



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FIFTH SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**TUESDAY, FEBRUARY 23, 2021 AT 2.30 P.M.**

1. The Senate assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with a prayer said by the Speaker
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair-

**(i) Demise of the Hon. Francis Munyua Waititu, MP**

“Honourable Senators,

It is with deep sorrow that I wish to inform you of the untimely demise of Hon. Francis Munyua Waititu, MP, Member for Juja Constituency, Kiambu County, who passed on yesterday, Monday 22<sup>nd</sup> February 2021 while undergoing treatment at M.P. Shah Hospital, Nairobi.

Honourable Senators,

The late Hon. Francis Munyua Waititu, MP was born on 5<sup>th</sup> October 1958 in Gigiri, Kiambu. He attended Karura Forest Primary School where he took his Certificate of Primary Education (CPE), before proceeding to Sharda High School for his East Africa Certificate of Education. He thereafter obtained Certificates and Diploma in agriculture from Coffee Research Institute, Finaff Coffee Consultants, Kenya Planters Co-operatives Union and Bouchard International Services.

Honourable Senators,

The late Hon. Francis Munyua Waititu, MP, popularly known as ‘*Wakapee*’, had a passion for agriculture and real estate whereby he had an illustrious career working at Magumu Nyakinyua Coffee Estate in Kiambu, Iganjo

Farm in Juja, Kirathe Mangu Coffee Estate, Surrey Coffee Farm, Muiri Coffee Estate in Thika, Ngungugu Farm in Gatundu; Sunflower Farm in Machakos, and Saramwai Estate in Nyeri where he served as Group General Manager.

Honourable Senators,

Hon. Francis Munyua Waititu entered politics in 2013 when he was elected as Member of Parliament for Juja Constituency and re-elected to the same position in 2017. In the second term of his political career, he was however constantly in and out of the country for cancer treatment.

Honourable Senators,

In Parliament, the late Hon. Francis Munyua Waititu, MP, was a devoted Member of the Departmental Committee on Agriculture and Livestock, Select Committee on Catering and Health Club (the predecessor of the Select Committee on Members' Services and Facilities), and the Select Committee on Implementation.

He was instrumental in the establishment of the Coffee Cherry Advance Revolving Fund by H.E. the President during the 124<sup>th</sup> Session of the International Coffee Council in Nairobi in March, 2019. He consistently supported legislation geared towards the improvement of the agricultural sector and ease of doing business in Kenya as exemplified by the Law of Contract (Amendment) Bill which he sponsored in 2019.

Honourable Senators,

Hon. Francis Munyua Waititu relentlessly worked for his constituents. He will be remembered for championing matters on education and socio-economic development of his constituents and the country at large, as seen in his Motions, Questions and Petitions that he sponsored.

Honourable Senators,

On behalf of all Senators and the staff of the Senate, and indeed on my own behalf, I wish to take this opportunity to condole with the family of the late Hon. Francis Munyua Waititu, Members of the National Assembly, the people of Juja Constituency, and all his friends in this most difficult time. The Parliament of Kenya has indeed lost a diligent leader.

Honourable Senators,

In honour of our departed colleague, I request that in the usual tradition we all stand and observe a moment of silence.

May his soul rest in eternal peace.

I thank you.”

**(ii) Consideration of the Budget Policy Statement for The Financial Year 2021/22**

“Honourable Senators,

As you may recall, on Tuesday, 16<sup>th</sup> February, 2021, the Budget Policy Statement for the Financial Year 2021/22, amongst other documents submitted to the Senate by the Cabinet Secretary for the National Treasury, were tabled in the Senate.

I thereafter gave a detailed Communication on the processing of the Budget Policy Statement for the Financial Year 2021/22. As I stated then and I would like to reiterate now, the Budget Policy Statement is an important tool as it sets out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following Financial Year and over the medium term.

Therefore, it is critical that the Senate’s input at this point is submitted to the National Treasury, given that any proposals that the Senate has on the overall budget process should be included in the Report of the Senate on the matter, failure to which, it may be difficult for changes to be accommodated later on.

Honourable Senators,

Thus far, a briefing to all Senators on the Budget Policy Statement was undertaken on Wednesday, 17<sup>th</sup> February, 2021 and respective Standing Committees have now submitted their recommendations to the Standing Committee on Finance and Budget, which will compile a comprehensive report for consideration by the Senate. I am aware that the Standing Committee on Finance and Budget has held consultations with relevant stakeholders, including the Cabinet Secretary for the National Treasury, the Commission on Revenue Allocation, County Assemblies Forum, the Council of Governors, among others. I have also received communication from the Standing Committee that all efforts are being made to conclude its report and table it on Wednesday, 24<sup>th</sup> February, 2021, and file a Notice of Motion for adoption of the Report pursuant to Standing Order 180(7).

Honourable Senators,

In view of this and to ensure that the Senate makes a determination on the matter within the stipulated timelines, I hereby direct that NO COMMITTEE

travel outside Nairobi shall take place on Wednesday 24<sup>th</sup> and Thursday 25<sup>th</sup> February, 2021, and on Tuesday, 3<sup>rd</sup> March, 2021, until the resolution of the Senate on this important matter is made.

I thank you.”

4. **PETITIONS**

Pursuant to Standing Order 230(2)(b), the Speaker reported to the Senate a petition by Dr. Alexander Irungu Wanjiru concerning the appointment of the Chief Executive Officer (CEO) for the National Hospital Insurance Fund (NHIF).

Pursuant to Standing Order 231, the Speaker invited Senators to comment on the Petition and, subsequently, committed it to the Standing Committee on Health, pursuant to Standing Order 232(1).

5. **NOTICE OF MOTION** – (Sen. Hargura Godana on behalf of Chairperson, Sessional Committee on County Public Accounts and Investments)

THAT this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the consideration of the Audit Reports of the Bomet; Homa Bay; Isiolo; Kakamega; Kiambu; Laikipia; Kisumu; Mandera; Migori; Mombasa; Murang’a; Nandi; Nyeri; Samburu; Siaya; Tana River; Tharaka Nithi; Trans Nzoia; Turkana and Wajir County Executives for the Financial Year 2014/2015 (1st July, 2014 to 30th June, 2015), laid on the Table of the Senate on Thursday, 18<sup>th</sup> February, 2021.

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

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

7. **NOTICE OF MOTION** – (Sen. Stewart Madzayo, MP)

THAT the Senate notes the Report of the Third Ordinary Session of the 5<sup>th</sup> Parliament of the Pan-African Parliament held from 7<sup>th</sup> to 18<sup>th</sup> October, 2019 in Midrand, South Africa, laid on the Table of the House on Tuesday, 10<sup>th</sup> March, 2020

8. **NOTICE OF MOTION** – (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 Ministry of Health has put in place the National Cancer Control Strategy (2016-2020) aimed at implementing 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 Hospital 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-

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

9. **NOTICE OF MOTION** – (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-

- (i) Developing legislation and policies to protect the elderly including ensuring all elderly persons in their counties are registered in the OPCT programme; and
- (ii) Organise value addition mechanisms such as financial training to help the beneficiaries of the programme to efficiently utilize this allowance.

10. **STATEMENTS**

**Pursuant to Standing Order 47 (1)**

- i) Nominated Senator (Sen. Petronilla Were, MP) made a statement on an issue of general topical concern; namely, the abuse of children under the care of foreign missionaries.

The Senator opened her remarks by congratulating Ms. Mercy Chebet Ruto, for what she termed brave and laudable actions in ensuring justice for the children in Dow Family Children's Home, Bomet County. She said courtesy of Ms. Mercy Chebet Ruto's bravery, Mr. Gregory Hayes Dow was finally convicted and sentenced to nearly 16 years in prison for abusing underage girls while running the Dow Family Children's Home in Boito, Bomet County, between October, 2013, and September, 2017.

The Senator informed the House that when the community in Bomet discovered the heinous acts that were happening in the children's home, they alerted the Kenyan authorities but, due to corruption, Mr. Dow managed to evade justice by fleeing the country back to Lancaster, Pennsylvania in the US, where he is from.

The Senator informed the House that Ms. Ruto, who happened to be a neighbor to Dow in Lancaster and hails from Bomet County, refused to allow Dow's crimes to go unpunished. She dauntlessly pursued justice

until Mr. Dow was finally convicted of his sex crimes committed in Kenya and ordered to pay \$16,000 in restitution to the victims.

The Senator called on the Government to recognize and accordingly honour the intrepid efforts of Ms. Ruto.

The Senator noted that abuse of children by foreign missionaries has become commonplace in Kenya stating that the pervasion of such cases and the evasion of justice within Kenyan soil is appalling.

The Senator concluded by requesting that the Speaker refer the statement to the relevant committee, pursuant to Standing Order 47(3), to hold discussions with the relevant government agencies and formulate and implement tangible resolutions in order to stop the vice.

- ii) The Senator for Trans-Nzoia County (Sen. Michael Mbiti) made a statement on an issue of general topical concern, namely, operationalization of the National Film Policy as a way to spur growth in the industry.

The Senator informed the Senate that the Ministry of ICT, Innovation and Youth Affairs has drafted a National Film Policy. The proposed film policy is expected to ensure that Kenya develops a viable, dynamic, economically self-sustaining and culturally conscious film industry to help in building Kenya's brand as a preferred filming destination, thus increasing economic growth and promoting national pride, heritage and unity. Further, the framework will develop national culture and promote integration, national cohesion and tourism.

The Senator further said that on its own admission, the Government, through the Kenya Film Commission (KFC), said that the film industry is capable of raising an impressive 60 billion dollars every year and create a significant number of jobs, especially to the youth, whose unemployment rate has hit the 70 percent mark. However, that is yet to be realized as the industry has been underperforming for years.

He said the Government can pick lessons from the success of Nollywood, the Nigerian film industry, which is the second largest employer in Nigeria, and it has helped to create millions of jobs for Nigerian youth.

The Senator reiterated that for the film industry to succeed, there should be deliberate efforts to increase financing to the film industry since the industry has a huge potential to spur economic development in terms of wealth and job creation in the production and distribution of films and also generation of foreign exchange and tax revenues.

- iii) The Senator for Trans-Nzoia County (Sen. Michael Mbiti) made a statement of general topical concern namely, implementation of policies to protect children from harmful online content.

The Senator informed the Senate that the influence of the media on the psycho-social development of children is profound and therefore, it was important for stakeholders including physicians to discuss with parents their children's exposure to media and provide guidance on age-appropriate use of all media, including television, radio, music, video games and the internet.

He stated there is urgent need of identifying and addressing risks associated with increased number of children using the internet and whose age of introduction to the internet is decreasing. He said the Government should look at how to mitigate any associated risks without reducing children's opportunities and benefits occasioned by the proliferation of internet.

The Senator concluded by urging parents and caregivers to monitor and guide their children on the content they consume on both traditional and new media. The Senator called on the Kenya Film Classification Board to continue monitoring and regulating content as per its mandate in order to ensure age-appropriate content. He said it was a collective responsibility to protect children from the multiplicity of information channels that can destroy their moral values.

- iv) The Senator for Nakuru County (Sen. Susan Kihika) made a statement on an issue of general topical concern, namely, the implications of gender and corruption on resource allocation; focus on the budget for the Financial Year 2021/22.

The Senator informed the Senate that corruption remains a pervasive global challenge and continues to erode public trust, democratic institutions and undermines sustainable inclusive development and peace, and aggravates poverty. Corruption is manifested in several ways including the abuse of office for private gain, bribery, extortion, fraud and embezzlement among other gross misconduct of persons that have been entrusted with public offices.

She said corruption had greatly impacted on the Kenyan economy exacerbating social inequalities and increasing social tensions in society, development of crime including transnational organized crimes like smuggling of weapons, wildlife trafficking, illegal trade in timber and forest products, drug trafficking, terrorism, human trafficking and money laundering. She stated that corruption deprives the public from accessing public services, such as public health, education and water and exacerbates gender disparity in decision making levels. Gender inequality



allows corrupt networks to grow, hinders progress towards gender equality and presents a barrier for women to gain full access to their civic, social and economic rights.

The Senator added that a gender dimension must be mainstreamed in any efforts to curb corruption. Whereas, women and men are disproportionately affected by corruption and their corruptibility varies, this does not mean that one sex is intrinsically more corrupt than the other.

The Senator stated that corruption has manifested itself in a major scale during the COVID-19 pandemic. She challenged the Senate to judiciously play its oversight over funds allocated in the fight against COVID-19; otherwise, it will affect the country's ability to respond to and recover from the pandemic. She said it was also crucial that every effort is taken to ensure that corruption does not prevent or impede the equitable availability and distribution of the vaccines or at worst, the falsification of the vaccines.

The Senator concluded by urging the Standing Committee on Finance and Budget to interrogate the various budget documents for the FY 2021/2022 that will be brought before the Senate using a gender lens. She said it would be progressive to have line ministries and Government agencies present reports to the Senate supported with sex-disaggregated data demonstrating the impact that budget allocations have had on services delivered to men and boys, women and girls.

11. **THE COOPERATIVE SOCIETIES (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2020)**

(Sen. (Dr.) Agnes Zani, MP)

*(Second Reading)*

***(Resumption of debate interrupted on Wednesday, 17<sup>th</sup> February, 2021)***

***(Division)***

Order deferred.

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

(Sen. Enoch Wambua, MP)

Order deferred.

13. **MOTION - ADOPTION OF REPORTS OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON AUDIT REPORTS FOR COUNTY EXECUTIVES FOR FINANCIAL YEARS 2015/2016, 2016/2017, AND 2017/2018 (VOLUMES I, II AND III)**

Order read;

Motion made and Question proposed-

**THAT** this House adopts the Reports of the Sessional Committee on County Public Accounts and Investments on the consideration of the Audit Reports of the following County Executives for the Financial Years 2015/2016, 2016/2017, and 2017/2018, laid on the Table of the Senate on Thursday, 11<sup>th</sup> February, 2021 –

(i) **Volume I** -

- a) Baringo
- b) Elgeyo Marakwet
- c) Homa Bay
- d) Kakamega
- e) Kiambu

(ii) **Volume II** -

- a) Kisii
- b) Mandera
- c) Mombasa
- d) Taita Taveta
- e) Kilifi

(iii) **Volume III** -

- a) Garissa
- b) Wajir
- c) Narok
- d) Kericho
- e) Lamu

*(Chairperson, Sessional Committee on County Public Accounts and Investments)*

Debate interrupted on Thursday, 18th February 2021 resumed;

Debate arising;

And there being no other Senator wishing to contribute;

The Mover replied;

Pursuant to Standing Order 61(3), the Temporary Speaker (Sen. Judith Pareno, MP) deferred putting of the Question to a later date.

14. **MOTION - ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

Order read;

Motion made and Question proposed-

**THAT** this House adopts the Report of the Mediation Committee on the consideration of the Early Childhood Education Bill (Senate Bills No. 26 of 2018), laid on the Table of the Senate on Thursday, 18<sup>th</sup> February, 2021, and pursuant to Article 113 of the Constitution and Standing Order 161 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

*(Chairperson, Mediation Committee)*

Debate arising;

And the time being thirty minutes past six o'clock, the Temporary Speaker (Sen. Judith Pareno, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

15. **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  
Wednesday, February 24, 2021 at 2.30 p.m.

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