COUNTY GOVERNMENT OF KISUMU

COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – SECOND SESSION

Tuesday 14th March, 2023

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

(The Temporary Speaker (Hon. Emily Oginga) in the Chair)

PRAYER

The Temporary Speaker (Hon. Oginga, Nominated MCA): Mr. Clerk, take us through the Order Paper of today.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Next order!!

COMMUNICATION FROM THE CHAIR

The Temporary Speaker (Hon. Oginga, Nominated MCA): Honourable Members, in the Speaker's Gallery are elders from Kolwa. Allow me to read their names; Mr. Alex Wadegu, Mr. Sospeter Onyango, Mr. Oketch Ogendo, Mr. Joseph Owenga, Mrs. Leah Atieno, Mr. Alfred Oyoko and Mr. Abraham Owenga. We also have a student from Germany that is Ms. Sarah Ziegler. *Karibuni sana.*

The Temporary Speaker (Hon. Oginga, Nominated MCA): Next order!!

PETITIONS

The Temporary Speaker (Hon. Oginga, Nominated MCA): Honourable Members, the County Assembly is in receipt of a Petition by the residents of Kolwa on the matter of Nyamthoe Lands Adjudication. The petition is dated 07th March, 2023 and I read. We the undersigned; residents of Kolwa East, Kolwa Central and Kolwa, West Location in Kisumu County and citizens of the Republic of Kenya draw the attention of the Kisumu County Assembly to the following;

THAT, we hereby raise alarm on the matter of the ongoing Lands Adjudication in Nyamthoe area within Kisumu East and Kisumu Central Sub Counties which has suffered interference by officers assigned to undertake the adjudication process.

THAT, we as concerned residents have resolved not to take part in any deliberations or resolutions made by officers mentioned herein until an investigation is conducted into their alleged interference with the adjudication process is completed.

THAT, the Kisumu Lands Adjudication Office has flagrantly disobeyed the following important resolution of the key stakeholders. The resolutions made during community meeting held on 23rd October, 2022 at Western Bridge, near Prison Farm, Nyalenda "A" and Nyalenda "B" Wards boundary. The meeting resolved that all land adjudication process be stopped until lasting solutions for the prevailing problems is found.

THAT, the resolutions made during a baraza held by Kasagam Elders at Kasawino Hall in Manyatta "B" Ward on 11" November, 2022 regarding the so-called prisons farm bordering Nyalenda "A" and Nyalenda "B" Wards of Kisumu East and Kisumu Central constituencies. Which resolutions were made in the presence of the Officer Commanding Station, Nyahera Police Station and the Deputy Assistant County Commissioner Kisumu East Sub-County,

THAT, the Community must urgently hold a stakeholder meeting and restructure the membership of the lands adjudication Committee to avert any further disgruntlements. The resolution by the Kasagam Elders during the meeting on 11th November, 2022 to disband the current Lands Adjudication during the subsequent meeting held by the Kasagam elders at Kasawino Hall headed by WEK Chairman Elder Noah Nyagol. The resolution made during the last follow up meeting held at the Western Bridge during which it was resolved that the Lands Adjudication Committee be disbanded and adoption of the entire Kawino Declaration.

THAT, the resolution made during the meeting held on 23rd November, 2022 that a new Lands Adjudication Committee to be elected to steer the process. There has been complete and blatant disregard of two reminder letters by Assistant County Commissioner to the Lands Adjudication Office in Kisumu to cease and desist from carrying out any lands adjudication process on security grounds.

THAT, all the minutes of the meetings referred here above are available for scrutiny.

Now therefore, your humble petitioners pray that, the County Assembly forms and Arbitration Tribunal to arbitrate between the Adjudication team and the Community.

THAT, the County Assembly through its resolution course the Lands Adjudication process to be stopped until the arbitration is complete and the dispute resolved.

THAT, the available register be submitted to the County Assembly for scrutiny by the County Assembly and the Community.

THAT, the Lands Adjudication Report be nullified and started afresh if found with faults. And your petitioners will ever pray.

Honourable Members, I will allow few comments on this petition before I commit it to the relevant House Committee as per our Standing Order No. 216 which stipulated that and I quote;.

"The Speaker may allow comments, observations or clarifications in relation to a Petition presented or reported and such total time shall not exceed thirty minutes".

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon. James Were.

Hon. Were (MCA, Nyalenda "B" Ward): Thank you Madam Speaker. I rise as representative of Nyalenda "B" to comment on this petition. There has been a lot of concerned from both residents of Nyalenda "B" and Nyalenda "A" on how this matter is being handled. I want to encourage that this process should be transparent as possible so that the residents of the said areas can live in peace. I support.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon. Adega.

Hon. Adega (MCA, Kajulu Ward): Thank you Madam Speaker. Allow me to thank the elders present in the gallery for presenting this petition to the House. This petition is long overdue and I want to urge the Members to give it the support that it deserves. I support the Petition. Let it be handled by the appropriate Committee. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon. Rakwach.

Hon Rakwach (MCA, Kolwa East Ward): Thank you madam Speaker. I am a Member of Kolwa East Ward. Thank you for this opportunity to enable me add my voice on this Petition. First, I wish to appreciate our elders for coming up with this Petition so that weighty issues that govern land adjudication are solved once and for all.

Madam Speaker, going through the Petition, these concerns are good and touchy. The prayers are also okay. However, the only worry I have is the adminisibility of this Petition. We need to look at the Petition so that once we deal with it, it is water tight and that no one can challenge it in the courts of law. Madam Speaker, if I refer you to the provisions of Standing Order No. 213, which states that a Petition shall be in a form set out in the Third Schedule and shall –

(a) be handwritten, printed or typed
(b) be in English or Kiswahili and be written in respectful, decorous and temperate language;
(c) be free of alterations and interlineations in its text;
(d) be addressed to the County Assembly;
(e) have its subject-matter indicated on every sheet if it consists of more than one sheet;

Madam Speaker that is where the problem lies. I need it to be a Petition which cannot be challenged in the courts of law, such that when we are through with it, it is something that we can implement. Otherwise, I appreciate you Elders for coming up with this.

Madam Speaker, my only concern is the adminisibility of this Petition pursuant to Standing Orders No. 213 (e). Thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Hon Alice Wajewa.

Hon Wajewa (Nominated MCA): Thank you very much Madam Speaker for giving me this opportunity. First, I would like to start by congratulating our elders for bringing this Petition to this House. It is a timely Petition. I was born in Nyalenda 'B' and I know the area very well. In fact, when I was very young, we could go and do some farming there. It is what has made me who I am today. It is also what paid for my school fees. I am very sure that the people of Kolwa have really suffered. Taking into consideration of the urgency of the matter, I want to say that we should move with speed to have it settled.

Madam Speaker, I am very sure that the adjudication process is almost through, say, within three weeks. It is my prayer that it is committed to the relevant committee so that it is conclusively dealt with. I do not understand why this issue has taken too long yet it is something which is quite straight forward. This land belongs to the people of Kolwa and when anyone is making decision on that land, the relevant people should be involved. I feel emotional about this matter especially when I see my people suffering. The petitioners are my grand petitions who have really suffered.

Madam Speaker, my prayer is that, you commit this Petition to the relevant House Committee as soon as possible. If there is anything that needs to be corrected as indicated by Hon Rakwach, then, let us come together and advise them accordingly, so that once it is passed, we do it once and for all. Thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon Boitone.

Hon Boitone (MCA, Nyalenda "A" Ward): Let me start by thanking you Madam Speaker. I also want to add my voice on the same because I know this Petition touches on us. Time is of essence in this Petition. As you have heard, the exercise by the adjudication is almost ending. If we do not move with speed, then, the purpose and the objective of this Petition will be null and void. I also want to ask fellow MCAs that this issue may not be touching on their Wards. However, I request that we look at it critically so that when it comes to the Floor of this House, we give it the maximum due attention that it requires. That is my appeal to Members of this Honourable House. I believe the prayers will be answered so that justice is done to members of this community. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Thank you. Yes, Hon Okumu.

Hon Okumu (MCA, East Seme Ward): Thank you very much Madam Speaker. I rise to support the Petition. I wish to advise Hon Rakwach that the Petition is admissible because it has met the minimum threshold. We are now going to see how we shall address the prayers sought by the petitioners. As for what my sister Hon. Wajewa has said, there are people already working on adjudication and they are almost finishing. There is a prayer that this be stopped. As such, we

really need to move with haste to see if there is need to stop it or to ascertain if the procedure that is being conducted is above board. Madam Speaker, let us move with speed through the relevant committee so that we can give appropriate feedback.

We want to congratulate the Petitioners. As an Assembly, we are committed to working on it and to giving you appropriate feedback that will help address the issue of this land once and for all. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Oginga): Yes, Hon Oiko.

Hon Oiko (MCA, Kabonyo/Kanyagwal Ward): Thank you Madam Speaker. A weighty matter has been brought before this Assembly; the matter of land which is very emotive and sensitive. When this matter has come the way it has come up, it means there is discontent on the ground, and they want the Assembly to find a solution for them. The petitioners have stated their earlier efforts to have this matter addressed yet they have not realized anything. It is your indulgence that will make this matter easy because I am foreseeing a situation where this land was vacated by your inhabitants in the 60s when there was a mass flood along Lake Victoria. Generations have followed, some have died, and others still alive.

Madam Speaker, who then are the rightful people to own this land? That is what the struggle is all about. You will find that the lineage of an Onyango from the 60s, who were about five or six people during that time, have now increased to ten or twenty fighting over their grandparents' land. They are in need of a solution to be found for them. It may be difficult but if you agree as a community that, however difficult it may seem, we must find a solution by apportioning appropriately to make work easier. I have been keen on the resolutions that were quoted by the Speaker on the lands at *Kosawo, Kowino,* and I am also hearing of the prison land being quoted in this petition. It shows how weighty the situation is.

Madam Speaker, due to the lineage, many grandchildren who have come, and are now eyeing their grandparents' land, could be more than ten people scrambling for say, an acre or less. That is the scenario I am imagining. So, let us be sober in order to come up with a solution that can be formulated, considering the situation, and because *Namthoi* land is lucrative and everyone wants to own it. However, one would also question that demarcation and allocation of land around Kisumu town which was done a long time ago, but why has *Namthoi* land taken this long without its demarcation done?

The County Assembly will try the much it can, then the Department of Land, Housing and Physical Planning will be on the ground because it is a weighty matter my brothers and sisters.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Thank you Hon. Oiko and the Honorable Members, for your contributions. Since our 30 minutes have elapsed, I would like to confirm it. So, I want to commit this petition to the Committee on Administration of Law, Justice, Constitutional Affairs, Good Governance and Security (JLAC), for consideration and have their report within 60 Calendar days as provided for by the Standing Order No. 217 (2), thank you.

Hon. Oiko (Kabonyo/Kanyagwal Ward): Madam Speaker, I seek your indulgence. I thought that the matter before the House is a land matter, and not a matter that is looking for justice as such. The right House Committee that should have handled it therefore should be one that deals with matters on land and its adjudication.

(Loud consultation)

The Temporary Speaker (Hon. Oginga, Nominated MCA): Order!! Order!! Hon. Alice Wajewa, can you resume your seat! Honorable Members, you know very well that this is a petition that was brought to the floor of the House and it needs to go through the Justice and Legal Affairs Committee for scrutiny before it is committed to any other committee. I will therefore commit it to the JLAC Committee, thank you.

Hon. Wajewa (Nominated MCA): A Point of Order Madam Speaker!!

The Temporary Speaker (Hon. Oginga, Nominated MCA): Honourable Member, which Point of Order are you rising on? I have already made my ruling.

Hon. Wajewa (Nominated MCA): Madam Speaker, I just wanted to remind you that due to the urgency of the matter, 60 days seems too long. According to the Standing Orders, it is so but maybe if it can be shortened, please. Thank you.

Hon. Okumu (MCA, East Seme Ward): A Point of Order Madam Speaker

The Temporary Speaker (Hon. Oginga): Please proceed

Hon. Okumu (MCA, East Seme Ward): Thank you, Madam Speaker. I believe the Speaker ruled that within 60 days, the report should be availed; this could even be one day. So, it will depend on how expeditious the House Committee will deal with it and it is not a leeway for them to take 60 days but just the maximum duration allowed by Law. Madam Speaker, I would also want to say that I have never seen a House where the Speaker's ruling is debated upon. Honorable Members, we need to read our Standing Orders and learn that when the Speaker has made a ruling, it is final. Otherwise, thank you Madam Speaker.

The Temporary Speaker (Hon. Oginga): Next Order.

PAPER LAID

THE REPORT BY THE COMMITTEE ON IMPLEMENTATION ON THEIR INDUCTION EXERCISE IN NAIROBI CITY

BY

HON. HENRIETTA BODO, NOMINATED MCA.

(CHAIRPERSON, IMPLEMENTATION COMMITTEE)

The Temporary Speaker (Hon. Oginga): Yes, Hon. Henrietta Bodo

Hon. Bodo (Nominated MCA): Thank you Madam Speaker, I am arising to lay a Paper. Pursuant to the provisions of the Kisumu County Assembly Standing Order No. 182 (6), I wish to table today Tuesday, 14th March, 2023, the report by the Committee on Implementation on their Induction Exercise in Nairobi City. Thank you, Madam Speaker.

(Hon. Bodo lays the paper before the House for consideration)

The Temporary Speaker (Hon. Oginga, Nominated MCA): Honorable Members, I want to confirm receipt of the report by the Committee on Implementation, on the Induction Exercise in Nairobi, and I want to commit the report to the House Business Committee for purposes of scheduling. Thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Next Order Clerk.

NOTICE OF MOTION

THE REPORT BY THE COMMITTEE ON IMPLEMENTATION ON THEIR INDUCTION EXERCISE IN NAIROBI CITY.

BY

HON. HENRIETTA BODO, NOMINATED MCA.

(CHAIRPERSON, IMPLEMENTATION COMMITTEE)

The Temporary Speaker (Hon. Oginga): Yes, Hon. Henrietta Bodo.

Hon. Bodo (Nominated MCA): Thank you, Madam Speaker. I arise on a Notice of Motion. Pursuant to the provisions of the Kisumu County Assembly Standing Order No. 45 (1), I wish to give a Notice of Motion that this House adopts a report by the Committee on Implementation on the Induction Exercise in Nairobi City. Thank you, Madam Speaker.

The Temporary Speaker (Hon. Oginga): Next Order Madam Clerk!

MOTION

REPORT ON THE STATEMENT RAISED BY HON. KEN OOKO ON SAND HARVESTING IN RIVER NYANDO IN AHERO WARD

BY

HON. SAMUEL DEDE, MCA, NORTH KISUMU WARD.

(CHAIRPERSON, WATER, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE)

The Temporary Speaker (Hon. Oginga): Yes, Hon. Samwel Dede.

Hon. Dede (MCA, North Kisumu Ward): Mr. Speaker and Honourable Members, sand as a mineral resource, is the second most extracted mineral and the second most used resource after water and this is attributed to its several uses in the construction, glass and many other industries.

Sand is harvested from different sources such as quarries and pits, from the sea, with the best sand for construction being found on the riverbeds. Every year, it's estimated that up to 50 billion tonnes of sand is harvested for use, an indication of its strategic importance.

However, despite its strategic importance, sand harvesting remains unregulated in most parts of the world and in most Counties in Kenya. In Kenya, only a few Counties like Kajiado County that has come up with proper legislation that regulates Sand Harvesting.

Unregulated Sand Harvesting puts unprecedented pressure on rivers leading to erosion, biodiversity loss and reduced protection from storm surges. Uncontrolled harvesting has also led to environmental damage which at most times is normally overlooked. In addition, revenue streams. It is in this regard that a statement (annex 1) was raised by Hon. Ken Ooko, the MCA for Ahero Ward which sought clarification on the sand harvesting activity on the banks of River Nyando. This Statement was committed to the Standing Committee on Water, Environment and Natural Resources.

Mr. Speaker and Honourable Members, the Committee draws its mandate pursuant to the provisions of the Standing Order 193(5), the Committee on Water, environment and Natural Resources shall among other supervisory duties:-

(a) Investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned department.
(b) Study the programme and policy objectives of the department and the effectiveness of the implementation.
(c) Study and review all County legislation referred to it.
(d) Study, assess and analyze the relative success of the department as measured by the results obtained as compared with their stated objectives.
(e) Investigate and inquire into all matters relating to the assigned department as they may deem necessary, and as may be referred to them by the County Assembly.
(f) To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 187(Committee on Appointment).
(g) Make reports and recommendation to the County Assembly as often as possible, including recommendation of proposed legislation.

Further, pursuant to the provision of the Standing Order 193(Second schedule), the Committee is mandated to inquire into, investigate and report on;

All matters relating to the provision of clean water for domestic use; implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisance and outdoor advertising.

Pursuant to Standing Order No. 193(6) of the Kisumu County Assembly Standing Orders, the Committee on water, Environment and Natural resources is composed of the following Members;

1. Hon. Samuel Dede	Chairperson
2. Hon. Mickey Ochieng	Vice Chairperson
3. Hon. Maurice Otieno Ngeta	Member
4. Hon. Emily Oginga	Member
5. Hon. Jennipher Obonyo	Member
6. Hon. Lumumba Owade	Member
7. Hon. Reuben Rakwach	Member
8. Hon. Vincent Jagongo	Member
9. Hon. Mildred Ajumbo	Member
10. Hon. Ken Ouko	Member
11. Hon. Seth Okumu	Member
12. Hon. Mariam Abeid	Member
13. Hon. James Were	Member
14. Hon. Nancy Matara	Member
15. Hon. Adonijah Odari	Member

Secretariat

1. Allan Otieno	Assistant Clerk
2. Fanuel Okode	Hansard
3. Silas Kapesa	Sergeant-at-Arms

Mr. Speaker and Honourable Members, I would like to express my special appreciation to all members of the Committee on Water, Environment and Natural Resources for their valuable contributions during this exercise that sought to look into the issue of sand harvesting.
The Committee also extends utmost gratitude to the offices of the Speaker, Clerk of the Assembly and the secretariat for their effort which ensured that the activities were successful
I therefore humbly submit this Report for consideration by the House on behalf of the Committee on Water, Environment and Natural Resources.

Mr. Speaker and Honourable Members, the Committee on Water, Environment and Natural Resources had three special sittings during the long recess with the Speaker's approval which enabled it to expedite with the statement. The committee conducted an inspection tour of the sand harvesting site to ascertain first-hand what was on the ground. In addition, the Committee wrote to the Department of Water, Environment and Natural resources requesting to be furnished with all documentary evidence in regards to permitting the company carry out sand harvesting as well as evidences of revenue collection.

Mr. Speaker and Honourable Members, Kylin Works limited is registered as a limited company and is said to be owned by a Chinese national. It is located in Ahero ward along the banks of River Nyando for the purposes of sand mining. It is alleged that the land privately belongs to a local resident and it could not be established whether he/she leased or sold it to the company.

In its mining activities, it uses a mechanized system of sand harvesting comprising of two dredging equipment which are connected to a mud filter which connects again to a conveyor system that loads the refined sand onto trucks. From the above mechanized system it's clear the

company undertakes largescale sand mining which is suspected to be unsustainable sand harvesting.

Mr. Speaker and Honourable Members, at the time of visiting the site, the Committee was informed that the Chinese company had stopped its mining activities along the river bank and left the site leaving behind the heavy equipment. The committee made the following observations and findings;

The committee could not establish the legality of the Company as it could not obtain the documentary evidence of its registration from the mining site since the site was deserted and the offices closed at the time of inspection.

However, the Department of Water, Environment and Natural Resources only submitted to the Committee an Environment Impact Assessment License (annex 2) approving the company to carry out sand harvesting in the river bed up to a depth of two meters.

No documentary evidence was availed in regards to revenue collection from the Company as the offices were closed and no employee was at the site. The Department also did not avail proofs of revenue collection as was requested by the committee.

Sand mining comes with it several socio-economic and environmental impacts both to the residents of an area as well as affecting the river in cases where river bed sand mining is involved.

The committee observed that the banks of R. Nyando have been deformed and the stability of its slopes are also affected. It is also reported that the aquatic life has been affected by the company's activities.

However, the committee could not clearly establish the socio-economic impacts of the mining activity on the people and the surrounding area. This was due to the fact that the mining site was deserted with the department also not providing information on the same.

The committee makes the following recommendation;

1. THAT, the CECM implement economic policies that will reflect the strategic value of sand in terms of pricing and the necessary regulations to ensure there is sustainable practices in the extraction and application of sand.
2. THAT, the CECM establishes a county map that will identify sand harvesting sites to enable in the management of sand harvesting taking into account environmental and socio-economic outcomes.
3. THAT, the CECM to put in place guidelines that will ensure accountability and transparency for the effective governance of sand mining activities within the County by the Start of the next FY 2023/2024.
4. THAT, the CECM establishes a baseline map of all sand dependent industries and potential markets within the County. This will inform on the material flow and potential points of leverage.

Mr. Speaker and Honourable Members, it is my request that this House consider adopting this report on the Statement raised by Hon. Ken Ooko on Sand harvesting in River Nyando, Ahero Ward. May I call upon Hon. James Were to second.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Hon. James Were.

Hon. Were (MCA, Nyalenda "B" Ward): Thank you Madam Speaker; being part of the delegation that visited the said site and got a chance to witness the happening at the site, I beg to second the report on Water, Environment and Natural Resource Committee, thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Honourable Members, now that Water, Environment and Natural Resource Committee have presented a report on the consideration of the Statement sought by Honourable Kennedy Ooko on Sand Harvesting on River Nyando in Ahero Ward has been presented and seconded. As per our Standing Orders, I want to prose a question. I therefore open the floor of the House for a debate.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes, Hon. Oiko Pete.

Hon. Oiko (MCA, Kabonyo/Kanyagwal Ward): Thank you Madam Speaker. This is a matter of great concern to people from Nyando Sub County. This is because; sand harvesting in river Nyando is not bad as it is also an economic activity to be done by a foreign company. It will be good if the people of Nyando and the people of Kisumu County as a whole to be able to see the economic benefit of this. From the picture we are getting here, this company was licensed by National Environment and Management Authority (NEMA) which the Department of Water, Environment, Climate Change and Natural Resources was aware of and we are not seeing the engagement between that department and this company. That is why we need to know what happens when a foreign company comes to do an economic activity in our County. Madam Speaker, do they just come with a license from National Environment and Management Authority (NEMA) and do their business and in case they cause havoc to us; for instance, I know the place being referred to since I have been passing there and I thought it was flood control yet it was a hand harvesting going on.

Madam Speaker, the County Government must be in the picture and we be able to see the benefits that accrued by the County Government from this exercise. The Committee of Water, Environment and Natural Resource must take the Department of Water, Environment, Climate Change and Natural Resources to task to explain to us what their role is when a foreign company comes to carry out any economic activities in Kisumu County. In case they have been assumed to acquire license from Nairobi, then we keep off, Madam Speaker, we may be losing some of the revenue that our County may benefit from. I therefore urge the Water, Environment and Natural Resource Committee to dig deep into this matter and the department also clarifies on how such matters should be handled, thank you.

The Temporary Speaker (Hon. Oginga): Yes, the Leader of Majority Honourable Kennedy Ooko.

Leader of Majority (Hon. Ooko, MCA, Ahero Ward): Thank you Madam Speaker. First, I want to confirm that the committee visited the site. However, it was unfortunate that by the time the

House Committee was visiting that facility it had already been closed.. In my opinion, they closed because the water level in the river went down and I believe that since the rains have started, they will start working again.

Madam Speaker, the main reason why I raised the issue is that, I know the company was registered by National Environment and Management Authority (NEMA) but, as a County, we also need to get our share of revenue. That is because a lot of sand from Ahero or Nyando fetches around Kshs 5,000 (Five Thousand Only) per lorry but when they go and sell it in Kericho, the same lorry fetches around Kshs 30,000 (Thirty thousand Only). I therefore believe that our people are being denied opportunity to do good business. As a County, the big Lorries that carry sand destroy our roads. If you go to Nyando and you will find out that in almost all the Wards, you cannot find culvert lines. Almost all of them are broken and I believe Honourable Members in this House can confirm the same.

Nevertheless, from the report, I feel very challenged that let the Committee of Water, Environment and Natural Resource liaise with the Department of Water, Environment, Climate Change and Natural Resources and come with a legislation to handle the issue of Sand harvesting, thank you very much.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes, Honourable Henrietta Bodo.

Hon. Bodo (Nominated MCA): Thank you Madam Speaker. As I sat, I was just wondering while Honourable Members were debating. I am contemplating that most of you use sand for construction; if it is not a mud house then it is a permanent or semi-permanent which use sand anyway during construction. The reason why I am wondering is that, we are looking at sand as a source of revenue. However, we also need to find a solution. If we had prevented these people from harvesting the sand which is of help to us, what is going to take the place of sand? That is because we will still continue to build and we will need sand to build. Madam Speaker, however, if any of the Honourable Members have an answer to this, then they can bring it up, thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes, Hon. Maurice Ngeta.

Hon. Ngeta (MCA, Awasi Onjiko Ward): Thank you Madam Speaker. Allow me echo my voice on this weighty matter. I am one of the MCAs that come from the affected areas. I beg to differ with the Honourable Member, Hon. Henrietta who is equally a good friend. We need to come up with protective measures. I have heard the Leader of Majority stating that you cannot access the said roads heading to the sand harvesting areas. We have serious problems in terms of our roads, youths etc. because they are misusing them. Therefore, we need to come up with measures to regulate Sand Harvesting and they will be able to follow and do whatever it takes to help our people Madam Speaker. Otherwise, I beg to support.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon. James Omollo.

Hon. Omollo (MCA, West Nyakach Ward): Thank you Madam Speaker. This issue is cutting across many Wards. In my opinion, we should really come out with a clear legislation on the harvesting and getting revenues from the harvest itself. The kind of exploitation which is going on in sand harvesting leave alone that one done by the Chinese which is very huge and rampant. This House needs to stamp its authority because we have the power and the will to get a very

good legislation to cater for this kind of industry. It is a huge investment but, we do not get the much we are supposed to get.

Madam Speaker, I have listened to my colleague Honourable Leader of Majority; when these Lorries transport sand, they are using our roads and they cause a lot of damage to our roads. That menace really needs to be cured. Madam Speaker, going forward the committee should come up with a way we can control the sand harvest, thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Hon. Mildred Ajumbo.

Hon. Biko, (MCA, Central Seme Ward): Thank you Madam Speaker, I rise to support. We need to do something about the sand harvesting. Each and every one that is seated here, have come from the wards that sand harvesting is taking place. In other wards, like my ward. I visited a village where some children don't go to school. I visited a school in my village and didn't find the headmaster of the school but when I was leaving I met him and he told me that he had gone to look for a particular child in who is in class 8 who come to school once in two week because of sand harvesting.

Madam Speaker, this is a very serious matter and as the County Assembly of Kisumu, we need to come up with legislations so that we can have a policy to cub the idea of sand harvesting. It is good yes because it brings economic benefit but, remember there are times a child does not go to school as a result of these activities that are carried out in wards.

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Madam Speaker, quite a number of us here have roads that are in bad state. You find a road that was done three months ago is not passable because of the big lorries that spoil them. We do not have legislation on how we can reduce that and it is high time this House is serious on how we can reduce the issue of sand harvesting. Thank you.

The Temporary Speaker (Hon. Emily Oginga): Yes Hon. Boitone.

Hon. Boitone (MCA, Nyalenda "A"): May I take this opportunity to first thank you Madam Speaker. Sand harvesting is not only done in the mentioned areas but in several areas in our county. You will realize that, this activity is not remitting any revenues to the county and that is why I want to add my voice to this motion so that the Executive looks into how to tap this revenue stream.

Madam Speaker, I was listening to the chair and there were few things which were not coming out clearly which makes me doubt this report and that is why I stand to oppose this report. Madam Speaker, if the committee informs us today that they could not ascertain whether the land which the claimed company is doing that activity is leased or sold to the company. That simple research they could not do, which makes me pock holes in the entire report.

Madam Speaker, they are also informing us clearly that they visited the site and found no activity going on which I believe is normal because sand harvesting is never done during drought. You do not expect the activities to run when there are no rains.

Madam Speaker, the chair mentioned that they could not get the books to show that there is revenue that the County is getting from this activity. If such information a committee cannot get then, to my understanding, that committee did not do a good job.

Lastly, if you go into the annals or records of the Second Assembly, you will find that there was an Executive Order that was passed that would address the issue that the committee raised. 'The Royalty', if it is implemented then the recommendation will be taken care off and this makes us ask ourselves, after issues have been passed in this Assembly where do they go, are they being implemented and if not why should we pass resolutions that are being kept in the cabinet? Madam Speaker, I don't support thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon. Zack Okoyo.

Hon. Okoyo (MCA, Central Kisumu Ward): Thank you Madam Speaker, I rise to support the report and allow me to agree with my colleagues who have spoken before in regards to sand harvesting. Indeed, it has become a menace and it cuts across the county. I have not gone deep to know whether there is any policy which was passed to regulate this sand harvesting but if there is, then it is my belief that somebody is sleeping on their job.

Madam Speaker, sand harvesting in Kisumu County is not being regulated and as you may see, it is supposed to generate some revenues either to the community or the county and I doubt if that is the case.

Madam Speaker, if we can look at the policy, if there is one which was done before, then we need to amend on that which was done. I also come from an area where sand harvesting is being done, our community is being exploited. It is true that sand from our areas goes as far as Nakuru and Gilgil. This sand from our areas must be very lucrative because they come and purchase it at cheaper price and sell at a higher rate. These big trailers that come to our county to collect sand are damaging our roads and we do not get any penny from them.

Madam Speaker, with a lot of reservation, I want if we can regulate but not deny our community their source of revenue but penalty must be levied to people who come for the sand. I know a lot of families have been eking a living from the harvesting activities. So, I would like us to develop a policy if there is or we make one that will be considerate to the community doing the sand harvesting, thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon. Ouko.

Hon. Ouko (MCA, West Kisumu Ward): Thank you Madam Speaker. I beg to support the motion. I would wish to point out a few facts around this area. I would like to implore Honourable Members especially those chairing House Committees that, whenever you go out for a fact-finding mission, please undertake your duties while taking into consideration of the interest of the people. This is because when we are in this House, we present the interest of the people and some of the factors to consider must be economically and socially aligned with the interest of your constituents. Madam Speaker, I was surprised to realize that the House Committee did not go down to assess the social and economic impact of these people

undertaking Sand Harvesting along our lake and it is my belief that, it was the main reason that they went there.

Madam Speaker, we have officers employed in the County Government of Kisumu who are paid using taxpayers money. We equally have NEMA (National Environmental Management Association which is a national body mandated to look into these matters. I am similarly perplexed that the Committee did not take their time to visit the NEMA offices to find out whether there was an Environmental Impact Assessment (EIA) which was conducted before the firm was granted the permission to undertake these activities. Madam Speaker, the Committee needs to delve deeper and we must similarly consider enhancing our revenue base from Sand Harvesting. There is also the element of CSR (Corporate Social Responsibility) to be done by the firm undertaking these activities within these areas. Madam, Speaker, are these firm offering CSR by supporting any learning institutions around in relation to paying school fees to children residing in those areas and the rest? Madam Speaker, these are weighty matters to be considered. Madam Speaker, I therefore urge this Honourable House to develop policies that are in line with environmental requirement so that we are able to regulate Sand Harvesting activities. Otherwise, thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Thank you Hon. Omollo.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon. Oyoo.

Hon. Oyoo (MCA, Migosi Ward): Thank you Madam Speaker. I similarly arise to support this motion on the floor of this House. I just want to remind Honourable Members that we are situated along the lake region this is to say that our County lies along the lake region. Madam Speaker, I would like to state that, sand is our main mineral. We have other places where they mine gold while other have other minerals and those counties are benefiting from the minerals that they are endowed with. Despite the fact that we are endowed with these minerals, many of our children are not going to school. I believe that if this county develops a policy to regulate Sand Harvesting and whatever the revenues realized from this activity to be ploughed back to these regions to empower them economically, that will bring transformative change to those areas.

Madam Speaker, I want to reiterate that, if sand is not protected, how do we guarantee its sustainability because there is nothing that can last forever. If we don't regulate its harvesting, time will come when our people will be purchasing sand from somewhere else. I equally want to state that, we should also safeguard our society because it is our responsibility as leaders and we should not allow foreign companies to misuse our children. They underpay them for work done because it is not commensurate with work done. Madam Speaker, it is the responsibility of this House to safeguard our society. Please let us develop a policy guideline which will make whoever wants to excavate sand from this county be aware that, this is ours and is used to empower the people of this region. I support. Thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Yes Hon. Obonyo.

Deputy Whip (Hon. Obonyo, MCA, South West Kisumu Ward): Thank you Madam Speaker. I have noticed that House has exhaustively debated on this motion and I would like to call the mover to reply.

The Temporary Speaker (Hon. Oginga, Nominated MCA): The mover has been called upon to reply. Hon. Dede.

Hon. Dede (MCA, North Kisumu Ward): Thank you Madam Speaker. From the look of things, it seems that Members have comprehensively debated on this issue and it is our concern as a House Committee that their issues have been noted down. I wish to respond to some of the issues raised during the deliberations.

Madam Speaker, concerning the Own Source Revenue. I believe that for the business fraternity, in order to be aware as to whether a certain entity pays for its license or permit it is in order that you inspect the premises and you will notice receipts and licenses hanged on the walls of the business premises. As a Committee, we went to the ground but the investors had already closed their premises and so it was difficult to access this facility and look at these receipts as proof that these levies were indeed paid.

Secondly, I have keenly listened to one of the Honourable Members stating that our children are being exploited or underpaid for work done in these sites. Even though excavating of sand is being carried out in our regions, we were not mandated to investigate if children were being underpaid because payment was being done to all those working in those sites. Madam Speaker, sand harvesting activities makes our children truants, but payment was being done according to the agreements arrived at by the employers. My other concern was that, I noted a Member lamenting that in this region, a lorry of sand is sold at Kshs 5,000.00 (Five Thousand Only) and when it is taken to other regions, the same capacity goes for Kshs 30,000 (Thirty Thousand Only). The Member should have taken into consideration the wear and tear, the distance the sand or commodity is ferried to and the repairs undertaken which is born by the owner of the lorry. The Member should have also taken into consideration the element of profit that is expected from the business.

Madam Speaker, lastly, concerning Members deliberations, I was shocked to hear from a Member who was part of the team that visited the site for the fact finding mission also criticizing the committee on how it was supposed to undertake its studies. This is to Members, if you are accorded the opportunity to go for a fact finding mission, please participate collectively and we should not slumber during our duties. Otherwise, thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Hon. Dede, have you replied?

Hon. Dede (MCA, North Kisumu Ward): Yes Madam Speaker. I beg to reply.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Honourable Members, now that the report by the Water, Environment and Natural Resource Committee on its consideration on the Statement sought by Hon. Kennedy Ooko, MCA, Ahero Ward on Sand Harvesting in River Nyando in Ahero Ward has been presented, seconded and debated. As per the provisions of our Standing Orders, I want to put a question.

(Question put and agreed to)

The Temporary Speaker (Hon. Oginga, Nominated MCA): Honourable Members, the Water, Environment and Natural Resource Committee on its consideration on the Statement sought by Hon. Kennedy Ooko, MCA, Ahero Ward on Sand Harvesting in River Nyando in Ahero Ward has been adopted today Tuesday, 14th March, 2023 at 03:46 p.m.

Honourable Members, I now direct that, the recommendations contained herein in this report and of the House debates be communicated to the relevant departments for the purposes of implementation. Further, the Committee of Implementation to follow up on the same. Thank you.

The Temporary Speaker (Hon. Oginga, Nominated MCA): Next order!!

ADJOURNMENT

The Temporary Speaker (Hon. Oginga, Nominated MCA): Honourable Members, there being no any other business to transact, the House stands adjourned to tomorrow Wednesday, 15th March, 2023 at 09:00 a.m. Thank you.

(House arose at 03:50 p.m.)

Addendum

The Hansard Team

Zablon Otiende – Senior Hansard Reporter (Ag. Editor)

Edward Odanga – Hansard Reporter

Fanuel Okode – Hansard Reporter

Patrick Okoyo – Hansard Reporter

Jacklyne Otieno – Hansard Reporter

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