

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Thursday, 22<sup>nd</sup> November, 2018***The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.**[The Speaker (Hon. Lusaka) in the Chair]***PRAYER****NOTICES OF MOTIONS**

**The Speaker** (Hon. Lusaka): Hon. Senators, those who were to give Notices of Motions are not here. So, I will defer the Order.

**SUPPORT FOR DYSLEXIC PEOPLE TO REACH THEIR FULL POTENTIAL****REVIVAL OF THE POSTAL CORPORATION OF KENYA***(Notices of Motions deferred)*

Next Order!

**STATEMENTS****LACK OF MEDICAL SUPPLIES IN WAJIR COUNTY**

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, pursuant to Standing Order No.48(1), I rise to seek a Statement from the Standing Committee on Health on the lack of medical supplies in Wajir County.

In the Statement, the Chairperson should-

(1) Avail a schedule indicating medical supplies they have released to Wajir County Government medical facilities in the last two years, indicating the dates when the supplies were released.

(2) Explain the amount of money owed by Wajir County Government in relation to medical supplies to Kenya Medical Supplies Agency (KEMSA).

(3) Explain the measures put in place by the Government to ensure that all medical facilities in Wajir County have enough medical supplies.

Mr. Speaker, Sir, the problem we have in Wajir County is that most of the health facilities do not get any drugs from KEMSA. As we were told yesterday, the Government

is already deducting money at source for the Medical Equipment Scheme. Why can they not do the same for county governments, which are not paying KEMSA properly? People are suffering because there are no medical supplies.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): The matter is referred to the Committee on Health to take the necessary action.

*(Sen. (Dr.) Ali spoke off record)*

You are in that Committee and so, you can hasten the process.

**Sen. Mutula Kilonzo Jnr.:** On a point of order Mr. Speaker, Sir. As the Vice-Chairperson of the Committee, should he not be telling you that he can get this Statement in a day or two?

*(Laughter)*

I think the Vice-Chairperson can use his position and, in fact, tell you that he can get it within a day.

**Sen. Shiyonga:** On a point of order, Mr. Speaker, Sir. The Vice Chairperson has just asked a question, and I think it is his right to do so. Being the Vice-Chairperson, and we are here as Committee Members, we can help him to know when the Statement will be ready.

**The Speaker** (Hon. Lusaka): Hon. Senator, the ball is in your court. You can bring the answer on Tuesday or any time when you are ready, because you are the Vice-Chairperson of that Committee.

Next Statement.

INVASION AND TAKE-OVER OF KAPETADIYE DAM BY  
PASTORALISTS FROM A NEIGHBOURING COUNTRY

**The Speaker** (Hon. Lusaka): Since Sen. Malalah is not here, we now go to the next Statements by Chairpersons of the various Standing Committees.

*(Statement deferred)*

Let us start with the Standing Committee on Devolution and Intergovernmental Relations.

ACTIVITIES OF THE COMMITTEE ON DEVOLUTION  
AND INTERGOVERNMENTAL RELATIONS

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir. I rise to issue a Statement relating to the activities of the Standing Committee on Devolution and Intergovernmental Relations, pursuant to Standing Order 51, for the period from 9<sup>th</sup> August to 9<sup>th</sup> November, 2018.

Mr. Speaker, Sir, Standing Order No.51(1) (b) provides that at least every three months, a Committee Chairperson is expected to make a statement relating to activities of

the Committee. In fulfillment of that provision, I wish to make a Statement in regard to the Standing Committee on Devolution and Intergovernmental Relations for the period commencing 9<sup>th</sup> August, 2018 to 9<sup>th</sup> November, 2018.

The Senate Standing Committee on Devolution and Intergovernmental Relations was constituted in December, 2017 during the First Session of the 12<sup>th</sup> Parliament, pursuant to provisions of the Senate Standing Order 218. The Committee is mandated to consider all matters relating to devolution, intergovernmental and county relations, governance and management of county governments, cities and urban areas.

Mr. Speaker, Sir, as obtained in the Standing Order No.215(2), the activities of Committee shall entail the following: Bills, Statements and Petitions considered by the Committee in addition to the inquiries undertaken by the Committee and progress of such inquiries; county visits undertaken by the Committee and outcome of such visits and the manner and extent to which the Committee met its public participation obligation in respect of the business of the Committee.

Under Standing Order No.218 (4), the Committee is expected to scrutinize the resolution of the Senate and formal undertakings given by the national executive, including adopted Committee reports.

During the period under review, the Committee held a total of eight sittings and one conference; that is, the Arid and Semi-Arid Land (ASAL) Conference in Malindi and engaged with several stakeholders.

On the issue of reporting on the activities of the Committee, I wish to provide the details of each activity as follows, being considered by the Committee-

(1) The County Oversight and Accountability Bill 2018 was considered by the Committee. It was referred to the Committee on 16<sup>th</sup> October, 2018. With the regard of action taken by the Committee, the Committee has scheduled a public hearing for Tuesday 27<sup>th</sup> November, 2018. The Bill has been scrutinized. The Bill was due for reporting back on 16<sup>th</sup> November, 2018.

(2) Petitions considered by the Committee. The title of the Petition: The Purported Conferment of Municipality Status of Maralal Town. It was referred to the Committee on 18<sup>th</sup> July, 2018. The Committee is in the progress of engaging stakeholders. The matter is still in progress. Upon finalization of interrogation, the Committee will table its report the soonest time possible.

(3) With regard to inquiries undertaken by the Committee; the operational dependence of the County Assemblies Service Boards (CASB) and County Public Service Boards (CPSB). The purpose was to establish the functional autonomy and dependence of the CASB and the CPSB. The Committee met and received views from the following stakeholders-

- (a) The Public Service Commission;
- (b) The Council of Governors; and,
- (c) The National Consultative Forum of County Public Service Board, Uasin Gishu and County Public Service Board County Assemblies Forum.

The inquiry was completed.

The Committee has shared with the Directorate of Legal Services the proposal to develop a legislative proposal to strengthen professionalism in counties and functional autonomy of the service boards.

Aware of the wave of leadership wrangles in the county assemblies, the Committee met and received views from the following stakeholders with a view to handling these management wrangles-

- (a) The Speaker of Nyandarua County Assembly.
- (b) We were to meet the Governor for Nyandarua County who promised to come, but did not make it though he promised to come on Tuesday, next week.
- (c) We have met with the County Assemblies Forum and MCAs. The purpose of the inquiry was based on on-going wrangles. Upon the completion of the inquiry, the Committee will provide direction.

(4) With regard to public participation, the Committee tried the option of advertisement and dailies in meeting its public participation obligation during the reporting period. The Committee also received written memoranda as well as oral submission during public hearing within Parliament Buildings.

The Committee undertook county visits to Kakamega, Bungoma and Busia. There were no statements that were referred to this Committee during the period under review.

I have signed the report as the Chairman of the Committee on Devolution and Intergovernmental Relations.

**The Speaker** (Sen. Lusaka): Thank you, Mr. Chairman. Since I do not see any interest, let us get reports from the Chairperson, Standing Committee, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr:** Mr. Speaker, Sir, I am not quite certain because this is the first time we are dealing with this matter. Impeachment of speakers would have fallen squarely under the Committee headed by Sen. Kinyua. Therefore, I would have expected a statement to say that the Committee has intervened in the impeachment of Speakers of county assemblies to try and find a method of stopping the impeachments and resolving the disputes. May be those are the actives that I thought would come to our attention because it is something that has been bothering the assemblies and is of concern. I have heard pronouncements outside there by various leaders. I thought the Committee will take a lead on it.

**Sen. Wetangula:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Sen. Lusaka): What is your point of Order, Sen. Wetangula?

**Sen. Wetangula:** Mr. Speaker, Sir, our Standing Orders prohibit this House from interfering with proceedings and activities in other Parliaments, including the county assemblies. It is not right, in my view, for a Committee of this House, or a Member of this House, or anybody associated with this House, to attempt to micro-manage the management of county assemblies. The on-goings in the assemblies between the assemblers and their speakers is not the business of this House or its Committees. I want a direction from the Chair.

The Speaker of the National Assembly of Kenya is not protected by any law. The Speaker of the Senate of Kenya is also not protected by any law. Further, the speakers of the assemblies of the 47 counties are not protected by any law. Under what law is the Committee purporting to engage in assembly activities in matters of either arguments, or disputes or both, between the speakers of the assemblies and their members? This amounts to interference of the proceedings of those assemblies which is prohibited by our own Standing Orders. This micro-managing and the big brother syndrome should not be encouraged.

The protection and conduct of any speaker of the House, including yourself, is entirely dependent on your chemistry with the House and how you manage the affairs of the House. That remains the law.

**The Speaker** (Hon. Lusaka): Before I hand it over to the Chairperson to respond because the question is directed to him, I can see an intervention from Sen. Mutula Kilonzo Jnr.

**Sen. Mutual Kilonzo Jnr:** Mr. Speaker, Sir, I also want to be very clear about this because your seat and the rest of the speakers is at the pleasure of Members. I do not think we can get into that.

When county assemblies are doing their budgets, particularly ceilings, they come to us and insist on increments. The Chairperson of the Committee on Finance and Budget is here and they increased the budget by ‘x’ billions of shillings this financial year. Is it a question of funding, so that we understand whether it is for purposes of running the assemblies?

There is an issue of deputy speakers. As we sit here today, the three courts have determined that we have no position of deputy speaker in any assembly. Therefore, there are underlying issues. The question is not whether Members of the County Assembly (MCAs) can impeach a speaker, that is not something we can interfere with. That should be left to MCAs to decide. If they want elect a speaker every month, that is their business.

The other features as to whether, for example, the County Assembly of Machakos should be denied funds for salaries of MCAs because the governor does not want them to be paid; that sort of issue is what I expect the Committee of Devolution and Intergovernmental Relations to deal with and brief the Senate, and by and large, the country.

**The Speaker** (Sen. Lusaka): So, Mr. Chairman, as you respond, I hope you will be alive to Standing Order No.96.

What is your request, Sen. Mary Yiane Seneta?

**Sen. Seneta:** Mr. Speaker, Sir, my request is on the Standing Committee’s mandate as per the Standing Orders. When you look at the Committee on Devolution and Intergovernmental Relations, then going by the request by Sen. Wetangula, you need to look at the meaning of the “Inter-county relations, governance and management of county governments, cities, towns and urban areas within the mandate of the Committee on Devolution and Intergovernmental Relations.” Our Standing Orders give the committees of this House the mandate to consider all matters relating to devolution, intergovernmental and inter-county relations, governance and management of county governments.

I need your direction on what inter-county relations, governance and management means if it does not mean the county assemblies and the relationship between the arms of the county government.

**Sen. Wetangula:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Wetangula?

**Sen. Wetangula:** Mr. Speaker, Sir, my understanding of the distinguished Sen. Seneta is that she is indirectly challenging what I said. For avoidance of doubt, I want to read to the House Standing Order No.96(5) which is so succinctly clear that we do not need to look at anything else. It says-

“It shall be out of order for a Senator to criticize or call to question, the proceedings in the National Assembly, a County Assembly or the Speaker’s ruling in the National Assembly but any debate may be allowed on structures and roles of County Assemblies or the National Assembly.”

Therefore, the argument that I have placed before the House is strongly fortified by Standing Order No.96(5).

This House or any of its Committees or any of its Members cannot criticize or bring into question the proceedings of the National Assembly or the County Assembly. If an assembly decides that they do not want their Speaker, it is not our business to micromanage them. If the National Assembly wants to impeach their Speaker today, the Senate cannot call them to order. This is because the Speakers are elected by the various individual Houses and it is those Houses that relate to the Speaker and not anybody else.

**The Speaker** (Hon. Lusaka): Mr. Chairperson, respond to the point raised by Sen. Wetangula taking into account Standing Order No.96(5), which he has quoted.

**Sen. Kinyua:** Mr. Speaker, Sir, I have read it and I also want to read it. It says that-

“It shall be out of order for a Senator to criticize or call to question, the proceedings in the National Assembly, a County Assembly or the Speaker’s Ruling in the National Assembly but any debate may be allowed on structures and roles of County Assemblies or the National Assembly.”

I want to clarify to him that the mandate of my Committee is clearly written in the Second Schedule of the Standing Orders which says that the Committee on Devolution and Intergovernmental Relations is-

“To consider all matters relating to devolution, intergovernmental and inter-county relations, governance and management of the county governments, cities, towns and urban areas.”

Therefore, when we call the Speaker of Nyandarua County Assembly, we are questioning what is happening in Nyandarua. That was not the ruling of the Speaker and we were not interfering. The information that we got is that the Members of County Assembly (MCA’s) did not have a mace. They conducted their activity outside the precincts of the Assembly, and it has nothing to do with the activity as you have mentioned in Standing Order No.96(5). We did our duty as a Committee.

Mr. Speaker, Sir, I want your ruling on what is county relations, government and management of the county government.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I was following the debate as I was coming here. This is a matter that is dear to my heart because I was the first Chairperson of the Committee on Devolution and Intergovernmental Relations. I want to add my voice on the whether or not we can discuss or even call into question decisions of county assemblies.

In my reading of Standing Order No. 96(5), there is a difference between decisions that have been rendered by county assemblies and decisions or deliberations that are still pending in the county assemblies. Interpretation of Standing Order No.96(5) must be in consonance with Article 96 of the Constitution which gives us the responsibility to oversight counties and county governments. Since the Constitution is

supreme, we must always call into question decisions of the county governments whether it is the executive or the assembly.

We oversight county assemblies, hence my reading of Article 96 of the Constitution harmonized with Standing Order No.96(5) would mean that we should hold our horses if something is pending in the county assemblies. But once a decision has been rendered in the county assemblies, it is the responsibility of the Senate to call into question or to intervene.

Secondly, the Committee on Devolution and Intergovernmental Relations would be abdicating their responsibility of leadership if they are to wait for chaos to get to a point where it cannot be handled for them to make a decision as to whether to intervene or not. When I was the Chairperson, we summoned Isiolo County Assembly and Isiolo County Executive who all came. We started the process of mediation and found an amicable solution. We must allow our Committee to use that latitude. I also brought the Salaries and Remuneration Commission (SRC) and county assemblies together. It is not written in the text that we can intervene in such situations but such is the unwritten norms that we can establish to ensure that the jurisdiction of this House is not curtailed in finding a solution as an institution of leadership in the country.

I stand with the Committee, and we must allow the Committee to proceed in widening the mandate of the Senate and providing leadership where we are needed.

**Sen. (Eng.) Maina:** Thank you, Mr. Speaker, Sir. I rise not to quote the necessary paragraphs in the Standing Order but I rise to say that the Senate has the overall responsibility on the functions and the orderly framework of counties. Truly, the Committee on Devolution and Intergovernmental Relations must step in, on behalf of this House, to either advice, revoke or correct. In future, I would even want them to reprimand.

We should not restrict our overall mandate, as the Senate, because we are responsible for ensuring that devolution takes effect. Some of us get extremely disturbed when we get to know of the things that are happening in counties yet we seem docile. Resources are being wasted and stolen, and we seem not to be doing anything. Instead, we come here to quote a certain paragraph in the Standing Order saying that this does not concern us. We are leaders who are elected and we have a mandate over counties to ensure that the people of this country enjoy the services that were envisaged in the Constitution. The Constitution did not envisage a county with either rogue MCA's or a governor who behaves like a chieftain.

Therefore, I beg you not to be restricted in your ruling. The law is not there to create seedlings of injustices; it is there to ensure there is a just way of getting things done.

**Sen. Wetangula:** On a point of order, Mr. Speaker, Sir.

**The Speaker (Hon. Lusaka):** What is your point of order, Sen. Wetangula?

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, he is on it again.

*(Laughter)*

**Sen. Wetangula:** Mr. Speaker, Sir, listening to my distinguished tycoon friend from Nyeri, one would have thought that he was addressing a chief's *baraza*.

**Sen. (Eng.) Maina:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. (Eng.) Maina?

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, this is the fourth time the person I thought was a friend in the past has made this statement. If he loves me so much and wants me to be a tycoon, he should go to church and pray for me for a whole night. He should not come here to ridicule me.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Murkomen?

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, is Sen. Wetangula in order to call this House a chief's *baraza* and you a chief? If this House is reduced to a chief's *baraza*, it means you are a chief. Is he in order?

**The Speaker** (Hon. Lusaka): Sen. Wetangula is out of order to refer this House to a chief's *baraza*. This is because the hon. Senator for Nyeri was addressing the House and not a chief's *baraza*.

**Sen. Wetangula:** Mr. Speaker, Sir, English is a very difficult language. However, I have always prided in Sen. Murkomen as being reasonably schooled to understand a few things.

Mr. Speaker, Sir, I am not prosecuting an argument on any specific assembly. As the Speaker of this House, you have a cardinal constitutional duty to deliver rulings for posterity.

Article 96 that Sen. Murkomen has quoted is right in the context he quoted. However, it is given meaning through Article 124. The Constitution goes on to say that Houses of Parliament shall operate under Standing Orders. Therefore, Standing Orders are creatures of the Constitution and cannot be held *ultra vires* the Constitution. It is a creature of the Constitution and its constitutionality is guaranteed to the extent that it is what guides us to act constitutionally.

Mr. Speaker, Sir, having said that, I have not said that we cannot oversight county governments. In fact, we engage them in terms of financial probity, in situations where the national Government is oppressing them and in terms of passing their allocations. In fact, it is this House that gave county assemblies independence from the county executive. At the beginning, county assemblies were an appendage of the county executive. County governors determined the budgets of the assembly. We fought so hard in the last Parliament to give them independence.

I urge you not to lose sight of the fact that we can engage the assemblies in many things. However, we cannot, as a House, under the Constitution of Kenya, 2010 or any law micromanage their conduct. I listened to the Chairman very carefully and he alluded to the conflicts going on between assemblers and their speakers. I have gone out of my way to talk to the Chairman of the County Assembly Speaker's Forum and asked him what he exactly wants. I have also engaged Sen. Murkomen.

Mr. Speaker, Sir, the Speaker of the Senate does not have any law or a Standing Order that protects him if he loses favour with the House. That is the same thing with the National Assembly. Therefore, this House has no authority in law or in fact. We will be overreaching ourselves and you must make this clear to us and the future Senate that we cannot micromanage the assemblies in their relationship with their speakers. That is the only narrow point I am arguing. I am not saying that we cannot engage them and tell them to be of good behaviour because we can do it informally even without the law. It is



only on that specific point. Otherwise, we should bring a law that says that the Speaker of the Senate and the Speaker of the National Assembly should enjoy security of tenure. However, that is not found anywhere in the world. We should look at comparable jurisdictions. That is the point I want you to make clear for the future.

Mr. Speaker, Sir, I am not arguing that you should give us a ruling here and now. Please, do a reasoned ruling that will be for posterity.

**The Speaker** (Hon. Lusaka): Hon. Members, I have listened to the Chair and the arguments put by hon. Members. The Committee is in the process of compiling a report which it is yet to present to this House. My ruling is that as the Committee makes the report to present to the House and as it continues with its business, it should take cognizant of Article 96 on the issues that have been raised. We must also be conscious not to reduce our mandate as a Senate because anything that eats into our mandate and what we are supposed to do will also be against the House. Therefore, as the Committee prepares the report, it should take that into account. When it gives us the final report, it should make sure that the issues that have been raised under Standing Order No. 96(5) are brought on board so that we are able to continue as a House.

Next Statement!

#### ACTIVITIES OF THE COMMITTEE ON EDUCATION

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to make this particular Statement.

Mr. Speaker, Sir, Standing Order No.51(1)(b) provides that at least every three months, a Committee Chairperson is expected to make a Statement relating to activities of the Committee.

In fulfillment of that provision, I wish to make a Statement with regard to the Standing Committee on Education for the period commencing 9<sup>th</sup> August, 2018 to 9<sup>th</sup> November, 2018.

Mr. Speaker, Sir, the Senate Standing Committee on Education was constituted in December, 2017 during the First Session of the Twelfth Parliament pursuant to the provisions of Senate Standing Order No.218. The Committee is mandated to consider all matters relating to education and training.

Mr. Speaker, Sir, as outlined in Standing Order No.215(2), the activities of the Committee shall entail the following-

- (1) Bills considered by the Committee;
- (2) Statements considered by the Committee;
- (3) Petitions considered by the Committee;
- (4) Inquiries undertaken by the Committee and progress of any such inquiry;
- (5) Any county visits undertaken by the Committee and the outcome of such visits;
- (6) The manner and the extent to which the Committee met its public participation obligations in respect of the business of the Committee; and,
- (7) Under Standing Order No.218(4), the Committee is expected to scrutinize the resolutions of the Senate and formal undertakings given by the National Executive.

Mr. Speaker, Sir, during the period under review, the Committee has held a total of 12 sittings and engaged with several stakeholders. The Committee did not hold any retreat within the period under review.

Mr. Speaker, Sir, on reporting on the activities of the Committee, I wish to provide details of each activity in the table below.

### 1. BILL CONSIDERED BY THE COMMITTEE

NO.	TITLE	DATE REFERRED TO THE COMMITTEE	ACTION TAKEN BY THE COMMITTEE	STATUS
1.	County Early Childhood Education Bill, 2018	26 <sup>th</sup> September, 2018	The Committee held a public hearing on the Bill on 19 <sup>th</sup> October, 2018	The Committee has had three meetings to consider the stakeholders input on 19 <sup>th</sup> October, 2018, when we had a Public hearing and on 13 <sup>th</sup> and 15 <sup>th</sup> October, 2018, for consideration of the stakeholders' input.

Mr. Speaker, Sir, it will be remembered that the Early Childhood Education Bill, 2018, had gone to the level of Presidential assent in the previous House, but it was overtaken by events and returned to this House. This Bill now has to go through the Second and Third Reading. I request that it is given priority, because it has been appearing here and we have not allocated time for it. I, therefore, request that it be given an opportunity on Tuesday next week so that it goes through the Second and Third Reading.

### 1. LEGISLATIVE PROPOSALS PROCESSED BY THE COMMITTEE

NO.	TITLE	DATE REFERRED TO THE COMMITTEE	ACTION TAKEN BY THE COMMITTEE	STATUS
1.	Motion on the Status of Education in the Northern Eastern Kenya	1 <sup>st</sup> August, 2018	The Committee invited the Cabinet Secretary for Education, Amb. (Dr.) Amina Mohammed, who gave the Ministry's position on the matter.	The Committee will undertake a site visit in January, 2019, after recess.

**2. STATEMENTS CONSIDERED BY THE COMMITTEE**

<b>NO.</b>	<b>TITLE</b>	<b>DATE REFERRED TO THE COMMITTEE</b>	<b>ACTION TAKEN BY THE COMMITTEE</b>	<b>STATUS</b>
1.	Award of scholarships by the Ministry of Education to Kenyan students studying outside the country in undergraduate and post graduate levels.	2 <sup>nd</sup> October, 2018	The Committee wrote to the Cabinet Secretary for the Ministry of Education to give the status on the same.	The response has not been received. The Committee secretariat has been sending reminders to the Cabinet Secretary's office to avail the response. Ministry has promised to do so in the first week of January.

**4. PETITIONS CONSIDERED BY THE COMMITTEE**

<b>NO.</b>	<b>TITLE</b>	<b>DATE REFERRED TO THE COMMITTEE</b>	<b>ACTION TAKEN BY THE COMMITTEE</b>	<b>STATUS</b>	<b>REMARKS</b>
1.	The plight and welfare of non-local teachers employed by the Teachers Service Commission (TSC) working in Mandera County	28 <sup>th</sup> March, 2018	The Committee adopted the Report on 25 <sup>th</sup> October, 2018	The Report received approval for tabling by the Speaker. The Petition was tabled on 14 <sup>th</sup> November, 2018.	The Petition was jointly considered by the Standing Committee on Education and that of National Security, Defence and Foreign Relations.
2.	The Protection of the Abasuba language, culture and heritage	19 <sup>th</sup> June, 2018	The Committee adopted the Report in October, 2018	The Report was tabled on 7 <sup>th</sup> November, 2018, and copy of the Report sent to the petitioners.	The Petition was jointly considered by the Standing Committee on Education and Committee on Labour and Social Welfare.

**5. INQUIRIES UNDERTAKEN BY THE COMMITTEE**

Mr. Speaker, Sir, the Committee did not handle any inquiries within the period under review.

**6. COUNTY VISITS UNDERTAKEN BY THE COMMITTEE**

<b>NO.</b>	<b>OBJECTIVE/ PURPOSE OF VISIT</b>	<b>DATES UNDERTAKEN</b>	<b>COUNTIES VISITED</b>	<b>INSTITUTIONS/ PERSONS ENGAGED</b>	<b>KEY FINDINGS</b>	<b>REMARKS</b>
1.	The Senate week in Uasin Gishu County	27 <sup>th</sup> September, 2018	Uasin Gishu	<p>Kimalel Primary School ECDE Centre</p> <p>Rift Valley Technical Training Institute</p> <p>Kapsoya School for the Hearing Impaired. Eldoret School for the Mentally Handicapped</p> <p>5. Iloilo Integrated School for Learners with Albinism</p>	1. Most schools had challenges of infrastructure. During the visit, we were able to advise the Uasin Gishu County Government accordingly.	The County Government had supported the development of the infrastructure even though it was still below the expected level.

**7. SCRUTINY OF RESOLUTIONS OF SENATE STANDING ORDER 218(4)**

<b>NO</b>	<b>TITLE</b>	<b>DATE WHEN THE MOTION WAS PASSED BY THE SENATE</b>	<b>DATE WHEN THE RESOLUTION WAS CONVEYED TO THE RELEVANT AUTHORITY</b>	<b>ACTION TAKEN BY THE COMMITTEE</b>	<b>STATUS</b>
1.	Motion on the Status of Education in North Eastern Kenya	1 <sup>st</sup> August, 2018	The Committee invited the CS for Education, Amb. (Dr.) Amina Mohammed, who gave the Ministry's position on the matter. The Report is ready for tabling.	The Committee is to undertake a site visit in January 2019.	

**8. PUBLIC PARTICIPATION**

On 19<sup>th</sup> October, 2018, the Committee invited the public to give their views on the County Early Childhood Development Education Bill, 2018, by putting an advert in the local dailies and also sending letters to key stakeholders in the ECDE sector.

The Committee also invited the public to send written memoranda to the Clerk of Senate on the same Bill. A total of 15 stakeholders, which included both individuals and institutions, gave their submissions. The methods used worked. However, it would have been better to use local language radio FM stations such as Kass, Inooro, Ramogi *et cetera* to publicize the Bill. This would have enabled more public participation on the Bill.

**9. STAKEHOLDER ENGAGEMENTS**

<b>NO</b>	<b>NAME OF STAKEHOLDER</b>	<b>PURPOSE/ OBJECTIVE</b>	<b>DATE (S) ENGAGED</b>	<b>KEY ISSUES ARISING</b>	<b>REMARKS</b>
1.	Kenya Institute of Curriculum Development (KICD). We managed to get Dr. Julius Jwan, the Chief Executive Officer (CEO)	Discuss the new competence based curriculum which is crucial at this time because it is supposed to be rolled out next year.	7 <sup>th</sup> August, 2018	Inadequate public participation was undertaken by the KICD when developing the curriculum. Majority of teachers were ill prepared for the teaching of the new curriculum. Around 80 per cent of teachers are not prepared to roll out	There is need to engage all key stakeholders to have them buy into the new curriculum and also train teachers on this new curriculum.

				the curriculum.	
2.	Amb. (Dr.) Amina Mohammed, Cabinet Secretary for Ministry of Education.	<p>Discuss the Ministry of Education's position on the status of Education in the same curriculum.</p> <p>Discuss the Protection of the Abasuba language, culture and heritage Petition. The Cabinet Secretary was to apprise the Committee on what the Ministry was doing to preserve endangered languages in the country.</p>	4 <sup>th</sup> October, 2018	<p>Ministry of Education was committed to promoting indigenous languages in schools including the Pre-Primary and Primary School by -</p> <p>a) Ensuring that the language spoken by majority in the captured area of the schools and in cosmopolitan areas, the language is Kiswahili,</p> <p>b) Enabling the child to develop understanding and appreciation of his/her culture and environment.</p>	

Mr. Speaker, Sir, allow me to briefly mention some challenges and recommendations.

**10. CHALLENGES AND RECOMMENDATIONS**

No.	Challenge	Recommendation(s)
1.	Inability to dispense with the petitions within their legislative time frame.	More time should be allocated for processing of Petitions especially for Joint Committees, from three months to five months.
2.	The challenge experienced in Joint Committees of executing petitions within the provided timelines.	<p>Referring petitions to Joint Committees should be discouraged as much as possible as they were seen as part of the reason why the timelines for the two petitions lapsed.</p> <p>If a Committee has seventy percent (70%) of its mandate touching on a petition, it should be allowed to handle it solely. They can invite any other Committee whose mandate has been touched on to a lesser percentage for a session to hear their views or to give their input.</p>
3.	Members of the Committee being involved in other Committees, which affected their commitment to the work of the Committee on Education. This is particularly for Members engaged in several <i>ad hoc</i> Committees.	Reduction or minimizing creation of <i>ad hoc</i> Committees.
4.	Shortage of Committee rooms leading to cancellation and rescheduling of meetings. Sometimes we had to hold crucial meetings in the Senate lounge, where we sometimes experienced some interference.	Reduction/minimizing creation of <i>ad hoc</i> Committees and Committees to stick to the sitting schedules and rooms allocated to them.
5.	Shortage of funds to engage in non-local committee engagements.	The Treasury ought to reallocate more funds for foreign engagements from the local budget allocation which is often more than the foreign allocation.

Mr. Speaker, Sir, the Treasury should avoid assumptions and perceptions that when we are engaged in foreign countries, they are just for the sake of it. However, this House benefits a lot from these foreign engagements. We could quote instances where, for example, our Committee visited Canada on vocational training.

We borrowed a lot of information and cooperative knowledge from countries which had succeeded. When we went to that particular conference, we believed that students in this country had negative attitude towards engaging themselves in vocational training but when we arrived in Canada, we were able to understand that the greatest hindrance that used to hinder students from engaging in vocational training in other countries was not attitude as such, but financial constraints.

When we came back to our country, we advised the policy makers in the Ministry of Education, particularly, on vocational training, and, this year, we have registered tremendous growth in enrolment of students in vocational training, particularly, when the Ministry provided capitation of Kshs30,000 to every student that goes to Technical and Vocational Education and Training Authority (TVETA) colleges. We also advised the Higher Education Loans Board (HELB) to increase the allocation that they have been giving to the TVETA colleges. It was increased from Kshs15,000 to Kshs40,000. The fruits of the same have been realised. The report from the Ministry of Education this time round is that the intake tripled in the last year. So, most of the institutions, for example, Kabete Technical Institute reported that last the enrolment was 5,000 students but this year it is 12,000. In Eldoret Polytechnic, it was 8,000 but it is now around 18,000. So, it has borne fruits.

Foreign trips are not necessary for tours. Through foreign trips, we learnt from what other countries comparatively have done to succeed in some policies. We engaged our country into the same. It can lead to success. So, it is our request that the national Treasury reconsider allocation of more funding to foreign engagements.

Mr. Speaker, Sir, this is our statement. As the Chairperson, I am very happy that we have presented it. Thank you very much.

**The Speaker** (Hon. Lusaka): Thank you, Mr. Chairman. I do not see any interest in the Statement.

We will defer the statement on energy because the Chairperson says he is not ready.

#### ACTIVITIES OF THE COMMITTEE ON ENERGY

*(Statement deferred)*

Let us get a report from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries who is ready.

#### ACTIVITIES OF THE COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

**Sen. (Dr.) Lelegwe:** Mr. Speaker, Sir, this is a statement relating to the activities of the Senate Standing Committee on Agriculture, Livestock and Fisheries pursuant to Standing Order No.51 for the period 9<sup>th</sup> August, 2018 to 9<sup>th</sup> November, 2018.

Mr. Speaker, Standing Order No.51(1)(b) provides that at least, every three months, a Committee Chairperson is expected to make a statement relating to activities of the Committee. In fulfilment of those provisions, I wish to make a statement with regard to the Standing Committee on Agriculture, Livestock and Fisheries for the period commencing 9<sup>th</sup> August, 2018 to 9<sup>th</sup> November, 2018.

Mr. Speaker, the Senate Standing Committee on Agriculture, Livestock and Fisheries was constituted in December, 2017 during the First Session of the Twelfth Parliament.



Pursuant to the provisions of the Senate Standing Order No.218, the Committee is mandated to consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.

Mr. Speaker, as outlined in Standing Order No.215(2), the activities of the Committee shall entail the following-

- (1) Bills considered by the Committee.
- (2) Statements considered by the Committee.
- (3) Petitions considered by the Committee.
- (4) Inquiries undertaken by the Committee, and progress of any such inquiry.
- (5) Any county visits undertaken by the Committee and the outcome of such visits and the manner and the extent to which the Committee meet its public participation obligations in regard of the business of the Committee.
- (6) Under Standing Order No.218(4), the Committee is expected to scrutinise the resolutions of the Senate and formal undertakings given by the national Executive, including, adopted Committee reports.

Mr. Speaker, during the period under review, the Committee held a total of eight sittings. I would like to note that during the recess period, from 10<sup>th</sup> August, 2018 to 10<sup>th</sup> September, 2018, the Committee gave that time for Members to meet with their constituents.

Mr. Speaker, reporting on the activities of the Committee, I wish to provide the details of such activities as follows-

- (1) Bills considered by the Committee

The Irrigation Bill (National Assembly Bill No.46 of 2017).

It is an Act of Parliament to provide for the development, management and regulation of irrigation to support sustainable food security and social economic development in Kenya. Public participation on the Bill was conducted on Tuesday, 30<sup>th</sup> May, 2018. The Bill is currently in progress waiting for the Committee of the Whole.

Mr. Speaker, Sir, during the period in question, the Committee held a meeting with the Cabinet Secretary for Agriculture, Livestock and Fisheries to get further amendments on the Bill. You may recall that during the Second Reading on 26<sup>th</sup> July, 2018, Senators raised issues with the Bill not being devolved enough. On Tuesday, 11<sup>th</sup> September, 2018, during the breakfast meeting held at the Intercontinental Hotel, the Cabinet Secretary discussed the Bill further with Senators.

The Committee is currently preparing amendments in line with the engagements with the Cabinet Secretary for Agriculture, Livestock and Fisheries during the breakfast meeting with the Senators.

*(Senators consulted loudly)*

**The Speaker** (Hon. Lusaka): Members, let us consult in low tones.

**Sen. (Dr.) Lelegwe:** Mr. Speaker, Sir, this will be presented during the Committee of the Whole.

- (1) Statements considered by the Committee

The Committee is currently reviewing a statement on the management of the Kenya Meat Commission (KMC). On 6<sup>th</sup> November, 2018, the Committee visited the KMC. I would like to report that during this visit, livestock farmers met the Committee

and informed us that they had not been paid for the last two years for livestock delivered. The Committee also met with KMC workers who indicated that they too were having challenges working for the KMC.

Following the visit, the Committee resolved to invite the Cabinet Secretary for Agriculture, Livestock and Fisheries to discuss the issues raised. The meeting with the Cabinet Secretary is scheduled for Wednesday, 28<sup>th</sup> November, 2018. Following that meeting, the Committee will have follow-up visits to the KMC on the following -

NO	TITLE	DATE REFERRED TO THE COMMITTEE	ACTION TAKEN BY THE COMMITTEE	STATUS	REMARKS
1.	Management of the Kenya Meat Commission (KMC)	26 <sup>th</sup> September, 2018	visit KMC Awaiting meeting with CS Agriculture	Under Consideration	
2.	Hazardous Ipomoea weed which has invaded agricultural land in Kajiado County	20 <sup>th</sup> September, 2018	Matter is under consideration. This is a County affair since Agriculture is devolved. The Committee intend to visit Kajiado on this matter	Under Consideration	
3.	Recurring invasion by army worms in the grain growing regions of Kenya namely; Trans Nzoia, Nandi, Bomet, Kitale and Central Kenya areas.	26 <sup>th</sup> September, 2018	Matter is under Consideration	Under Consideration	

(1) The Petitions considered by the Committee

The Committee has received one petition. The petition focuses on the plight of coffee, tea and macadamia nuts. The petitioners want the Senate to come up with a legislation relating to cash crops, that will protect farmers from middlemen and establish guaranteed minimum returns (GMR). The Committee is still considering the petition.

(2) Inquiries undertaken by the Committee

Mr. Speaker, Sir, during this period, the Committee has undertaken a number of inquiries-

(i) The Committee visited the Kenya Veterinary Vaccines Production Institute (KEVEVAPI) which is classified as a commercial and strategic Government parastatal whose mandate is to manufacture animal vaccines. The aim of the visit was to establish the challenges facing KEVEVAPI and how the Senate can assist them. Kenyan beef is currently banned from the European Union (EU) market due to the foot and mouth

disease. Vision 2030 seeks to establish five disease free zones that will help to lift the ban.

The quality of the vaccines manufactured will determine of the diseases will be eradicated. Some of the challenges facing Kenya Veterinary Vaccines Production Institute (KEVEVAPI) that the Committee identified were-

(a) The Committee was informed that KEVEVAPI has lost most of its land in Embakasi due to land grabbing. The Committee was informed that they are currently in court over the grabbed land.

(b) The Committee was also informed of an aging plant which affects the production of high-quality vaccines. KEVEVAPI has been operating under a legal notice and there is need for a legislation or an Act of Parliament where KEVEVAPI will be anchored. Following the meetings with KEVEVAPI, it was resolved that KEVEVAPI writes to the Committee informing Members of their needs and ways in which the Committee can assist.

The Committee met with the Implementation Committee of the Presidential Coffee Task Force. The aim of the meeting was to inquire about progress made in the implementation of the Coffee Task Force Recommendations. The Committee was informed that the Implementation Committee is coming up with regulations that will govern coffee exchange.

The Committee was informed that the Implementation Committee is considered when it comes to budget and they have not actualised most of the recommendations that the task force came up with.

Regarding county visits undertaken by the Committee, during this period, the Committee has not conducted any county visits. The Committee looks forward to making county visits in the near future.

I now want to talk about the challenges and recommendations. The Committee has raised concerns of the formation of an *ad hoc* committee which infringes on the Committee's mandate. Other than that, the Committee has not faced any challenges. I, however, am glad to hear that as from yesterday, the Committee will have its full complement of Members with the nomination of Sen. Ochillo-Ayacko to the Committee.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): I do not see any interest to react on the presentation from the Chairperson of the Committee on Agriculture, Livestock and Fisheries. I now invite the Chairperson of the Committee on Finance and Budget.

#### ACTIVITIES OF THE COMMITTEE ON FINANCE AND BUDGET

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, Standing Order No.51(1)(b) provides that at least once in every three months, a committee chairperson is expected to make a statement relating to the activities of the committee. In fulfillment of that provision, I wish to make a statement with regard to Standing Committee on Finance and Budget for the period commencing 9<sup>th</sup> August, 2018, to 9<sup>th</sup> November, 2018.

The Senate Standing Committee on Finance and Budget was constituted in December during the First Session of the Twelfth Parliament, pursuant to the provisions of the Public Finance Management (PFM) Act, Section 8, and Standing Order No.218 of

the Senate Standing Orders. The Committees mandate is enumerated in the Standing Orders.

As outlined, Standing Order No.51(2) provides that-

“(2) A Statement made under paragraph (1) (b) shall include-

- (a) the Bills, statements and petitions considered by the Committee and the status of each;
- (b) any inquiries undertaken by the Committee and the progress of any such inquiry;
- (c) any county visits undertaken by the Committee and the outcome of such visits; and
- (d) the manner and extent to which the Committee met its public participation obligations in respect of the business of the Committee.”

Under Standing Order No.218(4), the Committee is expected to scrutinise the resolutions of the Senate, including adopted Committee reports, petitions and formal undertakings given by the national Executive. During the period under review, the Committee has held a total of 15 sittings and engaged with several stakeholders.

To report on activities of the Committee, I wish to provide details of each activity as follows. Regarding Bills, the Committee considered The County Wards Development Equalisation Fund (Senate Bills No.5 of 2018). Following extensive and intensive consultations, the Committee, on 4<sup>th</sup> October, 2018, recommended that the Bill be redrafted and republished. I know that the Bill has been republished and is now awaiting concurrence of the two Speakers before it is tabled for First Reading. It will be introduced in the House as soon as possible.

The other one that was considered was The Public Private Partnerships (Amendment) Bill (National Assembly Bills No.52 of 2017). We had a public hearing and engaged stakeholders and the report of the Committee was adopted and tabled in the Senate. I am happy to report that this Bill has gone up to the Third Reading.

The third one is The County Allocation of Revenue (Amendment) Bill (Senate Bills No.29 of 2018) which was referred to the Committee on 24<sup>th</sup> October, 2018. We held a public hearing on 7<sup>th</sup> November, 2018. The report is to be tabled but the Bill has gone through the Third Reading.

Concerning legislative processes by the Committee, during the period, no legislative proposal was referred to the Committee for scrutiny.

Regarding statements considered by the Committee, we received two statements. One was on implementation status of the Commission on Revenue Allocation (CRA) Circular, Ref, CRA/FA/01 VOL.2, regarding recommendations on county governments' recurrent expenditure ceilings for the year 2018. The response was provided during the preliminary sitting held on 25<sup>th</sup> September, 2018.

The next statement that was requested by Sen. Moi, who wanted to know about county recurrent expenditure ceilings for Financial Year 2018/2019 was referred to the Committee on 25<sup>th</sup> October, 2018. The Committee has scheduled a meeting with the Senator with the view to processing the Statement. In fact, we will meet the Senator next week.

*[The Speaker (Hon. Lusaka) left the Chair]*

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

Mr. Speaker, Sir, I now want to talk about petitions that have been considered by the Committee. During the period under review---

**Sen. Cheruiyot:** On a point of order, Madam Temporary Speaker. I apologise to my Chairman for interrupting him. I just want to bring to his attention that while he was speaking, the Speaker changed and now we have a lady Speaker. He referred to you as Mr. Speaker.

**The Temporary Speaker (Sen. (Prof.) Kamar):** Thank you, Senator.

**Sen. (Eng.) Mahamud:** Much obliged.

Madam Temporary Speaker, concerning petitions that have been considered by the Committee, a petition was referred to the Committee on 16<sup>th</sup> October, 2018, regarding the issuance of bank notes and coins so that visually impaired persons and blind people can use. The Committee invited the stakeholders for a meeting which did not take place since a key person, who is the Governor of the Central Bank of Kenya (CBK) was not available. The petitioner has requested that the matter be considered from 29<sup>th</sup> November, 2018. In fact, we are going to write a report from next week.

Concerning the inquiries undertaken by the Committee, the Committee carried an inquiry regarding county governments' infrastructure projects that comprise county executive headquarters offices, county assembly chambers and offices of county and state officer residences. This has raised concerns.

In fact, we did an inquiry and interrogated the matter with the view of providing guidelines. The Committee met with key stakeholders and the report is awaiting adoption by the Committee before being tabled in the Senate.

Madam Temporary Speaker, the sixth item is county visits undertaken by the Committee during the period. The Committee has not been able to conduct any county visits during the period under review. The seventh item is scrutiny of resolutions by the Senate under Standing Order 218 (4). At the date of the reporting, there were no resolutions requiring the Committee's follow-up.

On public participation, the Committee held two public hearings. In future, the Committee may consider holding such meetings outside Nairobi. We did several engagements with the National Treasury on the County Allocation of Revenue (Amendment) Bill, 2018 on 7<sup>th</sup> November, 2018. We engaged the Ministry of Transport, Infrastructure, Housing and Urban Development on the construction of projects of county headquarters, county assembly chambers and offices for speakers, governors and deputy speakers.

We also engaged with the Commission on Revenue Allocation regarding the County Allocation of Revenue (Amendment) Bill, 2018 deliberations on 8<sup>th</sup> August, 2018. We also engaged with the Council of Governors on the County Allocation Revenue (Amendment) Bill, 2018 on 27<sup>th</sup> September, 2018 and 7<sup>th</sup> November, 2018. There were no serious challenges. The statements that were requested from us were requesting matters which related to the legislation of the House. Matters which had already been dealt by the House were referred to us. Nevertheless, we will discuss with the Members concerned.

Madam Temporary Speaker, I beg to submit.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator.

Hon. Senators, Statement (vi) by the Chairperson of the Committee on Health is deferred, as was requested earlier.

ACTIVITIES OF THE COMMITTEE ON HEALTH

*(Statement deferred)*

The next Statement pursuant to Standing Order 52(1) will be made by the Senate Majority Leader.

Deputy Senate Majority Leader, you may proceed.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 27<sup>TH</sup> NOVEMBER, 2018

**Sen. Dullo:** Thank you, Madam Temporary Speaker. Pursuant to Standing Order No.52(1), I hereby present to the Senate the business of the House for the week commencing Tuesday, 27<sup>th</sup> November, 2018.

On Tuesday, 27<sup>th</sup> November, 2018, the Senate Business Committee will meet to schedule the business of the Senate for the week. Subject to further direction by the Senate Business Committee, the Senate will on Tuesday, 27<sup>th</sup> November, 2018, consider Bills scheduled for Second Reading and those at the Committee of the Whole. The Senate will also continue with consideration of business that will not be concluded in today's Order Paper.

On Wednesday, 28<sup>th</sup> November and Thursday 29<sup>th</sup> November, 2018, the Senate will consider business that will be not concluded on Tuesday and other business scheduled by the Senate Business Committee.

Madam Temporary Speaker, the following Bills are due for Second Reading stage-

- (1) The Local Content Bill (Senate Bill No.10 of 2018).
- (2) The County Statutory Instruments Bill (Senate Bills No.21 of 2018).
- (3) The Statutory Instruments (Amendment) Bill (Senate Bills No.25 of 2018).
- (4) The County Early Childhood Education Bill (Senate Bills No.26 of 2018).
- (5) The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No.27 of 2018).
- (6) The County Oversight and Accountability Bill (Senate Bills No.28 of 2018).

In addition, there are several Bills at the Committee of the Whole stage. I continue to urge Standing Committees to expedite consideration of the Bills referred to them and table reports in order for the House to effectively navigate the Committee stage on the said Bills. Likewise, I urge Standing Committees to expeditiously consider pending Petitions and table reports on them.

Madam Temporary Speaker, you will notice that the House has only two weeks left to the end of the Session in accordance to the Senate Calendar. Accordingly, the importance of transacting the aforementioned business within the remaining time cannot be gainsaid.

Pursuant to Standing Order 51(1) (b), a Committee Chairperson shall at least once in every three months make a Statement relating to the activities of the Committee on a day assigned by the Senate Business Committee. This provision came into force after the recent amendment of the Standing Orders on 29<sup>th</sup> August, 2018. As such, the reporting for the first quarter is due.

In this regard, at its sitting held on Tuesday 13<sup>th</sup> November, 2018, the Senate Business Committee considered and approved the schedule of reporting by the Committee Chairpersons to facilitate the aforementioned Statements. The approved schedule for reporting is attached to this Statement.

For next week, the following Committee Chairpersons shall make the Statements-

- (1) Committee on Information, Communication and Technology; Tuesday, 27<sup>th</sup> November 2018.
- (2) Committee on Justice, Legal Affairs and Human Rights; Tuesday, 27<sup>th</sup> November 2018.
- (3) *Ad hoc* Committee on Tea; Tuesday, 27<sup>th</sup> November 2018.
- (4) Committee on Labour and Social Welfare; Wednesday, 28<sup>th</sup> November 2018.
- (5) Committee on Lands, Environment and Natural Resources; Wednesday, 28<sup>th</sup> November, 2018.
- (6) *Ad hoc* Committee on Maize; Wednesday, 28<sup>th</sup> November 2018.
- (7) Committee on National Cohesion, Equal Opportunity and Regional Integration; Thursday, 29<sup>th</sup> November 2018.
- (8) Committee on National Security, Defence and Foreign Relations; Thursday, 29<sup>th</sup> November 2018.
- (9) Committee on Tourism, Trade and Industrialization; Thursday, 29<sup>th</sup> November 2018

Madam Temporary Speaker, I thank you and here by lay the Statement on the Table of the House.

*(Sen. Dullo laid the document on the Table)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator.

Hon. Senators, having consulted with the Chairperson of the Sessional Committee on County Public Accounts and Investments, I would like to reorganise the Orders as follows. We will skip Order Nos.8 and 9. We will come back to them later on.

Next Order!

**MOTIONS****ADOPTION OF CPAIC REPORT ON FINANCIAL  
OPERATIONS OF VARIOUS COUNTY EXECUTIVES**

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the Financial Operations of Kiambu, Busia, Kwale, Tana River, Trans Nzoia, Nyandarua, Migori, Kisumu, Samburu, Kericho, Bomet, Bungoma, Garissa, Isiolo, Kitui, Lamu, Makueni, Mandera, Marsabit, Meru, Mombasa, Nyamira, Taita-Taveta, Uasin Gishu, Vihiga and Wajir County Executives for the Financial Year 2013/2014 (1st July, 2013 – 30th June, 2014), laid on the Table of the House on Wednesday, 14th November, 2018.

*(Motion deferred)*

**ADOPTION OF CPAIC REPORT ON FIDUCIARY RISK REGARDING  
ISSUES RAISED BY THE AUDITOR-GENERAL**

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on Fiduciary Risk regarding issues raised by the Auditor General on public financial management by County Governments for Financial Years 2013/14–2015/16, laid on the Table of the House on Wednesday, 14th November, 2018.

*(Motion deferred)*

**The Temporary Speaker** (Sen. (Prof.) Kamar):  
Next Order!

**ZERO RATING OF DUTY AND VAT ON LOCALLY  
MANUFACTURED SANITARY TOWELS**

**Sen. Halake:** Madam Temporary Speaker, I beg to move the following Motion-

THAT, WHEREAS menstrual health management among women and girls in Kenya has been a major issue particularly for the low income earners with about 65 per cent of women and girls in the country who can barely afford sanitary towels each month;

AWARE that many girls and women are severely affected during menstrual cycle and are not able to consistently attend and concentrate in class and school work leading to poor performance;

FURTHER AWARE that if not handled appropriately, menstruation can cause infections of the urinary tract and pelvic inflammatory diseases as well as bad odour, soiled garments and



embarrassment, ultimately leading to infringement on the girls' dignity and other health related complications;

COGNIZANT that menstrual health management is a health as well as an education issue and therefore a critical developmental hindrance in Kenya with statistics indicating that one in ten adolescent girls miss school and eventually, drop out of school due to menstruation-related issues;

RECOGNIZING menstrual hygiene and affordable access to menstrual hygiene products is inextricably linked to rights to health, sanitation, education and dignity among other rights;

NOTING that the Basic Education Act, No.14 of 2013 obligates the Government to provide free, sufficient and quality sanitary towels to every girl child registered and enrolled in a public basic education institution who has reached puberty;

CONCERNED that the cost of sanitary towels is too high and out of reach for many girls and women who are out of basic education institutions;

FURTHER CONCERNED that classifying and taxing raw materials for locally produced sanitary towels, as luxury items, is counter-productive to the Government policies on enhancing the manufacturing sector and distribution of sanitary towels to schools;

NOW THEREFORE, the Senate resolves that the Government-

(a) Prioritises gender sensitive budgeting as a way of addressing issues affecting women and girls; specifically menstrual health matters.

(b) Initiates measures to ensure zero rating of duty on raw materials used for locally manufactured sanitary towels and zero rating Value Added Tax (VAT) on locally manufactured sanitary towels, to ensure affordability for the many poor households in Kenya; and

(c) Advance further tax incentives to manufacturers for cheaper production of sanitary towels.

Madam Temporary Speaker, please allow me to elaborate a little bit on this issue. In our country, I realised local production of sanitary towels is taxed alongside luxury items.

Allow me to elaborate a little bit on what is called International Tampon Tax which is the umbrella term that describes the value added sales tax and other duties that are usually levied on luxury items that is then imposed on sanitary pads. Classifying menstrual hygiene products as luxury items is infringing on the rights of girls and women in this country. It also goes to show how our tax systems are punitive to women. How is it that something that happens involuntarily, a biological function of a woman's body, is classified alongside other luxury items whereby it is taxed?

Please, allow me to now enumerate some of the taxes that are levied on menstrual hygiene products that are locally produced. There is something called perforated film which is what covers the cotton that goes in to the pads. The Harmonised System (HS) code or taxation code is 39211990. It attracts a duty of 25 per cent. Perforated PV top

sheet again attracts duty of 25 per cent; non-woven type of pads, HS code 560391 attracts duty of 10 per cent; non-woven top sheets HS code 560311, attracts duty of 10 per cent. Siliconated paper HS code 4811990 attracts duty of nine per cent; release silicon paper, HS code 481151 10 per cent and the tissue 10 per cent. The pulp that is used to encase the pads luckily is not taxed. However, the super-absorbent polymer is taxed 10 per cent. The glue that is used to make the pad with the perforated top and bottom layers 25 per cent.

Some luxury items do not even attract that much. How is it that sanitary pads that are locally produced attract 25 per cent of duty on all the input material and 10 per cent for the cheapest material? This is a very unfair taxation regime. It goes to show how punitive it is to women. Tax regime needs to change for women to access these things locally.

Madam Temporary Speaker, it beats logic for us to become net importers of everything. How is it that we prefer importation over local production when this is very simple? In fact, I keep telling myself that it is very simple to make sanitary pads. One needs to arrange the cotton and put perforated film on it. However, why do we choose to import? Why do we do that? It points to some of the corrupt deals that go on in this country. This is because this country has become a net importer of everything, including tooth picks. This is because it is cheaper and somebody quickly gets cuts and converts the country into a net importer of everything.

Let me speak a little bit to the constitutional, public and individual interest of this Motion. In our context, our Constitution provides a great foundation for equalization where an entire Chapter Four is dedicated to the Bill of Rights.

We are speaking of the right of a woman to access sanitary towels, dignity and education. Lack of these items affects the education of a girl child. We are speaking of the right of a woman to work. This is because on the days that she cannot afford that sanitary pad, I am not sure that she will be able to work with dignity.

Our Constitution is very clear. Article 19 lists the objects of the rights and fundamental freedoms. Article 20 is about how to apply those fundamental freedoms and how to implement them. Articles 22 and 23 show us how to enforce those rights. Articles 24 to 27 states that equality and freedom from discrimination---

Please allow me to read this out directly. It states-

“Every person is equal before the law and has the right to equal protection and equal benefits of the law.”

Madam Temporary Speaker, women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres in our country.

The State shall not discriminate directly or indirectly against any person on any ground be it race, sex, pregnancy, marital status, health status, ethnicity or social origins.

Putting these kinds of luxury taxation on sanitary pads for women on at levels, including economic, hampers access to education. Internationally, there is of course, a context under Universal Declaration of Human Rights as adopted by our country which is the foundational document. It states that all are equal before the law and entitled without any discrimination.

This taxation is discriminatory to women in Kenya, especially the 65 per cent who cannot afford and are not in public institutions where we are giving out the pads.

As a cultural matter tampon tax is a cultural discrimination against women. Menstruation is supposed to happen out of sight. It is a problem for the woman and she is the one to deal with it. That should not be the case.

Madam Temporary Speaker, it is very sad for us to know today that we have 10 per cent tax on the cotton and 25 per cent on the perforated polymer. In fact, if one adds they will be surprised at how expensive local production would be. We say that our big four agenda is about creating an enabling environment for the manufacturing sector. It is also about our agricultural sector. What are we talking about if we cannot get the basics of these?

Madam Temporary Speaker, in the recent months there have been activist around the world who have been prevailing upon the governments to get rid of tampon tax. I was privileged to be part of that campaign. I was very proud and I said that my country did not tax tampons. Little did I know that, yes, it does not tax importation. However, it taxes the more important part of it, which local production. Somebody pulled me aside and whispered in my ear. I had to go back on stage and apologise. In fact, we actually do the wrong thing in my country. It is worse because local production is taxed so highly. What does that mean?

It was very embarrassing for me to have praised my country by saying that since year 2014, we had zero rated our pads, when, in fact, it was only the importation of tampons that had been zero rated.

Why would we choose to kill local production, manufacturing, local cotton growing belt and all these things in favour of importation? Just by zero rating local production, we would be ticking off a lot of the boxes which would then contribute to the Big Four Agenda?

Madam Temporary Speaker, many questions linger on this issue. Why would a product which women use because of their biology be taxed? Why would there be any confusion whether menstrual hygiene products are necessary or optional? Why would there be any confusion on whether tampons and sanitary pads for our girls and women are luxury or non-luxury items? Why should our bodies and our bodily function become a financial burden and a source of shame for us, as women of Kenya? Why is it that we choose to go and distribute these sanitary pads, and our girls line up to get them when, in fact, every mother would have wanted to buy them for their child?

Madam Temporary Speaker, we are not saying that we do not want our institutions to be given the sanitary pads; we are grateful for this gesture. However, a more sustainable approach is to ensure that local manufacturing and production of sanitary pads and other small items should be encouraged, even if we do not have big manufacturing capacity. This is because it would encourage farmers to grow cotton; it would also make sure that all the value chain of production is enabled. But, no, we choose to just import these items so that somebody can get some cut somewhere and our questions continue to linger.

Madam Temporary Speaker, this matter is very important because it points to discrimination based on gender and rights. Therefore, tax reforms should be undertaken, starting with the zero rating of taxes here and now. We cannot overstate the importance of good hygiene, affordable and accessible menstrual hygiene products which, as I said earlier, are linked to health, education, dignity, work and other rights. Eliminating taxes

on menstrual hygiene products is consistent with the human right to be free from discrimination and other rights that flow from it.

Madam Temporary Speaker, you and others in this House are educationists, and so I do not wish to go into the rights to education, because you know them. I do not want to go into the rights to work and dignity, which should be afforded to the women of this country. However, beyond that, there is also the Big Four Agenda, as we said earlier. Why would we not get the link between local production that is made favorable, zero rated and connected to the other sectors of our economy that would then be boosted and catalyzed?

Madam Temporary Speaker, we have seen the country importing everything, from raw, low quality sugar and maize. You have been the Chairperson of the *ad hoc* Committee on Maize, what is going on? What is it that makes our country so attracted to importation as opposed to local production even for the most basic of things? Once again, if there is one thing that we must zero rate, it is the one thing that women have no choice in. We cannot opt out of bleeding every month, even if we wished to. Why is that going to be a source of burden and shame for those girls and women who cannot afford it? Do we think that by distributing sanitary pads in schools, we have solved problem? We have not even scratched the surface!

Madam Temporary Speaker, just this month alone, 1.6 million children are going to get out of school, and half of those are women and girls who have attained the age of puberty. I am referring to the Standard Eight pupils and Form Four students. From the 1.6 million children, half of whom are girls, who is going to provide the sanitary pads for them in January? Therefore, we are not solving our problems; we are not finding sustainable solutions; we are making sure that we just favour imports rather than providing solutions to menstrual health issues, providing sanitary pads and making sure that the rights of a woman to have dignity, to go to school and afford sanitary pads are denied. We do not have a right to become the lords of poverty by distributing even the most basic and the most --- What should I say? This is something that should be given--- In fact, it should not be given. I would like to live in a country where everybody can afford a sanitary pad so that we are not posing for pictures with a sanitary pad that we are handing over to a girl in school.

Once again, do not get me wrong, Madam Temporary Speaker. I am grateful for the support that the Government is giving to our girls, but we must go beyond that. That cannot be the end to this story; we need to make sure we make everything in this country sustainable. We need to ensure that if there are needs for our girls, then there is a sustainable solution for it. This will be encouraging local production and providing a good environment where our manufacturers can produce good quality and affordable sanitary pads. It does not require any special training in law or in economics to understand that taxes on menstrual products is punitive to women, which means less money is left in the female consumers pocket. Moreover, there are several benefits to supporting and incentivizing local production of anything, especially sanitary pads.

Madam Temporary Speaker, local production would create employment. Similarly, there will be direct benefits to the local supply chain from packaging, printing, transportation to those companies that produce the glue and everything else. There would also be savings on foreign exchange market outflows because we are currently importing everything, which is haemorrhaging our country through foreign exchange market

outflows arising from importation as opposed to enhanced foreign exchange market inflows if we were producing locally. It would encourage local investors and support the Buy Kenya, Build Kenya Initiative. It will also create a level playing field for local manufacturers' *vis-à-vis* the middlemen who import these items.

Madam Temporary Speaker, local manufacturing will also discourage dumping of sub-standard products in our country, because it is being done in our territory. We can go to the factories and make sure the right standards are put in place. That way, we will not be stuck with sub-standard goods that we do not know what to do with, or we will end up burning. Even burning them means that we are still losing through hemorrhaging, because the Dollar will have already flown out of this country.

Madam Temporary Speaker, I can go on and on, on this issue. The scenario has created a very unfair business environment and middlemen have now become the major--  
- A few months ago, students would come to my office to look for jobs; but they now come with company registrations for me to get them tenders. They do not want to work anymore; and this is because we have become a 'tendepreneuring' country since we import everything. They stopped bringing in curriculum vitae so that they can work and started to bring company registrations so that they can ask you to find tenders for them. What are we doing?

In order to attain economic growth, the current scenario needs to change. We need to create a level playing field; we need to start bringing sanity to our economy. We need to ensure that our country has a lot of capacity. The human capacity in this country is next to none, but what are we doing? We are importing things that were probably done by dummies elsewhere. They are of bad quality, our own capacity is dying, we are not creating employment and this is repeated in every sector; in the sugar and maize sectors; you name it! Hon. Senators, I know this is something that you will support because it is just wrong on every level. As it is, even with the other sectors, it is wrong for a country like ours, with the resources that we have - be they human, infrastructural or institutional - to become a net importer of everything. However, to be a net importer of sanitary pads is unacceptable. It is simply unacceptable!

This Motion seeks to raise the pertinent issues on taxation of local manufacturers. In addition, we propose to amend the Value Added Tax Act but that is something that we will do as a substantive legislative piece. The remedies for this case are very easy just like it is for many things that ail our country. All the ordinary woman wants is repeal of this taxation. The Government should zero rate duty on all raw materials for sanitary towels in terms of Value Added Tax (VAT) and duty.

In some cases, you will find 25 per cent VAT and 25 per cent duty on some of these products. We should have zero rate VAT on all raw materials for sanitary towels. Sanitary towels are currently VAT exempt, the ones that are being imported moved to zero rate. Again, it is very simple. Taxing our periods is immoral at all levels, especially when it comes to the sustainable solution to managing our menstrual health. The message is simple; the Kenya Revenue Authority (KRA) should stop taxing our periods.

I thank you and I move this Motion. I would like to invite Sen. Kasanga to second the Motion.

**Sen. Kasanga:** Thank you, Madam Temporary Speaker, for this opportunity. Allow me to congratulate Sen. Halake for this Motion. I have been waiting for it for some time now.

I appreciate the fact that she has broken down the issues of taxation and how pads are made including the different layers which is something that most of us do not think about. It is sad to hear that pads are considered as a luxury item. Those who can afford them throw them in their shopping bags without thinking about the price and they continue with their lives. However, there is a girl out there who goes through the dread of having to expect her period every month. Two or three days towards her period, this girl goes into anxiety and three quarters of the reason for that is because she does not have sanitary pads to give her the dignity and the confidence to walk around. This is indeed a reality.

I had the honour of engaging 150 high school girls from Makueni during the International Day of the Girl Child and we invited them to talk about the Girl2 Leader Campaign, which we were launching at that time. We asked them to tell us about menstrual hygiene challenges that they encounter in their environment and to come up with solutions.

At one point, I was embarrassed because the girls came up in the open and told us that we were not doing enough, as leaders, and that we do not understand what they, who cannot afford sanitary pads go through, when they are out there. Truly, it was embarrassing. It became clear that the Government sponsored programme for distributing sanitary pads had been politicized. In one instance, a girl told us how they have to queue in front of an office to report that their cycle has started so as to be given a pad and that they are either given one or two pads per day.

Where is the dignity when they have to declare that they are going through their menstrual cycle for them to be given a pad, actually one or two pads per day? Where is the dignity in that? Menstruation is not a choice. The people who make decisions on taxing such items and making them a luxury are forgetting that we do not choose to bleed. That is how we are created. If you would allow me, I would want more from this Motion. I am looking at it from the angle of the students that I engaged with. They had ideas on how to deal with the distribution.

First and foremost, sanitary pads need to be zero-rated. Women are half the population in this country and the question of whether we can afford the sanitary pads or not should not be in question. After all, you will find condom dispensers everywhere. Why can we not have sanitary pad dispensers everywhere for woman to have access to them? That was an idea that came from one of the students. They said that it is not just them who have the problems getting sanitary pads but even people at home. The day scholars who came for that function said that they hoped to take sanitary pads home because their mothers, cousins and aunties cannot afford to buy them. They hoped that the school or the Government programme can give them enough to take home. Clearly, there is a huge gap here.

This issue has to be pushed by Sen. Halake for it to go beyond zero rating sanitary pads; they should actually be free for our high school girls. Every school must have enough free sanitary pads for the girl child. They should not report so as to be given one pad per day. That is wrong. Sen. Halake has highlighted that this is a question of health and education. If you are going to be serious about educating and giving our girls the confidence that they need as equal citizens in this country, then the question of their menstrual health should not even be up for debate. I feel very strongly about this.

When I engaged those girls, I carried with me over 50 solutions towards this and decided to enquire about the sanitary programme that is there when I came back to Nairobi. Whereas we appreciate the milestones the Government has made, we also cannot hide from the fact that we are politicizing them. I do not see the beauty of posing for a picture with sanitary pads that we are giving. How can we celebrate that we are donating sanitary pads to a school as women? It is wrong. In my opinion, that is nothing to celebrate about. In fact, we should be doing it hiding under covers because we have been unable to give a sustainable solution towards menstrual health for our girls.

Sen. Kwamboka at one time had a Motion or was it a Statement about menstrual health for the women who live in the streets. The story had been highlighted in one of the local dailies and it was sad to know what our homeless women have to go through when they are on their menstrual cycle. If we have public dispensers for things like condoms, why can we not have public dispensers for menstrual health hygienic pads? As the Senator has said, they should not just be any pads but they should be pads of good quality because we do not want an influx of funny pads that cause women to have all sorts of ailments and diseases.

In as much as we are zero rating the manufacturing of pads, the Government has to come up with a clear programme to ensure that every girl child in primary and high school has free sanitary pads for them to go through their course of education with dignity and no worry. In fact, when I talked with those girls, I heard of a case where a male teacher was the one in charge of dishing out those sanitary pads.

Earlier this week we were debating on teenage pregnancies and how vulnerable our girls get, whether it is their male teachers or the citizenry around them. There was also a case, which I read in the newspaper, of a headmaster who dishes out these things. Since he knows the menstrual cycles of the girls, he is then able to catch them when he wants. He uses the sanitary pads as a pre-condition and sleeps with them. Therefore, you can see how girls get so vulnerable over things that are not their choices. As leaders, we have to remove these barriers to their future.

Madam Temporary Speaker, I second this Motion with my entire being and whole heart because it is frustrating, as a woman, that we live in a country where other women cannot access something as basic as a good quality sanitary pad. Even as we are push for local production, our students in both primary and secondary schools must get these sanitary pads for free. This is not choosing where they come from or their social status; sanitary pads in schools should be free and enough. The girls should not be told that they only have one pad per day. That is my prayer today.

Madam Temporary Speaker, I second this Motion and congratulate Sen. Halake for bringing it to the Floor of the House.

*(Question proposed)*

**Sen. Seneta:** Thank you, Madam Temporary Speaker, for giving me a chance to add my voice to this important and timely Motion. From the outset, I want to congratulate my sister, Sen. Halake, for having thought deeply about this important and basic resource that is used by our girls and women from time to time.

Madam Temporary Speaker, this is not luxurious material, but a basic need. I am saying so because every other hour, day, week and month, every woman or girl thinks

about this important resource. Sanitary towels are important to a woman. Without them, it affects our day to day life and even our thinking. When a girl approaches this menstrual period, she is always worried. When seated in the classroom or walking, she always thinks whether she is clean or going to be embarrassed. She is affected even psychologically.

Whenever the teacher is busy teaching and the boys are concentrating on what is being taught, this girl is thinking of going out of the classroom to check whether she is still is clean. This girl thinks about what she will use in the evening, how she smells and where she will hide the sanitary pad that she has already used. Therefore, many of our girls are affected even psychologically. This affects their performance.

Many of these girls miss schools every month for three days. Many of them do not concentrate or feel well for three days in a month. As you are aware, that the menstruation cycle has different impacts on different girls? There are those who feel sick. Some experience a lot of problems and do not feel well. The thought of not having a sanitary towel puts the girls in an awkward situation and has an impact on their performance.

Madam Temporary Speaker, we should not only think of affordable, but also quality and safe sanitary towels. A situation where our girls may not afford sanitary towels that are clean from the supermarket or shops will mean using any locally available material that can help them save the situation. Therefore, we should think about the safety and quality of these sanitary towels.

It is, therefore, important to zero-rate and exempt sanitary towels from Value Added Tax (VAT), especially the locally manufactured ones. I am happy that my sister here brought out all the things that are needed when manufacturing this important item. It needs a lot of different materials, which are highly taxed and also charged VAT, making them very expensive.

Therefore, if we zero-rate them, our manufacturers will be able to manufacture cheaper, quality and affordable products for many of our girls.

Madam Temporary Speaker, I support that the Government should not only zero-rate the items that are used for manufacturing this very important item but also subsidize them for our local manufacturers. We should encourage our manufacturers to manufacture sanitary towels locally so that they are available everywhere.

Madam Temporary Speaker, in some parts of the country sanitary towels are not available in the shops. People cannot afford nor access them even if they have the money. Therefore, it is important for us to think of manufacturing sanitary towels locally so that we make them affordable and accessible to everyone. For example, just like Blue Band, sugar or maize flour is sold everywhere in small quantities, sanitary towels should also be available affordable in all quantities. For example, if a person needs a packet that contains two or three pieces of sanitary towels, they should get it. They should not only be sold in supermarkets where they are packed in four, eight or ten pieces and their prices are the same. Therefore, sanitary towels should be packed according to their affordability. If a person can afford, two, three or four pieces, they should be available everywhere.

Madam Temporary Speaker, the issue of making sanitary towels free for our girls is a very important thought from my sister Sen. Halake. Our girls in both primary and secondary schools should access free, quality and clean sanitary towels. We should also



look at the quality of sanitary towels because some manufacturers make sanitary towels which are not of good quality yet they are still expensive.

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

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

Madam Temporary Speaker, I support this timely Motion by my sister Sen. Halake. However, she should think of bringing a Bill that can not only zero-rate and exempt the materials from Value Added Tax (VAT) but also subsidize for the local manufacturers so that they can produce and sell cheaply to our institutions then the Government can give it freely to our girls.

**Sen. Kihika:** Thank you, Madam Temporary Speaker. I rise to support this extremely timely Motion which we should have had many months or years ago. The credit goes to our colleague, Sen. Halake, for highlighting this issue and bringing it to the Floor of this House. It is an extremely important and serious matter.

The data for this country is that the female population is about 52 per cent of Kenya's population. Therefore, 52 per cent of our population is affected by this issue. Some may obviously be younger or a little past that but at some point in life, 52 per cent of our population will be affected by this issue. That is why I cannot support this Motion enough.

Madam Temporary Speaker, I have never had anybody put this issue this way. Therefore, I love to see what Sen. Halake has done in breaking down how discriminatory these taxes are in as far as gender is concerned. Like is said, 52 per cent of the female population of this country is affected by this very heavy taxation on sanitary towels.

As I listened to Sen. Halake, I am surprised to learn that when imported finished sanitary towels are brought from abroad, they are duty free and are exempted from VAT. However, when I look at the statistics that she has provided, the local manufacturer is extremely disadvantaged in this area. That is why they have to make their pads more expensive yet not everyone can afford the imported ones. Beyond that, there is a big population of Kenyans that cannot afford pads. This then gives rise to the issue of discrimination because they are disadvantaged in as far as their health is concerned.

Madam Temporary Speaker, I will repeat this for those who were listening but do not have an idea of the very heavy taxation on the materials that the local producers use to manufacture these sanitary towels. The perforated film that is used is taxed at a VAT of 16 per cent and duty of 25 per cent. The duty for perforated top and back sheet is 25 per cent and VAT is at 16 per cent. The duty for the non-woven material is 10 per cent and 16 per cent VAT. The duty for the silicon paper which is used by the manufacturers is taxed at 10 per cent and the VAT is at 16 per cent. The duty for the release silicon paper is 10 per cent and 16 per cent VAT. The duty for the tissue that is used for manufacturing sanitary towels is 10 per cent and 16 per cent VAT. The VAT for the fluff is 16 per cent. For the super absorbent polymer that they use in the manufacturing of these sanitary towels, you have a 10 per cent duty and 16 per cent VAT. The adhesive glue is at 25 per cent duty and the VAT is 16 per cent. I could go on, but that illustrates

the big disadvantage that is to the local manufacturers. We import finished products from other countries duty free. They are exempt from the VAT.

One of the key pillars of the Jubilee Government in its Big Four Agenda is manufacturing. We cannot pay lip service by saying this country has a conducive environment for manufacturers yet we are importing everything. This sort of duty and VAT levied on sanitary towels is not encouraging local manufacturers.

I encourage my colleague Sen. Halake to develop this Motion into a Bill because the women and girls of this country have been disadvantaged for a very long time. It is time for us to correct that wrong by making sure that local manufacturers are not disadvantaged by the importers. Yes, we are a democracy that is open to international trade and all those other big things, but we cannot do so unless we protect our local manufacturers. Otherwise, we just continue on what we have seen which is a lot of importing and almost a little or inconsequential exporting or even consumption of local goods in our country.

This is because in the cases now where you have the local manufacturers being able to put up factories and come up with the sanitary towels, then they are unable to compete with those who import these products because of this extremely unfair business environment that they face. Therefore, the best way would be for the Houses to amend the VAT law so that we can add the local manufactures of sanitary towels. This will ensure that they are on the list of the zero rates goods. Then they will be able to compete with whoever is importing these sorts of finished products.

In addition to that, when they do not have to pay these extreme taxes, duty that is so high, VAT and luxury taxes that are tacked onto what is needed to produce the sanitary towels, when they save on that by being zero rated, they are able to lower the cost of production. The cost of the sanitary towels in our shops will be at a lower cost. Therefore, as a country, we will have many women and girls being able to afford these sanitary towels and also allowing the economy to grow through the work of the manufacturers. We are creating jobs and making the sanitary towels affordable and accessible to the 52 per cent of the population that is in this country and that at one point or another we will require this.

It also breaks my heart when I read that in many of our areas, many families cannot afford sanitary towels and as such many of our girls miss many days of school when they have their monthly periods because they cannot go to school without this necessity. As we know, as grown women and for the men, their mothers, wives and sisters--- I mean, we are a country where the conversations around the menstrual period are not heard. They are very secret and shroud in mystery. You know, it is something that you do at your own time, space and it is hidden.

So these girls are not able to get up and go to school when they are experiencing this which happens, for those who are not aware, once a month and sometimes can be very heavy for many days at a time. When our girls miss school, they are disadvantaged.

Madam Temporary Speaker, let me address the issue of discrimination due to gender which we must stand up for and correct to make sure that it does not happen. Our girls must be in school. That is why I also support that our schools must be required to provide sanitary towels to all the girls and not just for a day, minute or one cycle, but consistently. If we are able to afford all this, I mean we can do the Standard Gauge Railway (SGR) but we cannot have our girls having free sanitary towels. We cannot

continue having all that. We can do all these “elephant” projects that we are having. Everywhere we look we have big projects yet the basic needs of our girls are not being met. It cannot be one of those things where we say we have no money.

We have a wonderful advantage of having free primary and secondary education. So the next thing that we must do is to take care of free sanitary towels in our schools, so that our girls can access this. It is the law that everybody should be able to live a life of dignity and in our being able to have our girls afford or access this, not even afford because they must be provided for free, then we are able to give them the dignity that the law requires that we provide for our citizens. So it must be something that we do and it must be done now.

I thank Sen. Sen. Halake for bringing this Motion. Like I said, I cannot support it enough because I have never even looked at it like this. I was not aware if this is what was going on. However, we will work together to make sure that we are able to preserve the dignity and the right to work of our girls and women who are 52 per cent of the population of this country. Many of them are also disadvantaged even as far as getting jobs and the sort of wages they get. By at least lessening this burden, where we have our local manufacturers producing the pads, then our low income earners will be able to afford and access these pads. We can then make sure that they live their lives in dignity.

In conclusion, I whole heartedly support this Motion and add my voice to what some of my colleagues have said that this should become a Bill, so that we make sure it is not just persuasive Motion but a Bill that will require to be implemented. We will then amend the VAT law so that we can make sure that the local manufacturers of sanitary towels are included in the list of the zero rated goods in this republic.

Madam Temporary Speaker, I support.

**The Temporary Speaker** (Sen. Pareno): There being no other interventions I now call upon the Mover to reply.

**Sen. Halake:** Thank you, Madam Temporary Speaker. I beg to reply. I would like to thank my colleagues Sen. Kasanga for seconding this Motion very eloquently and for giving further ideas as to what we need to do with it. I would also like to thank Sen. Seneta who has brought in a very important angle of mental and psychological torture of our girls especially as they go through their menstrual cycle every month especially if they cannot access good quality and safe pads. She also brought in an angle which I had not thought about but which is important in the sense that in certain parts of this country, including where we come from, , sometimes because the cost of transporting these pads from the Port of Mombasa to the corners of Northern Kenya and the Maasai belt, people would rather bring in sugar and foodstuffs to sustain the families. The shops sometimes do not even have the sanitary pads because the cost of transportation is way too high. She is right, sometimes you go there and do not get any sanitary pads.

So I take note of all the things that my colleagues have said. Sen. Kihika, thank you, for pointing that out. All three Senators have said that this should be converted into a Bill. I will make sure that we consider that proposal because we need to make sure that we have substantive legislation that will ensure that our country takes this issue very seriously and executes it appropriately.

Madam Temporary Speaker, Sen. Kihika has articulated the issue around affordable sanitary pads and the dignity of our children. This is a matter of dignity and the rights to a dignified existence by our girls and women. Therefore, issues of

discrimination have been articulated very well by Sen. Seneta as well as Sen. Kihika. I will make sure, either alone or collectively with others, that we explore options for this to be converted into a Bill. This substantive legislation will make sure that we compel our country to ensure that our children get access to these products and that our women live and work in dignity and get a good quality of life.

I thank my colleague Senators who have contributed to this Motion. I have taken note of all the invaluable contributions and input that you have provided. As you can see, Sen. Kihika went through each aspect. In fact, I even forgot to enumerate the VAT aspect. What I remembered to include when moving the Motion was just the duty that was being charged. She has, however, highlighted both the VAT and duty; and when you combine the two, it is no wonder then that 65 per cent of our women cannot access the most basic commodity over which they have no control, but just to use it.

Thank you, hon. Senators, for your support. I will take on board all your input and great ideas. I look forward to working with you to make sure that our children, girls and ourselves, as women, access these commodities in a dignified manner. I also hope to count on your support to work on our tax regime, which is very punitive. They are not only punitive on sanitary products, but on many things that people have no control over, starting with sanitary products. We will, therefore, make sure that our taxation is gender sensitive; it is sensitive to vulnerable people and all other people, including Persons with Disabilities (PwDs), as we go forward.

Thank you, Madam Temporary Speaker. I beg to reply.

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, I note that this is a matter that does not affect counties. I will, therefore, proceed to put the question.

*(Question put and agreed to)*

Hon. Senators, we had earlier re-arranged our Order Paper, and I would want us to now go back to Order No.8.

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS OF  
VARIOUS COUNTY EXECUTIVES FOR THE FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the Financial Operations of Kiambu, Busia, Kwale, Tana River, Trans Nzoia, Nyandarua, Migori, Kisumu, Samburu, Kericho, Bomet, Bungoma, Garissa, Isiolo, Kitui, Lamu, Makueni, Mandera, Marsabit, Meru, Mombasa, Nyamira, Taita Taveta, Uasin Gishu, Vihiga and Wajir County Executives for the Financial Year 2013/2014 (1<sup>st</sup> July, 2013 to 30<sup>th</sup> June, 2014), laid on the Table of the House on Wednesday, 14<sup>th</sup> November, 2018.

Hon. Senators, I am informed that the Mover is not available to move this Motion. This Motion is, therefore, deferred.

*(Motion deferred)*

Next Order.

ADOPTION OF CPAIC REPORT ON FIDUCIARY RISK REGARDING  
ISSUES RAISED BY THE AUDITOR-GENERAL

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on Fiduciary Risk regarding issues raised by the Auditor-General on public financial management by County Governments for Financial Years 2013/14 to 2015/16, laid on the Table of the House on Wednesday, 14<sup>th</sup> November, 2018.  
The Motion will face the same fate. It is, therefore, deferred.

*(Motion deferred)*

Hon. Senators, it looks like for the rest of the Business of the House that is, Orders No. 11, 12, 13, 14, 15, 16, 17 and 18 , we will not be able to transact them because the Movers are not in. For the one of Sen. Kihika, which is Order No.12, after consultation, we will not be able to handle it. The rest of the business of the House is, therefore, deferred.

NOTING OF REPORT OF THE SIXTH ORDINARY SESSION OF THE  
FOURTH PAN-AFRICAN PARLIAMENT

THAT, this House notes the Report of the Sixth Ordinary Session of the Fourth Pan- African Parliament held in Midrand, South Africa, from 7<sup>th</sup> to 18<sup>th</sup> May, 2018, laid on the Table of the House on Tuesday, 24<sup>th</sup> July, 2018.

*(Motion deferred)*

NOTING OF REPORT OF THE 138TH ASSEMBLY  
OF IPU AND RELATED MEETINGS

THAT, this House notes the Report of the 138th Assembly of the Inter -Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 22<sup>nd</sup> -28<sup>th</sup> March, 2018, laid on the Table of the Senate on Thursday, 21<sup>st</sup> June, 2018.

*(Motion deferred)*

NOTING OF REPORT OF THE APNAC CONFERENCE, 2018

THAT, this House notes the Report of the Senate Delegation to the African Parliamentarians' Network Against Corruption (APNAC) Conference held in Ghana from 17<sup>th</sup> – 18<sup>th</sup> March, 2018, laid on the Table of the House on Tuesday, 19<sup>th</sup> June, 2018.

*(Motion deferred)*

NOTING OF REPORT OF THE 62<sup>ND</sup> SESSION OF  
THE COMMISSION ON THE STATUS OF WOMEN

THAT, this House notes the Report of the 62nd Session of the Commission on the Status of Women laid on the Table of the House on Tuesday, 17<sup>th</sup> July, 2018.

*(Motion deferred)*

NOTING OF REPORT OF 49<sup>TH</sup> SESSION OF THE ACP  
INTER-SESSIONAL MEETING OF THE ACP-EU JOINT ASSEMBLY

THAT, this House notes the Report of the 49th Session of the ACP Parliamentary Assembly and Inter-Sessional meeting of the ACP-EU Joint Parliamentary Assembly held on 20<sup>th</sup> -22<sup>nd</sup> March, 2018, in Brussels, Belgium, laid on the Table of the House on Tuesday, 31<sup>st</sup> July, 2018.

*(Motion deferred)*

NOTING OF REPORT ON THE 2018  
COMMONWEALTH GAMES

THAT, this House notes the Report of the Standing Committee on Labour and Social Welfare on the 2018 Commonwealth Games held in Gold-Coast, Australia from 4<sup>th</sup> to 15<sup>th</sup> April, 2018, laid on the Table of the Senate on Wednesday, 1<sup>st</sup> August, 2018.

*(Motion deferred)*

NOTING OF REPORT ON ROLE OF PARLIAMENTARIANS IN POPULATION  
AND THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

THAT, this House notes the Report of the Senate Delegation to the Conference on Enhancing the Role of Parliamentarians in the Interlinkage between Population Issues and the 2030 Agenda for Sustainable Development, held in New Delhi, India from 13<sup>th</sup> -15<sup>th</sup> September, 2017, laid on the Table of the House on Thursday, 2<sup>nd</sup> August, 2018.

*(Motion deferred)*

NOTING OF REPORT OF THE PROCEEDINGS OF THE  
GLOBAL PARLIAMENTARY CONFERENCE (GPC)

THAT, this House notes the Report of the proceedings of the Global Parliamentary Conference (GPC), held at the World Bank Headquarters, in Washington DC, United States of America from 16<sup>th</sup> to 17<sup>th</sup> April, 2018, laid on the Table of the House on Thursday, 12<sup>th</sup> July, 2018.

*(Motion deferred)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, having concluded the Business of the House for today, it is now time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 27<sup>th</sup> November, 2018, at 2.30 p.m.

The Senate rose at 5.00 p.m.