



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - (SECOND SESSION)

THE SENATE

ORDER PAPER

TUESDAY, JUNE 5, 2018 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions(as listed in the Appendix)
5. Papers(as listed in the Appendix)
6. Notices of Motion(as listed in the Appendix)
7. Statements
8. ****THE COUNTY GOVERNMENTS RETIREMENTS SCHEME BILL (SENATE BILLS NO. 6 OF 2018)**
(Chairperson, Standing Committee on Labour and Social Welfare)
(*Second Reading*)
9. ****THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)**
(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)
(*Second Reading*)
10. ***THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**
(Sen. Amos Wako, MP)
(*Second Reading*)
11. ***THE DISASTER RISK MANAGEMENT BILL (SENATE BILLS NO. 8 OF 2018)**
(Sen. Mutula Kilonzo, MP and Sen. Sakaja Johnson, MP)
(*Second Reading*)
12. ***THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILLS NO. 7 OF 2018)**
(Sen. Petronila Were Lokorio, MP)
(*Second Reading*)

...../Bill

- 13. *THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)
(Sen. Ledama Olekina, MP)
(Second Reading)

- 14. 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;

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

...../Motion

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;
- 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 60 calendar days after its establishment.

15. **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;

...../Motion

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.

16. **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;

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.

...../Motion

17. MOTION -NEED TO REVIEW AND EVALUATE THE STATE 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;

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

...../Motion

- 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.

18. **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;

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.

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

(Sen. Samuel Poghio, MP)

THAT,this House adopts the Report of the proceedings of the First Extraordinary

...../Motion

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.

20. 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.

21. MOTION - REPORT OF THE SENATE DELEGATION TO THE INAUGURAL COMMONWEALTH PARLIAMENTARIANS' FORUM

(Sen. Moses Kajwang', MP)

THAT, this House notes the Report of the Senate Delegation to the Inaugural Commonwealth Parliamentarians' Forum held at the Westminster, London, United Kingdom from 26th February to 1st March, 2018 laid on the Table of the House on Thursday, 10th May, 2018.

NOTICE

The Senate resolved on 14th February, 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 Marsabit County Executive Social Protection Fund for the year ended 30th June 2017.
- b) Report of the Auditor-General on the Marsabit County Government Scholarship Fund for the year ended 30th June 2017.
- c) Report of the Auditor-General on the Financial Statements of Tharaka-Nithi County Assembly Revolving Fund for the year ended 30th June 2017.

(The Senate Majority Leader)

- d) Report of the Induction Workshop of the Sessional Committee on Delegated Legislation held at the Four Points Hotel by the Sheraton, Nairobi, from 10th-12th March, 2018.

(Chairperson, Sessional Committee on Delegated Legislation)

2. PETITION

Petition by Representatives of the Wildlife Conservancies concerning financial/budgetary support to Wildlife Conservancies for sustainable conservation and community development.

(Sen. HalakeAbshiro)

3. NOTICE OF MOTION- REMEDIES FOR CLOSURE OF SCHOOLS DUE TO FLOODS & INSTANCES OF INSECURITY

(Sen. (Arch.) Sylvia Kasanga)

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

COGNIZANT that on 5th January, 2018 during the flagging off of national delivery of core course books for schools at Cemastea Karen, His Excellency the President Uhuru Kenyatta stated that his administration has focused on initiatives that ensure every Kenyan has access to quality education, so they can acquire appropriate skills and knowledge that make our country globally competitive;

FURTHER AWARE that recently the country has suffered floods in many parts of the country leading to deaths and people being displaced and rendered homeless;

DEEPLY CONCERNED that some schools have also remained closed even after other schools reopened while others have been closed as a result of floods and instances of insecurity;

...../Appendix

FURTHER NOTING that closure of schools due to the said floods as well as insecurity places students and pupils in those schools at a disadvantage as they are unable to access education which is their right, while some of the students in those schools are expected to sit for their national exams at the end of the year and their performance risks being negatively affected by the lost time out of school;

NOW THEREFORE, the Senate resolves that the Committee on Education, investigates this matter with a view to:-

1. identifying strategies to ensure that the affected students are able to access education as soon as possible;
2. outlining preventative measures to ensure that more students are not affected by the floods and insecurity; and,
3. Submitting a Report to the Senate within sixty (60) days outlining the short and long term strategies, that are being put in place to ensure that schools in flood and insecurity prone areas are not affected in the future.
