



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – FIRST SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**THURSDAY, NOVEMBER 17, 2022 AT 9.30 A.M.**

1. The Senate assembled at thirty minutes past Nine O'clock.
2. The Proceedings were opened with prayer said by the Speaker.
3. **QUORUM IN THE HOUSE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, caused the Bell to be rung for five minutes pursuant to Standing Order 40;

And there being a Quorum after the expiry of five minutes;

The Speaker invited the Clerk to call the Orders of the day.

4. **PAPERS**

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

- i.) Report of the Auditor General on the Financial Statement of Nairobi City Water & Sewerage Company Ltd for the year ended 30<sup>th</sup> June, 2021.
- ii.) Council of Governors Annual Statutory Report for Financial Year 2021/2022.

*(The Senate Majority Leader)*

5. **NOTICE OF MOTION - PLIGHT OF KENYAN DOMESTIC WORKERS IN THE MIDDLE EAST**

(Sen. Veronica Nduati, MP)

THAT, AWARE THAT foreign workers from developing countries make up a large majority of the Gulf's labour, a trend driven in Kenya by the high rate of youth unemployment which stands at 34.21%, forcing young

Kenyans to continue to go beyond our borders in pursuit of lucrative employment opportunities;

FURTHER AWARE THAT the *Kafala* or sponsorship system found in the Gulf Cooperation Council (GCC) countries such as, Kuwait, Oman, Qatar, Saudi Arabia, the United Arab Emirates, Jordan and Lebanon, defines the relationship between foreign workers and their local sponsor, under which the state gives local individuals or companies, sponsorship permits to employ foreign labourers, and covers travel expenses and provides housing, in the case of domestic workers in the sponsor's home;

APPRECIATING THAT the Kenyan recruitment process of domestic workers for Saudi Arabia involves a number of stakeholders including the Saudi employers, the Saudi Arabia Employment Agencies, Ministry of Labour (Labour Department), National Employment Authority (NEA), National Industrial Training Authority (NITA), prospective domestic workers, Kenya Private Employment Agencies (KPEA), Saudi Arabian Embassy and the immigration Department;

NOTING THAT numerous Kenyan migrant domestic workers in Saudi Arabia have documented various forms of abuses including passport confiscation, physical abuse, sexual abuse, sleep deprivation, food deprivation, labour exploitation, imprisonment prior to deportation, religious intolerance and psychological abuse leading to some of these workers losing their lives;

COGNIZANT THAT Articles 10, 11, & 14 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families adopted on 18 December, 1990 espouses that no migrant worker shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment, shall be held in slavery or servitude, or be subjected to arbitrary or unlawful interference with his or her privacy, family, correspondence or other communications, or to unlawful attacks on his or her honour and reputation, and the right to the protection of the law against such interference or attacks;

FURTHER APPRECIATING THAT staffing shortages and inadequate funding faced by the labour attaches in Saudi Arabia hinder the effective supervision of migrant workers in distress, lack of safe houses, lack of a comprehensive mechanism to handle labour disputes, and a lack of a legal framework defining the roles of migrant workers in order to adhere to the terms of their contracts, are some of the challenges that need to be overcome;

CONCERNED THAT under the Bilateral Labour Agreement (BLA) between the Government of Kenya (Gok) and the Government of the Kingdom of Saudi Arabia (KSA) on the recruitment of domestic workers that was developed and adopted in January 2016, Kenya was obligated to provide qualified and medically fit workers needed by Saudi Arabia according to the job specifications, and in turn Saudi Arabia was

obligated to ensure that the welfare and rights of employers and domestic workers employed in the Kingdom are promoted and protected in accordance with the applicable rules and regulations which has not been the case, including the enforcement of rest hours and the identity and work permits remaining in the possession of the migrant worker;

NOW THEREFORE, the Senate resolves that the Ministries of Interior and National Administration, Labor and Social Protection, Foreign Affairs & Diaspora Affairs, Immigration Department, the National Employment Authority (NEA), the National Industrial Training Authority (NITA) and the Kenya Private Employment Agencies (KPEA) cease all travel by Kenyan migrant workers to the Gulf states with immediate effect until: -

1. the Ministry of Labour and Social Protection amends the national labour migration regulatory framework policy to address labour exportation management;
2. the Ministry of Labour and Social Protection, and the Ministry of Foreign Affairs & Diaspora Affairs adopt/ratify the multilateral declarations relating to the protection of workers such as the International Labour Organisation (ILO) Domestic Workers Convention, 2011 (No. 189) and the Private Employment Agencies Convention, 1997 (No. 181);
3. the establishment of functional overseas labour offices for the administration and enforcement of the Ministry of Labour and Social Protection policies for migrant workers;
4. a review of the Bilateral Agreement between the Government of Kenya, and the Kingdom of Saudi Arabia by the Ministry of Foreign Affairs & Diaspora Affairs to adequately address identified gaps and emerging issues;
5. there are established safe houses to serve as central huts of welfare and assistance to migrant workers and temporary shelters for overseas Kenyans in distress; and,
6. any Kenyan in distress, and in particular, Hellen Kemunto, is rescued and brought back to Kenya from Riyadh, Saudi Arabia.

6. **STATEMENTS - PURSUANT TO STANDING ORDER 53(1)**

- i.) The Senator for Wajir County (Sen. Abas Mohamed, MP) sought a Statement from the Standing Committee on Energy concerning the state of power supply in Wajir County.
- ii.) The Senator for Vihiga County (Sen. Godfrey Osotsi, MP) to sought a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the drought situation and relief food distribution in Kenya.

- iii.) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the lack of A-Series passports at the Department of Immigration.

7. **COMMUNICATION FROM THE CHAIR - PROCEDURE FOR CONDUCT OF ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

The Speaker conveyed the following Communication from the Chair:-

“Honourable Senators,

As you are aware, pursuant to Rule 15 (1) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, the Clerks of the Houses of Parliament, who pursuant to Rule 2 of the said Rules are the Presiding Officers, by Gazette Notice No. 14039 of 16<sup>th</sup> November, 2022 and in the *Daily Nation* and *The Standard* newspapers of 16<sup>th</sup> November, 2022, appointed today, Thursday, 17<sup>th</sup> November, 2022, as the day for the election of Members of the East African Legislative Assembly.

I would like to provide guidance to the House on the procedure that we shall follow in conducting the election of Members of the East African Legislative Assembly (EALA). The election exercise will be undertaken pursuant to the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017.

Honourable Senators, the election shall be conducted here in the Senate Chamber and in the National Assembly Chamber, being the venues appointed for this purpose by the Presiding Officers.

In accordance with Rule 2 of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, the Clerk of the Senate and the Clerk of the National Assembly are the Presiding Officers while the Speaker of the Senate and the Speaker of the National Assembly are the Returning Officers in the respective Houses. For purposes of the election, a “voter” is defined in Rule 2 as a Member of the National Assembly or a Member of the Senate.

Honourable Senators, with respect to the conduct of the election in the Senate, Rule 16(1) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, requires the Presiding Officer to prepare and, at the time appointed for the election, to issue to each Senator, one ballot paper, on which shall be written in alphabetical order, the names of all duly nominated candidates, their gender, age and county.

The candidates have been clustered under the headings of the names of the respective categories of nomination, in accordance with Rules 5

and 9. I confirm that ballot papers have been prepared in the manner required.

Voting will be done through roll call where the Clerk will call out the names of Senators in alphabetical order.

Honourable Senators, Senators who are present, on signing a Ballot Issuance Register, which is available with the Presiding Officer, will be issued with one ballot paper.

Each Senator, on receiving a ballot paper which has been duly stamped, shall proceed to one of the ballot booths, which are located on either side of the Chair, and secretly record his/her votes by putting a mark in the space provided on the ballot paper for recording of a vote against the names of their preferred candidates as clustered.

Honourable Senators Rule 6(1) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, provides for the allocation ratio for each party which *“shall be three times the figure arrived at by multiplying the number of elected Members of that party by such number as the Joint Select Committee shall determine and dividing the result by the total number of elected Members of Parliament”*.

As such, kindly note that the ballot paper is divided into two clusters, that is Kenya Kwanza Alliance and Azimio la Umoja – One Kenya Coalition Party. The Kenya Kwanza Alliance Coalition cluster has fifteen (15) candidates while the Azimio la Umoja – One Kenya Coalition Party cluster has twelve (12) candidates.

In respect of the Kenya Kwanza Alliance Coalition cluster which consists of fifteen (15) candidates, a Senator will be entitled to vote for not more than five (5) candidates. The persons to be declared elected in respect of the Kenya Kwanza Alliance cluster shall be the **FIVE (5)** candidates with the highest number of votes, who must include at least **TWO (2) candidates of either gender**.

In respect of the Azimio la Umoja – One Kenya Coalition Party cluster which consists of twelve (12) candidates, a Senator will be entitled to vote for not more than four (4) candidates. The persons to be declared elected in respect of the Azimio la Umoja One Kenya Alliance Coalition Party cluster shall be the **FOUR (4)** candidates with the highest number of votes, who must include at least **ONE (1) candidate of either gender**.

Honourable Senators, please bear in mind that in accordance with Rule 17(3), a voter, can only cast as many votes as the number of the total candidates to be elected; in this case, nine (9) candidates.

It is also important to note that in reckoning the candidates to be declared elected, section 4(4) of the East African Legislative Assembly

Elections Act, 2011, requires that at least one third of the elected Members shall reflect either gender.

Honourable Senators, let me also clarify that under Rule 17 (4), where a voter casts more votes than the number of candidates required to be elected, the ballot paper of that voter shall be regarded as spoilt.

Rule 17 (5) provides that *“a ballot paper shall not be regarded as spoilt where the voter casts a number of votes that falls below the number of candidates to be elected.”*

In accordance with Rule 17(6), a Senator who accidentally spoils a ballot paper while voting is in progress, is entitled, on surrendering the spoilt ballot paper to the Presiding Officer, to be issued with another ballot paper in place of the spoilt one.

Honourable Senators, after marking the ballot paper, and while still in the booth, you are required to fold your ballot paper and proceed to deposit it in the ballot box, placed on the Table of the Senate, and resume your seat.

Honourable Senators, as required by Rule 18(1), once all Senators have cast their votes, I will appoint two Senators, one from either side of the political party coalitions, to be the counting agents for the candidates.

In accordance with Rule 18(2), the Presiding Officer, shall, in the presence of the counting agents, count and tally the votes cast.

Honourable Senators, pursuant to the provisions of Rule 19, when the votes have been counted and the results of the election ascertained -

- a) the Presiding Officer shall record the results of the tally and report to the Senate the results of the election together with the number of votes recorded for each candidate under the respective clusters;
- b) The Returning Officer shall thereafter send a Message to the National Assembly communicating the results of the Senate, which the Speaker of the National Assembly, as the other Returning Officer, will announce to the National Assembly; and
- c) The Presiding Officer of the National Assembly will likewise report the results of the National Assembly elections to the National Assembly and the Returning Officer of the National Assembly will send a Message to the Senate communicating the National Assembly election results.

Honourable Senators, considering the number of Members in the National Assembly, the election exercise will most likely take longer in the National Assembly than in the Senate. In the period before

conclusion of the voting in the National Assembly and transmission of both the National Assembly election results and the combined results of the elections conducted in both Houses to the Senate, we shall proceed with other business scheduled in today's Order Paper.

Upon receipt of the Message from the National Assembly on the results of the National Assembly and the combined results from both Houses of Parliament, I will announce the results to the Senate.

In the event that there will be need to suspend the proceedings of the Senate for the convenience of the House, a determination will be made then.

Honourable Senators, let me also point out that in the event of a tie between two or more candidates amongst those with the highest votes in any of the clusters, the process will be repeated in both Houses between the respective candidates.

As I conclude, I would like to remind Hon. Senators that during the entire election exercise, the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 and the Senate Standing Orders are applicable, and will be enforced by the Speaker as necessary.

Finally, Honourable Senators, I wish to draw your attention to Standing Order 91 on decorum during division which require among others, that Senators shall maintain order in the Senate and shall be in their designated seats and shall remain seated until the result is announced.

That said Honourable Senators, we shall forthwith commence the elections and I now direct the Presiding Officer to proceed.

I thank you.”

8. **ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

The Speaker, having given directions on the procedure to be followed in conducting elections of Members of the East African Legislative Assembly (EALA), directed the Clerk, as Presiding Officer for the election, to proceed with the conduct of the election.

Upon the direction of the Presiding Officer, the ballot box was opened and displayed to the assembled Senate and subsequently locked before voting commenced thereon.

Thereafter, the Presiding Officer proceeded to call out the name of each Senator, in alphabetical order.

Once called out, each Senator signed the Voter Register, was issued with a ballot paper and proceeded to the booth to cast their vote and thereafter, placed the ballot paper in the ballot box.

At the conclusion of voting, pursuant to Rule 18(1) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, the Speaker appointed the following Senators as counting agents for the respective coalitions:-

1. Sen. Esther Okenyuri, MP – representing the Kenya Kwanza Alliance.
2. Sen. Beth Syengo, MP – representing the Azimio La Umoja One Kenya Alliance Coalition Party.

#### 9. **COUNTING AND TALLYING OF THE VOTES**

The Speaker directed the Presiding Officer to count and tally the votes.

#### 10. **RESULTS OF THE ELECTION OF MEMBERS TO THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

The Presiding Officer, pursuant to Rule 19 of the of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, recorded and the Returning Officer reported to the Senate the results of the election, together with the number of votes recorded for each candidate under the respective clusters.

The results of the election, at the Senate, were as follows:

Number of Ballots cast	-	58
Number of spoiled Ballots	-	2
Number of valid Ballots	-	56

The result of the tallying process were as follows:-

<b>KENYA KWANZA ALLIANCE</b>					
<b>Name of Candidate</b>	<b>ID/PP. No.</b>	<b>Gender</b>	<b>Age</b>	<b>County</b>	<b>Number of votes</b>
<b>ADEN</b> , Abdikadir Omar	13116397	Male	50	Garissa	13
<b>BUSAIDY</b> , Salim Mohamed	1017378	Male	61	Lamu	00
<b>CHARLES</b> , Fredrick Muteti	14730467	Male	46	Makueni	39



<b>HASSAN</b> , Hassan Omar	13663076	Male	47	Mombasa	46
<b>IMAN</b> , Falhada Dekow	22399216	Female	42	Garissa	43
<b>IRINGO</b> , Cyprian Kubai	16014705	Male	63	Meru	12
<b>KERING</b> , Zipporah Jesang Kurgat	7445968	Female	56	Nandi	37
<b>KUKO</b> , Jonas Misto Vincent	0277383	Male	62	West Pokot	00
<b>LOWOIYA</b> , Rebecca	8663673	Female	56	Turkana	03
<b>MWANGI</b> , Godffrey Maina	31027730	Male	28	Kiambu	29
<b>NYAMBANE</b> , Joel Okeng'o	27826094	Male	32	Kisii	02
<b>SANKOK</b> , David Ole	20634336	Male	44	Narok	35
<b>SHEIKH</b> , Yasser Ali	13781573	Male	49	Mombasa	02
<b>TOMITOM</b> , Lilian Cheptoo	22555678	Female	41	West Pokot	02
<b>TOO</b> , Anne Cherono	11723938	Female	50	Kericho	01
<b>AZIMIO LA UMOJA ONE KENYA ALLIANCE COALITION PARTY</b>					
<b>Name of Candidate</b>	<b>ID/PP. No.</b>	<b>Gender</b>	<b>Age</b>	<b>County</b>	<b>Number of votes</b>
<b>ALI</b> , Fatuma Gedi	24910809	Female	37	Wajir	31
<b>BOSIRE</b> , Timothy Moseti E.	1634249	Male	60	Kisii	17
<b>DIRIYE</b> , Abdullahi Mohamed	21445973	Male	45	Wajir	04
<b>KALONZO</b> , Kennedy Musyoka	24804993	Male	36	Kitui	45

<b>KEGA</b> , James Mathenge Kanini	12474351	Male	50	Nyeri	29
<b>KIONI</b> , Jeremiah Ngayu	4291113	Male	58	Nyandarua	01
<b>MUGALI</b> , Justus Kizito	10841219	Male	55	Kakamega	09
<b>MUTUA</b> , Winfred Syonindi	20693425	Female	45	Machakos	00
<b>NAKUSA</b> , Beatrice Asukul	12434187	Female	49	Turkana	01
<b>NDETI</b> , Hellen Mueni	3933371	Female	65	Machakos	00
<b>ODINGA</b> , Winnie Irmgard	27586118	Female	32	Nairobi	35
<b>SHAHBAL</b> , Suleiman Said	3490900	Male	62	Mombasa	38

11. **THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS (NO. 2) BILL (SENATE BILLS NO. 4 OF 2022)**  
(The Chairperson, Standing Committee on Finance and Budget)

*(Second Reading)*

Order for Second Reading read;

Order deferred.

And there being no other business on the Order Paper, the Speaker adjourned the Senate at forty-three minutes past One O'clock without Question put, pursuant to the Standing Orders.

12. **SENATE ROSE** – at forty-three minutes past Two O'clock.

**MEMORANDUM**

*The Speaker will take the Chair on  
Thursday, November 17, 2022 at 2.30 p.m.*

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