



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

THURSDAY, OCTOBER 8, 2015 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.
3. MESSAGE FROM THE KIAMBU COUNTY ASSEMBLY ON THE COUNTY LIBRARY SERVICES BILL (SENATE BILL NO. 6 OF 2015)

**"Hon. Senators,**

I wish to report to the Senate that, pursuant to Standing Order 42 (3) and (4), I have received the following Message from the Speaker of Kiambu County Assembly regarding proposed amendments to the County Library Services Bill (Senate Bill No. 6 of 2015).

**"PURSUANT** to the provisions of Standing Order 52 of the Kiambu County Assembly Standing Orders, I hereby convey the following Message to the Senate-

**WHEREAS** the County Library Services Bill (Senate Bill No. 6 of 2015), a Bill concerning County Governments was introduced in the Senate on Tuesday, 30<sup>th</sup> June, 2015 subsequent to which, by way of a letter, the Senate sought the views of the County Assemblies on the said Bill;

**AND WHEREAS**, the Kiambu County Assembly, having deliberated on the contents of the Bill as published, by way of a resolution made on Wednesday 6<sup>th</sup> September, 2015, adopted a position on the Bill for which a detailed Memorandum is herein included;

**NOW THEREFORE**, in accordance with the provisions of Articles 96 (1) and 118 (1) (b) and of the Constitution and Standing Order 52 of the Kiambu County Assembly Standing Orders, I hereby convey the said decision of the Assembly, the

effect of which is to beseech the Senate to reflect on the views of the Assembly in its consideration and passage of the Bill”.

Hon. Senators, pursuant to Standing Order 42 (6) (c) I direct that this message together with the Memorandum herein be referred to the Standing Committee on Labour and Social Welfare for consideration and necessary action.

I thank you.”

#### 4. PAPERS LAID

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

- (i.) Address by H.E Jakaya Mrisho Kikwete, President of the United Republic of Tanzania, to the Parliament of Kenya.  
*(Senate Majority Leader)*
- (ii.) Report of the Auditor General on the Financial Operations of Kilifi County Assembly for the Year ended 30 June, 2014.
- (iii.) Report of the Auditor General on the Financial Statements of the County Government of Taita Taveta for the sixteen (16) months period ended 30 June, 2014.
- (iv.) Report of the Auditor General on the Financial Statements of the County Government of Bomet for the sixteen (16) months period ended 30 June, 2014.  
*(Chairperson, Sessional Committee on County Public Accounts and Investments)*
- (v.) Report of the Inter-Parliamentary Union's Advisory Mission to Kenya in July 2015 on a Framework to Implement the Constitutional provisions of the two thirds Gender rule.  
*(Sen. Elizabeth Ongoro)*
- (vi.) Report of the Standing Committee on Information and Technology on the County Oversight and Networking Engagement (CONE) in Bungoma, Uasin Gishu, Elgeyo Marakwet, Baringo and Nakuru Counties.
- (vii.) Report of the Standing Committee on Information and Technology on the Office of the County Printer Bill, 2014.  
*(Chairperson, Standing Committee on Information and Technology)*
- (viii.) Statement by the Senate Majority Leader regarding the Business of the Senate for the week commencing 13<sup>th</sup> October, 2015.

*(Senate Majority Leader)*

**5. STATEMENTS****(a) Statements pursuant to Standing Order 45(2)(a)**

- (i.) the Senator for Tharaka-Nithi County (Sen.(Prof.) Kithure Kindiki) issued a Statement regarding the demise of the former Senator for Meru, Senator Julius Muthamia, whereupon he eulogized the fallen Senator and conveyed a message of condolence to the family and friends; and
- (ii.) the Senator for Kakamega County (Sen.(Dr.) Boni Khalwale) issued a Statement regarding the fight against corruption by the President of the Republic of Senegal, H. E. Macky Sall, whereupon informed the House of the President's efforts that the Senegalese Government had made, including the confiscation of properties and assets of former government officers, including a son of a former President of Senegal.

**(b) Statements pursuant to Standing Order 45(2) (b)**

- (i.) The vice Chairperson of the Standing Committee on Energy issued a Statement regarding frequent power blackouts in West Pokot County.

The vice Chairperson informed the House that the power blackouts in West Pokot County were as a result of planned outages during the month of August, 2015. The outages were necessary to replace rotten poles, to create new feeder lines, and install new transformers and protection switchgears.

The Chairperson also informed the House that the Government was running a number of maintenance and upgrade projects on power transmission in the County and, once completed, reliable power to residents of West Pokot County would be guaranteed.

- (ii.) The Senator for Kakamega County (Sen. (Dr.) Boni Khalwale) sought a statement from the Chairperson Standing Committee on Roads and Transportation regarding Status of Construction works for roads in Kakamega County, particularly, the Kakamega-Kaburengu-Webuye road.

**(c) Statements pursuant to Standing Order 45(2) (c)**

Pursuant To Standing Order 45 (2) (c), the Senate Majority Leader issued a Statement on the Business of the Senate for the week commencing Tuesday, 13<sup>th</sup> October, 2015.

6. **THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)**

*(Chairperson, Standing Committee on Delegated Legislation)*

Order for First Reading read;

Bill Read a First Time and committed to the Committee on Legal Affairs and Human Rights

7. **THE MICRO AND SMALL ENTERPRISES (AMENDMENT) BILL (SENATE BILL NO. 12 OF 2015)**

*(Sen. Wamatangi Kimani Paul)*

Order for First Reading read;

Bill Read a First Time and committed to the Committee on Finance, Commerce and Budget.

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

*(Sen. Godliver Omondi)*

Order for First Reading read;

Bill Read a First Time and Committed to the Standing Committee on Labour and Social Welfare.

9. **COMMUNICATION FROM THE CHAIR- VISITING DELEGATION FROM THE COUNTY ASSEMBLY OF TURKANA**

The Deputy Speaker conveyed the following Communication from the Chair-

"Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of a visiting delegation of County Assembly staff from the Turkana County Assembly.

The County Assembly staffers are here on a one-week attachment program at the Parliamentary Library and Human Resources Departments.

Honorable Senators,

I hope that the delegation has had a fruitful program. 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.

Thank You".

10. **MOTION – ADOPTION OF THE REPORT OF THE SELECT COMMITTEE OF THE SENATE ON CONSTITUTIONAL AND LEGAL REVIEW**

**THAT**, this House adopts the Report of the Select Committee of the Senate on Constitutional and Legal Review laid on the Table of the House on Wednesday, 23<sup>rd</sup> September, 2015.

*(The Chairperson of the Select Committee)*

Order deferred

11. **MOTION – ESTABLISHMENT OF A SELECT COMMITTEE TO UNDERTAKE AN INQUIRY INTO POLICY AND LEGISLATION PERTAINING TO THE TREATMENT OF DETAINED PERSONS AS WELL AS THE STATE OF CORRECTIONAL INSTITUTIONS IN KENYA**

(Ministry of Interior and Coordination of National Government)

Motion Made and Question Proposed;

**THAT WHEREAS** Article 51 of the Constitution of Kenya protects the rights of detained persons, persons held in custody and other imprisoned persons under the law, and requires Parliament to enact legislation to provide for the humane treatment of such persons with due regard to the relevant international human rights instruments;

**OBSERVING** that international instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Basic Principles for the Treatment of Prisoners set standards on the treatment of persons, including the right to be treated with respect; protection from discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

**AWARE** of the deplorable state of correctional services throughout the country including poor living conditions in the institutions of both officers and prisoners, the poor state of sanitation and nutrition, overcrowding, lack of proper medical attention, frequent outbreak of communicable diseases and frequent reports of deaths of inmates leading to a high rate of recidivism and the inability of former inmates to reintegrate into society;

**APPRECIATING** the urgent need to align the Prisons Act and Borstal Institutions Act with the Constitution of Kenya and the international instruments on the rights of detained persons;

**NOW THEREFORE**, the Senate resolves to establish a Select Committee to undertake an inquiry into the policy and legislation pertaining to the treatment of detained persons as well as the state of correctional institutions in Kenya, including prisons and Borstal institutions, and to submit a Report to the Senate within three months, with recommendations on such policy and legislative interventions as may be necessary to align the existing legislation on correctional services with the Constitution of Kenya and in compliance with international standards on the rights of detained persons and such other recommendations as may be necessary;

**AND FURTHER** that the Members of the Select Committee are-

1. Sen. Fatuma Dullo
2. Sen. (Dr.) Zipporah Kittony
3. Sen. (Dr.) Boni Khalwale
4. Sen. (Prof.) John Lonyangapuo
5. Sen. Stewart Madzayo
6. Sen. Liza Chelule
7. Sen. Judith Sijeny
8. Sen. Mutula Kilonzo Jr.
9. Sen. Stephen Sang'
10. Sen. Joy Gwendu
11. Sen. Moses Kajwang'

*(Sen. Fatuma Dullo)*

Debate arising;

And the time being thirty minutes past Six O'clock, the Deputy Speaker interrupted the proceedings and adjourned the Senate without Question put pursuant to the Standing Orders.

12. **SENATE ROSE** - at thirty minutes past six O'clock.

### **M E M O R A N D U M**

*The Speaker will take the Chair on  
Tuesday, October 13, 2015 at 2.30 p.m.*