



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fifth Session

Wednesday, 7th October, 2026 at 2.30 p.m.

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 7th October, 2026

Afternoon Sitting

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

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

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

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

(The Quorum Bell was rung)

Hon. Senators, kindly take your seats because we do have quorum now. Sen. Onyonka and Senator for Bungoma, kindly take your seats.

(Several Senators sat at their places)

Clerk, kindly read out the first Order.

PETITIONS

The Speaker (Hon. Kingi): The first Petition is by the Senator for Meru County. Since he is not here, that Petition is deferred.

DELAYED UPGRADE OF EGOJI TEACHERS COLLEGE
TO A UNIVERSITY COLLEGE

(Petition deferred)

Sen. Montet, take your seat please.

*(Sen. Montet Betty bowed to the Chair
and proceeded to sit)*

I have a petition to report.

ALLOCATION AND REGISTRATION OF PUBLIC LAND BELONGING
TO ARITHI SELF-HELP GROUP TO PRIVATE PARTIES

Hon. Senators, I hereby report to the Senate that a Petition has been submitted through the Clerk by members of Arithi Self-Help Group concerning the location and registration of public land belonging to Arithi Self-Help Group to private parties during the demarcation and adjudication process in the Northern Grazing Zone.

As you are aware, under Article 119(1) of the Constitution, and I quote:

“Every person has the right to petition Parliament to consider any matter within its authority, including enacting, amending and repealing any legislation.:

Hon. Senators, the important issues raised in this petition are as follows-

(1) That Arithi Self-Help Group is a non-profit Community-Based Organisation (CBO) established in 1981 under the Community Groups Registration Act No.30 of 2022 and registered under the Ministry of Labour and Social Protection to address the needs of the local community.

(2) That at the meeting held on 29th June, 1981, the Meru County Council approved the allocation of 1,000 acres of land to Arithi Self-Help Group in the Northern Grazing Zone in Kiirua/Kisima area at the boundary of Laikipia County. This allocation was considered and approved after the area was visited and reviewed by the Council's subcommittee.

(3) That the boundaries of the designated land were identified and shown to the Arithi Self-Help Group by the Meru County Surveyor in the presence of the County Council Chairman, the Clerk of the Council, and other County Council officials for use and settlement.

(4) That following the allocation, the Arithi Self-Help Group occupied and used the land for settlement, building homestays and other structures while protecting ecological sensitive areas.

(5) That sometime in 1991, the District Land Adjudication and Settlement Officer evicted the group without notice or any lawful reason and explanation. The group's shelters, homestays and other structures were demolished and destroyed, and the public

land was placed under adjudication process together with other parcels of land in the area.

(6) That following the eviction, the Clerk of Meru County Council vide letter referenced No. MCC/LND/16/8/8.Vol.5/215 dated 2nd August, 1991, wrote to the District Land Adjudication and Settlement Officer advising that necessary action be taken, and the 1,000 acres allocated to Arithi Self-Help Group be reserved in line with the recommendations of the full council meeting of the Meru County Council.

(7) That the District Land Adjudication and Settlement Officer neglected and ignored the existing rights and interests of the group during the adjudication and demarcation process, and arbitrarily and unlawfully subdivided and allocated 1,000 acres of public land to other individuals.

(8) That the rights and interests of the Arithi Self-Help Group were not taken into account during the preparation and finalization of the adjudication register in respect of the 1,000 acres of public land.

(9) That the Arithi Self-Help Group, in accordance with Section 26 of the Land Adjudication Act, Cap 284, Laws of Kenya, lodged an objection dated 25th March, 2003, to the District Land Adjudication and Settlement Officer, which was not considered, leaving them with no other avenue of objection to the adjudication map and adjudication register.

(10) That the loss of public property and development on land occasioned to Arithi Self-Help Group incurred them damages, years of psychological torture and indignity to its members.

(11) That, further, there exists a dispute as to where the land allocated to Arithi Self-Help Group falls between the Buuri East sub-county and Tigania West constituency due to political interference, but the Arithi Self-Help Group maintains that the said public land is in Buuri East sub-county.

(12) That the Petitioners have made the best efforts to have these matters addressed by relevant authorities, including the County Government of Meru, the Ministry of Lands and Public Works, Housing and Urban Development, the National Land Commission, the Fraud Investigations Unit of the Directorate of Criminal Investigations (DCI), the Kenya National Commission on Human Rights (KNCHR) and the Njuri Ncheke Council of Elders, all of which have failed to give a satisfactory response.

(13) That none of the issues raised in this Petition are pending in any court of law, constitutional court or other legal body.

Consequently, the Petitioners pray that the Senate do the following-

1. Investigate and inquire into the circumstances surrounding the re-allocation of public land belonging to Arithi Self-Help Group to private parties despite their occupancy, use, development, enjoyment and ownership of the property.

2. Consider legislating and/or amending the existing laws to provide for land grabbing as organized crime, enhanced punishment for property offenses and protection of land rights, and any other recommendation that the Senate may consider just.

Hon. Senators, pursuant to Standing Orders No.238(1), the Petition is hereby committed to the Standing Committee on Land, Environment and Natural Resources for

its consideration. In terms of Standing Orders No.238(2)(a), the Committee is required, in not more than six calendar days from the time of reading the prayer, which is today, to table its report in the Senate for consideration.

I thank you.

Next order. Senate Majority Leader, proceed to lay your papers.

PAPERS LAID

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to lay the following papers on the table of the Senate, today, Wednesday, 7th October, 2026.

Annual reports of the Registrar of Political Parties for Financial Year 2025/2026.

I do not know why new political party leaders are smiling when I am raising these reports.

REPORT OF THE AUDITOR-GENERAL ON PERFORMANCE AUDIT ON PROVISION OF EARLY CHILDHOOD EDUCATION AND DEVELOPMENT BY VARIOUS COUNTIES

The Performance Audit on provision of Early Childhood Education and Development (ECDE) by the County Government of Nakuru dated September, 2026.

The Performance Audit on provision of Early Childhood Education and Development by the County Government of Murang'a dated September, 2026.

REPORT OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF VARIOUS FUNDS FOR VARIOUS COUNTIES FOR THE YEAR ENDED 30TH JUNE, 2026

Financial statements of Turkana County COVID-19 Emergency Response Fund.

Financial statements of West Pokot Co-operative Development Fund.

Financial statements of Makueni County Climate Change Fund.

Kenya Urban Support Programme II (KUSP II) - Emali Sultan Hamud Municipality Grant Number E208-KE - County Government of Makueni.

Kenya Urban Support Programme II (KUSP II) - Wote Municipality Grant Number E208 M-KE - County Government of Makueni

Kenya Urban Support Programme II (KUSP II) – Urban Institutional Grant Number E208 -KE - County Government of Makueni.

Second Kenya Devolution Support Programme (KDSP II) - Project Number: IDA -7447-KE – County Government of Makueni.

Financial statements of Meru County Government Equalization Fund.

Kenya Urban Support Programme II (KUSP II) – Project Grant/Credit No. P177048 - County Government of Meru.

Second Kenya Devolution Support Programme (KDSP II) - Project Grant/Credit Number IDA – 7447-KE - County Government of Meru.

Financial statements of Isiolo County Education Fund.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

Isiolo County Government Equalisation Fund.
 Second Kenya Devolution Support Programme (KDSP II) - Project Credit Number IDA - 7447-KE - County Government of Isiolo.
 Machakos County Climate Change Fund.
 Second Kenya Devolution Support Programme (KDSP II) - Project Number IDA - 7447-KE – County Government of Machakos.
 Kajiado County Climate Change Fund.
 Second Kenya Devolution Support Programme (KDSP II) - Project Number IDA - 7447-KE – County Government of Kajiado.
 Nambale-Mjini-Mayenje Water Project Grant/Credit Number 08W/Busia/Busia/97 - County Government of Busia.
 Busia-Port Victoria Household Sanitation Project Grant/Credit No.02HS/LVNWWDA/Busia/054 - County Government of Busia.
 Marsabit County Education Fund - County Government of Marsabit.
 Marsabit County Enterprise Fund - County Government of Marsabit.
 Second Kenya Devolution Support Programme (KDSP II) - Project Number IDA - 7447-KE - County Government of Marsabit.
 Kenya Urban Support Programme II (KUSP II) – Project Number 7349-KE – County Government of Marsabit.
 Financing Locally-Led Climate Action (FLLoCA) - County Government of Marsabit.

(Sen. Cheruiyot laid the documents on the Table)

The Speaker (Hon. Kingi): The Chairperson, Standing Committee on Labour and Social Welfare.

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

Sen. Murgor, did you resign or are you still serving as the Chair?

(Loud consultations)

REPORT ON PETITION: WINDING UP AND LIQUIDATION OF TECHNICAL UNIVERSITY OF KENYA STAFF RETIREMENT BENEFIT SCHEME

Sen. Murgor: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday, 7th October, 2026-

Report on Standing Committee on Labour and Social Welfare on Petition to the Senate regarding the winding up on liquidation of Technical University of Kenya Staff Retirement Benefit Scheme.

REPORT ON CONSIDERATION OF THE KENYA NATIONAL LIBRARY
SERVICE BILL (NATIONAL ASSEMBLY BILLS NO. 20 OF 2023)

Report on the Standing Committee on Labour and Social Welfare on its consideration of The Kenya National Library Services Bill (National Assembly Bills No.20 of 2023).

(Sen. Murgor laid the documents on the Table)

The Speaker (Hon. Kingi): The Chairperson, Standing Committee on Information, Communication and Technology (ICT) or any Member of that committee may proceed to lay the Paper.

REPORT ON CONSIDERATION OF THE ARTIFICIAL
INTELLIGENCE BILL (SENATE BILLS NO.4 OF 2026)

Sen. Ogola: Mr. Speaker, Sir, I beg to lay the following paper on the Table of the Senate today, Wednesday, the 7th October, 2026-

Report of the Standing Committee on Information, Communication and Technology on its consideration of the Artificial Intelligence Bill (Senate Bills No.4 of 2026).

(Sen. Ogola laid the document on the Table)

The Speaker (Hon. Kingi): Next Order.

NOTICES OF MOTIONS

ADOPTION OF REPORT ON PETITION REGARDING THE
LIQUIDATION OF TECHNICAL UNIVERSITY OF KENYA
STAFF RETIREMENT BENEFIT SCHEME

The Chairperson, Standing Committee on Labour and Social Welfare.

Sen. Munyi Mundigi: Mr. Speaker, Sir, I beg to give Notice of the following Motion-

THAT, the Senate adopts the Report of the Standing Committee on Labour and Social Welfare on a Petition to the Senate regarding the winding up and liquidation of Technical University of Kenya Staff Retirement Benefit Scheme, laid on the Table of the Senate, on Wednesday, 7th October, 2026.

Chairperson, Standing Committee on Labour and Social Welfare.

The Speaker (Hon. Kingi): Sen. Joyce Korir.

STRENGTHENING SOCIAL PROTECTION AND SUPPORT FOR
CAREGIVERS AND PARENTS OF PERSONS WITH DISABILITIES

Sen. Korir: Thank you very much, hon. Speaker. I beg to give Notice of the following Motion-

AWARE THAT Article 54 of the Constitution guarantees the rights of Persons with Disabilities (PWDs), including the right to be treated with dignity and respect, to access educational institutions and facilities, and to receive reasonable accommodation in all spheres of society;

FURTHER AWARE THAT the care and support of persons with severe disabilities, particularly children, falls heavily on their parents and caregivers who often face extreme emotional, physical and financial strain;

CONCERNED THAT the Support Needs Assessment Report for Persons with Disabilities by the Ministry of Labour and Social Protection highlighted that 98% of the primary care givers require financial support in order to perform their duties;

RECOGNIZING THAT the existing social protection mechanisms, such as the Inua Jamii Cash Transfer for Persons with Severe Disabilities (PWSD-CT), primarily target the individual with the disability and do not adequately account for the economic loss mental health toll, and care burden borne directly by the caregivers;

APPRECIATING THAT Section 4(p) of the Persons with Disabilities Act, 2025 obligates the National Government to develop programmes for caregivers of persons with disabilities on specialized training, counselling and economic development;

NOTING WITH CONCERN the inadequate access to specialized affordable healthcare, therapy services, assistive devices, and inclusive educational facilities in rural and informal urban settlements, which compounds the burden on caregivers;

NOW THEREFORE, the Senate urges—

(1) The National Government, through the Ministry of Labour and Social Protection and the Ministry of Health, to;

(a) Formulate a policy framework to implement Section 4(p) of the Persons with Disabilities Act, 2025, to economically uplift full-time parents and caregivers of persons with severe disabilities for the care burden borne directly and to mitigate their economic loss for engaging in viable economic activities;

(b) Review and scale up the Inua Jamii Program to ensure universal coverage for households caring for children and adults with severe disabilities, eliminating the current administrative bottlenecks and delays; and

(2) The County Governments to establish counselling, mental health services, and respite care centres within Level 4 and Level 5 public hospitals to support caregivers well-being.

Thank you.

The Speaker (Hon. Kingi): Next Order.

QUESTIONS AND STATEMENTS

STATEMENTS

Statements pursuant to Standing Order No.52 (1).

UNSCHEDULED APPEARANCE OF HON. ABDI IBRAHIM HASSAN, EGH,
GOVERNOR OF ISIOLO COUNTY BEFORE THE SENATE
COUNTY PUBLIC ACCOUNTS COMMITTEE

That statement is dropped.

(Statement dropped)

Statements pursuant to Standing Order No.53(1). Senator for Machakos County, the hon. Agnes Kavindu.

INCREASING NUMBER OF ROAD ACCIDENTS

Sen. Ogola: Thank you, Mr. Speaker, Sir. This is a request for a statement by the Senator for Machakos County, Sen. Agnes Muthama.

I rise pursuant to Standing Order No.53 (1) to seek a statement from the Standing Committee on Roads, Transportation and Housing on a matter of national concern regarding the increasing number of road accidents in Kenya.

On the 16th September, 2026, a collision between a passenger shuttle and a lorry at Kapiti Plains in Machakos County claimed five lives and left 13 people injured. This followed another fatal crash near the same location in July, 2026, in which six people died.

Repeated incidents raise concerns about the safety of that stretch of road and other accident black spots across the country. The concern extends beyond Kapiti Plains. According to figures cited by the National Transport and Safety Authority (NTSA), 2,150 people died in road crashes during the first half of 2026, an increase of 11 per cent compared with the same period in 2025. Pedestrians accounted for approximately 836 of those deaths.

In the statement, the committee should address the following-

(1) The circumstances and contributing factors behind the fatal crashes at Kapiti Plains in July and September, 2026, including the status and findings of investigations.

(2) The accident black spots identified along the Nairobi-Mombasa Highway and other major roads, the findings of road safety audits conducted at those locations, and measures taken to improve signage, road markings, lighting, and pedestrians' safety.

(3) Measures to enforce traffic laws against reckless driving, including measures taken against non-compliant public service and heavy commercial vehicle operators.

(4) Measures to ensure regular inspection and roadworthiness of public service and heavy commercial vehicles and to monitor compliance with drivers' working hours.

(5) The adequacy of emergency response along major highways, including the availability and positioning of ambulances and other rescue services.

(6) The coordination between the NTSA, the National Police Service (NPS), road agencies and county governments to use accident data to aid road safety and public awareness.

Sen. Agnes Kavindu, MP, the Senator for Machakos County.

Mr. Speaker, Sir, there is a second Statement, if you may allow.

The Speaker (Hon. Kingi): You may take it.

ACCESS TO MEDICAL CARE FOR
PERSONS IN POLICE CUSTODY

Sen. Ogola: Mr. Speaker, Sir, this is the second request for the statement by the Senator for Machakos County, Sen. Agnes Muthama Kavindu.

I rise pursuant to Standing Order No. 53(1) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on a matter of national concern regarding access to medical care for persons held in police custody across the country.

On the 18th September, 2026, Mr. Ulrich Otieno, a Kenyan American citizen, died while in custody at the Kitengela Police Station after developing severe medical complications. He had been arrested alongside two friends while leaving a nightclub. A fellow detainee reportedly alerted officers as his condition deteriorated, raising concerns about the officer's response and whether he received timely medical care. A post-mortem examination found no external injuries but established that he had tuberculosis and a kidney related illness.

In the statement, the Committee should address the following-

(1) The circumstances surrounding the arrest and detention of Mr. Otieno, including the relevant custody records and occurrence book entries.

(2) The response of the officers on duty when his condition deteriorated, and whether he was provided with timely medical attention.

(3) The status of the past investigation and any other investigation into his death and the action taken on the findings.

(4) The number and circumstances of deaths or medical emergencies involving persons held in police custody across the country from 2021 to date disaggregated by police stations; and lastly,

(5) The measures being taken in police stations to identify detainees requiring medical attention, respond promptly to emergencies, and prevent unavoidable deaths in custody.

Sen. Agnes Kavindu MP, the Senator for Machakos County.

The Speaker (Hon. Kingi): Proceed, Senator for Busia County, Sen. Omtatah.

Sen. Okiya Omtatah: Thank you, Mr. Speaker, Sir. I have three requests for Statements. I would request that I read them all.

SCHEDULING OF AFRICA CUP OF NATIONS DURING KENYA'S
2027 GENERAL ELECTIONS CAMPAIGN PERIOD

My first request for a statement is on the overlap between the AFCON 2027 and Kenya's 2027 general election campaign period.

I rise, pursuant to Standing Order No. 53 (1) to seek a Statement from the Standing Committee on Labour and Social Welfare on a matter of national concern regarding the scheduling of the Africa Cup of Nations, (AFCON), which Kenya will co-host with Uganda and Tanzania, during Kenya's 2027 general election campaign period.

The Independent Electoral and Boundaries Commission, (IEBC), has scheduled the campaign period to run from 29th May to 7th August 2027, while AFCON is scheduled to take place from 19th June to 27th July 2027. The overlap raises concern about fair political participation, campaign costs, access to advertising and public venues, impartial coverage by state-owned media, foreign interference and the use of public resources. These matters require timely attention to protect the constitutional principles governing free and fair elections.

In the statement, the Committee should address the following-

(1) The IEBC's assessment of the electoral and constitutional implications of the overlap, outlining the safeguards it has put in place to protect the integrity and impartiality of the electoral process, including any plans to engage the Government, Confederation of African Football (CAF) and other relevant stakeholders, and issue public guidance on how the tournament will be conducted without compromising the constitutional requirements of free and fair elections, equal political participation, impartiality, and national sovereignty.

(2) Measures to ensure fair access to campaign advertising across billboards, television, radio and digital platforms and to address competition from AFCON sponsors, multinational corporations and State agencies that could increase campaign costs or disadvantage young, independent and less funded candidates.

(3) How the Kenya Broadcasting Corporation (KBC) and other state-owned media will fulfil their structural obligation to provide equitable and impartial electoral coverage while meeting their broadcasting and contractual obligations to AFCON, particularly during prime time hours.

(4) The measures being taken by IEBC, the Government, immigration and security agencies to prevent foreign interference in the electoral process, including unlawful political activity or campaign financing involving players, officials, supporters, sponsors and media personnel attending the tournament.

(5) Public stadia and other state facilities to be reserved for AFCON, the duration of their use and the related agreements involving the Government, CAF, the AFCON local organising committee, the Stadia Management Board, broadcasters and other entities, including how their impact on the election campaigning and the use of public resources has been assessed.

Signed by Sen. Andrew Omtatah Okoiti, MP, Senator for Busia County.

My second request for a statement is on the welfare, working conditions, remuneration and living conditions of officers of the NPS.

WELFARE AND DEPLOYMENT OF OFFICERS
OF THE NATIONAL POLICE SERVICE

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1), to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on a matter of national concern regarding the welfare, working conditions, remuneration and deployment of officers of the National Police Service.

In the statement, the committee should address the following-

(1) The legal policy and security basis for providing house allowance and permitting officers to reside outside police camps, including assessments of risks to the officers and their families from criminal targeting or retaliation, particularly those undertaking sensitive investigations and implications for police command, control and emergency response.

(2) The status of police accommodation countrywide, including the number of officers and families in the institutional houses and privately rented accommodation. The number of unoccupied, dilapidated or uninhabitable housing units, the reasons for the reported deplorable conditions at Kibera DC police camp, for example, and other camps, allocations and actual expenditure on police housing over the last five financial years, and the entities responsible for ensuring decent accommodation with adequate water, sanitation, electricity and security;

(3) Measures to ensure safe and reliable transport for officers, firearms, evidence and sensitive equipment, including why officers use private *boda bodas*, taxis or walk to duty stations despite the existence of the motor transport branch in the police service;

(4) Details of vehicles and motorcycles procured since 2023, including costs, procurement processes, suppliers, deployment and operational statutes, expenditure on fuel, maintenance, insurance and repairs, and account for vehicles maintained or disposed of during that period;

(5) The approved staffing establishment against the actual number of serving officers desegregated by rank, county, formation and station, and measures to address staffing shortages and excessive working hours, including reports of shifts lasting 20 to 23 hours and prolonged periods without adequate rest;

(6) Measures for identifying, treating and rehabilitating officers experiencing work-related psychosocial trauma or mental illness, including access to medical and psychosocial support, and self-guards against inappropriate disciplinary action, dismissal or denial of benefits without proper assessment; and,

(7) The legal and policy framework governing compensation and terminal benefits for families of officers who die by suicide while in service, including how work-related psychological injury is assessed before benefits are denied, the support and long-term assistance available to surviving families where an officer dies by suicide or causes another person's death during a documented mental health crisis, and proposed reforms to ensure the fair treatment of affected officers and their dependents.

STATUS OF WORKS ON MUSIKOMA-BUYOFU-
MUNGATSI-MYANGA-MATEKA ROAD

Finally, I rise pursuant to Standing Order No. 53(1) to seek a statement from the Standing Committee on Roads, Transportation and Housing on a matter of countrywide concern regarding the delayed completion, funding, tendering and quality of works on the Musikoma-Buyofu-Mungatsi-Myanga-Mateka Road (Road Works Contract Number 115).

The road traverses Kanduyi, Bumula and Nambale constituencies. It was valued at Kshs1.961 billion, and was due for completion in September, 2018, however 8 years later, it remains incomplete. The project has endured repeated delays and budgetary revisions. Its procurement process has been flawed by controversy, and the quality of completed sections remains in doubt.

In the statement, the committee should address the following:-

(1) The full chronology of Road Works Contract 115, from procurement and award to date, including the original start and completion dates, each extension of time granted and the reason for it, the current completion date, and an explanation for why the road remains incomplete about eight years after the original deadline.

(2) Provision of the original tender documents, contracts, bill of quantities, award decision and all variations or addendum and state the current status of the contract, including whether it has been terminated, suspended, extended or re-scoped.

(3) The annual schedule of every appropriation, release, commitment, certification and payment made towards Road Works Contract 115 from inception to date, accompanied by interim payment certificates, reconciled with the physical progress achieved.

(4) The legal, financial and technical justification for the 2026 procurement, that is tender number Road Works Contract 1066, for the completion of Road Works Contract 115 phase two, when the original project has an existing contract value of Kshs1.961 billion.

(5) Commission an independent engineering audit of the completed works, covering pavement thickness, material sources and laboratory results, aggregate and bitumen quality, compaction, drainage, base and sub-base construction and compliance with approved specifications, and state who certified the works as satisfactory despite visible deterioration.

(6) The inspections done before completed sections were accepted, the applicable defects, liability terms, whether the defects have been formally notified to the contractor and whether end payments, retention money or performance security remain available to compel requisite repairs; and,

(7) The measures being taken by the Government to ensure that Road Works Contract 115 is finally completed with the required engineering standards within defined timelines, and without exposing the taxpayer to unjustified additional costs.

Signed by Sen. Omtatah Okoiti, Senator for Busia County.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. for Kitui County, the Hon. Enoch Wambua, proceed.

NATIONAL GOVERNMENT'S SUPPORT FOR MUNICIPALITIES AND
EMERGING URBAN CENTRES IN KITUI COUNTY

Sen. Wambua: Thank you, Mr. Speaker, Sir.

*(Sen. Cheruiyot and Sen. Cherarkey
held loud consultations)*

Mr. Speaker, Sir, I am being distracted by the Senate Majority Leader and the Senator for Nandi.

The Speaker (Hon. Kingi): Order. Senator for Nandi and Sen. Haji, please proceed to your seats.

Sen. Wambua: Thank you, Mr. Speaker, Sir.

I rise pursuant to Standing Order No. 53(1) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations on a matter of county-wide concern regarding the national government support for municipalities and emerging urban centres in Kitui County.

Urbanisation in Kitui, Mwingi, Kabati, Mutomo, Kyuso, Tseikuru and other centres is creating increased demand for roads, drainage, water and sanitation, waste management, markets, street lighting and effective urban planning. National programmes, including the Kenya Urban Support Programme (KUSP) and the KUSP II are intended to support urban infrastructure, strengthen municipal institutions, and improve resilient infrastructure and services.

In the statement, the committee should address the following:-

(1) Details of national programmes, projects and funding the national government has allocated to urban areas in Kitui County over the past five years, including support through KUSP II and other national urban development programmes.

(2) The status of national Government support for urban infrastructure and services in the county, including roads, drainage, water and sewerage and other essential facilities.

(3) Measures being taken to strengthen the capacity of municipalities and other urban institutions in Kitui County with regards to urban planning, land use management, revenue mobilisation, development controls, preparation of integrated urban development plans and provision of technical staff and equipment.

(4) The criteria used by the national Government to allocate national urban development resources among municipalities and urban areas, and the measures being taken to ensure that Kitui, Mwingi and other emerging urban centres receive equitable support, including investment in climate-resilient infrastructure and facilities that can accommodate future population growth.

Mr. Speaker, Sir, with your permission, I have a second Statement.

The Speaker (Hon. Kingi): Proceed.

EXPLOITATION OF MINERAL RESOURCES IN KITUI COUNTY

Sen. Wambua: Thank you, Mr. Speaker, Sir.

I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on a matter of county-wide concern concerning the exploitation and management of limestone and other mineral resources in Kitui County, the collection of mineral revenues, and the sharing of royalties and other benefits with the county government and affected communities.

Mr. Speaker, Sir, Kitui County is endowed with significant mineral resources, among them limestone, copper, manganese, coal and iron ore. The exploitation of these resources raises questions about revenue accountability, remittance of royalties, community benefits and environmental protection.

In the statement, the committee should address the following-

(1) The mineral resources identified in Kitui County, their locations and estimated reserves, the status of exploitation and exploration, and the companies or entities licensed to undertake mining activities;

(2) The quantities and value of minerals extracted from Kitui County from 2016 to date, the royalties, fees and other revenues generated, and the amounts due and remitted to the national Government, Kitui County Government and affected mining communities;

(3) Measures to ensure that affected communities receive the statutory share of mineral royalties and benefit-sharing agreements, promote local processing and value addition and expand employment, local procurement, skills development and investment opportunities, alongside improvements in infrastructure, water, education and health services; and,

(4) Measures to ensure compliance with environmental and social safeguards, rehabilitate mined land and protect water sources and community livelihoods.

Thank you.

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

Sen. Sifuna: Mr. Speaker, Sir, I have watched with envy as my colleagues read multiple statements. Indeed, I submitted a statement on the Lamu refinery project and one on the Affordable Housing Programme, but I do not see them on the Order Paper. I submitted them on Friday, Hon. Majority Leader.

So, Mr. Speaker, Sir, allow me to take this one that found the graces of your office on the planned interment of the remains of victims of the Shakahola tragedy.

PLANS TO INTER UNCLAIMED BODIES RECOVERED
FROM THE SHAKAHOLA TRAGEDY

Mr. Speaker, Sir, I rise pursuant to Standing Order No.53(1) to seek a statement from the Standing Committee on Justice, Legal Affairs and Human Rights regarding the

reported plans by the County Government of Kilifi to inter the remaining 443 unclaimed bodies recovered from the tragedy by December, 2026.

Mr. Speaker, Sir, Kilifi has formally scheduled a mass burial in December, 2026, for the unclaimed Shakahola victims at the lapse of a 21-day claim period. The proposed interment raises concerns regarding the status of Deoxyribonucleic (DNA) profiling and other forensic identification processes undertaken on the remains, the extent to which the relatives and families of persons reported missing have been engaged, and whether all reasonable efforts to identify and reunite the remains with their families have been exhausted.

There is also concern that some of the remains may provide critical evidence in ongoing prosecutions relating to missing persons, and that further forensic examination may be necessary before any interment is undertaken.

In the statement, therefore, the committee should address:

(1) The status of the identification and forensic examination of the 443 unclaimed bodies proposed for mass burial;

(2) The basis and conditions for the proposed interment of the bodies, including confirmation that all reasonable forensic identification and family tracing processes will have been exhausted before the burial, and that families will be given a reasonable opportunity to identify and claim their relatives for a dignified burial; and lastly,

(3). The status of ongoing recovery and investigation efforts at the Shakahola site, including any indications of additional human remains within the wider Shakahola complex.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Hezena Lemaletian.

That Statement is dropped.

COMMERCIALIZATION OF LIVESTOCK THEFT AND LIVESTOCK MARKET TRACEABILITY

(Statement dropped)

Senator for Kisii County, the Hon. Richard Onyonka.

DISTRIBUTION OF BURSARY BY KISII COUNTY SINCE 2023

Sen. Onyonka: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Education on a matter of country-wide concern regarding the management, allocation and distribution of bursary funds by the County Government of Kisii during Financial Years 2023/2024, 2024/2025 and 2025/2026.

In the statement, the committee should address-

(1) The total amount of money budgeted, allocated, released and actually disbursed for bursaries by the County Government of Kisii in each of the Financial Years

2023/2024, 2024/2025 and 2025/2026, indicating the amount spent on administration, identification, verification, sensitization and operational activities as compared to the net amount directly disbursed to beneficiaries;

(2) The total number of bursary applications received, approved and rejected in each of the three financial years, including the grounds for rejection, register of beneficiaries disaggregated by ward, constituency, gender, level of education and institution, and the exact amounts awarded.

(3) The criteria, guidelines and procedures used in identifying, assessing, verifying and selecting beneficiaries, including the mechanisms for verification of applicants' need, and the formula applied to ensure equitable bursary distribution across all wards in Kisii County.

(4) Whether there were any pending bursary awards at the end of each financial year, stating the outstanding amounts, affected beneficiaries and reasons for delay, if any, as well as measures in place to eliminate double allocation across public education support schemes;

(5) Whether the Office of the Auditor-General has done an audit and raised any queries, observations or recommendations regarding the management and utilisation of the Kisii County bursary funds during the periods under review, giving details of any reported or investigated cases of fraud, fictitious beneficiaries, forged documentation or financial misappropriation; and,

(6) The measures that the County Government of Kisii has put in place to ensure that the funds reach intended beneficiaries in a timely, transparent and accountable manner, including monitoring systems and mechanisms utilised for payment of these funds.

Thank you.

The Speaker (Hon. Kingi): Senator for Tharaka Nithi County, the Hon. Mwenda Gataya.

INCESSANT DELAYS IN PAYING EMPLOYEES ACROSS SEVERAL COUNTIES

Sen. Gataya Mo Fire: Thank you, Mr. Speaker, Sir.

I rise pursuant to Standing Order No.53(1) to seek a Statement from the Standing Committee on Labour and Social Welfare on a matter of national concern regarding the incessant delays in paying county employees across several counties in the country.

Mr. Speaker, Sir, delayed salaries cause financial hardship for employees and their families and raise concerns about county budgets, access to funds and timely delivery of public services.

In the statement, the committee should address the following:-

(1) Causes of salary delays including a county-by-county account of the affected employees, the number of months unpaid and the total outstanding arrears;

(2) The status of budget submissions and approvals in the affected counties, clarifying any compliance requirement that has hindered access to funds;

(3) The immediate interventions and timelines for clearing all outstanding salary arrears and ensuring affected employees are paid; and,

(4) The long term strategies to prevent further delays including steps to support seamless budget execution and timely payment of county employees.

Thank you, Mr. Speaker, Sir.

PLANNED REINTEGRATION OF CHILDREN FROM
INSTITUTIONAL CARE TO FAMILY-BASED CARE

Sen. Mbugua: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 53(1) to seek a statement from the Standing Committee on Labour and Social Welfare on a matter of nationwide concern regarding the planned reintegration of children from institutional care to family-based care particularly children with disabilities.

The Government has proposed a Kshs2 billion fund for child welfare intended to facilitate the transition of children from institution care to family and community based care. While the initiative is commendable as it aligns with the Constitution and the Children's Act, this transition raises critical concerns about safeguarding children with disabilities who rely on specialised support within the institutional setting. It is, therefore, imperative to ensure that the transition does not expose these children to neglect, exclusion or inadequate care during and after the transition.

In the statement, the committee should address the following:

(1) The measures within the proposed Kshs2 billion child welfare fund to support families caring for children with disabilities including access to specialised care and related services;

(2) The proportion of resources earmarked for disability related needs such as assistive devices, rehabilitation, therapy and specialized education;

(3) The strategies to guarantee continuity for care of children with severe disabilities who currently rely on specialized services offered in institutional setting;

(4) The social and economic support system that will be extended to families to prevent secondary abandonment of children with disabilities due to poverty or the burden of care;

(5) Whether the National Treasury conducted a cost benefit analysis comparing institutional care with community-based care with children disabilities; and

(6) The coordination oversight and accountability mechanisms among the relevant institution and agencies including disability focused agencies to safeguard the rights and welfare of the children with disabilities during and after the transition.

Mr. Speaker, Sir, with your indulgence, I can seek the second Statement.

PRIORITISATION OF PERSONS WITH DISABILITIES UNDER
SOCIAL HEALTH INSURANCE SPONSORSHIP PROGRAMME

I rise pursuant to Standing Order No. 53(1) to seek a Statement from the Standing Committee on Health on a matter of national wide concern regarding the prioritization of persons with disabilities under the social health insurance sponsorship programme.

The Government, through the State Department for Social Protection, runs a sponsorship programme for the payment of social welfare insurance premiums for needy households. The initiative aligns with the Government's commitment to realise universal healthcare. It is imperative that persons with disabilities who represent one of the most vulnerable groups in the society and often experience multiple barriers in assessing health care services are deliberately prioritized under this programme.

In the statement, the committee should address the following-

(1) The monitoring framework used to track disability inclusion within the Government's sponsored social health insurance sponsorship programme;

(2) The number of persons with disabilities currently enrolled under the social health insurance sponsorship programme;

(3) The mechanisms established to ensure automatic identification and enrolment of persons with disabilities under the programme particularly those unable to afford the Social Health Authority (SHA) premiums including whether the programmes beneficiary data base has been integrated with the register of persons with disabilities kept by the National Council for Persons with Disability;

(4) The details of the social health insurance benefit package received by the beneficiaries of the sponsorship programme including the applicable limits for physiotherapy and other rehabilitation services, assistive devices and other disability related services;

(5) the long term strategies being implemented or considered to enhance healthcare access for persons with disabilities within the overall universal health care framework including details of the steps taken to ensure the health facilities comply with accessibility standards in respect to infrastructure, communication and service delivery system that are inclusive of persons with disabilities.

Thank you.

The Speaker (Hon. Kingi): Thank you.

Hon. Senators. Pursuant to Standing Order No. 45(2), allow me to rearrange today's Order Paper. We will move to Order No. 12 and 13, which are Committee of the Whole. Thereafter, we will come back and get comments on the Statements that have been sought.

Clerk, you may proceed to call those orders.

COMMITTEE OF THE WHOLE

(Order of the Committee read)

(The Speaker (Hon. Kingi) left the Chair)

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Abdul Haji) in the Chair]

THE REFERENDUM BILL (SENATE BILLS NO.3 OF 2026)

The Temporary Chairperson (Sen. Abdul Haji): Order Senators, take your seats. We are considering the Referendum Bill (Senate Bills No. 3 of 2026). Can we hear from the Mover?

Clause 3

Sen. Wakili Sigei: Mr. Temporary Chairperson, I beg to move—
THAT Clause 3 of the Bill be amended in paragraph (c) by inserting the words “as specified in clause 18” immediately after the words “of the Constitution”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Sen. Sigei approach the desk.
The Division will be at the end.

Clause 4

Sen. Wakili Sigei: Mr. Temporary Chairperson, I beg to move—
THAT Clause 4 of the Bill be amended by inserting the following new subclause immediately after subclause (2)—

(2) The conduct of a referendum under this Act shall comply with the principles set out under Articles 10, 81, 86, and 232 of the Constitution.

(Question of the Amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 5

(Question that Clause 5 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 6

Sen. Wakili Sigei: Mr. Temporary Chairperson, I beg to move- THAT, Clause 6 of the Bill be amended in subclause (1) by inserting the word “the” immediately after the words “information on” in paragraph (a).

(Question of the Amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 7

Sen. Wakili Sigei: Mr. Temporary Chairperson, I beg to move- THAT Clause 7 of the Bill be amended by inserting the following new subclause immediately after subclause (2)—

(3) Each county assembly shall facilitate public participation in their respective county before approving or rejecting the draft Bill.

(Question of the Amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 8

Sen. Wakili Sigei: Honourable Temporary Chairperson, I beg to move- THAT, Clause 8 of the Bill be amended—

(a) in subclause (5) by deleting the introductory clause and substituting therefor the following new clause—

(5) If a House of Parliament fails to pass the Bill within three months from when the Bill was introduced as stipulated in Article 257(7) of the Constitution, the Speaker of that House shall—

(b) in subclause (6) by deleting the words “eighteen months” appearing immediately after the words “reject the Bill within” and substituting therefor the words “fourteen days”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 9

Sen. Wakili Sigai: Honourable Temporary Chairperson, I beg to move-

THAT, Clause 9 of the Bill be amended by inserting the following new subclause immediately after subclause (3)—

(4A) Where draft Bills are merged into one draft Bill, there shall be separate referendum questions framed for each matter with its own options and symbols.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 10

Sen. Wakili Sigai: Honourable Temporary Chairperson, I beg to move-
THAT, Clause 10 of the Bill be amended—

- (a) in subclause (2) by deleting the word “may” appearing immediately after the words “The Commission” and substituting therefor the word “shall”;
- (b) in paragraph (b) of subclause (3) by deleting the word “civic” appearing immediately after the word “conduct” and substituting therefor the word “voter”; and
- (c) in paragraph (a) of subclause (4) by inserting the words “in Braille or sign language” appearing immediately after the word “Kiswahili.”

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Further Amendment to Clause 10

Sen. Omogeni: Honourable Temporary Chairperson, I beg to move-

THAT, Clause 10 of the Bill be amended by inserting the following new subclause immediately after subclause (4)—

(4A) The Commission shall, when framing the referendum question, ensure that a separate question is framed for every Article of the

Constitution proposed for amendment except where the various articles being amended relate to a single subject or related subject matter.

I am simply giving Kenyans an opportunity. If you are amending an Article that deals with the Judiciary, and maybe that matter is popular with Kenyans, then they will want to support it. If you are changing the Executive and maybe Kenyans are not comfortable, they can reject that particular clause. That is the spirit behind my proposed amendment.

(Question of the further amendment proposed)

The Temporary Chairperson (Sen. Haji Abdul): Division will be at the end.

Clause 11

Sen. Wakili Sigei: Honourable Temporary Chairperson, I beg to move- THAT, Clause 11 of the Bill be amended in subclause (1) by deleting the words “section 9” and substituting therefor the words “section 10”.

(Question of the Amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 12 and 13

(Question that Clauses 12 and 13 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 14

Sen. Wakili Sigei: Honourable Temporary Chairperson, I beg to move- THAT, Clause 14 of the Bill be amended by inserting the following new subclauses immediately after subclause (2) —

(3) Every referendum committee shall maintain accurate and complete records of all contributions, donations, expenditures and other financial transactions relating to referendum campaigns.

(4) A referendum committee shall submit to the Commission, in the prescribed manner and within the prescribed timelines, information on all donations received and expenditure incurred during the referendum period.

(5) The Commission shall publish periodic campaign financing reports submitted under this section in a manner accessible to the public.

(6) The accounts of every referendum committee shall be subjected to an independent audit conducted by a qualified auditor in the prescribed manner.

(7) A State officer, public officer or public entity shall not use public resources, public funds, public office, government infrastructure or official functions to support or oppose any referendum question or option.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Further Amendment to Clause 14

Sen. Omogeni: Honourable Temporary Chairperson, I beg to move—
THAT, Clause 14 of the Bill be amended by inserting the following new subclause immediately after subclause (1)—

(1A) Where public funds are allocated for financing of the activities of referendum committees, they shall be distributed equally amongst the national referendum committees.

Mr. Temporary Chairperson, Sir, the intention of this amendment is to reduce polarisation of the country during referendum where we allow Kenyans to feel that the process of amending the Constitution should be owned by Kenyans, both who are for it and those against it. In doing so, we will reduce the kind of divisiveness we saw during the Building Bridges Initiative (BBI), where it was felt that was a government project. That did not give Kenyans a chance to make a decision.

(Question of the further amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Disclaimer: The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.

Clause 15

(Question, that Clause 15 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 16

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 16 of the Bill be amended—

(a) in the introductory clause by deleting the word “the” appearing immediately after the words “conclusion of” and substituting therefor the words “a national”; and

(b) in subclause (2) by inserting the words “and a petition has not been filed pursuant to section 25 of this Act” immediately after the words “approved in the referendum”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 17

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 17 of the Bill be amended by inserting the following new subclause immediately after subclause (3)—

(4) Upon conclusion of a referendum under subsection (3) the Commission shall, within three days of that referendum, declare the results by notice in the *Gazette*.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 18 and 19

(Question, that clauses 18 and 19 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 20

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 20 of the Bill be amended in subclause (3) by inserting the word “or” immediately after the words “seven days of presentation” in paragraph (a).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 21

(Question, that Clause 21 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 22

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move-

THAT, Clause 22 of the Bill be amended—

(a) in subclause (1) by deleting the words “been guilty of a corrupt practice” appearing immediately after the words “alleged to have” and substituting therefor the words “committed an act of corruption”; and

(b) in subclause (2) by deleting the words “presented by the Commission” appearing immediately after the words “a referendum petition”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 23

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move-

THAT the Bill be amended by deleting Clause 23 and substituting therefor the following new clause—

Filing of a referendum petition.	23. A referendum petition shall be signed by every petitioner or an advocate acting on behalf of the petitioner.
--	--

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 24

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—
THAT, the Bill be amended by deleting Clause 24 and substituting therefor the following new clause—

Composition 24. (1) A referendum petition shall be heard and
of the determined by a bench of three judges appointed by the
Bench. Chief Justice.

(2) A petition with respect to a county referendum shall be heard and determined by at least one judge appointed by the Chief Justice.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 25 and 26

*(Question, that Clauses 25 and 26
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 27

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—
THAT, Clause 27 of the Bill be amended in subclause (1) by deleting the words “Section 43” appearing immediately after the words “the provisions of” and substituting therefor the words “Section 42”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 28 and 29

*(Question, that Clauses 28 and 29
be part of the Bill proposed)*

Clause 30

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—
THAT Clause 30 of the Bill be amended in subclause (2) by deleting the words “subsection (2)” appearing after the words “An appeal under” and substituting therefor the words “subsection (1)”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clauses 31, 32 and 33

*(Question, that Clauses 31, 32, and 33
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 34

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—
THAT, Clause 34 of the Bill be amended in subclause (1) by inserting the following new paragraphs immediately after paragraph (a)—
(aa) order a scrutiny or a recount of the votes cast in the referendum;
(ab) issue structural directions to the Commission;

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 35

(Question, that Clause 35 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 36

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—
THAT, Clause 36 of the Bill be amended by inserting the following new subclause immediately after subclause (4)—
(5) Notwithstanding the provisions of subsection (1), where litigation arises from a referendum, all documents relating to that referendum shall be retained up to the end of the litigation process.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 37

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—
THAT, Clause 37 of the Bill be amended—

(a) in the marginal note by deleting the words “the Election Offences Act.” appearing immediately after the words “Application of the”; and

(b) by inserting the word “the” appearing immediately after the words “provisions of”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 38

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—

THAT, Clause 38 of the Bill be amended by inserting the following new subclause immediately after subclause (1)—

(1A) A request for cooperation made by the Commission to private entities shall be lawful, reasonable, proportionate and in writing.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 39

(Question, that Clause 39 be part of the Bill proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 40

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—

THAT, Clause 40 of the Bill be amended in subclause (1) by inserting the word “the” immediately after the words “prescribed under”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division will be at the end.

Clause 41

Sen. Wakili Sigei: Mr. Temporary Chairman, Sir, I beg to move—
THAT, Clause 41 of the Bill be amended—

(a) in subclause (1) by deleting the words “and provisions” appearing immediately after the words “of the purposes”; and

(b) by inserting the following new subclauses immediately after subclause (3)—

(4) Before submitting any proposed regulations to Parliament for approval under this section, the Commission shall publish the draft regulations in the *Gazette*, on its official website and in at least one newspaper of national circulation and invite public comments for a period of not less than fourteen days.

(5) The Commission shall consider and publish a summary of the comments received under subsection (4) including an explanation of whether and how the comments were incorporated into the final draft regulations.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division at the end.

Clause 42

(Question, that Clause 42 be part of the Bill, proposed)

Division at the end.

The First and Second Schedules

*(Question, that the First and Second Schedules
be part of the Bill, proposed)*

Division at the end.

Clause 2

Sen. Wakili Sigei: Thank you, Mr. Temporary Chairman, Sir. I beg to move that Clause 2 of the Bill be amended—

(a) in the definition of the word “polling station” by inserting the words “section 2 of” immediately after the words to it under.

(b) in the definition of the words “register of voters” by inserting the words “section 2 of” immediately after the words to it under.

(c) in the definition of the word “voter” by inserting the words “section 2 of” (d) immediately after the words to it under”.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Abdul Haji): Division at the end.

The Title and Clause 1

*(Question, that the Title and Clause 1
be part of the Bill proposed)*

Division at the end.

Hon. Senators, we have concluded the Referendum Bill (Senate Bills No.3 of 2026).

We are moving to consider the Environmental Management and Coordination (Amendment) Bill (National Assembly Bills No.66 of 2023).

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

Clause 2, the Title and Clause 1

*(Question, that Clause 2, the Title and
Clause 1 be part of the Bill, proposed)*

Division at the end.

Mover?

Sen. Wakili Sigei: Thank you, Mr. Temporary Chairperson, Sir. Pursuant to Standing Orders No.153, I beg to move that the Committee of the Whole do report to the Senate its consideration of the Referendum Bill (Senate Bills No.3 of 2026) and seek leave to sit again tomorrow.

(Question put and agreed to)

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Chairperson, Sir, pursuant to Standing Orders No.153, I beg to move that the Committee of the Whole do report to the Senate the consideration of the Environmental Management and Coordination (Amendment) Bill (National Assembly Bills No.66 of 2023) and seek leave to sit again tomorrow.

(Question put and agreed to)

(The House resumed)

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

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, I will ask the hon. Chairperson of the Committee of the Whole to report.
Sen. Abdul Haji.

PROGRESS REPORTED

THE REFERENDUM BILL (SENATE BILLS NO.3 OF 2026)

Sen. Abdul Haji: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered the Referendum Bill (Senate Bills No.3 of 2026) and seeks leave to sit again tomorrow.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee in the said report and I request Sen. Eddy Oketch to second.

Sen. Oketch Gicheru: I second, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Order, hon. Senators. Sen. Hezena take your seat.

(Sen. Lemaletian sat in her place)

(Question put and agreed to)

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

Sen. Abdul Haji: Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered the Environmental Management and Coordination (Amendment) Bill (National Assembly Bills No.66 of 2023) and seeks leave to sit again tomorrow.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee in the said report. I request Sen. Eddy Oketch to second.

Sen. Oketch Gicheru: I second.

(Question put and agreed to)

The Temporary Speaker (Sen. Wakili Sigei): Clerk, you may proceed to call the next Order.

BILL*Second Reading***THE PUBLIC PARTICIPATION BILL (NATIONAL
ASSEMBLY BILLS NO.44 OF 2025)**

Senate Majority Leader, proceed to move.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Temporary Speaker, Sir. I beg to move that The Public Participation Bill (National Assembly Bills No.44 of 2025) be now read a Second Time.

The Public Participation Bill (National Assembly Bills No.44 of 2025) was published in the *Kenya Gazette* Supplement No.165 of 2025, dated 1st October, 2025. The Bill was then passed by the National Assembly on 12th August, 2026, and referred to the Senate for consideration. The principal object of this Bill is to create a legal framework for the conduct of public participation, in order to give effect to the constitutional principle of public participation or participation of the people as enshrined in Articles 10(2) and 69(1) of the Constitution of Kenya, 2010.

Mr. Temporary Speaker, allow me to get a copy of the Constitution. Yes, I have it. I want to refer to some of those Articles. If there is a section of our Constitution that has been litigated over and over, is the issue of the involvement of the people. “We, the people.” Article 10 first mentions it under the national values and principles of governance, ensuring that the people are involved as one of the national values.

Then, under Article 69(1), it makes a second appearance. There is a specific part that I wanted to refer to. Yes, Article 69(1)(d) requires the State to encourage public participation in the management, protection and conservation of the environment. Every time activities are undertaken, the National Environment Management Authority (NEMA) regulations require that notices are published informing the public of proposed projects in specific areas. Sometimes, even after such notices, issues still arise.

This 13th Parliament has, perhaps more than any other Parliament, suffered public scrutiny on questions such as: Did they consult the people? What did the people say? There have been very erratic judgments that have come from the courts sometimes. I say erratic because personally, as a lawmaker, I hold the view that if we were to take the view that some of the judges have taken on what exactly is public participation, then it would mean that you will never do anything in this country.

There have been very ridiculous findings from the courts, but there have also been some that are forward-looking to the country. For example, we have been told, time and again by the courts, that to end the challenge of having our laws or projects being halted and issues coming up because the people needed to have a say, then we need to pass this particular piece of legislation.

Many judges have actually held the view that it will be important to provide a legal framework that guides what the threshold of public participation is, what is meaningful, and to what extent you can say that you have consulted sufficiently. Otherwise, it can end up being a cog in the system such that somebody can show up after

we are done with this law and say they did not get a chance to give their input. You know Kenyans for what they are; sometimes we say things that are difficult.

Article 118 speaks about the same on public access and participation. It says that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees. This is just to ensure that the public does actually have a say. That is one of the areas that has been cited.

If you go to Article 174-- I am just citing various clauses of our Constitution that have actually mentioned public participation. The only curious thing about this Constitution is that Parliament has been asked to take the views of the public. The Executive has been asked to do the same. Thinking as a lawmaker and somebody who is both a consumer and a creator of public policy, there is no similar demand placed on the Judiciary. Many times, the Judiciary makes decisions and there have been major debates in Kenya about the effect of some of those decisions *vis-à-vis* public interest. What is public interest? Is public interest only about the person who has come to court? What about the rest of the citizens who may not necessarily have the opportunity to appear before court, but are beneficiaries of some of the things that are either being stopped or being challenged?

Article 174(c) under the objects of devolution in Chapter 11, which speaks about devolved government, provides that one of the objects of devolution is to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them. This is in relation to county governments, their decision-making and why they are supposed to involve the people.

There is also Article 184, which speaks to The Urban Areas and Cities Act. You know how controversial urban spaces are in this city. I have been observing certain things as a normal citizen. For example, if you drive along Lang'ata Road right now, you will find different Government agencies working there. This is part of the mess we find ourselves in, as citizens of this city, because we have not been able to provide proper guidance on how to manage a city as complex as Nairobi.

There is a saying about insanity; that insanity is doing the same thing over and over again while expecting a different result each time. We would be insane people – speaking now as a resident of Nairobi and not necessarily as a legislator but also as an ordinary citizen – if we imagined that attempting a fourth governor would clear away all our problems. We had Evans Kidero, Mike Sonko and the Nairobi Metropolitan Services (NMS), and we now have Sakaja.

There is just something fundamentally wrong with structuring and anchoring Nairobi as just another county, and wanting to manage it under the same laws that we use for all other cities. One, because of its sheer size. Two, because of the complexity and cost of implementing projects. That is why you will find various agencies involved. For example, I was just mentioning Lang'ata Road because it is a road that I use very frequently in conducting my personal business. There is one agency installing a sidewalk. There is another agency installing a drainage system on the left side of the same road. There is a huge black tank being installed – I want to believe it is a water tank. So,

everybody is digging and doing their own stuff. Other people are installing internet cables.

Then the Kenya Urban Roads Authority (KURA) is there, which is supposed to manage the road. There is the Nairobi Metropolitan Area Transport Authority (NaMATA), which I do not know what it is supposed to do. All these agencies are involved. The County Government of Nairobi City has no control over them because all the agencies I have mentioned are actually national Government agencies. They proceed on the basis that Nairobi is part and parcel of Kenya. Therefore, they do what they think is important.

You will find, for example, that the walkway has been laid. Next to it is a very big open drainage system which is even a danger to pedestrians who will be using the walkway. If there were a better institution coordinating all those efforts, I believe it would no longer be possible and it would not make sense to have open drainage systems. Who still constructs open drainage systems anywhere in the world? Why do the people who sit at the Kenya Rural Roads Authority (KeRRA), including the City Council, continue to approve open drainage systems in the 21st Century when better alternatives have already been established? I believe that these Government agencies still obtain approvals from City Hall. The moment you have an open drainage system, that becomes a collector of dirt and garbage as it awaits the rainy season.

Eventually, when the rain comes, it blocks that passageway and does not serve the purpose. There are better ways of doing these things. I know we have not concluded on the Referendum Bill, but it is part of what we are thinking. We must rethink Nairobi. We are just being foolish if we think that electing a governor every five years will solve all the problems together. There is something better that we must think about, particularly the coordination of the efforts between the national and county governments.

I mentioned the element of public participation in the urban areas and cities provisions under Article 184 of our Constitution, which is one of the instruments I was referring to. Article 184 (c)-

‘provides for participation by residents in the governance of urban areas and cities’

If you ask the residents, for example, of Lang’ata, they will tell you about all these frustrations. However, where do they get the chance? Probably, after electing the Member of County Assembly (MCA), their Senator and Member of National Assembly. That is all they can do. I believe that we are one of Africa's more mature democracies, and so we must do things better. We must provide the opportunity for such projects. In fact, citizens must have a say on some of these things and must be provided an opportunity to share about developments that are being done in urban areas.

I was just pointing out two Articles of our Constitution that speak to issues of public participation. Article 196, for example, speaks to public participation, powers, privileges and immunities of the county assembly. Public participation under Article 196 gives powers to the county assemblies and the things that they are able to do which include-

‘(b) to facilitate public participation and involvement in the legislative and other businesses of the assembly and its committees’

Just like it is expected of us as Parliament.

Sen. Eddy Oketch, I do not know about your future political plans. Sometimes, you tell me this, other times I hear the other. If God grants you an opportunity, I know where your heart is. You can serve again as a legislator, because you are still a young man anyway. You can go ahead to become a governor and come back to this House. One of the things that you must clean up in our Constitution is this particular space of public participation, just like we are doing. We should make sure that citizens have greater involvement in all their affairs. More particularly, including even us, as legislative bodies, that is either Parliament at the national level and our county assemblies, so that it is not just by way of memorandum. We should be open.

In fact, next term, God willing, I see there will be a whole lot of push on how Parliament should perform. As a young person and a leader who has dedicated a longer part of my productive adult life working here in Parliament, I still feel we have not gotten to a point where citizens can engage as freely as they wish. We are still too structured on how people send memorandum. For example, should it be by email or by this or the other? We must be considerate of all age sets. Even in seeking views only from newspaper readers and the rest, there are various avenues through which we can first seek to educate the people to understand what exactly these Bills that we are passing are and let them speak.

If you remember in 2024, there was a phenomenon where people were getting all manner of Bills, posting them and saying that Parliament has just done this. Of course, they were misguided, and many of them that were online did not have the concentration span to follow through a legislative process from start to finish. However, it points out to the yearning by the citizens, particularly young people, to participate in the affairs of the Republic. Parliament and young legislators that are tech savvy must provide the avenues through which the public can share their views and infuse their ideas into how their society and the country is managed.

Article 201 on principles of public finance in Chapter 12 of our Constitution speaks about public finance. At the very foundation of it is first to ensure the principles that guide public finance in this Republic.

“(a) There shall be openness and accountability, including public participation in financial matters.”

Just being open and accountable and saying this is what we are trying to do, this is the much that we are raising. The very first part of that Article 201 requires that we share with our citizens as a National Treasury.

I must appreciate that since the coming into place of Hon. Mbadi, the Cabinet Secretary for National Treasury and Economic Planning, I have seen an attempt to engage the public, including going to spaces such as *Bunge la Mwananchi* to educate people on the Finance Bill and the budget. These are things that were previously alien. That office has had occupants who did not interact with Members of Parliament (MPs), leave alone the citizens for whom they are making the budget for. We must appreciate the good efforts of Cabinet Secretaries such as Hon. Mbadi, who have tried to liberate and open that public finance space to ensure that people share their views and ideas on what

is being done. I must congratulate him for that particular effort. This is because that is a dictate of this Constitution. That you must go out and speak and say that which you want. He is an expert, as Sen. Mwaruma is telling us.

The last one is Article 232. I was just citing various Articles of this Constitution. Chapter 13 is on public service. Article 232 speaks to the values and the principles that guide public service. We are public servants, including us, Sen. Osotsi. You sit here and are a servant of the people. There are expectations that the citizens have on you, as somebody they have given a position of respect. One of those things in Article 232 (1)(d), on the involvement of people in the process of policymaking. That when you make a decision, how well did you involve people? Therefore, a basic reading of all those sections and citations of public participation in elements of the environment, urban cities, legislative process, public finance and public service, lays the foundation for all the instances where the Constitution has asked us, as policymakers, to involve the people. We have had a struggle because we have never provided the avenue and a structured way through which the public can actually do this. Everybody goes about it their own way and sometimes it is very expensive.

For example, if you remember, when we were doing the four health laws that we passed in Turkana – the Social Health Authority Act (SHA), the Primary Health Care Act and even in the matter of housing – you will find that the Ministry conducts what is called stakeholder engagement. This means that they call people that are affected by the decisions of that particular law, and infuse their thoughts and ideas. Once it is done, it goes to the Attorney General for publishing, and it is sent to Parliament. Then, we begin our own internal processes.

I am talking about a typical Government sponsored Bill, the ones that I move in the House that come from the Executive. After that process, it will go to public participation in the National Assembly. When it comes to the Senate, it goes through the same. Most of the time, some of these topics are too involving for the average people. They are complex things. You end up asking the same people almost three or four times. Remember, at the end of the day, it involves money. This is because there is movement, paperwork, meeting halls to be hired, and so on, and so forth.

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

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

Much as our Constitution expects of us to consult the public, it does not expect that we be lazy and lack creativity while going about it. It expects better of us, and there are things that we must do.

We have conducted public participation on many things. I was reading the other day the report of this House on the affordable housing law that we passed. There has been public debate about affordable housing by some presidential candidates that lack ideas. I have seen them say things like when they come in, they will abolish and cancel this

programme and give the houses to this or the other. This means that first you have to repeal the law, because it has gone through Parliament.

None other than the Court of Appeal of this country – actually I think less than two weeks ago – affirmed that Parliament did the right thing in the procedure that we followed. Even as we seek the opinion of the public, we must explain and make them understand and appreciate. Why is affordable housing important, for example? We cannot reduce this to be just a conversation about chicken, much as sometimes we are empty in how we think. As lawmakers, we must be serious and read the report of the things that we say.

Sen. Osotsi: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Yes, Sen. Osotsi, what is your point of order?

Sen. Osotsi: Mr. Temporary Speaker, Sir, I am rising under Standing Order No.105 on Statement of Facts. I know what the Senate Majority Leader is trying to allude to in his contribution. However, I think it will serve the purpose of this House and the nation if he can give us the facts, because he is the one representing the Government side in this House.

We need to know how many houses have been constructed under the affordable housing programme, and how many have been sold. This Government promised to construct one million houses per year. As those who are paying that tax every month, we want to know what our money is doing. How many houses have they constructed against the targets that they gave us, as citizens of this country? I think that will be a more useful debate than him trying to talk about *kuku*’s and all those other things.

The Temporary Speaker (Sen. Abdul Haji): Sen. Osotsi, you have cited Standing Order No.105, and you know very well that Standing Order No.105 is on responsibility for Statement of Facts. What is it that the Senate Majority Leader has said on the Floor of the House that needs to be substantiated or is not factual before you start asking him questions? That Standing Order does not even permit you to ask those questions. You are the one who is out of order. Do you want me to give you an opportunity to correct your point of order?

Sen. Osotsi: Mr. Temporary Speaker, Sir, the Majority Leader has stated facts by saying that the matter went to the Supreme Court and, therefore, the affordable housing programme cannot be stopped. Is that factual?

The Temporary Speaker (Sen. Abdul Haji): No, you are not---

Sen. Osotsi: The fact that the case went all the way to the Supreme Court---

The Temporary Speaker (Sen. Abdul Haji): Were you listening to what the Senate Majority Leader was saying?

Sen. Osotsi: Yes, I heard the Senate Majority Leader allude to the issue---

The Temporary Speaker (Sen. Abdul Haji): You are out of order.

Sen. Osotsi: That the matter went to the Supreme Court. Is that a justification enough?

The Temporary Speaker (Sen. Abdul Haji): He never mentioned the Supreme Court, Sen. Osotsi. He only said that the Kenya Court of Appeal has affirmed that what Parliament did in regard to the affordable houses was in order.

Sen. Osotsi, you are out of order.

Sen. Cheruiyot, please proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you for your protection, Mr. Temporary Speaker, Sir. I only speak facts in this House. Since Sen. Osotsi wants to challenge me on statement of facts, the truth of the matter is that there are presidential candidates who are so empty that their only contribution to the conversation on affordable housing is that chicken cannot get to the 12th floor. That is in public record, and every citizen knows who those presidential candidates are.

Back to Article 232, because that is what I was speaking about, this Bill will actually grant the responsibilities because we are the various institutions that conduct assessment on what citizens say on various issues. Sen. Osotsi, if you think Affordable Housing is a small conversation--- I do not know who your presidential candidate is, but we must advise them that this is not a matter to joke around with. If you think it is, look at the country called Spain in Europe. Parliament has just been dissolved in that country because citizens felt Parliament was not responding to their call of making affordable houses available for the citizen. There were demonstrations outside their Parliament, where people were saying that the parliamentarians need to pass laws. They were saying that even developing countries such as Kenya are projecting forward and seeing the challenges that will evolve as people continue to move to urban areas.

Therefore, even as we conduct public participation, we must make such data available for citizens to appreciate that you may discuss a particular matter today in light of what exactly it means to you, as a citizen. You must also guide them, as a policymaker, to appreciate and know that people will appreciate this by 2050. For example, I am sure the rest of the East African countries were still paying Pay As You Earn (PAYE) of 20 per cent or 25 per cent when Kenya raised it to 30 per cent in the year 2004, I think because there was need. Sen. Mungatana, there must have been hue and cry from the public sector asking why they were paying more PAYE. However, the leaders at that time insisted to the country that they have various national programmes that they were running, such as education, which required money.

Remember when President Kibaki introduced the Free Primary Education Programme? There must have been people who argued that they can educate their children, just like how they are saying now that they live in their own houses. They must have questioned why they were being deducted more to finance the Free Primary Education Programme. However today, 20 years later, we are able to point to the development of the human capital index of this Republic as a product of that policy shift. It cost people money at that particular time, but we are enjoying the benefits today.

There are decisions that you make today which I am sure not everybody will have the ability to appreciate their importance in the future. Even as we lay the foundation for public participation, I believe that this will include actually educating citizens on why exactly policymakers are making certain decisions and regulations in relation to these other things. Therefore, this national legal framework to conduct public participation in governance will, therefore, give practical effect to this principle, which will help the country appreciate the importance of doing this particular exercise.

I urge Members to read the Bill and file their amendments, because it is a very important exercise. The Judiciary has fingered us on many occasions; Sen. Osotsi, you know this for a fact. As Parliament, we have been asked why we do not provide the guiding principle of how public participation is to be conducted. Almost every Bill that has been in expunged in the last few years is on account of either public participation, or that it was never referred to the Senate despite the fact that it has elements to do with devolution.

These are live matters. I believe that we should not go on recess before we guide the country and maybe pass a few other Bills. Sen. Mwaruma, it would be so wrong for you to go back to Taita Taveta after 10 years of being in this House and seek what you are seeking without having provided a guiding framework for some of these things, including how to organise our cooperative sector. I know there is a team that is sitting even up to now, trying to put together the Cooperatives Bill to ensure that it is properly managed. They are in the mediation report, and so many other things which the citizens will appreciate.

This Parliament has been quite progressive. We have been good to the farmers. We passed the Coffee Bill that has returned to coffee farmers the greatest earnings they have ever seen since the best years of coffee back in the 1970s and in the 1980s. We have also passed very good and progressive legislation in the sugar sector, though we are being frustrated by cartels who are going to court left, right and centre; and judges who are aiding them by dishing out court orders like *mandazi*'s, stopping election of farmer representatives in the sugar board, and things such as those. So, there is progressive work by this Parliament which will be seen when we eventually put our report together. I hope our colleagues in the National Assembly can conclude on the Tea Bill so that we conclude on that sector and maybe see that which we can do in the dairy sector. This is about participation of the people, ensuring that we bring them to the fore of decision making.

With those many remarks, I beg to move and request the Senator for Tana River, Sen. (Dr.) Danson Buya Mungatana, to second.

The Temporary Speaker (Sen. Abdul Haji): Very well, Sen. (Dr.) Danson Mungatana.

Sen. (Dr.) Mungatana, MGH: Mr. Temporary Speaker, Sir, I want to thank the Majority Leader, the Hon. Aaron Cheruiyot, for ably moving this Bill. It is a pleasure for me to also second it.

Many years ago, Mr. Temporary Speaker, Sir, as a young legislator in our sister House, the National Assembly, I moved a Bill that really affected the lives of our people in terms of management. We said that whenever the President is going to make appointments, he must have the House of Parliament participate in certain appointments. This was later amended to the governors so that now we have consequential legislation that affects how we do things. I am very happy that, today, I am also participating in seconding a very consequential law that will affect the way we govern, the way we move things, and how we look after ourselves as a nation.

The Public Participation Bill, 2025, is very important because it has a constitutional requirement. At the national level, Article 118 requires that Parliament

conducts its business in an open manner, and it must demand that the public participate in law-making. At the county level, Article 196 of the Constitution equally requires county assemblies to conduct their business in an open manner that allows the public to participate. In fact, certain county legislation like the County Governments Act specifically makes it mandatory – I underline mandatory – that there must be public participation when it comes to legislation and county planning. This is a mandatory requirement.

So, what is public participation, Mr. Temporary Speaker? I will say what it is not. Public participation is not public information. Some Government officials, both at the county and national levels, think that public participation is public information. Public information is like going to the radio to tell the people that we are going to construct a bridge here, or we are going to pass this regulation. However, public participation is giving a reasonable opportunity for members of the public to actually interact and participate in the making of that public policy. If it is a project, in interrogating the cost and giving their input.

Mr. Temporary Speaker, Sir, I would like to give an example. One day in my county, we went to look at a project which was supposed to be in Kinankomba Location, in Kinakomba Ward. The people were surprised because there was supposed to be a dam built next to seasonal river, so that during the drought season, the water that had been tapped would become available for people to utilise. This was a national Government project that came under some project that people did not even understand. There was no public participation. Those people from Nairobi came and said they were going to build the dam there. The local people told them that the river does not pass there. The river passes on the other side and when it is raining, the seasonal river passed that other side. Those people said they were engineers and had studied that project, and that is what they were going to do. They said they would put a dam in that seasonal river at that point. When the time for the short rains came, of course, where they had dammed, there was no seasonal river. That project cost millions of shillings that went to waste. It is a demonstration that public participation is where you give an opportunity to the people so that they can make an input and they actually have a say in the costing, in the way that the project should look, and in the way that legislation should look – a real participation.

We were in Kilifi just two weeks ago, and we went to visit the landing site. When we were having discussions with members of the public and the fishing community there, they told us that when the engineers from Nairobi came, they never talked to them. They decided that they were going to do the construction, only to find that where they had approved the construction to be done, the waters actually came all the way and made that whole place a part of the sea. So, what happened was that the fish landing site had to incur extra expenses for the construction of a seawall, which was not in the original plan. This happened because people came from Nairobi, never involved the local people, and never talked to the local fishermen. As a result, that project had to be varied so that more costs were incurred when it was not necessary. So, I am making the point that public participation is not public information. People must be really involved in what is happening.

(Applause)

Mr. Temporary Speaker, Sir, Kenyans now are not the Kenyans of Independence. Kenyans now are not the Kenyans of the Nyayo era. Kenyans now are totally different – very well-informed people. When we say we must have proper public participation, this is the law that creates that framework for public participation.

When I say there must be a reasonable opportunity to participate, we must tell county governments – the County Government of Tana River in particular – that public participation is not sending the same people who are on your list, moving them from one place to another so that they can approve your projects, County Integrated Development Plan (CIDP), and your proposed legislation. Public participation is not a situation where it is only a select number of people who are supposed to be in a hall to say something about that project. This law is saying public participation is public. This means that if you say public participation is going to take place, for example, in Hola Town, then you do not make it in a way that it is only the people on your list who are going to participate. Everybody must participate. This culture of excluding other people and saying no, it is only those on the list who will participate, must come to an end. I am not just talking about Tana River; it is happening across the counties. In some counties, it has become fashionable that there are some people who are professional delegates. They are carried from one place to another. When laws are being passed in the counties, the same people are paid to attend. They go and all they do is to approve. The real people are not given the opportunity to participate.

My prayer to my colleagues who are here and wish to be governors is that they should change this culture when they get there. This has become a problem because people just hear that a project has been approved. When you ask the people of the amount, the potential contractors and where the project will be located or situated, you realise that they do not know because they never participated. The people who said yes to the project are from another location, ward or from the capital of the county.

We need this law, and as we pass it, we pray that the governors will be faithful to it. This should not just be at the county level. The same should also apply at the national level. Anybody who is implementing or wants to do public participation must be faithful for public participation to be real and effective, especially when we are passing delegated legislation laws.

Many people are not aware of these rules and regulations. They just get to hear that there is a new levy that has been imposed, and when you ask of when public participation happened, you will be told that it happened in Nakuru, Mombasa or Nairobi. When you ask for the number of people who participated, you learn that they were very few people. They sometimes even tell you that they opened an online platform, yet people in Kenya are not aware.

A good example is when they proposed to bring some very stringent regulations that were to be applied by the NTSA. One would be told that teachers were sitting in Mombasa and they approved a particular law. However, when you ask the teachers if they approved that the buses should look like this and whatever, they would tell you that they went for a teachers meeting and not public participation for that law.

We, therefore, want to tell Kenyans that it is not a matter of favour. It is now a requirement of the law, and they must be involved. There must be adequate notice for them to be told that this is going to happen. There must be adequate information. If a road is to pass somewhere, the people have to be told how much it is going to cost and whether people have been compensated for their land. If electricity lines are passing somewhere, there must be public participation.

This Friday, the Committee on Energy, where I serve, will be visiting a certain place in Machakos. This is because a Petition was moved in this House because there was no public participation, and Kenya Power took private land. Those authorities put up their things and that fellow does not know what is happening. He is being told that they are doing an important Government business that will benefit everyone. That is okay, but why did they not tell the people? So, adequate notice and information should be provided. They should also provide a reasonable opportunity to participate.

One cannot say that there will be public participation in a particular place, yet the venue and time have not been given. There must be accessibility and inclusivity. Some of the places where county governments hold public participation are not considerate of Persons with Disabilities (PwDs). They at times use English or Kiswahili while conducting public participation. I am glad that this law has made it clear that other languages under Article 13 of the Constitution are provided for. Therefore, the institution or authority conducting public participation cannot say that they will only use English and Kiswahili when speaking about projects that people do not understand in the villages. This law states that when there is a public hearing and participants are not conversant with English or Kiswahili, the responsible authority shall take measures to conduct the exercise in a language that the participants understand. You find that in Clause 13, which is one of the most beautiful clauses about the Public Participation Bill, 2025.

We are now going down and creating a law that says if that if public participation is going to be conducted where people only be speak Pokomo, Orma, Munyoyaya or Wardei, where people do not understand these other languages, then the county government must take every step to make sure that there are people who interpret. They have to make arrangements for the local people in Tana River to understand what that public participation is about.

This Bill also states that there must be transparency. If it is a project, one is not to tell people that they want to build a bridge. There must be costings, proper explanations and drawings for Kenyans to feel part and parcel of what this law provides for. I fully support this law, and I like what this Bill has said.

There is one thing I would want us to add, and I pray that the Committee will consider this. When do we say that this is the opinion of the people in this section of Tana River, Nairobi or Marsabit? How can we tell that the majority have approved the project? That has not been provided for. I say this because there could be public participation where majority of the people say that they do not want a hospital to be built in a certain place or the road to pass somewhere. The mechanism and returns to determine the percentage that must be carried to show that public participation happened, and that 50 per cent of the people approved, are not there. The returns are not there, and they have not been provided for.

This law needs to go further and say that we need 50 per cent of the participants to approve that law, project or whatever that is being debated or presented to the public by the authority responsible to be approved. With that, the information will be clear. That will be a very good inclusion in this law. Aside from that, I think this Senate has made a big step forward today in terms of structuring a framework where Kenyans will now be involved in lives and in their things.

It will also create responsibility for them. They will no longer say that they did not know. That story will come to an end. When they hear a county or the national government announce that the Ministry of Environment and Climate Change is calling for public participation, it will be their responsibility, as a Kenyan, to participate. They will not have to wait for things to happen then rush to court or go to their Member of Parliament or Senator.

I think we have made a great stride forward and I pray that we support this law.

I beg to second.

(Question proposed)

The Temporary Speaker (Sen. Haji Abdul): I will now allow Senators to make contribution.

Sen. Wakili Sigei: Mr. Temporary Speaker, Sir, thank you very much for giving me the opportunity to also comment on this very important Bill. As ably moved by the Majority Leader, this is a very consequential Bill in terms of public engagement, enactment of legislation, as well as policies from various institutions that govern the public.

I must first acknowledge the fact that this is a Bill that is currently before the Committee on Justice, Legal Affairs and Human Rights. Public participation, what exactly the Bill is providing for, is what we are doing now in the Justice, Legal Affairs and Human Rights Committee.

The interest that this Bill has attracted is quite huge. We have received over 100 submissions from quite a number of stakeholders, both public-facing and private, as well as the civil society. That tells us the interest that the Bill has generated is not only affecting the public institutions but also goes beyond that. This is because any enactment from this House or any other House, whether the National Assembly or our county assemblies, affects the public without any selection as to where it is originating.

As we submit and debate on the provisions of this Bill, it is a confirmation that this is a timely Bill. I really look forward to Members of this House reading it, appreciating the provisions of it all, and contributing to make sure that we enrich it to serve the purpose that is under its objects.

Granted, we have had several pronouncements from courts on public participation. Quite a number of legislations, whether from the Senate or the National Assembly, have been voided by the courts. In most cases, if it is a subject on public participation, the courts have pronounced themselves that public participation was not properly conducted, or was not sufficient to warrant a declaration that such a law is void. This law, therefore, will bring to an end such kinds of pronouncements, because the courts have been mentioned here as one of those responsible authorities that are required

to conduct public participation in a certain manner on matters affecting their Judiciary as well as those affecting the public.

What is quite interesting, this I must read for the public to appreciate, Senator Mungatana has talked about public participation and public information, which is very critical. A number of people out there in most cases tend to confuse public information or notification with public participation. This Bill seeks to clearly define what public participation is, so that even as we contribute to it and say we want to enact legislation that guides it, we need to understand what public participation is. The Bill has defined, under Clause two, what public participation means as follows-

“Public participation means the process of engaging the public in making or implementing public policy, public policy decisions, including the enactment of legislation.”

That is exactly what we are doing right now. We are seeking to enact a law that guides public participation. In the Justice, Legal Affairs and Human Rights Committee, we are conducting a process of collecting the views from the public, incorporating them and analysing them for purposes of enriching the Bill. It answers the concern of Sen. Mungatana. For the public to understand and appreciate, it is not just notifying the public about the information but engaging them in order to understand the impact of a policy or legislation which is being passed.

Clause 6 defines responsible authorities and institutions. That Clause is very critical. It has listed quite a number of government agencies. For instance, in the case of Parliament, it has made reference to each House of Parliament. That is the National Assembly and the Senate independent. Therefore, the responsible authority is the Senate, and the responsible authority is the National Assembly, independent of the other.

Subsequent to that provision, there is also a provision to the effect that in the event a public participation has been conducted by the originating House, for example, in this case, the public participation that was conducted by the National Assembly, this law proposes that we may, as a House, independent of the National Assembly, adopt a report if we deem, as a House, that that report is sufficient enough to accommodate the concerns that we would have raised as members or even from the members of the public. The reason is to make sure that we also prudently use public resources because every public participation that is conducted requires utilisation of public resources.

Those definitions give us an understanding of what exactly we are supposed to do, as institutions. It gives us a workable kind of a consensus on how to ensure that we accommodate what the courts have provided as conditions which will befit public participation. I say so because at the back of my mind I do recall a pronouncement that was made just the other day by the courts which nullified the sale of Safaricom Kenya Limited shares by making pronouncements to the effect that there was no proper public participation. When you look at the process that led to that sale, the public was involved in a series of weeks of public engagement and publications in both print media as well as the rest of media stations announcing this.

Also, I believe and do recall that the National Assembly engaged and had a Motion on the sale of those shares, but still the courts went ahead and nullified them. One is left to ask the question as to then what is it that public participation is supposed to

involve. This law will give us an appreciation of that requirement, and also an understanding of what a responsible authority is supposed to do.

Clause 5 of this Bill gives us the principles of public participation. This Clause guides both a responsible authority and individuals in terms of what the principles are. It clearly provides that we can receive these submissions either in the form of a written memoranda, oral hearings or even online forums. Therefore, an individual who would want to challenge a process that has engaged the public, whether by calling upon the public to make submissions, that in itself the law will recognise that to be proper public participation.

We engaged on Tuesday with the stakeholders where we called upon them to appear before a committee of Parliament. That forms oral submissions where members of the public are involved in engaging and submitting what they feel is supposed to be involved in this Bill and the considerations that must be put in place. It includes as well those who send through online forums, and also emails where they are giving explanations on how they would expect the Bill to provide for aspects on public participation.

Clause 5 of the Bill has listed out those considerations, including the amount of time that a member of the public is supposed to be given in order to submit. I recall that earlier, we had the Cabinet Secretary for Education in this House answering several questions from members of the public through their representatives here. This particular issue came out because, for example, if you have 10 questions and you are given 10 minutes, naturally you would not be in a position to respond to those concerns properly. The feeling out there is that there are no answers. It is not because there were no proper answers, but because the time that is allocated is not enough to allow a person responding to the questions to respond comprehensively.

The same has been provided for in this particular Bill under Clause 5(b), where the Bill seeks to provide sufficient time for those who submit their views before a committee or responsible authority. This is also going to answer the biggest concern that we have had in our county governments, where they conduct public participation. Indeed, the kind of public participation they do is sort of a delegates' form, where you list a number of people. You invite people who you know will come and support a particular position that you would want to take. They could be 20 or 30 people who are paid a certain amount. They just appear, record their names or sign against an attendance list, get paid and approve a position that the public has not been engaged on.

If, for example, if there is public participation regarding the development of a road within a municipality or a town, the concerns we would have to take into consideration for instance in Nairobi, as a county, are completely different from concerns from a local county, where we do not have a population like we have here. That is why the Bill proposes the scope in terms of the complexity, significance of a project, and potential impact on the number of people who will be involved. That is a critical provision which I know once this House passes this Bill, we will have enabled institutions to ensure that policies that they pass are properly in support of the interests of the public, and not just to serve the requirement of the law that we must conduct public participation.

Clause 7 provides for considerations which we must meet during a public participation exercise. It must depict the nature of a matter under consideration, the urgency of the matter, the impact of the matter on the public, and inclusiveness or effectiveness of representation.

When we create a list of people to take part during public participation, we will be going against provisions of the law. We want to open it up for members of the public so that they give us variable positions. Whether it is a law being enacted, a project being proposed in a certain area, or an institution such as a hospital or a school, we need to engage the public without necessarily limiting those who will be involved. That is what is being proposed in Clause 7(d), (e) and (f).

There are also important provisions in Clause 8(1) that provides that a responsible authority shall, before undertaking a public participation exercise, notify the public of the exercise. A number of pronouncements from courts have declared that certain laws or Government policy statements or decisions have been taken without giving the public sufficient notice to be involved. Clause 8 provides that we must give sufficient notice.

Such a particular notice is supposed to state the venue, date and time of public participation, and mode of submission of views before a responsible authority. What I would propose under this particular Clause is to provide for the amount of time within which a notice is to be served. For example, a seven-day notice in order to make it possible for those who would like to participate to prepare, read and understand, and critique the kind of public participation on the subject that the public has been notified.

Otherwise, an incorrigible governor or policy maker of a responsible authority may wake up in the morning and issue a notice for public participation to be conducted like tomorrow at a particular venue and time, as well as give the mode of submitting views. That way, although you have given the public a notice, that notice is too short to facilitate preparedness on issues that are relevant. I would, therefore, propose that Clause 8 be amended to ensure that timelines are given, whether seven, 14 or 21 days. Then we will achieve the objective of letting the public get enough notice to prepare and to submit.

Clause 9 is still on the mode of notifying the public. The responsible authority is under an obligation to do either electronic means on the website through public pronouncements in meetings, notice boards or even print media. What is critical is also the number of days within which that notice must go out, and I propose that Clause 9 be amended to include a timeline within which that notification goes out to the public. That way, we are giving out notice to the public for purposes of preparedness and such requirements.

Mr. Temporary Speaker, Sir, I will mention two more very critical provisions of this Bill. Under Clause 11, a responsible authority shall allow reasonable time for the public to make submissions during a public participation process. This can only happen where the public has been given sufficient notice to prepare their memoranda and attend to respond. When they respond or when they appear, the law requires the responsible authority conducting public participation to give members of the public sufficient notice. The only unfortunate thing here is that depending on the number of those who want to participate, you might be required to limit the time reasonably enough to ensure that everybody participates so that we do not lock out others.

Mr. Temporary Speaker, Sir, under Clause 12, a responsible authority shall analyse and take into account the submissions received from the public. This is a critical provision because what happens in the many public participations that we conduct, either as committees of this House or as government institutions, there is no mechanism to report back to those who submitted their memorandum as to whether their issues were analysed or whether they were taken into account, and if not, why.

This law provides that as a responsible authority must analyse whatever submissions that they receive, and upon completion of the public participation, they must do a report. That report must ensure that you enlist all those who appeared before you while you were conducting public participation, consider their submissions, take into account those which you know are important according to you, and those which you discard, and give a justification in your report as to why you did not consider them.

I, therefore, propose to amend this particular provision to ensure that the report is published so that it does not become a report for the consumption of the House alone or members of that committee. It must be published in order for members of the public to know, and those who participated to appreciate that their concerns were put into consideration; whether they were rejected, why they were rejected, and if they were considered, how they were considered – fully as they had proposed or they were adjusted to fit into that policy.

Clause 13 is on where a responsible authority holds a public hearing, and the participants are not conversant with the English or Kiswahili languages. Sen. Mungatana submitted on this very well. I wish to propose that for persons with disability, Kiswahili or English does not speak to all of them. In order to be inclusive, we must then say that this process is availed for those who are unable to read, hear and those who cannot see, the mechanisms within which they are going to be heard, and their submissions as well as their contributions considered in order to make ensure that they fully participate in the process.

Mr. Temporary Speaker, Sir, this is a very important Bill and in terms of Section 18, we are still talking about public participation by Parliament. Section 18(2) provides that where a committee of a House of Parliament has conducted public participation on a Bill, a committee of the other House of Parliament may either rely on the report or seek additional views.

Mr. Temporary Speaker, Sir, this is the submission I earlier on said that in order to ensure we preserve the utilisation of public resources, the law now gives us room, as a Committee and a House, to rely on the report of the other House, especially where we are able to appreciate that the stakeholders who appeared before that Committee and the views they submitted have been considered. Where we are satisfied that the submissions that would be made before the Committee of the other House would almost be similar, the law gives us room to participate by---

(Sen. Wakili Sigei's microphone went off)

The Temporary Speaker (Sen. Abdul Haji): Conclude, Sen. Sigei.

Sen. Wakili Sigei: Thank you, Mr. Temporary Speaker. I was saying that this particular law under Section 18 gives the House a leeway through which we can accommodate the views gathered by the other House without necessarily duplicating the public participation processes. It allows us to consider and adopt the report that has been provided by that House, or to ask additional views if we feel that the report is not conclusive enough. Finally, under No.4, I would only propose that we seek to clearly establish the measures through which we will establish whether a stakeholder who has appeared before a committee of the other House should appear again before this House and duplicate their submissions.

Mr. Temporary Speaker, Sir, I urge Members of this House to read this Bill as well as engage with the various decisions that have come from the courts on what public participation entails. This will ensure that going forward, we engage the public on matters affecting them as their representatives and ensure that we enact laws that speak to the concerns of the public.

Thank you and I support.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator.

Sen. Mwaruma Mwashushe.

Sen. Mwaruma: Asante, Mheshimiwa Spika, kwa fursa uliyonipa ili nichangie Mswada kuhusu uhusishaji wa wananchi katika miradi na mipango ya maendeleo. Ibara ya pili aya ya kwanza (2(1) ya Katiba inasema ya kwamba nguvu za uongozi ziko kwa mwananchi. Mwananchi anaweza kutekeleza nguvu hizo yeye mwenyewe moja kwa moja, ama kupitia kwa wawakilishi ambao mwananchi anawachagua.

Hilo halijatambuliwa sana na wananchi. Hata wakati nimesimama kuunga mkono huu Mswada, lazima kuwe na mbinu za kufanya elimu ya uraia ili watambue kwamba nguvu za uongozi ziko kwao kama wananchi. Nguvu hizo ziko kwa Katiba, na wananchi wenyewe ndio wanaotozwa ushuru kuhakikisha miradi na mipango ya maendeleo inatimizwa.

Kukishafanyika elimu ya uraia, ama *civic education*, pia mwananchi lazima ahamasishwe ya kwamba kuna uwezekano wa yeye mwenyewe, kama mwananchi, kukataa miradi na mipango ya maendeleo ambayo imefanyika bila yeye kuhusishwa kikamilifu.

Kuna siku nilipewa hadithi na rafiki yangu kwamba kuna mfadhili alienda Marsabit na kufanya mradi wa maji bila kuhusisha wananchi. Wakati ule mradi wa maji ulianza kufanya kazi, wananchi wa hilo eneo waliamua kuamka usiku na kukata-kata yale mabomba ya maji. Kesho yake, walipoulizwa kwa nini walikata-kata mradi wa maji ambao ungewasaidia, walisema wao hawakusema wawekewe maji kwa sababu watoto wao hutumwa mchana kutembea kilomita sita kutafuta maji, kwani vyumba vyao vina chumba kimoja. Wakati wameenda kuchota maji, basi wanapata fursa ya kuongezea hao watoto ndugu zao. Wakiletewa mradi wa maji ni kuonyesha ya kwamba katika chumba kimoja wanachoishi, hawatapata nafasi ya kuongeza ndugu za hao watoto. Basi yule mfadhili akaona ingekuwa vyema kuhusisha wananchi katika ule mradi ili watafute ule mradi unaowafaa.

Bw. Spika wa Muda, nadharia si haba ziko ambazo zimetolewa na wasomi. Nadharia ya kwanza ya uhusishaji wa mwananchi ambayo nitasema leo ni ile inaitwa

mjumbe na mkuu, ama mkuu-mjumbe. Kwa Kizungu *Principal-Agent Theory*, ambayo ilitolewa na Stephen Ross mwaka wa 1973. Katika hiyo nadharia, Stephen Ross alisema kwamba mkuu ni mwananchi. Mjumbe ni yule ambaye amechaguliwa, kwa mfano mbunge. Sasa wakati wa kutekeleza mradi wa maendeleo, ni lazima tugundue ya kwamba kama wewe umechaguliwa – ni Mbunge, Seneta, wewe ni gavana – nguvu za uongozi ziko kwa mwananchi, na yeye ndiye mkuu. Hii ni kwamba wewe tu ni Mjumbe ambaye ametumwa kufanya kazi kwa niaba ya mwananchi. Na ukigundua ukweli huo, basi ni lazima uhusishe mwananchi kila wakati katika maamuzi ya miradi ama mipango ya maendeleo.

Nadharia ya pili ilitolewa mwaka wa 1969 na mama mmoja msomi aliyekuwa akiitwa Sherry Arnstein, ambaye alitoa ngazi ya uhusishaji wa wananchi katika kuchagua miradi yao. Katika ile ngazi, aliweka ngazi tatu katika kuhusisha mwananchi. Ngazi ya kwanza ambayo kwa Kimombo aliita *non-participation*, ni wakati mwananchi hahusishwi kabisa katika kuchagua miradi. Wale wako katika uongozi wanachagua miradi yao, wanailata katika kamati – kwa mfano kamati za shule, kamati za wananchi – na wale wananchi wanazipitisha bila kuuliza maswali mengi. Hiyo ndiyo ngazi ya chini ambayo mara kwa mara, tunaiona inaendelea katika viongozi wetu. Mfano mzuri ni wakati Wabunge wanaamua kununulia mashule mabasi. Wanasema, "leo mimi nimekuja kwa hii shule na nimeamua ya kwamba hii shule inafaa kupewa basi la Shilingi milioni 10. Anafanya hivi bila kuhusisha walimu, wanafunzi na wazazi kwa kuwauliza, "Je, ni mradi mgani wa maendeleo ambao tukiufanya na *National Government Constituencies Development Fund* (NG-CDF), utatoa fursa ya kuendeleza masomo ya watoto?"

Hii ni kwa sababu katika hizi shule zetu ndogo-ndogo, ukinunua basi haliongezi *value* kwa elimu ya watoto. Lakini ukinunua, kwa mfano vifaa vya maabara kama tindikali na vifaa vingine ama asidi ya kufanyia kazi katika maabara, basi watoto wanaweza kupita mitihani vizuri zaidi. Lakini, wananchi wetu, kwa sababu hawajafanyiwa elimu ya uraia, wanakubali kupata basi bila kujua ya kwamba kuna mambo ya *insurance* na kutengenezwa kwa basi, na kadhalika.

Pia magavana wanatembelea vijijini na nyanjani na wanasema, "hapa naona kwamba mnahitaji mpate *hall* ya kufanyia mkutano," ilhali labda wananchi wa huko hawahitaji *hall*. Labda wanahitaji mradi mwingine, kama mradi wa maji ama vyumba vya kusomeshea watoto wa chekechea. Kwa hivyo, Sherry Arnstein alisema kwamba hiyo ndiyo *level* ya chini zaidi ya kufanya uhusishaji wa mwananchi.

Ile *level* ya pili ya juu kidogo ambayo huyu dada Sherry Arnstein aliita *tokenism* ni kwamba wananchi wataitwa na waulizwe mapendekezo yao. Kwa mfano, Je, katika hii wadi, eneo bunge ama kaunti, mngependa tuwafanyie mradi gani? Wanatoa mapendekezo yao, lakini hayo mapendekezo hayafuatiliwi ili yatimizwe. Kwa hivyo, kutakuwa na kumbukumbu ya majina ya watu ambao wameenda kwa ule ukumbi wa kuhusisha mwananchi, lakini yale mapendekezo yao hayatiliwi maanani wakati wa kufanya maamuzi ya ile miradi na mipango ya maendeleo. Sen. Sigei amesema kwamba hawa watu huitwa na kupewa pesa kidogo kwa sababu ya kurudi nyumbani. Wanajua kwamba wakiongea au wakiipiga kelele wakiitisha haki zao, wataachwa nyuma mwaka ujao. Kwa hivyo, wameingizwa uoga. Nafikiri pia ni kwa sababu ya umaskini ambao umekithiri katika maeneo yetu.

Kule nyanjani kwa mfano, wakati wa kutengeneza sheria ya bajeti na kuchagua miradi, unapata wale wakuu wa kaunti wanakuja na makaratasi na vitabu vikubwa ambavyo vimeandikwa miradi na mapendekezo, na huwa inapitishwa. Kila wakati, huwa tunauliza inakuwaje wametumia zaidi ya mwaka kutengeneza daftari hilo la bajeti, halafu mtu mmoja ambaye anahusishwa kwa siku moja, anapaswa kukisoma hicho kitabu chote cha bajeti, akielewe na kutoa mapendekezo. Huyo mwana nadharia alisema kwamba hiyo ndio ya pili katika ngazi yake ya kuhusisha mwananchi.

Nimefurahia hii Sheria kwa sababu imetumia nadharia ya ngazi ya juu kuhakikisha kwamba sheria inatekelezwa. Tuko na sera za uhusishwaji wa mwananchi, ama *policy* ya *public participation*, lakini hatuna sheria. Nafurahia hii sheria kwa sababu imetoa kanuni za kufuata ili kuhakikisha ya kwamba uhusishwaji wa mwananchi unaleta ufanisi, ambao kwa kimombo ni *effective public participation*.

Bw. Spika wa Muda, kulingana na Sherry Einstein, ngazi ya juu zaidi ya kuhusisha mwananchi inaitwa *citizen power*. Mwananchi mwenyewe ndiye aliye na nguvu za kufanya maamuzi ya ile miradi na mipango ya maendeleo. Wakati kunafanywa uhusishwaji wa mwananchi, basi wanapewa nafasi ya kutosha kupitia stakabadhi ambazo wanakuja kujadili hiyo siku. Huu Mswada unasema ya kwamba lazima kuwe na mda wa kutosha wa kutoa notisi na stakabadhi za kusoma, ili wakati wananchi wanakuja kufanya uhusishwaji, wawe wamezisoma na kuzielewa vizuri.

Jambo la muhimu zaidi ambalo limenifurahisha na huu Mswada ni kwamba baada ya kumaliza hii mikutano, wale ambao wanafanya uhusishwaji wa mwananchi – ambao labda ni maafisa wa kaunti, maafisa wa Bunge ama sisi wenyewe ambao tunaandika sheria – tutarudi tena kwa wananchi na tuwaeleze kwamba ile mradi waliochagua ni fulani, lakini tumeamua kufanya mradi fulani kwa sababu ya uhaba wa pesa. Lazima tuwaambie hii miradi waliyoichagua hatujaweza kuitekeleza, lakini kutakuwa na muda na fursa nyingine mwaka unaofuata ya kufanya hiyo miradi. Sherry Einstein alisema ya kwamba, baada ya kufanya *public participation*, turudi tena kupeana *feedback*. Nafikiri hicho ndicho kitu cha muhimu zaidi kinachokosa wakati wa kufanya uhusishaji wa wananchi katika miradi ya maendeleo.

Nafikiri tutaangalia huu Mswada, tuipige msasa, na vile Kiongozi wa Walio Wengi, Mheshimiwa Cheruiyot, alivyosema, itakuwa vibaya sana mimi kama Seneta kukaa hapa miaka kumi kisha nirudi nyumbani wakati natafuta kiti ninachotafuta, na iwe kwamba hatujatengeneza sheria ya kuelekeza vile uhusishaji wa mwananchi unaweza fanyika. Nitakuwa na furaha ikiwa nitakua na *legacy* baada ya kukaa miaka kumi katika hii Seneti. Nikirudi nyumbani baada ya kupitishwa kwa Mswada wa kuelekeza na kutoa kanuni za uhusishaji wa mwananchi, maanake, uhusishaji wa wananchi katika miradi ya maendeleo, litakuwa jambo la muhimu zaidi katika Katiba tuliyoipitisha mwaka wa 2010. Tukajua ya kwamba katika hii Katiba tunajipatia nguvu za uongozi sisi wenyewe, kama wananchi wa Kenya. Sisi pia ndio tunatoa ushuru na, kwa hivyo, lazima tuhusishwe kamilifu katika maamuzi ya kufanya miradi na mipango ya maendeleo.

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

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

Kwa hivyo, mimi moja kwa moja naunga mkono huu Mswada. Nafikiri ni Mswada uliokuja katika Bunge na haukuenda mbali. Leo, ningependa kuwarai wenzangu na pia lile Bunge lingine kwamba tukubaliane kwamba hii sheria ni nzuri, na tuweke mkazo kwamba tunapopitisha sheria, lazima mwananchi ashirikishwe kikamilifu vile pesa zinavyotumika.

Mheshimiwa Spika, wakati tumepitisha sheria za bajeti, hasa hizi za kaunti, unapata sheria ya kwanza inapopitishwa wananchi hushirikishwa. Lakini shetani mkubwa ni wakati tunapopitisha ile sheria ya bajeti ya ziada, ama *supplementary budget*. Wakati wananchi wameweka miradi yao katika bajeti ya kwanza, huwa wameshirikishwa, lakini wakati wa kufanya ile bajeti ya ziada, wananchi hawashirikishwi, na ndio wakati miradi yao mingi hutolewa kutoka kwa ile bajeti, na hawaelewi cha kuuliza.

Nilipitia vita sana wakati wa awamu yangu ya kwanza nikiwa Seneti kwa sababu wakati bajeti ilipokuwa ikiandikwa, wananchi waliweka miradi yao ya maendeleo. Lakini unapata mwisho kwamba ile miradi ya maendeleo haitekelezwi. Walikuwa wananiambia, "Seneta, wewe unanyamaza pesa zetu zikiibiwa, na husemi ni kwa nini pesa zetu zinaibiwa? Katika bajeti tuliyotengeneza, tuliweka miradi yetu ya Maendeleo, lakini mwaka umeisha na hii miradi haijatekelezwa."

Mheshimiwa Spika, nilichukua muda sana kufanya elimu kwa raia na kuwaeleza wananchi ya kwamba ile bajeti tuliyopitisha ya kwanza ambayo walishirikishwa, ilifuatiwa na bajeti nyingine iliyopitishwa, na ambayo ilitoa miradi ya wananchi na kuweka miradi mingine ambayo wananchi hawakuhusishwa.

Kwa hivyo, tukitengeza hii sheria, lazima tuweke vigezo kabisa. Wakati tutatengeza kanuni ama *regulations*, lazima tuseme ya kwamba bajeti ya kwanza ishirikishwe na zile bajeti za ziada, ama *supplementary budgets*, na pia wananchi washirikishwe. Shetani mkubwa zaidi wa kutoa miradi ya wananchi ni hizo *supplementary budgets*.

Sina mengi ya kuongeza. Naomba tuunge mkono hii sheria ili wakati namaliza muhula wangu, niwe nimeacha *legacy*. Sijaweza kutohoa neno *legacy*, lakini sisi tumeamua katika hii Bunge tuongee Kiswahili ili tuwasiliane na watu wetu wa nyanjani na wa Mashinani ili wapate kuelewa nini kinaendelea katika Bunge la Seneti. Basi nitatafuta hilo neno '*legacy*;' kwamba ni *legacy* ambayo ninaacha nikiwa Seneta wa miaka kumi nikitoka kutafuta ugavana. Tutaacha hiyo *legacy* ya kuwa hii sheria imepita.

Asante Mheshimiwa Spika wa Muda.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Mwaruma. Tafuta hilo jina, kisha utueleze *legacy* kwa lugha ya Kiswahili ni nini.

Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you Mr. Temporary Speaker, Sir, for giving me this opportunity. If I am not wrong, in the last Session, the Public Participation Bill was sponsored by Attorney General *emeritus*, the Senator from Busia County, Sen. Amos Wako. He is the one who brought this Bill. I was the Chairperson of the Committee on Justice, Legal Affairs and Human Rights and we considered it, but it did not go far. However, this time around, we have far-up discussions on public participation. We have

had a challenge on the aspects of public participation because it is a new thing in the Constitution. Government entities and other entities would not be comfortable to disclose what we are. As a society, we are used to secrets, and that is why we even have the Official Secrets Act. This is because, a country, we normally want to do everything in secrecy and the mystery that comes with it.

I can tell you without fear of contradiction, Mr. Temporary Speaker, Sir, because you are a practicing Legal Counsel in this country, that most of the court cases relate around the issues of public participation. An ingredient of running public affairs is access to information and public participation. It is about what the people say. As President Nixon said, we need to protect the words, 'we the people.' We have to know what the people say. We are the representatives of the people, and we represent their interests, aspirations and the agenda of the country and the counties.

Allow me to cite the case of Robert N. Gakuru & Another vs Governor Kiambu County & 3 Others. It is a High Court Case No.532 of 2013, and it was Court of Appeal Civil Case No.200 of 2014. This is the ruling – I do not know if it was Justice Odunga who made the ruling – and he captured the essence of public participation. The reasoning of the court was that public participation must be real, inclusive, conducted in good faith, and it should not be a mere formality. What is happening in the national Government and county governments is that public participation is done as a formality. This was a 2013 matter where Kiambu County Government took a Finance Bill to the people, and the County Assembly of Kiambu altered the version of that Finance Bill.

Mr. Temporary Speaker, Sir, you tried to allude to this in your closing remarks. When they generated a new Finance Bill, they thought it was not necessary to take the altered or the new version of the Bill to the people. It is for that reason that the sword of justice fell on them. It is for that reason that Justice Odunga, if my memories serve me right, came up with these words, that public participation is not a mere formality.

Counties invite people for public participation, they give them soda and *mkate*, then they are asked to sign a form and before they know it, new rates have been introduced. I am happy because I am talking to the people who will serve in the Council of Governors. Sen. Osotsi is running for governor in Vihiga County, and Sen. Mwaruma, the current Chairperson of the Committee on County Public Investment and Special Funds, is also vying to be the Governor of Taita Taveta County. I think both of them succeeded each other; one is a successor, the other is a predecessor in that committee.

I saw him at *Kang'o ka Jaramogi* today with His Excellency the President, where the President was handing over Raila Amolo Odinga – the enigma of Kenyan politics – *Baba Tinga's* mausoleum. Raila Amolo Odinga was the pro-democrat and the true Pan-Africanists. Sen. Oketch Gicheru is also running for the governor's position. Mr. Temporary Speaker, Sir, you have not disclosed your aspirations. We know you are still thinking about it. You might give the governor's post a shot, but you will tell us. So, the type of public participation that we want to see in the counties is not mere formality.

Colleagues who have been in Parliament, can you go and lead by example? Our people are given only soda and *mkate*, sign a form and say public participation has been done. Incoming governors from the counties I mentioned, you must go and try to implement what we mean; that this is not a mere formality.

Mr. Temporary Speaker, Sir, even in the case of the BBI Initiative – and you were very instrumental then – failed because the public participation was not adequate. I know there will be costing issues and what have you. This is because sometimes, as my colleagues have said, I think the Seconder of the Bill said earlier on, that sometimes if you say you do public participation---

The National Assembly are doing public participation on six education bills. If they do Eldoret, Bomet, Migori, Vihiga, Mombasa, Nairobi, Meru, and maybe Garissa, is it sufficient? Does it have probative value? I am aware that in your committee, there is a lot of interest on this Public Participation Bill because the Kenyans feel that they must be part and parcel of what is happening in governance. I think that is the beauty of this Constitution.

In Article 10(2)(a), one of the ingredients or principles of good governance and national values is public participation. It is very precise. I think people who are used to the old constitution have always taken for granted such issues. Even Article 118 of the Constitution – and I know many of us have been chairpersons of committees in this House – demands that we hold committee sittings in an open public place. When you look at Article 196 and 118, you find that the National Assembly, the Senate and the County Assembly committees must be held in open manner, unless there is a reason not to do live transmission. Even these proceedings are live because it is part of public participation.

However, I want to add a rider. Public participation does not mean information to the public. I see policy makers saying the things they have done. That is not public participation, but just public information. I know that under Articles 34 and 35, there is freedom of access to information and media, which is one of the critical areas. I want to agree that sometimes the basis should be held within. Even the County Governments Act of 2012 provided Sections 87 to 92, and Section 115 on how public participation should be done through policymaking. I think our county governments have not done exactly that. For example, we saw some of the budget items. I do not think if the people of Vihiga were being told that Kshs5million would be allocated to do a house warming for the Speaker's house, they would have agreed. The same case applies for Bungoma, where Kshs3.6 million was allocated to buy a Christmas tree, yet we have received salvation through the crucifixion of Jesus Christ, for us who are Christians. We do not need to pay anything. The killing of Christ where blood was spilled was enough payment. They will not have acceded to payment of Kshs3.6 million for a Christmas tree.

When the Uasin Gishu County Government appeared at the Committee on Monday, one of their pending bills was Kshs250,000 that was meant for public participation. That means that counties are procuring more when they have a budget of Kshs250,000 for public participation, yet the people of Uasin Gishu do not get that money. Another item that shocked us is Kshs128,000 meant for Governor's meetings. That means that if you visit the area Governor in Uasin Gishu County, you have to be paid. *Ana kepitin yaani* that is the essence---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, what did you just say?

Sen. Cherarkey: The Governor “greet”. You know the Kenyan “greetings”. **The Temporary Speaker** (Sen. Wakili Sigei): That is not parliamentary.

Sen. Cherarkey: Yes, my apologies. I was thinking locally, then it just came out, because you know it is that season.

So, what I wanted to say, Mr. Temporary Speaker, Sir, is that when you look at the Kshs128,000 in the pending bills that was by the Governor of Uasin Ngishu for his meetings, which meetings are those that go for Kshs250,000? We must be told what counties are doing that so that they give value for money. Even if you go to Bomet today, where every item has a budget and ask the people of Chepalungu, Chebole, Bomet or Chebunyo, whether they agree with the budget, they will not agree. You can as well go to Nandi and visit Mosoriot, Kapsabet or Chepterwai, but they will not agree. The only thing that should be done is to share information with the public.

Mr. Temporary Speaker, Sir, we passed the Access to Information Act, 2016, when you were still doing your practice. We also passed the Public Finance Management (PFM) Act of 2016. The PFM Act of 2016 provides that during budget-making process, there must be public participation. I think that is what counties are missing. That is why I agree with colleagues, that counties have created what we call professional attendees. When you go to a public participation forum, it is the same individuals, because they have known the game. They liaise with county officials. In Nandi, we have what we call professional attendees who are paid secretly to attend and approve some of these things.

When land rates and other rates in Kapsabet Town were being raised, the people were shocked when that was implemented, but the process was never followed. When you ask the County Executive Committee Member (CECM) for the Finance and Economic Planning document, the Governor, will tell you that public participation was done. They procure ghosts and professional attendees to participate in public participation meetings. I want to inform colleagues that that issue is captured under the PFM Act. We cannot move away from that, because public participation is important.

Mr. Temporary Speaker, Sir, we also have the BBI case that you were instrumental in. I want to reiterate the same because I know the role you played. It was a landmark ruling. Any person who thinks that public participation is not critical should study what the Supreme Court said regarding the BBI case. All office holders like governors should know the value of that, and that is why President William Ruto is doing well. You will see him in, for example, Bondo Town, and other public functions informing people and doing public participation. When he went to the coast, he told them the number of title deeds he was issuing. He told them he heard about their challenges, and that is public participation. That is what a leader should do.

Mr. Temporary Speaker, Sir, the other day you conducted a fundraiser to support people to go to school--- People were telling you; *Mheshimiwa*, we need you to do this, and you responded. President William Ruto is leading when it comes to public participation because the information that Kenyans have today, no other president has ever shared such.

Mr. Temporary Speaker, Sir, allow me to congratulate our Deputy Minority Whip, because he was at the handing over ceremony at Jaramogi Oginga Odinga Mausoleum. We will be commemorating the late Baba Raila Amolo Odinga this month.

The democracy we enjoy today inside and outside Parliament is courtesy of the late Baba Raila Amolo Odinga. In fact, as a country, we cannot pay Raila, as a country because of what he did for this country. We should respect his ideals. That is democracy and the rule of law. I was surprised that during the handing over, people who had been shouting the loudest about Raila were nowhere to be seen. Sen. Eddy, they have betrayed Raila in his death, and now they want to lecture us.

With your indulgence, Mr. Temporary Speaker, Sir, I want to thank President William Ruto for saying; *usawa ni sawa*. We want development across the country. That is the future we want. In fact, Sen. Eddy, the people of Siaya told me that His Excellency President William Ruto has visited Siaya County more times than Governor James Orendo, who is the area governor. You can, therefore, imagine President William Ruto is doing a lot in Siaya in terms of fixing the roads.

By the way, the ideals of the late Raila Odinga was to see devolution working and public participation. He fought for the people. That is why we will we commemorate him one year after his death, because whenever something was not right, Raila Odinga would go to the streets and do public participation. He used to consult the people. Even before formation of the broad-based government, he held consultative meetings with the people. That is a leader we believed in. The Government has done that mausoleum for future generations to learn the ideals of Baba Raila Amolo Odinga. Raila was a nationalist, not like some people who are villagers who sit somewhere in Wamunyoro and lecture us about their tribes and region, yet they do not know about the country.

Mr. Temporary Speaker, Sir, they tell us about mountains. In Kenya, we have mountains, valleys, rivers and forests, but there is some village mentality. In this country, there are people who suffer from *villagitis*, village mentality. We must be Raila Odinga. We must aspire, as leaders today, that we should be like Raila Odinga, who saved this country. We come from tribal cocoons where we believe that your man should be in power so that you support the government of the day. Some people are not seeing how the President has tried to transform this country.

It is very sad that even as we remember Raila one year later, the people who say they are Baba's children have killed his party, including some of them who are watching me. They have dismantled and dismembered ODM, and they want to tell us that they respect Raila Odinga, and that they value what Raila told them. We must call them for who they are.

Sen. Eddy, they are telling us they respect the rule of law, yet under Section 7 of the Political Parties Act, they have formed their own parties, and they are still in ODM and UDA. The best they should do is to resign like Raila Odinga. You cannot tell us Baba Raila Odinga was your role model, yet you do the opposite. This is when Raila disagreed with his sponsoring party here in Parliament, he resigned and went to seek a fresh mandate. Some few individuals from Wamunyoro are promoting another party, but they are still in UDA. Some in ODM have formed another party. They are killing ODM; they are haemorrhaging it, but they are busy lecturing us about national values and rule of law. As who?

Mr. Temporary Speaker, Sir, that is why I am saying the reason we are here today is because devolution is working. The public participation we are discussing is courtesy

of the sacrifice of Baba Raila Amolo Odinga. Let him be called Baba. He was called *Tinga* because he meant well for this country.

As I conclude, I can assure you with the blessings of Baba Raila Odinga, he left us in the Broad-based Government. It will rule for 100 years plus. Those people will never succeed. You can see all of them have dismembered. Now we have our brother with his party. We saw the former Cabinet Secretary Matiang'i walking around like a sorcerer somewhere in the coast. We have another one in the United States of America getting confused, making funny stories. You wonder where he is manufacturing them from. He is now spreading lies. In fact, the US Government should deport him because he has become a professional gossip.

Mr. Temporary Speaker, Sir, you have seen all these others joking. We want to transform this country to Singapore. We will only do so if we do the right thing at the right time. That is if we allow the President to implement the Mau Summit Rironi Road, ensure that the issue of insecurity in Turkana is fixed once and for all, and that the roads in Taita Taveta and Vihiga are fixed. The roads that Sen. Osotsi usually uses in Vihiga are being done by William Ruto. I can see the Chebole-Siongiroi Road, the famous road to your place, is now being fixed. Mine is being fixed too. Even as we go to Mashujaa or the Heroes' Day, we must know who the real heroes are. The real heroes are not hero worshippers, professional gossipers or tribalists. The real heroes are not people who do the opposite of what they want. The real heroes are not those who do not oppose shiny things. They want this country to move ahead. That is the future we want.

Mr. Temporary Speaker, Sir, the essence of public participation is that it is the fibre of the society. The national Government, the county government and policymakers must ensure that in our DNA, we include public participation. If we allow the people, we the people, to be part of the conversation, we can go very far. That is what President Nixon said, "we the people." If we protect, "We, the people", and people say where they want to go, I can tell you--- That is why President Moi used to say, "*Wanjiku amesema nini?*" It was a figurative language.

Mr. Temporary Speaker, with those many remarks, I support. I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi Godfrey Atieno.

Sen. Osotsi: Thank you, Mr. Temporary Speaker, Sir. I have been sitting here listening to quality debates and provocation. Now it is my time to speak. Let me start by saying that The Public Participation Bill (National Assembly Bills No.44 of 2025) is long overdue. One wonders why it had to take the efforts of Hon. Otiende Omolo and Hon. Chepkonga to come up with this Bill.

This is a very important Bill. Ordinarily, it should have originated from the Executive, because almost every policy decision or legislation has to go through public participation. Our Executive has been operating without one. Therefore, my expectation was that the Government would have taken priority in ensuring that this Bill is in place instead of waiting for private Members to bring it before the House.

Mr. Temporary Speaker, Sir, you understand that public participation is one of the values under Article 10 of the Constitution of Kenya, 2010. I want to encourage Kenyans to take notice of the values in our Constitution. There are various values, and if all were taken into account by our leadership, myself included, then this country would have done

quite a lot. However, because our own Government has very little respect for Article 10 of the Constitution, many things go wrong.

One of the values under Article 10 is public participation. Public participation appears in a number of Articles of the Constitution. These include Article 1, 118, 174, 196, 201 and 232, which all make reference to public participation. This underscores the importance of public participation as a value in our Constitution. Therefore, it is the responsibility of us all to take public participation very seriously.

When you hear a leader of a country dismissing public participation and calling people names because they have asked for access to information that will help them perform their duties well, whether as legislators or any other important government official or as holders of other public positions on behalf of the people – and you find that such a request is dismissed casually – then you know that as a country we are not on the right track.

The other day, I saw a senior leader in this country dismissing a Senator in this House for requesting documents on one of the major projects in this country, the Lamu Refinery. We respect and support projects. However, as legislators who are supposed to oversee, we have every responsibility to request for information on any project, programme or law. Therefore, when we request for that information, we should not be threatened, abused or called names. Just provide the information that is required. What are you hiding? If everything is above board, why would you dismiss a request for an agreement? We just want to know the details of that agreement. Who are the shareholders, beneficiaries and how are our people going to be compensated? What are the legal safeguards and many other issues in that agreement?

Let me now delve into the Bill which, although is long overdue, I think there are a lot of ambiguities in it. I am also addressing you, as a Chairperson of the Committee on Justice, Legal Affairs and Human Rights. My expectation is that the Committee will take time to look into this Bill critically so that the gaps or the ambiguities that I see in it are removed, starting with the definition of public participation. This Bill defines public participation as the process of engaging the public in making or implementing public policy decisions, including enactment of legislation.

Mr. Temporary Speaker, Sir, this is a basic definition of public participation. You are well aware that the courts have pronounced themselves on the issue of public participation. They have said that public participation must be meaningful. There is also the concept of reasonableness. This definition does not take that into account. It is too basic. When you just say engaging, what will happen when public bodies want to do public participation? They will say we engaged, but that engagement must be reasonable, meaningful and adequate. One of the things that we will be looking into is the definition of public participation so that it takes into account the input of our judicial system. That public participation must comply with the principle of a reasonable opportunity and consideration. Those two issues are very important. The public participation must demonstrate that there was reasonable opportunity accorded to Kenyans; that there was reasonable consideration of the Bill, the programme or the project before that public participation meets the threshold.

Mr. Temporary Speaker, Sir, when it comes to ambiguities in the Bill, it refers to reasonable chance that the public will be given. You cannot just leave hanging words like 'reasonable chance,' 'reasonable notice' and 'reasonable time.' I think there must be figures put to this. When you talk about 'reasonable chance,' what is the threshold? When you talk about 'reasonable notice,' how many days of notice are required for people to participate in public participation? When you talk about 'reasonable time to make submissions on a matter,' how much is that time? Those are the issues that I consider to be ambiguous in this Bill. I am requesting that the Committee on Justice, Legal Affairs and Human Rights to look at these matters very keenly before we pass this Bill into law.

Mr. Temporary Speaker, Sir, this Bill does not also talk to us about the globally accepted principles of public participation and inclusion. How do we legally ensure that public participation exercise is going to be an all-inclusive event? On issues of transparency, how do we ensure that public participation is going to be transparent? How do we ensure that it will have genuine input by members of the public?

You are all aware that in our counties, our governors have standalone groups of people who are called upon every time there is a public participation event. They are the same people who are paid allowances. Every time there is public participation, they are put in a room somewhere to approve anything that the governor wants approved. If you go in some of those meetings with a contrary opinion, you are subjected to goons who will beat you up. They even have goons who shout 'yes' on every aspect of the Bill. There is no transparency, genuine input and inclusivity, which are the principles that I expected this Bill to tell us how they are going to be achieved.

When you talk about genuine inputs, our courts have pronounced themselves to it. The Deputy Chief Justice, Philomena Mwilu, has made a pronouncement on this; that public participation must be seen to be genuine. It should not just be a procedural exercise. In many of our counties and even at the national level, public participation is just a nuisance procedure that is rushed through. The same attitude is even in our committees and Standing Orders. As a practice, we should not debate any Bill in the Second Reading unless we have a report from the committee. What do our Standing Orders imply? They imply that we can actually debate at the Second Reading without a report. This is very wrong. Even for this Bill that we are discussing, I was struggling to get a report to see what the public said about the various provisions of this Bill. However, it is not ready.

One of the things that we need to do, as a Senate, is to amend our Standing Orders so that no Bill will be discussed at the Second Reading without a report. That happens in the National Assembly. I do not know why it is not happening here so that even as we are debating, we have the benefit of reading and assessing what the public said about the Bill. It will inform our contribution to the Bill.

Mr. Temporary Speaker, Sir, we have had many laws that have been rejected by the courts for not complying with public participation. The situation is worse in our counties. Many of the finance bills in our counties are actually annulled by the courts because of non-compliance with the requirements of public participation in terms of adequacy, reasonableness and meaningfulness. That points to a very serious concern.

Mr. Temporary Speaker, Sir, let me address the issue of how we make the views of the public incorporated into the final laws that we pass. You will agree with me that in our committees, we go to conduct public participation, but when we come back to do the report to the House, you find that most of the views generated from public participation are never taken into account.

I can give an example. When we had the crisis of the Finance Bill, you saw that many of the clauses were rejected by the public. Nevertheless, when the Finance Committee in the National Assembly sat, it disagreed with the public. Why do we want to have public participation if we are not going to incorporate the views of the public in the final Bill? That is a concern. How do we stop this? This Bill should have answered this question so that we have a system of validating what the House Committee has passed against what the public wanted.

Mr. Temporary Speaker, Sir, I agree with your contribution. We should have the report of the Committee published and the public allowed to undertake a second round of public participation when a committee assumes a lot of powers and rejects the contributions of members of the public. The members of the public require, one, feedback on what happened to their views and, two, they must have a way in which they can question the committee, because they are the people, as per Article 1 of the Constitution.

This Bill must also help us answer that question. How do we ensure that the public is not taken for granted, and that the views they express are captured in the final Bill? In the event they are not captured, there must be a reasonable explanation as to why those views were not captured.

I know that every Committee we have a public participation matrix, where we have the clause under consideration, the views from the public, the recommendation of the Committee, and a column that says whether it was accepted or rejected. That information is very important so that in the event we do not follow what the public wanted, we must demonstrate to the public that there was reasonable justification as to why we did not go with the views of the public.

Another way of doing it is to do validation through *barazas*. Now, something very positive is that in almost every county, we have *Bunge la Mwananchi*. This is something that this Parliament must think of a way to encourage so that we can have structured *Bunge la Mwananchi* in all our counties. This will provide a forum for us to have meaningful public participation. This Bill can even have a section where we encourage the setting up and promotion of *Bunge la Mwananchi* or *barazas* across the country so that we do not have a scenario where governors or public officials go to a county, pick a few individuals, and say they have conducted public participation.

We should also consider a scenario where all this elaborate process leads to issuance of a public participation compliance certificate by the speaker. With that, after every public participation, with the checklist that is provided in law---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi, your time is up. I have your colleagues, Sen. Mariam Omar and Sen. Oketch Gicheru, who also want to contribute.

Sen. Osotsi: Can I have one minute to wind up.

The Temporary Speaker (Sen. Wakili Sigei): Give him 30 seconds to wind up on that point.

Sen. Osotsi: Mr. Temporary Speaker, Sir, this is a very important Bill, but it requires further processing to make it law. I also encourage the leadership of this country to promote public participation and ensure that the law on access to information is obeyed. We cannot give vague reasons as to why the public cannot access some information.

If Sen. Cherarkey was here, I would have responded to what he said. They say that those of us in the opposition are agenda-less and plan-less, but I want to say that the biggest agenda, vision and manifesto for this country is the Constitution. There is no bigger plan than the Constitution of Kenya. You, Mr. Temporary Speaker, Sir, as a lawyer, know that. So, we insist on the issue of constitutionalism and the rule of law. That can only be achieved if this Constitution is followed and there is proper public participation that is followed by all of us, including Parliament.

With those many words, I support with amendments.

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

Sen. Mariam Omar: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I also want to add my voice to this very important legislative Bill. This is the first Bill that recognizes and gives opportunities to the public. Public participation is there, but it is not so detailed. It is just mentioned in Articles 10, 69, 116, 118, 117 and 184, up to 232 of the Constitution. Public participation is not detailed in those Articles. This Bill is detailed, but it needs some amendments.

The Senate sends money to the counties, but there is a gap. People in the grassroots are not given opportunity to participate in the implementation of the development projects. I have noted that county governments do not formally do public participation for their budgets. Those budgets do not carry the views of the people. They always mobilize specific people to attend, who they know support the Government, hence they cannot say no to the proposals.

County governments usually pick on 20 or 30 people on the ground, and the work of those people is to say that what governor so-and-so has brought is not debatable. They then end up agreeing with what is presented. That shows that our public do not know how public participation is supposed to be done. The public must know why public participation is done.

As politicians, we misused the public participation on this budgeting process. Most of bills are nullified in court because of public participation. An example is where the Kiambu County budget was nullified because proper participation had not been done.

One of the impressive things in the Bill is the principle of public participation, which I have already highlighted. Clause 5(c) requires that the scope and the depth of the duration of the public participation must be explained to the public, so that at least they know. Some of the people invited do not know the agenda of the meetings or why they have been called. They later realise that they have passed a budget of a certain project which they do not know, because that explanation has not been in the meeting. Later they realise that their meeting has been taken as a public participation with pictures to prove.

On that, I highlight on Financing Locally Led Climate Action (FLLoCA) projects, which are normally community-led. The community normally identifies the projects, and the county governments are supposed to do it the way it is. Later, because I am in the Standing Committee on Land, Environment and Natural Resources, we realised that most of these project funds are misused. If you involved the public, how come the community-led projects, which community has already highlighted, are corrupted? That shows that proper public participation has not been done and that they also omit the minority in a community.

Members have highlighted on the process of response. For most of the Bills which normally come to the Senate, we realise that they go through public participation thoroughly than in the National Assembly. This is because we listen to the people properly in written submissions, oral, and many others. Most of the people who submit orally to the committees during public participation say they have given their submission to the National Assembly, but they do not know if it has been accepted or not.

The Bill must highlight that if you call or do public participation here and there, you must tell the public if their views have been accepted or not. If it is a written response, send the regrets. For example, say that one's submission has not been accepted for the following one, two or three reasons, the way public procurement is done. If you apply for a tender, they normally give you a regret letter. It is good so that the public can know that their views have not been captured.

I am in the Senate Committee on Health, and for all the Bills, we do oral and written submissions. We realized that many people who do submissions say they have done the same to the National Assembly. However, the views are not captured, or it is not known if they were. It is good to respond to the views of the people so that, at least, they know the reasons why you have not taken their views on board.

Public participation is normally---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mariam, your time is up. When the House resumes tomorrow, you will have a balance of 12 minutes to conclude on your contribution.

ADJOURNMENT

Hon. Senators, it is now 6.30 p.m.; time to adjourn. The Senate, therefore, stands adjourned until tomorrow, Thursday, 8th October, 2026, at 2.30 p.m.

The Senate rose at 6.31 p.m.