

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – SECOND SESSION

Tuesday 18th October, 2023

House met in the Main Chamber at 2:30 p.m.

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYER

The Speaker (Hon. Oraro): Honourable Members, I want to invoke the provisions of Kisumu County assembly Standing Orders No. 32 (2) and request the Serjeant-at-Arms to ring the quorum bell for the first five minutes.

(Quorum bell rung for the first five minutes)

The Speaker (Hon. Oraro): Honourable Members, I am not able to spot the Whip but I can see that the Leader of Majority's seat is not vacant. Hon. Ochele can you confirm if we have quorum.

Hon. Ochele (MCA, East Kano Wawidhi Ward): Thank you Mr. Speaker. We still don't have the quorum.

The Speaker (Hon. Oraro): Honourable Members, I want to direct the Serjeant-at-Arms to ring the quorum bell for another five minutes.

(Quorum bell rung for another five minutes)

The Speaker (Hon. Oraro): Hon. Ochele, do we have quorum?

Hon. Ochele (MCA, East Kano Wawidhi Ward): Thank you Mr. Speaker. We have the quorum.

The Speaker (Hon. Oraro): Mr. Clerk, please take us through the Order Paper of today.

The Speaker (Hon. Oraro): Next order!!

MOTION

DELEGATED COUNTY LEGISLATION COMMITTEE REPORT ON THE
BENCHMARKING EXERCISE AT THE SENATE, NAIROBI

BY

HON. MARIAM ABEID

CHAIRPERSON, DELEGATED COUNTY LEGISLATION COMMITTEE

The Speaker (Hon. Oraro): Hon. Mariam Abeid.

Hon. Abeid (Nominated Member): Thank you Mr. Speaker. Mr Speaker and Hon Members, the select Committee on Delegated County Legislation is established under Standing Orders no. 192 to among other functions, consider in respect of any statutory instrument whether it-

- (a) Is in accord with the provisions of the Constitution, that Act pursuant to which it is made or other relevant written law;
- (b) Infringes on fundamental rights and freedoms of the public
- (c) Contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of the County Assembly;
- (d) Contains imposition of taxation
- (e) Directly or indirectly bars the jurisdiction of the courts
- (f) Give retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such powers
- (g) Involves expenditure from the County Revenue Fund or other Public revenues
- (h) Is defective in its drafting or for any reason the form or purport of the Statutory Instrument calls for any elucidation
- (i) Appears to make some unusual or unexpected use the powers conferred by the Constitution or the Act pursuant to which it is made
- (j) Appears to have had unjustified delay in its publication or laying before County Assembly
- (k) Makes rights, liberties or obligations unduly dependent upon non-reviewable decisions

- (l) Makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers
- (m) Inappropriately delegates legislative powers
- (n) Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation
- (o) appears for any reason to infringe on the rule of law
- (p) Inadequately subjects the exercise of legislation power to County Assembly scrutiny and
- (q) Accords to any other reason that the Committee considers fit to examine.

It is important to understand the clarification of a Statutory Instrument pursuant to Standing order 192(5) which states that:

“Statutory Instrument” means any rule, order, regulation, direction, form, tariff of cost or fees, letter patent, commission, warrant proclamation, by-law, resolution, guideline or other instrument issued, made or established in the execution of a power conferred by or under an Act of the County Assembly under which that Statutory Instrument or subsidiary Legislation is expressly authorized to be issued.

Committee Membership

The committee comprises:

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|-----------------------|---|------------------|
| 1. Hon Mariam Abeid | - | Chairperson |
| 2. Hon Peter Obaso | - | Vice Chairperson |
| 3. Hon Moses Ochele | - | Member |
| 4. Hon George Abaja | - | Member |
| 5. Hon Henrietta Bodo | - | Member |
| 6. Hon James Omollo | - | Member |
| 7. Hon Samuel Dede | - | Member |
| 8. Hon Mickey Ochieng | - | Member |
| 9. Hon Regina Kizito | - | Member |

The secretariat include:

- | | | |
|-------------------------|---|---------------------------|
| 1. Pst David Ochieng | - | Senior Committee Clerk |
| 2. Ms. Brenda Chasi | - | Committee Clerk Assistant |
| 3. Ms. Jacquelyn Otieno | - | Hansard Reporter |
| 4. Mr. Zachary Nyalalo | - | Serjeant At Arm |
| 5. Mr. Fredrick Owido | - | ICT Officer |

BACKGROUND

Mr. Speaker and Hon Members, in pursuit of its mandate, the committee is to perform its functions with utmost knowledge, legality and diligence pursuant to the provisions of the Standing Orders and the County Government Act. In order to perform its mandate, the committee should be acquainted with the best practices as required.

The Liaison Committee in its sitting, scheduled the Committee on Delegated County Legislation to retreat for its planed activity between 17th September and 22nd September 2023. Therefore, in pursuit of this, the committee in accordance with its work-plan for FY 2023/2024, Liaison Committee Schedule and its sitting on Monday 31st August, 2023 vide Min 6/CAK/DCL/31/6/2023, resolved to carry out a Benchmarking exercise with the Senate.

OBJECTIVES

Mr. Speaker and Hon Members, the objectives of the committee in carrying out the benchmarking exercise with the sister Committee in the Senate were:

- (i) to acquire the best practices from the Senate being that they had been in existence for long and more experienced,
- (ii) to strengthen its mandate.

The specific objectives were:

- (i) to find out the regulations that the committee had received,
- (ii) to find out the milestones the committee had achieved and the bottlenecks the committee had faced,
- (iii) to find out the methods the committee employs to ensure the regulations are implemented,
- (iv) the mechanism the committee puts in place to curb the bottlenecks,
- (v) and possible solutions and way forward for effective committee.

ACKNOWLEDGEMENT

Mr. Speaker and Hon Members, the Committee wishes to acknowledge and appreciate the Office of the Speaker and the Office of the Clerk for the support accorded to them to ensure success of the exercise for the committee to deliver its mandate.

The committee also recognises the effort, commitment and passion the members demonstrated in the exercise.

The committee wishes to recognise the following officers in person who attended to them from the date of arrival to the end: Ms Eunice Waluke and Mr Kevin Munene from the Liaison Office, and Mike from the Public Relations office.

Finally, the Committee wish to extend much gratitude to the Senate particularly to the Clerk of Senate, Delegated Legislation Committee, CPAC and Liaison Committee. They were very instrumental in every step of the benchmarking exercise.

Therefore, on behalf of the Committee, Mr Speaker, I now have the honour and pleasure to present the Report of the Committee on Delegated County Legislation on the Benchmarking exercise to the Senate.

SENATE COUNTY PUBLIC ACCOUNTS COMMITTEE

Mr. Speaker and Hon members,

The CPAC committee composes 9 members;

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|--------------------------|---|------------------|
| 1. Sen. Moses Kajwang | - | Chairperson |
| 2. Sen. Samson Cherarkey | - | Vice chairperson |
| 3. Sen. Edwin Sifuna | - | Member |
| 4. Sen. Fatuma Dullo | - | Member |
| 5. Sen. Okiya Omtatah | - | Member |
| 6. Sen. Richard Onyonga | - | Member |
| 7. Sen. Mariam Omar | - | Member |
| 8. Sen. John Methu | - | Member |
| 9. Sen. Gataya Mo Fire | - | Member |

The CPAC committee meeting was also attended by the Kericho County Government, the EACC, the Auditor General in interrogating the Auditor General's Report on Financial Statements and Financial Report for Kericho County.

The chairperson in his statement and welcoming remarks highlighted that the committee has representatives from almost all Counties and urged the Kisumu Delegated County Legislation and Kericho County Government representatives to be peace ambassadors and should remain united since Kenya has got no boundaries and therefore the cross-boundary conflict in Kericho-Kisumu County boarder should be put to an end.

The committee mandate is to

- (i) Oversight County government Financial Reports and Financial statement.
- (ii) Interrogate county Governments on the Auditor General Reports.

- (iii) study public audits, invite Cabinet Secretaries, permanent secretaries or other ministry officials to the committee for questioning, and
- (iv) report on their findings subsequent to a government budget audit.

OBSERVATION

Mr. Speaker and Hon Members, the committee's observation from attending the process of interrogation by the CPAC to Kericho county Government Auditors Report were:

- (i) All the committee members were up to task and had a clear understanding on what they were interrogating,
- (ii) The committee was thorough and keen on every detail and information provided by the representatives in question,
- (iii) The committee members were in full attendance to the end,
- (iv) The committee was keen on recommendations and non- adherence to standards
- (v) Appropriate advice and recommendations articulated to the Governor and his representatives.
- (vi) Any query that needed the attention of NCIC, Auditor General and EACC were appropriately directed for action.

SENATE TOUR

Mr. Speaker and Hon Members, as a committee we had a chance to take a tour around the Senate and National Parliament.

- (i) The offices were good, organized and appropriately staffed. The tools for work were greatly available for the staff and were functional.
- (ii) The Hansard department had 50 staffs. The staffs are distributed to various sub-units within the department based on the organogram. The department has modern equipment which makes it easier for sessions to be live streamed and reports done appropriately. Due to the nature of the Hansard reporting, they are equipped with orthopedic chairs and standard headphones, among other equipment.
- (iii) Media centre where all the Media Houses are hosted and can freely operate and work from as they attend the committee sittings as well as plenaries. Only accredited media personnel are allowed and no bloggers.
- (iv) Committee rooms were well furnished with orthopedic chairs, gooseneck microphones installed in all the rooms, projectors. This makes it easier to produce report promptly.
- (v) The library is well archived and
- (vi) Many other Senate offices are available at KICC, Ukulima House, Harambee Sacco House to accommodate all activities and Members.

SENATE COMMITTEE ON DELEGATED LEGISLATION

Mr. Speaker and Hon Members, the Senate Select Committee on Delegated Legislation comprises 9 members:

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| (1) | Sen. Mwendwa Gataya | - | Chairperson |
| (2) | Sen. Mungatana Danson Buya | - | Vice Chairperson |
| (3) | Sen. Manzo Daniel Kitonga | - | Member |
| (4) | Sen. Gloria Orwoba | - | Member |
| (5) | Sen. Joyce Chepkoech Korir | - | Member |
| (6) | Sen. Recha Julius Mugo | - | Member |
| (7) | Sen. Faki Mohamed Mwinyihaji | - | Member |
| (8) | Sen. Betty Batuli Montet | - | Member |
| (9) | Sen. Agnes Kavindu Muthama | - | Member |

And the secretariat include:

- | | | | |
|-----|-------------------|---|----------------------------|
| (1) | Mr. Joseph Mwangi | - | Senior Committee Assistant |
| (2) | Ms. Rahma Sheik | - | Clerk Assistant |
| (3) | Mr. Michael Ngugi | - | Legal Officer |
| (4) | Ms. Clare Kidomo | - | Senior Research Officer |
| (5) | Ms. Judith Auka | - | Hansard officer |
| (6) | Mr. Benard Sika | - | Serjeant At Arm |

Committee Overview

The Senate's committee on Delegated Legislation in sitting is a sessional committee. The senate Session starts in February until December. The Senate amended the Standing Orders such that the committee would sit for half of the term of parliament then be reconstituted.

Delegated Legislation committee is supposed to scrutinize Legislation from the National Government or devolved units. Delegated Legislation Committee is a very important committee since all Acts of Parliament which are made, they provide for Cabinet Secretary in charge to make Regulations to operationalize the Act. Regulations are made by the Cabinet Secretary through the powers donated by parliament.

The Regulations have to be laid before Parliament for scrutiny before they are implemented.

In some instances, before any Regulation is put to effect, it must be published first in the Kenya Gazette.

PUBLICATION OF STATUTORY INSTRUMENTS ACT SECTION 22 OF THE ACT,

subject to subsection (2) every Statutory Instrument shall be published in the Kenya Gazette and shall be assigned a serial number as of the year in which it is made which shall be printed on the face of the Statutory Instrument

However, there are Regulations that take effect after they are published. Once published, they are laid before the Houses of Parliament.

The Houses of the Parliament then undertakes their own procedures to scrutinize the Regulations.

- The committee invites Stakeholders to come and make comments, especially the experts Concerned with the Regulation brought before the committee whether the Regulations are proper or not.
- In parliament, they have to undertake their own public participation even if the Cabinet Secretary undertook the process of consultation and public participation. The public must be invited via a notice on daily newspapers in compliance with Article 10 of the Constitution of Kenya 2010.

The committee scrutinizes if the Regulation conform with the Constitution and provisions of the Parent Act. They must never be in conflict otherwise rendered ultra vires.

Proof of public participation must be provided which include; the invitation of the public, minutes, attendance list, report.

The committee deliberate whether the Regulations comply with the parameters.

A report is then tabled at the Senate and voted for by Senate through delegations and must be supported by at least 24 members after which, the Regulation take effect.

Regulations and Act after being published, they are taken before the Parliament after which is put into effect. There are those Regulations that come into effect before scrutiny and those that come into effect after scrutiny.

If the Regulation is approved, the Clerk of the Senate communicate with the parent Ministry and if not the same is communicated, a vote has to be taken.

The Regulations that concern the devolved functions has to be brought before the two houses, that is, the Senate and the National Assembly.

Where there are disagreements between the two houses concerning a Regulation, a mediation has to be done or a temporary committee constituted by members from the two houses to solve the difference.

Despite, the committee being very important, it had been noted that the Delegated County Legislation committee in several counties is seen as a subordinate committee and not given the same wavelength as other committees with minor obligations and underrated. The committee has great power and mandate in oversight

Thematic areas

The committee rely on Statutory Instrument Act, particularly section 13 where the committee looks at the compliance with the Constitution, infringe on any fundamental rights, impose any taxation, bars any restrictions on the decisions of the court.

(a) The Regulations received by the committee from the Executive in the 13th Parliament.

The committee had received a number of Regulations among them being

- i. Crops (Coffee)(General) (Amendment) Regulations, 2022
- ii. Crops (Miraa) Regulation, 2022
- iii. Statutory Instrument Regulations on Expiry of regulations 2022- a request for exemption for expiry of Regulations
- iv. Pharmacy and Poisons Regulation
- v. Fisheries Management interrogatory Regulations
- vi. National Transport Safety Authority Regulations
- vii. Draft regulation for pre-scrutiny
 - Some under PFM management Act

(b) Milestones achieved and bottlenecks facing the committee

Milestones by the committee

- i. The committee has managed to scrutinize a number of the Regulations which have come into effect.
- ii. Capacity building has been done with various counties including and not limited to Kericho County and Bomet County.

Challenges/Bottlenecks faced include

- i. Complexity of Regulations and Statutory Instruments, that is; handling regulations on different subject areas.
- ii. Concurrence of Statutory Instrument Acts between the Senate and National Assembly, that is; a lot of Regulations are tabled at the National Assembly and not the Senate
- iii. Inadequate public participation in regards to Statutory Instruments when it comes for scrutiny and the Committee is not able to ascertain whether it was adequately done and the threshold for public participation has never been defined.

iv. Streamlining and engagement with many stakeholders, with inadequate resources therefore restraining the committee from meeting all the stakeholders.

(c) Mechanisms put in place to curb the bottlenecks

- i. Senate has lots of technical support to the complexity of the Regulations.
- ii. They had proposed amendment of Statutory Act to make it clear that all Regulations to be laid before both the Houses. Secondly, a proposal to republish Counties Statutory Instrument Act to standardize on how they are dealt with at County level.
- iii. For any public participation, the advertisement/ notice must be provided advertisements, attendance list, venues, minutes and report on the public participations
- iv. The committee in its capacity tries to meet most of the key stakeholders in trying to scrutinize the Statutory Instruments

(d) Methods employed to ensure that the Regulations are implemented

- i. The committee to know that Delegated County Legislation is a very crucial committee and has great power to oversight the relevant departments
- ii. Members to be aware and understand the Provisions of Statutory Instruments Act, 2013.

(e) Possible solutions and way forward for effective committee

- i. The committee to ensure and try to pass the County Instrument Act to help County operate knowing that Regulations limit is 10 years.
- ii. The Statutory Instruments are drafted by the Executive and it is the duty of the Assembly to request the Executive through County Attorney to present the Regulations for pre-publication scrutiny before being published and being taken for public participation.
- iii. The Assembly is mandated or advised to exercise its full power by inviting the Attorney General who is the Chief Legal Officer.

RECOMMENDATIONS

Mr. Speaker and Hon Members, the committee thus would recommend that;

1. The committee should have a Legal Officer attached to it to help in the technicalities and in interpretation of the Regulations.
2. Every Act passed in the House to be accompanied with a Regulation after six months to guide the implementation of the Act.
3. Any Statutory Instrument taken for public participation must be accompanied with the explanatory memorandum, regulatory Instrument Statement, minutes of the public participation, the attendance list, the public contribution reports as proof.
4. Laying of Statutory Instrument before Parliament/Assembly

Section 11(1) of Statutory Instrument Act states “Every Cabinet secretary/CEC member responsible for Regulation making authority shall within seven (7) sitting days after the publication of a Statutory Instrument, ensure that a copy of the Statutory Instrument is transmitted to the responsible Clerk for tabling before Parliament”

5. Expiry of Statutory Instrument

- (i) Section 21(1) of Statutory Instrument Act states “Section 21(1) subject to subsection (3), a Statutory Instrument is by virtue of this section revoked on the day which is ten (10) years after the making of the Statutory Instrument unless
 - (a) It is sooner repealed or expires or
 - (b) A regulation is made exempting it from expiry.
- (ii) The responsible cabinet secretary or CEC member may in consultation with the committee, make a Regulation under this Act, extending the operation of Statutory rule that would otherwise be revoked by virtue of this section for a period as is specified in the Regulation not exceeding twelve months.
- (iii) Only one extension of the operation of a Statutory rule can be made under subsection (ii)

CONCLUSION

Mr. Speaker and Hon Members, the committee from the benchmarking exercise at the Senate has been strengthened to take up its mandate and ready to exercise its powers and will arise appropriately. In addition, the committee believes that with the aforementioned recommendations, the relevant stakeholders will aid in implementing them. In doing so, the committee will have a clearer informed to help the Legislative process.

It is now my pleasure on behalf of the Committee on Delegated County Legislation to present this report to this Honourable House for adoption. May I call upon Hon. Peter Obaso to second?

Hon. Obaso (Nominated Member): Thank you Mr. Speaker. I beg to second the report as presented by the Chairperson. We learnt a lot during the benchmarking in Nairobi. We were informed that a law becomes obsolete after ten years of existence and it should be reviewed. Mr. Speaker, this is a very important committee to the House and the public because it focuses on the oversight and fundamental rights of the citizen. I want to urge that every Act that is passed in this House should also pass through this Committee. I second.

The Speaker (Hon. Oraro): Honourable Members, now that the report by County Delegated Legislation Committee on the Benchmarking Exercise with the Senate has been moved and seconded by the Chairperson Hon. Abeid and Hon. Obaso respectively, as per the provisions of our Standing Orders, I want to propose that the report by County Delegated Legislation Committee on the Benchmarking Exercise with the Senate is open for debate.

The Speaker (Hon. Oraro): Yes, Hon. Tom Nyaoke.

Hon. Nyaoke (MCA, North Nyakach Ward): Thank you Mr. Speaker. I want to convey my gratitude to the chair on the report that he has been presented before us. Mr. Speaker, even when the Chair was going through this report, we could feel what they might have felt during the benchmarking even though we were not there.

Mr. Speaker, just the same way they have put in their recommendations Mr. Speaker, this is really, I cannot say that tis House Committee because deals with a lot of legal issues. And I can see one of the recommendations they've given in number one that the committee should have a Legal Officer attached to it to help the committee understand the parameters of what is expected of them. Mr. Speaker, this one I believe, if it is done, it will make the committee to do more than what they are able to do.

Mr. Speaker, I would also appreciate the fact on what they experienced because some of them we have had some casual talks on what they gathered when they visited the Senate, Mr. Speaker, and ideally it is something positive that they had to make that benchmarking. I would also appreciate them and maybe next time, more of these benchmarking should be encouraged so that they also continue learning and as they move forward, this will equally help us learn from them back here at home. Thank you, Mr. Speaker. I stand to support.

The Speaker (Hon. Oraro): Hon. Oraro.

Hon. Oraro (MCA, Kolwa Central Ward): Thank you Mr. Speaker. I'm glad to see you around and I believe that you are now okay after the sad moment that you had. Mr. Speaker before I even contributes, I'll always want it to be a norm under your watch so that anytime others are on official duty, Mr. Speaker it becomes knowledge of the House so that we don't just rise up and seek for clarification for lack of quorum, Mr. Speaker last time when you were not around, I stood on the same and was not informed properly. Sometimes if somebody was to visit us today, and may wonder maybe some of these things and as a member who understands the provisions of our Standing Order, it will always be in order if we are allowed to use part of the Standing Orders to raise issues of the quorum if need be and that is an area I know you will take time to consider.

Mr. Speaker I want to say that you have done a good work to allow us through the Service Board and under your leadership for this members of this House and especially the Delegated Legislative Committee to have an opportunity to visit one of the organ or arm of government that is mandated to take care of the county issues and that is the Senate. The opportunity that you gave to this House Committee has made it possible for members and the staff to have advantage or even to increase their knowledge on issues pertaining to the committee, their mandate and what they need to do. Mr. Speaker.

Mr. Speaker, that is the right direction and I can say we are benefiting from your leadership because as time goes by, we end up having very good quality reports that have been well researched, well documented with a lot of information that can guide members to know actually what transpired and its transparency. Mr. Speaker, the manner in which this report has been written shows some maturity in the staff or the departments assisting the members and I really appreciate the good work done by the committee members and the staff that prepared this report.

Mr. Speaker, one of the dormant committees in this House is the Select Committee on Delegated Legislation because they have few or no reports to showcase for the last one year. If this report has been brought and the request has also been tabled, then we want to support this committee. Mr. Speaker, I went to follow up on the issue of Financing Locally Led Climate Action Program (FLLOCA) in terms of its implementation, and I was informed by the CECM that she was waiting for Regulations that has to be done to allow them to start spending or start the procurement processes. When I heard that, I realized that some of these committees that our fellow Members are heading are so important that if they don't sit down and give direction, and to some extent they are delaying progress of some Executive Members in implementation of their programmes. So, this committee is quite important just as Hon. Obaso has said, and given an opportunity, they can offer guidelines to many issues. In the last public participation, I ended up interacting with amendment of a Bill on Village Administration Units, and I realized that some of the recommendations were some of the things that were to be found under Regulations of that Bill or Act. However, some of these regulations we do not have them, and it is my belief that this should be the duty the Chair to organize so that these regulations can be in the library for ease of interaction and learning. These regulations can also assist us to know some of the things we should.

Mr. Speaker, I am begging this committee that the reason they visited the Senate in Nairobi is for this House Committee to gain knowledge and to do a lot that you need to do to make things move. We have many Acts that have been passed, and if you visit the Kisumu County Assembly's website, you will see the many Acts that have been passed in this County Assembly. I do not know how many of those Acts have Regulations and as the Committee on Delegated Legislation, some of these Acts you can always be checking because there are others that are more than 10 years old like you said. You need to sit down and work with your fellow members on them.

Finally, following up on the recommendations, the committee stated that it should have a Legal Officer attached to it to assist in addressing Legal technicalities. Mr. Speaker, it is my opinion that we have some staffs in the assembly who are students pursuing Law and sometimes they can assist in offering legal advice. The Clerk, who is equally an Advocate of the High Court can similarly assist the committee before the County Assembly Service Board considers and decides

to advertise for employment on the same. Through request from the Liaison Committee, they can assign you some of these officers to assist to make your work easy.

Mr. Speaker, in addition, sometimes it would be necessary if we have things that would advise Members to have knowledge in and especially some Acts. I admire and wait for one of your Members like Hon. Moses Ochele, who I am waiting for his report on the Village Administration Units (Amendment) Bill, 2023 which is in waiting and we really need to deliberate on it. Some of those reports and issues we will be discussing will directly or indirectly pass through the Select Committee on Delegated Legislation. We therefore need the Chair and the team to be always alert and ready to assist so that some of these things that we discuss in this House can have an impact in the County Government. I support this report Mr. Speaker.

The Speaker (Hon. Oraro): Yes, Hon. Benny Pete Oiko.

Hon. Oiko (MCA, Kabonyo/Kanyagwal Ward): Thank you Mr. Speaker. This report should highlight for us the role of the Committee on Delegated Legislation. Hon. Speaker, I am getting this picture from this report that when this Assembly passes an Act after a Bill has been brought into this Assembly, it becomes an Act. There is regulation for implementation of the Act. However, this report is not numbered so making a reference becomes a bit difficult and the Chairperson should take note of that. The pages should be numbered for easy of reference.

Mr. Speaker, on the second last page where the chairperson has signed, we are informed that after every six months, every Act passed in the House should be accompanied with a regulation to guide the implementation of the Act. That means, once an Act has been passed in this Assembly, within six months, a regulation should also follow to enable the Act be implemented. That is very good knowledge that we are deriving from this report and Mr. Speaker, should not be taken for granted.

Mr. Speaker, we also need to know the regulations that we received by the committee from the County Executive during the 13th Parliament. These were regulations received. They should have been explained these regulations if they were committed to the Committee of Delegated Legislation or they were handled by the parent House Committee. For instance, Crops, Coffee General Amendments Regulation 2022. Mr. Speaker, was this handled by the Agriculture, Livestock and Fisheries Committee or it was handled by the Delegated Legislation Committee. That is because those are some of the matters that we need to know in the report. National Transport and Safety Authority Regulation. When this regulation went to parliament, was it handled by the Roads, Transport and Public Works Committee or the Delegated Legislation Committee?

Mr. Speaker, this report is a good one because it is an eye opener for all of us to know what is going on. In addition, they met the Public Accounts Committee since Public Investment is separated there and at that time they were handling the accounts of Kericho County. During their

meeting, they are not informing us the specific reason because PIC/PAC handles Audited accounts. Where does Delegated Committee become relevant in the Audited account or there are some regulations which were of interest to them as committee members? I wish we could have known those ones.

Generally, the report is an eye opener to us on what our role should be on each and every committee. Mr. Speaker, I beg to submit.

The Speaker (Hon. Oraro): Yes, Hon. Moses Ochele.

Hon. Ochele (MCA, Kano Wawidhi Ward): Thank you Mr. Speaker. This afternoon I am very pleased to see your face brightening on your seat after the last week's incident, feel welcome. However, I want to contribute on this motion, I did not want to contribute earlier than this because I am a committee member. May I just start by commending your office, the office of the Clerk and our able Chairperson for giving the committee an opportunity to benchmark with an elder brother – that is the Senate. Mr. Speaker, I would like to convey that the benchmarking mission to the Senate was a well-deserved one. We learned a lot from the Senate on the aspect of hospitality and the general committee mandate. Mr. Speaker, I would like to say in summary that what we gained in the Senate on the benchmarking mission, was way better than what it is the induction training which was conducted late last year.

Mr. Speaker, a number of things contained within the report, and most of the things have been highlighted by the members who contributed earlier. It is good today that my brother Hon. Oraro has been positive towards the report presented by the chair of Delegated Legislative Committee, and how I wish he was here to receive this applause because Hon. Oraro always has a lot of but which were reduced on this report and I think that shows that the committee did a good job.

Mr. Speaker, just had my very able brother Hon. Oiko asking the committee why they proceeded to attend a meeting conducted by the PIC PAC committee. Mr. Speaker, the Assembly wrote requesting a date to benchmark with the Senate. If a visitor comes to your home, is it is upon you now to erase all the activities that you intend for your guest to visit, see or share with. So there was a working programme drawn by the Senate and us as members of Delegated Legislative Committee from Kisumu County Mr. Speaker, we were bound by that programme, and therefore, on our further assignment we found ourselves in their PIC/PAC Committee.

Mr. Speaker, being members of the County Assembly and attending such kind of meeting hosted by serious Kenyans like Hon. Moses Kajwang, we gained a lot on how to conduct interviews more so when the County Executive have been invited. Mr. Speaker our roles as members of Delegated County Legislation, are not just restricted to that committee mandate, but we as members, we are free to learn any aspects of legislation whether on PIC/PAC, Roads or ECD because the same knowledge we receive there are the same knowledge we come back with to

help even other House Committees in which we are members Mr. Speaker and therefore I find the programme by the Senate very much in order.

Mr. Speaker, in Kisumu County, which is the only county which has enacted a number of Acts have been passed and enacted by the government. But, the County Executive do not bother and I don't know how they operationalize it. There was a time I engaged a member from the County Executive and they informed me that, the only way they do is by drafting policies that are approved by the cabinet, so they relay mostly on operationalizing the Act by way of policy but not by bringing Regulations to this House Mr. Speaker. The most sensitive part of an Act of this Assembly is a Regulation, going by the Statutory Regulations Act 2013. Mr. Speaker, this is because when a regulations is brought to this House, members will scrutinize and see how it will affect or impact the general public through Public Participation and get their views unlike when an Act is operationalized by way of policy which is just know and confirmed by the County Executive themselves Mr. Speaker.

Mr. Speaker, I am beseeching this House that whichever way they can guide the County Executive to bring forth these Regulations, because as we speak we were informed way far in January that there are about 16 Regulations which are ready for tabling before this House. We even invited the County Attorney but he did not appear before the House Committee and therefore we invited the County Secretary since the County Attorney was not able to appear but this was also in vane and he wrote a request that the date be postpone. So I don't know to what extent this committee can compel the County Executive to bring fourth these Regulations.

Mr. Speaker, I heard Hon. Oraro say that this committee is very dormant. Mr. Speaker, Delegated County Legislation Committee cannot be as active as expected when the regulations from the County Executive are not flowing and this House Committee should be the most active committee. I believe that in the records of all the County Assemblies, Kisumu County Assembly has produced most Bills. If at least every Bill comes with the regulations then it is my considered opinion that this committee could have been the busiest. Therefore as a Member of this House Committee, I don't accept the blame because we are waiting for the tasks to be tabled before us. Otherwise, I may not forget to applaud the team of secretariat which accompanied the committee to the Senate headed by Mr. David Ochieng and the two ladies who did a good job. The only area which I would like to emphasize on is the area of adding more staff at least one who has a legal background since most of these Acts and Regulations are in the legal journals. Thank you.

The Speaker (Hon. Oraro): Yes Hon. Odari.

Hon. Odari (MCA, Chemelil Tamu Ward): Thank you Mr. Speaker, I wish to call the mover to reply.

The Speaker (Hon. Oraro): Yes Hon. Abeid.

Hon. Abeid (Nominated Member): Thank you Mr. Speaker. I would like to reply on what Hon. Oiko commented on that the Statutory Regulations were brought to the Delegated Legislation Committee. Thank you.

The Speaker (Hon. Oraro): Honourable Members, now that the report by Delegated County Legislation Committee on the Benchmarking Exercise at the Senate has been moved, seconded and debated upon. I therefore want to put a question on the adoption of the same.

(Question put and agreed to)

The Speaker (Hon. Oraro): Honourable Members, the report by Delegated County Legislation Committee on the Benchmarking Exercise at the Senate has been adopted today Wednesday, 18th October 2023 at 15:37 hours and I want to direct that those recommendations be put into action. Thank you.

The Speaker (Hon. Oraro): Next Order!!

ADJOURNMENT

The Speaker (Hon. Oraro): Honourable Members, there being no any other business to transact, the House stands adjourned until Thursday, 19th October, 2023 at 02:30 p.m.

(House rose at 03:40 p.m.)

Addendum

The Hansard Team

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