nominees are brought about. We do not want to reward people because of other reasons, because there could be many other reasons.

I want to allow my colleagues to also have an opportunity to contribute. I am opposed to the recommendations of the Committee, and we should go by the request by Mr. Omusundi, that somebody be nominated just once.

I oppose. Thank you very much.

Sen. Sifuna: Thank you, Hon. Deputy Speaker, Sir. I do not agree with the Senate Majority Leader very often, but I agree and second his recommendation, that the Parliamentary Honours Committee considers the name of Laban Omusundi as one of those who will be receiving honours.

I say this because in the time that I have been in this Senate, I have heard more than five Petitions from Mr. Omusundi alone, and he has been raising very valid concerns on various issues in society. Unfortunately, he does not have a big success rate. I have met him, and he is a very well-spirited person. The fact that he does not give up, in as much as some of his proposals are repeatedly declined by this House, and that is something that we all must celebrate.

Secondly, when the Senate Majority Leader spoke of the cow and chicken, I remembered the cartoon I used to like, which was called Cow and Chicken. Sen. Kibwana and I were confused on which one he was. This is because he said that a cow gives milk without making noise, yet he was making noise about the milk that he gave us with the Parliamentary Internship. That left us wondering.

Maybe our cows are different. When I went through the rites of passage, as a young man, my grandmother gave me a cow. I have never forgotten that cow. It was black and it was called *Nasimali*, which means a black person in Kibukusu. Milking that cow was war. One had to tie its head, legs and tail. Otherwise, one of those appendages would find itself either spilling the milk, or kicking you in the face as you milk. Maybe the cows at Sen. Cheruiyot’s farm are a bit humble. The ones in Bungoma are really tough.

I was the Secretary General of the Orange Democratic Movement (ODM) Party for nine years, and I have stories to tell from here to Timbuktu about this question of nomination. If there was one thing that used to cause pain in ODM, it was nominations.

One of the biggest challenges is that people do not understand how political parties work, and it is the responsibility of the leadership to explain, though we would still come up short even when we explain.

As always, we want to go back to the beginning of all these issues about giving nomination slots to certain categories of people. There is a history to it. It was an affirmative action that was taken to grow capacity of certain categories of people who have been traditionally locked out of leadership for various reasons. It is women, young people, the marginalized, and PWDs. If you consider those categories of people, the biggest impediment for women and young people is usually resources. It is very expensive to campaign in this country. As the Secretary General, I was the patron of something we used to call “he for she,” because we believed that for women to find their rightful space in leadership, it requires that men act. This is because *sisi ndio vizuizi*, as they say in Swahili. You know we have just come from the coast, and there is a bit of Swahili left in the system. But, that was the problem.

There are places in this country where a woman will not win even if the largest political party were to give her the ticket for a constituency. I do not want to mention regions, because they know themselves. Where I come from, here in Nairobi, in the last Parliament, out of the 17 constituencies, we only had one woman elected, Mercy Gakuya in Kasarani. During the 2022 election, we had the same scenario. Out of the 17 constituencies, we only had one woman elected in Dagoretti North. It is very difficult.

I have heard somebody asking why, and there are many traditional reasons. One is cultural practices and the long-held view that women are not supposed to be in certain fields. It is a very tough environment. One of the complaints I receive from the young ladies in the Linda Mwananchi Team is that accessing a podium in an environment such as the one we found in Jacaranda Grounds, despite all the efforts we put in place as organizers of the rally, was very difficult. Such environments are usually very chaotic and scary.

Look at the spectre of violence that happened in Homa Bay. Sen. Onyonka and I can get by in some of those violent spaces, but it is difficult for young women. I am insisting on young women because, for a very long time, women in politics used to be from a specific demographic; people between the ages of 50 and above. We do not see those 23-year-olds and those 25-year-olds participating in politics.

Imagine a young person who has no money to buy a Prado like us, or to hire a big car. What is that young person supposed to do when they have borrowed their mum's vehicle just for it to be burned in a rally in Homa Bay? What are they to tell their parents? So, there are traditional things that have traditionally kept women out of these spaces. That is what this nomination process was supposed to come and cure.

Secondly, nomination is supposed to grow one's capacity. This is because when you come to this House, for instance, as a nominated Senator, you get the same privileges as the elected Senators. For example, you get money to buy a vehicle for yourself and to do a few things here and there, and it helps to have those resources.

Again, with the analogy of chicken; this chicken thing. We are going to the ballot with chicken, because I can see people who do not know about chicken trying to argue with some of us. In Luhyaland, they say that, that warmth of leadership and support that

the community gives you is like the warmth of a mother chicken when it has eggs beneath it. It is supposed to transform you. Therefore, there is a period within which you must transform. After 21 days, it does not matter how many chickens you put on top of that egg. If it has not transformed into a chick, it is done for. They say that, that space – the community support – is not for one person, but for everyone. If we have tried you for 21 days and you have refused to transform, you must allow the community to bring a fresh set of eggs for them to also have an opportunity to transform.

I, therefore, support this question of, yes, we might have very good people, but it cannot be in perpetuity. This is because for these constituencies, for instance, the PWDs, women, and the marginalized, there are quite a substantial number of them in the community. These positions should be passed around as much as possible so that they are able to assist as many people as possible.

I usually give the example – and I am very proud of hon. Millie Odhiambo – who started off as a nominated Member of Parliament, and she has told her story. She proved herself so much that she has been able to be elected, I think this is her second term, if I am not wrong. It is possible. Sen. (Dr.) Agnes Zani, when she was here, was a Secretary General (SG) of the Orange Democratic Movement (ODM). The Party was very proud of the work that she used to do. The people that ODM nominated to this House, this particular term, have made ODM very proud. Even I, as SG of ODM, have been very proud of the work that Senators such as hon. Hamida, hon. Catherine Mumma, including hon. Crystal Asige, have put in.

I will give the example of Sen. Asige for a demonstration. Part of the conflict in political parties usually is that there are people who have worked very hard for a very long time for the political entity to succeed, and they feel that they are usually first in line to those nomination slots. There is also a counter-argument that there are people with very specific skills. Not everyone is a podium politician that you can stand up and move crowds. To make a campaign successful, there are very many cogs in the wheel. You need people in media, and those who can help you raise resources. Some of these nominated women that people see in this House, people have no idea the sort of contribution that they made to the success of the campaigns.

There is that tug of war between the people who have traditionally helped the party, and then there are those people who come and bring very good expertise and knowledge that will help advance some of the causes of these marginalized groups. I would personally want to be shown a better representative of PWDs in this Parliament than Sen. Crystal Asige. I think she has been fantastic, and many of us agree.

Then there are those people who fight for the party in the trenches; the grassroots support. I want to give the example of two women in Nairobi. The ODM had a structure, at least to the grassroots level. There is a lady in Embakasi East called Night Mezda Kaing'o, and another in Starehe called Jane Ndia. Those women – and I saw it myself – would spend upwards of four days at polling stations waiting and protecting the vote; no going home, and no showering. They would eat bread there with water. When it comes to time for nomination, the expectation is that there will be a reward for some of these people.

What we did, as a Party, to balance the interest of the party leadership and the grassroots, we agreed and communicated that when we prepared nomination slots number one to 20 for the nomination list for Nairobi, for instance, we would leave the first five slots empty. This was so that in the event the party leadership, for instance, the late hon. Raila, had some person in Mombasa who helped him in another space that you would not even know, says, “oh, I have my daughter here or my son here, I want you to give him a slot in Nairobi,” It would be possible for the party leader to be flexible with some of those slots. So, what we were doing at least on paper, is to say from number one to five, we are leaving it for the leadership of the party. From number six to 20, we filled those slots ourselves. Unfortunately, even after following those processes, there were still changes to the nomination list, and these two women, Jane Ndia and Knight Kaing’o, were left out. It pained me greatly. They used to come to my office, and we had some “*ukarabati*” somewhere to find something to ensure they could pay their rent.

The story of Sen. Beth Syengo, I wish she was here to tell it. She was the president of the Women League in ODM. She had been passed over nominations I think two times in the previous elections. Even this one, there was an attempt to remove her name again by people who are known within the ODM. It was a very tough time for some of us to ensure that she was here. Sen. Catherine Mumma was demonized in ODM because she was the chair of the Elections Board, which is one of the toughest jobs in politics in Kenya, I can assure you. But she is here, courtesy of the work that she did for the party. So, there are many stories, but the point is, these slots are supposed to transform you the way the chicken transforms its eggs. You should be able to grow and also allow other people to get the same.

Mr. Deputy Speaker, Sir, there are people in the Nairobi County Assembly who are nominated this time round for the third time, and it is what was bringing these problems. I think the suggestion that has been made by the Committee, that we can limit it to a two five-year term, is something that makes absolute sense. Even the women who, at least the ones on the Minority Side who are nominated here that I know, are not insisting that they want to be here in perpetuity.

These things have to be balanced out. There is very good contribution that people can make using these positions. Some of the nominated members of Parliament have kept the faith to represent the constituencies that brought them to Parliament. You represent the people that you were sent to represent with dignity and respect in the way you carry and respect yourself.

There are also the outliers who do nothing but bring embarrassment to the positions that they hold as nominated members of Parliament. They are the ones who fuel this argument that even these nominated slots should be scrapped. The conduct of a few people, just a few bad apples, can upset the entire cart.

With the experience that we have had, I think it would be fair to spread out the positions as much as possible and use these positions, when we get them, to do greater things. Get a nomination slot and, if you are lucky, you get it twice and go and run. You are now a powerful person with some capacity to be able to do something.

Even for me, I have to make very tough decisions, because there is a very fantastic young lady who is a congresswoman from New York. I was listening to her

when we were down in Kilifi, and she was saying something very interesting because she is also being asked about the potential of running in the 2028 elections in the U.S. She said: “Life does not wait for you to be ready for things, but life can make things ready for you.” I have only served a term. I have not even finished my term as a Senator, but it is possible that Kenyans have seen the work we have done here, and they decide that “Sifuna, we want to send you somewhere else.”

My encouragement to those nominated Senators who are here is that do not be afraid. You have been well nurtured to be leaders in the space that you have been in, in this time that you have served in the Senate. Do not take it for granted. It is actually possible that a nominated Senator can come here, serve one term, and run for president. It is possible because it is what you do with the time that you have here that matters.

I think if you get a nomination in the first term, we can argue about your contributions to the party and your expertise. However, the second one has to be deserved based on how you have conducted yourself, the contribution you have made on the Floor and towards the constituency that nominated you. I am sure that it is easy to argue for a second nomination for, say, Sen. Crystal Asige. This is because of how she conducts herself and brings respect to the House and the position she holds. But there are people, if you listen to the public out there, they are saying that even for the remaining one year, they should just leave the Senate.

With those remarks, I would go with the suggestion that we give a maximum of two terms so that we allow as many people as possible to get these slots and grow their capacity for leadership.

Thank you, Mr. Deputy Speaker, Sir.

(Applause)

The Deputy Speaker (Sen. Kathuri): From where I sit, Sen. Sifuna, I can encourage the Senators who are nominated. In the year 2013 to 2017, we had two nominated lady Senators in this House; the Member of Parliament for Gilgil, and the Member of Parliament for Samburu Central. They were in this House for five years, and now they have been elected twice in the National Assembly. Yes, even Sen. Fatuma Dullo; the first one was a nomination, and now she has been elected twice. I believe it is a good thing to do. I, therefore, encourage my sister, Sen. Tabitha and those others who are running for positions in 2027.

(Applause)

Next is Samson Cherarkey.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. From the onset, I support the Committee Report because discretion should and must remain with political parties. There is a reason why, including the fact that the Constitution has given us that opportunity. When you look at Article 100, it says that, as Parliament, we must ensure we put in place the law that will promote the representation of women, PWDs, the youth, ethnic, other minorities and marginalised communities.

Mr. Deputy Speaker, Sir, the issue of nomination is an affirmative action. It is a way of balancing, and it should be given to political parties. However, we must put safeguards, and I agree on that. If you come from a county where there is a marginalised clan or a community, what becomes of it? We, therefore, should give that discretion to the political parties to do their job.

You have heard the former Secretary General of ODM who says that Kenyans have called him, but he has never declared what he wants on many occasions. He agrees with us that to be efficient, you must have two terms, and I am happy. He has mentioned that word for the first time, because to be efficient, you must be given two terms so that you deliver. Even Sen. Osotsi nominated himself the first time, and the second time, he got elected. Now, he is running for another office. I agree that we need to safeguard at least two terms. I also agree with my colleagues, Sen. Sifuna and colleagues who have come, that if you are nominated the first time, it is important to grow wings and run, because you have a platform and opportunities. That is the point that we want to make. However, we must also take care of political party discipline.

The Political Parties Act is clear that when you are nominated by ODM or UDA, you must promote the party discipline and the ideals of the party. As I stand here, look ahead of me and across the House, there are people who should be removed by their political parties because they are no longer promoting the ideals of their sponsoring political parties as per the Political Parties Act.

If you come from ODM, what are you doing promoting the ideals of another political party? You are violating the Constitution and the law! Therefore, when I hear my colleagues talking about promoting human rights and the rule of the law under Article 10 of the Constitution, I always pinch myself to find out whether I am hearing what they are saying. You cannot be saying, promote the rule of law, human rights and constitutionalism, and then abuse the same law. He who comes to eat must come with clean hands!

Mr. Deputy Speaker, Sir, I know for us, elected Members, sometimes we are lucky that we can promote the ideals of another political party, but I also agree with the party when they punish. Remember when they punished a former Member of this House and they were deregistered. If ODM and other partners in the broad-based coalition feel that some nominated members of Parliament no longer promote the ideals of the party, then there is the honourable thing. I know there is an obsession by everybody to speak in the spirit of Baba Raila Amolo Odinga, saying what Baba told them, what Baba envisaged, and that Baba left them in the broad-based Government. However, they have never told us that when Baba did not believe in some ideals, he resigned and contested under his political party of choice. They do not want to say that part because they fear that *wananchi* are waiting for them.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, just a minute. There is a point of order from Sen. Osotsi.

Sen. Osotsi: Mr. Deputy Speaker, Sir, Sen. Cherarkey has made a lot of allegations here, and under Standing Order No.105 on Statement of Fact, he appears to allude to the fact that when you do not agree with your political party, then you do not deserve to be in that party. I remember very well the same Sen. Cherarkey, the Majority

Leader and many other Senators here, before this term, they were against the Jubilee Party. They did not resign from their positions. They continued holding their positions as Jubilee Senators, and never resigned, including His Excellency, President William Ruto. He was also there, and he had policies different from the sitting President then, but he never resigned. Now it is suiting him at this time to talk about resigning. Why did they not resign at that time? I am just reminding him because he is out of order.

The Deputy Speaker (Sen. Kathuri): What is your point of order? Is that really a point of order, Sen. Osotsi?

Sen. Osotsi: I was reminding him.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I hope my time is preserved, because that was not a point of order.

The Deputy Speaker (Sen. Kathuri): Proceed.

Sen. Cherarkey: That was a pedestrian argument, because I am arguing on facts of law. It is in the Political Parties Act that if you are sponsored by one party and promote the ideals of another political party, then you should resign, the way Baba Raila Amolo Odinga did. Why do these gentlemen say it is correct to follow what Baba said, in Baba's spirit, but when you tell them to follow Baba by resigning and seek a fresh mandate, they fear because they know *wananchi wamewapangia huko nje*. Mr. Deputy Speaker, Sir, I am sorry for using that interchangeably.

The second point and I will be quick; when you look at Articles 97 and 98 on membership of the Senate and the National Assembly that has been provided, we are not opposed to our colleagues to be nominated. Nominations should be a platform for you to agree. I have even lauded Sen. Osotsi today by saying that he got a platform through nomination, he grew to be elected. He is now going for another seat. If he had said I am nominated and stayed nominated, he would not have made strides to be a Senator, and that is the encouragement we want to see. You and I have fought our way to be elected, *mundu khu mundu*, the hard way, and that is why we are here.

What we are saying is that nominations should be used for affirmative action, and I agree. When you look at Articles 97 and 98, and even Article 177, on the membership of the county assemblies, the interest is more of an affirmative action. Therefore, even as political parties are given opportunity to be discretionary, and they must use it affirmatively. They must look at the role of the youth, PWDs and women, so that we have what we call gender parity in the representation of our people, as envisaged in the Preamble to our Constitution under Article 10.

Therefore, I encourage colleagues that we are not, in any way, against nomination. We are saying that nomination is an affirmative action, and should be based on safeguards. We do not want a situation where people are nominated without proper criteria. In fact, I have noted that many colleagues have not read the report. The report from the Standing Committee on Justice, Legal Affairs and Human Rights states that-

"Arising from its observation as set out in the preceding chapter, the Standing Committee on Justice, Legal Affairs and Human Rights resolved not to accede to the prayers by the petitioner."

Mr. Omusundi Laban wanted a one-term limit, but we are saying no to one term. We want two terms and even long term. When I say the words "one term", I become sick,

because I am not used to saying "one term". I am always used to saying "two terms" and "long term". That is why we will not accede to the prayer. However, I agree with colleagues who have contributed that there must be safeguards. We do not want political parties or party honchos to use the opportunity to nominate their girlfriends or relatives, or issue nominations through "bedminton". We want nominations to be free and fair. Let nominations be rewarded to someone who delivered for the party. I know many party members, promoters, coordinators and officials who sacrificed for their parties in Meru, Nandi, Migori, Machakos, Wajir, and in---

Sen. Kavindu Muthama: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Yes, Sen. Kavindu, what is your point of order? Resume your seat, Sen. Cherarkey.

Sen. Kavindu Muthama: I rise under Standing Order No.105. Is it fair for the Senator to refer to nominated Senators or Members as girlfriends of party leaders? What proof does he have? Can he prove which girlfriend was nominated to any House, be it the National Assembly, county assemblies, or the Senate? If he cannot, can he withdraw, apologise and give respect to women?

The Deputy Speaker (Sen. Kathuri): You have heard Sen. Kavindu very well.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, the HANSARD can bear me out. I said we must put safeguards so that party honchos do not nominate girlfriends or relatives. Learn to listen. I request that part of the HANSARD can be produced in the next few minutes. I am certain of what I said. I stated that we should have safeguards, including not nominating girlfriends or relatives.

(Sen. Kavindu Muthama spoke off record)

Mr. Deputy Speaker, can you protect me from Sen. Kavindu? When she was speaking, I remained quiet and did not interfere. May I proceed?

I was saying that where there is affirmative action and discretion, we should warn political party leaders not to fall into that trap. Even Sen. Sifuna said so. We should avoid nominating girlfriends or relatives. That has always been the whole argument and the fight we have had on many occasions. Even Sen. Osotsi has been a party official where people argue that nominations sometimes go to girlfriends or relatives. This affirmative action measure is a serious matter and must be safeguarded against abuse and misuse so that our MCAs in Mandera, Wajir, Machakos, Nandi---

(Sen. Ali Roba walked into the Chamber)

Mr. Deputy Speaker, Sir, with your indulgence, allow me to congratulate the Chairperson of the Committee on Finance and Budget, Senator Governor Ali Roba, on being awarded a PhD. He is now a doctor; so he is Sen. (Dr.) Ali Roba and a party leader. For your information, I am happy that Sen. (Dr.) Ali Roba is noting what I am saying. In fact, he is noting carefully that, as a party leader, he should not nominate a girlfriend or a relative. He is taking it seriously because it may arise at the Annual General Meeting (AGM) of his political party.

The second point I wanted to make concerns our conclusion on this matter, because I want to make the final comment on this issue. No one is opposed to nomination, but we must ensure that it is done within the law. I challenge MCAs, and that is why whether elected or nominated, we enjoy the same privileges and access. To be fair, one of the nominated Senators is the Vice-Chairperson of the Parliamentary Service Commission (PSC). That is how we respect and treat nominated Members in this House. Some hold senior leadership positions; for instance, Sen. Hamida is now the Chairperson of the Standing Committee on Roads and Transportation and Housing, and it gives them value. Others serve as Vice-Chairpersons. Even Sen. (Prof.) Kamar was elected last time and served as our Deputy Speaker, but she is now nominated. We give value where it deserves.

Nomination should create value and opportunity. When one is nominated, they should run for a serious office, whether as a Senator, Governor or any other position. We have seen women break ceilings in this House. In fact, during the last General Elections, this country almost had a female Deputy President. Had Kenyans agreed with the ticket of Azimio la Umoja Coalition led by the late Hon. Raila Odinga – and the Deputy Minority Whip, Sen. Eddy Oketch, is agreeing with this – it would have happened at that point. It shows that women and youth can break the ceiling. We have many young Senators in this House. The Senate used to be called, “*nyumba ya wazee*”, but the percentage of young people here today is remarkable. We were once told that no woman could be elected Senator, but we have three elected women Senators now.

In the previous Parliament, Sen. (Prof.) Kamar, who served as Deputy Speaker, was elected the Senator for Uasin Gishu County. She nearly became the first Governor of Uasin Gishu in 2013, had she not miscalculated. I encourage her to run for Governor for Uasin Gishu County because things are not going well there. According to reports by the Controller of Budget, the current Governor paid Ksh42.99 million to 169 staff who are purported to be ghost workers.

Mr. Deputy Speaker, Sir, you may also recall that the Ethics and Anti-Corruption Commission (EACC) advised public officials not to name public projects after themselves. However, the Governor of Uasin Gishu County has reportedly named one of the projects “Chelilim Social Hall”, contrary to that guidance by the EACC. We, therefore, want women leaders to step forward, just as leaders such as Dr. Joyce Laboso did. We had a female Governor in your county, but we did not understand her because of the way she was behaving, I do not want to say anything, because you are a Njuri Ncheke elder.

Finally, on the issue of MCAs, I challenge them to do their job. We want to protect them. We have given them every opportunity, and we support them. However, according to the Controller of Budget, and as you know MCAs approve budgets, there are serious concerns. When the Controller of Budget, Dr. Margaret Nyakang'o, presented a report two weeks ago, Nairobi City County allocated Kshs2.27 billion to other operating expenses that cannot be accounted for. Those expenditures were not budgeted for, yet budgets are approved by county assemblies. Therefore, they must be keen.

Machakos County has more than Kshs5 billion that was not budgeted for. The Controller of Budget has flagged it. Here in Nairobi City County, according to the

Controller of Budget, there is Kshs2.24 billion relating to stalled projects. Nairobi City County has a pending bill of Kshs86.90 billion. When you go to Siaya County, Kshs401.6 million is reportedly being paid to ghost workers. In Wajir County, Kshs755.35 million is being paid manually to an unknown number of people, with a pending bills amounting to Kshs3.3 billion. Nandi County is spending Kshs342.1 million on globetrotting, including visiting where Jesus was born. According to the Controller of Budget, that is five times higher than the amount allocated to bursaries. Even in Trans Nzoia County, where the friend of our friend serves – I do not want to mention names because he may raise a point of order – Kshs153.8 million is being spent under other operating expenses. We do not know what those other operating expenses entail, including whether they support programmes such as “*Linda Tumbo*.”

In a nutshell, when you look at the report of the Controller of Budget, and I will share it with so that you can see the situation in Meru County and other counties, including Mandera, Samburu and many others--- It is important to study the report so that you understand how counties are managing public resources.

In Vihiga County, the issue of house warming is still recurring. A sum of Kshs5 million was reportedly awarded to house-warm the Speaker's House. I do not know whether, as the Deputy Speaker, when you will open your new palatial home, you would want us to come and warm it, just the way the people of Vihiga are doing.

When I look at the Report of the Controller of Budget, even as we fight for justice for MCAs in terms of nomination, they must also do their oversight job so that, as a country, we can move forward.

With those many remarks, I agree with the Report of the Committee. Let us allow this discretion for political parties to do their job. The rider should be, let it be used for affirmative action for the benefit of Kenyans. The people who are nominated should use that chance as a platform to get elected or to serve in public service.

I yield back the microphone and support the Report of the Committee.

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi, proceed.

Sen. Osotsi: Thank you, Mr. Deputy Speaker, Sir, for this opportunity to make my contribution to this report by the Committee on Justice, Legal Affairs and Human Rights, on the petition by Mr. Laban Omusundi, whom I must start by appreciating the good work that he is doing. He is tireless. He has brought and continues to bring so many Petitions to this House. When you look at the things that he brings, they make a lot of sense.

From the onset, I will support this Petition, but with some little variation here and there.

(Loud consultations)

Mr. Deputy Speaker, Sir, can you protect me from Members who are discussing loudly?

Mr. Deputy Speaker, Sir, you know very well that I served with you in the National Assembly, where I was a nominated Member of Parliament (MP). I served diligently, and those five years of my service is what made me to become an elected

Senator in this House. There are many other significant leaders in this country who have been nominated and have risen in their political life. If you may recall, the fourth President of this country, hon. Uhuru Kenyatta, was a nominated Member of Parliament. The current Speaker of the National Assembly, hon. Moses Wetangula, was a nominated Member of Parliament. The Governor of Nairobi, hon. Johnson Sakaja, was a nominated Member of the National Assembly. Yours truly was also a nominated Member of the National Assembly, and I am now the Senator for Vihiga God-willingly in 2027, I am going to become the Governor of Vihiga County.

(Applause)

That tells you that nominated MPs must be respected, just like any other Members of Parliament. If you sit here and listen to Members contribute on matters to do with the nominated Members of Parliament, you hear them talking about girlfriends and all manner of things. I want to tell this House that a nomination process is not an individual decision.

(Applause)

We have Nomination Regulations that have been passed by the Independent Electoral and Boundaries Commission (IEBC) and the Registrar of Political Parties. We have nomination rules. Every political party must have election and nomination rules. One of the most striking things in those pieces of law is that the decision to nominate is made by the executive committee of the party. Minutes are filed together with the nomination list. So, it is not possible that only one party leader or official can nominate. So, this was to clarify to some of the Members who do not understand what the law says in relation to nomination. It has to come out very clearly.

The position of a nominated MP is an affirmative action position. However, if we are really serious about nomination being an affirmative position, then we must also empower nominated Members of the Senate, the National Assembly or county assemblies enough to be elected. For instance, I do not understand why nominated Senators cannot get oversight funds.

(Applause)

I used to serve in the National Assembly, and I do not understand why nominated Members of National Assembly cannot be given National Government-Constituencies Development Fund (NG-CDF), because they have a constituency to represent.

When I was serving in the National Assembly, I had a constituency of workers. Give me the NG-CDF to go and deal with workers. Give so-and-so the NG-CDF to go and deal with youth, women and all the other special interest groups. We want to pretend that nomination is an affirmative position, but we do not want to empower nominated Members of these Houses. Nominated Members in this country are very vulnerable. Even now, at this point where people have started making political decisions, nominated Members are suffering in silence.

(Applause)

They want to make a decision, but they cannot because they fear they will be removed. The law is very clear. If you read the Constitution and the Election Act, it is very clear. Once an individual has been nominated, when he or she takes an oath, he or she is deemed to have been elected. That is the law.

If you read the Court of Appeal ruling in the Kipkalya Kones versus Ford People, when Ford People wanted to remove Kipkalya Kones from the National Assembly, the Court of Appeal made a ruling that you can only remove a Member of the National Assembly through an election petition. You cannot just remove a member by a party writing a letter, and then someone is thrown out. That is not possible.

For example, we may have different opinions about former Sen. Gloria Orwoba, but her removal from this House was unconstitutional. This is because you can only be removed if you are a sitting Member of the Senate and the National Assembly through an election petition, and not through any other way. So, we cannot say that nomination slots are affirmative action slots when we do not empower them to do their job like the rest of the Members.

(Applause)

I am improving on Mr. Omusundi's Petition, that we must relook at the law around nomination. This is so that we do not discriminate against nominated Members of the National Assembly and the Senate, yet we talk about equality and non-discrimination in our Constitution. We are all deemed to have been elected to these two Houses.

(Applause)

Therefore, what Mr. Omusundi has done, which the Committee on Justice, Legal Affairs and Human Rights should have looked at deeply, is to reopen the thoughts around the law on nomination, which I believe should be amended so that we give strength to the---

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

What is your point of order Sen. Eddy?

Sen. Oketch-Gicheru: Mr. Deputy Speaker, Sir, I do not like stopping anybody, because I am listening to this topic very clearly. However, I stand pursuant to Standing Order No.105 on statement of fact when debating in this House. Sen. Osotsi has talked about something that could easily misinform the public.

Mr. Deputy Speaker, Sir, Article 100 of the Constitution of Kenya, 2010, talks about nominations. It states that –

“Parliament shall enact legislation to promote the representation in Parliament of—

(a) women;

(b) persons with disabilities;

- (c) youth;
- (d) ethnic and other minorities; and
- (e) marginalised communities.”

The Parliament of Kenya enacted the Political Parties Act, 2011. If you read Section 14(5)(e) of the Political Parties Act of Kenya in terms of when one ceases to be a Member of a House – whether elected or nominated – this has got nothing to do with nomination. It provides that a member shall be deemed to have resigned from a political party if they publicly or otherwise advance another party’s political agenda, which then triggers their legal assumption that their position is stopped and, therefore, they stop holding that position.

Therefore, why is he misinforming the public that actions, such as what happened to Sen. Orwoba or generally any Member losing their seat in Parliament, is unconstitutional. The Constitution gave us power to enact that law. That is what informed party leader, the late Rt. Hon. Raila Amolo Odinga, to deem himself, having resigned from that political party because he did not believe in it. This kind of kangaroo operation is what has also confused him, and other Members who are running around with political parties that do not exist and they do not honour the Constitution. Therefore, he should not inform the public wrongly that what happened to Sen. Orwoba was not constitutional---

The Deputy Speaker (Sen. Kathuri): Sen. Eddy Oketch, I wish you could get time when you are contributing to present your argument.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, it is critical misinformation. The decision on the actions by Sen. Orwoba were made by this House and by you. Therefore, he is misrepresenting you to the public.

The Deputy Speaker (Sen. Kathuri): Allow Sen. Osotsi to conclude his thoughts.

Sen. Osotsi: Mr. Deputy Speaker, Sir, my time should be added because Sen. Eddy Oketch---

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi, in the House of Lords, the Lords are given seven minutes uninterrupted to contribute to any debate. When you get to seven minutes, just say what you want to say, including countering Sen. Oketch. This House should adopt such a strategy because sometimes there are many points of order, which delay debate and the flow of thoughts of other colleagues is affected.

(An hon. Senator spoke off record)

I will propose that. Standing Order No.105 should be re-engineered.

Sen. Osotsi: Mr. Deputy Speaker, Sir, if Sen. Eddy had listened to me carefully, I was referring to the Court of Appeal’s decision in the Ford-People Party Versus Kipkalya Kones, where that ruling was made. Secondly, I was also referring to the Constitution which talks about elected Members. Once Members are sworn in, they become elected.

Mr. Deputy Speaker, Sir, let me proceed. This is an eye-opener that the whole law on nomination as contained in the Elections Act should be reviewed to give strength and empower nominated members so that it can be truly an affirmative action position. This is because when we are here, we all earn the same salary, allowances and other benefits. However, when it comes to the National Government Constituencies Development Fund

(NG-CDF) and oversight programmes, nominated Members are left out. We need to rethink this so that we put more focus on nomination slots being affirmative action slots so that they can perform their roles better than they are performing now. We should also give them some political muscle to do their work freely without intimidation, like we see particularly in county assemblies, where nominated members are actually voting tools for governors. Whether something is good or bad, whether they support it or not, they are compelled to take the position of the executive because they were nominated by that particular governor. This is a matter that Mr. Omusundi has opened our eyes on.

I encourage the Committee on Justice, Legal Affairs and Human Rights, even though they have made a decision not to support this Petition. This particular individual called Omusundi has been bringing well-thought-out ideas to this House through petitions which, if put together, will basically improve our legislation to make it better.

Mr. Deputy Speaker, Sir, talking about term limits, it is also high time we revisited the issue of term limits in our Constitution. It is discriminatory that the presidency and governors have a term limit of two terms, but other positions do not have term limits. There is a proposal where people are talking about one term or two terms. We should look at all the positions.

We have a scenario where someone has served in Parliament for five terms. Do we provide an opportunity to empower other people to also become MPs or allow people who have served for one or two terms to also rise to other positions? This is a matter that we need to look at, so that we remove any possible element of discrimination in our Constitution. We must have term limits for all positions. It is not practical for someone to serve in these Houses of Parliament well for more than two terms. In fact, in some of the Houses, once you serve two terms, the third term becomes so boring. That is why we have problems like a lack of quorum, or people not taking their legislative work seriously. It is because they have been there for too long. Let us bring in fresh minds; people who can work for the people in that House.

This is a critical Petition that must be looked at from the wider context of how do we need to improve our laws to make this House better or make representation better? Even as we go on like this, the position of a woman representative was supposed to be such an affirmative action position. We must ask ourselves whether that has served the purpose. If you ask me, it has not served the purpose. We need to see more impact coming out of that position. We need to see more women coming to Parliament. When we talk about term limits, it should apply to that position of woman representative so that we give other women a chance to also get an opportunity to lead people. This is an eye-opener that we should look at wider issues in the Constitution, including term limits for all positions. Another issue is how do we make affirmative action real and not cosmetic affirmative action that we have in today's election system?

Mr. Deputy Speaker, Sir, I want to end there by saying that I will be opposing this Motion on the basis that Mr. Omusundi has brought a good idea which the Committee should have told us about some of the good things they can improve on. However, they have just left us hanging by saying they will not support this Petition.

The Deputy Speaker (Sen. Kathuri): There is a point of order by the Committee Chairperson. Sen. Wakili Sigei. You may proceed.

Sen. Wakili Sigei: Thank you, Mr. Deputy Speaker, Sir. I would like to inform Sen. Osotsi that part of the recommendations that the Committee on Justice, Legal Affairs and Human Rights has made based on this Petition is that instead of having it as a single one-term, five-year period, we would rather legislate on a two-term limit of five years, similar to the one for the President and governor. That is one such good recommendation which, as a Committee, we could not say we decline with recommendation or approve with recommendation. That is something that nothing stops us from doing as a Committee, going forward.

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi, proceed and conclude.

Sen. Osotsi: Very well, Mr. Deputy Speaker, Sir. I just wanted more to be done. For example, you should also focus on the National Assembly and the Senate, and look at the general issue of term limits and make proposals on the same.

This is a very good Motion. I encourage the nominated Members of this House not to lose faith but continue working hard. You never know, you may be the President of this country, the way the fourth President of the country rose from a nominated member to become the Fourth President of Kenya. You may also become a governor, the way Sakaja rose from a nominated member to a governor; and the way I rose from a nominated member to a Senator, and now the future governor of Vihiga County.

Thank you, and I oppose.

The Deputy Speaker (Sen. Kathuri): Sen. Tabitha Mutinda, proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Deputy Speaker, Sir. I rise to first appreciate Mr. Omusundi for his continuous effort in the different petitions that he has brought to this Parliament. Also, I appreciate the Standing Committee on Justice, Legal Affairs and Human Rights, led by the Chairperson, Sen. Sigei. They have done a good job.

As the first Nominated Senator to make comments on this Petition, I agree with the Committee. My curiosity is why Mr. Laban Omusundi decided to narrow this discussion only to the MCA. I am curious as to why he felt that these colleagues of ours at the county assemblies should only be given an opportunity to serve a five-year term once through a political party nomination. Most of these colleagues are normally very young, and the environments of MCAs are a bit tough compared to us at the parliamentary level because the difference is huge. For them, even when you look at their resources, they are much more limited compared to parliamentary levels. Therefore, limiting them to just one five-year term does not really give them a better platform to move from an MCA position to an elected Member, or many other positions that they qualify for as any other Kenyan.

We have seen colleagues such as the Senator for Kiambu, Sen. Thangw'a, for example, who was once an MCA, and is now serving here as a Senator of the great county of Kiambu. The same gear of MCAs moving to the next position is the same gear that nominated MCAs would want to have.

Colleagues have said that they agree with the proposals and recommendations made by the Committee on having at least maximally a two-term limit, and I agree with them. There was a reason when the Constitution allowed for two-terms for presidents and governors. It is in that same spirit then that these positions should not be limited to one

term. Someone will be able to achieve a lot when they are given the second opportunity to conclude on the many manifestos that we put in place. Colleagues have also spoken in this House, and I appreciate the likes of Prof. Margaret Kamar, who was once elected and now serves in this House as a nominated Senator. It proves that it can be two-way. At times, it is thought that the fact that you are nominated, then you should never be nominated again. You can be elected and find yourself in a nomination position.

Sen. Peris Tobiko has served two terms as an elected Member of the National Assembly, and now serves as a nominated Senator. The same case for my sister, Sen. Joyce Korir, who has been elected for 15 years. She started as a young mayor and now serves with us as a nominated Senator. We had our sister, Sen. Soipan Tuya, who was nominated for a short time, but now serves as a Cabinet Secretary for Defence in this Country.

As much as the discussion is about two-terms, Members have also spoken about it being narrowed to women positions alone. When Sen. Boni, the bullfighter, indicated that positions such as the woman representative should only be voted for by women, I really feel so sad. It is sad for such a Senior Member of both Houses to think that, as a Member of Parliament (MP), you only serve a specific gender. As we serve in these positions, we serve all Kenyans. It is not even about gender issues, it cuts across. As we sit here as nominated Senators, we serve all the men and women in Turkana and across Kenya. For example, I am nominated to represent the great people of Nairobi, but my responsibility requires me to cut across and serve any Kenyan from every county.

Mr. Deputy Speaker, Sir, what am I trying to say? When I listened to Sen. Osotsi, I want to appreciate him for his comments on the support, the oversight fund, and the Constituency Development Fund (CDF) for the nominated members at the National Assembly and the Senate. He brought a point and talked about the position of the woman representative being limited, which I do not have a problem with. However, why is it not a high time for us then to start discussing that out of the 290 positions of Members of the National Assembly, 145 should be for men and 145 strictly for women? Why not have 24 seats for male governors and 23 seats for female governors? Why not change this discussion from a term limit to a number issue, where then these numbers need to be 50 per cent?

That should be the same case to the Senate. Instead of having these nominations discussion, we should then have 24 women Senators and 23 men Senators. We will not even be needing to discuss the term limit of any nominated position, be it in a county assembly, National Assembly, or the Senate. If we continue like this, then we might start having discussions of nominated governors and stuff like that. We should actually bring this to a close now by ensuring that these numbers are 50 per cent for each gender.

I agree that to be a nominated member of whichever House gives you a platform, it is very true. Deep down my heart, I really appreciate my party, the UDA, that saw the hard work that I had put in, and saw that I qualified. I was vying for the Nairobi woman representative position in 2022. My political party, through the political leadership of Dr. William Samoei Ruto, requested that I cede that to my sister then, Hon. Millicent Omanga, whom we supported but the people of Nairobi decided otherwise. That is how my political party reassigned me other responsibilities in the presidential campaign and

finally sent me to serve the people of Nairobi in the Senate. We have continued to serve and represent our political party. In fact, my party had the highest number of nomination slots in this 13th Parliament. This is something that we appreciate. I appreciate my party so much for giving me an opportunity not only to me, but also to all the United Democratic Alliance (UDA) nominated Senators who serve in this House.

From where I sit, I have decided to serve this term and cede it to another woman in this country to also get the same opportunity that I have had through my party. That is why, through the people of Nairobi, I am a potential candidate for Nairobi Woman Representative in 2027. I will leave this position to go and serve in another capacity. The incumbent woman representative for Nairobi has the same spirit. She also wants to cede the seat so we can elect more women in Nairobi.

When Sen. Sifuna spoke, he acknowledged that in 2017, Nairobi only managed to get one woman, Hon. Mercy Gakuya, out of all the 17 MPs, apart from the woman representative position that we have in all counties. In 2022, in Nairobi, we had Hon. Beatrice Elachi as the only elected woman MP. The current woman representative aims to vie in Makadara Constituency so that we can have more women elected in the Capital City. This is the Capital City of this country, but you only have one elected woman. That is why I made the decision to continue the journey that I started as a candidate for the woman representative position. I will run for that position in 2027.

I encourage all nominated women to move and leave these positions for other women. We cannot all fit, but when we move, we give opportunities to other women. I want to appreciate all the women in this Senate who will be vying for different positions. They have come out and communicated out there. I encourage them so that we tell the story.

Sen. Eddy is looking at me. Perhaps I should say a word before my time is up. I also appreciate Sen. Eddy so much, having him as one of our youngest Senators, and now serving as a leader in this House. Sometimes people look at these positions and wonder. As colleagues said earlier, they say that Senate *ni nyumba ya wazee*. Sen. Eddy, I agree with you and you will agree with me, on the other hand, that we have proven them wrong. This is not a House for the old. We have also been given responsibilities.

I serve as the Vice-Chairperson of the Committee on Finance and Budget, a committee that I have served diligently and continue to serve. I was also appointed to serve as a board member of the Parliamentary Network on the World Bank and the International Monetary Fund (IMF) representing East Africa. I have ended up being global in my capacity, but I am just a nominated Member. I also serve as the President of the World Scout Parliamentary Union (WSPU), a position that I have earned. It does not mean that because you are nominated, you are lesser in any capacity. As long as an opportunity has arisen, you need to continue striving and moving.

I pray that when God grants me the opportunity to represent the women of Nairobi in this great Capital City, we will continue striving. You never know; I might be the first woman president in this country. The sky is the limit. Let us encourage that the term is not limited, it continues to give a platform to many of us as women.

With those few remarks, Mr. Deputy Speaker, Sir, I support the report.

The Deputy Speaker (Sen. Kathuri): Sen. Mutinda, are you aware that another woman president is in the House?

(Laughter)

(Sen. Oketch Gicheru spoke off record)

Just a minute, Sen. Eddy. Let us listen to Sen. (Prof.) Margaret Kamar first.

(Sen. (Prof.) Kamar spoke off record)

Yes, he is your son. He will accept it.

Sen. (Prof.) Kamar: Since the room was becoming gender-imbalanced, it is important that Sen. Eddy and Sen. Abass remain here until the end. That is great wisdom from you, Mr. Deputy Speaker, Sir.

Thank you, Mr. Deputy Speaker, Sir, for the opportunity. I rise to support the report of the committee. I will be brief so that other Senators can also be given an opportunity.

To me, a minimum of two terms and not a maximum of two terms would be useful. It is important that political parties are given room to nominate experts, professionals and specialists as many times as they wish. I am saying this knowing that I have been elected twice, and I am now nominated. I had no idea what it means to be nominated.

Even in this House, nominated Members are extremely hardworking. They give quorum every day when otherwise there would be no quorum. They have brought more Motions. I wish a report card could be brought here because when it comes, it will speak for women Members in this House. They have worked very hard, and have made presentations.

When I was in the last Senate as an elected Member, I worked closely with one nominated Member, Hon. Musuruve, and we came up with two Bills. That is the Kenya Sign Language Bill and another Bill on learners with disabilities. They went to the National Assembly and got stuck, but I revived them. Mentorship is an important thing. I started working with Sen. Asige on the two Bills. It was a pleasure for me to have a co-sponsor so that we could start mentoring one another.

Why am I saying this? One term is not enough for somebody to show leadership in them. At least a second term is important for women who have been nominated to come out strongly and be the leaders that we are looking for. Maybe it is important to ask ourselves about the intentions of nominating people. Was it to bring people here so that they vote or not, or what was the intention?

I was involved in the formulation of the Constitution. I also sat in the women's section when we were fighting for it at the Bomas of Kenya. The main reason is the fact that there is no balanced development in any country if you have only one gender making decisions. God-given qualities of a man and a woman are different, and we respect and

honour that. We said it is crucial in leadership to have both men and women. It was for that reason that we brought in the aspect of affirmative action.

People who came to talk to us in our women's tent came from as far as Uganda. They were women who had made it because of affirmative action. We listened to them, and they said they brought Bills that their male colleagues could not because they are in a women's arena. It really works well when you balance. In any case, in our families, we have girls and boys, and we do not want to discriminate against them in any way.

We know why women do not win elections the way men do. Elections have become so violent that women would rather go back to their children, because we are protectors of children and homes. You do not want to be a victim who will disadvantage the family if you die just because of elections. So, women go slowly when it comes to elections. It is not that they cannot win. I won twice and got more than 80 per cent votes. I know that these women can also win. However, it becomes very difficult for women to win when their competitors bring conflict, goons, and make the environment unpalatable during elections.

Nomination ensure that we are all together when making decisions for this country. It ensures that we are together when making decisions that touch on hospitals whose patients are 75 per cent women. Women visit hospitals when they are well and when they are unwell. They go there when their children are unwell, and when their children are well. This happens because of the nature of who we are. Women have to go to hospital for prenatal and postnatal care. They also visit the hospitals when taking care of their babies.

When we are looking at Bills that touch on healthcare, we, women, can articulate those issues better for our colleagues to understand and to pass something that is going to be useful to us. The reasons behind nomination must always be at the back of our minds when we are talking about nomination. It seems like people are forgetting the reasons for nomination and that is why they are reminding us that women were nominated because they were girlfriends to certain people. I was nominated by the Jubilee Party, and nobody in that party had any relationship with me.

We have listened to Sen. Osotsi, and he was nobody's girlfriend. Hon. Wetangula, who is the current Speaker of the National Assembly, was nobody's girlfriend when he was nominated, and neither was President Uhuru. We do not know why nomination is being pushed towards women for the narrative of girlfriends to come in. It is a very discouraging description of a nominated Member. We need to describe nominated Members as honourable Members who have been nominated to fill a slot that is constitutional in this country.

We must respect ourselves. I sometimes get worried about the language used in this House because it is very embarrassing. When we were in Malindi, I got agitated and left when I heard a member address the Speaker as a *Njuri Ncheke* who needs to learn law. That was very discouraging and disgusting. As a Member of Parliament, you cannot address an Hon. Speaker, who we must all respect and listen to, using such kind of language. We do that, yet we still want to be leaders in this nation. That cannot be. We cannot allow those kinds of things.

This is the language being used now. Why are we bringing petty things like girlfriends when it comes to nomination? Nomination is in the Constitution. Who were we supposed to nominate? Were we supposed to nominate old women? If the Constitution states that we nominate 16 women, then we have to nominate women. Describing them reduces the House to a very petty room. I want to condemn the use of that kind of language in this House.

I want to support something that Sen. Osotsi said. One of the problems is that nominated Members are never supported. Those Members can develop fast if they were to get the same support that an elected person gets. From experience, having been elected and now nominated, I can state that I was able to do more when I served as an elected Member as compared to when I served as a nominated Member. As an elected Member, I was able to expose myself more. This is because I moved from ground to ground. Oversight belongs to all of us. I was able to take Senate Committees from this House to Uasin Gishu County to deal with issues that they did. I was very proud of the Senate Committees whenever I took them out.

This House must rethink the issue of no oversight fund for nominated Members. Oversight is oversight. In fact, we use a formula that is so discouraging. Unfortunately, I was not here. The Senate sent me to South Africa. We were told that the sharing of the money is by constituency. My question is; which constituency are we talking about? We are not in charge of constituencies. We are in charge of governors and counties. Every unit of a county is equal to the other.

We came up with a formula, though I do not know how the formula was derived at, but it does not help. This House must reconsider that formula. If that does not happen during this term, the next Senate should ensure that it covers the nominated Members as far as funding for oversight is concerned. Otherwise, the funding should be done in an honest manner through the Committees. The Committees can then do oversight and do it properly.

This House cannot do proper oversight without the ladies in this room. The women in this room are doing wonders when it comes to oversight. We have seen the contributions of the nominated Members in the committees. They are the ones who push some of the Committees. I am not undermining my students, my sons and sons-in-law in this room. You know, I have now become the grandmother and a mother-in-law in this House. I am not letting all these people down. What we need to know is that it is good to say it as it is. The nominated Members in this House have done wonderful things, and we cannot reduce their contribution. What seems to be underlying all this is prejudice against women.

Mr. Deputy Speaker, Sir, we should empower and support nominated Members. I am sure that a lot can be done if we support them. I want us to leave the issues of how they are nominated. We should not abuse the powers of our House and talk of issues that should be discussed in the political parties. It is up to the political parties to decide who will be nominated. That is where we should take our fight. We should take our fight to the political parties. If a political party is not fair, one should drop the political party and cross to another one. I have crossed political parties. I am currently nominated under the Jubilee Party. It is good to hit at a political party where it is than to come and discuss

political parties. You cannot tell a member that we know you are from UDA, and you are a girlfriend to so and so. How can a Member of the Jubilee Party know how a person was nominated in UDA?

Mr. Deputy Speaker, Sir, we should support the nominated Members, and it should not just be the nominated women; we should also support the men because we have men who are nominated. We also have PWDs who are nominated. We should empower them. If we do so, the leadership in them will come out sooner rather than later.

With those remarks, I want to support the recommendation of the Committee.

The Deputy Speaker (Sen. Kathuri): Very well. We will hear from Sen. Abass.

Sen. Abass: Thank you, Mr. Deputy Speaker, Sir. I first want to applaud the Petitioner. He appeared before my Committee, the Committee on Devolution and Intergovernmental Relations, two or three times. Unfortunately, this House did not appreciate that Mr. Omusundi is very focused, and who thinks about how he can improve the welfare of the men and women of this country. I think we have let him down most of the time by not accepting his petitions. I agree with the Senate Majority Leader that we need to honour him for his contribution to this House, and his immense contribution to the public interest. I hope he will make it to the list when people are nominated for awards or medals.

The Petitioner is only talking about the Members of the MCAs. However, he did not mention the nominated Members of Parliament. I want to propose that the Petition should not be only for MCAs. It should also be extended to Parliament.

The purpose of the nomination is to appreciate special interest groups. That should not be only ladies. I have seen most of the sisters, Senators who are here, are in defence of the whole thing. The women Senators who are here, or whoever is nominated, we actually have different brackets of our people - PWD women and distinguished ladies of the society who have made immense contributions to the welfare of this country. We have ladies who have made Kenya proud and visible to the whole world, but those guys never appeared.

I heard one of the party leaders, the former Secretary General of ODM and the Senator of Nairobi City County – I think he is still here – talking of ladies who contributed during the elections and have done a lot of good work. Yes, they have done a good job, but of course we need to look at the bigger picture, not only those who contributed to the parties. We want renowned Kenyans; professors who made discoveries and made education what it is today. We want scientists, sportsmen and sportswomen, not only politicians, should be rewarded and given at least some kind of nomination.

There are many senior citizens such as leaders and retired members of the civil service who made this country proud who deserve to be nominated. Nominations should not only be limited to those who contributed to parties such as ODM, UDM and all these groups.

We cannot deny the constitutional rights of anybody. Therefore, if I is two terms of five years, as the Committee has proposed, I will say two terms are okay. The petitioner is thinking of the broad number of people, the young men and women and many Kenyans who are outside there who would have also wished to have that kind of opportunity. If we have people being nominated two, three or four times, as has

happened, then I think other Kenyans will feel that they have no opportunity to have their performance and contributions recognised. I agree that we limit the term for nomination, not only for MCAs, but also for the Members of Parliament.

We have people who are qualified and have done a wonderful job. Therefore, besides the gender balance, we need to have people who have made immense contributions. We need to give these opportunities to these Kenyans. I know most of the nominations normally go to the highest bidders because they contribute resources to the respective parties. Therefore, that should not be a priority. The parties also must be very fair because they have voters who cannot afford to contribute anything, other than what they have. We need to now improve the bracket so that we can reach out to a larger group than what we are now having. If we nominate somebody three or four times--- Of course, our nominated members in this Senate have impressed us. They have done wonderfully in debates and Committees.

I am proud of Kenya Women Senators Association (KEWOSA), who have done us proud because they do a wonderful job out there. I am impressed with their contribution to society. They have really improved the image of this House. For instance, Senate Mashinani is actually well-organised because of their activities. I applaud them and want them to keep up the contribution they have made outside this chamber.

With those few remarks, I support with amendments to the report.

Sen. Oketch Gicheru: Mr. Deputy Speaker, I start by thanking you for giving me this opportunity to contribute to this report.

From the outset, I appreciate the thoughts shared by Sen. (Prof.) Margaret Kamar. There is a very serious concern that I think borders on the cushions that have been given by our Standing Orders on how some members of this House have referred to nominated women, as possibly nominated because they are girlfriends of political party leaders, or otherwise.

First, there is an issue of misrepresentation of facts there, because it is not only women who are nominated to this House, but also men. If you are going to get away with something like that, whose boyfriends are the nominated male counterparts, because they too are members of this House? This is just a continuous attack and lack of respect for women that should be called out as a matter of being out of order, because the nominated members are earning the same salary as elected Members, attending the exact sessions, and serving in the same committees. In fact, our Standing Orders say that you will not refer to a Member of this House by their name or other titles. It says you refer to members of this House as honourable Senators. If a Senator says otherwise and is not reprimanded, it is very bad.

Mr. Deputy Speaker, Sir, I wish that you help us so that those kinds of utterances are expunged from the records of this House because it is objectifying and sexualising women in all ways possible, and must be stopped. If they cannot be stopped, those male counterparts of ours in this House must, next time, tell us whose boyfriends the male nominated members are, so that there is equality in discussing the conduct of those who are nominated in this House. It is, therefore, an issue of conduct; it is not that of normal contributions.

Mr. Deputy Speaker, Sir, I start with a hook in discussing Mr. Laban Omusundi's petition. Since the advent of this House, assuming that the women and men who were nominated into this House in 2013 were nominated again in 2017 and in 2022, would we be having Members who are nominated here now? That is my hook as a question to all Members of the House. I totally disagree with the proposals that have been sent by this Report. This Report does not appreciate what Laban Omusundi is seeing in these nominations. Laban Omusundi is not against nominations. The discussion I have heard in the House today is bordering on insinuating that he is opposed to nomination. That is not true. Laban Omusundi supports nomination. However, he is indicating that nomination should promote democratic inclusion. He is cautioning and observing that there are political parties that can abuse nominations to, first, do political entrenchment. Secondly, start using it as an issue of political patronage.

I took my time to read through the Petitioners' prayers. There are only two prayers, which I wish the Committee could have done justice to. I also hope that your office directs that when a petition comes to this House, members of a committee must answer the prayers the way they have been brought. This is the prayer, and I am going to read it-

“Your humble petitioner prays that the Senate enacts legislation imposing a strict one-term limit for all nominated members of county assemblies with no exceptions or transition loopholes.”

What I was expecting from this Report a legislative proposal in response to that petition by Laban and his colleague, Caroline Soi, who must also be appreciated because she did a good job as a second Petitioner. What I wanted to see from JLAC is a legislative proposal so that if you are saying that you propose that we do a two-term instead of a one-term limit, then it should be in the form of a legislative proposal, and then argued against what Laban saw as a one-term instead of a two-term proposal.

Considering this report does not have a legislative proposal, the mention of the two-term limit is a mere mention or a mere wish. The entire report does not have it. It is not a recommendation. It is a mention that maybe we can have a two-term limit for MCAs who are nominated. That is problematic. It does not respond to the petitioners. It does not respect the prayers of these petitioners.

Secondly, Mr. Deputy Speaker, Sir, prayer number two is-

“Make any other recommendations or grant any relief that it deems fit in the subject matter to uphold the rule of law and the Constitution.”

What is Laban saying here? Laban is appreciating that the current nomination system does not uphold the rule of law or respect the Constitution. I am disappointed that even today, one of the youngsters that we have here, Sen. Sifuna, when presenting his submissions, did not appreciate the element of what Laban has said. Laban is saying that there is a gap that has been left somewhere constitutionally, which the nomination process does not follow.

If you read Article 100, it says that the nomination process shall be given to political parties in a way that follows an enactment of law by Parliament to enshrine that into our laws. If you read all the laws that we have on nominations, none of them, for instance, says that a party leader has been given the power to have a few slots for himself

or herself, and then after nominating people, the rest can be nominated by the other organs of the party. The Senator for Nairobi has just said here, and he has told the public that there are some slots that are left for the party leader to nominate. That is misinformation, because there is no law like that.

If you go to the constitutionality, because sometimes we must read this to help Laban because he has read the Constitution, under Article 90 – and Members, please bear with me – talks about allocation of party list seats, which is the nomination. It says elections for the seats in Parliament provided for under Article 97(1), which is nomination, and 98(1)(b), (c) and (d). Article 97(1) is on the nomination of Members of Parliament in the National Assembly, 98(1)(b), (c) and (d) is on nomination of Members of the Senate, which are the hon. Members who are here. For members of county assemblies under Article 177(1)(b) and (c), it shall be based on proportional representation by use of party list.

Mr. Deputy Speaker, Sir, what does that mean? Here is what I think that Laban meant. It shall be on the basis of proportional representation. That is a term for affirmative action which basically means that the Constitution wanted to cushion the country against any form of recycling nominees to Parliament. That is the term: proportional representation. That is the basis.

Then it goes on and tells us that the IEBC shall be responsible; that the responsibility for reviewing those nominations shall be vested in the IEBC to conduct and supervise the election of those seats provided under Clause 1, which is a nomination process. It further says that each political party participating in a general election nominates and submits a list of all persons who stand for election. Listen to this, they stand elected if the party were to be entitled to all the seats provided for under Clause 1 within the time prescribed by the national legislation, except under (b).

In the case of the seats provided for under Article 98, each party list comprises the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which all those seats were given. Then it gives an exception in the case of county assemblies, where each political party's list must reflect regional and ethnic diversity of the people.

You will see a constant element of affirmative action for regional levels at the national level, affirmative action for marginalised groups in both levels of county assemblies and the national Government, and affirmative action for balancing the Houses of Parliament and the Assembly for purposes of gender representation. However, the overarching issue is that you are balancing them recognising that without that affirmative action, those disadvantaged groups cannot be able to be in those Houses. What does that mean? They are coming to those Houses for an empowerment program by those Houses to be given power so that if there is an opportunity next time to participate in an elective process, they have the power to get that chance.

Therefore, Laban here is calling us to an issue that, once nomination has been given to members either in the county assembly or nationally – of course here he used the county assembly as the benchmark – and that is why in their second Petition, they are requesting any other recommendation that could grant any deemed relief. He is saying that if you do not do something like this, then you leave political parties to abuse the

nomination process and make them party properties. They make the nomination process a personal property where you can nominate anybody and give them a career path and, therefore, they can be nominated in perpetuity.

Mr. Deputy Speaker, Sir, he is not against nomination. He is just against that abuse that can potentially become a problem of not expanding that same affirmative action to expand opportunities and access for all those people who could be disadvantaged to participate in public service. This is what he is saying. He is saying that if today you have nominated Eddy Oketch and he has come to Parliament, he has learnt and he has grown some wings, and he can go back, campaign and be elected. You should then open that chance for another person because there are many young people in the category of Eddy Oketch who can be nominated and be given that chance. Otherwise, if you were to nominate one person two, three or six times, then you are restricting that access to public service to the same disadvantaged people who are not able to get it. He is not against nomination. He is against that risk that has happened in several ways to a number of people.

There is also something that Laban is talking about here that people do not see in this Petition. When Members have been nominated into these Houses – and you can ask nominated Members in their unguarded moment – their life becomes a life of patronage and a life of entitlement, either way. Number one, a nominated Member is restricted to always focus on what the party wants, even if they do not agree with it. Why? They are threatened that if they do not support what that party stands for, they will be chased out of those positions. What kind of bondage is that, for someone who has been elected to Parliament and has equal rights with you, me and any other person? It must stop. That is why Laban is saying that we should enact a law to redeem them and give them relief from that kind of patronage or entitlement that political parties have over them.

That is why nominated Members should not be threatened with losing their seats if they hold a different opinion. If you give them a one-term limit, then they have the freedom to do whatever they deem right in this House during that one term they have been given. That is what Mr. Omusundi is saying.

Lastly, due to time constraints and since my colleagues also want to contribute, if one has only a single term as a nominated Member, one is more likely to avoid that sense of entitlement, work harder and advance legislative agendas in the House.

That is not to say that nominated Members have not performed well. If I look around this House, every nominated Member has produced some of the best Bills. Sen. Hamida, for instance, has sponsored two pieces of legislation that have seen the National Treasury and government ministries stealing from her because they are so good, and then they now own them.

If there were a one-term limit, then Parliament or the county assembly would support those Members and say, “since you are here in a nominated capacity and for a short period, we must ensure that your legislative proposals receive support and recognition.” They do a good job. I have worked with Members like Sen. Tobiko in my Committee, who produce some of the best legislative proposals in this House. Why does the institution not support them adequately? It is because there is always the assumption

that they may come back or they may not. Therefore, the sense of urgency in supporting nominated Members is often lacking because of this loophole that has been left open.

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

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

Mr. Temporary Speaker, as I conclude, I am against the proposal by the Standing Committee on Justice, Legal Affairs and Human Rights. Although you have now taken the Chair, I love you because you have worked well as the Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights. However, I want to caution that what Mr. Laban is proposing is not an attack on the nomination, nor is it intended to disparage the nomination. Rather, it seeks to caution us against the misuse of the nomination process to prevent it from becoming difficult for others to get that opportunity, and for political parties to own nominated Members.

Yes, nominated Members must align with their political parties, but they cannot become the property of a political party, the party leader, or the party that nominated them. They must be legislators with the right to perform their duties in this House like any other legislator. They must be given the support necessary to discharge their mandate effectively, just like all other legislators. The reason this has not happened is because there is always something hanging over their heads: the notion that they occupy a temporary position. My view is that the Committee should have empowered the second prayer by ring-fencing all the problems facing nominated Members.

It should have stated that, once nominated, a member's seat should enjoy similar protections to those of elected Members. For example, once elected, unless I am recalled by the people who elected me, which is an extremely difficult process, I cannot lose my seat. Therefore, I can freely speak my mind. If I disagree with my political party on ideological grounds, or believe it is doing something wrong, I can say so in this House without feeling threatened that I may lose my position in Parliament the following day.

What Mr. Laban intended through the second prayer, which sought any other recommendation or relief deemed appropriate, was to ensure protection for nominated Members against any kind of patronage, attack or ownership by political parties. This is something that we must do. Unless improvements are made to those two prayers, it will be very difficult for me to support this Report, because the same challenges are evident in county assemblies.

Mr. Deputy Speaker, Sir, even nominated Members in county assemblies can vote on all House business. How is it that a nominated Member of a county assembly can vote on every matter before the assembly, yet a nominated Senator cannot vote on matters affecting counties?

(Sen. Oketch Gicheru's microphone went off)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Eddy, your time is up. However, I will give you one minute to conclude your remarks.

Sen. Oketch Gicheru: Thank you, Mr. Temporary Speaker, Sir. That is very generous of you.

Mr. Temporary Speaker, Sir, if these adjustments are made and the response to Mr. Laban's concerns becomes more comprehensive, then I will support the Report. However, in its current form, while I appreciate the effort and understand the logic behind it, it will be difficult for me to support it, unless it is amended along the lines of the proposals I have mentioned.

With those remarks, I thank you for the opportunity to contribute.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Eddy.

Proceed, Sen. Karen Nyamu.

Sen. Nyamu: Thank you, Mr. Temporary Speaker, and my Chairperson in the Standing Committee on Justice, Legal Affairs and Human Rights. I support this Report as a member of the Committee. I also laud the petitioner for bringing very valid questions before this House regarding how nominations are done. The petitioner is asking an important question: Are nominations being given to the right people intended to benefit from them, or are they going to the same individuals who have always benefited and who have connections?

I speak as someone who has benefited from nomination. I appreciate the opportunity that a nomination provides to make a difference in society. At the same time, I do not want anyone to think that being nominated is an easy road. I dare say that nominated Members often work twice as hard to secure nomination opportunities as some elected Members do. If you have ever been on a party nomination list, you know how cutthroat the process is. Out of all the women who participate in supporting a political party, the party comes up with a very small number for the final list commensurate with the number of seats won by that party in an election.

Therefore, securing a place on that list is not as easy as people imagine. I would rather be on the ballot and lose an election than go through the nomination list process again. Today you may be number four, then tomorrow, you may be number six or seven. On other occasions, regional balancing considerations come into play. For example, my region is Nairobi, yet I am often considered a Kikuyu together with Sen. Veronica Maina. She is from Murang'a, while I am from Nairobi. Nairobi is not about tribes. Those are some of the issues that need to be addressed. I digress.

Mr. Temporary Speaker, Sir, I agree that it is very important to diversify the opportunities. I suggest that we have representatives from various fields. For example, musicians and young creatives have, for a long time, complained about the environment they work in, and their inability to make enough income. Why not have a young artist or even a veteran artist such as Nameless, Redsan and others, including women artists such as Nadia Mukami, to come to this House and represent the interests of other artists through legislation that can transform their industry? Why not have sports personalities represented as well? Footballers and netball players, both male and female, all have issues they would wish to raise. Why should they not come to the National Assembly or the Senate to represent those interests?

I do not have a problem with having one or two terms as a nominated Senator. In fact, I encourage it. However, there is the issue where a nominated Senator replaces

another nominated Senator, like in the case of Sen. Wakwabubi. She will not have served the entire five years, but less than two years. Is that counted as a term, or is she eligible for nomination in the future? I think that is a grey area that we need to be very clear about by way of an amendment.

Mr. Temporary Speaker, Sir, I do not think I am looking for a nomination opportunity anymore. I have had the privilege--- I do not want to say I had the privilege, because I worked hard for it. I have had the opportunity to get the exposure and to serve Kenyans by being in this House. I am now able and equipped to fight it out with both men and other women.

The same way we are asking political parties not to nominate women or any Member twice, can we also have them not having one woman vie for an affirmative action seat twice, thrice or four times? This is because it beats the purpose of affirmative action when we have able women in the same party or arrangement who are very capable of getting those seats. It was envisaged that a woman representative position should have a shelf life of 20 years, and a proposal that each woman serves five years or a maximum of two terms. I do not know what happened to that provision. I think it was shelved and does not exist anymore. Parties have a responsibility to ensure that they are not presenting to the electorate the same women for an affirmative action seat.

With those few remarks, I support.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Karen Nyamu. Proceed, Sen. Hamida Kibwana.

Sen. Kibwana: Thank you, Mr. Temporary Speaker, Sir. Much has been said. I only want to echo one or two words. I do not intend to take much time. First, I commend the Committee on Justice, Legal Affairs and Human Rights for the report. This one has touched us, as nominated Senators. It is quite dear to our hearts.

Listening to the contributions from the male side, some positive and some negative, I am wondering whether if we were not nominated, could we only have three women Senators in this Parliament? You can imagine how boring it would have been. Look at how colourful the House is with the nominated women Senators. Actually, it just does not stop there, because we have the nominated youth and PWDs. Looking at the nominated Senators representing PWDs we have, they have really proven that disability is not inability, because they are quite competent.

Looking at our contributions, Sen. Sifuna has thrashed out the challenges that women go through to get an elected seat. For example, out of 17 constituencies, there is only one elected Member of Parliament, hon. Elachi. Looking at the seriousness that we put in for every party, the buck stops with the women supporting all the parties.

Sen. Sifuna also gave an example of Madam President, Sen. Syengo, who has been holding this position in the ODM women, and she has put in a lot of work for the party. I hold my head high for what I have done for the ODM party, for example, participating in presidential elections and being the head of operations. I remember when we were conducting presidential nominations, I had to gather signatures from the whole country all by myself. I was also the only woman who participated aggressively and was there throughout in terms of resource mobilisation in the think tank and strategy team. I was working for the whole country in the presidential team, and the efforts were quite

immense. Looking at it, I really deserve to be here. For those who are elected need to know the efforts that have been made. So, seriously, it has not been a walk in the park.

Looking at our participation in Parliament, the women have put in a lot of effort. If we did the polls on Bills, Motions and Statements, we would still stand firm as number one, two, three or four. Even other countries are poaching us. I started as a member of the International Monetary Fund (IMF). In fact, I am a trustee with the United International; I am in the Steering Committee of the Climate Parliament International, and many others. Look at what we have done. We have formed international friendship groups in other countries, and managed to take colleagues to different countries as a result. So, seriously, our contributions as nominated Senators are a very good example of what a nominated MP or MCA can be. I am sure that by the time we leave here, the contribution and what we have put on the table will be something to talk about. So, if I leave here today, I will not leave with regrets, but a smile on my face for what I have done. I have the inner satisfaction, as a woman, as they always say it is women who are always nominated. *Wanaweza.*

Sen. Cherarkey also brought in the issue of the girlfriends, and it is so trash. This is because, with the regulations of the party that are there, how do you just appoint girlfriends and whatever? So, if one is unable to produce, it is not about a favour.

Mr. Temporary Speaker, Sir, I still concur that it is fine for a person to be nominated twice. This is because you first learn to crawl, then walk and the third time, you have to fly. I concur that one term or two terms is enough; then you move on, whether you want to vie or to other areas. This has given us a soft landing. Even if you do not become a Member of Parliament, you will definitely land somewhere because it has given us a greater height to move on.

Mr. Temporary Speaker, Sir, I was still trying to understand Sen. Eddy on Mr. Laban Omusundi's Petition. However, I got you clearly about what his intention was, and what the Committee on Justice, Legal Affairs and Human Rights Committee has proposed in the Motion. I am, therefore, here to support the Motion firmly. I do not need to dwell much, because more has been said regarding nominated positions. I encourage all my sisters and even brothers who are nominated that the sky should be the limit. Whatever we can do, let us do it. Whoever lands anywhere, I am sure they will do a good job.

With that, Mr. Temporary Speaker, Sir, I thank you and firmly support. *Asante.*

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Hamida. Sen. Tobiko, you may proceed.

Sen. Tobiko: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. Let me also speak as a beneficiary of nomination by political parties in this House. I am also speaking as one who has had the privilege of getting elected by my people, the good constituents of Kajiado East, for 10 years in the National Assembly before getting nominated to the Senate. Therefore, I will speak having both experiences of having been elected, and now finding myself on the other side being nominated.

I want to believe that Mr. Laban Omusundi had good intentions for this country. I agree with him that the issue of repeat nominations might limit the greater population of not just women, but also those who have been nominated in other categories such as

PWDs and the youth. It is good that nominations are open so that they get a wider catchment. If we insist that people can be nominated twice or more times, many people will take that position as a comfort zone and not want to contest, because they will get the easier way out. The easier route is to get nominated.

Mr. Temporary Speaker, Sir, I am sure I am speaking for the greater population of women out there. They will say that those ones are using that platform they got in our name to be retained in the county assemblies, the National Assembly, or the Senate. Going by his proposal, there would be a greater catchment, and we will create a critical mass of women who have been oriented into leadership if people get nominated once and then get encouraged to go into competitive elections.

If there was a favour any political party would do for me today, it would be to give me a ticket to the ballot box to compete and get elected so that I can serve my people in a freer environment. We know that nominated Members are here to represent party interests. Therefore, you are limited in the scope of leadership. You are limited in the scope of what you are allowed to think critically and take positions on various matters of national interest.

What was the spirit of the law? The law intended to build leadership from those categories of Kenyans who would not otherwise be elected, including PWDs. We have had good experiences from those who have come here to represent PWDs. Our sister, Sen. Crystal Asige, is in this House, and you have seen her contribution. She has brought a different perspective on disability, because she has been speaking for those without sight. We have had Sen. Mwaura in this House. In the National Assembly, we had the late Hon. Janet Teyiaa; May God rest her soul in peace. After nominations, she contested and got elected as the Woman Representative for Kajiado, and she performed very well.

We will be limiting people in the county assemblies, the Senate, and the National Assembly if we encourage people to be nominated repeatedly. It is better that we encourage political parties to undertake an affirmative move during party primaries so that they give women tickets to run for elective positions.

I want to applaud the ODM Party because all the women they gave direct tickets to contest for constituencies and the governor position all delivered. That is a very good example of political parties using affirmative action, but also encouraging women to go into elective politics.

If we encourage a repeat, you will have me or Sen. Veronica Maina coming back again as nominated Members, yet these are women who have built the muscle to go and contest. Sen. Beth Syengo will come in as the Woman Representative for Kitui County soon because she has been given this platform, and she does not need to continue being here. She has now been equipped to go to the field, and that is what we want.

It is sad and I am going to use my county as an example. For a third time now, there are women who have been nominated to the county assembly. You will find very few going for elective positions. They do not even run. They get satisfied with the positions they are given. After that, we lose most of them, but those who have come out to contest have done well. The current Woman Representative for Kajiado County is a former nominated MCA. Some Members of this House, including elected Senators, were former MCAs. They dared to dream and contest, and they have made it. So, the spirit of

the law is to give you a platform; take the greatest advantage of that platform, get your leadership skills, and then go present yourself to the Kenyan population so that now, they elect you back.

I encourage all nominated Members to go for elective positions. For us to raise the two-thirds required in the National Assembly, political parties must be encouraged to take affirmative action during party primaries to identify strong women. In fact, if I were the one to make the final decision, I would say that the nomination lists be done after the elections. I know we were there, and we came to a situation where, as a country, we decided to do the nominations before elections. What if we do the nomination lists after the elections so that women who will have presented themselves for elections and have performed well are then cushioned through the nomination lists? If my political party did not nominate me after the party primaries, I would have been lost. Yet today, the people of Kajiado County have a potential governor in me. It is good that after elections, all parties look at the women candidates they had, how they have performed, see their potential and then maybe put them through nomination.

Mr. Temporary Speaker, Sir, I have found the nominated position to be a very interesting one. It has not been easy for me to get the proper footing of how to behave, particularly after being an elected member. When I was an elected member, I had the freedom to speak for my people very strongly, while on this side, I find myself very limited in scope. I think nominations should go to many more people, be it for the county assemblies, the Senate or the National Assembly. This exposure should be given to a lot more people instead of a few of us coming and deciding to be a nominated member again and again. We have had people being nominated three times; I do not think it is fair to other Kenyans.

Mr. Laban meant well and I support his position and oppose the position taken by your Committee.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Lastly, I will allow Senator Beth Syengo to make her contribution.

Sen. Beth Syengo: Thank you, Mr. Temporary Speaker, Sir. I join my colleagues and say that nomination is a good thing, but it should not be abused or misused. It is important to know that once a woman is nominated, she is given a chance to be empowered, exposed and be strengthened so that she can get out there and compete for elective positions.

The Petition by Omusundi is a good thing which we should not have dismissed without considering the prayers that he had made. Political parties do good things. I am here on that platform of nomination after serving my political party that I love so much, ODM, for many years. I am sure I made a very significant contribution. However, I am not the only woman in ODM, there are so many in the queue who should be given a chance. I feel that having been given this chance, I am looking forward to being elected by the good people of Kitui County. I will go to the National Assembly by being elected by my people. I should give the chance that I have now to another woman who will also get a chance to be empowered and go and vie for an elective position.

It is not bad to be nominated twice or thrice, but we should be democratic enough about it. Political parties must be democratic enough. It is not good to have perennial or repeat nominees after every election cycle. It is important to recognise that we are many in the queue, and once you are given a chance, use it wisely, impact the community and make sure you go and convince the voters to give you a chance also. If those who were nominated in the last Parliament were the same ones nominated again, maybe Beth Syengo would not be here today. I am here because somebody stepped out, and I got that chance to come in.

Mr. Temporary Speaker, Sir, I know you are the Chairperson of that Committee that made the recommendation. However, you should have given the Petitioners, Caroline and Omusundi, their thoughts also. We ought to have thought about how to make legislation that will ensure the nominated members do not appear as if they are lesser human beings. It is not right when we know nominated MCAs can vote. However, I, a Senator who is seated here overseeing the counties, cannot vote because I do not have that right. That is the one reason that pushed me into saying that I will not come back here as a nominated Member with limited powers. I want to be elected by my people so that I may have those powers to represent and provide oversight properly with rights.

This Report needs some review so that we may give the Petitioners that chance. We need to make legislation to kind of look at the nominations and the people given chances by political parties. It is not just anybody who deserves a nomination; it is somebody who has contributed immensely and can influence and even make legislation, just as the other nominated Senators and I are doing.

The second plea by the Petitioners is very important. Your committee should review this Report and give the petitioners a chance so that we can also be on the same page with them. It is not that we are opposing anything, but as some of my colleagues have said, those who are nominated are not lesser beings. When we are nominated, it does not mean that we do not think upright and straight. When we were denied the oversight fund, it really hit me below the belt because I want to do oversight just like Sen. Wambua is doing in Kitui County. Why am I not given that chance to even just help him? One is good, but two are better than one. A county that has two Senators can do a better job when both are equally empowered.

I submit.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Beth Syengo.

Hon. Senators, the contribution by Sen. Beth was the last. There being no other Senator to contribute, I defer the reply by the Mover to tomorrow.

Hon. Senators, we will have Order Nos. 25 through to 34 all being deferred until the next sitting of the House.

MOTION**ADOPTION OF PETITION REPORT ON RE-INTRODUCTION OF ELECTIONS
(AMENDMENT) (No.3) BILL (SENATE BILLS NO.48 OF 2021)**

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights (JLAHR) on a Petition by Mr. Mohamed U. Alasow concerning the re-introduction of the Elections (Amendment) (No.3) Bill (Senate Bills No.48 of 2021), laid on the Table of the Senate on Tuesday, 8th September, 2026.

(Motion deferred)

MOTION**ADOPTION OF REPORT ON PETITION ON EVICTION OF
KOROGOCHO COMMUNITY LIVING ALONG
NAIROBI RIVER CORRIDOR**

THAT, the Senate adopts the Report of the Standing Committee on Land, Environment and Natural Resources on a Petition by Mr. Hezekiah Kuria Karanja and others concerning the eviction of Korogocho community living along the Nairobi River Corridor after its declaration as a Special Planning Area, laid on the Table of the Senate on Wednesday, 16th September, 2026.

(Motion deferred)

BILLS*Second Reading***THE KENYA HEALTH PRODUCTS AND TECHNOLOGIES REGULATORY
AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 54 OF 2022)**

(Bill deferred)

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

(Bill deferred)

Second Reading

THE COUNTY WARDS (EQUITABLE DEVELOPMENT)
BILL (SENATE BILLS NO.20 OF 2024)

(Bill deferred)

THE PUBLIC SERVICE INTERNSHIP BILL
(NATIONAL ASSEMBLY BILLS NO.63 OF 2022)

(Bill deferred)

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, 31st March, 2026.

(Motion deferred)

MOTION

ADOPTION OF REPORT ON STAKEHOLDER FORUM ON
CHALLENGES FACING THE SUGAR SECTOR

THAT, the Senate adopts the Report of the Standing Committee on Agriculture, Livestock and Fisheries on Stakeholder Forum on the challenges facing the sugar sector held at Mabanga Agricultural Training College in Bungoma County on 26th May, 2026, laid on the Table of the Senate, on Wednesday, 5th August, 2026.

(Motion deferred)

MOTION**NOTING OF REPORT ON ACTIVITIES AND OPERATIONS OF
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 224 (2), laid on the Table of the Senate, on Wednesday, 28th May, 2025.

(Motion deferred)

MOTION**NOTING OF REPORT ON ACTIVITIES AND OPERATIONS OF
SELECT COMMITTEES DURING THE FOURTH SESSION (2025)**

THAT, the Senate notes the Report of the Liaison Committee on the activities and operations of Select Committees during the Fourth Session (2025) pursuant to Standing Order 224 (2), laid on the Table of the Senate, on Thursday, 18th June, 2026.

(Motion deferred)

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, you may now rise.

ADJOURNMENT

Hon. Senators, that brings us to the end. There being no other business on the Order Paper, the Senate stands adjourned until tomorrow, Wednesday, 30th September, 2026, at 9.30 a.m.

The Senate rose at 6.11 p.m.