

MOMBASA COUNTY ASSEMBLY**HANSARD REPORT**Tuesday, 1st March, 2016

The House met at 2:31p.m.

*(Mr. Speaker (Hon. Thadius Rajwayi) in the Chair)***PRAYERS**

Mr. Speaker (Hon. Rajwayi): Kindly have your seats Hon. Members, yes Clerk can you confirm whether there is quorum.

(Clerk confirmed lack of quorum)

Yes Sergeant At Arms?

*(Sergeant At Arms rung quorum bell for five minutes)**(A few Hon. Members entered the Chambers)**(Clerk confirmed quorum)***COMMUNICATION FROM THE CHAIR**

Yes, hold on, just to inform the Hon. House that in the gallery of this House one of the special guests is Hon. Owiti; Hon. Owiti is actually the Deputy Speaker of Migori County Assembly, at the same time he is the acting Speaker for that same County Assembly.

*(Hon. Owiti stood and bowed)***NOTICE OF MOTION****REMOVAL OF GRAFFITI FROM WALLS**

Hon. Kizito Opeya Okoth?

Hon. Opeya: Thank you Mr. Speaker I beg to give the Notice of Motion on the removal of graffiti from walls.

(Hon. Kizito read the Notice of Motion)

AWARE THAT Mombasa is a tourist destination County, both locally and internationally;

FURTHER AWARE THAT; Graffiti has got several disadvantages which include usage of abusive words and inappropriate images in their graffiti;

CONCERNED THAT public companies and private homeowners pay a lot of money to remove graffiti from buildings and other structures, several people including our tourists consider graffiti as a vandalism, abusive words which are painted everywhere can be disgusting or even offensive, as a result graffiti gives our County bad image and it shows that Mombasa is not a respectable County.

I therefore URGE this Hon. House to put this matter into consideration and give mandate to the County Inspectorate Department to arrest any person caught painting whatever anywhere, it should be banned completely. Thank you, Mr Speaker.

STATEMENT

Mr. Speaker (Hon. Rajwayi): Hon. Wangudi? Not in the House.

STATEMENT

Hon. Mohamed Chiro Ndanda...

(Silence)

Mohamed Ndanda is not in the House.

STATEMENT

Allow me to just inform the House that if there is any Hon. Member in the House with any gadget that will produce any sound he or she will be reprimanded; those gadgets should either be off or any other mode that will not produce sound, next is Hon. Jimmy Odari.

Hon. (Ms.) Akinyi: Ahsante Mheshimiwa Spika, kwa niaba ya Mheshimiwa Stephen Wangudi ningeomba nitoe taarifa juu ya hizi soko mbili ambayo moja iko Chaani na nyingine iko Chagamwe.

Mr. Speaker (Hon. Rajwayi): Unfortunately you are not allowed because this was business number seven and we are not going to have any other direction on that matter, am therefore going to call upon Hon. Jimmy Odari. Hon. Jimmy Odari?

(Murmurs and consultations)

Hon. Mary is insisting on this business, be reminded that it is Hon. Stephen Wangudi who was on business number seven, I do not know if we have two Hon. Stephen Wangudi's in the House. I want to believe this is one person who has decided to let his chance go; first of all you have to confirm to the House whether that particular business was presented in the House...

(Applause)

(Interruption)

What is it Hon. Mwidani can you allow Hon. Mwidani to intervene? Yes Hon. Mwidani?

Hon. Mwidani: Mr. Speaker I think Hon. Mary is right because it is the issue of ...but the other is concerning our markets...

(Interruption)

Mr. Speaker (Hon. Rajwayi): Hon. Mwidani can you sit down, you are very right let me remind you and the Hon. House that if you cannot get concerned about your health then maybe we should not talk about a market, so maybe take care of your health first....yes Hon. Akinyi?

Hon. (Ms.) Akinyi: Mheshimiwa Spika...lakini mimi ameniambia nje nimtolee taarifa kuhusu soko ambazo ziko wodi ya Chaani vile hakunipa nafasi ya...

(Interruption)

Mr. Speaker (Hon. Rajwayi): Hon. Mswabah?

Deputy Speaker (Hon. Mswabah Rashid): Thank you Mr. Speaker I think Hon. Mary Akinyi is....because we are now in business number ten we are expecting Jimmy Odari to give a statement..

(Laughter)

Hon. Mary we have passed that business so I think that it is not in order, she is taking us back.

Mr. Speaker (Hon. Rajwayi): Well I think first of all Hon. Members, ladies and gentlemen it is important maybe for our future reference in this particular matter there have been certain matters that you need to know; if one Hon. Member is not in the House and they know there is any other business that you need to carry out on behalf of the said Hon. Member, the said Hon. Member then you have to do it before that time comes. Otherwise I will just make a sanction because the same Hon. Member is not in the House and then there is no other business unless you want to convince the House further and the burden of proof matter comes from your side Hon. Mary; that yes you were actually nominated by the same Hon. Member to take over this that would include even presenting that statement in written form. So if that is missing Hon. Mary, if you do not have anything written then it is not allowed to make this important statement on behalf of Hon. Stephen Wangudi, yes Hon. Mary?

Hon. (Ms.) Akinyi: Thank you Mr. Speaker sir, since I do not want to set that precedent that you have said I withdraw the statement that I have just said...

(Laughter)

Mr. Speaker (Hon. Rajwayi): Thank you so much, yes we move on to Hon. Jimmy Odari?

Hon. Odari: ...Something needs to be done!

Mr. Speaker (Hon. Rajwayi): Hon. Jimmy you cannot address the House from that position...

Hon. Odari: Thank you Hon. Speaker for this...I'm requesting for this House to be furnished with information about Local Authority Transfer Fund (LATF) and Local Service Delivery Action Plan (LASDAP) funds. Hon. Speaker previously during the Municipal times, before the conception of the devolved system there used to be a fund called LATF and LASDAP. Hon. Speaker this fund used to play a very big role between Ksh.6Million, and the effect of this fund used to be felt in the wards. This fund was ward based and therefore the former Councillors used to get money in the wards and this money was used to develop their projects in the ward and in the same system or in the similar system as the Constituency Development Fund (CDF) fund the head of the ward who was the Councillor who used to call his people to a central place like the social hall and they would sit together and prioritize their projects and come up with a project befitting the money that had been allocated. Mr. Speaker the reason why I'm coming up with this; requesting for this statement is because a vacuum has been created in the absence of LAFT/LASDAP. A vacuum has been created in the roads right now and it's very easy for the MCA's to be blamed for not being able to come up with projects in their respective areas because there is no kitty for the MCA's unlike the Members of Parliament (MP's). I therefore wish to request this House to be furnished with what became of the LAFT/LASDAP because Members of this Assembly do not know the status of this fund and we are calling upon this government and for this County to progress unless we reallocate the money to each Ward every year, to each Ward for development we cannot have any progress. Therefore Hon. Speaker I'm requesting for a statement from the government to be told what became of the LATF/LASDAP because we cannot assume that we know what became of it, we want official communication from the government and also we want something to be done to fill this vacuum that has created a lot of problems in the Wards because we cannot develop our roads because we do have the kitty like the Members of National Assembly.

Hon. Speaker therefore I wish to request for that statement from the government so that we can be able to make progress and also in the old dispensation there was some money which was pending to be spent on the projects because there was some money which was allocated per wards but which was never spent. While we realize that some of the projects have stalled up to now; for example in Changanwe there is a market and other allocations which were supposed to be used like the roofing of the old Changanwe estate which have stalled because of the ongoing LAFT/LASDAP projects this has caused a lot of disenchantment amongst my people because the assumption was that they expected with the coming of the County government a lot of money would be allocated in the wards, unfortunately there is no money in the wards that is the reality on ground and it's very easy for the MCA's to be blamed. Thank you Hon. Speaker.

Mr. Speaker (Hon. Rajwayi): Hon. Jimmy as much as you want your presence to be felt in the same context that you are putting in fact that is very much correct that you have just mentioned but you are demanding for official response from the government. You will agree with me that once you want something official you must be also very official in your communication. However you have been making a submission but before me I have not seen any written submission on your statement so it is important that if you have it you table it, and if you do not have it the Chair is not going to direct that the department responds until such a time that you make an official statement and you are given a period of not more than 48 hours on that submission. Hon. Jimmy?

Hon. Odari: Most obliged Mr. Speaker, I promise to resubmit the statement in written form by tomorrow afternoon.

Mr. Speaker (Hon. Rajwayi): Ok. Yes Hon. Hudson I hope you are not doing some exercise?

Hon. Karume: Thank you Mr. Speaker sir, I would like to make a statement that is not in the Order paper but kindly allow me to do so but it's an urgent matter. Mr. Speaker sir with regards to County education bursary for Persons Living with Disabilities (PLWD's) I seek that you allow me to give this statement.

Mr. Speaker (Hon. Rajwayi): Go on Hon. Karume.

STATEMENT

Hon. Karume: The realization that the forms that were given out to Hon. Members, the various Ward representatives and in recognition of the fact that person with disabilities cannot access the same; we are receiving very many complaints from a number of them and myself as their representative and the Chairman of Equal Opportunities Committee.

Mr. Speaker I think it is upon myself together with my colleagues like Hon. Mary to lobby with the Governor together with the County executive for Early Education Development and Vocational training and as I'm speaking for my fellow Hon. Members I want to confirm that the County government of Mombasa are pushing forms to my office for persons with disabilities.

Mr. Speaker Sir that is a step in the right direction towards inclusivity and I just wanted to make a plea to my fellow colleagues that in the event they get to meet persons who are in need, persons with disability of course including parents of children with disability in need of bursary then they refer them to my office and I will be ready to assist them. Thank you, Mr. Speaker.

(Applause)

Mr. Speaker (Hon. Rajwayi): I want to say in this House that is in the right direction but it is important also I want to believe each and every one of us has received the same.

STATEMENT

Yes Fadhili Mwalimu. Hon. Fadhili Mwalimu?

(Silence)

Yes? Next?

(Statement deferred)

MOTION

Mr. Speaker (Hon. Rajwayi): Hon. Tom Ogalo?

Hon. Ogalo: Thank you Hon. Speaker, I would like to move the Motion on the investigative Report on the Mombasa Apparel (EPZ) termination of workers. I beg to move. Thank you.

(Question proposed)

Mr. Speaker (Hon. Rajwayi): Now I propose that the Motion on the adoption the investigative Report on the Mombasa apparel (EPZ) termination of workers be deliberated in this House in the same terms as tabled.

(Question put and agreed to)

Yes Hon. Tom?

Hon. Ogalo: Ahsante sana Mheshimiwa Spika ningeomba Nyumba hii waunge mkono huu mjadala kwa sababu Mheshimiwa Spika watu wetu wako na shida watu wanafanya kazi wanafukuzwa na hata wale wenye kiwanda hawashughuliki nao ningeomba Nyumba hii waunge mkono huu Mswada.

Mr. Speaker (Hon. Rajwayi): Yes Hon. Saad Faraj Ahmed?

Hon. Faraj: Ahsante sana Mheshimiwa Spika kwa fursa hii, swala la Mombasa Apparel EPZ ambalo kuwa kina wafanyi kazi zaidi 2,002 ni swala ambalo kwamba linatuathiri sote

sisi kama MCAs wa Mombasa Kaunti. Mheshimiwa Spika ukiangalia ile mandhari ambayo hawa wafanyi kazi ni kuwa wanatoka katika sehemu zote za uwakilishi katika jimbo hili la Mombasa na athari ambazo kuwa wamekuwa wakizipata, shida ambazo kuwa wamekuwa wakizipata kazini na matatizo ya kila leo ambayo kwamba wao wanakumbana nayo katika ile hali ya pishe pishe ya kazi zao. Mheshimiwa Spika ni jambo ambalo kwamba linasikitisha yeyote ambaye kwamba ana roho za ubinadamu na anapenda haki na ukweli. Mheshimiwa Spika watu 2,400 ukizitafsiri zile hesabu ni zaidi ya 2,400 kwa sababu ni familia 2,400 ambazo kwamba zimewekwa kazi kwa hali ambayo kwamba ni ya utata bila kazi na kisa na maana ni kuwa wafanyi kazi hawa wanataka kutetea haki zao kupitia kwa 'union' ambayo kwamba wao wameitengeneza ili kuangalia shida na matatizo ambayo kwamba yako kwao.

Mheshimiwa Spika Katiba kama tunavyojua ukiangalia katika kifungu cha '*Bills of Rights*' kila mmoja ana haki kwa vile ambavyo kwamba yeye ni mwananchi wa nchi hii huru ya Kenya; walakin wafanyi biashara wengi wakuu ambao wengi wao si wananchi wa Kenya wametumia kila mbinu kuhakikisha Mkenya alioko katika hali duni ya kimaisha amenyanyasika zaidi huku katika ile hali yakunyanyasika na ameweza kutengeneza utajiri zaidi kwa wale ambao kwamba wanafanya biashara zao humu nchini ambapo kwamba hii ni kinyume na sheria yeyote ya kibinaadamu zilioko nchi hii yetu ya Kenya na kimataifa. Mheshimiwa Spika wafanyi kazi hao kama nilivyotangulia hapo awali kusema wanamgusa kila Mheshimiwa ambaye yuko hapa lakini pia iwe hawamgusi sisi kama binadamu ni wajibu wetu kuweza kusimama na kutetea haki hii ambayo kwamba tunaona nchi inadhalilishwa kupitia kwa ubepari ambao uko na hawa matajiri ambao wako na hizi kampuni za EPZ katika Kaunti yetu. Mheshimiwa Spika mtu huyu yuko na sehemu zaidi ya tatu tofauti ya kuendeleza biashara zake kwa sababu ya kuwakandamiza wale ambao wanapigania haki zao kupitia kwa 'union'; amehakikisha ile kampuni ambayo iliopo pale ameifunga halafu anafanya kazi usiku kwa siri kutekeleza yale mambo yote kulingana na utafiti ambao kwamba umefanywa kupitia kwa ripoti ya Mwenyekiti wetu Mheshimiwa Tom Ogallo pamoja na wanakamati wake.

Kwa hivyo Mheshimiwa Spika hii ni mbinu wazi kuonyesha huyu Bwana hana haja ya kusikizana na sisi kwa sababu tulimuita mpaka hapa kupitia kwa Kamati yetu ya Leba kuja kumhoji yeye pamoja na wafanyi kazi na wao lakini haki ilifichuka wazi ya kuwa wao hawana haja ya kuwasaidia watu wetu bali wamekuja kuwanyanyasa na kuwakandamiza kwa kutajirika wao. Kwa hivyo Mheshimiwa Spika mimi naomba hii ripoti ama Mswada ambao umeletwa wa kuweza kupitisha ripoti kwa niaba ya wale ambao wananyanyasika mashinani. Mheshimiwa Spika, kwa niaba ya zile familia 2,400 ambazo kwamba hivi sasa hazijielewi kimaisha zimeathirika ambazo kwamba ziko na watoto wanaokwenda shule na zina watoto ambao wanahitajia lishe ya kila siku naomba Nyumba hii iunge mkono na tuje na mbinu mwafaka ya kuweza kuhakikisha kampuni ambayo kwamba itafunguliwa katika jiji la Mombasa yeyote na kwa sababu ni lazima watahitajia leseni kutoka kwetu mwanzo zikaguliwe vilivyo ziweze kuangaliwa zilivyo kabla hazijapatiwa ile nafasi. Ama kweli twataka wajasiria mali yaani '*investors*' waje katika hili jiji letu la Mombasa kwa sababu hii nafasi itakuwa ya kuwafungulia wale ndugu zetu ajira lakini isiwe sababu ya kuwafungulia watu mahali ambapo watakuwa wanaathirika kimaisha wanadhalilika kimawazo Mheshimiwa Spika. Kwa haya machache, Mheshimiwa Spika nimesimama kuunga mkono vikali. Ahsante.

Mr. Speaker (Hon. Rajwayi): Hon. Siminyu Patrick.

Hon. Siminyu: Thank you Mr. Speaker for giving me this opportunity, I was part of the Committee; in fact am a Member of that Committee during the proceedings of that meeting we saw that Kenyans are suffering in the hands of investors. Mr. Speaker yes we want people to invest in our County but we don't want those who come to hurt our people and treat our people in such an act that human rights are violated. Mr. Speaker, imagine some of the EPZ restricts the number of times you are going to the toilet; that is unacceptable, the labour

offices are reluctant to act on issues pertaining to labour laws and where justice is denied to workers that are belonging to Mombasa County it is unfortunately the labour which is not involved into County matters. Mr. Speaker some things are needed to be looked even the law; Members of the national government should work hard and see the labour laws are revisited so that they can suit our people. We have not seen labour laws that are pertaining to this function because they are not under County but under national government, so these laws need to be looked into so that we can know what our people are going to be subjected to and if it is a rule to no communication nor going to the toilet we have to know and even the Members of National Assembly. Mr. Speaker if we adopt this Report because of the good recommendation that have been brought by this Committee and if you look at the Report itself it recommends that frequent visit to these companies because even in those factories people are suffering up to today under these companies, I would like to beg this House to adopt this Report so that we can see justice to our people. Thank you Mr. Speaker Sir.

Mr. Speaker (Hon. Rajwayi): Well just before you continue from there ladies and gentlemen I would like to get more information from this business because if we look at that Report we see certain contradictions from this; (i) the issue that was raised by the workers themselves and i see a letter that was written by the Chief Company concerning those particular issues. I need to get it clear and who is going to inform this Hon. House by saying i was in that said Committee and there's a letter of some individuals where the contract was terminated that is what we want to get, so Hon. Mswabah, yes...

Deputy Speaker (Hon. Mswabah Rashid): Ahsante sana Mheshimiwa Spika, mimi nimesimama kwa kuunga mkono ripoti hii, nafikiri hii ripoti imetengenezwa vizuri sana na imeonyesha manyanyaso ambao wafanyi kazi wetu hawa wanapata na tuliwahi kuwa na hawa wafanyi kazi.

Mheshimiwa Spika hawa wafanyi kazi wetu wa hii kampuni wameachishwa kazi kwa sababu ya kuingia katika chama cha kuwatetea yaani 'union' na chama ni haki yao ya kimsingi kwenye sheria za Kenya zinasema mfanyikazi yeyote anaweza akajiunga na chama chochote kile ama 'union' yeyote ile.

Mheshimiwa Spika hawa hawakuingia katika 'union' hiyo ama chama kile cha wafanyi kazi kwa kupenda tu lakini kuna matatizo mengi sana ambayo wanayakumba ndio maana wakajiingiza kwa 'union' ile.

Mheshimiwa Spika wafanyi kazi wetu hawa wa EPZ wanafanya kazi sana kwa masaa marefu, wanafanya kazi zaidi ya masaa manane ambayo ni kinyume cha sheria ya nchi hii.

Kufanya kazi kwao kwa masaa mengi yanaleta matatizo mengi sana katika jamii mpaka wengine Mheshimiwa Spika unasikia wakisema ndoa zao zinaharibika kwa sababu akifika nyumbani anakuwa amechoka hawezi kabisa kutenda kitendo cha ndoa, kwa hiyo unakuta ndoa zao nyingi zimeharibika kwa sababu wanafanya kazi masaa marefu na malipo ni duni...

(Applause)

Hawawezi hata kutengeneza watoto kwa sababu ya masaa hayo hayo marefu ya kufanya kazi hawawezi hata kushughulikia familia zao zimekuwa duni kwa sababu wanafanya kazi kwa masaa marefu na pia wakifika nyumbani huwa wamechoka zaidi. Mheshimiwa Spika pia vile vile sababu ya kujiunga 'union' mshahara ni mdogo na hawana hata nafasi ya kufanya kijibiashara kidogo kama wengine tunavyofanya ama wengine wanavyofanya lakini wao hawana hata nafasi ya kwenda masomoni na hawana hata nafasi hata ya kuweka kijibanda kidogo cha kuuza mboga kwa sababu hawana pesa, pesa zao ni kidogo na vile vile mtaji wao ni kidogo. Mheshimiwa Spika pia kinachowafanya waingie katika 'union' hiyo ni mazingira wanayofanyia kazi ni mabaya wengi wao wanashikwa na kifua kikuu yaani 'TB', wengi wao wana maradhi ambayo hayawezi kupona kwa sababu ya kutafuta unga wao wa kila siku. Mheshimiwa Spika wafanyi kazi hawa wana haki na wana kila hali ya kuingia katika hii 'union' ili waweze kutetea maslahi yao. Mheshimiwa Spika mimi naunga mkono ripoti hii

mia fil mia na ningeomba pia wenzangu tuipitishe kwa pamoja ripoti hii ili haki iweze kutendeka kwa wafanyi kazi hawa Mheshimiwa Spika. Ahsante sana.

Mr. Speaker (Hon. Rajwayi): Hon. Jimmy Odari.

Hon. Odari: Thank you very much Hon. Speaker, I would to thank the Committee on Labour for coming up with a good Report for our brothers and sisters from the EPZ. The issue of EPZ is a big problem which comes from both sides at the National and County level so we should come up with the lasting solutions. Mr. Speaker EPZ staff really suffer; as in the case of Mombasa Apparel EPZ it has more than 2,000 workers who have suffered enough in the last two months because every morning they have to Report to work and spend their day inside the gate of their employer. Mr. Speaker I would like to give a brief genesis of what happens previously in the EPZ which does not happen anymore but due to the violation of the basic human rights which include denial of maternity leave, denial of overtime after working for long hours and many other grievances. They decided to look for salvation by joining unions and this is where the problem started because when the employer realised that the workers joined a union they terminated the contract of the workers which we looked at some provisions of some laws and we saw that their contract should continue automatically but in this case it came like a surprise to the workers because there was no notice of the termination to the workers.

Mr. Speaker these workers are of the view that they should be reinstated in their employment or they are given their dues which include their salaries of working hours and we conducted several meetings with the employers and the committee, and the employers of this Mombasa Apparel are so arrogant in the extent that they say in Kenya so long as you have money you can do anything. They told us that we have decided not to employ them and you cannot take us anywhere, Hon. Speaker as a government we should not let that to happen as an independent country like Kenya we need to see that role and labour rules are followed by everyone whether you have money or not. Mr. Speaker these employers have ceased to follow the rules of this country, they don't respect any labour law but the National government has been reluctant to address the plight of the EPZ workers. Mr. Speaker we as the County government need to come up forcefully and flex our muscles as much as labour is not a devolved function but these are our people who are suffering and we cannot just sit while our people cannot even put food on the table, so Mr. Speaker we should help these people as they are really suffering we need to do something to help these people. We as the County government Mr. Speaker we have the powers to force these people, the employers to abide with these law, we are the ones who issues work permit there and so we cannot say we are not helpless, in fact they are not following the law we need to revoke their permit.

Mr. Speaker (Hon. Rajwayi): Yes Hon. Kizito Opeya.

Hon. Opeya: Thank you Mr. Speaker I just want to focus on some of contributions which were raised about this Report; we should look at part 4 on the committee observations, *(b) That there is an urgent need to find a sustainable solution to the frequent employer - employee conflicts experienced in the EPZ factories as this is not the first time that such a stalemate has arisen.* Already there are various court cases on such cases in the local courts but when we go to the conclusion page 8 which talks about the current case whereby we had already said the matter is in front of the court, i would like the conclusion to give us the way forward of the affected workers and one long lasting solution. I would like to support the Report and thank you very much Mr. Speaker.

(Interruption)

Hon. Speaker (Mr. Rajwayi): Yes Hon. Saad Ahmed Faraj.

Hon. Faraj: Mr. Speaker Sir i stand on a point of information; from the engagement from the legal the only solution from what Hon. Kizito is coming up with is part of resolutions so i stood up to inform my brother on that information. Thank you so much.

Mr. Speaker (Hon. Rajwayi): Yes Hon. Mary.

Hon. (Ms.) Akinyi: Ahsante Mheshimiwa Spika, naendelea kuunga mkono ripoti hii ambayo imeletwa na Kamati yangu. Mheshimiwa Spika hawa wafanyi kazi wa Kampuni ya Mombasa Apparel EPZ tumekaa na tumekuwa nao na tumejadiliana mambo mengi sana. Mheshimiwa Spika mambo ambayo yanajitokeza katika mambo haya yote toka tuanze kukutana na hawa watu ni kuwa hawa Wachina ama wawekezaji hawaheshimu Katiba yetu ya Kenya, hawaheshimu sheria za wafanyi kazi ndiposa walishaenda kortini mara ya kwanza wakiwa wamezuilia hawa wafanyi kazi wasiandamane na korti ikapitisha kuwa inawakubalia kuwa waweze kuandamana. Mheshimiwa Spika mambo haya yanajitokeza kila wakati kwa sababu hawa wawekezaji wamepawa muda wa miaka kumi ambao huwa hawalipi chochote sasa huwa wanaona kama wanaelekea ile miaka kumi wanaleta matatizo ili waweze kuhama ili waweze kuanza miaka mengine kumi yale ambayo wanapewa bila kulipa. Mheshimiwa Spika tulipokuwa tumewaita hawa wawekezaji katika Kamati hii ya Wafanyi kazi tulipowaita kwa hii Kamati mara ya kwanza walikataa kuja, tukawaita mara ya pili hawakuja mpaka mara ya tatu tulipotoa ukali kweli ndio wakaja. Mheshimiwa Spika tulipokuwa na hawa wawekezaji tulikubaliana kuwa watuletee yale makaratasi ama stakabadhi za mkataba yaani 'contract' ile ambayo waliweka sahihi na makubaliano, na mpaka leo hii hatujaona hizo stakabadhi za makubaliano ya hawa wawekezaji ya kuwa walikubaliana na kuwa waliwasimamisha hawa wafanyi kazi kutokana na sheria ambazo walizopanga.

Mheshimiwa Spika pale tunapoelekea ningeomba Jumba hili tuweze kuchukulia jambo hili kwa haraka haraka kwa sababu jambo la hawa wafanyi kazi kusimamishwa kukosa kufanya kazi hata watu wengine pia wanaumia wale ambao wanafanya biashara zao pale ambao wanawauzia chakula au wale ambao wanawabeba katika boda boda pia. Mheshimiwa Spika jambo hili tusipolichukulia kwa haraka naona kama shida itaweza kuingia katika hii Kaunti yetu kwa sababu watu wanaposimamishwa watu 2400 wamesimamishwa kazi hiyo ni kumaanisha watu 2,400 ukienda hata mara tano ni watu wengi sana katika hii Mombasa yetu hawana kazi. Mheshimiwa Spika kusimamishwa hata kwa hawa wafanyi kazi kumefanya hata saa hizi kuna matanga maana mmoja wao ameaga dunia kwa sababu ya kupatwa na mshtuko wa moyo pindi alipoachishwa kazi na hakuwa na mahali pa kuishi, hata saa hii mwili wake uko katika chumba cha kuhifadhi maiti.

Kwa hivyo Mheshimiwa Spika jambo hili mimi ningeomba Nyumba hii kwa sababu sisi ndio tunapeana stakabadhi kwa hawa watu ambao wanafanya kazi kwa sababu tuliwaambia kuwa hizi vitengo wako na vitengo vitatu na katika hizi vitengo vitatu tuliwaambia kuwa tunataka kuona stakabadhi ama vibali vya kuwawezesha kufanya kazi tuone kama wana vibali vitatu lakini mpaka leo pia hawajatulitea hivyo vibali ambavyo vinaonyesha kuwa wanafanya kazi kwa hizo vitengo zote tatu, kumaanisha wana kibali kimoja lakini wanafanya nacho kazi katika kampuni tatu. Mheshimiwa Spika kisha hawa watu ambao ni wawekezaji katika Kaunti yetu wametuekea mpaka dharau hawaja tuheshimu tuko katika nchi yetu lakini wao hivyo hivyo hawaja tuheshimu hivyo, tuko na nguvu za kuweza hata kama ni kufunga hizo kampuni mpaka watu wote wakose wao wakose kampuni zao kufanya biashara na pia hata kama watu wetu watakuwa wamekosa kazi lakini wao pia wakose pesa za hizo kampuni zao ambazo zinatokana na hizo biashara. Ahsante sana Mheshimiwa Spika.

Mr. Speaker (Hon. Rajwayi): Yes Hon. Ahmed Ebrahim Omar.

Hon. Ebrahim Omar: Ahsante sana Mheshimiwa Spika kwa kunipa fursa na mimi kuweza kuchangia mswada huu; mimi nimesimama pia kuunga mkono hii ripoti iliyoletwa na Mwenyekiti wetu Tom Ogalo. Mheshimiwa Spika ni jambo la kusikitisha sana kuona kwamba katiba yetu ya Kenya hawa wafanyi biashara wanaidharau. Kama walivyotangulia waheshimiwa wenzangu kueleza kwamba takriban familia elfu mbili na mia nne watu wao wamekosa ajira pale kwa kusimamishwa na hiyo yaonyesha hiyo idadi ni kubwa kwa sababu pale iwe wewe ni mwanamme ama mwanamke anafanya kazi lakini mwanamke yule yuko na bwana ana watoto. Bwana Spika tukiweka hesabu yote itakuwa ni familia nyingi sana

zinaumia na jambo lile ambalo wafanyi kazi wamejaribu kupata haki zao za kikatiba lakini wafanya biashara wanawanyima haki zao.

Mheshimiwa Spika sisi kama wabunge wa Kaunti ya Mombasa lazima tuangalie ni njia ipi tutatumia tuokoe haki za hawa wananchi wetu kwa sababu tunajua ukosaji wa ajira unarudisha sana uchumi wetu nyuma na ndipo hapo utasikia vijana wameenda vichochozoni kuanza ukosefu wa usalama, vile vile lazima tujue familia zile wale wako na watoto wanawategemea wako na familia vile vile. Bwana Spika sisi kama wabunge wa Mombasa hatuna budi tuliangalie hili jambo, matajiri wale tuwaweke chini, mimi naona zile stakabadhi wanazotumia kufanya biashara yao tuzisimamishe mpaka pale watakapopata sheria ya katiba yetu. Ningeomba utupe mwelekeo na pia stakabadhi isimamishwe mpaka pale watakapokubaliana kufuata katiba na kuwapa wafanyi kazi sheria zinazofaa. Kwa hayo machache, Bwana Spika ahsante.

Mr. Speaker (Hon. Rajwayi): Hon. Caroline.

Hon. (Ms.) Auma: Mheshimiwa Spika naomba twende kwa *'findings'*, hapo kwa *'findings'* twende mpaka nambari ya tano, tayari inatuonyesha kuwa ile *'union'* ambayo wafanyi kazi wako nayo tayari wamekuwa wafisadi; hawakuwa wanafanya kazi yao kulingana na sheria inavyotakiwa Bwana Spika. Tukienda katika *'Committee Observations'* 'c', Mheshimiwa Spika tayari inaonekana kuna shida, na mjasiria mali *'investor'* wa EPZ kulingana na vile tunavyoona hii ripoti. Nikimalizia kwa *'conclusion paragraph'* 2, inatuonyesha hakukuwa na *'breach of contract'* wakati mfanya kazi anakubaliwa ni mpaka kuwe na *'contract'*, hii inaonyesha ni kampuni ambayo haiko kisheria.

Mr. Speaker (Hon. Rajwayi): Hon. Paul Onje.

Hon. Onje: Ahsante sana Mheshimiwa Spika kwa kunipa nafasi, nimesimama hapa nikiunga mkono na mimi ni mwanachama wa kamati ya Leba. Sisi tulienda huko na hawa watu wa EPZ walikuwa wanalalamika kwa kazi yao na tulipofika pale Mheshimiwa Spika yale maneno ambayo tulipata kule yalikuwa ya kushangaza na ni maneno ambayo hata kibinadamu haifai kwa sababu ikiwa wewe ni tajiri una kiwanda yako unachukua majina unaweka kwa *'system'* unasema hawa hawatafikani kwa hiyo wakienda hata kutafuta kazi sehemu nyengine unakuta wakitoa kitambulisho majina yakiwekwa kwa *'system'* inaonyesha hawa ni wale walikuwa kule kwa hivyo hata kazi wananyimwa na kazi iko ambapo sheria ya Kenya hairuhusu, na vile vile unapata dharau nyengine ambayo wako nayo wanasema kwamba wameingiza serikali mfukoni wanamanaisha kwamba wanaweza kulisha donge nono kwa ofisi za serikali. Hivyo ndio maneno yanatoka kwao, inatakikana sisi tutafute haki za watu wetu na ndio maana tuko hapa leo Mheshimiwa Spika na inafaa kuwaonyesha hawa kwamba sisi tulichaguliwa ili tuweze kutetea watu wetu na iwapo huyu tajiri ambaye anasimamia EPZ ameshindwa kufanya kazi yake basi ni afunge kampuni na aeleze vile ataendesha hiyo kampuni maana najua kuna watu wengi ambao wanataka waendeshe shughuli kama hii. Mheshimiwa Spika ni jambo la kusikitisha ukifika unasikia wanataja mpaka Raisi wa Kaunti, mimi yangu ni kwamba bila kupoteza wakati hawa wanatafikana tuwakazie kamba na ikiwezekana wapate barua ya kisawasawa wasimamishwe mpaka hii maneno itatuliwe jinsi inavyotakikana kwa sababu sisi kama serikali ya Mombasa tuna vifaa kila aina, tuna maaskari kama ni malinga tinga tunayo tuende pale tufunge hii kampuni na hata pia kuwashika wale kisheria ili tuweze kuwaleta mbele na watuambie wanataka nini ili kazi ya wale watu wetu ipatikane, na tukionyesha mfano mzuri na hawa watu wa EPZ hakika hakutakuwa na mtu mmoja Mombasa atakae weza kunyanyasa wananchi wetu, hiyo ndio mfano Bwana Spika.

Tulikuwa huko na kuna mikutano kadha wa kadha tulifanya nao, ikiwa hawa watu wanakuja hapa kwetu kufanya kazi lazima watuheshimu hata kama tuko vipi kwa sababu nyumbani ni nyumbani, hawa watu wetu wameenda kuomba kazi na wanataka haki zao, lakini ikiwa kandarasi za siku hizi unaenda nyumbani unarudi umefutwa kazi, huna wakati wa kukaa chini na mwenye kazi na muandikiane mkataba kwamba nitapata hii na hii, saa

ngapi na wakati wewe uko na njaa yako na ni kibarua unaingia unafanya unalipwa kitu na pale kuna wenye wamefanya kazi miaka kumi na kuna sheria ambayo inasema huyo mtu anafaa aandikwe kama mfanyikazi wa kudumu, chama inatetea tu wafanya kazi kama wako na shida moja, kwa hivyo lazima tuangalie hayo maneno Mheshimiwa Spika ili watu wetu waweze kusaidika, ahsante Bwana Spika.

Mr. Speaker (Hon. Rajwayi): Hon. Ibrahim Kondo.

Hon. Ibrahim Kondo: Ahsante Bwana Spika, mimi pia nimesimama kuunga mkono mswada ulioletwa kwa Nyumba hii ambapo Bwana Spika wakati wa ukoloni umepitwa na wakati, tetesi zinazokumbwa kwenye kazi haswa katika nyumba za EPZ sio tetesi nzuri kabisa kulingana na sheria ya kazi. Mheshimiwa Spika swala hili nataka kupitia kwa kiti chako liwe funzo na liwe mfano kwa mashirika mengine ambayo ina tabia ya kunyanyapaa wafanya kazi, ukiangalia yale yote ambayo wanalalamika ni mambo ambayo kisheria hayaruhusiwi wala kikatiba katika nchi yetu ya Kenya hairuhusiwi. Kila mfanya kazi ana haki ya kujiunga na chama anachotaka na itakuwa yasikitisha ikiwa mfanya kazi atataka kujiunga na chama alafu chama kile kile kinachoiongoza kupitia amri ya korti inaanza kubagua baadhi ya makampuni, wengi wa hawa walioko kwa kazi ni wapangaji wetu, ni ndugu zetu na wengine ni watoto wetu. Kwa hivyo mimi ningeliomba kupitia kwako kutoke uamuzi wa haraka iwezekanavyo, ikiwa mtu mmoja anaweza kuwa na stakabadhi ya kumiliki kampuni tatu na ni cheti kimoja anachotumia hiyo ni kwenda kinyume na sheria ya Kaunti kwa sababu sisi wenyewe tunapoteza ushuru kupitia uwekezaji kama huo na ikiwa mwekezaji kama huyo ameshindwa Mheshimiwa Spika ningelipenda Nyumba hii ichukue uamuzi wa haraka ili hatua hii itatuliwe, kwa hayo machache ahsante Bwana Spika.

Mr. Speaker (Hon. Rajwayi): Well ladies and gentlemen clause five of this Report paragraph 3 on the third line reads as follows; *“Since the matter already is in court the Assembly will now work hand in hand with the lawyer on record on the dismissed workers, Mr. Abubakar Yusuf. This will be through application to officially join the matter as a friend of the court”*. Ladies and gentlemen it’s important that I put very clear before you that that particular statement is actually referring to this Hon. House to Standing order 85 of this Hon. House, and that Standing order has so many paragraphs one of Standing order 85 reads;

85. 1. *Subject to paragraph 5, no Member shall refer to any particular matter which is sub judice or which by operation of any written law is secret.*

2. *A matter shall be considered to be sub judice when it refers to active criminal or civil proceedings and the discussion of such matter is likely to prejudice it’s fair determination.*

Ladies and gentlemen that aspect has been brought to your attention that the matter that we are discussing in this particular Report is already in court and we should not discuss; however ladies and gentlemen if you move to paragraph four of Standing order 85 reads;

85. 4. *A Member alleging that a matter is sub judice shall provide evidence to show that paragraphs 2 and 3 are applicable.* Ladies and gentlemen this particular Report here has failed and thanks for the contributions by one Hon. Kizito Opeya that this particular Report has not brought to us by giving evidence that we must not discuss it as the matter is in court. It is very much in order for this House to determine this matter that is what I wanted to highlight; the second observation that I want to put across is that ladies and gentlemen the matter before us is not a simple matter because one of the reasons why you were elected and nominated to be here is to do representation, you are not representing nothing you are representing the public, and that's why it is quite unfortunate and I must say that at a time like this that we are supposed to make an important ruling so many seats are empty and thank you so much Hon. Jimmy Odari and you have been on this matter for a long time, so this itself shows me how serious you are with this particular issue.

Ladies and gentlemen if someone is screaming for help then we cannot afford to sleep, what of 2,400 members out there, it is very unfortunate that we are going to make a history as a government of Mombasa that within a period of three months close to 11,000 have been

rendered jobless, not long ago the CFS were closed for reasons not clearly stated, 8,000 of individuals went home, we are talking about 2,400 who are jobless, you want to convince each and every person out there that yes you are the government, government will only be called an active government if you can die with your people on a general course, and allow the Chair to remind this Hon. House not long ago in history of Africa there is only one boy who cried and said if I do not get employed today i don't deserve to live, unfortunately that particular boy did not get employed and to make it even more worse that boy died.

You will agree with me that that is what begun to be devolution in some of the countries in Africa, one life did not get employed then the whole nation stood up and said this government must go so that we can create opportunities for our sons, if one person can make the whole government go home what do you think 2,400 can do. I'm calling upon this Hon. House that we must get out of our comfort zones and be with our people let us make sure that we defend them until the last minute. Ladies and gentlemen we must differentiate between talking and acting, we must say what we want to say and we must do what we must do, there is no shortcut in life, and i know this is a very hard position but we must go that direction and allow me to remind us so many comments have been made that so and so is powerful we have the government in our pockets. I want to say that if you have the constitution Article 1 is very clear, it talks about the sovereignty of the people, and power belongs to the people of Kenya and shall be exercised only on accordance to this Constitution. Ladies and gentlemen I want to emphasise that there is no other single individual who is more important and powerful than the people of the republic of Kenya and the only thing that we need to do is to involve the affected individuals in this clauses and i want to assure you that if you involve the people you will win this, but this is not a mater to let go, and if we don't do that we will be judged harshly, ladies and gentlemen allow me to read something on Article 41 of the Constitution about labour.

41. 1. Every person has the right to fair labour practices.

The content of this Report has it that nothing wrong has been done by these particular individuals that have been affected, ladies and gentlemen this Report 41. 2 reads as follows;

41. 2

Every worker has the right

- a) To fair remuneration
- b) To reasonable working conditions
- c) To form join or participate in activities and programs of a trade union and
- d) To go on strike

Now if all that has been done according to this Report is within the law what is wrong by making sure that justice is done, and because there are many issues that we need to discuss more on these issue ladies and gentlemen the most prudent thing that the Chair can do is that this particular matter is not going to be put into question because that again will close some matters that are supposed to be discussed, but from the time we are going to say i want more action taken on this particular matter, it is very wrong for us because that is what even Chapter 6 does not allow and will never invest that the government has been compromised and when we say the government has been compromised there is no difference between County executive and legislative arm for this government, when a government has been compromised even you as a Hon. Member who is seated here have been compromised, and therefore you must stand firm and get out and defend your position as an Hon. Member, otherwise as it is this particular matter is referred until such a time that the House Business Committee will determine, thank you.

ADJOURNMENT

Ladies and gentlemen this House stands adjourned until tomorrow Wednesday at exactly 9:30a.m.

The House rose at 4:01p.m.