



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, APRIL 11, 2019 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 conveyed the following communications from the Chair: -

a) The Fourth Annual Legislative Summit

"Honourable Senators,

I have the following Communication to make regarding the Fourth Annual Legislative Summit.

Honourable Senators, as you are aware, the Annual Legislative Summit is a forum that brings together Kenyan Legislatures to deliberate and share experiences in pursuit of the successful implementation of the devolved governance structure. It is a forum that presents a unique platform for positive engagement between the Senate, County Assemblies, Constitutional Commissions and Independent Offices, development partners and relevant intergovernmental institutions.

Three Legislative Summits have been successfully held annually since 2016. As in the past three Summits, this year's event is jointly organized by the Senate and the County Assemblies Forum (CAF), in line with our constitutional mandates and the constitutional requirement to conduct our relations on the basis of consultation and co-operation, as provided for in Article 6 (2) of the Constitution.

Honourable Senators,

The Legislative Summit 2019 seeks to build on the gains of the previous Summits while providing an avenue for Kenyan Legislatures to continually interrogate implementation of their roles in the devolved governance structure. The theme of this year's Summit is "*Accelerating devolution; assessing the progress and addressing the gaps in policy and legislation*".

This year's Summit is scheduled to take place from 13th to 17th April, 2019, at the Grand Royal Swiss Hotel, Kisumu County. Departure from Nairobi for Senators participating in the pre-Summit programmes for the Youth and Persons with Disabilities is Friday 12th April, 2019, while departure for all other Senators is Saturday, 13th April, 2019. Departure from Kisumu is scheduled for Thursday, 18th April, 2019. Additional information and logistical arrangements will be given through the Office of the Clerk.

Let me take this opportunity to welcome each one of you to this very important event. I urge you all to prioritize the event and make time to attend and participate in it.

I thank you".

b) Visiting Pupils and Teachers from St. Theresa's Tartar Girls High School, West Pokot County.

"Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting Pupils and Teachers from St. Theresa's Tartar Girls High School, West Pokot County.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you."

c) Visiting Pupils and Teachers from Kenya Navy Primary School, Mombasa County.

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I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting Pupils and Teachers from Kenya Navy Primary School, Mombasa County.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you."

d) Visiting Pupils and Teachers from High Vision Junior School, Isiolo County.

"Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting Pupils and Teachers from High Vision Junior School, Isiolo County.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you."

4. **STATEMENTS**

a) **Statements pursuant to Standing Order No. 47 (1)**

- i) The Nominated Senator (Sen. Mercy Chebeni, MP) issued a statement on an issue of national concern, regarding the violence and insecurity in universities and other institutions of higher learning.

In the statement, the Senator decried the rising cases of physical, sexual and emotional violence as well as suicides in higher educational institutions.

Thereupon, she called upon the Senate to raise awareness on the issue, with a view to ensuring that the security apparatus in the country, in collaboration with universities' management, worked urgently to reverse that trend.

- ii) The Senator for Nairobi City County (Sen. Johnson Sakaja, MP) issued a statement on an issue of national concern, regarding the protection of rights and welfare of Uber and other hailing cabs drivers.

In the statement, the Senator informed the House that drivers of the said cabs were forced to work long hours just to make a basic wage, which amounted to modern day slavery. He further informed Senators that most of the drivers took loans to purchase their taxi-cubs but, due to the low fares charged vis-à-vis the high commissions that went to the parent companies, a majority of them end up defaulting on their loans, which result to auctioning of their cabs.

The Senator therefore urged the Senate to urgently intervene in the matter to protect the rights and welfare of hailing cabs drivers, including through consideration and passage of a Motion that would help deal with the issue conclusively.

b) **Statement pursuant to Standing Order No. 52 (1)**

The Senate Majority Leader issued a statement on the business of the Senate for the week commencing Tuesday, 14th May, 2019.

5. **MOTION – DEBATE ON THE ADDRESS BY HIS EXCELLENCE THE PRESIDENT - (THIRD AND LAST DAY)**

Motion Made and Question Proposed:

That, pursuant to Standing Order 24 (6), the thanks of the Senate be recorded for the exposition of public policy contained in the Address of His Excellency the President, delivered on Thursday, 4th April, 2019, and further, the Senate notes the following Reports submitted by His Excellency the President in fulfillment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the House on Tuesday, 9th April, 2019-

- (i) 6th Annual Report on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance;
- (ii) 6th Annual Report on Progress Made in Fulfilling the International Obligations of the Republic of Kenya; and
- (iii) 6th Annual Report to Parliament on the State of National Security.

(The Senate Majority Leader – 9.4.2019)

Debate interrupted on Wednesday, 10th April, 2019 resumed;

And there being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put, and pursuant to Standing Order No. 79 (1), the Temporary Speaker (Sen. Judith Pareno, MP) informed the House that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

That, pursuant to Standing Order 24 (6), the thanks of the Senate be recorded for the exposition of public policy contained in the Address of His Excellency the President, delivered on Thursday, 4th April, 2019, and further, the Senate notes the following Reports submitted by His Excellency the President in fulfillment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the House on Tuesday, 9th April, 2019-

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(iii) 6th Annual Report to Parliament on the State of National Security.

6. **THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**

(Sen. Mutula Kilonzo Jnr., MP and Sen. Sakaja Johnson, MP)

(Second Reading)

Order deferred.

7. **MOTION - THE REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA**

(Sen. (Canon) Naomi Waqo Jilo, MP)

AWARE THAT, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

FURTHER AWARE THAT, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

COGNIZANT that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People's Rights of the Right of Women which are international instruments that are key to promoting women's rights;

RECALLING that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

NOTING THAT, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

CONCERNED that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

NOW THEREFORE THE SENATE RESOLVES

1. that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,

2. that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

Order deferred.

8. **MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**

(Sen. Charles Reubenson Kibiru, MP)

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President's "Big Four" Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

NOTING THAT, whereas the National Government's Budget is based on Vision 2030 and "Big Four" Agenda, the County Governments' Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP's) and Annual Development Plans (ADP's) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

Order deferred.

9. **MOTION - RENAMING OF MURANG'A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY.**

(Sen. Isaac Mwaura, MP)

THAT AWARE THAT, Murang'a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang'a County, the home County of the late politician Kenneth Njndo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD -Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba's contribution to our Nation, to rename Murang'a University of Technology to Kenneth Matiba University of Technology.

Order deferred.

10. **MOTION - CREATION OF SUPPORT SERVICES FOR THE DISCIPLINED FORCES & THEIR FAMILIES**

(Sen. George Khaniri, MP)

THAT APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Coordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

Order deferred.

11. **MOTION - ESTABLISHMENT OF NATION-WIDE CENTRES AND SATELLITE CLINICS FOR SICKLE CELL DISEASE AT COUNTY, SUB-COUNTY AND WARD LEVELS.**

(Sen. Naomi Masitsa Shiyonga, MP)

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

NOTING THAT, Parliament enacted the Health Act (2017) whose objects encompass the need to establish a national health system at the national and county levels, as well as to facilitate, in a progressive and equitable manner, the highest attainable standards of health services;

ACKNOWLEDGING THAT Sickle Cell Disease, a severe hereditary form of anaemia in which a mutated form of haemoglobin distorts the red blood cells into a crescent shape at low oxygen levels, and is prevalent amongst those of African descent, has been acknowledged by World Health Organization (WHO)

as a major public health priority which has had devastating effects on populations in many parts of Kenya;

FURTHER ACKNOWLEDGING the lack of comprehensive information and care programs for Sickle Cell Disease is occasioned by the poor public awareness, unavailability of routine health data and nationally recognised treatment guidelines;

CONCERNED by the lack of national screening programmes for Sickle Cell Disease despite the serious health problems it causes, and its contribution to childhood deaths in Kenya;

NOW, THEREFORE, the Senate urges the National and County Governments to establish nation-wide screening at existing medical centres and satellite clinics, and the provision of counselling on the management of sickle cell disease, a lifelong medical condition that has no cure, at the county, sub-county and ward levels.

Order deferred.

12. **MOTION - WAIVER OF INTEREST ON HELB LOANS FOR GRADUATES**
(Sen. (Dr.) Abdullahi Ali, MP)

THAT, AWARE THAT Higher Education Loans Board (HELB) has, for over the last two decades, become the leading financier of higher education in Kenya whose mandate is to source funds and lend them as affordable loans, bursaries and scholarship to students pursuing higher education in recognized institution;

COGNIZANT THAT, the Ministry of Education announced that the government has lost Kshs. 7.2b through people defaulting payment on loans issued by HELB translating to 74,692 graduates who have defaulted the loans payment;

NOTING THAT, measures were taken to enhance the HELB loan recovery process which included a six month waiver of accumulated interest and penalties, and working with law enforcement officers to make sure the defaulters who are employed payback the loans;

CONCERNED THAT, there are graduates from institutions of higher learning who have not been gainfully employed for many years after graduation, and are therefore burdened with loans that have accumulated interest and penalties that they have no means to repay;

FURTHER CONCERNED THAT, when beneficiaries fail to remit their monthly instalments for more than three months, HELB reports them to the Credit Reference Bureaus (CRB) preventing them from accessing loan facilities with any financial institution in Kenya, accessing employment opportunities in the government and major private and publicly listed companies and the loan guarantors are pursued and forced to service the HELB loan;

NOW THEREFORE, the Senate recommends that the Ministry of Education and HELB –

1. institutes a six (6) month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six (6) month period; and
2. embarks on a forty-five (45) day sensitization exercise preceding the waiver, no later than ninety (90) days after the passage of this motion.

Order deferred.

13. **MOTION – REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE GLOBAL SUMMIT ON OPEN GOVERNANCE PARTNERSHIP**
(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

THAT, this House notes the Report on the Global Summit on Open Governance Partnership in Tbilisi, Georgia, 17th to 19th July, 2018 laid on the Table of the House on Wednesday, 20th February, 2019.

Order deferred.

Order deferred.

14. **MOTION – ADJOURNMENT OF THE SENATE**

Motion made and Question proposed-

THAT, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 14th May, 2019.

(The Senate Majority Leader)

Debate arising:

And there being no other Senator wishing to contribute;

The Temporary Speaker (Sen. Judith Pareno, MP) adjourned the Senate at twenty-eight minutes past Six O'clock without Question put pursuant to the Standing Orders.

15. **SENATE ROSE** – at twenty-eight minutes past Six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Tuesday, May 14, 2019 at 2.30 p.m.*

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