

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 26th November, 2019

The House met at 10.56 a.m.

[The Temporary Deputy Speaker (Hon. (Ms.) Mwikali) in the Chair]

PRAYERS

Hon. Temporary Deputy Speaker: I request the Sergeant at Arms to ring the bell for quorum.

(Quorum Bell rung)

Mr. Serjeant at Arms, I am told there is quorum. Mr. Clerk, proceed.

COMMUNICATION FROM THE CHAIR

PARTICIPATION IN LAUNCH OF BUILDING BRIDGES INITIATIVE (BBI) MEETING

Hon. Temporary Deputy Speaker: I welcome you Hon. Members to this House. We are a lot behind time but it is understood and we just thank God for the great and abundant blessings he has placed in our County because the whole of this month and last month but more so last night, everywhere I am told it really rained and most of us could not reach here on time but we all count it as blessings and we thank God for the rains.

Also take this opportunity to welcome you members to this House once again for deliberations and our businesses for this week. I pray that God will enable us to proceed as determined by our business and another thing is that I hear Members are really keen on the BBI issue I want to tell you and communicate this that we are going to really discuss with the fathers of your House and we are going to seek the way forward after this first session of the plenary. Clerk, proceed

PAPERS LAID

Hon. Temporary Deputy Speaker: Under this Order, Hon. Members, we have got two Papers; one by Hon. Geoffrey Kamulu and the other one is by Hon. Cosmus Kieti, chairperson trade. Therefore I request Hon. Geoffrey Kamulu, chairman youth, women, PWDs and sports committee to proceed and I gather Hon. Christine Koki holds brief for the chairman. Hon. Christine Koki?

REPORT ON THE PWDS STAKEHOLDERS' FORUM HOSTED BY ACTION AID-KENYA

Hon. (Ms.) C. Koki: Thank you, Madam Speaker. Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Tuesday, the 26th day of November, 2019; the report of Youth, Women, PWDs and Sports Committee on the PWDs stakeholders' forum hosted by Action-Aid Kenya. Madam Speaker, I beg to lay the Paper.

Hon. Temporary Deputy Speaker: Hon. Christine where is the Paper? Can you lay the Paper on the Table?

(The Paper was laid on the Table)

Thank you, Hon. Christine. The other paper to be laid on the Table of this House is by Chairperson Hon. Cosmas Kieti, chairperson committee on trade, economic planning and industrialization. Hon. Kieti?

REPORT ON THE ESTABLISHMENT OF VILLAGE ADMINISTRATOR'S OFFICES IN MACHAKOS COUNTY

Hon. Kieti: Thank you, Hon. Speaker. Madam Speaker, I beg to lay the following Paper on the Table of the House today, Tuesday, the 26th day of November, 2019; the report of Committee on Trade, Economic Planning and Industrialization on the establishment of village administrator's offices in Machakos County.

Hon. Temporary Deputy Speaker: Thank you, Hon. Cosmas Kieti. Mr. Clerk, proceed.

NOTICES OF MOTIONS

Hon. Temporary Deputy Speaker: Under this Order, Members as we have seen the Papers laid; I will ask Hon. Christine who holds brief for Hon. Geoffrey Kamulu to proceed.

REPORT ON THE PWDS STAKEHOLDERS' FORUM HOSTED BY ACTION-AID KENYA

Hon. (Ms.) C. Koki: Thank you, Hon. Speaker.

Hon. Speaker, that aware that full inclusion of Persons with Disabilities (PWDs) in the social-economic and political aspects of the society remains to be a challenge that governments and PWDs stakeholder organization need to address and solve in a bid to achieve their rights as stipulated in Article 54 of the Constitution of Kenya, 2010;

Recognizing that the Youth, Women, PWDs and Sports Committee is mandated to deal with all matters related to youth welfare, women affairs, matters of equality and affirmative action;

Appreciating that the Youth, Women, PWDs and Sports Committee got an invite to attend the Action Aid-Kenya forum on 5th September, 2019 whose theme was Promoting Decent Work for Persons with Disabilities through a Disability Inclusion Support Service;

Aware that the objective of the forum was building a capacity at regional and national levels to effectively support the full participation of women, youth entrepreneurs with disabilities in entrepreneurship development activities while also advocating for awareness-raising activities to promote decent work for persons living with disabilities;

Hon. Speaker, I wish to give notice of the motion that this Hon. House discusses and approves the Youth, Women, PWDs and Sports committee report the PWDs stakeholders' forum hosted by Action-Aid Kenya.

Thank you, Hon. Speaker.

Hon. Temporary Deputy Speaker: Thank you, Hon. Christine Koki. I now ask Cosmas Kieti, chairperson committee on trade, economic planning and industrialization to proceed on the notice of motion.

REPORT ON THE ESTABLISHMENT OF VILLAGE ADMINISTRATOR'S OFFICES IN MACHAKOS COUNTY

Hon. Kieti: Thank you, Hon. Speaker.

Hon. Speaker, that aware that Section 52(1) of the County Governments Act, 2012 provides that there is established the Office of Village Administrator for each village unit established in a county;

Aware that Section 53(1) provides that there is established, for each village unit, a village council comprising:

- a. The village administrator who shall be the chairperson of the village council; and
- b. Not less than three and not more than five village elders competitively appointed by the village administrator with the approval of the county assembly, taking into account gender balance;

Acknowledging that among other mandates, the committee on Trade, and Economic Planning is mandated to ensure effective delineation and management of decentralized units and therefore, conducted a case study in four wards to ascertain the establishment of village Administrators' offices and their role in service delivery to the citizens of Machakos County;

Hon. Speaker, I wish to give notice of motion that this House discusses and approves the report of the Committee on Trade, Economic Planning and Industrialization on the establishment of village administrator's offices in Machakos County.

Thank you, Madam Speaker.

Hon. Temporary Deputy Speaker: Thank you, Hon. Kieti. Mr. Clerk, proceed.

MOTION

REPORT ON THE PWDS STAKEHOLDERS' FORUM HOSTED BY ACTION-AID KENYA

Hon. Temporary Deputy Speaker: Under this Order, I call upon Hon. Christine Koki, standing in for Hon. Geoffrey Kamulu to proceed with the motion.

Hon. (Ms.) C. Koki: Thank you, Madam Speaker. I am still standing in for Hon. Kamulu and moving the motion on his behalf as the chairman of the committee.

Hon. Speaker, that aware that full inclusion of Persons With Disabilities (PWDs) in the social-economic and political aspects of the society remains to be a challenge that governments and PWDs stakeholder organization need to address and solve in a bid to achieve their rights as stipulated in Article 54 of the Constitution of Kenya, 2010;

Recognizing that the Youth, Women, PWDs and Sports Committee is mandated to deal with all matters related to youth welfare, Women affairs, matters of equality and affirmative action;

Appreciating that the Youth, Women, PWDs and Sports Committee got an invite to attend the Action-Aid Kenya forum on 5th September, 2019 whose theme was Promoting Decent Work for Persons with Disabilities through a Disability Inclusion Support Service;

Aware that the objective of the forum was building a capacity at regional and national levels to effectively support the full participation of women, Youth entrepreneurs with disabilities in entrepreneurship development activities while also advocating for awareness-raising activities to promote decent work for persons living with disabilities;

Hon. Speaker, I wish to move the motion that this Hon. House discusses and approves the Youth, Women, PWDs and Sports committee report the PWDs stakeholders' forum hosted by Action-Aid Kenya.

At that point Madam Speaker, I would like to call Hon. Jacinta Luka to second the motion.

Hon. Temporary Deputy Speaker: Thank you, Hon. Christine. Hon. Jacinta Luka. Point of order at this time?

Hon. Musyimi: Yes, Madam Speaker; in the House I think we have no quorum.

Hon. Temporary Deputy Speaker: Mr. Clerk can you confirm quorum? I will allow the seconder to proceed and then I will make a decision.

Hon. (Ms.) Luka: Thank you, Madam Speaker. I do second the motion. Thank you.

Hon. Temporary Deputy Speaker: Thank you, Hon. Jacinta, for seconding that motion. At this time I ask and request Hon. Christine please proceed with your report.

Hon. (Ms.) C. Koki: Thank you, Madam Speaker. This is the report for youth, women, PWDs and sports committee on the PWDs stakeholder's forum hosted by Action-Aid Kenya.

1.0 INTRODUCTION

Hon. Speaker, Article 54 of the Constitution of Kenya, 2010 provides for the rights of persons living with disabilities; further, the Persons with Disabilities Act, 2003 which is an Act of Parliament provides for the rights and rehabilitation of persons with disabilities; to achieve

equalization of opportunities for persons with disabilities and to establish the National Council for Persons with Disabilities.

Hon. Speaker, legislations have been put in place by the National and County Governments all advocating for the rights of persons living with disabilities; the greatest impediment therefore to the realization of the rights of persons living with disabilities remains the matter of non-implementation of these legislation.

Hon. Speaker, persons living with disabilities can and want to be productive members of society in both developed and developing countries, promoting more inclusive societies and employment opportunities for people with disabilities requires improved access to basic education, vocational training relevant to labor market needs and jobs suited to their skills, interests and abilities, with adaptations as needed.

Many societies are also recognizing the need to dismantle other barriers, making the physical environment more accessible, providing information in a variety of formats and challenging attitudes and mistaken assumptions about people living with disabilities.

Many disabled people in Kenya, as in most developing countries in the world, live in poverty, have limited opportunities for accessing education, health, suitable housing and employment opportunities and therefore there is need for persons living with disabilities stakeholders and more so the County Governments to develop policies that endeavor to uplift the lives of people living with disabilities socially, economically and physically.

The Youth, Women, PWDs and Sports committee got an invite to attend the forum on 5th September, 2019. The theme of the forum was “Promoting Decent Work for Persons with Disabilities through a Disability Inclusion Support Service” with the objective being building a capacity at regional and national levels to effectively support the full participation of women, youth entrepreneurs with disabilities in entrepreneurship development activities while also advocating for awareness-raising activities to promote decent work for persons living with disabilities.

1.1 MANDATE OF THE COMMITTEE

Hon. Speaker, the Youth, Women, PWDs and Sports committee is established pursuant to Standing Order 190 and the second schedule of the Standing Orders define its mandate as follows to deal with all matters related to youth welfare, women affairs, empowerment of women, matters of equality, affirmative action and gender related issues and sports activities and facilities.

1.2 COMMITTEE COMPOSITION

Hon. Speaker, the committee is comprised of thirteen Hon. Members as listed below:

- | | | |
|----|----------------------|--------------------|
| 1. | Hon. Geoffrey Kamulu | - Chairman |
| 2. | Hon. Justus Katumo | - Vice Chairperson |
| 3. | Hon. Phoebe Koki | - Member |
| 4. | Hon. Margret Ndalana | - Member |
| 5. | Hon. Irene Mbivya | - Member |
| 6. | Hon. Christine Koki | - Member |
| 7. | Hon. Jacinta Luka | - Member |
| 8. | Hon. Antony Mulu | - Member |

- | | |
|---------------------------|----------|
| 9. Hon. Michael Mutiso | - Member |
| 10. Hon. Margret Mwikali | - Member |
| 11. Hon. Grace Mutwiwa | - Member |
| 12. Hon. Fredrick Muthoka | - Member |
| 13. Hon. Agatha Mutunga | - Member |

2.0 BRIEF HISTORY OF ACTION-AID KENYA

Hon. Speaker, Action-Aid Kenya is a National Disabled Persons Organization working at all levels of community with the involvement of persons with disabilities to bring about positive change; it was founded by and for children and youth with disabilities in Kenya. It is dedicated to achieve equality, inclusion, and empowerment of children and youth with disabilities in Kenya through mainstreaming this group into all aspects of daily life. It also has a unique initiative that provides an inspiring environment for people with different types of disabilities and people without disabilities to work together.

The organization empowers youth with disabilities with entrepreneurial and employability skills to enable them earn a sustainable income and therefore lead independent lives as well as contribute to national development.

They look at livelihoods not only as economic activities that people engage in but also their social, institutional and organizational environment. Their work in this area focuses on both human capital, that is skills, knowledge, health and ability to work and social, natural, physical financial and political capital.

Action-Aid Kenya works to advance access to education for children and youth with disabilities both within the inclusive, integrated and special school settings, while emphasizing the need for educational facilities to be accessible in promotion of inclusive education; education is the biggest liberator for persons with disabilities and thus an important investment in children and young people with disabilities.

2.0 AGENDA DISCUSSED AT THE FORUM

Hon. Speaker presentations and discussion were focused on the below listed agenda:

- Supporting Disabled Persons Organizations in the different counties to get organized as a platform for engagement in the governance processes.
- Building the capacity of the coordinating Disabled Persons Organizations to identify key resources; PWDs to contribute, enrich the discussions and inform strategic engagement in public participation forums.
- Creating an engagement framework for coordinated engagement between Disabled Persons Organizations and the PWDs with the County Assemblies; nominated MCAs representing interests of PWDs.
- Inducting and building the capacities of the nominated MCAs representing interests of PWDs on their role, opportunities for engagement with their constituents; and effective representation of the constituents in the Assembly.
- Sensitization of all Members of County Assemblies on the need for inclusion of persons living with disabilities in legislative processes like formulation of policies, creation of County budgets.
- Strategic engagement with Assemblies on institutionally addressing barriers to engagement like employment of Sign Language interpreters, preparation of documents in braille.

3.0 OBSERVATIONS MADE FROM THE DISCUSSIONS

The members observed that despite the several legislation, regulations and constitutional provisions protecting PWDs, they still remain among the marginalized lot in Kenya. Persons living with disabilities in Kenya hardly access any specialized support services in urban and rural areas instead they depend on third parties for support.

In the major cities of Kenya, the disabled do not enjoy the right to access public spaces as most of the facilities are yet to comply with the legislation. The Constitution of Kenya, 2010 binds all construction works to include ramps for physically challenged persons to easily access the facilities.

This state of affairs has forced the majority of the PWDs to be left behind in the social-economic and political participation in the Country; their productivity levels have been greatly hindered and this proves burdensome to the Country's economic progress in the long run. The government still has the responsibility to take steps towards the full realization of the rights of the pwds as set out in the Persons with Disability Act, 2003.

Hon. Speaker, it was noted the persons living with disabilities are not fully involved in the governance of their respective Counties. Public participation refers to the process by which citizens, as individuals, groups or communities also known as stakeholders, take part in the conduct of public affairs, interact with the state and other non-state actors to influence decisions, policies, programs, legislation and provide oversight in service delivery, development and other matters concerning their governance and public interest, either directly or through freely chosen representatives.

Constitution places the citizens at the center of development and related governance processes; it provides for public participation as one of the principles and values of governance; the Government of Kenya recognizes that public participation strengthens and legitimizes state decisions, actions and development interventions, and that it is an important element of good governance and the foundation for a true democracy. The National and County Governments' commitment to public participation has been demonstrated through several efforts, albeit with some deficits.

Persons living with disabilities in Kenya still face several challenges which have remained unattended for quite sometimes with no proper mechanism to curb them. These challenges include lack of universal access in the structural buildings, persons with disabilities living under extreme poverty, the high unemployment rate among persons with disabilities and poor provision of education and health services.

In some parts of the country persons with disabilities are locked in the house while as others are tied on trees or other objects as if they are animals. Despite significant efforts to increase the opportunities for children to access schooling, there is still a serious under enrollment of children with disabilities, County governments should do more create awareness on disabilities and reduce the stigma associated.

The committee noted that the Government of Kenya has adopted a number of laws and policies pertaining to people with disabilities, including their right to productive and decent work and basic services. The main ones are listed below;

- a) The Persons with Disabilities Act, 2003 this is a comprehensive law covering rights, rehabilitation and equal opportunities for people with disabilities. It creates the National Council of Persons with Disabilities as a statutory organ to oversee

- the welfare of persons with disabilities. The law also requires that both public and private sector employers reserve five per cent of jobs for disabled persons.
- b) The Public Service code of practice for mainstreaming disability in the Public Service, 2010, obligates public entities to reasonably accommodate the needs of PWDs in public service by retaining, re-training and deploying public servants who acquire disabilities in the course of duty.
 - c) The Public Officers' Ethics Act of 2003 creates an environment that nurtures respect for diversity including disability. The Act demands of public officers to treat fellow public officers, including PWDs, with respect while discharging their mandate.
 - d) The Public Procurement and Disposal Act 2015 and Regulations 2006, reserves thirty percent of public procurement for women, youth and PWDs as a means of empowering them.
 - e) Free Primary Education, 2003, crucial to the attainment of universal primary education, removes all levies that previously prevented children especially those from poor economic backgrounds from accessing education. The scheme has been extended to special education and schools for children with disabilities, through the provision of additional funding to meet the needs of children with disabilities in schools.

The main challenge lay majorly on the implementation of this legislation.

4.0 RECOMMENDATIONS

Hon. Speaker, informed by the discussion held at the forum, the committee makes the following recommendations:

- a. *Implementation of the Machakos County Persons Living with Disabilities Act*
Implementation of the Act will ensure creation of a board that will manage the affairs of the PWDs and provide a framework for a coordinated approach by all government departments and institutions in the mainstreaming of disability across all planning, designing budgeting, implementation and monitoring of services and development programmes;
- b. *Disability Awareness*
The committee recommends the creation of disability awareness within the County whereby persons living with disabilities will feel acknowledged and recognized by the County Government. This will help in reducing stigma and in improving the sense of belonging by Persons living with disabilities.
- c. *Improved and expanded inclusive community facilities*
The County Government should ensure that all facilities are accessible to persons living with disabilities. In construction of community facilities including playgrounds the contractors should be compelled by the respective department to ensure that they are physically and socially accessible to PWDs.
- d. *Inclusion of PWDs in Public participation*
Hon. Speaker, this will entail timely provision of key policy documents to PWDs organizations within the County for their consideration and submission of memoranda; the County Government too should endeavor to present these policy documents in a format understandable by the PWDs such as in braille and also consider hiring a sign language interpreter. This will foster inclusion of the PWDs in

decision making on matters relating to the County. Hon. Speaker, Right of access to information is a fundamental right accorded to every Kenyan Citizen as stipulated by the Constitution. Persons with disabilities are also eligible to these rights. Chapter four Article 21 of the 2010 Constitution clearly states that persons with disabilities are entitled to exercise the right to freedom of expression and opinion which includes freedom to seek, receive and impart information and ideas on an equal basis with others.

6.0 CONCLUSION

Hon. Speaker, advocacy for the marginalized in the society is a noble duty as it ensures equity and equality. As a County, we should strive to ensure that persons living with disabilities in the County are provided with equal opportunities socially and economically.

Hon. Speaker, it is therefore my privilege and duty to present this report to this Hon. House for consideration and approval. Thank you, Hon. Speaker

Hon. Temporary Deputy Speaker: Thank you, Christine Koki, for that very nice reading that you have done.

(Question proposed)

Hon. Members, this is now the property of this House and there was an issue raised by Hon. Musyimi on quorum. Mr. Clerk I request that you confirm quorum before we proceed. Thank you, Serjeant at Arms I direct that you ring the bell for quorum we still lack two Members to reach the quorum.

(Quorum Bell rung)

Serjeant at Arms, please stop the bell ringing. Thank you, Hon. Members. Standing Order 32(1) has already happened and it goes like this; if at any time after the Chair is taken or when the Assembly is in committee a member objects that there is not a quorum present, the Speaker, or the chairperson shall order a count of the Assembly or the committee as case may be. (2)(a) If the Speaker, is in the chair the speaker shall adjourn the Assembly until the next sitting without question put.

ADJOURNMENT

Hon. Temporary Deputy Speaker: Hon. Members, I now adjourn the House to the Tuesday the 26th day of November, 2019 at 2.30 p.m. Thank you.

The House rose at 11.52 a.m.