



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, JULY 12, 2018 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with prayer said by the Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair -

(i) Visiting students and teachers from Inside Kenya Group, Students from Spain.

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Inside Kenya Group, Students from Spain.

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

I thank you.”

(ii) Visiting students and teachers from St. Scholastica Catholic School, Ruaraka, Nairobi County.

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from St. Scholastica Catholic School, Ruaraka, Nairobi County.

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

I thank you.”

(iii) Visiting students and teachers from Sigiria Secondary School, Migori County.

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Sigiria Secondary School, Migori County.

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

I thank you.”

(iv) Visiting students and teachers from St. Kizito Primary School, Isiolo County.

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from St. Kizito Primary School, Isiolo County.

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

I thank you.”

4. **PAPERS LAID**

The following Papers were laid on the Table of the Senate-

- i) Report of the Standing Committee on Education on the 20th Conference of Commonwealth Education Ministers (20CCEM) held in Nadi, Fiji from 19-23 February, 2018.
(Chairperson, Standing Committee on Education)
- ii) Report of the proceedings of the Global Parliamentary Conference (GPC), held at the World Bank Headquarters, in Washington DC, USA from 16th to 17th April, 2018.
(Sen. (Dr.) Abdullahi Ali, MP)
- iii) Statement of the business of the Senate for the week commencing Tuesday, 17th July, 2018.

(Sen. Mohamud Maalim on behalf of the Senate Majority Leader)

5. **NOTICE OF MOTION** - (Chairperson, Standing Committee on Education)

THAT, this House notes the Report of the Standing Committee on Education on the 20th Conference of Commonwealth Education Ministers (20CCEM) held in Nadi, Fiji from 19-23 February, 2018, laid on the Table of the House on Thursday, 12th July, 2018.

6. **NOTICE OF MOTION** - (Sen. (Dr.) Abdullahi Ali, MP)

THAT, this House notes the Report of the proceedings of the Global Parliamentary Conference (GPC), held at the World Bank Headquarters, in Washington DC, United States of America from 16th to 17th April, 2018, laid on the Table of the House on Thursday, 12th July, 2018.

7. **NOTICE OF MOTION** - (Sen. (Arch.) Sylvia Kasanga, MP)

AWARE that the National Transport and Safety Authority (NTSA) is mandated to plan, manage and regulate the road transport system, while ensuring the provision of safe, reliable and efficient road transport services;

FURTHER AWARE that motorcycle transport services have been rapidly embraced throughout the country leading to several challenges including: rise in road accidents involving motorcycle riders, unlawfulness, insecurity and road congestion;

COGNIZANT that the National Transport and Safety Authority (Operation of Motorcycles) Regulations that came into force on January 1, 2016 have not adequately addressed the challenges associated with the high numbers of motorcycles as a mode of transport;

NOW THEREFORE, the Senate resolves that the Ministry of Transport, Infrastructure, Housing, and Urban Development: -

1. identify strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations;
2. in collaboration with County Governments, develop programs to sensitize and educate members of boda-boda associations and the public on the laws regulating motorcycle operations;
3. submits a Report to the Senate within ninety (90) days outlining the short and long term strategies, and preventative measures that are being put in place to halt the rising cases of road carnage involving motorcycle riders.

8. **STATEMENT PURSUANT TO STANDING ORDER NO. 46 (2)(c)**

The Senator for Mandera County and a member of Senate Business Committee (Sen. Mohamud Maalim) on behalf of the Senate Majority Leader, issued a statement on the business of the Senate for the week commencing Tuesday, 17th July, 2018.

9. **THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILLS NO. 47 OF 2017)**

Order for Second Reading read;

Motion made and Question proposed;

That, the Kenya Roads Bill (National Assembly Bills No. 47 of 2017) be now read a Second Time.

(The Senate Deputy Majority Leader – 04.07.2018)

Debate interrupted on Wednesday, 4th July, 2018 resumed;

Quorum in the House

Raising a Point of Order, the Senator for Nandi County (Sen. Samson Cherarkey) drew the attention of the Temporary Speaker (Sen. (Prof.) Margaret Kamar) to the fact that there was no Quorum in the Senate;

And the Temporary Speaker (Sen. (Prof.) Margaret Kamar) having counted the Honourable Senators present and confirmed that there was no Quorum caused the Division Bell to be rung for five minutes;

And there being a Quorum after expiry of three minutes;

Debate interrupted resumed;

Adjournment of debate pursuant to Standing Order 99(1):

Raising a point of order, the Senator for Mandera County (Sen. Mohamud Maalim) claimed to move- **“That**, the debate be now adjourned”, pursuant to Standing Order 99(1).

And the Temporary Speaker (Sen. (Prof.) Margaret Kamar) acceding to the claim;

Motion made and Question proposed;

“THAT, the debate be now adjourned”,

(Sen. Mohamud Maalim)

Question put and agreed to.

10. **THE IRRIGATION BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2017)**

(The Senate Majority Leader)

(Second Reading)

Order deferred.

11. **MOTION – REGISTRATION OF PERSONS WITH DISABILITIES (PWDS)**

Motion made and Question proposed-

THAT, AWARE that the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

FURTHER AWARE that registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE that persons living with disabilities are estimated to be about 10% of any given population;

COGNIZANT that for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

CONCERNED that of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

AWARE that medical services are now a devolved function;

FURTHER CONCERNED that without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED that owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

(Sen. George Khaniri, MP – 07.06.2018)

(Resumption of Debate interrupted on Thursday, 7th June, 2018)

(Balance of time: 1hr 48 minutes)

Order deferred.

12. **MOTION – ESTABLISHMENT OF MENTAL HEALTH AND PSYCHO-SOCIAL SUPPORT CENTERS AT THE COUNTY LEVEL**

(Sen. (Arch.) Sylvia Kasanga, MP and Sen. Mercy Chebeni, MP)

Motion made and Question proposed-

AWARE THAT Article 43(1) of the Constitution provides that every person has a right to the highest attainable standard of health, which includes the right to health care services;

NOTING THAT cases of mental illness are on the rise with 1 in 4 Kenyans likely to suffer from a mental disorder at some point in their lives, coupled with the fact that many Kenyans with mental illness do not receive adequate treatment;

CONCERNED THAT the World Health Organization has ranked Kenya sixth, among African countries with the highest number of depression cases;

DEEPLY CONCERNED that there exists internal inequities in the distribution of the already low numbers of mental health workers in Kenya with the available professionals being concentrated in cities leaving rural area with very few professionals if any;

FURTHER CONCERNED THAT, delivery of mental health services is facing a myriad of challenges key among them, inadequate and understaffed rehabilitation facilities and outreach programmes leading to the provision of insufficient mental healthcare services at the psychiatric units;

NOW THEREFORE the Senate calls upon the National Government in collaboration with the County Governments to-

1. increase the number of specialized well equipped mental health facilities and develop effective outreach and other mental health programmes targeting Kenyans in remote areas and learning institutions;
2. increase the allocated mental health budget to ensure there are adequate funds targeting this specific area; and
3. develop initiatives to encourage more Kenyans to pursue and specialize in psychiatry and build the capacity of community health workers and staff in mental health facilities through continuous training.

(Sen. (Arch.) Sylvia Kasanga, MP)

Debate arising;

And there being no other Senator wishing to contribute;

The Mover (Sen. Mercy Chebeni) replied;

Before the Question was put and pursuant to Standing Order 73, the Temporary Speaker (Sen. Steven Lelegwe) ruled that the Motion did not affect counties.

Question put and **agreed to.**

RESOLVED ACCORDINGLY

AWARE THAT Article 43(1) of the Constitution provides that every person has a right to the highest attainable standard of health, which includes the right to health care services;

NOTING THAT cases of mental illness are on the rise with 1 in 4 Kenyans likely to suffer from a mental disorder at some point in their lives, coupled with the fact that many Kenyans with mental illness do not receive adequate treatment;

CONCERNED THAT the World Health Organization has ranked Kenya sixth, among African countries with the highest number of depression cases;

DEEPLY CONCERNED that there exists internal inequities in the distribution of the already low numbers of mental health workers in Kenya with the available professionals being concentrated in cities leaving rural area with very few professionals if any;

FURTHER CONCERNED THAT, delivery of mental health services is facing a myriad of challenges key among them, inadequate and understaffed rehabilitation facilities and outreach programmes leading to the provision of insufficient mental healthcare services at the psychiatric units;

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1. increase the number of specialized well equipped mental health facilities and develop effective outreach and other mental health programmes targeting Kenyans in remote areas and learning institutions;
2. increase the allocated mental health budget to ensure there are adequate funds targeting this specific area; and
3. develop initiatives to encourage more Kenyans to pursue and specialize in psychiatry and build the capacity of community health workers and staff in mental health facilities through continuous training.

13. **MOTION – FLOOD SITUATION IN THE COUNTRY**

THAT, aware that several days of heavy rains recently have caused severe flooding in many parts of the country, resulting in multiple deaths and devastating damage to property and infrastructure;

NOTING with concern that, whenever Kenya experiences periods of severe drought, torrential rains usually follow;

CONCERNED that year in year out, the challenge of floods continues to recur, leading to loss of human and animal life, displacement of people and wanton destruction of property;

COGNIZANT that the number of Kenyans needing emergency food aid as a result of displacement caused by the current floods continues to rise by the day, and that the floods have also washed away many bridges and destroyed roads in many parts of Kenya;

ALSO CONCERNED that no effective measures, such as improved storm water harvesting, proper drainage infrastructure and preventing the destruction of riparian reserves and natural water courses, to mitigate and/or provide a lasting solution to the menace of flooding, have been taken;

NOW THEREFORE, the Senate calls upon the National Government to develop a lasting framework to permanently address the challenge of effects of floods by, among other things-

- i) developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and
- ii) preventing and regulating the construction of informal settlements and ensuring prevention of construction on low lying areas and flood plains.

And further that the relevant government agency to execute this task submits a report to the Senate within three months of the adoption of this Motion.

(Sen. Fatuma Dullo, MP)

Order deferred.

14. **MOTION – NEED TO REVIEW AND EVALUATE THE STATE OF EDUCATION IN NORTHERN KENYA**

THAT, AWARE that Article 43 (f) of the Constitution of Kenya stipulates that every person has the right to education, and Article 53(1)(b) provides that every child has the right to free and compulsory basic education;

ALSO AWARE that education is a basic need and a tool for intellectual empowerment and social-political development;

FURTHER AWARE that education is a shared function between the National and the County levels of Government with the National Government being responsible for Primary, secondary and Higher education while the County Government is responsible for preprimary education, village polytechnics and home craft centers;

COGNISANT that both levels of Government complement each other in promoting sustainable education;

CONCERNED that the intake, uptake and quality of education in the Northern Kenya have adversely been affected owing to discrepancies in public resources allocation, insecurity, skewed staffing and teacher training in the region;

FURTHER CONCERNED that both the school completion rate and the national examination outcomes in region are poor and that the number of students from Northern Kenya who qualify for core courses in universities, colleges, technical schools and village polytechnics is minimal compared to other parts of the country;

NOTING WITH CONCERN that due to insecurity and other related concerns, the Teachers Service Commission (TSC) which is the body responsible for the employment and deployment of teachers, has in the recent past, taken steps to transfer non-local teachers from the northern region of Kenya to other parts of the country;

CONCERNED THAT, the transfers have led to shortage of skilled teachers which has been a major cause of the dismal performance in examinations in schools in the region;

NOW THEREFORE, the Senate resolves to task the Standing Committee on Education to conduct an inquiry into the challenges facing the education sector in Northern Kenya with a view to-

1. evaluating the effect of the teacher transfers from the region and recommending to the Ministry of Education, policy measures to address the challenge;
2. evaluating the status of the education infrastructure in the region and proposing solutions to mitigate the current and looming challenges;
3. proposing mechanisms for enhanced resource allocation at both levels of government to facilitate improved education facilities; and
4. assessing school intake compared completion levels in the region in order to ascertain the impact of the challenges facing the schools and how these disadvantages the region compared to other parts of Kenya and proposing ways of addressing the challenges.

And that the Committee submits a report to the Senate within three months of adoption of this Motion by the Senate.

(Sen. (Dr.) Abdullahi Ali, MP)

Order deferred.

15. MOTION – NEED FOR STANDARD POLICY REGULATION FOR CONSTRUCTION AND MAINTENANCE OF RURAL ACCESS ROADS

THAT, AWARE that infrastructure development and specifically, construction of roads is a key pillar of Kenya's vision 2030 whose objective is to spur movement of people and goods, promote trade and economic activities, encourage development and attract investments;

NOTING that there is a very strong correlation between a country's economic development and the quality of its road network;

CONCERNED that Government's efforts to expand the roads infrastructure are mainly focused on the urban and peri-urban areas of the country thus leaving rural areas with dilapidated or no access roads;

FURTHER CONCERNED that fifty-five years since independence and over five years after institutionalization of devolution, the Country's roads infrastructure is to a large extent still underdeveloped with only slightly above 9,000 kilometres of the about 178,000 kilometres of roads paved;

COGNISANT that, Part Two of the Fourth Schedule to the Constitution of Kenya (2010) mandates County Governments to manage county transport, including; roads, street lighting, traffic and parking, amongst other county public transport matters;

DEEPLY CONCERNED that, County Governments are continuously prioritizing routine maintenance works over sustainable and durable road quality works due to budgetary constraints;

NOW THEREFORE the Senate calls upon the Ministry of Transport, Infrastructure, Housing and Urban Development to develop and adopt standard policy regulations prescribing modern, eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads in order to ensure durability and sustainability of the access roads and also to reduce maintenance expenses.

(Sen. (Arch.) Sylvia Kasanga, MP)

Order deferred.

16. **MOTION - REPORT OF THE SENATE DELEGATION TO THE FIRST EXTRAORDINARY SESSION OF THE FORUM OF PARLIAMENTS OF THE INTERNATIONAL CONFERENCE ON THE GREAT LAKES REGION (FP-ICGLR) HELD IN KINSHASA, THE DEMOCRATIC REPUBLIC OF CONGO (DRC)**

THAT, this House adopts the Report of the proceedings of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Kinshasa, Democratic Republic of Congo from 19th – 20th March, 2018, laid on the Table of the Senate on Tuesday, 15th May, 2018.

(Sen. Samuel Poghio, MP)

Order deferred.

17. **MOTION – REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF THE KAJIADO COUNTY EXECUTIVE FOR FY 2013/2014**

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Kajiado County Executive for the Financial Year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

(Chairperson, Sessional Committee on County Public Accounts and Investments)

Order deferred.

18. **MOTION – REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF THE NAROK COUNTY EXECUTIVE FOR FY 2013/2014**

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the financial operations of Narok County Executive for the Financial Year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

(Chairperson, Sessional Committee on County Public Accounts and Investments)

Order deferred.

19. **MOTION – REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF THE TURKANA COUNTY EXECUTIVE FOR FY 2013/2014**

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the financial operations of Turkana County Executive for the Financial Year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

(Chairperson, Sessional Committee on County Public Accounts and Investments)

Order deferred.

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Steve Lelegwe) adjourned the Senate without Question put, pursuant to the Standing Orders.

20. **SENATE ROSE** - at thirty minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, July 17, 2018 at 2.30 p.m.*