

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

**OFFICIAL REPORT**

**Tuesday, 4<sup>th</sup> August, 2020**

The House met at 2.58 p.m.

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

**PRAYERS**

**Hon. Speaker:** Good afternoon, Hon. Members?

**Hon. Members:** Good afternoon Madam.

**Hon. Speaker:** When you start reading and you have just come walking fast and you are masked, you tend to lose your breath. Hon. Kiteng'u have you experienced that?

**Hon. Kiteng'u:** Yes.

**Hon. Speaker:** Can I see the Members in the extended sitting?

*(Camera was focused on the extended sitting)*

Yes, we have quorum Hon. Members. So, Mr. Clerk, let us start.

**PAPER LAID**

**Hon. Speaker:** Hon. Members, under this Order, we have one business by Hon. Mitaa, Majority Whip or any Member who holds his brief.

**REPORT ON PETITION BY DONKEY OWNERS**

**Hon. Kamitu:** Thank you, very much Madam Speaker. Hon. Speaker, I wish to lay the following paper on the floor of the House today, 4th August 2020; the report of the committee of Agriculture on Petition by Donkey Owners in Machakos County. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Minority Leader. Is it signed? Yes, the paper is signed. Thank you. Mr. Clerk, proceed.

**NOTICE OF MOTION**  
**REPORT ON PETITION BY DONKEY OWNERS**

**Hon. Speaker:** Hon. Members, under this Order, we have one business again it is by Hon. Mitaa. I am not sure whether Hon. Kamitu is still holding brief. I can see the Majority Whip present now. Hon. Mitaa and you first say thank you, to Hon. Minority Leader in our hearing.

**Hon. Mitaa:** Thank you, Hon. Speaker. I appreciate my able neighbour, Senior, Hon. Kamitu who is the House Minority Leader. Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you. Proceed.

**Hon. Mitaa:**

Hon. Speaker, that aware that the Mission for the Department of Agriculture, Livestock and Fisheries in Machakos County is to promote innovative, commercially oriented and modern agriculture through development and enactment of enabling legal framework; Further aware that Article 119(1) of the Constitution provides that every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation;

Cognizant that the Donkey Owners of Machakos County in November, 2019 petitioned the Assembly to consider their grievances such as rapid decrease on the population of donkeys, bush slaughtering, theft, depriving families of their income among other grievances;

Informed that the petition was received in the Assembly and committed to the committee on Agriculture pursuant to Standing Orders 190, 196(1) and 203 (1);

Aware that pursuant to Standing Order 190(5) the committee discussed the petition, conducted site visits and consequently compiled a report;

Hon. Speaker, I wish to give Notice of Motion that this Hon. House discusses and approves the report for the committee of Agriculture on Petition by Donkey Owners in Machakos County.

Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Mitaa. Mr. Clerk, proceed.

### MOTION

#### REPORT ON PETITION BY THE MACHAKOS CREATIVE ARTISTS INDUSTRY

**Hon. Speaker:** Hon. Members, under this Order, we have one business by Hon. Betty Nzioki.

**Hon. (Ms.) B. Nzioki:** Thank you, Madam Speaker.

Hon. Speaker, that aware that Article 1 and 2 of the Constitution of Kenya, 2010 stipulates that “(1) all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution, (2) The people may exercise their sovereign power either directly or through their democratically elected representatives;” Further aware that Standing Order 195 and 196 gives the definition of a petition and the procedure of submission of a petition;

Hon. Speaker, acknowledging that Standing Order 201(1) provides that every petition presented or reported pursuant to this part, shall stand committed to the relevant sectoral Committee;

Cognizant of the fact that the petition was committed to the Culture, Social Welfare and Tourism Committee to consider and table a report on the petition to this House pursuant to Standing Order 201(2);

Hon. Speaker, aware that the Committee on Culture, Social Welfare and Tourism considered the petition and compile a report;

Hon. Speaker, I wish to move the motion that this Hon. House discusses and approves the Culture, Social Welfare and Tourism Committee report on petition by Machakos Creative Artists Industry.

Thank you, Madam Speaker. I wish to call Hon. Alice Nzioka to second my motion.

**Hon. Speaker:** Thank you, Hon. Betty. Hon. Alice Nzioka.

**Hon. (Ms.) Nzioka:** Thank you, Madam Speaker. I second the motion.

**Hon. Speaker:** Thank you, very much Hon. Alice Nzioka. Hon. Betty.

**Hon. (Ms.) B. Nzioki:** Thank you, Madam Speaker. If you will allow me, Madam Speaker, I want to start with the Committee composition so that we can proceed. Kindly.

**Hon. Speaker:** Proceed.

**Hon. (Ms.) B. Nzioki:** Thank you, Madam Speaker.

Hon. Speaker, the committee has 13 Members as follows:

- |                           |   |                   |
|---------------------------|---|-------------------|
| 1. Hon. Betty Nzioki      | - | Chairperson       |
| 2. Hon. Benedette Mueni   | - | Vice- Chairperson |
| 3. Hon. Francis Ngunga    | - | Member            |
| 4. Hon. Jeremiah Munguti  |   | “                 |
| 5. Hon. Alice Nzioka      |   | “                 |
| 6. Hon. Joshua Muli       |   | “                 |
| 7. Hon. Dominic Ndambuki  |   | “                 |
| 8. Hon. Hellen Ndeti      |   | “                 |
| 9. Hon. Moses Mitaa       |   | “                 |
| 10. Hon. Anastacia Mutuku |   | “                 |
| 11. Hon. Justus Kiteng’u  |   | “                 |
| 12. Hon. Pauline Munguti  |   | “                 |
| 13. Hon. Stephen Mwanthi  |   | “                 |

#### *Matter under Consideration*

Hon. Speaker, the Assembly received a petition through the Office of the Clerk of the County Assembly pursuant to Standing Order 194 from Machakos Creative Artists Industry. The petition was received in the Assembly on 20th March, 2020. The petition is annexed to this report. (Annexure 1) The petitioners raised concerns on the following grievances:

1. Delay of payment of their dues by the Department of Tourism, Youth, Sports and Culture. The Petitioners alleged that they offered their services to the County Government of Machakos, Department of Tourism, Youth, Sports and Culture on

contractual basis and have not received their payment for over eight months and others for two years. They alleged that they participated in the listed events;

- a. Art fest which was held on 5th and 6th July 2019 and the County owes them Ksh. 418,500
  - b. Macha fest which was held on 14th December 2019 and the County owes them Ksh. 1,200,000
2. That the leadership of the Department of Tourism, Youth, Sports and Culture is marred by arrogance and disrespect to the locals.

Hon. Speaker, the petitioners' prayers to the County Assembly were;

- (a) Engage the Department of Culture, Youth, Sports and Tourism with a view of ensuring that due payments to the Machakos Creative Artists are made.
- (b) Priority and inclusivity of the youth of Machakos County in Creative Industry
- (c) Investigate the matters raised on the Leadership of the Department of Culture, Youth, Sports and Tourism and make appropriate recommendations thereon.

Standing Order 201(1) provides that every petition presented or reported pursuant to this part, shall stand committed to the relevant sectoral Committee. In this regard the petition was committed to the Culture, Social Welfare and Tourism Committee to consider and table a report on the petition to this House pursuant to Standing Order 201(2).

#### *Committee Findings*

Hon. Speaker, Article 195(1) of the Constitution of Kenya, 2010 states that "a county assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information."

Section 39(2) of the County Government Act, 2012 states that "a committee of the county assembly may require a member of the executive committee to—

- (a) Attend or appear before the committee; and
- (b) Answer any question relating to the member's responsibilities."

Section 18(1) of the County Assemblies Powers and Privileges Act, 2017 provides that a County Assembly or its committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person and, in this respect, a County Assembly and its committees shall have the same powers as the High Court as specified under Article 195 of the Constitution.

Hon. Speaker, it is on the basis of the above provisions that the Committee on Culture, Social Welfare and Tourism met on 7th July and resolved to invite the petitioners and the Chief Officer, Department of Tourism, Youth, Sports and Culture.

**Hon. Speaker:** Allow me, Hon. Betty---

**Hon. (Ms.) B. Nzioki:** Yes, Madam Speaker.

**Hon. Speaker:** On the heading at 3.0, would you suggest that we amend it to read legal basis or legal provisions or something like that?

**Hon. (Ms.) B. Nzioki:** Yes, Madam Speaker with your guidance.

**Hon. Speaker:** Yes. I think this heading is supposed to be elsewhere.

**Hon. (Ms.) B. Nzioki:** Thank you, Madam Speaker.

**Hon. Speaker:** Let us note that 3.0, the heading is "Legal Provisions".

**Hon. (Ms.) B. Nzioki:** Okay, I stand corrected. Thank you, Madam Speaker.

*Meeting with the Petitioners*

Pursuant to the provisions of Section 19(a) of the County Assemblies Powers and Privileges Act, 2017 which states that “where a county assembly or a committee requires that any information be verified or otherwise ascertained by the oral examination of a witness, the County Assembly or the committee may- cause such witness to be examined on oath.”

Hon. Speaker, the Committee met two representatives of the petitioners on 10th July, 2020 in an online meeting through Skype platform and they were examined on oath. The petitioners submitted that they had been working with the Department since 2016 and had accrued dues of Ksh. 1.6 Million. Some of whose services had been rendered in 2016 and in 2019.

The petitioners claimed that the Department had no clear policy and structure on engagement of the youth. They felt that the Department was discriminating and not adhering to the provisions of Article 55(d) of the Constitution of Kenya, 2010 which provides that “the State shall take measures, including affirmative action programs, to ensure that the youth are protected from harmful cultural practices and exploitation.”

Further the petitioners felt that the Department was not prioritizing matters of creativity by delaying the payment of the Artists in the Creative industry for years. The petitioners informed the Committee that the Chief Officer, Department of Tourism, Youth, Sports and Culture had breached the provisions of Article 232 of the Constitution of Kenya, 2010 which provides that;

- (1) The values and principles of public service include:
  - (a) High standards of professional ethics;
  - (b) Efficient, effective and economic use of resources;
  - (c) Responsive, prompt, effective, impartial and equitable provision of services;.
  - (d) Involvement of the people in the process of policy making;
  - (e) Accountability for administrative acts;
  - (f) Transparency and provision to the public of timely, accurate information;
  - (g) Subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;
  - (h) Representation of Kenya’s diverse communities; and
  - (i) Affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of—
    - (i) Men and women;
    - (ii) The members of all ethnic groups; and
    - (iii) Persons with disabilities.
- (2) The values and principles of public service apply to public service in—
  - (a) All State organs in both levels of government; and
  - (b) All State corporations.

The petitioners further informed the Committee that a group of the Creative Artists had been paid and there was no clear guideline on why the payment was done discriminatory. They also confirmed that they had signed contracts of engagement with the Department of Tourism, Youth, Sports and Culture.

The petitioners further added that they had earlier sought the intervention of H.E the Governor informally and he had committed to ensure that the payments would be done in a month's time. As at the time of this meeting, no payment had been done.

According to the petitioners efforts to meet the Deputy Governor did not bear fruits as a few Artists who had their payments made were allowed to meet him.

#### *MEETING WITH THE CHIEF OFFICER, DEPARTMENT OF TOURISM, YOUTH, SPORTS AND CULTURE*

Pursuant to the provisions of Section 19(a) of the County Assemblies Powers and Privileges Act, 2017 which states that “ Where a county assembly or a committee requires that any information be verified or otherwise ascertained by the oral examination of a witness, the county assembly or the committee may- cause such witness to be examined on oath.”

Hon. Speaker, the Committee met with the Chief Officer, Department of Tourism, Youth, Sports and Culture on 14th July, 2020 in an online meeting through Skype platform and was examined on oath.

He submitted that the Department of Tourism, Youth, Sports and Culture was not aware of the petition from the Machakos Creative Industry because a copy was not submitted to the Department. He acknowledged that he was aware of the unpaid debts owed by the Machakos Creative Artists Industry.

The Chief Officer informed the Committee that there were signed contracts of engagement between the Machakos Creative Artists Industry and the Department and that the Contracts were legally binding. He further added that recently in the month of June, 2020 part of the unpaid dues amounting to Ksh. 499,000 to the Machakos Creative Artists Industry. The debts had not been captured in the Departmental pending bills since and according to the Chief Officer they were spent in the FY 2019/2020.

The Chief Officer however reported that he was no aware of any debts for the year 2016 related to the Machakos Creative Artists Industry. He committed that the balance of Ksh. 1,100,000 would be paid once the Integrated Financial Management System (IFMIS) had been re-opened. The Chief Officer furnished the Committee with evidence of partial payment of the amounts he alleged had been paid in Annexure 2.

Hon. Speaker, after the Committee's consideration of the above submissions, it was resolved that a joint meeting of the petitioners and the Chief Officer, Department of Tourism, Youth, Sports and Culture be convened.

#### *JOINT MEETING WITH THE PETITIONERS AND THE CHIEF OFFICER, DEPARTMENT OF TOURISM, YOUTH, SPORTS AND CULTURE*

Hon. Speaker, it's worth noting that the following additional submissions were done in a joint meeting of the Petitioners, the Chief Officer and the Committee on Culture, Youth, Sports and Tourism. That the Chief Officer could not pinpoint a situation where Artists from outside the County were given a priority in any event leaving out Artists from within the County.

The Chief Officer informed the Committee that partial payment was done to the Artists for the Art Fest done in July 2019. This information was not contested by the Petitioners. The Chief Officer

further committed to pay the balance once funds were available. For the Machafest event done in December 2019, the Chief Officer highlighted that the event was to be sponsored by Envivo (Envivo Communications Limited, a Nigeria based Company which deals with content delivery, facilitates the delivery of Internet based content; Voice, Video, Text, Messaging, Application)

As at the time of this meeting, the Department had not received any funds from the Sponsor but the Chief Officer had done partial payment of the amounts owed. The Chief Officer further committed to pay the balance of the amounts owed.

### *COMMITTEE OBSERVATIONS*

Hon. Speaker, the Committee observed the following;

1. The Petitioners and the Department of Culture, Youth, Sports and Tourism entered into a Memorandum of Understanding with clear responsibilities of the parties and the manner of dispute resolution for the events done on 6th July and 6th December, 2019.
2. That as at the date of submission of this petition (20th March, 2020) the Department of Tourism, Youth, Sports and Culture owed the Petitioners Ksh. 1,618,500. This is supported by the petition submitted to the Office of the Clerk.
3. That in the Month of June, 2020 the Department of Tourism, Youth, Sports and Culture paid Ksh. 499,000 to the Petitioners. This is supported by the Payment Vouchers submitted by the Department.
4. There was no evidence of unpaid dues of services rendered by the petitioners in the year 2016.
5. That the petitioners did not provide information to support prayer number 2 on Priority and inclusivity of the Youths of Machakos County. There was no evidence of discrimination against the Petitioners by the Department.
6. Further there was no evidence provided to support prayer number 3 on the Leadership of the Department of Tourism, Youth, Sports and Culture. The delayed payments were occasioned by the normal delays in release of funds by the National Treasury.
7. The Department of Tourism, Youth, Sports and Culture did not issue proper documentations when it engaged the petitioners. Neither LPOs nor LSOs were issued as a commitment to pay for the services rendered by the petitioners.
8. The Chief Officer did not substantiate on which criteria was used to come up with the list of beneficiaries to the recent made payments. This justifies the allegations of the petitioners that “only the Creative Artists aligned to the Chief Officer were paid.”
9. There exists a dispute between the Petitioners and the Department. This is evident on the matters in the petition and the submissions of the Chief Officer.

### *COMMITTEE RECOMMENDATIONS*

Hon. Speaker, the Committee makes the following recommendations;

Besides the memorandum of understanding that is normally signed by the Creative Industry and the Department of Tourism, Youth, Sports and Culture in future LPOs and LSOs should be issued once services are rendered to the County. This is in accordance with the provisions of Section 44(2)(d) of the Public Procurement and Asset Disposal Act which provides that “in the performance of the responsibility under subsection (1), an accounting officer shall— ensure proper documentation of procurement proceedings and safe custody of all procurement records in accordance with the Act.”

The Department of Tourism, Youth, Sports and Culture should ensure that all the unpaid dues of the Artfest and Machafest events held in July and December, 2019 respectively should be paid on or

before 20th August, 2020. Any reasons for failure to meet these timelines should be communicated in writing to this Committee before the lapse of the time indicated.

The Chief Officer, Department of Tourism, Youth, Sports and Culture should ensure that any existing disagreement between the Department and the petitioners is sorted out for posterity. The petitioners need to exercise patience by appreciating the Government procedures especially in payment of works done and services rendered. This is by acknowledging delays in terms of release of funds by the National Treasury.

#### *CONCLUSION AND ACKNOWLEDGEMENT*

Hon. Speaker, the Committee is grateful to the office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the committee sittings. I wish to express my appreciation to the Hon. Members of the Committee who sacrificed their time to participate in the activities of the Committee and in preparation of this report.

The Committee further appreciates the Petitioners and the Department of Tourism, Youth, Sports and Culture for the submissions they gave the Committee during consideration of this matter. Hon. Speaker, it is therefore my privilege, on behalf of the Culture, Social Welfare and Tourism Committee to table this report and recommend it to this Hon. House for consideration and approval. Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Thank you very much, Hon. Betty, for that report which is concise and very authoritative. So we appreciate the work of the Committee.

*(Question proposed)*

Hon. Members, the motion is now open for debate; Hon. Ndawa.

**Hon. Ndawa:** Thank you, Madam Speaker. I will start by applauding the committee and more so the able chairperson for coming up with such an elaborate report. Madam Speaker, I want to point out a few issues that I have noted within the report. Madam Speaker, this morning we had a similar Petition and now in the afternoon it is also an issue of Petition. It is becoming a norm that unless a certain contractor or a group files a Petition, it is very hard for them to get payment. So, I humbly request the departments in the County; let no job be given unless we have a budget for that particular job.

Madam Speaker, we are always talking about the youth being the future leaders and when it comes to the future, when we give them jobs, we fail to pay them. It is very unfortunate if these young people gave their services and they were not paid. I believe they had expectation and everyone who is given a certain job has his own desires and if whatever was agreed upon is not paid; then that becomes a problem.

Madam Speaker, in the report it is clear that somebody erred somewhere because as you are aware and the House is, there is what we call public procurement procedures. For a tender to be given by a county or a department, one has to be issued with an LPO or LSO. So in the report, it is clear that an LSO was not given and that is the problem and the person to blame is the in-charge of that particular department.

The other issue, Madam Speaker, this shows there was a contract between the department and this team or artists or young men and as you are aware, the law of contract is very clear; for a contract to

be valid there are some essentials that ought to be met and if one is not met, then the contract becomes void. Madam Speaker, I believe the essentials which are set in the law, essential number one is offer and acceptance. The County said we want this work done and these young people said they are ready to do the job; so that is offer and acceptance.

Essential No. 2 was consideration; there was an agreed amount after these services are given, this is what we are going to be paid so the county said we are willing to pay this and those who are giving services said we are ready to take that. So that essential, Madam Speaker, was met.

Essential No. 3 is the capacity; as you are aware, no one has the capacity to sign an agreement if he is underage and in this report we are not shown anybody who was below 18 years. So the youths are adults and they have the capacity. On the issue of capacity, no party was insane and no party was drunk as at the time of entering this agreement. So the essential of capacity was met.

The last essential Madam Speaker, is the intention to have a binding document between the two parties, I strongly believe that the LSO would have acted well as a binding document so Madam Speaker, that essential is clearly made and maybe that can bring confusion. Madam Speaker, in the same report it is clearly stated by this Hon. Committee that there was a memorandum which was agreed upon by the two parties; I have seen it in the committee.

Madam Speaker, as you are aware we have two sets of agreements, we have a liquidated agreement and an un-liquidated agreement. Madam Speaker, in the report it is not clear what the memoranda was about because it would be clear if they had said if one party fails to honor its obligation it is going to do A-B-C-D to the other party. So, the issue of that memoranda, Madam Speaker, ought to have expounded further to show us because I believe when there is that liquidation or the agreement is liquidated even if they go to court of law the court would just agree with what was in the agreement.

Madam Speaker, I totally do not agree with the department failing to pay these young kids. Madam Speaker, if we do not take care of our youth it means we are not going to have a future and Madam Speaker, when I was in school some years back in university, I did a project and the title was factors that hinder youth groups from accessing government tenders in Yatta Sub-County. The finding that I got it is something that cuts across the entire nation.

No. 1, Madam Speaker, is corruption. Madam Speaker, it has come out clearly in this report that one team was paid and the other one was not paid. Why did this team qualify to be paid and the other one was not paid? I can say that is either corruption or somebody has interest in the service that was given. Maybe that team was working either for the Chief Officer or a certain officer in the department. So Madam Speaker, as a House, we need to instill sanity in our departments because if we do not do so the rank and file, the non-executive rank and file the non-legislative rank and file is watching to see what the Assembly is doing to ensure that they are not embarrassed when they are giving their service.

So Madam Speaker, I want to say the report is good and I want to say let us instill sanity so that our youth can have time to do business in a favorable atmosphere because if we say we do not pay them it means now we are discouraging other young people from joining that field because if the youth are giving services and they are not paid nobody will be willing to give services that will not be paid. So in conclusion, Madam Speaker, I want to say the department is in breach of the contract which existed and they ought to pay these young people forthwith without further delay. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Ndawa. Hon. Mitaa and then Hon. Matei.

**Hon. Mitaa:** Thank you, Hon. Speaker. Hon. Speaker, first I want to applaud the chairperson and the committee which I belong for this report on the Petition. Hon. Speaker, with a clear mind, from the onset of this petition I participated as a committee member and some issues were raised, they came

up and one thing I would want to stress in this Hon. House because the truth must always be said; Hon. Speaker, I think from my own observation we are putting so much pressure on the Chief Officers and some departmental heads because something has been coming out clearly in this Hon. House.

When you interrogate that team you find if it is requisitions they are making Hon. Speaker, but in between somewhere there is no response on the requisitions which they are making. I would request my colleagues that we direct the issue to the right position because it was very clear and it is on record that the Chief Officer, the CO stated that on several occasions he had been sending requisitions to the Treasury but nothing has been forthcoming. It is in black and white Madam Speaker, that we cannot pay from our own pockets.

He has admitted that there are arrears to be paid but until he is given money it is when he can spend Madam Speaker. So putting that head into a gallon, I think on my side it is not the best because the records are there, we have recorded in the HANSARD in all the committees and he was very clear that he has not refused to pay. Something else Madam Speaker, which came out clear in the process is that, yes, as much as we would want to empower our youth they also need to learn to adhere to agreements, Hon. Speaker.

When you claim you are protected under law that does not mean you go against any agreement you have made, Madam Speaker, it is right we put things straight. You are committed to a contract, you honor that contract Madam Speaker, to its fulfilment Because Hon. Speaker, one thing which came out, the Chief Officer stated that on several occasions he has been requesting the youths to visit his office and do a review of the event. Where there were failures they agree that yes, here we failed and we can correct but instead our youth felt yes, this Assembly can protect them from an illegality Madam Speaker. I call it an illegality because he challenged them on the very day, someone who was supposed to be a floor Mc something like that was busy moving around Machakos Town in a Safaricom van and at that time he is supposed to be at the Amphitheater at the People's Park.

So, Hon. Speaker, well I tried to advise the group that in future Madam Speaker, if you have an agreement please honor it. So it is on this note I would want this Hon. House and my mind is very clear that the right person who is supposed to be blamed is the department of finance because that department every Chief Officer is crying; we do requisitions nothing is forthcoming Madam Speaker.

So, I think through this report we need to engage that department, the CEC, the Chief Officers and any other person who is responsible. We can have a committee of the whole House Madam Speaker, because this thing is really giving pressure to innocent people. It is something now I have observed and I think if we want to correct issues and the way the county is run let that department learn to relieve pressure from innocent people. Thank you, Hon. Speaker.

**Hon. Speaker:** Thank you, Hon. Mitaa. Hon. Matei you wait awhile I will come back to you. Hon. Deputy Speaker?

**Hon. Museku:** Thank you, Madam Speaker, for giving me this chance to speak. Madam Speaker, first of all I would like to thank the Chairperson Hon. Betty and the entire team for the good job they have done in ensuring that they immediately went through the Petition and followed it through to a logical conclusion Madam Speaker. Two things which have come out that I have noted in that report Madam Speaker, is that first and foremost most Hon. Members have alluded to here is that it is not right for a department not to issue LSOs or LPOs to people who are working for them.

When I look at the type of work which was being done here notwithstanding that it is that it appears like there was a third party Envivo which is said here to a Nigerian promotion company which was promoting the event and I do believe that the Envivo Communications Limited had been

approached by the government or the executive for them to come and sponsor this event and had agreed to sponsor the event. So, in actual fact, therefore, there should have been an agreement between the executive and Envivo Communications Limited and then further agreement between the government and the youths. That should have been what should have been done and put clearly.

The Chief Officer seems to be saying that Envivo up to now has not paid anything and if there was a legally binding document between the county government and Envivo then by now they should have executed that document and ensured that they got payment from this Nigerian company. It appears now we are paying from county funds monies which should have been paid by the sponsor from what I can get from this report. That these funds should have actually been paid by Envivo and now the County Government is paying because the Chief Officer said that the department has not received any funds from the sponsor. So there is need to get clarity on that item of Envivo and how the relationship was between Envivo and the county government and the county government and the youths.

That notwithstanding, I agree with Hon. Moses Mitaa that sometimes the blame is being taken where it is not supposed to be. If the Chief Officer managed to show the committee that he had requisitioned for funds to make payment for this and that the funds are not coming from the other side, then even as we also blame the department of finance we need to find out was there a budget item for these funds? Because where there comes a sponsor, it means that somebody has sponsored this thing and if he has sponsored this thing it could be outside the budget line.

Envivo could have come and said as a company we are sponsoring this event to the tune of Ksh. 5 million and therefore, if there is no budget line the department goes ahead and says fine since we have a sponsor now we have additional funding coming in this sponsor will give us this money and we will be able to pay. So now when they do the requisition to the finance team and the finance team does not have a vote line against which to pay then the delays will occur. My question or my concern is really on where the departments have a vote line and the payments are not done on time.

Many Chief Officers have complained that first and foremost, you have a budget line and you still need to seek for approval before you can spend money on your budget line. To me once the County Assembly approves the budget and it is uploaded in the IFMIS the approval has been given by the County Assembly and an Appropriation Bill which is read here as an authority to utilize funds or to remove funds from CRF for the various vote heads and that approval is granted by the County Assembly of Machakos, for example, for Machakos affairs.

There should be no other person being referred to in as far as that department is concerned in executing the plans as they have been put in that department. That is the reason why we requested, as a budget committee, that we will need to see the uploaded figures which have been put in IFMIS and given to the specific departments so that each Chief Officer is aware about the obligations which they have and the amount of money which has been given and how much they are supposed to spend.

It does not make sense therefore, for a Chief Officer who is the accounting officer to have a vote line with money and he cannot spend before he is told to spend on items which he budgeted for. It is like being told you budgeted for money for electricity but when the electricity bill comes you are told before you pay Kenya Power come back to us and tell us you are paying Kenya Power yet you have a vote line written electricity and money allocated there.

So I am looking at this report and I am saying they have done a very good job; I am also seeing they have also gone ahead and laid blame where it is supposed to be laid, where the youth did not, for example, provide proof. You can see the committee actually did a very good job because they told them to substantiate. Where you say the Chief Officer is biased show us proof that he is biased. They could not substantiate, where they say the Chief Officer did this and they have put it in the report that the

petitioners did not provide information to support prayer No. 2 on priority and inclusivity of the youths of Machakos County.

There was no evidence of discrimination against the petitioners by the department, further there was no evidence provided to support prayer number three on the leadership of the department of tourism. That is why I am applauding the committee, because if they just took it superficially then you will be then castigating a Chief Officer who is actually does not have anything to do with whatever they use, sometimes our youths they can get carried away and write things and say all this Chief Officer is discriminatory, he does not give priority to people from Machakos but when they are told show us proof they cannot be able to show proof.

The evidence which was given by Hon Moses Mitaa, of a youth being in a Safaricom van and he is supposed to be in Machawood, that talks about double payment; he has signed a Memorandum of Understanding with the government that he should be in Machawood and at the same time he is now performing for Safaricom in Machakos town. So, you are in two places at the same time; you are being paid by Safaricom and then you come and claim for payment for somewhere you should have been a DJ in Machawood.

So I think these things needs to be investigated and I applaud the committee if the recommendations which they have come out with here are followed, ensuring that there are LPOs which are issued and ensuring that the outstanding dues which are durely payable to these youths are done then we will be able to get this done and completed with. I applaud the chairman and the committee for a job well done. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Museku. Hon. Hellen Matei.

**Hon. (Ms.) Ndeti:** Thank you, Madam Speaker. I also want to applaud the committee because I know we took a bit of time to understand what was going on and at the end we were able to come up with this beautiful report that you are going through. I hate to repeat what I wanted to say because *Mheshimiwa* Museku kind of touched on it because I was trying to understand the Nigerian contractor who I thought had contracted these youth and who are imagined should have been the one to pay the youth but I think maybe in the future we should be able to ask for documentation so that we can understand the process. We are only assuming.

The other thing I would recommend is that in future procedures by this departments must be followed to ensure that at least there is a contract well-drawn, well-signed and there are funds before you commit public funds. I think what is happening is once we pass the budget and money is already allocated to the various departments, it seems that, that money does not reach the department, it goes somewhere and that is why as a county we are going to spend a lot of time going through Petitions for nonpayment.

So, this is something which should be investigated and if for sure it is happening that funds made to assist various departments with the delivery of service are not reaching them on time, then this must stop. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Matei. Hon. Members, we want to address the members who are in the extended sitting, we have Hon. Benedette Mueni.

**Hon. Ms. Mueni:** Thank you, Madam Speaker. Mine is to add on what the report says that we did a lot of work to get the truth because the youth was complaining and the Chief Officer was complaining so we had to call them in one place to get the truth and we did so. So, when they came the

youth were not transparent so we had to let them talk, there was a lot of problem of not understanding one another.

The youth were saying that the Chief Officer had called some of the people and paid them and the youth were complaining so, as *Mheshimiwa* Mitaa has said they were not understanding one another and we told them to go back and sit in one place so that the Chief Officer can talk to the youth and not to throw them outside the county to continue making them work with the county so that they can be paid. Most of our work was the youth to be paid. Thank you Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Benedette Mueni. Hon. Johana Munyao.

**Hon. Munyao:** Thank you, Madam Speaker. I stand to applaud the committee on culture and tourism for the nice report. Madam Speaker, on behalf of this extended chamber, I would request because there has been some problem on network such that when we are sited here sometimes we are unable to access some of these report and we only try to follow we see how we can be able to engage with our ICT team to make this extended chamber as comfortable as the main chamber. Madam Speaker---

**Hon. Speaker:** Hon. Johana Munyao that one is noted and will be taken up with the Table Clerks. Dominic and Mr. Mutisya make sure that we have Wi-Fi services in the extended chamber. Proceed Hon. Johana Munyao.

**Hon. Munyao:** Thank you, Madam Speaker, for the quick action. Madam Speaker, after following on that report, I have captured two issues; one, that there is need to sensitive these youths so that they can be able to have a smooth transition from classroom to the job market and be able to honor and know that there are guidelines which governs some contracts and be able to honor the said contracts. Madam Speaker, it is very evident or rather, I would say it was not very clear on whether the procurement process was followed and because I understand in any procurement process, there is some authority either a team in the name of inspection team, which is supposed to certify that the services rendered warrant payment.

At the same time if that is not done and with the ignorance of the same youths, again on the other side there are some departments, which can also take advantage of a such ignorance. So, it is very important we have sessions to sensitize the youth on the various procurement processes and the need to honor the procurement processes and be very keen in offering the services and on the other hand it is also very important for the departments concerned to ensure that if services are rendered, funds are available, they have been committed and youths because we are meant to empower them are paid their dues because that is the only way we can be able to empower them and encourage them to engage even in future contracts.

So, empowerment is very key in our county regarding our youths and therefore there is need to empower them and engage them seriously and honor what is due to them. Thank you, Madam Speaker. I wish to support the report by youth, and culture committee. Thank you.

**Hon. Speaker:** Thank you, Hon. Johan Munyao. Hon. Moffat Maitha.

**Hon. Maitha:** Thank you, Madam Speaker. Madam Speaker I first want to congratulate the committee for a very good work done. Secondly, Madam Speaker, we have as an assembly been talking about non-payment of dues from the county government for a long time. It is in not only this

department, which is not paying, but also almost all the departments are not paying. It is time this Assembly takes a firm step to make sure that whatever work is given or contracts are given, money is paid promptly.

I cannot agree with the Deputy Speaker and the Majority Whip for the lamentation that the Chief Officer has no power. Why did he in the first place give the contract to the youth? If there is a Chief Officer who is a hindrance to the development of Machakos County, why can't they bring a motion of censure so that we can impeach one CO to make sure that all others toe the line? Madam Speaker, this is not time for lamentation now; any officer who is not performing his duty let us impeach that officer. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon Maitha. Hon. Dominic Ndambuki.

**Hon. Ndambuki:** Thank you, Hon Speaker, for the opportunity to contribute to this debate. I wish to support the report that has been tabled before the House by the committee on youth, sports and culture. Madam Speaker, as we talk about youth, we are talking about young people who have a long way to go in life and people that we need to support in endeavors that they do as they try to make ends meet. Madam Speaker, it pains when we see young people who have volunteered to take part in county events and they go unpaid. I wish to call upon all departments to ensure that they pay people who participate in one way or another in events or activities in this county government promptly so that they can also pay bills where they are owed money.

Madam Speaker, again if we want to nurture talent in this county, one way of doing it is by encouraging young and upcoming artists and we can encourage them by paying them promptly their allowances so that they can be able to perform in the next event where they are called upon. That notwithstanding, Madam Speaker, it also calls for discipline on the side of the artists; to ensure that they adhere to all contractual contents and items.

So where one party contravenes, then the law has to take its course but where they have followed everything to the letter then they have to get what is due to them. I call upon this House to be strict on issues where people have been engaged and they do not get what is rightfully theirs where a contractual agreement has been reached. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Dominic Ndambuki. Hon. Betty the mover of the motion can you reply.

**Hon. (Ms.) B. Nzioki:** Thank you, Madam Speaker. I want to take this opportunity and thank this Hon. House for the support of this report. Hon. Speaker, it is my humble request to the executive because we all belong to Machakos County, we are here to work for our people that they can be paying pending bills. Hon. Speaker, I know that you know we have been having this issue of pending bill within our county, of which I can say it was a thorn in the flesh and one thing I know is that His Excellency the Governor has a lot of passion to empower the youth and it is the responsibility of the Chief Officers whom I know are the accounting officers to take up the responsibility to make sure that we nurture our youth not only in this department but also in all departments within our county.

Madam Speaker, the way Hon. Ndawa was saying even in terms of procurement and tendering there is that provision that provides for the women, for the youth and for the people living with disabilities. Madam Speaker, that is something we should set as a pace as Machakos county we can set a

good example by giving the opportunity to those people because I know this is the passion of our Governor and us all as Machakos county people. So, thank you very much Hon. Speaker and for the entire House. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon Betty.

*(Question put and agreed to)*

### ADJOURNMENT

**Hon. Speaker:** So, Hon. Members, at this point the sitting of the House is adjourned and it is going to resume on the 11th day of August, 2020, at 10.00 a.m. Have a blessed evening.

The House rose at 4.10 p.m.