



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, NOVEMBER 15, 2016 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 Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker issued the following Communications from the Chair-

(a) Meeting with the Cabinet Secretary, Ministry of Land, Housing and Urban Development

"Honourable Senators,

As you may recall, on Thursday, 25th February, 2016, Sen. Johnson Muthama, requested for a Statement from the Chairperson of the Committee on Land and Natural Resources on the management of community and public land in Machakos County.

The Chairperson of the Standing Committee on Land and Natural Resources responded to the statement on 13th October, 2016. Thereafter, the House deliberated on the response and found it unsatisfactory. Members raised concerns about the on-going sub-division of the land in question and resolved that any sale of the land in contention should be stopped until the issue is resolved.

Honourable Senators,

You may also recall that I directed the Standing Committee on Land and Natural Resources to invite the Cabinet Secretary, Ministry of Lands, Housing and Urban Development and the Chairperson of the National Land

Commission (NLC) to a meeting of all Senators to deliberate on this important matter.

In this regard, the Committee has invited the Cabinet Secretary and the Chairperson, NLC to address Senators, tomorrow, Wednesday, 16th November, 2016. The meeting will be held in this Chamber from 10:00 am.

The meeting will discuss issues concerning:-

- a) The contested piece of land -L.R. No. 1491/R in Kiima Kimwe, Muvuti Ward in Machakos County, more specifically as to whether it is public or community land;
- b) fate of the more than 2,500 squatters who are currently occupying the said piece of land;
- c) parcels of land in Machakos County that have been set aside for public utilities such as schools, health centers and recreation centers;
- d) steps taken by the National Land Commission and the Ministry of Land, Housing and Urban Development to address concerns raised by residents of Machakos County regarding the contested piece of land; and
- e) steps taken by the National Land Commission and the Ministry of Land, Housing and Urban Development to address the longstanding land dispute in Mavoko Sub-County between the local residents and the East Africa Portland Cement Company.

Honourable Senators,

To ensure effective participation of Senators, I hereby direct that all Committee meetings scheduled for the same time to be suspended to allow Senators time to attend this important meeting.

I thank you."

(b) Periodic Review of the Senate Standing Orders

"Honourable Senators,

As you are aware, Standing Order 176A of the Senate Standing Orders establishes the Procedure and Rules Committee with the mandate of, among other things , proposing and considering proposed amendments to the Senate Standing Orders.

Further, Standing Order 249 requires the Committee to undertake a comprehensive review of the standing orders '*at least once in every term of Parliament, not later than six months to the end of the term*'.

Considering that we are approaching the end of the current term, the Procedure and Rules Committee has commenced this important exercise, and is now inviting views and proposals from Senators and other stakeholders on areas of our standing orders that may require amendment.

This exercise is particularly important for us, as it is the first time that the Senate will be undertaking a comprehensive review of its standing orders for use by the incoming Senate. It is important that we seize this opportunity, drawing from our experiences over the last three and a half years, to refine and improve our standing orders in a way as to facilitate the efficient and expeditious processing of business by the Senate.

This is, therefore to request, Honourable Senators, that you forward all such proposals, in writing, to the Office of the Clerk of the Senate, not later than Friday, 25th November, 2016. The proposals will be considered by the Procedure and Rules Committee, which will then table its report before the Senate for consideration.

I thank you."

(c) Visiting members of staff from various County Assemblies on attachment at the Senate

"Honourable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting members of staff from various county assemblies who are on attachment at the Senate.

I request each member of staff to stand when called out so that they may be acknowledged in the Senate tradition.

They are:

1. Ahmed Alas	-	Wajir
2. Issa Samow	-	Wajir
3. Dennis Mwanza	-	Machakos
4. Susan Kiluva	-	Machakos
5. Daniel Murage	-	Laikipia
6. Naomi Ogero	-	Kisii
7. Rose Chepmgeno	-	Kericho
8. Koros Cheruiyot	-	Kericho
9. Kaltuma Nasir	-	Garissa
10. Ali Noor	-	Garissa
11. Mathew Kibui	-	Nyeri
12. William Sowa	-	Taita Taveta
13. Peter Ouyo	-	Uasin Gishu
14. Miriam Sawe	-	Uasin Gishu
15. John Simwah	-	Kakamega
16. Doreen Wesonga	-	Kakamega
17. Godana Abubakar	-	Tana River
18. Dennis Kogo	-	Nandi
19. Bonface Kiptoo	-	Nandi
20. Joyce Gathura	-	Nyandarua
21. Kennedy Mwaniki	-	Nyandarua

22. Josyline Nanjala - Bungoma

On behalf of the Senate and on my own behalf, I welcome them to the Senate and I wish them well for the remainder of their stay.

I thank you."

4. **PETITIONS**

(a) Pursuant to Standing Order 220(1) (a) and 225(2) (b), the Speaker reported to the Senate that a petition had been received from Mr. Chrispinus Simiyu Wekesa and Ms. Grace Kerongo, for establishment of breastfeeding and childcare centres in major towns and urban centres in Kenya.

Pursuant to Standing Order 226, the Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition to the Standing Committee on Labour and Social Welfare, pursuant to Standing Order 227.

(b) The following Report on a petition was laid on the Table of the Senate, pursuant to standing order 227(2) –

Report of the Joint Committee on Finance, Commerce and Budget and the Sessional Committee on Devolved Government on the Petition by some members of Kisumu County Assembly concerning alleged corruption and gross mismanagement by the Kisumu County Executive.

(Sen. (Dr.) Wilfred Machage on behalf of the Chairperson, Standing Committee on Finance, Commerce and Budget)

5. **THE COUNTY STATISTICS BILL (SENATE BILL NO. 11 OF 2016)**

(Sen. Naisula Lesuuda)

(Second Reading)

(Resumption of Debate interrupted on Thursday, 10th November, 2016)

(Division)

Order deferred.

6. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Sang') – in the Chair)

The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No. 8 of 2015)

Clauses 3–4 - vote deferred

Clause 5 - amendment proposed

THAT the Bill be amended by deleting clause 5 and substituting therefor the following new clause-

5. Pursuant to Articles 43 and 53(1)(c) of the Constitution every person has the right to –
- (a) the highest attainable standards of health which includes the right to health care services including reproductive health care services;
 - (b) accessible and adequate housing;
 - (c) reasonable standards of sanitation;
 - (d) be free from hunger and to have adequate food of acceptable quality;
 - (e) basic nutrition for children;
 - (f) clean and safe water in adequate quantities;
 - (g) social security and social assistance;
 - (h) emergency treatment; and
 - (i) education

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

Clause 5 - vote deferred

Clause 6 - amendment proposed

THAT clause 6 of the Bill be amended at sub-clause (2)(c) by deleting the words "national and county development plans" appearing immediately after the words "integrate, within their" and substituting therefor the words "respective policies".

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

Clause 6 - vote deferred

Clause 7 - vote deferred

Clause 8 - amendment proposed

THAT clause 8 of the Bill be amended by-

- (a) inserting the words "for purposes of this Act" at the beginning of the introductory phrase to subsection (1); and
- (b) inserting the following new sub-clause immediately after sub-clause (1)-(1A) In undertaking its functions under subsection (1), the Commission may consult the Commissions established under Article 59 of the Constitution and any other relevant person or institution.

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

Clause 8 - vote deferred

Clause 9 - amendment proposed

THAT clause 9 of the Bill be amended-

- (a) in sub-clause (1) by inserting the words "within six months of coming into office" immediately after the words "County Government shall";
- (b) in sub-clause (3) by inserting the words "county" immediately after the words "rights within the" appearing in paragraph (a); and
- (c) in sub-clause (4) by inserting the words "for free or" immediately after the words "goods and services" appearing in paragraph (i) .

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

Clause 9 - vote deferred

Clauses 10-18 - vote deferred

Clause 19 - amendment proposed

THAT clause 19 of the Bill be amended in sub-clause (3) by inserting the words "and any other criteria that it may publish in the Gazette" at the end of the clause.

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

Clause 20 - amendment proposed

THAT clause 20 of the Bill be amended by deleting paragraph (b) of sub-clause 2 and substituting therefor the following new sub-clause-

- (b) in the case of conditional grants, disbursed directly to the counties and managed on behalf of the National Government by the respective County Government.

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

Clause 20 - vote deferred

Clauses 21- 26 - vote deferred

NEW CLAUSE PROPOSED:-

THAT the Bill be amended by inserting the following new clause immediately after Clause 26—

- | | |
|------------|--|
| Transition | 27 (1) Every county government with a county integrated development plan which took effect prior to the commencement of this Act, shall within six months after the commencement of this Act, amend its county integrated development plan to bring it into |
|------------|--|

conformity with this Act.

- No. 17 of
2012
- (2) The procedure set out under section 112 of the County Governments Act shall apply to the process of amendment of a county integrated development plan under subsection (1).

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

Motion made and Question proposed;

THAT, the New Clause be now read a Second Time;

New Clause 27 - vote deferred

First Schedule - amendment proposed

THAT, the First Schedule to the Bill be amended in the heading by deleting the words "SOCIAL AND ECONOMIC" and substituting therefor the words "ECONOMIC AND SOCIAL".

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

First Schedule - vote deferred

Second Schedule - vote deferred

Clause 2 - amendment proposed

THAT clause 2 of the Bill be amended –

- (a) in the definition of the expression 'subsidy programme' by deleting the words "limited capacity" appearing immediately after the words "persons with" and substituting therefor the words "in need";
- (b) by deleting the definition of the expression "persons with limited capability" and substituting therefor the following new definition-
"persons in need" means a person who in spite of having a competent social support system, is unable to produce or purchase essential goods and services in adequate quantities and quality for short or extended periods of time; and
- (c) by deleting the definition of the expression "vulnerable persons" and substituting therefor the following new definition-
"vulnerable persons" include women, older members of society, persons with disabilities, children including infants, school going children, youth, members of minority or marginalised communities, members of particular ethnic, religious or cultural communities, pregnant and nursing mothers, internally displaced persons and victims of conflict, sick persons with

chronic diseases such as HIV/AIDS, persons living in precarious livelihood situations in rural areas, marginalised populations in urban areas, groups at risk of social marginalisation and discrimination and any other group that may be identified from time to time.

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

Clause 2 - vote deferred

The Title - amendment proposed

THAT the title to the Bill be amended by deleting the word "and" appearing immediately after the word "Human Dignity" and substituting therefor the word "in".

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

The Title - vote deferred

Clause 1 - amendment proposed

THAT, clause 1 of the Bill be amended by deleting the word "and" appearing immediately after the word "Dignity" and substituting therefor the

(Vice Chairperson, Standing Committee on Legal Affairs and Human Rights)

Clause 1 - vote deferred

Progress report

Motion made;

THAT, the Committee of the Whole do report to the House its consideration of the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No. 8 of 2015) and seek leave to sit again tomorrow.

(Vice Chairperson, Standing Committee on Legal Affairs and Human Rights)

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. Mositet) ruled that the Question did not affect counties;

Question put and agreed to.

7. **HOUSE RESUMED** – Temporary Speaker (Sen. Mositet) – in the Chair

8. THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)

Progress reported:-

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Vice-Chairperson, Standing Committee on Legal Affairs and Human Rights)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositot) ruled that the Question did not affect counties;

Question put and agreed to.

9. COMMITTEE OF THE WHOLE

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Sang) – in the Chair)

The Persons with Disabilities (Amendment) Bill (Senate Bill No. 13 of 2015)

Clause 3 - amendment proposed

THAT clause 3 of the Bill be amended-

(a) in subclause (1) of the proposed new section 2C by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) two persons, one man and one woman, having knowledge and experience in matters relating to persons with disabilities, nominated by organizations representing persons with disabilities, in such manner as the county executive committee member may determine, and appointed by the Governor by notice in the *Gazette*;

(b) in the introductory clause of paragraph (b) of the proposed new section 2D by inserting the words "residing within the county" immediately after the words " of persons with disabilities";

(c) in the proposed new section 2F by inserting the following new subclauses immediately after subclause (2)-

(3) A member proposed to be removed under subsection (1)(f) shall be informed of the grounds of the proposed removal and shall be given an opportunity to be heard on the grounds of removal.

(4) The Governor shall be bound by the recommendation of the Committee under subsection 2(b).
(*Chairperson, Standing Committee on Labour and Social Welfare*)

Clause 3 - vote deferred

Clause 4 - amendment proposed

THAT the Bill be amended by deleting clause 4 and substituting therefor the following new clause-

Amendment of section 4 of No. 14 of 2013. **4.** Section 4 of the principal Act be amended-
(a) in subsection (1)-
(i) by deleting paragraph (a) and substituting therefor the following new paragraph-

(a) not more than four persons nominated in a manner approved by the Minister, by organizations representing persons with various categories of disabilities, at least one of whom shall be from a rural-based organisation;

(ii) by deleting paragraph (b);

(iii) by deleting paragraph (c) and substituting therefor the following new paragraphs-

(ca) the Principal Secretary in the Ministry responsible for matters relating to labour and social welfare or an alternate designated in writing;

(cb) the Principal Secretary in the Ministry responsible for matters relating to education or an alternate designated in writing;

(cc) the Principal Secretary in the Ministry responsible for matters relating to health or an alternate designated in writing;

(iv) by deleting paragraph (d); and

(v) by deleting paragraph (g);

(b) by inserting the following new subsections immediately after subsection (1)-

(1A) The members nominated under subsection (1)(a) shall equitably represent the types of disabilities within the country.

(1B) The Council may co-opt not more than two members to sit in the Council, whose knowledge and skills are found necessary for the performance of the functions of the Council, and who shall have no right to vote.

(1C)A member co-opted under section subsection (1B) shall serve for a specified period as may be determined by the Council.

(Chairperson, Standing Committee on Labour and Social Welfare)

Clause 4 - vote deferred

Clause 5 - vote deferred

Clause 2, the Title and Clause 1 - vote deferred

Progress report

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the Persons with Disabilities (Amendment) Bill (Senate Bill No. 13 of 2015) and seek leave to sit again tomorrow.

(Chairperson, Standing Committee on Labour and Social Welfare)

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. Sang) ruled that the Question did not affect counties;

Question put and agreed to.

10. **HOUSE RESUMED** – Temporary Speaker (Sen. Mositet) – in the Chair

11. THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILL NO. 13 OF 2015)

Progress reported:-

THAT, the Committee of the Whole reports to the House its consideration of the Persons with Disabilities (Amendment) Bill (Senate Bill No. 13 of 2015) and seek leave to sit again tomorrow.

(Sen. Sang')

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Chairperson, Standing Committee on Labour and Social Welfare)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositet) ruled that the Question did not affect counties;

Question put and agreed to.

12. COMMITTEE OF THE WHOLE

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Sang) – in the Chair)

The Basic Education (Amendment) Bill (National Assembly Bill No. 35 of 2014)

Clause 3 - vote deferred

Clause 4 - amendment proposed

THAT clause 4 of the Bill be amended in the proposed new section 20-

(a) in sub-clause (1) by-

(i) deleting paragraph (a) and substituting therefor the following new paragraph-

(a) the county commissioner who shall be the chairperson of the Board;

(ii) deleting paragraph (d);

(iii) deleting paragraph (i); and

(iv) deleting paragraph (k) and substituting therefore the following new paragraph-

(k) one person jointly nominated by the Primary School Heads Teachers' Association and the Secondary School Principals'

Association.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) In appointing a person as a member of the County Education Board, the Cabinet Secretary shall-

(a) observe the principles of-

- (i) gender equity;
- (ii) regional, ethnic and religious balance;
- (iii) transparency;
- (iv) openness;
- (v) competitiveness; and
- (vi) equal opportunities for persons with disability; and

(b) ensure that persons appointed meet the requirements of Chapter six of the

Constitution.

(c) in sub-clause (4) by deleting the words "Member of Parliament" appearing at the beginning of the sub-clause and substituting therefor the words "Senator and Women Representative".

(Chairperson, Standing Committee on Education)

Clause 4 - vote deferred

Clause 5 - amendment proposed

THAT clause 5 of the Bill be amended-

(a) in the proposed new section 25A-

(i) in sub-clause (2) by deleting paragraph (h) and substituting therefor the following new paragraph-

(h) one person jointly nominated by the Primary School Head Teachers' Association and the Secondary School Principals' Association;

(ii) by deleting sub-clause (3) and substituting therefor the following sub-clause-

(3) In appointing a person as a member of the Sub-County Education Board, the Cabinet Secretary shall-

(a) observe the principles of-

- (i) gender equity;
- (ii) regional, ethnic and religious balance;
- (iii) transparency;
- (iv) openness;
- (v) competitiveness; and
- (vi) equal opportunities for persons with disability; and

(b) ensure that the persons appointed under sub-section (1) meet the requirements of Chapter six of the Constitution.

(b) in the proposed new section 25B-

- (i) deleting the words " village polytechnic" appearing immediately after the words "private youth" in paragraph (e) and substituting therefor the words "vocational centers";
- (ii) by deleting paragraph (g) and substituting therefor the following new paragraph-
 - (g) facilitate the registration of basic education institutions and for that purpose, make such recommendation to the County Education Board as it considers necessary;

(Chairperson, Standing Committee on Education)

Clause 5 - vote deferred

Clause 6 - amendment proposed

THAT, clause 6 the Bill be amended in the proposed new sub-section (4) by inserting the words "in consultation with the Council of Governors" immediately after the words "Teachers Service Commission".

(Chairperson, Standing Committee on Education)

Clause 6 - vote deferred

Clause 7 - amendment proposed

THAT clause 7 of the Bill be amended-

(a) by inserting the following new paragraph immediately after paragraph (a)-

(aa) deleting the words "at their own expenses" appearing immediately after the words "chaplains".

(b) in paragraph (c) by deleting the new proposed paragraph (f) and substituting therefor the following new paragraph-

(f) to make recommendations in consultation with the Teachers Service Commission on persons appointed or deployed as head teachers, principals and their deputies in public sponsored institutions.

(Chairperson, Standing Committee on Education)

Clause 7 - vote deferred

Clauses 8, 9, 10, 11 & 12 - vote deferred

Clause 13 - amendment proposed

THAT the Bill be amended by deleting clause 13 and substituting therefor the following new clause-

Amendment of section 56 of No.14 of 2013. **13.** Section 56(1) of the Principal Act is amended-

(1) by deleting paragraph (a) and substituting therefor the following new paragraph-

(a) three people elected to represent parents of the pupils in the school or from the local community;

(2) by inserting the following new paragraph immediately after paragraph (f)-

(fa) one person co-opted from the Parents Teachers Association;

(Chairperson, Standing Committee on Education)

Clause 13 - vote deferred

Clause 2 - amendment proposed

THAT clause 2 of the Bill be amended by deleting paragraph (b) and substituting therefor with the following new paragraph-

(a) by deleting the definition "manager" and substituting therefor the following new definition-

"manager", means a person appointed by the proprietor with the approval of the Cabinet Secretary to coordinate and oversee the implementation of education policies and guidelines in an institution of basic education and training and may perform delegated teacher management functions.'

(Chairperson, Standing Committee on Education)

Clause 2 - vote deferred

NEW CLAUSE PROPOSED:-

THAT, the Basic Education Bill, 2014 be amended by inserting the following new clause immediately after clause 13-

Amendment of section 94 of No.14 of 2013. **13A.** Section 94 of the Principal Act is amended by inserting the following new sub-section immediately after sub-section (1)

(b) inserting the following new subsection immediately after subsection (1)-

(1A) The National Council for Nomadic Education in Kenya shall be a body corporate with perpetual succession and common seal and shall, in its corporate name, be capable of-

(a) suing and being sued;

(b) taking, purchasing or otherwise

- acquiring, holding, charging or disposing of moveable and immoveable property;
- (c) entering into contract; and
- (d) undertaking or performing all other activities necessary for the proper performance of its functions under this Act that may lawfully be done or performed by a body corporate.

(Chairperson, Standing Committee on Education)

Motion made and Question proposed;

THAT, the New Clause be now read a Second Time;

New Clause 13A - vote deferred

The Title & Clause 1 - vote deferred

Progress report

Motion made;

THAT, the Committee of the Whole do report to the House its consideration of the Basic Education (Amendment) Bill (National Assembly Bill No. 35 of 2014) and seek leave to sit again tomorrow.

(Chairperson, Standing Committee on Education)

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. Sang) ruled that the Question did not affect counties;

Question put and agreed to.

13. **HOUSE RESUMED** – Temporary Speaker (Sen. Mositet) – in the Chair
14. **THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)**

Progress reported:

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Chairperson, Standing Committee on Education)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositet) ruled that the Question did not affect counties;

Question put and agreed to.

15. **THE CYBER SECURITY AND PROTECTION BILL (SENATE BILL NO. 12 OF 2016)**
(Sen. Mutahi Kagwe)

Order deferred.

16. **THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILL NO. 5 OF 2016)**

Order for Second Reading read;

Motion made and Question proposed-

THAT, the Treaty Making and Ratification (Amendment) Bill (Senate Bill No. 5 of 2016) be now read a Second Time.

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

Debate arising;

There being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, pursuant to Standing Order 54 (3), the Mover (Sen. Yusuf Haji) requested the Speaker to defer putting of the question to another day;

And the Temporary Speaker (Sen. Mositet) acceding to the request, nominated Wednesday, 16th November, 2016 as the day when the Question shall be put.

17. **THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2015)**
(The Senate Majority Leader)

Order deferred.

18. **MOTION - COUNTRYWIDE AUDIT ON THE DISTRIBUTION OF TEACHERS IN PUBLIC SCHOOLS**

WHEREAS Article 43(1)(f) and 53(1)(b) of the Constitution guarantees every citizen a right to education and every child a right to free and compulsory basic education, respectively;

NOTING that the Teachers Service Commission is mandated to handle employment, deployment, remuneration and discipline of teachers in public schools in Kenya;

CONCERNED that there are great disparities in the distribution of teachers in public schools across the country leading to oversupply in some schools and undersupply in others and ultimately leading to major teacher shortage especially in rural and marginalized areas;

APPRECIATING efforts made by the national government to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

FURTHER CONCERNED that the statistics on the number and distribution of teachers in public schools is not readily available;

NOW THEREFORE, the Senate directs the Ministry of Education, Science and Technology to conduct a countrywide audit on the distribution of teachers in all public schools indicating the requisite establishment per school and the corresponding number of teachers who are in-post and further that the Ministry submits a report to the House on the matter within ninety (90) days.

(Sen. George Khaniri)

Order deferred.

19. **MOTION – CREATION OF THE OFFICE OF AN AUDITOR TO SPECIFICALLY AUDIT THE BASIC EDUCATION INSTITUTIONS’ FUNDS**

THAT, whereas Article 53 (1)(b) of the Constitution provides that every child in Kenya has the right to free and compulsory basic education;

RECOGNIZING the importance of education in the alleviation of the main challenges facing Kenya’s sovereignty identified at independence, namely; poverty, illiteracy and disease;

APPRECIATING the gains made following the implementation of the free primary education program in 2003 and cognizant of the principles set out in the Basic Education Act of 2013 whose objectives include promotion and regulation of free and compulsory basic education besides providing for accreditation, registration and management of basic education institutions;

NOTING the substantial resources invested by the national and county governments, parents, sponsors and development partners in the provision of basic education;

FURTHER NOTING that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the respective county thereby leaving fundamental gaps of governance especially in the management of the available resources;

NOW THEREFORE, the House recommends to the Cabinet Secretary for Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

(Sen. (Prof.) John Lonyangapuo)

Order deferred.

20. **MOTION – INSTALLATION OF CCTV CAMERAS IN POLICE STATIONS.**

THAT,

CONCERNED about the numerous reports of the arbitrary arrests of innocent people by the police;

FURTHER CONCERNED that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

DEEPLY CONCERNED that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead away from where they were known to have been locked up;

ALARMED by the recent incident where three young men were locked up for hours at Syokimau Police Post without any record indicating they had been at the police post, only for them to be found days later, in another area far from the police post, having been brutally killed;

APPRECIATING that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

NOW THEREFORE the Senate calls upon the National Government to-

- a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;
- b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every twelve hours; and
- c) ensure the CCTV system is connected to a central depository in order to minimize chances of subsequent tampering.

(Sen. (Eng.) Muriuki Karue)

Order deferred.

21. MOTION – PERFORMANCE OF THE MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY IN THE IMPLEMENTATION OF THE POLICY STATEMENTS AND STRATEGIES MADE IN THE NATIONAL SPECIAL NEEDS EDUCATION POLICY FRAMEWORK, 2009.

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

COGNIZANT that Article 54 (1) (b) of the Constitution provides that a person with any disability is entitled to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;

RECOGNIZING that education in Kenya is a shared function of both the county and national governments;

CONCERNED that while significant gains have been made under the Free Education Programme introduced in the year 2003, access and participation of children with special needs is generally low across the country and their needs have not been specifically addressed;

NOW THEREFORE the Senate directs the Standing Committee on Education to inquire into the performance of the Ministry of Education, Science and Technology in the implementation of the policy statements and strategies made in the National Special Needs Education Policy Framework, 2009 and report back to the Senate within three months.

(Sen. Peter Mositet)

Order deferred.

There being no other business on the Oder Paper, the Temporary Speaker (Sen. Mositet) adjourned the Senate at forty five minutes past four O'clock without Question put, pursuant to the Standing Orders.

22. SENATE ROSE - at forty five minutes past Four O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, November 16, 2016 at 2:30 p.m.*

--X--