



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - SECOND SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, OCTOBER 11, 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 Deputy Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker issued the following communications from the Chair: -

a) Removal of Senator Petronila Were Lokorio, Senate Deputy Minority Whip, pursuant to Standing Order 20 of the Senate Standing Orders.

“Honourable Senators,

Following the receipt in my office, of a letter from the Senate Minority Leader, Senator James Orengo, MP, it has become necessary that I make the following Communication to the Senate.

By a letter dated 3rd October, 2018 referenced “*Removal and Election of the Deputy Senate Minority Whip Pursuant to Standing Order Nos. 20(1) (d), 20 (4) and 20(6) (b)*”, the Senate Minority Leader informed me as follows, and I wish to quote verbatim-

“The NASA Coalition Senate Parliamentary Group at a meeting held on September 20th, 2018 and in accordance with Standing Order 20(4), removed Senator Petronila Were Lokorio, MP as the Deputy Senate Minority Whip.

Subsequently at the Said Meeting, the NASA Coalition Senate Parliamentary Group in accordance with Standing Order 20 (4) elected Senator Beatrice Makori Kwamboka as the Senate Deputy Minority Whip.

Accordingly, under Standing Order 20 (6)(b) I hereby communicate to you in writing the decision of the NASA Coalition Parliamentary Group. I have enclosed the Minutes of the Meeting at which the decision was made.”

*Yours faithfully,
(Signed)
Sen. James Orengo, EGH, SC, MP,
Minority Leader, Senate*

Honourable Senators, upon receipt of this correspondence, I have extensively perused standing order 20 of our Standing Orders and in particular, paragraphs (1), (4), (5) and (6).

Standing order 20(1) (d) provides that the second largest party or coalition of parties shall be the Minority Party and shall elect a Senator belonging to the party or coalition of parties to be the Deputy Senate Minority Whip.

Honourable Senators, in the present Senate, following the advice of the Registrar of Political Parties, by letter dated 12th September, 2017, reference RPP/ELE/3 Vol. II, the Minority Party in this Senate is the NASA Coalition consisting of the following parties-

The Orange Democratic Movement (ODM);
Wiper Democratic Movement – Kenya (WIPER);
FORD Kenya;
Amani National Congress (ANC); and
Chama Cha Mashinani.

The foregoing is sufficient, I think, to show that the Minority Party for all purposes of the Senate is the NASA Coalition consisting of the named constituent parties.

Honourable Senators, I now wish to draw your attention to standing order 20(4) which provides as follows-

A Senator elected under paragraph (1) [that is a Senator elected as the Senate Deputy Minority Whip] may be removed by a majority of the votes of all the Senators belonging to the Minority Party.

Honourable Senators, accompanying the Senate Minority Leader's letter are Minutes of the “NASA Senate Parliamentary Group Meeting”, Held at the Minority Leader’s Office on Thursday 20th September, 2018 between the hours of 10:30 a.m. and 12.00 noon. In attendance are shown, seventeen members of the NASA Coalition, with seven others listed as absent with apologies. Under Minute 03/09/2018 titled “Position of the Deputy Minority Whip” and under the last paragraph thereof, it is indicated as follows-

“The Members unanimously resolved to declare the seat of the Deputy Minority Whip vacant and it was so declared”

The Members of the Coalition thereafter proceeded to elect Sen. Beatrice Makori Kwamboka to the position of the Deputy Senate Minority Whip; this after she was proposed for the position by Sen. Naomi Shiyonga and Seconded by Sen. Issa Juma Boy.

Further attached to these Minutes are the signatures of sixteen Senators subscribing to the resolution to remove Senator Petronila Were Lokorio and to appoint Senator Beatrice Makori Kwamboka as the new Senate Deputy Minority Whip.

In this respect, the criteria set out at standing order 20(4) that the removal of the Deputy Senate Minority Whip be by a majority of the votes of all Senators belonging to the Minority Party has been met.

I am satisfied that the seventeen (17) Senators constitute a majority of the twenty-six (26) Senators belonging to the NASA Coalition and that all the said Senators belong to the Minority Party (which in this case is the NASA Coalition.)

Standing Order 20(5) governs what is to happen upon the removal of the Deputy Senate Minority Whip. It provides as follows:

(5) The removal of a Senator elected under paragraph (4) shall not take effect until a Senator is elected in the manner provided for under paragraph (1).

Honourable Senators, in light of all this, I therefore wish to communicate as follows with regard to the letter forwarded to me by the Senate Minority Leader:

I find and hold that on the basis of the letter and the Minutes and signatures appended thereto, the criteria and threshold set out at Standing Order 20(4) has been met and Senator Petronila Were Lokorio has been validly removed from the office of the Senate Deputy Minority Whip and Senator Beatrice Makori Kwamboka elected to the same position.

I thank you.”

b) On the road accident that occurred at Fort Ternan on 10th October, 2018.

“Honourable Senators, On the morning of 10th October, 2018, Kenyans woke up to very sad news of the demise of 56 persons in a bus accident at Fort Ternan, Kericho County, after a bus destined for Kakamega from Nairobi rolled several times.

The matter of numerous road accidents in the country is worrying. As leaders, we urge the relevant government agencies to work with speed to ensure no more Kenyan lives are lost in our roads.

On behalf of the Senate and on my own behalf, I wish to send a message of condolences to the families of the departed and wish those injured a quick recovery.”

4. **PETITION**

Pursuant to Standing Order 226 (1) (a) and 230(2)(b) the Deputy Speaker reported to the Senate a petition by residents of Kiang’ombe squatters settlement

scheme concerning alleged grabbing of part of the land allocated for their settlement.

Pursuant to Standing Order 231, the Deputy Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition to the Standing Committee on Land, Environment, and Natural Resources for its consideration, pursuant to Standing Order 232 (1).

5. **PAPERS LAID**

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

- a) Report of the Controller of Budget on the Annual National Government Budget Implementation Review Report for the Financial Year 2017/2018.
- b) Report of the Auditor-General on the Financial Statements of the Busia County Agricultural Development Fund for the year ended 30th June, 2017.
- c) Statement on the business of the Senate for the week commencing Tuesday, 16th October, 2018.

(The Senate Deputy Majority Leader)

- d) Report of the Kenya Delegation to the 39th Annual Forum of Parliamentarians for Global Action.

(Sen. Mutula Kilonzo Jnr., MP)

6. **NOTICE OF MOTION**- (Sen. Mutula Kilonzo Jnr., MP)

THAT, the House notes the Report of the Kenya delegation to the 39th Annual Forum of Parliamentarians for Global Action, laid on the Table of the Senate on Thursday, 11th October, 2018.

7. **STATEMENTS**

a) **Statement Pursuant to Standing Order No. 47 (1)**

The Senator for Vihiga County (Sen. George Khaniri, MP) issued a statement regarding the high cost of living in the country and the general mismanagement of the economy.

The Senator noted several issues of concern including the huge total debt that stands at approximately 5.04 trillion which translates to 57.1% of the GDP resulting to an average debt of Kshs 90,000 per person, the rising cost of living, food shortage and glut at the same time, exorbitant tax regime and corruption.

He informed the Senate that Kenyans had expressed concern on the ballooning foreign debt especially from China, pointing out that the government had already accumulated too much debt. Some of the projects that the government had heavily invested in had no immediate value for

money and most people could not point at their direct benefit. The huge loans require servicing which in turn means increased taxes, more borrowing and inflation.

The Senator pointed at corruption as the main undoing of the country citing that corruption had been institutionalized at all levels of government such that it was normal for corrupt deals to pass the audit test so long as all the procurement processes were followed.

He stated that the Statement was meant to the matter to the attention of the Senate because it was within the mandate of the Senate to regulate the cost of living by making laws. He also appealed to the National Government to speedily address the situation because Kenyans are suffering.

b) Statement Pursuant to Standing Order No. 48 (1)

- i. The Senator for Isiolo County (Sen. Fatuma Dullo Adan, MP) requested for a statement from the Standing Committee on National Security, Defence and Foreign Relations on the boundary dispute between Garissa and Isiolo Counties that had led to a breach of security in Isiolo County.
- ii. The Senator for Makueni County (Sen. Mutula Kilonzo Jnr., MP) requested for a statement from the Standing Committee on Land, Environment and Natural Resources on the delayed compensation for displaced persons during the construction of Mulima dam, Mbooni Constituency, Makueni County.
- iii. The Senator for Makueni County (Sen. Mutula Kilonzo Jnr., MP) requested for a statement from the Standing Committee on Land, Environment and Natural Resources on the delayed compensation for displaced persons during the construction of Manooni dam, Makueni Constituency, Makueni County.
- iv. The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) requested for a statement from the Standing Committee on Energy on the power rationing and frequent power black outs in Wajir County.

c) Statement Pursuant to Standing Order No. 52 (1)

The Senate Deputy Majority Leader issued a statement on the business of the Senate for the week commencing Tuesday, 16th October, 2018.

8. THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL
(SENATE BILLS NO. 17 OF 2018)

(Sen. Aaron Cheruiyot, MP)

Order deferred.

9. MOTION - EXTENSION OF TIME

Motion made and Question proposed:

AWARE that the Senate passed a Motion establishing an Ad Hoc Committee to conduct an inquiry into the challenges facing the maize sector in Kenya, on Wednesday, 8th August, 2018;

FURTHER AWARE that the Committee was required to table a Report to the Senate within 60 days from the date of establishment;

CONCERNED that the duration accorded to the committee will lapse on 13th October, 2018;

REGRETTING, that due to the heavy workload, the Committee is yet to conclude its inquiry and requires more time;

NOW THEREFORE, the Senate resolves to extend the mandate and duration of the committee by a further forty five (45) days to enable the Committee to conclude its work and table a report in the Senate.

(Sen. Moses Wetang'ula on behalf of the Chairperson, Ad Hoc Committee on the Maize Situation in the Country)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 79 (1) the Temporary Speaker (Sen. (Dr.) Steve Ltumbesi) informed the House that the Motion does not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

AWARE that the Senate passed a Motion establishing an Ad Hoc Committee to conduct an inquiry into the challenges facing the maize sector in Kenya, on Wednesday, 8th August, 2018;

FURTHER AWARE that the Committee was required to table a Report to the Senate within 60 days from the date of establishment;

CONCERNED that the duration accorded to the committee will lapse on 13th October, 2018;

REGRETTING, that due to the heavy workload, the Committee is yet to conclude its inquiry and requires more time;

NOW THEREFORE, the Senate resolves to extend the mandate and duration of the committee by a further forty five (45) days to enable the Committee to conclude its work and table a report in the Senate.

10. **MOTION- ENFORCEMENT OF NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF MOTORCYCLE) REGULATIONS, 2015**

Motion made and Question proposed:-

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.

(Sen. (Arch.) Sylvia Kasanga, MP- 13.09.2018)

Order Deferred.

11. **MOTION – IMPROVEMENT OF KENYA’S POSITION IN THE WORLD ECONOMIC FORUM TRAVEL AND TOURISM COMPETITIVENESS INDEX**

Motion made and Question proposed:

THAT, AWARE that the Ministry of Tourism have developed and published the Kenya National Tourism Blueprint 2030 in May 2017;

FURTHER AWARE that Kenya Tourism Agenda 2018 – 2022, launched in April 2018, establishes the foundation for the National Tourism Blueprint 2030 and is the tool for initiating the components of the Blue Print;

ALSO AWARE that the contribution of travel and tourism to Kenyan GDP stood at 9.7 % in 2017, up from the 9.3 % previous year;

COGNIZANT that in the next 10 years every industry will be changed by technology;

ALSO AWARE that Kenya Tourism Board has partnered with Google, Safaricom, Kenya Wildlife Service and Tourism Finance Corporation to create new digital content for local tourism;

CONCERNED that Kenya tourism industry's potential is underutilized;

AWARE that Kenya's position in World Economic Forum's Travel & Tourism Competitiveness Index Ranking is 80 out of 136 in 2017, having improved by 2 points from 2015, while having currently the lowest score in cultural resources and business travel with 1.6 points out of 7;

FURTHER CONCERNED that majority of the solutions proposed by the tourism agenda are brick and mortar type and not addressing the trends; noting that in less than two years, the share of online booking globally has grown from 9% to almost 33% and the lucrative and fast-growing segment of business tourism;

ALSO CONCERNED that Kenya will continue to attract only beach and park type tourists ignoring the large number of conference and business travellers, who largely never leave Nairobi and are offered minimal exposure to Kenya;

NOW THEREFORE, the Senate calls upon the Ministry of Tourism to approach tourism sector with modern innovation and implement tangible, measurable and impactful solutions, resulting in improvement of Kenya's ranking in the World Economic Forum Travel & Tourism Competitiveness Index 2019 by 6 positions and improve the lowest score of cultural resources and business travel by 1 point.

(Sen. Ledama Olekina, MP - 09.10.2018)

Debate interrupted on Tuesday, 9th October, 2018 resumed;

Mover replied;

Before the Question was put and pursuant to Standing Order 79 (1) the Temporary Speaker (Sen. (Dr.) Steve Ltumbesi) informed the House that the Motion does not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

THAT, AWARE that the Ministry of Tourism have developed and published the Kenya National Tourism Blueprint 2030 in May 2017;

FURTHER AWARE that Kenya Tourism Agenda 2018 – 2022, launched in April 2018, establishes the foundation for the National Tourism Blueprint 2030 and is the tool for initiating the components of the Blue Print;

ALSO AWARE that the contribution of travel and tourism to Kenyan GDP stood at 9.7 % in 2017, up from the 9.3 % previous year;

COGNIZANT that in the next 10 years every industry will be changed by technology;

ALSO AWARE that Kenya Tourism Board has partnered with Google, Safaricom, Kenya Wildlife Service and Tourism Finance Corporation to create new digital content for local tourism;

CONCERNED that Kenya tourism industry's potential is underutilized;

AWARE that Kenya's position in World Economic Forum's Travel & Tourism Competitiveness Index Ranking is 80 out of 136 in 2017, having improved by 2 points from 2015, while having currently the lowest score in cultural resources and business travel with 1.6 points out of 7;

FURTHER CONCERNED that majority of the solutions proposed by the tourism agenda are brick and mortar type and not addressing the trends; noting that in less than two years, the share of online booking globally has grown from 9% to almost 33% and the lucrative and fast-growing segment of business tourism;

ALSO CONCERNED that Kenya will continue to attract only beach and park type tourists ignoring the large number of conference and business travellers, who largely never leave Nairobi and are offered minimal exposure to Kenya;

NOW THEREFORE, the Senate calls upon the Ministry of Tourism to approach tourism sector with modern innovation and implement tangible, measurable and impactful solutions, resulting in improvement of Kenya's ranking in the World Economic Forum Travel & Tourism Competitiveness Index 2019 by 6 positions and improve the lowest score of cultural resources and business travel by 1 point.

12. **MOTION – PAYMENT OF A ONE-OFF HONORARIUM AND MONTHLY PENSION TO FORMER COUNCILLORS**

THAT, AWARE that National Forum of Former Councillors petitioned the Senate regarding the need for legislative interventions to address the plight and welfare of former Councilors;

FURTHER AWARE that the Senate Standing Committee on Labour and Social Welfare considered the Petition and tabled its report on Tuesday, 16th February, 2016;

ACKNOWLEDGING that the Committee's report on the Petition made five recommendations among them that-

1. one-off honorarium of Kshs1.5 Million be paid to former councillors who served a minimum of one term since independence; and
2. monthly pension of at least Kshs30,000 be paid to former councillors.

APPRECIATING that the recommendations were based on the fact that former Councillors did not receive fixed emoluments and experienced disparities with regard to access to pension services and terms and conditions of pension schemes over the years, which made it difficult to fairly and equitably determine each councillor's rightful benefits retrospectively;

CONCERNED that the State Department for Social Services and Security, State Department for Devolution and the National Treasury have to date not implemented the Committee's recommendations on the Petition;

NOW THEREFORE, the Senate calls upon the Principal Secretaries to the said State Departments and the National Treasury to take necessary steps to implement the recommendations contained in the Report.

(Sen. John Kinyua, MP)

Order Deferred.

13. MOTION – HUMAN – WILDLIFE CONFLICT

AWARE THAT tourism is amongst key sectors of Kenya's economy contributing billions of shillings to the country as well as generating employment and livelihoods to millions of citizens;

FURTHER AWARE THAT, Kenya is endowed with different wildlife species which contribute substantially to the national economy through tourism;

NOTING THAT, cases of human-wildlife conflict are on the rise as a result of many factors key among them climate change and encroachment on parks and nature reserves leading to deaths and maiming of people by wild animals;

FURTHER NOTING THAT there's need to create a conducive environment for peaceful coexistence of humans and wildlife in the same space given the importance of wildlife not only to our economy but to ecology as well;

CONCERNED that victims and families of victims of human-wildlife conflict are not being compensated for loss of lives, being maimed or loss of their means of livelihood due to failure of the Treasury to allocate adequate funds for this purpose contrary to the Wildlife Compensation Management Act, 2013;

FURTHER CONCERNED that the regions and communities hosting the wildlife are marginalized and do not benefit from the proceeds of tourism in their area;

NOW THEREFORE the Senate calls upon the National Government to-

1. Allocate adequate funds during the current financial year and subsequent years for compensation;
2. Ensure that victims and families of victims of human-wildlife conflict are always compensated within 90 days of submitting their claims; and
3. Come up with innovative ways of ensuring host communities benefit from the revenue accruing from wildlife tourism.

(Sen. Johnes Mwaruma, MP)

Order Deferred.

14. **MOTION – USAGE OF SIGNING EXACT ENGLISH (SEE) AS A MODE OF INSTRUCTION FOR PERSONS WITH HEARING IMPAIRMENT.**

Motion made and Question proposed:

THAT, AWARE that Article 43 (f) of the Constitution stipulates that every person has a right to education;

FURTHER AWARE that Kenya is among the State Parties that ratified the United Nations Convention on the Rights of Persons with Disabilities in which the parties undertook to ensure that persons with disabilities are not excluded from the general education system and that the education of persons, and in particular children, who are blind, deaf or deaf-blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development;

ACKNOWLEDGING that hearing impaired learners have linguistic challenges and perform dismally in academics since all subjects other than Kiswahili and foreign languages are taught and examined in English;

COGNIZANT that hearing impaired learners who are educable can master the essentials of English language as they are able to sign sing the National Anthem in Signing Exact English (SEE);

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology to-

1. ensure that Signing Exact English (SEE) is used as a mode of instruction for persons with hearing impairment who are educable;
2. develop SEE instructional materials for learners with hearing impairment;
3. work with linguists and researchers to develop sign language resources; and
4. ensure that sign language linguistics is offered as a discipline in universities and teacher training colleges.

(Sen. (Dr.) Getrude Musuruve, MP)

Debate arising;

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

15. **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, October 16, 2018 at 2.30 p.m.*

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