

Wednesday, 7th August, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly – Third Session

Wednesday, 7th August, 2019

The House met at the County Assembly Chamber at 9.30 a.m.

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

PRAYER

PAPERS

- 1) AMENDMENTS OF STANDING ORDERS
- 2) SIAYA MUNICIPALITY BOARD

Hon. Oyugi: Thank you, Mr. Deputy Speaker. I wish to lay on the Table of the House the report on Amendments of Standing Orders.

Hon. Otare: Thank you, Mr. Deputy Speaker. I wish to lay on the Table of the House the report on the vetting of nominees for the positions of members of Siaya Municipality Board.

NOTICE OF MOTION

STATUS OF CASES PENDING BEFORE THE DPP AND EACC

Hon. Otiato: Thank you, Mr. Deputy Speaker. I wish to give a Notice of Motion on status of cases pending before the office of Director of Public Prosecutions and the EACC. Aware that Article 157(10) of the Constitution of Kenya 2010 provides that the Director of Public Prosecution shall not require the consent of any person or authority for the commencement of criminal proceedings in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.

Further aware that section 11(1) (d) of the Ethics and Anti-Corruption Commission Act No. 22 of 2011 provides that the commission will investigate and recommend to the Director of Public Prosecutions any acts of corruption, bribery or economic crimes or violation of codes and ethics or other matters prescribed under this Act, the Anti-Corruption and economic crimes Act or any other law enacted pursuant to Chapter Six of the Constitution.

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Concerned that Section 11(3) explains that the Commission may cooperate and collaborate with other state organs and agencies and any foreign government and international or regional organization in the prevention and investigation for corruption.

Further concerned that Justice and Legal Affairs Committee of Siaya County Assembly is mandated to deal with all matters related to administration of law and justice, constitutional affairs including, elections, ethics, integrity and anti-corruption. Deeply concerned that Article 195(1) of the Constitution of Kenya gives powers to the County Assembly or any of its committees to summon any person to appear before it for the purpose of giving evidence or providing information.

Noting that the Auditor General's report for the FY2013/2014 made allegations that the County Government of Siaya spent Kshs. 100million to build classrooms without advertising for the tender, further the tenders were split and certain firms awarded to circumvent the procurement regulations.

Firms that were prequalified for fumigation services were awarded construction works. Noting with concern that there were allegations that the County Government of Siaya paid several contractors a total of Kshs. 9,989,389 in the year under review for various construction works. However interim payment certificates, invoices and local service orders were dated 27th June, 2014 but without inspection and acceptance committee reports to confirm that what was paid for met the specifications required.

Further concerned of the allegations that the Governor at Siaya County procured various assets totaling to Kshs. 16,855,076 however the same were not recorded in the Assets (inventory) Register.

Cognizant to the fact that the controller of Budget made allegations that in Financial Year 2016/2017 the County Government of Siaya, in the department of Public Works, Roads, Transport and Communication had 268 road projects out of which 188 were completed. However, there was inaccurate reporting in eleven projects where some were incomplete, while other funds were diverted to other roads approximately Kshs. 1billion.

Noting that the Auditor General's report of FY2016/2017 indicated that County Government of Siaya procured maize from two suppliers through direct procurement totaling to Kshs. 95,122,000 for distribution to Siaya residents to mitigate the effects of famine. The maize was procured from M/S Pivera Consolidated Limited who was paid Kshs. 37,122,000 and M/S Mandugu Stores was paid Kshs. 49,500,000 in mid-June 2017.

Further noting that in the FY 2016/2017, there was an allegation of conflict of interest where M/S Younear Guest House is associated with Siaya County Governor, Cornel Rasanga. The firm was awarded of Kshs. 2.4m tender to provide accommodation for County official.

This Hon. House resolves that in exercising oversight functions, the Assembly Justice and Legal Affairs Committee visits the Kisumu Ethics and Anti-Corruption Commission Office and the office of the Director of Public Prosecutions (ODPP) Nairobi and submit to this House for consideration within 21 Calendar days, a comprehensive report from the ODPP and EACC documenting:-

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1. Challenges that are unique to Siaya County that impedes logical and speedy conclusion of cases.
2. Status of all cases emanating from Siaya County Assembly and Auditor General Reports.

Hon. Deputy Speaker: Thank you, Hon. Otiato. I think after giving Notice of that Motion, you can proceed in moving the Motion.

STATEMENT
DELAY OF RESPONSES

Hon. Oyugi: Thank you, Mr. Deputy Speaker. I seek your guidance on two statements requests I put forth and I have not received any responses from the various Committees. One, is from the Committee on Water and Environment on the mining activities going on in East Asembo Ward which I had requested for a response I think a month ago and I was told I will get within two weeks.

The second one is to the Committee on Education in equipping the ECDEs in East Asembo Ward which was made two months ago. My request is to find out when I will get the responses. Thank you.

Hon. Deputy Speaker: Thank you, Hon. Judy. I believe that the Chairs of the various Committees where the reports were committed are here. Can we get from the Chair of Water?

Hon. Odhiambo: Thank you, Chair. I also want to seek your guidance. I really requested for a statement. There is a statement I raised on a road which was paid in my Ward and I think I requested that I be given a response before we go for recess. I am really wondering on what is happening.

Hon. Deputy Speaker: Thank you, Hon. Edwin. Can we get response from any Committee where the claimed reports were committed to? Let's start by the Water Committee! Yes, Hon. Wandera!

Hon. Wandera: We don't have a response now but soon after opening we shall present the response. This is for Education, ECDE. That is one or two days after opening.

Hon. Deputy Speaker: Hon. Member, be specific. How many days are you requesting?

Hon. Wandera: We are requesting for a month because we are closing for a month. Immediately after opening, one day or two days, we submit the report.

Hon. Deputy Speaker: So that is 10th of September?

Hon. Wandera: I believe but I don't have a Calendar before.

Hon. Deputy Speaker: The Recess ends on 9th.

Hon. Wandera: Okay, then we shall present on 10th.

Hon. Deputy Speaker: Are you comfortable Hon. Member?

Hon. Oyugi: This statement request has been on for two months, I hope when you are saying another one month you are aware you have had it for two months but if you are reassuring on the said date then we shall wait.

Hon. Deputy Speaker: Hon. Booker!

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Hon. Booker: Allow the Hon. Member to repeat because I was away.

Hon. Oyugi: The statement request was on the issue of mining activity that is going on in East Asembo Ward.

Hon. Deputy Speaker: Can you remember when the statement was committed?

Hon. Booker: I cannot remember when the statement was committed to the Committee but I heard her talking outside that she is going to bring a statement. Nevertheless, if she brings it we will expedite on it immediately.

Hon. Deputy Speaker: Yes, Hon. Judy!

Hon. Oyugi: The statement was brought to the House more than six months ago. I reminded the Committee last month before we went on recess and one of your Committee Members assured us that we will get the response in two weeks, unless there is lack of communication in the Committee.

Hon. Deputy Speaker: Yes, Hon. Booker, Chair for Water!

Hon. Booker: I wouldn't want to argue about it so much but let her give us time so that I can peruse with the Clerk on how to respond to that issue amicably. Thank you, very much.

Hon. Deputy Speaker: How long?

Hon. Booker: I would also request for one month after Recess. After Recess, give us two weeks.

Hon. Deputy Speaker: Hon. Member, are you okay? Yes, Hon. Otiato!

Hon. Otiato: Thank you, Mr. Deputy Speaker. As we talk, from the Committee on Education, we have had issues, until now that I talk, we are still getting phone calls and the bursary money has not reflected in some schools and actually we have a very big problem with this issue of direct transfers.

The other day I went and I was given a cheque for 2016. I don't know how you will help us on this because currently you go there you will be told, check if the name of the student is pending. So we have got even pending cases, we don't then how much is remaining here and how much has not been reflected. I am saying this because we have several Members of the Education Committee who can actually pick this up.

On those calculations of the monies, there is even some monies which are supposed to be meant purposely for organizing of events, to give out these monies and I don't know where these money is. I was just thinking, is there anything else that we can be able to do? The Act is very silent about the mode of transition in giving out. I was just saying this so that if we are going for a Recess and the Committee of Education decides to exploit then we get another way of disbursing this thing. It's giving us a lot of headache.

Hon. Deputy Speaker: Thank you, Hon. Otiato. I believe that Hon. Members of the Education Committee are here and they were keenly listening to your sentiments.

Hon. Wandera: The observation given by Hon. Otiato, is correct and I think it is gross anomaly in the department of Education which really means drastic measures. You hear of money has posted to schools and when you go to schools it has not been posted.

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Hon. Otiato: Mr. Deputy Speaker, when I was talking about this I thought that the Chair of Education will be giving us one very simple thing. In one way they are claiming that they can only do the wiring, in other circumstances they are writing cheque. We have got two ways of disbursement of money in Siaya, cheque and transfers.

From Yimbo East or Mageta, you tell a mama to come to Siaya to follow up a bursary of Kshs. 5000, for her to travel to and from Mageta the Kshs. 5000 will be over. For people who are coming from the Municipality here, if you take a bodaboda from the outskirts of this town to the education office, you spend at least Kshs. 100.

Amount spent in transacting a cheque cannot be Kshs. 500 and if they can write a cheque and we have issues, challenges, why can't this Committee come up with a report directly. This is done in Kisumu, Nairobi and other areas. If we have been having a problem and we are cutting a percentage to organize for a celebration day of giving out bursaries, why can't we just possibly move a Motion and ask for the pending cases.

I was thinking that the Chair of Education will be giving us a direct answer possibly in the next 30 days. In the first week after Recess you will be coming with a full report and having a direction that we embark back onto our checks. Even if it means amending the Bursary Act that the disbursements will be through the cheque and they will be issued on one particular day that is Education Day.

Hon. Deputy Speaker: Thank you, Hon. Otiato. I believe that the Clerks have noted that down and we also make our own ways of calling the departments from the Executives to appear before the General Oversight Committee.

Hon. Odhiambo: I think as much as the Clerk is noting whatever we are discussing here, it is also much important for you to note. If I could not have stood up, you could not have remembered the question I asked, but I was asking you that how soon am I also going to get my report? I requested to get it before we go for Recess but I have not heard any response from Committee for Roads because the Chair isn't around. Can I get a response from any Committee Member or the Vice Chair?

The Deputy Speaker: Do we have any Member from Roads Committee? Yes, Hon. Nick Ochola; did you listen to his question?

Hon. Ochola: Let him come up again.

Hon. Odhiambo: There was a Statement request on a certain road in my Ward which was paid and the works were not done. I was requesting to know the procedures they followed to pay for this road and there was a lot to be answer on the Statement. I was requesting if we can get the answer before we leave for recess.

The Deputy Speaker: Hon. Ochola, can you remember when the Statement was committed to your Committee?

Hon. Ochola: I'm aware that such a Statement was committed to the Committee however I might not point the exact that the Statement was given but I wish to request the Member in the absence of my Chairman and also in the circumstances that my deputy is having suspension; we may not at this point get to give him satisfactory before we move on recess.

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I would really request that the Member allows the time that I will indulge my Chair after this sitting and then we possibly work out a very comprehensive answer to the Member immediately we resume recess because I know the question was very much loaded some information had not been pieced together so that we could give him a satisfactory answer.

The Deputy Speaker: Hon. Ochola, do you think he can get a response from you and the number of days in the afternoon session?

Hon. Ochola: It is not possible that we can give a response this afternoon.

The Deputy Speaker: Not a response but number of days that you will need to respond?

Hon. Ochola: I have already indicated the number of days in the period that we shall be on recess then immediately the first week that we resume then we should be able to give a response.

The Deputy Speaker: Hon. Edwin are you comfortable?

Hon. Odhiambo: Hon. Deputy Speaker, Sir; I'm not going to force them to do it because maybe that is their culture but before I sit down I was requesting that the Statements raise in this Assembly really concern the projects we are doing in our Wards and therefore I'm seeing not even the department on roads but it's like in all departments are failing and all Chairs are failing.

I am requesting if they cannot do their work let us change these Committee so that we also see the potential of other Members because we cannot be waiting for the Statement for 3months.

Hon. Ochieng: I am on a point of Order on a Statement that has been concluded by Hon. Edwin trying to insinuate that all the Committee are not to the task of the Statements or activities that are given. I wanted the Hon. Member to be very specific; he is the Vice Chair of Implementation Committee which has really let this House down as per the resolutions that have been passed in this Hon. House.

There is no any follow up that has been done by the implementation Committee. If at all he is sure that their Committee is failing; let him be very specific that our Committee is failing and we should do something as per the Implementation Committee is concerned. Instead of generalizing other Committees that are really working tiresomely and he also knows that Committee of Agriculture which I Chair and he is a Member is very active and up to the task. I would just call him to kindly withdraw that Statement and be very specific on the Committee that is not to the task.

Hon. Booker: Mr. Deputy Speaker, Sir; I want to support the Hon. Member for Sakwa on the need to change the Committees. When we will commence on changing the Committees; start with water we need to change all these Committees including even budget because some of the Sub Counties are not even represented in this Committee.

Please start with Water then go to any other Committee that must be changed. There are many Members here that we need to see their potential; people like Hon. Ousa needs to be the Chair of Water because he comes from the Lake.

The Deputy Speaker: Hon. Ousa do you want to be the Chair of Water? You mean Hon. Edwin in your sentiments that has been clarified by Hon. Willis that when we are changing the

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Committees I think we will start with the Implementation Committee where he is the Vice Chairman. I believe that one has been digested and we are done with those Statements not unless you are on a point of Order.

Hon. Otiao: Let's not take this as laughing matter; other than the unfounded remarks from the Hon. Member but then the content of argument is very clear. Our Deputy Whip Hon. Judy cried that a Statement has taken 6months; no response. Are we really doing an oversight role? Because when we are writing a letter to the department from the word go we are guided by our Standing Orders that the timelines that we give for us to get a response.

If a Chairman of Committee sits on a question because then it's you who has refused to give us the response. If we are needed to get the response within 7days and we write a letter that we expect this response from you within 7days and he fails to give a response within 7days then what are you doing as a Committee.

Within 7days then after that then after that you need to do another reminder by the time you are raising the third one you need to produce a summon; it means ordinarily there is no Statement that should take one month without summons and arrest of a particular officer to be brought to the Committee and we demand that he produce. Failing to produce he be discussed Here in the Assembly.

We hear cases where a Statement takes 6months then I think those Chairs should just go home because we cannot be saying that an Executive failing to work we bring a Motion on impeachment and a Chair failing to work and failing to follow our Standing Orders we just laugh and clap our hands.

Hon. Wandera: I'm glad that he said all Committees need reshuffling and that doesn't exempt his Committee where he may be either a deputy or a Chair. We are either Chairs, Deputies or Members in each Committee and if it's a matter of reshuffling in all Committees are we going to be angelic to perform in those Committees?

If for example I cannot perform in Education what is the guarantee that I will perform in Water? We should stop the issue of reshuffling unless we have extra Members. Hon. Edwin says the Committees have all failed so who are we going to substitute with another; I'm not for idea of changing Members, it's not a solution. The best solution is to point at people's eyes so that they pull up their socks.

Hon. Oriaro: I think it would be logical unless our Standing Orders were amended; we have got Committees that are replenished after a given number of days and there are Committees that are Standing. Not all Committees can be reshuffled and if a Chair is not performing it's upon the Members to go and do internal arrangement and communicate to the plenary.

The plenary has no business to do with internal activities of a given Committee but as per law like the budget Committee it doesn't last for 5 years but some Committees last for 5years. For example, the implementation Committee last for 5years.

The Deputy Speaker: I believe that the matter has just been Tabled this morning by one Hon. Member from the Rules and procedures Committee on the amendment of the Standing Orders. Let's wait and we shall deliberate on it in the afternoon.

Hon. Oriaro: It's like we are pre-empting; what about if it fails when Members do not approve the Motion?

The Deputy Speaker: Remember we also had a request from one of the Hon. Members from Ugunja Sub County that is Sigomere Ward Hon. Erick Odawa that is also related to that claiming that Ugunja Sub County wasn't represented in the Budget Committee. The matter is before us we directed Hon. Olasi the Chief Whip to act and we get a Report on Thursday.

Hon. Otiato: Mr. Deputy Speaker, Sir; here we are not going into law it's a bridge Constitution when there is no representation the Committees are illegally in operation because then the law requires that we follow the presentation from almost every corner that it is.

Currently, we have got the offices and the periods; there are those which are supposed to take 3years and there are those that are supposed to take 5years. Our Committees are not properly constituted with regards to representation.

A major Committee like budget that allocate resources you will realize that the basis of our argument was when we were proposing people to this Committee that interest of this particular Sub County is going to be served by so and so. That is how we got a Bondo representative, Gem representative. It is so funny that one Sub County didn't get even one person to represent their interest in the budget process.

Do we have a Budget Committee? What formed the basis on that and do we sit here pretending that now we wait for 3years. If you hear Gem people are making a lot of noise at times that one of the Member who is representing the interest of Gem is not representing the interest of Gem properly in that particular Committee and they will want their own issues or maybe you hear about Bondo; maybe Bondo people are complaining---

The Deputy Speaker: Yes. Hon. Ochola what is your point of Order?

Hon. Ochola: I am looking keenly at the Order paper that is before us this morning and I have not seen a Motion or a debate which has been listed here that we are discussing matters compositions of Committees which are illegally constituted and I think Hon. Otiato is totally out of Order to start debating a Motion which is not there in the first place.

I just wish to educate him that the Committees which were formed by this House like the budget Committee are not meant to serve interest of Counties or Sub Counties; these are Committees that are constituted and work best of the Assembly.

The Deputy Speaker: Hon. Ochola you are also out of Order; you are the one who has just criticized the discussion on the Floor. First you must apologize and you must mind your language in the House; we are not here to educate Members.

Hon. Otiato: Education is a continuous process and everybody gets educated even in this one. When we were talking about Statements; we have got personal Statements which are coming and we are just discussing issues on personal Statements. Personal Statements are things that affect us in our day to day life operations.

It is a discussion that we are bringing for the consumption for you as the Speaker of what we feel is affecting us and some of us would just want to say it here because the process is on and it in our Hansard just as I would stand here thanking the Speaker for giving me that

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opportunity with all these Members. It doesn't need to appear in the Order Paper that today Hon. Otiato should be saying thank you.

The Deputy Speaker: Hon. Otiato I think your point is taken; the matter before us came under Statements.

Hon. Odhiambo: Thank you, I have heard a number of Members complaining about the issue of reshuffling the Committees. It doesn't mean that those who were elected to be Chairs are those who are going to perform throughout. Be aware that you also left performers behind; those who are Members of a Committee can also be Chairs but you should not defend yourself because you will be earning more salary as a Chair.

I just raised the concerns of the responses of Statement in this House; we really need to get Statements in good time. Nowadays Statements are taking more than two months as opposed to the two weeks that you used to be given. As a Member I can also get tired of writing Statements because I know I'm not going to get the responses.

I was requesting if the Chairs are not concerned with these things; we can as well change it because it is the Chair who drives the Committee. I might be talking to my Vice Chair but as a Chair you have to take charge and at the same time the Chair should see into it that whatever the response they get from the Executive are relevant to this House.

The Deputy Speaker: Thank you, Hon. Edwin; as I directed earlier we need to pull up our socks in different Committees so that we get Statement responses on time.

MOTION

CASES BEFORE THE OFFICE OF DPP AND THE E.A.C.C

Hon. Otiato: I wish to move this Motion on the status of cases pending before the office director public prosecutions and the E.A.C.C. Aware that Article 157 of the Constitution of Kenya 2010 provides that the director of public prosecution shall require the consent of any person or authority for the commencement of criminal proceedings in the exercise of his or her powers or functions shall not be under the direction or control of any person or authority.

Further aware; that section 11 (1d) of Ethics and Anti-Corruption Commission number 22 of 2011 provides that the Commission will investigate and recommend to the director of public prosecutions, any act of corruption, bribery or economic crimes or violation of codes and ethics or other matters prescribed under this Act. The anti- corruption and economic crime Act or any other law enacted pursuant to chapter 6 of the Constitution.

Concerned that section 113 explains that the Commission may cooperate and collaborate with other state organs and agencies and in foreign government and international or regional organization in the prevention and investigation for corruption.

Further concerned that Justice and legal affairs Committee of Siaya Assembly is mandated to deal with all matters related to administration of law and justice, Constitutional affairs including elections, ethics, integrity and anti- corruption deeply concerned Article 195 of the Constitution of Kenya gives the powers to the County Assembly or any of its Committee to

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summon any person to appear before it for the purpose of giving more evidence or providing information noting that the Auditor General's report for FY 2013/14 made allegations that the County Government of Siaya spent Kshs. 100million to build classrooms without advertising for the tender.

Further, the tenders were split and certain firms awarded to circumvent the procurement regulations. Firms that were prequalified for fumigation services were awarded construction works. Noting with concern that there were allegations that the County Government of Siaya paid several contractors a total of Kshs. 9,989,389 in the year under review that is FY 2013/2014 for various construction works. However, the interim payment certificates, invoices and local service orders were dated 27th June 2014 but without inspection and acceptance Committee report to confirm that what was paid for met the specifications required.

Further Concerned of the allegation that the Governor at County Government of Siaya procured various assets totaling to Kshs. 16,855,076. However, the same were not recorded in the (inventory) register.

Cognizant of the fact that the controller of budget made allegations that in FY 2016/2017 the County Government of Siaya had 268 roads project out of which 188 were completed. However, there was inaccurate reporting in 11 projects where some were incomplete while other funds allocated were diverted to other roads approximately Kshs. 1 Billion.

Noting that the Auditor General's report indicated that the County Government of Siaya procured maize from two suppliers through direct procurement totaling to Kshs. 95,122,000 for distribution to Siaya residence to mitigate the effects of famine. The maize was procured M/S Pivera consolidated Limited who was paid Kshs. 37,122,000 and M/S Mandugu Stores was paid Kshs. 49,500,000 in mid-June 2017.

Further Noting that in the F/Y 2016/2017, there was an allegation of conflict of interest where M/S Younear Guest House is associated with Siaya County Governor, Cornel Rasanga. The firm was awarded Kshs. 2.4 Million tender to provide accommodation for County officials.

This Honourable House Resolves that in exercising oversight functions, the Assembly Justice and Legal Committee visits the Kisumu Ethics and Anti-Corruption Commission Office and the Office of the Director of Public Prosecutions (ODPP)- Nairobi and submit to this House for considerations within 21 calendar days :- a comprehensive report from the ODPP and EACC documenting:-

1. Challenges that are unique to Siaya County that impedes logical and speedy conclusion of cases.

2. Status of all cases emanating from Siaya County Assembly and Auditor reports.

The gist of this particular Motion I opted to Move it as the chairman of Legal and Justice Committee that we have got the mandate as an Assembly in our responsibility to be doing an oversight. We are of the activities of this particular County and in that one of the core

functions or the core mandate of an activity that I am privileged to chair through the support of this Assembly that is Justice and Legal Committee.

We deal with Constitutional affairs, which includes Anti-corruption matters. So on that ground there is a section of Law that is Section 113 of the EACC Act, which allows that the commission should cooperate with any other organ of the Government. So the only organ of the Government that they can always cooperate with in the County level in matters corruption are the Assemblies because the Assemblies do an oversight role.

Therefore, the Law allows them to cooperate with any agency in order to prevent corruption or help them in investigating corruption, this particular House has done very well in the past, and we have made several resolutions and forwarded several files to the EACC since the beginning of Devolution that is 2013.

The Law allows EACC to do an investigation onto all cases of corruption and forward the files to the DPP. There are a lot of issues that we have faced here in Siaya and I want to laud the works of EACC Kisumu especially when it came to matters of the Assembly like what happen the other day when there was a mere allegation of Assembly having used the money meant for allowances to go to Uganda.

Again, when there was allegation about Siaya residence, the kids of Siaya who are seeking more knowledge on particular sectors and coming in to appear for only 3 months to do their internship. That there was an allegation of possibilities of darkness on whether these interns were there or not, a mere allegation of whether the MCAs went to Uganda or not.

From the date of the report and today is less than 2 months and within 6 days the EACC responded with an alarm. I want to laud them on that good job. Where is the problem? Because on this one there is no money which is supposed to be recovered.

It is money meant for allowance, but we are dealing with cases here from 2014 whereby a matter in 2014 there was an audit query and this matter was referred to EACC where Ksh. 100 Million was lost according to the audit query and I am aware the matter is still pending and still at the EACC offices. Why is it quiet? We need to recover the Ksh. 100 Million that was lost.

There are payments, which were done, and you hear here that a tune of Ksh. 9.9 Million was used on 27th June and there were no actually no certificate of completion no nothing to prove that what we are paying for actually is costing Kshs. 9.9 Million. That was FY 2013/2014 and nothing has been done to date.

Later we also talking about the purchase of equipment worth about Ksh. 16 Million; these matters are coming about from the audit queries. The files are there at the EACC but nothing has been done because we are told things were bought yet they were never there in any register. We actually have to recover the monies from where it went.

From the department of Roads 2015/2016 you are aware that we have been talking about these things here and you will hear even projects that were paid yet nothing was done and most of these projects were in 2016/2017.

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We even had a case here the other day when we were talking about a case in Bondo even the Ward Administrators who are the chair of the PMCs wrote a letter saying that “don’t pay the contractors because there is no work done.” Nevertheless, they ended up being paid without any work being done.

A total of Kshs. 1 Billion was lost and there is no effort from the EACC to recover this from 2016/2017 to date. There is this purported famine and money costing about Ksh. 95 Million was lost. In this matter, I am very particular because I know that some of the people involved are very big people in this Government that were given very big contracts to supply maize to Siaya; maize irregularly supplied.

That is why down there you see me requesting that you do not send me to DPP Kisumu because I know the DPP Kisumu is implicated in the maize supply to Siaya. Therefore, we are not going to DPP Kisumu and we are requesting this House to allow us to go to DPP Nairobi and meet with Harji and ask him where is the maize case.

On the same FY 2016/2017 during the campaign period, a team was being held and Ksh. 2.4 Million was paid to a Hotel, which is believed to belong to CEO of this County Cornel Rasanga, a total conflict of interest on how a Governors Hotel could be prequalified and win a tender in Siaya County.

These are just but a few examples and I have only projected the ones from 2016/2017 not the current ones. So we are just requesting that when we go there we will bring more even to the current ones. We want to be your ambassadors to go there and ensure that we see each file and it was concluded then we do a report and come back and make the report public to the Siaya people that either our money was stolen or the reasons as to why we cannot recover the money.

As I conclude, with the speed that we have had we have a lot of other issues and you have heard about the case that we are having here about accreditation of Barack Obama University in which Kshs. 5 Million was lost and is not even appearing here but we will be talking about it.

Today I heard a talk from our Honorable MP of Gem; he was talking on Radio Ramogi and actually, one of the things he said, and this is a matter that I will be taking again with the Budget Committee, because we made some recommendations.

Today, I heard him say that one of the legacy he wants to be remembered with is that he is currently under the National Government tarmacking the Kodiaga road, which we were doing here in the Assembly. Moreover, the other day we were talking about it and even saying that we are allocating money as Siaya County in tarmacking of the same road.

Hon. Deputy Speaker: Yes, Hon. Nick Ochola, what is your point of Order?

Hon. Ochola: My point of order is that as we are still listening to the beautiful submission is to clarify and make it clear since I come from Kodiaga myself. The said road is a National road coming from Kodiaga going all the way up to Wagai. So for the purposes of Hansard records let me clarify to the Member before I come from there.

Hon. Deputy Speaker: Hon. Otiato can you proceed.

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Hon. Otiato: Thank you. On the same statement that the Hon. Member was making he was very clear that he is aware that there was a meeting yesterday where Odera Kango have expressed reservations and are withdrawing their students to Kitale campus.

He also made it clear that his agreement, and he has even talked to the Minister and we all know that it was a public discussion that even if they are going the land must remain to Siaya because it was only donated for the purpose of a University.

One thing is emerging that few months ago we were dealing with a case where Kshs. 35 Million meant for refurbishing staff houses or County Government houses we used in that University called Odera Kango. Then the question is was the Vice Chancellor aware? How can he do this...

Hon. Deputy Speaker: Yes, Hon. William Kinyanyi. What is your point of Order? Assist him with another garget and sergeant-at-arms move with speed and help him. You can proceed as you wait for your card.

Hon. Kinyanyi: Is it in Order for a Member to bring an issue that was discussed on a radio for us to discuss in this Assembly because those are issues that I can also present and explain myself? I do not think he is in Order to discuss that as a subject to the Assembly.

Hon. Deputy Speaker: Thank you. Hon. Otiato stick to your Motion as you proceed. Hon. Oriaro, do you have a point of Order?

Hon. Oriaro: A Member is Moving his Motion and Members will have their space to contribute. What I am saying is that procedurally, Members are right, but it would be prudent to allow the Mover to continue and conclude. So that when it comes our time to debate that is the time Members can have their true space where they will raise issues, which will be part of the Movers response because those are questions, which should form part of his response.

Hon. Deputy Speaker: Thank you, Hon. Oriaro. Hon. Otiato proceed.

Hon. Otiato: I do not know but in the event that we are moving a Motion we move to give the true-life stories that are on the ground. So we are just trying to express what actually is out there and what is going on that we intend to come up with at the end of our discussion, but I know that the Hon. Member who is also my respected chair in the Public Accounts Committee and possibly he doesn't want us to prosecute that matter for now. Let me leave at that and proceed with the Barack Obama where Kshs. 5 Million was given to Maseno University and we cannot even say what it was used for in the end.

Therefore, I just want to say that the basis of this particular Motion is to give us a lead way and as a Committee and possibly this General House to have a hearing with the concerned parties. Therefore, the key things that we want to know in the lower part and I know the Gem brigades are on the neck of Hon. Oriaro both from behind and aside, I will need the sergeant-at-arms to be near him for security.

The main issues that we want to understand is if at all there were actually cases behind as proposed by the Auditor General and discussed in this particular Houses and they exist. We have seen Governors being arrested, we have seen people being taken to court and even others who stepped into the office just the other day, people like Waititu.

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What is it that is so unique with Siaya that if Waititu steals he can be arrested yet we have cases from 2013 in Siaya, which cannot be arrested? Therefore, that is what we want to know and we want to share with this House these unique things that make EACC not able to complete the cases presented from Siaya.

Therefore, I summarize by saying that Hon. Oriaro asked where the warrant of arrest of the Governor went. You realise that Hon. Oriaro was supposed to be killed and he started crying for his life because somebody somewhere does not want to be asked where the monies are. However, we are taking the bullet and accepting to die for the sake of Siaya and bring this particular information here in this House.

We are going to ask Haji when we meet him if you allow me by passing this Motion. We are going to ask him to tell us what happened to the warrant of arrest that he issued on the Governor so that Hon. Oriaro does not have to fear for his life anymore. We are going to give you a reply on the status and where the summons are.

I will call upon Hon. Booker to second.

(Hon. Booker seconded)

(Question proposed)

Hon. Deputy Speaker: Yes, Hon. Siguru

Hon. Siguru: Thank you Mr. Speaker. I rise to support this Motion brought by Justice and Legal Affairs. I want to thank him for having come up with such a noble and bold move. The only thing bedeviling Siaya County is the fact that we are living in a rot and that nobody is willing to address the rot. We are representing our constituents and we should not sit down and watch the way things are going.

We have noticed that whenever Counties are ranked, we are always ranked poorly and we have always wanted to ask, what is it that we do not have that others have that makes them perform better than we do? In such serious Motions, we are bound to have answers if we are serious in doing our oversight roles.

What I have observed in the period that I have been in this County is that we either have dead systems by design or they are just systems that are not working. We should not take pride in Siaya being the Home of Heroes. Siaya being home of Heroes, we are supposed to be addressing home of heroes things as to what makes us proud of being the home of heroes.

What we see in our County which probably is being done by a few individuals which this Honorable House should really be able to just point out and just address clearly is the blatant disregard of facts or facts on the ground are never available or nobody is bold enough to put them into the table.

The Motion brought by Hon. Otiato is one of the things we are supposed to be doing as an oversight body and I mentioned and I keep mentioning that the Executive is failing and we do

not really point out the failures of the Executive, it means that we as an oversight body are also failing.

I have heard the Mover mentioning a very small issue touching on the allowances for MCAs for a foreign trip. Already the matter is before the EACC. I believe that there are better things which should be looked into by the EACC. Our budgeted for items, within the budget, they were spent and the justifications are likely to come out when we are being questioned.

As we are being questioned over an erroneous figure that has been reported, that nobody knows about, we are also more than willing to start asking the big questions, the real matters that are touching on the lives of Siaya residents that have always been taken to the EACC, we are seeing particular matters handled with light gloves, and other matters handled as they are supposed to be.

As an oversight body I support this Motion with a strong notion that if the facts that the Mover of the Motion approve to be true, then we as an oversight body have to move to the EACC and come out clear that we are feeling that they are not discharging their mandate as required by the law.

As it has been led by the Mover, we can say some of it is true, and some may not be true, like Hon. Members going by hearsays. We really need to go deep into this and come out from a Hon. Member whom we know has some good credentials in investigations, our Hon. Chair for Justice and Legal Affairs, we really want facts to be laid to this House and in the event that the positions here are true positions then these are the type of things that are making our County perform dismally. We are not supposed to be seated here as sons and daughters of this County watching such bad things happening. I support.

Hon. Deputy Speaker: Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Speaker. Very briefly I want to say that Hon. Otiato's Motion is my Motion. We share the same Committee, I am a Member. Away from the cosmetics associated with the Motion as moved and that may necessitate Members reacting on them, Hon. Otiato has said one thing, that this Hon. House since its inception in 2013, has been resolving courtesy of Committee reports:

Public Accounts, even implementation Committee that I was a Member of in the first House, on a number of things with a pronouncement that EACC be brought on board to do thorough prosecutorial investigation. DPP you have the final say on the determination of that which goes for the prosecution and all that issues, DPP come on board.

Even the CID come on board, etc., we are still waiting for the result, all this has gone for chorus they refer to such as else as maybe is the county assembly transforming itself into a musical chair. We are not here to be heard we must to be seen in action, so what the Motion is seeking for I know committees have got powers like the select committee by its own Motion to even do that which are asking to be allowed to do. But because of a regime of mistrust the house wants to move as one.

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Two, the issue of oversight is not individual you can recall I tried it when I was questioning why the DPP didn't arrest the Governor Hon. Otiato has reminded of that, he wanted to arrest our Governor but that matter just died a natural death.

Was he playing politics? If you do it like he tried to do it, I was almost being killed, I even don't know what the investigatory organs did over it. so it's all about us shielding ourselves so that at the end of the day it will be the county Assembly of Siaya that is it.

Mr. Speaker, it's very brief like the issue of maize you're a member of public accounts. All these things have been audit queries, Public Investment Committee (PIC) recommends but no actions taken on a number of things.

More so what Hon. Otiato has pointed out to away from other cosmetics associated with the moving of the Motions are not hear says let this House officially allow us members of Justice and legal committee to relive us from other duties so that we meet the DPP in Nairobi.

The Kisumu EACC office to follow up we want to know what becomes of this so if at all they can't act because of external influences because I know some politicians are monolith they can say let the matter rest so this is what we are asking for let the members allow us officially to go and do it on their behalf, report back to his office so we can separate the chuff from the true grain of wheat. I support.

Hon. Deputy Speaker. Hon. Ochola

Hon. Ochola: Let me start by thanking the mover of the Motion. at least I would be happy with this debate and this is the best way to go, Mr. Speaker I would wish this House adopts this Motion as quick as possible and we start preparing flight tickets for Hon. Otiato and the team to go to Nairobi immediately we start recess.

This is a very good Motion and I am requesting we give them the earliest ticket to go to Nairobi to EACC. What we have are series of allegations if proven these very grave allegations which are not good for the development of Siaya as County.

This will enable us when we will be talking of Kshs.100 million squandered we will be speaking from a factual point of view based on the document that this will have brought us so that from going forward we will separate the wheat from the chuff.

We will know that this allegation was made and these are the evidences which were laid bare based on that because as a House we are fed much on rumors and sometimes we have facts for example the Auditor General reports 2016/2017, 2017/2018 these are documents we are given as a House and we go through them but the buck stops with the constitutionally mandated bodies like EACC, the DPP office, DCI office who professionally gather evidences and put them forward and know what is admissible in a court of law and what is not.

The day that this team if this house passes come and give us the documented evidences or positions of this allegations which are here and even the position of queries which has been given by Auditor General because the Auditor General has given what they call in their terms unqualified opinion and once unqualified opinion has been given we expect a certain action thereafter or we expect to be told unqualified opinion has been negated because of one, two, three things.

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There is an example that an Auditor's opinion was given when Kiambu County Governor appeared before the senate and one of the accusations was they budgeted for some money to cater for some state function in South Sudan and etcetera but on further scrutiny it was realized this was a typo error or the use of a wrong template.

The day we will be having responses to this information that will be the day we will stand as house to condemn misappropriation of the funds based on facts with those briefs I support this motion and allow the committee to go Nairobi.

What I don't know maybe in his reply the committee should tell us whether they have funds for the trip and they don't I can sponsor a motion just to vary funds to get money to go to Nairobi.

Hon. Oyugi: I stand to support, its way over due for this action to take place and we as a house need to be proactive in this fight against corruption.as we know people of Siaya County have trusted us that we shall ensure their monies are used prudently and we heard from Hon. Otiato that since 2013 there are several cases that have been flagged by Auditor General where by monies have been used irregularly where the procurement rules have been flouted; all this have been brought to the PAC committee and resolution has been made yet we have not seen the end to these cases.

Some cases have been taken to EACC and other bodies still we are waiting for the actions. Mr. Speaker, it's high time we empowered this committee to go and bring us a report so that we have clarity on this issue therefore I support the committee goes to Kisumu, to Nairobi to bring us a report.

Hon. Deputy Speaker: Members as we are aware that according to our standing orders that our morning session should end at 12:30pm and we are on the dot I would request the Hon. Mover that we defer to the afternoon session.

MOTION

ADJOURNMENT

Hon. Deputy Speaker: Hon members there being no other business would you be upstanding adjournment.

There being no other business this House adjourns till today in the afternoon at 2:30 in the chamber.

The House rose at 12.33 p.m.