



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - (SECOND SESSION)

THE SENATE

ORDER PAPER

THURSDAY, MAY 31, 2018 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. ****THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL (SENATE BILLS NO. 6 OF 2018)**
(Chairperson, Standing Committee on Labour and Social Welfare)
(*Second Reading*)
9. **MOTION -ESTABLISHMENT OF SELECT COMMITTEE TO INVESTIGATE THE CIRCUMSTANCES THAT LED TO THE SOLAI DAM TRAGEDY**
(Sen. Susan Kihika, MP)

AWARE THAT on Wednesday, 10th May, 2018, Kenyans woke up to the tragic news of the Solai Dam Tragedy following the bursting of the banks of the privately owned Solai Dam the previous night;

CONCERNED THAT, as result of the tragedy, approximately fifty (50) people lost their lives - most of them being small school-going children - in the most unfortunate circumstances and that many more who survived are now hospitalized due to the bodily and psychological injuries inflicted on the them;

FURTHER CONCERNED THAT hundreds of families are now homeless with orphans and destitute among them and that majority of the people who had their own habitations, whether own homes, rental or farm quarters, have not been resettled;

...../Motion

APPRECIATING the good work of the Red Cross Society of Kenya and the National Government for their swift response upon receiving the information of the dam tragedy;

DEEPLY CONCERNED THAT this human catastrophe occurred despite the existence of the Water Resources Management Authority (WARMA), an institution created by the Water Act of 2002 and mandated to ensure rational and effective management of water resources;

FURTHER CONCERNED THAT WARMA does not have a framework on licensing, construction, usage, sharing of dam water resources, insurance and inspection of earth dams and that currently there are no standards which dam owners are required to adhere to and comply with;

ALSO CONCERNED THAT although WARMA knew that the Solai Dam posed a great risk to Kenyans living downstream, they did little or nothing to avert the danger and that the Solai Dam tragedy appears to have occurred as a result of negligence;

NOTING WITH CONCERN the sad revelations following an investigative report by Kenya Human Rights Commission (KHRC) on the Solai Dam tragedy that point to ignorance and a suspicious relationship between the owners of the Dam (the Mansukh Patel family), the National Environmental Management Authority (NEMA) and WARMA officials in their singular and joint omission that resulted in failure to act on early warning information given to them about the impending danger, and the continued failure by NEMA to put in place standards on quality of dam walls and regulations to address the downstream effects and impact of dams whose walls burst, especially the protection and restoration of the flora and fauna and the environment in general;

APPREHENSIVE THAT with the continuing heavy rainfall, now and in future, such incidents as the Solai one could happen elsewhere in Kenya;

DESIREOUS of the need to take steps towards ensuring that similar man-made disasters are prevented from recurring;

NOW THEREFORE the Senate resolves to establish a select committee to-

- a) holistically investigate and establish the circumstances leading to the Solai Dam Tragedy;
- b) propose modalities for compensation of all the families of the deceased victims and the surviving families;
- c) ensure the Dam owner makes compensation in regard to the destroyed environment, especially trees and other vegetation and top fertile soils; and
- d) propose measures to mitigate any such eventual disasters especially for Counties that are prone to floods and landslides.

AND THAT the following Senators be members of the Select Committee-

- i) Sen. Fatuma Dullo, CBS, MP;
- ii) Sen. Mithika Linturi, MP;
- iii) Sen. Sakaja Johnson, MP;

...../Motion

- iv) Sen. (Eng.) Ephraim Maina, EBS, MP;
- v) Sen. Mutula Kilonzo Junior, MP;
- vi) Sen. (Prof.) Imana Malachy, MP;
- vii) Sen. (Arch.) Sylvia Kasanga, MP;
- viii) Sen. Ledama Olekina, MP; and
- ix) Sen. Susan Kihika, MP.

AND FURTHER THAT the Select Committee reports back to the Senate within sixty (60) calendar days after its establishment.

10. **MOTION –FLOOD SITUATION IN THE COUNTRY**

(Sen. Fatuma Dullo, MP)

THAT, aware that several days of heavy rains recently have caused severe flooding in many parts of the country, resulting in multiple deaths and devastating damage to property and infrastructure;

NOTING with concern that, whenever Kenya experiences periods of severe drought, torrential rains usually follow;

CONCERNED that year in year out, the challenge of floods continues to recur, leading to loss of human and animal life, displacement of people and wanton destruction of property;

COGNIZANT that the number of Kenyans needing emergency food aid as a result of displacement caused by the current floods continues to rise by the day, and that the floods have also washed away many bridges and destroyed roads in many parts of Kenya;

ALSO CONCERNED that no effective measures, such as improved storm water harvesting, proper drainage infrastructure and preventing the destruction of riparian reserves and natural water courses, to mitigate and/or provide a lasting solution to the menace of flooding, have been taken;

NOW THEREFORE, the Senate calls upon the National Government to develop a lasting framework to permanently address the challenge of effects of floods by, among other things-

1. developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and
2. preventing and regulating the construction of informal settlements and ensuring prevention of construction on low lying areas and flood plains.

And further that the relevant government agency to execute this task submits a report to the Senate within three months of the adoption of this Motion.

11. **MOTION – REGISTRATION OF PERSONS WITH DISABILITIES (PWDS)**

(Sen. George Khaniri, MP)

THAT AWARE THAT the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

...../Motion

FURTHER AWARE THAT registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE THAT persons living with disabilities are estimated to be about 10% of any given population;

COGNIZANT THAT for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

CONCERNED THAT of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

AWARE THAT medical services are now a devolved function;

FURTHER CONCERNED THAT without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED THAT owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

12. **MOTION - ON THE NEED TO REVIEW AND EVALUATE THE STATUS OF EDUCATION IN NORTHERN KENYA**

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

THAT, AWARE that Article 43 (f) of the Constitution of Kenya stipulates that every person has the right to education, and Article 53(1)(b) provides that every child has the right to free and compulsory basic education;

ALSO AWARE that education is a basic need and a tool for intellectual empowerment and social-political development;

FURTHER AWARE that education is a shared function between the National and the County levels of Government with the National Government being responsible for Primary, secondary and Higher education while the County Government is responsible for preprimary education, village polytechnics and home craft centers;

COGNISANT that both levels of Government complement each other in promoting sustainable education;

CONCERNED that the intake, uptake and quality of education in the Northern Kenya have adversely been affected owing to discrepancies in public resources allocation, insecurity, skewed staffing and teacher training in the region;

...../Motion

FURTHER CONCERNED that both the school completion rate and the national examination outcomes in region are poor and that the number of students from Northern Kenya who qualify for core courses in universities, colleges, technical schools and village polytechnics is minimal compared to other parts of the country;

NOTING WITH CONCERN that due to insecurity and other related concerns, the Teachers Service Commission (TSC) which is the body responsible for the employment and deployment of teachers, has in the recent past, taken steps to transfer non-local teachers from the northern region of Kenya to other parts of the country;

CONCERNED THAT, the transfers have led to shortage of skilled teachers which has been a major cause of the dismal performance in examinations in schools in the region;

NOW THEREFORE, the Senate resolves to task the Standing Committee on Education to conduct an inquiry into the challenges facing the education sector in Northern Kenya with a view to-

1. evaluating the effect of the teacher transfers from the region and recommending to the Ministry of Education, policy measures to address the challenge;
2. evaluating the status of the education infrastructure in the region and proposing solutions to mitigate the current and looming challenges;
3. proposing mechanisms for enhanced resource allocation at both levels of government to facilitate improved education facilities; and
4. assessing school intake compared completion levels in the region in order to ascertain the impact of the challenges facing the schools and how these disadvantages the region compared to other parts of Kenya and proposing ways of addressing the challenges.

And that the Committee submits a report to the Senate within three months of adoption of this Motion by the Senate.

13. **MOTION – NEED FOR STANDARD POLICY REGULATION FOR CONSTRUCTION AND MAINTENANCE OF RURAL ACCESS ROADS**

(Sen. (Arch.) Sylvia Kasanga, MP)

THAT AWARE that infrastructure development and specifically, construction of roads is a key pillar of Kenya's vision 2030 whose objective is to spur movement of people and goods, promote trade and economic activities, encourage development and attract investments;

NOTING that there is a very strong correlation between a country's economic development and the quality of its road network;

CONCERNED that Government's efforts to expand the roads infrastructure are mainly focused on the urban and peri-urban areas of the country thus leaving rural areas with dilapidated or no access roads;

...../Motion

FURTHER CONCERNED that fifty five years since independence and over five years after institutionalization of devolution, the Country's roads infrastructure is to a large extent still underdeveloped with only slightly above 9,000 kilometres of the about 178,000 kilometres of roads paved;

COGNISANT that, Part Two of the Fourth Schedule to the Constitution of Kenya (2010) mandates County Governments to manage county transport, including; roads, street lighting, traffic and parking, amongst other county public transport matters;

DEEPLY CONCERNED that, County Governments are continuously prioritizing routine maintenance works over sustainable and durable road quality works due to budgetary constraints;

NOW THEREFORE the Senate calls upon the Ministry of Transport, Infrastructure, Housing and Urban Development to develop and adopt standard policy regulations prescribing modern, eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads in order to ensure durability and sustainability of the access roads and also to reduce maintenance expenses.

14. **MOTION-REPORT OF THE SENATE DELEGATION TO THE CONFERENCE ON THE GREAT LAKES REGION (FP-ICGLR) HELD IN KINSHASHA, DEMOCRATIC REPUBLIC OF CONGO**

(Sen. Samuel Poghio, MP)

THAT this House adopts the Report of the proceedings of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Kinshasa, Democratic Republic of Congo from 19th – 20th March, 2018, laid on the Table of the Senate on Tuesday, 15th May, 2018.

15. **MOTION - REPORT OF THE SENATE DELEGATION TO THE INTER-PARLIAMENTARY UNION (IPU) HEARINGS AT THE UNITED NATIONS**

(Sen. Naomi Shiyonga Masitsa, MP)

THAT, this House notes the Report of the proceedings of the Inter-Parliamentary Union hearings at the United Nations, New York, USA from 22nd – 23rd February, 2018 laid on the Table of the House on Tuesday, 15th May, 2018.

NOTICE

The Senate resolved on 14thFebruary, 2018 as follows:-

THAT, pursuant to Standing Order 100 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

- **** - Denotes a Majority/Minority Party Bill
- *** - Denotes a National Assembly Bill
- ** - Denotes a Committee Bill
- * - Denotes any other Bill

APPENDIX

1. PAPERS

- a) Report of the Auditor-General on the Financial Statements of Marsabit County Executive Committee Members Car Loan Scheme for the year ended 30th June 2017.
- b) Report of the Auditor-General on the Financial Statements of Marsabit County Executive Mortgage Scheme for the year ended 30th June 2017.
- c) Annual Corporate Report of the Office of the Auditor-General for the financial year 2016/2017.
- d) The Kenya National Bureau of Statistics (KNBS) 2018 Economic Survey.
- e) The Ethics and Anti-Corruption Commission (EACC) Report on the 2016 National Ethics and Corruption Survey.

(The Senate Majority Leader)

2. STATEMENTS

Statement of the Senate Majority Leader pursuant to Standing Order No. 46 (2) (c)

The Senate Majority Leader to issue a statement on the Business of the Senate for the coming week.
