

**MACHAKOS COUNTY ASSEMBLY****OFFICIAL REPORT****Tuesday, 1<sup>st</sup> December, 2015**

The House met at 2.29 p.m.

*[The Speaker (Mr. Mung'ata) in the Chair]***PRAYERS****Hon. Speaker:** Good afternoon Hon. Members. Let us proceed, clerk.**PAPER LAID****COMMITMENT TO LEADERSHIP AND INTEGRITY CODE****Hon. Katumo:** Mr. Speaker, Sir, I beg to lay the following paper on the floor of the House today, 1<sup>st</sup> December, 2015: the report on commitment to leadership and integrity code. Thank you, Mr. Speaker, Sir.**Hon. Speaker:** Thank you. Paper is laid, proceed.*(Hon. Katumo laid the Paper on the Table)***NOTICE OF MOTION****COMMITMENT TO LEADERSHIP AND INTEGRITY CODE****Hon. Katumo:** Mr. Speaker, Sir, I wish to give a notice of the following motion that this Hon. House discusses and approves the report of powers and privileges committee on commitment to leadership and integrity code. Thank you, Sir.**Hon. Speaker:** Thank you, notice has been issued. Proceed.**MOTIONS****COMMITMENT TO LEADERSHIP AND INTEGRITY CODE****Hon. Katumo:** Mr. Speaker, Sir, aware that all state officers have an a constitutional obligation to adhere to section 37 of the Constitution of Kenya, 2010; aware that the Leadership and Integrity Act has set standards for ensuring that the state officers respect and value principles

and provisions of the Constitution; informed that the Ethics and Anti-Corruption Commission has the overall responsibility to oversee and enforce implementation of the Leadership and Integrity Act; aware that the above commission has allowed for the customization of all development of specific leadership and integrity codes suitable for the operation of the County Assemblies; noting that the deadline for the customizing and submission of the leadership and integrity code is 30<sup>th</sup> November 2015, I wish to move the motion that this Hon. House discusses and approves the report of the Powers and Privileges committee on commitment to the leadership and integrity code. Thank you, Mr. Speaker. I wish to call upon Hon. Veronica Mbithe to second this report.

**Hon. (Ms.) V. Mbithe:** Thank you Mr. Speaker and the entire house. I stand here to second the motion of the Powers and Privileges committee that this Hon. House discusses and adopts this report regarding to the leadership and integrity code. Thank you Mr. Speaker, Sir.

**Hon. Speaker:** Thank you. The motion is properly laid and you can now proceed with the report. The report should be circulated.

**Hon. Katumo:** Mr. Speaker, Sir, the report on commitment to leadership.

### **Introduction**

Mr. Speaker, Sir, the Ethics and Anti-Corruption Commission is mandated to enforce and ensure compliance with the provisions of Chapter Six of the Constitution, 2010 and the Leadership and Integrity Act, 2012. Mr. Speaker, under Section 37 of the Act, each public entity with state officers is obliged to develop a specific Leadership and Integrity Code for the state officers serving in that entity.

### **Leadership and Integrity Workshop**

Mr. Speaker, from 9<sup>th</sup> to 10<sup>th</sup> September, 2015, the EACC organized a workshop in Kenya School of Government with the objective of giving the public entities guidelines on how to customize the generic Code.

Mr. Speaker, on 23<sup>rd</sup> November, 2015, the Committees of Powers and Privileges and Procedure and Rules attended a workshop at 67 Airport Hotel from where they were trained on the requirements and guidelines of customizing the generic Code suitable for Machakos County Assembly which happens to be one of the entities.

### **Workshop Attendance**

Mr. Speaker, the following Honorable members of both Powers and Privileges and Procedure and Rules committee attended the workshop;

1. Hon. Bernard Mung'ata – Chairman

2. Hon. Nathaniel Nganga
3. Hon. Felix Ngui
4. Hon. Joseph Muli
5. Hon. (Ms.) Cecilia Sereka
6. Hon. Justus Katumo
7. Hon. (Ms.) Veronica Mbithe
8. Hon. (Ms.) Alice Nzioka
9. Hon. Peter Nzioki.

### **Objectives of the Code**

Mr. Speaker, Sir, this code is made pursuant to Section 37 of the Leadership and Integrity Act, 2012 to: -

- Give effect to Chapter Six of the Constitution of Kenya.
- Establish standards of integrity and ethical conduct in the leadership and management of public affairs of the County Assembly by ensuring that the State Officers respect the values, principles and provisions of the Constitution and other applicable laws or policies on the standards of conduct and performance expected of public officers in discharge of their duties.

Mr. Speaker, in Chapter 6, authority assigned to a state officer is a public trust to be exercised in a manner that: -

- is consistent with the purpose and objects of the Constitution
- Demonstrates respect for the people
- Brings honour to the nation and dignity to the office
- Promotes public confidence in the integrity of the office

### **Guidelines in Customising the Code**

Mr. Speaker the following are the guidelines provided: -

- That the obligation to subscribe to specific Leadership and Integrity Codes is a legal requirement pursuant to section 37 of the Leadership and Integrity Act, 2012 and that the Ethics and Anti-Corruption Commission has the overall responsibility to oversee and enforce implementation of this Act and it is supposed to be signed 7 days after taking oath of office.
- After reading, customising and signing the code, it should be submitted to the Ethics and Anti-Corruption Commission on or before 30<sup>th</sup> November, 2015.

- In the process of customising the generic Code, no alteration or deletion is expected since the code is fully in the spirit of Chapter Six of the Constitution, the Leadership and Integrity Act, 2012 and the Public Officers Ethics Act, 2003
- Any additional provisions to be done that is customising, should only be geared towards providing extra ethical issues or raising the integrity threshold.
- The generic Code is already agreed upon and is available in the website and the County Assemblies need to insert the names of their counties in the appropriate places then submit before 30<sup>th</sup> November, 2015.

### **Committees Observations and Recommendations**

1. Since the code is a constitutional requirement, each person has to respect and uphold to the requirements of the constitution. The Constitution is the most important law in the legal system and ranks above all other legislation. This is why at the eve of taking office all Honourable members took an oath to abide and adhere to the constitution.
2. The members proposed that Section 44 of this code which reads; *The authorised officer or accounting officer of the office shall at all times comply with such orders or directives as may be issued by the commission from time to time towards the implementation and enforcement of this code* needs to be removed on the grounds that it is very authoritative and is likely to erode the autonomy of the Assembly.
3. In section 40 (1) which reads *A State Officer shall in the exercise of oversight over implementation of projects not interfere with such implementation in any way.* The members observed that this is practically not possible hence it should be checked again for clarity purpose then customise it to the best interest of the Assembly.
4. In Section 11 (a), the information to be disclosed needs to be specified and also elaborate on who is an unauthorised person.
5. In section 13(2), this section is not applicable to us as an Assembly because we don't address matters of election and we have no business with Electoral and Boundaries Commission.
6. In section 14 (2) (c), the law states clearly Kshs. 20,000 and does not give room for *such other amount* hence the sub-section is controversial.
7. Section 16 (4), the words *participating in any deliberations* need to be clarified for better understanding.

8. Section 16 (6), the words, *influencing the award of contract* are not clear and further elaboration is required.
9. Section 40 (5) is very unclear and also it has not been specified to who the information will be disclosed to.
10. Section 42 (1) the words, *any person* makes the statement too wide and so specification of persons concerned is required.
11. In the same section 42(2), the words *disciplinary proceedings* need more explanation.
12. Also in section 42(8) the words *taking any additional action it deems appropriate*, gives the commission a lot of powers and all those words should be deleted.
13. In section 48, the content of the annual report need to be specified.

### **Conclusion**

Mr. Speaker, Sir, the major challenge of implementation of Chapter 6 of the Constitution is lack of awareness on the implications of the Constitution. In order for the Constitution to function properly and deliver visible results, the citizens must have a full understanding of the Constitution. The most effective way to ensure citizens understand the Constitution is through civic education. Citizen participation in governance is another feature that runs through the whole Constitution. All of these mechanisms are useful in ensuring that the provisions of the Constitution in relation to leadership and integrity are adhered to. Thank you Mr. Speaker, Sir.

**Hon. Speaker:** Thank you very much. Hon. Members, to offer direction on the matter at hand, the Assembly got a generic leadership and integrity code from the Ethics and Anti-Corruption Commission which is a constitutional body that is entrusted with an obligation to enforce chapter 6 of the Constitution. The report that is before this House today, if you look at it, is a report that introduces the House to the measures that we need to take.

What we need to do in this report is to deliberate on the report, bring recommendations that we shall forward to the commission as it helps us in coming up with our own code that is customized. Sometime last week you were supplied with the generic code that was prepared by the EACC and it was my view, unless the House finds it otherwise, that I give the House time to look at the report *vis-a-vis* the code and then we can have an informed debate on a future date, unless members are acquainted with the report.

I now open the debate briefly to see the mood of the House. If the House is ready we can proceed, if the house feels that we need some time we need to come up with the appropriate recommendations because we don't have a choice; we must have a code as an Assembly. Yes, Hon. Nduva.

**Hon. Nduva:** Thank you Mr. Speaker, Sir. I think it will be in order for the Members to be given time to go through the document. I have quickly looked at it, it has details and content that we need to look at keenly then we will discuss it in a future date when everybody will be conversant with the document. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you.

**Majority Leader (Hon. Mwonga):** Thank you Mr. Speaker, Sir. First and foremost, allow me to congratulate the Hon. Member Justus Katumo for having been elected the vice chair of this powerful committee and wish him well and tell him that he is the one who will most of the time be chairing this committee and presenting reports like what he has done today because the Speaker cannot bring a report in this Hon. House and he should know that he should take care and protect what God has given him. Otherwise if he does not do that, maybe God is going to take it away.

Mr. Speaker, I want to agree with what you have said and what has been proposed by the Hon. Member for Kithimani that members be allowed some time to go through the report so that when time comes for adopting, they be in the picture of what they are doing, Mr. Speaker. Thank you.

**Hon. Speaker:** Thank you. Then Hon. Members let me proceed to put the question that those in support that the business in this report be deferred to a future date.

*(Question put and agreed to)*

The matter will be referred back to the House Business committee for further balloting but I urge members to look at the code; there is the document that was supplied last week *vis-a-vis* this report and make good recommendations that we shall forward to the EACC. It is good for us and for those who will come after us. Thank you. Proceed.

#### WATER POLLUTION IN FOURTEEN FALLS AND KOMO AREAS

**Hon. Speaker:** Yes Hon. Ngunzi

**Hon. Ngunzi:** Thank you Mr. Speaker. I want to bring the report of the committee on Environment, Lands, Energy and Natural resources.

#### **Introduction**

Mr. Speaker, Sir, the communities around Athi River have their folklore and history attached to its flowing waters. The Athi and Gumba, a branch of the Kalenjin people that at one

time stretched from Athi River's highland source to its Indian Ocean destination, called the Athi River basin, their ancestral home. Today, Athi River is an ecological disaster.

Mr. Speaker, water resources and environment have been degraded by human activities such as industrial development, farming, informal settlements, deforestation, solid waste disposal and wetland and riparian encroachment. Pollution of Athi River is on the rise and has negatively impacted the downstream communities for whom the river is a lifeline.

### **Mandate of the Committee**

Mr. Speaker, Sir, this committee is mandated to deal with 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.

### **Committee Membership**

1. Hon. Edrick Mutua Ngunzi - Chairman
2. Hon. John Sila - V/ Chairperson
3. Hon. Nzoka P. Munywoki
4. Hon. Wilson M. Kasimu
5. Hon. (Ms.) Jacqueline Nziva
6. Hon. (Ms.) Magdalene Ndawa
7. Hon. (Ms.) Margaret Ndalana
8. Hon. Dominic Maitha
9. Hon. (Ms.) Jacinta Luka
10. Hon. Alexander Kathinzi
11. Hon. (Ms.) Alice Nzioka
12. Hon. Raphael Mutuku
13. Hon. Stephen Muthuka

### **Retreat**

Mr. Speaker, on 5<sup>th</sup> October, 2015, the committee retreated to Fourteen Falls, Komo and Ndarugu- Githima catchment areas with the task of investigating the extent of water pollution in the aforementioned zones pursuant to the committee's mandate.

### **Committee Findings**

#### **1. Effects of detergents**

Mr. Speaker, Sir, the first interesting thing a visitor will notice on arrival at fourteen falls is extensive white foam that floats all over, a water fall which was once a competitive tourism site. Mr. Speaker, one would imagine it is beautiful scenery only to realize that the white foam is a product of stirred mixture of water, soap and soapless detergents. The reaction is accelerated by the gravitational force of the water falls with and the kinetic energy it possesses.

Mr. Speaker, detergents alter the PH ( degree of acidity or alkalinity) of water making it unfit for most domestic activities, kill some specific aquatic animals, introduces lethal metals like arsenic and cadmium in water which contribute to infertility, accelerate growth of water hyacinth due to adding minerals in water and makes the water unsuitable for irrigation.

Mr. Speaker, detergents can have toxic effect in all types of aquatic life especially when disposed in water in large quantities. All detergents destroy the external mucus layers that protect the fish from bacteria and parasites and they can cause severe damage to the gills. Most fish will die when detergent concentrations approach 15 parts per million but still concentrations as low as 5 ppm(parts per million) will kill fish eggs.

## **2. Water borne diseases.**

Mr. Speaker, Sir, it is difficult to pinpoint exactly how many lives have been lost to disease caused by the pollution of Nairobi and its surrounding tributaries. According to the Donyo Sabuk Nursing Home, the nearest hospital to the toxic waterfall, the number of patients with waterborne diseases is on the increase. “There is no difference between those people who dump garbage and toxic waste into rivers and murderers,” lamented recently the Governor of Kiambu County, William Kabogo.

Mr. Speaker, at the Donyo Sabuk Nursing Home, young patients are lying in pain. Dr Mulinga, who has been stationed here for years, recounts the cases he has handled stemming from the polluted waters. Mr. Speaker, the doctor testified that most patients suffer from dysentery, bilharzia and typhoid-amoebiasis. Many of the locals cannot afford water treatment pellets and there has also been a sharp rise in cancer cases in the area. Mr. Speaker, Sir, not only do these waterborne diseases lead to an increase in health expenses but also reduced attendance of pupils to school has been witnessed.

## **3. Presence of heavy metals in water**

Mr. Speaker, a study by Kinyua and Pacini (1991) on the Nairobi-Athi river system showed an increase in the levels of heavy metals as a result of industrial effluents. The study by Kithia (1992) in the same area revealed high concentration levels of mercury and lead surpassing the critical World Health Organization (WHO) and the Kenyan Standards guideline values of 0.03 and 0.1 mg/ L for mercury and lead respectively.

Mr. Speaker, mercury exposure at high levels can harm the brain, heart, kidneys, lungs, and immune system. High levels of methyl mercury in the bloodstream of unborn babies and young children may harm the developing nervous system, leading to reduced ability to think and



learn. Lead is particularly dangerous because once it gets into a person's system, it is distributed throughout the body just like the other helpful minerals such as iron, calcium, and zinc. In the bloodstream, it can damage red blood cells and limit their ability to carry oxygen to the organs and tissues thus causing anemia. Lead can interfere with the production of blood cells and the absorption of calcium required for bone development.

#### **4. Colored water.**

Mr. Speaker, the Athi water is currently blackish, a condition referred to as turbidity. Turbidity is caused by particles suspended or dissolved in water that scatter light making the water appear muddy and viscous. Mr. Speaker, Sir, high turbidity can significantly reduce the aesthetic quality of lakes and streams, having a harmful impact on recreation and tourism. It can increase the cost of water treatment for drinking and food processing. It can harm fish and other aquatic life by reducing food supplies, degrading spawning beds (breeding zones for fish), and affecting gill function.

*[Mr. Speaker left the Chair]*

*[Temporary Deputy Speaker (Hon. Alice Nzioka) took the Chair]*

#### **5. Physiological pollution.**

Madam Speaker, standing near any point in the river, you notice bad odour emerging from the river. This is an indicator of the presence of industrial wastes that contain detergents, phenols, decayed organic substances, hydrogen sulphide gas which is a product of protein metabolism, chlorine and salts of manganese.

Madam Speaker decaying organic substances in water depletes dissolved oxygen, endangering aquatic life, which residents in the surrounding areas depend on. Madam Speaker, this type of pollution lowers the aesthetic value of water and hence renders it unfit for use unless it undergoes treatment process.

#### **6. Disposed solid wastes.**

Madam Speaker, polythene bags, plastic bottles and textile materials are very noticeable in the river and they were found deposited in the water and on the river banks. These materials are non-biodegradable and they will remain persistent in the river for years. They can accidentally be taken by livestock that graze around and they can also obstruct the storm water runoff resulting in flood. It is also true that the contents that were in those containers may to some extent introduce chemical pollutants in water.

#### **7. Livestock grazing on water hyacinth**

Madam Speaker, livestock in the zones under investigation were observed feeding on the floating weed that is the water hyacinth. This weed absorbs dissolved metallic ions and minerals in water. Madam Speaker, when livestock feed on it, the heavy metals get deposited in fatty tissues of the animals and the concentration of the lethal ions increases, a process referred to as bio-magnification. When the meat is taken by humans, the metallic ions are again transferred to the fatty tissues and the concentration will magnify again. This indicates that the quality of meat resulting from these animals may not be safe for human consumption.

### **8. The Githima sewage stream**

Madam Speaker, Githima is a stream of sewage water originating from residential areas of Thika. This stream is the major polluter of River Athi and it discharges in it household wastes, human faecal matter, oils from garages and soaps. This is careless disposal of wastes to Athi River which is our sole water resource, depended on by thousands of Kamba people for domestic use, agricultural and industrial purposes and the leaders of the County Government from where this effluent is discharged from must note this.

### **9. The Ndarugu Water Treatment Plant**

Madam Speaker, this water treatment plant is served by Ndarugu stream that neighbours the Githima sewage stream. This stream emanates from Mang'u area in Kiambu and its water is very clean, hence suitable for most household activities even without treatment. Initially, before the treatment plant was installed, this water was pumped directly to the residents around.

Madam Speaker, processes of treatment observed include chlorination, filtration and sedimentation after which the water is pumped to the Munyu and Komo residential areas in Kiambu County through pipes.

### **Legal and Institutional Framework on Environmental Issues**

Madam Speaker Sir, Article 42 of the Constitution states that “Every person has the right to a clean and healthy environment, which includes the right-

- a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
- b) to have obligations relating to the environment fulfilled under Article 70.

Madam Speaker, in Article 60 (1) (e): “Land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable, and in accordance with the principle of sound conservation and protection of ecologically sensitive areas.”

Madam Speaker, in Section 3 of Environmental Management and Coordination Act (EMCA), 1999, “every person in Kenya is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment.”

Madam Speaker, in Section 9 of EMCA, 1999 from where National Environmental Management Authority (NEMA) is established further states that “the object and purpose for which the Authority (NEMA) is established is to exercise general supervision and co-ordination over all matters relating to the environment and to be the principal instrument of Government in the implementation of all policies relating to the environment.”

### **Recommendations**

Madam Speaker, the committee wishes to put forward the following recommendations for consideration:

#### **1. Machakos County Government to enforce the Polluter-Pay Principle (PPP)**

Madam Speaker, the PPP requires that the polluter has to bear the cost of complying with environmental standards, which are predetermined by public authorities. If the polluters pay for the cost of any pollution they cause, market forces will then encourage them to change their activities either by introducing new pollution control technologies or by switching to more efficient production processes. This will therefore check cases of negligence and encourage responsibility in matters of environmental protection.

#### **2. Taking legal action against NEMA for irresponsibility, negligence and endangering of life or strip off their mandate for being incompetent.**

Madam Speaker, Section 107 of the NEMA Act of 1998 states that NEMA is mandated to:-

- Manage programs and projects with a view to ensuring the proper management and rational utilization of environmental resources, on sustainable yield basis, for the improvement of the quality of human life in Kenya.
- Examine land use patterns to determine their impact on the quality and quantity of natural resources.
- Advise the Government on legislative and other measures for the management of the environment or the implementation of relevant international conventions, treaties and agreements.
- Monitor and assess activities, including activities being carried out by relevant lead agencies, in order to ensure that the environment is not degraded by such activities.
- Render advice and technical support, where possible, to entities engaged in natural resources management and environmental protection so as to enable them carry out their responsibilities satisfactorily.

Madam Speaker, it is very clear that NEMA has been granted legal stamina to address all environmental issues and conflicts, therefore with the current situation of river Athi, NEMA has failed terribly.

Madam Speaker, on 26<sup>th</sup> June, last year, Senator Johnson Nduya Muthama proposed a motion to protect the Tana and Athi Rivers from pollution before the Senate. Senator David Masila joined in and called NEMA a “toothless bulldog”. Both Senators called for the polluters to be harshly penalized, decrying the loss of aquatic life and endangered human life.

**3. The County Government to enforce waste water treatment before releasing it into the environment.**

Madam Speaker, the objective of this is to produce an environmentally-safe fluid waste stream and a solid waste suitable for disposal or reuse. Using advanced technologies, it is now possible to re-use sewage effluent for drinking water. Singapore for example has implemented such technology on a production scale in its production of “NEW Water

**4. County Governments can try privatization of waste management and pollution control mechanisms.**

Madam Speaker, privatization of services achieves the following advantages:-

- Improved efficiency since they have a profit incentive to cut costs and be more efficient.
- There is no political interference unlike the government sectors which are motivated by political pressures rather than sound economic and business sense.
- Private firms experience pressure from shareholders which motivate them to perform efficiently.
- The Government will raise revenue from the contracted pollution control firms.

**5. Planting of riverine vegetation (macrophytes) on the river basins.**

Madam Speaker, riverine vegetation is recommended for reducing water quality degradation status. Plant species like wandering Jew have proved useful in absorbing some of the pollutants, and especially heavy metals. This leads to decreased concentration of metallic pollutants in water although once these plants are eaten by livestock, the metal pollutants can still find their way in human bodies.

**Conclusion**

Madam Speaker, many global environmental changes occurring due to human activities threaten to “poison the well”: the clean water needed for human health and wellbeing. These widespread trends range from urbanization to land use activities and their consequences are global in scale. Many of these threats are interlinked and must be understood and solved using a holistic approach. This is the most effective and sustainable way to intervene against many of

these complex processes that endanger water supplies and compromise human health, well-being and economic productivity.

Madam Speaker, political goodwill is key to the ultimate success in the implementation of the various waste and pollution management initiatives. The waste management agenda is still not awarded the priority or importance it deserves, thus our counties are still a long way in achieving sustainability in the management of their wastes. Thank you Madam Speaker, I'm the chair, Environment.

**Hon. Temporary Deputy Speaker:** Ripoti imeletwa vizuri, imesomwa na mwenyekiti wa kamati ya mazingira. Wabunge wenzangu, hii ripoti mmeisikia; sasa nafungua ili mjadili na kuona kwamba muone maono ya vile mmesikia ripoti. Mheshimiwa Manyolo.

**Hon. Manyolo:** Thank you Madam Speaker. I first congratulate the committee for environment for a nice report which they have brought in the House. Madam Speaker, I know the committee had a hard time coming up with this report, passing all the sewage within Nairobi, Ruai, Kithima and all the sewages and I understand they had hard time.

Madam Speaker, the report is very clear that pollution has done much damage within our county. It is true Madam Speaker that when you go along the Athi River; most of the affected patients with cancer are from Machakos County. We have a high percentage of cancer patients within our county due to these ions from the industrial waste and also the plants, that is the *sukumawikis* and cabbages also have ion and this affects health within Machakos County.

It is the high time, Madam Speaker, for the committee of implementation to move with speed and rescue our county from this because if we don't move with speed, much damage will be done in our county. I do support the report and urge the House to adopt and the committee for Implementation to move with speed. The wise say 'don't wait until the iron is hot then you strike it; make it hot by striking it.' Thank you Madam Speaker.

**Hon. Temporary Deputy Speaker:** Tumskie Mheshimiwa Joseph Itumo.

**Hon. Itumo:** Thank you Madam Speaker for giving me this opportunity to contribute towards this particular report that comes from the committee of environment. It is a report that has been well composed and I take this opportunity to thank this particular committee. Madam Speaker, it does not even stink, it smells when we hear each and every day within every five homes, two people are suffering from cancer. Once someone suffers from cancer it is a gone case, Madam Speaker.

This is a very touching matter. I must say in this Hon. House, whatever is going on around Athi river, being polluted by those small streams and rivers that empty their dirt into the main river, that is Athi River, what is being done is bad; more action Madam Speaker should be taken with immediate effect. If you visit Tala market because market days are usually on

Tuesday and Fridays, you will be surprised; all the vegetables that are bought in plenty come from Kayatta and Kayatta uses the same waters from Athi River to irrigate their crops.

Madam Speaker, you may see very wonderful vegetables but I can tell you whatever you are taking once you cook those vegetables are those so called dangerous metals because some metals have been mentioned like lead, mercury and so on. Madam speaker, I have a small farm along Athi River and even I am not practicing agriculture there because I fear that particular water because I do not want to suffer.

I have seen many people suffer; every other day you hear people complaining about having severe stomachaches and so on. The time has come and by the power that has been conferred to you, I do request to come up with an ad-hoc committee from the committee of legal, because I believe human rights have been violated by those who are trying to poison that particular water. I think this is going to be a good consideration, Madam Speaker. I end it there and urge each and every member in this House to support this report. Thank you Madam Speaker.

**Hon. Temporary Deputy Speaker:** Asante sana Mheshimiwa Itumo kwa maono na mchangio mzuri ambao umefanya. Mhe. Nzoka.

**Hon. Nzoka:** Thank you Madam Speaker. I belong to that committee of Environment and I just thank our chairman; it is me who cried much and he listened and we moved to the site. I am the most affected; you heard a member say Kayatta. Kayatta is my area and it comes from Ol Donyo. We have visited Ol-Donyo Sabuk Nursing Home, whereby Dr. Mulinga explained and you could see the people were suffering from the diseases mentioned here. In fact, if you see how Athi is and how this waste is being discharged, we can say in this country there is no law. We have law which is faulted by whoever is concerned and we need another angle to tackle this issue.

Yesterday I paid money for hospital for a person suffering from cancer; his name is Mbugua and in fact I took him to the dispensary which said it can do nothing only to be referred to Thika, but also Thika cannot afford, it is just Kenyatta National Hospital. His chest is fully consumed because he has been washing in Athi River and you know we have the labourers who might not know the effects when they go and wash there.

I can say, even before, we were washing in Athi river; there is a place where we call Katenthoni, whereby there was a lot of boys before who were washing naked and that is why it was called Katenthoni. We were just getting the water but now this water is too bad and contaminated that it is dangerous.

When we went with our committee, they saw young boys who were still diving in the same water and they have scratches and their skin is hard and rough because of that water and that is their gain; when they dive they are given something. So if you have nothing to eat, you just go and dive and say 'come what may.' It is the duty of the Machakos County government to protect its people.

When we talk of NEMA, it is funny. When you are making a building somewhere, they run there to stop you saying, “we need this; we need that” ...what they need is something to put in their stomach. It is like the illicit brew. If you tell an officer there is illicit brew somewhere, he runs quickly but if you tell him there is a thief, he cannot go there. It seems as if NEMA are rushing where they are getting something, but when you tell them about Athi River, everybody turns their backs. It is our duty to know if these people being paid are working. Are they aware of their duties? In fact, NEMA should be dissolved. I cannot see what is working there if it is watching industrial and other waste being poured and people are suffering.

The government is spending a lot of money in medicine and it is better to prevent than to cure. I don't think they have any concern with the community. They have left everybody to pollute the river the way they want and it is like they don't care. When my colleague here talked of Kayatta where the *sukumawiki* and other vegetables come from, in 1989 I wrote to the ministry of water and irrigation and in the due course, that fallow was funded by IFAD at a cost of Kshs. 25 million and our 10 percent was to dig and we dug 36 kilometres. If you go to that fallow, it is still sucking all that waste then the fallow is directed to the horticultural crops.

Also, my community there, after the very clean water sieves and comes out at a distance, they drink it without considering that the water is clean, but it has some metal inside. This is something that should be handled immediately. So what I can say is we did well because we dug a canal but now that canal will kill a lot of people. Like Tala, it will bring vegetables, others will be taken to Thika and so it is the duty of the county government to see how we can stop this menace. I urge members we adopt this report then we take action. Thank you very much.

**Hon. Temporary Deputy Speaker:** Asante Mhe. Nzoka. Mhe. Muinde.

**Hon. Muinde:** Thank you Madam Speaker. This is a very important report to this House and I wish our members would know what is really at stake. Madam Speaker, Machakos County is blessed with two major rivers. In fact, two major rivers in the country other than Nzoia are criss-crossing Machakos County and emptying their waters to the Indian Ocean. One of the rivers, that is River Athi, which is the subject of debate today, has now turned from being a blessing to the county to being a curse to the county.

Madam Speaker, the report is very well organized, exhaustive and contains all the necessary information that needs to guide this Assembly into taking a step in ensuring that the waters of River Athi are safe for human consumption. Cancer has become the number one killer in our country and our county, and it does not require much research to know that the metals being discharged in River Athi are the cause of cancer in our county.

The county will continue to spend so many resources in our health facilities as we treat our people. We are losing our people; we have lost all the aquatic life in river Athi; Fourteen Falls which has always been a source of tourism is also dying. You have heard from the Hon. Member from Kyanzave who is very concerned that even the divers there are now suffering because of earning their money in river Athi.

Go to Tala market, go to Kithimani roadside market, very nice and attractive vegetables; very attractive to the eye, but they are being watered with waters from river Athi. Green maize that is being sold in these markets are from river Athi. We as an Assembly will stand to be blamed if we sit here and do nothing while we watch our people perish for using the waters of river Athi. Downstream, the areas of Mwala and Kibauni are using these waters for domestic use. We have been told through the report that metals are being deposited in fatty tissues and this is being passed on to the human beings.

Madam Speaker, this motion was debated in the Senate. We have been told that our senator and our neighbor senator from Kitui even went to an extent of naming NEMA as a toothless bulldog. They debated and nothing has happened since then. The factories that continue to operate in Athi River still discharge their effluent in our river. The sewages that have been mentioned in this report are still discharging their waste in to River Athi.

Madam Speaker, it is now time that this Assembly forms another smaller committee and go to the extent of hiring a consultant, someone with the technical knowhow on environmental matters, a scientist who will give us a moreresearched finding and then take legal measures Madam Speaker, including going to court to enforce the recommendations that this committee has given to us including: -

1. Suing NEMA
2. Suing the counties that are not doing anything to ensure that solid waste is not deposited into River Athi.

So Madam Speaker I am of the view as I support this report that we now need to move from just talking and take legal actions against all the pollutants of river Athi. This can be done by going to court and I want to tell you Madam Speaker, if no one is ready to burn his fingers, I am ready on behalf of the residents of Machakos county to go to court and ask the civil society to join me so that we can save the lives of our people and ensure that our people get clean water and protect all the aquatic life that finds life in river Athi.

With this few remarks Madam Speaker, I support the report and strongly recommend that we form a leaner committee to do much more on this and also have a consultant to ensure that we get a comprehensive report and take legal action including enforcing our recommendations even through a court process and ensure that all our members, the 60 of us, come together and rally the citizens of Machakos County to fight for our rights; to fight for the survival of river Athi. Thank you Madam Speaker.

**Hon. Temporary Deputy Speaker:** Wabunge wezangu, kufikia hapo, hiyo ripoti ambayo imeletwa ni ya umuhimu mkubwa. Ni ripoti ambayo inashika uhai wa wale tunaowaongoza. Kulinganana vile wabunge wamechangia ni kuonyesha kwamba tumeshikana pamoja ili kuongea juu ya hii ripoti. Nafikiria kufika hapo nitaweka swali kwamba wale ambao wanaunga hiyo ripoti mkono kwa sauti moja wameshikana pamoja.



*(Question put and agreed to)*

### **ADJOURNMENT**

**Hon. Temporary Deputy Speaker:** Wabunge wezangu, shughuli za siku ya leo zimefika hapo na tumalize kikao cha leo tukutane katika kikao cha kesho saa nne. Asanteni sana.

The House rose at 3.42 p.m.