

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 5th November, 2019

The House met at 11.06 a.m.

[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]

PRAYERS

Hon. Speaker: Good morning, Hon. Members; we want to start or sitting today.

COMMUNICATIONS FROM THE CHAIR
FINAL BUSINESS FOR THE THIRD SESSION

Hon. Members, under this Order, we have a short communication; the first one, Hon. Members, is to remind you of where we have come from. We adjourned on 18th of September, 2019 to allow Members and Staff to prepare and participate in the CASA games and you are aware that you did practice and you participated in these games. During the recess, I also know that you are busy particularly in committee work and in this sitting we are starting today in this session we know that you will have work to do because you took time in the recess to do the work and the reports we are waiting are quite a number.

This session Hon. Member is going to be a busy one just to put you to speed on what is on the Table and it is going to up to the 4th December, 2019. You will be expected Hon. Members to consider the Annual Development Plan for the financial year 2020/2021, the Supplementary Budget Estimates for FY 2019/2020 and the Finance Bill 2019 among other businesses that are ready which also includes a number of legislation that you have come up with.

The House will facilitate and participate in public participation on number of business that is pending before you but foremost which is the Finance Bill and the ADP.

COUNTY BUDGET REVIEW AND OUTLOOK PAPER 2019-2020

Hon. Members, the second communication is on the County Budget Review and Outlook Paper. Section 118(1) of the PFM provides that the County Treasury shall prepare a County Budget Review and Outlook Paper (CBROP) as you know it, in respect of the County for each financial year and submit it to the paper to the County Executive Committee by the

30th September of that financial year; the county executive committee is the one that is the cabinet for the County.

The same Section 118(4) provides that, not later than seven days after the County Budget Review and Outlook Paper is approved by the County Executive Committee, that is the cabinet for the county and then the County Treasury is to have the Paper presented to the Assembly for purposes of interrogation.

Hon. Members, pursuant to that provision, the executive member of finance and economic planning submitted the Machakos County Budget and Outlook Paper (CBROP) to the Assembly on 18th October, 2019, and so the Paper is hereby tabled before this House and committed to the Budget and Appropriations Committee for consideration and tabling a report before the House.

ASSEMBLY LIVE BROADCAST

The other communication, Hon. Members, is on the Assembly live broadcast. Hon. Members, in the Assembly Broadcasting equipment is now in the stage of testing; you know that we have been having the live broadcast within the Assembly but it has come to a stage where the broadcasting of the business of the House is going to be on YouTube among other social media forum or platform.

So, Hon. Members this is part of the Assembly's compliance with the law on involving the public in the business of the House and so you debate here and everything you say here we will be broadcast not only within the assembly but also even internationally on YouTube. The link is there www.youtube.com even yourself especially when you're not in the Assembly you can access so that you also keep in touch of what is happening.

It will also be on Facebook and the other media the social media you have; so Hon. Members let us put our best foot forward so that whatever we are doing here if it is going to be to the public, let it be the best image to the public that we create. So, Hon. Members that is the communication that I have; we can continue.

PAPERS LAID

Hon. Speaker: Hon. Members, under this Order we have three business sorry Hon. Abdirahman Ali and Hon. Stephen Mwanthi and Hon. Daniel Kiilu, in that order. Hon. Ali.

(Applause)

REPORT ON DIGITAL ASSISTANT WHATSAPP PLATFORM

Hon. Abdirahman: Hon. Speaker, pursuant to Standing Order 215(3), I wish to lay the following Paper on the Table of the Assembly today, 5th November 2019; the report of the Broadcasting and Library Services Committee on the Digital Assistant. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Ali. The next Member is Hon. Stephen Mwanthi; Hon. Kasyoki you hold the brief.

(Applause)

REPORT ON THE FINANCIAL STATEMENT OF THE COUNTY GOVERNMENT OF MACHAKOS
FOR THE FINANCIAL YEAR 2017/2018

Hon. Kasyoki: Hon. Speaker, I wish to lay on the Table of the Assembly today Tuesday, the 5th day of November 2019; the report of Finance and Revenue Collection Committee on the Financial Statement of the County Government of Machakos for the financial Year 2017/2018. Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Kasyoki. Next member is Hon. D. Kiilu.

REPORT ON BENCH MARKING VISIT TO KERICHO COUNTY ON EARLY CHILDHOOD
DEVELOPMENT AND EDUCATION (ECDE) CENTERS

Hon. Kiilu: Thank you, Hon. Speaker. Madam Speaker, I beg to lay the following Taper on the table of the Assembly today, Tuesday, 5th November, 2019; Education committee report on bench marking study visit to the county government of Kericho and the Early Childhood Development Education Centers within the County. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Daniel Kiilu. Hon. Kasyoki the Paper you laid is not signed. If you had the powers to present it, I believe you also have the powers to sign it; sign it then. For Hon. Daniel Kiilu, I will call the Member later so we will proceed to the next order. I have received the one by Hon. Kasyoki for Hon. Stephen Mwanthi; it is now signed.

NOTICES OF MOTIONS

Hon. Speaker: Hon. Members, under this Order we have three businesses again as above. So I will call Hon. Ali, notice of motion.

REPORT ON DIGITAL ASSISTANT WHATSAPP PLATFORM

Hon. Abdirahman:

Hon. Speaker, that aware our democracy thrives on the participation of those it acts for and aware that one way of enhancing public participation in the matters of the County is by allowing the greater community access to the workings of the County Assembly;

Further aware that, Article 196(1) of the Constitution of Kenya provides that:

- a. A County Assembly shall conduct its business in an open manner and hold its sittings and those of its committees, in public;
- b. Facilitate public participation and involvement in the legislative and other business of the Assembly and its committees;

Hon. Speaker, acknowledging that the Digital Assistant is a WhatsApp platform that allows residents, business community and visitors to promptly query and get vital information concerning the County. Additionally, the digital assistant seeks

to advance Article 35(1)(a) of the Constitution of Kenya which states that ‘every citizen has the right of access to information held by the State;’

Aware that the digital assistant is an innovative system from which we can borrow to enhance information sharing and public participation in County Assembly activities;

Hon. Speaker, I wish to give notice of motion that this Hon. House discusses and approves the Report of the Broadcasting and Library Services Committee on the Digital Assistant.

Hon. Speaker: Thank you, Hon. Abdirahman. The next Hon. Member is Hon. Kasyoki for Hon. Stephen Mwanthi. I notice Stephen Mwanthi Hon. Member is already in the house but because we started in his absence we continue with Hon. Kasyoki.

REPORT ON THE FINANCIAL STATEMENT OF THE COUNTY GOVERNMENT OF
MACHAKOS FOR THE FINANCIAL YEAR 2017/2018

Hon. Kasyoki:

Hon. Speaker, that aware that Section 166 of the Public Finance Management (PFM) Act requires every accounting officer of a County Government entity to prepare a report for each quarter of a financial year in respect of the entity and submit the report to County Treasury;

Aware that the County Treasury should consolidate the quarterly reports and submit them to the County Assembly not later than a month after the end of the quarter;

Further aware that the County Treasury submitted a consolidated financial statement for the financial year 2017/2018 to the Assembly for consideration on 2nd November, 2018 and re-submitted on 8th August, 2019;

Noting that the County Assembly Standing Orders provides the mandate of the Finance and Revenue Collection Committee to include all matters relating to the management of county public finance and revenue collection;

Aware that the committee analyzed the report submitted by the Department of Finance and Revenue Management and made recommendations;

Hon. Speaker, I wish to give notice of the motion that this Hon. House discusses and approves the Report of Finance and Revenue Collection Committee on the Financial Statement of the County Government of Machakos for the financial Year 2017/2018.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Kasyoki. The part of Hon. Daniel Kiilu will still wait.

STATEMENT

Hon. Speaker: Hon. Members, under this Order, we have two Statements; on your records, you notice that there is only one Statement but as I was preparing to come to the Assembly there is a statement that was brought to me, through the Clerk, by Hon. Mutiso and I

allowed it because of the nature of the matter in the Statement. So, we will have the first Statement by Hon. Majority Leader Mark Muendo.

BUSINESS FOR THE HOUSE FOR 5TH TO 13TH NOVEMBER, 2019

Hon. Muendo: Thank you, Madam Speaker. Hon. Speaker, I stand under Standing Order 41(2)(a) where during the Statement hour, a Member of the House Business Committee designated by the Committee for that purpose shall for not more than ten minutes, present and lay on the Table, a Statement informing the House of the business coming before the House.

Hon. Speaker, the House Business Committee met on 30th October, 2019 and balloted business this week of 5th to 6th November, 2019 and part of the week of 12th to 13th November, 2019 pursuant to the provisions of the Standing Order No. 151 as follows:

Tuesday, 5th November, 2019

Morning at 10.00 a.m.

Report of Joint Committee on Environment, Lands, Energy and Natural Resources and Justice and Legal Affairs Committees on Wildlife-Human conflict within Machakos County by Hon. Moffat Maitha, Chairperson Justice and Legal Affairs Committee.

Afternoon at 2.30 p.m.

Report of Assembly Broadcasting Committee on Digital Assistant by Hon. Abdirahman Ali, Vice-Chairperson, Assembly Broadcasting Committee.

Wednesday, 6th November, 2019

Morning at 10.00 a.m.

Report of Finance and Revenue Collection Committee on Financial Statement of the County Government of Machakos for the year ended 30th June, 2018 by Hon. Stephen Mwanthi, Chairperson, Finance and Revenue Collection Committee.

Afternoon at 2.30 p.m.

Report of Education Committee on educational tour to Kericho County by Hon. Daniel Kiilu, Chairperson, Education Committee.

Tuesday, 12th November, 2019

Morning at 10.00 a.m.

Report of Public Accounts and Investments Committee of Report Auditor General for Matungulu Water and Sewerage Company Ltd for the period ended 30th June, 2017 by Hon. Joseph Musau, Chairperson, PAIC.

Afternoon at 2.30 p.m.

Report of Budget and Appropriations Committee on Controller of Budget Report for the County for the first nine months of FY 2018/2019 by Hon. Dominic Ndambuki, Chairperson, Budget and Appropriations Committee.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Hon. Mark Muendo. The next Statement is by Hon. Mutiso.

STATEMENT SOUGHT
DISRUPTION OF SELECTION COMMITTEE MEETING

Hon. P.J. Mutiso: Thank you, Madam Speaker. Hon. Speaker, during a Selection Committee meeting held at Weston hotel on Friday, 1st November, 2019 Hon. Tariq Mulatya and Hon. Justus Kiteng'u who are members of this committee, disrupted the committee meeting soon after committee members voted to adopt a draft proposal by the Hon. Members of that Committee. They tore up the draft report under deliberations and threw chairs around causing some damage to the hotel property.

The Chairman of the committee had to call in the Serjeant at Arms. I seek to know what disciplinary action has been taken against the said Hon. Members for causing a breach of peace during the said committee meeting.

Hon. Speaker: Thank you, Hon. Mutiso. Hon. Members, this is a Statement that is calling on the behaviour of some of you who are named in the Statement. This is the first time that I am being informed of the issue other than being called on telephone on that particular day that there was disruption in the committee.

Due process must be followed and the matter is referred to the Committee on Powers and Privileges and that committee is going to call the Members who are mentioned because every Member accused must be given a fair hearing. It is not me but the constitution and law of Kenya; it is the; law of natural justice.

So, the Members accused will appear before that Committee....I know I chair that Committee and the witnesses will also come to testify and it is going to be transparent, objective and open even to any Member of the public who may want to attend. I will not welcome any comments at this point because they could be prejudicial to whichever direction the matter is going to take.

Yes, I can see Hon. Ngunga you are getting amused; there will be no comments.

Hon. Ngunga: Yes, Madam. I am not getting amused; I am only happy that you are taking that step.

Hon. Speaker: Alright. There is not going to be comments because the Members will have the right to respond and the accusers that right to state their case. Hon. Members, we will proceed. Mr. Clerk, next Order.

MOTION

REPORT ON HUMAN-WILDLIFE CONFLICT WITHIN MACHAKOS COUNTY

Hon. Speaker: Hon. Members, under this Order, we have one business by Hon. Moffat Maitha.

Hon. Maitha: Thank you, Hon. Speaker.

Hon. Speaker, that aware that Article 42 of the constitution of Kenya provides that every person has a right to a clean and healthy environment, which includes

the right to have the environment protected for the benefit of present and future generations through legislative and other measures;

Hon. Speaker, recently it has become a common phenomenon to hear of the escalated animal-human conflict in Kenya. The clash between animals and residents has left a noticeable dent in both our cultural and economic status. Residents have taken stiff measures against the unlucky animals which cross their path by killing them.

Hon. Speaker, Section 77 of the Wildlife Conservation and Management Act, 2013 empowers any authorized officer of the Kenya Wildlife Service to enter private land with the consent of owner or property occupier to destroy any animal that is deemed a problematic animal: I have corrected that one, Hon. Speaker.

Hon. Speaker, I wish to move the motion that, this Hon. House discusses and approves the Report of Joint Committee on Environment, Lands, Energy and Natural Resources and Justice and Legal Affairs Committee on Wildlife-Human Conflict within Machakos County.

I wish to call Hon. Kisini to second the Motion. Thank you, Madam Speaker.

Hon. Speaker: Hon. Kisini

Hon. Kisini: Madam Speaker, I second the Motion.

Hon. Speaker: Thank you, Hon. Kisini. Hon. Maitha. Hon. Speaker this is the report of the joint committee on of environment, lands, energy and natural resources and justice and legal affairs

1.0 PREAMBLE

Hon. Speaker, Article 42 of the constitution of Kenya provides that every person has a right to a clean and healthy environment, which includes the right to have the environment protected for the benefit of present and future generations through legislative and other measures;

Further, Hon. Speaker, the fourth schedule of the Constitution of Kenya Part II gives County Governments the function on the implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry.

Hon. Speaker, recently it has become a common phenomenon to hear of the escalated animal-human conflict in Kenya. The clash between animals and residents has left a noticeable dent in both our cultural and economic status. Residents have taken stiff measures against the unlucky animals which cross their path by killing them.

1.1 BACKGROUND

Hon. Speaker, the Joint committee on Justice and Legal Affairs and Environment, Lands, Energy and Natural Resources, during one of their sittings, deliberating on some matters pertaining to their mandates, several members raised concern on wild animals attacking residents and feasting of their hard gotten crops.

The most affected areas were said to be Kyangosi, Kisembeoni and Ngetani in Masinga Ward, Matungulu North ward, Kyeleni ward and Muthetheni Ward. Members unanimously agreed to take up the matter with an aim of jointly investigating on the problem and tabling of a report on the matter in the earliest possible time.

1.2 MANDATE OF THE COMMITTEE

Hon. Speaker, the Committee on Environment, Lands, Energy and Natural resources is a sectoral Committee established under Standing Order 190 and the Second Schedule with specific mandate to all matters related to the implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisances and outdoor advertising; land survey and mapping; boundaries and fencing; electricity and gas reticulation; energy regulation; water management systems in built up areas and water sanitation services.

Further the committee on Justice and Legal Affairs is mandated to deal with Constitutional affairs, the administration of law and justice, including the elections, ethics, integrity and anti-corruption and human rights.

1.3 COMMITTEE MEMBERSHIP

Hon. Speaker, the membership of the aforementioned committees is as follows:

- | | |
|---------------------------|---------------------------------|
| 1. Hon. Robert Kisini | - Chairperson, Environment |
| 2. Hon. Moffat Maitha | - Chairperson, Justice |
| 3. Hon. Christine Koki | - Vice Chairperson, Environment |
| 4. Hon. Jane Nyawira | - Vice Chairperson, Justice |
| 5. Hon. Alex Kamitu | -Member |
| 6. Hon. Brian Kisila | “ |
| 7. Hon. Cosmas Kieti Muia | “ |
| 8. Hon. Jeremiah Munguti | “ |
| 9. Hon. Dominic Ndambuki | “ |
| 10. Hon. George King’ori | “ |
| 11. Hon. Hellen Ndeti | “ |
| 12. Hon. Jacqueline Nziva | “ |
| 13. Hon. Erick Musembi | “ |
| 14. Hon. Joseph Musau | “ |
| 15. Hon. Mark Muendo | “ |
| 16. Hon. Michael Mutiso | “ |
| 17. Hon. Alice Nzioka | “ |
| 18. Hon. Francis Kalumu | “ |
| 19. Hon. Patrick Kituku | “ |
| 20. Hon. Mohammed Ali | “ |
| 21. Hon. Cosmas Masesi | “ |
| 22. Hon. Stephen Mwanthi | “ |
| 23. Hon. Tariq Mulatya | “ |
| 24. Hon. Winfred Mutua | “ |

2.0 LEGAL FRAMEWORK RELATING TO HUMAN-ANIMAL CONFLICT

1. Section 4(a) of the Wildlife Conservation and Management Act, 2013 provides that one of the guiding principle for the implementation of the Act is that wild conservation and management shall be devolved, whenever possible and appropriate to those owners and managers of land where wildlife occur.
2. Section 6(1) and 7(c) of the Wildlife Conservation and Management Act, 2013 establishes the Kenya Wildlife Service whose functions includes setting up a county wildlife conservation committee in respect of each county.
3. Section 18 and 19(i) of the Wildlife Conservation and Management Act, 2013 establishes County Wildlife Conservation and Compensation Committee for each county whose functions includes reviewing and recommending claims resulting from loss or damages caused by wildlife for payment of compensation.
4. Section 24(1) and (2) of the Wildlife Conservation and Management Act, 2013 imposes an obligation on the government to establish wildlife compensation scheme whose monies shall be used to finance compensation claims for human death or injury or crop and property damage caused by wildlife.
5. Section 25 of the Wildlife Conservation and Management Act, 2013 empowers any person who suffers a body injury or is killed by any wildlife to lodge a claim to the County Wildlife Conservation and Compensation which shall verify the claim and upon verification forward the claim and recommendation to the Cabinet Secretary responsible for wildlife who shall subsequently thereto consider the recommendation and pay the claimant—
 - (a) Five million shillings in case of death;
 - (b) Three million shillings in case of injury occasioning permanent disability
 - (c) Two million shillings depending of the extent of injury in case of any other injury.
6. Section 40 of the Wildlife Conservation and Management Act, 2013 establishes a County Wildlife Association which is comprised of communities, landowners, groups of landowners and existing representative organizations. Section 40(2) further provides that the object and purpose of the Association is to facilitate conflict resolution and cooperative management of wildlife within a specified geographic region or sub-region. The Association will also assist in problem animal control through community wildlife scouts drawn from among their membership or employees based on Section 41(d) of the Act.
7. Section 77 of the Wildlife Conservation and Management Act, 2013 empowers any authorized officer of the Kenya Wildlife Service to enter private land with the consent of owner or property occupier to destroy any animal that is deemed a problem animal.

3.0 MEETING WITH RESIDENTS IN SOME AFFECTED WARDS

Hon. Speaker, the committee had an opportunity to meet with members of public to get their views on the matter at hand. The places visited are Matungulu North, Masinga Central ward at Kyangosi and Ngetani, Kalama ward at Mutembei and Kwakavoo and the following was gathered from the public.

1. The committee was informed that there are monkeys which are very arrogant and apart from destroying people's plants---

Hon. Speaker: Would monkeys be really arrogant? Do you mean a nuisance or troublesome?

(Laughter)

Hon. Maitha: This is what is written.

Hon. Speaker: I think we need to take it that they were a nuisance.

(Laughter)

.....monkeys which are a nuisance and apart from destroying people's plants. They also threaten security of ladies and children while going to fetch water, collecting firewood or coming from shopping centres.

2. At Matungulu North, the committee was informed that there was a serious case where a man was assaulted by a monkey and later succumbed due to the injuries he had received.
3. At Muthetheni, the committee got information that several homesteads had been invaded by stray animals and 21 goats and one bull killed which is a big loss to the farmers.
4. At Kyeleni, the committee was informed that a hyena attacked a man while going at his home at night and one of his leg was bitten and completely cut. When taken to Machakos hospital, his leg was further amputated.
5. At Konza area in Kalama Ward the area MCA informed the committee that there have been many cases of hyenas attacking and killing people and domestic animals.
6. Many members of the public informed the committee that in case a farmer kills a baboon for feasting on the fruits of his sweat, he would face charges of poaching which was considered unfair to the farmers.
7. The committee was further informed that children have stopped going for preps early in the morning and late in the evening due to fear of attacks from animals.
8. In some farms at Kyangosi and Ngetani, the owners have stopped farming since they end up getting nothing due to invasion and destruction by stray elephants.
9. At Kyangosi, someone was killed by elephants and KWS has not compensated the family.
10. Many youths have no jobs since they used to depend on their farms which have lately been rendered useless by the elephant destruction.
11. There are so many negative effects as a result of elephants, hyenas, monkey invasion at the affected areas like joblessness, poverty, school dropouts, insecurity and prostitution among others.

12. The committee was informed that some of the negative acts of the stray elephants and monkeys are:
 - i. Injuring or killing people.
 - ii. Eating and destroying crops in the farms.
 - iii. Killing or injuring livestock.
 - iv. Transmitting diseases or disease-causing parasites to livestock.
 - v. Utilizing the grazing resources meant for community livestock.
13. Further, the committee got information that people are rarely compensated for their losses and often do not see the benefit of these animals hence the situation forces them to kill stray animals whenever they attack their crops or animals.

4.0 REPORT FROM THE WARDEN- KENYA WILDLIFE SERVICE (KWS) MACHAKOS OFFICE

Hon. Speaker, Article 195(1) of the Constitution of Kenya states that, a County Assembly or any of its Committees has power to summon any person to appear before it for the purpose of giving evidence or providing information. The Committee wrote to the KWS Warden in Machakos branch and when he came he gave the following submissions:

1. After cases or reports are made to the Kenya Wildlife Service Machakos office, they are attended to and records made for future reference. The committee was further informed that 87 cases of predation and crop destruction were reported and attended to since 2016. Further, 13 cases of death/injuries have been reported and only eight cases have been partly paid. The committee was informed that the other part payment would be done in due course.
2. The Wildlife Conservation and Compensation Committee's term elapsed and is yet to be instituted and start functioning again.
3. The delay in forming the committees has resulted to filing so many compensation cases and many claim-forms are lying in the office waiting for the committees to action.
4. The committee was informed that the conservation committee has been gazetted as from 16th August, 2019 and it will take up all the pending issues and action accordingly. That was vide Kenya Gazette Vol. CXXI No.105 of 16th August, 2019.

Hon. Masesi: Point of Order, Madam Speaker.

Hon. Speaker: Point of Order, Hon. Cosmus.

PROCEDURAL MOTION EXTENSION OF SITTING TIME

Hon. Masesi: Thank you, Madam Speaker. I stand on Standing Order 27 to request extension of time.

Hon. Speaker, that aware that Standing Order 27(2) provides that the Speaker shall interrupt business at 12.30 p.m. for the morning sitting;

Aware that Standing Order 27(3) provides that House may resolve to extend its sittings time;

Aware that Standing Order 27(4) requires a motion to extend sitting time to be moved at least 30 minutes before the time appointed for adjournment;

Hon. Speaker, I beg to move the motion that this House resolves to extend its sitting time until the business is completed.

Madam Speaker. I would like to call upon Hon. Mitaa to second my motion.

Hon. Speaker: Thank you, Hon. Cosmus. Hon. Mitaa.

Hon. Mitaa: Thank you, Hon. Speaker. Because of the nature of the work that is ahead of us, I second the Motion.

Hon. Speaker: If we start from the negative, is there a Member who would oppose extension of time? I see the report is not long so the debate is not likely to be long. Can we extend time just in case we do not finish by 12.30 p.m? If we finish by 12.30 p.m. well and good! We must give credit to Hon. Maitha who is doing a good job on this report so Hon. Maitha, please continue.

(Applause)

(The House resumed business set out in the Order Paper)

Hon. Maitha:

5.0 COMMITTEE OBSERVATIONS

Hon. Speaker, conflicts between human beings and wild animals occur when either the need or behaviour of wildlife impact negatively on human livelihood or when the human beings pursue goals that impact negatively on the needs of wildlife. The committee, during the site visits and interrogation, observed the following:

1. The committee observed that conservation and compensation committee has not been in place for a period of time resulting to stalling of work in KWS Machakos Office thus affecting the entire County.
2. There is no County Wildlife Association in place which can assist in conflict resolution.
3. There are so many compensation cases which have not been honoured and on enquiry the committee was informed that the failure has been from the National Treasury to release money for the same.
4. The current practice of the KWS is strictly to conserve wildlife at all costs without putting consideration to human life. This means active policing to eliminate poaching and anyone who harms or kills wildlife is considered a poacher thus legal action is taken on that person.
5. KWS has failed to educate people on the importance of wild animals hence creating animosity between the organization and the community living around the parks and this trend is expected to continue if effective measures are not taken by the Kenya Wildlife Service.

6. It may not be possible for every Kenyan community to benefit from wildlife resources but it is possible to have agriculture, economic growth and tourism taking place hand in hand, each complementing the other.
7. Staple foods such as maize, cassava, beans, potatoes and fruit trees are the targets for the hungry herbivores that include elephants, baboons, zebra, buffalo and wild pigs. Carnivores devour cattle, sheep, goats and occasionally, human beings.
8. Many families have been left without breadwinners as a result of the killings or injuries caused by the animals and generally the economy is affected.
9. That most of the complaints were recorded from those communities who live near forests or river banks.

6.0 COMMITTEE RECOMMENDATIONS

Hon. Speaker, the Joint committee on Justice and Legal Affairs and Environment, Lands, Energy and Natural Resources recommends the following:

1. There is an urgent need for the conservation and compensation committee to start operations for easy flow of work and service to the public since the one which was there left a lot of pending work.
2. There is urgent need of establishment of the County Wildlife Association to facilitate conflict resolution and cooperative management of wildlife within the affected regions.
3. The Kenyan government and especially KWS to play their part to salvage the national pride and protect property of its citizens.
4. There is need for strong electric fence to be erected on the side of Mwea game reserve along the river to restrict the animals crossing into peoples' lands at Kisembeoni, Kyangosi and Ngetani causing destruction. For the sake of the animals getting access to water along river Tana without encroaching to people's property, KWS can consider constructing small dams and spill ways on the side of Mwea below the fence to direct some amount of water on that side so that the animals are not deprived drinking water which is of great importance to them.
5. The committee further recommends relocation of the wild animals more so the elephants to Mwea game reserve or any other game reserve since they are trespassing to people's property thus causing animosity and destruction.
6. The animals are part of our heritage but as much they need conservation, residents have the right to be compensated for the loss caused by this animals otherwise they will continue to protect the little they have possibly by destroying the animals. In these regard, all those people who have been affected by the action of the animals should be compensated fully as anchored in the law.
7. The Kenya Wildlife Service together with County governments should also restrict people from developing in areas set or meant for the animals to avoid conflict.
8. KWS need to do proper sensitization to people living near forests and rivers since they are the most affected on how to handle the stray animals.

7.0 CONCLUSION AND ACKNOWLEDGEMENT

Hon. Speaker, the Wildlife Act does nothing better since the fines, if at all you are caught, are just but a fraction of the fortune and one will walk direct from the court to the parks

to try his luck again. This exemplifies the shortcomings in government to protect the animals and soon or later we shall tell our grandchildren there once were animals such as rhinos and elephants now available in movies and photos.

Everyone has the responsibility and duty to protect both domestic and wild animals. Human beings should be sensitized and learn how to live with wild animals without killing them.

Further, in Kenya, for instance, with much of the wildlife living outside protected areas, one of the real challenges to conservation is how to enhance and sustain co-existence between people and wild animals. It is undoubtedly evident that the expansion of the human society has forced people to infringe on wildlife habitat and convert land to other uses incompatible with wildlife and as a result human-wildlife conflicts negatively impact on the humans and wildlife alike.

Hon. Speaker, the joint committees for Environment, Lands, Energy and Natural Resources and Justice and Legal Affairs are grateful to the Office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the committee sittings and visitations.

Further appreciations go to the Office of KWS Machakos Office for their effort in availing themselves during committee sittings when they were invited to offer some information. I wish to express my appreciation to the Hon. Members of the Joint Committees who sacrificed their time to participate in the activities of the Committee and in preparation of this report.

Hon. Speaker, it is therefore my privilege, on behalf of the Joint committees to table this report for consideration and adoption. Thank you Hon. Speaker. This report was also confirmed by Hon. Kisini, the Chairperson of Environment, Lands, Energy and Natural Resources Committee. Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Maitha.

(Question proposed)

Hon. Members, the debate is open for you; Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. Madam Speaker, I want first of all to congratulate the two committees for coming up with a very elaborate and detailed report. So Madam Speaker, let the committees take my congratulatory messages and the two Chairs for this report. Madam Speaker, the issue that is in this report is actually the true position of what is happening on the ground.

Madam Speaker the committee made a visit to Masinga sub-county that is in Masinga Central where we have Hon. Mulatya representing the two areas mentioned Kyangosi, Ngetani and the other area, Madam Speaker, those people are always crying and nobody seems to be coming to assist them.

Hon. Speaker: The Assembly has gone to their assistance.

Hon. Ndawa: So, I want to say that the day has come for them to be saved by this Hon. House. Madam Speaker, we appreciate that the wildlife department; that is where our country gets some revenue but when we are getting such revenue we also need to take care of the people who are being affected by this wildlife. Madam Speaker, there is what we call *actio personalis moritur cum persona* that means rights of a natural person dies with a person and I believe the law recognizes different types of persons; we have the natural person and we have the artificial person.

When we talk of a County, that is an artificial person in the eyes of the law. When we talk about the nation that is an artificial person and madam speaker you are aware also the constitution says that every person has a duty of care to his neighbour and in the law the neighbour is not somebody who has a house next to you; a neighbour in the eyes of the law is somebody who is affected either directly or indirectly by your deeds.

Madam Speaker, what do I want to say? Madam Speaker, Mwea National Park is in another County it is not within our county. The revenue which is collected is collected in that other County, we as Machakos County we are not getting anything from Mwea National Park so the resources that are collected work in that County where in Machakos are only sufferers. Madam Speaker many lives have been lost.

I remember a case where a person was killed by these wild animals; the person who was pursuing the matter did his best but the case took long so the person was pursuing the matter passed on. So, it is very difficult you go and replace the person who was pursuing the matter to introduce another one. It is a challenge, Madam Speaker.

We are now being served by Ol-Donyo Sabuk office of KWS and these people are very slow when they are handling these matters. Madam Speaker, I believe with what the committee is recommending that we should have a county organ which is going to deal with this thing. Madam Speaker, I used to be a scout sometimes back and law No. 7 is very clear; it says a scout is kind to animals, he learns about nature and he is concerned with its protection. That is what the law says.

Now when it comes to that law we ask ourselves; since we are concerned with animals, does it mean we do not have a right to slaughter my goat? Does it mean that I should not kill a snake when it comes to my house because I am kind to animals? Madam Speaker, what we should ask ourselves is who the odd one out is. If the snake comes to your house, the snake is the odd one out because it is not supposed to be in your house it is supposed to be in the bush. If somebody and encroaches into the Game Reserve now the person is the odd one out because that is the home of the animals.

Madam Speaker, in this matter we are handling here the animals are coming to our homes because I believe an Assistant Chief from Kyangosi was hit by an elephant coming from the Game Reserve at his home. When you are sleeping, if you want to go and relieve yourself at night, you open the door and you find that elephant there. So it becomes a problem. Madam Speaker, we need to be very clear and you need to be very serious about this and that our people should live in harmony that our people should not live in fear because of these animals.

Madam Speaker, I request this Hon. House to agree with the recommendations of this committee because that is the only way we are going to save our brothers and sisters of Masinga Central. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Ndawa. Thank you. Hon. Mulatya.

Hon. Mulatya: Thank you, Madam Speaker; good afternoon. Hon. Members. I am from a Masinga Central the most affected area by this report. Madam Speaker, I feel like I don't know I feel like even saying we need implementation of this once passed by this House immediately. As we talk, this morning a hippopotamus just died beside the Masinga Dam and the people want to go and get meat and they do not know what the animal died from; I think it was in the news. So, Hon. House and Hon. Speaker, you can see the problems you're facing down there.

When it comes to KWS, Madam Speaker, I belong to Justice and Legal Affairs Committee and I think when we went to these areas is because we visited; the Hon. Members came there and you went there physically and they saw for themselves even I think it could have been better if our committee through our very Hon. Chair, next time you attach the photos so that the House can see the distraction.

Also as we talk here, because I have been in talks with the area Member of Parliament Hon. Joshua Mwalyo, I think also we should push the national government because all this we can talk all day but without a budget, there is nothing that can be done. We need an electric fence like it is stated on recommendation No. 7 which says the Kenya Wildlife Service together with County Government should also restrict people from developing in areas reserved for the animals to avoid conflict.

Madam Speaker, in my area it is a very simple implementation here; the KWS says they want the river and the river is the border of our county and Embu County and the beacons are 20 metres from the river to the other side 20 meters and also from the river to our side 20 metres. So, the recommendation which says that KWS is an arm of the government whereby they can make their own budget and make more dams within the land because they say the animals are going to die if they do not take the water. We have also river Thivo which passes in between the whole park and this river is permanent; it is always there.

So, Madam Speaker, as we talk this menace has become a nuisance to our people, our people have suffered and out of all the people I have seen here from my area it is only one man by the name Mbatha who was compensated. The rest have never been compensated and once also I call upon Justice and Legal Affairs Committee to also take to this accusations that, once they chase the animals, once they use their own means to chase the animals, the wardens come and go home by home beating and even raping the kids and women in those houses at night and that is how serious it is.

The Assistant Chief knows, I am aware, so I think Hon. House we can pass this report so that it can pave way for budget and implementation to save our people.

I also went to Matungulu North and we saw the way buffaloes are living directly with the people, the school is just around the corner and the highway for them to go to people's *shambas* is just outside the gate. So, Madam Speaker, we need to check into this issue on a very serious note because it is really affecting our people. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mulatya. Hon. Maitha, in your investigations you said that the conservation and compensation Committee is not there, the County Wildlife Association is not there.

Hon. Maitha: Yes, by that time it was not there; I do not even know whether it is there now.

Hon. Speaker: When was it that you were there?

Hon. Maitha: About a month ago.

Hon. Speaker: About a month ago?

Hon. Maitha: Yes Madam Speaker.

Hon. Speaker: The Members who come from that area; Hon. Mulatya, do we have these committees in place now?

Hon. Mulatya: They used to exist long time but once they are given a period to serve. So since the last five years they have not constituted for this time.

Hon. Speaker: So any other Member? Hon. Hellen.

Hon. (Ms.) Ndeti: Thank you, Madam Speaker. I congratulate the committee for coming up with this report but looking at the report as a whole, it appears like there already exist a Human-Wildlife Conflict Act. It appears like what is lacking rather there is laxity in implementing these Acts because I have noticed that villages, land owners are supposed to be sitting and working out on how they can prevent these animals from damaging human beings.

I have also noted that there is also an Act which states that in case an animal jumps or comes into your land the KWS workers are authorized to come and kill that animal but it appears like all this is just good in black and white on paper. It means that we are lacking the capacity to implement this Acts. So what I would call for is to ensure that these Acts are properly implemented and such conflicts will not be able to occur in the future. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Hellen. Hon. Kiilu.

Hon. Kiilu: Thank you, Madam Speaker. Allow me to start by congratulating the two committees for a detailed and a self-explanatory report. Madam Speaker, this issue is real in our wards and actually what life effects are not only in some of those areas that are being mentioned; we are not mentioning about elephants alone here. There are also other areas which are totally affected that are in those wards are living or bordering this major rivers like river Thika river and river Tana and that is Muthesya, Ndithini, there is also Ndalani, Ekalakala, Masinga and Kivaa wards.

Actually, the way the committee is saying is very true and I want to concur with Hon. Ndawa; something must be done and be done immediately. I want to set a good example; when I was a head teacher there was a certain family where a son who went fetching water at around 5.30 p.m. and as he was drawing water, a crocodile emerged and you know you cannot see the crocodile when it is in the water but you just see something like a rotten leaf and before you notice, you are struck by its tail; they use the tail, they strike you and you fall into the water and then they lie on you at the bottom of the river until you perish. A a very painful death.

So this boy was struck by the crocodile but fortunately he was doing some arithmetic beside the river and he had a compass. So the crocodile held his left arm and he was pulled into the deeper part of the river; they struggled for almost 15 minutes until the used the compass to

poke the eye of the crocodile and that is when the crocodile release. The boy actually had one of his arms amputated.

Secondly, sometimes last year, a similar incident happened. A lady went to fetch water, a mother of four children with first one was in class 8. I am talking of last year and as she was drawing water, she was struck by the crocodile into the water and laid to the bottom and she perished. I was forced to pay the form one total school fees for that girl child because she had lost the mother.

So we are saying this is a very painful experience actually especially in some of those areas and that is why I want to fully support this committee as it is saying that let us have this committee in charge and let Kenya Wildlife Service please do something in terms of compensation. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kiilu. I will come to you Hon. Cosmus. I am observing protocol and I think you are angry with me should be that way. Hon. Kiteng'u.

Hon. Kiteng'u: Thank you, Hon. Speaker. Hon. Speaker, I start by supporting this report fully; I cannot add more but Hon. Speaker, if you allow me I will lean on snake bites because it should have been included in this report. Since I was elected to represent the great people of Kivaa, Hon. Speaker, since 2017 especially in my area we have some hilly areas and I have lost members of my society like seven of them through snake bites and with the family we have tried to do a follow up with KWS.

Unfortunately, if you lose a member through a snake bite, it is not supported or you cannot be compensated and I would like, through the Hon. Speaker, to urge the committee that if they can include that we can be able to know exactly why the National Government removed that clause that if you die through snake bite you cannot be compensated because if my ward can lose seven members in two years, then it means in the entire country we are losing a lot of people through snake bites.

So, Hon. Speaker, mine is to urge that snake bites be counted as part of compensation in the wildlife because they currently do not do the compensation. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kiteng'u. Hon. Cosmus.

Hon. Masesi: Thank you, Madam Speaker. I am privileged to be part of the committee and I am happy Madam Speaker, we are reporting this kind of information to the Members. Madam Speaker, it is key to notice that our County Government needs to engage the counties which have wildlife and neighbor our wards, Madam Speaker. We need to make sure that these counties take their job and make sure that they fence those areas Madam Speaker, which border our county to make sure that we protect our people.

Madam Speaker, again we noted that KWS have advocates in place who are ready to press charges against our people whenever they are arrested poaching or protecting their crops. Madam Speaker, we learnt that the compensation committee which is key to these issues of complaints has not been in place since 2016 and the Officer in-charge of KWS office was not even aware when the said committee will be back in place.

Madam Speaker, again we realize that the staffing is not well. It is like six or four officers in the whole of Machakos County. So, Madam Speaker, I was thinking that it will be good for

the committee to summon the KWS officer in-charge again and do a follow up on whether this committee has been put in place for us to make sure that these reports are always implemented.

Madam Speaker, when you look at the case at Kyeleni where one man lost his leg due to a hyena attack, when this man was brought to Machakos Level V hospital, it was a very big concern for the family because the bill was around Ksh. 56,000 and you can imagine this man also had no ID so the Hon. Member from Kyeleni had to come in and make sure this person got the ID and he had to bear the cost of Ksh. 56,000 for the person to be discharged.

In fact, Madam Speaker, the person is waiting to get a type of---

Hon. Speaker: It is called a prosthetic leg.

Hon. Masesi: A prosthetic leg, Madam Speaker, which again we were told he has to pay Ksh. 65,000. Madam Speaker, I would like to encourage the members and the Chair health committee to make sure that there are people living within their wards are registered with M-Tiba because the county government is offering free services for persons who are registered.

Otherwise, Madam, Speaker, it is a big concern when we have to compete for our crops and resources with the wild animals. Madam Speaker, we need to push all the organs Madam Speaker, which are necessary and have a hand in these compensation issues. Madam Speaker, among the 13 cases to be compensated, we were meant to understand only eight had been paid partially so five cases of death are yet to be investigated.

Madam Speaker, I want to believe following these cases is very expensive and so Madam Speaker, we need to make sure we protect our people because I want to believe that is why we were elected to this County Assembly. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Cosmos. Can I call upon.....Hon. Ndawa? I need Hon. Maitha. Hon. Maitha, can you reply you are the mover of the motion.

Hon. Maitha: Thank you, Hon. Speaker. Hon. Speaker, I want to thank all the members for contributing and supporting this report. This report is for the sake of the families who are traumatized by the wild animals. When we went to Masinga, we saw people suffering and those people told us they get loans for fertilizer to plant crops and yet they do not get anything from their shambas. They have sell their land to repay those loans.

It is so serious that I would wish the Majority Leader and House leadership to plan that we make a visit as many as we are to those areas so that we can at least tell the people that we have done something to rescue Hon. Mulatya from the wrath of those people. Not only Hon. Mulatya when we go to Kyeleni, Matungulu North and Muthetheni, that is the cry of the people. Wild animals are finishing us because they eat or destroy their crops.

Hon. Speaker, I would also wish to request the House leadership to make sure that we have a site visit to Ol Donyo Sabuk KWS office; those game rangers who are there are so brutal to the people. In fact, if you are seen carrying bows and arrows just around your shamba in those areas, you are arrested and fined. So, if we go there like we went to Athi River, I think there shall be a bit of change to the attitude of the people there.

(Applause)

Thank you, Madam Speaker, and I thank everybody for supporting the report. Thank you

Hon. Speaker: Thank you, Hon. Maitha.

(Question put and agreed to)

Hon. Members, your resolution which you have just passed is critical that it be implemented and even as the implementation committee takes it over automatically, I will ask the office of the Clerk, I am actually directing the office of the Clerk to immediately forward the report and the HANSARD on the debate in this House first to the Cabinet Secretary, ministry of tourism and wildlife.

Secondly, to the chairperson Kenya National Commission on Human Rights, thirdly to the County Secretary Machakos County and also to the Law Society of Kenya, South Eastern branch. The first report to the CS ministry of tourism and wildlife is to facilitate the setting up of this committees that have not been set up and also to step in on the compensation that has not been done and possibly to address the issues in the report I heard of fencing and addressing that the wildlife does not come into contact with the human beings that are living in the areas that have been mentioned. You appreciate that matters of wildlife are in the national government hands.

The chairperson of the Kenya National Human Rights Commission is going to address the matter from a human rights perspective because human rights become foremost and the Constitution is clear on that. The County Secretary will come in handy because of setting up of the County Wildlife Association; they will definitely be part and parcel of it and in conjunction with the National Government through the ministry.

The Law Society of Kenya, South Eastern Branch, I know has been doing *pro bono* matters for persons who are afflicted, their rights have been abused and they have no way of raising legal fees. They can take up the matter for those who have been injured, those who have been killed on *pro bono* basis to assist on compensation because if a member has lost their bread winner it is only fair that they be compensated and I know the claims have a limitation period. So if they sit on the claims not compensated for over three years, the claims become time barred and that may be the end of the claim.

So, the report as forwarded and the HANSARD we hope we are going to provide some assistance to the members of this county who are languishing and suffering. I know the Wildlife Conservation and Management Act is very strict and actually very harsh of the human being and it has been said that it places more importance on the animals than the human life. That is neither here nor there but the people who are suffering definitely need assistance. So, those are the directions Hon. Members that we are going to take from this resolution that we have just passed.

PAPER LAID

REPORT ON BENCH MARKING VISIT TO KERICHO COUNTY ON EARLY CHILDHOOD DEVELOPMENT AND EDUCATION (ECDE) CENTERS

Hon. Speaker: At this point Hon. Members there was the business of Hon. Kiilu unless Hon. Kiilu you are not interested in addressing your business. There is a Paper you were to lay and there is a Motion.

Hon. Kiilu: I am ready to do so, Madam Speaker.

Hon. Speaker: You are ready.

Hon. Kiilu: Yes.

Hon. Speaker: Okay, we will just change the order of doing business so that, because I had mentioned you under Order No. 5 and six so that we do not leave the matter pending. Can you come and prosecute the business that relates to you under Order No. 5. Hon. Daniel Kiilu.

Hon. Kiilu: Thank you, Madam Speaker. Notice of motion; sorry before that there was a Paper to be laid.

Hon. Speaker: You were to lay a Paper and then you do a Notice of Motion. I will call you for the Notice of Motion so don't do what I did not call you to do. I called you on Order No. 5 which is Papers as listed. The Paper here, I do not know if it is the one you want to lay.

Hon. Kiilu: Thank you, Madam Speaker. Madam Speaker, I beg to lay the following Paper on the Table of the Assembly today Tuesday, 5th November, 2019; Education committee report on benchmarking study visit to the county government of Kericho and the Early Childhood Development Education Centres within the County. Thank you, Madam Speaker.

NOTICE OF MOTION

REPORT ON BENCH MARKING VISIT TO KERICHO COUNTY ON EARLY CHILDHOOD DEVELOPMENT AND EDUCATION (ECDE) CENTERS

Hon. Speaker: Thank you, Hon. Kiilu. I will do the work of the Clerk and still call you to prosecute the business on Order No. 6. Notice of motion, go ahead.

Hon. Kiilu: Thank you, Madam Speaker.

That aware that Article 43(1)(f) of the Constitution provides that every person has the right to education and that aware that Part 2(9) of the Fourth Schedule confers to County governments the responsibility to provide pre-primary education and childcare services and such services are collectively encapsulated in the phrase Early Childhood Development and Education (ECDE), which is the holistic development of a child's social, emotional, cognitive, linguistic and physical needs in order to build a solid and broad foundation for lifelong learning and wellbeing;

Aware that Machakos County Assembly Committee on Education is a member of the Competence Building Society of Early Childhood Education (CBSECE Kenya), an organization that brings together all the 47 County Assembly committee's on Education, Education stakeholders, Researchers, National/Senate members of Education Committee who are in charge of the policy formulation, oversight authority and legislation;

Further aware that in a joint meeting held between ECDE teachers, representatives from the 47 Counties and the stakeholders in ECDE at the Kenya

Institute of Curriculum Development (KICD) it was resolved to have a joint benchmarking trip to Kericho County being one of the 47 counties that has successfully implemented the ECDE and Vocational Training Centers(VTCs) programs from which other counties would gather valuable information on measures that the County has put in place on training, inspection, monitoring and evaluation of ECDE and VTCs programs;

I wish to give the notice of motion that this honorable house discusses and approves the Committee report on benchmarking study visit to the County Government of Kericho and the Early Childhood Development Education Centres within the county.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kiilu.

ADJOURNMENT

Hon. Speaker: Hon. Members, at this point, the sitting of the House will be adjourned; it will resume on the 5th day of November 2019 at 2.30 pm.

The House rose at 12.40 p.m.