



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, FEBRUARY 26, 2020 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. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

(a) **Visiting Pupils and Teachers from Ngalima el Mazuk School, Kajiado County**

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting Pupils and Teachers from Ngalima el Mazuk School, Kajiado County.

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

I thank you.”

(b) **Visiting Students from Tangaza University College, Nairobi County**

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting Students from Tangaza University College, Nairobi County.

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

I thank you.”

(c) **Visiting Pupils and Teachers from Discover Light Spring School, Machakos County**

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting Pupils and Teachers from Discover Light Spring School, Machakos County.

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

I thank you.”

4. **PETITIONS**

Pursuant to Standing Order 226 (1) (b) and 230 (2) (a) the Senator for Lamu County (Sen. Anuar Loitiptip, MP) presented to the Senate a Petition, on behalf of residents of Lamu County, concerning compensation for victims of human-wildlife conflict in Lamu County.

Pursuant to Standing Order 231, the Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition to the Standing Committee on Tourism, Trade and Industrialization for consideration, pursuant to Standing Order 232 (1).

5. **PAPERS LAID**

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

The Senate Calendar (Regular Sessions) for the Fourth Session (February to December, 2020)

(The Senate Majority Leader)

6. **NOTICE OF MOTION-** (The Senate Majority Leader)

THAT, pursuant to Standing Order 29(1), this House approves the Senate Calendar (Regular Sessions) for the Fourth Session (*February to December, 2020*), laid on the Table of the House on Wednesday, 26th February, 2020.

7. **NOTICE OF MOTION- ADJOURNMENT OF THE SENATE PURSUANT TO THE PROVISIONS OF STANDING ORDER 34 TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE RELATING TO THE TRANSFER OF FUNCTIONS FROM THE NAIROBI CITY COUNTY GOVERNMENT TO THE NATIONAL GOVERNMENT**

Raising a point of order, the Senate Majority Leader sought leave to move a Motion of the adjournment of the Senate to discuss a definite matter of urgent national importance, relating to the transfer of functions from the Nairobi City County Government to the National Government.

And there being the requisite number of Senators rising in support of the claim;

And, the Speaker acceding to the request, directed that the Motion be moved at 3.30pm later in the day.

8. STATEMENTS

(a) Pursuant to Standing Order 47(1)

Nominated Senator (Sen. AbshiroHalake, MP) made a statement on the status of implementation of the amendments to the Marriage Act, 2014 with specific reference to the revision that required Muslim brides declare their virginity or lack of it thereof on the marriage certificate.

The Senator drew the attention of the Senate to Article 27 of the Constitution which states that every person is equal before the law, has the right to equal protection and equal benefit of the law and that the State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth.

Sen. Halake stated that the amendments to the Marriage Act, 2014, which were passed in December 2017, called for publication of a new Islamic marriage certificate to protect Muslim brides from discrimination, indignity and embarrassment of having to publicly declare their virginity status on a legal document used in seeking government services. She raised concern over the fact that several years since the amendments were made to the Act, specifically to the Islamic marriage laws abolishing the virginity declaration requirement for Muslim brides on the marriage certificate, there had been a continued use of the old marriage certificate, which is a clear breach of law.

The Senator appealed to the Senate to investigate the issue and establish the reasons for the delay and once established, hold to account the person(s) responsible; inquire from the Chief Justice, whose office the Chief Kadhi's court falls under, on the reasons why the changes had not been effected, years on and whether or not the new certificate is expected to be published; and call upon the Attorney General and every other concerned authority to publish the new certificate in the shortest time possible.

(b) Pursuant to Standing Order 48(1)

The Senator for TaitaTaveta County (Sen. Johnes Mwaruma, MP) sought a Statement from the Standing Committee on Land, Environment and Natural Resources regarding land adjudication and allocation in Mwakingali "A" in Voi Sub-County, TaitaTaveta County.

9. **MOTION - ADJOURNMENT OF THE SENATE TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE RELATING TO THE TRANSFER OF FUNCTIONS FROM THE NAIROBI CITY COUNTY GOVERNMENT TO THE NATIONAL GOVERNMENT**

Motion made and Question proposed;

THAT, pursuant to Standing Order 34, the Senate do adjourn to discuss a definite matter of urgent national importance, namely transfer of functions from the Nairobi City County Government to the National Government.

(The Senate Majority Leader)

Debate arising;

And there being no other Senator wishing to contribute;

The Deputy Speaker directed that the Standing Committee on Devolution and Intergovernmental Relations jointly with the Standing Committee on Justice, Legal Affairs and Human Rights to immediately convene, and take hearings from the following public officers: the Cabinet Secretary for Devolution and ASALs; the Chairperson of the Council of Governors (CoG) or his representative; the Attorney-General of the Republic of Kenya and any other person or authority that may assist the Committees in resolving the legal, constitutional and procedural issues raised.

The Deputy Speaker further directed the two Committees to Table an interim report in the House within 21 days and later Table a detailed report to the House within 60 days.

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

10. **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
Thursday, February 27, 2019 at 2.30 p.m.*