



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FIRST SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, NOVEMBER 30, 2022 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. QUORUM IN THE HOUSE

The Deputy Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, caused the Bell to be rung for ten minutes pursuant to Standing Order 40;

And there being a Quorum after expiry of ten minutes;

The Deputy Speaker invited the Clerk to call the Orders of the day.

4. COMMUNICATIONS FROM THE CHAIR

The Deputy Speaker issued the following communications from the Chair -

i.) On the invitation to 16 days of Activism, 2022,

“Honourable Senators,

My Office is in receipt of an invitation to the 16 Days of activism 2022 on December 1, 2022 from the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the Kenya Women Parliamentary Association (KEWOPA).

Honourable Senators,

This is an Annual Global campaign that provides a platform to mobilize different actors in prevention and response to Gender -Based Violence against women and girls. Every year, the campaign commences on 25th November, which is the International Day for the Elimination of Violence

against Women, and ends on 10th December, which is the International Human Rights Day.

Honourable Senators,

This year's event will be held on Thursday 1st December, 2022 at the Parliament grounds and will run from 7:00 a.m. to 09:00 a.m.

This is therefore to invite all Senators to attend this important event in the calendar of the Kenya Women Parliamentary Association (KEWOPA) as we collectively take stock of the progress and challenges faced in the elimination of Gender-Based Violence against women and girls.

I thank you.”

ii.) **On visiting members of staff from the County Assemblies of Kisumu and Bomet**

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting members of staff from the County Assemblies of Kisumu and Bomet who are in the Senate for an attachment programme.

I request them to stand so that they may be acknowledged in the Senate tradition.

They are:-

1. Ms. Vallary Achieng - Hansard officer, County Assembly of Kisumu
2. Mr. Harman Moses - Clerk Assistant, County Assembly of Kisumu
3. Mr. Victor Langat - Assistant Hansard Editor, County Assembly of Bomet

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 ESTABLISHMENT OF AN AD HOC COMMITTEE ON A LEGISLATIVE PROPOSAL TO AMEND THE CONSTITUTION TO ENTRENCH CERTAIN SPECIALIZED FUNDS

The Deputy Speaker conveyed the following Message from the National Assembly -

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 46 (3) & (4), I have received a Message from the Speaker of the National Assembly regarding the establishment of an *Adhoc* Committee on a legislative proposal to amend the Constitution to entrench certain specialized funds.

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

“PURSUANT to the provisions of Standing Order 41 of the National Assembly Standing Orders, I hereby convey a Message from the National Assembly on its passage of the following resolution during its sitting of Thursday, November 24, 2022 -

THAT, acknowledging that, Article 256 of the Constitution provides for the process of amending the Constitution by parliamentary initiative;

Further acknowledging that, Standing Order 114(7A) of the National Assembly Standing Orders provides for the process of introducing Legislative Proposals in respect of propositions amending the Constitution;

Noting, the general debate in the House on the Legislative Proposal to amend the Constitution to entrench the National Government Constituencies Development Fund, the National Government Affirmative Action Fund, the Senate Oversight Fund, and the Economic Stimulus and Empowerment Fund in the Constitution;

Cognizant of the comments and views of Honourable Members during the general debate on the Legislative Proposal; recognizing the need for a bicameral approach on the proposal prior to publication of the relevant Bill; acknowledging that, the subject matter of the Legislative Proposal cuts across the mandate of more than one Committee of the House;

NOW, THEREFORE, in furtherance to the provisions of Article 256 of the Constitution (Amendment by parliamentary initiative), and recognizing the need for a bicameral approach on the proposal prior to publication of the relevant Bill, the National Assembly on Thursday, 24th November 2022, RESOLVED-

(1) to establish a Joint Parliamentary Ad Hoc Committee on a Proposal to amend the Constitution to entrench certain specialized funds, comprising eleven (11) Members from each of the Houses of Parliament to-

(a) facilitate collation of the views from the comments by Members of Parliament during the general debate on the proposal; and invite Members with similar or related proposals to make submissions before the Committee;

- (b) *invite, engage with and consider submissions from stakeholders and relevant constitutional and statutory bodies with a law reform mandate, including the Attorney General; and the commissions and independent offices established under Chapter Fifteen of the Constitution;*
 - (c) *in consultation with the Sponsors, attempt to develop and recommend a harmonized version of the proposal arising from the submissions received; and*
 - (d) *report to the Houses of Parliament within ninety (90) days to enable the Speakers to make a decision and give direction on whether or not the Legislative Proposal is to be published into a Bill or not to be proceeded with.*
- (2) *That, the Offices of the Clerks of the Houses of Parliament provide secretariat services to the Joint Parliamentary Ad Hoc Committee in accordance with the Standing Orders;*
- (3) *That, the following eleven (11) Members to represent the National Assembly in the Joint Committee*
- (i) *The Hon. Samuel Kiprono Chepkonga, M.P.- Co- Chairperson;*
 - (ii) *The Hon. Rebecca Tonkei, M.P.*
 - (iii) *The Hon. Eckomas Mwengi Mutuse, M.P.*
 - (iv) *The Hon. Wakili Edward Muriu, M.P.*
 - (v) *The Hon. Catherine Nanjala Wambilianga,MP*
 - (vi) *The Hon. Timothy Kipchumba Toroitich, M.P.*
 - (vii) *The Hon. John Mbadi, EGH, M.P.*
 - (viii) *The Hon. (Dr.) Otiende Amollo, M.P.*
 - (ix) *The Hon. Yusuf Hassan, M.P.*
 - (x) *The Hon. Zamzam Mohammed, M.P.*
 - (xi) *The Hon. Beatrice Elachi, M.P.*
 - (xii) *The Hon. Robert Gichimu Githinji, M.P. (Co-opted)*
 - (xiii) *The Hon. Stephen Mule, M.P. (Co-opted)*
- (4) *to request the Senate to appoint a similar number of Members to represent the Senate in the Ad Hoc Committee.*

NOW THEREFORE, in accordance with the said provisions of The Standing Orders, I hereby convey the aforementioned Resolution of the National Assembly together with the legislative proposal.”

Honourable Senators,

I therefore direct, that the Senate Majority Leader and the Senate Minority Leader nominate Senators to serve in the Ad-hoc Committee by close of business today.

I further direct, that once the names of the nominees are received, that the Clerk lists the Motion for approval in the Order Paper before the Senate adjourns for the recess.

I thank you.”

6. **PETITIONS**

Pursuant to Standing Order 236(2)(b), the Deputy Speaker reported to the Senate a petition by residents of Kawino North location in Kisumu County, concerning the Ethics and Anti-Corruption Commission (EACC) graft investigation of West Kano Irrigation Scheme.

Pursuant to Standing Order 237, the Deputy Speaker invited Senators to make comments, observations or seek clarification in relation to the Petition and, subsequently, committed it to the Standing Committee on Agriculture, Livestock and Fisheries, pursuant to Standing Order 238(1).

7. **PAPERS**

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

- i.) Report of the Auditor General on the Financial Statement of Municipality of Lamu for the year ended 30th June, 2019.
- ii.) Report of the Auditor General on the Financial Statement of Municipality of Lamu for the year ended 30th June, 2020.
- iii.) Report of the Auditor General on the Financial Statement of Kakamega County Water and Sanitation Company Ltd for the year ended 30th June, 2021.
- iv.) Report of the Auditor General on the Financial Statement of Bungoma County Assembly Car Loan & Mortgage Scheme Fund for the year ended 30th June, 2021.
- v.) Report of the Auditor General on the Financial Statement of Bungoma County Persons With Disabilities Empowerment Fund for the year ended 30th June, 2021.

(The Deputy Senate Majority Whip)

- vi.) Report of the Standing Committee on National Security, Defence and Foreign Relations on a statement sought by Sen. Enoch Wambua, MP, on the heightened insecurity in Mutha Ward, Kitui County.

(The Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

8. **NOTICE OF MOTION – INCESSANT HIGH ELECTRICITY COSTS IN KENYA**
(Sen. Mohamed Chute, MP)

THAT, AWARE THAT energy is an essential factor of production and its total consumption is a major determinant of performance of the economy with its cost and reliability spurring or stifling economic growth;

FURTHER AWARE THAT there has been a significant growth in the demand for electricity in Kenya driven by economic growth, increased efforts towards rural electrification, and reinforcement of the transmission and distribution grids while the supply has been constrained majorly due to the overreliance on hydro-electric power generating plants that have been negatively impacted by perennial drought experienced in the country;

NOTING THAT imbalance in the demand and supply of power coupled with payments by the Kenya Power and Lighting Company (KPLC) for produced power not consumed and fluctuation in the foreign exchange rates contribute to the high cost of electricity;

APPRECIATING THAT Kenya has made strides in diversifying its power sources with geothermal plants, offering tremendous potential for zero-carbon source of power, already producing nearly one (1) Gigawatt (GW) of power;

CONCERNED THAT private power generating companies popularly referred to as Independent Power Producers (IPPs) only supply 28% of power to KPLC but account for 47% of power purchase costs calling for the need to enhance energy management in Kenya;

NOW THEREFORE the Senate resolves that:

- a) the Standing Committee on Energy to undertake an inquiry into: -
 - i.) Contracts signed by IPPs, detailing the cost, capacity and duration of the contractual agreements and their implications on affordability of electricity in the country;
 - ii.) Discrepancy in the cost of electricity sold to Kenya Power by KenGen, imports from Ethiopia and IPPs; and
 - iii.) The diversion of the electricity generated by Lake Turkana Wind Power to the national grid, noting that Marsabit and Samburu counties are inadequately supplied.
- b) the Ministry of Energy to come up with a policy framework aimed at:-
 - i.) Lowering the cost of electricity as a way of addressing the high cost of living; and

- ii.) Enhancing clean energy by switching to renewable sources of energy such as geothermal power, wind energy, among others as a way of reducing the carbon foot print.

9. **NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS ON A STATEMENT SOUGHT BY SEN. ENOCH WAMBUA, MP, ON THE HEIGHTENED INSECURITY IN MUTHA WARD, KITUI COUNTY**

(The Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

THAT, the Senate adopts the report of the Standing Committee on National Security, Defence and Foreign Relations on a Statement sought by Sen. Enoch Wambua, MP, on the heightened insecurity in Mutha Ward, Kitui County, laid on the table of the Senate today, Wednesday, 30th November, 2022.

10. **STATEMENTS**

a) **Pursuant to Standing Order 52 (1)**

- i.) The Senator for Samburu County (Sen. (Dr.) Lelegwe Ltumbesi, MP) made a statement concerning the status of implementation of the LAPSSET project in Samburu County.

Thereupon, the Senator stated that the LAPSSET project was launched in 2012, as one of the projects under the Presidential Infrastructure Championship Initiatives (PICI) in the African Union. The Senator averred that through the project, Kenya seeks to enhance its position as a gateway and transport hub to the East African Sub-region and the broader Great Lakes Region, by reducing over-reliance on the Northern Corridor and to open up northern Kenya that has been marginalized for a number of years.

The Senator however noted that the project had not been fully operationalized in Samburu County, including establishment of key infrastructure projects earmarked for the County. The Senator observed that ten years after the launch of the project, residents were yet to be fully compensated for availing their land for the project.

The Senator concluded by calling for the statement to be committed to the Standing Committee on Roads, Transportation and Housing for an interrogation of the implementation status of the project and a report tabled in the Senate.

Following comments and interventions by Senators, the Deputy Speaker referred the statement to the Standing Committee on Roads, Transportation and Housing, pursuant to Standing Order 52(3).

- ii.) The Senator for West Pokot County (Sen. (Rev.) Julius Murgor, MP) made a statement on the importance of establishing women self-help groups in conflict prone areas.

Thereupon, the Senator stated that self-help groups as a strategy to empower women originated from India and later extended to the whole world. Women groups were voluntary associations for poor people who join efforts, ideas and resources together for the purposes of addressing issues such as; importance of agriculture and food security, eliminating poverty, enhancing healthcare facilities and education of women.

Further, the Senator averred that Kenya had been at the fore front in advocating for the formation of women groups to foster a structured mechanism for women socio-economic empowerment. The Senator informed the Senate that a women self-help group known as A-NET, was established by the women of along the West Pokot and Elgeyo Marakwet County borders, which had changed the living standards of women across the two counties and their communities at large.

In conclusion, the Senator urged other regions with border conflict issues to emulate the initiatives of self-help groups in embracing productive activities in order to co-exist with one another and to promote peace amongst the communities.

b) Pursuant to Standing Order 53 (1)

- i.) The Senator for Isiolo County (Sen. Fatuma Dullo, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources regarding the criteria used for valuation by the National Land Commission to compute compensation claims for land owners in the Horn of Africa Gateway Project for the Isiolo – Modogashe road in Isiolo County.
- ii.) Nominated Senator (Sen. Shakila Abdalla, MP) sought a statement from the Standing Committee on Roads, Transportation and Housing concerning delay in compensation by the Kenya Ports Authority (KPA) to fishermen in Lamu County affected by the LAPPSET corridor project.
- iii.) The Senator for Marsabit County (Sen. Mohammed Chute, MP) sought a statement from the Standing Committee on Information, Communication and Technology regarding alleged discrimination by the Kenya Broadcasting Corporation’s decision to cease radio broadcasting in Rendille, Burji and Borana languages.

11. MOTION - INTEGRATING CLIMATE EDUCATION INTO NATIONAL EDUCATION CURRICULUM

(Sen. Moses Kajwang’, MP)

Order read;

AWARE THAT climate change is a complex social and scientific issue which is characterized by uncertain and context specific knowledge, demanding that educators engage in inquiry and co-learning with students, while noting the lack of time and curriculum opportunities to address climate change in the classroom;

COGNIZANT OF THE FACT that the Constitution of Kenya in Article 42 provides for the right to a clean and healthy environment for every Kenyan, which includes the right to have the environment protected for the benefit of the present and future generations;

NOTING THAT Climate change is a global nightmare with consequences that are already quite visible and should be a priority for the national education curriculum, in accordance to Article 12 of the Paris Agreement which espouses the enhancement of climate change education, training, public awareness, public participation and public access to information;

FURTHER NOTING THAT climate change education explores mitigation and adaptation at both local and global level, critical and creative thinking and capacity building that will enable youth to engage with the information, inquire, understand, ask critical questions and take what they determine are appropriate actions to respond to climate change;

ACKNOWLEDGING THAT the Climate Change Act 2016 addresses the integration of climate change into various disciplines and subjects of the national education curriculum at all levels, as well as requiring that the National Climate Council advises public agencies responsible for regulating universities and tertiary institutions curricula on integration of climate change into their curricula;

NOW THEREFORE the Senate calls upon the Ministry of Education in liaison with the Kenya Institute for Curriculum Development to:

1. Mainstream climate change education throughout formal education systems through integrating climate education in the school curriculum to creatively prepare children and young people for a rapidly changing, uncertain, risky and possibly dangerous future; and
2. Train and equip teachers and school administrators with the necessary information and skills to teach climate education and explore new approaches to learning that can contribute to the transformation of unsustainable climate systems, values and routines.

Order deferred.

12. MOTION - DROUGHT AND HUNGER MITIGATION IN TURKANA COUNTY

Order read;

Motion made and Question proposed;

THAT, AWARE THAT Turkana County continues to experience extremely dry weather conditions with the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reporting that the aggregate rainfall for the six-month period ending September 2022 represented only 21 percent of the normal rainfall;

FURTHER AWARE THAT the prevailing weather conditions have resulted in the drying up of wells, boreholes, loss of pasture, and crops, therefore rendering any form of farming impracticable;

ACKNOWLEDGING THAT the residents of the County are predominantly pastoralists who keep cattle, donkeys, camels, and goats for food and income, and that the loss of these livestock is a loss of livelihood for them;

NOTING THAT the prevailing drought has resulted in the death of more than half of the livestock in the County thereby pushing eight hundred thousand residents to the brink of starvation and resulting in the highest ever rate of acute malnutrition in the County at 33%;

FURTHER NOTING THAT residents have been forced into migration with their livestock in search of pasture and water which has exposed them to raids by bandits and resulting in children dropping out of school;

CONCERNED THAT droughts have been recorded in the County since the 1960s and that the frequency of their occurrences has progressively increased with drought in the County becoming a yearly phenomenon;

COGNIZANT THAT Article 43 of the Constitution of Kenya, 2010, stipulates the rights of every person to be free from hunger, to have adequate food of acceptable quality, and to clean and safe water in adequate quantities, and obliges the State to provide social security to persons unable to support themselves and their dependants;

FURTHER COGNIZANT THAT Article 11 of the United Nation's International Covenant on Economic, Social and Cultural Rights (ICESCR) places further emphasis on the fundamental right to food and obliges the State to take progressive steps towards achieving full realization of the right to adequate food;

NOW THEREFORE the Senate urges the Ministries of Agriculture and Livestock Development; Water, Sanitation, and Irrigation; Education, and the Ministry of East African Community (EAC), the ASALs and Regional Development through the National Drought Management Authority, to come

up with a policy framework to address the perennial drought in the County and to come up with policy programs addressing the current needs of the County to include: -

- i) a roll out of a Rapid Response Initiative (RRI) programme of providing foodstuffs to the affected residents of the County to address immediate critical needs;
- ii) an introduction of feeding programme in schools across the County;
- iii) the drilling of water boreholes; and
- iv) an institution of a livestock off-take programme to buy weak livestock.

(Sen. James Lomenen Ekomwa, MP)

Debate arising;

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Abdul Haji, MP) adjourned the Senate without Question put, pursuant to the Standing Orders.

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

MEMORANDUM

*The Speaker will take the Chair on
Thursday, December 01, 2022 at 2.30 p.m.*

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