

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 24th February, 2022

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Temporary Speaker (Sen. Nyamunga) in the Chair]

PRAYER

MESSAGES FROM THE NATIONAL ASSEMBLY

PASSAGE OF THE SUGAR BILL (NATIONAL ASSEMBLY BILLS NO. 68 OF 2019)

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I wish to report to the Senate that, pursuant to Standing Order 41 (3), I received the following Message from the Speaker of the National Assembly regarding the passage of The Sugar Bill (National Assembly Bill No.68 of 2019).

Pursuant to the said Standing Order, I now report the Message.

Pursuant to the provisions of Standing Order 41 (1) and 42 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS the Sugar Bill (National Assembly Bill No.68 of 2019) was published vide Kenya Gazette Supplement No.166 of 2nd October, 2019 as a Bill proposing for the development, regulation and promotion of the sugar industry to provide for the establishment powers and functions of the Kenya Sugar Board and for connected purposes;

AND WHEREAS the National Assembly considered and passed the said Bill on Thursday, 11th November, 2021 with amendments on the form attached there to;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Orders 41(1) and 142 of the National Assembly Standing Orders. I hereby convey the said decision of the National Assembly to the Senate and forward the Bill for consideration.

Hon. Senators, pursuant to Standing Order 157 which requires that a Bill originating in the National Assembly be preceded with by the Senate in the same manner as a Bill introduced in the Senate, by way of First Reading in accordance with the

Standing Order 139, I direct that the Sugar Bill (National Assembly Bill No.68 of 2019) be listed for First Reading on Thursday, 24th February, 2022.

I thank you.

PASSAGE OF THE ASSISTED REPRODUCTIVE TECHNOLOGY
BILL (NATIONAL ASSEMBLY BILLS NO. 34 OF 2019)

Hon. Senators, I wish to report to the Senate that, pursuant to Standing Order 41 (3), I have received the following Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Assisted Reproductive Technology Bill (National Assembly Bill No.34 of 2019).

Pursuant to the said Standing Order, I now report the message.

Pursuant to the provisions of the Standing Order 41 (1) and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS the Assisted Reproductive Technology Bill (National Assembly Bill No.34 of 2019) was published vide Kenya Gazette Supplement No.57 of 15th April, 2019 as a Bill to provide for the regulation of assisted reproductive technology, to prohibit certain practices in connection with assisted reproductive technology, to establish assisted reproductive technology authority to make provision in relation to children born of assisted reproductive technology processes and for connected purposes;

AND WHEREAS the National Assembly considered and passed the said Bill on Thursday 25th November, 2021 with amendments in the form attached thereto;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Orders 41 (1) and 142 of the National Assembly Standing Orders, I hereby convey the said decision of the Reproductive Technology Bill (National Assembly Bill No.34 of 2019) the said decision of the National Assembly to the Senate and forward the Bill for consideration.

Hon. Senators, Article 110(3) of the Constitution requires that before either House considers a Bill, the Speakers of the National Assembly and the Senate, shall jointly resolve any question as to whether it is a Bill concerning counties and if it is, whether it is a special or an ordinary Bill.

The Constitutional provision has not been met with respect to the Assisted Reproductive Technology Bill (National Assembly Bills No.34 of 2019). As such, the Bill ought to be aligned to Article 110(3) of the Constitution, following which the Bill will be read a first time in the Senate.

Hon. Senators, in view of the foregoing, the Assisted Reproductive Technology Bill (National Assembly Bills No.34 of 2019) as received by the National Assembly vide the Message dated Tuesday, 20th December, 2021 will not be processed in the Senate.

PETITION

UNPAID TENDER FOR CONSTRUCTION OF ESP MARKETS

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I hereby report to the Senate, that a Petition has been submitted through the Clerk, by Mr. Naphas Mengesa Mmenya of Muamala Enterprises, Nairobi County.

As you are aware Article 119(1) of the Constitution, states that-

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.”

Hon. Senators, Mr. Mmenya has raised several salient issues in the said Petition. In 2011, there was an advertisement of a tender number MOLG/ESP/06/2011-2012 by the Office of the Deputy Prime Minister and Ministry of Local Government, for the construction of Economic Stimulus Project (ESP) in Naivasha Constituency.

The Petitioner applied for the tender on 9th December, 2011 and was later given notification of award letter for the construction of ESP Market, which included market shade, office block, pit latrine, refuse bin and water tank, on 24th February, 2012. The contract agreement was signed on 14th March, 2012.

The Municipal Council of Naivasha was to supervise the project through the office of the engineer. On 19th October, 2012, during a site visit, the engineer requested the Petitioner to construct a water borne toilet instead of a pit latrine. The resolution was forwarded to the Ministry of Local Government for necessary action, after which an addendum contract was signed to change the contract sum and works.

The project was completed and handed over at a meeting on 11th December, 2014 during which it was confirmed as practically completed and structurally sound. On 18th December, 2014, a Release of Payment Certificate was issued to the employer to pay Kshs3,206,617.

The Petitioner made several attempts in writing on diverse dates to the Principal Secretary (PS) in the Ministry of Transport, Infrastructure, Housing and Urban Development, demanding for payment.

The PS in the Ministry of Transport, infrastructure, Housing and Urban Development, State Department of Housing and Urban Development has violated the agreement and condition of the contract addendum No.1.

The Petitioner has made best efforts to have the matters addressed by the relevant authorities, including the Ministry of Transport, Infrastructure, Housing and Urban Development and the Commission of Administrative Justice, all of which have failed to respond satisfactorily.

None of the issues raised in the Petition is pending before any court of law or any other legal or constitutional body.

The Petitioner, therefore, prays that the Senate intervenes with a view to;

(1) Investigate any unlawful and discriminative actions perpetrated by the PS in the matter.

(2) Recommend that the Ministry of Transport, Infrastructure, Housing and Urban Development to pay the contractor the agreed amount of Kshs3,206,617 as per the contract agreement and addendum No.1 together with the accrued interest at 14 per cent per annum.

(3) Issue any further advice deemed fit to give effect to the course of justice, fairness, merit and safeguard public interest.

Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

The Temporary Speaker (Sen. Nyamunga): Sen. (Dr.) Musuruve please proceed.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker. I see a complicated Petition here. First, there was a tender and the tender number is available. Second, there was an application and someone was awarded the tender.

In awarding the tender, it means a contract letter was issued. The complication is in the contents of the letter. Was he paid according to the contents of the contract letter?

The other issue is that an engineer who was brought on board, asked Mr. Mmenya to do something different. This means that whatever he was told to do was not in the contract. This is a complicated issue and it has not been treated in a transparent manner. It is opaque. There is need for investigations to be done.

According to Mr. Mmenya, he has visited the concerned offices but he has not got a hearing. There is need to investigate what he was going to ask for. Was it the initial tender that he was given or what he did on the ground?

This tender needs to be looked into to see if what was done on the ground corroborates with what was done before. In case any money was paid, was it justified?

Madam Temporary Speaker, the Committee that you will direct this Petition to, should do a thorough job. They should even visit the site to find out the truth of the matter and give a ruling that is viable, just and fair to the Petitioner.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators I do not see any more interest in the matter.

Pursuant to Standing Order 232(1), the Petition is committed to the relevant Standing Committee for its consideration. I direct that the Petition be committed to the Standing Committee on Roads and Transportation.

In terms of Standing Orders 232 (2), the Committee is required in not more than 60 calendar days from the time of reading prayer to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

I thank you.

PAPERS LAID

REPORTS ON FINANCIAL STATEMENTS OF VARIOUS COUNTY FUNDS/ COMPANIES

The Senate Majority Leader (Sen. Poghio): Madam Temporary Speaker, I beg to lay the following Papers on the Table of Senate, today 24th, February 2022: -

Report of the Auditor General on the financial statement of Kiambu County Jijenge Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Kiambu County Assembly Staff Mortgage Scheme Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Ruiru-Juja Water and Sewerage Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Naromoru Water and Sanitation Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Tetu Aberdare Water and Sanitation Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Nanyuki Water and Sewerage Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Laikipia County Revenue Board for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Laikipia County Executive Members Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Laikipia County Development Authority for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Kapenguria Water and Sewerage Services Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Eldoret Water and Sanitation Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Kikuyu Water Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Uasin Gishu County Bursary and Skills Development Support Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of West Pokot County Assembly Car Loan and Mortgage Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Nanyuki Water and Sewerage Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Kwale County Trade Revolving Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Kwale County Disaster Management Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Kwale County Youth, Women and Persons with Disabilities Revolving Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Taita Taveta County Assembly Mortgage Scheme Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Taita Taveta County Education Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Baringo County Executive Car Loan Scheme Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Baringo County Executive Mortgage Scheme Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Coast Development Authority for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Mombasa County Alcoholic Drinks Control Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Mombasa Water Supply and Sanitation Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Mombasa County Elimu Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Mombasa County Consolidated Revolving Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Kilifi County Health Services Improvement Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Githunguri Water and Sanitation Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Tavevo Water and Sewerage Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Malindi Water and Sewerage Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Elgeyo Marakwet County Executive Car and Mortgage Revolving Fund for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Iten-Tambach Water and Sewerage Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Murangá Water and Sanitation Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Murangá South Water and Sanitation Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Karuri Water and Sanitation Company Limited for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Tana Water Works Development Agency for the year ended 30th June, 2020.

Report of the Auditor General on the financial statement of Diani Municipality for the year ended 30th June, 2020.

(Sen. Poghisio laid the documents on the Table)

The Temporary Speaker (Sen. Nyamunga): Next Order!

STATEMENTS

WORLD DAY OF SOCIAL JUSTICE

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker. I rise pursuant to Standing Order No. 47(1) on a matter of general topical concern, that is, the World Day of Social Justice.

The World Day of Social Justice is observed on 20th February every year as an international day recognizing the need to promote social justice, which includes efforts to tackle issues such as poverty, exclusion, gender inequality, unemployment, human rights and social protections.

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The main objective of celebrating this day is to raise a voice against social injustice and to bring the various communities internationally together to eliminate poverty, gender, physical discrimination, illiteracy and religious discrimination, in order to make a socially integrated society. The day is also marked to raise voices against social injustice and remove barriers regarding gender, age, race, ethnicity, religion, culture or disability.

The theme for World Social Justice Day 2022 is: *Achieving Social Justice Through Formal Employment*. On 10th June, 2008, the International Labor Organization (ILO) unanimously adopted its Declaration on social justice for a fair globalization. This is the third major statement of principles and policies adopted by the International Labour Conference since the ILO's Constitution of 1919.

It builds on the Philadelphia Declaration of 1944 and the Declaration on Fundamental Principles and Rights at Work of 1998, even as it expresses the contemporary vision of the ILO's mandate in the era of globalization.

Martin Luther King Junior once stated:

“Injustice anywhere is a threat to justice everywhere.”

As we celebrate this day, I urge everyone in the society to take up the responsibility of being just and fair in all its endeavours.

Frederick Douglass stated:

“Where justice is denied, where poverty is enforced, where ignorance prevails and where any one class is made to feel that society is an organized conspiracy to oppress, rob and degrade them, neither persons nor property will be safe.”

In India and other developing countries, millions work in informal jobs with little security and stability. Research suggests that workers crave the benefits that a stable job provides and would even be willing to forgo higher wages to ensure a formal job.

All people across the globe ought to have their socioeconomic rights despite their gender, race, ethnicity, religion or physical being.

As the world commemorates this day, it is important to be alive to the reality that more than 60 per cent of the world's employed population, consisting of two billion women, men and youth, earn their livelihood in the informal economy.

Informal workers often lack any form of social protection and are twice as likely to be poor as compared to formal workers. Most enter the informal economy not by choice, but due to lack of opportunities. Without concerted action to encourage a transition to formal employment, social justice will not be achieved.

Madam Temporary Speaker, the principles of justice that we must all embrace include equity, access, participation and rights, which are all interrelated in ensuring a fair and just society.

I call upon both levels of Governments to ensure that they exercise the four principles of social justice in their leadership and governance in order to deliver services to Kenyans effectively, efficiently and impartially.

Madam Temporary Speaker, Article 43 of the Constitution of Kenya clearly states the socioeconomic rights. All people in Kenya have a right to access clean water, high standards of health, quality education, social security, among other rights.

The national Government needs to come up with the specific policies that address these concerns. The policies need to cascade to the county governments for implementation of a fair, impartial, effective and just society.

Madam Temporary Speaker, as we celebrate this day, I would like to urge the national Government and county governments to develop a framework for building the capacity of informal workers and sensitizing them on plausible ways of having sustainable development from the resources that they have in order to “guarantee a non-threatening future.”

County governments need to have strategies in place that seek to eliminate barriers of exclusion of Persons with Disabilities (PWDs), racial and gender exclusion, religious, ethnicity, as well as all forms of exclusion and discrimination.

Madam Temporary Speaker, leaders must endeavour to create an environment that will translate into a feeling of one nation, one people, one country.

Happy belated World Day of Social Justice everyone.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I will now allow comments.

Please, proceed, Senator for Migori, Sen. (Dr.) Ochillo-Ayacko.

Sen. (Dr.) Ochillo-Ayacko: Thank you Madam Temporary Speaker. Social justice is very important. We all crave for a just and fair society. Taking a day off to think of where we stand, where we are and what we need to do, is very important.

Society has several identities. We have people of different ethnicities, religion, physical attributes, gender and races. All of them must have a common denominator called justice, which glues the society together and allows it to advance in unison.

Madam Temporary Speaker, I represent Migori County in the Senate. It has multiple identities. We have all ethnicities that we have in Kenya. We have the Subas, Luos, Kurias, Somalis, Luhyas, Kalenjins, Maasais and many other people. We need to amplify social justice so that, as a county, and a microcosm of this nation, we walk happily together.

A society where a section of it feels unjustly treated, cornered and oppressed, is unlikely to unleash its full potential. I congratulate Sen. (Dr.) Musuruve for thinking about justice. I need it, you need it, and we all need it. Since we need and deserve it as individuals, we must promote it, so that it is a shared goal and dream amongst all of us in the society, in which we live in.

Social justice is what ‘His Excellency’ Jesus was talking about when he said that he will take us to Heaven. It is the place where all of us think it will be found. It is our duty to bring it right here on earth, so that we have it in abundance.

I support the Statement and the existence of that day.

The Temporary Speaker (Sen. Nyamunga): Let us have the Senate Majority Leader, Sen. Poghio.

The Senate Majority Leader (Sen. Poghio): Madam Temporary Speaker, I wish to congratulate Sen. (Dr.) Musuruve, who has become the House conscience on matters of international days, which should be celebrated.

I do not know where she finds them. She, however, keeps giving us information about all the days that are to be celebrated internationally. I congratulate her.

Madam Temporary Speaker, this is a very important one. The World Day of Social Justice was established in the year 2007 by the United Nations (UN). It has been declared that 20th February should be celebrated annually as such. Some of the things that we should focus on will be like poverty, gender and physical discrimination, illiteracy and religious discrimination, amongst others.

These are issues that also involve modern slavery, human trafficking and others. It has also become a moment to think together on how the international community can work together to eliminate social injustices.

I would like to pick on the issue of poverty. The world can solve this problem if we all concerted our efforts. We had debate in this House on pricing of basic things. It needs to be considered very seriously because poverty comes out of problems that are sometimes of a natural nature.

The other one is illiteracy. I come from a community that is basically still underdeveloped and discriminated in that sense. The schools are not very well developed and the people do not have an opportunity to go to school.

Madam Temporary Speaker, if we take this day seriously, we should have either legislations or even Petitions and Statements coming out of this, so that we can begin to focus on how to get rid of social injustices. A good number of issues can come out of it.

We appreciate that Sen. (Dr.) Musuruve has continued to play that role of being our conscience in this matter.

I thank you very much.

The Temporary Speaker (Sen. Nyamunga): Proceed, Sen. Farhiya Ali.

Sen. Farhiya: Thank you Madam Temporary Speaker, for giving me this opportunity. I thank Sen. (Dr.) Musuruve for making us aware of this day. Social justice is important and critical for survival of this country and all the other nations in the world.

I will pick on one critical issue that is causing a lot of inequalities. We have been advised that the net-worth of the world's richest people has increased because of the Corona Virus pandemic (COVID-19). However, as you are aware, some businesses have gone down, while others, their resources have not been the same.

When businesses go down, it has an impact on what Government. This is because it relies on direct taxation in form of Value Added Tax (VAT), corporation taxes, as a result of profit and all other income that it relies on from businesses. When many people are impacted by COVID-19 pandemic, revenues tend to dwindle.

Madam Temporary Speaker, I want to address the international community and our friends out there. When businesses are affected, revenue generation is also affected. Therefore, the ability for the developing countries to service their debts is also affected.

The magnitude and impact of COVID-19 pandemic cannot be overlooked. I urge the international community to have a little bit of sympathy for countries that are developing.

COVID-19 pandemic has been with us for the last three years and it has not ended. So, if they waive both principal and interest for the next three years, it will allow

countries a breather to cope with the debt servicing. That way, we will see our friends as people who care about us and want justice across all countries.

Why am I speaking about this vis-à-vis social justice? When revenues dwindle, the money targeted for social justice is also less. Therefore, the Government will have less disposable money to ensure that the vulnerable who need to be looked after in terms of social protection are taken care of. However, it will not be possible because the revenue is not the same.

In case of any shocks to an economy, people who face it first are the less privileged. In terms of business, the blue-chip companies may not have a buffer to ensure that in case of a shock, they can tap into that reserve. Unfortunately, Small and Medium Enterprises (SMEs) do not have those kinds of luxuries. Even SMEs will go down and poverty levels will rise.

The world can only develop if all of us develop because we are interrelated and businesses are linked globally. That makes the world a global village. It means that a problem of one country becomes the problem of another. That is something that our friends cannot overlook.

Madam Temporary Speaker, as I support this Statement, the international community needs to look at that. We have to meet Sustainable Development Goals (SDGs). Millennium Development Goals (MDGs) failed and now we have SDGs until 2030. If we do not develop as nations, there is no way the western countries will develop without pulling others who are going down.

It is my plea that they should give a waiver of both interest and principal of loans borrowed by developing countries because of COVID-19 pandemic.

I thank you.

The Temporary Speaker (Sen. Nyamunga): Proceed, Sen. Halake.

Sen. Halake: Madam Temporary Speaker, I also rise to support Sen. (Dr.) Musurube who as usual amplifies the voice of the people who cannot speak for themselves by drawing our attention to the World Day of Social Justice. The World Day of Social Justice came about as a result of social injustices that exist in the world, our country and everywhere else we go to, work and play.

The root cause of every social injustice is unequal treatment. Women, Persons with Disabilities (PWDs) and certain marginalized groups tend to suffer disproportionate social injustices.

We are a few months to the general elections. Allow me to highlight social injustice of exclusion of women in representation and political life. As we watch the goings-on, especially from Northern Kenya where I come from and other parts of this country, we are seeing heightened social injustice against women in the political and socio-economic space.

We have also witnessed heightened attacks on women and PWDs who cannot defend themselves in the political space. That exacerbates the social injustice that is meted to these groups.

As I said, at the root of any social injustice is unequal treatment. Social injustices have very many offshoots. They include discrimination and being locked out of a system that would have given you an equal chance, be it for representation or political life.

I would like to urge our political systems and institutions to adhere to the political, democratic and constitutional foundations as per our Constitution, which guarantee social justice under Article 43. They should also ensure that discrimination, which is an offshoot of social injustice, does not lock out the less fortunate, women, marginalized groups, PWDs and the rest, especially in the political space.

The offshoots also include tribalism, unequal distribution of resources and wealth and discrimination. However, this does not describe the sense of suffering that people against which social injustices are meted suffer.

We talk about discrimination and violence against women in the political space and women being paid less for the work they do. In fact, when I meet communities, women, PWDs, political and religious leaders in Isiolo County, they always say something which surprises me. When I organised for a meeting with women, I was told that if I was to reimburse them bus fare, I was to give them less than what I give men. That surprised me. When I asked if the women get different fare considerations or if the *boda bodas* take less money from them, they said the fare is equal. However, they insisted women should be reimbursed less.

Madam Temporary Speaker, the issue of social injustice is topical, especially at this time. We should amplify the voice of the people that have been excluded, discriminated against and attacked based on their social and sexual orientation, disability or gender.

Once again, I thank Sen. (Dr.) Musuruve for bringing this Statement. As I add my voice, I would also like to urge our political parties to ensure that they do not become centres or instruments for social injustice by excluding women.

As the Chairperson for the Centre for Multiparty Democracy (CMD-Kenya), I urge them not to pay lip service to the women and the youth of this country as they seek political offices. We should have party primaries that adhere to the two-thirds gender rule and ensure equitable distribution of nomination slots to the youth, PWDs and women.

We want to make sure that political parties do not become institutions that entrench social injustice. This day was mooted to ensure social injustices are dealt with.

I have sponsored the Preservation of Human Dignity and Protection of Economic and Social Rights (Senate Bills No. 21 of 2021). This Bill was conceived because of the social injustice and the offshoots thereof.

We must go legislative frameworks and our constitutional provisions to actions that show that this country is serious about inclusion and social justice. We must show that this country is serious about ensuring that we move from what is on paper to what we need as action on a daily basis to ensure social justice is achieved in our institutions. For now, our focus is on our political parties and political leaders to ensure they do not become instruments of social injustice in this country as we go to party primaries and the elections this year.

Madam Temporary Speaker, I support and congratulate Sen. (Dr.) Musuruve.

Sen. Shiyonga: Thank you, Madam Temporary, Speaker for giving me this opportunity to support the Statement brought by Sen. (Dr.) Musuruve.

The Statement on the World Day of Social Justices is a good recognition and everyone needs to observe the day, especially in terms of distribution of resources,

opportunities and privileges that come with it. It should be recognized in the society not only at the individual level, but also globally.

The Senator has specified the objective of the celebration of this day being “celebrating the raise of the voice against the social injustices brought in various communities”. As we celebrate this day, we should note that we can only do justice to our people if we do not discriminate, marginalize or deny them their social and economic rights.

There are four principles of social justices. One of them is equity. We need to embrace equity in terms of job opportunities and avoid marginalizing communities.

Access to information is enshrined in our Constitution. There should be equal opportunity in terms of access to information, basic needs, opportunities *et cetera*. When it comes to participation, every community in globally has a right to participate in developing their countries.

I commend Sen. (Dr.) Musuruve because when we celebrate this day, we are upping the game by achieving the social equity in the world. We need to be alive to the fact that she is a champion of PWDs. There are those people in our communities who are discriminated because they have disability.

I support the Statement and urge Sen. (Dr.) Musuruve to continue reminding us to celebrate such important days like today because we are the voice of marginalized and less privileged people in our communities.

The Temporary Speaker (Sen. Nyamunga): The next Statement is by Sen. Kihika online.

FATAL SHOOTING OF MR. SIMON THUKU

Sen. Kihika: Madam Temporary Speaker, I rise pursuant to Standing Order No.48 (1) to seek for a Statement from the Standing Committee on National Security, Defense and Foreign Relations regarding the fatal shooting of Mr. Simon Thuku by officers from the Kenya Coast Guard Services (KCGS) in Karagita area, Naivasha on Wednesday, 16th February, 2022.

In the Statement, the Committee should-

(1) Explain the circumstances that led to the fatal shooting of a fisherman; Mr. Simon Thuku, by a KCGS officer in Karagita area of Naivasha while fishing in Lake Naivasha on Wednesday, 16th February, 2022.

(2) Clarify whether there exists a shoot-to-kill order on fishermen eking a living from Lake Naivasha, and if so, inform the House who issued the order.

(3) State the action taken against KCGS officers who have taken part in the maiming and killing of Kenyans in Naivasha and elsewhere in the country noting that four fishermen have been shot dead in Lake Naivasha since November, 2021;

(4) Indicate plans, if any, by the Government to compensate the beneficiaries of persons who have been killed by KCGS officers and compensate persons maimed by hippos or the families of those that have died through drowning while fleeing from the officers.

(5) Apprise the Senate on the sensitization forums held, if any, between the KCGS and the Lake Naivasha stakeholders, including fishermen to educate the

stakeholders on their respective obligations in the management of Lake Resources. If at all, state how many of such sensitization forums have been held.

(6) Spell out the efforts by the Government to better manage Lake Naivasha resources, including non-discriminatory issuance of fishing licenses to hotels around the lake and to individual fishermen.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I will allow one or two comments.

Sen. (Dr.) Ochillo-Ayacko, kindly proceed.

Sen. (Dr.) Ochillo-Ayacko: Thank you, Madam Temporary Speaker, for the opportunity to speak and support this Statement.

Sen. Kihika has raised a very important issue. The right to life is what matters. In fact, taking away the life of any person by authority of Government or by armed officials is something that should not be countenanced.

Globally and particularly in the USA and Europe, there are very serious movements against the use of deadly force. In the USA, there is a movement called Black Lives Matter. Although here majority of us are black, we still countenance the unjust elimination of people who would have otherwise been apprehended and tried in accordance with the law and in a court of law where their rights are defended.

This is a grave matter that requires serious investigation. I propose that if Sen. Kihika does not become a governor, she should return to this House to ensure that there is legislation in place where deadly force has been used by law enforcement authorities, such that there is an automatic enquiry by independent agencies as to the circumstances under which the deadly force was used.

The lives of law enforcement officers are as precious as lives of civilians, but it is ridiculous and ironical for law enforcement officers to be the ones in pursuit in pretext that they are defending lives, protecting property and also enforcing law whereas they are the ones responsible for the loss of lives.

Deadly force is only allowed if the life of that officer is under serious threat, in defense of another life or if there is risk of a serious violation of law by allowing a convict or a person under lawful custody to escape.

I do not understand how a fisherman could be a threat to anybody. In Migori County, these incidences have been there. They should be addressed not just in the instance of coast guards but in all law enforcement agencies, police officers and all other uniformed officers.

If we allow this to go unpunished, then the just society that we were talking about becomes a mirage. I congratulate Sen. Kihika for raising this important matter.

Thank you.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I request you to be brief when making your comments because we still have another Statement.

Sen. (Dr.) Musuruve, Proceed.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker. Allow me to thank Sen. Kihika for bringing on the Floor of this House this unfair act that happened.

There is need for interrogation to ensure that the fisherman who was shot in Naivasha is compensated. There are factors to put into consideration when considering compensation such as the issue of family, children's school fees, *et cetera*, since he was the head of family. We need to factor in all those parameters so that when the compensation is done the family moves on with life.

Madam Temporary Speaker, Sen. Kihika has come up with a very good Statement. There is also need to have a policy regarding unfair shooting of citizens such that there is insurance for them. In fact, all citizens should be insured in the event of such a shooting so that they are indemnified.

There has been careless shooting of innocent Kenyans all over the country. The victims of such shootings and their families are the ones who bear the brunt; they live in pain as other people move on with life. There is also need for a policy on such shootings.

Madam Temporary Speaker, Sen. Kihika should even go a notch higher and come up with a Bill that will speak on this particular issue.

Thank you.

The Temporary Speaker (Sen. Nyamunga): Sen. Halake, proceed.

Sen. Halake: Thank you, Madam Temporary Speaker. I also rise to support this Statement and congratulate Sen. Kihika for standing up for what has become very notorious happenings.

The year 2021 saw Kenya have the highest number of extra judicial killings and forced disappearances in the history of our country. The year 2021 was also the year we had COVID-19 Pandemic. Though people were confined and literally in one place, I wonder how they ended up being killed or forced to disappear such that we have the highest number of forced disappearances, killings and shootings in that year.

We are very early into the year 2022. If what Sen. Kihika has mentioned with regard to the fishermen continues, perhaps we might even break the record of the year 2021. Where are we heading? We should find security in our police and security forces.

Madam Temporary Speaker, however, they seem to be a source of insecurity. In Northern Kenya, where I come from, especially in Isiolo County, we have had similar incidences of police or other forces, perhaps dressed as policemen being trigger happy. A police officer by the name of Mr. Osman disappeared and I brought up a Statement on the Floor of this House. However, I have not received a response on that Statement. In fact, one of the reasons why I am standing is also to find out what is happening to some of the Statements we have sought from the Committee on Security in this House.

When people come with this kind of Statements in this House, they are not just ordinary Statements; these are Statements of life and death. They include forced disappearances, extrajudicial killings and others maimed. Such Statements should be treated with the urgency they deserve because we cannot be asking questions about our citizens and constituents, which do not see light of day.

I wonder where my own Statement of a similar incident of forced disappearance of a police officer from my county, Mr. Osman, has gone. How far are we with it? We do not bring such Statements for the sake of it. We do not bring Statements just to be seen to be doing something. We want something to be done.

Madam Temporary Speaker, as you assign this Statement to the relevant Committee, I urge you to also remind that Committee that we are waiting for answers for prior Statements that we have sought from them.

I support and hope that the people find justice. Thank you.

The Temporary Speaker (Sen. Nyamunga): The next Statement is by the Senate Majority Leader.

Sen. Poghiso, proceed.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 1ST MARCH, 2022

The Senate Majority Leader (Sen. Poghiso): Madam Temporary Speaker, pursuant to Standing Order No.52 (1), I hereby present to the Senate the Business of the House commencing Tuesday, 1st March, 2022.

On Tuesday, 1st March, 2022, The Senate Business Committee will meet to consider and approve the business for the week. On that day, the Senate will consider the business that will not be concluded from today's Order Paper as well as business indicated in the Notice Paper that has been annexed on today's Order Paper.

On Wednesday 2nd, March, and Thursday 3rd March, 2022, the Senate will consider business that will not be concluded on Tuesday 1st and Wednesday 2nd March, 2022 respectively and any other business scheduled for the Senate Business Committee, including Petitions and Statements.

Madam Temporary Speaker, there were 11 Bills for the Committee of the Whole stage and 14 Bills for the Second Reading. I take this opportunity to thank hon. Senators for passing four Bills at the plenary sitting held yesterday. The same are being processed for transmission to the National Assembly for consideration.

Of the Bills that are due for Second Reading, 12 have been dropped from the programme of Senate Business pursuant to Standing Order No. 59 due to unavailability of respective Movers at the time the Orders were called. Unavailability of Movers to prosecute the business possess a threat of stalling legislative business.

The Bills are:

- (1) The persons with Disability (Amendment) Bill (Senate Bills No. 29 of 2020) by Sen. Cheruiyot and Sen. (Dr.) Mwaura.
- (2) The political Party Primaries Bill (Senate Bill No. 35 of 2020) by Sen. (Dr.) Mwaura.
- (3) The National Cohesion Peace Building Bill Senate Bills No. 19 of 2021 by Sen. Pareno.
- (4) The Coconut Industry Development Bill Senate Bills No. 24 of 2021 (Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)
- (5) Alternative Dispute Resolution Bill (Senate Bills No.34 of 2021), Sen. Kasanga.
- (6) The County E-Health Bill (Senate Bills No.39 of 2021), Sen. Pareno.

- (7) The Sports (Amendment) Bill (Senate Bills No.40 of 2021), Sen. Cheruiyot.
- (8) The Elections (Amendment) (No.2) Bill (Senate Bills No.3 of 2021), Sen. Olekina.
- (9) The Election Campaign Financing (Amendment) Bill, Senate Bills No.51 of 2021), Sen. Olekina.
- (10) The New Born and Child Health Bill (Senate Bills No.52 of 2021), Sen. Nyamunga.
- (11) The Employment (Amendment) Bill (Senate Bills No.54 of 2021); Sen. Cherargei.
- (12) The Cotton Industry Development Bill (Senate Bills No.55 of 2021); Sen. Ndwiga.

I urge the Movers of these Bills to make an appeal to the Speaker, for reinstatement of the same in the weekly programme in the Senate Business. Upon approval by the Speaker, the Bills should be allocated slots in the weekly programme that is circulated every Friday and accordingly scheduled in the Order Paper.

I urge the respective Movers to be available in the Senate whenever such Business is scheduled in the Order Paper.

Madam Temporary Speaker, in conclusion, there are 47 Petitions in the Senate that are yet to be concluded. I urge respective Standing Committees to expedite consideration of the said Petitions and table the reports pursuant to Standing Order No.232 (2).

Madam Temporary Speaker, I hereby lay the Statement on the Table of the Senate.

(Sen. Poghisio laid the document on the Table)

The Temporary Speaker (Sen. Nyamunga): Next Order.

BILL

First Reading

THE SUGAR BILL (NATIONAL ASSEMBLY
BILLS NO.68 OF 2019)

*(Order for First Reading Read – Read the First Time
and ordered to be referred to the relevant Senate Committee)*

BILL

First Reading

THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL
(NATIONAL ASSEMBLY BILLS NO. 34 OF 2019)

*(Order for First Reading Read – Read the First Time
and ordered to be referred to the relevant Senate Committee)*

BILL

Second Reading

THE LANDLORD AND TENANT BILL
(NATIONAL ASSEMBLY BILLS NO. 3 OF 2021)

(Sen. Poghiso on 23.02.2022)

(Resumption of debate interrupted on 23.02.2022)

(Bill Deferred)

COMMITTEE OF THE WHOLE

THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT)
BILL (SENATE BILLS NO.53 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE LAW OF SUCCESSION (AMENDMENT) BILL
(SENATE BILLS NO.15 OF 2021)

(Committee of the Whole deferred)

MOTION

ADOPTION OF SPECIAL AUDIT REPORT ON
UTILISATION OF COVID-19 FUNDS

THAT the Senate adopts the Report of the Standing Committee on Health on the special audit report on utilization of COVID-19 funds by twenty-eight (28) county governments, laid on the Table of the Senate on Wednesday, 9th February, 2022.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until Tuesday 1st March, 2022 at 2.30 p.m.

The Senate rose at 3.45 p.m.