



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

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THE HANSARD

Tuesday, 17th October 2023

The House met at 2.30 p.m.

[The Speaker (Hon. Moses Wetang'ula) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: Serjeants-at-Arms, continue to ring the Quorum Bell.

(The Quorum Bell was rung)

Hon. Members, we now have a quorum to transact business.

MESSAGE

PASSAGE OF TWO NATIONAL ASSEMBLY BILLS

Hon. Members, I have a Message from the Senate on the House of Senate's passage of two National Assembly Bills. Pursuant to Standing Order 41(4) of the National Assembly Standing Orders, I wish to report to the House that I have received two Messages from the Senate regarding the passage of two National Assembly Bills. The Message conveys that on Thursday, 12th October 2023, the Senate considered and passed the Digital Health Bill (National Assembly Bill No.57 of 2023) and the Social Health Insurance Bill (National Assembly Bill No.58 of 2023) without amendments and in the form passed by the National Assembly.

You will recall that on Wednesday, 27th September 2023, the National Assembly considered and passed the two Bills with amendments, following which I referred the Bills to the Senate for consideration in accordance with Article 110(4) of the Constitution. The passage of the said Bills by the Senate in the same form as passed by the National Assembly concluded the bicameral consideration of the two Bills.

In this regard, Hon. Members, pursuant to the provisions of Article 110(5) of the Constitution, I shall be presenting the Bills to His Excellency the President for assent. Thank you.

(Applause)

Next Order. Leader of the Majority Party.

PAPERS

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to lay the following Papers on the Table:

1. Submission of one nominee to Tiaty Constituency from the National Government Constituencies Development Fund Board.

2. The Second Annual Report on the state of Public Private Partnerships in Kenya for the Financial Year 2022/23.
3. Report of the Auditor-General and financial statements for the Ethics and Anti-Corruption Commission Staff House Mortgage and Car Loan Scheme for the year ended 30th June 2023, and the certificates therein.
4. Reports of the Auditor-General and financial statements for the Ethics and Anti-Corruption Commission for the year ended 30th June 2023, and the certificates therein.

Thank you, Hon. Speaker.

Hon. Speaker: The Chairperson of the Departmental Committee on Finance and National Planning, Hon. Kimani.

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Finance and National Planning on its consideration of the Equalisation Fund Bill, (National Assembly Bill No.47 of 2022).

Hon. Speaker: Next Order. There is a microphone right next to you.

NOTICE OF ADJOURNMENT ON A MATTER OF URGENT NATIONAL IMPORTANCE

DEMOLITIONS IN MAVOKO, MACHAKOS COUNTY

Hon. Robert Mbui (Kathiani, WDM): Hon. Speaker, pursuant to the provisions of Standing Order 33(1), I seek leave for the adjournment of the House for purposes of discussing a definite matter of urgent national importance regarding the ongoing demolitions and evictions in Athi River, Machakos County.

Hon. Speaker, on Friday, 13th October 2023, residents of Athi River woke up to extensive demolitions of their houses by the Government. The demolitions have continued over the past four days, with significant losses to the residents. Homes, schools, churches, mosques and other social amenities have been brought down in total disregard for the rights of the owners and occupiers. Notably, no notice was given to the property owners before the demolition.

Furthermore, whereas it is alleged that the land belongs to the Government and that the occupiers had done so against the law, it is worth noting that the relevant county and national Government institutions duly approved the constructions. This includes architectural designs, roads and other amenities, including water and electricity connections by Kenya Power.

Hon. Speaker, it is sad to note that the East African Portland Cement Company (EAPC) has advertised the sale of the said land. Interestingly, the EAPC claims that preferential priority shall be offered to the parties currently occupying sections of the said parcel. This is coming after the demolition of the properties of the very persons they now allege they intend to sell the land to.

Hon. Speaker, it is against this background that I seek leave for the adjournment of the House to discuss this matter of great national concern to explore possible and lasting solutions.

Thank you, Hon. Speaker.

Hon. Speaker: Do you have the numbers to support?

Hon. Robert Mbui (Kathiani, WDM): Members!

(Loud consultations)

(Several Members stood up in their places.)

You definitely have the support of the House. You may take your seats, Hon. Members. I have consulted with the Mover of the Motion and the Clerk-at-the-Table, and I will allocate time on Thursday at 5:00 p.m. to debate this Motion.

(Hon. Opiyo Wandayi spoke off the record)

Order, Hon. Wandayi. You are not going to question that. I said I already consulted with the Mover of the Motion, who is seated beside you.

(Laughter)

Next Order.

QUESTIONS AND STATEMENTS

Let us have the Statement by the Member for Garissa Township, Hon. Barrow Mohamed.

GENERAL STATEMENT

EXCLUSION OF ORPHANS AND VULNERABLE CHILDREN FROM ENROLMENT TO INUA JAMII CASH TRANSFER PROGRAMME AND IMMINENT CLOSURE OF PRIVATE HOME CARE CENTRES AND ORPHANAGES

Hon. Dekow Mohamed (Garissa Township, UDA): Thank you, Hon. Speaker. Hon. Speaker, pursuant to Standing Order 43(1), I rise to make a general Statement on the exclusion of vulnerable children and orphans in homecare centres and orphanages from the recent mass registration of new beneficiaries of the *Inua Jamii* Cash Transfer Programme.

Hon. Speaker, the State Department for Social Protection and Senior Citizens Affairs implements the *Inua Jamii* Cash Transfer Programme. The programme targets older persons over 70 years, poor households taking care of orphans and vulnerable children, and persons with severe disabilities by providing a monthly stipend to support dignified living.

Hon. Speaker, on 1st September 2023, the Government rolled out a countrywide month-long registration targeting 500,000 new beneficiaries of the Cash Transfer Programme. Whereas the noble exercise seeks to enhance the welfare of vulnerable members of our society, it is unfortunate that orphans and vulnerable children living in homecare centres and orphanages, being similarly needy, were not registered to equally benefit from the initiative.

Hon. Speaker, it is also public knowledge that the Government intends to close all private-owned children's homes and orphanages in the country and allow only Government-run home centres under the Child Welfare Society of Kenya. The Government envisages reuniting the children with their parents or guardians and other family members where they can benefit from parental care and guidance. Nevertheless, most children in home care centres and orphanages do not have anywhere to call home or where to seek alternative centres other than the care centres. It is also unclear how hundreds of vulnerable children in private childcare centres will be transitioned to have their well-being and welfare secured.

Hon. Speaker, I, therefore, urge the Government, through the Ministry of Labour and Social Protection, to register vulnerable children and orphans living in childcare homes and orphanages in the Cash Transfer Programme and consider remitting their monthly stipend to those centres. Further, it is important for the Government to put in place suitable and sufficient

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alternatives to support the vulnerable children in private-owned care centres before embarking on any policy reforms overhauling children's care systems in the country. This will ensure that no vulnerable child is unjustly disadvantaged and their well-being jeopardized. As a matter of fact, most of those care centres that are hosting the children are supported by well-wishers, including Members of Parliament.

I thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Mohamed. Where is Hon. Karemba? Is he the Chairperson of the Departmental Committee on Social Protection? Hon. Alice Ng'ang'a! Is she in the House? I direct the Committee to get seized of the matter and report back to the House in two weeks. Thank you.

Hon. Members, before we go to the next Order, allow me to acknowledge and recognise the delegation from the Parliament of Botswana.

COMMUNICATION FROM THE CHAIR

DELEGATION FROM THE PARLIAMENT OF BOTSWANA

Hon. Speaker: Hon. Members, I wish to introduce to you a delegation of staff from the Parliament of Botswana. The delegation comprises the following:

1. Mr. Christopher Nfila, Assistant Clerk and Head of the Table & Journals Office (Leader of the Delegation);
2. Mr. Thato Tshiepiethata, Principal Clerk Assistant, Table & Journals Office;
3. Ms. Unami Chikanyuka, Senior Clerk Assistant, Table & Journals Office; and,
4. Mr. Bogodile Shuping, Senior Information & Technology Officer.

The delegation is in the country on a benchmarking visit to the National Assembly to learn about the automation of Parliamentary Business Processes to improve efficiency, reliability and transparency in the provision of legislative and procedural services to Members of Parliament.

Hon. Members, on my behalf and that of the National Assembly, I welcome them to the National Assembly and wish them fruitful engagements with the staff in the country.

Hon. Members, I will re-arrange the Order Paper and direct that we go to Order No.9, which we can dispose of fairly quickly between the two leaders of the House, before we come back to Order No.8. Call out Order No.9.

Leader of the Majority Party.

MOTIONS

EXTENSION OF MANDATE OF THE NATIONAL DIALOGUE COMMITTEE

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move the following Motion:

AWARE THAT the National Dialogue Committee was established by Parliament through a Resolution passed by the National Assembly and Senate on 16th August 2023 and 29th August 2023, respectively;

FURTHER AWARE that the Resolution outlines the mandate of the Committee, which includes to facilitate dialogue, consensus-building and recommend appropriate constitutional, legal and policy reforms on issues of concern to the people of Kenya;

ACKNOWLEDGING THAT since its establishment, the Committee has made tremendous progress in exercise of its mandate and has achieved the following milestones: Formulated and adopted the framework agreement; framed and adopted the statement of issues; unbundled the issues and agreed on prioritisation of issues; harmonised the unbundled issues; conducted public participation and stakeholder engagements in line with the requirements of Article 10 of the Constitution and examined and analysed the memoranda that were received from the public and stakeholder submissions;

FURTHER COGNISANT that the Committee is presently in the process of considering the issues for negotiations and recommending appropriate constitutional, legal and policy reforms on each of the framed issues, which are electoral justice and related matters; outstanding constitutional matters; fidelity to political parties/coalitions and the law on multiparty democracy; entrenching the National Government Constituencies Development Fund, the National Government Affirmative Action Fund, and the Senate Oversight Fund into the Constitution and Establishment and Entrenchment of State Offices;

CONSCIOUS that the Resolution as passed by both Houses of Parliament, required the Committee to report to the leadership of Kenya Kwanza and Azimio coalitions within 60 days, from 29th August 2023;

RECOGNISING the need for the Committee to conclude the consideration of the issues for negotiations, the process of making the appropriate constitutional, legal and policy reforms on each of the issues as framed by the Committee and preparation of a report for submission to the leadership of Kenya Kwanza and Azimio coalitions and thereafter, to Parliament;

NOW, THEREFORE, the Houses of Parliament RESOLVE to extend the mandate of the National Dialogue Committee by a further 30 days from 28th October 2023 and consequently, the Committee shall be required to report to the leadership of Kenya Kwanza and Azimio coalitions on or before 26th November 2023, and thereafter submit its Report to Parliament.

Hon. Speaker, as the Motion states, we resolved in the National Dialogue Committee to seek an extension of our mandate from the envisaged initial period of 60 days by a further 30 days. The Motion is self-explanatory. We have covered a lot of ground in the last 50 or so days, but with less than ten days to go, we took a break this week to allow the technical teams and the secretariat to put together the issues we agreed on last week. They will also frame the issues we have divergent opinions on and those on which we converge in opinion so that we can quickly negotiate.

As you are aware, having been a seasoned and number one diplomat when you were the Minister for Foreign Affairs, matters to do with dialogue and negotiations are lengthy and delicate. We do not want to rush into them. We also wish our technical teams to guide the Committee in terms of constitutional and legal provisions and to develop draft legislative and constitutional interventions to form part of our report. We realised that we might not complete that within the time left. As we resume negotiations next week, we will only have about five days from Monday to Friday, as the period lapses on Saturday, 28th October. We, therefore, sought to come back and seek the concurrence of both Houses to allow us more time to engage and consider all the issues in line with Article 10 of the Constitution. We also want to engage with the memoranda and the stakeholder engagements we listened to.

Members following the Committee's proceedings will notice that we engaged with over 60 stakeholders in about five days. There were 704 individuals or entities drawn from stakeholders who appeared before the Committee. A similar number sent memoranda through e-mail and handwritten form, including Members of Parliament. Some of the Members are

here, such as Hon. Caroli Omondi, who took his time to not only send memoranda, but also to appear before the Committee to give his submissions. Hon. Pukose, the Member for Tiaty and many others also appeared on various issues. We do not want to come up with a report that will not consider all those issues. Therefore, we seek the concurrence of the House for an extension of time.

The Committee may not need to sit for the entire 30 days. We are cautious not to seek an extension of two weeks or 15 days, and then we run into problems and have to return to the House again, probably during recess. That is why we saw it fit to do this early enough so that we, at least, have another 30 days until the end of November. However, we are certain that we will have completed our work and tabled a report before Parliament before the end of November. We will also report back to the coalition leadership on both sides for a way forward on the issues at hand.

I take this opportunity to thank the hundreds of Kenyans who wrote to the Committee and who took their time to submit memoranda through e-mail, some even through WhatsApp, and others by delivering them by hand to Bomas of Kenya and the secretariat in Parliament. I also thank Parliament, the Office of the Clerk, and your Office, Hon. Speaker, for the support, especially on secretarial services, that you have extended to the Committee.

As you are aware, we have worked under very strenuous circumstances. We had no budget at all but relied on the support of well-wishers. We pray that the well-wishers who have supported the Committee continue doing so. I am pleading with Members who were very keen to appear before the Committee to also contribute to its budget in these last hours. Unfortunately, one of the civil society organisations funding the Committee's conferencing facilities indicated they had run out of funds towards the end of last week. That may be part of why we were unable to meet this week. I hope we get the necessary support from other well-wishers who may want to support this endeavour.

Hon. Speaker, you have told us numerous times that it never hurts to speak to each other rather than at each other. Through this process, we have surmounted issues that seemed like mountains, which we would never have agreed on through dialogue, negotiations and consultations with mutual respect. Many Kenyans will bear witness that this dialogue process has, in a big way, helped to calm the nation and allowed all of us as leaders to focus on what we were elected to do, which is to deliver services to Kenyans.

With those many remarks, I beg to move and request the Leader of the Minority Party, Hon. Opiyo Wandayi, who is also the Azimio Coalition Deputy Delegation Leader, to second, on behalf of his Delegation Leader, Hon. Kalonzo Musyoka.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Speaker. I wish to second this Motion. In seeking this short extension to the National Dialogue Committee's term, we are simply exercising abundance of caution as rightly put by Hon. Ichung'wah. As a matter of fact, we may not actually need those 30 days. Since we are aware that the Senate is going on recess on 19th of October 2023, it would be advisable that we take this precaution that we act proactively so that we get this Committee given the life it requires to undertake its work to conclusion.

If there is something we have learnt throughout the term of this Committee so far, it is that Kenyans of all walks of life, various backgrounds and diverse schools of thought have come before us to express themselves robustly on issues they feel strongly about. Issues they feel this Committee should deal with over and above even the issues we had outlined earlier on. We have seen for instance far-reaching recommendations coming forth from the Judiciary, the Supreme Court, Council of Governors and Council of the County Assemblies Forum. They have all come before us to make recommendations. Including the clamour to introduce a ward development fund which was not in the initial agenda. The clamour to make devolution work by strengthening the counties by way of increasing their equitable share of revenue and so on.

Therefore, I can say with a lot of confidence that this Committee has done extremely well so far, and Kenyans should not lose hope. I have seen the media trying to run with the narrative that the Committee is giving preferential treatment to issues that do not concern Kenyans. If you look at the issues which are on the table, all have to do with the people. They are neither Azimio nor Kenya Kwanza issues as we speak. They are all Kenyan issues. As I conclude, even the matter of the cost of living, which is captured under Article 43 issues, is an issue that the Committee is properly seized of. I have always said this Committee will not complete its work without addressing itself to the matter of the cost of living.

I also want to echo what Hon. Ichung'wah has said. That this Committee, its establishment and proceedings have had the effect of calming the country. The country has been able to move as a unit in so far as these talks are concerned. We expect that if the House in its wisdom can grant us that extension, we shall be able to now undertake the final bit of this work. As a matter of fact, the real negotiations started just last Thursday. On Thursday last week and Friday is when we had real negotiations happening because previously, we had to listen to the public, agencies and groups. Real negotiations have just started and the speed at which we are moving is highly encouraging. I do not want to say any more than that. I wish to plead that Hon. Members kindly grant the Committee the extension it is seeking.

With that I second.

Hon. Speaker: Order, Hon. Members. Order, Hon. Members in the walkway. Take your seats.

(Question proposed)

Members: Put the question.

Hon. Speaker: Do you really need to debate this Hon. Members?

Members: No.

Hon. Speaker: Okay, I give you two minutes Hon. Member.

Hon. Major (Rtd.) Abdullahi Sheikh (Mandera North, UDM): Thank you, Hon Speaker. As much as I agree with...

Hon. Speaker: Only comment on whether...

Hon. Major (Rtd.) Abdullahi Sheikh (Mandera North, UDM): Hon Speaker, when this House mandated the same Committee that they go do this job, we expected them to tell us and provide a clear progress report to this House to say that we have done a, b, c, d.

Hon. Speaker: You are out of order. There was no such provision in the Motion that was tabled here. So, you are clearly out of order. Take your seat.

Members: Put the Question.

Hon. Speaker: Hon. Members what is before the House is very simple. Do you extend the time by 30 days or you do not? Not the merits or demerits of what the Committee is doing. Hon. Members, allow me now to put the Question.

(Question put and agreed to)

We now go back to Order No.8. Clerk, read it out.

ADOPTION OF REPORT ON THE PROBABLE LOSS OF INVESTMENTS
IN CYTONN HIGH YIELDS SOLUTIONS PLATFORM

(Moved by Hon. Nimrod Mbai on 3.10.2023)

(Resumption of Debate interrupted on 17.10. 2023 – Morning Sitting)

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(Several Members stood up in their places)

(Loud consultations)

Hon. Speaker: Before we go to debate on this Order... Order, Hon. Members! Order! When you are on your feet in the House, you will either be in motion into or out of the House. You cannot be static in one spot when the House proceedings are going on.

The consultations are a bit too loud. I want to caution Hon. Dawood and his colleagues that while I was putting the Question on that long Motion, you continued distracting my attention with very animated discussions that were totally out of order.

Hon. Members, allow me to acknowledge the following students in the Public and Speaker's Galleries: University Students Association Leaders from West Mugirango Constituency, Nyamira County; Mwioko Primary School from Ruiru Constituency, Kiambu County and Kyanguli Primary School from Kilome Constituency, Makueni County. Two Members have requested me: The Member for Ruiru and West Mugirango, to welcome the students. I give a minute to each one of them, starting with the Member for Ruiru.

Hon. Simon King'ara (Ruiru, UDA): Ahsanteni sana, mzungumzaji wa Jumba hili kwa kunipatia nafasi ya kuweza kuwakaribisha...

Hon. Speaker: That is not the translation of Mr. Speaker.

(Laughter)

Hon. Simon King'ara (Ruiru, UDA): Ahsante sana, Mhe. Spika kwa kunipatia mwanya huu wa kuweza kuwakaribisha wanafunzi kutoka shule ya msingi ya Mwioko, iliyo pale Ruiru, hapa Bungeni. Ahsante sana haswa kwa uongozi wako mwema, na kuwapatia nafasi angalau kukaa katika Jumba hili la sana ambalo unaelekeza. Vile vile, ninachukua mwanya huu kuwatakiya kila la heri watahiniwa wote ambao wanajiandaa kufanya mitihani ijao hapo mwakani.

Ahsante, Mhe. Spika.

Hon. Speaker: Thank you. *Nashukuru sana*. Member for West Mugirango, one minute.

Hon. Stephen Mogaka (West Mugirango, JP): Thank you, Hon. Speaker, for giving me this humble opportunity. I join my colleague from Ruiru in welcoming all the students in the Speaker's Gallery. Coincidentally, I went to Ruiru High School, and I am happy when students from there come here at the same time as university student leaders from West Mugirango

Thank you, Hon. Speaker, for the continuous development of our young leaders, particularly those in the universities. I am proud that these students have been chosen to come and see how you conduct proceedings in this House. I am sure they will grow to become effective leaders.

Hon. Speaker, may I humbly request you to be kind enough because West Mugirango is in Nyamira County and *Mama County*. Hon. Jerusha Momanyi, is here to second my Motion to welcome our students to the House.

Thank you, Hon. Speaker.

(Laughter)

Hon. Speaker: Order, Hon. Members! Do not overreach yourselves.

First, he has moved no Motion, and second, he has no authority to grant any Member an opportunity to speak. We are in Order No.8. The Member on the floor had exhausted his time. As usual, the screen is full. I do not know whether this is on this Motion. John Kwanjiku, Member for Kiambaa, do you want to speak on this Motion?

Hon. Njuguna Kwanjiku (Kiambaa, UDA): Yes, Hon. Speaker.

Hon. Speaker: Go ahead Kwanjiku.

Hon. Njuguna Kwanjiku (Kiambaa, UDA): Thank you, Hon. Speaker, for allowing me to contribute to this Motion as amended by my colleague Hon. Atandi. I support it because it is high time, as a House, we protected Members and the public against shrewd investors. They use their resources to lure many people in the Republic into their schemes, which promise more profits like Cytonn.

I support this Motion because I condemn what land grabbers are doing in Mavoko. Kenyans have found themselves between a rock and a hard place. They used their meagre resources or savings to build homes for their families, but they were scammed and have nothing to show for it.

I support that the DCI needs to rise to the occasion and deal with those shrewd business people who use their resources and public resources to defraud millions of Kenyans. I saw a woman crying because she had invested all her retirement savings. She cannot afford to buy another piece of land.

Those people used their savings to invest in the land. So, the DCI and EACC must rise to the occasion. The directors of those companies drive huge vehicles and own serious homes in Karen, Runda and other posh places at the expense of the citizens of this Republic. Therefore, we call upon the DCI to take action. Those people's personal accounts, including their spouses' accounts, should be frozen so that those who have invested money with Cytonn Investments and other companies dealing with land are compensated. Those companies have been using that opportunity to publicise and market their companies and showcase how they assist vulnerable Kenyans to purchase land and even own homes and property. We must also make sure that we put measures immediately. The DCI should rise to the occasion and put up some measures by ensuring that they confiscate their personal properties to become a lesson to them and even to other people in business, not of selling land, but of stealing from citizens. The DCI and EACC must rise to the occasion. I support the Motion.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Ferdinand Wanyonyi, the Temporary Speaker in the Speaker's Chair during the morning Session, told me you had been lined up to speak.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Yes, Hon. Speaker. I have had a very long delay waiting to speak on this Motion. First and foremost, we need to know the origin of that organisation. That is because that organisation has been conning Kenyans money. Last weekend, unfortunately, they came to my residence in Kitale. They had a very nice vehicle. They walked in, but I did not know who they were. They even sent religious people to come and persuade me. That happened on Saturday when I was at home. Someone I did not even know just drove into my compound. I was surprised that he was one of the organisers and leaders in Trans Nzoia trying to convince me to invest in that particular group. I got very interested because they were very persuasive. I almost got tempted to join, but they asked for some money, which I did not have. I asked that they give me time to investigate, only to come here and find this Motion on the same matter. I caution Members that those guys are very persuasive. They will approach you and give you all sorts of good things about that organisation.

The question is: What is happening to CMA in this country? Why are those people licensed to come over and give that kind of attraction and yet, at the end of the day, there is

nothing? The Public Petitions Committee should invite CMA to explain who those people are. I am told they are from the USA. When it comes to advertisements, they will give you all sorts of things. A Member mentioned in the morning that when something is so sweet, think twice before you accept it. They are very persuasive. I insist that the Committee invite CMA and explain who those people are because they are conning Kenyans.

With those few remarks, I support the Motion and look forward to when those people will come to tell us who they are because they are all over the place with advertisements. Therefore, we should find out who they are so that we deal with them squarely.

Hon. Speaker, I support.

Hon. Speaker: Thank you, Hon. Ferdinand. Hon. Members, the screen is full. I do not know what you have logged in for. If you raise your hands, it will be easier. Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Speaker. I stand to support the Report by the Public Petitions Committee and the amendment by Hon. Atandi. Investments in real estate are expensive undertakings. As such, many investors look for innovative ways and look at the cocktail of investment options available to them. The case of Cytonn Investments is a case of pooling funds so that they can invest in any real estate asset for purposes of capital appreciation and rental income. In this case, Cytonn Investments went out of their way, set up various funds and investment schemes, and then invited members of the public to subscribe and pay some money for purposes of development and paying along the line as development goes on. This is some kind of a pre-sale or sale on paper. In this case, many cases go wrong. Many of them have been executed successfully, but some cases go wrong. In the case of Cytonn Investments, something went wrong. If you peruse the Report of the Committee, you will note that it clearly highlights some of the shortfalls of this approach. One, there is no guarantee of return on investment. If there is any guarantee, the guarantee is tied in mortar and bricks, which may not be a solution. Two, this kind of arrangement is not regulated anywhere. It is a non-regulatory investment.

Consequently, there are no balances and checks to ensure the security of investments. It is upon this understanding that one of the recommendations of the Report is to call upon CMA to institute regulations that somehow rope in those people. Those kinds of investments are becoming popular as borrowed from the USA and, to some extent, the United Kingdom.

I invite the Departmental Committee on Finance and National Planning to pursue one of the far-reaching recommendations to the end: the recommendation on regulations. This kind of arrangement is inevitable and is a progressive approach to raising funds for real estate investment. Therefore, we need to have regulations. If an organisation states that it will collect funds to undertake a project, it is incumbent upon it to ensure that it delivers. The many cases of stalled projects and delayed completions are hurting many investors in this country. I agree with the recommendation that those directors who hold fiducial responsibility in Cytonn Investments and the plethora of Special-Purpose Vehicles (SPVs) should be held personally responsible to the extent of the culpability so that we can solve this problem once and for all. The allure of owning a house and paying over a long period makes everyone very culpable. It is very sweet. As Hon. Ferdinand has said, you cannot resist. They often send outstanding marketers, very sweet, good-looking girls, and well-dressed men to sell to you. If they approach Hon. Wanyonyi, I know...

(Hon. Ferdinand Wanyonyi spoke off the record)

Hon. Wanyonyi is warning me and so, I will not say anything. He is my elder. I do not want him to threaten me.

Hon. Speaker, the long and the short of it is that regulations are important. Additionally, people must be held responsible for their decisions. As they present themselves to the public,

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they must be held accountable. Those who have lost their money in this scheme must be repaid. Where they fail to pay, those who are responsible must have their assets liquidated so that we compensate the investors. With those few remarks, I support the Motion.

Thank you, Hon. Speaker.

Hon. Speaker: Is Hon. Atandi in the House? He is the mover of this Motion. Right?

(A Member spoke off the record.)

Okay, the Mover is the Chairman of the Public Petitions Committee. Is the Chair of the Public Petitions Committee here? Who is the Vice-Chair?

(Hon. Speaker consulted the Clerk-at-the-Table)

Hon. Sitienei, are you the one standing in for your Chairman? Are you the one replying to the Motion? What is the problem, Clerk-at-the-Table? Give Hon. Sitienei the microphone.

Hon. Janet Sitienei (Turbo, UDA): Hon. Speaker, I can do it.

Hon. Speaker: It is not a matter of whether you can do it. Are you the one replying or not?

Hon. Janet Sitienei (Turbo, UDA): I am not the one who is replying, but I will do it.

Hon. Speaker: Where is the Chairman of the Committee? He has been adversely mentioned here many times. This is his Motion. How much time do you require? You have 10 minutes, legitimately. Some Members are under tremendous pressure to say something. Do you need all the 10 minutes or a few minutes so that I can allocate a few minutes to others?

Hon. Janet Sitienei (Turbo, UDA): Hon. Speaker, I will take a few minutes.

Hon. Speaker: How many? Will you take two or three minutes?

Hon. Janet Sitienei (Turbo, UDA): Three minutes.

Hon. Speaker: Three minutes.

Hon. Janet Sitienei (Turbo, UDA): Yes, Hon. Speaker.

Hon. Speaker: I will give Hon. Lilian Gogo two minutes, Hon. Paul two minutes, Hon. Caroli Omondi one minute, and Hon. Mukunji one minute. Let us start with Hon. Lilian.

Hon. (Dr) Lilian Gogo (Rangwe, ODM): Thank you very much, Hon. Speaker. I rise to support this Report by the Public Petitions Committee. As Hon. colleagues have already said, it is very important for those who want to engage themselves with the public by way of pooling resources so that they can initiate the ownership of properties or houses, for that matter, to hold themselves responsible.

Every Kenyan and family desires to own property or a house in this country. If we pool our resources together with certain investors, it is important that they deliver. As I support the amendments by Hon. Atandi, I call upon those involved to be responsible in their undertakings so that people who invest their money can have reliable returns on their investments.

I thank you, Hon. Speaker.

Hon. Speaker: Hon. Caroli Omondi.

Hon. Caroli Omondi (Suba South, ODM): Thank you very much, Hon. Speaker. I rise to oppose this Motion.

Hon. Speaker: Go ahead.

Hon. Caroli Omondi (Suba South, ODM): I find it very intriguing the way the recommendations are couched on matters that are clearly regulated by Government agencies that are established by this Parliament. We have the CMA, the Judiciary and the Central Bank of Kenya (CBK). Those competent bodies should deal with all these matters instead of Parliament stepping in to micromanage the way the private sector conducts business. If we

continue this way, we will criminalise creativity in the business fields. I totally oppose these recommendations.

Thank you, Hon Speaker.

Hon. Speaker: Hon. Paul, Member for Chesumei Constituency.

Hon. Paul Biego (Chesumei, UDA): Thank you, Hon. Speaker, for allowing me to add weight to Hon. Atandi's amendments. I support him strongly because even the name of this particular company, Cytonn High Yields Solutions Platform, makes people think they will be multi-millionaires. This Motion will tame ministries and other regulatory bodies from imposing regulations on Kenyans without proper parliamentary approval in future. I support him on that.

Recommending the DCI to investigate that company will assist many Kenyans to recover what they have lost. It will also ensure that all regulations undergo the correct formulation. It will also help to bring order and sanity by protecting the people from irregular punitive regulations.

I support Hon. Atandi's amendments. Thank you.

Hon. Speaker: Hon. Gitonga Mukunji.

Hon. Gitonga Mukunji (Manyatta, UDA): Thank you, Hon. Speaker. I support the recommendations of the Committee. I visited the USA through this House a while back. I had a Zoom meeting with 300 Kenyans in the USA. Those members have been swindled more than once by those companies that promise high yields in investments such as houses. This House will fail if it leaves this issue to organisations that have not been able to solve this problem, which has existed for a while.

Hon. Speaker, we need to update our regulations and have stringent measures to protect investors who invest their money in land, houses and other investments.

Hon. Speaker: Thank you, Hon. Gitonga. Hon. Member for Turbo, *Mama Sitienei*. You can now reply on behalf of your Committee.

Hon. Janet Sitienei (Turbo, UDA): Thank you, Hon. Speaker. I beg to reply to this Motion. I thank all the Members for their contributions. I also thank Hon. Atandi for bringing the amendments.

As one of the Members of the Committee, I listened to the petitioners. It is prudent that the CEO and the partners be held liable for the loss of the investors' investment. The petitioners who came in invested their money after saving for a long time. Some took loans to invest in that company and lost much of their money. Some of them used their retirement money to invest in Cytonn High Yields Solutions Platform, but they lost it. Therefore, we firmly ask the DCI to conduct thorough investigation and for the culpable people to be taken to court. The relationship among the CEO, partners and CMA must be investigated so that the members can access their money or be compensated.

Most members who lost their money told us they are sick, and some cannot pay their hospital bills. To send a warning to other companies doing the same business, we must ensure that DCI investigates this matter thoroughly so that those culpable can be brought to book.

Hon. Speaker, I support the Motion.

Hon. Speaker: Thank you, Hon. Sitienei. I can see you have a walking aid. I wish you quick recovery.

(Question put and agreed to)

The House resolved accordingly:

THAT, this House adopts the Report of the Public Petitions Committee on its consideration of a Public Petition No.07 of 2022 regarding Probable Loss of Investments in Cytonn High Yields Solutions Platform, laid on the Table of the House

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on Thursday, 4th May 2023 subject to—

a) insertion of the following new recommendation (iv)—

(iv) The Directorate of Criminal Investigations undertakes thorough investigations on the matters listed hereunder within 90 days from the date of the adoption of the Report:

- (a) affairs of Cytonn particularly on the matters raised in this Petition and prefer criminal prosecution against any person found culpable;
- (b) the relationship between officials of Cytonn and the Capital Markets Authority between the period of 2015 and 2021;
- (c) the business dealings of the 49 SPVs including their assets and liabilities if any; and,
- (d) the business dealings of Mr. Edwin Harold Dayan Dande, including his assets and liabilities.”

b) Re-numbering paragraph (iv) appearing on Page 32 of the Report as paragraph (v).

Hon. Speaker: Next Order.

BILL

THE STATUTORY INSTRUMENTS (AMENDMENT) BILL (National Assembly Bill No.2 of 2023)

(Second Reading)

Hon. Speaker: Let us have the Chairperson of the Select Committee on Delegated Legislation, Hon. Chepkonga.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Speaker, I beg to move:

THAT, this House adopts the Report of the Committee on Delegated Legislation and its consideration of the Statutory Instruments (Amendment) Bill (National Assembly Bill No. 2 of 2023), laid on the Table of the House on Wednesday, 14th June 2023 and, pursuant to Standing Order 127(4) of the National Assembly... This is an amendment the Committee considered.

Hon. Speaker: Hon. Chepkonga, you are a seasoned Member. I do not think you have moved your Bill properly. All you need to say is: “I beg to move”, and then read as it is “be read a second time.” After that, you can embark on the trajectory that you appear to have taken.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you. I think I ran into some jam. I did not have the...

Hon. Speaker: You are very seasoned.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I got the wrong Order Paper.

Hon. Speaker: Go ahead and say: “Hon. Speaker, I beg to move that the Statutory Instruments (Amendment) Bill (National Assembly Bill No. 2 of 2023) be now read a second time.”

(Laughter)

If you do not have the Order Paper, I can lend you mine.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I got the wrong one.

(Laughter)

Hon. Speaker: The Clerk will lend you his Order Paper.

Hon. Samwel Chepkong'a (Ainabkoi, UDA): Thank you, Hon. Speaker. I thought I had the correct one.

Hon. Speaker: I hope you do not have the wrong notes too.

(Laughter)

Hon. Samwel Chepkonga (Ainabkoi, UDA): It is likely that I do. I have the right ones. Hon. Speaker, I beg to move:

THAT, the Statutory Instruments (Amendment) Bill, (National Assembly Bill No. 2 of 2023), be now read a Second Time.

Hon. Speaker: Very well.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I also beg to move:

THAT, the House adopts the Report of the Committee on Delegated Legislation and its consideration of the Statutory Instruments (Amendment) Bill (National Assembly Bill ...

Hon. Speaker: Hon. Chepkonga, the House is not adopting any report. You are moving the Bill.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I am sorry, Hon. Speaker.

Hon. Speaker: There is no report for adoption.

Hon. Samwel Chepkonga (Ainabkoi, UDA): We tabled a Report here.

Hon. Speaker: What did you have for lunch?

(Laughter)

You have the wrong notes.

Hon. Samwel Chepkonga (Ainabkoi, UDA): I am getting everything wrong today. I think I was given the wrong notes, but I have the Bill.

Hon. Speaker, this Bill seeks to amend Section 11 of the Statutory Instruments Act of 2013 by introducing a new amendment under sub-clause 5 that requires all statutory or regulation-making bodies to submit to this House, within seven days, every regulation that they make that is not brought to this House.

The Committee noted that there are too many regulations that are made by those bodies which are not brought here within seven days, as required by Section 11. I have received some of them but, unfortunately, we do not have the powers to do anything to them. This amendment seeks to give power to the Committee to ask the regulation-making authorities to bring those regulations that are a nullity to the House so that we nullify them. We also require that the Clerk publishes the nullification in, at least, two national newspapers. These are two short amendments which seek to give teeth to the Committee to ensure that the regulation-making bodies bring regulations to the House as required by Section 11 of the Statutory Instruments Act.

The public needs to be notified whenever we annul any regulations. We have annulled many regulations, but some of the regulation-making authorities do not notify the public of their nullification. We want those bodies to publish the nullification in two national newspapers. If they do not do so, then the Clerk of the National Assembly is required by the law to publish the annulment. We have also noted that the Deputy Speaker is also seeking to amend the Statutory Instruments Act. We will move her two amendments in the Committee of the whole House.

With those few remarks, I request the Vice-Chairperson of the Delegated Legislation Committee, Hon. Gichimu, to second.

Hon. Speaker: Hon. Gichimu.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Speaker. I rise to second the amendments to the Statutory Instruments (Amendment) Bill (National Assembly Bill No. 2 of 2023). This matter has been raised in this House before. The House seemed not to have a way forward in case a regulation-making body did not forward the regulations within the required period of seven days. As a Committee, we retreated and decided that we needed to give Parliament direction as to what happens if that is not done.

Pursuant to Article 94(6), the people of Kenya, through the Constitution, found it fit for Parliament – which has the sole authority to make laws – to delegate that power to other bodies. Otherwise, Acts of Parliament would be very voluminous. Those bodies can make regulations which Parliament can consider and approve through the Committee on Delegated Legislation, or in the plenary as required under the Statutory Instruments Act.

Hon. Speaker, we have also noted as a Committee that the statutory instruments or regulations normally come into operation upon publication. We thought that during the Committee of the Whole House, it is also good to introduce an amendment that statutory instruments or regulations can only come into force after Parliament has already considered them. This is because we could have a scenario whereby a statutory instrument is published, but after consideration by the Parliament, it is found that the requisite law or the Constitution were violated, or the regulations are *ultra vires*. We are then forced to nullify them. What happens to the person who has already been prejudiced by the regulations in the period when they were in operation? So, we thought that because Parliament acts with timelines, there is no statutory or regulation-making body that would be prejudiced by waiting for a month for Parliament to consider the regulations and approve, annul or guide them accordingly. Indeed, that is an amendment which we are also considering to make. We urge this House to support the Committee so that, at least, we do not have regulations which have serious ramifications being in force, then later on being annulled.

There is nothing much to add. The Chairman has already expounded on every aspect and I was only seconding and supporting him. We urge this House to support the Committee to make these amendments. It is for the good of Kenyans. It is for the good of the House in order to give directions. It is also to give the House teeth where there is none, especially where a statutory making body arbitrarily makes regulations and leave them for public consumption without the House having an input.

Hon. Speaker, I beg to second.

Hon. Speaker: Hon. Members, before I propose the question, allow me to acknowledge, in the Public Gallery, pupils from Gramo Joy Primary School, Embakasi South Constituency in Nairobi County. On my behalf and on your behalf, I welcome the students and the teachers to Parliament.

(Question proposed)

Yes, Gitonga Murugara.

Hon. George Murugara (Tharaka, UDA): Thank you very much, Hon. Speaker. I rise to support this very important Bill. It is a very short one but seeks to introduce fundamental amendments which, as the Mover of the Bill has stated, have great effect on what this House does.

Many Members of Parliament who are not lawyers would wonder what statutory instruments are, especially when it comes to what ranking these instruments have in our hierarchy of laws. Statutory instruments are also known as delegated legislation or subsidiary legislation. This is legislation that flows from the Acts of Parliament themselves. In the sections of Acts of Parliament, you will see power donated to a body to make regulations under that Act

of Parliament. Those regulations are now what is known as statutory instruments, delegated legislation or subsidiary legislation.

Now, the proposed amendments are important. In fact, what they seek to do is: If a body empowered by an Act of Parliament to make regulations does make regulations but does not bring them to the House, the committee of this House, which is the Select Committee on Delegated Legislation, has the power to call for the tabling of those regulations within seven days. It is important to note that there is a default if they fail to do so. In as much as the new Sub-section 5 says that the instruments have to be submitted to Parliament, the correct position is that the instruments should be submitted to the National Assembly and not to Parliament. This is because when we refer to Parliament, we mean the two Houses of Parliament. As far as delegated legislation is concerned, it is a preserve of the National Assembly. When it comes to regulations made by the national Government, Senate does not have any role to play in those regulations unless the regulations touch on counties. Therefore, it is important to make this provision that the submission is to be made to the National Assembly.

What happens where a regulation-making body fails to submit the regulations to Parliament? In the cases we have presently, those regulations continue to be in force until the House recalls the regulations and annuls them if that is what is supposed to be done. We have a new Sub-section 6 which will automatically render those regulations a nullity. The Committee will actually inform the public within a given period of time that the regulations that were made by this or that body, and which have been in force, are now a nullity. This has to be done in two newspapers of wide circulation. The reason is to ensure that nobody exploits the mischief to try and implement regulations that are null and void. It is also important to note that the Government and any other body that makes regulations will have to take it seriously that when they make regulations, they must bring them to the House for ratification, failure to which they are null and void and are of no consequence.

Therefore, this is a very important piece of legislation. With the amendments that have already been proposed and what I am now proposing that we delete the word ‘Parliament’ in Sub-regulation 5 and make it ‘National Assembly’, this should carry the day as proposed.

Hon. Speaker, I beg to support.

Hon. Speaker: Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you very much, Hon. Speaker. Let me first thank the House Committee on Delegated Legislation for bringing this Bill, which I support save that I will be proposing a few amendments to the very provisions that are proposed in the Bill to make it work better.

Delegated legislation, whether you call them subsidiary or subordinate legislation, derive from the fact that under Article 94 of the Constitution, the legislative authority of the nation is granted to Parliament. The primary legislative authority is with Parliament. Parliament, in most cases, will legislate directly. In other cases, Parliament delegates legislative authority to other bodies, especially within the Executive.

The reasons for delegated legislation include the following: That Parliament deals with a myriad of issues. As a House in charge of legislation and other roles under Article 95 and 96 in terms of the respective roles of the two Houses, we seldom have time as Parliament to give all the details you need in a legislation for the good governance of the people.

Hon. Speaker, most of the Bills we pass here contain provisions delegating the power to make laws, which is initially invested in Parliament, to various regulation-making authorities in the Executive or other bodies performing administrative functions.

At times, we are also faced with the paucity of time. At other times, it is said Parliament delays, but it is not just to mark time. There is the issue of technical expertise that may be needed for expeditious implementation of the various laws we make. Because of that, Parliament will bear with skeletal frameworks, but provide rule-making authority to other

bodies. Because Parliament is the delegate, it must supervise the exercise of that authority. This is the reason I find this Bill not only timely, but also useful. As the body in charge of delegation of authority to make laws as mandated by the people and the Constitution, Parliament must always check. It is to ensure that the various laws generated by various regulation-making authorities on powers delegated or donated by Parliament are applied in a manner that is consistent with the law, the parent law, and is in consonance with our values in principles of governance.

In my view, it is not acceptable that a regulation-making authority can just make regulations and keep the regulations to themselves somewhere. Unlike the parliamentary Bills we make here every day... You know the whole citizenry and Members of Parliament will be informed there is a Bill on this-and-that coming for First Reading. We do public participation at the second stage. Of course, they will still be told: "This-and-that is coming. What are your views on it?"

[The Speaker (Hon. Moses Wetang'ula) left the Chair]

[The Deputy Speaker (Hon. Gladys Boss) took the Chair]

Hon. Deputy Speaker, delegated legislation does not have that benefit because it is generated in offices of the Executive and offices of regulation-making authorities. We, as Parliament, enacted the Statutory Instruments Act. I thank this Parliament and the membership in that Committee for electing my good friend, Hon. Samwel Chepkonga, to chair this Committee this time. I know we had Hon. Murugara in that position in the other Parliament. The Deputy Speaker herself chaired the Committee on Delegated Legislation. That was when times were favourable and good before changes occurred. I remember we had a very good friend we miss in the House who was a nominated Member of Parliament and was very serious about this matter. We worked with Hon. Samuel Chepkonga in the Justice and Legal Affairs Committee before. I can assure the House that it is serious business when matters appear before a committee chaired by Hon. Chepkonga.

Therefore, I support this amendment. It does more than just strengthen parliamentary supervision of the exercise of the power Parliament has delegated to those other bodies that are proceeding without much publicity and public participation most of the time. Only Parliament is required to engage in that. This Bill seeks to secure the leash we have on regulation-making authorities. So many regulations, orders, rules and directives have been issued before this Committee and they have been enacted. They are subsidiary legislation. Therefore, they affect the governance of the people by being part of the body of law without notice.

With regard to Clause 2 of the Bill and having justified the need for the Bill, let me very briefly say something about them in terms of improvements that need to be made.

Sub-section 5 says: "The Committee shall require regulation-making authority". I find this to be superfluous. If not superfluous, I find it redundant. I am sorry to use the latter word. It is superfluous because the Constitution already mandates this Parliament, whether in plenary or as a House or as a Committee, to require any body that is under its charge to submit and to do whatever the House will do. In the rare cases that fall under Article 125, you have situations where Parliament can even summon those bodies. Therefore, I do not think it adds anything. I may be corrected on where the Bill says: "The Committee shall require". Already, the Committee has capacity in law. It is empowered in law to require if they are minded to do so. I do not see the value of this provision unless what it adds is explained in continuing deliberations and debate.

If there is a failure, Clause 2(vi) proposes that the Committee will, in two newspapers of wide circulation, publish a notice confirming that the regulations they are dealing with in

this context no longer have effect. There are two or three issues here. First, the delegated legislations are laws save that they are made on delegated authority. As a matter of parliamentary practice, only already made laws are published. They are published in the Kenya Gazette. You do not publish laws that have been nullified.

I ask Hon. Chepkonga to get me on this because I want to support the proposals while allowing him to improve on them. Whether you publish rejection, revocation or annulment of a law, or the existence of a law, the document for that publication is not the newspaper. It is the Government Printer's *Kenya Gazette*. I beg that what I will be requesting Hon. Chepkonga be implemented. That the fact of the nullification, revocation or rejection of a statutory instrument goes to having that fact published in the Gazette, not the entire body of regulations. The *Kenya Gazette* is the only official public publication. You should indicate that such-and-such regulations, promulgated by such-and-such regulation-making authorities, have been revoked for the area of law to be cleansed. I believe that would be neater.

Secondly, Hon. Chepkonga and Members, I think it will save costs.

Hon. Deputy Speaker: You do not have a microphone, Hon. Member for Mbeere North. There it is.

Hon. Ruku GK (Mbeere North): Thank you, Hon. Deputy Speaker. I rise to support this amendment. I sit in the Committee on Delegated Legislation. You have seen a number of regulations coming to the Committee. Without mincing words, I can tell this House that we have serious cartels in this country. They come through regulations. More so, there is a regulation we annulled. The Ministry of Education proposed it. A lot of chaos within the sector of higher education would be witnessed in this country if such regulations were to be put into effect. It is extremely important that this amendment be supported to appreciate the scrutiny of Members here who speak and work on behalf of the people of the Republic of Kenya. The interests of the people must be well taken care of. We have some crooks within the Ministries. We have people who want to make laws through the backdoor. We must take care of such kind of individuals who want to make laws to benefit themselves.

There is no reason whatsoever for a regulation to be made by technocrats in various Ministries - for instance, ensuring that the private universities get funds from public coffers, or ensuring that if an institution does not have more than 50 acres of land, they do not qualify to be an institution of higher learning. With this amendment, we will ensure that only well-thought-out regulations are passed. Also, we will regulate how institutions in the Republic of Kenya operate. This is a well-considered amendment that seeks to align operations of different institutions. The other time we witnessed a regulation which was enforced by the CBK; that withdrawing Ksh1 million was a problem. I am sure that regulation was not discussed in this House. Kenyans have gone through difficult times and inconveniences because of a few people in our Ministries who have been entrusted with those responsibilities. Some of those responsibilities are so sacred, but they do not take them seriously. It is, therefore, very important that we consider these amendments as proposed by the Committee on Delegated Legislation so that we can streamline the way laws are developed and enforced out there.

I support the amendments. Thank you.

Hon. Deputy Speaker: Member of Parliament for Tinderet, Hon. Julius Melly. He pressed the intervention button and left. Member of Parliament for Ruiru, Hon. Simon King'ara. Again, he is absent. Member of Parliament for Mwingi West, Hon. Charles Ngusya. Hon. Njeri Maina.

(Hon. Njeri Maina spoke off the record)

Are you speaking on this one? Okay. Hon. Catherine Omanyo, Member of Parliament for Busia.

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Hon. Catherine Omanyo (Busia County, ODM): I have just arrived. Give me 10 minutes.

Hon. Deputy Speaker: Whoever wants to contribute to this topic, press the intervention button. Now, there you go. Member of Parliament for Tiaty, Hon. William Kamket.

Hon. Kassait Kamket (Tiaty, KANU): Thank you, Hon. Deputy Speaker. I rise to support this Bill. It is timely and long overdue.

As a former Member and Chairperson of the Committee on Delegated Legislation, I speak with the benefit of hindsight. When I was a member of that Committee and a Chairperson, we almost became the Committee of annulments. We were almost being referred to as the Committee on annulments. At every time statutory instruments were referred to the Committee, the membership in their wisdom found out that most of the issues in the regulations were either against the Constitution, *ultra vires* or outrightly illegal. We, therefore, had no choice but to annul those regulations. As earlier spoken by a Member, we had to do that when Kenyans had already suffered a lot of damages.

It is long overdue that this House takes charge of its constitutional duty by supervising the delegation of law-making authority to those entities to ensure that every statutory instrument, in whatever form they come, has the full force of law and has undergone thorough public participation. In any case, that is the main reason for annulling most of the regulations. Most of those statutory-making bodies, because they knew what they were doing, always ensured that they never undertook public participation. By introducing this Bill, Parliament shall regain its full authority as the only body recognised by the Constitution that has the authority to make law.

With those few remarks, I beg to support.

Hon. Deputy Speaker: Member of Parliament for Funyula, Hon. Wilberforce Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Thank you, Hon. Deputy Speaker. I stand to comment on these proposed amendments to the Statutory Instruments (Amendment) Act. I do so as a former member of the Committee under your chairmanship as well as that of Hon. Kamket. The Committee also had Sir George, Hon. Gichimu and a Member of the Speaker's Panel, Hon. Martha Wangari.

This is an area that we have grappled with for many years during the 12th Parliament - how to enforce or entrench the role of Parliament in statutory instruments. There had been this feeling all over that delegated legislation or statutory instruments are not necessarily law as is envisaged in the Constitution. With the passing of this Act in the 11th Parliament and this amendment we are seeking to make, a very clear signal is being sent to Government Ministries and constitutional bodies that subsidiary legislation is as good as the law. The amendments, even though well intentioned - and I hope the Chairman is listening - may not be strong or direct enough to cure the problem that we have grappled with. Even the parent Act is expressly clear on the statutory instrument that is required to be laid before Parliament. If not laid before Parliament, it has no legal effect. I want to refer them to Section 11(4) that clearly says:

“The statutory instrument shall cease to have effect immediately after the last day for it to be so laid but without prejudice to any act done under the statutory instrument before it became void.”

The point of departure or the most important aspect of amendment I thought they would have moved is to delete that last part of Section 11(4), that there was legal approval during the period before it was laid on the Floor of the House. That is, probably, where the rains started beating us. Indeed, that is where we need to focus the major amendments. Hon. Vice-Chairperson, remember that I sat with you and we went through the Bill. That should be the crux of the amendments.

Hon. Deputy Speaker, any Committee of the House makes laws or reviews Acts as a delegated authority of the House. Therefore, allowing the Committee to usurp the role of Parliament is unprocedural and unconstitutional. That is why we have the Committee of the whole House. Reference to the Committee and to Parliament should be removed.

The Constitution requires that any regulations of a respective Act cannot have full force of law unless they are passed by Parliament. As my colleague, Hon. Kaluma, has said, a regulation is a law. Where do we publish laws? In the *Kenya Gazette*. We debate them in the House and publish them in the *Kenya Gazette*. As he has also mentioned, if Parliament has not passed a law, it does not exist. There is no need to publish in a newspaper that a law has not been passed. Are we saying that we have a rogue Executive or rogue regulation-making bodies? Are we saying that we have rogue State departments that will proceed to implement and enforce regulations or legislative proposals that are not laws? Therefore, it will be superfluous and a waste of time to again publish in newspapers that a law has been annulled.

Hon. Deputy Speaker, I know that you have an amendment concerning regulations that have expired. We need to put it in law that once laws have expired naturally, any authority or State organ that continues to implement expired laws is contravening the Constitution. It is illegal and unfair to Kenyans.

Since the amendments are well-intentioned, I ask the Committee to retreat, re-look at them afresh, consult widely, and make a neater and tighter case to avoid a situation where we pass a law that does not solve the intended problem. Many of the Bills that we pass and that become Acts of Parliament are implemented through regulations and rules. We must tighten the process so that we do not subject Kenyans to suffering due to lack of understanding.

With those few remarks, I support the amendment Bill, but I request that we attend to its shortcomings when we propose amendments during the Committee of the whole House.

Hon. Deputy Speaker: Member for Butula, Hon. Joseph Oyula.

Hon. Maero Oyula (Butula, ODM): Thank you, Hon. Deputy Speaker, for giving me an opportunity to contribute to this very important amendment Bill.

The Executive mainly makes regulations and they are meant to support existing parliamentary Acts, which have authority. The law only allows Parliament to come up with Acts. If regulations are derived by the Executive from an Act, it is only fair that they are submitted to Parliament for approval or ratification. Any regulations that have been made by the Executive without passing through the National Assembly should be considered null and void.

We have gone through a lot of pain with regard to regulations. For instance, we had regulations by the Central Bank of Kenya (CBK), which were very punitive to the ordinary *mwananchi*. The CBK could not bring those regulations to Parliament to ratify. If this amendment Bill goes through, we should make it very clear that any regulations that have not been cleared by Parliament should not be applied by the various arms of the Executive.

I strongly support this amendment Bill and ask the concerned Committee to ensure that it is improved so that it becomes difficult for any arm of the Executive to come up with punitive regulations for the ordinary *mwananchi*, which have no force of law.

With those few remarks, I support this amendment Bill and ask the Committee to go further to ensure that it is water-tight.

Hon. Deputy Speaker: Member for Keiyo South. Is it possible for me to manage my own microphone? You seem to be doing it. Is it damaged? Proceed.

Hon. Gideon Kimaiyo (Keiyo South, UDA): Thank you, Hon. Deputy Speaker. I rise to support the amendment Bill by Hon. Chepkonga and the Select Committee on Delegated Legislation. I am a member of that Committee.

I will start by defining a statutory instrument. The Statutory Instruments Act of 2013 defines a statutory instrument as any rule, order, regulation, direction, form, tariff of costs or

fees, letters patent, commission, warrant, proclamation, by-law, resolution, guideline, or other statutory instrument issued, made or established in the execution of a power conferred by or under an Act of Parliament under which that statutory instrument or subsidiary legislation is expressly authorised to be issued.

We have the Constitution of Kenya and Acts of Parliament. However, Acts of Parliament do not cover everything. The law allows the Executive, through Cabinet Secretaries, to come up with regulations to cover the remainder. There is a laid-down procedure in the Statutory Instruments Act of 2013. You must engage in public participation and establish an impact assessment on the same. We are currently witnessing an abuse of that procedure. People come up with regulations, which they do not bring to Parliament, and make them laws. To check on that abuse, I support the amendment Bill so that a Cabinet Secretary or any regulation-making body that comes up with regulations brings them to the House within seven days because Parliament is the only body allowed to make laws. If regulations are not referred to the Select Committee on Delegated Legislation and then brought to this House, they are deemed to be null and void.

It is upon regulation-making bodies to ensure that within seven days after they publish regulations in the *Kenya Gazette*, they bring them to this House. If they do not do so, the regulations are annulled by the House through the *Kenya Gazette*.

Hon. Deputy Speaker: Hon. Member for Yatta, Hon. Robert Basil.

Hon. Robert Basil (Yatta, WDM): Thank you, Hon. Deputy Speaker. I rise to support. Under Article 94(b) of the Constitution, Parliament is the only body given the authority to make laws. So, any other body purporting to make laws, such laws are null and void. I fully support these amendments and we need to be very careful so that we do not lose our function as Members of Parliament.

Hon. Deputy Speaker: Hon. Member for Kinangop, Hon. Thuku Kwenya. Hon. Member for Tinderet, you will wait because you have gone to the bottom of the list. Let us finish with the people who are here. Proceed, Member for Kinangop.

Hon. Kwenya Thuku (Kinangop, JP): Thank you, Hon. Deputy Speaker for giving me this opportunity to give my voice to this intended amendment on Statutory Instruments Act. At the outset, I want to state that delegated simply means that you are ceding part of your power to a third party. When you delegate, it is expected of you to supervise and give an okay to whatever it is you delegated to the other party. It is of interest that when Parliament delegates, we do not get an opportunity to look back and see what it is that we asked the other party to do and especially now on this matter where we allow the Executive to legislate to the extent that they publish before the same is brought to the House for ratification. As all speakers have stated, it cannot be law until it is brought to this House because it is only this House that is mandated by the Constitution to make laws.

It has given me a lot of trouble to imagine that we have purported laws that are being implemented and cited in courts of law that never saw the light of this House. Anyway, they became law because they were published. This amendment would not have come at a better time. I would wish that the Committee on Delegated Legislation looks deeper on further amendments, especially the issue where the Executive legislates. The same regulations are supposed to be brought to this Committee for consideration. After the Committee on Delegated Legislation okays these regulations, they are published without getting to the Floor of the House.

It is my considered opinion that even if regulations are passed by the Committee on Delegated Legislation, they be brought to this House for ratification just like we do with treaties and conventions so that they have the force of the National Assembly and Parliament as it is envisaged in the Constitution. You realise that the only time that regulations are brought to this House is when the Committee on Delegated Legislation feels they should be done away with.

That is self-defeating because they bring the regulations to the House for annulment as opposed to the fact that they should be brought to the House for enforcement and to get the power of the National Assembly.

I wish to support the amendment and urge the Committee to do a better job by making sure that we do not place the horse before the cart.

Hon. Deputy Speaker: The Hon. Member for Kesses, Hon. Julius Rutto.

Hon. Julius Rutto (Kesses, UDA): Thank you very much, Hon. Deputy Speaker, for according me this opportunity. Firstly, I stand to support the amendment by Hon. Chepkonga. Equally, I take this moment to congratulate my senior, being a seasoned lawyer and politician, in leading a very important Committee on ensuring that we have a regulatory framework in the Republic of Kenya that suits the intention and the spirit of the Constitution. Article 1 of the Constitution discusses the powers that belong to the citizens and can be exercised through peoples' representation. Looking at what has been happening, especially on the regulatory framework system, the people who have been endowed with delegated powers to make those particular regulations...The real intention of statutory instruments is to facilitate faster establishment of legal framework that supports the co-existence of the peoples' social needs or given specific operationalisation of a given law.

However, looking at the practise at the moment, most of the persons who have been endowed with this power come up with certain regulations that seem to serve some specific interests. Some of them have gone to an extent of harassing, extorting, intimidating and even reversing the original spirit of the Constitution of the Republic of Kenya. This amendment seeks to revert the power of the people to where it belongs through the peoples' representatives. I stand to support this amendment. Each and every regulatory body that has been given powers to make regulations should seek to reflect what the law says. What does the Constitution say? The right place for this reflection is nowhere else other than the legislative House.

I seek that this amendment should go further beyond the national Government as it is here. Also going back to the county governments, we will appreciate that most of the regulations that have been passed by county governments have been harassing members of the public, especially in business. The regulations have been inhibiting expansion of businesses. They have served to extort people and infringe upon the space of doing business. What we have is constant regulation-making thus over-regulation. This has led to oppression of people through acts of mining from those who are considered to be lesser persons and need to be supported. Laws are meant to support, encourage, cultivate and create an environment that brings about co-existence. The regulations we are seeing nowadays, especially at the county governments level, have been used and misused to the extent that people have suffered more than they would benefit from the good intention of the law of creating an enabling business environment.

Hon. Deputy Speaker, allow me to take this opportunity to support these amendments and to say that time has come for Parliament to take its space.

Hon. Deputy Speaker: The Hon. Member for Tinderet, Hon. Julius Melly. That is the last one on the intervention button. So, any Member who wants to contribute to this, kindly, press the intervention button. Member for Mwingi West, I have seen yours has popped up. Please, press your intervention button.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Deputy Speaker. I rise to support the amendment by the Committee on Delegated Legislation. This amendment is quite important. It is an amendment that is administrative. This House is mandated by the Constitution to be the law-making arm of the Government. It legislates. However, this House also delegates powers through the Statutory Instruments Act to other Government agencies and bodies to make regulations, to give orders and to also make laws that should always be ratified by the House.

It has come to the attention of this House severally that certain Government agencies and institutions make regulations knowing very well that they cannot be implemented without the authority of the House. They bypass that and publish them and order the citizens and the public to follow those regulations without going through the relevant departmental committee that oversee that particular agency or institution. As if that is not enough, they also do not take their regulations through the Committee on Delegated Legislation. This has created a scenario where some of the regulations are not even in tandem with the law. That is why by bringing these two amendments, it is going to rein in rogue Government agencies and institutions that, at times, bring regulations that inhibit the development in this country.

Secondly, at times regulation-making institutions or bodies develop regulations and after having developed them, they put them in the drawer. The public is not made aware of them.

[The Deputy Speaker (Hon. Gladys Boss) left the Chair]

[The Temporary Speaker (Hon. Peter Kaluma) took the Chair]

This amendment Bill is making it compulsory for all statutory instruments to be made public and circulated. For any institution that does not follow the law, what they publish is annulled.

I want to thank the wisdom of the Committee on Delegated Legislation. This is meant to rein in all institutions that effect illegal laws all the time. A case in point is the Central Bank of Kenya (CBK). The other day we annulled the Universities Regulations. Too many regulations are being implemented in this country and yet, they lack the full force of law. This is because before they are implemented, they are supposed to go to the Committee on Delegated Legislation, the Constitutional Implementation Oversight Committee and the House to ratify. So, the fact that they have been implementing those regulations is illegal and officers who do this should be surcharged. I want to ask the Committee on Delegated Legislation during the Committee of the whole House, to insert that institutions which go ahead and implement regulations which contravene the laid down procedures should be surcharged, punished and the regulations become null and void.

Hon. Temporary Speaker, I support this very important amendment. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Do we have Hon. Mwangi Kiunjuri, Member for Laikipia East? He is not in the House. Hon. Gikaria, Member for...

Hon. Members: He is here.

The Temporary Speaker (Hon. Peter Kaluma): Is he present?

Hon. Members: He is here.

The Temporary Speaker (Hon. Peter Kaluma): I want him to talk because, as a former Cabinet Secretary, he used to make some regulations.

Hon. Mwangi Kiunjuri (Laikipia East, TSP): I am in the House but I would rather step down so that I can second the next Motion.

The Temporary Speaker (Hon. Peter Kaluma): Thank you. Where is Hon. Gikaria? Your card appears to have a problem. Give Hon. Gikaria a microphone.

Hon. David Gikaria (Nakuru Town East, UDA): Thank you, Hon. Temporary Speaker. I rise to support the Statutory Instruments (Amendment) Bill, 2023 that has been brought by the Chairperson of the Committee on Delegated Legislation.

Hon. Temporary Speaker, sometimes, it is very difficult for us to contribute after seasoned lawyers like you because of all the facts you give. I listened to you as you made your contribution and I was in total agreement. That, if the only lawful document is the *Kenya Gazette*, then newspapers with a nationwide circulation have no effect. I am in total agreement

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on the laws that are supposed to be made by this House. We must protect the functions of Parliament under Article 94 of the Constitution. It is important that Parliament, which is the only body that makes law, be given that responsibility.

Personally, I cannot see any penalty for a person who publishes regulations without having a nod or approval of Parliament. They just walk scot-free after Parliament declares the regulation null and void. The banking regulations by the Governor of CBK were the worst: that you cannot withdraw unless you start...

I totally agree that Parliament is the only body that is supposed to... It is important for us to make laws that do not demean existing laws. In as much as the Executive Arm of Government, through a Cabinet Secretary, would want to make a law... I remember recently we were making some laws and the Cabinet Secretary said they were to bring some regulations and so we should wait. The Cabinet Secretary said that once we pass the law, it will not take effect until the regulations are brought. An Act of Parliament never came into force because somebody put a cap that it cannot be operationalised until a regulation was brought. So, I am in total agreement with you. It is good that we learn from the best. For instance, from the contribution you made. In fact, I am just repeating what you said.

Hon. Temporary Speaker, I beg to support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much, Chairperson of the Departmental Committee on Environment, Forestry and Mining. In fact, in your sector, there are too many regulations. I am happy with your contribution on this matter. Hon. Charles Ngusya, Member for Mwingi West.

Hon. Charles Nguna (Mwingi West, WDM): Thank you, Hon. Temporary Speaker for giving me this opportunity. Let me congratulate and thank the Committee on Delegated Legislation for coming up with this very important Bill. From the beginning, let us note that we are the people's representatives in this country. Any decision that is meant to benefit them must come through a consultative process. I am saying so because some Government agencies come up with very infamous laws and by-laws. The cry from the people always comes to Parliament. Most Kenyans end up bearing with them without necessarily benefiting. That is why I am emphasising this is very important. We are making our people aware of laws that are meant for their benefit. So, we are strengthening important laws which Government agencies have been making. By bringing this Bill, we will propose more ideas. Without belabouring so much, I wish to support because this will eliminate some of the weaknesses that we see in the by-laws.

Hon. Temporary Speaker, with those few remarks, I fully support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much, Hon. Charles Ngusya. Do we have Hon. John Mutunga?

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Yes. Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Hon. John Mutunga be assured that immediately you are done, the Deputy Speaker will contribute on this matter. So be concise and to the point as much as possible.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): That is great, I want to say a few things. It is extremely wrong for Cabinet Secretaries to make regulations alone because they are supposed to implement the existing laws. In some cases, you realise that even before the law is changed, some Cabinet Secretaries come up with regulations like we witnessed in the agricultural sector.

Last year, in June-July, the COVID regulations were gazetted and people started using them. Unfortunately, they were enhancing the people who have destroyed that sector. After coming in, we worked extremely hard to have those regulations withdrawn because they had already misled or misdirected the sector. So, it is important for us to secure that loophole.

My understanding of how things work is that the Constitution is interpreted through the law and the law is interpreted and implemented through regulations. Whenever we are making any law, we refer to the extent to which regulations should be interpreted so that they can effectively implement a particular law or elaborate it for users. When this House is omitted in terms of looking at the regulations it gives us problems. This is a serious omission that we need to see how we can flag it out. I would like the Committee on Delegated Legislation to think about it. We should be co-opting the technical committee members when they are discussing regulations of a certain sector. We should have regulations looked at by a technical committee to ensure they have effectively captured every detail of a specific legislation, so that we do not have loopholes in the resultant law. Therefore, we need to have that loophole sealed.

Another issue is that when we come up with regulations, their level of comprehensiveness is doubtful. We do not have sufficient capture of what is supposed to be done because of avoiding to follow the actual route. Sometimes that may lead us to doing the wrong things. I understand that some regulations have been in force for three years, specifying wrong things and misleading Kenyans and making them not to achieve their objectives. So, it is important for this House to debate the Statutory Instruments (Amendment) Bill so that the correct thing is done to ensure that the correct version of a regulation is the one in force and, therefore, the correct law is being interpreted.

Therefore, the Statutory Instruments (Amendment) Bill is key and I support it.

The Temporary Speaker (Hon. Peter Kaluma): Next is Hon. Deputy Speaker, the Member for Uasin Gishu County and my former teacher.

(Laughter)

Hon. Gladys Boss (Uasin Gishu County, UDA): Thank you, Hon. Temporary Speaker. That is my claim to fame. That, I taught some clever people, including yourself. You were a good student.

Thank you for giving me the opportunity to lend my voice to this very important Bill - the Statutory Instruments (Amendment) Bill (National Assembly Bill No.2 of 2023). As it was earlier said by Hon. Chepkonga, the Chairperson of the Committee on Delegated Legislation, I had a similar Bill, but we merged our Bills so that we can prosecute one Bill. I am speaking not only as someone who was the Chairperson of the Committee on Delegated Legislation in the 12th Parliament, but also as a total public servant having served in all the three arms of Government.

My experience is that there have been many challenges relating to the Statutory Instruments Act. It has had many loopholes that lend itself to abuse by various members of the Executive. They passed legislation through the back door. Previously, the law allowed a cabinet secretary or a statutory institution to publish regulations in the Kenya Gazette and submit them to the Clerk of the National Assembly within seven days. When the regulations pended in the Committee on Delegated Legislation for 28 days, the regulation would take effect and Kenyans would be expected to start abiding by them. If they were to pay any penalties, they would start to pay them. In the meantime, the committee would be considering that regulation. Usually, by the time that regulation would be annulled in the Committee and by the House, it would have already caused irreparable harm and damage to Kenyans. At that time, the mischief of institutions and ministries was to bring regulations at a time when we are about to go for recess. We were counting 28 calendar days then. We amended the Statutory Instruments Act to read that it will be 28 sitting days. This was to protect us from this mischief when we are on recess. We found out that ministries published regulations while we were on recess. By the time we came back, we had only three days left and the law at that time permitted that the regulations

take effect if we did not act. So, by omitting the National Assembly, ministers would become more powerful than Parliament.

I can give you examples of what happened. I can still remember that the regulations banning shisha were passed while we were on Christmas recess. By the time we came back in January after the recess, they had taken effect. However, at that time, they were not being done for the good of getting rid of a harmful product from the market. We were going for Christmas holidays and they wanted to boost the sales of cigarette companies and certain alcohol companies. So, they were serving private interests and not public interests.

Another example that I can give of regulations that were done to serve private interests was the ban of the one-use plastic bags in supermarkets. Many people did not notice it. The mischief was that they did it while we were on recess and they published the burning of those plastics bags which, on the face of it, was a good thing. The story behind it was that their friends had already bought alternative bags that were waiting at the port. We should ask ourselves as Kenyans, how come when the plastic bags were banned the following day supermarkets had new types of carrier bags. The reason is that it was business. In fact, I want to ask Hon. Chepkonga - as the sitting Chairperson of the Committee on Delegated Legislation - to continue interrogating the Statutory Instruments Act and not to get tired of bringing amendments to this House as and when he discovers a new mischief and a new loophole in the Act.

Another example is of the mischievous Chairperson of the Salaries and Remuneration Commission (SRC), Ms. Lyn Mengich. She waited until when Members of Parliament had gone for recess for elections to publish something in the Kenya Gazette. At that time, Members of Parliament had no power to come back to the House to interrogate what she had done. That must stop. Let us send a very clear message to Cabinet secretaries and State corporations that we are watching - that, Parliament will not allow that to happen.

I know we used to be called the 'committee of annulment' because the only time the committee brought a report to the House was when it was annulling some regulations. The law required us to come to the House when we annulled some regulations. Actually, we approved 70 per cent of the regulations. However, the 30 per cent that were to be annulled had to be brought to the House for that decision to be taken. I am glad that under the Statutory Instruments (Amendment) Bill, the Committee on Delegated Legislation will have to bring a report to this House every three months on the pieces of regulations that it has approved.

Last is the issue of public participation. I know we brought amendments and began to define what public participation is. Is public participation calling a few of your friends and like-minded people to sit in a room and sign a piece of paper and then you tell the Committee on Delegated Legislation that you have conducted public participation? Public participation must involve relevant stakeholders; not everybody in the world, but relevant stakeholders. We saw the mischief that was there recently with the regulations on the education sector where publications were being made from the Ministry. It is common sense that if the cabinet secretary published regulations that touch on the education sector, then the Departmental Committee on Education and Research is a relevant stakeholder. They must be invited as part of public participation. After all, they are the ones who approve money to that particular entity.

Lastly, I know there had been a suggestion for an amendment. Hon. Chepkonga has told me that he is willing to make an amendment stating that where a law has been nullified, it should be published in the newspapers to notify members of the public. We are aware that the official communication and publication for Government is the *Kenya Gazette*. This can also be a money-making scheme for the rogue newspapers that we already have. We will also be spending a lot of unavailable Government resources.

With those few remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Deputy Speaker. I hope Hon. Baya now knows you can only be good if you learn from the best.

(Laughter)

Hon. Kuria Kimani.

Hon. Kuria Kimani (Molo, UDA): Thank you very much, Hon. Temporary Speaker. To take it from where you left, we know that you are an accomplished lawyer and you know who your lecturer is - the legendary Hon. Boss Shollei. There has been an ongoing debate on Twitter about this lawyer called Brian who has won 24 out of 26 cases in court in one year, only for the Law Society of Kenya (LSK) to realise that he has never been to law school. He is not a practising lawyer. The case has elicited international debate. The *Daily Mail* in the United Kingdom was talking about the fake lawyer who won 24 cases and the comments are very hilarious. They are saying that he should first of all represent himself in that court case and win against his own fake certificate.

Hon. Atwoli weighed in and said that LSK should recognise his prior learning experience and admit him, but because we cannot change the law to accommodate him, I would encourage him to enrol at a law school. With his brilliance, I know he will complete studies in a few years' time. This really shows us the opportunities that some Kenyans miss just because they did not go to a class. That does not necessarily mean that they are not intelligent. Although I pride myself on being an 'A' student, I usually say that passing exams is not a measure of intelligence. Brian is a very good example of that. One person said that all qualified lawyers who lost cases against Brian should be deregistered from the roll of advocates. How do you lose a case against a quack? But that is on a light note.

I support this Bill.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Kimani Kuria, you know that cases are not won because of who the lawyer is, but what the law says to a set of facts. That gentleman you are talking about could just have been on the right side of facts. But if you spoke with Hon. Chepkonga, who in my own estimation is substantively a senior counsel, he would tell you that great lawyers, like Paul Muite, never went to university. We had what we call 'articled clerkship', where if you associated with law for some time to a level of articulation, we would take you through the process of certification to become an advocate. But that is a by the way. We say we are right, but those who are saying we breached the law are also right. Let us see how it goes.

Hon. Kuria Kimani (Molo, UDA): That is not my forte. If you were talking about accounting, I would make a good contribution to it. Anyway, he won all these cases, whether it is a statement of fact or not. He must be very lucky to be on the right side of the cases and to keep winning them. I may not ask how many you won when you were practising. I do not want to impute improper motive on you.

Back to the discussion on Statutory Instruments (Amendment) Bill, Article 94 of the Constitution...

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Speaker, my very good friend, Hon. Kimani, alleges that you have not won any case. He needs to be informed.

The Temporary Speaker (Hon. Peter Kaluma): He is intentionally doing that because he knows the Temporary Speaker cannot defend himself.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Absolutely! In fact, he is saying that within my precincts yet he knows that we recently won the NG-CDF Act case, courtesy of you. In fact, we would not be having that Fund if it was not because of your technical argument.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Chepkonga. Hon. Kuria also knows that even his car grant had gone until I intervened. He was speaking on the sides.

Proceed, Hon. Kimani Kuria.

Hon. Kuria Kimani (Molo, UDA): That was on a light note. I know you are aware that you are one of the great legal minds that I immensely respect in this Parliament. You make very good contributions. Just to inform the Chairperson of the Committee on Delegated Legislation, I do not have any NG-CDF funds. It is not my fund. I am only a patron of NG-CDF in my constituency. I appreciate the effort you put in making sure that the fund goes to supporting needy families in our constituencies, whether it is through bursaries or for renovation of our schools. For example, 98 per cent of schools in Molo now have equipped science laboratories. What we are doing at Junior Secondary School was a discussion, courtesy of this Fund.

Article 94 of the Constitution gives power to Parliament to legislate. Out of the three arms of Government, only Parliament has the power to make laws. Parliament, in its generosity, donates part of this power to the Executive to make policies and regulations, but the Executive should not take that for granted. It is just holding that power delegated to it by Parliament. During the discussions this afternoon, most people have said that the Executive has taken this for granted and they are using this as a backdoor to make laws on behalf of Parliament. I would really want to check whether the policies, guidelines and regulations that some of the departments and institutions under the Departmental Committee on Finance and National Planning, like the Central Bank of Kenya, the Kenya Deposit Protection Authority and the Capital Markets Authority, are up to date when we table them. A few months ago, someone said to me, “You increased taxes again?” I asked, “What taxes did I increase?” He then said that it was Excise Duty, only to come here and be told that it went to the Departmental Committee on Delegated Legislation as a regulation. The Constitution talks about there being no taxation without representation. Representation cannot be done by anyone else apart from elected Members of Parliament.

We found that even the Kenya Revenue Authority (KRA) is using the backdoor to increase taxes through regulations. Not to speak ill of the Departmental Committee on Delegated Legislation, the talk on the streets is that when you want to pass something through a Departmental Committee and realise that it is difficult, pass it as a regulation or policy through the Departmental Committee on Delegated Legislation. I understand the Departmental Committee on Delegated Legislation deals with matters across all sectors, whether it is health, finance or transport. Surely, you cannot have human beings with the capacity to interpret, understand and make good decisions on all subjects.

All matters on finance should be going to the Departmental Committee on Finance and National Planning. All matters on health should be going to the Departmental Committee on Health. Matters on roads should go to the Departmental Committee on Transport and Infrastructure. Those on energy should go to the Departmental Committee on Energy. This will make Members take their time to understand those sectors. Because they will interact with them everyday in their oversight role, they have capacity and understanding. They have expertise on that particular field.

However, as it is now, all these matters go to one Committee. Surely, you are setting up people to fail. We are having a system that will not work. I really support this Bill. I hope the Committee on Delegated Legislation will insist that any regulation that will go to them will have public participation with the respective Departmental Committee. If there are matters on finance, they will go to the Departmental Committee on Finance and National Planning. If they are for another committee, then they will be handled by that committee.

With these remarks, I beg to support the Bill.

The Temporary Speaker (Hon. Peter Kaluma): The sharp Chairman has just lamented about the powers of the Committee on Delegated Legislation being in charge of Parliament.

(Laughter)

That is the Chairman of the Departmental Committee on Finance and National Planning, which deals with those other aspects. Those are controversial questions.

Hon. John Waluke.

Hon. John Koyi (Sirisia, JP): Thank you very much, Hon. Temporary Speaker, for giving me a chance to also contribute to this very important Bill.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Waluke, yours will be the last contribution on this Bill, according to the request I see here. The Mover should prepare to reply because I cannot see any more interest, unless that powerful corner headed by Hon. Ndindi Nyoro and Hon. George wants to contribute. Are you interested in speaking to this, FP, so that I may know? There is only one FP.

(Loud consultations)

I want to know whether there are interests after Hon. John Waluke because we have other business to transact.

Hon. Jematiah Sergon (Baringo County, UDA): Yes, I have.

The Temporary Speaker (Hon. Peter Kaluma): Only Hon. Jematiah after that. Thank you very much. Hon. John Waluke, proceed.

Hon. John Koyi (Sirisia, JP): Thank you, Hon. Temporary Speaker, for giving me a chance to contribute to this very important Bill. I thank the Chairman of the Committee and Members for bringing it to the House.

I do not know where the Members of the Executive got their mandate to publish what they have been publishing through the backdoor. Kenyans, in the Constitution of Kenya, only allowed Parliament to make the laws of this country. Some sections have been published by the Executive. I thank Hon. Chepkonga for noting them. They should be brought to this House to be quashed one by one. They do not have the mandate of publishing any laws. They are not the law makers of this country. It is only Parliament that is allowed to make and publish laws.

It is now time for other officers, either the cabinet secretaries or chief executive officers (CEOs), to be warned in their various institutions. We are sending a very strong warning to them. They will not go scot-free by making mistakes that can affect this country.

With those few remarks, I support and urge the Members of this House to be steadfast. Nobody should play games with Parliament. We are going to take very harsh measures against them.

Thank you very much, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. John Waluke. Hon. Florence Jematiah, Member for Baringo County.

Hon. Jematiah Sergon (Baringo County, UDA): Thank you, Hon. Temporary Speaker. I take this opportunity to weigh into this debate. My colleagues have commented on most of the things.

As we all know, once a regulation is consumed in public as law, it does not matter whether Parliament approved it or not. There has been a trend in Kenya where the Executive takes advantage of its delegated mandate and abuses it by not bringing most of the statutory instruments to this House for proper legislation. That way, it costs most of Kenyans in their day-to-day activities. As Hon. Deputy Speaker has put it very well, this happens especially in areas of interest like cigarettes and consumable goods. Private interest mars regulations within corporations and ministries. This ends up affecting Kenyans who are represented by Members of Parliament in their own way. We are supposed to protect Kenyans from most of these regulations that are being ‘enacted’ by the Executive.

I applaud the Committee on Delegated Legislation for taking this challenge. We will support it properly. In the event there is a regulation that has not been consumed in time, especially for seven days, it should be annulled so that it is not misused out there. There is also another thing. You realise that when we do not take care of these regulations properly, we, as Members of Parliament, end up being victims. You are out there and you are against the law in many ways. It is said that the law is an ass. I do not know whether that is the right word. Ignorance of the law...

Hon. Members: Ignorance of the law is no excuse.

Hon. Jematiah Sergon (Baringo County, UDA): Yes. You cannot go before a judge or a court of law and tell them that you did not know about it, while the regulations which are deemed to have been taken to Parliament are being consumed as law.

I support the Bill and I encourage the Committee to do more and repeal the regulations that are always propagated through ministries by members of the Executive.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): The Member for Karachuonyo, Hon. Andrew Okuome.

Hon. Adipo Okuome (Karachuonyo, ODM): Thank you, Hon. Temporary Speaker. The issue we are speaking about is very important. I heard my Chairman of the Departmental Committee on Finance and National Planning comment on taxation which comes up without going through the Committee. This is a very serious issue. I also repeat that there should be no taxation without representation – which can only happen in this House and nowhere else. The Members who belong to that Committee meet people along the way a number of times and they ask them how they are punishing them to a certain extent. Our taxation is very high. Again, we are just increasing it suddenly. That is not the kind of increase that passes through Parliament. I feel that this House should declare such increases of taxation illegal and never allow implementation of the same.

Recently, we saw some regulations published by the Ministry of Education. Some of these cases come and affect our education system tremendously. Some of them are very heavy that a number of students drop out because they cannot afford to pay the increased fees. If a Kenyan child leaves school because of that kind of increase of school fees, and if they are many, we are not only affecting that child, but also the future of our beloved nation. We should not just sit back and watch these things. In a situation like that, we should say that the increase is illegal because it did not go through the system.

We have a scenario where the prices of petroleum products have been increasing constantly every month. I do not know whether we have given the Energy and Petroleum Regulatory Authority (EPRA), a standing authority, that they can increase VAT and whatever at their own will so that by the end of this year, for example, we will have our economy completely run down because of the increase in the cost of fuel.

Such cases should be watched by us carefully so that we do not destroy our country under the pretext that we are collecting revenue. I tend to believe that such increases have a negative decline in total revenue collection. The graph of revenue collected slips down because the increase destroys the income and when the income is down, automatically, the tax collected will also be down.

I emphasise that we should take care of what is going on in our nation, especially with regard to increase of taxes or anything that will affect the nation without us authorising that increase in this House.

Thank you, Hon. Temporary Speaker. I hope this case will be taken care of.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Hon. Andrew Okuome. Hon. Owen Baya, Deputy Leader of the Majority Party and the Member Kilifi North, do you want to contribute to this debate?

Hon. Owen Baya (Kilifi North, UDA): Yes, Hon. Temporary Speaker. I want to thank you and also inform you that apart from the fact that the Deputy Speaker taught you and you have exhibited good studentship, I also taught a Senator called Sen. Wapenina and he is a young Senator doing very well in the Senate. He was my student.

I also have two students in this House that I taught at university.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Owen Baya, the Standing Orders speak to something called relevance of debate. How are the exploits you engaged in out there related to this Motion?

Hon. Owen Baya (Kilifi North, UDA): I am a Fulbright scholar. It is only given to very few people in this world. Therefore, when you call me, please, also say, 'Fulbright Scholar Hon. Owen Baya.'

(Laughter)

That notwithstanding, Parliament must always assert its authority. We should not allow any other body in this country to take away the power of legislation from the National Assembly or from Parliament. That is something I support. I stand to support my friend, Hon. Chepkonga, not just because he is my friend, but because he has proven himself to be a worthy Chairman of the Committee on Delegated Legislation, and a worthy legislator. I think his people will re-elect him and continue to re-elect him. They should never make the mistake they made in the 12th Parliament. He is worth being in this House because he is a repository of great knowledge, great understanding of law, and he chairs that Committee and he is doing a fantastic job. That is why he brings this law that will stamp the authority of Parliament forever, so that no other person will usurp our powers.

I watched here as regulations on the fisheries and marine industry and other funny regulations killed the fishing industry in my constituency. It made fishermen very poor just because a person who had her or his own motive of protecting big fishermen and trawlers published some funny regulations that never came to this House. The regulations were operationalised and the fishing industry there collapsed.

Today, the Fisheries Management and Development Act has been expunged by the court, but fishermen in my constituency continue to be arrested on bases of some regulations. I tell them that since the Act is dead, even the regulations are dead, but because some people think they are more powerful than Parliament, they continue to harass fishermen at the Coast on the basis of some regulations.

I like this draft law because it seeks to ensure that regulations that are expunged are published to inform members of the public that those regulations no longer exist so that fishermen at the Coast can continue to do what they do best to provide for themselves and help the economy to grow.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Owen Baya, did you say some regulations are being enforced without the parent law?

Hon. Owen Baya (Kilifi North, UDA): The Kenya Wildlife Service (KWS) rangers and fisheries officers are the only ones who know that the law was expunged by courts. The Fisheries Management and Development Act was thrown out by court because it was unconstitutional, but KWS rangers and fisheries officers on the ground still purport to be enforcing some regulations based on that Act. They are the only ones who know that the law does not exist, and that the regulations died when the Act died. However, they still go out there and 'enforce' those laws. They harass and arrest fishermen, and take away their vessels and fishing nets.

There was a law and regulations that said you could not use monofilament nets in the sea. So, the officers arrest those people and take away their nets even though that law does not

exist today. It was thrown out. If today a fisherman from my village in Dabaso goes to look for some fish so that they can use it for dinner, he is arrested and his vessel is taken away just because people think they can make law.

I want to congratulate Hon. Chepkonga. The law we are reviewing should stop the flagrant abuse of power in this country. Some cabinet secretaries actually make regulations purporting to protect certain sectors just for their own benefit and kill a whole industry.

Therefore, I stand here to support that Parliament's authority must be consolidated and brought back to this House to ensure that nobody publishes some funny rules or regulations and harass poor people just because they want to protect rich and big people. This House should continue to protect its turf from people who want to infringe on it.

With those remarks, I support.

The Temporary Speaker (Hon. Peter Kaluma): Thank you, Deputy Leader of the Majority Party.

Hon. Makilap, would you make it as concise as you can? I see the Chairperson of the Departmental Committee on Transport and Infrastructure wants to proceed with the matter on Order No.10.

Hon. Joseph Makilap (Baringo North, UDA): Thank you, Hon. Temporary Speaker. The Statutory Instruments (Amendment) Bill has come at the right time in this country. Procedurally, the Constitution is given furtherance through Acts of Parliament. Acts of Parliament are given furtherance through delegated legislations.

When you delegate something to somebody, it is not the end. The user must come back to the delegating authority to seek concurrence on regulations that one may have made. If you delegate to someone responsibility to make some regulations, that person must come back to you as the owner of the authority to ask whether that regulation is right or in accordance with the law or the Act of Parliament. Delegated authority for Government ministries and agencies has given rise to corruption in this country. Cabinet Secretaries and other government officials have used regulations to impoverish the citizens in the name of giving furtherance to Acts of Parliament. Now that the National Assembly has realised this problem, it is only good that if someone wants to make some regulations, one does so and brings them to the owner of the authority for verification and ascertainment that the regulations are, indeed, good for the people of Kenya.

Hon. Temporary Speaker, this House is for the welfare of the people of Kenya. Who is responsible for taking care of the interest of Kenyans? Why is it that there are parliaments all over the world? Parliaments exist to check the excesses of the Executive and to protect the citizens from exploitation. It is, therefore, my duty to protect the citizens of Kenya from oppression. I support this amendment by Hon. Chepkonga. Some Government officials have abused the authority to make regulations to introduce taxes through the back door. They have used regulations to impoverish players in the sugar industry. Today, the Government of Kenya is bailing out some sugar companies to the tune of Ksh117 billion because even where courts have quashed some Acts of Parliament, the Executive continued to use the same regulations to make decisions whereas the mother law that gave them power to make the regulations has been nullified.

It is the duty of Parliament to ensure that regulations are brought to the Committee on Delegated Legislation for us, as a House, to ensure that the people of Kenya are protected. The power to make regulations must not be misused to give rise to malpractice. Therefore, I want to support this particular amendment by emeritus lawyer, non-other than Hon. Chepkonga - a man who has chewed law a lot. I have seen even in the Finance Bills some things which are brought...

(Loud consultations)

I know he wants to say I have called Hon. Chepkonga emeritus. I can withdraw that word. Hon. Chekonga is my friend. That was just on a light note.

I have seen many regulations being brought forward, especially if you look at the ministries of Agriculture, Health, the National Treasury and sometimes Transport and Infrastructure. Those are the candidates. They are the ministries that hold the core of our society and the fabric of Kenya. I, therefore, agree that Parliament must stamp its authority to ensure that whatever regulations are passed or annulled are brought to the Committee. I like the timeline of seven days. This is good so that we keep them on check before a bigger mess happens.

It is also good for Members of Parliament. When we passed the 2010 Constitution, everything should be known by the Members. The Constitution of Kenya 2010 did not subdivide Members into the opposition or Government. However, it gave Members of Parliament three roles each one of us must do what opposition was doing that is called giving a check. Oversight is a check and that is the work of the Members of Parliament. It is only when we do something right... Let us pursue legislation that is right for the benefit of the people.

Look at the Competency Based Curriculum (CBC). They wanted to run it through the backdoor. Somebody is messing up millions of innocent children through a backdoor legislation by avoiding Parliament. As we check on this one, let us also, as Members of this House, check any excesses, including any excesses by our Government. If our Government brings something that is not right for the people of Kenya, regardless of whether you are in Kenya Kwanza or Azimio, we must rise to protect the people of Kenya. It is right on earth and heaven. That is the only way we can be truthful leaders and say with pride that Kenya is our country.

Hon. Temporary Speaker, that is what we want. I, therefore, support this amendment without mincing my words and say that may we rise as Parliament to protect what is right for the people of Kenya all the time both day and night

Thank you, Hon. Temporary Speaker and I wish to support.

Temporary Deputy Speaker (Hon. Peter Kaluma): Chair of the Budget and Appropriations Committee, Hon. Ndindi Nyoro, Member for Kiharu has requested to address this House on this one. He will be the last to speak.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much for giving me a chance to say something about these amendments:

I start by congratulating Hon. Chekonga and the Committee. They have been very forthright and dedicated to serving this House and our country Kenya. I support the current amendments because as you know regulations form part of the laws of this country in one way or the other. It is important that we do not vest unlimited powers in to the cabinet secretaries. Therefore, it is important that all the regulations that we make, especially those effecting all the Acts of Parliament, be subject to scrutiny by this House. It is important that before any regulations take effect, this House scrutinizes them and where possible also ventilates on them. This will go a long way to curb even scenarios that you would see especially in regulations that would be injurious to our country, and especially those which will be aimed at doing underhand deals in the agencies that have been referred to. I also want to thank Hon. Chepkonga because this Committee has been very vibrant in this session. We have seen a lot of contribution to law making through the Committee on Delegated Legislation and I loud them, keep up.

With those few remarks Hon. Temporary Deputy Speaker, I thank him and also you for the very good work. I was in Homa Bay the other day and I was surprised by the level of work, the kind of leadership you are offering there. I want you to keep it up. We are learning from you, thank you very much.

The Temporary Deputy Speaker (Hon. Peter Kaluma): Hon. Ndindi Nyoro, you can be sure that I would have been there with you, but for the reasons you and I know, thank you very much. You also give us good leadership on how to serve our people by the examples you give in Kiharu. I want to move to the next Order, I do not know why Hon. Joseph Munyoro is insisting on saying something. Is the Mover for the next Order in the House?

Mover, let me ask the House we indulge Hon. Joseph Munyoro the Member for Kigumo because he is a Member of the Committee on Delegated Legislation. He promises to only do two minutes.

Hon. Munyoro proceed.

Hon. Joseph Munyoro (Kigumo, UDA): Thank you for granting me this opportunity. I want to support the amendment Bill. As you have rightly said, I am a Member of the Committee on Delegated Legislation. One of the most shocking things we have realised is that many of these institutions just make regulations and start implementing them without consulting this House, whose primary duty is law making. I do not think it is fair at all to the Kenyan people that people can come up with regulations, some even with financial implications and are not overseen by anybody. So, this amendment by our able Chairman could not have come in at a better time. We have instances where we had to tell people to go back and make better regulations and laws because even the way they have structured those regulations, they are not in line with the Statutory Instruments Act.

I think it is only fair as the people's representatives, that we make laws in this country. We look at the regulations, they are fair to Kenyans and no one has the ability to make regulations that would injure the Kenyan public without being overseen by Parliament. I know you are aware that initially we used to have these laws becoming effective. Someone would just do a regulation, refuse to hand it over to Parliament and then within seven days or so, it becomes a law. I think this amendment is very timely.

Thank you very much, I will donate one minute to Hon. Gathoni Wamuchomba.

The Temporary Speaker (Hon. Peter Kaluma): You have no power to donate.

(Laughter)

I want to request anybody who is minded to make contribution to approach the Mover, because I have called him. Mover, I am being ordered by Hon. Gathoni Wamuchomba and Hon. Fatuma Mohammed, only if you are minded, shall you donate to them as you proceed to reply.

Hon. Samuel Chekonga (Ainabkoi, UDA): Thank you very much, Hon. Temporary Speaker. As you know, I was a major contributor and sponsor of the two-thirds gender rule which never passed. I wanted to ensure there are very many women here. You know, we tried in our committee, but we were failed by the men who walked to the toilet. Since I believe in affirmative action, I will donate two minutes to Hon. Gathoni Wamuchomba and 'full network'. She knows herself.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gathoni Wamuchomba, which gender do you belong to? Proceed.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you, Hon. Temporary Speaker. Today, we are not debating gender, but the Statutory Instruments (Amendment) Bill of 2023. I am proud to announce to this House that I am fully female and I have no doubt about this.

When I walked into the chamber, I was very excited because we are debating matters to do with statutory instruments. This is because many people have taken advantage of this, especially at the Executive level. They sneak in and implement expired regulations, some of which have already been debated and agreed upon by this House. I am very excited that this is happening today because it will be clear that for you to implement any law that has been

debated and passed by the National Assembly, there are procedures. This is a House of procedure and I am excited we are keeping in line with what are supposed to do.

Even as I support this amendment Bill, I am keen to note that Section 11(6) states:

“(6) Notwithstanding subsections 4 and 5, Parliament may, where statutory instrument ceases to have an effect in accordance to subsection 4, notify the public in two newspapers of wide circulation, that the statutory instrument is a nullity”.

In this day and age, I do not think we are supposed to constrain ourselves to newspapers of wide circulation. I do not know whether you are aware there is a lot of paradigm change when it comes to communication, in the era of digital and electronic media. So, newspapers may be a bit limiting nowadays. I do not know the last time I read one. I read social media platforms. Even the people of Githunguri, which is a very rural village constituency, are consuming social media. Why are we limiting ourselves to national newspapers?

We should be talking about platforms which have a large following of readers and audience. I have a background in the media industry and feel a little bit resistant to support this amendment. Not because I am not a friend of the Chairperson, Hon. Samuel Chepkonga who is my senior brother, but because he is trying to sneak in what he used to do when he was 27 years old. Now, he is an old *mzee*. He should be thinking of the new era media and how things are moving.

Today, the Government is struggling very much to fight with the media, but they are forgetting the traditional media is not the media we used to have. We have new emerging media platforms and that is what we should be quoting in this amendment Bill. Otherwise, I support it, but with a possibility of amendments. Let us include other new media and not just the newspapers.

Thank you very much, Hon. Chepkonga for the two minutes. Traditionally, I am never given two minutes because I am the loudest woman in the country. I want to be given more time to express myself because there are many things I would love to say. Hon. Chepkonga, next time, give me five minutes. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Chepkonga, did you also donate to Hon. Fatuma Mohamed? Member for Migori County. Proceed

Hon. Fatuma Mohammed (Migori, Independent): Thank you, Hon. Temporary Speaker. I never lie and I stood because I knew I was given an opportunity. I am a Muslim who is God-fearing, a good student of *Mama* Ida and I listen to instructions. You gave me two minutes, I will stick to them.

Thank you, Hon. Temporary Speaker and Hon. Chepkonga for the opportunity. I support this Bill. I think the Executive is taking this House for granted

(An Hon. Member spoke off the record)

I said *Mama* Ida. Hon. Temporary Speaker, please, protect me from him because that is a big name to threaten.

The Temporary Speaker (Hon. Peter Kalama): You are protected, do not be distracted. I can confirm that Dr Ida Betty Odinga is known by all Kenyans.

Proceed.

Hon. Fatuma Mohammed (Migori, Independent): She is the legitimate first lady of my heart. The mother of this nation, a woman by all standards. Thank you, I have informed you rightly.

I repeat that this House is being taken for granted by the Executive. For example, I come from Nyatike Sub-county in Migori County. A petition was brought by the Member for Nyatike, Hon. Tom Odege about land in Nyatike, stating that we are supposed to be given title

deeds. Before that petition was worked on, the Executive... I am sorry to say the Cabinet Secretary for Environment, Climate Change and Forestry went ahead to gazette that area as a forest. I wondered how this Government works. Parliament had made some right decision and then a cabinet secretary decides to gazette in the newspaper, without consulting.

I think the President said he has clueless cabinet secretaries and principal secretaries. They need to have people who inform them on what Parliament has decided before they gazette something. That way, they will stop embarrassing themselves as incompetent. They need to hide their incompetency because...

Hon. Ruku GK (Mbeere North, DP): On a point of order, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kalama): What is your point of order, Hon. Ruku?

Hon. Ruku GK (Mbeere North, DP): These amendments have nothing to do with the current cabinet secretaries, whether they are clueless or not. It has nothing to do with their conduct. We only want to put legislation for Government ministers and departments according to our committee, which I sit in, chaired by Hon. Samuel Chepkonga. So, the Member should not introduce other innuendos about cabinet secretaries in the Government of William Ruto.

Hon. Fatuma Mohammed (Migori County, Independent): He is taking my minute. May I inform this Member...

The Temporary Speaker (Hon. Peter Kalama): Hon. Fatuma Mohammed will be heard in silence. Proceed.

Hon. Fatuma Mohammed (Migori County, Independent): Thank you, Hon. Temporary Speaker. Hon. Member, for your information, I was giving an example. When giving an example, you can get out of the paragraph and use anything including fish. An example remains an example. I am speaking with emotions because I am affected by this decision of running to newspapers and making decisions without comparing notes with what is happening in this House. That remains an example.

I am a resident of Nyatike and we have run to court using our resources and emotions. So, kindly let us advise the Executive. Those were not my words and I quote again what President Ruto said that his people are incompetent. That is why we have this problem and incompetency is the reason. If we had competent, cabinet secretaries, principal secretaries and directors, the situation we are in today could not arise.

Hon. Temporary Speaker, I support and thank you for listening.

The Temporary Speaker (Hon. Peter Kalama): Hon. Samuel Chepkonga, you have barely six minutes to reply. You must be careful when donating time.

(Laughter)

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker.

You know this is a House of debate. The substantive Speaker says it is in a House of debate where you use terms he calls banter and canter. What Hon. Fatuma is involved in is banter. It is allowed in this House. The only thing is that it might not have been candid because I have never heard the President call his Cabinet Secretaries incompetent. The only time he might have said something like that, maybe he said they were late. She might have meant late. We excuse her because English is not her first language. Hon. Fatuma is my good friend.

I want to thank the Members sincerely. I did not think these amendments were going to elicit such vibrant and incisive debate. In fact, I am amazed and surprised that these amendments have been fully supported by Members, knowing their function and duty is to be lawmakers and to ensure they participate in legislation. I thank Members for the well-informed contributions that they have made to these amendments. I assure you that we were consulting as a Committee while Members were contributing. We feel that there are very important

amendments that must be made to these proposed amendments. They are called Bills because they need to be debated. The House must agree and amend as necessary so that we can have a law that will be representative of the people of Kenya. I must thank you. We have heard many comments, including from Chairs of Committees, that we should take into account the inputs of various Committees while we are considering these regulations.

I assure you that these Committees are composed of very well-informed Members from various Committees, across the board. What we do and insist every time regulatory making authorities appear before a Committee, is that they should carry out public participation which should include their relevant Committees. That is so that we know they have taken into account everybody's comments so that we comply with Articles 10 and 118 of the Constitution when we are considering regulation. That is a requirement of Section 13 of the Statutory Instruments Act.

I sincerely thank all the Members. Thank you, Hon. Speaker, for the very useful suggestions you gave us on the Floor when we were contributing. Your experience is worthwhile taking into account that you have been a very eminent Member of that Committee. Just to remind you, our own late Justice Madan once told two members of the bar, while they were arguing, that the senior should not despise the young lawyer because he has the benefit of recent learning. He equally turned to the young lawyer and told him not to despise the old lawyer because he had the benefit of experience that the young lawyer did not have. We know you have the benefit of experience. We do not intend to despise it, at all. We have considered this. I also thank the Deputy Speaker who has agreed with the Committee. She has consented that we carry the amendments in a published Bill so that we do not have to come back to debate a Bill which has also two clauses equal to ours.

The other very important contribution made by Members is the concern that regulations come into operation before the House approves them. We intend to carry an amendment that will require that regulations be brought to this House for approval before they are implemented. We have seen occasions and situations where regulations have been brought to this House, we have annulled them, they have applied them, and it has affected the rights of the people yet the regulations have not been considered by the representatives of the people.

Hon. Temporary Speaker, we intend to carry out an amendment during Third Reading that will provide that regulations will be published, but will not come into effect until approved by this House. That is one very important recommendation that has come from this House. As a Committee, we would like to sincerely express our gratitude to all the Members for their contributions. It has taken a while. We did not think that it was going to take more than 30 minutes because there were just two amendments. It elicited a lot of debate here and we would like to thank the Members.

With those remarks, I beg to move.

In the spirit of Standing Order 53, I would like to request you...

The Temporary Speaker (Hon. Peter Kaluma): Chairman of the Committee on Delegated Legislation, are you done with replying?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Yes, Hon. Temporary Speaker. I have said, 'I reply'.

The Temporary Speaker (Hon. Peter Kaluma): Have you begged to reply?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Yes. I beg to reply, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Is that concluded?

Hon. Samwel Chepkonga (Ainabkoi, UDA): That is concluded.

The Temporary Speaker (Hon. Peter Kaluma): On that other business, you can only be permitted to transact it by the Speaker.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Hon. Temporary Speaker, with your permission, I would like to raise a point of order.

The Temporary Speaker (Hon. Peter Kaluma): Are you on a point of order?

Hon. Samwel Chepkonga (Ainabkoi, UDA): Yes.

The Temporary Speaker (Hon. Peter Kaluma): Granted. You can proceed.

Hon. Samwel Chepkonga (Ainabkoi, UDA): Thank you, Hon. Temporary Speaker. I stand pursuant to Standing Order 53 which clearly states that on the request of a Member, the Chairperson may defer the putting of the question to a date to be appointed by the Speaker. Would I be in order to call upon you to defer this matter to another day?

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): The request by the Chairperson of the Committee on Delegated Legislation that the putting of the question on the Bill for Second Reading be deferred has been granted. The question will now be put on a future date to be scheduled by the House Business Committee. We will move to the next Order.

(Putting of the Question deferred)

MOTION

RATIFICATION OF THE EAC MULTILATERAL AGREEMENT ON AIRCRAFT ACCIDENT AND INCIDENT INVESTIGATIONS

The Temporary Speaker (Hon. Peter Kaluma): The Mover is Hon. GK Kariuki, the Chairperson of the Departmental Committee on Transport and Infrastructure. Please proceed.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. I do not understand this. It is the third time that it has happened, but I am okay.

(The Temporary Speaker spoke off the record)

Yes, I am.

Hon. Temporary Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Transport and Infrastructure on its consideration of the East African Community (EAC) Multilateral Agreement on Aircrafts Accidents and Incident Investigations, laid on the Table of the House on Thursday, 17th August, 2023 and pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the ratification of the East African Community (EAC) Multilateral Agreement on Aircraft Accident and Incident Investigations.

Hon. Temporary Speaker, the agreement was adopted on the 16th Meeting of the Sectoral Council on Transport, Communication and Meteorology which was held from 24th to 28th June 2019 in Kampala, Uganda, to actualise the requirement of the East African Community Treaty and Convention on International Civil Aviation, that is the Chicago Convention, which requires cooperation in matters pertaining aircraft accidents and incident investigations.

The main aim of the agreement is to harmonise and coordinate the civil aviation rules as far as aircraft accident and incident investigations are concerned in order to promote safety, reliability and efficiency of aircraft transport in accordance with Article 92 of EAC Treaty. Consequently, the Agreement reiterates and recognises the importance of adopting common policies in the development of civil transport in the EAC and the need to cooperate in aircraft accidents and incident investigation services.

One of the characteristics of good governance, policy formulation and law-making process is public participation. Article 118(1)(b) of the Constitution recognises public participation as a key step in the law-making process and ratification of treaties. In accordance with Article 118(1)(b), the Clerk of the National Assembly placed advertisements in local dailies with wide national circulation. I know that this is something that Members have raised. On 2nd May 2023, the Clerk, through the advertisements in local dailies, requested for submissions of memoranda on the Agreement. The Committee did not receive any memorandum on this Agreement in response to the advertisements by close of business on Wednesday, 17th May 2023.

The Committee held meetings with Cabinet Secretaries for the Ministry of Roads and Transport and the Ministry of Foreign and Diaspora Affairs to deliberate on the Agreement. The Committee also received written submissions from the Cabinet Secretary for the Ministry of East African Community, the Arid and Semi-Arid Lands (ASALs) and Regional Development.

Allow me to highlight a few specific obligations that member States shall undertake:

1. Establishing an independent accident investigation authority responsible for conducting investigation in accordance with international standards and practices.
2. Ensuring timely notification of accidents and incidents to the relevant authorities.
3. Cooperating and sharing information with other member States involved in the investigation of accidents and incidents.

This means that if an aircraft accident happens in Uganda, Kenya will be at liberty to participate in the investigations of that accident or incident. Similarly, if it happens in Tanzania, Rwanda or Burundi, any partner State can undertake or participate in the process of investigating the accident or incident.

4. Facilitating access to relevant sites, records and evidence for the purpose of investigation.
5. Implementing recommendations derived from accident and incident investigations to improve aviation safety.

These points talk about sharing of knowledge and experiences among member States. Further, upon ratification of the Agreement, Kenya will be required to:

1. Establish, in accordance with International Civil Aviation Organisation (ICAO), global aviation safety plan, adequately funded and professionally trained, independent and impartial aircraft accident and incident investigation bodies.
2. Provide assistance in aircraft accidents and incident investigations by providing experts and any other required logistics to partner States as appropriate.

I had explained that point earlier.

3. Ensure all investigations into aircraft accidents and incidences are carried out in partner states, independent from political, other interference or pressure.
4. Provide other key resources, including funding of qualified personnel for carrying out investigations. This means that all partner states will be collaborating and pooling resources to do thorough investigations where an accident or incident occurs, as opposed to one state doing investigations alone. There will be better capacity to carry out investigations.

Having considered the Agreement, the Committee observed that ratifying it will boost Kenya's standing in the global aviation community, showcasing its reputation and credibility. By adhering to international standards for aircraft accidents and incident investigations, Kenya

will highlight its dedication to ensuring a secure and effective civil aviation environment. This commitment will enhance the country's prospects of attracting foreign investments in the aviation sector as investors will have trust in the strong safety measures implemented.

(Hon. Rindikiri Mugambi made a phone call)

Hon. Temporary Speaker, my good colleague here is interrupting me. Will you ask him to make his call quietly?

The Temporary Speaker (Hon. Peter Kaluma): Hon. Members, let us listen to Hon. Kariuki in silence. Proceed, Hon. Kariuki.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. Ratifying the East African Community (EAC) Multilateral Agreement on Aircrafts Accidents and Incident Investigations will bring several benefits to Kenya. Upon ratification, Kenya and other partner states will experience enhanced cooperation and collaboration in the investigations of aircraft accidents and incidences. This will include sharing resources among other partner states. I had mentioned that earlier.

The Agreement is aligned with the EAC Treaty. There are no immediate direct financial implications arising from its ratification. Further, it presents no new policy implications for Kenya as the provisions of the Agreement are already embedded in the Civil Aviation Act, 2013 and Civil Aviation Aircraft Accidents and Incident Investigations Regulations, 2010.

Having considered the submissions and analysing the documents presented, and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, the Committee recommends that the House approves the ratification of EAC Multilateral Agreement on Aircraft Accidents and Incident Investigations.

Hon. Temporary Speaker, I beg to move and urge this honourable House to debate and adopt the Committee's Report to enable the country move forward on aircraft accidents and incident investigations matters. I request the Member for Laikipia East, Hon. Mwangi Kiunjuri, to second.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Mwangi Kiunjuri, Member for Laikipia East.

Hon. Mwangi Kiunjuri (Laikipia East, TSP): Thank you, Hon. Temporary Speaker. I confirm that this Report was brought before our Committee. We discussed it and all players were invited and consulted.

This Report is meant to actualise the requirements for the EAC Multilateral Agreement on Aircraft Accidents and Incident Investigations and the Chicago Convention. The main objective of this is to harmonise and coordinate civil aviation rules to ensure appropriate safety and reliability in the aviation industry. You should note that we are a major player in aviation. We have an international airport. The Jomo Kenyatta International Airport is an aviation giant in East Africa. It is one of the best facilities in the East African region. Other upcoming facilities like the Moi International Airport, Kisumu International Airport and Eldoret International Airport can only expand when we have more attractive measures on safety. This will attract investors in civil aviation.

Even our small facilities like Wilson Airport are doing well. Wilson Airport has a capacity of 20,000 landings and taking offs every year to different destinations not only in Kenya but also for international flights. This makes us a major player in this industry. We also consider our airstrips as facilities. We have more than 38 airstrips in the country. This only

shows that Kenya is growing in the aviation space and we need to create confidence for other interested investors. There are too many factors that are considered internationally and not just about the facility. They look at how the facility can monitor accidents and incidences. This will create the ability for our facilities to compete with other international facilities in the world.

When we launched a direct flight to New York City, elaborate measures were taken to convince the world that Kenya could be a destination for all other international flights across the world. By signing this Agreement, we will show the world that we have confidence in our aviation industry and that they can be certain of that; we are open to scrutiny if an incident happens in Kenya.

Once again, being a giant in the region, Kenya can now get into other territories as permitted by this Agreement. By this, we will be allowed to go and investigate when incidences and accidents happen. We will also carry out investigations early enough on the safety of all the areas we want to operate from. This will guarantee the safety of our people and other passengers. As a result, we will build trust. This is the way to move as a country.

With those few remarks, I beg to second.

(Question proposed)

The Temporary Speaker (Hon. Peter Kaluma): Hon. Rindikiri Mugambi? He has stepped out. Do we have Hon. Chege Kiragu? Give Hon. John Kiragu the microphone.

Hon. (Eng.) John Kiragu (Limuru, UDA): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I rise to support this Motion on East African Community Multilateral Agreement on Aircrafts Accidents and Incident Investigations. This is very important because, one, it calls for Kenya and the rest of East African countries to organise themselves to collaborate and build capacity to do accidents and incident investigations.

It is true that African countries have always relied on support from either Asia, Europe or America in terms of doing investigations. This has cost us in the region a lot of money. You may recall the accidents that we have had like the last one where we lost the Minister, Prof. Saitoti, and others. We had to seek help to do an accident investigation from foreigners. What we are saying here is that with this agreement within the East African Community, it is possible to train and equip officers so that we can do our business here. We can also create capacity in ensuring that we can provide the necessary skills required whether it is in testing like in non-destructive testing for checking the failures in an aircraft body or in any moving component, or material failure for that matter.

Hon. Temporary Speaker, this treaty will focus on matters safety. Safety is very important because the integrity of running a good aviation industry requires that we have the right protocols to ensure safety. The other thing is the reliability of the service that we provide. In this Agreement, there will be an element of developing so that the services provided in the aviation industry in the region will be reliable.

The other thing is the efficiency. We know that our airlines, due to many of the problems that we have, are not efficient. We believe that with this Agreement, there will be room for developing better efficiency. The fact that we require the services to be cost effective is also important. If we relied on importing people to do certain things like inspections and investigations on accidents and incidents, then it means that there will be money that is leaving this region and going out to help others. If we can implement the Agreement and develop the capacity, we can also have an effective and cost-effective service that is competitive with the rest of the region.

We know that the aviation industry in this region has developed. It is increasing and the East African Community itself is growing. For that reason, it is important that we exploit the open skies within the East African Community and move around with the specialised

equipment that is necessary for accident investigations. If Uganda, for example, does not have certain equipment, and Kenya has, we can move that equipment to our neighbour. When an accident of an aircraft happens, there are things like search of a Black Box, decoding it and retrieval of data. That requires some specialised equipment. However, we do not need to duplicate this equipment in every country. We can share it. As a region, we know that we are also looking forward to when we will have a federation. When it happens, we hope some of these things will help to make sure we pave the way.

To address safety, particularly in the transport sector, I believe this country needs to look at our various organisations. We have talked too much yet we have organisations like the National Transport and Safety Authority (NTSA) that deal with road transport. We forget there are other means of transport like the railway and maritime transport. For example, accidents happen even in Kisumu, Turkana or Naivasha. Railways have had their accidents. What we are saying is that we need to look at all these means of transport and align them with the world's best practices so that Kenya prepares itself for take-off.

Thank you. I support.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Speaker. I also rise to support this Report.

As you know, Kenya is a member of the International Civil Aviation Organisation (ICAO). Therefore, it is always important to follow through and ensure we align with new trends in the aviation sector. There is the Kenya Airspace Master Plan of 2015-2030. The objective of this master plan was to ensure there is global and regional consistency.

As I support this Report, I peg myself on Chapter Four on which the Committee made very critical observations. Looking at what we see today, we know very well that Kenya is very critical in issues of airspace. Our international airport is today one of the busiest in Africa. When you remove us from North Africa and put us within sub-Saharan Africa, I think it is only South Africa and us where business always really runs in airports. As much as we are supporting, we are doing this to align ourselves because we know we are the regional hub. More importantly, we have the best airports in our country because we fall within airspace and aviation regulations.

One of the things I appreciate in the Report is its clear provision concerning a member State wishing to withdraw from the agreement. The procedure is to just write a notice and wait for one year. It is good we have a clause or recommendation that can assist. As much as we would wish to see the whole of East Africa carrying this, we know some countries are still struggling.

This sector takes many resources. The other thing the Chair really spoke about is that we can share our resources to enable us to look at different investigations if any incident happens. You will realise we really need this Agreement when you remember our Kenya Airways incident in Cameroon. Up to today, I know nobody ever understood why such an accident had to happen. This is so even with people within the organisation. It was very emotional and traumatising, even to date. If you look at such a report, you realise that we have been victims. You will recall the Ethiopian Airlines crash. I know it traumatises to date. I agree that there is need for the EAC to handle this together. You will recall that the current Governor of Murang'a County was among the lawyers who went for the Ethiopian Airlines case. It was a very tedious process. However, if we have this Agreement within East Africa, we can now sit and handle the investigations, and lawyers can come in and assist at any given time.

Even with the ratification of the multilateral Agreement, we have to ask ourselves very key questions. I want to congratulate the pilot of Kenya Airways because the other day, there was a plane coming from London and it was just about to touch down, but because we have very experienced pilots, he realised that an Air Rwanda plane was already on the runway. He had to go up so as to safeguard the passengers. As we speak, we have to remember that we

need to expand this industry. I want to tell our Chairman that we need to expand our airports. Let us have, at least, two runways to indicate that we are also expanding. Kenyans are really using the airport, especially on the domestic side. It is important for us to expand and have a better arrivals lounge. That arrival lounge is a tent. You will recall the fire we had, and now that this is a tent and God forbid that it should never happen, if it catches fire, it will be worse than what we saw last time.

I know and I will say this: it was very sad that we could not take that agreement with Qatar at the time when our former President was given that opportunity. I do not know why they rejected it. It was good. It would have built us. We have been better than any other place, but we seem to just let opportunities go. We want to see a better airport where when people arrive, they feel that they are arriving in the Pride of Africa which is Kenya.

I want to thank the Kenya Airways team. All of us will agree that the air hostesses and the team that is giving hospitality have done their best. We have a better way of using the West African side, but then, we have to ensure that our cost comes down. As much as we will adopt this Report, there are still many things that must be done to ensure that Kenya goes back to where it was; where we were proud to be part of the Pride of Africa whenever we spotted it. Today, I am a bit dressed like them and I want to salute them, and at the same time ask the Kenya Airports Authority (KAA) to come out and do something better in terms of management, general outlook of the airport, cleanliness and taking care of their young people managing luggage and taking care of the airport.

With those few remarks, I beg to support.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Paul Mwirigi, Member of Parliament for Igembe South.

Hon. John Paul Mwirigi (Igembe South, UDA): Thank you very much, Hon. Temporary Speaker. I stand to support this Report. Kenya is a main actor in the aviation sector. We are supposed to have a body in East Africa which can investigate and produce a timely report whenever an accident occurs in any of the countries.

We have seen many cases where an accident occurs within a country in East Africa and people from the country where the flight originated from are hindered from accessing the site of the accident. If we have this body, it will be easier to conduct investigations. Officials of the body will be trained so that whenever something happens, they will have the knowledge to investigate and know the cause of the accident.

Kenya is growing. We are known within and outside East Africa as a key player in aviation. As the Chairperson clearly put it, leaders in East Africa should come together to ensure that the law is followed across all nations.

As I had earlier explained, whenever there is an aeroplane crash, investigations take a long period of time, especially if a country is not conducting them independently. Some information tends to disappear. East African nations should come together to ratify this Agreement that touches on the aviation sector, which will make investigations easier. When something happens within airports in East Africa, member-countries will be able to investigate the incident.

With those few remarks, I support the Motion.

The Temporary Speaker (Hon. Peter Kaluma): Chairperson of the Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Ahsante sana, Mheshimiwa Spika wa Muda, kwa kunipa nafasi hii ya kuchangia Hoja hii ya Mwenyekiti wa Kamati ya Uchukuzi na Miundombinu, Mheshimiwa GK. Maswala ya usalama katika anga ni muhimu sana. Tumeidhinisha Mkataba huu baina ya nchi za Jumuiya ya Afrika Mashariki ya kuwepo kwa maafisa ambao wamehitimu katika maswala ya upelelezi wakati kuna ajali ya ndege. Mkataba huo utahakikisha kuwa tunaweza kuwasiliana vilivyo kama Jumuiya ya Afrika Mashariki

wakati kuna ajali, na kuwa mambo ya siasa hayaingizwi ndani yake. Ni jambo la kufurahisha sana.

Unaposafiri katika viwanja vya ndege tofauti ulimwenguni kama kule Amsterdam ama Dubai, unapata kuwa wengi wa maafisa wanaofanya kazi katika viwanja hivyo vya ndege huwa ni Wakenya. Anapokuangalia usoni, yeye hung'amua mara moja kuwa wewe ni Mkenya na anakusalimu na kusema "Habari yako?" ama "Hujambo?" Jambo hilo linaonyesha kuwa tuna rasilimali kubwa sana kama nchi ya watu ambao wamehitimu katika mambo ya uchukuzi wa ndege. Pengine wanaenda kwa nchi geni kwa sababu ya kukosa nafasi za kazi hapa nchini. Tunapozingatia mambo ya uchukuzi katika viwanja vya ndege, nafasi za kazi huwa urubani ama utumishi katika ndege. Lakini ukiangalia upande wa kuzuia ajali au upelelezi wa ajali, maafisa hao hawako kabisa katika nchi yetu ya Kenya. Ninatumai kuwa Mkataba huu hautakuwa karatasi iliyotiwa sahihi bali tutaweka jitihada za kuhakikisha kuwa tumewekeza hela katika uzuiaji na upelelezi wa ajali za anga.

Katika hafla zetu zote za kirasmi hapa nchini, huwa tunaanza kwa kuimba wimbo wa taifa na ule wa Jumuiya ya Afrika Mashariki. Katika ubeti mmoja wa wimbo wa Jumuiya ya Afrika Mashariki, tunasema kuwa Jumuiya yetu ya Afrika Mashariki idumu. Lakini tunapoangalia utendakazi wetu ama jinsi ambavyo nchi za Jumuiya ya Afrika Mashariki zinavyoendeleza biashara zao, tunaweza kuwasiliana katika maswala mangapi? Unapata kuwa tunatafuta nchi zingine za mbali sana kutusaidia katika mikakati yetu na kuendeleza mikataba au mahusiano. Hatujafanikiwa kuhakikisha kuwa tunazingatia kudumu kwa Jumuiya yetu ya Afrika Mashariki. Tunapaswa kuzingatia umoja wa Afrika Mashariki.

Tunayo changamoto moja kuhusiana na *exchange rate* na vile shilingi ya Kenya imepoteza *value* ukiilinganisha na *US dollar*. Maswala hayo yote yangetatuliwa ikiwa tungeishi kama Jumuiya ya Afrika Mashariki. Nchi kama Marekani ina nguvu kabisa ulimwenguni kwa sababu ya wingi wa watu, na jinsi ambavyo wameweza kuwasiliana baina ya hizo *states*. Kila *state* iko na sheria zake lakini wao ni watu wamoja – *the People of the United States of America*. Kwa hivyo, kama tungeweza kuzingatia mengi zaidi kama kuwa na *common currency* katika Jumuiya ya Afrika Mashariki na shida tulizo nazo mipakani mwetu, na sio tu maswala ya ajali za ndege, tungekuwa mbali sana. Ikiwa watu wangeweza kutoka katika nchi moja na kwenda kwa nyingine bila kuulizwa maswali mengi ambayo wanaulizwa kwa sasa katika mipaka yetu, na ikiwa tungeweza kuuza bidhaa zetu bila pingamizi lolote katika nchi za Afrika Mashariki, Jumuiya ya Afrika Mashariki ingeweza kuendelea zaidi, sio tu kama jumuiya, lakini pia kama nchi binafsi. Wakati Wakenya wanaporudi nyumbani baada ya kutembelea nchi zingine, wengi wao husema kwamba wanahuzunika. Wale maafisa ambao wanawapokea wageni, mara nyingi *customer service* yao, kama tunavyosema kwa kimombo, huwa haifurahishi. Utapata kwamba ni kama wana bidii zaidi kuwatafutia makosa. Wanaangalia begi zao zina simu ngapi ama wamebeba vitu ngapi vya hela fulani ili waweze kuwaitisha ushuru ingawa ni sheria ambayo tumepitisha kwamba huwezi kuleta nchini kitu chochote ambacho kimepitisha US\$500. Lazima walipe ile ushuru.

Mara mingi unapata vile tunavyowaeleza hawa Wakenya na wageni wengine wanapokuja katika nchi yetu ya Kenya inafanya wasitamani kurudi katika nchi yetu. Hata tunapounga mkono huu Mkataba, tunawaomba wale wafanya kazi ambao ni sura yetu ya nchi ya Kenya, wakati mgeni anapokuja ama vijana wetu walioenda kazi ng'ambo wakirudi nyumbani, wawe waangalifu sana jinsi wanavyowaongelea hao wageni kwa sababu hiyo inawafanya wajue kama watakuja katika nchi yetu tena.

Tunaomba tuwaongeleshe wageni wetu na watoto wetu ambao wanarejea nyumbani kutoka kazi kwa njia ya heshima na tuwakaribishe kwa vishindo na nderemo ili wajisikie kwamba wako nyumbani ili hata wanapotafuta riziki katika nchi zingine, wahisi kwamba wamekosa kuja nyumbani na wakikuja nyumbani wapate wanapokelewa na furaha.

Kwa hayo machache, Mhe. Spika wa Muda, ninaunga mkono Mkataba.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gideon Mulyungi, Member for Mwingi Central.

Hon. Gideon Mulyungi (Mwingi Central, WDM): Thank you, Hon. Temporary Speaker, for the opportunity to contribute to this Motion. I support the Report on East African Community (EAC) Multilateral Agreement on Aircraft Accidents and Incident investigations presented by the Chairperson of the Departmental Committee on Transport and Infrastructure. It is good to standardise the operations of aircraft because when you travel, you find that the operations of aircraft all over the world are standard.

I think the Chairperson is moving in the right direction to create a standard authority for all the East African Member States so that they can standardise operations of accidents and incident investigations of aircrafts. Instead of us sourcing for expertise from abroad, if the Member States of East African Community congregate, I am sure they will pull resources and make sure that the investigations are conducted locally as opposed to sourcing them internationally. It is not very good to envisage accidents, especially aircraft accidents. It is very traumatising when you enter an aircraft and you are 50-50 that there will be an accident. Therefore, as we create this Agreement, let us also promote safety so that we do not envisage any accidents in future in this era of digital technology. Safety is paramount.

I am sure once we create this Multilateral Agreement and member States pull resources together, there will be more training of those who are involved with aircraft services and safety standards in all the member States in the East African Community. They will pull resources to train their staff and develop their capacity so that at no time, in future, shall we have aircraft accidents in the East African Community and the world over. There have been incidents of accidents in the past. We have had issues of compensation with those involved. Therefore, as we deal with this Agreement, the member States should also look at compensation policies so that they are standardised. God forbid, if an aircraft accident occurs - whether it is a boeing or a chopper - the families of the victims should be guaranteed adequate compensation in the event of such an accident.

With those few remarks, I support the Agreement.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Gathoni Wamuchomba. Member for Githunguri Constituency.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you, Hon. Temporary Speaker. I rise to support the ratification and approval of the East African Community (EAC) Multilateral Agreement on Aircrafts Accidents and Incident Investigations. In 2000, we woke up to the news of an aircraft accident in Abidjan. We lost over 431 citizens of the world. I had a relative who was on that flight. The pain and anguish that most people went through trying to recover information concerning their relatives and loved ones that were on that flight and many other flights is something that I do not want to narrate. First of all, there was language barrier between the countries. We also had distance barrier, logistics barrier, attitude barrier, expectations and many other procedures that are hidden to a normal local Kenyan when such incidents happen. For example, we were told that we cannot call a certain office; we have to go through ambassadorial lines that have to be queued at different times. Take note that we do not share with some of these countries the same time zones.

This is a long-awaited Agreement that we needed to have. There was a time that we lost Members of Parliament in an aircraft accident in Marsabit. I think it was in 2014 or thereabout, if I am not wrong. We lost the Hon. Mirugi Kariuki and many other colleagues. At the time, I was a radio broadcaster. I remember how we struggled to get information on what happened because it was in the mountains of Marsabit.

I am very excited because we cannot assume that by fact that we are part of the East African Community (EAC), we share all aspects like time differences, language differences and distance. We cannot also assume that the protocol used in Kenya is similar to that used in

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any other country, for example, the Democratic Republic of Congo, which is the newest kid on the EAC bloc. Therefore, ratifying the EAC Multilateral Agreement is something that we really needed as a country and it is very welcome.

What is in this EAC Multilateral Agreement? What is its content? Do we sign papers but when it comes to implementation there are aspects of the Agreement that are not implementable? For instance, as a relative of someone who suffered an accident in Abidjan, I was not able to go to the scene because I could not afford the flight charges. Who is supposed to take care of my costs if I am a relative to an accident victim? Who is supposed to take care of my visa charges and logistical procedures that need to be done? Therefore, other than just saying we are signing an EAC Multilateral Agreement, we need to investigate more what protocols and how much of those protocols are implementable and affordable.

In the past, we have had countries that are big brothers to others. We have had countries that bully others, not because of what they have but because of what we would imagine they are. We have even had normal road accidents in neighbouring countries and were unable to access the accident sites because of the protocols of that country. For example, just the other day I had an incident where one of my voters, who is a trader, had his goods burnt along the link road between Kenya and our neighbouring country. We needed to go and help because this is my voter and his truck had been burnt. I tried accessing the accident scene in the neighbouring country but was told that I have to speak to *Mkuu wa Kijiji* or *Mkuu wa Mkoa* because I am a Member of Parliament going as a relative to rescue a friend. Trying to speak sense into these characters is very difficult. I think these ratifications are very viable and good, but we also need to ask how implementable they are, otherwise, I support.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Thank you very much. Member for Marsabit County, Hon. Naomi Waqo.

Hon. Naomi Waqo (Marsabit County, UDA): Thank you very much, Hon. Temporary Speaker, for allowing me to add my voice to this very important Report.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Naomi Waqo, I am informed that we have six minutes to end the business of the House.

Hon. Naomi Waqo (Marsabit County, UDA): Let me just finish. I will be very brief. I was deliberating on whether I should contribute to this Motion or not, but I had to be bold enough to stand and support it.

Hon. Temporary Speaker, I want to correct Hon. Wamuchomba. The plane crash that happened in Marsabit was in 2006. That is where I lost my husband. I take a lot of courage to stand and support this Motion.

I also agree with all the recommendations. It is something that we need to have as early as now, so that the EAC Multilateral Agreement on Aircraft Accidents and Incident Investigations may be implemented as soon as possible. We pass reports and policies most of the time. Unfortunately, we do not refer to them. Many accidents happened in the past. Families were affected. You wake up one morning being a full family, but unfortunately you lose your loved ones, at the end of the day. You become confused. You do not know what to do next. As that happens, you live with the pain for the rest of your life. Many who have not gone through it may not understand.

The ratification of this Agreement will definitely help us as a country. It is only when you go through that experience that you know what it means for proper investigations to be done, causes of accident to be known and compensation to be done. As we talk about that, the affected people—the members of the family and relatives—are forgotten most of the time. It is good to have a proper package to take care of the family, besides compensation. It is true that you cannot get back your loved ones, but it is good for people to have proper package.

Proper counselling can be done for members of the family. They can be taken through that traumatising period.

Civil aviation operation will be conducted under internationally accepted minimum operating standards, procedures and practice. This really makes me happy. When it is applied, then you cannot say that you have been neglected, marginalised or you did not get your rights. I would have said more. It is my prayer that this Agreement will be effected soon, and the affected people will be given proper attention in future.

Thank you, Hon. Temporary Speaker.

The Temporary Speaker (Hon. Peter Kaluma): Mover.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. Before I reply, allow me to give two minutes to Hon. Ruku who has been here enough time to qualify to be donated a few minutes, and two minutes to Hon. Fatuma Mohammed.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Ruku.

Hon. Ruku GK (Mbeere North, DP): Thank you, Hon. Temporary Speaker and Hon. Chairman. I will take a very short time.

Firstly, we have a real estate in this country which can bring levels of income to our nation: Jomo Kenyatta International Airport (JKIA). As an international airport, it is one of prime land which the Republic of Kenya can capitalise in to get more income.

Secondly, the research and training which is envisaged by this Report is extremely important. Research and development are the next frontiers. That is why I support and congratulate the Chairman and his Committee for such a wonderful Report. Research and development in aviation or air transport are extremely important. We need to take advantage and lead in aviation research and training not only in Africa but also globally.

Thank you.

The Temporary Speaker (Hon. Peter Kaluma): Hon. Fatuma.

Hon. Fatuma Mohammed (Migori County, Independent): Thank you, Hon. Temporary Speaker. Thank you, Chairman. I congratulate you and your team for a well-thought decision to bring this to the House.

I will be brief. In this country, we have very competent aeronautical engineers. As a matter of fact, we have 20,013 engineers and we cannot say that we do not have people who can do investigations for us. I do not know the panel that sits, but I believe that even lawyers sit there. We have the best brains of lawyers in East Africa, for example, Hon. Otiende Amollo, Hon. TJ Kajwang' and the rest who sit in this House. I believe we also have very good doctors. I am trying to confirm that we have a team that can help us instead of importing people to come and do work that we can do.

Incidents and accidents are very emotional. Imagine a 90-year-old grandmother or mother who wants to go to the United Kingdom (UK) to listen to the panel say something about his or her daughter or family member. I have seen it happen sometimes. When these accidents happen, family members want to go and hear. Some think that if the grandmother or uncle goes, they will be given money as payment for the death that occurred. If it is done within East Africa, you can take a bus to Uganda, Tanzania, Rwanda or wherever that investigation is happening and listen and pray with your family as they go through that traumatising moment.

There is no need to bring investigators from Western countries, for example, to come and investigate an incident here while when we have problems like in Haiti, we take our Kenyan policemen to go and help. Why are they not sending white men?

The Temporary Speaker (Hon. Peter Kaluma): Proceed, Hon. Kariuki.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Speaker. Allow me to thank Members for supporting this Motion on the Ratification of East Africa Community Multilateral Agreement on Aircraft Accidents and Incident Investigations. I have listened to Members' contributions and what comes out is that Members would encourage that we partner

with other East African states whenever there is a need to investigate aircraft accidents or incidents.

Hon. Members, there is nothing wrong or negative with receiving international support whenever we experience aircraft accidents. That is why Kenya is a member of the International Civil Aviation Authority (ICAO). There are three sectors in aviation. I have listened to Members and I have heard them focus more on commercial aviation, but we have three sectors of aviation: commercial, general, and military aviation. Aviation is a very broad sector. It is a huge industry with great potential to grow our economy and create job opportunities. I appreciate the positive comments and contributions of Members and assure them that the Departmental Committee on Transport and Infrastructure will do all it can to support the aviation sector. With the support of Members, I believe that we will grow this very important industry.

I beg to reply. Thank you.

The Temporary Speaker (Hon. Peter Kaluma): The Question will be put to the Motion the next time it shall be scheduled by the House Business Committee for consideration by the House.

I thank you Chairman and all Members who have sat through as we transact this particular business.

(Putting of the Question deferred)

ADJOURNMENT

Temporary Deputy Speaker (Hon. Peter Kaluma): Hon. Members, the time now being 7:05 p.m., this House stands adjourned until Wednesday, 18th October 2023, at 9:30 a.m.

The House rose at 7:05 p.m.

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