



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, SEPTEMBER 12, 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. **COMMUNICATION FROM THE CHAIR**

The Temporary Speaker (Sen. Judith Pareno, MP) conveyed the following Communication from the Chair: -

Visiting pupils and teachers from St. Ulrich Secondary School, Nakuru County.

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from St. Ulrich Secondary School, Nakuru 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. **PAPERS**

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

- a) Report of the Sessional Committee on Delegated Legislation on the visits to Machakos and Kajiado counties;

(Vice Chairperson, Sessional Committee on Delegated Legislation)

- b) End of term report for the Controller of Budget for the period 2011-2019;
- c) Report of the Auditor-General on the Financial Statements of Kisumu County Car and Mortgage Scheme Fund for the Year ended 30th June 2018;

- d) Report of the Auditor-General on the Isiolo County Assembly Car Loan Fund for the Year ended 30th June 2017;
- e) Report of the Auditor-General on the Isiolo County Assembly Car Loan Fund for the Year ended 30th June 2016;
- f) Report of the Auditor-General on the Financial Statements of Trans Nzoia County Youth and Women Development Fund for the Year ended 30th June 2018;
- g) Report of the Auditor-General on the Financial Statements of Ol-Kalou Water and Sanitation Company Limited for the Year ended 30th June 2018;
- h) Report of the Auditor-General on the Financial Statements of Trans Nzoia County Nawiri Fund for the Year ended 30th June 2018;
- i) Report of the Auditor-General on the Financial Statements of Nyandarua Water and Sanitation Company Limited for the Year ended 30th June 2018;
- j) Report of the Auditor-General on the Financial Statements of County Assembly of Tana River Car Loan and Mortgage Loan Fund for the Year ended 30th June 2017;
- k) Report of the Auditor-General on the Financial Statements of County Assembly of Tana River Car Loan and Mortgage Loan Fund for the Year ended 30th June 2016;
- l) Report of the Auditor-General on the Financial Statements of County Assembly of Tana River Gratuity Fund for the Year ended 30th June 2018;
- m) Report of the Auditor-General on the Financial Statements of County Assembly of Tana River Gratuity Fund for the Year ended 30th June 2017; and
- n) Report of the Auditor-General on the Financial Statements of County Assembly of Tana River Gratuity Fund for the Year ended 30th June 2016.
- o) Statement on the business of the Senate for the week commencing Tuesday, 30th July, 2019.

(The Senate Majority Leader)

5. **STATEMENTS**

a) Statements pursuant to Standing Order 47(1)

- i) Nominated Senator (Sen. (Dr.) Gertrude Musuruve, MP) made a statement on deaf awareness month that is marked in the month of September every year.

In her statement, the Senator informed the House that the United Nations had declared 23rd to 29th of September every year as deaf awareness week.

Further, she noted that the purpose of the awareness month was to increase public awareness on hearing impairment to the wider society.

The Senator thanked the Standing Committee on Education and the Standing Committee on Labour and Social Welfare that had made efforts to address the plight of the deaf in Kenya and had embraced sign language. She informed the House that through the Standing Committee on Education, instructions materials for the deaf, which had been approved by the Kenya Institute for Curriculum Development (KICD), would be donated to special schools in Kitui County during the upcoming sittings of the Senate in Kitui County.

Finally, she acknowledged the importance of education in achieving parity between persons living with disability and the wider society and urged the Ministry of Education, KICD and relevant stake holders to deliberately endeavor to avail quality education to this marginalized group.

- ii) Nominated Senator (Sen. (Dr.) Alice Milgo, MP) made a statement on the xenophobic attacks on foreign nationals living and doing business in South Africa.

The Senator expressed concern that many foreign nationals living in South Africa had borne the brunt of renewed xenophobic attacks in recent years. She noted that many of them had been maimed and others had lost their lives and properties in the xenophobic attacks witnessed in the past few days.

The Senator urged the Standing Committee on National Security, Defence and Foreign relations to take up the matter with the ministry and assure the Senate that all was being done to ensure the safety of Kenyans in South Africa.

b) Statement pursuant to Standing Order 48(1)

- (i) The Senator for Kitui County (Sen. Enock Wambua, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations on the banditry attacks in Kitui County;
- (ii) The Nominated Senator (Sen. (Dr.) Isaac Mwaura, MP) sought a statement from the Standing Committee on Health on the stalled construction of Thogoto Level 4 Hospital in Kiambu County;
- (iii) Nominated Senator (Sen. Naomi Shiyonga, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources on the destruction caused by hippos in Kakamega County.

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

The Senate Majority Leader issued a statement regarding the business of the Senate for the week commencing Tuesday, 17th September, 2019.

6. MOTION – PLANTING OF TREES ALONG MAJOR INFRASTRUCTURE PROJECTS IN KENYA

Order read;

Motion made and Question proposed-

THAT, AWARE of the numerous benefits that trees play in environmental conservation, combating climate change, air and water purification, carbon sequestration, flood control, prevention of soil erosion, human and wildlife sustenance, urban planning, as well as other social and economic benefits;

NOTING THAT Kenya has and continues to implement various infrastructure projects across the country, among them railways, roads and highways, airports, sea and inland ports, pipelines, dams, among others;

CONCERNED by the extent of environmental degradation that takes place when undertaking such infrastructure projects, entailing clearance of trees, foliage, soils, rocks, excavation of quarries, interference with forests, wetlands, rivers, drainage systems and other embankments, as well as human and wildlife displacement along the paths of the infrastructure projects;

ACKNOWLEDGING THAT the Environmental Management and Coordination Act (No. 8 of 1999) and the Guidelines issued thereon require an environmental audit to be undertaken before any infrastructure projects are undertaken, with a view to identifying potential environmental impacts of the proposed projects, assessing the significance of those impacts, and proposing mitigation measures to address the negative impacts of the said projects on the environment;

CONCERNED HOWEVER THAT the implementation of these provisions has failed to comprehensively address the continued large-scale environmental degradation that takes place during construction of these infrastructure projects, and that the mitigation measures undertaken thereon have failed to compensate for the damage done to the environment as well as the negative effects to human and wildlife populations along the infrastructure project paths;

AWARE THAT the National Government has launched an ambitious plan to plant 1.8 billion trees by the year 2022, with a view to enhancing the country's tree cover from 6.2% to the globally accepted minimum of 10%, and that this entails, among others, planting at least 1 million trees annually in each of the forty-seven Counties;

UNDERSCORING the need to balance between development and sustainable environmental management, for the benefit of present and future generations, as enshrined in the preamble to the Constitution of Kenya;

NOTING that planting of tree buffers alongside and around major infrastructure projects in the country would help offset the carbon footprint of these projects, enhance the beauty and aesthetics of the projects, create safe spaces for human recreation and for wildlife to thrive, and help in meeting the target of 10% national tree cover by the year 2022;

NOW THEREFORE, the Senate resolves that the National Government, together with the County Governments, formulate a policy mandating the planting of trees alongside and around all major infrastructure projects across the country, setting out the roles of various actors at both the national and county levels, and outlining incentives and penalties to ensure that the policy is complied with, in ensuring a balance is attained between development and environmental conservation.

(Sen. Charles Kibiru, MP)

Debate interrupted on Wednesday, 11th September, 2019 resumed;

And there being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put and pursuant to Standing Order 79 (1) the Temporary Speaker (Sen. Judith Pareno, MP) ruled that the Motion does not affect Counties.

Question put, agreed to

RESOLVED ACCORDINGLY

THAT, AWARE of the numerous benefits that trees play in environmental conservation, combating climate change, air and water purification, carbon sequestration, flood control, prevention of soil erosion, human and wildlife sustenance, urban planning, as well as other social and economic benefits;

NOTING THAT Kenya has and continues to implement various infrastructure projects across the country, among them railways, roads and highways, airports, sea and inland ports, pipelines, dams, among others;

CONCERNED by the extent of environmental degradation that takes place when undertaking such infrastructure projects, entailing clearance of trees, foliage, soils, rocks, excavation of quarries, interference with forests, wetlands, rivers, drainage systems and other embankments, as well as human and wildlife displacement along the paths of the infrastructure projects;

ACKNOWLEDGING THAT the Environmental Management and Coordination Act (No. 8 of 1999) and the Guidelines issued thereon require an environmental audit to be undertaken before any infrastructure projects are undertaken, with a view to identifying potential environmental impacts of the proposed projects, assessing the significance of those impacts, and proposing mitigation measures to address the negative impacts of the said projects on the environment;

CONCERNED HOWEVER THAT the implementation of these provisions has failed to comprehensively address the continued large-scale environmental degradation that takes place during construction of these infrastructure projects, and that the mitigation measures undertaken thereon have failed to compensate for the damage done to the environment as well as the negative effects to human and wildlife populations along the infrastructure project paths;

AWARE THAT the National Government has launched an ambitious plan to plant 1.8 billion trees by the year 2022, with a view to enhancing the country's tree cover from 6.2% to the globally accepted minimum of 10%, and that this entails, among others, planting at least 1 million trees annually in each of the forty-seven Counties;

UNDERSCORING the need to balance between development and sustainable environmental management, for the benefit of present and future generations, as enshrined in the preamble to the Constitution of Kenya;

NOTING that planting of tree buffers alongside and around major infrastructure projects in the country would help offset the carbon footprint of these projects, enhance the beauty and aesthetics of the projects, create safe spaces for human recreation and for wildlife to thrive, and help in meeting the target of 10% national tree cover by the year 2022;

NOW THEREFORE, the Senate resolves that the National Government, together with the County Governments, formulate a policy mandating the planting of trees alongside and around all major infrastructure projects across the country, setting out the roles of various actors at both the national and county levels, and outlining incentives and penalties to ensure that the policy is complied with, in ensuring a balance is attained between development and environmental conservation.

7. **MOTION - LEGAL AND POLICY INTERVENTIONS FOR CAREGIVERS OF PERSONS WITH PERMANENT MOTOR AND NEUROLOGICAL DISORDERS**
(Sen. Millicent Omanga, MP)

Order read;

THAT, AWARE that Cerebral palsy, Down syndrome, Autism and other permanent motor and neurological disorders are birth defects characterised by, among others, disturbances of sensation, perception, cognition, hearing loss, congenital heart defects, lower than average IQ, impairment in social interaction, and rigid, repetitive behaviors;

COGNIZANT that persons born with these and other permanent motor and neurological disorders face considerable difficulties in the social and behavioral aspects of their lives, including discrimination, physical challenges, mental and emotional health issues, and problems with inclusion and social isolation;

ACKNOWLEDGING the critical role that parents and caregivers of persons with permanent motor and neurological disorders play in ensuring that they realize

their potential to the fullest extent possible and that they have long, healthy, and satisfying lives;

RECOGNIZING that, in taking care of these persons, caregivers make considerable sacrifices in the pursuit of education, employment, investment, and other opportunities for their own advancement and, in some cases, spend the most productive years of their lives taking care of persons with these disorders;

NOTING that most caregivers lack the training, tools and psychosocial support required in taking care of persons with these permanent disorders, are often subjected to the same stigma as the persons they take care of, and are exposed to stresses and pressure that have an adverse impact on their mental and physical wellbeing;

CONCERNED that, while a lot of progress has been made in taking care of other vulnerable and disadvantaged members of the society, equivalent efforts have not been made to recognize the important role that caregivers play, to create, through policy and legislation, a conducive environment for the provision of adequate, safe and informed care to persons with these disorders;

NOW THEREFORE, the Senate resolves that the Ministry of Labour, Social Security and Services, together with the County Governments, formulate a policy framework for the recognition, training, empowerment and protection for caregivers of persons with permanent motor and neurological disorders, including: -

- a) provision of financial assistance and incentives to caregivers, including inclusion in the list of beneficiaries under the *Inua Jamii* Cash Transfer Programmes;
- b) provision of appropriate tax reliefs and exemptions to caregivers, equivalent to those advanced to other Persons with Disabilities (PWDs);
- c) exemption from taxes on goods and services required for the care and protection of persons with the disorders; and
- d) provision of the specialized training, psychosocial and other support necessary to engage in income-generating activities for caregivers of persons with permanent motor and neurological disorders, including accessing the quota set aside in law for vulnerable groups for the supply of goods and services to government entities.

Order deferred.

8. **MOTION – REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE SESSIONS OF AFRICAN CARIBBEAN PARLIAMENTARY (ACP) ASSEMBLY AND THE SESSIONS OF THE ACP – EU JOINT PARLIAMENTARY ASSEMBLY**

(Sen. (Prof.) Margaret Kamar, MP)

Order read;

THAT, this House notes the Report of the Parliament of Kenya Delegation to the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium, from 13th to 20th June, 2018, laid on the Table of the House on Wednesday, 20th February, 2019; and the Reports of the Parliament of Kenya Delegation to the 51st Session of the ACP Parliamentary Assembly and the Inter-Sessional Meetings of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium, from 9th to 11th October, 2018 and the 52nd Session of the ACP Parliamentary Assembly and the 36th Session of the ACP-EU Joint Parliamentary Assembly held in Cotonou, Benin, from 25th November to 5th December, 2018, both laid on the Table of the House on Thursday, 8th August, 2019.

Order deferred.

9. **MOTION – REPORTS OF THE PARLIAMENT OF KENYA DELEGATION TO THE GLOBAL SUMMIT ON OPEN GOVERNANCE PARTNERSHIP**

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Order read;

THAT, this House notes the Reports of the Parliament of Kenya Delegation on the Global Open Governance Partnership Summits held in Tbilisi, Georgia, from 17th to 19th July, 2018, laid on the Table of the House on Wednesday, 20th February, 2019, and in Ottawa, Canada, from 29th to 30th May, 2019, laid on the Table of the House on Thursday, 11th July, 2019.

Order deferred.

10. **MOTION - REPORTS OF THE SIXTH ORDINARY SESSION OF THE FOURTH PAN-AFRICAN PARLIAMENT AND THE FIRST AND SECOND ORDINARY SESSIONS OF THE FIFTH PARLIAMENT OF THE PAN-AFRICAN PARLIAMENT**

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

THAT, this House notes the Reports of the Sixth Ordinary Session of the Fourth Pan- African Parliament held in Midrand, South Africa, from 7th to 18th May, 2018, laid on the Table of the House on Tuesday, 24th July, 2018; the First Ordinary Session of the Fifth Parliament of the Pan African Parliament held in Kigali, Rwanda, from 18th October to 3rd November, 2018, laid on the Table of the House on Tuesday, 12th March, 2019; and, the Second Ordinary Session of the Fifth Parliament of the Pan-African Parliament, held in Midrand, South Africa from 6th to 18th May, 2019 laid on the Table of the Senate on Tuesday, 10th September, 2019.

Order deferred.

11. **MOTION - REPORT ON THE THIRD STATUTORY MEETING OF THE COMMITTEE ON ECONOMIC DEVELOPMENT, REGIONAL INTEGRATION AND NATURAL RESOURCES OF THE FORUM OF PARLIAMENTS OF THE INTERNATIONAL CONFERENCE OF THE GREAT LAKES REGION (FP-CGLR)**

(Sen. Samuel Poghio, MP)

THAT, this House notes the Report on the 3rd Statutory Meeting of the Committee on Economic Development, Regional Integration and Natural Resources of the Forum of Parliaments of the International Conference of the Great Lakes Region (FP-ICGLR) held in Bujumbura, Burundi, from 13th to 14th March, 2019, laid on the Table of the House on Tuesday, 21st May, 2019.

Order deferred.

12. **MOTION- REPORTS OF THE PARLIAMENT OF KENYA DELEGATION TO THE ASSEMBLIES OF THE INTER-PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS.**

(Sen. Susan Kihika, MP)

THAT, the Senate notes the reports of the Parliament of Kenya Delegation to the 139th Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 14th to 18th October, 2018, laid on the Table of the Senate on Thursday, 6th December, 2018, and the 140th Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Doha, State of Qatar from 6th to 10th April, 2019, laid on the Table of the Senate on Tuesday, 23rd July, 2019.

Order deferred.

13. **MOTION – REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE UNITED NATIONS CONFERENCE ON CLIMATE CHANGE (COP 24)**

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

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the United Nations Conference on Climate Change (COP 24) held in Katowice, Poland, from 3rd to 14th December, 2018, laid on the Table of the Senate on Thursday, 25th July, 2019.

Order deferred.

There being no other business in the order paper, the Temporary Speaker (Sen. Judith Pareno, MP) adjourned the Senate at forty-five minutes past Five O'clock without question put pursuant to the Standing Orders.

14. **SENATE ROSE** – at Forty-five Minutes past Five O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, September 17, 2019 at 2.30 p.m.*

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