



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, NOVEMBER 14, 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: -

(i) **Visiting Delegation from the Nyandarua County Youth Empowerment Forum**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of a delegation from the Nyandarua County Youth Empowerment Forum.

The delegation is in the Senate on a familiarization visit on the operation of Parliament, its Committees and specifically, the Legislative process

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

I thank you”.

(ii) **Visiting dignitary from the Alliance of Biodiversity International and the International Centre for Tropical Agriculture**

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of Mr. Gianpiero Menza an International Development Professional. He is currently working as a UN JPO with the Alliance of Biodiversity International and the International Centre for Tropical Agriculture (CIAT).

The Alliance of Biodiversity International and the International Centre for Tropical Agriculture (CIAT) operates in more than 50 countries and has had its Africa Regional Hub based in Nairobi for 30 years. The Hub is contributing to the efforts of reaching the continent's potential through innovative science to ensure agriculture is competitive, efficient and sustainable. The Alliance is strengthening the role of the Hub in Nairobi and aims to work more strategically with the Kenyan Government.

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

I thank you”.

4. **PAPER**

The following Paper was laid on the Table of the Senate;

The Statement on the business of the Senate for the week commencing Tuesday, 19th November, 2019.

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

5. **STATEMENTS**

(i) **Statement pursuant to Standing Order 47(1)**

The Senator for Nairobi City County (Sen. Johnson Sakaja, CBS, MP) made a statement on prohibitive licensing and operational costs levied on photographers and drone operators by the Kenya Civil Aviation Authority (KCAA) and County Governments.

In the statement, the Senator informed the House that on 7th November, 2019 the KCAA announced the prohibition of the use of drones by photographers and videographers. This was followed by levying of an exorbitant fee of Kshs. 1,000,000/= for a license for operation of drones. In addition to this, county governments have been charging photographers exorbitant rates to operate within their counties. This was observed in Nairobi City County where photographers are forced to pay about Kshs.11,000 to shoot on the streets of Nairobi per day.

The Senator further informed the Senate that with the high levels of unemployment, many of the youths who are talented and innovative in the arts had taken to pursue careers in the creative economy. The Senator stated that in many countries the creative economy had proven to be a frontier for job creation among the youths which seemed not to be the case in Kenya, the impression created being the Kenyan Government had taken a deliberate action to stifle and slow down the sector with heavy taxes.

The Senator noted that due to the exorbitant fees charged to filmmakers and photographers, international film makers had opted to look for other

destinations to shoot films, including those about Kenya, thereby causing a major setback in the Kenyan economy as well as to the creative youths.

The Senator urged the KCAA to withdraw the regulations banning the unlicensed flying of drones and engage stakeholders on matters of safety and regulations so as to come up with simple and clear regulations.

(ii) **Statements pursuant to Standing Order 48(1)**

- a) The Senator for Machakos County (Sen. Boniface Kabaka, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources regarding land grabbing cases in Nairobi City County.
- b) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) sought a statement from the Standing Committee on Finance and Budget on the status of funds donated to counties by the Danish International Development Agency (DANIDA).
- a) The Senator for Samburu County (Sen. (Dr.) Lelegwe Ltumbesi, MP) sought a statement from the Standing Committee on Roads and Transportation on the implementation of the LAPSSSET project.

(iii) **Statements pursuant to Standing Order 51(1)(b)**

- a) Nominated Senator (Sen. (CPA) Farhiya Ali, MP), issued a statement relating to the activities of the Standing Committee on Finance and Budget for the last three (3) months on behalf of the Chairperson.
- b) The Vice Chairperson, Standing Committee on Information and Technology issued a statement relating to relating to the activities of the Committee for the last three (3) months.
- c) The Chairperson, Standing Committee on Labour and Social Welfare issued a statement relating to relating to the activities of the Committee for the last three (3) months.

(iv) **Statements pursuant to Standing Order 52**

The Senate Majority Whip issued a statement on the business of the Senate for the week commencing Tuesday, 19th November, 2019 on behalf of the Senate Majority Leader.

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

Order read;

Motion made and Question proposed;

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.

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

Debate arising;

And there being no other Senator wishing to contribute;

And in the absence of the Mover to reply;

Before the Question was put and pursuant to Standing Order 79(1), the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) ruled that the Question did not affect counties;

Question put and agreed to.

RESOLVED ACCORDINGLY

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.

7. **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-ICGLR)**
(Sen. Samuel Poghisi, 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.

8. **MOTION - REPORTS OF THE SIXTH ORDINARY SESSION OF THE FOURTH PAN-AFRICAN PARLIAMENT AND THE FIRST ORDINARY SESSION 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; and, 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.

Order deferred.

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

Order read;

Motion made and Question proposed;

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.

(Sen. Susan Kihika, MP)

Debate arising;

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. (Dr.) Lelegwe Ltumbesi, MP) ruled that the Question did not affect counties;

Question put and agreed to.

RESOLVED ACCORDINGLY

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.

10. **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.

11. **MOTION - REPORT ON THE 8TH WORLD WATER CONFERENCE**

(Chairperson, Standing Committee on Land, Environment and Natural Resources)

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 8th World Water Conference held in Brasilia, Brazil from 18th to 23rd March, 2018.

Order deferred.

12. **MOTION - REPORT ON THE 14TH ANNUAL GENERAL MEETING (AGM) OF THE INTERGOVERNMENTAL FORUM ON MINING, MINERALS, METALS AND SUSTAINABLE DEVELOPMENT ON MODERN MINING LAW AND POLICY**

(Chairperson, Standing Committee on Land, Environment and Natural Resources)

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 14th Annual General Meeting (AGM) of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development on Modern Mining Law and Policy held in Geneva, Switzerland from 16th to 18th October, 2018.

Order deferred.

13. **MOTION - REPORT ON THE 18TH MEETING OF THE CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES) CONFERENCE OF PARTIES (COP 18)**

(Chairperson, Standing Committee on Land, Environment and Natural Resources)

THAT, the Senate notes the Report of the Standing Committee on Land, Environment and Natural Resources on the 18th Meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Conference of Parties (CoP 18) held in Geneva, Switzerland from 17th to 28th August, 2019.

Order deferred.

14. **MOTION - REPORT ON THE 64TH COMMONWEALTH PARLIAMENTARY CONFERENCE**

(Sen. Mohamed Faki, MP)

THAT, the Senate notes the Report of the Parliament of Kenya Delegation to the 64th Commonwealth Parliamentary Conference (CPC) held in Kampala, Uganda from 22nd to 29th September, 2019.

Order deferred.

15. **MOTION - REPORT ON THE 12TH SESSION OF THE CONFERENCE OF PARTIES TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**

(Chairperson, Standing Committee on Labour and Social Welfare)

THAT, the Senate notes the Report of the Standing Committee on Labour and Social Welfare on the 12th Session of the Conference of Parties to the Convention on

the Rights of Persons with Disabilities held at the United Nations Headquarters in New York, USA from 11th to 13th June, 2019.

Order deferred.

16. **MOTION - EXERCISE BY THE DEPUTY COUNTY GOVERNORS OF THE POWERS AND FUNCTIONS VESTED IN THE OFFICE OF THE COUNTY GOVERNOR IN THE ABSENCE OF THE SUBSTANTIVE HOLDER OF THE OFFICE**

Order read;

Motion made and Question proposed;

THAT, COGNIZANT THAT, Article 179(4) of the Constitution designates the County Governor and the Deputy County Governor as the chief executive and deputy chief executive of the County, respectively;

FURTHER COGNIZANT THAT, pursuant to Article 180(6) of the Constitution, a County Governor and Deputy County Governor are elected on a joint ticket, with Article 179(5) providing that, whenever the County Governor is absent, the Deputy County Governor shall act as the County Governor;

AWARE THAT, in several Counties, Deputy County Governors have had to serve as County Governors due to the absence of the substantive County Governors, arising from ill health, incapacity or orders emanating from the Courts barring the substantive Governor from accessing office;

ACKNOWLEDGING THAT, section 32(4) of the County Governments Act places limitations on the exercise, by the Deputy County Governor while acting as Governor, of the powers to nominate, appoint or dismiss that are assigned to the Governor under the Constitution or other written law;

NOTING THAT, other than the said limitations under section 32(4) of the County Governments Act, no other restraints are placed in law on the exercise, by the Deputy County Governor, of the powers and functions of the Governor whenever the Governor is absent;

AWARE THAT, in exercising the powers and functions of County Governor pursuant to Article 179(5) of the Constitution, Deputy County Governors face a myriad of legal, operational and administrative challenges, which hinder the effective functioning of county governments and the efficient delivery of services to the public;

NOW THEREFORE, the Senate directs that the National Treasury, the Controller of Budget, the Auditor General, and the respective County Assemblies and County Executive Committee Members, to work directly with the Deputy County Governor, while exercising the functions of County Governor, in order to facilitate the effective functioning of county governments and the efficient delivery of services to the public.

(Sen. Ledama Olekina, MP – 12.11.2019)

Debate interrupted on Tuesday, 12th November, 2019 resumed;

And there being no Senator wishing to contribute;

And in the absence of the Mover to reply;

The Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) deferred the putting of the Question to Thursday, 21st November, 2019, in accordance with the directive of the Chair issued on Tuesday, 12th November, 2019.

And there being no other business in the Order Paper, the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) adjourned the Senate at twenty minutes past Six O'clock without question put, pursuant to the Standing Orders.

17. **SENATE ROSE** - at twenty minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, November 19, 2019 at 2:30 p.m.*