

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

SECOND ASSEMBLY – FIFTH SESSION

Tuesday, 19th October, 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): Good afternoon Hon. Members. Pursuant to the provisions of County Assembly Standing orders No. 32 (2) I want to request that the Serjeant-at-Arms rings the quorum bell for five minutes.

(Quorum bell rung for five minutes)

The Speaker (Hon. Oraro): The Deputy Majority Whip, can you please confirm if we have the requisite quorum.

Deputy Majority Whip (Hon. Obonyo): Mr. Speaker, there is quorum.

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

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, welcome again to this afternoon session. I want to remind you that Covid-19 is still with us and the Ministry of Health Protocols should still be

adhered to. That is, wear your mask to cover both our nose and mouth. Wash your hands or sanitize as appropriate. Ensure that you sanitize the portable microphones before and after use.

Hon. Members, similarly, I want to bring your attention that sometimes back we said that we are engaging UNICEF on a number of programmes with the Assembly. I want to confirm to you that today I received a letter from the UNICEF. The County Representative will be addressing the Assembly on Wednesday, 10th November, 2021. I therefore want to request all Members to come on time and be seated by 9:00 a.m. So that we give the Director time to address us on the issues we agreed to have an engagement on.

I also wish to communicate that I received a letter from the County Assemblies Forum, the CASA Secretariat that the games will commence on 28th October, 2021 and it shall be in Mombasa.

Lastly, I want to communicate as a reminder that the different Chairpersons of various House Committees. There are a lot of pending work that are yet to be brought to the Assembly. As the Chair of House Business Committee, we sat today and we had very limited activities to schedule and we earlier shared the pending work. Allow me to go through them very fast.

One, General Oversight Committee report on the Statement raised by Hon. Pamela Odhiambo concerning the County Machine-based Program. Sub Committee of Roads and Public Works by Hon. Seth Kanga - Chairperson. The issued was on 17/3/2021 and the due date was 21/4/2021.

Two, there is PIC/PAC Committee report on the Consideration of Auditor General's Report on the Financial Statements of the County Executive of Kisumu for the FY 2017/2018 by Hon. Maureen Otiang' - Chairperson. This report was deliberated and the question was not put. I want to report that after consultations, the report that was tabled for discussions had presented Adverse Opinion for the County Executive for the FY 2017/2018 while the actual report by the OAG had given Qualified Opinion. It is therefore not possible to put a question on that. I direct that the PIC/PAC should discuss the right report and present their resolutions to the Assembly for adoption. So, I rule.

Three, there is Joint Committees of Water, Environment and Natural Resources, Planning, Industrialization and ICT and Roads and Public Works report on the Drainage System in Kisumu Urban Areas. The Chairpersons are Hon. Samson Ameso, Hon. George Olwal and Hon. Seth Kanga. The report was to come to the Assembly on 27th April, 2021. It's long overdue. We need that report.

Four, Labour and Social Welfare Committee's response on the Statement raised by Hon. Gard Olima on regarding the Appointment of Village Administrators and Recruitment of Liaison Officers by the Kisumu County Public Service Board. I am informed that it is ready for discussion.

Five, Planning Industrialization and ICT Committee response on the Statement raised by Hon. Philemon Ojuok regarding the Award of Contract for Establishment of Container Kiosks at the

Backstreet and along Ojino Okew Street of the Kisumu City. That report is long overdue but I have been informed that it is slotted for discussion on Tuesday 26th, October, 2021 at 2:30 p.m.

The same Committee, Planning Industrialization and ICT report on the Status of the Deferment of Kisumu County Regularization of Land Ownership and Development Bill, 2021. The due date was on 26th June, 2021. It is yet to see the light of the day.

PIC/PAC follow up report on particulars of report by Roads, Transport and Public Works on the Kisumu County Kenya Roads Board and CRF Roads Projects Inspected for the FY 2019/2020. Report was supposed to come on 20th May, 2021. We are yet to receive it.

Hon. Caleb Omoro, the Vice Chair of General Oversight Committee you were mandated to present a report for a Study Tour in Nairobi. That report was to come on 31st June, 2021. It's long overdue.

Administration of Law, Justice, Constitutional Affairs, Good Governance and Security report on Nominees to the position of Village Council. The report was supposed to come on 11th July, 2021. Hon. Seth Okumu, we need that report.

There is also Implementation Report passed by the House in the Fourth Session. The Select Committee was supposed to give us the Implementation Status of the Projects and the due date of the report is 21st October, 2021.

We also have County Government of Kisumu Quarterly Report for the Quarter ended 31st March, 2021. Hon. Paul Okiri, Chairperson Finance Committee. The report was due by 29th June, 2021. The County Government of Kisumu Quarterly Report for the quarter ended 30th June, 2021. That was to come 31st August, 2021. It's long overdue.

PIC/PAC report on the Statement raised by Hon. Johnson Guya on the issues surrounding the Recruitment of ECD Teachers on Phases. Hon. Maureen Otiang', the report was to come to the Assembly on 31st August, 202. It's long overdue.

Hon. Caleb Omoro, the General Oversight of Benchmarking Exercise with Nairobi City County Assembly. It was supposed to be on the floor by 14th September, 2021. We need that report.

Implementation Committee report on the Petition No. 2 of 2021 by the Kisumu County Alcohol Ethical Working Group and Alcohol Policy Kenya by Hon. Erick Agolla. The petition was on 28th August, 2021. I believe it is still on progress. I believe you need to give us a progress report.

Public, Works, Roads and Transport Committee report on their Benchmarking Exercise with Mombasa County Assembly by Hon. Seth Kanga. The report is supposed to be here on 1st October, 2021. That report should be ready by now.

The ECD, Adult Education and Vocational Training Committee report on the Disbursement of Bursaries and Scholarships for the FY 2020/2021 by Hon David Arao. You were supposed to give us a report by 28th September, 2021. The House Business Committee is yet to see that report.

Budget and Appropriation Committee report on the Post-budget Analysis FY 2021/2022 was to be here by 28th September, 2021. I recall that the notice was given and it was rescheduled for next week. There is also Budget and Appropriation Committee report on Kisumu County Annual Development Plan 2022/2023. It is still on progress and I think you are scheduled to have a discussion.

Budget and Appropriations Committee Report on the Kisumu County Emergency Operation Plan. We also expect that report on 28th October, 2021. It is also on progress. There is a motion that was committed Joint Committees of Health, Housing and Sanitation, Labour and Social Welfare Investigating the Matter of Arrears owned to Community Health Workers and subsequent Remuneration of their Stipend for the First Quarter of the FY 2021/2022. Hon. Vincent Jagongo and Hon. Rashid Miruka. We expect the report to be here on 27th October, 2021.

Honourable Members, the reason why I have read those pending report is because we cannot sit as House Business Committee and fail to schedule the business yet there are so many pending reports that the Assembly has financed. It means if we exhaust the activities that we have for this week then we might not have business come the other week. We had the Liaison Committee meeting and we agreed that we are going to fast-track the same so that we businesses. Thank you.

The Speaker (Hon. Oraro): Next order!

PETITION

THE PETITION TO THE COUNTY ASSEMBLY OF KISUMU

PETITION NO. 3 OF 2021 ON THE MATTER PAYMENT OF RETIREES OF THE FORMER DEFUNCT MUNICIPAL COUNCIL OF KISUMU AND RESIDENTS OF KISUMU COUNTY.

The Speaker (Hon. Oraro): Honourable Members, I received a petition on the 28th September, 2021. That is Petition No. 3 of 2021 on the Matter of Payment of Retirees the Former Defunct Municipal Council of Kisumu and Residents of Kisumu County. The Clerk of the Assembly went through the petition and it meets the threshold of the Standing Order on how the Petitions are submitted.

We the undersigned, being retirees of the defunct Municipal Council of Kisumu and residents of Kisumu County. Draw the attention of the County Assembly of the following;

- 1) Retirees of the former Municipal Council who retired in 2007 have not been given paid their retirement benefits.

- 2) We have suffered psychological trauma and financial difficulties due to unpaid retirement benefits.
- 3) Some bonafide retirees have died without getting their money for retirement.

THAT, the Chairman of the former Municipal Council retirees of 2007, wrote officially to the sitting Governor Peter Anyang' Nyong'o, the subject matter of which was of respect of the delay in processing Retirement Benefits for the year 2007 Retirees of the Defunct Municipal Council of Kisumu.

Subsequently, the Governor Peter Anyang' Nyong'o constituted a Taskforce Chaired by the current County Director of Human Resource Manager, Mr. Nyakinya which finally came out with positive report that retirees benefit of 2007 to be paid. Despite such, nothing has been done to date to expedite the payment of the retirees.

THAT, the issue of this petition of benefits of retirees of 2007 is not pending in any court of law. That, the Kenya Local Government Workers Union wrote to all towns, County Clerks of all Local Authorities in a letter dated 10th January, 2004 regarding Retirees/Pension Payment in which the Union clearly made reference to Rule No 29 (e) which talks about the Collective Bargaining Agreement (CBA) No. 190 of 2002.

THAT, a person to whom a pension or other allowances is payable under the Pension's Amendment Acts 2003 shall be retained in the services until the payment in full of the Gratuity payable to him/her consequent upon the exercise by him/her and the option to receive such gratuity under the provision of the Act.

Therefore, we the petitioners pray that the County Assembly;

- 1) Move with speed to move a motion to push for the payment of retirees without any further procrastination.
- 2) The County Assembly to agitate for the Allocation of Funds for 2007 Former Municipal Council Retirees, to settle the matter once and for all.

The petitioners have appended their signatures and their addresses as required by the Standing Orders. Honourable Members, having looked at this petition, I want to direct that the Standing Committee of Labour to look at this Petition and gather necessary information which has been said and invite the taskforce that was handling the matter. As per our Standing Order, in the case where we have a petition, we are expected to come up with resolutions within 60 days. Thank you.

The Speaker (Hon. Oraro): Next order!

PAPERS LAID

THE IMPLEMENTATION COMMITTEE REPORT ON THE IMPLEMENTATION STATUS OF THE HOUSE RESOLUTION PASSED BY THE COUNTY ASSEMBLY OF KISUMU

BY

HON. ERICK AGOLLA

CHAIRPERSON, IMPLEMENTATION COMMITTEE

AND

THE COUNTY ASSEMBLY OF KISUMU FINANCIAL STATEMENT FOR THE QUARTER
ENDED 30TH JUNE, 2021

BY

HON. KENNETH ONYANGO

LEADER OF MAJORITY

AND

THE COUNTY ASSEMBLY OF KISUMU FINANCIAL STATEMENT FOR THE
FINANCIAL YEAR ENDED 30TH JUNE, 2021

BY

HON. KENNETH ONYANGO

LEADER OF MAJORITY

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

Hon. Agolla: Thank you Mr. Speaker. Pursuant to the provisions of the Kisumu County Assembly Standing Order No. 182 (6), I wish to lay today Tuesday 19th, October, 2021, Implementation Committee Report on the Implementation Status of the House Resolution passed by the County Assembly of Kisumu. Thank you.

(Hon. Agolla lays the report before the House for consideration)

The Speaker (Hon. Oraro): Honourable Members, I confirm the receipt of the Implementation Committee Report on the Implementation Status of the House Resolution passed by the County Assembly of Kisumu. That is the Fourth Session as table by the Chairperson of the Committee. I commit this report to the House Business Committee for purposes of scheduling it for debate.

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

Hon. Agolla: Allow me to table this Paper on behalf Hon. Leader of Majority.

The Speaker (Hon. Oraro): Proceed.

Hon. Agolla: Thank you Mr. Speaker. Pursuant to the provisions of PFM Act 2012, I wish to lay today Tuesday 19th, October, 2021, the County Assembly of Kisumu Financial Statement for the Quarter Ended 30th June, 2021. Thank you.

(Similarly, Hon. Agolla lays the report before the House for consideration)

The Speaker (Hon. Oraro): Honourable Members, I confirm the receipt of the County Assembly of Kisumu Financial Statement for the Quarter Ended 30th June, 2021. I commit this report to the Finance, Cooperative, Trade and Enterprise Development for consideration within the next 21 days. The Budget and Appropriations Committee is supposed to do a report, I want to direct that you sit together and look at this report. I rule. That is this weekend. Thank you.

The Speaker (Hon. Oraro): Next order!

NOTICES OF MOTION

THE IMPLEMENTATION COMMITTEE REPORT ON THE IMPLEMENTATION STATUS OF THE HOUSE RESOLUTION PASSED BY THE COUNTY ASSEMBLY OF KISUMU

BY

HON. ERICK AGOLLA

CHAIRPERSON, IMPLEMENTATION COMMITTEE

AND

THE COUNTY ASSEMBLY OF KISUMU FINANCIAL STATEMENT FOR THE QUARTER ENDED 30TH JUNE, 2021

BY

HON. KENNETH ONYANGO

LEADER OF MAJORITY

AND

THE COUNTY ASSEMBLY OF KISUMU FINANCIAL STATEMENT FOR THE FINANCIAL YEAR ENDED 30TH JUNE, 2021

BY

HON. KENNETH ONYANGO

LEADER OF MAJORITY

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

Hon. Agolla: Thank you Mr. Speaker, pursuant to the provisions of the Kisumu County Assembly Standing Orders No. 45 (1), I wish to give a Notice of Motion for the implementation Committee report on the Implementation Status of the House Resolutions passed by the County Assembly of Kisumu.

The Speaker (Hon. Oraro): Next Order!

STATEMENTS

The Speaker (Hon. Oraro): Hon. Members it's statements time.

The Speaker (Hon. Oraro): Yes, Hon. David Arao

Hon. Arao: Thank you Mr. Speaker, I wanted to record that my Standing Committee has done everything possible on the report and by Thursday we shall have adopted the report and present it to the Assembly for consideration, thank you.

The Speaker (Hon. Oraro): Is that regarding the pending report for ECD?

Hon. Arao: Yes, Mr. Speaker.

The Speaker (Hon. Oraro): Thank you.

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

Hon. Agolla: Mr. Speaker, just on the same, I want to beg your leadership to applaud all those House Committees who are performing best in this House. Some Committees like that of Hon. Arao has more than 10 pending works and yet he is only talking of presenting one. There are other House Committees such as my Select Committee on implementation with no pending work.

The Speaker (Hon. Oraro): (*Laughter*) Hon. Agolla, I sure have done that in some occasions and also politely reminded those with lots of pending works to do the same.

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

Hon. Arao: Thank you Mr. Speaker. That is character assassination and I would want to say that Hon. Agolla must have missed his words because we only have one pending work, which we shall hand over on Thursday, thank you.

The Speaker (Hon. Oraro): I can confirm that I only read one pending work from the ECD on Disbursement of Bursaries and Scholarships for the FY 2020/2021. So, Hon. Agolla I will protect Hon. Arao on the same.

The Speaker (Hon. Oraro): Next Order!

MOTION:

PROGRESS REPORT ON THE STATEMENT RAISED BY HON. GARD OLIMA REGARDING THE APPOINTMENT OF VILLAGE ADMINISTRATORS AND RECRUITMENT OF LIAISON OFFICERS BY THE KISUMU COUNTY PUBLIC SERVICE BOARD.

PRESENTED BY;

HON. RASHID MIRUKA, CHAIRPERSON OF THE COMMITTEE ON LABOUR AND SOCIAL WELFARE

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

Hon. Miruka: Speaker and Hon. Members, PURSUANT to the provisions of County Assembly of Kisumu Standing Order No. 41 (2) (b), Hon. Gard Olima (MCA – South West Nyakach Ward) raised a Statement during the Statement Hour in the House Session on Wednesday, 14th April 2021 (Annex i) seeking responses from the Chairperson of the Committee on Labour and Social Welfare regarding the status of appointment of village administrators and recruitment of liaison officers in Kisumu County.

It is on the backdrop of his statement that the Hon. Member further sought leave for the Speaker to instruct the Committee on Labour and Social Welfare to inquire and investigate into the matter.

In accordance with Article 185 of the Constitution of Kenya 2010, section 8 of the County Governments Act, 2012 read together with Standing Order No. 193 of the Kisumu County Assembly Standing Orders, that the Hon. Speaker directed the Labour and Social Welfare Committee to take up the matter and present a report before the House on the same.

LEGAL FRAMEWORK AND MANDATE OF THE COMMITTEE

The Sectoral Committee of Labour and Social Welfare is established under Standing Order No. 193 of the Second Schedule, and is mandated pursuant to Standing Order No. 193(5) (a), (b), (c), (d), (e), (f) and (g) and to *investigate all matters relating to labour, trade union, social welfare, human resource planning and development.*

The Composition of the Committee

The Committee as currently constituted comprises of the following Members:

- | | | |
|--------------------------|---|------------------|
| 1. Hon. Rashid Miruka | - | Chairperson |
| 2. Hon. Consolata Ollows | - | Vice Chairperson |
| 3. Hon. Benny Pete Oiko | - | Member |
| 4. Hon. Jennipher Obonyo | - | Member |
| 5. Hon. Priscah Misachi | - | Member |

6. Hon. Florence Olang'o	-	Member
7. Hon. Samson Ameso	-	Member
8. Hon. Samuel Dede	-	Member
9. Hon. Lynnette Carren Muga	-	Member
10. Hon. Vincent Jagongo	-	Member
11. Hon. Inviolata Adhiambo	-	Member
12. Hon. Habil Nyasuna	-	Member
13. Hon. Julius Genga	-	Member
14. Hon. John Atieno Atieno	-	Member
15. Hon. Jacktone Ogendo	-	Member

ACKNOWLEDGMENTS

I would like to send my special gratitude to all Members of the Committee including the secretariat for their endless contributions towards this investigation.

I therefore humbly submit this progress report for consideration by the House on behalf of the Committee.

BASIS OF INVESTIGATION

Mr. Speaker and Hon. Members, the Committee resolved to investigate on the status of appointment of village administrators and liaison officers in Kisumu County basing facts from the Statement raised in the House. The elements of this investigation were as follows;

1. Why the Kisumu County Public Service Board appointed the village administrators contrary to section 10(1) of the Kisumu County Administration (Village Units) Act No. 2 of 2019?
2. Did the Kisumu County Public Service Board create/establish offices for the Sub-County Liaison Officers as required under Section 60(1) of the County Government Act, No. 17 Of 2012.
3. Was the position of the Liaison Officers filled competitively?
4. What is the Job Group, Qualifications, Functions and Remuneration of the Liaison Officers?
5. Submit Copies of the appointment letters of the Liaison Officers.

Consequently, the Clerk of the Assembly notified the Public Service Board to provide a detailed response to the attendant demands of the Statement raised by Hon. Gard Olima vide letters Ref. CAK/CGK/PSB/VOL.IV (10) (Annex ii).

RESPONSE FROM THE PUBLIC SERVICE BOARD

Mr. Speaker and Hon. Members, the Kisumu County Public Service Board responded to the Committee on 26th April 2021 vide the letter ref: KCPSB/17/04/2021 with the assurance that the issue on the status of appointment of village administrators and recruitment of liaison officers in the County is provided to the Committee.

From the response, the Committee established the following;

1. That the Kisumu County Public Service Board violated section 10(1) of the Kisumu County Administration (Village Units) Act No.1 of 2019 that clearly states that ‘‘A Village Administrator

shall be appointed through an open and competitive process by the County Public Service Board and approved by the County Assembly in accordance with the provisions of the Act'' (See Annex iii).

2. That section 10(2) of the Kisumu County Administration (Village Units) Act No. of 2019 clearly provides the qualifications of a village administrator, contrary to what the Public Service Board indicated in their letter. The Act clearly states that *''A person shall not be appointed as a Village Administrator unless such a person has post O' level certificate in administration and meets the requirements of Chapter Six of the Constitution''* (See Annex iv, 4.0 Conflict of Laws).
3. That the village administrators are already in office as we speak, this is contradicting the letter from the Kisumu County Public Service Board (Annex iv, 1.0 Introduction).
4. That it was not prudent for Kisumu County Public Service Board to follow the practices in other jurisdictions and Counties with regards to the appointment of village administrators as Kisumu County has its own legal decisions and judgments that should be followed (See Annex iv, Comparative Analysis of the Practice in other Jurisdictions and 5.0 Conclusion).
5. That the position of County Liaison Officer is an office within the Governance and Administration Department. According to Section 46 (1) (a) of the County Governments Act that states *''the County Executive Committee can determine the organization of the County and its various departments and for that purpose may establish, continue or vary any department, and determine the objects and purposes of the department''* (See Annex v).
6. That the positions of the Liaison Officers were filled by the County Executive subject to regularization by the Kisumu County Public Service Board (See Annex vi).
7. That the officers' job group, functions and remuneration details are as indicated in the appointment letters issued by the County Executive (See Annexes vii).

Having not been satisfied with the responses provided by the County Public Service Board, the Committee deemed it prudent/wise to invite the involved parties for a consultative meeting to discuss issued raised on the Kisumu County Administration (Village Units) Act, 2019 and the recruitment of Liaison Officers on 20th August 2021.

SUBMISSIONS BY THE PUBLIC SERVICE BOARD AND THE COUNTY ATTORNEY DURING THE MEETING

1. That Section 10(1) of Kisumu County Administration (Village Units) Act, 2019 which requires the involvement of the County Assembly in appointing the village administrators neglects the provisions of section 52 (2) of the County Governments Act 2012.
2. That there is conflict between the County Governments Act Section 52(1) and Kisumu County Administration (Village Units) Act, 2019 (10)(1). The County Governments' Act being a national legislation, takes precedence over the Kisumu County Administration (Village Units) Act, 2019 which is a county legislation. The Kisumu County Public Service Board therefore applied the provisions by the County Governments' Act.

3. The Board notified the Members that the Assembly's queries were never ignored and that they also sought advice from the County Attorney and the Boards' Governance and Ethics Committee before the appointment exercise was done.
4. The Board also visited different County Assemblies to get a comparative analysis with regards to the appointment of village administrators as provided for in the village administration laws and that the Assemblies' approval precondition was never applied in any of the Counties.
5. That the total number of village administrators is 70 and have been earning their salaries for the last 6 months.

Mr. Speaker and Honourable Members. The Committee thereafter came up with the following:

1. That the laws the County Attorney and the Public Service Board are referring to should not be applied or read selectively.
2. That proposed amendments should have been called for before appointing the village administrators and not after.
3. That the Kisumu County Village Administration Act 2019 does not in any particular way conflict the County Governments Act 2012 and The Constitution of Kenya 2010; and if there was any conflict, then the provisions of 191(5) of the Constitution would have applied.
4. That the village administrators are the lowest cadre working closely with the Members of Kisumu County Assembly and the Assembly should be given leeway to approve their appointment.
5. That some duties and responsibilities of the Liaison officers are a replica of the duties and responsibilities of the sub county administrators and ward administrators, which is against the law. With the ballooning wage bill, there is no need to establish offices that duplicate works of other offices.
6. That proposed amendments by the Office of the County Attorney for consideration were never approved by the House and that the Attorney's Office will get the letters regarding the same in due course.

RESOLUTIONS MADE DURING THE MEETING

After the meeting, the Committee therefore resolved the following:

1. To further hold a consultative meeting with the involved parties on the 14th of September 2021.
2. That the Public Service Board should produce the rulings of other Counties on this matter, as they would act as guiding tools in the next meeting/s.
3. And that the Public Service Board should produce documentary evidence regarding the recruitment of Liaison officers before or on the next meeting.

Hon. House, the meeting scheduled for 14th September 2021 could not take place as the Kisumu County Public Service and the County Attorney were in Nairobi for official duties.

CHALLENGES FACED BY THE COMMITTEE

Mr. Speaker and Hon. Members,

Due to the routine involvements of the Kisumu County Public Service Board, the County Secretary and the County Attorney, the Committee has not been able to get a convenient date to have all the involved parties together and deliberate on the matter. Despite the challenge above, the Committee has sent letters

to invite them for a meeting on Monday 1st November 2021. We are awaiting communication on the same.

COMMITTEE RECOMMENDATIONS

The Committee's prayer therefore is:

1. That this Honourable House resolve to allocate the Labour and Social Welfare Committee more time from the date of tabling of this progress report before this House for consideration.

CONCLUSION

Mr. Speaker, this is the progress report of the Committee since the day the statement was raised before the House, and it is following up with all the involved parties and have their next consultative meeting and ensure that the final report will be presented before this Honourable House for debate and for onward adoption.

It is therefore my honor and privilege, on behalf of the Labor and Social Welfare Committee to request this House to consider approving, the prayer of the Committee and further to table this Progress Report before this Honourable House for consideration. I would like to call the Leader of Minority to second, thank you Mr. Speaker and Hon. Members.

The Speaker (Hon. Oraro): Yes, Hon. Benny Pete Oiko, the Leader of Minority.

Leader of Minority (Hon. Oiko): Thank you Mr. Speaker, the report has been read by the chairperson of the Standing Committee and issues raised in it. One fundamental aspect is that the Standing Committee hasn't been able to interact with the offices involved because despite them promising to avail themselves, they failed to honor that fact.

Mr. Speaker and Hon. Members, It is indicated in the report that on 14th October, 2021 when they were supposed to come for the meeting, they haven't communicated to date to enable the Standing Committee to conclude on their report. This makes me refer to the case where the National Assembly's PIC/PAC Committee was handling the Judiciary but the Judiciary Officers became tough headed to heed to their call. The Speaker of the National Assembly informed them that, it is their work to do so because there was no way about it. The office of the Speaker should be vigilant on this so that the seriousness of this issue.

Consequently, whenever a matter is raised in this House, it is referred to a House Committee and the House Committee is given timeline.

However, often the House Committees don't meet the timelines because of failure of the Executive to respond to the contentious issues required. Honorable members, as per the Village administration Act, the Village Administrators ought to be approved by this Assembly. These are government officers at our ward level so we have to work. The County Government Act of 2012 put this into law and indicated the roles played by these people in relation to the roles of the MCAs on the ground. They must therefore be vetted by the Assembly and we demand that Executive comes to clarify this issue as we also pronounce our position.

Mr. Speaker and Hon. Members, we have also witnessed how the Liaison Officers were appointed and what their roles are. However, the provisions of section 46 of the County Government Act of 2012 isn't clear on the establishment of new offices as it only talks about the reorganization of departments. Establishment of a new office requires a procedure to be followed. We ask the Executive not to shy away from this but if they do then we will ask the office of the Speaker to give direction on the same. Otherwise, I beg to second the report, thank you.

The Speaker (Hon. Oraro): Honorable members, first let me applaud the Standing Committee on Labour and Social Welfare for presenting the Progress Report. I urge other House Committees with pending reports to at least bring a progress report to enable us know your position and challenges you encounter that deters you from completing the report. I want to agree with sentiments made by the Leader of Minority that indeed such occurrences have happened at in the National Assembly and summons given. It is now known to me that they have been called twice but haven't heeded to that call, but before I give guidance on the same, I want to remind Hon. Members that, this is a progress report and hence I don't put questions on progress reports. Nevertheless, I can still give chance to members to air their views. Hon. Miruka, I can see you requested for more time but you aren't clear how much time you need.

The Speaker (Hon. Oraro): Yes, Hon. George Ogutu

Hon. Ogutu: Thank you Mr. Speaker, I want to commend the Standing Committee on Labour and Social Welfare for their progress report and it is high time the Assembly put the Executive on the right track.

We are aware that the Executive wanted the Village Administration Act to be changed and they wrote a memo to this House on the same.

Mr. Speaker, Members deliberated on the memo and resolved that the Act was to remain as it was. They brought the memo on changing the Village Administration Act so that they get a leeway of appointing officers as they please. It is quite unfortunate that the Executive works against the resolutions of the Assembly and we must not give them that latitude. The Act is very clear that if the Village Administrators have to be sourced, it should be through the County Public Service Board. This should therefore have been in public domain and advertised via the Local Daily Newspapers that are consumed by constituents. They did not follow the laid down procedures hence the recruitment becomes null and void. I commend the Standing Committee and as you asked them how much time they need; I feel they don't need any more time because we had already returned that memo that was brought in quest to amend the Act. The Executive is therefore playing cat and mouse with the Assembly.

Mr. Speaker that is the reason as to why even these summons, the County Executive will not honour. Even now as we speak, we are being requested for more time. Mr. Speaker, you are aware that this House has a tight and busy calendar. I believe soon the Assembly will be proceeding for the CASA games. If we leave this thing the way it is going, it will overlap to year 2022.

Mr. Speaker, I would like to urge this House that, we have been furnished with a very comprehensive report, let us resolve that there is no need to according this Standing Committee more time. So, let us resolve that what the County Executive is saying or bringing to us as illegal.

We do it with a very bold response so that they are aware that they should not take this House for granted.

Mr. Speaker, out of that, the County Executive will know that we are a serious House. Mr. Speaker, we cannot not be taken in circles every now and again. Mr. Speaker, the County Executive brought the Act we rejected their recommendations and we sent it back with explicit recommendations. Now, again they went ahead and recruited these particular officers, meaning that, they declined to comply with what the Act stipulates and if you decline to comply with what the Act is stipulating, that means that whatever they have done is null and void.

Mr. Speaker, I want to categorically state here that, there is no need to according this House Committee more time and let us resolve as a House that what the County Executive did is null and void “*Ultra-vires*” so that the communication can be forwarded back to the County Executive.

Mr. Speaker, with those few remarks, I beg to support the report. Thank you.

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

Hon. Arao: Thank you Mr. Speaker. I believe that this is a progress report. Please allow me to equally give my progress opinion over it. This is because it might change.

Mr. Speaker, I have seen that we have about seventy Village Administrators. When we refer to the Act and this was the Act forwarded to this House by the County Executive and the Act presented by this House. I am aware that we were supposed to conduct vetting of these officers, which I believe is okay. Mr. Speaker, these seventy men and women are emanating from this County and were given the opportunity to get gainful employment. So, as we walk and talk on the happenings in our County, we should consider that this is like chasing an aeroplane using a bicycle because the horse has already bolted and these people are already deployed and working and earning with families to take care of and I believe this was not a mistake of their making. If any errors were committed anywhere, then we don't have to crucify them. When Hon. Ogutu is talking like that, maybe he has some conflicting interest which were never addressed. So, we cannot throw the baby with the bathwater....

Hon. Ogutu: Mr. Speaker, Point of Order. I have been adversely mentioned by Hon. Arao...

The Speaker (Hon. Oraro): Hon. Ogutu, are you on a Point of Order or Point of Information?

Hon. Arao: Mr. Speaker, he wants to distract me....

Hon. Ogutu: Mr. Speaker, I want to give information.

The Speaker (Hon. Oraro): Order!! Order!! Hon. Arao. Hon. Ogutu, whom do you want to inform?

Hon. Ogutu: Mr. Speaker, I want to inform Hon. Arao.

The Speaker (Hon. Oraro): Hon. Arao, Hon. Ogutu wants to inform you?

Hon. Arao: No!! Mr. Speaker, I don't want any information from Hon. Ogutu. He is coming from a remote location and I don't want to know things that are coming from the remote areas. Mr. Speaker, I am representing the City.

The Speaker (Hon. Oraro): Order!! Hon. Arao.

Hon. Ogutu: Mr. Speaker, I don't believe that this is fair because you are not allowing me to respond on what Hon. Arao has just stated about me.

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

Hon. Ogutu: Thank you Mr. Speaker. I believe that for us to rescue Kisumu County, we have to be very candid with ourselves. This is no time for sycophancy. Mr. Speaker, the motion that we are discussing here is a serious matter affecting the people of Kisumu County....

The Speaker (Hon. Oraro): Order!! Hon. Ogutu. I accorded you time to inform Hon. Arao. What is it that you rose to inform him?

Hon. Ogutu: Mr. Speaker, you are aware that I have to build my case...

The Speaker (Hon. Oraro): Order!! Order!! Hon. Ogutu. Can you please resume your seat?

Hon. Ogutu: Okay, please let me inform Hon. Arao.

The Speaker (Hon. Oraro): Please proceed and please stick to the point.

Hon. Ogutu: Mr. Speaker, foremost, thank you for according me this opportunity to inform Hon. Arao. Mr. Speaker, I believe that today is a time for every Hon. Member to debate positively. Subsequently, I believe that I have delivered my point in a way it was supposed to be. Mr. Speaker, it is paramount for Hon. Arao to go straight to the point without disparaging my name and I implore you to protect me because you are aware of how Hon. Arao is a rogue Member in this House. Thank you.

The Speaker (Hon. Oraro): Hon. Ogutu, I believe that, is unparliamentary...

Hon. Ogutu: Mr. Speaker, I withdraw and apologize.

Hon. Ogutu: Hon. Arao, please conclude.

Hon. Arao: Thank you Mr. Speaker. Sometimes I want to appreciate you because you always protect your Members. I really sympathize with our Village Administrators who are already on duty. So, my point was even as we discuss this report....

The Speaker (Hon. Oraro): Hon. Ojuok, whom do you want to inform?

Hon. Ojuok: On a Point of Order. Thank you Mr. Speaker. I want to inform Hon. Arao.

The Speaker (Hon. Oraro): Hon. Arao, would like to be informed by Hon. Ojuok?

Hon. Arao: Mr. Speaker, this is a waste of my time...

The Speaker (Hon. Oraro): Hon. Ojuok, I am aware that you have not contributed to this debate, I will give you time. Please note down your points...

Hon. Arao: Mr. Speaker, this is a waste of time, he can debate after I have concluded.

The Speaker (Hon. Oraro): Order!! Order!! Hon. Arao. Hon. Ojuok, the contributor on the floor does not want to be informed. So, I am saying that, please reserve your words, I will give you time to debate.

Hon. Ojuok: Mr. Speaker, the debater is violating something here.

The Speaker (Hon. Oraro): So, are you on a Point of Order...

Hon. Ojuok: Mr. Speaker, you are blind and sometimes...

The Speaker (Hon. Oraro): It is what I am asking, are you on a Point of Order or Information?

Hon. Ojuok: Mr. Speaker, I want to inform the House.

The Speaker (Hon. Oraro): Hon. Ojuok, but the Member does not want to be informed.

Hon. Ojuok: Mr. Speaker, I want to inform the House.

The Speaker (Hon. Oraro): Hon. Ojuok, what is it?

Hon. Ojuok: Hon. Speaker, the Hon. Member has made remarks that he does not want to listen to some rural wards and he is representing the City. Mr. Speaker, are there lesser wards in this County? Mr. Speaker that is a very reckless utterance.

The Speaker (Hon. Oraro): Hon. Ojuok, are you on a Point of Order or you are informing the House? This is because what you are saying is like a Point of Order. Do you want Hon. Arao to substantiate something?

Hon. Ojuok Mr. Speaker, stating that the language he is using is unparliamentary.

The Speaker (Hon. Oraro): Thank you. Hon. Arao, please proceed.

Hon. Arao: Thank you Mr. Speaker. I want to say that Railways Ward is the largest ward within the City and Hon. Ogotu comes from Nyakach Sub-county. Therefore, it is good for us to say that there are Rural Wards and City Wards. Mr. Speaker that is a fact.

Mr. Speaker, it is good for us to note that, as we discuss this Progress Report, because of some two or three individuals whose interest were not addressed, there are seventy Village Administrators who are currently on duty as we speak and what they get on a monthly basis they use to protect and serve and cater for their families. So, I don't see how this Act which was not applied, we now want to apply is when it's too late...

The Speaker (Hon. Oraro): Order!! Order!! Hon. Members. Please resume your seats Hon. Ogotu and Hon. Atieno.

The Speaker (Hon. Oraro): Hon. Arao, please ensure that you are within the debate. Hon. Members, I have not heard anywhere where the report is talking about sending away the Village Administrators and the matter under discussion is the procedures used.

Hon. Arao: Thank you Mr. Speaker...

The Speaker (Hon. Oraro): Hon. Members, and I have not heard the Committee presenting anything on the seventy Village Administrators and the rest. So, please stick within the confines of the debate.

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

Hon. Agolla: Mr. Speaker, I rose on a Point of Order while citing the provisions of Standing Orders No. 89.

The Speaker (Hon. Oraro): Please proceed.

Hon. Agolla: Thank you Mr. Speaker. We are discussing a very serious issue and a Member should not take this House for granted. Mr. Speaker, the report is questioning the legality of the report which is tabled before this House.

Mr. Speaker, just the other day, the Courts of law nullified or quashed a bill which was talking about the qualification of Members of the County Assembly and Members of the National Assembly to have degrees. This was due to the fact that the law was passed without following the due process because the Public Participation was not conducted and it's the reason that lead to the nullification. So, we are trying to correct things that were not done procedurally so that, those youths who are employed and serving this great County should not lose their jobs. This is because, they may be compelled to reimburse monies that they were paid as salaries illegally.

(Applause)

Mr. Speaker, we are discussing this issue because we also want to protect the interest of those youths at the villages. They are our brothers and sisters. Mr. Speaker, they must be recruited in a manner that is within the law, and we as a House passed this law, where we conducted the Public Participation and we debated and this Bill was assented to by the Governor. So, Hon. Members, there are times for jokes and times for discussing and concentrating on serious issues and we should not come here and start discussing this without points of references.

Mr. Speaker, the Standing Order is very clear, please refer to the Members who have interest because having interest is conflict of interest and you should have raised that matter and then the Member who has interest should be taken to the court of law because that is contravening the provisions of the Constitution of Kenya. So, we should not just take things lightly, because we have people we represent in this House. Mr. Speaker, this is uncalled for members not to take this House seriously because we are discussing a very serious issue which may take this County to court.

Mr. Speaker, it was just the other day that we were discussing issue here. This County is losing money as a result of litigations because we don't take this House seriously. This is a House of Rules and Procedures and the forty-seven County Assemblies are equivalent to the high court. I beg to advice.

The Speaker (Hon. Oraro): Thank you for that Hon. Agolla. Hon. Members that is what I said on a very light note that please Hon. Arao stick within the confines of the debate.

Hon. Arao: Thank you Mr. Speaker. Let me go straight to the Liaison Officers.

The Speaker (Hon. Oraro): Hon. Ogaga, what is Point of Order?

Hon. Ogaga: Thank you Mr. Speaker. I want to inform this House that some of the Hon. Members should respect where we come from. Mr. Speaker, Hon. Arao originally comes from Nyakach Sub-county and the way he is talking negatively about Nyakach. So, we need to understand him that he has not matured enough simply because of coming to town.

(Applause)

Mr. Speaker, before he contested in Railways Ward, he tried doing the same in Nyakach and his opponents were so strong and he got an advantage of an old man in town that he was more energetic than his adversary and that is the reason he had an opportunity to be elected in Railways Ward. Mr. Speaker, now that because he was not elected in Nyakach, he needs to respect those people coming from that areas and he should talk well about Nyakach because at the end of the day, he will be going back to Nyakach...

The Speaker (Hon. Oraro): Hon. Ogaga, I had made a ruling on what was happening and I had advised Hon. Arao to stick within the debate. So, I believe that, you information was belated.

The Speaker (Hon. Oraro): Hon. Arao, please conclude.

Hon. Arao: Thank you Mr. Speaker. On the same matter, I will not respond to the sentiments made by Hon. Ogaga who is not in my class. Mr. Speaker, let me concentrate on the debate at hand. When we talk of the Liaison Officers, because recently as Hon. Agolla has just mentioned we have the CASs (Cabinet Assistant Secretaries) that the courts of law made a decision that they were not procedurally appointed by the President. Here in Kenya we know that *Baba* is law and visa-vie and he has not lodged a complaint with regards to these appointments.

So, if the Governor, Prof. Peter Anyang' Nyong'o has appointed these Liaison Officers and he has even gone a step further and outlined their duties and given jobs to do, let us not be seen to be emotive on these matters because these are matters that touch on the lives of these people who are earning and sustaining their families. So, my point is that, the report that was brought to this House was a Progress Report and I am aware that some of us are not glad with this appointments but, I want to inform you that as we discuss this report, some people's lives are at stake. Otherwise, I do not know whether to be in concurrence with this report, but, I am waiting for the final report. Thank you.

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

Hon. Agolla: Thank you Mr. Speaker. Please allow me to add my submissions on the Progress Report with the understanding that one day the Comprehensive Report will be brought and tabled in the House and will be debated upon.

Mr. Speaker, when I looked at the submissions of the House Committee, the Public Service Board and the submissions of the County Attorney, I must say that the provisions of our Standing Orders is very explicit. Mr. Speaker, I want to challenge the Hon. Chairperson, Hon. Miruka whom I duly respect that, at times when chairing these kinds of meetings, the County Executive who are the County Attorney and the Kisumu County Public Service Board should respond to questions under oath.

Mr. Speaker, when the County Attorney was advising this County on the floor of this House that there are some counties that have done the same. Mr. Speaker, I am afraid to support that without a proof/annex attached here because we did pass legislation in this August House.

Mr. Speaker, I am also concerned that this process should be done immediately so that we dispense with it. We should not sit back and see when this County is going to land in a very big problem. Mr. Speaker, I support that we should even create more jobs by recruiting as per this legislation that was saying that we should have Village Council. We need to recruit our youthful Kenyans who are members of this Kisumu County to get jobs but, this should be done within the confines of law. That will enable this County not to waste a lot of money by going to court. If somebody goes to court today to challenge the credibility and legibility of the seventy village admins of

Kisumu, Mr. Speaker, these young boys and girls will lose jobs and that is what we are trying to protect as an Assembly.

Mr. Speaker, we love this County and we know that these young Kenyans are getting their daily bread from this but, we should not be getting it by so violating the laws and legislations that we have passed.

When it comes to the Liaison Officers, personally I do not have a problem with them because they are under the Office of the Governor.

Mr. Speaker, there is a leeway in which the Governor can restructure his government in a manner he deems fit and it is also provided by the law how he can remunerate these Liaison Officers. From my Sub-County, I have seen them doing well. They are supporting the Service Delivery in this County and I believe that the Village Councils and the Village Administrators is what should be looked into so that they are recruited as per the requirement of the law.

Mr. Speaker, without much ado, I believe that next time the Chairperson, Labour and Social Welfare Committee should ensure that any State Officer appearing before us should say what they will and under Oath on what they would be answerable to for what they are saying because we should not cite a legislation which is not within the boundary of Kisumu County. We are in Kisumu County and we only have one Village Administrative Act that we passed in this House. We only have the mother law which is the Constitution of Kenya that should be referred to. In this county, we have 47 Parliaments; Kisumu County is one of them. So, if we pass a legislation that is not a lesser legislation, it should be respected provided that it is within the Constitution.

I beg to add my voice on the progress report as I applaud the leadership of Hon. Rashid Miruka and the entire committee for a good report, thank you.

The Speaker (Hon. Oraro): Hon. Roy Samo. To Hon. Roy, I have just noticed Hon. Maurine Otiang' and I want to consider gender; if you allow me, that I give her chance first then you.

Hon. Otiang': Thank you Mr. Speaker sir, I rise to put my voice on this report. I am feeling a bit disappointed that an important parliament as this one can sit down and go through a document and get approvals and yet those approvals are not taken into consideration.

Mr. Speaker, it has been a tendency by the County Executive of this Government when they are summoned to the Assembly to give clarifications on matters that has queries. They tend not to honour Committee summons. Actually I have heard you mentioning my Select Committee (PIC /PAC) that our reports have not been introduced into this Assembly. However, we have been having this issue; we invite some of these Officers from the County Executive to appear before the Committee to help clarify issues and they do not. They do not also follow the law and if we just sit here as if we do not know what we are doing, then, they will take us for granted.

Mr. Speaker and Hon. Members, if I can refer to the provisions of section 9 of the Village Administrators Bill, it states that,

“A village administrator shall be appointed through an open and competitive process by the County Public Service Board and approved by the County Assembly in accordance with the provisions of this Act”.

So, if this is violated, how do we correct such a mistake? On the same, if the same Assembly calls upon these people to come and give an explanation and they do not respond, I believe there is a ruling that you can just direct that even if they do not come – because the issue is overdue and the officers have been drawing salaries for the last six months- if it is not corrected, then are we really not being taken seriously as an Assembly? Are we legislators or we are just being taken for granted?

One Hon. Member is talking about people not getting what they wanted. However, I do not believe that the law is something which you should just bend according to what you want. The law is meant to be governed and upheld. If we are going to rubbish the law, then I do not believe that we are apt legislators in this House. We must really follow the law and that means that everybody must follow the law.

Mr. Speaker, if someone violates the law, they must be brought to book. According to this report, when you see this response from the County Public Service Board saying that “they benchmarked and they did not find other counties doing...” are we really going to do what other people are doing or we are going to do what we are supposed to do as and adhere to the law that was passed by this Assembly? Mr. Speaker, to me you can direct that when somebody violates or contravene the law, they should be made to account for without any further reference to them. That is because; if they know very well that already there is a problem and we are calling them severally and they are not responding to our summons. Either, you rule that they so be surcharged for such offences because when you break the law, you must be accountable for it.

Mr. Speaker, as an Assembly, let us be very serious, people are looking out to us, we are the legislatures and we have to follow the law. If we do so, we also have to uphold it. Whoever violates the law, it is within our mandates to correct such violations. So, it is a very serious matter and it does not matter whom it was favourable to. Because once you have violated the law, there is no way you can circumvent the law and get away with it.

Further, I commend the Standing Committee for coming with such a report but I am still requesting you since you have the discretion of the provisions Standing Order number one, you can so direct that this matter is shortened so that people get justice as well as an Assembly. Otherwise, sitting here is meaningless if we cannot follow what we debate and deliberate as well as come up with, thank you Mr. Speaker sir.

The Speaker (Hon. Oraro): I had given Hon. Roy. Hon. Atieno I have noticed you but I had given Hon. Roy, so let him speak first.

Hon. Samo: Hon. Speaker, thank you for giving me this chance as well to contribute towards this motion. First, allow me to applaud the Hon. Chair the Hon. Rashid Miruka for having led this Standing Committee to work tirelessly. I am applauding him because he has led this House Committee to come up with various findings which is advising the motion which is before us.

Mr. Speaker, I would not like to talk much on various provisions which have been outlined in this motion because the Hon. Members have really talked about it. The Hon. Agola, Leader of Minority and Hon. Ogutu are very clear on violation of procedures. I was listening to their contribution and I was seriously encouraged by what the members are seeing in this aspect. The Hon. Maurine Otiang' has captured the spirit if it all.

Mr. Speaker, on Wednesday 14th April, 2021 Hon. Gard Olima brought a statement in this House which you directed to be handed over to the Standing Committee led by the Hon. Rashid Miruka. Since that date and we are in October, I believe it is a lot of time which has elapsed between. I therefore understand the cry of some of the Hon. Members when they say that you could be able to agree with the Hon. Rashid for an extension but let it be shortened. Why am I saying so?

Mr. Speaker, I agree with Hon. Ogutu. On 28th October, 2021, I hope so; we may be out of this place for the CASA games and that is going to take a substantial amount of our time Mr. Speaker. When we come back may be for one or two weeks, then we are going for Long Recess which will go to the second week of February next year. Mr. Speaker, so, if we do not deal with this matter, it is going to go up to the year 2022 which is then going to be a political year when we are going to hold our General Election. That it may be a little bit problematic for us as an Assembly to deal with this matter.

Mr. Speaker, I will therefore agree with you Mr. Speaker if you so leniently allow the Hon. Rashid that we may have an extension but may be a week or so. But, you see, if you look at the reasons as to why the Hon Rashid is seeking for an extension is because; number one, the Standing Committee has refused to use their teeth to bite. In this House, we did pass a resolution just few weeks ago. When this matter of section 10 (1) was brought before us, the County Government Village Unit Act, we refused, resolved and we said that let it be so, let it be the way it is.

Mr. Speaker, this meant that, these people who are at the office as at now; because that office was created albeit illegally because it was not approved by the Assembly, they are drawing allowances and salaries illegally and we cannot purport to sanitize them. What is our role as an Assembly? We have three major roles as MCAs. To Legislate; we have done that by approving the Act which was then forwarded and assented to by the Governor of this County. Again, the second role is to do an oversight. Mr. Speaker, Oversight means, if those people are now working are they working as per the law or the provisions of the law? We realized that that is not there and that is what the

Standing Committee instructed to investigate on whether the provisions of the law was complied with. The Standing Committee has given us a very important finding. I therefore draw your attention under the sub- heading; Submission by the Public Service Board and the County Attorney during the Meeting.

Mr. Speaker and Hon. Members, the Standing Committee thereafter came up with the following;

- a) That the laws that the County Attorney and the Public Service Board are referring to should not be applied or read selectively. Because, before you read the provisions of section 51 as they are saying or you move to section 52(1), they are talking of section 52(2) but forget that section 52(1) is very clear on what should be there.
- b) It means that if we are having an establishment of a County Village Unit, there must be the Village Administrator and then the Village Councils. But, then they must be approved by the Assembly. That is very clear.

Mr. Speaker, with our own wisdom or lack of it but I believe we had it; which says that section 10(1) be part of this bill. Mr. Speaker, it is very clear that we as an Assembly, we must approve this. As at now, as we are talking, that is the law. There is nothing more about it. Even if the County Attorney would advise them that this is not in tandem with what other laws are saying in other Assemblies, we are not in those Assemblies Mr. Speaker. I am not in Kakamega County, neither in Vihiga nor Siaya counties.

Mr. Speaker, If you look at us as the Assembly, we are some of the very few Assemblies that have approved this Act; approximately 16 out of the 47 County Assemblies. The, that implies that we are ahead of these 31 who do not even have this Act.

So if we are told that we go and benchmark with the 31 who do not have this Act then we are lost at what we are doing. Why is the County Attorney drawing his allowances and salaries yet he cannot advice this County progressively. This is why I am saying as I agree with the Chairperson of the Standing Committee that let us give that extension so that we have this matter concluded. These people are in office illegally. We are not saying that this people must be chased away; let it just be brought to the Assembly then we do the approval. If that is not done that we are also participating in violating the same Constitution and the laws that we have passed.

Mr. Speaker, if you look at it, then history is going to judge us when we come out of this House. How can a House led by an Engineer and a very able person lead people who are also educated, who know what their roles are and they have also passed a law and that laws states that these people cannot be in an office lest they are approved by the County Assembly which is in accordance with the Act that we passed. We are to stand with what the law states that we purport to make. If we do not have that wisdom then we believe the Governor equally does not have the wisdom. I believe that, the Governor had the wisdom because he approved of it. If they selectively

tried to apply this law then it means that they are violating the Constitution including any other written law. So that violation cannot be accepted and tolerated.

Mr. Speaker, let me take you back to the second matter that was raised by Hon. Olima which is the creation of this position of Liaison Officer. I want to agree with other Members that is not wrong and the County Attorney has cited this in the provisions of section 46 of the County Government Act of 2012.

We cannot read section 46 in isolation without also citing the provisions of section 60 of the same County Government Act which is clear stating that; in establishing any office you must first bring the matter to the Assembly and it be approved. This is not about rearranging but rearrange a unit within that department.

Mr. Speaker, this is a creation of the Liaison Office which is not there and the people who are working as at now are drawing allowances and salaries. So, it is a new creation. Was it budget for? Why must we budget for it? Because they are going to earn from the County. If that is there then the provisions of section 60 of the County Government Act of 2012 is very clear that before establishing an office, it must be brought to this House for approval. If we did not approve it then why are they there? How do we then sanitize it with the provisions of section 46 of the County Government Act which only talks about rearranging the unit within that department? This is not a unit within that department but a creation of a new office. It is very clear that the Village Administrators are occupying these offices illegally and we can sanitize that. We are not saying that we don't want them. What we are discussing is that there is a group of people who are working and the 70 are occupying these offices illegally.

Mr. Speaker, let me bring you back to this; I was elected by the people of Kajulu but whenever I go to several funerals there are several people who are referred to as Hon. Members because they contested against me. In all the Harambee sheets that we are having they are indicated as Hon. Members. The people believe that since they contested against me then they are Hon. Members which is fair. But in this context who is the Hon. Member for Kajulu? That is Hon. Samo. We cannot purport to have this and let it stand. Let us advice the County Executive that they are going against the law and this will one day catch up with the Governor when he is out of office. I can give you examples of several other Governors who have been put to test of some of the things that happened during that time in the office and they are no longer there. Today, we have the handshake and tomorrow we might not have the handshake. The Governor would be asked that you have violated this and he should be able to account for it.

Hon. Miruka, I agree with you that we beseech our Speaker that we may give you that extension of time that your Committee requested which should be utmost one week so that we can conclusively deal with matter. We cannot allow some people to play games with us and the law is very clear. Let them tell us who the people that they want us to approve are. If they want to make it as an omnibus thing then, we have to stand by the law.

Mr. Speaker you did mention something here which was collaborated by one of the Hon. Members; you said that there was a precedence that was set in the National Assembly. That is not the precedence that we can use. We have our own precedence here. We cannot allow this matter to go up to 2022 election. Thank you.

The Speaker (Hon. Oraro): Hon. John Atieno this is a progress report and I just allowed the Hon. Members to contribute then I will give a direction.

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

Hon. Ojuok: Thank you Mr. Speaker. I want to congratulate the Chair for Labour for doing a good job and I know that the people of Nyakach are synonymous for doing good jobs.

Mer. Speaker, I want to say that the Hon. Members have captured these matters very well. I want to say that the law is there, that law has been violated, it has never been changed and if you can remember very well we had a sitting and we discussed over this issue and we clearly made the County Executive to understand that whatever move that they were about to make was wrong. To me I see it as an Act of impunity that somebody has just decided they will selectively apply the law. Just like Hon. Samo has stated, there are certain times where leadership demands that you take a position and say that this is wrong. I want to declare here that I have an interest and my interest is that fairness and the law must be applied. I am not scared of some two people appointed because I know that there are about ten other people who applied.

We are having a cordial relationship and in fact no Governor can ever have an Assembly like this one. This is the only time he can take this thing head on, work on it, present the people he wants, explain himself and have this thing done according to the law. Thank you.

The Speaker (Hon. Oraro): Thank you Hon. Members.

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

Hon. Miruka: Thank you Mr. Speaker. Please allow me to applaud all the Hon. Members for the deliberations. I only want to say that that there is no single time that we invited the County Executive and they snubbed our invitations that I have to clarify.

Secondly, I want to categorically state here that, the County Executive is ready and willing to furnish this Committee with the documentation that we requested for. Please remember that I was seeking extension of time because we saw in the annexes provided that they did not attach any references that they did with any Counties.

Mr. Speaker, we sought for more time so that we can get them on our own which will be presented in our next meeting. Otherwise, I want to say that I equally support Kisumu County Village Administrators Act that was approved here and it is the reason that we attached all the annexures.

Mr. Speaker, I want to say without fear of doubt that, we are going to get to the bottom of this matter professionally. Thank you.

The Speaker (Hon. Oraro): Thank you Hon. Miruka. Please let me direct as such.

First, I want to take this opportunity to warn any Member of the County Executive who have been invited to appear before a House Committee on a matter of Topical Concern or a statement that it shall be their own responsibility. The Law and our Standing Orders are very clear on what we need to do in such a case. So, let this be a warning to any Executive Member who has been invited to appear before any committee on any topical concern or any statement raised by the Assembly. The Assembly has to do its role which is oversight on top of representation and legislation.

Secondly, concerning this matter that was raised by Hon. Olima and committed to the Standing Committee of Labour and Social Welfare. I want to congratulate you for bring the progress report because now we know what is happening. Going by the presentation from the Chairperson, he has indicated that the Board is willing to appear before the Standing Committee on 1st November 2021.

So, I direct that the same date be retained for meeting with the Board so that you get further clarifications that you requested for. The report must come to the Assembly on Thursday, 10th November 2021 that is immediately after the Short Recess. You must also give us clear recommendations and resolutions as regards to the matters which seems obvious.

Hon. Members, remember I was the Chairperson of Administration of Law and Justice Committee when the Bill was being discussed. We are not discussing the people who were employed in those particular positions but, discussing about the procedure that was used and how to ensure that we are within the law. Thank you.

The Speaker (Hon. Oraro): Next Order!

ADJOURNMENT

The Speaker (Hon. Oraro): There being no any other business to transact, the House stands adjourned to 21st October 2021 at 2.30 p.m.

(House rose at 4.45 p.m.)

Addendum

Hansard Team

<i>Zablon Otiende</i>	-	<i>Senior Hansard Report</i>
<i>Edward Odanga</i>	-	<i>Reporter</i>
<i>Fanuel Okode</i>	-	<i>Reporter</i>
<i>Patrick Okoyo</i>	-	<i>Reporter</i>
<i>Jesca Otieno</i>	-	<i>Reporter</i>
<i>Jacklyne Otieno</i>	-	<i>Reporter</i>
<i>Valerie Achieng</i>	-	<i>Reporter</i>