



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, SEPTEMBER 16, 2020 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. **PAPERS LAID**

The following papers were laid on the Table of the Senate-

- i. Report of the Standing Committee on Finance and Budget on the Equalization Fund Bill (National Assembly Bills No. 43 of 2019).
- ii. Report of the Standing Committee on Finance and Budget on the Prompt Payment Bill (Senate Bills No. 5 of 2020)
(Sen. Mutula Kilonzo Jr on behalf of the Chairperson, Standing Committee on Finance and Budget)
- iii. The 2019 Kenya Population and Housing Census Basic Reports (Volumes II, III and IV)

(The Deputy Senate Majority Leader)

5. STATEMENTS

(a) Pursuant to Standing Order 47 (1)

- i. The Senator for Vihiga County (Sen. George Khaniri, MP) made a statement on alleged border dispute between Kisumu and Vihiga Counties.

In the statement the Senator informed the House that the boundary dispute between Kisumu and Vihiga Counties at Maseno was a historical and emotive issue that spanned many years and that he had on several

occasions raised the matter in Parliament. The Senate had since issued an advisory stating that since Article 188 of the Constitution required legislative provision, and the matter would be addressed after the enactment of the County Boundaries Bill 2017, which would provide for a procedure for the establishment of an independent commission to come up with a mechanism for alteration of county boundaries and a framework for resolution of boundary disputes between counties.

In the interim, the Senator urged the County Government Executive of Vihiga, under the leadership of the Governor, to defend the boundary integrity of Vihiga County.

- ii. The Senator for Bungoma County (Sen. Moses Wetang'ula, MP) made a statement on impending shutdown of health services due to lack of resources to counties.

Thereupon, the Senator informed the House that the Chairperson of the Council of Governors had issued a statement directing County health facilities not to permit any new inpatient admissions and only provide minimum outpatient services, and that all non-essential services be suspended and county employees proceed on leave for two weeks.

The Senator noted that a meeting with the President was held at State House, where the Chairperson of the Council of Governors was present, the former Prime Minister and the Senate leadership, to resolve the impasse on revenue allocation. He further stated that the Committee established to consider the matter of the third basis for allocating among the counties the share of national revenue was working tirelessly to implement the resolutions from the meeting held at State House in order to resolve the impasse. He concluded by urging counties not to shut down services to the public.

Thereafter, the Deputy Speaker allowed Senators to make comments on the issue.

- iii. The Senator for Mombasa County (Sen. Mohamed Faki, MP) made a statement regarding synchronization and coordination of the functions of the Kenya Ports Authority, the Kenya Railways Corporation and the Kenya Pipeline Corporation.

The Senator informed the Senate that the Framework Agreement issued by the President under Executive Order No. 5 of 2020 was intended to secure the coordinated and synchronized implementation of the respective mandates of the ICDC, KPA, KRC and KPC; and add synergy to their structures, resources, operations and services towards establishing a seamless and coordinated national transport logistics network styled as the Kenya Transport and Logistics Network.

Sen. Faki pointed out that the Executive Order was likely to transfer the functions of the KPA and KRC to the National Treasury, contrary to the provisions of the KPA Act and the Kenya Railways Corporation Act currently under the State Department of Transport without amending the parent Act, rendering all the three parent Acts impotent without any recourse to Parliament, which has the constitutional legislative mandate.

He concluded by urging the Senate, through the Standing Committee on Roads and Transportation, to investigate the matter with a view to restoring the management of the three Corporations to their rightful managerial oversight structures.

- iv. Nominated Senator (Sen. Abshiro Halake, MP) made a statement on the International Day of Democracy.

In the Statement, the Senator informed the House that the United Nations General Assembly had in 2007 resolved to observe 15th September as the International Day of Democracy, with the purpose of promoting and upholding the principles of democracy as well as to raise public awareness about democracy. She stated that the essential elements of democracy included values of freedom, respect for human rights and the principle of holding periodic and genuine elections by universal suffrage.

Sen. Halake stated that different challenges continue to threaten the democratic space as well as the spirit and values of multiparty democracy, including high corruption levels, which continue to undermine key democratic institutions, and failure to uphold the doctrine of separation of powers among the different arms of government almost rendering some arms dysfunctional.

She noted that there was a need to build on the key benefits gained and have the challenges effectively addressed.

(b) Pursuant to Standing Order 51(1)(a)

- i. Sen. Mohamed Faki, on behalf of the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights made a statement regarding a matter for which the Committee is responsible.

Thereupon, the Senator informed the House that following the committal of Rules and Orders referred to as the “COVID-19 Regulations” to the Committee, the Committee had commenced the scrutiny process, inviting public participation from the relevant stakeholders who submitted written responses to specific queries and concerns that emerged during the scrutiny. The Committee further examined the Regulations against the Constitution and other applicable laws and the Standing Orders. The Committee concluded the exercise and resolved that the COVID-19 Regulations be acceded to, a resolution that was communicated to the Cabinet Secretary for Health for necessary action.

The Senator also informed the House that, in considering the Regulations, the Committee made several observations and recommendations, including the delays in submission of statutory instruments to Parliament, and lack of or insufficient public participation in the making of statutory instruments. The Committee subsequently raised this matter with the Attorney General, who undertook to set up a tracking mechanism at the State Law Office to monitor and ensure that the Statutory Instruments were submitted to Parliament promptly and in accordance with the law.

In conclusion, the Senator thanked the organizations and members of the public who sent their submissions to the Committee during consideration of the COVID-19 Regulations.

- ii. The Chairperson of the Standing Committee on Labour and Social Welfare made a Statement on the passing on of renowned Artist, the late Mr. Charles Bukeko, popularly known as “*Papa Shirandula*”.

In eulogizing “Papa”, the Chairperson also took the opportunity to convey heartfelt condolences to the family and friends of two renowned *Ohangla* musicians: Bernard Onyango, better known by the stage name *Abenny Jachiga* and Maureen Achieng, popularly known as *Lady Maureen*, who passed on 11th June, 2020 and 11th July, 2020, respectively. He lauded the artistes for having contributed in promoting art, culture and our national heritage.

The Chairperson informed the House that, *Papa Shirandula*, born to a humble family in a small village in Busia County, was a prolific and talented actor and concept creator. He was a father, a husband and, lately, a good will ambassador to several Asian nations, whose sudden transitioning had left many, including family, friends, colleagues in the entertainment industry in particular, the nation and the global community as a whole, in awe and at a loss.

c) Pursuant to Standing Order 51(1)(b)

The Chairperson, Standing Committee on Education issued a Statement regarding the activities of the Committee for the period 13th February – 30th June, 2020.

Pursuant to Standing Order 31(2) the Temporary Speaker (Sen. Isaac Mwaura, MP) interrupted the proceedings at twenty-nine minutes past six O’clock and adjourned the Senate without Question put, pursuant to Standing Order.

6. **SENATE ROSE** - at twenty-nine minutes past six O’clock.

MEMORANDUM

The Speaker will take the Chair on

(No. 048)

WEDNESDAY, SEPTEMBER 16, 2020

(685)

Thursday, September 17, 2020 at 2:30 p.m.

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