



REPUBLIC OF KENYA

COUNTY ASSEMBLY OF KILIFI

SECOND ASSEMBLY –THIRD SESSION

THE HANSARD

Monday, 5th August 2019

*The House met at the County Assembly Chamber,
Malindi Town, at 2:30 p.m.*

[The Deputy Speaker (Hon. Kenga) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

CHANGE OF BUSINESS IN THE ORDER PAPER

The Deputy Speaker (Hon. Kenga): Hon. Members, I am informed that we shall not be in a position to transact some of the Business in the Order Paper; Order number 9 (Bill, Committee of the Whole House on the Kilifi County Forest Conservation and Management Bill, 2019) and Order number 10 (Bill- Third Reading on the County Forest Conservation and Management Bill, 2019) although it is typed as Order number 11. There are challenges in this Business therefore we are not going to be able to transact this Business until further notice. Thank you.

Yes, the Member for Kakuyuni and Chairperson Scholarship Committee.

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NOTICE OF MOTION

SPONSORSHIP OF FOOTBALL TEAMS IN KILIFI COUNTY

Hon. Mramba: Mr. Speaker, with your permission, I wish to lay this Notice of Motion on Sponsorship of football teams playing in County, Provincial, Divisions two and one Leagues:-

THAT, Aware that the Constitution of Kenya, 2010 in the Fourth Schedule Part 2 (4) (h) mandates County Governments with the functions and powers on cultural activities, public entertainments and public amenities, including sports, cultural activities and facilities.

Aware that, there are a number of football teams in the County playing County, Provincial, Divisions two and one Leagues facing logistical challenges on transport, upkeep, games kits, affiliation fees and other miscellaneous needs.

Further aware that, many of our youth are unable to achieve their lifetime dreams in sports due to lack of logistical support to sports activities by the County Government of Kilifi thereby rendering them idle and as a result many youth have resorted to drugs and substance abuse, child labour and exploitation and other negative societal vices.

Noting with concern that, this continued inadequate support to these football teams playing in County, Provisional, Divisions two and one Leagues continues affecting the growth of talents for our youth.

This County Assembly therefore urges the Department of Gender, Youth, Sports, and Culture to provide funds in the next financial year and subsequent financial years that will enable full sponsorship to all football teams in the county registered with the Football Kenya Federation (FKF) participating in County, Provisional, Divisions two and one Leagues.

Signed by, hon. Nixon Charo Mramba, MCA Kakuyuni on the 30th of July 2019. Thank you.

The Deputy Speaker (Hon. Kenga): Thank you, next order!

STATEMENTS

ORDER OF BUSINESS FOR THE WEEK COMMENCING MONDAY, 5TH AUGUST 2019

Hon. (Ms.) Sidi: Thank you Mr. Speaker. Pursuant to Standing Order No. 41 (2) (a), I would wish to read the programme of the County Assembly for the week commencing Monday, August 5th 2019.

Today being Monday, 5th August 2019, the Business will be:-

(A) Notice of Motion that has been given by hon. Nixon Mramba and (B) is a Response to a Statement sought by hon. Victor Gogo. (C) is a Bill which has been put on hold until further notice.

Then Tuesday, 6th August 2019, the Business will be a Motion on the sponsorship of football teams playing in County, Provisional, Divisions two and one Leagues that will be moved by hon. Nixon Mramba.

Then Tuesday from 2:30 p.m. the Business will be (A) a Paper on the Report of the Committee on Water, Environment and Natural Resources on the Kilifi County Solid waste

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Management Bill, 2019. It will be moved by the Chairperson Water. (B) Bill; Second Reading of the Kilifi Solid Waste Management Bill, 2019.

On Wednesday 7th August, 2019 from 2:30 p.m. the Business will be (A) Paper; Report on the Committee on Justice and Legal Affairs on the Petition on the Office of the County Attorney, Kilifi County. That will be done by the Chairperson; Justice and Legal Affairs and then (B) we will have a Motion on a Report of the Committee on Pre-Primary Education and Vocational Training on the stalled ECDE projects in Garashi Ward.

That is the Business for the week. Thank you, Mr. Speaker.

ALLEGED POOR WORKING CONDITIONS AT BRILLIANT GARMENTS COMPANY LIMITED AND
AMORYCOCO COMPANY LIMITED IN MTEPENI WARD

The Deputy Speaker (Hon. Kenga): Thank you. There is a Response to a Statement sought by hon. Victor Gogo. Chairperson Labour?

Hon. Kadenge: I do not know if hon. Victor Gogo is around... or should I continue? I need your guidance.

The Deputy Speaker (Hon. Kenga): Is the member for Mtepeni Ward present? Mtepeni? Given that the Member is absent and he is the one who raised the Statement, I think it is in order that the same is postponed to a later date when the Member will be present so that he...

(Hon. Gogo entered the Chamber)

Hon. Kadenge: He has just arrived.

The Deputy Speaker (Hon. Kenga): Is the Member for Mtepeni Ward present? We want to see him. Chairperson Labour, proceed.

Hon. Kadenge: Thank you, Mr. Speaker. I wish to respond to a Statement raised by the able MCA Mtepeni Ward but before I proceed on the Response, let me read the Statement. The Statement was to the County Secretary through the Leader of Majority regarding the poor working conditions at Brilliant Garment Company Ltd. and Amorycoco Company Ltd. in Mtepeni Ward:-

Whether, the County Secretary is aware that casual and permanent workers at Brilliant Garment Company Ltd. and Amorycoco Company Ltd. are working under poor conditions such as long working hours without compensation, low wages, no defined responsibilities, and inadequate safety equipment among others, contrary to the provision of the Employment Act, 2007.

Whether, the County Secretary is further aware that the harsh working conditions in the two companies have resulted in health and social complication of the workers.

If yes, the County Secretary is urged to commission an inspection of the said companies and report to the County Assembly on the measures taken to address the concerns raised in this Statement. Signed by, hon. Victor Gogo.

The Statement is addressed to the Clerk of the County Assembly through the County Secretary and Head of County Public Service, Kilifi County.

“Report on the alleged poor working conditions at Brilliant Garment Company Ltd. and Amorycoco Company Ltd. in Mtepeni Ward as stated in the Second Assembly, Third Session. In

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reference to the Statement from the Second Assembly, Third Session on the above subject matter brought to my attention by a letter CAK/ADM/3/VOL.24/86, I hereby wish to respond as follows:

One, that I received the said letter on the 7th May, 2019 and on the same day I constituted a team of very Senior Public Health Officers to visit and carry out a detailed sanitary inspection of the two, Brilliant Garment Company Ltd. and Amorycoco Company Ltd. in reference to the above. Note; the company listed here in the Statement is actually registered as Amor Coco Kenya (EPZ) Limited.

Two, that, the team of Senior Public Health Officers led by the County Public Health Officers visited the two companies for inspection on the 8th day of May, 2019 and a detailed report was served to me on the 10th day of May, 2019.

Three, that in the matter of poor working conditions the team established that there was no documented evidence of working for long hours however through interviews with the workers in Brilliant Factory, the team found out that the employees were being given very high targets which could not be accomplished within the normal working hours. However, this could not be established in Amor coco Company because the Company had stopped processing as from the month of March, 2019. The team noted that there was evidence of air contamination through inhalation of dust particulates and accumulation of dust particles in window screens in Brilliant Company. The team also noted that there was outside catering people bringing food from outside and served under a shade without tables or chairs.

Four, that in the matter of inadequate safety equipment, the team established that for Brilliant Company, the workers had inadequate personal protective equipment; only a few had nose masks, aprons, head gears and needle protectors. For Amor Coco, this could not be established due to closure of operations. However, it was noted that dry machine had no guard rails which did not guarantee the safety of workers. There were no fire extinguishers as well as fire signage, escape routes and fire assembly points.

Five, that the team was able to scrutinize the disease incidence report file or book at Brilliant Garment Company Limited for which needle prick injuries were common where the management reported to refer the injured to Kanamai Clinic (private). From physical observation, no signs of ill health were establish. For Amor Coco Company, there were no records of health occurrences. In addition, both companies had trainings on occupational health and safety but only Brilliant Garment Company had necessary occupational health and safety Committee in place.

Six, that appropriate recommendations were given to address each defect or omission to each individual company by the team of public health officers who conducted the inspection and including time frames or deadlines to perform such a recommendation.

Seven, that the public health team was tasked with the responsibility to make frequent follow-ups for the implementation of recommendations until such a time that compliance has been done to the satisfaction of the public health rules and regulation.

Eight, that the action taken by the team was the most appropriate procedural and professional to the best of my knowledge.

Conclusion; there was no harsh working condition noted to cause ill health and that safety equipment (PPEs) were inadequate at Brilliant Garment Factory. Attached is a comprehensive

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inspection Report. This is signed by hon. Dr. Anisa A. Omar, County Executive Committee Member, Health Services.

The Deputy Speaker (Hon. Kenga): Thank you Chairperson Labour. Can we know from the Member who raised the Statement; hon. Gogo are you satisfied with the responses given?

Hon. Gogo: Asante mshimiwa Spika. Nashukuru Mungu kwa sababu nimeingia wakati ambapo *Statement* yangu inasomwa. Ukiangalia katika hiyo Ripoti yangu kuna mambo niliyoongea ni kuwa watu wanafanya kazi kwa masaa mengi, pili, mshahara ni kidogo sana. Pia nilizungumzia kuhusu utendajikazi wao na maswala yao ya kiafya. Sikubaliani na majibu ambayo waziri amelea kwa sababu yako nusu. Nilikuwa nipate majibu kutoka kwa Wizara ya Afya na *Labour*. Ukiangalia majibu haya yana maelezo ya upande mmoja tu wa Afya na barua yangu ilikuwa na viegezo viwili; afya na mishahara.

Pili, kuna mahali amesema kuhusiana na vyombo vya kuwalinda wakati wa kazi viko lakini ni vichache; nataka kusema kwamba ni uongo. Hivyo vitu katika kampuni hiyo hakuna. Pia amesema mambo ya *poor working condition* hiyo ameangalia hakuna. Mshimiwa Spika nataka kukwambia kwamba katika hiyo kampuni kuna wengine hujifungua wakifanya kazi hapo kwa sababu wakati mfanyikazi ni mjamzito kisheria ya Kenya anafaa kupewa nafasi ili kujifungua. Pale unapoenda kupumzika kwa sababu ya *maternity*, huwa hulipwi. Wafanyikazi wanafanya kazi mpaka huenda akazaa kesho ndio anatoka mwenyewe maana hata ukiomba hiyo *maternity leave*, haupewi.

Pia kulikuwa na kesi moja pale. Wakati hawa dada zetu wako katika hali yao ya kiafya, kupokea hedhi ile kusukuma ile mashini huwa inachangia kutoa damu nyingi kuliko ya kawaida. Kuna msichana mmoja pale alivuwa damu sana hiyo ndio kesi iliyofika kwangu. Wale wasimamizi wa hiyo kampuni walimchukua na kumweka kwa chumba na kubaki pale akiendelea kuvuja damu hadi mfanyikazi mmoja alipojitolea na kumpeleka hospitali.

Kuna mahali waziri amandika kwamba waligundua mtu akiwa amepata jeraha ndani ya kampuni wana hospitali ambayo wanapelekwa na kuangaliwa; huo ni uwongo. Pale ukipata majeraha unajiangalia mwenyewe na sio kampuni. Pili, hiyo hospitali iliyotajwa hapa ni ndogo sana hata dawa hawana na pia wamesema wako na tabibu wa kampuni; huo ni uongo. Huyu daktari wanasema ni wao na hata ujuzi hana na dawa alizo nazo ni za maumivu tu.

Mshimiwa Spika, naomba kitu kimoja. Brilliant Company ni Kampuni moja wapo ya kampuni nyingi ndani ya Kilifi ambazo zinawafinyilia watoto wetu, ambao ni watoto wetu na wapigaji kura wetu kwa muda mrefu. Naomba Bunge kama ikiwezekana Kamati ya Leba iruhusiwe iende ndani ya kampuni ili wajione wenyewe mateso ambayo wanakilifi wanapitia mikononi mwa hao wachina. Wakati mwingine, watoto wetu wanapigwa makofi pale na mchina, mara nyingine mtu amefanya kazi kuanzia saa 12 asubuhi imefika saa tisa ama saa kumi amefanya kosa dogo hiyo siku nzima inafutwa na haitahesabiwa ama akatwe siku tatu ama nne maana amefanya kosa ambalo ni aambiwe tu arekebishe. Mshimiwa Spika, naomba utoe idhini kwa Kamati ya Leba iende huko ama uruhusu wafanyi kazi wa EPZ wawili ama watatu waje kwa Bunge letu waje waeleze masaibu ambayo wanapitia.

Kwa hayo machache Mshimiwa Spika, naikataa Ripoti hii ambayo imeletwa na Waziri wetu kupitia kwa Mwenyekiti wa hii Kamati. Asante.

The Deputy Speaker (Hon. Kenga): Yes hon. Dickson (Shaban)

Hon. Shaban: Thank you Mr. Speaker Sir. I also rise to support hon. Victor Gogo in rejecting this Report. I am a product of human rights. I have worked as a human rights officer for

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like 15 years and one of the major problems of this EPZ is infringement or violation of human rights. Most of our boys and girls are suffering at the expense of these people who are employing them in these EPZ companies. I want to concur with hon. Victor Gogo that specifically our girls are suffering.

Mr. Speaker Sir, I stay in Mtwapa and when I drive from Malindi to Mtwapa at around 8:00 p.m. or 8:30 p.m., this is the time the employees are going home. I always ask is it a shift or they go in the morning and their response is that they report at around 7:00 a.m. and leave at around 8:00 p.m. so you can imagine that. The time of reporting is fixed but the time of leaving the factory in the evening is upon the mercy of the employer.

I urge if you can give the Labour Committee direction which is spearheaded by our able Chairperson, hon. David Kadenge (MCA) Malindi Town Ward and his team to visit this EPZ and it should be an impromptu tour. I suggest we just go because when we write letters informing them that the Committee is visiting then when you go there, you find everything is okay.

Mr. Speaker, we want to go to this EPZ without notice and I am sure we will get so many problems. I want to say it is high time we send a strong message to these EPZ Companies. After we are done with Mtepeni, we have to visit other EPZ companies like Mazeras EPZ where our girls are also suffering so that we can bring sanity in these companies. I rest my case. Thank you.

The Deputy Speaker (Hon. Kenga): Member for Gongoni.

Hon. Kiraga: Thank you so much Mr. Speaker. I also wish to support the Mover of this Statement. The Response is half baked as he puts it. Mr. Speaker, if you read the opening remarks from the Response that a team of very Senior Public Health Officers was constituted to undertake the investigations or inspections.

Mr. Speaker, whoever directed the formation of this team first of all did not observe the prayers of the Statement. If you look at the prayers of the Statement, the constituted team was addressing one item; the issues to do with occupation health and safety measures. That team was also addressing only that item.

When you look at the prayer, it is also talking of workers working for long hours in the said companies without compensation; that was also an item the Mover of the Statement wanted it addressed. The other item is low wages; another item in the same Statement is undefined responsibility where workers have duties which are undefined.

For the County Secretary to provide such response to this House and thinking that he has addressed the concerns, I think these are the things that we have been lamenting about in this House because most of the Responses brought in this House are half baked or misplaced.

Mr. Speaker, the prayers of this Statement from the Mover are very vital and they need to be addressed. I therefore, wish you direct a thorough investigation as per prayers be done so that such issues can be addressed. I therefore concur with the Mtepeni Ward Member .Thank you.

The Deputy Speaker (Hon. Kenga): The Member for Kakuyuni.

Hon. Mramba: Asante sana mheshimiwa Spika. Nimesimama kuunga mkono Mjumbe wa Mtepeni ambaye anafanya kazi kwa bidii na Mungu apendapo naomba mwaka wa 2022 arudi tena kwa Bunge hili ama akiomba kile kikubwa aweze kufanikiwa pia.

(Applause)

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Mheshimiwa Spika, haya madai ambayo mheshimiwa Gogo ameyaleta tushawahi yaona katika Bunge hili kipindi kilichopita.

Mheshimiwa Spika, wewe ni shahidi maana wewe mwenyewe ulikuwa Mwenyekiti wa Kamati ya Leba na tuliweza kuzunguka kwa Wadi ya Kiraga kule Gongoni na tukaona ile hali ya wafanya kazi kwa ile kampuni ya chumvi. Hata Wadi yako pia tulifika tukaona wale wafanyi kazi wa chumvi vyenye wanafanya kazi.

Kamati ya Leba ina jukumu la kukaa na kupanga na wakati wakienda, naomba wahusishe ofisi ya Leba ya Serikali Kuu maana sehemu kubwa ya *mandate* iko kwa Serikali Kuu. Mheshimiwa Spika, naomba washirikiane vyema na ofisi ya Serikali Kuu ya Leba wanapoenda kutembelea waende pamoja. Mheshimiwa Gogo ahakikishe wafanyikazi wamepewa nafasi ya kusema waziwazi yale wanapitia maanake musinde mkatembea pale halafu wafanyikazi wakaogopa kuwaambia ule ukweli; mtakuwa hamjafanya kazi yoyote. Na hiyo ndio changamoto. Watu wetu wana uoga wa kuongea mbele ya muajiri. Mnaweza kuenda pale mkauliza wafanyikazi wakakataa kuongea; hakuna hata mtu atakufuata kwa sababu hawa wenye hizi kampuni wana masharti kwamba ukiongea na wale wageni unaachishwa kazi. Kwa hivyo, hapo pia tupaangalie ni namna gani ambayo Kamati itafanya uchunguzi wahakikishe kweli kwamba watu wanafanya kazi masaa mengi na kama wanafanya kazi masaa mengi ni wawe wanalipwa.

Kama unafanya kazi saa 12 ni lazima ulipwe yale masaa mengine manne mbali na yale manane ambayo yako kisheria. Mshahara wao tujue; je mshahara unalingana na sheria? Kama haulingani, basi tuweze kupata ripoti na pale pale Bunge hili lina uwezo wa kuenda kufunga ile kampuni la sivyo tunaweza kuwanyima hata leseni. Wasikatiwe leseni ile kampuni iweze kufungwa mpaka pale watakapokubali kuambatana na sheria za hapa Kenya. Asante naunga mkono

The Deputy Speaker (Hon. Kenga): Thank you very much hon. Mramba for making your contributions towards the same. I want to give a ruling on the position that we are going to take as a County Assembly on this matter that has been presented by the Chairperson of Labour Committee. I direct that a joint sitting be organized and this sitting should involve the Committee on Health and the Committee on Labour and given that at the moment the presiding Chairperson is the Chairperson Labour Committee, then the Chairperson Health Committee will deputize the Chairperson Labour and the quorum shall be the total quorum for the two Committees for a Committee to constitute a quorum guided by the Standing Orders. I think that is very clear.

So, the number of the two Committees that are allowed in the Standing Orders to form a quorum will be the basis for our operations and the same resolutions must be supported by a majority of the Members of the two Committees. Therefore, you have 14 days to look into the matter. You can still go ahead to engage the CEC Member in charge of Health and also the CEC Member in charge of Devolution because I understand Labour is under that Department and so you also have an opportunity to engage them and visit the factory to make sure every step that you take, the Member is well-informed and involved and should be in a position to participate in each and every step that you shall undertake. Within a period of 14 days, we expect the two Committees to submit a joint Report. Thank you.

ADJOURNMENT

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There being no other Business in Order Paper, this House stands adjourned until tomorrow at 9:30 a.m. Thank you.

The House rose at 3:05 p.m.

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