



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FIRST SESSION)

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, NOVEMBER 24, 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. **QUORUM IN THE HOUSE**

Pursuant to Standing Order 40 (1) the Speaker determined that there was no Quorum.

Thereupon the Speaker directed that the Quorum Bell be rung for ten Minutes.

Having not attained Quorum, the Speaker directed that the Bell be rung for a further ten minutes.

Having attained Quorum, the proceedings of the Senate commenced.

4. **PAPERS**

The following Paper was laid on the Table of the Senate :-

The Statement of the Senate Majority Leader on the business of the Senate for the week commencing Tuesday, 29th November, 2022.

(The Senate Majority Leader)

5. **COMMUNICATION FROM THE CHAIR ON VISITING TEACHERS AND STUDENTS OF GRADE 5 FROM EMERALD INTERNATIONAL SCHOOL IN NAIROBI COUNTY**

The Speaker conveyed the following communication from the Chair-

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting teachers and students of Grade 5 from Emerald

International School in Nairobi County, who are on an education tour in Parliament.

Honourable 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”.

6. **NOTICE OF MOTION - ENHANCING HIGHWAY SAFETY AND CONVENIENCE DROUGHT AND HUNGER MITIGATION IN TURKANA COUNTY**

(Sen. Wahome Wamatinga, MP)

THAT, AWARE THAT the majority of highway users, most of whom are long distance travelers and some of whom are children, elderly, and sick, face a myriad of challenges including traffic delays and breakdown of their vehicles that cause them to spend long hours on the road exposing them to starvation, insecurity threats, and to the need for sanitary and medical facilities;

FURTHER AWARE THAT setting up safe stopping points for road users at regular intervals with the necessary road-side amenities such as fuel stations, parking spaces, restaurants, telephone booths, minor repair shops, medical facilities, and toilets enhances total travel experience and the lack of these points make it impractical for drivers to stop as often as they would wish to resulting into driving-related fatigue, a significant contributor to accidents on the highways;

COGNIZANT THAT the current road-side amenities operated and maintained by private companies, majorly oil companies, are located in urban centers while in the countryside there are inadequate numbers offering limited variety of facilities;

ACKNOWLEDGING THAT the cost of such developments and the uncertainty of the returns on investment restrict the supply of the facilities, the risks too great for small companies and the returns too meagre for large companies, some amenities remain unviable, and insufficiently provided for by commercial companies necessitating government intervention;

FURTHER COGNIZANT THAT governments across the world such as France and Germany have taken on the task of setting up such amenities through incorporation of the basic provisions in their road transport infrastructure through different models of Public Private Partnership (PPP), lease, or ownership;

NOW THEREFORE the Senate resolves that the Ministries of Roads, Transport and Public Works, Health, the Kenya National Highways

Authority, and the National Transport and Safety Authority to come up with a policy framework to include: -

- i) the incorporation of road reserves for road-side amenities in all highway designs;
- ii) undertaking a survey to ascertain the specific amenities required but not available on the existing highways and the most convenient locations to develop them; and
- iii) development of a Public Private Partnership guideline on leasing of the road reserves to developers, financing the construction of the amenities, and the packaging of incentives to attract investors.

7. STATEMENTS

(a) Pursuant to Standing Order 52(1)

- i) Nominated Senator (Sen. Hamida Kibwana, MP) made a Statement on a matter of general topical concern, namely the uprooting of baobab trees from Kilifi County for transplanting in the United States.

The Senator informed the Senate that the Global Forest Watch, Kenya had 3.18M hectares of natural forest, extending over 5.7% of its land area in 2010. In 2021, it lost 7.23 Kilo hectare of natural forest, equivalent to 3.23 Metric tonnes of CO₂ emissions, and that reports show that 6 regions were responsible for 52% of all tree cover loss between 2001 and 2021.

The Senator reiterated that baobabs are deciduous trees which sequester the most carbon of all other trees and that the older they are the more carbon they sequester.

The Senator further informed the Senate that baobabs are the best agents for reversing climate change as well as providing water to all sorts of animals during droughts as it stores tons of water. Its bark is mostly water and fibre and cannot be used for timber. The fruit, leaves and bark of the tree are nutritious and can be economically beneficial to the communities and counties where they grow and so a potential source of own source income for the County government.

The Senator expressed concern that the baobab trees have lately been gaining international appeal and recent reports on the felling and exporting of these trees need to be interrogated as the government has the discretion to approve or reject felling requests. She expressed the need for legislative interventions on managing heritage trees which the relevant Senate Committee can champion.

The Statement was referred to the Standing Committee on Land, Environment and Natural Resources, pursuant to Standing Order 52(3).

- ii) Nominated Senator (Sen. Catherine Mumma, MP) made a Statement on a matter of general topical concern, regarding the prevalent inequity in the registration and issuance of National Identity (ID) Cards.

Thereupon, the Senator informed the Senate that the Constitution of Kenya under Article 12, guarantees every citizen access to any document of registration or identification issued by the State to citizens, the National Identity Card being one such document and is a critical tool for facilitating equitable access to opportunities including access to national funding like Capitation and HELB for facilitating admission to tertiary learning institutions like the TVET as well as Universities.

The Senator added that the Registration of Persons Act, provides that every Kenyan Citizen who attains the age of 18 years must be registered and issued with a National Identity Card facilitated through the department of National Registration Bureau.

The Senator expressed concern that the expectation of the Constitution and the law is not met as should be the case since access to the ID is problematic in some regions including locations in Western Kenya, Nyanza, North Eastern and Coast.

She was further concerned that there is a history of the politicization of the ID issuance by past regimes that have usually suppressed the ID issuance in regions perceived not to support the incumbent thus violating the rights of citizens.

The Senator reiterated that facilitation of school based registration and issuance of IDs is a simple administrative action that can be adopted and achieved through the collaboration between the Ministry of Education and the Registrar of Persons to deliver this important empowerment tool to form 4 leavers.

The Statement was referred to the Standing Committee on National Security, Defence and Foreign Relations pursuant to Standing Order 52(3).

(b) Pursuant to Standing Order 53(1)

- i) Nominated Senator (Sen. Hamida Kibwana, MP) sought a statement from the Standing Committee on Justice, Legal Affairs and Human Rights regarding access to justice by the family of the late Ms. Ebbie Noelle Samuels, a former student of St. Anuarite Gatanga Girl's School.

- ii) The Senator for Samburu County (Sen. (Dr.) Lelegwe Ltumbesi, MP) sought a statement from the Standing Committee on Energy regarding the operationalization of the Lake Turkana Wind power Project in Samburu County.
- iii) The Senator for Bomet County (Sen. Wakili Hillary Kiprotich, MP) sought a statement from the Standing Committee on Labor and Social Welfare regarding claims of discrimination against locals in job opportunities by Bomet University in Bomet County.
- iv) The Senator for Bomet County (Sen. Wakili Hillary Kiprotich, MP) sought a statement from the Standing Committee on Education regarding the non-payment of salaries and allowances to Tutorial Fellows by Bomet University in Bomet County.

(c) Pursuant to Standing Order 56(1)(a)

The Vice-Chairperson, Standing Committee on Roads, Transport and Housing issued a Statement concerning the collapsing of buildings as witnessed in the last few weeks in Kiambu County and Nairobi City County.

Thereupon, the Vice-Chairperson informed the House that owing to structural defaults and use of substandard materials, there have been three cases of collapse of buildings in Nairobi City County and Kiambu Counties. An audit report by the National Construction Authority (NCA), found that 10,791 of the 14,895 buildings surveyed were unsafe and either needed to be demolished or reinforced before occupation.

The Vice Chairperson reported that the Committee had observed that there is no central depository for data on the failure and collapse of buildings in Kenya making it difficult for monitoring and evaluation; and that duplication of roles, overlap of functions in approval, regulation and monitoring of construction of buildings spread over various government agencies and poor coordination of professionals could be the main underlying causes of structural failures and building collapse in Kenya.

The Chairperson stated that the Committee shall endeavour to pursue the matter with the relevant authorities and stakeholders with a view to ensure that the licensing criteria for contractors and construction workers is reviewed to include requisite training for all stakeholders involved and that regulatory boards are empowered to address unethical practices and enforce professional standards to ensure safety of building constructions.

(d) Pursuant to Standing Order 57 (1)

The Senate Majority Leader issued a statement on the business of the Senate for the week commencing Tuesday, 29th November, 2022.

8. **MOTION - PLIGHT OF KENYAN DOMESTIC WORKERS IN THE MIDDLE EAST**

Order read;

Motion made and Question proposed;

THAT, AWARE THAT foreign workers from developing countries make up a large majority of the Gulf's labour, a trend driven in Kenya by the high rate of youth unemployment which stands at 34.21%, forcing young Kenyans to continue to go beyond our borders in pursuit of lucrative employment opportunities;

FURTHER AWARE THAT the *Kafala* or sponsorship system found in the Gulf Cooperation Council (GCC) countries such as, Kuwait, Oman, Qatar, Saudi Arabia, the United Arab Emirates, Jordan and Lebanon, defines the relationship between foreign workers and their local sponsor, under which the state gives local individuals or companies, sponsorship permits to employ foreign labourers, and covers travel expenses and provides housing, in the case of domestic workers in the sponsor's home;

APPRECIATING THAT the Kenyan recruitment process of domestic workers for Saudi Arabia involves a number of stakeholders including the Saudi employers, the Saudi Arabia Employment Agencies, Ministry of Labour (Labour Department), National Employment Authority (NEA), National Industrial Training Authority (NITA), prospective domestic workers, Kenya Private Employment Agencies (KPEA), Saudi Arabian Embassy and the immigration Department;

NOTING THAT numerous Kenyan migrant domestic workers in Saudi Arabia have documented various forms of abuses including passport confiscation, physical abuse, sexual abuse, sleep deprivation, food deprivation, labour exploitation, imprisonment prior to deportation, religious intolerance and psychological abuse leading to some of these workers losing their lives;

COGNIZANT THAT Articles 10, 11, & 14 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families adopted on 18 December, 1990 espouses that no migrant worker shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, shall be held in slavery or servitude, or be subjected to arbitrary or unlawful interference with his or her privacy, family, correspondence or other communications, or to unlawful attacks on his or her honour and reputation, and the right to the protection of the law against such interference or attacks;

FURTHER APPRECIATING THAT staffing shortages and inadequate funding faced by the labour attaches in Saudi Arabia hinder the effective supervision of migrant workers in distress, lack of safe houses, lack of a comprehensive mechanism to handle labour disputes, and a lack of a legal framework defining the roles of migrant workers in order to adhere to the

terms of their contracts, are some of the challenges that need to be overcome;

CONCERNED THAT under the Bilateral Labour Agreement (BLA) between the Government of Kenya (GoK) and the Government of the Kingdom of Saudi Arabia (KSA) on the recruitment of domestic workers that was developed and adopted in January 2016, Kenya was obligated to provide qualified and medically fit workers needed by Saudi Arabia according to the job specifications, and in turn Saudi Arabia was obligated to ensure that the welfare and rights of employers and domestic workers employed in the Kingdom are promoted and protected in accordance with the applicable rules and regulations which has not been the case, including the enforcement of rest hours and the identity and work permits remaining in the possession of the migrant worker;

NOW THEREFORE, the Senate resolves that the Ministries of Interior and National Administration, Labor and Social Protection, Foreign Affairs and Diaspora Affairs, Immigration Department, the National Employment Authority, the Kenya Private Employment Agencies (KPEA), cease all travel by Kenyan migrant workers to the Gulf states with immediate effect until:

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1. the Ministry of Labour and Social Protection amends the national labour migration regulatory framework policy to address labour exportation management;
2. the Ministry of Labour and Social Protection, and the Ministry of Foreign Affairs & Diaspora Affairs adopt/ratify the multilateral declarations relating to the protection of workers such as the International Labour Organisation (ILO) Domestic Workers Convention, 2011 (No. 189) and the Private Employment Agencies Convention, 1997 (No. 181);
3. the establishment of functional overseas labour offices for the administration and enforcement of the Ministry of Labour and Social Protection policies for migrant workers;
4. a review of the Bilateral Agreement between the Government of Kenya, and the Kingdom of Saudi Arabia by the Ministry of Foreign Affairs & Diaspora Affairs to adequately address identified gaps and emerging issues;
5. there are established safe houses to serve as central huts of welfare and assistance to migrant workers and temporary shelters for overseas Kenyans in distress; and,
6. any Kenyan in distress, and in particular, Hellen Kemunto, is rescued and brought back to Kenya from Riyadh, Saudi Arabia.

(Sen. Veronica Nduati, MP)

Debate interrupted on Wednesday, 23rd November, 2022 resumed;

And there being no Senator wishing to contribute;

The Mover replied;

Before the question was put and pursuant to Standing Order 84(3), the Temporary Speaker (Sen. Catherine Mumma, MP) ruled that the Question did not affect Counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, AWARE THAT foreign workers from developing countries make up a large majority of the Gulf's labour, a trend driven in Kenya by the high rate of youth unemployment which stands at 34.21%, forcing young Kenyans to continue to go beyond our borders in pursuit of lucrative employment opportunities;

FURTHER AWARE THAT the *Kafala* or sponsorship system found in the Gulf Cooperation Council (GCC) countries such as, Kuwait, Oman, Qatar, Saudi Arabia, the United Arab Emirates, Jordan and Lebanon, defines the relationship between foreign workers and their local sponsor, under which the state gives local individuals or companies, sponsorship permits to employ foreign labourers, and covers travel expenses and provides housing, in the case of domestic workers in the sponsor's home;

APPRECIATING THAT the Kenyan recruitment process of domestic workers for Saudi Arabia involves a number of stakeholders including the Saudi employers, the Saudi Arabia Employment Agencies, Ministry of Labour (Labour Department), National Employment Authority (NEA), National Industrial Training Authority (NITA), prospective domestic workers, Kenya Private Employment Agencies (KPEA), Saudi Arabian Embassy and the immigration Department;

NOTING THAT numerous Kenyan migrant domestic workers in Saudi Arabia have documented various forms of abuses including passport confiscation, physical abuse, sexual abuse, sleep deprivation, food deprivation, labour exploitation, imprisonment prior to deportation, religious intolerance and psychological abuse leading to some of these workers losing their lives;

COGNIZANT THAT Articles 10, 11, & 14 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families adopted on 18 December, 1990 espouses that no migrant worker shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, shall be held in slavery or servitude, or be subjected to arbitrary or unlawful interference with his or her privacy, family, correspondence or other communications, or to unlawful attacks on his or her honour and reputation, and the right to the protection of the law against such interference or attacks;

FURTHER APPRECIATING THAT staffing shortages and inadequate funding faced by the labour attaches in Saudi Arabia hinder the effective supervision of migrant workers in distress, lack of safe houses, lack of a comprehensive mechanism to handle labour disputes, and a lack of a legal framework defining the roles of migrant workers in order to adhere to the terms of their contracts, are some of the challenges that need to be overcome;

CONCERNED THAT under the Bilateral Labour Agreement (BLA) between the Government of Kenya (Gok) and the Government of the Kingdom of Saudi Arabia (KSA) on the recruitment of domestic workers that was developed and adopted in January 2016, Kenya was obligated to provide qualified and medically fit workers needed by Saudi Arabia according to the job specifications, and in turn Saudi Arabia was obligated to ensure that the welfare and rights of employers and domestic workers employed in the Kingdom are promoted and protected in accordance with the applicable rules and regulations which has not been the case, including the enforcement of rest hours and the identity and work permits remaining in the possession of the migrant worker;

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3. the establishment of functional overseas labour offices for the administration and enforcement of the Ministry of Labour and Social Protection policies for migrant workers;
4. a review of the Bilateral Agreement between the Government of Kenya, and the Kingdom of Saudi Arabia by the Ministry of Foreign Affairs & Diaspora Affairs to adequately address identified gaps and emerging issues;
5. there are established safe houses to serve as central huts of welfare and assistance to migrant workers and temporary shelters for overseas Kenyans in distress; and,

6. any Kenyan in distress, and in particular, Hellen Kemunto, is rescued and brought back to Kenya from Riyadh, Saudi Arabia.

9. **MOTION - INTEGRATING CLIMATE EDUCATION INTO NATIONAL EDUCATION CURRICULUM**

(Sen. Moses Kajwang', MP)

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.

10. **MOTION - DROUGHT AND HUNGER MITIGATION IN TURKANA COUNTY**

(Sen. James Lomenen Ekomwa, MP)

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.

Order deferred.

And there being no other business, the Temporary Speaker (Sen. Catherine Mumma, MP) adjourned the Senate at fifteen minutes past Six O'clock, without Question put, pursuant to the Standing Orders.

11. **SENATE ROSE** - Fifteen minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, November 29, 2022 at 2.30 p.m.*

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