

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

SECOND ASSEMBLY – FIFTH SESSION

Tuesday, 2nd March, 2021

House met in the Main Chamber at 2:30 p.m.

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYERS

The Speaker (Hon. Oraro): Madam Clerk take us through the Order Paper of the day.

The Speaker (Hon. Oraro): Next order!!

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, I have some communications to make. One, I want to confirm that as an Assembly, we have been trying to reach different stakeholder, partners and organizations and today we hosted the Auditor General who after paying a courtesy call to my office, the Clerk and a number of staffs went ahead and met the Public Investments and Accounts Committee. We did agree on a number of areas being collaboration in oversight and audit trainings to Public Investments and Accounts Committee and other committees and a working program for continuous engagements. I want to encourage Members that we take advantage of this and I have already instructed the Clerk to develop a tentative programme for the same and communicate to the regional office here in Kisumu.

I believe that, this will go a long way in ensuring that we carry out our oversight role effectively. On the same note, I am in discussion with the USAID on governance issues and they have agreed to facilitate us on areas governance, civic education and public participation. I am soon getting a team to work out on a concept paper on the same which they have requested us to do as soon as possible.

Hon. Members, I also reached to UNICEF on areas legislation touching on women, youths, children and PWDs. You are aware that the organization's key interest is children and on the same note, their areas of engagements were towards the Health Committee, Education Committee, Agriculture Committee and after a lengthy discussion, we have agreed that on Thursday 4th March, 2021, the Regional Representative shall come to meet the Liaison Committee at the Chambers from 10:00 a.m. The agenda of the meeting is to agree on the areas of collaboration moving forward. The above committee Members to adhere to time. Hon. Members, Members of the Public Investments and Accounts Committee were late except Hon. Benny Oiko, Hon. Seth Okumu, Hon. Beatrice Pamela and Hon. Johnson Guya. The Auditor General was here by 8:30 a.m. and I made a communication that we should be here by 9:00 a.m.

Hon. Members, there shall be the unveiling of Katito Town tomorrow the 3rd March, 2021 from 10:00 a.m. at Nyakach Elders Development Group Ground and I know some Members would want to attend and, in that regard, I want to direct that the Assembly will start at exactly 9:00 a.m. those who may be willing to attend will attend.

Lastly, there shall be a Public Participation on the Bills that were committed to different House Committees here being the Kisumu County Lake Front Development Cooperation Bill, 2021, the Kisumu County Investment and Development Cooperation Bill, 2021, and the Kisumu County Regularization of Land Ownership and Development Bill, 2021. There is a plan to have the Public Participation from 9th and 19th March, 2021 in different Wards. I have consulted and I was told that the idea of spreading between the mentioned dates is to allow the Assembly to continue alongside the Public Participation. Members of the Wards will be the keypersons. So, if there is any question on that then I think it is important to communicate to the Deputy Clerk for any amendment before it appears on the papers.

On the same note I had communicated that all Members to submit at least two dates for Ward Public Participation and the dates for purposes of gazette and carrying out Ward operations in regards to what we addressed in our last *kamukunji*. Unfortunately, not all Members have done so but I have directed the Clerk to go ahead and gazette the ones that have submitted. Those who have not will have to wait until next month. I had requested that you do it for the whole period. That is up to June so that we don't do another gazette. Please comply so that you don't blame the Clerk on the same.

I just want to do a reminder on the House Committees that have not submitted their reports. I had shared the same on the WhatsApp forum but I will go through it very quickly and if there is any

Member who is Chairing a committee, then I will give you time to tell us when you are going to bring the report. There was Ad hoc Committee that was supposed to give us a report on Land Task Force by Hon. Beatrice Odongo. During the House Business Committee, it was agreed that on Thursday this week, you present either a progress report or a comprehensive report.

Water, Environment and Natural Resources Committee, status of drainage along Sije Car Wash Road. The statement was raised by Hon. Pamela Odhiambo. Any response from the Chair or Vice Chair or any committee Member.

The Speaker (Hon. Oraro): Yes. Hon. Okumu.

Hon. Okumu: Thank you Mr. Speaker. I believe that most of our reports are ready, waiting to be slotted by the House Business Committee.

The Speaker (Hon. Oraro): Hon. Seth, I have only received two reports from this committee.

Hon. Okumu: Then we will talk to our Committee Clerk to ensure that it is slotted.

The Speaker (Hon. Oraro): Thank you. Cooperative, Finance, Trade and Enterprise Development. You have the County Government of Kisumu Financial Statement FY ended 30th June, 2020. Any response from the Chair or Vice Chair or any committee Member?

The Speaker (Hon. Oraro): None.

Tourism, Wildlife and Heritage Committee report on Benchmarking Exercise with Siaya County Assembly. Any response from the Chair or Vice Chair or any committee Member?

The Speaker (Hon. Oraro): Yes, Hon. Florence Olang'o.

Hon. Olang'o: Thank you Mr. Speaker. Our Chairperson is not present we shall sit on Monday and adopt the report as a committee then present it in the House. Thank you.

The Speaker (Hon. Oraro): Clerk, take note on that. ECD, Adult Education and Vocational Training Benchmarking with Migori County Assembly. Any response from the Chair or Vice Chair or any committee Member.

The Speaker (Hon. Oraro): Yes, Hon. Vice Chair of the Committee.

Hon. Ogaga: Thank you Mr. Speaker, on behalf of the Chair, I request that we bring the report on Thursday next week.

The Speaker (Hon. Oraro): Are we going to schedule it for debate next week?

Hon. Ogaga: Yes, Mr. Speaker.

The Speaker (Hon. Oraro): Clerk, take note on that. Planning and Industrialization Committee Report on Benchmarking exercise with Nairobi City County Assembly. I believe that I have seen it in our schedule. Labour and Social Welfare Committee report on the Benchmarking exercise with Nyandarua County Assembly?

The Speaker (Hon. Oraro): Yes, Hon. Rashid Miruka.

Hon. Miruka: Thank you Mr. Speaker. We intend to adopt in on Monday then we shall table it.

The Speaker (Hon. Oraro): Clerk, take note on that. Ad hoc Committee on a report on a Statement that was raised by Hon. Maurice Ngeta on payment of Contractors and Suppliers?

The Speaker (Hon. Oraro): Yes, Hon. Leader of Minority. We agreed in the House Business Committee that you give us a progress report on Thursday but you can still tell us something.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. Obligated.

The Speaker (Hon. Oraro): Budget and Appropriations Committee, County Budget Review and Outlook Paper (CBROP). I believe that this is scheduled for tomorrow.

The Speaker (Hon. Oraro): Again, Budget and Appropriations Committee on the Kisumu County Valuation Roll?

The Speaker (Hon. Oraro): Yes, Hon. Khan.

Hon. Khan: We are still having some challenges but we will on Thursday next week.

The Speaker (Hon. Oraro): Budget and Appropriations Committee report on the Kisumu County COVID Social Economic Re-engineering and Recovery Strategy?

Hon. Khan: Again, we shall request the House Business Committee for slot when we meet next week. Thank you.

The Speaker (Hon. Oraro): Joint Committees of Children, Culture, Arts and Sports and Tourism, Wildlife Services and Heritage report on the Vetting on the Chief Officer, Tourism, Culture, Arts and Sports. Hon. Nyasuna and Hon. Ngeta.

The Speaker (Hon. Oraro): Yes, Hon. Aoko.

Hon. Olga: Thank you Mr. Speaker. We are requesting for a week before we table the report.

The Speaker (Hon. Oraro): That is noted. Labour and Social Welfare Committee report on the Submissions of the Kisumu County Public Service Board Annual for the Year 2020?

Hon. Miruka: We had adopted the report in our committee sittings. We shall present it to the House Business Committee for scheduling.

The Speaker (Hon. Oraro): Noted. Administration of Law, Justice, Constitutional Affairs, Good Governance and Security report on Vetting of the County Attorney?

Hon. Okumu: Thank you Mr. Speaker. We just came from the report writing. We shall request for it to be scheduled for discussions.

The Speaker (Hon. Oraro): Agriculture, Livestock and Fisheries Committee report by Hon. Erick Agolla. About the Dying Fish in the Lake. Any response from the Chair or Vice Chair or any committee Member. Yes, Hon. Khan.

Hon. Khan: Thank you Mr. Speaker. We are still handling the report and we are yet to get a response from the CEC Agriculture. We shall bring the report once receive a response.

The Speaker (Hon. Oraro): You need to take your work seriously and follow up. The Agriculture Committee has been doing very well. I don't know what happen in the recent past?

Hon. Khan: We shall comply Hon. Speaker once we receive a response.

The Speaker (Hon. Oraro): Cooperative, Finance and Enterprise Development report on Amended Report on the County Government of Kisumu Financial Statements of FY ended 30th June, 2020.

The Speaker (Hon. Oraro): Yes, Chair.

Hon. Okiri: Thank you Mr. Speaker. We are working on the final report and we shall be ready by Thursday next week.

The Speaker (Hon. Oraro): Mr. Clerk, take note on that. Children, Culture, Arts, Sports and Community Services Committee report on Benchmarking Exercise with Nairobi County Assembly. The report is due today.

The Speaker (Hon. Oraro): Yes, Hon. Olga.

Hon. Olga: Thank you Mr. Speaker. We are working on the report and we shall table it next week.

The Speaker (Hon. Oraro): Joint committee of Administration of Law, Justice, Constitutional Affairs, Good Governance and Security and Labour and Social Welfare Committee on a Statement that was sought by Hon. Gard Olima. The report is due tomorrow.

Hon. Okumu: Thank you Mr. Speaker. We had one meeting and we explore and wrote back to the department because the questions sought were very direct. We are waiting for the reply. We shall communicate the same to the House Business Committee tomorrow.

The Speaker (Hon. Oraro): Health, Housing and Sanitation report on the Statement that was raised by Hon. Rashid Miruka on Community Health Volunteers (CHVs). It is due on 10th March, 2021. I hope the committee is working on it.

The Speaker (Hon. Oraro): ECD, Adult Education Committee report on Statement raised by Hon. Johnson Guya. The date is 10th March, 2021. I hope the committee is working on it?

The Speaker (Hon. Oraro): Yes. Hon. Okiri.

Hon. Okiri: Mr. Speaker, let us give the Chair Education to say something.

The Speaker (Hon. Oraro): It is due on 10th March, 2021 and I don't see the need of giving the Chair a chance to say something.

The Speaker (Hon. Oraro): Hon. Guya.

Hon. Guya: Thank you Mr. Speaker. The Chair is here and we agreed last week that the report be brought tomorrow.

The Speaker (Hon. Oraro): Hon. Guya, you are right but, after consultations we agreed to give the committee ample time and that is why it was scheduled for 10th March. Can you just hold your horse?

Hon. Guya: Thank you.

The Speaker (Hon. Oraro): Yes, Chair Finance.

Hon. Okiri: Thank you Mr. Speaker. I abide by your ruling.

The Speaker (Hon. Oraro): I saw Hon. Arao in the Chambers.

Hon. Guya: He is always like that.

The Speaker (Hon. Oraro): Yes, Hon. Ogaga.

Hon. Ogaga: Thank you Mr. Speaker. The Chair is held up somewhere and that is why I am here. We have been having meetings as the committee and we have done communications to the Executive to furnish us with the information that we needed concerning the statement and we are on it. As you are aware the department has never been ready with the response and this has been a challenge. We will give a report by 10th of this month.

The Speaker (Hon. Oraro): Hon. Guya.

Hon. Guya: Mr. Speaker, we have waited for this report for long. The Vice Chair has talked of "as usual". Are we going to get the report or not?

The Speaker (Hon. Oraro): Thank you Hon. Guya. I want to protect Hon. Ogaga by saying that I already gave direction that overrule whatever she said. Hon. Members, 10th March is the last day and failure to which, we will have to take appropriate action. Lastly, we have the Implementation

Committee Report on the Statement raised by Hon. Johnson Guya. It is also due on 10th March. I can see the Chair here.

Hon. Agolla: Thank you Mr. Speaker. We had a meeting yesterday and I want to thank the House Business Committee that we did requested for a slot on Thursday to deliberate more. I want to assure the House that we are working towards giving a comprehensive report as we wait for the communication from the Executive side. Thank you.

The Speaker (Hon. Oraro): Let me say that the benchmarking exercise that we are having is for the purposes of enriching what we do or learning from what other people do. A report from such exercise should not take a month. On the same note, as we agreed earlier that if a committee is not able to work on an assignment, then we shall give Ad Hoc Committees such tasks. I am becoming worried that even the Ad Hoc Committees are not being effective. What is it Hon. Agolla Erick?

Hon. Agolla: Thank you Mr. Speaker. I am rising on Standing Order No. 38. That is the sequence of business. Allow me to request your chair to kindly take action on the Committee on Education, you had ruled on this issue but we are really suffering. The issue of Bursary and Scholarship is killing this County. Kindly, take action on this committee. I was really disturbed to hear the Vice Chairperson saying that the Chair is unwell. We spent more than three hours here laughing and chatting with the Chair and now he is unwell when we want to transact a serious business like this. We cannot take matters of Education of this county for granted the way the Chair is doing. We cannot sit and relax when this County is going to the wrong direction. Thank you.

The Speaker (Hon. Oraro): Thank you Hon. Agolla. I have noted your concerns but as I directed earlier, let u give them up to 10th March. Failure to which we shall agree on the way forward just as we agreed that if a committee fails to present a report on benchmarking then I shall not approve such requests going forward. That must be very clear. We have got so many reports that should come to the Assembly and none is coming.

The Speaker (Hon. Oraro): Yes, Leader of Majority.

Leader of Majority (Hon. Onyango): Mr. Speaker, sometimes when an issue is brought up that is of immense importance then even communication of the Chair can be debated. If you go in jurisdiction like the parliament that happens. Even though you have given direction but I think it is a matter that we must find a solution for because it is raising a lot of concern to our voters because it is Bursary.

Mr. Speaker, we must find a way in which we can get very tangible and straight forward answers that we can communicate to our electorates because there are things that are coming up glaringly. Even the bursaries that have been given to the Form Fours. There are people that were given bursaries but what was given doesn't reflect....

The Speaker (Hon. Oraro): Yes, Hon. Okumu.

Hon. Okumu: Thank you Mr. Speaker. This is House of orders and we are under the Communication from the Chair. I can see the speaker on the Floor using the backdoor to bring a motion for discussion. I am requesting for your guidance.

The Speaker (Hon. Oraro): Thank you Hon. Okumu. That is what I was going to ask Hon. Leader of Majority because I had already made a ruling. I know matters under the Communication from the Chair can be debated but by the leave of the Speaker. I already made a pronouncement that 10th is not far. It is next week. Let all Members come on that date so that we make an appropriate decision. So, let us not discuss it. Yes, Hon. Benny Oiko.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker. What I want to say has been raised by you on the Ad hoc Committee. When your Chair is blaming the Ad hoc Committees that have so performed in this House, look at the composition of the Members of these committees. I am the Chair of one of the Ad hoc Committee but my Members hardly attend meetings but when you look at the attendance register you will find that everyone had signed. Let us be serious. Mr. Speaker, I am also very happy today when the Leader of Majority has come to condemn the issue of Bursaries in the floor of the House. Last year when that matter was highlighted...

The Speaker (Hon. Oraro): Hon. Leader of Minority, we have heard your information. Hon. Members, the issue of Ad hoc Committees. The issue which the Leader of Minority is raising is weighty, that you don't attend meeting and all the Members have signed the Attendance Register. That is a very grave issue and I want to challenge the Chairpersons of House Committees that, if this is the case, then, you must give this House a progress report stating that your Committee cannot proceed to enable this House change the Membership. If that is the case.

So, when the time comes Leader of Minority, come and tell this House that you cannot proceed because Members are not attending meetings and we change the membership because there are so many Hon. Members here, for your information we are forty-eight members and the Ad hoc Committee is only constituted of eleven or seven members. So, if there is no active participation, I believe that it will be legitimate to change the membership so that you can proceed with your assignment. So, don't die.

The Speaker (Hon. Oraro): Hon. Pamela Odhiambo.

Hon. Pamela Odhiambo: Thank you Mr. Speaker. The Committee of Welfare and Equal Opportunity convened yesterday and we adopted the report and we will bring it to the House Business Committee on Tuesday for slotting. Mr. Speaker, I am stating this because, you are still under communication and you have not reached our committee. I have an issue in the ward that I want to address and I wanted to excuse myself if you allow me for ten minutes then I return back.

The Speaker (Hon. Oraro): Hon. Members, if my memory serves me well, I already touched on the Committee of Welfare and Equal Opportunity. Anyway I had given directions and please allow us to proceed to the next order.

The Speaker (Hon. Oraro): Madam Clerk, next order!!

PAPERS LAID.

The Speaker (Hon. Oraro): Hon. Olwal.

Hon. Olwal: Thank you Mr. Speaker. Pursuant to the provisions of County Assembly Standing Orders No. 182 (6), I wish to table today Tuesday, 02nd March, 2021 Planning, Industrialization and ICT Report on the Benchmarking Exercise with Nairobi City County Assembly. Thank you.

The Speaker (Hon. Oraro): Hon. Olwal, where is the report that you are tabling?

(Hon. Olwal tables the Report before the House)

The Speaker (Hon. Oraro): Hon. Members, I confirm receipt of a Report from the Standing Committee of Planning, Industrialization and ICT on a Benchmarking Exercise with the sister Committee of the Nairobi City County Assembly as presented by Hon. Olwal, Chairperson of the House Committee and I do hereby commit this report to the House Business Committee for purposes of scheduling for debate.

The Speaker (Hon. Oraro): Yes Leader of Majority.

Leader of Majority (Hon. Onyango): Mr. Speaker, are you controlling the microphone from your end?

The Speaker (Hon. Oraro): Leader of Majority, let the Serjeant-at-Arms assist you.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. Pursuant to the provisions of section 123 (1) of the Public Finance Management Act, 2012. I wish to lay before this House today 02nd March, 2021 the Kisumu County Debt Management Strategy Paper FY 2021/2024. Thank you.

(Hon. Leader of Majority tables the KCDM Strategy paper before the House)

The Speaker (Hon. Oraro): Hon. Members, I confirm receipt of the Kisumu County Debt Management Strategy Paper FY 2021/2024 as laid before this House by the Leader of Majority. I hereby commit this document to the Select Committee of Budget and Appropriations. In my communication I read a lot of pending works that have not been concluded by the same Committee. What is happening? The Vice-chair, Hon. Khan.

Hon. Olwal: Point of Information.

The Speaker (Hon. Oraro): Yes Hon. Olwal.

Hon. Olwal: Thank you Mr. Speaker. I believe that there is something wrong on the committing of statutory documents to House Committees. Especially, there are a lot of key documents committed to the Budget and Appropriations Committee erroneously. Simply because they have Operation Allocation for Committees...

The Speaker (Hon. Oraro): Hon. Olwal, I want to rule you out of order. There is no document that has been erroneously committed to the Budget and Appropriations Committee. If you look at the Public Finance Management Act, 2012 and other relevant statutes, those key or monetary documents are supposed to be committed to the Budget and Appropriations Committee.

Again, I want to inform you that you are out of order. What we need to understand is why the Committee has a lot of pending works. These documents are assigned timelines and when committed you are expected to work on them within the stipulated timelines. In any case, I am committing this report on the Kisumu County Debt Management Strategy Paper FY 2021/2024 to the Budget and Appropriations Committee. I want to direct that, they look at the Debt Strategy Paper and report back to the House within twenty-one calendar days. So, to the Committee of Budget and Appropriation, that is additional work in your tray.

The Speaker (Hon. Oraro): Leader of Majority.

Leader of Majority (Hon. Onyango): Thank you Mr. Speaker. Probably before I move to the next paper, allow me to share into your concerns about...

Hon. Okumu: Point of order Mr. Speaker.

The Speaker (Hon. Oraro): What is it Hon. Okumu?

Hon. Okumu: Mr. Speaker, the Leader of majority has consistently broken the order of the House. Mr. Speaker, you have communicated, but instead of laying a paper, he wants to again commence discussing your communication. Please guide the House.

The Speaker (Hon. Oraro): Hon. Leader of Majority, can you please lay the paper that is before you.

Leader of Majority (Hon. Onyango): Mr. Speaker, I don't know what is wrong with Hon. Okumu, I don't know what he is suffering from today...

The Speaker (Hon. Oraro): Order!! Order!! Hon. Members. Hon. Leader of Majority, Hon. Okumu is in order.

Leader of Majority (Hon. Onyango): Pursuant to the provisions of County Assembly of Kisumu Standing Order No. 221...

(Laughter)

Mr. Speaker, you are not protecting me.

The Speaker (Hon. Oraro): Leader of Majority, please do what is expected of you.

(Laughter)

Leader of Majority (Hon. Onyango): Pursuant to the provisions of County Assembly of Kisumu Standing Order No. 221, I wish to lay before this House today Tuesday, 02nd March, 2021 the Kisumu County Fiscal Strategy Paper FY 2021/2022. Thank you.

(Hon. Leader of Majority tables the Fiscal Strategy Paper before the House)

The Speaker (Hon. Oraro): Hon. Members, I confirm receipt of the Kisumu County Fiscal Strategy Paper FY 2021/2022 as laid before this House by the Leader of Majority. I hereby commit this document to the Select Committee of Budget and Appropriations so that the Committee interrogates the paper alongside the Debt Management Strategy Paper and report back within the same period that is twenty-one calendar days from today.

This time round if you don't do it then, I believe that we will have to devise a way of looking at it. This is because I have realized that there is a lot of backlog committed to the Budget Committee. Hon. Khan, you don't need to respond to that.

The Speaker (Hon. Oraro): Next order!!

NOTICES OF MOTION.

The Speaker (Hon. Oraro): Hon. Olwal, Chairperson, Planning, Industrialization and ICT.

Hon. Olwal: Thank you Mr. Speaker. Pursuant to the provisions of County Assembly Standing Orders No. 45, I wish to give a Notice of Motion on the Planning, Industrialization and ICT Committee Report on a Benchmarking Exercise with the sister Committee of the Nairobi City County Assembly. Thank you.

The Speaker (Hon. Oraro): Next order!!

STATEMENTS.

The Speaker (Hon. Oraro): Hon. Okiri.

Hon. Okiri: Thank you Mr. Speaker. I rise while citing Standing Orders No. 42 which is on personal Statements.

Mr. Speaker, yesterday, it was a very bad day for me as the Hon. Member of West Kisumu Ward. At around 06:00 p.m. I heard noise outside my gate. This compelled the security person to open the gate and know exactly what was happening and why the noise. Unfortunately, members of the

public stated that they wanted to see their Hon. Member who is their representative in the Assembly.

Mr. Speaker, I was called upon and I stepped out and met them in my garden. The bone of contention here was that, their children have been chased out of school because the Kisumu County Government made a pledge with schools to pay fees using Scholarships and Bursaries. It so happened that I was also to go and pay dowry for my lovely wife in Kendu Bay. The locals have misinterpreted this matter in a different way that, I have squandered their funds and the only thing I am left doing is to remarrying.

Mr. Speaker, my constituents could not comprehend the context why we cannot directly access funds from the County Government and that is not our concern. Mr. Speaker, I am trying to build a point here, that we are facing challenges as Hon. Members because the children of our constituents are at home, they cannot go to school and most of these children are those under the Scholarship Scheme and these are children who are vulnerable and don't even have a single penny.

Mr. Speaker, as I am talking today, in my ward I have thirty-two of them who are at home. Under the provisions of Standing Orders No. 42 which is under Personal Statements, I would like to seek for indulgence through your Chair that, you please allow this House to debate on this matter. Thank you.

The Speaker (Hon. Oraro): Hon. Members, I believe that you have heard the concerns of Hon. Okiri which is a Personal Statement but I will not allow this matter to be debated because I have already given directions that on 10th March, 2021 we are expected to get a report from the Standing Committee of Education and Vocational Training. On the same note, I have noticed that in the Business Schedule, there is the County Budget and Review Outlook Paper (CBROP) FY 2019/2020 which is to be moved tomorrow Wednesday, 03rd March, 2021. This report on the CBPROP will provide us with information and indicators of how all the planned activities in a year and their implementation status.

So, I believe that we will get a presentation on the Status of Bursary and Scholarships in the County Budget and review Outlook Paper (CBROP) FY 2019/2020. I will not allow it for debate but I will allow the Chairperson of Committee of Education to present a report on 10th March, 2021.

Hon. Ogutu: Mr. Speaker, can you please allow me to inform the House?

The Speaker (Hon. Oraro): It is Statement time Hon. Ogutu. Do you want to seek for a Statement?

Hon. Ogutu: Mr. Speaker, it is a Statement that I want to seek. Mr. Speaker, I believe that you have the prerogative while occupying that chair...

The Speaker (Hon. Oraro): Proceed Hon. Ogutu, and which Standing Orders are you rising on?

Hon. Ogutu: Mr. Speaker, this is information, which I believe does not require that we cite any Standing Orders.

The Speaker (Hon. Oraro): Hon. Ogutu, I will rule you out of order...

Hon. Ogutu: Please don't rule me out of order Mr. Speaker because the children of Kisumu County are really suffering...

The Speaker (Hon. Oraro): Hon. Ogutu, I will not open debate on the matter because I have given my ruling that on 10th March, 2021, the Education Committee is to table a report on the same before this House.

Hon. Ogutu: Mr. Speaker, we are talking of 10th March and the children are at home.

The Speaker (Hon. Oraro): Hon. Ogutu, I again rule you out of order. Please resume your seat.

Hon. Ogutu: Mr. Speaker, please consider the cries of the children of Kisumu County...

The Speaker (Hon. Oraro): Hon. Ogutu, you are out of order.

The Speaker (Hon. Oraro): Hon. Olwal.

Hon. Olwal: Thank you Mr. Speaker...

The Speaker (Hon. Oraro): Hon. Agolla, what is it? Hon. Olwal, Hon. Agolla is on a Point of Order.

Hon. Agolla: On a Point of Order. Thank you Mr. Speaker. I rise while citing the provisions of Standing Orders No. 42. The Statement raised by Hon. Okiri fall under the ambit of Standing Orders No. 42 which may not be debated.

Mr. Speaker, you are aware that in law, when the Standing Orders say that it "shall not" be debated, then we shall not even attempt to debate. When the Standing Orders is relaxing these rules when it states it "may", the Members may debate.

Mr. Speaker, I want to implore you that because you can see the extent and gravity of this matter and by extension the lives of Hon. Members is being threatened. Mr. Speaker, Hon. Okiri has got one weakness because I witness the way his compound was full and his family was disturbed and if we differ this matter up to 10th of March, then, you will hear serious cases affecting Hon. Members. Mr. Speaker, for our safety, I have seen Hon. Arao just walk in, kindly allow us to debate on this matter under the provisions of Standing Order No. 1. Thank you.

The Speaker (Hon. Oraro): Hon. Erick Agolla, I believe that I have really tried to restrain myself from the matter from the beginning because I was trying to find a conclusive report on 10th March, 2021. Honorable Members, the reason for saying so is on my concern on the statement raised by

Hon. Paul Okiri. The Standing Order No. 42, which you are referring to, is on Statements. However, the Personal Statement as you have clearly presented may be debated or not depending on the directives of the Speaker, hence my argument to take it to 10th March, 2021.

(Laughter)

Hon. Leader of Majority, you are eating into the statement time, let me give chance to Hon. George Olwal.

Hon. Ogutu: Point of Information Mr. Speaker.

The Speaker (Hon. Oraro): Hon. Ogutu I am sure you want to engage further on the same issue.

Hon. Ogutu: Mr. Speaker, this matter is very important and I have just heard the Leader of Majority say ‘*Excuse me, Mr. Speaker*’, however, I have never heard anywhere in the history of this House where excuses are in the Standing Order.

(Feet thumping)

The Speaker (Hon. Oraro): Hon. George Ogutu you are in order because we do surely do not have such a term in the Standing Order of this Assembly.

(Laughter)

Hon. Leader of Majority, I believe you have heard from Hon. George Ogutu that indeed we do not have such a term in the Standing Order of this Assembly. Yes, Hon. George Olwal

Hon. Olwal: Thank you Mr. Speaker, I rise on Standing order no. 41 (2) (d); as the Chairperson of Planning, ICT and Industrialization Committee. It has come to the knowledge of my office that there is a public outcry on the ongoing demolitions in Kisumu City. It is therefore upon my office to carry out an investigation on whether or not these demolitions were done inhumanly and within the law or the inverse. I want to inform the House that my committee is going to look into the demolition issue and the displacement that were done by Kenya Railways Corporation and the County Government of Kisumu, especially the Nubian ethnic minority at Kibos area.

Hon. Beatrice Pamela: Point of information Mr. Speaker.

The Speaker (Hon. Oraro): Yes, Hon. Beatrice Pamela, who do you want to inform?

Hon. Beatrice Pamela: I want to inform the House.

The Speaker (Hon. Oraro): Proceed.

Hon. Beatrice Pamela: On a point of information. Mr. Speaker, the issue of whether or not law was followed, justice is vetted, or whether things are done in a human way during the demolition

is a prerogative of the Department of Justice, Administration of Law, CONSTITUTIONAL affairs and Good Governance but not the Department of Planning, industrialization and ICT.

(Feet thumping)

Hon. Olwal: Mr. Speaker, my committee's mandate entails issues on land, mapping and survey. I don't know whether or not they understand that and how they will find out whether these people who were genuinely occupying the plots they were displaced from.

The Speaker (Hon. Oraro): Honorable Members I want to give guidance. The honorable Member who is on the floor is the Chairperson to the Committee of Planning, industrialization and ICT. If I recall clearly, there is a bill in the House of 'Kisumu County Regulation of Land Ownership and Development Bill', which is within the mandate of the referred committee. I have gone through the bill and noted some of its sections. However, I am not sure if the Chairperson has also done the same. That is an opportunity for you to do all these things that you are suggesting.

Hon. Olwal: Mr. Speaker, the bill that we have is on Regularization of Development and has nothing to do with...

The Speaker (Hon. Oraro): Hon. Olwal, I have said 'Kisumu County Regularization of Land Ownership and Development' not 'Development Land Ownership' unless you are changing the content of the bill.

Hon. Khan: Point of information Mr. Speaker.

The Speaker (Hon. Oraro): Yes, Hon. Aslam Khan.

Hon. Khan: Thank you Mr. Speaker, when we sat and had discussions on the said bill, the Chief Officer from the Department of Planning said that the word 'ownership' was wrongfully included there and should be omitted altogether.

The Speaker (Hon. Oraro): Yes, Hon. Olwal, I know you were on statements and I am coming back to you shortly.

The Speaker (Hon. Oraro): What is it Hon. Erick Agolla?

Hon. Agolla: Thank you Mr. Speaker, I just wanted to plead with you to allow Hon. Olwal to continue. I know members will be scrambling for business to transact but this statement being raised by Hon. Olwal is squarely in his docket. Mr. Speaker, remember that the enactment of bills is determined by this House so we cannot wait until then at the expense of public outcry on the displacements yet a member is concerned. After investigations by the committee members, the matters that will come up requiring scrutiny by the Standing Committee of Legal Affairs and Justice will consequently be referred to the said department.

The Speaker (Hon. Oraro): Hon. Erick Agolla, if you read the Standing Order no. 41 (2) (d) that Hon. Olwal referred to, it is about the Chairperson reporting the activities of the committee. So as the Chairperson, he is reporting the activities of his committee because he has not asked for permission to be given more time.

Hon. Olwal: Yes, I am just reporting that I intend to go out and investigate. Moving on, Mr. Speaker, I don't want to be anticipatory on the bill that is yet to come but we are working on the regularization of development plans. Mr. Speaker, my committee is aware that there exists a local physical land use development plan that this bill tends to regularize. I would want to request the office of the clerk to seek that these plans are brought to the Assembly for approval so that as we work on these other bills. They will go concurrently with the existing plans. We also need to request the Executive to submit the County Physical Development Plan to go concurrently with the Regularization Bill. Thank you.

The Speaker (Hon. Oraro): I had noticed Hon. Paul Okiri.

Hon. Okiri: Thank you Mr. Speaker, however, the issue has been overtaken by events. Nevertheless, I would like to extend an invitation for a cup of tea in the evening for some little talk so that he doesn't embarrass himself next time. The kind of information he wanted could have been easily found by him talking nicely to any member of his committee. Otherwise thank you.

The Speaker (Hon. Oraro): Hon. Olwal you had already made your statement, what is it?

Hon. Olwal: I want to inform the House Mr. Speaker.

The Speaker (Hon. Oraro): Proceed.

Hon. Olwal: Mr. Speaker, there are several ways of doing things. If there is any issue to be raised in the House, as a chairperson, I wouldn't give it to somebody else to do it but just do so on Standing Order No.41 (2) (d), which is a provision in our Standing Orders.

The Speaker (Hon. Oraro): Hon. Olwal, I had already protected you on that but all the same it is still statement time.

The Speaker (Hon. Oraro): Yes, Hon. Philemon Ojuok.

Hon. Ojuok: Thank you Mr. Speaker. I was in the process of making a statement but I could not get the clerks to aid so nevertheless, I had a statement regarding what Hon. Olwal was talking about...

The Speaker (Hon. Oraro): Hon. Philemon, we had already concluded that one, so you can either make a Personal Statement or a Statement of Total Concern.

Hon. Okumu: Point of order Mr. Speaker.

The Speaker (Hon. Oraro): Yes, Hon. Okumu.

Hon. Okumu: On a point of order. Mer. Speaker, under the orders of the House, it is Statement time yet Hon. Philemon is talking about having had an intention of making a statement which he still doesn't have yet he is still insisting on continuing. We just need guidance on that, thank you.

The Speaker (Hon. Oraro): What is it Hon. Olwal.

Hon. Olwal: Point of Order. I believe that, what Hon. Philemon is trying to put across is for you to put up my statement for debate. Thank you.

The Speaker (Hon. Oraro): Hon. Olwal, as a person who has the Standing Orders that guides you, keenly read Standing Order No. 41(2) (d). Kindly read it through and tell us where there is that provision of debating on your statement.

Hon. Olwal: Mr. Speaker, it is not clear whether it is debatable, however remember that statements can be debated with an exception of Personal Statements.

The Speaker (Hon. Oraro): Hon. Olwal, you could have requested the House or the Speaker to allow you to debate your statement and yet you didn't. I want to give other members the chance to do so.

The Speaker (Hon. Oraro): What is it Hon. Erick Agolla?

Hon. Agolla: Mr. Speaker, pursuant to the Standing Order No. 41 (2) (d) referred to by Hon. Olwal, I want to further refer him to part (4) of the same Standing Order. *'That no Member making a statement under this Standing order shall speak for more than 5 minutes.'*

The Speaker (Hon. Oraro): Thank you Hon. Erick Agolla. I have only 10 minutes left for the statement period to elapse.

The Speaker (Hon. Oraro): Yes, Hon. Leader of Majority.

The Leader of Majority (Hon. Onyango): Thank you Mr. Speaker, but before I make a statement, I want to withdraw my *'Excuse me'* expression used in the House. My statement in in reference to Standing Order No 41 (2) (d), and you had earlier alluded to the fact that there is a bit of sluggishness in the Budget and Appropriations Committee. It concerns me as the Leader of Majority, and as we have laid the County Fiscal Strategy Paper (CFSP) today before passing the CBROP, which should have been done much earlier because, the CBROP needs to inform the formulation of the CFSP. This only means that there is a gap in the Budget and Appropriations Committee and we have already seen that there is a lot of pending work there.

Mr. Speaker, I want to propose a meeting with the leadership of the Budget and Appropriations Committee so that, we may know what the problem is. The importance of this is because of the

timelines made to the committee on all issues presented but if there is any lethargy on the way they handle things then that would negatively impact the activities of this House, thank you.

The Speaker (Hon. Oraro): Yes, Hon. Philemon Ojuok.

Hon. Ojuok: Thank you Mr. Speaker.

Hon. Khan: On a Point of Order. The Leader of Majority should apologize for making such a statement to the committee...

The Speaker (Hon. Oraro): No, Hon. Khan, the statement is very clear as the Leader of Majority has requested for a meeting with the leadership. I also raised a concern in the backlog experienced in the committee of Budget and Appropriations.

The Speaker (Hon. Oraro): Hon. Philemon, the floor is yours.

Hon. Philemon: Thank you so much Hon. Speaker. This is a personal statement in regards to some of the experiences that I have had when I am walking within town. There is a place where I normally repair my vehicle. When I was there at the garage, my vehicle was almost pushed off when there were demolitions which were going around the Post Office building. When I was there, these people happened to know that I am a *Mheshimiwa* here at the County Assembly of Kisumu. They asked me to tell them if we were indeed working. The number of demolitions, that have ever happened and if there is compensation. This is as a result of the fact that they were arguing about compensation since some people have been compensated while others have not. They were saying that these demolitions are so haphazard that they do not know whether they would be around. So, they were asking me if I knew of another intended demolition, the manner in which they are going to be carried out and if there is compensation on the same.

It was so embarrassing that; I was there, I do not know all those that have been executed, who authorized them and the intended one that is about to be demolished. Those were their concerns.

I did not want to bring it as a personal statement, but, that is what I experienced, they were almost pulling my vehicle from that particular place.

When I was asked by the people around- thinking that I being a House Member, I had some information, yet I had none.

Then, the next day when I was going through the Oginga Odinga Road, they were pulling the vehicles stating that there is no parking space there. And when they were doing that, again people were asking me; *Mheshimiwa*, did you pass these kind of Laws, and if so why?

Again, I told them I do not know. We have never passed such kind of law. Now, it is something that is very embarrassing and we really need to discuss it.

My prayer is that this House discusses the demolitions that are going round here in Kisumu town. Also, whether this House is also involved, and if we are also unaware the same way the public do.

Being representative of the public, when we are asked about an issue and we are as uninformed as they are, it is a very pathetic situation. This House needs to take charge of the running of this city. Because the ultimate power is in this House, not anywhere else, thank you very much.

The Speaker (Hon. Oraro): Thank you. Hon. Philemon, I believe that you requested for a chance to make a Personal Statement but in the end, it turned out to a Statement of Topical Concern. I am aware that you know the procedure of bringing such statements in the House. You should package it in the manner it is supposed to be and bring it to the House as per the relevant Standing Order.

The Speaker (Hon. Oraro): Hon. Okumu.

Hon. Okumu: Thank you Mr. Speaker, under Standing Order No. 42, I want to bring a Personal Statement.

The Speaker (Hon. Oraro): Please proceed.

Hon. Okumu: Mr. Speaker, this House gave me a very nice locker here which I use to keep my paper. The one I am intending to use for as long as I will be in this House.

However, I do not what is wrong with the person who is cleaning this room or the Sergeant-at-Arms. They believe that after we are through with the debate, all the papers are useless, or it is something that I do not know. Every time, they are taking my papers. Mr. Speaker, even today the report that I was supposed to read, is not in my locker and this forced me to make another copy. Because somebody thought that the only way of cleaning this room is by removing all the papers from my locker.

Mr. Speaker, I want to request the Serjeant-at-Arms, if indeed they are the ones doing this, or the person entrusted to clean this place. That the papers on my desk are reserved for future reference and they should be kept where I have left them. Thank you.

The Speaker (Hon. Oraro): I believe that the Serjeant-at-Arms have taken note on that and will convey the message to the cleaner of this place.

The Speaker (Hon. Oraro): *Mheshimiwa* Aslam Khan, you are the last one because we are past the statement hour.

Hon. Khan: Thank you Mr. Speaker for allowing me at the niche of the hour. Mr. Speaker I am just rising on the Standing Order No. 42 to make a Personal Statement and especially as a representative of the Minority regarding the Nubians' sufferings in Kibos.

Mr. Speaker, I would have brought it under a Statements of Topical Concern as provided by the Standing Order No. 41 (a) but, I did not write the statement on the same. However, I am requesting through your chair plus seeking your indulgence if you can allow us to talk about the sufferings of the Nubians in Kibos. The way; they were removed, suffering, cannot take their children to school and the sickness involved. At the same time, I do acknowledge the County Government of Kisumu for coming at the right time. They have come to assist the people that I represent in this Assembly as minorities for being given; health facilities and for being given temporary shelters.

Mr. Speaker, personally I was there and donated 100 pieces of iron sheets to ensure that at least our people are taken care of against the rainfall that do occur in that place. But, Mr. Speaker, there are lots of problems there and if you allow; I need this issues to be discussed here in this Assembly because the minorities also have rights in this county. They should be considered for anything that is befalling them. Thank you.

The Speaker (Hon. Oraro): Hon. Members, I believe that the matter you are raising is not a Personal Statement but a Matter of Topical Concern. In the same way that I directed Hon. Philemon, I believe that there is a way of bringing such matter for discussion. That is because, if we discuss such matters as personal statement, what are you going to achieve?

Hon. Member, I mean, if in case you have a matter of topical concern, then you should even have prayers and the prayers have to be agreed upon by the members or rejecter or in other way the recommendation is made. So, I decline to open it for debate but I am suggesting that you package that statement in the manner that it should for discussion. Otherwise, even if you open it for debate, and it is debated upon without prayer and conclusion.

On the same note, I believe that, Hon. Olwal was alluding to the same statement. When he said that his committee (Planning, Industrialization and ICT) is looking for such areas including the demolitions and the rest and I believe that he was very specific on the issue of the Nubian community. Maybe you can liaise with that committee.

The Administration of Law, Justice and Constitutional Affairs, Good Governance and Security Committee led by Vice Chairperson, Hon. Beatrice Pamela, I think also alluded to the same.

So, there are a number of committees that can do that but, I suggest that you package it in the right way. It was a topical concern.

The Speaker (Hon. Oraro): Hon. Members, it is the end of the Statement time. If still have one, we still have tomorrow whereby you can present them.

The Speaker (Hon. Oraro): Next order!

MOTION**ADMINISTRATION OF LAW, JUSTICE AND CONSTITUTIONAL AFFAIRS, GOOD GOVERNANCE AND SECURITY COMMITTEE, REPORT ON THE COMMITTEE TRAINING ON ACCESS TO JUSTICE AND INTERPRETATION MANDATE****BY HON. SETH OKUMU,****CHAIPERSON.**

The Speaker (Hon. Oraro): is this the report that Hon. Seth Okumu said that it disappeared? Was it an excuse?

Hon. Seth Okumu: No Mr. Speaker.

The Speaker (Hon. Oraro): Proceed Hon...

Hon. Seth Okumu: Thank you, Mr. Speaker that was a joint committee report that I was talking about. But, I want to move a motion on our report on the committee training on Access to Justice and Interpretation Mandate.

PREAMBLE.

Mr. Speaker and Hon. Members. On 5th October, 2020 the Office of the Clerk received a letter from Mrs. Betty Okero; the Team Coordinator for the Civil Society Organization Network inviting the Committee on the Administration of Law, Justice, Constitutional Affairs, Good Governance and Security to an Access to Justice Training for the Committee to be held from 10th to 13th of October, 2020 at Sossa Cottages; Vihiga County (See annex I).

Consequently, the Clerk of the Assembly, notified the Members of the Committee about the invitation from the Civil Society Organization Network (hereinafter referred to as CSON) and requested the members to deliberate on the modalities of the training vide the Committee Notice dated Tuesday 6th October, 2020 (see Annex II). The notification was communicated to the Committee which upon its deliberation resolved to attend the training in accordance with the scheduled dates and the program (See Annex iii).

Mr. Speaker and Hon. Members, pursuant to Article 185 (4) of the Constitution of Kenya and Section 9(1) (e) of the County Governments Act read together with Standing Orders No. 193 (5) (b); the Committee on Administration of Law, Justice, Constitutional Affairs, Good Governance and Security attended its First Training on Access to Justice hosted by CSON for purposes of Policy Formulation, on Planning and Action in Partnership on all matters related to Access to Justice and the Administration of Law and Constitutional Affairs.

The theme of this training was “*one voice, one purpose*”.

The Committee Mandate and Composition

Mr. Speaker and Hon. Members, Pursuant to Standing Order No. 193 of the Kisumu County Assembly Standing Orders the Committee on Administration of Law, Justice, Constitutional Affairs, Good Governance and Security is mandated to oversee and investigate;

All matters relating to referendum, further Devolution in the County, issues of Integrity, Ethics and Conflicts of Interests including Anti-corruption and Human Rights; ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations in governance at the local level and assisting communities and locations to develop administrative capacity for the effective exercise of the functions and powers and participation in governance at the local levels; administration of law and justice, including working and collaborating with national government operatives within the County especially on security matters.

The Second Schedule of the Standing Order No. 193 further outlines the Subjects of the Committee as follows:

- i. Constitutional Affairs
- ii. Administration of Law and Justice
- iii. Ethics, Integrity and anti-corruption
- iv. Coordination of Governance within the County
- v. Human Rights
- vi. Security Matters and
- vii. All matters relating to a referendum

Composition.

The committee as currently constituted comprises of the following Honorable Members;

NAME	POSITION
1. Hon. Seth Okumu	Chairperson
2. Hon. Beatrice Pamela	Vice Chairperson
3. Hon. Jacktone Ogendo	Member
4. Hon. David Arao	Member
5. Hon. Erick Agola	Member
6. Hon. Julius Genga	Member
7. Hon. Sally Okudo	Member
8. Hon. Ken Ooko	Member
9. Hon. Johnson Guyah	Member
10. Hon. Philemon Ojuok	Member

11. Hon. Joachim Oketch	Member
12. Hon. Roy Samo	Member
13. Hon. Caleb Omoro	Member
14. Hon. Vitalis Otura	Member
15. Hon. Paul Okiri	Member

Committee Secretariat

1. Herman Moses – Committee Clerk
2. Denis Ogolla - Hansard Reporter
3. Kennedy Okise - Serjeant-at-arm

OBJECTIVES OF THE TRAINING.

Mr. Speaker and Hon. Members; The Training aimed at;

- Expounding and interpreting Committee mandate and supervisory jurisdiction as outlined in the Standing Orders.
- Providing practical and innovative solutions towards access to justice within the County,
- Post Covid 19 Pandemic Economic Recovery Strategy
- Formulation of Policies

TOPICAL PRESENTATIONS.

1.1 COMMITTEE MANDATE AND SUPERVISORY JURISDICTION.

Mr. Speaker and Hon. Members, this presentation was conducted by Ms Betty Okero; Coordinator for the Civil Society Organization Network who took the members through the Constitution of Kenya, 2010, the County Governments Act, 2012, Kisumu County Assembly Standing Orders and other relevant laws and statutes that buttresses the Committee Mandate. .

The Committee as currently defined has been established in accordance with Standing Order No. 193 (Second Schedule) of the Kisumu County Assembly Standing Orders, first established in the first Assembly and has been reappointed in the subsequent second Assembly.

The committee was established to inquire into and report on:

- Legal and constitutional issues in Kisumu County, including law reform, assembly matters on formulation of laws, criminal law, administrative law and the justice system.
- Matters concerned with Devolution and Governance.
- Security Matters and all matters relating to a referendum
- Matters concerned with ethics, integrity and anti-corruption

Mr. Speaker and Hon. Members, Ms. Betty Okero further noted that the Committee mandate to inquire into and report on legal and Constitutional issues within the County include but not limited to:

- i. Oversight in the application of the rule of law in the processes leading to public appointments.
- ii. Oversight in all matters relating to ethics and anti-corruption within the County in relation to the tendering processes, implementation of projects and payment of contractors and project management committees within the County.
- iii. Oversight in matters relating to Devolution including separation of powers within the County's Governance structure.
- iv. Oversight in matters relating to security including the application of criminal law, implementation of curfews and related matters.
- v. Oversight in matters relating to access to justice to minority groups including the application of the two-thirds gender rule within the County.

CHALLENGES AFFECTING THE COMMITTEE IN THE CONDUCT OF ITS MANDATES.

Mr. Speaker and Hon. Members, following the express descriptions of the Committee's scope of mandates, the Committee members observed that the following matters have inhibited the operations of the Committee in fulfilling its mandates.

Financial Challenges.

Mr. Speaker and Hon. Members, take notice that the Committee's functions virtually permeates the functions of all the Sectoral Committees except in matters that expressly refers to oversight on technical functions of Departments. This implies that while other Sectoral Committees have been mandated to oversight specific departments, the Committee on the Administration of Law, Justice, Constitutional Affairs, Security and Good Governance is mandated pursuant to the Second Schedule of Standing Orders No. 193 to oversight the application and administration of law and constitutional affairs in ALL the Departments within the County Government and also collaborates with the National Government Operatives such as the Ethics and Anti-Corruption Commission, the Ministry of Interior Coordination and the Ministry of Devolution.

Mr. Speaker and Hon. Members, in light of the extent of the mandate of the Committee, the Members of the Committee observed that the Committee has been continually underfunded caused by the common notion that the Committee's oversight functions starts and ends at overlooking the directorate of Governance and the Office of the County Attorney.

This underfunding of the Committee has tremendously affected the Committee in fulfilling its mandates and has resulted to most roles of the Committee being committed to other Committees or Ad-Hoc Committees.

Lack of Training on interpretation of Laws for Members

Mr. Speaker and Hon. Members, the effectiveness of this House is, like virtually every social institution, dependent on the capabilities of members to discharge their functions. The Committee noted that basic legal training for the Members of the Committee has not been given consideration despite the fact that law is a very dynamic subject which requires constant reinvention of the Committees of the laws made by this House.

The Committee proposes that institutions such as The Centre for Parliamentary Studies and Training (CPST) be invited to offer relevant training for the members of the Committee to assist the Committee keep abreast with current legal dynamics.

Take notice that the Centre for Parliamentary Studies and Training (CPST) was established by the Parliamentary Service Commission (PSC) in December 2008 and legalized by the publication of the Parliamentary Service Regulations, 2011 in the Kenya Gazette, Subsidiary Legislation, and Legal Notice No. 95 of July 22, 2011. In addition to serving the members and staff of Kenya Parliament, Commission Paper No. 286 of September 26, 2009, expands its objectives and mandate, to serve other stakeholders, who may be interested in gaining an appreciable understanding of Parliament, to also serve the County Assemblies, the Parliaments of the East African Community, the Great Lakes Region and the Continent of Africa at large but not limiting ourselves from engagement with other global Parliamentary institutions.

1.2 • PRACTICAL AND INNOVATIVE SOLUTIONS TOWARDS ACCESS TO JUSTICE WITHIN THE COUNTY.

Mr. Speaker and Hon. Members, ending widespread impunity and ensuring that our people and communities with legitimate grievances are able to access judicial mechanisms that address their complaints in an efficient and effective manner remain a challenge for Kisumu County.

The Committee noted that Article 159 of the 2010 Constitution explicitly recognizes this challenge by providing that “justice shall be done to all, irrespective of status” and “shall not be delayed”. This provision reflects a widespread dissatisfaction with Kenya’s judicial system under the previous Constitution. Partiality and a lack of independence in the judiciary, judicial corruption and unethical behavior, inefficiency and delays in court processes, a lack of awareness of court procedures and operations, and the financial cost associated with accessing the court system have, amongst other factors, all served to perpetuate a widely held belief among ordinary Kenyans that formal justice is available to only a wealthy and influential few.

The Committee was informed that in order to address these problems, the judiciary under the leadership of the Supreme Court developed a reform agenda entitled “Judiciary Transformation

Framework, 2012 - 2016.” The first of four envisaged reform pillars is entitled “People focused delivery of service” and lists as priority number one, a series of measures to improve access to justice. These include

1. The establishment of new courts in hitherto under-serviced areas and mobile courts in remote locations;
2. The introduction of simplified procedures to reduce costs;
3. The reduction of backlogs and the acceleration of case management;
4. The expansion of legal aid schemes; as well as
5. The promotion and facilitation of alternative forms of dispute resolution

Mr. Speaker and Hon. Members, while the aforementioned list of priorities are basically judicial functions, the County Assembly has the opportunity to enhance access to justice by promoting and facilitating relevant laws and policies aimed towards improvement of access to justice. The Committee in its deliberations with the Civil Society Organization Network resolved that the following legislation shall be formulated.

Access to Justice Policy

Mr. Speaker and Hon. Members, Schedule Five of the Constitution provides for legislation to be put in place by parliament or County Assemblies so as to give effect to Article 48 of the Constitution. It should be noted that this legislation has not been enacted. It should be noted further that whereas, Article 47 (1) provides for the right to fair administrative action, parliament has not enacted the legislation envisaged in Clause 3 thereof. This has posed a challenge to access to justice especially to the poor, marginalized and less privileged members of the community. Enactment of the envisaged legislation shall take a human rights approach that encompasses public participation, comprehensive debate and engagement with key stakeholders dealing with the administration of justice.

Mr. Speaker and Hon. Members, take note that the County Assembly of Kisumu has enacted The Kisumu County Administration (Village Units) Act, 2018 and the Kisumu County Women, Youth and PWDs Fund Act, 2019 for the enhancement of Article 47 of the Constitution though other legislations need to be formulated to further enhance the spirit of Article 47.

RECOMMENDATIONS

Mr. Speaker and Hon. Members, to improve access to justice in view of the constitutional provisions the following legislative and administrative reforms will have to be undertaken;

- i. Schedule Five of the Constitution provides for legislation to be put in place by parliament or the County Assembly so as to give effect to Article 48 of the Constitution. The legislation contemplated in Schedule Five should be enacted by the County Assembly and all laws dealing with access to justice brought into conformity with the constitution and that Act.

- ii. There is need for the enactment of legislation to make provision for the use of ADR and TDRM in the resolution of conflicts and the proper linking of these mechanisms with the courts. This Act will consolidate and harmonize all laws touching on ADR and TDRMs.
- iii. Amendment and review of all sectoral laws relating to access to justice should be done so as to remove ambiguities and other barriers to access to justice. Review of the laws relating to access to justice will also consolidate and harmonize them in line with the constitution. This will be geared towards meeting the constitutional threshold in relation to access to justice.
- iv. Procedural technicalities and other procedural barriers including some evidential rules applied in court should be reviewed.
- v. There is need for a comprehensive national policy on access to justice to consolidate and harmonize the activities of the various actors offering legal aid and awareness in the County. This will implement the provisions of Article 59 (2) and (4) of the Constitution.
- vi. That the Committee shall in consultation with relevant stakeholders cause an Access to Justice Policy within the first 90 days from the date of the adoption of this report.
- vii. In the long run government should provide the necessary funding for the construction of courts in major towns and at least a High Court station in every county. That is devolution of legal services to the devolved units as envisaged under Article 174 of the constitution. This will bring justice closer to the people and hence overcome geographical barriers to access to justice.
- viii. The court infrastructure should be constructed in such a way that it considers the special needs of persons with disabilities. Regard should also be had to providing services needed by the deaf and blind persons in using court facilities.

Mr. Speaker and Hon. Members. The Committee also prays:

- i. That the Committee on Liaison in fulfilling its mandates considers the Committee on the Administration of Law, Justice, Good Governance, Constitutional Affairs and Security and allocate adequate funds to the Committee for the furtherance of its mandates.
- ii. That capacity building for members from time to time be done since the dynamics of law is continuously changing. Capacity building will equip the members with the necessary skills in interpreting constitutional and legal matters.

CONCLUSION

Mr. Speaker and Hon. Members, there is need to put the necessary legal and administrative infrastructure so as to realize the right to access to justice for all Kenyans. If implemented, the constitutional threshold set by the constitution will see the country meet its obligations under international human rights treaties to which Kenya is a party. Improving access to justice will also help in reduction of poverty as access to justice has a link with poverty.

It is also hoped that if the above prayers are adopted and implemented, the County Assembly through the Committee on Law and Justice will amicably oversight all matters related to access to justice, administration of law and constitutional affairs.

It is therefore my honor and privilege, on behalf of the Committee on the Administration of Law, Justice, Constitutional Affairs, Good Governance and Security to table this report before this Honorable House for consideration.

I would like to call Hon. Beatrice Pamela to second.

Hon. Seth Okumu: I would like to call my Vice Chairperson Hon. Beatrice Pamela to second this motion for debate, Thank you Mr. Speaker and Hon. Members.

The Speaker (Hon. Oraro): Yes Hon. Beatrice Pamela.

Hon. Beatrice Pamela: Thank you Mr. Speaker. As the Vice-chairperson of the Committee, I would wish to reiterate that the training was very beneficial to committee, it was an eye opener. Again, Mr. Speaker some of the things that we were trained on which were discussed were;

- a) The issue of having Alternative Dispute Resolution. That one would work very well for the county. As it is said, 'justice delayed is justice denied'

Due to the backlog in the justice system, I believe that the alternative dispute resolution will really help the citizens of this County to resolve some of the small issues that can be resolved faster. Instead of waiting for one or three years for a simple issue that could be solved in the community.

Mr. Speaker, the committee also became cognizant of the fact that their mandate is very wide. Just today we had a meeting with the auditor general and when her report was out, if I do not want to use the word 'pilferage' some funds could not be accounted for. That is not good governance. I believe that if this committee was active, then some of these things could have been detected earlier.

One of the challenges that came out was; that the committee is underfunded. So, they are not able to track and engage in ensuring that there is good governance in the County.

Mr. Speaker, in addition, the committee members as it is rightly put need to be capacity built. After one induction - and based on the fact that not all of them have a background in Law. It means that they do not have enough capacity to do their work. It will be prudent for the County Assembly of Kisumu to continually train the members of this committee especially given that issues of law cannot be gazed. You cannot just go by your thoughts and imagination. You can only go by the written law including the; commas, dot and exclamation marks. I beg to second the report.

The Speaker (Hon. Oraro): Hon. Members, now that the Sectorial Committee on Administration of Law, Justice and Constitutional Affairs, Good Governance and Security report on the Committee Training on Access to Justice and Interpretation of Mandates has been presented by the Chairperson, Hon. Seth Okumu, seconded by Hon. Beatrice Pamela who is the Vice Chairperson of the committee.

The Speaker (Hon. Oraro): Hon. Members, in accordance to the provisions of our Standing Orders, I want to propose a question. THAT The Report of Committee Training on Access to Justice and Interpretation of Mandates by the Sectorial Committee of the Administration of Law, Justice and Constitution and Good Governance and Security is opened for debate.

The Speaker (Hon. Oraro): Yes Senior Member, Hon. Paul Okiri.

Hon. Okiri: Thank you very much Mr. Speaker. We are talking about; administration of law, and we are also talking about justice. And in the same committee, we are talking about security. In addition, we are talking about the governance. Again, these are very big words.

This is a committee that I do not want to be given two minutes to talk but, rather a minute so that I am allowed room for each and everybody time to contribute. That is because, when I start talking about it, I may take a whole day sir. It will not be very prudent as we legislators not talking about this.

Mr. Speaker, I just want to raise an issue of oversight. We know very well that that is pour co-mandate in this House. So many motions fail in this House, just because, we do not know the procedures. The Law; how to follow it, how to debate about it and so many other things about it Mr. Speaker.

If we are not properly trained or inducted, then motions brought to this House will die on arrival. If we are not concerned about the laws Mr. Speaker, then so many things will go unanswered. And with these, that is where the executives are taking advantage because they know very well that this is what the Law says. And if they simply cannot do it within given time, then automatically, that motion is lost.

I know that this committee with so many big words on it has done a very good job. We know that laws are dynamic. Mr. Speaker it happens that each and every time we say to ourselves that, you know, that laws was changed sometimes back. I am referring to the chief Act or about the Constitution of Kenya 2010 and are now interrogating the Constitution of Kenya (Amendment) Bill, 2020 which is referred to as the Building Bridges Initiative (BBI).

Mr. Speaker, these are laws. So, the committee should be allowed to do some more capacity building. That will enable them to read from the same page each and every time a Law is enacted.

Mr. Speaker, you know that training is an incentive to employees. Employees without training have no incentives financially or morally. In this regard, consider taking our members for training so that they advance themselves into more and broader way. This Assembly will be vibrant, make laws and will also undertake proper oversight as our mandate, thank you very much Mr. Speaker.

The Speaker (Hon. Oraro): Hon. Agolla.

Hon. Agolla: Thank you Mr. Speaker. I want to thank you for giving me this opportunity to equally add my voice on the adoption of the report from the committee which I am a member.

Foremost, allow me to thank the Office of the Speaker and that of the Clerk for according us that opportunity to go and learn. Mr. Speaker, we learnt about many things which were beneficial to this House Committee, the Assembly and the County at large. That is because we represented the interest of other members who did not participate during the training.

I also want to urge your leadership to continue partnering with other organizations who will offer such kind of technical capacity building to the members of the County Assembly of Kisumu.

Mr. Speaker, I want to refer to the provisions of Article 174 of the Constitution of Kenya which is talking about devolution and how we should be governed as a County. As a committee, we have a round eight recommendations. Mr. Speaker, number seven is emphasizing much on that Article (174) whereby this committee needs to check on how this County is being governed, how resources are being shared across the County; if at all the minority groups are being considered. If justice is being balanced and offered to those people who are living with disabilities and the marginalized communities.

Mr. Speaker, I just want us to adopt this report for further implementation so that this County adheres to the rule of law and especially the protection of the people living with disability. Mr. Speaker you remember by the time we were doing the public participation in various ward or in various halls, we normally don't consider to hire an expert who may guide people that may have difficulties in hearing or those who are blind. If you go through this report some of the recommendations that this committee should push the County Government to put into action is to ensure that we protect the rights of other Kenyans. That is the only way we can adhere to Article 174 of the Constitution. Without much ado because I attended the training at Sossa Hotel and I don't want to stress this House too much and eat into your time but to plead to each Hon. Member if you allow us to adopt this report so that we make another step after this. Thank you.

The Speaker (Hon. Oraro): Hon. Leader of Minority.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker for giving me the opportunity to contribute to this report. The role of the committee is very categorical on page 6 and 7 and there should not be any contradiction on the role of the committee verses the role of other committees. There are only issues that can cut across like what Hon. Olwal was saying when he was talking

about the eviction and demolition of plots and Houses in Kisumu. That barely falls on Land Committee. This committee will only come to find out the injustices meted on the people when the process was ongoing like a child was killed in Kibos. But when it comes to the issue of eviction it is the Land committee that should come to find out why this people were evicted and who owns the land. So we must be careful when we want to look at what our role is as a committee. I am also seeing on page 6 oversight in the application of the rule of law in the process leading to public appointment. Generally when it comes to employment of staff that falls within the mandates of the Labour Committee but when it finds out that there were no injustices that is when they will come out. So when we are looking at the role of a committee then we must be sure that there are some issues that cut across and let us not magnify them to give that picture that is being given here that this committee is being used up by other committees.

Mr. Speaker, the role of the Committee of Law, Justice, Constitutional Affairs, Good Governance and Security are well enumerated on page 6 and 7 and there should be no outcry of another committee. I beg to support the report.

The Speaker (Hon. Oraro): Yes Hon. Ogaga.

Hon. Ogaga: Thank you Mr. Speaker. I want to thank the committee for the good report and the training was good from what I have seen and heard but my request is that this is being done on our level but when we go out there we find out people suffering so much and they never know what to do. I like the bit on the topic of the report on committee training on access to justice. I wish there could be capacity building for our people also especially on access to justice and I would call upon the County Government to do something about this even if it means doing it through Public Private Partnership (PPP). This is because, most of the time our people are denied their justice so unfairly and on the media we see us crying for our justice after lives has been lost is when our people come out to cry for justice. I wish they could also be assisted so that they know what to do, when to take action and where to go for their justice when they are fairly treated. I support the report.

The Speaker (Hon. Oraro): Yes Hon. Khan.

Hon. Khan: Thank you Mr. Speaker. I rise to commend the committee for the good work it has done and especially of writing this report after having been offered proper training on the same in partnership with the CSO. The capacity building they received from those trainings will go a long way because one as you see on the report on page 4 on the second schedule of the Standing Orders you will find that issues of Constitutional Affairs, Coordination of Governance, human rights and security are very important.

Finally in fact it has come at the right time when the Members of this committee has been sharpened to issues on matters relating to referendum. Mr. Speaker as you know that we are in the BBI period, there input will go a long way in helping our people and advising them correctly to make decisions that will benefit our people. In fact, I want to thank the committee to have taken

this initiative to make sure that what they are talking about is going to be very nice. Finally what I would like to say is to request the committee to come out and try to see how best it can help people and especially in issues concerning law and justice and especially some times in Seme where you find that under aged girls are having problems, some are impregnated and some issues of security in other areas of the town. Thank you.

The Speaker (Hon. Oraro): Hon. Ogutu.

Hon. Ogutu: Thank you Mr. Speaker. I am here to support this particular report. Mr. Speaker it is very good that the Chairperson of this particular committee has gone under training. I have heard them talking of the people living with disability and this House knows very well that I am very particular when it comes to people living with disability. It is now upon the committee to at least take care of the people living with disability and they should start with this particular House. Now that House Chairperson has gone through this particular training, you should know how to treat people living with disability in this House.

Mr. Speaker, in some cases when we attend some meetings I believe because this particular committee is part of us, this should at least arrange for the people living with disability and assist them because this now lies on their committee so that they can at least start with this House going outside with the County Government. But all in all Mr. Speaker, I believe the report is good and I just wanted to add my voice as a representative of the people living with disability.

The Speaker (Hon. Oraro): Yes Hon. Olga.

Hon. Olga: Thank you Mr. Speaker I wish to call the mover to reply.

The Speaker (Hon. Oraro): Hon. Okumu.

Hon. Okumu: Thank you Mr. Speaker. I want to thank the Hon. Members for those who have contributed and agreed to adopt this report. Mr. Speaker, Hon. Ogaga mentioned that we need to cascade the information that we have been taught on access to justice and we agree with the Hon. Members. On our challenges, we mentioned that the committee is underfunded and most of the activities that we intend to do we cannot achieve much because of the facilitation that is required for those activities to be undertaken. Once that is done we shall go to each and every ward to give information on access to justice.

Mr. Speaker, the Leader of Minority was doubting the mandate of the committee vis-a-vie the mandate of the committee of Planning, industrialization and ICT. I want to refer him the mandate of the Standing Committee of Planning. It talks about matters relating to planning and development including statistics, land survey and mapping, boundaries and fencing. Its mandate is to ensure that development and allocation of industries and policies are well planned and properly executed and monitor the spread and enhance use of ICT in the County Government operations to increase transparency and accountability. Mr. Speaker if parcels of land for the Nubians in Kibos was taken

unprocedural, I believe that, this falls under the preview of the Standing Committee of Administration of Law. If a law was applied unfavorable to the people of the Nubian community, it is this committee of Administration of Law to find out about that.

Mr. Speaker I also want to thank Hon. Dede for his intention to support us in this committee. I know if it is not for the interest of time he would have contributed but I know next time he will contribute and give his support for such a motion. Thank you and I request that as we go to voting I want to humbly implore this House to consider adopting this report so that the recommendations therein are implemented. I beg to reply. Thank you.

The Speaker (Hon. Oraro): Hon. Members now that the Sectoral Committee on the Administration of Law, Justice, Constitutional Affairs, Good Governance and Security report on the Committee Training on Access to Justice and Interpretation of Mandate has been presented by the Chairperson of the committee Hon. Seth Okumu, seconded by the Vice Chairperson Hon. Beatrice Pamela, proposed for debate, as per our Standing Orders it is time that I put a question for the adoption of the same.

(Question put and agreed to)

The Speaker (Hon. Oraro): The Sectoral Committee on the Administration of Law, Justice, Constitutional Affairs, Good Governance and Security report on the Committee Training on Access to Justice and Interpretation of Mandate has been adopted today 2nd March 2021 at 16:44 hours. Hon. Members, I direct that the recommendations therein be implemented and directed to departments. I direct that the Committee of Implementation to take up this matter make further follow up.

The Speaker (Hon. Oraro): Next Order!

ADJOURNMENT

The Speaker (Hon. Oraro): There being no any other business to transact, the House stands adjourned to tomorrow Wednesday 3rd March 2021 at 9.00 a.m.

(House rose at 4.49 p.m.)

Addendum

Hansard Team

Zablon Otiende - Senior Hansard Reporter (In-charge)

Edward Odanga - Reporter

Fanuel Okode - Reporter

Patrick Okoyo - Reporter

Jesca Otieno - Reporter

Dennis Onyango - Reporter

Jacklyne Otieno - Reporter