

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 3rd March, 2022

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

[The Deputy Speaker (Sen. (Prof.) Kamar) in the Chair]

PRAYER

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators there was a Notice of Motion from Sen. Halake, but she is not in the Chamber at the moment. However, we will come back to it later because she had pleaded that it be done today.

Next Order.

STATEMENTS

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Halake has a statement pursuant to Standing Order 47(1), but she is not online. Since we are expecting her online later, let us move to the next Statement. I will skip it for now and move to the next Statement Pursuant to Standing Order 52(1) from the Senate Majority Leader.

BUSINESS FOR THE WEEK COMMENCING TUESDAY, 8TH MARCH, 2022

The Senate Majority Leader (Sen. Poghisio): Madam Deputy Speaker, Pursuant to Standing Order 52(1);

I hereby present to the Senate the business of the House for the week commencing Tuesday, 8th March, 2022.

On Tuesday, 8th March, 2022, the Senate will consider business that will not be concluded from today's Order Paper as well as business indicated in the Notice Paper that has been annexed to the Order Paper for today.

On Wednesday, 9th March and on Thursday, 10th March, 2022, the Senate will consider business that will not be concluded on Tuesday, 8th and Wednesday, 9th March, 2022, respectively and any other business scheduled by the Senate Business Committee; including Petitions and Statements.

Madam Deputy Speaker, there are 11 Bills due for the Committee of the Whole stage. Four of these Bills have been scheduled for Division in today's Order Paper. I urge hon. Senators to be available in the Chamber or to log-in for online participation to enable the House to undertake divisions.

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Pursuant to Standing Order No.59(3), eight Bills at the Second Reading stage have been dropped from the programme of Senate Business. The Bills are-

(1) The Political Party Primaries Bill (Senate Bills No. of 2020) (Sen.(Dr.) Isaac Mwaura, MP);

(2) The National Cohesion and Peace Building Bill (Senate Bills No.19 of 2021) (Sen. Judith Pareno, MP);

(3) The Coconut Industry Development Bill (Senate Bills No.24 of 2021) (Chairperson Standing Committee on Agriculture, Livestock and Fisheries)

(4) The Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021) (Sen. (Arch.) Sylvia Kasanga MP);

(5) The County E-Health Bill (Senate Bills No.39 of 2021) (Sen. Judith Pareno, MP)

(6) The Sports (Amendment) Bill (Senate Bills No. 40 of 2021) (Sen. Aaron Cheruiyot, MP)

(7) The Maternal, Newborn and Child Health Bill (Senate Bills No. 52 of 2021) (Sen. Rose Nyamunga, MP); and

(8) The Employment (Amendment) Bill (Senate Bills No. 54 of 2021) (Sen. Samson Cherargei, MP)

Movers of these Bills who wish to pursue the matter are urged to make an appeal to the Speaker in writing for the same to be reinstated in the Weekly Programme of Senate Business.

Madam Deputy Speaker, in addition to the Bills before the House, there are 48 Petitions that are yet to be concluded in the Senate and three Motions. Respective Standing Committees are encouraged to expedite consideration of the said Petitions and to table reports pursuant to Standing Order No. 232(2), while the Movers of the Motions are urged to be in the House when the same is listed in the Order Paper.

In conclusion, pursuant to the calendar approved on 9th February, 2022, the House will proceed to a recess on Friday 11th March, 2022 and resume sittings on 22nd March, 2022. I urge all Senators to take the remaining time before the first recess to ensure that as much business as possible is transacted.

I thank you and hereby lay the Statement on the Table of the Senate.

(Sen. Poghio laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senate Majority Leader. Is Sen. Halake on the line? She is not. We shall proceed.

Next Order.

(The Clerk-at- the Table consulted the Deputy Speaker)

Hon. Senators, as per the resolutions of the Senate Business Committee (SBC), unfortunately Sen. Halake's statement is dropped, but she can pick up the Motion once she is available. She had wished to do it today.

HIGH PREVALENCE OF SEXISM AND VIOLENCE
AGAINST WOMEN IN PARLIAMENT

(Statement dropped)

NOTICE OF MOTION

INTEGRATING CLIMATE EDUCATION
INTO SCHOOL CURRICULUM AT ALL LEVELS

(Notice of Motion deferred)

Let us move on to the next agenda.

BILL

Second Reading

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

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, for the convenience of the House and with the concurrence of the Whips, I defer the divisions. So, Order No.8 is deferred.

(Bill deferred)

Hon. Senators, for the same reasons; for the convenience of the House and in concurrence with the Whips, divisions on Order No.9, 10, 11, and 12 are deferred.

COMMITTEE OF THE WHOLE

THE LIFESTYLE AUDIT BILL (SENATE BILLS
No. 36 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)

COMMITTEE OF THE WHOLE

THE PRESERVATION OF HUMAN DIGNITY AND PROTECTION OF
ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS
NO. 21 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE SPECIAL NEEDS EDUCATION BILL (SENATE
BILLS NO. 44 OF 2021)

(Committee of the Whole deferred)

Next Order.

(The Clerk-at-the-Table read out the Orders)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, the Chairpersons of the Committees in relation to Orders No. 13, 15 and 16 have confirmed that they are working on amendments and so I defer these Orders.

I will also defer Order No.14 for the same reason that there are amendments that are coming for the County Resource Development Bill, 2021.

We urge the relevant Chairpersons who have requested to table amendments during the Committee of the Whole for the three Orders No.13, 15 and 16, to work on them, so that we can have these items reinstated on 8th Tuesday, 2022.

COMMITTEE OF THE WHOLE

THE ELECTIONS (AMENDMENT) (NO. 3) BILL
(SENATE BILLS NO. 48 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COUNTY RESOURCE DEVELOPMENT BILL
(SENATE BILLS NO. 45 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE IRRIGATION (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILLS NO. 12 OF 2021)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE COMMUNITY GROUPS REGISTRATION BILL
(NATIONAL ASSEMBLY BILLS NO. 20 OF 2021)

(Committee of the Whole deferred)

Next Order.

BILL

Second Reading

THE ELECTION (AMENDMENT) (NO.2) BILL
(SENATE BILLS NO. 43 OF 2021)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, we have received information from Sen. Olekina that he is not able to be in the House today and so the Bill is deferred.

There is a point of order from Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jr.: Thank you, Madam Deputy Speaker. I want to bring to your attention that in view of the passing of the Elections (Amendment) Bill No.42 of 2013, which the Senate Business SBC had prioritized over Bill No.43 proposed by Sen. Olekina, it would be a contradiction to consider this Bill after passing Bill No.42.

I thought the Secretariat and the SBC would reconsider listing this Bill. It would be a contradiction to pass both.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Mutula Kilonzo Jnr.

I would like to refer that amendment Bill No. 2 back to the SBC on Tuesday so that it is dealt with there.

(Bill deferred)

The next Order is also affected by the absence of Sen. Olekina. Order No.18 is deferred.

BILL

Second Reading

THE ELECTION CAMPAIGN FINANCING (AMENDMENT) BILL
(SENATE BILLS NO.51 OF 2021)

(Bill deferred)

Next Order.

MOTION

ADOPTION OF THE SPECIAL AUDIT REPORT ON
UTILIZATION OF COVID-19 FUNDS

BY 28 COUNTY GOVERNMENTS

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.

The Deputy Speaker (Sen. (Prof.) Kamar): This Motion is supposed to be moved by the Vice-Chairperson of the Committee on Health.

Sen. Mutula Kilonzo Jr. you have something on this?

Sen. Mutula Kilonzo Jr.: Thank you Madam Deputy Speaker. I have confirmed with Sen. (Dr.) Ali that this Motion is supposed to be moved by Sen. Seneta whom am unable to trace for the last five minutes.

The Deputy Speaker (Sen. (Prof.) Kamar): In the absence of Sen. Seneta, I will defer the Motion for a minute just in case she walks in as we move to the next Order.

(Motion deferred)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I have been reliably been informed that the Chairperson of the Sessional Committee on County Public Accounts and Investments (CPAIC) is away. For that reason, Order No.20 is deferred.

ADOPTION OF REPORTS ON THE CONSIDERATION OF FINANCIAL
STATEMENTS OF VARIOUS COUNTY EXECUTIVES
FOR FY 2018/2019

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on consideration of the Reports by the Auditor General on the Financial Statements of the following County Executives for the Financial Year 2018/2019- Embu; Homa-Bay; Kericho; Kilifi; Kirinyaga; Kisii; Kwale; Machakos; Mombasa; Nandi; Baringo; Bomet; Garissa; Kajiado; and West Pokot as contained in Volume 1 of the Report and the following County Executives- Isiolo; Kakamega; Kisumu; Laikipia; Mandera; Marsabit; Nakuru; Narok; Nyandarua; Samburu; Taita Taveta; Trans-Nzoia; Uasin- Gishu; Vihiga; and Wajir, as contained in Volume 2 of the Report , Laid on the Table of the Senate on Thursday 2nd December, 2021.

(Motion deferred)

Senate Majority Leader, Sen. Poghisio, proceed.

The Senate Majority Leader (Sen. Poghisio): Madam Deputy Speaker, this is a very important function of Committees and Committee Chairperson. When the Committee Chairperson is not available, there are other Members of those Committees. It is not correct for us to say that just because the Chairperson is not here, we keep putting off a matter. It is the responsibility of that Chairperson to organize a Member or their Vice-Chairpersons or whoever to run the business. Otherwise, if we continue waiting, --

It is well known that it should be organized that way. Therefore, on those accounts, some of these things should just be dropped like everybody else. The account of just not being here is not a very good reason. We should start putting that as a matter to be considered by the SBC that a Chairperson missing means that there is no business. I do not think that should be correct.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Mutula Kilonzo Jnr., proceed.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Deputy Speaker. Although I agree with the Senate Majority Leader, this is not one of those things that you drop. It will paint us very badly if we dropped the Reports of the County Public Accounts and Investment Committee with regard to the expenditure by county governments. I thought of maybe sanctions to that Committee---

The SBC, particularly the Whips, put us under so much pressure to reconstitute this Committee. Therefore, there is no reason in the world that this Committee is not present because we reconstituted less than a week ago. They cannot be suffering from fatigue of sort.

This matter should be cleared now since we are going to the elections. We should not have matters of CPAIC pending. Otherwise, we will leave a very bad name in the Senate that will come after us.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Sen. Mutula Kilonzo Jnr. and the Senate Majority Leader. It is true that we do not have the luxury of time between now and the elections. I would like to urge the SBC to consider this very seriously. We specifically need the chairpersons of the Committees--- Maybe we should be telling the Liaison Committee and not the SBC.

The Liaison Committee must have a sitting and look at the number of Bills and Motions as well as Petitions that are in their docket. We still have a lot of Petitions and Bills that are hanging. There are also a number of Motions that have not been prosecuted.

Therefore, I want to agree with the Minority whip and The Senate Majority Leader that we need to start paying attention to our roster, so that we actually clear. The Liaison Committee must start to give themselves time, so that any business that comes in the Order Paper is not deferred at all.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Deputy Speaker. In view of the sensitivity of this particular Motion; the one on Adoption of Reports of the Sessional Committee on CPAIC on Consideration of the Reports by the Auditor-General on the Financial Statements of Various County Executives for Financial Years 2018/2019---

If the Senate Majority Leader agrees with me, being our boss, perhaps the Chairperson of the CPAIC should be called into a meeting on Tuesday, so that we can find a solution, particularly this one.

This is critical to our Mandate. If the Chairperson is missing, the Vice-Chairperson or any other Member should be available to move this. We have agreed on Bills that if two Members contribute, then we extradite them. So, there is no reason why *Mheshimiwa* could get better explanation.

Further, I have just spoken to Sen. Halake and she will be here in a minute.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator. Maybe the suggestion from Sen. Mutula Kilonzo Jnr. makes sense, but I do not think we want the Senate Business Committee to address only one Chairperson. There is need to have a joint meeting between the SBC and the Liaison Committee. This is because we cannot afford to drop anything now. It is too late in the day for us not to complete our Business.

I would like to urge the Liaison Committee and the Chairpersons to have a timetable even among them. If they have a timetable among themselves, then everybody looks for a slot for their own business to come on the Order Paper. What is untidy is to have a lot of items on the Order Paper being deferred. The only things that we defer comfortably are the Divisions. This is because we wait on the Whips to advise us on the Divisions.

I would like to suggest that a joint meeting between the Liaison Committee and the Senate Business Committee be called on Tuesday. Senate Majority Leader, we would like to strongly suggest that. I want you to comment on it, so that the right invitation is done. We would like to have that invitation done, so that we have a joint meeting.

That way, we give ourselves proper programmes. If one Chairperson is absent, another Chairperson should be able to replace the other in the items in the Order Paper because we have everything. There are Petitions, Bills and Reports from these Committees that are pending.

We cannot drop Order Nos.19 and 20. These are our internal reports. We are the ones who commissioned them and we must receive them.

Sen. Poghio, proceed.

The Senate Majority Leader (Sen. Poghio): Thank you, Madam Deputy Speaker. I want to respond by saying that I concur with you and Sen. Mutula Kilonzo Jnr. I think your suggestion that we actually have a joint meeting not with one Chairperson, but the entire Liaison Committee, will sort out these things. We should be able to seize the matters knowing that we do not have the luxury of time.

On the other hand, I just want to clarify that when we say we drop something, we are not dropping it completely. It is always dropped so that they can restore it by taking responsibility and coming to the Speaker. Although these are our own, that does not give the Chairperson the leeway to just decide to be away. The emphasis is that we need to wake up and have our Liaison Committee to even stand for each other.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you. Therefore, I rule that we defer Order Nos.19 and 20, if the Chairpersons do not walk in. I can see Sen. Halake walking in. I am wondering whether she is walking in or she is online.

Sen. Mutula Kilonzo Jnr.: She is walking in.

(Loud consultations)

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Halake, we had been informed that you are on the way and you were stuck at a corner. We will allow you to give your Notice of Motion.

NOTICE OF MOTION

INTEGRATING CLIMATE EDUCATION INTO

SCHOOL CURRICULUM AT ALL LEVELS

Sen. Halake: Madam Deputy Speaker, I wish to give notice of the following Motion: -

THAT, aware that it is important that both the current and future generations are better equipped to address the problem of climate change and this can be accomplished by using appropriate instructional strategies such as integrating climate education into the syllabus to assist students in improving their understanding of climate change and acquiring the essential skills to reduce its effects;

ACKNOWLEDGING THAT education is crucial to promote climate action as it helps individuals understand and address the impacts of the climate crisis, empowering them with the knowledge, skills, values and attitudes needed to act as agents of change, hence protect the environment and take action by crafting community level solutions;

COGNIZANT OF THE FACT the Constitution of Kenya in Article 42 provides for the right to a clean and healthy environment for every Kenyan, which includes the right to have the environment protected for the benefit of present and future generations;

FURTHER NOTING THAT climate change is a global nightmare with consequences that are already quite visible, and should be a priority for our education curriculum, in accordance to Article 12 of the Paris Agreement which espouses the enhancement of climate change education, training, public awareness, public participation and public access to information;

NOW THEREFORE, the Senate calls upon the Council of Governors in partnership with the Ministry of Education, Science and Technology to: -

1. Integrate climate education in the school curriculum in all counties to equip all school going children; and
2. Equip teachers and administrators with the necessary information and training skills to teach climate education in

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Halake, you also had a Statement and we would like you to go to that one.

STATEMENT**HIGH PREVALENCE OF SEXISM AND VIOLENCE
AGAINST WOMEN IN PARLIAMENT**

Sen. Halake: Thank you, Madam Deputy Speaker, I rise, pursuant to Standing Order No.47 (1), to make a Statement on an issue of general topical concern, regarding the widespread sexism and violence against women in African parliaments.

Madam Deputy Speaker, a new study launched by the Inter-Parliamentary Union (IPU) and the African Parliamentary Union (APU) on 23rd November, 2021 reveals that sexism, harassment and violence are a norm across parliaments in Africa.

The study on African parliaments, reveals that 80 per cent of women parliamentarians experience psychological violence in parliament; 67 per cent are subjected to sexist behavior or remarks; 40 per cent have been sexually harassed; 23 per cent endured physical violence; while 42 per cent received threats of rape, beatings or abduction, majorly online.

This Statement comes to this House as a way of ensuring that this study does not go unnoticed in African parliaments, especially because it touches African parliamentarians.

The study further indicates that the majority of abuses targeting women parliamentarians is perpetrated by male counterparts especially from the rival parties and political leanings particularly, women parliamentarians with disabilities, women under 40, unmarried women and women from minority groups face a higher incidence of violence.

As a Parliament, we have not been spared of these incidences of sexism and harassment that target women parliamentarians especially now with the electioneering period in the horizon and therefore, the topical manner and the issue at hand.

Madam Deputy Speaker, the previous IPU studies, together with the new African study, shows that women MPs all over the world suffer similar levels of harassment and sexism. However, with a prevalence of 39 per cent, the level of sexual violence against women parliamentarians in Africa is considerably higher than in European parliaments, which is by 14 percentage points and compared to global figures by 17 percentage points. When it comes to parliamentary staff, the prevalence is even higher, with 46 per cent of the sample experiencing sexual violence compared with 41 per cent in Europe.

The study suggests that this can be partly explained by the political, socio-cultural and religious contexts within which women parliamentarians live in Africa. For example, according to the Armed Conflict Location and Event Data Project, in 2018, Africa has had the highest number of conflict-related incidents of sexual violence.

If women in the August House can face these forms of sexual abuses, what about ordinary women out there? Indeed, women are grappling with widespread violence, sexism and harassment in our societies. It does not only harm their wellbeing and overall development as human beings but also exposes them to the risk of losing their lives. Unfortunately, the IPU/APU report points to an insidious pattern of normalized sexual discrimination against women parliamentarians in Africa.

Therefore, by normalizing violence, sexism and harassment against women in privileged and protected institutions such as parliament, we deter their desire to effect meaningful change through democratic representation of their constituents. It also dims the morale of other women seeking to join elective politics in a society that yearns for gender equality and equity.

Madam Deputy Speaker, in this regard, there is an urgent need for African parliaments, including the Kenyan institution, to institute mechanisms to protect women parliamentarians from sexism and other forms of sexual harassment and violence. This can be achieved through independent receipt and processing of gender sexual harassment and discrimination complaints that protect the victims from retribution by the perpetrators.

Above all, we must uphold the rights of women parliamentarians at all costs as enshrined in the Bill of Rights in Chapter 4 of our Constitution and develop policies that entrench zero tolerance to violence, sexism and harassment within Parliament.

We must inculcate a sense of responsibility among men and sensitize them to become the defenders of women's rights in Parliament.

More than ever, we must transform our parliaments into safe spaces where both women and men parliamentarians can comfortably carry out their legislative, oversight and representative mandates.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you Senator. Sen. Poghishio you may have the floor. I am using my discretion to allow a comment on this because this is one that is bordering whether to shift to a committee to investigate or not. Yes, I am allowing comments for 20 minutes.

The Senate Majority Leader (Sen. Poghishio): Madam Deputy Speaker, I thank you for the opportunity and also to thank Sen. Halake for raising this issue.

As she was reading her Statement, I was also wondering whether this is not the situation where we should be adopting the reports from the IPU rather than bringing it here in form of a Statement. The reason we should be careful about bringing it to Parliament is that the statistics given might give the impression that even the Kenyan Parliament is a victim of this.

The best way would be to adopt the report or bring a Motion or allow a committee to go ahead and investigate. What I did not want to allow, myself personally, is the impression that might be created.

If you can get the statistics for the Kenya Parliament, it will be very useful to see how far we have been victims of this. If it just a universal figure, unless we adopt the report, we might not be able to contribute very much. It looks like further research is required, particularly---

[The Deputy Speaker Sen. (Prof.) Kamar left the Chair]

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

Sen. (Dr) Musuruve: On a point of information.

The Temporary Speaker (Sen. Pareno): I do not know whether Sen. Pogishio would want to be informed.

Sen. (Dr) Musuruve: Sen. Pogishio, I hope you will allow me to inform you. When we are talking of studies and when Sen. Halake stands here to talk of studies, it is a research and scholarly work that has been done.

This is an issue of concern not only in Kenya but globally. Women have not been predominant in issues of governance and politics. The society in the past had defined the role of women as being in kitchen.

That is the information I would like to give you.

The Senate Majority Leader (Sen. Pogishio): Sen. Musuruve has given information that I might use or not use.

Madam Temporary Speaker, I would like to say that the way the Statement is worded on the Order Paper does not really clarify. You might think it is the Kenyan

Parliament because it says she wants to make a statement concerning the high prevalence of sexism and violence against women in Parliament. This is the only thing I am trying to help you about.

Secondly, the information she has given is so good that a committee of the House could actually deal with it or we adopt the report. If this report can be tabled here, we will have an opportunity to debate and discuss it and come up with solutions.

The Temporary Speaker (Sen. Pareno): Sen. Halake do you have an intervention?

Sen. Halake: Yes, Madam Temporary Speaker. I would like to inform the House that this is a study by African Parliamentary Union (IPU).

When it came out, member Parliaments have to be informed. This is why it is under 47(1) so that African parliaments, which the Kenyan Parliament is part of, has been highlighted as having this issue. This is a scientific study that was done and, therefore, it was incumbent upon us to sensitise our Parliament on the outcome. Therefore, this is the spirit in which this statement was read.

The Temporary Speaker (Sen. Pareno): Sen. Mutula Kilonzo Jnr., please proceed.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, have a lot of respect for Sen. Halake but I am afraid I have to agree with the Senate Majority Leader. I have been a special rapporteur for matters concerning violence against women.

Ideally, an IPU Report would be tabled here with the facts and figures so that you can extract the resolutions of what we need to do not just as Parliament of Kenya, but even as a community of Parliaments and members of IPU.

I say so because, I thought that the Senator of Nakuru County is our representative in IPU unless the position has changed.

(Sen. Pogishio spoke off record)

Since the position has not changed, then the person who sits in the Executive of IPU on behalf of the Kenyan Senate as a representative of our House and as appointed by the Speaker, Hon. Lusaka, should be the one to report back to IPU that Parliament has tabled the report and the action that we have taken. Otherwise it looks as if we have done something wrong as men. I am defending the men folk Senators here.

It would have been very nice for the record, Sen. Halake, to say, “with the exception of the Senate of Kenya.” There is no report on sexual harassment or any harassment of any form against any female Senators here. However, for purposes of action the report itself, because it comes in form of a report, would be nice to be first tabled, so that we activate, by way of a motion to say, “with the exception of the Senate of the Republic of Kenya.”

Perhaps, there is a case that has been reported in the National Assembly, which we need to articulate, but then we find a way forward. However, the way it is tabled I agree with the of the Senate Majority Leader that if it was to go into the HANSARD the way it is, it would appear as if there is a Senator here who has been harassed here, which is not correct.

I thank you.

The Temporary Speaker (Sen. Pareno): Sen. Halake.

Sen. Halake: Madam Temporary Speaker, why are my good friends Senators Pogishio and Mutula Kilonzo Jnr., being defensive? If a report touches on African Parliament we highlight the issues, there even if it does not pass. We acknowledge that Sen. Kihika is our representative but that does not stop us if she does not bring it up for any of us to say that this is happening and therefore let us be aware of it.

Madam Temporary Speaker, if you wish to have us do the report and assign it to a committee, we beg you to do so. Nothing should stop us from bringing any issue of topical concern that concerns women, men, boys or girls in this House. My friends should not be defensive. This is an international study; it is an African study by IPU and we must voice and bring attention to it. Nothing stops a Member of Parliament to do that even if I am not one of the persons sitting at the IPU.

The Temporary Speaker (Sen. Pareno): I think on that one, we shall take this statement by Sen. Halake as just a way of highlighting what we expect to come out in the Report as we wait for the Report to be tabled for the attention of Members. Therefore, let us leave it at that.

Sen. Cheragei: Thank you, Madam Temporary Speaker. Initially when I looked at the Statement, I thought it was about the Kenyan Parliament but Sen. Halake has since clarified. If there are any issues where any member of staff at any Parliament in the entire region, Africa and the world been harassed in any form, it is very unfortunate.

I agree with the passion of Sen. Halake. I wish she could just hold on a bit so that I can ooze wisdom on this matter. In future, we should be saying either men or women. Men also get harassed. In future we should talk of either gender. Men also undergo harassment. We undergo tribulations.

The Temporary Speaker (Sen. Pareno): Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: I hope Sen. Cheragei will accept some point of information.

When you look at this Statement analytically, Prevalence of Sexism and Violence Against Women in Parliament. Sen. Halake has not specified not specified the Kenyan Parliament but globally it is indeed the truth that women are harassed in very many ways including psychologically.

We are not talking of all the men. For instance, some male opponents will go to the field and ask; “will this woman make it?” They tend to objectify the woman and look at what irrelevant things for example, “Is she married? Is she divorced? How many children does she have? Does she have a boy child? These things are real and they do happen.

The fact that Sen. Halake highlighted this on the Floor of this House is very important, because there are times when you will go to a rally as a woman and you find that your opponents are booing you. They might not do it directly but they just cause embarrassment so that women are intimidated. This is real. Why are we running away from reality?

There is need for Sen. Halake’s Statement to be understood instead of politicising an issue that is of global concern. Many a time’s women are harassed.

The Temporary Speaker (Sen. Pareno): Sen. (Dr.) Musuruve, you are on a point of order and not contributing to the Statement. Please be brief on the point of information without debating because it is not your turn.

Sen. (Dr.) Musuruve: Madam Temporary Speaker, on the point of information. The issue of women psychological abuse and harassment in politics is real. Just say that

we have not done studies in Kenya, but it is real. The instance of women being told that you are wasting your resources and you will not get an elective position is there and is real.

The Temporary Speaker (Sen. Pareno): Sen. Cherargei, the Floor is yours.

Sen. Cherargei: Madam Temporary Speaker, what Sen. (Dr.) Musuruve is saying is what we canvassed at the men's conference led by *Mzee* Jackson Kibor.

In an upshot, men are also harassed but Sen. (Dr.) Musurve is bringing another angle all together. This was about Parliament but she has moved to politics. If there are any women that are being harassed, intimidated or blackmailed then the National Police Service must do their job. We cannot our women to be harassed simply because they are looking for elective positions.

I call upon the agencies that are tasked with security to provide protection to women to campaign and sell their agenda. We do not also want women to use the same opportunity to harass men. Men are also human beings. We are not objects. We have feelings. For this Report to be fair and when it is given to the Committee to investigate our men must also be allowed to give their side of the story. We are emotionally and psychologically affected. It seems women will be feminine and no one watches out for men.

In an African context, some of us like the Senate Majority Leader went through the rights of passage and we were told that a man is not supposed to cry or show emotions. Men are really suffering. Our issues must be looked into when they are investigating this Statement. I will talk to Sen. Kihika and employ the Inter- Parliamentary Union (IPU) to conduct investigations on how male colleagues across Africa are being harassed.

I do not want to mention the name of a parliament where a female legislator threw water to a male colleague. That is also harassment. We hope that this Report will be tabled. I thank Sen. Halake for highlighting this issues and it will bring issues of gender parity. I encourage women not to fear because men are also told the same things. We are asked whether we are married or not and whether we have children or not. Those are the standards that have been accepted by the voter down there. They ask us if we have houses in the village.

Men are also being subjected to the same questions. I am sure that Sen. Mutula Kilonzo Jnr. can attest to the same although I am told that he has adopted another name. Under specification duty, he is called Mr. Fix it. I am told he is the one harassing Hon. Stephen Kalonzo Musyoka but he is doing a good job.

In an up shot even as Sen. Mutula Kilonzo Jnr., moves to look for gubernatorial seat, they are asking him the same questions they are asking women. We need to agree on the kind of harassment we are talking about. The National Police Service must ensure that all candidates whether male or female are given equal treatment before the law.

I thank you.

The Temporary Speaker (Sen. Pareno): Sen. Mutula Kilonzo Jnr. the Floor is yours.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, Sen. Cherargei and Sen. (Dr.) Musuruve have brought out important issues. I have acted before as a special rapportuer in IPU on matters of violence against women in political space and not just in Parliament.

For purposes of Sen. Halake, going to the elections this matter must be canvassed. Perhaps, Sen. Halake might have forgotten that in Building Bridges Initiative (BBI) report

and proposal there was a specific provision that was proposed for specifically women. Men were supposed to be barred from contesting elections where it was found that they were meting violence against women.

I have represented a legislator who is a sitting Member in the National Assembly where violence was meted against her by an opponent. It is a live issue. In the study initiated by IPU, chances are that they have specific recommendation that will protect women particularly in the political space and not just Parliament.

For the record, I had hoped that Sen. Halake would say that, 'Luckily, in the Senate of the Republic of Kenya, there is no report that any women Senator has been harassed by a man in the Senate.' That would be nice for us to feel good. They would tell the world that we have treated you well. Compliment us for being nice to you and gentlemen.

The Temporary Speaker (Sen. Pareno): Let us hear from Sen. Halake.

Sen. Halake: Madam Temporary Speaker, how am I privy to information on harassment by every single Senator, clerk of officer in the secretariat. I have no way of knowing whether or not they have been harassed? To ask me to do that is asking me to lie and I refuse to do so in the Floor of this House. This place is sacred and we must try to the best of our ability say what we know not what we want people to hear.

The Temporary Speaker (Sen. Pareno): Sen. Poghisio the Floor is yours.

The Senate Majority Leader (Sen. Poghisio): Madam Temporary Speaker, mine is a procedural issue. I do not understand whether Sen. Mutula Kilonzo Jnr. was giving information, standing on a point of order or contributing on this matter. I think he was giving information.

The Temporary Speaker (Sen. Pareno): He did not request to speak on this. He had an intervention, which was a point of information.

The Senate Majority Leader (Sen. Poghisio): Madam Temporary Speaker, on that note Sen. Halake is accusing us of being defensive and now she is being so defensive herself. It is not necessary to be defensive. I think the issues have been canvassed.

The Temporary Speaker (Sen. Pareno): Sen. Cherargei the Floor is yours.

Sen. Cherargei: Madam Temporary Speaker, what Sen. Mutula Kilonzo Jnr. is saying is simple. This is the Report and Statement that has been brought by Sen. Halake. She should have been fair to all of us because Kenyans are watching and following this debate.

She should have said that to the best of her knowledge should is not aware of any harassment cases.

(Sen. Cheruiyot walked into the Chamber without bowing to the Chair)

Sen. Cheruiyot is walking as if he is walking to Chepseon market.

(Laughter)

Sen. Halake should have said that to the best of her knowledge, she is not aware of any member of staff of Parliament especially in Senate that has been harassed. This is a serious issue and if we do not take care, it can be in tomorrow's headline that there is a high prevalence of sexism and violence against women in Parliament.

It is good that there is a Parliamentary Service Commission (PSC) Commissioner Sen. Cheruiyot, our employer, is in the House.

The Temporary Speaker (Sen. Pareno): There is a point of order from Sen. Halake. Please give her the microphone.

Sen. Halake: On a point of order, Madam Temporary Speaker. Is Sen. Cherargei and the other male Senators who are being defensive in order to tell me what I should have done or the manner in which I should have prosecuted my business? I have done it in the way I know best.

I have been asked for a Statement on a topic of general concern as is. The issue need to be brought to the attention of all African Parliaments because during this electioneering period this could have been missed. I am not going to sit here as a woman for such an important Report to be missed whose work and life has been dedicated to equality of all genders. Is it in order or is that part of harassment?

The Temporary Speaker (Sen. Pareno): Sen. Halake and Sen. Cherargei, I already made a ruling on this matter. These highlights will just remain so for the report we expect to be tabled in this House. At the time when that report will be tabled in this House, we will take notice of what will be in it. However, it was not harmful for Sen. Halake to highlight what is expected to come out of that report.

Sen. Cherargei, please, proceed.

Sen. Cherargei: Madam Temporary Speaker, what I am requesting is that before this report is tabled, this matter should involve every Senator because it affects everyone. As men, we are being harassed and intimidated.

As the report is brought---

The Temporary Speaker (Sen. Pareno): Order, Sen. Cherargei. Let us not discuss a report that is not yet here. Let us wait for the report to come so that we can see if it covers both men and women.

Sen. Cherargei: Okay, but when this report comes, some of us, including the likes of Sen. Mutula Kilonzo Jnr. and other champions of the boy child, will have an opportunity to discuss these things because we are interested in protecting all the gender, be it male or female.

I thank you.

The Temporary Speaker (Sen. Pareno): Sen. (Dr.) Musuruve Proceed.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker, for this opportunity. Kindly allow me to thank Sen. Halake for bringing this Statement of general concern.

Indeed, it is coming at the right time when we are getting into elections and there is a lot of intimidation. For sure, research needs to be done because women are facing harassment from male opponents and sometimes they are threatened. There is a lot of bullying. Even men sometimes gather fellow women against a woman who is vying.

When this report comes to the Floor of this House, it will be good to be debated. In some instances, women are told that they will not manage, they are wasting their resources.

Sometimes you find that women with disability are harassed more than other women. Just by the fact that they have a disability, is a cause to be harassed. Sometimes, these women are told that: "With your disability, I do not think you can become a leader

or I do not think you can give birth.” These things are real on the ground. I thank Sen. Halake for highlighting the plight of women.

There is need for the Government to see how they can support women especially during this time. Women can be very genuine with their words, but they may not have the physical muscles and the strong influence that men have. Some men can wear three or more hats.

When this report comes to this House, it will be good to look at it and debate it to help the women of Africa, so that they can catapult into leadership positions, so that they are not domiciled in the kitchen.

I support the Statement.

The Temporary Speaker (Sen. Pareno): Sen. Omanga, we are told you are online and you have a Statement to make.

Are you able to proceed?

Sen. Omanga: Yes, I am on.

The Temporary Speaker (Sen. Pareno): Then Proceed.

UNSETTLED STATUTORY DEDUCTIONS FOR
STAFFERS OF NAIROBI CITY COUNTY

Sen. Omanga: Madam Temporary Speaker, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Budget and Finance on unsettled statutory deductions for the staffers at the Nairobi City County. In the Statement, the Committee should -

(1) provide that status of all Nairobi City County statutory deductions for staff on the months of October, November and December, 2021;

(2) Investigate allegations of unauthorized expenditure of Nairobi City County Government funds amounting to Kshs560million which had been earmarked for statutory deductions.

(3) Spell out measures that have been put in place to ensure that the responsible officers in Nairobi Metropolitan Service (NMS) and Nairobi City County Government are held accountable and lastly,

(4) Outline measures, if any, to regularize the illegal diversion of funds meant for staff statutory deductions tabling evidence of the same.

I thank you.

The Temporary Speaker (Sen. Pareno): I will allow a few comments on this Statement.

Yes, Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker this is a very disturbing issue. First, it points to a state of impropriety on Nairobi City County Government, if the statement is true.

Secondly, under statutory deductions whether it is the National Health Insurance Fund (NHIF) or the National Social Security Fund (NSSF), any person who is found not to have remitted the statutory deductions appropriately is liable to criminal prosecution.

I urge that you request the Committee on Finance and Budget where I sit, to look into this matter quickly, so that the person responsible; whether it is the NMS or the person

in charge of finance, if they have committed a criminal offence, they should be prosecuted as soon as possible.

You are not allowed either by law or the Public Finance Management Act to misappropriate Government statutory deductions which are supposed to go into any other purpose.

I urge and ask that the Governor of Nairobi City County, Hon. Kananu and the finance person as well as General Badi, they should be summoned as soon as possible by the Senate Committee on Finance and Budget to answer to these allegations of misappropriation of funds of Kshs560million. If they have spent it wrongly then this is a ground for the impeachment of the Governor of Nairobi City County.

I thank you.

The Temporary Speaker (Sen. Pareno): Sen. Cherargei.

Sen. Cherargei: Thank you, Madam Temporary Speaker. I support Sen. Omanga for this Statement. It is illegal not to remit the statutory deductions. Many counties are facing most of these challenges. I usually see the KRA being very brutal when their money is not remitted. When you have statutory money to the tune of Kshs500million and when you go to the National Treasury under the County Revenue Fund (CRF) account of the Nairobi City County Government, it has been already released. Where is the money?

It simply shows that this money has been already misappropriated. It is as simple as that. I hope when the Governor, hon. Kananu, and the executive team of Nairobi City County appear before the Senate Committee on Budget and Finance, they must tell us the money has been released by the exchequer; it has been statutorily deducted under the law and where it has gone.

This is corruption and it must be called by its name. We cannot even call it, the deduction was not remitted. How come the money has been released by the exchequer to the county government? It is supposed to ensure that statutory deductions are paid.

We have witnessed this issue in many counties. In Nandi County, for example, there was a time they were not remitting NHIF deductions. There have been cases where statutory deductions to KRA are not remitted. I remember the former governor of this county was almost arrested by the KRA for failure by the county government to remit this money. We have a big problem. That is why there are many pending bills in most counties governments.

I hope this matter can be treated with urgency because these statutory deductions are rights of employees of Nairobi City County. We hope and pray that when the county executive will appear, they will not tell us whether it is the NMS or the Nairobi City County Government that was supposed to do it. You know, they are two entities; the NMS and the County Government.

It must be said in no uncertain terms that they must appear to tell us where the Kshs560million is and who took it. In fact, I do not know why this Statement is coming to the--- Since the Ethics and Anti-Corruption Commission (EACC), they should have even detected and investigated some of these things and get people arrested.

Why is the EACC sleeping on their job? It is their job to detect, prevent and ensure that they fight corruption. It now looks that they are sleeping on the job and now the Senate

will have any option but to go after them. Be it the people on the Executive, be it the people who suppose who their money to be deducted---

I hope that people who want to be governors in the future are listening to this and listening good.

The Temporary Speaker (Sen. Pareno): Like who?

Sen. Cherargei: Like Sen. Mutula Kilonzo Jnr. We should not see some errors in the next Senate. We should not see these errors. I commend Sen. Omanga because she has been doing extremely well, progressively. I hope when she goes to the “Lower House,” she will ensure that such things are followed to letter.

I thank you.

Sen. Cheruiyot: Thank you Madam Temporary Speaker. One of the biggest tragedies of leadership is when leaders lose touch with reality and they no longer know how it feels to go through what their constituents go through on a daily basis. I think by and large that is the biggest tragedy we have in Kenya right now. Many of us that are in leadership positions, in the very basic things, many people do not understand the things that the citizens are saying.

Probably their children no longer go to public schools like we did. When they are sick, chances are you will never find them in Mama Lucy or Kericho District and Referral Hospital or this particular situation. Do you know what it means when NHIF is your only cover, for you to be told when you are unwell and you need to be admitted or taken through a procedure in hospital, that your card is inactive?

Most times, to many of the people that we represent in this House, NHIF is the only cover that they can afford. Therefore, when an employee of a County Government, such as Nairobi, after having been deducted, is informed of the issue that Sen. Omanga is bringing before this House, that their cards are inactive because some unscrupulous, either Governor or NMS or I do not know who has spent that money to do other businesses, maybe to lay these cabros that we are seeing being laid across the entire street of Nairobi like NMS is doing, to pay the ‘big boys’ and let the ordinary citizens - the people who toil to make this City move suffer - that it is a tragedy of our generation. We must rise up to the occasion as a leadership and House to make sure that those officers who are in charge, who have carried out this heist on the people of Nairobi--- It is theft because, as per the PFM Regulations, you cannot use money that has been budgeted and set aside for a specific purpose, to do other things, especially human resource compensation. Even in Parliament, we do not do it.

One of the things you can never touch is personal emoluments because it is specific and is supposed to serve a specific purpose. It is unfortunate if this is found to be true. In fact, that public officer that has sanctioned that move should be named and shamed by this House. If they are certified public accountants, we should send their names to ICPAK and ask that they be debarred and not allowed to practice as an accountant in this country, because it is unfortunate and sad.

Many of these people do not earn beyond the figures that those in leadership actually use for airtime on a monthly allowance. It is Kshs20,000, Kshs30,000, or Kshs50,000. When you deny them NHIF service and their children are unwell what do you expect them to do? Therefore, can this matter, please, be treated with urgency that it deserves and brought before whichever committee?

If it is brought to the Committee on Finance and Budget, where I am, these are some of the matters that we even transact business late into the night, even, on *WhatsApp* or *Zoom*, so that Kenyans can get justice. It is unfortunate. I hope that we resolve this matter, so that the good staff of Nairobi City County can enjoy the services of NHIF like the rest of Kenya.

I thank you

The Temporary Speaker (Sen. Pareno): Let us now listen to Sen. Halake.

Sen. Halake: Thank you Madam Temporary Speaker. I rise to support Sen. Omanga on her intervention on the unremitted statutory deductions. It is not just Nairobi County Government. I think it affects many counties. This should be checked out. But, that having been said, I am aware of a few Government parastatals that report to my Committee, especially the Postal Corporation of Kenya and others, that had this issue. So, I think this issue is really of great concern to our workers.

If we have such a high percentage of people not employed, and therefore, do not even have a source of livelihood, but those that are employed are going to be destitutes because, whatever they are supposed to be putting aside is not being remitted to the necessary bodies, then, as a country, we are disadvantaging both--- It does not even matter whether you are employed or not because if you are employed, but your deductions are not being remitted--- If today you go away from work or you would like to go, what do you get? You go without anything. This is unacceptable, unlawful and must be investigated.

I hope that the concerned Committee of this House which is--- This House has become the place that citizens run to. Sen. Omanga having brought this here is to make sure that the citizens get their dues and right to be represented. Therefore, I hope that the Committee will get to the bottom of this matter.

We should focus on Nairobi, but if possible, it could be expanded to a few other places to just check what the status of statutory deductions for our citizens are. You will be surprised that we are presiding over even a workforce that has nothing to go back to, should their work end today.

I do not know what is happening. Is that money going to individual pockets? What is going on? The money has been actually deducted from the pay of the individual; it is not even coming from anywhere else. So, what is happening is really sad. It is even better not to be deducted anything. You take your money and do with it what you can do with it, instead of being deducted, but it into a hole that we do not understand.

Many parastatals and Government institutions are suffering from this fate and is about time, and a few come to mind. We have been dealing with these things even at the committee level. I think at some point, and I hope that it has been rectified now, KBC, Postal Corporation and many others that perhaps do not report to the Committee that I am the Vice Chair of--- This is something that is very prevalent. This House must actually look at it in a broader form even after we look at Nairobi specifically because Sen. Omanga has asked.

I support and look forward to this being resolved.

The Temporary Speaker (Sen. Pareno): Let us now listen to Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: I have spoken to this issue. I would like to request as you direct this matter to the appropriate Committee, and in this case it will be the

Committee on Finance and Budget--- Since the House is going on a short recess on 11th March, which is next week, and this Statement from what I have read was requested for and approved on 9th February---

In view of what Sen. Cheruiyot has brought to our attention that, indeed, if this is true, people may be suffering and will not be allowed to use their NHIF cards, would I be in order to request that you direct an interim report be tabled by the Chairperson of the Committee on Finance and Budget, on Thursday, so, that it gives us an avenue of calling the concerned officials next week, at the appropriate time and as urgently as possible?

Thank you, Temporary Speaker.

The Temporary Speaker (Sen. Pareno): Having heard the concerns that have been raised by Members on that statement by Sen. Omanga and noting that the Statement is under 47. I know that the relevant Committee will have noted the concerns of the members and be able to handle the matter appropriately.

ADJOURNMENT

Honourable Senators, we have concluded the business of the day and their being no other business in the Order Paper the Senate stands adjourned until Tuesday 8th March, 2022 at 2.30 p.m.

The Senate rose at 3.51 p.m.