

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

THURSDAY 30TH MARCH, 2023

Afternoon Sitting

3rd County Assembly

2nd Session

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COUNTY ASSEMBLY OF BUNGOMA

HANSARD OFFICIAL REPORT

THURSDAY 30TH MARCH, 2023

The House met at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAYER

COMMUNICATION FROM THE CHAIR

Honourable members, I have the following communication to make;

COMMUNICATION FROM THE COUNTY GOVERNMENT DEPARTMENT OF TRADE, ENERGY AND INDUSTRIALIZATION

From the County Government of Bungoma department of Trade, Energy and Industrialization to the Fund Administrators, all Ward Administrators and all credit officers.

Reference is data validation and reconciliation of all loan accounts for beneficiaries.

Following the Controller of Budget and Auditor General's report on the accuracy of the trade loan fund portfolio, the high loan default threatening the sustainability of the fund coupled with His Excellency the Governor's effort to revive the county trade loan fund, there is urgent need for us to carry out an extensive data validation and reconciliation exercise for all the loan beneficiaries to enable us establish the true loan balances and the actual trade loan portfolio to this end.

I therefore wish to request the fund administrators together with all ward administrators to carry out this exercise and coordinate all activities in full knowledge of our elected leaders at the Ward level with the support of village administrators and creditor officers to ensure that the exercise runs smoothly within the shortest time possible.

This exercise will enable us have accurate and verifiable data for all the loan beneficiaries and also enable us submit timely periodic reports as maybe required from time to time. The template for the data validation is as issued earlier but can be obtained both in hard and soft copy from our offices.

The data contains the following information: name of the beneficiary, ID number, Ward and village of beneficiary, loan amount disbursed, loan repaid, outstanding loan balances and interest status of the loan beneficiary (whether deceased, ceasing business, beneficiary's businesses that

have been closed down, status of the loan repayment of all the county staff, civil servants and county assembly staff).

The comprehensive report should be handed to the undersigned within a period of 7 days from 31st March, 2023 for review before being forwarded to the cabinet for decision making.

We will also be hosting a round table meeting with all MCAs and Ward Administrators at the Sub-counties to discuss the revised Trade Loan Regulations, best methods of loan recovery and the constitution of the wards committee to ensure efficiency in administration of funds.

Kindly do this exercise with the urgency and seriousness that it deserves to enable us make informed decisions; it is signed by Caroline Makali, CECM Trade, Energy and Industrialization. It is copied to all Honourable members of the County Assembly, CECM; Finance and Economic Planning and Public Administration, Chief Officer Trade and all Sub-County administrators

My second communication, in our public gallery we have students from St. Joseph's Nalondo Girls Secondary School, which is in Kabuchai Sub-County, they did request to pay an academic visit to the County Assembly of Bungoma, I am informed some of them have equally gone to pay a visit to the Bungoma Prisons. So the students who are in the public gallery kindly be up-standing.

(Students in the public gallery stand)

The teachers who have accompanied the students are;

1. David Wanyonyi
2. Alvin Kiboi
3. Mildred Wamalwa
4. Evans Masinde

Kindly be seated.

(Applause)

Honourable members, at an appropriate time on our Order Paper at the time of statements, I will be able to allow honourable members to make some brief remarks before we go to the main agenda.

Yes, Hon. James Barasa, I am seeing you are requesting to speak.

Hon. James Barasa: Thank you, Honourable Speaker. Arising from your first communication, we acknowledge the communication you have made to this House, but I am making a request that as Honourable members, we don't have time to walk into offices and look for some information. It would have been better for the CEC Trade to furnish us with the names of the beneficiaries and the defaulters.

Mr. Speaker: Thank you, Hon. James Barasa. Before I react to it, let me allow Hon. Jack Wambulwa...

Hon. Jack Wambulwa: Thank you, Honourable Speaker. Going by what my colleague has just said, previously we had challenges with the Trade loans and as he puts it rightly, it will be very difficult for us to start looking for beneficiaries. My wish is that through your office, it will be very easy for these members to access the same, so that they can be able to fast track and see how best this Trade loan can be run in an efficient way.

Otherwise, I appreciate the revival of the same. As leaders, our people are really struggling out there. The economy is so hard on them, and we wish they move as fast as possible so that our people can access these trade loans.

Mr. Speaker: Thank you, Hon. Jack Wambulwa. I will have Hon. George Makari,

Hon. George Makari: Thank you, Honourable Speaker. I think it will be very prudent that the CEC and her team organize for a Kamukunji; I believe all this information is in their desktop. Why can't they get this information and call us for a Kamukunji to discuss the issue and have a way forward.

I have seen some CECs doing this, recently we had a meeting with the CEC for Tourism, where the chair, Hon. Opwora is a good friend, and this CEC for Trade can use the same method to reach out to these members, sit down face to face, discuss and even have a list of defaulters in our Wards and have a way forward. Instead of detaining members like my Honourable friend Hon. Job Mukoyandali who got an accident, they came to walk in the hospital looking for defaulters that one would not be right. Let her style up and call members for Kamukunji then we review the guidelines.

Mr. Speaker: Thank you, Honourable members. This communication is addressed to the fund administrators, all ward administrators and all credit officers; it is only copied to you for noting. If you listened properly, they are saying, we will also be hosting roundtable meetings with all MCAs and Ward Administrators at the sub county level to discuss the revised Trade Loans Regulations. I am sure the relevant officers will share with you the information at your sub-county level. I hope we are together. Yes Hon. Meshack.

Hon. Meshack Museveni: Nafikiria Mheshmiwa Spika yale yenye nilikuwa nataka niongee umesema na tumesikia, kwa sababu sisi hatufanyi hiyo kazi tuko na *Ward Administrators*.

Hon. Isaiah Sudi: Mr. Speaker, we want the CEC for Trade to appear here, putting us in our sub-counties is dividing us. These trade loans 10 years ago, some beneficiaries have since died so we need to sit down and share together because it is not easy as she is putting it. Even banks, sometimes you can see people Fuliza money then they change a line, so we must come up with a way of writing off those loans. So we need to share with her as leaders.

Mr. Speaker: Thank you, Hon. Sudi Kalasinga. I am happy Kamukunji hall takes enough people; it is up to you to use the facility accordingly. I am seeing Hon. Linda Kharakha.

Hon. Linda Kharakha: Mr. Speaker, I happen to be a member of Trade committee and I am happy for the information that has passed around, it is just a request to members, that how the Trade Fund has been actualized. Initially, it was in shambles and this is a good start, if members cooperate with the CEC - Trade together with the fund managers.

Mr. Speaker: Hon. Linda, it is the CEC - Trade to cooperate with Honourable members, not the opposite.

Hon. Linda Kharakha: Thank you for the correction. The CEC - Trade should cooperate with Honourable members to ensure that the Trade loan funds are well disbursed, so that the initial errors are not repeated.

Calling her here is also in order, so that we are all on the same page instead of meeting each and every one in their sub-county.

Mr. Speaker: Thank you, Honourable members. We go back to our Order Paper and proceed accordingly.

PAPERS

REPORT FROM THE OFFICE OF AUDITOR GENERAL ON THE COUNTY EXECUTIVE OF BUNGOMA FOR THE YEAR ENDED 30TH JUNE, 2022

Hon. Joseph Nyongesa: Thank you, Mr. Speaker. I stand to table the report of the Auditor General on the County Executive of Bungoma for the year ended 30th June, 2022.

Mr. Speaker: Honourable members, a report from the Office of the Auditor General on the County Executive of Bungoma for the year ending 30th June, 2022 is hereby tabled. I commit the same to the Committee of PAIC for processing and reporting back to the House accordingly.

THE COUNTY ASSEMBLY SERVICE BOARD ANNUAL REPORT FOR THE PERIOD JANURAY 2022 TO DECEMBER 2022

Hon. Joseph Nyongesa: Thank you, Mr. Speaker. I rise to table the County Assembly Service Board Annual report for the period January 2022 to December 2022.

Mr. Speaker: Honourable members, the County Assembly Service Board Annual report for the period running from January 2022 to December 2022 is hereby tabled. I commit the same to the Committee on Labour and Social Services for processing and reporting back to the House accordingly.

STATEMENTS

BUSINESS OF THE HOUSE FOR THE WEEK COMMENCING TUESDAY 4TH TO THURSDAY 6TH APRIL, 2023

Hon. Anthony Luseneka: Thank you, Honourable Speaker. We have a tentative weekly programme of the business of the County Assembly pursuant to Standing Order 42(2) that is for the week commencing Tuesday 4th to 6th April, 2023.

Tuesday 4th April, 2023 at 2:30 p.m.

Papers

1. A report of the auditor general on the County Assembly of Bungoma for the year ended 30th June, 2022 by the chairperson Public Accounts and Investments Committee
2. A report by the committee on Procedure and House Rules on the rules governing public hearings/meetings of select committees by the chairperson, Committee on Procedure and House Rules

Notices of motion

That this House adopts the report by the Committee on Procedure and House Rules on the rules governing public hearings to meetings of select committees that will be moved by the Chair Committee on Procedure and House Rules.

Statements

- i. Response from the county Executive Committee member of Agriculture, Livestock Fisheries and Cooperative Development to a statement sought by Hon. Alfred Mukhanya and Hon. Anthony Luseneka in relation to Makemo dam and the extension of NZOWASCO water pipeline from Makotelo to Namirembe. It will be handled by the County Executive Committee member of Agriculture, Livestock, Fisheries and Cooperative Development.
- ii. A response from the CEC Member for Public Service Management and Administration to a statement sought by Hon. Jack Kawa concerning the construction of Bokoli ward office.

Wednesday 5th April, 2023 at 9:30 a.m.

Papers

1. A report by the sectoral Committee on Roads, Transport, Infrastructure and Public Works on the status of construction of Kanduyi-Sang'alo junction road number C33, the road to Dual Carriage way contract number BGM/COUNTY/OT/184 of 2018/19 by the Chairperson Sectoral Committee on Roads, Transport, Infrastructure and Public Works

Notice of motion

1. That this House adopts the report by sectoral Committee on Roads, Transport, Infrastructure and Public works on the status of construction of Kanduyi-Sang'alo junction road number c33, the road to dual carriage way contract number BGM.COUNTY/OT/184 of 2018/19 financial year.

Motion

1. Report by the sectoral Committee on Labour Relations, Members Services and Facilities and the Bungoma Public Service Board Annual report of the year 2022, it will be moved by the chairperson Sectoral Committee on Labour Relations, Members' Services and Facilities

On Wednesday 5th April, 2023 at 2:30 p.m.

Papers

1. Report by the chairperson PAIC on the reports of the Auditor General from the Executive and the County Assembly.

Notices of motion

1. That this House adopts the report by the Public Accounts and Investment on the reports of the Auditor General from the Executive and the County Assembly.

Motions

1. Report by the Committee on Procedure and House Rules and the rules governing public hearings to meetings of select committees.

On Thursday 6th April, 2023 at 2:30 p.m.

Papers

1. The report by the sectoral Committee on Gender, Culture and Social Welfare on the status of Gender Based Violence cases in Bungoma County, it will be moved by Chairperson sectorial Committee on Gender, Culture and Social Welfare.

Notices of Motion

1. That this House adopts a report by Sectoral Committee on Gender, Culture and Social Welfare on the status of Gender Based Violence cases in Bungoma County.

Statements

1. Statement informing the County Assembly of the weekly business coming before the House from Tuesday 11th -Thursday 13th April, 2023.

Motions

1. That this House adopts a report by Sectoral Committee on Youth Affairs and Sports and the implementation status of Bungoma Youth County Fund – Chairperson, Committee on Youth Affairs and Sports .

That is the Order of Business for next week.

Mr. Speaker: Thank you, Hon. Luseneka. Honorable members, when you look at next week's Order Paper, we will not have a motion. As House Business Committee today, we agreed that we will invite the relevant CECMs to appear before the Committee of the Whole House.

We have already issued invitation to the CECM concerned to appear before this House. We are going to share the statement raised with Honorable members before end of the day, so that you prepare for rejoinders.

Equally, I am seeing there is a mix up in the first response; they were two separate statements; that of Hon. Luseneka and Alfred respectively. We have 3 statements and therefore we expect 3 responses from different departments.

I will now allow Honorable members make brief remarks about our visitors in the public gallery; those are students from St. Joseph's Nalondo Girls Secondary School. I think the practice has been that the area MCA is the first one to make remarks. Honorable Kimeta, the MCA for West Nalondo.

Hon. Polycarp Wandabusi: Thank you, Mr. Speaker Sir. First of all, I would like to welcome St. Joseph Girls Nalondo to this House. This is a school that is improving every year in their performance. Last year this school managed to get 124 direct entries to the university. This is a school that managed to perform well and attained a mean score of 7.3.

(Applause)

They are performing extremely well not only in academics but they are also champions in basketball in the County. I encourage them that it is only through education that can make them get the titles they deserve, get jobs, be good businessmen (women) and make their future bright. I don't have many words but to tell them that they are in a good place and they are going to be big people if they work hard and I will support them as their area MCA. As a norm I will see them...

Mr. Speaker: That last bit is always done in silence and not on HANSARD.

Hon. Polycarp Wandabusi: Thank you, Mr. Speaker Sir. I was just confirming that I am around and will share with them.

(Applause)

Mr. Speaker: Hon. Barasa Mukhongo. A practice has been that the Chairperson of Education must contribute. Kindly prepare yourself.

Hon. James Mukhongo: Thank you, Mr. Speaker for the opportunity. Let me join my colleague Hon. Wandubusi to welcome St. Joseph Nalondo Girls to this House. I want also to confirm that what has been said by my brother is indeed true. This is one of our schools in Kabuchai that was started by the National Assembly Speaker. My memory reminds me that by then we had no CDF funds but because of the good relationship of Hon. Moses Masika Wetangula, he engaged one of the people around the school because previously they were under St. Josephs Nalondo Boys. We started this school when I was a counselor and I remember the efforts made by the Speaker and now the school is growing.

When the government came up with policy on delocalization of teachers, it has really helped our school to improve. I want to confirm some of the candidates who did their exams last year were from my clan and I'm proud of the performance that the school posted. It is not easy because it a boarding-day school but realizing over 100 students joining school is not easy. We have some schools in this County who are eager even to take only one student to University which is difficult. We thank God.

I want to confirm to this House that when you visit St. Josephs Nalondo Girls, you will find that a quarter of the students are from my ward because it is on the boarder of Luuya/Bwake, West Nalondo and Kabuchai/Chwele Ward.

I want to confirm to this House while asking the Chairperson of Education Committee that there is a good number from my ward who are going to benefit from the bursary kitty. As the chairperson, you should ensure that the money reaches schools. We don't want the issue of communications; we are tired of communications from the department; let them pull up their socks and release the bursary money so that needy students can benefit.

(Applause)

Honorable members, we passed here legislation on those that are supposed to benefit from the bursary kitty and even the scholarship, the department of Education should adhere to that and disburse funds and if there is a shortage we are the ones who appropriate funds. We can still sit down share and look for possible ways for this program to be sustainable.

I want also to appreciate the teachers seated before this House for working tirelessly to ensure that our beautiful girls get quality education. You girls this is your time, please utilize it properly. Some of us were it not for Hon. Moses Masika Wetangula; we could not have reached here.

Therefore, work hard by utilizing your time well. I know your parents are struggling paying school fees for you because they want you to excel in life.

I don't you to regret in future, I say this because young mothers in my ward are many. As men we need to style up because when you look at the statistics, you can't believe...

Mr. Speaker: Hon. Mukhongo, are you talking about your other common name?

Hon. James Mukhongo: Honorable Speaker, I don't want to be assisted in my communication on whatever that I am speaking; it is out of experience. I have one Vocational Training Centre in my ward, where we are doing well but we don't encourage going that direction. My girls, most of you are my daughters, please concentrate on your academics. If you perform well then your future is bright but if you want to be a house wife, it is up to you because it is in your hands. Otherwise, I rest my case by wishing them a nice stay as we proceed.

Hon. Edwin Opwora: Thank you, Mr. Speaker. I want to welcome our girls from St. Joseph Girls Nalondo to this Assembly. This is a good way of providing education out of the classroom to see what goes on in normal life besides school. I take pride that majority of the students who passed and got A's in last year's KCSE results happen to come from my ward. Therefore, as Hon. Mukhongo says, a quarter of the school comes from his Ward; the bright ones come from my Ward.

(Applause)

Mr. Speaker: Hon. Opwora and Mukhongo don't take us in circles; the real owner of the ward is Hon. Kimeta; I wonder what he will claim? Proceed please.

Hon. Edwin Opwora: Mr. Speaker, this school is on the boundary of Hon. Polycarp's ward and happens to be more close to my ward. Therefore, majority of the students who excel in their exams come from my ward; we have statistics. However, we still need to applaud the teachers for the good work they did and we are hoping that these students will emulate their colleagues by setting new standards in examinations.

I know most of these students are my sisters and may be young daughters. There is something that Hon. Mukhongo alluded to which might not have come out clearly...

Mr. Speaker: Order Honorable members!

Hon. Edwin Opwora: I just want to encourage my sisters here that you are worth much more than you look like. Your grades will make your value to go high. Put your worthiness higher than what you look like and this will only come through your credits.

Right now you might think you are beautiful but if you get an E, you are empty. If you get a D, you are just there. If you get a C, you are a commoner; if you get a B we can say you are basic and if you get an A, it is acceptable. All those will open for you and even if you get a future husband should be a man worth that credit. Someone who puts on a suit like me and who is able to take good care of you.

(Applause)

My sisters please know that you are in St. Josephs Nalondo Girls for a season and for a reason. The season is 4 years and the reason is for education. Don't go about writing love letters to boys but get better grades and better men will come for you.

Lastly, we have something that has been trending called LGPTQ, and this thing is trending from schools and by the time it rises in the society, we need to look at our students and train them properly. Let us not embrace all that is happening in Europe because some behaviors are not African. Let us remain Africans and value our core principles as Africans.

(Applause)

Hon. Violet Makhanu: Thank you, Honorable Speaker for giving me time also to say something to our students. First, I want to appreciate the teachers for bringing the students to this House. I am sure they would learn something. I want to appreciate the area MCA, Hon. Kimeta who talked about the performance of the school until I admired that one of my schools in the ward could be doing the same. I stood here as the Chairperson of Youth Committee and the students who are here today are youths...

Mr. Speaker: Order Honorable members! Let Hon. Violet be heard in silence.

Hon. Violet Makhanu: They are young girls and in future they will be women like me. I want to encourage them that they can seem quite a good number of ladies and we are leading men and women in our respective wards. In other words, I'm telling you are our future leaders. Despite the fact that you are being told that you are future wives but I tell you that you are our future leaders. You are the leaders who will come after us and you can only be there when you work hard and take care of yourselves.

You should take respect and good care of yourselves this world will respect you. The moment you decide to go the way some youths are doing; you are seated somewhere and you see a youth throwing stones; that won't take you anywhere. As a mother in this House, I want to tell you that respect yourself, teachers and your parents and I'm sure you will be somewhere in the near future.

I want to finish by saying that any parent whose child does well in school is normally proud and days of living are prolonged because the child makes the parent proud. I want to urge you girls that make everybody proud by getting good grades in your examinations.

Lastly, there is nothing as bad as being a house wife. Being a house wife is hell on this world. I want to urge you ladies to work hard and pray that you can't be a house wife instead you will be a wife in the House but working somewhere, getting your own money

(Applause)

Don't accept to get married after Form 4. Work hard and get employed and you will not be a mere house wife. You will be a strong woman in the community who will be respected by a man, who will marry you because you have your own money.

I don't want to be informed by Hon. Machani.

Mr. Speaker: Thank you, Hon. Violet. Let us be orderly. Let me have Hon. Vitalis to inform us.

Hon. Vitalis Wangila: *(Point of information)* Thank you, Mr. Speaker. It has been overtaken by events because I was wondering if the member is allowed to be on the floor without shoes but she has just left the floor. She was not properly dressed.

Mr. Speaker: That is a point of order not information.

Hon. Ali Machani: Thank you, Honorable Speaker for allowing me. I would wish to inform the House that some of us were brought up...

Mr. Speaker: You rose to speak or you are on a point of order?

Hon. Ali Machani: I said point of information Mr. Speaker...

Mr. Speaker: You said on a point of order which is different from informing. I will indulge that you proceed.

Hon. Ali Machani: Thank you, Mr. Speaker for the wisdom. Honorable Speaker, for us as leaders we were brought up by house wives who are our mothers...

Mr. Speaker: Order members, ladies order.

Hon. Ali Machani: Honorable Speaker, it is not good to go on record to rubbish house wives. Some of the house wives are the ones who have made us to reach to these positions. As much as we say a house wife; go to school because we want a strong background of a house wife.

(Applause)

Majority of these students, their mothers are house wives and majority of the MCAs here have been house wives before.

(Applause)

Hon. Metrine Wilson: Thank you Mr. Speaker for giving me this opportunity to also say something that concerns...

Mr. Speaker: Order Honorable members!

Hon. Metrine Wilson: Our girls. Mr. Speaker...

Mr. Speaker: Honorable members, let Hon. Metrine be heard in silence please.

Hon. Metrine Wilson: Mr. Speaker Sir, thank you for giving me this opportunity to also say something concerning our girls. First, I would like to congratulate the area MCA Hon. Wandabusi and the teachers concerned for making this possible for the girls to be in this House. I welcome the girls to this House to learn and prepare them because among them one day we will have leaders.

I would like to encourage them that this is an opportunity that they have been given by their parents to be in school; a chance that some of us did not have. Take this opportunity seriously and utilize it well and ensure that St. Josephs Girls Secondary School, doesn't become a cemetery for dreams, but a place to realize dreams and this is done by coming out with good results. I encourage you to work hard and be determined in whatever you do now as it determines whom you will be in future. So be disciplined and make sure you come out with good marks.

Mr. Speaker: Thank you, Hon. Metrine. Hon. Sudi,

Hon. Isaiah Sudi: Thank you, Mr. Speaker for giving me this opportunity. I'm just speaking because you used my name that is not very much known to most of my colleagues and then you know the students here come from where the area MP uses the same name. So they might think that their MP is in this House

(Laughter)

So I have been prompted to stand and correct that it is Kalasinga Sudi not Majimbo Kalasinga; different people. We have one common name, one is an MP the other one is an MCA. Also I'm from South Bukusu in Bumula and he is from Kabuchai.

I want to urge the students that you are celebrating the results that is not yours, the good results of a class that left last year. So if you keep on imagining that the school performed well, are you among those good performances? So I want to urge the students that struggle to be remembered in that school because those good results...

(Applause)

I will applaud the teachers and request that you assist the students to work hard but now for you to get good results you must be disciplined. Nobody will cheat you like, the other day I heard on radio the student of Kamasielo Secondary School striking because they were being given little food. Which is better, little or nothing?

(Applause)

Because a school is not your home. I have been telling my children when they go to school, they have to forget about what they eat at home. You must differentiate when you are in school and when you are at home and they have heard me. They have performed so well and I am a proud father of four As'...

(Applause)

...in my house and two As belong to my daughters like the one behind me. So I tell ladies that I believe in them so much.

(Applause)

I was my mother's best child by the way so I just like ladies. When I give my property the administrator is my daughter because she is educated and equal to the task. If she doesn't have knowledge, I can't allow her to be the administrator but she is equal to the task. So these students of St. Joseph's Nalondo kindly when you go back, if you have not been working hard, then change and move from C to B+ or A, and I know if you pray and work hard then God will do miracles.

There's no school if you go to any school, for Friends School Kamusinga; where I am an alumni, you don't see how people move around and can imagine that there are no people because of discipline. They are only seen out during lunchtime and after eating, everybody disappears. So for the Nalondo Girls, kindly to sustain that name that you had last year in KCSE results, it is not easy. Other schools are also competing.

I want urge the teachers to double their efforts and ensure that these girls excel. The 8-4-4 system of Education is being phased out and if you don't get a good grade then you will regret for the rest of your life, because you will not manage to be incorporated or to be integrated in the CBC. You can imagine if this system is phased out and if those who didn't perform well, maybe my colleague here Hon. Barasa Mukhongo was lucky Moses Masika Wetangula made him what he is and the rest are his problems

(Applause)

So I don't want my precious ladies to go that direction. So you have to work hard and get good results.

As Bungoma leaders, we are proud of you and will continue supporting education. We appropriate your money for bursary. Chair - Education is here; he should pull up his socks. So the demand...

Mr. Speaker: Hon. Sudi, you are out of order.

Hon. Isaiah Sudi: Mr. Speaker, why I am saying like that, we said the Form 3s who are on scholarships...

Mr. Speaker: Hon. Sudi, you can't address the Chair - Education directly.

Hon. Isaiah Sudi: Let me now address you Speaker. We said here clearly that the Form 3s and 4s on scholarships are not vetted but they should benefit directly. Then we vet From 2s and up to now, no student has received bursary. The good grades that we expect might not come, because those good brain like the St. Joseph Nalondo are now loitering around due to lack of fees and that is why I urge my able chair to make a follow up in the department so that our children can remain in schools. I rest my case.

Mr. Speaker: Thank you, Hon. Sudi. Hon. Makari,

Hon. George Makari: Thank you, Honourable Speaker. First of all, I want to congratulate Hon. Kimeta for your ensuring that St. Joseph Nalondo Girls come to this Assembly. Emanating from

the discussion, you will find that Hon. Opwora is claiming a half of the students come from his ward.

Mr. Speaker: Those who did well.

Hon. George Makari: Hon. Mukhongo is saying a quarter so I don't know which percentage Hon. Kimeta is remaining with...

(Laughter)

He is remaining with a quarter of the students. So I want to congratulate him for ensuring that this school is here and I want to encourage the school seeing that they are champions in basketball. They did very well in KCSE examination with almost over 100 qualifying to join university. I wish to congratulate them. However, I want to debunk some myth, as much as I want to encourage our girls to do better and get the grade As, I want you to agree that not everyone can be an A student. All of us here are not A students, so somebody should threaten anyone that you should get an A. Work hard and if you get a C that is okay, no one will beat you. When I was in high school, I don't want to tell you my history

Mr. Speaker: Just say it because people are not laughing.

Hon. George Makari: I could have been on A Student but I was on suspension almost every week, but that one did not curtail me to be in this Assembly. So my word of encouragement to these young people; work hard. Whichever grade that God will enable you to get even if it is an E, I can remember in the last Assembly, we had a lady who never went to school and she was here. Unfortunately, she is not here now but an MCA for almost three terms, so among those students, even those who will get to C, B, A there are those who will make it to be MCAs and even some of them will be MPs. So it is our encouragement, that whatever they are doing, let them have passion and whichever grade you will get, we encourage you to get an A but if you cannot obtain an A that doesn't mean it is the end of the road. Hon. Balala said being a housewife is not a crime, most of us were raised by housewives, by the way.

(Applause)

Even some of us have housewives. We are providing and we have never complained and they are not going anywhere but we are comfortable. No one is complaining, so this issue of demonizing house wives is wrong.

(Applause)

We are not demonizing anyone, if you will finish your education and life is unbearable, you get somebody...

(Hon. Violet Makhanu tries to rise on point of information)

Mr. Speaker: Information is declined, proceed.

Hon. George Makari: Hon. Violet has already talked, so I don't want her to inform me. I'm already informed when the former Mayor spoke well on house wives and I'm riding on what he said that being a housewife is not a crime and in any setting wherever you will be, you will not get everybody at the top. There are those ones on the top, then the middle and obviously there are those ones at the bottom. We are not all Speakers in this Assembly, you are at the top, and Hon. Violet should be at the bottom because she is interrupting me.

Mr. Speaker: Hon. George, you are protected proceed.

Hon. George Makari: So what I'm saying is, in every setting, there is a distribution curve, there is the top, middle and the bottom and the earlier we accept that the better. Even these teachers when they test among the students, there are those ones that get As, Bs, Cs, Ds and others get Es. The difference between me and the teachers is that the teachers will encourage even those ones that got E and that is okay. It doesn't mean that even if that student got an E she is a demon or a criminal, so we have to accept that everybody is important regardless of the grade you get.

I don't want to go there, but if you can ask these Honorable members to bring their academic certificates in this House, you can be very surprised. Maybe except here because you are a very renowned lawyer, you have very good grades but some of us don't have grades. So we should not demonize these students whatever they are testing and I want to say that the destiny of man is guided by God. You will find an E student leading an A student.

(Loud consultations)

Mr. Speaker: Honourable Members it is not a debate and I don't want to cut short the Honourable Member because he is winding up.

Hon. George Makari: Hon. Violet is not very comfortable with me because she is usually my friend but today I don't know what she ate for lunch. But let me end there.

Mr. Speaker: Hon. George, you haven't told us about the recommendation certificate that you always tell me.

Let me have Hon. Linda then Chair - Education will close.

Hon. Linda Kharakha: Thank you, Mr. Speaker. I want to state that educating a girl is more likely to be involved in the economic stability of this country. So to my girls who have been brought here to see how our sessions run, I want to encourage you that for the fact that your parent has sacrificed for you to be in school, it is selfless in itself. The best you can do is work hard in your own small pace and get somewhere. I would not want to say get A, B, C or D but work hard in your own pace to get a grade that will make your parents proud.

Hon. Benjamin Otsiulah: Thank you, Mr. Speaker, for giving me the opportunity to also pass our word of encouragement to the students before this Honourable House today. First of all, I want to appreciate the girls from Nalondo, their teachers and their parents for setting them up along the path of knowledge. Education is a basic right to all children under the Basic Education Act and Article 43 of the Constitution, but as much as they are protected, we also expect them to be disciplined. Let them know that at the end of the 8-4-4 system, the world is awaiting them. They have to transfer their knowledge and experience to these other end of the world. We don't want to experience what we have seen as fare eating monsters that we have encountered in our daily lives. You know what I mean by fare eating monsters.

I want to agree with the Hon. Sudi and Barasa Mukhongo, some on the issues concerning the bursary, disbursement and the scholarship. I know most of the members are concerned because it is our right in the constitution to ensure that our children are in school and receiving quality education services. It has been a challenge and all Honourable members before this House are aware that to that extent an Ad hoc Committee has been formed to move and look into the issues of this scholarship. It will be therefore premature and in bad faith for me as a member of that committee to pre-empt what may come out of this scholarship as far as the report on the task force is concerned

However, I wish also to state that as a Committee on Education, we have followed up on these issues to ensure that our students are in school. The County Government has experienced challenges from exchequer and I can confirm that at least some money has been released from the National government for the County government and starting next week, the county government is working on ways of trying to start reducing the fee balances in schools.

I want my colleagues to look at the bigger picture to allow the committees formed to perform the duties and let us push collectively to ensure that the budgetary allocation that was passed in the supplementary budget. As the county government received the funds from Nairobi, we are going to ensure that this money reaches schools so that our girls can enjoy their rights.

Before I sum up, I want to specifically thank Hon. Polycarp Kimeta, he is a colleague who... I know several colleagues in this House have been going an extra mile of paying school fees for needy students in their Wards. I can witness and confess that my brother has done a wonderful

job in that particular Ward, he has assisted several needy students and as the chair of Education Committee sometimes I was receiving applause for what I have not done. I want to pray that you continue with that spirit to uplift your people.

Otherwise, thank you for this golden opportunity as our girls go back to school and their teachers. Personally, I want to wish them very luminous year.

Mr. Speaker: Thank you, Hon. Otsiulah, who is the chair for the Committee on Education and ICT. Honourable Members, on behalf of the Speaker and all Honourable Members who have not had a chance to speak, we jointly wish our girls all the best in their daily studies as they look forward to have their exam at end year.

We go back to our Order Paper.

MOTIONS

REPORT BY THE COMMITTEE ON JUSTICE, COHESION AND LEGAL AFFAIRS ON THE STATUS OF PENDING CASES IN BUNGOMA COUNTY

Hon. Metrine Wilson: Thank you, Mr. Speaker, sir. I beg to move the motion that this House adopts the report by the Committee on Justice, Cohesion and Legal Affairs on the status of Pending cases in Bungoma County. Pursuant to section 7 of the Office of the County Attorney Act 2020; The County Attorney shall upon instructions of the County Governments represent the County Executive in court or in any other legal proceedings to which the County Executive is a party other than criminal proceedings and also advise County Executive departments on Legislative and other Legal matters.

It is upon this background that the Committee on Justice Cohesion and Legal Affairs initiated a process to pursue the status of Pending cases by the County Government of Bungoma due to the upsurge of cases against the County.

The committee requested for us to just report on all pending cases involving the County Government of Bungoma, any legal matter involving government officers, a list of all pending cases and legal fees charged, a list of all cases solved through Alternative Dispute Resolution and a list of pre-qualified law firms offering legal services to Bungoma County Government.

After an in-depth consideration of the matters, the Committee observed that there were 246 pending cases by the County Government of Bungoma and 49 pre-qualified Law firms. The Committee further observed that cases initially initiated through litigation have since been referred to be solved through Alternative Dispute Resolution.

PREFACE

On behalf of the members of the Committee on Justice, Cohesion and Legal Affairs, it is my pleasure and duty to present to the House the Committee's report on the status of pending cases by the County Government of Bungoma.

The Mandate of the Committee

It's well known as per the standing orders

Committee Membership

The Committee on Justice, Cohesion and Legal Affairs as currently constituted comprises the following Members:-

1. Hon. Metrine Wilson	Chairperson
2. Hon. Everlyne Anyango	Vice Chairperson
3. Hon. George Makari	Member
4. Hon. Francis Chemion	Member
5. Hon. Everlyne Mutiambu	Member
6. Hon. Edwin Opwora	Member
7. Hon. Benjamin Otsiulah	Member
8. Hon. Sheila Sifuma	Member
9. Hon. Idd Owongo	Member
10. Hon. Jeremiah Kuloba	Member
11. Hon. Timothy Chikati	Member

Acknowledgement

I wish to sincerely thank Office of the Speaker and the Clerk of the County Assembly for their support that enabled members execute their mandate. I also thank the Committee members for their hard work, patience and commitment despite their busy programs.

The Committee further thanks the Secretariat for taking time to collate and compile this report in good time. The Committee appreciates the Office of the County Attorney for furnishing the Committee with the required information.

Signed by the Chair

STATUS OF PENDING CASES BY THE COUNTY GOVERNMENT OF BUNGOMA:

The following is a summary of all the pending cases from the County Government of Bungoma as at February 2023:

The Table below shows a Summary of the Status of Pending Cases:

No	Law firm	Cases awaiting hearing/Judgment	Cases ruled	ADR/Out Of court	Cases taken over by insurance companies	Cases withdrawn/Dismissed	Cases appealed	Awaiting direction/mention	Total
1.	Ocharo Kebira & co. advocates	14	21	2	2	1			40
2.	Annet Mumalasi & Co. Advocates	4	12			1		3	20
3.	A.W Kituyi & Co. Advocates	11	9	3	1			4	28
4.	Gumbo & Associates		2					1	3
5.	Wekesa & Simiyu Advocates	9	4		1	7			21
6.	Manyonge , Wanyama & Associates Advocates	1						1	2
7.	Olando, Okello & Lusenaka Advocates	5	1	1	2		1	1	11
8.	Meritad Law Africa LLP	3	3						6

9.	A.S Kuloba & Wangila Advocates		2	1				1	4
10.	Makokha, Wattanga & Luyali Associates	9	8	1		1	9		28
11.	J.O Makali &Compan y Advocates	6	4			3	2		15
12	Office of the County Attorney	27	4	8	2	8	2	8	68
	Total								246

Committee Observations

1. That The Office of the County Attorney has the highest number of pending cases followed by Ocharo Kebira & CO. Advocates.
2. That 8 cases were referred to Insurance Companies
3. The County Government has a total of 246 cases pending before different courts on different matters in the County.
4. Some of the pending cases date back as far as 2002 through to 2023 and in some cases the plaintiff is deceased like in the Bgm HC ELC case No. 154 of 2016, the plaintiff, Salome Nekesa Mwanikha is deceased.
5. Majority of the pending cases dating back to 2002 involves land and environment disputes where the plaintiffs sought for injunctions against the County Government.
6. The Office of the County Attorney is handing majority of the cases, though still pending before courts. The Office has a total of 68 pending cases on different matters and in different courts.
7. Reason for pending cases included:
 - ✓ Awaiting hearing date
 - ✓ Parties directed to conduct an out of court settlement and the matter is not yet settled.
 - ✓ Judgment delivered in favor of the petitioner, county directed to pay costs and they are not yet paid.
 - ✓ Pending on a proposal to have the matter arbitrated

- ✓ Judgment entered but plaintiff has filed a notice of appeal against the trial court's decision.

LEGAL FEES CHARGED ON DIFFERENT CASES AGAINST THE COUNTY GOVERNMENT OF BUNGOMA AS AT FEBRUARY, 2023

In most of the administrative issues court cases are bound to occur and this helps both parties to come to terms and work in harmony, these cases when resolved in time helps to avoid wastage on fees charges for court appearances.

The Office of the County Attorney submitted that there has been an upsurge of cases in the recent past against the County Government of Bungoma touching on various issues including: Land and Environment, Employment and Labour Relations, Contractual matters, Motor vehicle Accidents forwarded to the Insurance Companies, Constitutional petitions, Procurement matters filed at the Public Procurement Administrative Review Board among others.

Further, that there are quite a number of cases, some dormant that have been against both the defunct Municipal Council and the County Government.

A look at the list of the pending cases provided by the department and herein attached, the Committee came up with the following summary:

NO.	ADVOCATE INVOLVED	NUMBER OF CASES	TOTAL FEES (Kshs.)	TOTAL FEES PAID(Kshs.)	BALANCE (Kshs.)
1	Ocharo Kebira & Co. advocates	40	35,704,554	9,981,995	25,722,559
2.	Annet Mumalasi & Co. Advocates	20	32,452,404	17,053,630	15,298,774
3	A.W Kituyi & Co. Advocates	28	59,832,429	22,303,429	37,529,000
4.	Gumbo & Associates	3	6,218,000	2,350,000	3,868,000
5.	Wekesa & Simiyu Advocates	21	23,993,300	18,851,500	5,141,800
6.	Manyonge, Wanyama & Associates Advocates	2	Fees note not received	-	-
7.	Olando, Okello	11	10,844,170	6,838,295	4,005,875

	& Lusenaka Advocates				
8	Meritad Law Africa LLP	6	2,464,000	2,464,000	Nil
9.	A.S Kuloba & Wangila Advocates	4	44,552,000	20,324,000	24,228,000
10.	Makokha, Wattanga & Luyali Associates	28	46,188,678	38,018,740	8,169,938
11.	J.O Makali & Company Advocates	15	10,023,656	4,494,168	5,529,488
12.	Office of the County Attorney	68			
Total		246	272,273,191	164,584,957	107,688,234

Committee Observations

1. All the pending cases will cost the County Government a total of Ksh. **272,273,191** if fully paid for.
2. The County Government has a total of Kshs 107,688,234 in balance of all pending cases as at February, 2023.
3. Ocharo Kebira & Co. advocates the total fees paid and the balance does not add up to the total fees chargeable.

LEGAL MATTERS ON OFFICERS AND DEPARTMENTS IN THE COUNTY GOVERNMENT OF BUNGOMA

There were pending court cases involving different County Departments on various matters. The name of the department and number of cases is as indicated in the table below.

NO.	DEPARTMENT	NO. OF PENDING CASES
1.	Lands, Urban and Physical Planning	85
2.	Governor's Office	27
3.	Finance and Economic Planning	21
4.	Health	28

5.	Roads, Infrastructure and Public Works	21
6.	Public Administration	25
7.	Environment, Water, Tourism and Natural Resources	8
8.	Agriculture	11
9.	HRM	5
10.	Education	2
11.	Gender and Sports	1
12.	Public Service Board	1
13.	Bungoma Municipal Board	1
TOTAL		191

Committee Observations

1. The department of Lands, Urban, and Physical Planning has the highest number of pending cases before the courts at 85.

CASES INVOLVING COUNTY GOVERNMENT OFFICERS OF BUNGOMA

More-so, we have pending court cases involving individual County Government officers on different issues. The most prominent one was on road accidents by County Government drivers as shown in the table below:

NO.	CASE CITATION	MINISTRY	NUMBER OF OFFICERS INVOLVED
1	Road Accident	Deputy Governor's Office	1
2.	Accident	Ministry of Health	10
	Negligence		10
	Criminal;1,		1
	Employment		3
3.	Accident	Public Administration	1
	Criminal		1
	Employment		7
4.	Accident	Roads, Infrastructure, Transport & Public Works	4
	Negligence		1
5.	Accident	Agriculture	2
	Employment	Lands, Urban & Physical planning	1
6.	Employment	HRM	5
7.	Accident	Agriculture	1
8.	Employment	Education	1

9.	Employment	Governor's Office	4
10	Accident	Water	1
11	Employment	Finance	5
Total		11	61

Committee Observations

1. The County Government has several pending cases involving its staff, which date as far as 2014.
2. Among the pending cases by the County Government are cases involving the County Government both current and former employees against the County Government and those involving the public against employees of the County Government.
3. Several ministries are enjoined in the cases by the fact that the defendants are employees in the ministries.
4. Most of the pending cases against the County Government are those involving road accidents, employment and negligence by County Government employees.
5. The Ministry of Health is leading in pending cases (10) involving staff/drivers in having cases on road accidents followed by the Ministry of Roads, Infrastructure, Transport & Public works with 4 cases and the Deputy Governor's Office with 3 pending cases.
6. The Ministry of Human Resource and Management and Finance have the highest number of cases on employment (5 each), followed by the Governor's Office with 4 cases on Employment.
7. The Ministry of Health has a record of 10 pending cases on matters negligence of its staff on various issues especially those involving medical staff.

CASES SOLVED THROUGH ALTERNATIVE DISPUTE RESOLUTION

The legal framework for Alternative Dispute Resolution Mechanism is provided for in Article 159 of the Constitution of Kenya 2010. The Alternative Dispute Resolution Bill, 2021 defines 'alternative dispute resolution' as reference to constitutionally compliant mechanisms, processes and methods of dispute resolution other than judicial determination. This therefore means that alternative dispute resolution refers to all those decision-making processes other than litigation including negotiation, conciliation, and arbitration among others.

The County Government of Bungoma indicated that it does not have any cases that have been determined through Alternative Dispute Resolution *per-se* however, a number of cases that were initially initiated through litigation have since been referred to be solved through Alternative Dispute Resolution by the Courts. The said cases are listed in annex 2 herein attached but the summary is in the table below:

NO.	NATURE OF CASE	DEPARTMENT	NO. OF CASES
1	Land and Environment,	Lands, Urban and Physical	3

	land disputes	Planning	
2	Contractual, employment	Public Administration	2
3	Contractual	Agriculture & irrigation	2
4	Negligence	Health, Public Administration, Governor's Office and Sanitation	1
5	Constitutional Petition	Governor's Office	1
6.	Employment	Finance & Economic Planning	1
7.	Contractual	Health and Sanitation	1
Total			11

Committee Observations

- 1) All the cases referred to be solved through Alternative Dispute Resolution had initially been initiated through litigation.
- 2) Despite there being a legal framework for Alternative Dispute Resolution Mechanism as provided for in Article 159 of the Constitution of Kenya 2010, the County Government of Bungoma has not explored this as a means to resolve cases involving the County.

PENDING CASES BY THE COUNTY GOVERNMENT OF BUNGOMA AS SPREAD IN DIFFERENT COURTS

The pending cases are spread in different Courts across the Country as outlined in the table below:

NO	LOCATION	TOTAL
1.	Bungoma	158
2.	Webuye	11
3.	Kimilili	16
4.	Eldoret	5
5.	Kitale	1
6.	Kisumu	9
7.	Nairobi	9
8.	Sirisia	3
9.	Kakamega	2
10	Mombasa	1
11	TOTAL	214

Committee Observations

- 1) That Bungoma has the highest number of cases at 158

- 2) The office of the County Attorney cited some of the cases as pending yet they had been heard and determined in court. The example is case No. 164/2003, Bgm CMCC which was also appearing on the list of matters referred to Alternative Dispute resolution.

LOCATION OF LAW FIRMS REGISTERED BY THE COUNTY GOVERNMENT OF BUNGOMA

The table below shows the location of law firms registered to provide legal services to the County Government of Bungoma:

No	Location	Number of law firms
1.	Nairobi	34
2.	Kitale	3
3.	Nakuru	2
4.	Eldoret	2
5.	Bungoma	8
Total		49

Committee Observations

- 1) That majority of the law firms registered are located in Nairobi followed by Bungoma, Kitale, Nakuru and Eldoret.
- 2) Ocharo Kebira and Annet Mumalasi are currently serving as judges yet they are legal service providers to the County Government of Bungoma.

Committee General Recommendations

1. THAT the County Attorney should come up with strategies to fast track hearing and determination of the pending cases especially ADR mechanism such as Mediation and Arbitration and share with the Committee within 60 days.
2. THAT the County Attorney should ensure compliance with the court orders, settlement of decrees and payment of external lawyer's fees to avoid incidences of contempt of court, execution and taxation of advocate-client bills.
3. THAT the department should make it a practice in getting legal opinion on all matters before they proceed to hearing and explore possibilities of out of court settlement to save on costs and legal fees incurred.
4. THAT the department should ensure that all files in which Judgment has been delivered and/or out of court settlement reached are marked as closed in the sense that there is settlement of all issues including costs.

5. THAT going forward the office of the County Attorney should handle fresh matters as per the County Attorney Act, 2020 except matters in which there is a likelihood of conflict of interest or where the prevailing circumstances are such that in-house Counsel cannot properly prosecute or defend.

6. THAT with regard to Eldoret ELC case No. 325 of 2017, land parcel No. Ndivisi/Muchi/6924 and 6925, which parcels of land are squarely within the local limits of the Environment and Land Court of Bungoma. The case ought to be heard in Bungoma and not Eldoret. The counsels should either raise an objection or have the matter transferred to ELC Bungoma unless if the same is at the court of Appeal of which the proper citation ought to be given.

7. THAT there should be a standard system of paying legal fees.

8. THAT the Committee on Implementation to ensure compliance of the recommendations of this Committee within 60 days of adoption of this report.

9. THAT the County Attorney should ensure compliance with lawful court orders to avoid lawful sanctions case no BGM HC Petition No. 2 of 2020 between Fredrick Musebe and 14 others Vs. County Assembly Service Board on office operation funds.

All annexures are attached

ADOPTION SCHEDULE

We the undersigned members of Justice, Cohesion and Legal Affairs append our signatures adopting this report with the contents therein. I would wish to call Hon. Benjamin to second the report.

(Applause)

Mr. Speaker: Hon. Benjamin, you have the honor of seconding your Motion as a Committee Member.

Hon. Benjamin Otsiula: Thank you, Mr. Speaker. Let me thank our able Chair for giving me this chance to second the Motion before this Honorable House. Once more, I also wish to thank the Chair for doing a good job, having read the report very eloquently. I would wish to point out that as a Committee and as per the contents of this report, Members can see that the County Government, despite the Constitution giving a leeway under article 159 of the Constitution, have not explored mechanisms of Alternative Dispute Resolution (ADR). There is no single case as per that report, where the County Government has tried to explore an out of Court settlement to ensure that these matters are brought to rest. Continued litigation sometimes is what we call justice delayed is justice denied. In some matters which we realize, they are matters which can be determined by parties sitting down and negotiating then a settlement can ensue.

Secondly, on another issue of accidents cases emanating from the department of Health; the Committee was wondering, if the Health Department is the department concerned with the health of the Members of this County, yet their drivers are the ones leading in terms of causing accidents. It is a very big concern and we are wondering why not these other departments because care givers are supposed to ensure that the health of the County employees and all other road users their health is taken care of.

Charging of legal fees was a very big issue; a law firm has charged 45 Million yet they have been paid 22 Million and they have only handled a single application in that case. The case is pending for the last 3 years, where is the value for money?

We are looking at cases where property is an issue of equal value. A lawyer representing the County Government is charging for example 16 Million, another lawyer is charging 32 Million but if you look at the value of the property in question is still similar and the same. So why is it that they are not relying and if at all they are relying on the advocate's remuneration order of 2014, why is it that we are having disparities in these legal fees being paid to the lawyers representing the County Government.

In some instances, you will realize that a case was determined but the report coming from the office of the County Attorney, the case was closed, judgment delivered but the file is active. They are not telling us if this file is active, what happened after judgment? Is there an application or is it just an issue of just living this case open for other purposes that are well known to the members?

Finally, you will also realize that there are orders issued by the Courts and it appears as if there were issues of disobedience and on this issue, we urge the concerned parties especially the County Government to observe and respect the lawful court orders to avoid the County Government incurring the unnecessary expenses in future. Otherwise for that very brave response, I wish to support.

(Applause)

Mr. Speaker: Thank you Hon. Mildred for moving the Motion and equally Hon. Otsiula for seconding the Motion. Honorable Members, a Motion has been moved and seconded that this House adopts the report by the Committee on Justice, Cohesion, Legal Affairs on the Status of the pending Cases in Bungoma County. I propose.

(Question proposed)

Hon. Linda Kharakha: Thank you for giving me this opportunity again to support the Motion on the floor. First, I want to thank the chair for Legal and Cohesion Committee for reading a very good report that is self-explanatory and Members of this Committee for coming up with a good report.

I want to talk about pending cases; you will realize that the Office of the County Attorney has a budgetary allocation of about 28 Million, if I'm not wrong but you will realize that the amount awarded to this office is little compared to the cases that they are handling now and the pending cases. This in itself is an inhibitory way of them to deliver justice to the people seeking it, because when you don't have a budget, how do you even file a case or proceed with it and pay legal fees to the relevant lawyers? Cases are costly when you file them.

Mr. Speaker: Hon. Linda, I hope you are aware that once you have the office of the County Attorney, they will no longer have to engage the services of external lawyers thus has to go to courts as the County attorney department itself.

Hon. Linda Kharakha: I'm speaking as regards to the cases initially were given to lawyers. If the allocation is that much then it means even if the County attorney itself is handling the cases, still the budget is low at their end and maybe that is the reason you are seeing so many pending cases, because they are not able to deliver on the cases that have come before them.

There are cases that have been dormant and I do not understand why the County Attorney office has not moved with speed. If a case has been lying down 10 years, it's a good reason to seek the court to close the file if there is no person coming up.

Mr. Speaker: They don't close, they dismiss from file of prosecution.

Hon. Linda Kharakha: Thank you, Mr. Speaker. Leaving the file open then means the case is still active. This report is citing fully determined case as a pending case. It is wrong in all manner. That means if someone in the office is not discharging his or her duties well, or they do not have a proper case management system...

If it is through proper case management system, you are able to tell if a case is still on-going, pending, closed or settled out of Court. For them citing a case that has fully been determined, to me, I think there is a monkey game going on to extract money from the taxpayers which is wrong in all manner. Such people should be brought to book or have a proper case management to ensure that anybody coming to question, they are able to tell where we are with each case. In case management system, if it is not well laid down in the Attorney's office, I'm not even sure the cases that are pending depicts the real picture we are having in this House.

Coming to the payment system, previously lawyers are being paid wholesomely. I think when you are paid well, you are motivated to work and ensure that you deliver, get your case on diary in time. It still goes back to where we are still having cases pending, yet lawyers have been paid. No single application has been made yet you have been paid close to everything.

We are being taken for granted as citizens and Members of this House with such a report because it means people are filing cases that are not there, or the cases that are being filed do not need to

get justice. It is a case that has been fetched, so that people get money out of nothing and it is taxpayers' money we are talking about.

I will urge the Members and the Committee to hold the County Attorney's office liable and more so to fully give details and status. I still believe that whatever that has been brought here is not the case. There is a case that they have said the plaintiff died. In my knowledge from the school of law, the case against a dead man is nullity.

Mr. Speaker: It abates.

Hon. Linda Kharakha: Yes. I still do not understand why you still have such a case still open and people are still being paid over the same case. To me the County Attorney's office is a mockery to the legal profession. You can't be a County Attorney and you do not know how to close a file or to even negotiate out of Court.

Looking at the amount given to the County Attorney's office, if you are given ksh.100, you will want to budget for the money properly, so that you are able to handle matters that come your way but if you are paying 22 Million and you have 28 Million, it doesn't click well to people who sit in the Budget Committee.

I will also want to say that the County Attorney's Office has failed in all manner to seek the cheapest way of settling matters without going to Court. There is mediation, arbitration and that out of Court Settlement. If he can't have a single knowledge to appreciate the system put in place to ensure that cases are being expedited quickly and in a just manner, then it is a game we are playing that needs to be stopped.

When it comes to allocation of case to firms; you will realize that most of cases are allocated to people from Nairobi. If you want to improve our revenue, why would you give a case to a firm in Nairobi? Does it mean our people in Bungoma are not having law firms or we don't have law firms here?

We have a court here. Allocating cases to law firms in Nairobi in it, says that people in Bungoma do not have law firms. I request that the County Attorney should start appreciating the lawyers in Bungoma who have firms so that in itself, if budgeting money for the County, then it means the money is revolving back. The money is coming back to our County. We continue to get money out of it but we are investing it outside then it means that Bungoma will still lag behind.

(Applause)

It is the only way we will continue getting revenue and sources of livelihood to our brothers and sisters who have law firms and are our lawyers in Bungoma County.

Coming to my last point, about owning orders, a recommendation number 9, if a court has given the order and the directive, we expect that it is honored. The County Government has not

honored the previous Members who put on a suit and won successfully and I stand today to say that if the Order and recommendation number 9 on a matter petition number 2 of 2020 where Fredrick Musebe and four others verses the County Assembly Service Board on County Assembly operation fund. The nominated Members seated in this Assembly today will be able to run their office. This Order is long overdue and it was served to County Attorney's office. Not sure if this House was fully served but was part of the case then it means it is fully served. It is my prayer that as I'm about to seat down that this Order be honored in full so that the Members relevant in this case sitting here today get their share of funds.

(Applause)

Hon. Edwin Opwora: Thank you, Mr. Speaker. First of all, I just want to laud Hon. Linda who happens to be my niece on her submission. I have a concern on a number of the law firms that are managing our cases in Bungoma County and indeed may be this explains why as a County we are losing many of the cases and I call upon the Office of the County Attorney to ensure that we come up with measures to ensure that the county wins some of the cases.

I believe it is inside job; we cannot fathom the idea that County Government losing 90% of the cases and payment is being done, yet we are having an office that should be protecting the citizens of Bungoma County.

Based on this report, we need to come up with measures on how we can gauge the bearers of this Office and ensure that there is no conflict of interest towards the cases that are heard.

From the report, I observed that we have a sitting judge who happens to own a Law firm that actually is managing cases. To me this is a direct conflict of interest and this law firms should be expunged from the list of law firms that are supposed to represent the County Government.

Hon. Johnstone Ipara: Thank you. I want to attach my voice on recommendation number 9 on compliance of Court Orders. A court order does not even require anybody to question it. It must be implemented as directed by the Court. That is why and when it will be said that you are practicing fare administration of justice as provided for in Article 47 of our Constitution as reinforced by Article 65. It says, 'it is the authority of the Court to uphold and enforce the Bills of right', and particularly in that order that was issued by the court. I want to believe that it was intended to deny a section of the County Assembly their Constitutional rights. I also want to draw your attention to a decision that was made in Nakuru. County Assembly of Nakuru petition No. 1 of 2019. This was a declaration that was made by Justice Joel Ngugi; he "*Nominated members of County Assembly have equal opportunities, responsibilities and privileges just like their elected counterparts.*" That was done after they had been encouraged by Article 22 of our Constitution which says *every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened* When we deny some of our officers some of the privileges that we enjoy as elected

members and forgetting that one time we may be nominated and we shall also suffer the same consequences.

(Applause)

I want to request that the Service Board should lead by example by respecting orders and if the Service Board has any disputes, you must present your disputes in a Court of Appeal. You appeal against the decision that was made. If it was overturned then you will take the day.

Mr. Speaker: Thank you, Hon. Okasida. Hon. Makari,

Hon. George Makari: Thank you, honorable Speaker. I am very happy today Honourable Speaker, Hon. Okasida is quoting the Constitution.

Mr. Speaker: But he has been quoting the Constitution all the time.

Hon. George Makari: He is moving into a very fine lawyer. I echo Hon. Okasida. Maybe before I say something, you have just enlightened this House that the County Attorney is supposed to be going to court; I didn't know. I just knew that maybe he is just a figure-head and his work is to allocate cases to law firms; but according to your direction, other law firms are not supposed to gobble up county money, yet he has an office and he has staff. What we found out as a committee; this office is much involved in boardroom negotiations with litigants and not doing much of the job that it was assigned to do.

We found out that certain law firms are even paid before the case is heard, we found that some of them go around Kshs 530, 000 some KShs 200, 000; they are paid even before they go to court. A case has just been mentioned and that law firm is assigned and then there is already an initial payment of a whopping half a million Kenyan shillings. Fortunately, your law firm is not listed here. If I was you, I would have asked you how you can benefit before even you step in court.

(Laughter)

Mr. Speaker: No you consult Hon. Linda and Otsiula. They are called basic instructions. Feeds the lawyers before they commence their work.

Hon. George Makari: Then all of us will go to law school then begin this litigation. Even before you know details, you are paid before you go to court?

Mr. Speaker: They are called basic instructions to the lawyers.

Hon. George Makari: Wow! I can see Deputy Speaker is looking at you. I think he will go back to school to be a lawyer. Then there are certain cases dating back to 2002 and some of the cases, you are a very reputable lawyer in this town, a case dating from 2002 and some people died; but that case is still revolving in court. You as a lawyer and the leader of this House, maybe you should let the committee sermon the Attorney through your office. This Attorney should explain

what he is doing with cases from 2002. I can say from the year 2002, may be Hon. Linda and Opwora were in standard three; they were not even out of primary. Imagine if Hon. Opwora was in class 3, there was a case going against the County Government and up to today, the case is not yet finalized. I know Honourable Speaker that is...

Mr. Speaker: Now Hon. George, when you are talking of Hon. Linda and Opwora now what is going to happen to Hon. Allan Nyongesa.

(Laughter)

Hon. George Makari: He was also in primary. As I finalize; you are our leader and the chair of the County Assembly Service Board. Hon. Okasida has just enumerated very well, some of these nominated members of this County Assembly in 2027 might come back as elected; and Honourable Speaker you will need their vote to be the Speaker again if you will not have gone to be a Governor or a Senator in this County.

(Applause)

It is my prayer as Hon. Okasida has properly enumerated, this case was concluded in 2020. You remember Hon. Fredrick Musebe went to court, I remember Hon. Nangalama was also among those who went to court. We whipped them from the committees because they went to court; and I was among those ones who whipped them but today, I don't want us to whip them. I want us to give them what belongs to them.

(Applause)

You being our leader Honourable Speaker, it is my prayer; I am not pressing you as the chair of the County Assembly Service Board, your wisdom as our Chair in this House; because this money is allocated, it is not that it is outside the budget, the County Assembly budget has money for the nominated members of the County Assembly.

(Applause)

As our leader; and as the Chair kindly sit down with the CASB, try to check how you can handle this. We can begin from a little then going forward, we can increase as time goes on, so that we move along together with our nominated colleagues...

(Applause)

...so that we are on the same page with them and I think everybody will be happy. I know that when we will retreat as the Whole House one time in Mombasa, you will not pay your bills. They will pay for your bills after you have done this for them.

(Applause)

Mr. Speaker: Thank you, Hon. Makari. Hon. Metrine, kindly reply to the motion.

Hon. Metrine Wilson: Thank you, Honourable Speaker Sir. I would like to donate some of my minutes to one of our members to make response before I finalize.

Mr. Speaker: He cannot. It is your time. That is strange to me.

Hon. Metrine Wilson: Thank you, Mr. Speaker. Thank you for that correction

Mr. Speaker: Once you are called upon to respond; you can't delegate or share that time given to you. Proceed.

Hon. Metrine Wilson: Thank you, Honourable Speaker for that correction. I would like to thank the Honourable members for their contribution. The information they have given to us as a committee and the recommendations we have noted them down.

As we speak; the County Attorney is on interdiction and the legal advisor to the Governor is now acting in that capacity. As a committee, we have made our recommendations on the status of the cases involving the County Government. The committee prays that this House adopts this motion.

(Applause)

Mr. Speaker: Thank you, Hon. Metrine and all the Honourable members who have given their contributions on the motion before the House; and equally to those who have sat back to be able to be part of the sitting at this hour.

Honourable members, allow me proceed and be able to put a question to the motion before us for the House to make its decision.

(Question put and agreed to.)

(Applause)

The report, the observations and recommendations are hereby adopted by the House accordingly for onward transition to the consumers for the purposes of implementing the recommendations.

Honourable members, looking at the Order Paper that was the only motion beforehand. We now adjourn our sitting today and resume on 4th of April, 2023 in our 2:30 p.m. sitting.

(House adjourns)

