



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT – (FIRST SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, NOVEMBER 08, 2022 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. **ADMINISTRATION OF OATH**

Pursuant to Article 74 of the Constitution and Standing Order 3(5), the Speaker Administered Oath of office for **Senator Okenyuri Esther Anyieni**.

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair-

(i) Commencement of Part III of the First Session

“Honorable Senators,

I take this opportunity to welcome you back to Part III (three) of the First Session, that will run from today, Tuesday, 8th November, 2022 to Thursday, 1st December, 2022.

It was indeed a short recess that was largely taken up by induction programmes of the Senate Business Committee and all Senators. The programmes that we were taken through were rich with information crucial to the execution of our constitutional mandate as the institution of Senate and respective Senators.

As the Senate leadership, we were impressed with your commitment, dedication and interaction during the induction programmes following which we developed a concrete road map to navigate this August House and enhance the Senate’s legislative output.

Honorable Senators,

As you may recall, on the eve of the recess, membership of respective committees was approved and the subsequent election of chairpersons and

vice chairpersons was done. Respective committees have since then settled and held a series of meetings evidence by the various requests and documents that have been submitted to my office.

Allow me to reiterate that the work of committees and plenary is symbiotic. Therefore, it is crucial that committees observe the respective timelines in expediting business referred from plenary and to utilize the various legislative tools at their disposal to enhance the Senate's legislative footprint and output.

Honorable Senators,

As we commence the Third and final Part of the First Session, allow me to take this opportunity to outline some of the business that we will be required to expedite during the Session-

- (i) Approval of the nominee to the Office of the Inspector General of the National Police Service, pursuant to Article 245(1) of the Constitution;
- (ii) Election of Members of the East African Legislative Assembly, pursuant to Article 50 of the EAC Treaty;
- (iii) Approval of nominees to the Parliamentary Service Commission, pursuant to Article 127(2)(c) of the Constitution; and
- (iv) Approval of nominees to the Commission on Revenue Allocation, pursuant to Article 215(2) of the Constitution.

Honorable Senators,

As I conclude, I impress upon each of us to rededicate ourselves to the execution of our Constitutional mandate and to undertake the task ahead of us with utmost integrity in service to our great country.

I want to assure you that my office, the offices of the Senate Leadership and the Secretariat, are always at your disposal to facilitate you to do your work.

I thank you and wish us all a fruitful Session.

(ii) On Visiting Teachers and Pupils from Kamatongu Primary School in Nyeri County

“Honorable Senators,

In the public gallery, we have fifty-four (54) pupils, accompanied by six (6) teachers from Kamatongu Primary School, Kieni Constituency in Nyeri County who are in the Senate on an education tour.

Honorable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you!"

(iii) On Visiting Teachers and Pupils from Kiahuko Primary School in Nyeri County

"Honorable Senators,

In the public gallery, we have forty six (46) pupils, accompanied by five (5) teachers from Kiahuko Primary School in Nyeri County who are in the Senate on an education tour.

Honorable Senators,

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you!"

5. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE APPROVAL OF MEMBERS OF PARLIAMENT FOR APPOINTMENT TO THE PAN-AFRICAN PARLIAMENT (PAP)**

The Speaker conveyed the following Message from the National Assembly-

I wish to report to the Senate that, pursuant to Standing Order 46 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the approval by the National Assembly of Members of Parliament for appointment to the Pan-African Parliament.

Pursuant to the said Standing Order, I now report the Message-

"PURSUANT to the provisions of Standing Order 41(1) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

IN ACCORDANCE with the provisions of Article 5 of the Protocol to the Treaty establishing the African Economic Community and relating to the Pan-African Parliament, by a resolution passed on Thursday, 3rd November, 2022, the National Assembly **approved** the appointment of the following Members to the Pan-African Parliament -

- (i) The Hon. Rahab Mukami Wachira, MP;**
- (ii) The Hon. Joseph Kalasinga Majimbo, MP;**
- (iii) The Hon. Esther Muthoni Passaris, OGW, MP;**

- (iv) **Sen. the Hon. (Prof.) Margaret Kamar, EGH, MP, and**
(v) **Sen. the Hon. Danson Mungatana, MGH, MP.**

NOW THEREFORE, in accordance with the said provisions of the Standing Orders, I hereby convey the aforementioned resolution of the National Assembly and invite the Senate to also consider the Members for appointment to the Pan-African Parliament and further, at the appropriate time, convey the decision of Parliament of Kenya to the President of the Pan-African Parliament, accordingly.”

Honourable Senators,

As you are aware, the Pan-African Parliament is one of the organs of the African Union. It is a consultative and advisory organ that is in place to ensure the full participation of the people of Africa in the development and economic integration of the continent.

Honourable Senators,

Each respective National Parliament or any other deliberative body is required by the Protocol to the Treaty establishing the African Economic Community relating to the Pan- African Parliament to elect or designate the Pan-African Parliamentarians from among their members. Further, the Protocol requires each Member State to be represented in the Pan-African Parliament by five members, at least one of whom must be a woman, and the representation of each Member State must reflect the diversity of political opinions in each National Parliament or other deliberative organ.

Honourable Senators,

The term of the five Members of Parliament who represented Kenya in the Pan-African Parliament expired on the date of general elections. The 13th Parliament is now required to elect/designate new Members to the Pan-African Parliament.

Honourable Senators,

The Senate Business Committee at its meeting held today, deliberated on the matter of appointment of Members to the Pan-African Parliament and resolved to have a Notice of Motion and Motion listed in this afternoon’s Supplementary Order Paper.

Honourable Senators

In this regard, the Senate Majority Leader will at the appropriate time, be called to give a Notice of Motion for adoption of names for nomination to the Pan-African Parliament and further move a Motion for adoption of the names this afternoon with the leave of the House.

I thank you.”

6. **PAPERS**

The following papers were laid on the table of the Senate: -

- i.) Report of the Auditor General on the Financial Statement of Nandi County Executive Committee Car Loan & Mortgage Scheme Fund for the year ended 30th June, 2021.
- ii.) Report of the Auditor General on the Financial Statement of Nandi County Assembly Car Loan (Members) Scheme Fund for the year ended 30th June, 2021.
- iii.) Report of the Auditor General on the Financial Statement of Nandi County Education Fund for the year ended 30th June, 2021.
- iv.) Report of the Auditor General on the Financial Statement of Kapsabet Nandi Water & Sanitation Company Ltd for the year ended 30th June, 2021.
- v.) Report of the Auditor General on the Financial Statement of Homa Bay County Executive Car Loan & Mortgage (Members) Scheme Fund for the year ended 30th June, 2021.
- vi.) Report of the Auditor General on the Financial Statement of Homa Bay County Assembly Car & Mortgage Loan Fund for the year ended 30th June, 2021.
- vii.) Report of the Auditor General on the Financial Statement of Homa Bay County Education Bursary Fund for the year ended 30th June, 2021.
- viii.) Report of the Auditor General on the Financial Statement of Homa Bay County Water & Sanitation for the year ended 30th June, 2021
- ix.) Report of the Auditor General on the Financial Statement of Homa Bay Municipal Board for the year ended 30th June, 2021.
- x.) Report of the Auditor General on the Financial Statement of Kwale County Assembly Members & Staff Loan Scheme for the year ended 30th June, 2021.
- xi.) Report of the Auditor General on the Financial Statement of Kwale Water & Sewerage Company Ltd for the year ended 30th June, 2021.
- xii.) Report of the Auditor General on the Financial Statement of Kwale Municipal Board for the year ended 30th June, 2021.
- xiii.) Report of the Auditor General on the Financial Statement of Diani Municipal Board for the year ended 30th June, 2021.
- xiv.) Report of the Auditor General on the Financial Statement of Kakamega County Alcoholic Drinks Control Fund for the year ended 30th June, 2021.

- xv.) Report of the Auditor General on the Financial Statement of Kakamega County Dairy Development Corporation for the year ended 30th June, 2021.
- xvi.) Report of the Auditor General on the Financial Statement of Kakamega County Micro Finance Corporation for the year ended 30th June, 2021.
- xvii.) Report of the Auditor General on the Financial Statement of Mombasa County Alcoholic Drinks Control Fund for the year ended 30th June, 2021.
- xviii.) Report of the Auditor General on the Financial Statement of Mombasa County Consolidated Revolving Fund for the year ended 30th June, 2021.
- xix.) Report of the Auditor General on the Financial Statement of Mombasa Water Supply & Sanitation Company Ltd for the year ended 30th June, 2021.
- xx.) Report of the Auditor General on the Financial Statement of Taita Taveta County Assembly Mortgage (Members) Scheme Fund for the year ended 30th June, 2021.
- xxi.) Report of the Auditor General on the Financial Statement of Taita Taveta County Government Education Fund for the year ended 30th June, 2021.
- xxii.) Report of the Auditor General on the Financial Statement of Taita Taveta County Datu Sawazisha Fund for the year ended 30th June, 2021.
- xxiii.) Report of the Auditor General on the Financial Statement of Taita Taveta Car Loan Scheme Fund for the year ended 30th June, 2021.
- xxiv.) Report of the Auditor General on the Financial Statement of Bungoma County Assembly Employee Car Loan & Mortgage Scheme Fund for the year ended 30th June, 2021.
- xxv.) Report of the Auditor General on the Financial Statement of Bungoma County Education Support Scheme for the year ended 30th June, 2021.
- xxvi.) Report of the Auditor General on the Financial Statement of Bungoma County Trade Development Loans Fund for the year ended 30th June, 2021.
- xxvii.) Report of the Auditor General on the Financial Statement of Bungoma County Youth & Women Empowerment Fund for the year ended 30th June, 2021.

- xxviii.) Report of the Auditor General on the Financial Statement of Bungoma County Trade Development Loans Fund for the year ended 30th June, 2021.
- xxix.) Report of the Auditor General on the Financial Statement of Kisii County Assembly Car Loan & Mortgage Fund for the year ended 30th June, 2021.
- xxx.) Report of the Auditor General on the Financial Statement of Kisii County Health Facilities Improvement Fund for the year ended 30th June, 2021.
- xxxi.) Report of the Auditor General on the financial statement of Kisii County Emergency Fund for the year ended 30th June, 2021.
- xxxii.) Report of the Auditor General on the Financial Statement of Kisii County Loans and Mortgages Fund for the year ended 30th June, 2021.
- xxxiii.) Report of the Auditor General on the Financial Statement of Kisii County Alcoholic Drinks Control Fund for the year ended 30th June, 2021.
- xxxiv.) Report of the Auditor General on the Financial Statement of Kisii County Covid-19 Emergency Fund for the year ended 30th June, 2021.
- xxxv.) Report of the Auditor General on the Financial Statement of Gusii Water & Sanitation Company Ltd for the year ended 30th June, 2021.
- xxxvi.) Report of the Auditor General on the Financial Statement of Demonstration Farm Fund Kisii for the year ended 30th June, 2021.
- xxxvii.) Report of the Auditor General on the Financial Statement of Kisumu County Assembly Car & Loan Mortgage Scheme Fund for the year ended 30th June, 2021.
- xxxviii.) Report of the Auditor General on the Financial Statement of Kisumu County Education Fund for the year ended 30th June, 2021.
- xxxix.) Report of the Auditor General on the Financial Statement of Kisumu County Covid-19 Emergency Response Fund for the year ended 30th June, 2021.
- xl.) Report of the Auditor General on the financial statement of Kisumu Water & Sanitation Company for the year ended 30th June, 2021.

(The Senate Majority Whip)

7. **NOTICE OF MOTION - APPOINTMENT OF MEMBERS OF PARLIAMENT TO THE PAN-AFRICAN PARLIAMENT**

(The Senate Majority Whip)

THAT, pursuant to Article 5 of the Protocol to the Treaty establishing the African Economic Community and relating to the Pan-

African Parliament, the Senate approves the appointment of the following Members of Parliament to the Pan-African Parliament –

- 1) Sen. (Prof.) Margaret Kamar, EGH, MP;
- 2) Sen. Danson Buya Mungatana, MGH, MP;
- 3) The Hon. Rahab Mukami Wachira, MP;
- 4) The Hon. Joseph Kalasinga Majimbo, OGW MP; and
- 5) The Hon. Esther Muthoni Passaris, MP.

8. **STATEMENTS**

a) Pursuant to Standing Order 52 (1)

- i) Nominated Senator (Sen. Beth Syengo, MP) made a statement concerning the actualization of two-thirds gender rule for elective and appointive positions.

Thereupon, the Senator informed the Senate that Article 27 (8) of Kenya's Constitution provides for legislative and other measures to implement the principle that not more than two thirds of the members of elective or appointive bodies shall be of the same gender.

The Senator went on to raise concerns that, ten years later following the promulgation of the Constitution 2010, and after numerous attempts, the government still has not adopted legislation to fully implement this constitutional requirement.

She observed that in calling for more representation of women, the drafters of the Constitution took to account the barriers faced by women stemming from historical and cultural injustices that excluded them in fully participating in the politics of their nation.

The Senator noted that Parliament's inaction on ensuring Article 27(8) is implemented led to the then Chief Justice, David Maraga to advise the President to dissolve Parliament in line with Article 261(7) of the Constitution of Kenya, 2010.

The Senator, stated that as the Chair of the Women's League in, the Orange Democratic Movement (ODM) she was duty bound to raise awareness in ensuring more representation of women at the National Level, where the legislature is.

The Senator requested the Speaker to refer the matter to the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration to: -

1. Undertake an audit in the appointments of members of the County Executive Committees and Chief officers in all Counties; and
2. Scrutinize affirmative action being implemented by the Counties in the promotion of women in leadership positions.

The Speaker acceded to the request and pursuant to Standing Order 52 (3) referred the matter to the Standing Committee on National Cohesion, Equal Opportunity.

- ii) The Senator for Mombasa County made a statement regarding the illegal diversion of Kshs.47,349,600/- from the Staff Training Fund of the Kenya Maritime Authority (KMA) to the Kenyan High Commission in London.

The Senator informed the Senate that on 14th August, 2002 the Ag. Director General of the Kenya Maritime Authority (KMA) wrote to the PS, State Department of Shipping and Maritime, conveying the KMA Board's approval of the reduction in the Training Budget of the institution of Kshs. 47,394,600/- and allocation of the same to the Enhancement of Partnerships and Collaboration. On 14th October, 2022, the Ag. Director General paid the sum of Kshs. 47,394,600/- to the State Department of Shipping and Maritime for purposes of establishing a Maritime Desk at the Kenya High Commission in the United Kingdom. The Senator termed the payment illegal.

The Senator stated that the KMA is the Regulator in matters Shipping and Maritime and the Government has a specific Department dealing with the Blue Economy headed by Retired General Samson Mwathethe which should have been responsible for matters to do with liaison. The Senator questioned the transfer of the funds meant to train the staff at KMA, while the Shipping Industry in Kenya is starved of funds to train seamen.

The Senator further informed the Senate that, the cost of a training ship such as the VIRGO, owned by the Seychelles, is approximately \$375,000 which is equivalent to KES 45,000,000/-. High quality education and training is vital to preserve the quality, practical skills and competence of qualified seafarers in keeping vessels safe, protecting the environment and keeping trade flowing. He regretted that such cannot be accomplished when the Premier Maritime Regulator is not sensitive to the training needs of its own.

In conclusion, the Senator requested the Speaker to refer the Statement to the Standing Committee on Roads and Transportation, pursuant to Standing Order 52(3), and the Speaker acceded to the request.

- iii) The Senator for Nairobi County made a statement on an issue of national and general topical concern, namely: the ongoing strike called by the Kenya Airline Pilots Association (KALPA) that has grounded operations of our national carrier, Kenya Airways (KQ).

Thereupon the Senator informed the Senate that, while the strike is costly, crippling to transport operations and an embarrassment, it was about time the issue was sorted out, once and for all as this was not the first time the country was witnessing such and even worse, the fact that

threats are still being used instead of addressing the issue means that as a country we have not learnt from our past mistakes.

The Senator stated that it was astounding that the same government that supposedly came into power on the premise of voicing the perceived suffering of the masses, promising to improve the general welfare of our people, is the same one now issuing threats to a union that is only fighting for the rights of its members lawfully.

The Senator stated that negotiations should have been stepped up to avert a strike following the 19th October, 2022 strike notice by the pilots. He however regrettably noted that instead intimidation was deployed after KQ obtained a court injunction on 31st October, 2022 from the Employment and Labour Relations Court against the strike notice.

The Senator concluded by urging all parties not to politicize the issue but put forward efforts to genuinely seek a lasting solution that will lift the airline from sinking into a decade of losses and lead to restoration of its pride.

The Speaker, pursuant to Standing Order 52 (3) referred the Statement to the Standing Committee on Roads, Transportation and Housing for consideration and reporting to the Senate.

b) Pursuant to Standing Order 53 (1)

- i.) The Senator for Marsabit County (Sen. Mohamed Chute, MP) sought a statement from the Standing Committee on Labour and Social Welfare concerning the onboarding process of employees in Marsabit County Government.
- ii.) Nominated Senator (Sen. Gloria Orwoba, MP) sought a Statement from the Standing Committee on Information, Communication and Technology regarding alleged mismanagement of funds by the Chief Executive Officer (CEO) and the Board of the Media Council of Kenya.
- iii.) The Senator for Kakamega County (Sen. (Dr.) Boni Khalwale, MP) sought a statement from the Standing Committee on Finance and Budget on the status of Pending Bills in Kakamega County as at August 2022.

9. **THE COUNTY VOCATIONAL AND TRAINING BILL (SENATE BILLS NO. 3 OF 2022)**

(Sen. Moses Kajwang', MP)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Education.

10. **THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS (NO. 2) BILL (SENATE BILLS NO. 4 OF 2022)**

(The Chairperson, Standing Committee on Finance and Budget)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Finance and Budget.

11. **MOTION – APPOINTMENT OF MEMBERS OF PARLIAMENT TO THE PAN-AFRICAN PARLIAMENT**

Order read;

Motion made and Question proposed-

THAT, pursuant to Article 5 of the Protocol to the Treaty establishing the African Economic Community and relating to the Pan-African Parliament, the Senate approves the appointment of the following Members of Parliament to the Pan-African Parliament –

- 1) Sen. (Prof.) Margaret Kamar, EGH, MP;
- 2) Sen. Danson Buya Mungatana, MGH, MP;
- 3) The Hon. Rahab Mukami Wachira, MP;
- 4) The Hon. Joseph Kalasinga Majimbo,OGW MP; and
- 5) The Hon. Esther Muthoni Passaris, MP.

(The Senate Majority Whip)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 84(2) the Temporary Speaker (Sen. Hillary Wakili Sigei, MP) informed the House that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

THAT, pursuant to Article 5 of the Protocol to the Treaty establishing the African Economic Community and relating to the Pan-African Parliament, the Senate approves the appointment of the following Members of Parliament to the Pan-African Parliament –

- 1) Sen. (Prof.) Margaret Kamar, EGH, MP;
- 2) Sen. Danson Buya Mungatana, MGH, MP;
- 3) The Hon. Rahab Mukami Wachira, MP;
- 4) The Hon. Joseph Kalasinga Majimbo,OGW MP; and
- 5) The Hon. Esther Muthoni Passaris, MP.

12. **MOTION – PROMOTION OF MENTAL HEALTH FACILITIES FOR MOTHERS**

Order read;

Motion made and Question proposed-

THAT, AWARE THAT according to the World Health Organization, globally 10% of pregnant women and 13% of women who have just given birth experience a mental condition, referred to as perinatal depression, which is higher in developing countries with 15.6% during pregnancy, and 19.8% after child birth;

FURTHER AWARE that women who go through still birth and those that lose their children during delivery are taken to the general maternity ward where other mothers with healthy babies are recovering, causing them mental anguish and adversely impacting their mental health;

NOTING THAT integrating mental health care into primary healthcare settings requires training in psychiatric care and providing consulting support to primary care providers, considering that there are not enough mental health care providers to meet the current and growing need for mental health services;

APPRECIATING THAT the Health Act under section 6 (1) (b) provides that every person has a right to reproductive health care which includes the right of access to appropriate health care services that will enable mothers go safely through pregnancy, childbirth, and the postpartum period which should include the integration of mental health in perinatal care as recommended by the National Mental Health Taskforce in its “Mental Health and Wellbeing towards Happiness and National Prosperity” report;

NOW THEREFORE, the Senate urges the Ministry of Health in collaboration with the Council of Governors to:

- (i) ensure that all county health facilities with maternity wings, allocate a separate ward for recovery for the mothers who have gone through still birth or those that have lost their babies during delivery;
- (ii) facilitate continuous mental health training and the provision of counselling support in the perinatal wards for all primary care providers in all counties;
- (iii) establish counselling facilities at all county health facilities with maternity wings to provide counselling therapy to mothers who lose their children through a miscarriage, during delivery, or through still birth; and,

- (iv) establish counselling facilities at all county health facilities with maternity wings to provide counselling therapy to mothers who are suffering from perinatal and postpartum depression.

(Sen. Hamida Kibwana, MP)

Debate arising;

And the time being thirty minutes past six O'clock, the Temporary Speaker (Sen. Hilary Wakili Sigei, MP) interrupted the business of the Senate and adjourned the Senate without Question put, pursuant to the Standing Orders.

14. **SENATE ROSE** – at thirty minutes past six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, November 09, 2022 at 2.30 p.m.*

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