



REPUBLIC OF KENYA



**Toili & 2 others v Speaker, the National Assembly & 2 others (Petition E548 of 2022)
[2025] KEHC 1148 (KLR) (Constitutional and Human Rights) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1148 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS**

PETITION E548 OF 2022

LN MUGAMBI, J

FEBRUARY 27, 2025

BETWEEN

**MARGARET TOILI 1ST PETITIONER
EDDAH MARETE 2ND PETITIONER
AGNES NDONJI 3RD PETITIONER**

AND

**SPEAKER, THE NATIONAL ASSEMBLY 1ST RESPONDENT
SPEAKER, THE SENATE 2ND RESPONDENT
ATTORNEY-GENERAL 3RD RESPONDENT**

RULING

Introduction

1. By a Notice of Motion application dated 8th March 2024, the petitioners seek orders that:
 - i. The Court be pleased to stay the decision of the Cabinet Secretary for Public Service Gender and Affirmative Action, Hon. Aisha Jumwa Katana, vide gazette notice No. 1770 dated 16th February 2024 from extending the term of this group pending the hearing and determination of this Application.
 - ii. The Court be pleased to stay the decision of the Cabinet Secretary for Public Service Gender and Affirmative Action, Hon. Aisha, Jumwa Katana, vide gazette notice No. 1770 dated 16th February 2024 from extending the term of this group pending the hearing and determination of the main suit.



- iii. This Court be pleased to stay the implementation of the gazette notice No. 1770 dated 16th February 2024 pending the hearing and determination of this Application.
- iv. The Court be pleased to stay the implementation the gazette notice No. 1770 dated 16th February 2024 pending the hearing and determination of this case.
- v. The Cabinet Secretary be ordered to include the petitioners as members of the Multi-Sectoral working group (MSWG) on the realization of the two-third gender rule pending hearing and determination of this suit.

Petitioners' case

2. The application is supported by the 1st petitioner's affidavit of equal date and the grounds on the face of the application. The application is in addition supported by a further affidavit of the 2nd petitioner sworn on 22nd July 2024.
3. The petitioners vide numerous petitions have been advocating for the realization of the two -thirds gender rule by having legislation introduced to that effect.
4. The instant petition filed on 19th December 2022 challenges the constitutionality of the National Assembly and the Senate for not complying with the two -thirds gender rule principle.
5. The 1st petitioner depones that on 15th June 2023 an inaugural breakfast meeting for the Multi-Agency Working Group on the two thirds gender rule was held at Villa Rosa Kempiski. In attendance was the Cabinet Secretary for Public Service Gender and Affirmative Action, Hon. Aisha Jumwa, the then 3rd respondent, Hon. Justin Muturi and the 1st respondent.
6. Thereafter, on 15th August 2023, Hon. Aisha Jumwa vide Gazette Notice No. 10848 of 2023, appointed a Multi-Sectoral Working Group to see through the realization of the two-thirds gender rule principle in line with the principles envisaged under Article 10 and 232 of *the Constitution*. The term for the group was set for 6 months from this date. This was followed up by a Gazette Notice No.1770 dated 16th February 2024 stipulating the appointment and terms of reference of the group for an extended 6-month period.
7. The petitioners challenge the action by Cabinet Secretary contending that it is sub judice. This is on the basis that the matters being discussed by the Multi -Sectoral Working group are live before this Court in the instant matter. It is alleged that the petitioners attempt to request suspension of the same has been futile.
8. The petitioners thus filed the instant application to stop the Multi-Sectoral Working group acting sub judice and from carrying on with the functions specified in the gazette notice. Additionally, the petitioners are grieved that in setting up the Multi-Sectoral Working Group, Hon. Aisha Jumwa sidelined them by not including them in the group. They deponed that that the appointment of the Multi Sectoral Working Group is an attempt to defeat the instant matter.
9. Furthermore, it is deponed by the 2nd petitioner that on 27th February 2024, the 1st respondent through Hon. Aisha Jumwa, allowed the Multi-Sectoral Working Group's Report to be debated by Parliament. It is claimed that this action was also sub judice as the 1st respondent is a party herein. The petitioners reasoned that it was a further attempt to render the instant matter nugatory.
10. Equally, it is argued that the National Assembly in proceeding to deliberate on the issues in the Report, conducted an illegal activity in breach of National Assembly Standing Order 89. The petitioners on



this premise urge the Court to intervene to cease the continuance of this matter in Parliament until this matter is determined.

1st and 2nd Respondents' Case

11. The 1st and 2nd respondents in rejoinder filed grounds of opposition dated 10th June 2024 on the basis that:
- i. The Application is devoid of merit, is frivolous, a gross abuse of Court's process and has been filed to satiate personal interests.
 - ii. The Applicants have failed to identify the precise Standing Orders or Constitutional provision that the Multi - Sectorial Working Group violated when they met and deliberated on the issue of two-third gender rule.
 - iii. The Applicants have failed to aptly demonstrate that the appointment of the Multi - Sectorial Working Group vide Gazette Notice No. 1084 of 2023 violated Article 232 of the Constitution and Section 10 of the Public Service (Values and Principles) Act.
 - iv. The Applicants have failed to explain to the Court how delegated powers to extend the term of the Multi - Sectorial Working Group bestowed to the Cabinet Secretary afflicts the Constitution, bearing in mind that the Multi - Sectorial Working Group was appointed by His Excellency the President to develop and recommend a framework for the implementation of the two-third gender rule principle as provided for in Articles 27(8) and 81(b) of the Constitution.
 - v. The Applicants representation that their request to be appointed to the Multi - Sectorial Working Group was declined, is short of relevant information on whether the appointment was pegged on merit or was discretionary, so that if the appointment is done on merit, the Applicant ought to have exhaustively demonstrated to the Court that they applied, were interviewed and they successfully topped the list of the interviewees but were still rejected thus necessitating the intervention of this Court.
 - vi. Further, in the event the appointment was discretionary, the Applicants ought to have demonstrated that the discretionary power of the Cabinet Secretary was accosted by irregularities leading to unlawfulness in her decision to extend the term of the Multi - Sectorial Working Group.
 - vii. The Applicants have failed to demonstrate how the Multi - Sectorial Working Group's meeting and deliberations done in public interest to speed up realization of the two - third gender rule qualifies to be termed as sub Judice to this Court's proceedings.
 - viii. The Applicants have failed to inform this Court that the sole purpose of Multi - Sectorial Working Group's meeting and deliberations are geared towards realization of the two - third gender rule, the same thing the Petitioners are championing for in this Petition.
 - ix. Unless the Multi- Sectorial Working Group is reversing the gains made so far in respect of two - third gender rule, the parliamentary process ought to be allowed to progress accordingly.
 - x. The application is wholly defective, incompetent, not hinged on any provision of the law, an abuse of the court process and ought to be struck out in limine.
 - xi. It is in the interest of justice that the application be dismissed with costs.



3rd Respondent's Case

12. The 3rd respondent's response with reference to the instant application is not in the Court file or Court Online Platform (CTS).

Parties' Submissions

Petitioners' Submissions

13. The petitioners' submissions on the instant application are not in the Court file or Court Online Platform (CTS).

1st and 2nd Respondent's submissions

14. Ahmed Nasir Abdullahi Advocates LLP for the 1st and 2nd respondents filed submissions dated 15th October 2024.
15. On whether the proceedings in Parliament are sub judice in light of this Court's proceedings, Counsel submitted that the disputed mandate is an obligation vested on the Cabinet Secretary and the other concerns the manner in which the Parliament conducts its business. It was submitted that performance of the same cannot be unconstitutional. That the petitioners had not demonstrated breach of any Standing Orders for discussing the Multi-Sectoral working group's report.
16. Accordingly, Counsel stressed that the Parliamentary proceedings are not sub judice as alleged. In addition, Counsel submitted that the Parliamentary proceedings by their nature cannot be deemed sub judice as are governed by the principle of separation of powers that guards against the Court's interference unless there is a violation of *the Constitution*, the law or its Standing Orders.
17. Reliance was placed in *Mate & another v Wambora & another* [2017] KESC 1 (KLR) where the Supreme Court guided as follows:

“70. In *Canada (House of Commons) v Vaid*, [2005] 1 SCR 667; 2005 SCC 30, the Canadian Supreme Court thus observed, with respect to Parliamentary privileges:

“Within categories of privilege, Parliament is the judge of the occasion and manner of its exercise and such exercise is not reviewable by the courts. A finding that a particular area of parliamentary activity is covered by privilege therefore has very significant legal consequences for Members who claim to be injured by parliamentary conduct.”

The court observed further as follows:

“[I]t was a good principle that the courts and Parliament strive to respect each other's role in the conduct of public affairs. Parliament, for its part, refrains from commenting on matters before the courts under the sub judice rule. The courts, for their part, are careful not to interfere with the workings of Parliament.”

71. Such insight from comparative case law is amplified in Guy F Sinclair's work of scholarship [“Parliamentary Privilege and the Polarization of Constitutional Discourse in New Zealand”, in *Waikato Law Review*, Vol 14], as follows:



“[The dominant principle with respect to parliamentary privilege is that certain matters fall within Parliament’s exclusive sphere of jurisdiction, and that the courts should exercise restraint to ensure that their proceedings do not stray into that sphere. This principle of ‘exclusive cognizance’ is widely supported. The UK Joint Committee describes freedom of speech as only ‘one facet of the broader principle that what happens within Parliament is a matter for control by Parliament alone’, and states that the courts have ‘a legal and constitutional duty to protect freedom of speech and Parliament’s recognised rights and immunities’ but no ‘power to regulate and control how Parliament shall conduct its business’.”

72. Another relevant example from comparative jurisprudence is *Harvey v New Brunswick (Attorney General)*, [1996] 2 SCR 876. The appellant who had been expelled from the Legislature, on account of having been convicted of an election offence, challenged the requirement that he should vacate his seat. The Supreme Court of Canada, in dismissing the appeal, thus held:

“The courts may review an act or ruling of the legislature to determine whether it properly falls within the domain of parliamentary privilege. If it does not, they may proceed with charter review. If it does, they must leave the matter to the legislature.

“Expulsion from the legislature of members deemed unfit is a proper exercise of parliamentary privilege. It is clear that had the New Brunswick legislature simply expelled the appellant, that decision would fall squarely within its parliamentary privilege and the courts would have no power to review it.”

3rd Respondent’s Submissions

18. On 27th September 2024, the 3rd Respondent through State Counsel, Wanja Wanjiru filed submissions in opposition to the application.
19. The 3rd Respondent delved into the doctrine of sub judice as relates to the Court and the Parliament. She stated that the rule is a voluntarily self-imposed rule by Parliament that is exercised subject to the discretion of the Chair to obviate prejudice in proceedings before courts.
20. Equally, it was submitted that the sub judice as relates to the National Assembly, does not find expression in *the Constitution* or in any other law. Furthermore, it was contended that the Speaker also allows discussion of a matter deemed sub judice where it is considered to be of national importance.
21. Counsel to support this notion relied in the Ruling by the former Speaker, Kenneth Marende delivered on 27th November 2008 in the Matter of the Electoral Commission of Kenya (ECK) Chairman v the Attorney General. It was held as follows:

“Hon. Members, I find it necessary to make some reference to the Sub Judice Rule to be found at Standing Order No.74 of our Standing Orders and its application to the present matter. Standing Orders provide that no Member shall refer to any particular matter which is sub judice or to any matter which is, in its nature, secret. Briefly stated, the essence of this rule is that this House should not debate any matter awaiting the adjudication of a court. To do so, in a manner that anticipates the decision of the court or expresses a view on the merits and demerits of the matter before the court, will be clearly out of order...In the present case, I am satisfied that the Sub Judice Rule does not apply. What is in issue is the effect on this



House of an order that has already been made and that is subsisting. For now, the order is a fait accompli. I am, therefore, satisfied that the House is properly entitled to know how, if at all, its conduct of business is affected by that order.”

22. Further, in the Ruling Re-appointment of Justice Aaron Ringera as KACC Director delivered on 10th September 2009, Speaker Kenneth Marende noted as follows:

“Hon. Members, the term “sub judice” can be translated loosely from Latin to mean “under judicial consideration”. In the Commonwealth tradition, the sub judice rule arose out of a desire by Parliament to prevent its comment and debate from exerting an influence on courts and thus prejudicing the positions of parties and witnesses in such court proceedings. The doctrine is also premised on the constitutional principle of separation of powers by which Parliament should not be seen as trying to deal with matters that properly belong to the Judiciary. In Kenya, this principle has been observed for a long time. On 1st November 1966, for example, Speaker Humphrey Slade had this to say when a similar matter arose in the House:-

“I think the principle is that parliaments and courts of justice must respect each other and parliaments must not interfere with or prejudice, by their own discussions, the proceedings of a court of law any more than they expect (the courts) to interfere with the proceedings of Parliament.

...

I am clear in my mind that in a matter of immense public interest, where there is a doubt, unless sound grounds are advanced, a presumption should exist in favour of allowing debate in the House as opposed to the application of the sub judice rule to suppress debate. I am also clear in my mind that it is not consistent with the purposes for which parliaments are established that at a time of intense public concern over a matter calling into question important constitutional principles and the legitimate inter-play between the Executive and the Legislature on the appointment of the person to superintend the anticorruption machinery in the country, this House should be the only place in Kenya, where the matter cannot be debated. If, however, in the course of debate it should become clear that any Member is clearly foraying into a domain outside what is legitimately the province of this House, it will still remain open for the Chair to call them back to line.”

23. Like dependence was placed in the Matter of violation of Labour Laws and Tax Evasion by Bidco Africa Limited also by Speaker Kenneth Marende.
24. Turning to this matter, Counsel submitted that the petitioners seek to have this Court order the dissolution of Parliament in light of the two-thirds gender rule. This is despite the current Parliament having (as from 2022) 5 years to enact legislation to give effect to the two-thirds gender rule. In this way, Counsel argued that the petition was premature.
25. Furthermore, Counsel pointed out that the petitioners were seeking orders against the Cabinet Secretary for Gender, Culture, Arts and Heritage, Hon. Aisha Jumwa who is not a party in the instant suit.
26. Likewise, Counsel submitted that the petitioners were contradicting themselves by seeking to be included in the Multi – Sectoral Working Group and also claiming that the appointment of the group was in contempt of Court.



27. In conclusion, Counsel stressed that the sub judice rule is intended to prevent prejudice to the fair determination of matters in courts. Furthermore, that Standing Order 89(5) makes it plain that the 1st respondent has the discretion to allow a matter which is sub judice to be discussed in instances of immense public interest.

Analysis and Determination

28. It is my considered view that the issues that arises for determination are:
- i. Whether the Multi-Sectoral Working Group on realization of the two – thirds gender rule Report as being discussed by Parliament is sub judice in view of the instant Court proceedings.
 - ii. Whether the instant application is merited.

29. The principle of sub judice is defined under Section 6 of the *Civil Procedure Act* as follows:

No Court shall proceed with the trial of any suit or proceeding on in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties or between parties under whom they or any of them claim litigating under the same title, where such or proceedings is pending in the same or any other Court having jurisdiction in Kenya to grant the relief claimed.

30. The Supreme Court of Kenya in *Kenya National Commission on Human Rights v Attorney General; Independent Electoral & Boundaries Commission & 16 others (Interested Parties)* [2020]eKLR had the occasion to pronounce itself on the subject of sub judice as follows:

“(67) The term ‘sub-judice’ is defined in Black’s Law Dictionary 9th Edition as: “Before the Court or Judge for determination.” The purpose of the sub-judice rule is to stop the filing of a multiplicity of suits between the same parties or those claiming under them over the same subject matter so as to avoid abuse of the Court process and diminish the chances of courts, with competent jurisdiction, issuing conflicting decisions over the same subject matter. This means that when two or more cases are filed between the same parties on the same subject matter before courts with jurisdiction, the matter that is filed later ought to be stayed in order to await the determination to be made in the earlier suit. A party that seeks to invoke the doctrine of res sub-judice must therefore establish that; there is more than one suit over the same subject matter; that one suit was instituted before the other; that both suits are pending before courts of competent jurisdiction and lastly; that the suits are between the same parties or their representatives.”

31. The sub-judice principle was elaborately discussed on *Kenya Bankers Association v Kenya Revenue Authority* [2019]eKLR where the Court stated as follows:

“30. The basic purpose and the underlying object of Section 6 is to prevent the courts of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two parallel litigations in respect of same cause of action, same subject matter and the same relief. This is to pin down the parties to one litigation so as to avoid the possibility of contradictory verdicts by two courts in respect of the same relief and is aimed to prevent multiplicity of proceedings.



31. The words "directly and substantially in issue" are used in contradistinction to the words "incidentally or collaterally in issue." Therefore, Section 6 would apply only if there is identity of the matter in issue in both the suits, meaning thereby, that the whole of the subject- matter in both the proceedings is identical.
32. The question which follows is whether the matters in issue in this case are also directly and substantially in issue in previously instituted suits. The key words in Section 6 are "the matter in issue is directly and substantially in issue in the previously instituted suit." The test for applicability of Section 6 is whether on a final decision being reached in the previously instituted suit, such decision would operate as res-judicata in the subsequent suit. However, when the matter in controversy is the same, it is immaterial what further relief is claimed in the subsequent suit.....
34. For the doctrine of sub judice to apply the following principles ought to be present:- (a) There must exist two or more suits filed consecutively; (b) The matter in issue in the suits or proceedings must be directly and substantially the same, the parties in the suits or proceedings must be the same or must be parties under whom they or any of them claim and they must be litigating under the same title, the suits must be pending in the same or any other court having jurisdiction in Kenya to grant the relief claimed."
32. The sub judice that the Petitioners allude to in this Petition is not about the existence of two suits but the fact that the matter in question was allowed to be debated in the National Assembly. From the outset, it is however apparent that Section 6 of the [Civil Procedure Act](#) does not extend to the proceedings in the National Assembly.
33. Nevertheless, the National Assembly's Standing Orders make proviso for sub-judice. Standing Order 89 provides as follows:
- Matters sub judice or secret
89. (1) Subject to paragraph (5), no Member shall refer to any particular matter which is sub judice or which, by the operation of any written law, is secret.
- (2) A matter shall be considered to be sub judice when it refers to active criminal or civil proceedings and the discussion of such matter is likely to prejudice its fair determination.
- (3) In determining whether a criminal or civil proceeding is active, the following shall apply—
- a. criminal proceedings shall be deemed to be active when a charge has been made or a summons to appear has been issued;
 - b. criminal proceedings shall be deemed to have ceased to be active when they are concluded by verdict and sentence or discontinuance;
 - c. civil proceedings shall be deemed to be active when arrangements for hearing, such as setting down a case for trial, have been made, until the proceedings are ended by judgment or discontinuance;



- d. appellate proceedings whether criminal or civil shall be deemed to be active from the time when they are commenced by application for leave to appeal or by notice of appeal until the proceedings are ended by judgment or discontinuance.
- (4) A Member alleging that a matter is sub judice shall provide evidence to show that paragraphs (2) and (3) are applicable.
 - (5) Notwithstanding this Standing Order, the Speaker may allow reference to any matter before the House or a Committee.
34. The above position brings into focus the principle of separation of powers. This is trodden path with plethora of decisions by the Superior Courts over the issue. In *Justus Kariuki Mate v Wambora & another* [2017] KESC 1 (KLR), the Supreme Court after reviewing several judicial decisions held as follows:
- “(57) The Court of Appeal, in the case of *Mumo Matemu v Trusted Society of Human Rights Alliance & 2 Others*, Civil Appeal No 290 of 2012, [2013] eKLR, adopted the High Court’s dicta, in the following terms:
 - “[Separation of powers] must mean that the courts must show deference to the independence of the Legislature as an important institution in the maintenance of our constitutional democracy as well as accord the Executive sufficient latitude to implement legislative intent. Yet, as the respondents also concede, the Courts have an interpretive role – including the last word in determining the constitutionality of all governmental actions...”
35. The Court thus laid down the following principles:
- “(62) A clear inference to be drawn is that, it was the Supreme Court’s stand that no arm of Government is above the law. This being a constitutional democracy, *the Constitution* is the guiding light for the operations of all State Organs. The Court’s mandate, where it applies, is for the purpose of averting any real danger of constitutional violation.
 - (63) From the course of reasoning emerging from such cases, it is possible to formulate certain principles, as follows:
 - a. each arm of Government has an obligation to recognize the independence of other arms of Government;
 - b. each arm of Government is under duty to refrain from directing another Organ on how to exercise its mandate;
 - c. the Courts of law are the proper judge of compliance with constitutional edict, for all public agencies; but this is attended with the duty of objectivity and specificity, in the exercise of judgment;
 - d. for the due functioning of constitutional governance, the Courts be guided by restraint, limiting themselves to intervention in requisite instances, upon appreciating the prevailing circumstances, and the objective needs and public interests attending each case;



- e. in the performance of the respective functions, every arm of Government is subject to the law.”

36. In the South African Court in *Pharmaceutical Manufacturers Association of South Africa and Another: In re Ex Parte President of the Republic of South Africa and Others* (CCT31/99) [2000] ZACC 1; 2000 (2) SA 674; 2000 (3) BCLR 241 observed as follows:

“[90] Rationality in this sense is a minimum threshold requirement applicable to the exercise of all public power by members of the executive and other functionaries. Action that fails to pass this threshold is inconsistent with the requirements of our Constitution, and therefore unlawful. The setting of this standard does not mean that the courts can or should substitute their opinions as to what is appropriate, for the opinions of those in whom the power has been vested. As long as the purpose sought to be achieved by the exercise of public power is within the authority of the functionary, and as long as the functionary’s decision, viewed objectively, is rational, a court cannot interfere with the decision simply because it disagrees with it, or considers that the power was exercised inappropriately.[108] A decision that is objectively irrational is likely to be made only rarely but if this does occur, a court has the power to intervene and set aside the irrational decision. This is such a case. Indeed, no rational basis for the decision was suggested. On the contrary, the President himself approached the court urgently, with the support of the Minister of Health and the professional associations most directly affected by the Act, contending that a fundamental error had been made, and that the entire regulatory structure relating to medicines and the control of medicines had as a result been rendered unworkable. In such circumstances, it would be strange indeed if a court did not have the power to set aside a decision that is so clearly irrational.”

37. Equally, in *Democratic Alliance v President of South Africa and Others* (CCT 122/11) [2012] ZACC 24; 2012 (12) BCLR 1297 (CC); 2013 (1) SA 248 (CC) the South African Court held as follows:

“Rationality and the separation of powers

I must next address a contention that this Court’s upholding of the decision of the Supreme Court of Appeal that the decision of the President was irrational would amount to a violation of the principle of the separation of powers. The rule that executive decisions may be set aside only if they are irrational and may not ordinarily be set aside because they are merely unreasonable or procedurally unfair has been adopted precisely to ensure that the principle of the separation of powers is respected and given full effect. If executive decisions are too easily set aside, the danger of courts crossing boundaries into the executive sphere would loom large.....

.... And Affordable Medicines said:

“The rational basis test involves restraint on the part of the Court. It respects the respective roles of the courts and the Legislature. In the exercise of its legislative powers, the Legislature has the widest possible latitude within the limits of *the Constitution*. In the exercise of their power to review legislation, courts should strive to preserve to the Legislature its rightful role in a democratic society.”

This applies equally to executive decisions.”



38. The gist of the Petitioners' application is that Parliament's proceedings arising from the Multi-Agency Working Group on two-thirds rule Report on fulfilment provisions of Article 81(b) of the Constitution is sub judice in relation to this Petition which is premised on the respondents' failure to implement the two thirds gender rule in Parliament.
39. As alluded to earlier, Section 6 of the Civil Procedure Act is confined to concurrent matters pending before two or more competent courts. In respect of matters before Parliament, the principle of sub-judice in debates before Parliament is regulated by Standing Orders. Standing Orders 89 under sub – Orders (2) and (3), bar deliberation on active criminal or civil proceedings wherein such a discussion would prejudice a fair determination and Standing Order 89(5) gives the Speaker the latitude to allow reference to any matter before the House or a Committee.
40. One quick and curious observation that I make is that it is rather strange that the Petitioners have filed this Petition assailing the Respondent's failure to implement the two-thirds gender rule yet there are fighting efforts that the Respondents are putting in place towards the realization of this objective. I do not think the filing of this Petition was meant to stifle progress or efforts that the Respondents may initiate to realize the objectives of Article 81 (b) of the Constitution. In fact, any deliberations and actions towards this direction is an indication that the matter is receiving due consideration.
41. To intervene as requested by the Petitioners and stop the National Assembly and Senate from performing this mandate is not only an obstruction but also amounts to meddling with their constitutional mandate provided for in Article 94 of the Constitution of considering the enactment of legislation meant to realize the objective of Article 81(b) of the Constitution.
42. The petitioners' claims that Parliament's debate on the report on Multi-Sectoral Working Group on the implementation of the two thirds gender rule unconstitutional is legally impotent and totally misconceived.
43. The application is dismissed. Costs shall be in the cause.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 27TH DAY OF FEBRUARY, 2025.

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L N MUGAMBI

JUDGE

