



REPUBLIC OF KENYA

THE SENATE

TWELFTH PARLIAMENT – FIFTH SESSION

VOTES AND PROCEEDINGS

WEDNESDAY, JULY 07, 2021 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. PETITIONS

- i.) Pursuant to Standing Order 230(2)(a), the Senator for Mombasa County (Sen. Mwinyihaji Mohamed Faki, MP), presented to the Senate a petition by former employees of the Kenya United Steel Company Ltd (KUSCO), concerning their plight, following termination of employment.

Pursuant to Standing Order 231, the Speaker invited Senators to comments, observations or seek clarification in relation to the Petition and, subsequently, committed it to the Standing Committee on Labour and Social Welfare pursuant to Standing Order 232(1).

- ii.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by residents of Nyandarua County concerning resettlement of Internally Displaced Persons living in Ol-Kalou.
- iii.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by representatives of White House Progressive Community Based Organization and residents of Mavuno Sub-location in Lamu County, on alleged illegal encroachment of land covering the villages of Pangani, Nyatha, Kaisari, Mavuno, Promoko and Widho in Lamu County by Witu Livestock Cooperative Society;
- iv.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before

the Senate a Report of the Committee on a Petition to the Senate by Friends of Ondiri Wetland Kenya (FOWK) on the gazettment of Ondiri Wetland, Kiambu County

- v.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by Representatives of Machungwani squatters on delayed adjudication and settlement of squatters on Machungwani land situated in Mboghoni Ward in Taveta Constituency of Taita Taveta County.
- vi.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by residents of Ngare Mara, Isiolo County, on the alleged illegal encroachment of community land by the school of artillery, Kenya Defence Forces (KDF)
- vii.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by Rendille and Samburu Community Representatives regarding the acquisition of Karare land in Marsabit County by the Kenya Defence Forces (KDF)
- viii.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by residents of Tinderet Sub-county, Nandi County, on the operations of Karebe Gold Mining Ltd in Nandi County.
- ix.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by Mr. Fredrick Kahia Thugi and four others concerning alleged exchange and final transfer of titles for parcels of land known as Lari Nyakinyua Solai farm (located in Solai, Nakuru County) and Riyobei farm Limited (located in Gilgil, Nakuru County).
- x.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by Residents of Barwaqo Area regarding alleged unlawful encroachment and forceful occupation of Barwaqo plots within Bulla Mpya Ward, Mandera East Constituency, Mandera County.
- xi.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by Mr.

Salim Mwidadi and others concerning alleged historical land injustices involving plot No. 162/V/M.N.CR 1070, in Mombasa County.

- xii.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by Residents of Taita Taveta County, Mwatate Sub County, Mwakitau Location regarding Mwakitau land ownership dispute between Mwakitau residents and Isangaiwishi Group Ranch in Taita Taveta County.
- xiii.) Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Land, Environment and Natural Resources tabled before the Senate a Report of the Committee on a Petition to the Senate by Residents of Msambweni Village in Voi Sub-county of Taita Taveta County, regarding alleged impending evictions of residents of Msambweni area in Taita Taveta County by a private company.

4. PAPERS LAID

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

- i.) Report of the East African Legislative Assembly Committee on Communication, Trade and Investment on the capacity building for Members, held between 22nd to 25th October, 2020 in Arusha, Tanzania;
- ii.) Report of the East African Legislative Assembly Committee on General Purpose on the capacity building workshop to enhance the capacity of Members in Legislative and Budget Oversight held between 26th to 29th October, 2020 in Arusha, Tanzania;
- iii.) Report of the East African Legislative Assembly Committee on Regional Affairs and Conflict Resolution on the capacity building of Members, held between 26th to 29th October, 2020 in Arusha, Tanzania;
- iv.) Report of the East African Legislative Assembly Committee on Legal, Rules and Privileges on the oversight activity on compliance with the EAC Protocols and Laws by EAC institutions (Phase Two) held between 1st to 5th November, 2020 in Arusha, Tanzania;
- v.) Report of the East African Legislative Assembly Committee on Accounts to assess the status of implementation of the Assembly recommendations on the EAC audited accounts for the East African Court of Justice and East African Community Competition Authority for the Financial year ended 30th June, 2017 and 2018 held virtually between 17th to 21st January, 2021 in Arusha, Tanzania;

(The Deputy Senate Majority Leader)

- xiv.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate concerning the resettlement of Internally Displaced Persons in Nyandarua County;
- xv.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate on alleged illegal encroachment of land covering the villages of Pangani, Nyatha, Kaisari, Mavuno, Promoko and Widho in Lamu County by Witu Livestock Cooperative Society;
- xvi.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate by Friends of Ondiri Wetland Kenya (FOWK) on the gazettelement of Ondiri Wetland, Kiambu County;
- xvii.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate on delayed adjudication and settlement of squatters on Machungwani land situated in Mboghoni Ward in Taveta Constituency of Taita Taveta County;
- xviii.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate by residents of Ngare Mara, Isiolo County, on the alleged illegal encroachment of community land by the school of artillery, Kenya Defence Forces (KDF);
- xix.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate regarding the acquisition of Karare land in Marsabit County by the Kenya Defence Forces (KDF);
- xx.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate by residents of Tinderet Sub-county, Nandi County, on the operations of Karebe Gold Mining Ltd in Nandi County;
- xxi.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate concerning alleged exchange and final transfer of titles for parcels of land known as Lari Nyakinyua Solai farm (located in Solai, Nakuru County) and Riyobei farm Limited (located in Gilgil, Nakuru County);
- xxii.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate regarding alleged unlawful encroachment and forceful occupation of Barwaqo plots within Bulla Mpya Ward, Mandera East Constituency, Mandera County;
- xxiii.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate, concerning alleged historical land injustices involving plot No. 162/V/M.N.CR 1070, in Mombasa County;
- xxiv.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate regarding Mwakitau land

ownership dispute between Mwakitau residents and Isangaiwishi Group Ranch in Taita Taveta County; and

- xxv.) Report of the Standing Committee on Land, Environment and Natural Resources on a Petition to the Senate regarding alleged impending evictions of residents of Msambweni area in Taita Taveta County by a private company.

(Chairperson, Standing Committee on Land, Environment and Natural Resources)

5. **COMMUNICATION FROM THE CHAIR ON REPORTS FROM THE EAST AFRICAN LEGISLATIVE ASSEMBLY**

The Speaker conveyed the following Communication -

“Honourable Senators,

Standing Order 240 provides for the procedure on reports of the East African Legislative Assembly and the Pan African Parliament. Standing Order 240(2) provides that the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration shall consider Bills or Acts, reports or records of debates of the East African Legislative Assembly [Or the Pan African Parliament] and submit its report to the Senate, with its own recommendations, if any, within twenty-one days, from the date of submission of such Bills or Acts; reports or records of debates.

Further, Standing Order 240(3) provides that whenever the Clerk receives copies of the records of relevant debates of the meetings of the East African Legislative Assembly, or copies of Bills introduced into the East African Legislative Assembly and Acts of the East African Community, the Clerk shall forward such records of debates, Bills or Acts of the Community to the relevant Committee, being the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

Honourable Senators,

You may recall that yesterday, Tuesday, 6th July, 2021, the following papers from the East African Legislative Assembly were tabled in the Senate -

(1) The East African Community Sexual Reproductive Health Bill;

(2) Report of the East African Legislative Assembly Committee on Agriculture, Tourism and Natural Resources on the oversight activity on the impact of the COVID-19 pandemic on food security in the East African Community (EAC) adopted at the 5th Meeting of the 4th Session of the 4th Assembly, held between 9th to 29th May, 2021 in Arusha, Tanzania; and

- (3) *Report of the East African Legislative Assembly Committee on Accounts on the status of implementation of the Assembly's recommendations on the East African Community (EAC) audited accounts for the East African Health Research Commission and the East African Kiswahili Commission for the Financial Year ended 30th June, 2017 and 2018, adopted at the 5th Meeting of the 4th Session of the 4th Assembly, held between 9th to 29th May, 2021 in Arusha, Tanzania.*

Additionally the following reports from the East African Legislative Assembly have now been tabled by the Senate Majority Leader –

- (1) *Report of the East African Legislative Assembly Committee on Communication, Trade and Investment on the capacity building for Members, held between 22nd to 25th October, 2020 in Arusha, Tanzania;*
- (2) *Report of the East African Legislative Assembly Committee on General Purpose on the capacity building workshop to enhance the capacity of Members in Legislative and Budget Oversight held between 26th to 29th October, 2020 in Arusha, Tanzania;*
- (3) *Report of the East African Legislative Assembly Committee on Regional Affairs and Conflict Resolution on the capacity building of Members, held between 26th to 29th October, 2020 in Arusha, Tanzania;*
- (4) *Report of the East African Legislative Assembly Committee on Legal, Rules and Privileges on the oversight activity on compliance with the EAC Protocols and Laws by EAC institutions (Phase Two) held between 1st to 5th November, 2020 in Arusha, Tanzania;*
- (5) *Report of the East African Legislative Assembly Committee on Accounts to assess the status of implementation of the Assembly recommendations on the EAC audited accounts for the East African Court of Justice and East African Community Competition Authority for the Financial year ended 30th June, 2017 and 2018 held virtually between 17th to 21st January, 2021 in Arusha, Tanzania;*

Honourable Senators,

Pursuant to the provisions of Standing Order 240(2), I direct the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration to consider these reports and Bills and table report(s) thereon, with recommendations, if any, within the stipulated timeline of **twenty-one (21) days**, for consideration by the Senate, pursuant to Standing Order 240(4).

Going forward, I direct the Clerk, as he discharges his obligation under Standing Order 240(3) by forwarding such reports or Bills from EALA, to also make arrangements for tabling of the same documents for the

information of the Senate as the Committee proceeds to interrogate the documents.

I thank you.”

6. **STATEMENTS**

a) **Pursuant to Standing Order 47 (1)**

- i) The Senator for Vihiga County (Sen. George Khaniri, MP), made a statement concerning the increasing rate of unemployment caused by the COVID-19 global pandemic.

Thereupon, the Senator stated that the COVID-19 pandemic came with a myriad of challenges, key among them being loss of livelihoods for most young people. This situation has exacerbated the state of unemployment in Kenya and that the worst hit sectors have been in the tourism, transport, horticulture and communication sectors. The Senator further observed that owing to the mitigation measures instituted by the Government to curb against the spread of the pandemic, business operations have had to significantly scale-down thereby affecting small scale business profits. The Senator provided data from the Kenya National Bureau of statistics to advance this argument, stating that as at 1st September, 2020, the unemployment rate had doubled to 10.4% as compared to 5.2% in March, 2020.

The Senator stated that while His Excellency the President expressed optimism that Generation Unlimited (GenU) would intervene in the situation by assisting the government in unlocking the potential of Kenyan youth in August, 2020, not much had been done in this regard as youths are still suffering and that a majority of them have resorted to drug and substance abuse.

The Senator concluded by stating that there was need for employment creation to empower the youth to venture into self-employment and urged the Senate to take appropriate steps in this regard.

- ii) Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP), made a statement concerning menstrual health management.

In the Statement, the Senator informed the House that May 28th has been designated by the UN as the World Menstrual Hygiene Day to break the silence and stigma associated with menstrual health management (MHM).

The Senator highlighted the need for highlighting the importance of good menstrual health stating that in developing countries, women's choices of menstrual hygiene materials are often limited by the costs, availability and social norms. The Senator averred that MHM continues

to be a challenge for females in developing countries where clean water and toilet facilities are often inadequate.

Highlighting that in most traditional cultures, menstruation is not discussed openly by parents and care givers, the Senator argued that it is often left to schools to disseminate the information on MHM. She further stated that in the event that the schools do not disseminate such information, the girl child ends up not knowing how to manage herself, a situation that can have a direct impact on their health, education and dignity.

The Senator concluded by urging both the national and county governments to be more proactive in coming up with sustainable ways of ensuring that girls and women, especially those that come from disadvantaged families, are able to access water, soap and facilities that may help them maintain and manage their menstrual hygiene during their menstrual time. She encouraged County governments to incorporate MHM programs in their annual budgets and programmes in order to build the capacity of girls and women on the same.

- iii) The Senator for Mombasa County (Sen. Mwinyihaji Mohammed Faki, MP) made a Statement regarding the poor state of service provision and alleged mismanagement of the water, sanitation and sewerage companies in Counties.

Sen. Mwinyihaji stated that water services was a devolved function, pursuant to the provisions of the Water Act (2016) and that the National Government was tasked with the management of water sources while the County Governments had the responsibility of provision of water services to the general population in their respective Counties. This service is offered through the various water and sewerage companies established in each of the Counties.

The Senator also stated that though some of the water, sanitation and sewerage companies existed before the advent of devolution and were doing well; with the advent of devolution, majority of the companies were performing below average. He argued that some of the water companies in some counties faced imminent danger of insolvency as they were already reeling under huge amounts of debt, including outstanding electricity bills owing to general mismanagement. He cited the example of Mombasa County where the Mombasa Water, Sanitation and Sewerage Company had been unable to pay some of its employees for the last 2 years. He further recounted how, in 2019, while meeting with the County Government of Kwale, the Sessional Committee on County Public Accounts and Investment was informed that the Kwale Water Services Company had been unable to pay its electricity bills and that the Coast Water Services Board had disconnected water supply to the county due to unpaid bills.

The Senator decried the lack of serious audit mechanisms, saying that this had led to a lot of misappropriation of funds and mismanagement in the water companies, resulting in poor service delivery and perennial shortage/lack of water in counties. The Senator pointed out that provision of water was an important service for Counties and that attainment of clean water for all was one of the fundamental goals in the Sustainable Development Goals (SDGs). The Senator emphasized the need to institute proper audit mechanism so that funds, in the form of loans and grants being received from the World Bank as well as the European Union among other donors, for this function, can be seen to add value to the Counties.

Following contributions from Senators, the Temporary Speaker (Sen. Rose Nyamunga, MP) directed the matter to the Standing Committee on Land, Environment and Natural Resources for consideration, pursuant to Standing Order 47(3).

- iv) Nominated Senator (Sen. Halake Abshiro, MP), made a Statement on the persistent state of insecurity in Isiolo County.

The Senator highlighted that Isiolo County had borne the brunt of relentless bandit attacks, with the latest incident taking place on 20th June, 2021 in Mado Wale village, Merti Sub-County, where three women and two men were killed and scores injured. The incident had led to the destruction of a borehole which served the local community and their livestock.

The Senator also recounted various incidences of insecurity in Quri, Kinna and Qarsa areas in Garbatulla Sub-County. She reminded Senators that this was not the first time matters to do with the insecurity in Isiolo were being brought before the House and further stated that the acts were now snowballing into a devastating crisis if the perpetrators were not stopped, arrested and prosecuted.

In conclusion, the Senator appealed to the Speaker to refer the matter to the relevant Committee with a view of addressing it to its logical conclusion in order to ensure lasting peace is realized. Thereupon, the Temporary Speaker (Sen. Rose Nyamunga, MP) referred the matter to the Standing Committee on National Security, Defence and Foreign Relations, pursuant to Standing Order 47(3).

b) Pursuant to Standing Order 48 (1)

- i. Nominated Senator, (Sen. Judith Pareno, MP) sought a statement from the Standing Committee on Energy regarding the KenGen wind power project in Ngong Hills;
- ii. The Senator for Nyamira County (Sen. Okong'o Mogeni, MP), sought a statement from the Standing Committee on Roads and

Transportation regarding the collapse of parts of a building housing the County Assembly of Nyamira in Nyamira County;

- iii. The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP), sought a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning alleged non-conferment of citizenship status by the government to foreigners married to Kenyans;
- iv. Nominated Senator (Sen. Halake Abshiro, MP), sought a statement from the Standing Committee on Roads and Transportation regarding the deplorable state of Uhuru-Mawingo road in Nyandarua County;
- v. The Senator for Nyandarua County (Sen. Mwangi Githiomi Mwangi, MP), sought a statement from the Standing Committee on Roads and Transportation regarding the demolition, by the Kenya Railways Corporation, of properties in Ol-Kalou, Nyandarua County;
- vi. Nominated Senator (Sen. (CPA) Farhiya Ali, MP), sought a statement from the Standing Committee on Education regarding alleged dismissal of Mr. (CPA) Spence Sankale Ololchike, by the Maasai Mara University Council; and
- vii. The Senator for Bomet County (Sen. (Dr.) Christopher Langat, MP), sought a statement from the Standing Committee on Education regarding alleged irregular promotion of teachers by the Teachers' Service Commission.

c) Pursuant to Standing Order 51(1)(b)

The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights made a statement relating to the activities of the Committee for the period 8th February to 31st May, 2021.

8. THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 34 OF 2020)

(Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 6th July, 2021)

(Division)

Order deferred.

9. THE INVESTMENT PROMOTION (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2021)

Order for Second Reading read;

Motion made-

THAT, the Investment Promotion (Amendment) Bill (Senate Bills No. 2 of 2021) be now Read a Second time.

(Sen. (Dr.) Alice Milgo, MP)

And the time being thirty Minutes past Six O'clock, the Temporary Speaker (Sen. Judith Pareno, MP) interrupted the business of the Senate and 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, July 08, 2021 at 2:30 p.m.*

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