



TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, DECEMBER 01, 2020 AT 2:30 PM

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. (Dr.) Isaac Mwaura, MP) issued the following Communication.

“Honorable Senators,

As you are aware, at the rise of the Senate today, Tuesday, 1st December, 2020, the Senate will proceed on recess until Tuesday, 9th February, 2021 as per the Senate Calendar.

Honorable Senators,

What a year we have had! 2020 will remain one of those times in the history of Parliament where we have had to stretch ourselves beyond the traditional practice and procedure, to work in a highly unpredictable environment. We have faced insurmountable challenges but we braved all of them as ONE unit, a family of distinguished Senators.

Honorable Senators,

2020 began with a lot of promise. We held a Leadership Retreat in March, that set the pace and priorities for our legislative agenda and focus that was based on strengthening of devolution, upholding the principles and ethos of constitutionalism, streamlining our structures and processes for more effective and efficient execution of our constitutional mandate as Senate and greater citizen and stakeholder engagement.

However, the onset of the COVID-19 pandemic in the same month, disrupted, to a great extent all of our endeavors. We, like other Parliaments across the globe, had to quickly put in place measures to prevent the spread of COVID-19 for both Members and our secretariat. This entailed enforcing measures to work remotely including Committee meetings through virtual platforms, re-configuring the

Chamber to sit a maximum of 28 Senators ONLY, updating our technological infrastructure, installing protective apparatus at strategic locations and maintaining social distance, amongst others. You will note that the Senate, in consultation with our partners in devolution, had to cancel three important events in our legislative calendar - namely, the Devolution Conference, the Legislative Summit and the Sittings of the Senate Outside Nairobi – in an effort to contain the spread of the pandemic.

Honorable Senators,

You may recall that we established the Ad Hoc Committee on the COVID-19 situation in Kenya. This Ad Hoc Committee went beyond the call of duty in executing its mandate to oversight actions and measures taken by the national and county governments in addressing the spread and effects of COVID-19 in Kenya.

Further, the Senate also reviewed its Standing Orders to provide for virtual plenary and committee sittings. While I appreciate that most committee meetings are to a large extent being held virtually, implementing the provisions of Part XXIXA (29A) of our Standing Orders, measures to implement virtual plenary sittings are currently underway and soon we will be able to hold virtual plenary.

Honorable Senators,

One of the highlights for the Senate, this session, was passing of the Third Basis for Revenue Allocation Among the County Governments and thereafter the passing of the County Allocation of Revenue Bill and adoption of the Cash Disbursement schedule for County Governments.

I must say that navigating the Senate through this process was certainly not easy, and at times temperatures flared up and casting doubt whether we would surmount this important milestone. However, through perseverance, patience and understanding, Senators were able to come to a compromise on the way forward and have the Formula, County Allocation of Revenue and the Cash Disbursement Schedule passed. Allow me to thank each and every one of you for the commitment to devolution exhibited through this process.

Honorable Senators,

You will recall that on 29th October, 2020, the High Court made its Judgment on Constitutional Petition No. 284 of 2019, challenging the constitutionality of Bills passed by the National Assembly, and enacted into law, without the participation of the Senate and without complying with Article 110 (3) of the Constitution.

The land mark ruling by the High Court has revolutionized the law making process of Parliament by not only reaffirming constitutionalism and the rule of law in Kenya, but also the role of the Senate in devolution. In particular, adherence to the letter and the spirit of Article 110(3) of the Constitution of Kenya on a joint resolution by the Speakers of both Houses of Parliament on all Bills was central in the judgment.

This has thus resulted to a republication of Bills where concurrence was not fully achieved.

Significant progress on this matter has been made and I urge for patience and understanding as my office and those of the Senate Leadership work with our counterparts in the National Assembly to ensure that all Bills comply with Article 110(3) of the Constitution.

Honorable Senators,

As a Senate we have performed exceedingly well in the Fourth Session. However, come the Fifth Session, we will need to rethink on the post-COVID-19 recovery strategy and how to best facilitate and foster economic growth at both the national and county levels and a possible reset on how we conduct our business. Towards this end, my office undertakes to provide a forum, in consultation with the House Leadership, for the Senate to reflect on this and other priority items. Further communication on this matter will be given in the coming weeks.

Honorable Senators,

I therefore take this opportunity to appreciate your commitment to duty, diligence and dedication, even in the face of the global COVID-19 pandemic, in executing our mandate. As the House rises today, I wish you Happy Holidays and a prosperous New Year, 2021!

I thank you!"

4. PETITIONS

- i) Pursuant to Standing Order 230(2) (a), Nominated Senator (Sen. Mary Seneta MP), presented a petition to the Senate by Mr. Calvin Luther Munayi and six (6) others concerning access to Title Deeds for properties bought at Jamii Bora Estate, Kisaju, Kajiado County.

Pursuant to Standing Order 231, the Speaker invited Senators to comment and make observations in relation to the Petition and subsequently, committed the Petition to the Standing Committee on Land, Environment and Natural Resources, pursuant to Standing Order 232 (1).

- ii) Pursuant to Standing Order 232(2), the Chairperson of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration tabled before the Senate a Report of the Committee on a Petition to the Senate by Rev. David Muganda concerning non-settlement and compensation of Kibra internally displaced persons.

Pursuant to Standing Order 232(2), the Speaker allowed Senators to make comments and observations in relation to the Petition.

- iii) Pursuant to Standing Order 232(2), the Senator for Vihiga County (Sen. George Khaniri, MP) and a Member of the Standing Committee on Land, Environment and Natural Resources, tabled the following reports on Petitions, on behalf of the Chairperson, Standing Committee Land, Environment and Natural Resources:
- a) Report of the Standing Committee on a Petition to the Senate regarding the Resettlement of East Mau Forest Evictees;
 - b) Report of the Standing Committee on a Petition to the Senate regarding forceful eviction from Dundori Forest and compensation of land for the excised area from the forest for resettlement;
 - c) Report of the Standing Committee on a Petition to the Senate regarding the alleged grabbing of public utility and private land at Leleshwa, Gilgil Township;
 - d) Report of the Standing Committee on a Petition to the Senate regarding the resettlement of the minority Ngerek Community following their impending eviction from South Nandi Forest, in Nandi County;
 - e) Report of the Standing Committee on a Petition to the Senate regarding the alleged grabbing of the part of the land allocated for settlement of the Petitioners at Kiang'ombe Squatters Settlement Scheme in Thika sub-County, Kiambu County;
 - f) Report of the Standing Committee on a Petition to the Senate regarding the compensation and resettlement of evictees from Marmanet Forest in Laikipia County;
 - g) Report of the Standing Committee on a Petition to the Senate regarding the Wajir waste disposal site and the disgraceful abuse of the right to enjoy environmental rights under Article 42 of the Constitution;
 - h) Report of the Standing Committee on a Petition to the Senate regarding the alleged unlawful acquisition and disposition of the Poka Group Ranch Land;
 - i) Report of the Standing Committee on a Petition to the Senate regarding the compensation to land owners affected by construction of the Kibwezi - Kitui-Kabati - Migwani (B7) road;
 - j) Report of the Standing Committee on a Petition to the Senate regarding the Loading and Unloading of iron ore in Ganjoni, Mombasa County;
 - k) Report of the Standing Committee on a Petition to the Senate regarding the Environmental degradation and irregular dumping at landfill in Kajulu, Kisumu East;
 - l) Report of the Standing Committee on a Petition to the Senate regarding the National Housing Policy; and
 - m) Report of the Standing Committee on a Petition to the Senate regarding the Siltation of Lake Magadi.

Pursuant to Standing Order 232(2), the Speaker allowed Senators to make comments and observations in relation to the Petitions.

- iv) Pursuant to Standing Order 232(2), the Chairperson of the Standing Committee on Labour and Social Welfare tabled before the Senate the following Reports on Petitions to the Senate-

- a) Report of the Standing Committee on a Petition to the Senate concerning alleged non-payment of Salaries for support staff by the County government of Nandi.
- b) Report of the Standing Committee on a Petition to the Senate concerning alleged irregular redeployment of Mr. Lawrence Mutembei by the County Government of Tharaka-Nithi.

Pursuant to Standing Order 232(2), the Speaker allowed Senators to make comments and observations in relation to the Petitions.

5. PAPERS

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

- i) Report of the Auditor-General on County Assembly of Baringo for the Year ended 30 June, 2019;
- ii) Report of the Auditor-General on County Executive of Baringo for the Year ended 30 June, 2019;
- iii) Report of the Auditor-General on the Financial Statements of Bungoma County Executive for the Year ended 30 June 2019;
- iv) Report of the Auditor-General on the Financial Statements of Trans Nzoia County Executive for the Year ended 30 June 2019;
- v) Report of the Auditor-General on the Financial Statements of County Assembly of Trans Nzoia for the Year ended 30 June 2019;
- vi) Report of the Auditor-General on the Financial Statements of Lamu County Executive for the Year ended 30 June 2019;
- vii) Report of the Auditor-General on the Financial Statements of County Assembly of Lamu for the Year ended 30 June 2019;
- viii) Report of the Auditor-General on the Financial Statements of County Assembly of Bungoma for the Year ended 30 June 2019;
- ix) Report of the Auditor-General on County Assembly of Tharaka-Nithi for the Year ended 30 June, 2019;
- x) Report of the Auditor-General on County Executive of Tharaka- Nithi for the Year ended 30 June, 2019; and
- xi) Report to Parliament on all new Loans contracted by Government;

(The Deputy Senate Majority Leader)

- xii) Statement on the Business of the Senate.

(The Senate Majority Whip)

6. NOTICE OF MOTION – PROVISION OF MONTHLY STIPEND AND OTHER SUPPORT SERVICES TO CANCER PATIENTS IN IDENTIFIED COUNTY HOSPITALS

(Sen. (Dr.) Gertrude Musuruve Inimah, MP)

THAT AWARE THAT, in Kenya, cancer is estimated to be the third leading cause of death after infectious and cardio-vascular diseases, with the annual incidence of cancer closing in on 37,000 new cases with an annual mortality of 28,000;

FURTHER AWARE THAT, the economic impact of cancer is significant, and is increasing with staggering consequences occasioned by increased medical costs, lost income, and the financial, physical and emotional burden placed on families and caregivers during treatment time;

ACKNOWLEDGING THAT, while Kenya is among the state parties that signed and ratified the Abuja Declaration that affirmed that state parties shall set aside at least 15% of their annual budget to improve the health sector, and that Article 43(1)(a) of the Constitution of Kenya states that everyone has a right to the highest attainable standards of health;

NOTING THAT, the Mission of the Ministry of Health National Cancer Control Strategy 2016-2020 is to implement a coordinated and responsive cancer control framework that leads to the reduction in incidence, morbidity and mortality through effective partnerships for collaborations for prevention, diagnostics, treatment, palliation and financing of cancer control activities to improve wellbeing of Kenyans;

CONCERNED THAT gaps in the existing legislative framework such as discriminatory practices in the form of coverage limits and bureaucracies by the National Health Insurance Fund (NHIF) and private insurance firms that result in delayed diagnosis, incomplete cancer treatments and inadequate follow-ups that contribute to poor outcomes for cancer patients;

NOW, THEREFORE, the Senate calls upon the Ministry of Health in partnership with the Council of Governors to:

- 1) Incorporate county cancer support services in their annual development plan;
- 2) Partner with stakeholders to create support including counseling services; and
- 3) Provide cancer patients with free prescriptions, wigs for those who have lost their hair, improvised breasts where applicable, and a subsidy for prostheses.

7. STATEMENTS

a) Pursuant to Standing Order 47(1)

- (i) Nominated Senator (Sen. Halake Abshiro, MP) made a statement regarding alleged refusal by insurance companies to cover patients infected by the Covid-19 pandemic in hospitals other than designated government facilities.

The Senator stated that the Constitution of Kenya provided that every person had the right to the highest attainable standard of health and that Covid-19 pandemic was a defining global health crisis that had continued to ravage the country.

The Senator expressed concern that the pandemic was in its second wave, which had proved to be more lethal than the first wave yet insurance companies had been reported to be frustrating patients by failing to honor claims from private hospitals. The Senator informed the Senate that most insurance companies continue to insist on Covid-19 patients availing themselves for services at designated government facilities, leading to the said hospitals becoming overwhelmed and being forced to turn away patients.

The Senator further expressed concern that recent reports had indicated that insurance premiums in Kenya had increased yet insurance companies were refusing to cover Covid-19 patients.

The Senator concluded by urging the relevant authorities to put measures in place to ensure that insurance companies are prevailed upon to widen the scope of coverage to allow clients to get access to proper healthcare services.

- (ii) Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP) made a statement concerning the illegal practice of child trafficking by unscrupulous hospital officials.

Thereupon, the Senator informed the Senate that there were ongoing cases of child trafficking with a recent case going viral in the social and mainstream media where the BBC news unearthed a child trafficking syndicate that took place at the Mama Lucy Kibaki Hospital, involving hospital officials alleged to have sold babies for between Kenya Shillings 100,000 to 300,000.

The Senator further stated that children were the most vulnerable members of the society and it was, therefore, ironical that the adults who ought to help in realizing children's rights as human beings were the same ones who were unjust and at the frontline of committing this heinous offence.

The Senator concluded by requesting the Ministry of Health and other relevant government agencies to undertake thorough investigations and interrogate the act of child trafficking that happened at the Mama Lucy Kibaki Hospital and all other hospitals and, further, that the government department concerned with adoption of children to investigate the legal status of children at Imani Children's Home and other childrens' homes involved in similar activities.

- (iii) Nominated Senator (Sen. Petronila Were Lokorio, MP) made a statement on behalf of the Senator for Trans Nzoia County (Sen. (Dr.) Michael Mbito, MP) on redoubling of global efforts to eradicate cervical cancer.

Thereupon, the Senator informed the Senate that cervical cancer was the fourth most common form of cancer among women and the most common cancer among women living with HIV, who were six times as likely to develop cervical cancer. The Senator stated that cervical cancer was preventable as long as it is detected early enough and managed effectively.

She further informed the Senate that cervical cancer was currently the most common cancer among women in Kenya aged 15 to 44 years, and the leading cause of cancer related deaths among women in the country. She therefore called upon the government through the Ministry of Health, to ensure that the pre-cancer screening and treatment is available, accessible and affordable.

In conclusion, she stated that there would be great benefits if the services were embedded in the Universal Healthcare Cover plan, and that the cost for medication was covered by the health insurance schemes.

- (iv) Nominated Senator (Sen. Mary Seneta, MP) made a Statement on behalf of the Senator for Trans Nzoia County (Sen. (Dr.) Michael Mbito, MP), regarding commemoration of the World AIDS Day (WAD) in the context of the Covid-19 pandemic.

The Senator informed the Senate that the World AIDS Day was an international day to raise awareness on the HIV pandemic and is marked on the 1st of December every year. The Senator further informed the Senate that the event provided an opportunity to unite the globe to stop new HIV infections, support those infected and affected by HIV and remember those who have lost their lives due to AIDS.

The Senator highlighted that Kenya had adopted **“Komesha HIV & COVID 19 #Tuwajibike”** as the national theme for this year and that this was in line with the Government’s efforts towards preventing the spread of HIV and COVID-19. The aim was to call out for the ending of HIV and COVID-19 through citizen and government partnership and cooperation.

Stating that the COVID-19 had led to far reaching ramifications on all sectors of national and global economies, she averred that the crisis had exacerbated the challenges faced by people living with HIV, women and girls and key populations, including accessing life-saving healthcare, and that it had widened the social and economic inequalities that increase the vulnerability of marginalized groups to HIV. In other respects, the COVID-19 pandemic had been a wake-up call, an opportunity to do things differently – better, and together. In many respects, the defeat of AIDS as a public health threat depended on how the world responded to COVID-19.

She concluded by saying that NOW was the moment for bold leadership for equal societies, the right to health for all and a robust and equitable global recovery and called upon counties to step up their efforts to achieve the quest for HIV and AIDS reduction.

b) Pursuant to Standing Order 48(1)

- i) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding increased incidents of abduction and disappearance of members of public in Wajir County;
- ii) Nominated Senator (Sen. Petronilla Were Lokorio, MP), sought a statement from the Standing Committee on Labour and Social Welfare concerning the protection of local investors in multi-national companies in Kenya;
- iii) The Senator for Mombasa County (Sen. Mohamed Faki, MP) sought a statement on behalf of the Senator for Lamu (Sen. Anuar Loiptip, MP) from the Standing Committee on National Security, Defence and Foreign Relations concerning alleged harassment of cyber and movie shop owners in Lamu County;
- iv) Nominated Senator (Sen. Beatrice Kwamboka, MP) sought a statement from the Standing Committee on Roads and Transportation concerning road safety;
- v) Nominated Senator (Sen. Beatrice Kwamboka, MP), sought a statement from the Standing Committee on Health on the status of funds allocated to county governments, as donations by the international community, to aid in the fight against COVID-19 pandemic;
- vi) The Senator for Vihiga County (Sen. George Khaniri, MP), sought a statement from the Standing Committee on Finance and Budget regarding the quality of the new generation currency notes;
- vii) Nominated Senator (Sen. Beatrice Kwamboka, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning the arrest of underage children engaging in alcohol and narcotics abuse in different estates in Nairobi County;
- viii) Nominated Senator (Sen. Petronilla Were Lokorio, MP) sought a statement from the Standing Committee on Tourism, Trade and Industrialization concerning the status of Pan African Paper Mills (E. A.) Ltd;
- ix) The Senator for Turkana County (Sen. (Prof.) Charles Malachy Ekal, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning alleged attacks against herders from the Turkana community in Isiolo and Meru Counties;

- x) Nominated Senator (Sen. Beatrice Kwamboka, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning security along the Kenyan borders;
- xi) The Senator for Isiolo County (Sen. Fatuma Dullo, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the ongoing security operation in Ngare Mara, Isiolo County;
- xii) Nominated Senator (Sen. Millicent Omanga, MP) sought a Statement from the Standing Committee on Health regarding availability of ICU facilities countrywide to handle patients with severe COVID-19 symptoms and other critical illnesses;
- xiii) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a Statement from the Standing Committee on Health regarding non-remittance of statutory deductions from the staff of the County Government of Nandi County to the National Hospital Insurance Fund (NHIF) by the County Government of Nandi County;
- xiv) Nominated Senator (Sen. Falhada Iman, MP) sought a Statement from the Standing Committee on Health regarding alleged rise in cases of medical negligence and malpractice; and
- xv) The Senator for Nairobi City County (Sen. Johnson Sakaja, CBS, MP) sought a Statement from the Standing Committee on Justice, Legal Affairs and Human Rights regarding the arbitrary arrest of Governor Mike Mbuvi Sonko and disruption of his meeting with the members of the County Assembly of Nairobi City County on 30th November, 2020.

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

Nominated Senator (Sen. Judith Pareno, MP) made a statement, on behalf of the Chairperson, Standing Committee on National Security, Defence and Foreign Relations, relating to the activities of the Committee for the period 1st March to 30th September, 2020.

d) Pursuant to Standing Order 52

The Senate Majority Whip issued a Statement on the Business before the Senate.

8. MOTION – EXTENSION OF SITTING TIME

Motion made and Question proposed;

THAT, pursuant to Standing Order 31(3)(a), the Senate resolves to extend its Sitting time until the conclusion of business listed at Order Paper Nos. 8 and 19 in today's Order Paper.

(The Senate Majority Whip)

Debate arising;

There being no other Senator wishing to contribute;

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

Question put and agreed to.

RESOLVED ACCORDINGLY:

THAT, pursuant to Standing Order 31(3)(a), the Senate resolves to extend its Sitting time until the conclusion of business listed at Order Paper Nos. 8 and 19 in today's Order Paper.

9. **MOTION – DEBATE ON THE PRESIDENTIAL ADDRESS TO PARLIAMENT – (THIRD AND FINAL DAY)**

Order read;

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, 12th November, 2020 and further that the Senate notes the following Reports submitted by H.E. the President in fulfillment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the Senate on Tuesday, 17th November, 2020-

- i) The Seventh (7th) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Thursday, 12th November, 2020;
- ii) The 7th Annual Report on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance;
- iii) The 7th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;

- iv) The Summary of the 7th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;
- v) The Annual Report to Parliament on the State of National Security;
- vi) The Report on the Ease of Doing Business: Reform Milestones 2014-2020; and
- vii) The Office of the Director of Public Prosecutions Consolidated Annual Report for the financial years 2017/2018, 2018/2019 & 2019/2020.

(The Senate Majority Leader – 17.11.2020)

Debate interrupted on Tuesday, 24th November, 2020 resumed;

There being no other Senator wishing to contribute;

The Senate Majority Whip replied on behalf of the Mover;

Before the Question was put, and pursuant to Standing Order No. 79(1), the Temporary Speaker (Sen. (Dr.) Isaac Mwaura, 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, 12th November, 2020 and further that the Senate notes the following Reports submitted by H.E. the President in fulfillment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the Senate on Tuesday, 17th November, 2020-

- i) The Seventh (7th) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Thursday, 12th November, 2020;
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- iii) The 7th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;
- iv) The Summary of the 7th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;
- v) The Annual Report to Parliament on the State of National Security;

- vi) The Report on the Ease of Doing Business: Reform Milestones 2014-2020; and
- vii) The Office of the Director of Public Prosecutions Consolidated Annual Report for the financial years 2017/2018, 2018/2019 & 2019/2020.

10. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS ON THE CONSTITUTIONAL AMENDMENTS PROPOSED IN THE REPORT OF THE STEERING COMMITTEE ON THE IMPLEMENTATION OF THE BUILDING BRIDGES TO A UNITED KENYA TASKFORCE**

Order read;

Motion made and Question proposed;

THAT the Senate **adopts** the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Constitutional amendments proposed in the Report of the Steering Committee on the Implementation of the Building Bridges to a United Kenya Taskforce Report, laid on the Table of the Senate on Wednesday, 11th November, 2020.

(Sen. Johnson Sakaja on behalf of the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Debate arising;

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. (Dr.) Isaac Mwaura, MP) informed the House that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY:

THAT the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Constitutional amendments proposed in the Report of the Steering Committee on the Implementation of the Building Bridges to a United Kenya Taskforce Report, laid on the Table of the Senate on Wednesday, 11th November, 2020.

11. **MOTION - ADOPTION OF THE REPORT OF THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION ON THE CROPS (TEA INDUSTRY) REGULATIONS, 2020 - LEGAL NOTICE NO. 97 OF 2020**

(Chairperson, Sessional Committee on Delegated Legislation)

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Crops (Tea Industry) Regulations, 2020 – Legal Notice No. 97 of 2020, laid on the Table of the Senate on Tuesday, 10th November, 2020, and that pursuant to Section 18 of the Statutory Instruments Act and Standing Orders 221(4)(b) and 221(5)(b), annuls in its entirety, the Crops (Tea Industry) Regulations, 2020 - Legal Notice No. 97 of 2020.

Order deferred.

12. **THE MUNG BEANS BILL (SENATE BILLS NO. 9 OF 2020)**

(Sen. Enoch Wambua, MP)

(Second Reading)

Order deferred.

13. **MOTION - RECOGNIZING AND APPRECIATING THE ELDERLY BY COUNTY GOVERNMENTS**

(Sen. Rose Nyamunga, MP)

THAT, AWARE that in 2006, the National Government initiated the Older Persons Cash Transfer (OPCT) Programme, popularly known as *Pesa ya Wazee*, which is an unconditional cash transfer programme to destitute elderly persons above the age of 65 years to cater for their subsistence needs;

NOTING THAT the beneficiaries receive a monthly stipend of Kshs. 2,000, delivered every two months through appointed payment agents, and also entitled to medical insurance through the National Health Insurance Fund (NHIF);

CONCERNED HOWEVER THAT the programme's credibility is marred by issues of delayed payments to beneficiaries, difficulties in processing of payments through the stipulated agents and payments to unregistered persons;

NOW THEREFORE, the Senate recommends that the County Governments complement the efforts of the National Government and assist in resolving these challenges by:-

1. Developing legislation and policies to protect the elderly including ensuring all elderly persons in their counties are registered in the OPCT programme; and
2. Organise value addition mechanisms such as financial training to help the beneficiaries of the programme to efficiently utilise this allowance.

(Resumption of debate interrupted on Wednesday, 4th November, 2020)

Order deferred.

14. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON ROADS AND TRANSPORTATION ON ITS INQUIRY INTO THE OPERATIONALIZATION OF THE NATIONAL CONSTRUCTION AUTHORITY (DEFECTS LIABILITY) REGULATIONS, 2020.**

(Chairperson, Standing Committee on Roads and Transportation)

THAT, the Senate adopts the report of the Standing Committee on Roads and Transportation on its inquiry into the operationalization of National Construction Authority (Defects Liability) Regulations, 2020, laid on the table of the Senate, on Thursday, 24th September, 2020.

Order deferred.

15. **MOTION- REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE 141ST ASSEMBLY OF THE INTER-PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS, HELD IN BELGRADE, SERBIA FROM 13TH TO 17TH OCTOBER, 2019**

(Sen. Susan Kihika, MP)

THAT, the Senate notes the report of the Parliament of Kenya Delegation to the 141st Assembly of the Inter-Parliamentary Union (IPU) and related meetings, held in Belgrade, Serbia, from 13th to 17th October, 2019 laid on the Table of the House on Wednesday, 4th March, 2020.

Order deferred.

16. **MOTION – REPORT OF THE THIRD ORDINARY SESSION OF THE 5TH PARLIAMENT OF THE PAN – AFRICAN PARLIAMENT HELD FROM 7TH TO 18TH OCTOBER, 2019, IN MIDRAND, SOUTH AFRICA.**

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

THAT, the Senate notes the Report of the Third Ordinary Session of the 5th Parliament of the Pan-African Parliament held from 7th to 18th October, 2019 in Midrand, South Africa.

Order deferred.

17. **MOTION – ALLOCATION BY COUNTIES OF AT LEAST 10 PERCENT OF THEIR BUDGET ON EARLY CHILDHOOD DEVELOPMENT EDUCATION (ECDE) TOWARDS VULNERABLE GROUPS IN THE COUNTIES AND DEVELOPMENT OF A POLICY TO INCORPORATE THE NEEDS OF CHILDREN WHO ARE LESS THAN THREE YEARS OF AGE**

(Sen. (Dr.) Alice Milgo, MP)

THAT, AWARE THAT, Constitution of Kenya (Article 53) affirms that children have basic rights, including the right to education, nutrition, shelter, health care and parental care, provisions that are aligned with those cited in both the Convention on the Rights of the Child and the Africa Charter on the Rights and Welfare of the Child, to which Kenya is a signatory;

CONCERNED THAT, the current status of day care facilities in the Country are not child friendly or habitable and there is need to bridge this gap to capture the play group class in the new 2-6-3-3-3 curriculum that is replacing the 32-year-old 8-4-4 system;

ACKNOWLEDGING THAT, most parents lack access to quality daycare facilities, which would provide a safe and stimulating environment to take care of their children while they are at work;

NOW THEREFORE, the Senate urges that County Governors in conjunction with the Ministry of Education to ensure that:

1. Counties allocate at least 10 percent of their budget on Early Childhood Development Education (ECDE) towards this vulnerable group; and
2. Policy is developed to incorporate the needs of children who are less than three years of age.

Order deferred.

18. **MOTION - PARKING CHARGES IN PUBLIC INSTITUTIONS OFFERING ESSENTIAL SERVICES**

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

AWARE THAT, many urban areas and towns in Kenya lack designated car parking areas as a result of imbalance between parking supply and demand mainly due to ineffective land use planning and miscalculations of space requirements, thereby leading to exorbitant parking fees;

NOTING that, most essential services offered in hospitals, educational institutions and other public utilities are offered in urban centers, shopping malls and other designated areas that charge parking fees to access;

ACKNOWLEDGING, that whether they are delivered by public or private providers, essential services such as health, banking, education and other utilities are considered to be public services because they are public goods that sustain the well-being of every citizen and help in the development of the society as a whole;

CONCERNED, that access to hospitals, educational institutions and other places offering essential services might be hindered due to exorbitant parking fees levied on motorists accessing these services;

FURTHER CONCERNED, that charging entry fees amount to double taxation as the motorists who would have paid the parking fees will still pay for the services they seek;

NOW THEREFORE, the Senate urges the Cabinet Secretary for Lands, Housing and Physical Planning together with the Council of Governors to come up with a policy framework to create an enabling environment for protection of motorists accessing essential services from paying exorbitant fees for parking.

Order deferred.

19. **MOTION – FAST TRACKING CULTURAL DEVELOPMENTS IN COUNTIES**

(Sen. Arch. Sylvia Kasanga, MP)

THAT, WHEREAS Kenya is a multi-ethnic and multi-racial country with rich and diverse cultural resources such as traditional medicine and foods, arts, craft, music, dances, dress among others;

AWARE THAT, the Constitution, in its preamble acknowledges the cultural diversity of the Kenyan people who are determined to live in peace and unity as one indivisible sovereign nation whilst, Article 11 of the Kenyan Constitution recognizes culture as the foundation of the nation and Part(2)(4) of the Fourth Schedule appoints cultural activities as a function of County Governments;

NOTING that while the Department of Culture under the Ministry of Sports, Culture and Heritage has been playing some of the key roles in promotion of cultural integration, formulation of policies and standards that will guide the development of culture, little information on existing policies has been available to the Kenyan public;

ACKNOWLEDGING that culture performs a significant role in the life of a child, the cultural background in which a child is brought up affects the totality of his or her life's activities;

CONCERNED that our children are losing their sense of identity due to the negative influences due to inadequate cultural identity catalyzed by globalization which has led to catastrophic consequences to the next generation as experienced in our country where a majority of young people are showing symptoms of feeling suicidal, anxious, feeling of hopelessness, anger, violence, feeling isolated, and paranoia;

NOW THEREFORE, the Senate urges the Cabinet Secretary, Ministry of Sports, Culture and Heritage to-

- 1) Formulate cultural development policies and initiatives to inculcate stronger community values, safeguard Kenya's heritage, recognize local heroes and promote socio-cultural opportunities in the counties;

- 2) Formulate strategies to create an enabling environment for protection and promotion of diversity of cultural expressions in all counties; and
- 3) Partner with the Council of Governors on the formulation and implementation of policy in accordance with Part (2)(4) of the Fourth Schedule of the Constitution.

Order deferred.

20. **MOTION - ADJOURNMENT OF THE SENATE**

Order read;

Motion made and Question proposed;

THAT, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 9th February, 2021.

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

Debate arising;

And there being no other Senator wishing to contribute;

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

21. **SENATE ROSE** – at twenty-three Minutes past Eight O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Tuesday, February 09, 2021 at 2:30 p.m.*