



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, MAY 30, 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 Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair: -

a) On visiting students and teachers from Loreto Matunda Girls from Uasin Gishu County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Loreto Matunda Girls School, Uasin Gishu County.

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

I thank you.”

b) On visiting pupils and teachers from Anuarite Academy, Nyandarua County

“Honorable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from Anuarite Academy, Nyandarua County.

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

I thank you.”

c) On visiting students and teachers from Karugia Secondary School, Murang'a County

“Honorable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Karugia Secondary School, Murang'a County.

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

I thank you.”

d) On visiting pupils and teachers from St. Joseph's Boarding Primary School, Tharaka Nithi County

“Honorable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from St. Joseph's Boarding Primary School, Tharaka Nithi County.

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

I thank you.”

4. **PETITIONS**

Pursuant to Standing Order 232(2) of the Senate, the Speaker allowed Senators to make comments and observations in respect of the Report by the Standing Committee on National Security, Defence and Foreign Relations on its consideration of a Petition on insecurity caused by camel herders in Teri B Ranch, Taita Taveta County, which was Tabled in the Senate on Wednesday, 29th May, 2019.

Thereupon, Hon. Senators proceeded to make comments and observations in respect of the said Report.

5. **PAPERS LAID**

- i) Report of the Auditor-General on the Financial Statements of Kwale County Assembly Members and Staff Loan Scheme Fund for the Year ended 30 June 2018;
- ii) Report of the Auditor-General on the Financial Statements of Kwale County Trade Revolving Fund for the Year ended 30 June 2018;
- iii) Report of the Auditor-General on the Financial Statements of Taita Taveta County Datu Sawazisha Fund for the Year ended 30 June 2018; and

- iv) Report of the Auditor-General on the Financial Statements of Turkana County Biashara Fund for the Year ended 30 June 2018.

(The Senate Deputy Majority Whip, on behalf of the Senate Majority Leader)

- v) Statement on the business of the Senate for the week commencing Tuesday, 4th June, 2019.

(Sen. Mutula Kilonzo Jnr., MP, on behalf of the Senate Majority Leader)

6. **NOTICE OF MOTION** – (Sen. Judith Pareno, MP)

WHEREAS Article 43 of the Constitution of Kenya provides for economic and social rights enjoyed by every person including the right to the highest attainable standard of health and the right to health care services;

AWARE that the Fourth Schedule to the Constitution of Kenya lists health as one of the functions to be performed by county governments, with the national Government providing health policy framework;

NOTING that Parliament enacted the Health Act, No. 21 of 2017, to establish a unified health system, to coordinate the inter-relationship between the national government and county government health systems, to provide for regulation of health care service and health care service providers, health products and health technologies;

COGNIZANT that the role of both county and national levels of government to ensure a healthy nation is complimentary;

FURTHER AWARE that most health facilities under the county governments are not well equipped with modern technological facilities and requisite personnel, leading to loss of lives especially from preventable and curable diseases;

RECOGNIZING that the government, through the National Broadband Policy has developed more advanced communications and efficient ICT systems with good fibre connection network covering a majority of the counties;

FURTHER COGNIZANT that the lack of structured engagement through technology between the county and national referral hospitals is impacting on quality of health service provision in the county and referral health facilities;

NOW THEREFORE, the Senate resolves that the national government:

1. fully and urgently implements the Health Act, No.21 of 2017;
2. further collaborates with county governments to initiate and develop an ICT and teleconferencing policy framework; and,
3. facilitates connecting all county health facilities to each other and to the national referral hospitals with a view to ensure seamless and efficient medical consultation between and among medical personnel and health facilities.

7. **STATEMENTS****i) Statements pursuant to Standing Order 48 (1)**

- a) Nominated Senator (Sen. (Dr.) Isaac Mwaura, MP) sought a statement from the Standing Committee on Education regarding irregular appropriation of land belonging to the Kiambu Institute of Science and Technology (KIST);
- b) Nominated Senator (Sen. Beatrice Kwamboka, MP) sought a statement from the Standing Committee on Roads and Transportation concerning demolition of structures in Nairobi City County; and
- c) Nominated Senator (Sen. (Arch.) Sylvia M. Kasanga, MP) sought a statement from the Standing Committee on Information and Technology on the status of mobile connectivity for marginalized areas and special projects.

ii) Statement pursuant to Standing Order No. 52(1)

The Senator for Makueni county (Sen. Mutula Kilonzo Junior, MP) a member of the Senate Business Committee, issued a statement on behalf of the Senate Majority Leader on the business of the Senate for the week commencing Tuesday, 4th June, 2019.

8. **MOTION - CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 7 OF 2017)**

Motion made and Question proposed;

That, pursuant to Standing Order 159, the amendments of the National Assembly to the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017) be now considered.

(The Senate Majority Leader)

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 81(1), the Temporary Speaker (Sen. (Prof.) Margaret Kamar) informed the Senate that the Motion does not affect counties.

Question put and **negatived**.

9. **COMMITTEE OF THE WHOLE**
THE IMPEACHMENT PROCEDURE BILL (SENATE BILLS NO. 15 OF 2018)
(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Order deferred.

10. **COMMITTEE OF THE WHOLE**
THE PREVENTION OF TERRORISM (AMENDMENT) BILL (SEN. BILLS NO. 20 OF 2018)

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

Order deferred.

11. **COMMITTEE OF THE WHOLE**
THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)

(The Senate Majority Leader)

(Consideration of National Assembly amendments)

Order deferred.

12. **COMMITTEE OF THE WHOLE**
THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 27 OF 2018)

(Sen. Abshiro Halake, MP)

Order deferred.

13. **COMMITTEE OF THE WHOLE**
THE RETIREMENTS BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)

(Sen. Ledama Olekina, MP)

Order deferred.

14. **COMMITTEE OF THE WHOLE**
THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO. 17 OF 2018)

(Sen. Aaron Cheruiyot, MP)

Order deferred.

15. **MOTION – ADDRESSING THE PLIGHT OF STREET FAMILIES IN URBAN CENTRES**

Motion made and Question proposed;

AWARE THAT the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11th March, 2003 by the then Ministry of Local Government to address the concerns of all homeless, destitute and vulnerable persons in urban areas, and was registered as a body Corporate in August, 2010 under the Trustees (perpetual succession) Cap 164, Laws of Kenya;

FURTHER AWARE THAT the mandate of SFRTF includes coordinating rehabilitation activities for street families; conducting public education on street families issues; mobilizing resources and fundraising as well as receiving

donations and funding street families rehabilitation programmes; managing donations for the rehabilitation of street families through a trust fund; monitoring expenditure and disbursement of donations; and advising the government and other relevant agencies on matters relating to rehabilitation of street families;

NOTING THAT Article 43 (1) of the Constitution of Kenya provides for the right to every person to the highest attainable standard of health, accessible and adequate housing, adequate food of acceptable quality, clean and safe water in adequate quantities, education, and social security;

CONCERNED THAT the street family phenomenon has persisted despite the existence of the SFRTF and street families do not enjoy the rights enshrined in the Constitution due to lack of a national policy on the rehabilitation of street families, with women and children being the primary victims;

COGNIZANT THAT the Ministry of Devolution and ASAL Areas through the SFRTF supports children and youth through charitable and community-based organizations which are vetted and approved for funding under the rescue, rehabilitation and reintegration of street families programme;

NOTING THAT both the National and County Governments have a role to play in addressing the plight of street families across the Country;

NOW, THEREFORE, the Senate resolves that Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors-

- 1) conducts a census of street families in all urban centres in the country to determine their numbers and demographics;
- 2) develops a clear policy on street families rehabilitation and reintegration at county level; and
- 3) tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

(Sen. Beatrice Kwamboka, MP – 23.05.2019)

Debate interrupted on Thursday, 23rd May, 2019 resumed;

And there being no other Senator wishing to contribute;

Mover replied;

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

Question put and **agreed to.**

RESOLVED ACCORDINGLY

AWARE THAT the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11th March, 2003 by the then Ministry of Local Government to address the concerns of all homeless, destitute and vulnerable persons in urban areas, and was registered as a body Corporate in August, 2010 under the Trustees (perpetual succession) Cap 164, Laws of Kenya;

FURTHER AWARE THAT the mandate of SFRTF includes coordinating rehabilitation activities for street families; conducting public education on street families issues; mobilizing resources and fundraising as well as receiving donations and funding street families rehabilitation programmes; managing donations for the rehabilitation of street families through a trust fund; monitoring expenditure and disbursement of donations; and advising the government and other relevant agencies on matters relating to rehabilitation of street families;

NOTING THAT Article 43 (1) of the Constitution of Kenya provides for the right to every person to the highest attainable standard of health, accessible and adequate housing, adequate food of acceptable quality, clean and safe water in adequate quantities, education, and social security;

CONCERNED THAT the street family phenomenon has persisted despite the existence of the SFRTF and street families do not enjoy the rights enshrined in the Constitution due to lack of a national policy on the rehabilitation of street families, with women and children being the primary victims;

COGNIZANT THAT the Ministry of Devolution and ASAL Areas through the SFRTF supports children and youth through charitable and community-based organizations which are vetted and approved for funding under the rescue, rehabilitation and reintegration of street families programme;

NOTING THAT both the National and County Governments have a role to play in addressing the plight of street families across the Country;

NOW THEREFORE the Senate resolves that Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors-

- 1) conducts a census of street families in all urban centres in the country to determine their numbers and demographics;
- 2) develops a clear policy on street families rehabilitation and reintegration at county level; and
- 3) tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

16. **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.

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

Motion made in an amended form and Question proposed-

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;

FURTHER NOTING THAT, the Health Act (2017) further has the object to protect, respect, promote and fulfill the rights of all persons in Kenya to the progressive realization of their right to the highest attainable standard of health, including reproductive health care and the right to emergency medical treatment;

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 need for 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.

(Sen. Naomi Masitsa Shiyonga, MP)

Debate arising;

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

18. **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, June 4, 2019 at 2.30 p.m.*

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