

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**

**OFFICIAL REPORT**

**Wednesday, 17<sup>th</sup> July, 2019**

The House met at 2.34 p.m.

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

**PRAYERS**

**Hon. Deputy Speaker:** Good afternoon Members. Mr. Clerk, proceed.

**PAPERS LAID**

**Hon. Deputy Speaker:** Hon. Members, under this Order, we have two Papers to be laid. The first one is to be laid by Hon. Cosmus Masesi, chairperson Health and Emergency Services or Member of the Health Committee and the second Paper is to be laid by the Hon. Daniel Mbevi, chairperson Transport, Roads and Public Works Committee. Hon. Cosmus Masesi or a Member of the Health committee to lay the Paper please.

**REPORT ON INVESTIGATION TO THE COMPLETION STATUS OF COMMUNITY HOSPITAL  
PROJECTS WITHIN THE COUNTY**

**Hon. Kituku:** Thank you, Mr. Speaker. I am a Member of the Health Committee and I would like to stand in for the chairperson. Mr. Speaker, I beg to lay the following Paper on the Table of the Assembly today Wednesday, 17<sup>th</sup> July 2019; Health and Emergency Services Committee report on investigation to the completion status of community hospital projects within the county. Thank you.

**Hon. Deputy Speaker:** Thank you, Hon. Patrick. Hon. Daniel.

**REPORT OF STUDY TOUR TO SINGAPORE ON HOUSING AND URBAN DEVELOPMENT**

**Hon. Mbevi:** Mr. Speaker, I beg to lay the following Paper on the Table of the Assembly today Wednesday, 17<sup>th</sup> July 2019; the Report of the study tour to Singapore on Housing and Urban Development. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Daniel. Mr. Clerk, proceed.

## NOTICES OF MOTIONS

**Hon. Deputy Speaker:** Hon. Members, under this Order, we have two Notices of Motions to be given. The first one is by Hon. Cosmus Masesi or in his absence a Member of the Health Committee and the second one is by the Hon. Daniel Mbevi, chairperson Transport, Roads and Public Works Committee. Hon. Patrick on behalf of Hon. Cosmus.

### REPORT ON INVESTIGATION TO THE COMPLETION STATUS OF COMMUNITY HOSPITAL PROJECTS WITHIN THE COUNTY

**Hon. Kituku:** Thank you, Mr. Speaker. I am Member of Health Committee. On behalf of the chairperson I wish to give a Notice of Motion.

Hon. Speaker, that aware that Article 43(1)(a) of the Constitution of Kenya, 2010 which stipulates that every Person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;

Aware that the Fourth Schedule of the Constitution of Kenya, 2010 confers counties with the under listed roles on matters of health:

- (a) County health facilities and pharmacies;
- (b) Ambulance services;
- (c) Promotion of primary health care;
- (d) Licensing and control of undertakings that sell food to the public;
- (e) Veterinary services (excluding regulation of the profession);
- (f) Cemeteries, funeral parlours and crematoria, and
- (g) Refuse removal, refuse dumps and solid waste disposal.

Aware that in the Financial Year 2014/2015, the County government of Machakos in its Annual Development Plan, through the Department of Health embarked on construction of 40 community hospitals in each ward a strategy which was geared at improving maternal child health care and aware that those community hospital projects are at various stages of completion;

Hon. Speaker I wish to give the notice of motion that this Honorable house discusses and approve the Health and Emergency services Committee report on its investigation to the completion status of community hospital projects within the county.

Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you, Hon. Patrick. Hon. Daniel Mbevi.

### REPORT OF STUDY TOUR TO SINGAPORE ON HOUSING AND URBAN DEVELOPMENT

**Hon. Mbevi:** Thank you. I would wish to give a Notice of Motion.

Mr. Speaker, that aware that study tours helps institutions and specifically County Assembly Committees to compare their practices with best practices from their host; Aware that a delegation of members drawn from the Committee on Transport, roads, housing and public works attended a study tour on Housing and Urban Development to Singapore from 18<sup>th</sup> to 24<sup>th</sup> March, 2019;

Mr. Speaker, acknowledging that Public housing is one of the features that make Singapore a nation at the cutting-edge of urban development and sustainability and public housing is at the forefront of the city-making process in Singapore;

Hon. Speaker, Further aware that the right to a decent housing by all Kenyans is a constitutional obligation and that Article 43(1)(b) of the Constitution of Kenya, 2010 identifies access to adequate housing and to reasonable standards of sanitation as an economic and social right;

Hon. Speaker, I wish to give notice of motion that, this Honorable house discusses and approves the Report of the Transport, Roads, Housing and Public Works Committee on study tour to Singapore.

Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you Hon. Daniel. Mr. Clerk, proceed.

### STATEMENT

BUSINESS FOR THE HOUSE FOR 23<sup>RD</sup> TO 24<sup>TH</sup> JULY, 2019

**Hon. Deputy Speaker:** Hon. Members, under this Order, there is one business to be transacted. This is the Statement of the House Business Committee which is supposed to be done by Hon. Mark Muendo or a Member of the House Business Committee in his absence. Hon. Angela can you please move the statement.

**Hon. (Ms.) Munyasya:** Thank you, Mr. Speaker. Statement of the House Business Committee which is supposed to be read by Hon. Mark Muendo, Majority Leader but I am doing it on his behalf. 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 15<sup>th</sup> July, 2019 and balloted business for the week of 23<sup>rd</sup> to 24<sup>th</sup> July 2019 pursuant to the provisions of the Standing Order 151 as follows:

Tuesday, 23<sup>rd</sup> July, 2019

Morning at 10.00 a.m.

Report of Health and Emergency Services Committee on the Status of Community Hospitals in the County by Hon. Cosmus Masesi, Chairperson

Afternoon at 2.30 p.m.

Report of Transport and Public Works Committee on Educational Tour to Singapore by Hon. Daniel Mbevi, Chairperson.

Wednesday, 24<sup>th</sup> July, 2019

Morning at 10.00 a.m.

Report of Public Accounts and Investment Committee on the Report of Auditor General on the Financial Statements of County Executive of Machakos for the year ended 30<sup>th</sup> June, 2016 by Hon. Joseph Musau, Chairperson.

Afternoon at 2.30 p.m.

Motion that the County Government of Machakos through the department of Transport, Roads, Public Works and Housing liaises with the State Department for Housing and Urban development to ensure that the County Government of Machakos employees and Members of County Assembly are given priority in the Housing Scheme by Hon. Dominic Ndambuki, MCA Kathiani Central

Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you Hon. Angela Munyasya. Mr. Clerk, proceed.

### MOTION

#### REPORT ON MEASURES ON EFFECTS OF QUARRYING ACTIVITIES IN MAVOKO SUB-COUNTY AND ITS ENVIRONS

**Hon. Deputy Speaker:** Hon. Members, under this Order, we have one business transact. It is a motion by Hon. Robert Kisini, chairperson Environment, Energy, Land and Natural Resources Committee. Hon. Robert Kisini.

**Hon. Maitha:** Mr. Speaker, it was a joint report and therefore I have the pleasure to read the report. Mr. 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 the present and future generations through legislative and other measures.

Hon. Speaker, acknowledging that Section 3(c) of the Machakos County Management of Quarrying Activities Act, 2016 provides that the object and purpose of the Act is to provide for a legislative framework for regulating quarrying activities and in particular to provide for the protection of the environment from harmful effects of quarrying activities and related activities.

Hon. Speaker, I wish to give notice of the motion that, this Honorable House discusses and approves the Report of Joint Committees on Environment, Lands, Energy and Natural Resources and Justice and Legal Affairs on measures taken by the County government of Machakos to curb the effects of quarrying activities at Mavoko Sub-county and its environs.

I request Hon. Alice Nzioka to second the motion Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Alice Nzioka.

**Hon. (Ms.) Nzioka:** Mr. Speaker I stand to second the Motion. Thank you.

**Hon. Deputy Speaker:** Thank you Hon. Alice. Hon. Moffat Maitha.

**Hon. Maitha:** Mr. Speaker, when you look at page 2 of the report is the table of content and I skip that one to page 3.

#### 1.0 PREAMBLE

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, within the last decade, environmental concerns have gained prominence throughout the world. Several international protocols have been established by the global community to deal with the emerging environmental issues. In Kenya, these global changes coincided with the enactment of the Environmental Management and Coordination Act, the law that governs environmental issues in the country.

Further, aware that Section 3(c) of the Machakos County Management of Quarrying Activities Act, 2016 provides that the object and purpose of the Act is to provide for a legislative framework for regulating quarrying activities and in particular to provide for the protection of the environment from harmful effects of quarrying activities and related activities;

### *1.1 BACKGROUND*

Hon. Speaker, aware that quarrying is an activity where stones are dug for the purpose of being used in building, making roads through cutting, digging or blasting. Quarrying is a huge supporter of local economic development: as the use of extracted material enhances trade, creating jobs for most people who depend on this for their livelihoods besides other economic activities.

Hon. Speaker, in February 2019, a Statement on what the County Government of Machakos had put in place to ensure that residents and investors of Syokimau, Muthwani and Kinanie Wards are not negatively affected by quarrying activities was sought in this House by Hon. Hellen Ndeti and the task was given to Joint committees on Environment, Lands, Energy and Natural Resources and Justice and Legal Affairs for investigation and reporting back to the House.

### *1.2 MANDATE OF THE COMMITTEES*

Hon. Speaker, the Committee on Environment, Lands and Natural resources is a sectorial 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 and Legal Affairs  |
| 3. | Hon. Christine Koki    | - V. Chairperson Environment              |
| 4. | Hon. Jane Nyawira      | -V. Chairperson Justice and Legal Affairs |
| 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 QUARRYING ACTIVITIES

### (a) Constitution of Kenya

Hon. Speaker, the preamble to the Kenyan Constitution recognizes that the Kenya people are respectful of the environment which is the heritage and are determined to sustain it for the benefit of future generations.

Further, Article 69(1)(a),(d) and (g) of the Constitution imposes an obligation on the State to ensure sustainable exploitation, utilization, management and conservation of the environmental and natural resources; encourage public participation in the management, protection and conservation of the environment and eliminate processes and activities that are likely to endanger the environment.

Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development is a function of the national government while implementation of specific national government policies on natural resources and environmental conservation is a function of the County Governments Act based on section 22 of Part I and Section 10 of Part II of the Fourth Schedule of the Constitution.

### (b) Environmental Management and Coordination Act

Hon. Speaker, Section 3(1),(2),(2A),(3)(a),(b),(c) and (e) and 5(a),(b),(c),(d) and (f) of the Environmental Management and Coordination Act reinforces the provisions of Article 42(a) and (b), 69(2), 70(1),(2)(a),(b),(c) and (3) of the Constitution and Sections 18(a)(i),(ii),(iii),(iv),(v) and (vi) of the Environment and Land Court Act as relates to right to clean environment, the role of the state and the public in ensuring that there is sustainable exploitation of natural resources and the guiding principles of the Environment and Land Court in hearing and determining disputes before the Court.

Further, Section 7(1) of the Environment Management and Coordination Act establishes the National Environment Management Authority whose objective and purpose includes render advice and technical support, where possible, undertake, in co-operation with relevant lead agencies, programmes intended to enhance environmental education, public awareness

and public participation and to entities engaged in natural resources management and environmental protection based on Section 9(2)(m) and (o) of the Act.

Section 29(1) and(2)(a),(b),(c ),(d),(e),(f) and (g) of the Environmental Management and Coordination Act establishes the County Environment Committee whose functions is to ensure proper management of the environment within the county for which it is appointed and develop a county strategic environmental action plan for five years based on Section 30(a) and (b) of the Act.

*(c) Machakos County Management of Quarry Activities Act, 2016*

Hon. Speaker, the Machakos County Management of Quarrying Activities Act, 2016 seeks to regulate quarrying activities to ensure sustainable exploitation and utilization of quarries, to provide for raising of revenue from quarrying activities and provide for equitable sharing of accruing benefits. Section 3(c) and (f) of the Act provides that the objects and purpose of the Act includes the protection of environment from harmful effects of quarrying activities and related activities and ensuring that there is public participation in the management of quarrying activities.

Further section 7(1) and (2) of the Act imposes an obligation on the Director responsible for matters relating to natural resources to seek for public views whose recommendation must be taken into account before issuance of a permit for quarry activities.

*3.0 REPORT FROM CHIEF OFFICER DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES*

Mr. 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 Chief Officer in the Department of Environment and Natural Resources and explained that:

1. There have been so many complaints registered in their office on quarrying activities and the pollution emanating from the quarries in different parts of Machakos County like Katani, Syokimau, Muthwani, Kinanie, Athi River, Mulolongo and Matungulu West.
2. A joint inspection was carried out on 6<sup>th</sup> February, 2019 between environment officers and NEMA officers to ascertain the truth on the complaints.
3. When they carried out the inspection they found out the following:-
  - (a) There is a quarry by the name TIP TOP Ltd which is operating illegally and on further enquiry they found out that the company operates without License from NEMA and no business permit from the County despite the fact that it emits a lot of dust into the air affecting the surroundings.
  - (b) The committee was informed that a restoration order was served to the company to stop all activities for operating illegally and emitting dust into the air and regular follow-up schedules were set by the county government to ensure compliance.
  - (c) There are other quarry companies by the names Karsan Qamtt & Sons Ltd, EPCO Builders Ltd, China Precast Quarry, Top Soil engineering Ltd which were found to be licensed by both NEMA and County Government though they were emitting a lot of dust and also noise is experienced during night stone blasting.

- (d) The committee was informed that restoration order had been served to stop dust emission by increasing frequency of water spraying and also county government had taken initiative of doing some follow up visits for compliance.

#### *4.0 MEETING WITH RESIDENTS OF SOME AFFECTED WARDS*

Mr. 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 Kinanie, Mulolongo, Muthwani and Athi River and the following was gathered from the public.

1. That, The County Government generates huge sums of revenue collected daily from quarries and that the residents of those places have a right to demand improved road infrastructure. Residents further informed the committee that there is no control on where the Lorries should pass when transporting quarry materials thus affecting private land activities.
2. That, Most of the quarry workers had lived in their present residents for over fifteen years due to their low income and circumstances force them to live there even if the conditions are not good.
3. The committee was informed that after working for some period of time most of them suffered some respiratory diseases, hearing problems, Chest problems, common cold, coughing and eye infection thus shortening their life span.
4. The committee was informed that quarry workers are involved in: blasting of stones, crashing of stones, driving Lorries, and construction.
5. The committee was informed that, from the mines, the kind of explosives being used were very strong and should not be used and the intensity of the blasts were evident from the huge cracks on the walls of some houses. Further the committee was informed that some expectant women experienced some miscarriages due to strong blasts around the quarries.
6. One of the residents of Kinanie informed the committee that he contracted tuberculosis and had to undergo strenuous treatment, which depleted his meagre earnings.

#### **5.0 COMMITTEE OBSERVATIONS**

Mr. Speaker, the committee during the site visits observed the following:

1. That most of the quarry workers are men. There are very few women working in the companies engaged in the quarrying activities.
2. The committee got to know that the level of education for the quarry workers is generally poor. Most of the workers in the quarry had gotten to secondary level of education and quite a few had gone beyond post-secondary education.
3. Due to poverty level they were not able to further their studies and as a result they are not aware of safety regulations that are required in their nature of work. Further, due to low literacy levels the quarry workers are not aware of their rights or the requirements for the kind of job that they do.
4. Some of the effects of quarrying to the environment are dust accumulation, Noise pollution, soil erosion, loss of land, vibration and house cracking. Exposure of quarry workers to particulate pollution, coupled with the general non-use of protection gadgets predispose them to several



respiratory ailments and health problems found prevalent among residents living in quarry sites.

5. The committee observed that there is water accumulation in these quarries caused by deep holes/caves after extractions and these areas are more prone to waterborne diseases such as cholera and typhoid.
6. The committee observed that some quarry workers did not have protective gears which is contrary to Occupational Safety and Health Act No.15 (2007)
7. The committee observed that several houses had cracks and the owners had to repair them from time to time or risk their houses from collapsing and also endangering lives of people.
8. The committee observed that the ecosystem around the factories is highly affected by dust and as a result livelihood is also affected like domestic animals.
9. There is contamination of rain water through corrosive roofs and also quality of water is compromised due to dust emitted.
10. There is loss of vegetation within the quarry surroundings which may be contributing to climate change being experienced in the county and entire nation.

#### 6.0 COMMITTEE RECOMMENDATIONS

Hon. Speaker, the Joint committee on Justice and Environment recommends the following:

1. The County Government needs to ensure that all factories use the latest technologies to curb side effects experienced by using the old methods of blasting stones. The companies should be mandated to adopt modern technology of dust trapping such that a negligible quantity of dust escapes from the factories.
2. Health and Safety unit or the Management of every quarry company should create awareness on use of protective gear by the quarry workers as required in the Occupational Safety and Health Act.
3. The company which was found to be operating illegally needs to be closed immediately.
4. The department of Environment needs to carry out Environmental Impact Assessment survey to ascertain the extent at which people's property and health have been affected.
5. The county government needs to ensure that those people who have been affected by the quarrying activities are compensated by the quarry companies.
6. The quarry companies need to exercise corporate social responsibility in the affected areas like planting of trees, road construction, schools and dispensaries construction.
7. There is lack of land planning in Machakos county and therefore County Government and especially the Department of Lands needs to clearly indicate which land belongs to what purpose. Poor planning within Machakos County has led to the rapid development of residential facilities near the quarry sites which is deemed unhealthy.
8. The County Government needs to develop a mining policy in conjunction with the Mining Laws.
9. When NEMA is issuing licenses they should seek to know the extent and nature of the mining to avoid illegal activities within the County.
10. Civic education and public participation needs to be done before approval of quarry works to enable the public get to know the impact of the activities. All the quarry

workers and the people living around the quarries need to be sensitized on their rights.

11. Hon. Speaker, quarry workers in Machakos suffer from many problems including lack of basic knowledge, safety precaution attires, poor working conditions, low socio-economic status, lack of clear quarrying legislation and environmental degradation and that calls for special attention by the County Government.
12. Future interventions should be taken by the County Government to ensure that the laws governing the quarrying industries are observed through enhanced surveillance.

### *7.0 CONCLUSION AND ACKNOWLEDGEMENT*

Hon. Speaker, Quarrying activities at Kinanie, Athi River, Muthwani, Mulolongo, Matungulu West and the environs has caused significant impact on the environment, the blasting rocks with explosives in order to extract material for processing gives rise to noise pollution, air pollution, damage to biodiversity and habitat destruction which affect the human environment in those areas.

Further, quarrying is a short-term activity with long term effects and it comes along with the promises of wealth and jobs but it brings high environmental costs if not well managed.

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. I wish to express my appreciation to the Hon. Members of the Committee 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 two committees to table this report for consideration and adoption. Thank you, Hon. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Thank you very much Hon. Moffat Maitha for that report well read. I now propose the question

*(Question proposed)*

Hon. Members, you may debate on the report. Hon. Dominic Ndambuki.

**Hon. Ndambuki:** Thank you, Hon. Speaker. I stand to support the report that was jointly read by the committee on Justice and committee on environment, lands, energy and natural resources. Hon. Speaker, the report paints a clear picture of what is happening in most parts of this county; not Mavoko alone.

There are a lot of quarrying activities taking place across the county Hon. Speaker, and it is only through closer scrutiny that we will realize that maybe some of the activities that are taking place Hon. Speaker, may be illegal going by the report that has been tabled here today but what is more worrying Hon. Speaker, is the way that our people who are not direct beneficiaries of the quarrying activities are incurring damages.

Hon. Speaker, I was privileged to visit one of my friends living in Kinanie sometimes last year and I got firsthand experience of what is happening there and got to see their house that has

cracked. People are building houses but Hon. Speaker, they are fearing living in those houses because they have developed cracks as a result of the rampant quarrying that is going on there. The question that we beg to ask is whether these quarry owners really got a clearance from NEMA so that they can carry out the activities within those areas and is so why were they given these permits to do quarrying activities in areas where people have inhabited.

Hon. Speaker, although the report says and I concur with it that quarrying activities bring jobs to our people but of prime importance to me, a times, it is not the job but good health. The quarrying activities bring a lot of health issues to our people. And therefore, Hon. Speaker, as I support the report I also wish to ask NEMA and the County Government of Machakos through the department of environment to ensure that our people are protected against pollution. There are so many ailments that will come as a result of pollution.

Take for example the cancer of the lungs; it can come from the dust that comes from the quarrying activities. Other people may get injured; who will pay them if the owners of these quarries have not insured the workers who are working there. Hon. Speaker, I think we need to control, as a county, the quarrying activities that run across the county.

Then again on another perspective Hon. Speaker, Machakos County is one of the counties that is blessed with quarries that we can tap to generate revenue for the county. However, Hon. Speaker, as a member of the budget committee we have noted that as a county we have not been able to tap into the revenue that is generated from these quarries.

Hon. Speaker, I also wish to call upon the department of finance of the County Government of Machakos to ensure that they work hand in hand with the quarry owners so that they get revenue at source so that Hon. Speaker, we may optimize all the benefits that come from the quarrying activities. Again Hon. Speaker, as a county we may also need to pass resolutions and agree that any building that is to take place or infrastructural development that is to take place within Machakos County, be it road construction, raw materials come from the quarries that are within our county so that we can also promote businesses that are within the county. Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Dominic. Hon. Hellen.

**Hon. (Ms.) Ndeti:** Thank you, Mr. Speaker. I stand to congratulate the two committees that did a very good job of site visiting, discussing with the residents who are affected and coming up with a very well-written report. Being a member of that committee, I wish to state that the entire problem is affecting the ecosystem. That means human beings are suffering from health hazards, animals are also suffering because they have to eat leaves that are already covered with dust and even businesses are affected because people's homes are cracking and having to spend a lot of money.

I think what I would recommend is that Machakos County Government should come up with a very strict and stringent regulation to ensure that all factories are operating in quarrying activities in our county are using the latest technology by ensuring that dust emissions are controlled and coming up with even compensation that will ensure that people's homes that are already affected are compensated properly.

The other thing I would talk about these quarries is that a lot of them are owned and operated by foreigners; we need to find out whether these foreigners have got proper documentation to be able to come and do quarrying because if they are foreigners and they are caught doing the wrong things they can easily just disappear and go to their counties after having affected the environment.

So what I would say is that proper regulation must be done and ensure that they are also paying even more taxes than anybody else within the county. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Hellen. Hon. Katumo.

**Hon. Katumo:** Thank you, Mr. Speaker. I want to begin by congratulating these joint committees for a job well done especially on this environmental issue that is very important for us. I have gone through the observations and recommendations and it is good to note that there has been a lot of environmental issues that are affecting the health of the residents in the area. Mr. Speaker, you must understand, especially most of us who live in that area, we are highly affected. Most of these quarry activities take place throughout even at night and therefore you find that even sleeping peacefully during the night is a hazard.

Mr. Speaker, I have seen one of the recommendations here saying that there is need for the companies to rehabilitate; I have been able to visit one of the site in Mombasa, you know that nature trail done by Bamburi Cement where they have been quarrying for some time, for some years and i think with cooperation with authorities down there, they did some environmental what do we call it, they did something to make sure that they restore back the environment although it is not in their former self but they rehabilitated the place and it has become tourist attraction.

Actually, most of us who did some sciences used to go there to do a lot of research, to watch crocodiles, to eat that crocodile meat and it has become a very great attraction. Actually, in the news, last week I saw some crocodiles escaped and they were brought back; it was something nice to hear that they are more than 10,000 crocodiles in that farm and therefore something can be done. As you walk around Mavoko especially in Muthwani and n Katani, you will find wasteland; holes, trenches and many places that look very ugly.

I think something must be done we cannot continue saying that we are doing business especially in quarrying, we are getting revenue while we are losing and the land is becoming a wasteland that cannot be used in any other way and therefore i think much must be done to make sure that we don't waste our land while thinking that we are gaining from it.

I have also seen and looked through the books how much we get from those quarries; I think much gets lost along the way. There is no proper way of realizing the revenue and therefore I think it is good we do cost-analysis to see how much we are getting and how much we are losing at the end. I think we need to put proper enforcement mechanism in place to make sure that we do that analysis to make sure we don't lose much in the meantime. Thank you, Mr. Speaker; I support this report.

**Hon. Deputy Speaker:** Thank you. Hon. Daniel Mbevi.

**Hon. Mbevi:** Thank you, Mr. Speaker. I first of all want to congratulate the committees for the issues that they have raised in the reports because most of the affected people are from my ward and I think they did see what affects the residents of Mlolongo Syokimau ward. One it is concerning the health issue; as the committee went round, I don't think whether you saw any hospital or a dispensary next to the quarries although it has got so much risk in its operations.

So, I think it is important and it is the county government's responsibility to ensure that there is a dispensary or a hospital next to the quarries because of the dangers exposed in their operations when they are doing the quarrying.

The other issue is the way our quarries are being operated; I think there must be new technology or ways of doing the quarrying exercise and I am sure the reason why we are having a lot of damage in the quarrying areas is because the blasts that they are using are old fashioned. If they could be using the new technology in their activity, I am sure we can avoid a lot of things but you find that they will tend to use the old system because of the cost effect issue.

You find that the new technology is a bit expensive so they find it hard to use the new technology on doing the extraction of the quarry materials. So, I think it is important the county government of Machakos to ensure that they follow up and ensure that they use the proper modern ways of extracting the quarry materials.

The other issue is the issue of the CSR; since I am the MCA Mlolongo, I have never seen anything that has been done by the quarry factories that exercise in Mlolongo. There is nothing tangible that you can see that has been done by those quarries probably even a toilet, even a dispensary and Mr. Speaker, I think the committee should get some time and get back there because I sometimes went there, discussed with some of the officials, I managed to meet with the chairman and they were planning to do something in Mlolongo that is ploughing back to the society, that is CSTR but it is like they were just trying to force themselves. There must be a regulation that ensures that they have do it; it is not a request but it should be 'a must do' exercise to those quarries that they are causing to us.

The other concern is the issue of the road maintenance along those areas. I think this House should come up with a policy that in all areas that quarries are being done we have some kind of plough-back kitty a special kitty that can be ploughed back to the locals who are living there because of the state of the roads and also the health issue because you find that most of the residents who live there get sick on a daily basis because of the dust that is caused around there.

So, I would wish this House also to see what policy or we pass a motion that we have a special kitty from the collection that is being collected from those quarries that can be given back to those people who leave there so that they can maintain the roads and also some concerns on their health issues. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Daniel Mbevi. Hon. King'ori.

**Hon. King'ori:** Thank you, Mr. Speaker. What I want to say is that we have an act here of 2016 which is in operation; I am talking about quarries. We need to review it to conform to what we need today because what we had at that time is not enough; it cannot even be applied because it will also not have any regulations to support it. So what I am proposing Mr. Speaker, we have to do something about those quarries, we need to protect our people, we need our workers to have good health and those people who work there they need to be protected also because they are our people and because I live in that area, I know the people who are employed they are not from our area they come from other areas then they are employed there because our people have rejected those quarries.

Until this House comes with good regulations that will guide our law enforcers in order for them to act on what we have proposed, we are all doomed to fail. On the issue of roads, in the Act of 2016, they have talked about specific roads to be used by lorries but nobody has complied. Before you open a quarry, you have to show where your lorries will pass but that was not adhered to because we don't have any regulations to enforce it.

That is why we are always complaining about quarries but we are doing too little and we are gaining too little from them. Like the budget chairman said, we need to tap if we need to benefit out

of quarry activities we need to tap from the source. Why say so? In fact, for one lorry, they usually charge Ksh. 28,000 per lorry and we only charge them Ksh. 70,000 for the licenses; that is robbery if not stealing from us.

*(Applause)*

Mr. Speaker, the revenue we get, we get from the lorry owners and not from the quarrying activities that are done there. So you mean we will pay for them so that they operate or they pay for us to give them services? We lost and threw from the word go; we lose our land, we lose our houses, we lose our people. When shall we gain unless we have good regulations that will see to it that even out people benefit from their employment and if need be, we will also need some regulations to see to it that our roads are maintained.

I think is the high time we don't see only business or job opportunities; it is the high time we feel that we have people who also need to be looked upon beyond money. Those people who operate there like Mugoya, it is a rich company yes, but what do we get out of Mugoya? Nothing! What do you get out of SSR, they are big companies they get money from our government but what do they give back to our people? Zero capital! Destruction of roads, destruction of our houses but what we charge them is only Ksh. 70,000 for the licenses. Is it fair; is it good for our people?

What else I want to talk about is about NEMA. NEMA doesn't work in Kenya; NEMA is a lost sheep. It should even be disbanded because what usually happens on our environment on daily basis, they are doing nothing including when those lorries are transporting my people at Muthwani, the people at Githunguri are fighting daily because of dust caused by those lorries coming from the quarries. They don't even think that there are people there who live there and yet when you complain to NEMA, they say we don't have any regulation to do it, we don't have this powers, it is the county andex changing blame games.

It is the high time we say no to an institution that doesn't bring anything to the ground to support what we have. I think is the high time also to think about the Sessional Paper of 1988 (??) which is still in force even today of environment so that we can guide us on how to deal with environment issues which are very crucial to our lives.

I think also our Assembly passed a Bill 2015 which should also be acted upon. It talks about on how to use quarries and how they should be put and how they should be developed and how they should help the people who are living nearby the areas and what they are supposed to do so that they get the license. I also want to challenge the Machakos county government that before issuing the licenses, before thinking about money, they first think about the people and what they do. We need proper planning for those quarries; they are always mushrooming even into the estates even today.

Some even don't have somebody to charge because they don't have licenses, they don't have anything to do with county; they are working unison without licenses. Why? Because there are no law enforcers here; the only law enforcers here is the one who is asking for the *mama mboga* and hawkers at the street but for those big guys who can even give us money, they are walking free with their big money in their pockets but the time now has come for this House to act and I am asking each and every one of you to think about the people who live in Muthwani, who live in Mlolongo Syokimau, we need to be looked upon and Mr. Speaker, it is the high time I ask this House to see to it that laws protect the people of Machakos and be paramount to anything else beyond that. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. King'ori, Hon. Constance.

**Hon. (Ms.) C. Nzioki:** Thank you, Mr. Speaker. It is a very serious issue here as much as those quarries are business doing, I think is the high time for the government to look into it in a very serious manner. Come driving from Nairobi when you reach Mlolongo, keep your eyes to the right to the bushes and you will not believe what you are seeing there. I do not know whether that is a quarry for stones or quarry for something else. Even yourself as you drive you will be brushing the dust out of yourself and you just want to know if you were passing, what about the people who live there?

Mr. Speaker, I do not think we should just talk about Mlolongo and Muthwani alone, we have a lot of quarries in Machakos and for example we have so many of them in Tala. I have one, sorry to say, but when you go there you cannot believe what you are seeing but because of the greed of money, you just want to tell them, do it quickly, load your thing and go but I tend to think now, the Government should take action, appoint a body to run those quarries because many of them are individually owned and they pay no taxes and they have no mercy to whoever is passing or living there.

If you go to Tala Road, they are very close to the road and very close to the houses and so you wonder, during day time people will not be comfortable because it is always noisy. Come to sleep, there are those lorries with our licenses and they want to steal because at night you do not find a lot of traffic and so if they cannot relax during the day and the night, what are they doing with life?

These quarries need to be regularized, they need to be looked into and possibly get alignment in the same way and let them be few. If we have like 10 kilometres we get one, you extend another 10 kilometres another one, so that our people can have peace and also get out of these sicknesses. There is so much of TB in Machakos I must say. TB most of it comes from dust.

Do we want our children to really die because of money and because of this dust? I think we are the Government here, it only has to come with a proposal and we make sure it runs and things are done in the proper way and again, I think those people running the things, those holes, they need to be highly taxed so that they can do what is right. We put some tax on them, you either pay tax and work and then work properly or you do not pay tax because it is too high and you move out. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you. Hon. Jeremiah.

**Hon. Munguti:** Thank you, Mr. Speaker. Mine is just to point out some input and I can hear the Hon. Members are crying because this is affecting our people. I am a Member of this Committee and you will bear with me that, the Committee had put very good recommendations on this report; we had also observations of the same and it is my plea that, as the Hon. Members who come from Mavoko, Muthwani, Athi-River and the environments of Kinanie, Mr. Speaker, as a Committee we have put some measures and my prayer is that, when we pass or adopt this report, the implementation Committee can see to it that everything and every regulation has been followed through the County Government so that our people can stop suffering.

Mr. Speaker, it is a fundamental right of every citizen of this Nation to have good health and when we have quarries which are giving out a very disturbing noisy environment, our people are suffering. When our people are getting the dust, definitely they will suffer respiratory diseases and

it is through this House that we can put a body to regularize the quarries so that our people can stop suffering.

Mr. Speaker, we visited some areas in Kinanie and according to our survey, it is true that, our people are suffering because we could witness some residential areas had cracks on the walls, we had miscarriages within the areas where the quarries is done because those guys are using a very explosive material to break the walls of the stones which they want to mine and it is a major concern to our people. It will be so disturbing when someone is asleep and there is a lot of noise in the area where he resides.

Mr. Speaker, also it is our concern that the NEMA people when they are doing issuance of licenses, they consider many factors because they are the only people who do the assessment of the impact of the environment. It is very good that, as they give out the licenses to the bodies which are doing mining, they should also be considerate so that they can follow the new technologies of avoiding dust affecting the neighborhood of the area where the mining is taking place.

Otherwise, Mr. Speaker, I am here to support the report and requesting the Members to adopt it so that our people can stop suffering. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you. Hon. Nyanzi.

**Hon. Nyanzi:** Asante sana Mr. Speaker. Mimi yangu ni tofauti kidogo lakini mimi nina *support* hii *Motion*. Nimetoka Kalama, Kalama ndio changarawe ile inauwa watu Nairobi manyumba inaanguka inatoka kwa mashamba ya Kalama maanake watu wanachimba changarawe wanapeleka huko Nairobi kuenda kujenga manyumba na inachukuliwa kwa mashamba ambayo imekua na mashimo kubwa. Imeshawahi kuua watu na tumeimba kila mara NEMA inasema wachukue tu kwasababu labda wanataka pesa au sijui ni nini. Kwa hivyo naomba hii Bunge ifanye kitu kiwe kinaonekana.

Kufunga hiyo changarawe watu wasiendeleo kukufa au sijui watafanya nini. Hapa *Motions* zinaletwe kila siku karibu 500 na hakuna moja inafaulu kufanya kitu ikaonekana. Nataka ianze na hii ya Kalama; changarawe ifungwe kabisa na watu waendeleo kukaa. Asante.

*(Applause)*

**Hon. Deputy Speaker:** Thank you, Hon. Nyanzi. I call upon the Mover of the Motion to please respond. Hon. Moffat.

**Hon. Maitha:** Thank you, Mr. Speaker. I want to thank all the Hon. Members who have spoken on this report. Mr. Speaker, it is a very emotive motion because when you look at the suffering of the people down there whose houses are uninhabitable because of the cracks which have been necessitated by the acts of the quarrying people, Mr. Speaker, it is very emotive and it is very sad because there is no peace in those areas.

Mr. Speaker, I want to challenge the Implementation Committee to now take charge and first of all go and see whether that quarry which was operating illegally has been closed. Two, to try and see whether people have been compensated because of the cracks or whatever problem might have been occasioned by the quarrying activities and thirdly, Mr. Speaker, to see whether those quarry Companies have given back to the community because they get money from our wealth but do they plant trees? Do they build hospitals? Do they at least like what *Mheshimiwa* King'ori



and *Mheshimiwa* Katumo said, do they give back to the people by making the roads or things like that?

Lastly, Mr. Speaker, I am also trying to ask the Finance and Revenue Collection Committee to try and make sure that, the County Government collects money at source from those quarries. Thank you, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Thank you very much Hon. Moffat, Chairperson, Justice and Legal Committee.

*(Question put and agreed to)*

*(Applause)*

Hon. Members, I just want to highlight a few issues which have been raised today as I conclude. I think the key issue which has been raised in what I have heard myself is on the issue of degradation of the environment and the fact that we are not protecting our people by not having in place laws and regulations which can be able to help our people. I would personally challenge the Committee on Justice and Legal Affairs and the Environment Committee, to review all the laws we have on mining and the regulations which we have on mining, to see whether they protect our people.

Most of the loopholes which are there are that, you cannot enforce that which does not have a law or a regulation in it. You cannot enforce it. If you try to go and enforce something, they always ask you, what Act? What regulation are you referring to? So, the good things you have talked about here, are they covered by the Mining Act of 2016? If they are covered by the Mining Act of 2016, do we have regulations to enforce that, Act in place?

If we do not have then I will be saying that, as the Second Assembly of the devolution era, if we can come out with only one thing, Mavoko area is the cradle of everything which happens in Machakos. 90 percent of our revenue comes from there and a lot of degradation is happening there.

If we can come out with laws and regulations to safe guard our people and the environment in that area, this Assembly will have achieved a lot. So, it is important for us to review and ensure we can be able to come out with those things. The issue of revenue collection cannot be overemphasized. Personally, I have spoken about it over and over again, addressing myself to the Finance Committee and telling that Committee, they need to put their Act together. Even if you do not do anything else as a Finance Committee, if you can be able to rein in all the revenues collected in Mavoko, do not concentrate on anything else, just concentrate on Mavoko and put it right first then that Committee will have achieved what the mandate of that Committee was for the rest of the term.

There is no need of chasing other small avenues here and there through the Finance Bill while you have the main animal sitting on the other side. I will be requesting the Finance Committee to concentrate on that. There are very many good examples, I have worked in Tanzania, I have worked in Zambia, I have worked in South Africa personally and all these are countries with mining activities.

Right now Tanzania is having an issue with the mining quarries; the Tanzanian Government has shut down the mining quarries. They are having CSR issues with the mining quarries and also

the quality of the products which is coming from there. Why? Hon. Constance talked about gaping holes. Go to Tanzania right now, Mhamba, Nyamongo, Kabanganiko Gold Mines and you find huge holes gaping back at you and next to the gaping hole are huts made of mud huts.

People are living in utmost poverty but what has been left for them while they had minerals there is a gaping hole. There is no school, there are no roads and these people are living in mud houses and from there gold has been mined for the last 15 years is finished; now there are holes. That is the seriousness of the issue. We do not want the residents of Mavoko, Kinanie and Matungulu in the next 20 years all that they will have to show are holes full of stagnant water bringing mosquitoes and everything else and there is nothing else they could be able to show, while they had wealth underground there.

We must protect our people and the only way to protect our people is to make sure we have laws and regulations put in place to ensure that the Finance Bill which we passed, allocates some money, I think it was Ksh. 100 million. They are supposed to contribute close to about Ksh. 100 million to go towards CSR. It was there in the Finance Bill. Who is enforcing that? Because remember they are paying their licenses at Ksh. 70,000.

So, with two trucks, that guy pays the license fee for the whole year and he is left now collecting money for the rest of the period. We need to think about this as an Assembly and come out with regulations and ways we can be able to curb this menace. Otherwise, our people will suffer and at the end of the day that is the reason why they elected us to come here and be able to protect them and protect their interests.

### ADJOURNMENT

**Hon. Deputy Speaker:** Thank you very much, Hon. Members. This House stands adjourned to Tuesday the 23rd day of July, 2019 at 10.00 a.m. Enjoy the rest of your afternoon.

The House rose at 4.00 p.m.