

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

**OFFICIAL REPORT**

**Wednesday, 21st November, 2018**

The House met at 10.57 a.m.

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

**PRAYERS**

**Hon. Speaker:** Good morning, Hon. Members. I render the apology of the Chair and the Clerk's office for starting a little bit late this morning. The Clerk and I were handling some administrative issues and all about the operations of the Assembly so we were still at work we were not just sitting; accept the apologies. Thank you, Mr. Clerk, please proceed.

**PAPER LAID**

REPORT OF FINANCE AND REVENUE COLLECTION COMMITTEE OF THE SECOND ASSEMBLY ON THE VETTING OF THREE NOMINEES FOR THE POSITION OF CHIEF OFFICER

**Hon. Speaker:** Hon. Members, under this Order, we have one business by the Hon Stephen Mwanthi, Hon. Stephen Mwanthi.

**Hon. Mwanthi:** Thank you, Madam Speaker. Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Wednesday, the 21st day of November, 2018; the report of Finance and Revenue Collection Committee of the Second Assembly on the vetting of three Nominees for the position of Chief Officer. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Stephen Mwanthi. Mr. Clerk, proceed.

**NOTICE OF MOTION**

REPORT OF FINANCE AND REVENUE COLLECTION COMMITTEE OF THE SECOND ASSEMBLY ON THE VETTING OF THREE NOMINEES FOR THE POSITION OF CHIEF OFFICER

**Hon. Speaker:** Hon. Members, under this Order, we have one business by the Hon. Stephen Mwanthi, Hon. Stephen Mwanthi.

**Hon. Mwanthi:** Thank you, once more.

Hon. Speaker, that aware that section 45(1)(a) and (b) of the County Governments Act 2012 requires the Governor to nominate qualified and experienced County

Chief Officers from among persons competitively sourced and recommended by the County Public Service Board with the approval of the County Assembly; Aware that H.E. Dr. Alfred Nganga Mutua, the Governor of Machakos County submitted to the County Assembly a list of nominees for vetting for the position of County Secretary and Chief Officers on 1<sup>st</sup> August, 2018;

Aware that three nominees were committed to the Finance and Revenue Collection Committee on 7<sup>th</sup> August, 2018 pursuant to Standing Order 42(1) for vetting and approval;

Noting that the Committee conducted approval hearings of the nominees on 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> November, 2018 and that it has compiled a report;

Hon. Speaker, I wish to give notice of motion that this Hon. House discusses and approves the Report of Finance and Revenue Collection Committee of the Second Assembly on the vetting of three nominees for the position of Chief Officer.

Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Stephen Mwanthi. Mr. Clerk, proceed.

### MOTIONS

#### ANNUAL CONTROLLER OF BUDGET REPORT 2017/18

**Hon. Speaker:** Hon. Members, under this Order, we have two business, the first one is by the Hon. Dominic Ndambuki and the next one is by the Hon. Peter Mutiso. Hon. Ndambuki.

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

Madam Speaker, that aware that the Controller of Budget prepares a report in conformity with Article 228(6) of the Constitution of Kenya, 2010 and Section 9 of the Controller of Budget (CoB) Act, 2016, which requires the Office of the Controller of Budget to submit to each House of Parliament a report on the implementation of the budgets of the National and County Governments every four months;

Aware that the report also satisfies Section 39(8) of the Public Finance Management (PFM) Act, 2012, which requires the Controller of Budget to ensure that members of the public are provided with information on budget implementation;

Noting that the Committee on Budget and Appropriations main objective is to ensure that public funds are well utilized and that the public realizes value for money in all government expenditure and that the basis of the Committee's execution of its mandate is annual and on special reports;

Madam Speaker, I wish to move the motion that this House considers and adopts the report of the Committee on Budget and Appropriation on the Annual Report of the Controller of Budget for the 2017/18.

Thank you, Madam Speaker. I wish to call upon Hon. Thomas Mutinda to second.

**Hon. Speaker:** Thank you, Hon Ndambuki. Hon. Mutinda, are you willing to second? Proceed.

**Hon. Mutinda:** Thank you, Madam Speaker. I am on the floor to second the motion. Thank you, Madam Speaker.

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

**Hon. Ndambuki:** Thank you, Hon. Speaker. I am going to read.

**Hon. Speaker:** Point of order, Hon. Majority Leader.

**Hon. Muendo:** Thank you, Hon. Speaker. I think we do not have copies of the report.

**Hon. Speaker:** Sure? Hon. Ndambuki maybe, of course, it is the office of the Clerk that is supposed to do its work.

*(The Report was circulated distributed to Hon. Members)*

I know the office of the Clerk has a lot of paperwork to prepare but it is always best practice if the members get these papers every time before we start these proceedings. Every member now has the report? So, Hon. Ndambuki, you can proceed.

**Hon. Ndambuki:** Thank you Madam Speaker, I am going to read the Report of The Budget and Appropriation Committee on the Annual Report of The Controller of Budget 2017/2018.

#### *OVERVIEW*

Madam Speaker, the 2017/18 Annual Report of the Controller of Budget was received on 26<sup>th</sup> October, 2018 and committed to the Budget and Appropriation committee. The annual report of the Controller of Budget is prepared in accordance with Article 228(6) of the constitution, and Section 9 of the Controller of Budget Act, 2016 and section 39(8) of the Public Finance Management Act 2012.

#### *MANDATE OF THE COMMITTEE*

Madam Speaker, the Budget and Appropriation Committee derives its mandate from Standing Order 186(3)(a) that states that ‘there shall be a select Committee to be known as the County Budget and Appropriations Committee which is mandated to, investigate, inquire into and report on all matters related to coordination, control and monitoring of the County budget.’

Madam Speaker, the main objective of the committee is to ensure that public funds are well utilized and that the public realizes value for money in all Government expenditure. The basis of the Committee’s execution of its mandate is annual and on special reports.

#### **COMMITTEE MEMBERSHIP**

Madam Speaker, the committee as constituted by this Assembly comprises of the following members.

- |    |                       |                 |
|----|-----------------------|-----------------|
| 1. | Hon. Dominic Ndambuki | Chairman        |
| 2. | Hon. Thomas Mutinda   | V/ Chair person |
| 3. | Hon. Paul Museku      | Member          |

4. Hon. Margaret Mwikali “
5. Hon. Angela Munyasya “
6. Hon. Ikusya Kaloki “
7. Hon. Jacqueline Nziva “
8. Hon. Moffat Maitha “
9. Hon. Daniel Mbevi “

### *BRIEF ON THE ANNUAL REPORT OF THE CONTROLLER OF BUDGET FY 2017/2018*

#### *INTRODUCTION*

The Controller of Budget report has been prepared in conformity with Article 228 (6) of the Constitution of Kenya, 2010 and Section 9 of the Controller of Budget (COB) Act, 2016, which requires the Office of the Controller of Budget to submit to each House of Parliament a report on the implementation of the budgets of the National and County Governments every four months.

The report also satisfies Section 39(8) of the Public Finance Management (PFM) Act, 2012, which requires the Controller of Budget to ensure that members of the public are provided with information on budget implementation. The report covers all the 47 counties but the brief singles out Machakos County as a reporting entity.

#### *MACHAKOS COUNTY APPROVED BUDGET FY 2017/2018*

The County's 2017/18 Approved Supplementary Budget was Ksh. 10.08 billion, comprising of Ksh. 7.01 billion which translates to 69.6 per cent and Ksh. 3.07 billion translating to 30.4 per cent allocation for recurrent and development expenditure respectively.

To finance the budget, the County expected to receive Ksh. 7.40 billion (73.4 per cent) as equitable share of revenue raised from National Government, Ksh. 1.03 billion translating to 10.3 per cent as total conditional grants, again the county expected to collect Ksh. 1.59 billion translating to 15.8 per cent from own source revenue, and an additional Ksh. 51.74 million translating to 0.5 per cent cash balance carried forward from 2016/17.

The conditional grants contained in the CARA, 2017 comprised of:

- a) Ksh. 288.39 million translating to 27.9 per cent from the Road Maintenance Fuel Levy Fund.
- b) Ksh. 24.13 million translating to 2.3 per cent as Compensation for User Fees Foregone.
- c) Ksh. 19.54 million translating to 1.9 per cent from DANIDA.
- d) Ksh. 383.58 million translating to 37.1 per cent for Machakos Level V Hospital.
- e) Ksh. 95.74 million translating to 9.3 per cent for leasing of medical equipment.
- f) Ksh. 49.89 million translating to 4.8 per cent for the World Bank Kenya Devolution Support Program.
- g) Ksh. 65.96 million translating to 6.4 per cent for Development of Youth Polytechnics.
- h) Ksh. 65.59 million translating to 6.3 per cent as World Bank loan for transforming health system for Universal Care System.
- i) Ksh. 40.56 million translating to 3.9 per cent as Other Loans and Grants.

### *MACHAKOS COUNTY APPROVED BUDGET 2017/2018 PERFORMANCE*

Madam Speaker, this has been classified into two broad sections namely revenue and expenditure.

#### *REVENUE PERFORMANCE*

According to the Report of the Controller of Budget Machakos County collected local revenue of Ksh. 1,063,726,784 in the 2017/2018. The analysis shows that Ksh. 103,899,248 was collected in the first quarter, Ksh. 197,590,594 was collected in the second quarter, Ksh. 331,720,932 was collected in the third quarter and Ksh. 430,516,010 was collected in the fourth quarter respectively. This was against a target of Ksh. 1,594,386,715 translating to a performance of 66.7 per cent

#### *EXCHEQUER RELEASES FROM COUNTY REVENUE FUND*

During the period under review the county received a total of Ksh. 8.01847 billion. This consisted of Ksh. 6.472 billion as recurrent and Ksh. 1.546 billion for development expenditure. The County Assembly received Ksh 943.99 million consisting of Ksh. 770.67 million for recurrent and Ksh. 173.31 million for development expenditure.

#### *EXPENDITURE*

The total expenditure in the FY 2017/2018 was Ksh. 7,402,380,000 consisting of Ksh. 4,834,560,000 as personnel emoluments, Ksh. 1,546,050,000 for operations and maintenance and Ksh. 1,021,770,000 for development expenditure.

The overall absorption rate was 73.4 per cent. The County absorption rate in the recurrent expenditure was 91.0 translating to 86.5 per cent of the total expenditure and development of 33.3 per cent translating to 13.8 per cent of the total expenditure.

Madam Speaker, the MCAs sitting allowances had a budget allocation of Ksh. 36,691,403 and an actual expenditure of Ksh. 19,018,780 translating to a 47.9 per cent absorption rate or an average of Ksh. 26,415 monthly sitting allowance per MCA. Madam Speaker, the ideal average should be Ksh. 80,000 as per the SRC circular.

In the 2017/2018 the pending bills amounted to Ksh. 975.46 million consisting of Ksh. 167.65 million for recurrent and Ksh. 807.81 million for development.

#### *COMMITTEE OBSERVATIONS*

- 1) The County had an actual development expenditure of Ksh. 1.02176 billion against an actual total expenditure of Ksh. 7.40238 billion in the 2017/18 translating to 13.80 per cent of total expenditure contrary to the principles of public finance set out in section 107(2)(b) of the Public Finance Management Act 2012, which provides that over the medium term a minimum of 30 percent of the county Government's expenditure shall be allocated to development.
- 2) The Department of Public Service, Labour and ICT had the highest percentage of recurrent expenditure to recurrent budget at 971.4 percent. The Committee noted that, the Treasury unlawfully authorized actual recurrent expenditures of Ksh. 4.547 Billion in the Department of Public Service and ICT against an approved recurrent budget of Ksh. 468 Million and Exchequer

releases of Ksh. 408 Million. This is contrary to section 196 of Public Finance Management Act, 2012.

- 3) The Executive has failed to control the expenditure on wage bill was Ksh. 4.83 billion compared to a total expenditure of Ksh. 7.40238 billion translating to 68.07 per cent of the actual total county expenditure. The Public Finance Management Act 2012 Regulations provides a ratio of at most 35 per cent of the actual total recurrent expenditure.
- 4) The allocated recurrent budget for the Health and Emergency Services department was Ksh. 3.00012 Billion. During the same year Exchequer issues amounted to Ksh. 2.95533 Billion yet actual expenditure in that Department was Ksh. 276.26 million.
- 5) In the year under review, the County had pending bills amounting to Ksh. 975.46 million. The committee noted that the COB through a letter Ref. COB/CIR/002/Vol.1, requires that pending bills should be settled before the end of 2017/2018, and if not sufficient budgetary allocation should be provided for in the 2018/2019.
- 6) Seven departments did not have Exchequer issues on development though the report shows that they had development expenditures as follows:
  - a) Office of the Governor- Ksh. 13.32 Million
  - b) Trade investment economic planning and energy- Ksh. 0.45 million
  - c) Finance and revenue management- Ksh. 21.5 million
  - d) Decentralized units, county administration, environment and solid waste management –Ksh. 41.31 million
  - e) Lands, energy and urban development- Ksh. 40.42 million
  - f) Tourism, sports and culture- Ksh. 9.62 million
  - g) Public service, Labour and ICT- Ksh. 6.21 Million
  - h) Health and Emergency Services had development Exchequer issues amounting to Ksh. 133.01 million while the actual expenditure was Ksh 159.78 million.
- 7) There was under performance in the collection of local revenue as it was the lowest ever since inception of the County Government in the year 2013. The County collected Ksh. 1.06 billion in 2017/18 representing a decline of 15.5 per cent compared to Ksh. 1.26 million generated in 2016/17
- 8) A list of development projects with highest expenditures undertaken during the financial year was neither provided to the Controller of Budget nor the Budget and Appropriation Committee. The Committee has noted that the Executive has failed to comply with Section 104(1)(r) of the Public Finance Management Act, 2012 which provides for regular reporting to the Assembly on the implementation of the annual County budget.
- 9) Actual DANIDA receipts amounted to Ksh. 30,290,934 against a budget of Ksh. 19,542,538. This reflects an additional Ksh. 10,748,396 received by the Executive, over and above the budgeted amount.
- 10) The Executive has failed to establish an internal Audit Committee contrary to Section 155 of the PFM Act, 2012

### RECOMMENDATIONS

Madam Speaker, the following are the recommendations:

1. The Executive should develop and implement strategies to enhance local revenue collection leading to a drop in local revenue collection from Ksh. 1.259 Billion in 2016/2017 to Ksh. 1.063 Billion in 2017/2018 translating to a drop of 15.5 per cent hence negatively affecting implementation of Development projects.
2. The County Executive should put in place adequate budgetary control measures to ensure expenditure was within the approved budget. For instance, in the FY 2017/2018, the allocated recurrent budget for the Health and Emergency Services Department was Ksh. 3.Billion. During the same year Exchequer issues amounted to Ksh. 2.955 Billion yet actual expenditure in that Department was only Ksh. 276 million.
3. The committee observed that the County had no Internal Audit Committee. This exposes the County Treasury to abuse due to weak internal controls. The county should establish an internal audit committee within the next 60 days after adoption of this report; this is to align with section 155 of the PFM act 2012.
4. The committee observed that there have been delays in submission of quarterly financial reports to the Assembly. In line with section 166 of the PFM Act 2012 the committee recommends that the County Treasury observes timely submission of these reports to the Assembly and the Controller of Budget.
5. The County Treasury should come up with a strategy on how the pending bills of Ksh. 975.46 million will be cleared by the County departments to conform to the directives of Controller of Budget.
6. Money requisitioned from the Exchequer should be utilized for the purpose it was meant for to avoid accumulation of pending bills and efficient service delivery.
7. The committee requires the Executive to provide information on how the additional funds for DANIDA were utilized within 14 days after adoption of this report and whether an appropriation request for the same was brought to the assembly for approval. The Committee further recommends that going forward, the County Government should ensure that conditional grants are spend as per the conditions given to ensure continuity of funding and such details be forwarded to the Budget and appropriation Committee.
8. The Committee requires the Executive to provide detailed information on how and why the Department of Public Service, Labour and ICT exceeded the recurrent budget allocation of Ksh. 468.1 million by spending a total of recurrent expenditure of Ksh. 4.54701 billion. The report should be submitted within 14 days after adoption of this report.

### ACKNOWLEDGEMENT

Madam Speaker, the Budget and Appropriation Committee is grateful to the Office of the Speaker and that of the Clerk to the County Assembly for facilitating the committee to undertake its mandate. I wish to express my appreciation to the Hon Members of the Committee who sacrificed their time to participate in the meetings and in preparation of this report.

Madam Speaker, it is therefore my privilege, on behalf of the Budget and Appropriation Committee to table the Annual Report of the Controller of Budget for the 2017/18 in this Hon House for consideration and adoption. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you very much, Hon. Dominic Ndambuki.

*(Question proposed)*

Hon. Members, I invite you to debate the report that is already laid before you. Hon. Kalumu.

**Hon. Kalumu:** Thank you, Madam Speaker for the chance. Madam Speaker, I want first of all to congratulate my brother Hon. Dominic for bringing such a good report showcasing on the use of our money, our resources in this county. Madam Speaker, in the beginning of the world and Book of Exodus, Moses was seen going to the mountain and coming down with the Ten Commandments and after coming with them, he found that the people of Israel who were coming from Egypt started using other ways, worshipping idols which to me, translates into something in this county.

*(Applause)*

Madam Speaker, the rule of law in Machakos County does not work; Machakos money is meant to benefit the people of Machakos, the resources that we get from the exchequer and the collection of revenue that is gotten from the people of Machakos should go back to give services to them.

Madam Speaker, this House passes appropriation laws to put it clear on how the resources of this county are used but if you look at this report, it is not writing so ideas of this House but from the Controller of Budget. It stipulates very well that there is misappropriation of funds in this county, yet the law is there yet when we point out such kind of issues this county is said is on wrangles with the executive. Madam Speaker, I want to clarify that it is the mandate of the House to put the executive in check so that they may not continue doing what they are doing now.

If you look at the money from DANIDA, this County, through the department of health used additional Ksh. 10 million without approval of this House. Any money that comes after the Appropriation Act should wait for the approval for the next supplementary budget but we can see very well that money was used without approval of this House. So anything which we pass or which is to be passed by this House, is not taken care of by the other side.

Madam Speaker, the principles of separation of power is not practiced in Machakos; you can see very well by the presentation of this report, it has presented very well that they collect, they receive, they allocate for themselves and they approve for themselves. That is making or trying to show that this House is irrelevant of which is contrary; this House, Madam Speaker, is the one which has the mandate to approve any budget for this county.

*(Applause)*



Looking again at the appropriation of the department of labor, you find that they could take money from each, anywhere from the departments listed and take it to the department of labour up to an amount of Ksh. 4.5 billion.

**Hon. Speaker:** Point of order from Hon. Stephen Mwanthi.

**Hon. Mwanthi:** Yes, please. Thank you, Madam Speaker. I am standing on Standing Order 51 on amendments to a motion. 'Unless otherwise provided in these Standing Orders, any amendment to a Motion which a Member wishes to propose in accordance with these Standing Orders may be moved and, if necessary seconded at any time after the question upon the Motion has been proposed and before it has been put.'

So, I was requesting for an amendment, Madam Speaker, in the recommendations of the committee whereby in the Controller of Budget report page 148, development money of youth polytechnics at the table 3.6.4 page 148, you will realize that in the report Ksh. 65,957,023 has already been absorbed 100 per cent, Madam Speaker and everyone is aware that last week there was a reply to a Statement that was written by Chief Officer education in August I think 7th whereby he had replied to a Statement on what happened to this fund and the reply was that they were still trying to prepare a vote line.

That was the response we have the same with us and it is evident that the money was already spent by the time the county government or executive was presenting this report to the Controller of Budget meaning the money was already spent but the Chief Officer decided to tell lies to this House, Madam Speaker. So, I think it is good for the same person to explain to the House how he was trying to make the vote line yet it is evident here this money was already spent. Thank you, Madam Speaker.

**Hon. Speaker:** Hon. Stephen Mwanthi, can you be clear won what proposed amendment; how do you want the motion to read?

**Hon. Mwanthi:** In the recommendations---

**Hon. Speaker:** You want it to be on the recommendations?

**Hon. Mwanthi:** Yes. So that the person may answer to this House how he decided to lie to the House or where the funds went, the Ksh. 65 million. I think somebody should answer to the House what happened to the funds because our students did not get the funds and in his report which I think I saw he had replied to the House on August sometimes after August, he said he was still trying to for a vote line yet here the money has already been spent. So, it is good for the same Chief Officer to reply to the House why he decided to tell lies.

**Hon. Speaker:** So, what is your justification of seeking an oral amendment? What is your justification because you must justify it under Standing Order 52?

**Hon. Mwanthi:** 51.

**Hon. Speaker:** What is your justification?

**Hon. Mwanthi:** I think it was an omission by the committee that maybe they did not manage to note that.

**Hon. Speaker:** Point of information from Hon. Museku. Hon. Museku sits in that committee. Go ahead you might make things clear to him.

**Hon. Museku:** A point of information to him. I think what the Hon. Member is trying to say from what I have seen in the report is that he need as one of the recommendations to be put that the amount of Ksh. 65 million which was allocated for vocational training and has been reflected as having been utilized and a Statement was put before this House as evidence, he requested a Statement before the House and a response of a Statement was made before this House explaining what happened to those funds but what is coming out from the Controller of Budget is that that was not the actual happening.

So, he is saying that as a recommendation here it need s to be added as one of the recommendations that the Chief Officer who is in charge of education needs to, within maybe fourteen days, explain to the House why he decided to tell the House that the money was awaiting a vote line while the Controller of Budget had already issued the amount.

**Hon. Speaker:** I get the line now that Hon. Stephen Mwanthi has taken, but realistically he is not seeking to amend the motion; he is seeking that the discussion, the debate be conclusive because you have the report of the Controller of Budget and you noted that there is some omission which you feel ought to be included on the discussion so that as the House takes a resolution, it is captured and that should be in order because this is why the matter is before the House for debate because as long as you are able to rely or to refer to the Controller of Budget report and say that there is something that was left by the committee, it is human to error and to leave out some things but you have the guiding document which is the Controller of Budget report.

So, it is in order if a member feels.... in fact, you do not need to seek an amendment; you just contribute and say, yes I support or I do not support and I want this added or I want this subtracted so that when the communication is being done we will go to the HANSARD and of course the office of the Clerk will capture even such critical additions by the members on the floor on the debate.

So, it is in order; you are not going to seek an amendment but you will contribute and I think you will have to do it at your right time because some member was on their feet. So, we can continue.

**Hon. Mwanthi:** Thank you, Madam Speaker for the guidance.

**Hon. Speaker:** Hon. Kalumu, please proceed.

**Hon. Kalumu:** Thank you, Madam Speaker. I would like to add and say that this report has shown quite a number of unlawful deeds which the executive did not follow and when we say unlawful, it means that the law was not followed on transformation of the budget to real use and the question is; how then does it happen and when such a report comes to this House and is approved then who is the law enforcer because something has happened here like economic

crime because if you look at the report, you will find even seven departments received money which they did not have an allocation for.

I am so much amazed that somebody with good thoughts and sound mind can do such a thing. If you look again at the report of health, you find that health is a very crucial matter in the county because a healthy county transforms to a very productive county but the allocation which was meant for health, imagine, Madam Speaker, was deducted and taken to other use and our hospitals around Machakos county do not have medicine, crucial medicine for ailments of our residents.

So, it brings to the attention of this House that whatever we pass here as a budget calling it itemized budget, that when we pass it here it will go and do all the projects and bring all everything that is needed for service delivery to our residents does not work. There is hearsay that even the departments themselves, Madam Speaker, do not receive their allocations; their own allocation the money is done is allocated at the Governor's office and nothing goes to the departments. That even the CECMs are just there by virtue of being there; they do not receive their allocations.

Madam Speaker, we need to be serious on these things and again we will be forced to bite again, because we did and I think that will be our way of doing things because we are talking as the approval body and when we talk of things, they are propagated on the other side as rumours, as things which are not lawful yet we are the people who are talking sense to the people.... defending the welfare of Machakos people. It is time, it is time that we say such kind of deeds should not be allowed to happen in Machakos county Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Kalumu. Hon. Cosmas Masesi.

**Hon. Masesi:** Thank you, Madam Speaker. First, I want to appreciate this committee of Budget led by the Hon. Chair, Hon. Ndambuki, for giving us the extracts from the CoB report. Madam Speaker, today I want to challenge our Hon. Members, brothers and sisters from the other side of the Minority side. Madam Speaker, this is a report which is free from all kinds of bias; this is a report from an entity which does not even know there are wrangles in Machakos. This is a report which clearly shows that, we have nothing like the budgetary control measures which is messing---

*(Applause)*

Madam Speaker, this is the act which is messing the whole process of the budget. It is too unfair for this Assembly to be sitting for a period of four months to look at a budget, examine the budget, do amendments and implement but, at the end of the day nothing is taken care out of the budget. The budget is not followed at any given time.

Madam Speaker, if you look at the report of the CoB and you compare with the other neighboring Counties like Kitui and Makueni, in fact, it is only Machakos which we had gone for 30 percent in terms of development. Kitui had gone for 40 percent for the main budget as development. If you look at the absorption rate, Madam Speaker, 13.3 per cent on development and we are seated here as Members, Madam Speaker; there is nothing being done on the ground.

*(Applause)*

Madam Speaker, it worries us much and I would urge our brothers and sisters; let us stand for what is right, let us be respected for what we stand for in terms of the oversight role which we have been sent here by the Members of the Machakos County. This year, 2017/2018, all documents were passed including the CIDP (??) and you can see the mess from the County Executive of Machakos County.

There has never been raised any issue of we have not passed even the budget, the CIDP, all systems we are on the right and we can see that the approved budget, the exchequer releases for development was Ksh. 1.5 billion and what was given by the Executive was Ksh. 1.02 billion. Madam Speaker, again we need to question where is the Ksh. 500 million which is not reflecting anywhere on the side of development.

This House needs to bite more besides us going for two months without pay which is too unfair even before God. Madam Speaker, when you look at the health sector, the health department received something to do with Ksh. 400 million. We need to question if these monies were received in the departments and be given details on how the money was spent.

We have Ksh. 383.58 million which was meant for Machakos Level V Hospital and again we have Ksh. 65.59 million which was meant for transforming health systems for Universal Healthcare System. Madam Speaker, on the recommendations, again we could add and be given a report on whether these monies were received and how they were spent. Clearly, Madam Speaker---

**Hon. Speaker:** Just propose what exactly you want Hon. Cosmus Masesi as your contribution. Do not just say you wish; say what you want to say.

**Hon. Masesi:** Madam Speaker, I would like we add on the same Standing Order which is Order 51, on the recommendations, we request the Department of health to tell us if they received these monies, that is Ksh. 383.58 million and Ksh. 65.59 million on the department of health and how the money was spent.

Madam Speaker, to sum up I do not know where we are heading as a County Government; we wish on the first quarter we received Ksh. 1.4 billion which was moved from 2017/18 and on the first quarter report, we are aware that we have received more than Ksh. 3.2 billion as we speak today. Madam Speaker, 30 percent of that money should go to development as per our budget which is close to Ksh. 1 billion.

Madam Speaker, the Executive needs to give a report to this Assembly and tell us how this money has been spent. It will be too bad for this Assembly to be sitting here and wait for a report like this one at the end of the Fiscal Year where we cannot do anything. We need to take tough measures on whoever will be brought as the CECM for Finance to make sure that we go by the budget.

Madam Speaker, this House should not allow at any given time kinds of these transactions; let us stick by the budgets all through our doings in Machakos and again as I finish I wish to call upon our fellow Hon. Members and we stand for what is true and God will reward us for sure. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. Masesi. Hon. Museku.

**Hon. Museku:** Thank you, Madam Speaker. I would like to just highlight on a few things on this report which came from the Controller of Budget. First and foremost, as a Finance man, it is important for Members of this Hon. House to note that when an auditor does his audit and when a Controller of Budget does their report, what they are giving you is like when you go to hospital and your blood is removed and a full blood test is done. What these people are telling you in this report and what they are reporting is the financial health status of your County.

These reports are giving you in clear words what the Executive is doing department by department. It is a report which as the Hon. Member has said, is free of bias because it is a report which comes from an entity which is not attached to Machakos, the Controller of Budget, and is giving us critical information on the performance of the County Government of Machakos, specifically the Executive.

Hon. Members, we have Committees here and I would like to make this very clear that we have sectoral Committees here and these Committees are the ones which oversight what is happening in the respective departments on the other side. If you get a report of this nature and it is affecting all your departments which your committee is in, then it is a reflection on how that Committee and the Executive oversight on the other side is performing.

When we get such a report on our side we should be supporting it with information from the Committee requesting for the anomalies which we have seen here and which I know most of them have been tabled before this House. Hon. Members, when you get a report like this which is telling you that people are spending funds, irrespective of budget allocations, people are spending funds, irrespective of even what the exchequer has issued the money for, then you come to realize that you are having an executive Committee in place which has no clue on how financial matters are supposed to be handled.

*(Applause)*

When you see a report telling you.....I just want you to understand the gravity of this. If you see a report telling you that exchequer issued Ksh. 2.9 billion in the department of Health, hat that tells you is that a requisition was made by the Executive to the exchequer for the department of health totaling to Ksh. 2.9 billion were made by the Executive. I want you to note that.

They made requisitions themselves in the department of health and forwarded those requisitions to the Controller of Budget and the Controller of Budget looked and said these are requisitions from the department of health and signed for Machakos and told the exchequer to release Ksh. 2.9 billion based on the requisitions to go to department of Health. Now, when that money is put in the department of Health as requisitioned, the person who requisitioned who is in charge of that money does not take it back to where the requisition came from but decides to take it to Public Service and ICT.

*(Applause)*

Do you understand the gravity of the issue I am talking about? That you make a requisition for the Department of Health, you take it to the Controller of Budget, the Controller of budget approves that requisition under Department of Health, tells the exchequer to release funds to the County Revenue Fund under the Department of Health; when the money is put in

the County Revenue Fund, it is removed and taken to department of Public, Labour and ICT. Why didn't you requisition it under department of Public Labour and ICT because you know the money was not budgeted for in that department?

*(Applause)*

These are serious issues. When you look at a report and it tells you that there has been no exchequer issue but a department has spent money; when you total all of them it is Ksh. 159 million was spent without exchequer issues. What does that tell you? There was no budget for that money, there was no requisition made for that money but the money was requisitioned for using other departments when it was put in the County Revenue Fund, somebody picked it and used it in areas where it was not requisitioned for and neither budgeted for.

Do those people clearly understand what financial management is all about? How do we sit here then Hon. Members, doing oversight on the Executive and I am talking specifically to my friends across on the other side.

*(Applause)*

How do we sit here and defend something like that? How can you defend something like that? Somebody requisitions for funds under a specific department and uses it in a different department; how can you defend that? What justification would you give apart from what this Hon. House did to chuck out the CECM in charge of such things?

*(Applause)*

So, what this report is saying---

**Hon. Speaker:** Point of order Hon. Museku from Hon. Ndawa.

**Hon. Museku:** Yes, Hon. Ndawa.

**Hon. Ndawa:** Thank you, Madam Speaker. Is it in order for the Hon. Member to attack people who have not even been given time to speak and we are ready to speak? We are waiting for our time; he is on his feet and he is saying people are defending people. Is it in order?

*(Laughter)*

**Hon. Speaker:** Hon. Museku.

**Hon. Museku:** Madam Speaker, I do not believe I have attacked anybody; I am just appealing to voice of reason to my brothers and asking them---

*(Applause)*

These are facts which it is not me who came out with this report, it is neither the Committee, the Majority side which came up with this report, this is a report which came from

Controller of Budget and what I am saying is, I am not accusing anybody; I am simply appealing to your sense of reason that, look some things if it is bad you simply have to say it is bad. It is that simple.

Remember we were elected by our people to come in this august House and represent them and they gave us the mandate of oversight and therefore if a report comes and tells us that the oversight that we are supposed to be doing is not being done properly, we cannot sit down and say that we are not going to keep quiet.

**Hon. Speaker:** Point of order from Hon. Tariq.

**PROCEDURAL MOTION**  
EXTENSION OF SITTING TIME

**Hon. Mulatya:** Yes. Thank you, Madam Speaker. I am guided by Standing Order 27, to seek for extension of time.

Hon. Speaker, that aware that Standing Order 27 (2), provides that the Chair shall interrupt business at 12.30 p.m. for morning session.

Aware that, Standing Order 27(3)(a), provides that, the House may resolve to extend its sitting time;

Madam Speaker, I wish to move the Motion that, the House resolves to extend its sittings time until the business in the Order Paper is completed.

I call upon Hon. Joseph Musau to second.

**Hon. Speaker:** Thank you, Hon. Mulatya. Hon. Joseph Musau.

**Hon. Wambua:** Thank you, Madam Speaker. I do second the extension. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Musau. Hon. Members, it being a procedural Motion, I just want to know from those who may have a different view from those who are proposing for extension. Hon. Ndawa.

**Hon. Ndawa:** Thank you, Madam Speaker. I wish to oppose that Motion because the Standing Order is very clear; the Motion is supposed to be moved 30 minutes before the closing time. It is already past midday; five minutes have already passed. He ought to have brought the Motion before. Exactly at noon, it is not yet noon. It is past noon.

**Hon. Speaker:** Hon. Mulatya, the Mover.

**Hon. Mulatya:** Yes. I wish to inform the Member that, when I stood or I requested to be on a point of order, it was a minute to noon.

*(Applause)*

So, I think the Member should check on his watch. I think there is a problem with his watch.

*(Laughter)*

**Hon. Speaker:** Hon. Ndawa, I just want to call upon you. Really have the interest at heart of the people that you represent. You cannot use technicalities to defeat the interest of the people. The Motion that is on the table is so critical; it is about the use of the public funds that are entrusted in the County Government and you have an oversight role to play. So, you mean to say because he rose up when it is about two minutes past noon, I looked at it.

Remember, he also took time to move the Motion eating into the two minutes after noon. You want to use that to delay and frustrate the debate on the Table? It is not fair. Hon. Members, the Motion is accepted, proceed and finalize the debate.

*(Applause)*

### **MOTIONS**

#### **ANNUAL CONTROLLER OF BUDGET REPORT 2017/18**

**Hon. Museku:** Thank you, Madam Speaker for that guidance which is very wise and timely. Madam Speaker, as I make my conclusions, I would like to say that, when---

**Hon. Speaker:** Hon. Kamitu, you have a point of order? Proceed.

**Hon. Kamitu:** Thank you, Madam Speaker---

**Hon. Speaker:** Standing on what point of Order?

**Hon. Kamitu:** Point of order is in regard to the impeachment that Hon. Museku talked about. I was on a point of order before the extension hour was given and you saw me raising my hand and it is in relationship to the statement that he made that even there was a time that an impeachment was debated in this House and my point of order was the CECM supposed to be summoned so that he may be able to answer some of the questions that we are putting across. So, is it in order---

**Hon. Speaker:** Point of information. Hon. Kamitu, please resume your seat.

**Hon. Mulatya:** I wish to inform the Hon. Member, Minority Leader and our Elder that, actually I need to remind him that Committee of the Whole House met the CECM of Finance; he was biting his tongue right, left, center and he could not express himself. So, he has been in this House and he could not even tell us about the Ksh. 1.5 billion which was allocated; he said he has only consumed Ksh. 300 million. Be informed---

**Hon. Speaker:** Hon. Mulatya, are you informing the House because of the point of order that was raised by Hon. Minority Leader that the relevant CEC Member was interrogated on this report?



**Hon. Mulatya:** Yes. Not this report but for 2016/2017. He was here with the Committee of the Whole House---

**Hon. Speaker:** On another matter?

**Hon. Mulatya:** Related to the same.

**Hon. Speaker:** Okay.

**Hon. Mulatya:** Yes.

**Hon. Speaker:** Proceed. We are not going to debate that. Hon. Minority Leader, sit down and let Hon. Museku proceed on his submissions.

**Hon. Kamitu:** But Madam Speaker, I was---

**Hon. Speaker:** Hon. Minority Leader, please sit down.

**Hon. Museku:** Thank you, Madam Speaker for the guidance to our Minority Leader. Just a clarification on that; I think what the Hon. Member is trying to say is that we actually did not on similar issues but on financial management issues called the CEC Member Finance, he appeared before the General Oversight Committee and he could not provide satisfactory answers. I think that is what the Member is saying. On cost financial things are ongoing items.

Madam Speaker, as I conclude, it is therefore annoying to see that out of Ksh. 7.4 billion which came to this County, the Executive could only absorb 68.7 percent of that amount as salaries, wages and personal emoluments; 68.07 percent. Remember, the Public Finance Management Act, 2012 stipulates 35 percent at most 35 percent of actual total recurrent expenditure at most 35 percent. We are at double the amount recommended yet we could only absorb 13 percent for development.

I want you to understand that development funds are the ones which are going to improve the livelihoods of the people we represent in this House.

*(Applause)*

The recurrent expenditure is normal recurrent, salaries and wages which come and go like the ones we have been denied but development budget is what improves on the livelihood of the people who sent us here. These are the funds which are used for water, making sure our old ladies do not go fetching water very far, these are the ones which are meant to make sure that our roads are graded, these are the funds which are meant to make sure that our health facilities are well-equipped to treat our people. These are the funds which are meant to ensure that vocational training Centers are in tip of shape.

How do we then absorb only 13 percent of funds which have been availed to do that and yet we are able to absorb 68 percent of recurrent expenditure. Why are we paying people salaries if they are not doing the work they are supposed to be doing?

*(Applause)*

How do we spend Ksh. 4.8 billion on salaries and wages and only Ksh. 1 billion in development? Ksh. 4.8 billion on salaries on wages and supporting only Ksh. 1 billion in development. What are we doing? We are moving nowhere and as an Assembly we need to sit back and do some soul searching of ourselves and say, sincerely speaking, the first quarter as the Hon. Member for Matungulu East has said, the first quarter is gone, Ksh. 3 billion have gone down the drain.

Out of that Ksh. 1 billion is development money. I would like all of us to do soul searching, every one of us; Ksh. 1 billion has been allocated for development and our Governor and his people are going round telling people that no development money is being released and we are sure the exchequer issued Ksh. 1 billion. We need to do soul searching and ask ourselves; were we truthful to our electorates when we told them that we were coming to represent them?

Are we going to sit here for another one year, go by and the entire Ksh. 4.6 billion is brought again in a report like the one which the Controller of Budget has brought, it is brought in a report at the end of the year where we will be discussing and saying Ksh. 4 billion have been absorbed yet when I go to most of our Wards here, I find nothing substantial has happened. We will be looking like we do not know what we are doing here.

Mine is to say that, Hon. Members, let us take our oversight role seriously and when it comes to oversight, there should be no Minority side and Majority side. When it comes to making sure the Executive does what it is supposed to do, when it comes to ensuring that the Executive, the funds which have been allocated by this Hon. House and the funds are allocated by both sides of the House.

So, when it comes to telling them they must account for those funds, we must speak in one voice, we must say the person who send us here must be served. Thank you, very much, Madam Speaker.

*(Applause)*

Thank you, Hon. Museku. Hon. King'ori.

**Hon. King'ori:** Thank you, Madam Speaker. Madam Speaker, this report talks clearly of what is happening on the ground, what is there.

*(Applause)*

For one, I know there is no medicine in our hospitals; I know very well Kangundo Level IV Hospital is a death sentence to our residents.

*(Laughter)*

Level V Hospital is not better than Level IV; why? There are no drugs.

*(Applause)*

Why? Only a small percentage of money which was provided for in the budget of Ksh. 3 billion (??) it is only Ksh. 276 million which was spent on buying medicine and doing other things---

**Hon. Speaker:** Hon. King'ori, just a moment. Point of order from Hon. Musyimi. On what Standing Order Hon. Musyimi you are standing on. Switch on the mic; is it on?

**Hon. Musyimi:** I am very much concerned by the words which the Hon. Member had already said. Actually, I do not think it is fair to say Kangundo Level IV Hospital is a death sentence for our Kangundo people---

**Hon. Speaker:** He has said there is no medicine. So, let him also contribute.

**Hon. Musyimi:** But actually he has used a very bad word. Thank you, Madam Speaker.

**Hon. Speaker:** Hon. King'ori, please proceed.

**Hon. King'ori:** Thank you, Madam Speaker. I want to state that, Article 43 of the Kenya Constitution. I want to refer to this one, 43---

**Hon. Speaker:** That is the justification of your saying that it is a death sentence?

**Hon. King'ori:** Yes.

*(Laughter)*

**Hon. Speaker:** Hon. Musyimi, let us listen.

**Hon. King'ori:** That the County Government should and is supposed to do, using this Article, to provide to the highest attainable standard of health which includes the rights to healthcare services including reproductive healthcare. That is the noble point of the local Government to deal with it but it has failed terribly. When you go to the Hospital and you do not get drugs, there is no medicine; people are suffering so what is that? Yet we befriend what is wrong. It is wrong for a Hon. Member to defend which is not right.

*(Applause)*

I want to say this; if Ksh. 276 million was spent on medicine and drugs and the rest Ksh. 3.3 something billion (??) was spent for other use on the Labour of doing something else different from what is supposed to have been done, is that not a soft way of killing people?

*(Applause)*

This House or the last House saw it is important that, that money should be given to health so that we can attain the standard which is required in our Constitution for each and every

individual. I would like to see every Member visiting a local hospital to get his tooth checked or go to hospital for medical checkup but now where do we go because there is no medicine in our hospitals, there is no proper equipment in our hospitals and that is why we go even to the extent of going to other Countries when we have money that can sustain us and get good medicine in our hospitals. It is a shame.

*(Applause)*

I would also like to say that this report was also good but also I would like to add on something else; if somebody does not follow the law, if somebody does not want to see what is supposed to be done in the law and he is guided by the same law in that office, what is he doing about it? You want to tell us that, he is the only person the law talks about. I am talking about whereby we have passed a budget here, the first quarter we have seen no development yet somebody is going to the public and I wonder whether the public know that he is supposed to work not the MCA.

The MCA does not have to build roads, the MCA just needs to pass the Bill here and see into it that, that budget is followed to the letter and that is what we are doing. Is that what we are accused of? We are attacking the Government of the day, we do not want Maendeleo, and we do not want development. It is a shame knowing very well that, that money had been passed. Ksh. 3.2 billion (??) is already in somebody's hand and he cannot even show a single project in the County.

*(Applause)*

But he ready to say that we need to have a meeting. What for? Why should we go for meetings? We are not supposed to go for meetings, we are supposed to go to the field and see development.

*(Applause)*

I want to say this; if we follow what is in the report of CoB. Ksh. 4.5 billion spent by somebody somewhere, it means there is somebody else who is blind folded. The CECs are not independent, the COs are not independent and it is the high time they should know that, they were employed yes to be an agent to the Governor according to Article 176 of the Kenya Constitution but they also have responsibility to share the same with the County Assembly which is the defendant of the people.

We shall defend them so that they can also have tooth to bite; they can also have powers to ask why should I have a department that does not have any money yet there is a budget for it?

*(Applause)*

We need people who can speak and talk the truth; we do not like the people like the ones in the Education where the TIVET money, Ksh. 65 million was used yet somebody is trying to defend something different.

*(Applause)*

The TIVET money we know in our polytechnics; there is no polytechnic around us but is just samples of polytechnics.

*(Applause)*

I want to say this; if Ksh. 65 million has been used by somebody and he does not want to account for it because he has used it wrongly, it is the high time we say no and they also say no because our children are born here in Machakos, we grew here in Machakos, we need development here in Machakos and we need money to be used properly in Machakos.

*(Applause)*

That is the voice of the people of Machakos.

**Hon. Member:** Point of order Madam Speaker.

**Hon. Speaker:** Hon. King'ori, proceed.

**Hon. King'ori:** Madam Speaker---

**Hon. Speaker:** Proceed and conclude.

**Hon. King'ori:** Yes, I am concluding. In conclusion, Madam Speaker, I want to say this; let God be our judge. Let the people who think that they own Machakos, the numbers are just 10 years and they remaining now three years.

*(Applause)*

Maybe and maybe; when God speaks, nobody.....(inaudible) it.

*(Applause)*

I am going to say that, it is the high time we get results from this County. It is the high time we speak in one voice, my colleagues from my side of the Minority; let us be human and think of people who elected us. They want to see us working and our responsibility is oversight over the Executive. If all of us were Chapchap, we should also oversight our Governor. So, let us do it whether in Minority or Majority side. That is my point. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Thank you, Hon. King'ori. Hon. Ndawa.

**Hon. Ndawa:** Thank you, Madam Speaker. Madam Speaker, I also wish to give my input into this report. Madam Speaker, it is evident that this report is not the making of the Committee on Budget and Appropriations. It is an extract from the report which came from the Controller of

Budget. Madam Speaker, I am not an expert in accounts but in the report, the recommendations which have been given by that Committee, to me, whether one is going to say whatever he might say, I want to say some of the recommendations are excellent.

*(Applause)*

Starting with recommendation number 1; Madam Speaker, recommendation number 1 'the Executive should develop and implement strategies to enhance local revenue.' I believe somebody of sound mind cannot oppose that recommendation because without revenue in Machakos County, service delivery will not be achieved. So that recommendation, I abide by it and I support it 100 percent.

Madam Speaker, recommendation number 2; the County Government should put in place adequate budgetary control measures to ensure expenditure was within the approved budget. Madam Speaker, anybody of sound mind must abide by that because that is law and nobody is above law. We should all follow the laws which are set.

Madam Speaker, recommendation number 3; the Committee observed that the County had no internal audit Committees. Madam Speaker, even in our private businesses when we are doing business, before we call the external auditors, we audit ourselves. So, it is a good practice that before we call people from outside because they might expose us and people may take us negatively, Madam Speaker, it is a good recommendation that we should have our own internal audit Committees to look on our books of accounts.

Madam Speaker, recommendation number 5; the County Treasury should come up with strategy on how pending bills should be paid. We have been singing and singing and singing; people have done business with the County and have not been paid. Madam Speaker, it is the high time, we should look for ways and means and ensure that all those we traded with the County are paid so that they can also pay where they borrowed the money from.

Madam Speaker, recommendation number 6 is also very clear and elaborate, if you request for money to go and buy bread, you go and buy bread you do not go and buy sweets.

*(Applause)*

That recommendation is very okay. So, what I would request the Hon. House, there is a saying in Kikamba which says, if what is yours rots, you dry it. Back in our bedrooms, there are where the kids sleep, they urinate on those mattresses; if you do not take the mattress outside, to dry it, that mattress is going to be rotten and it is not going to be useful in future. Kindly my colleagues, Hon. Members and the House, if things do not go the way they are supposed to be going, let us join hands and ensure that we return the train in the rail.

*(Applause)*

Finally, Madam Speaker, I request because I have seen my colleagues holding the report from the Controller of Budget. It is going to be fair if the report.....as you come up with the report, you also attach the report. This is an extract of that report; it would be fair if it was also attached because I have seen my colleague here---

**Hon. Speaker:** Hon. Ndawa, point of information. There are two Members who want to inform the Hon. Member. Hon. Steve Mwanthi.

**Hon. Mwanthi:** Thank you, Madam Speaker. I just wanted to inform the Member that first these books from Controller of Budget are in our Clerk's office and each and every one of us should have one and secondly in our pigeonholes, we have .....in fact, we were debating a similar report, so in your pigeonhole I want to believe there is that report. Thank you, Madam Speaker.

*(Applause)*

**Hon. Ndawa:** Thank you, Madam Speaker---

**Hon. Speaker:** What happens Hon. Ndawa, if I can also inform you, if I can inform you, once a report from a constitutional office is done in this nature and it is printed, it is actually in the public domain and it is supplied free of charge and they were brought very many copies Members to pick then it is also assumed somebody like Hon. Ndawa who is IT savvy and also who is legal trained, would also know that this document is available and can actually access it even on the website of the CoB but the point makes sense so that what you do in the report when you are tabling, you bring with the printed documents, here they are the Members can peruse at their own time if they have not carried them from their pigeonholes. Proceed, Hon. Ndawa.

**Hon. Ndawa:** Thank you, Madam Speaker, I am well advised and well informed. I want to make the last two sentiments. Machakos County Assembly we are a family and this is a community and I see sometimes back Madam Speaker, my teacher defined Community as a group of people with the common aim.

Madam Speaker, when we are seated in this Assembly or when we were elected in this august House or this House of law, we became brothers and sisters and we should see each other on the positive side and not the negative side.

Madam Speaker, one is not successful because of a good name, because of money or because he has a good job. The word which carries a hundred points is attitude. Madam Speaker, I would request my colleagues; let us have a positive attitude towards each other.

Lastly, Madam Speaker, only angels are free from mistakes and when mistakes are done let us not crucify somebody; let us try the best possible means of solving that problem instead of creating more and more and more problems. I think you understand me very well.

Lastly and the part---

**Hon. Speaker:** Point of information Hon. Ndawa from Hon. Cosmus Masesi.

**Hon. Masesi:** Thank you, Madam Speaker. I just want to inform the Member that it is not on money matters; on other issues, Madam Speaker, we can understand a bit but on money matters, issues to do with money meant for Machakos people, the Majority Leader, Nairobi one time said the National Assembly said that this money is not for one's mother. Madam Speaker, we are going to that direction, this money is meant for Machakos people and we will always stand by the truth so, I wish the Hon. Member can withdraw these remarks for us to understand when there are misappropriation of funds in our Wards.

**Hon. Speaker:** Hon. Ndawa, what I get the Hon. Cosmus Masesi to say, is that mistakes especially on public financial affairs are not forgivable. That is what he is saying.

**Hon. Ndawa:** Thank you, Madam Speaker. It is on record and I have said severally here, I was a scout and law No. 7 says 'a Scout obey orders of those in authority without question' but when it comes to money, questions must be there. I have not talked about finances but I have said only angels are free from mistakes. The electorates are looking for us to provide solutions for the problems we have, let us strive, let us do our best to ensure that we provide solution to the problem we have in Machakos. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Ndawa. Hon. Members, allow me to call the mover of the Motion to reply. Hon. Dominic Ndambuki.

**Hon. Ndambuki:** Thank you, Hon. Speaker. Allow me to thank the Hon. Members who have contributed to this healthy debate and say that this report paints a picture of what is happening in Machakos County and as the Assembly of the County, we are called to rise to the occasion and be up to the task to defend what is rightful for our people. Thank you, Madam Speaker.

**Hon. Speaker:** Thank you, Hon. Ndambuki. Hon. Members, I now put the question.

*(Question put and agreed to)*

*(Applause)*

### **MOTION**

#### **UTTERANCES BY THE GOVERNOR OF MACHAKOS**

**Hon. Speaker:** We are under Order 8 and we had two businesses; the first was by Hon. Dominic Ndambuki which we have just finalized so the next business under that order is by Hon. Peter Mutiso.

**Hon. P.J. Mutiso:** Thank you, Madam Speaker.

Hon. Speaker, that aware that Article 73(1) of the constitution of Kenya 2010 stipulates that authority assigned to a state officer in a public trust to be exercised in a manner that;

- (i) Is consisted with the purpose and objectives of the constitution.
- (ii) Demonstrates respect for the people.
- (iii) Brings honor to the national dignity to the office.
- (iv) Promotes public confidence in the integrity of the office.

Aware that His Excellency the Governor has on several occasions made public utterances that are demeaning to the personality of the Hon. Speaker of the County Assembly of Machakos;

Further aware that the Governor has also been using abusive words in reference to the members of this Hon. House (Clips to these utterances are available, Madam Speaker);



Acknowledging that these amounts to abuse of office, gross misconduct and gross violation of the constitution of Kenya 2010;

Hon. Speaker, section 13(1) of Leadership and Integrity act 2012 provides that a person holding an elective position shall maintain the following ethical and moral requirements:

- (a) Not engage in activities which amount to abuse of office.
- (b) Accurately and honestly present information to the public.
- (c) Not engaging in wrongful conduct in furtherance of personal benefits.

Hon. Speaker, I beg to move the motion that the Assembly discusses and approves that the utterances by His Excellency the Governor of Machakos County be discussed by this Hon. House and appropriate action be taken to the following bodies;

- (a) Ethics and Anti-Corruption Commission (EACC)
- (b) Divisional Criminal Investigation office (DCIO)
- (c) Directorate of Public Prosecution (DPP)
- (d) The Senate.

If the Speaker, you will allow me, I can also add Kenya National Human Rights and Equity Commission which is in the Constitution of Kenya which was formed to interrogate issues on the same matter.

So, Madam Speaker, before you give members of this Assembly chance to discuss on this matter I beg through your authority to allow the clips to be played, if possible. Thank you, Madam Speaker.

*(Applause)*

**Hon. Speaker:** Hon. Members, I know the motion is still.....yes there is the issue of seconder, just hold on Hon. Mutiso. Hold on Hon. Mutiso, please wait and you can rest just near there. Hon. Members I have looked at this motion and I notice that it refers to the person of the Speaker and I want this to go on record; I have listened to the clips that are referred to on the basis of which the motion is brought.

They are very distressing to me as a person, I have started taking the necessary legal action because I have a right to my reputation in my character and in my everything and for that reason and also for justice to appear to be done, I do not feel that I should chair this sitting and so I have called for halting of the processing of the motion so that I can exit and hand over to the Chair of Chairs so that I do not appear to be sitting on my own case. Hon. Members, allow me to exit.

*(Applause)*

*(The Speaker (Hon. (Mrs.) Mwangangi) left the Chair)*

*(Deputy Speaker (Hon. Museku) took the Chair)*

**Hon. Deputy Speaker:** You may be seated Hon. Members. Hon. Mutiso, I think you were at the point where you needed to be seconded; could you request for a seconder for the motion?

**Hon. P.J. Mutiso:** Thank you, Mr. Speaker. I call upon Hon. Fred Mbuva to second my motion.

**Hon. Deputy Speaker:** Hon. Fred.

**Hon. Muthoka:** Thank you, Mr. Speaker. I second the motion.

**Hon. Deputy Speaker:** Thank you, Hon. Members. I have noted that in the motion which has been read by the Hon. Member that he said that clips to this utterances are available. Before we open the debate or put the proposal on the debate, I would like the motion to be complete by first of all playing the clips so that we can be able to hear and then from there we go on to the debate before I propose the question.

*(An audio clip in vernacular was played)*

**Hon. Deputy Speaker:** Just a minute please, I would like order in the house before I have told a Hon. Member, Hon. Cosmus I have not spoken to you about playing any tape there is the person who is assigned by the Hon. Member to play the tapes so allow him to play the tapes. Hon. Tariq Mulatya.

**Hon. Mulatya:** Thank you, Mr. Speaker, Sir. I think I have the clips if you allow me, I can play them as I direct the House when it was played and where.

**Hon. Deputy Speaker:** Go ahead.

**Hon. Mulatya:** Thank you. The first one was at Mbiuni market on or about the 22nd of September, 2018 and this is in Mbiuni ward, Mwala sub-County. I am going to start with that one.

*(An audio clip in vernacular was played)*

Hon. Speaker, that was in Mbiuni, Mwala-Sub County. I am going to the next clip.

**Hon. Deputy Speaker:** I am going to let the Member finish what he is doing; I am not going to allow any point of information or point of order.

**Hon. Mulatya:** Thank you.

**Hon. Deputy Speaker:** Proceed and finish Hon. Member.

**Hon. Mulatya:** The second one was on or about the 12th of November at his offices while addressing members of the press. I beg to play the clip.

*(An audio clip in vernacular was played)*

I beg to play the third clip Hon. Speaker which was on 13th November at Kasaini area in Mutituni ward.

*(An audio clip in vernacular was played)*

Hon. Speaker, I would beg to play the fourth clip and this was on the same 13th at Muthini area in Machakos town and I wish to notify the House that in this particular one there was a very large section of members of the public meaning that there was a huge crowd in this particular one.

*(An audio clip in vernacular was played)*

Hon. Speaker, I would like to play the last one which was on the same date 13th November, 2018 and this will be the last clip.

*(An audio clip in vernacular was played)*

That was the last clip Hon. Speaker, while on my feet maybe I can---

**Hon. Deputy Speaker:** I have not yet proposed the question.

**Hon. Mulatya:** Okay, thank you.

**Hon. Deputy Speaker:** So, Hon. Members, that is the motion and the clips have been played. Allow me now, since the motion has been seconded, to propose the question.

*(Question proposed)*

Hon. Members, you may debate on the motion. Hon. Winfred.

**Hon. (Ms.) Mutua:** Thank you, Mr. Speaker. When I was growing up, there are family values that we were always been taught that we respect even the community, we respect even the elderly. I wonder when the Governor was pronouncing these things, the gathering that was in front of the Governor. It is quite a shame and that one makes me doubt the originality of the Governor; I do not know whether he is a born person from Machakos County because in Machakos County we are taught a lot of respect.

I come from Machakos and I cannot pronounce some things in front of our wives, our husbands, our grandparents and people we respect. I think he lost something; either he was drunk we cannot even really understand. Imagine the children of these Hon. Members he was referring to calling them by the Kamba name; it is quite a shame.

He should be in prison; in fact, if I can say it loud being judged because of such abomination. It is quite sad for a whole Governor to come out; he cannot even show the things he has done to Machakos and also the projects that he has done. What he can show to Machakos people is abuses and even abuses of language.

It is quite sad if I was in a position I would be very ashamed to meet such kind of a person. He is asking we meet him; how shall we meet a governor who is abusing us, who is

abusing our fathers, who is abusing our husbands, who is abusing our brothers and sisters. Very sad; it is quite sad even to be named that he is our Governor.

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

**Hon. Katumo:** Thank you, Mr. Speaker. It takes a lot of energy even to discuss this motion and I feel empowered this morning even to go forth and discuss. I have a background from our political fathers; Aristotle himself said the end of politics is not knowledge but action. Further, one of the former presidents of America Franklin Roosevelt said one of the key problems to day is that politics is such a disgrace that good people do not get into government.

I want to stand guided by Franklin as a president as one of the former presidents of the most powerful countries we have in the world that he had to say it is a disgrace sometimes when those disgraceful people get into government. Listening to those clips, Mr. Speaker and Hon. Members, it is not me or you it is the people of Machakos that are being abused from every corner.

Listening to the clips I find the disgusting, shameful and very disgraceful from somebody we are calling a Governor; that cannot be my Governor. As my colleague has said, where we come from in Ukambani, we have a lot of morals, we are taught to respect our elders. Now to our children, to men and women when I was listening to this clips from my house, I had to listen to them....you see this *mee* in the clip itself what is *mee* Hon. Speaker.

Of course, we need to have a weighing scale, to have a tape measure to know how long it is, you know how many kilos so that we may get to understand then how long it is and how long it is the *mee* itself, Mr. Speaker.

But when I look at it as a theologian, political scientist, we are told when somebody gets too proud, drunken by power, it is no different from that drunkard in the village. When you go to the village, you find those people who have taken the *kaluvu* itself, they will say anything and we understand them.

I want to understand this not my Governor that he has become a drunkard maybe taking drugs or taking other things that are not good and we need also to recommend here that he needs a medical checkup. He needs a serious medical checkup I think he is not in sound mind, he is not in the right mind to lead this County.

Go abusing; you see I looked at the crowd that even some members of this County Assembly were present. There were children, there were women and maybe as one of us said that you could have your daughter there, you could have your aunt there and worse you could have your in-law there and then this Governor himself goes ahead calling people *mee*.

It is the clip, not me and then he abuses is it *Kino* or what? You see, and then you say we are doing well; from where? From where can we be doing well you are asking for development. You are asking...you see this is somebody who has run out of idea, he is a spent force, he is lost and should not be heading this county.

Mr. Speaker, we have just concluded discussing our monies that got misappropriated and we can now understand the kind of person we have there, the one we are calling executive, the Governor, Deputy Governor and the rest, they are doing the same. You see the English person says 'like father like son, like mother ...so they are no different.

They are flock of the same feather and therefore the best thing we should do Hon. Speaker and members, we should work very first, overnight to make sure we get rid of such disgusting people in this County.

*(Applause)*

I will not feel...you see, we were being called from all over, from Mombasa, Turkana, Makueni, Kitui asking us what is happening. Who has bewitched us? There is a bewitched person here. You see I saw a photo of the Governor, the Governor of *Mee*, this Governor---

*(Laughter)*

With the Governor of Kitui, the Governor of Makueni seated together. Can Kivutha, the Governor of Makueni utter these words? Can Hon. Ngilu from Kitui utter these words? Can even the worst Waititu himself or the rest utter these words? Can Mike Sonko utter these words? Mr. Speaker---

**Hon. Deputy Speaker:** Point of Order you are standing on; which Standing Order, Minority Leader?

*(Hon. Kamitu spoke off record)*

**Hon. Deputy Speaker:** Hon. Justus Katumo, continue.

*(Applause)*

**Hon. Katumo:** Thank you. I said I have the energy to continue I feel empowered to continue because, Mr. Speaker. Hon. Members, you must understand, he is not even abusing us, he is abusing everybody. He is abusing my mother, he is abusing my father, my children, he is abusing my pastor and we cannot allow this to continue. What kind of a Governor is this; walks and uses our money, resources to fuel vehicles to call members even the members you see these members looking at me like this, they are even present in some of these gatherings listening to us being abused and we are being abused together.

We cannot allow such incidents to continue in Machakos County. Enough is enough we have been abused for seven years now. Continually, being abused for eight years for really God should hear us. Actually if somebody is getting mad and crazy God should increase so that we do away with him. Thank you, Mr. Speaker. I support.

**Hon. Deputy Speaker:** Thank you, I would like to read to the Hon. Member; I have asked you what Standing Order you are standing on you said Standing Order 79. This is what it say, 'any member may rise on a point of order at any time during the speech of another member stating that the member rises on a point of order and that member shall be required to indicate the Standing Order upon which the point of order is based on.'

That is why I asked you on what order are you standing on; you tell me it is Standing Order this. 79 just allows you to stand on a point of order but you must quote the Standing Order for which you are interfering with Hon. Member's speech and when the Hon. Member has finalized on his contribution you cannot put a point of order on something which has been finalized so we continue with the debate. Hon. Majority Leader.

**Hon. Muendo:** Thank you, Hon. Speaker. Today for me is a bad day especially when you hear the clips. When I received the clips, Hon. Speaker, I closed all my doors and played it in my house alone. Reason; being a Kamba, there are some words that you do not allow your kids to hear. There are some words you do not allow other people to hear and to make the matters worse, Hon. Speaker, when you hear the last clip whereby I think the word *maasa* is an indication of that you need some measurements and when you hear on the clip Governor addressing Caleb saying that he is *sawa.....ako sawa* then you wonder. Hon. Speaker, where we have been brought up in our customs, it is only women who know how long the balls and the *kisithe*.

It is not men therefore I am wondering Hon. Speaker, when a Governor will consult another member of this house and he says yes, *uko sawa* then he says yes, then I wonder it is only women or homosexuals who know how those things function.

Hon. Speaker, let me say here it is pathetic and it is not a laughing matter and this House must discuss and give a complete report to the bodies that have been mentioned in the motion. One, Hon. Speaker, those words which are directed to the Speaker of this House, every time our Governor goes round he must mention the Hon. Speaker of this House. Let me say we are elected and we elected our Speaker, Hon. Speaker; we elected Madam Mwangangi to be our Speaker. It is not Governor who elected Hon. Speaker. So, Hon. Speaker, we should not allow every Hon. Member of this House should not allow the Governor to go around the County using our funds to abuse our Speaker.

Hon. Speaker, the Governor has gone further to abuse the members of this House; remember members we are elected by the people and when you are being abused in public, Hon. Minority Leader, when you are abused in public, when one of us is being abused in public *muasa, mrefu, mukuvi, mee, maasa* it is also the Minority side including Hon. Ndawa from Matuu is being also abused.

It is not the side of Hon. Members in majority only. When the Governor insults our Speaker, she is a lady he insults all the Hon. Women in this House including Madam Nzioka, including all the members of this Assembly of that gender. Let me say, Hon. Speaker, as one of the colleagues has said if materials of politics are finished, you go to that area of abusing people. Imagine that day, I saw the clip, the Hon. Members were there, a few of them and they were clapping their hands when they are being abused. It is pathetic and the kids, Hon. Speaker, this last clip was played in a school, primary school where our kids are.

Fortunately, most of them know Kikamba well because it is rural it is in I think Caleb's area, it is rural so they know what it means by *mee*; just imagine when they open schools the debate will be the top most person in the County is calling people *mee*. My son is very small although he does not know Kikamba well but I ask him do you know *mee* he said *mee* is a goat crying lucky enough but those ones of Muvuti area they know what that means.

Hon. Speaker, let me say enough is enough. We cannot have a Governor who is going to abuse people and I recommend and I think this House should recommend for a medical checkup on our Governor. This is not the Governor we saw the last five years; there is something wrong going on including saying he is not going to sign money for the members of this Assembly. That is craziness.

There must be a medical case in that person called Governor; if you allow me Hon. Speaker, I would like the recommendations which are in this motion to be after we pass the motion because this is not impeachment motion, we are discussing the character of one person

Mutua Nganga who is a public figure and who is elected by the people of Machakos should not utter those words when he is in office.

So, Hon. Speaker, I would like to point that the recommendations by the motion mover that all these bodies which are listed here, this report must be distributed to those bodies. Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Hon. Mueni

**Hon. (Ms.) Mueni:** Thank you, Mr. Speaker. It is a shame to have this motion in this House because by a Governor abusing all the women in Kenya we have 47 Counties and such a Governor is from Machakos what a shame. He must in Mathare hospital and this is not a laughing matter Mheshimiwa Katumo; it is very serious. This Governor, I do not know whether he is the Governor we were having I the other regime but he is the Governor that we have now; he is mad.

He is lacking leadership very much because we were discussing about the budget and nothing about the money which does the work that it has been given for. The people bring money to the hospital, they bring.....Mheshimiwa Minority Leader, I know you are having a hard time but you have to listen.

*(Laughter)*

**Hon. Deputy Speaker:** Hon. Mueni, please do not address a member.

**Hon. (Ms.) Mueni:** Yes, I apologize and I withdraw.

**Hon. Deputy Speaker:** Retract that; you must always address the Chair please.

**Hon. (Ms.) Mueni:** Yes, I withdraw, but the Governor we are having, I do not know why you fear; we have the paper we impeach him before even the court brings what it is supposed to bring and we can do without him. I do not know what we are doing with him when he is bringing the County so down; that is very unfair.

My father cannot talk such a thing and it is the father of Machakos County; when your father lacks brains, the first son can do the work. So, we can have another person and we tell the Governor abusing the Speaker, the Speaker, will have her seat but she is not the Governor, she is the Speaker of Machakos County and when you fear somebody it is the time every time you go somewhere you start talking about her. What is she eating for you?

*(Laughter)*

She is having the salary for the Speaker, you are having the salary for Governor; what are you talking about the Speaker? Why can't you do other work apart from thinking about the Speaker? I am so bitter; so I just sit down. Thank you.

*(Applause)*

**Hon. Deputy Speaker:** Hon. Kamitu.

**Hon. Kamitu:** Thank you, very much Hon. Speaker. Hon. Speaker, I have gone through this motion I have read the sentiments and on that regard Hon. Speaker, I would advise the House or prudently say that in the first place, as the mover of this motion has said Hon. Speaker, that aware that article 73(1)(a) of the Constitution of Kenya, we are talking about the Constitution of Kenya 2010 explains that authority assigned to a state officer is a public trust to be exercised in a manner that is consisted with the purposes and objects of this constitution. (ii) Demonstrate respect for the people; (iii) Brings honor...as you read that statement and aware that Hon. Speaker, our Speaker Madam Florence stood up and it has been captured in this Hon. House that she has been widely mentioned in this motion and that is why she has even personally said that she is moving out of her Chair because she has been mentioned and she is taking legal direction towards the motion that has been brought into this House.

So, what does it imply? Outright, through her own personal comments, direct evidence that she has given to this House that she is taking legal...what are we discussing? If the Speaker, as personally as a person who feels that she is affected has given direct evidence by stating that she is taking legal action in regard to this motion; so what are we discussing? And again as I continue---

**Hon. Deputy Speaker:** Hon. Kamitu, let me just give guidance on that so that...because you will get very many points of information. When someone says they are taking legal action, it is not before the court. If this House was served was served or a court order has been served to the Governor or to the persons involved, then we would be talking that the matter is before the court.

What the Hon. Chair said is that she is taking legal action; she has not provided to the house any legal action which she has already taken or any information from the court which can bar this House from continuing with the debate. So, please proceed on a different note,

**Hon. Kamitu:** As I continue, Hon. Speaker, it is quite evident that in this House on the last paragraph; Hon. Speaker, I beg to move the motion that the Assembly discusses, approves that the utterances by the H.E. the Governor should be discussed by this House and action taken by the following bodies that is Ethics and Anti-Corruption Commission. Divisional criminal direct...do we have all these people in this House? So, if there are those offices that have been directly and constitutionally established then I think the right place is other than wasting a lot of time here discussing what is...I sit down to say that---

**Hon. Deputy Speaker:** Point of information from Hon. Cosmus Masesi

**Hon. Masesi:** Mr. Speaker, with all due respect to my elder brother Hon. Kamitu, these things have to come as a resolution by the Assembly and it is very key for the House to discuss the matter which is in the public domain and Mr. Speaker, if the House resolves the same, then the same should be channeled to these bodies which have been mentioned there, Mr. Speaker. So, Mr. Speaker, I want to believe that the motion is very much in order the House has to discuss and resolve the same, Mr. Speaker.

**Hon. Deputy Speaker:** Conclude Hon. Kamitu, conclude your argument please.



**Hon. Kamitu:** Hon. Speaker, I do not want to read some mischief but I would say this; as an Hon. Member of this House that this House where you think that we are leading or we are heading, you are causing a lot of friction and information that is going to the members of the public but it were my advice and this is what I have to say as a Hon. Member of this House. This is a House full of brains and there are some issues that are supposed to be discussed by this House.

I was in the First Assembly, this is an Assembly that through my own observation, we are not heading in the right direction, we are not heading in the right direction, I repeat again and this is the time that this House is supposed to sit down as elected 59 members elected and members of this House, the nominated members plus our Speaker, and the leadership of this House, plus the Clerk we are supposed to sit down and square some of these issues but you may think because of...that we are going anywhere but I am advising this House, time is now Hon. Speaker, that we should sit down as a House---

**Hon. Deputy Speaker:** Point of information from Hon. Tariq Mulatya.

**Hon. Mulatya:** Thank you, Hon. Speaker. I would like to inform the Hon. Member that we are elected and our duty here is to legislate, to deliberate to pass Bills, motions and all these and also impeach your Governor who is misbehaving; that is our job here. We are talking about something which is in the public domain which is shameful and you are trying to defend it. I think even this member should be removed here. Thank you.

**Hon. Deputy Speaker:** Hon. Mulatya, please retract that.

**Hon. Mulatya:** I withdraw.

**Hon. Deputy Speaker:** Thank you, very much. Conclude Hon. Minority Leader, please conclude.

**Hon. Kamitu:** Yes, you can also read the sort of wordings that are happening but I do not want to accelerate those. As an elder, I am saying what I state and it should be stated well that this is the best time that we should sit down as a House, discuss issues that are going to be beneficial and I am surprised that Hon. Speaker, where we are heading and as you are aware that this Hon. House plus Kamitu and everybody in this House, we have no salaries for the staff of this House, we have no salaries for us as a welfare and us as a House, we have serious issues that we are supposed to bring, we are supposed to talk about and remove the stalemate so that it is going to benefit the electorate who made us be here, the members of this Assembly who are supposed to be here and that is final words to this House. Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Kamitu. Before we proceed, my work as a Chair is to guide. Before a motion comes before this House, that motion passes through the normal procedure, which you know; it goes to the offices of the Clerk and Speaker who looks at the content of the motion and allows it for the debate before the House. The material which has been brought before this House does not originate from this House. The clips which have been played before the House have not been originated by the Members. It is not any side here which has started these things.

These are things which have been started by somebody and those things he is discussing them outside there in the public, they are in the public domain so when you wake up and tell the house that we are discussing and putting things before the public which are not good, this information is already before the public and I believe that is the reason why the Speaker, and the Clerk allowed for this motion to continue to be debated in this Hon. House. Hon. Judas Ndawa you may contribute.

**Hon. Ndawa:** Thank you, Mr. Speaker, Sir. Mr. Speaker, I will start from where or from what I said in the morning. This is a House which the electorates are looking at to bring solutions to problems of Machakos. Mr. Speaker, the matter before us in law we call it a tort, a tort is a civil wrong and a distinct exists between a tout and a crime. A crime is instituted in court by police and a tort is in instituted in the court by the affected or the aggrieved party.

Mr. Speaker, the law of tort is very clear and concerns three aspects; trespass, negligence and defamation. I want to concentrate on the issue of defamation. In the same law it is clear no one can defame a class or group of people. If you say MCAs, that is a group of people. In the clips which have been played here, have never heard His Excellency the Governor mentioned the name of somebody.

**Hon. Speaker:** Point of information from Hon. Angela.

**Hon. (Ms.) Munyasya:** Thank you Mr. Speaker. My point of information is that, when somebody goes to the public domain and talks about the Speaker, who else is the Speaker; isn't that the name of somebody? That is enough to tell us that is somebody's name. Then when you say our MCAs, these are the MCAs of Machakos County Assembly of Machakos he is not talking about MCAs in Europe. Mr. Speaker, that is the point of information I wanted the Hon. Member to note.

**Hon. Deputy Speaker:** Another point of information from Hon. Cosmus.

**Hon. Masesi:** Thank you, Mr. Speaker. When the Governor says '*mundu muasa wi...*' and then he singles out and says it is not Caleb; that is a name which is mentioned. The governor says it is not Caleb; *Caleb-e sawa*, then he say *mundu muasa wi* this and this...so I want to believe someone has been mentioned and particularly *mrefu*. There is singling out Hon. Members on that.

**Hon. Deputy Speaker:** Thank you, Hon. Member. You may proceed, Hon. Judas.

**Hon. Ndawa:** Thank you very much for that information I have been given but it is very clear; you know we cannot twist or translate what we want things to be to change the law. If you have not been mentioned; Hon. Mark Muendo, it is very hard to proof even before---

**Hon. Deputy Speaker:** Point of information from Hon. Mark Muendo.

**Hon. Muendo:** Thank you, Hon. Speaker. The Hon. Member for Matuu is trying to teach us law; we are here for the law but we are debating the character of the Governor Nganga Mutua. When he talks about MCAs, it is Machakos MCAs. When he talks about *Caleb e sawa kwa mee*;

*usu ni* Member of this House. So, we are talking about the Hon. Members of this House. Thank you, Hon. Speaker.

*(Laughter)*

**Hon. Deputy Speaker:** Hon. Judas, you need to conclude please.

**Hon. Ndawa:** I have several issues Mr. Speaker and I would request you allow me to execute.

**Hon. Deputy Speaker:** Yes go ahead, but it is also important to note timing.

**Hon. Ndawa:** Mr. Speaker, the words which were used by the Governor are words which are used in the Bible. In the book of Deuteronomy 23:1-4.

**Hon. Deputy Speaker:** Point of information from Hon. Betty.

**Hon. (Ms.) B. Nzioki:** Thank you, Mr. Speaker. I want to give a point of information to Hon. Ndawa. We cannot hear, we can apply the Bible. The verse is there Deuteronomy 23 but can you look at the scenario where the Governor was addressing the electorates. So, I want to tell you that; that was the wrong place to address the issue and I think if you go down to the words written in the Bible, they are not referred in the way the Governor did put them.

Here he was attacking someone and in the Bible, I wish I had a Bible, we could read it here. Please let us not apply the Bible where it should not be applied. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Judas, please proceed on another point.

**Hon. Ndawa:** Thank you, Mr. Speaker. I would say, what is happening here is what we call grievance handling because it is a dispute between the aggrieved parties and the parties; those who want to complain and say they were insulted. Mr. Speaker, I would request, the points of information and points of orders are too much. Let us be sober.

**Hon. Deputy Speaker:** Let us hear the final one from Hon. Winnie then you continue.

**Hon. (Ms.) Mutua:** I think the Member for Matuu is adding a lot of hurt to the Members; can he just sit down because he is causing a lot of harm. Unless he knows what the Governor meant, he can stand there and shows us what it is, the centimeters so that we can understand better.

**Hon. Deputy Speaker:** Continue Hon. Judas and kindly articulate your facts quickly so that we can be able to conclude quickly.

**Hon. Ndawa:** Thank you, Mr. Speaker. One of the problems we have in this House is that we are lacking one of the qualities of leaders called innate ability; this is the ability to withstand stress.

**Hon. Deputy Speaker:** Hon. Judas, I have to.....just take your seat please. Are you trying to say the House does not have leadership and is lacking leadership qualities; you cannot use that kind of language before the House. You cannot say the House is lacking in leadership yet you sit in the House because you are saying you are not a leader in other words. You are actually accusing of oneself, when you talk about the House; are you a Member of that House, Judas?

So, how do you accuse yourself from within? Please avoid such defamatory words towards a House which you are part of.

**Hon. Ndawa:** Well-advised Mr. Speaker. The other point, a leader must always be authoritative. I want cite an example of former president His Excellency Mwai Kibaki who used to call people *mavi ya kuku*. We have never seen the National Assembly discussing the utterances of His Excellency Mwai Kibaki.

So, the issue before us, we have bodies set by the law and those bodies which have been named here have their own way of collecting information. They do not believe in secondary information, they collect information for themselves. So, I would say whoever is aggrieved, courts are there; kindly take your matter there and courts will give you justice. Thank you, Mr. Speaker.

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

**Hon. Mitaa:** Thank you Mr. Speaker for granting me this opportunity to air my views on this motion by Hon. Peter Mutiso. First, I want to congratulate him for taking that initiative and bringing the issue to this Hon. House. I believe we are within our mandate as leaders from Machakos county Government. The clips have been played and they are in black and white coming from our Governor.

I think even when we are watching programs there is always a caution that this is for this age, it is supposed to be played at this time and I think I would want to add my voice that amongst the places where this report needs to be taken, we need to add National Cohesion and Integration Commission and if possible you look for other ways of whether it can reach that organ like Kenya Film Classification Board because I think they are on Communication Authority (CA) so that we try to reach a broader base. What happened was very bad coming from a leader, a Governor and an aspiring presidential candidate 2022.

I believe as a county government we also need to put some budget on his condition of health Mr. Speaker. I think he might be suffering from something called narcissistic disorder. We need to check whether that might be the problem so that as our colleagues have said, we might come out with a solution on what he might be suffering; reason being, he is also a leader in this county.

The Constitution of Kenya 2010 is very clear on formation of county governments; section 176 states that; there shall be a county government for each county consisting of a County Assembly and a county executive. So, none of our leaders should feel superior than others; we are elected the same way he was and sometimes I go and say even the size of the pages which had their names was equal size to the ones used for MCAs.

So, we are equal, only that we give some sort of respect to the titles but when it comes to our responsibilities we are equal. When someone goes out and starts lecturing people on what they are supposed to do, I think it is out of the way.

I need also to put my weight on the importance of our Speaker. The Speaker represents that Assembly; she is the head of the Assembly. So, I would not take it as a person to see the head of the institution where I report to being demeaned by all forces. I will not take it kindly so I think as soon as possible, let this report reach the offices they need to be taken and action must be taken and a report brought to this House within two months. Thank you, Mr. Speaker.

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

**Hon. (Ms.) Munyasya:** Thank you, Mr. Speaker for catching my eye. I am going to be brief; the matter before the House is actually pathetic and grievous. I would like to ask Members to search within themselves if a person of integrity or a leader for that matter, because leadership starts from our families all the way to leadership positions in the society; would the governor utter those words before his mother. I just want Members to ask that question. Would the Governor utter those words before his own mother?

Because I have heard some Members insinuate that all parts of the body have a name, would he tell his own mother such a part in public the way he did. Mr. Speaker, those utterances are completely out of order. My father told me that anything you cannot utter before your mother don't utter it before anybody and that is the leadership qualities we need to follow in this Assembly and anywhere in leadership.

Annum Sattar quoted and said; it amazes me when education, religion and family values fail to create a human being. So, I wonder what we have become to even try and protect utterances like those ones and it is completely out of order. This House should resolve that it doesn't happen again. It punctures the real humanity of the person being referred to.

How do you expect Madam Speaker to relate with the same Governor in future; are they supposed to seat at a round table and discuss utterances like those? It is not possible Mr. Speaker and the fastest this is arrested the better it will be for the entire county. We cannot continue like this because it is going to mess the entire Machakos County which we are elected to serve. Thank you, Mr. Speaker.

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

**Hon. (Ms.) Kanini:** Thank you Mr. Speaker. I want to stand with my fellow woman that is Madam Speaker. Mr. Speaker, as much as we try to be bootlickers to our political party leaders, we should also learn to criticize them. I can personally tell my party leader that this one is wrong and I stand with that. Mr. Speaker, these utterances of our Hon. Governor, I can just refer to them as mouth diarrhea because I least expect from such a state officer.

Let the Governor be informed that this Hon. Speaker he is referring to as a *Kaveti* is a wife, a mother and an international lawyer for that matter. As a nominated MCA I feel insecure to be associated with him and I disown him with the strongest words possible. I also want to say let him substantiate what he means by M-E-E because I don't understand those words. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Koki.

**Hon. (Ms.) C. Koki:** Thank you, Mr. Speaker. It is very shameful to see that the so-called Governor of Machakos is going round uttering abusive words to fellow elected leaders. I have been wondering and I know most of us have been why the Executive not implementing; why is the Executive not giving development to the people of Machakos. The Bible says this; what comes from the mouth is what fills their heart.

Mutua's heart is filled with abusive words; there is no development agenda in his brains, there is no development agenda in his heart, there is no development agenda for this county in his mind and I pity the county of Machakos. It is not a wonder or strange that we moved from position one to position 37.

What do you expect when the person supposed to execute development, when the person holding the top most sit in the county is only framing day to day on how to abuse and demean his fellow leaders? When he abuses an MCA and an elected Member, he is abusing the people who elected that leader. Mr. Speaker, I also wonder where the Governor of Machakos is putting the women of this county; parents are struggling each say to raise school fees to educate boy child and girl child.

When the Governor of Machakos points out the Speaker of Machakos county Assembly as a *kaveti*, does it mean that the girls and our daughters we are educating they don't have a position in this society. Does he mean that all we are doing is all in vain; our daughters should remain behind, at home they should not fight for elective positions, they should not hold public offices?

Gone are the days when women used to stay at home, milking cows, rearing children; we are equal to the task. What men are doing, women are doing better. If his preferred candidate didn't make it to this House, then he better accept Hon. Florence Mwangangi as the Speaker of the County Assembly of Machakos and move on because it is going to be that way for the rest of the term, as long as we are in this House.

Mr. Speaker, the so-called Governor of Machakos is a disgrace; when we grow up, we are supposed to be role models to the young generation but what do we have here? A person who lacks morals, a person who spits words aimlessly; what does the young generation have to learn from the Governor of Machakos?

Sometimes when we are growing up and I believe it is in the minds of most of our children; they point out and say when I grow up I want to be like so and so. Surely; do we want our children to be like Governor Mutua who abuses leaders, who is talking aimlessly, who is demeaning other leaders. Mr. Speaker it is a No. What the Governor should know is this; the real men and true leaders are winning dignitary awards.

Just the other day, His Excellency Dr. Stephen Kalonzo won a dignitary award. Where is dignity in Mutua's words, where dignity in his character? He should know that if he wants to be a true leader of Machakos, if he wants to be a true Governor, he should lead by example, he should be humble, he should apologize, he should retract his words and come down to work with people of Machakos. Now that the Governor has contravened the law, leadership and integrity Act.

As I conclude, I beg the relevant bodies to take the relevant measures towards this leader. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Pauline.

**Hon. (Ms.) Mene:** Thank you Mr. Speaker. As a woman in this county, I really feel ashamed. It is such a shame that the Governor, the head of the County can utter such words. I

have never heard those clips but I am so disgusted I don't even know what to say Mr. Speaker. All I can say is that this is completely unacceptable. He should accept because we came here and elected Madam Speaker and she fairly won. If he wants to consult Madam Speaker, he should humble himself and come and consult Madam Speaker for whatever he wants to consult but uttering abusive words is completely unacceptable and this I say as a church woman and as a church leader.

I want to say that the Governor should apologize to this House, apologize to all the women of Kenya and apologize to our Speaker. I also want to recommend that this House should write to and attach those clips to the Ethics and Anti-Corruption Commission, the Divisional of Criminal Investigation, Director of Public Prosecution, the Senate, the Human Rights Commission and to NCIC. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Pauline. Hon. Alice.

**Hon. (Ms.) Nzioka:** Asante Bw. Spika kwa kunipa nafasi. Nataka kusema, sisi kama Bunge la Machakos ni familia moja. Katika familia lazima tuongee mambo ya kwenda pamoja; kukitokea kosa, lazima mwenye amekosa kukubali kosa na kuongea juu ya kosa na jamii inaendelea. Fikiria kwa mfano, nyumba yangu imechomeka na badala ya kuzima moto naongezea moto naweka mafuta nyumba inaendelea kuwaka. Bw. Spika, maji yakimwagika hayazoleki; kama jambo limetendeka, limetendeka na kama viongozi, lazima sisi kama bunge na imani yetu, hapa wengi tunaenda kanisani, wengine misikiti na tunajua bibilia husema, husamehe mara sabini mara saba.

Kama ni kosa lilitendeka, sisi kama bunge na Gavana wa Machakos tunaweza keti na kutatua mambo yetu. Bw. Spika, kumbuka kama Machakos kumetokea kosa, hata tuite nani hataweza kutatua mambo ya Machakos. Sisi wenyewe ndio tunaweza tatua. Ningeuliza Bunge tutafute namna na njia mwafaka kwa ajili ya watu wa Machakos tuone tumetatua mambo yetu. Najua kama umekubali kosa na kusema pole, kosa limeisha. Kwa hivyo naomba tushikane pamoja na tuongee mambo ya Machakos na tutayamaliza. Asante.

**Hon. Deputy Speaker:** I will allow Hon. King'ori and then call the mover of the motion to respond.

**Hon. King'ori:** Thank you Mr. Speaker. Sometimes it is good to refer to the law of Kenya and Article 28 talks of human dignity. I wonder where we are heading. In Kenya it is the only place where human dignity is taken lightly. In other countries like United States, you don't go insulting people who are elected, you only reason together. I want to talk His Excellency the Governor to take his pride and apologize publicly to the people of Machakos and the MCAs of Machakos and far most to our Hon. Madam Speaker because we need to give dignity to the people of Machakos.

Article 27 of the Constitution, something similar to what I want to talk about; talks about equality and freedom from discrimination. This House should not be discriminated. Every person is equal before the law and has the right to equal protection equal benefits of the law. This House should be respected and given what is rightly its own; the dignity of this House must be observed.

Article 185, has vested the right of legislation. The legislative authority of a county is vested in and exercised by its County Assembly. (2) A county assembly may make any laws that

are necessary for or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule; which we should also respect. The House is elected; the Governor should respect this House as the law says. He is also elected under the same laws of Kenya. Article 27(2) talks of equality that includes the full and equal enjoyment of all rights and fundamental freedoms. Does he respect the freedom of our Speaker, does he respect the freedom enshrined in this floor of this House? The answer is no.

I think it is the high time we obey the law and let us talk of cohesion, let us talk of *kuungana* as he says. Let him come to the Assembly, we are ready to sort out issues with him; yes, when he apologizes publicly that he made the wrong decision. As Hon. Alice said, we need a public apology from the Governor of Machakos so that we can be able to move forward and he should also respect the rule of law to prevail beyond his ability and ambitions.

I would also like to point out that, this County belongs to us all, we have right to have families, we have right to have children, we need to take them to church and show them what they should believe when they grow up. We don't want those words to be in their minds; we need to erase those words from their minds because it in public domain that those were made even in local radios which is not also good for our media.

Sometimes it is also good to know that families have values. Some things should not be put on record in radios because our children still listen to local news. There is also another video; when the Governor was in the burial of His Excellency Kalonzo's father, it was also shameful for those words to come from our Governor. Yes, there is a better way of addressing things; about those 32 helicopters, we should have so many of them in Kenya, I should even own one.

*(Laughter)*

Yes, but that does not mean that we don't consider the poor; even the time of Jesus, the poor were there, even the time of Moses but he didn't talk evil of them like the Governor did at that time. I don't want to say those words because they don't deserve to be on air or anywhere in public because we should all know that we should keep secrets out of morals and out of what we believe in if we are Christians.

I learnt a song when I was a small boy can I sing the things which were talked by the Governor, the other day; no; but I remember one thing my president said that human dignity is always the first thing in your life because dignity starts when you were born. That is why even the constitution talks of human life where it starts; it starts from birth and dignity starts from birth. I don't remember the Article and what it says but I know it is there.

All is not lost but the people of Machakos can sit down reason together, yes we may be right but we have another gender of leaders, we need to think and think the best for Machakos and the best of Machakos is stipulated in the law.

So, whoever is breaking that law and crying in public is our Governor because he wants to do things the wrong way but that is wrong. He should be told that Machakos people are educated, they are learned, we have PHD here, we have Masters here, we also have form fours and they understand and even the ones who are not learned also understand the mathematics of money. Even my child who is not educated knows how to buy a sweet and uses money.

When you try to lie to the public, that those people have not done this, this people have not done that, you start confusing the ethics which you swore to protect. Machakos is bigger than an individual; Machakos is bigger than me and it is also bigger than the Governor himself because the Constitution gives him ten years, if he is lucky to have it but there is also something



else. Where will you live after 2022? Will you be in Machakos or Australia? If you will be in Machakos please stop insulting the people of Machakos. Thank you, Mr. Speaker. No more.

**Hon. Deputy Speaker:** Thank you, Hon King'ori. I call upon the mover of the motion to respond.

**Hon. P.J. Mutiso:** Thank you Mr. Speaker for giving me this opportunity to thank my colleagues. Thank you Members for supporting my motion; what I believe is that you have given me a nice time because I don't want to talk much. What you have said is the truth and the plain truth. As many have said and even in the Bible it is very clear because where our governor was issuing such words of *Kaveti* and 'M double E.' it was near Muthini primary school and it was in the afternoon with so many children in that place.

It is very clear in the Bible that children are rewards from God Psalms 127:3 and also in Proverbs 22:6; train up a child in the way he should go and when he is old, he will old he will not depart from it. Now one would wonder what kind of a leader the Governor is in Machakos County because if that is the way we will train our children definitely, it will be very bad for us and in future maybe there will be no leaders if that is the kind of children we are bringing up.

It is in the Bible, not my words and also in the Constitution of Kenya; our Governor violated Chapter 4 on Bill of Rights. As he has said, it is very demeaning for this County Assembly and even County of Machakos to have such a leader who can make such utterances in public and I wonder because I know most of the people who have done communication, they limit speaking some words because if you are trained well in some areas like communication skills, you are taught not to mention some words.

Just speak a word that you can.....it has a tail that you can pull back. It is very clear in communication skills.

So, I wonder whether my Governor Alfred Nganga Mutua went through or done such a unit in his university. It is demeaning Mr. Speaker and what my friend did was not good for us. Article 36 is about freedom of association because when the Governor was saying that 'what Members are doing with *Kaveti*, the Speaker now and that was demeaning.

In my house, I welcome all members of the community to come, sit in the sitting room but if I find you where I sleep and you are not a doctor, I can question you because that is a private place. Now this is what my friend has done because when you are saying that 'what were you doing with *Kaveti*' you are just abusing women in this country.

You have all rights of association; you can socialize with anyone in this country. I think he must apologize for that. I have heard in the clips which were played here *kaveti*; he said it more than 15 times. So maybe that is a person who is afraid of the Speaker or maybe that is how he was brought up.

There is another guy a friend of mine an Hon. Member, sometimes if he wants to abuse you he could say; swear to God and tell you to pull his finger and that time he is just abusing you the time he is swearing and I don't want to mention the man. When I did my research on the same fellow I found that his father is of that kind.

So that is why I am saying that we must be careful when we are speaking in some areas like in public places because we have children and we have to protect them. To finalize, Article 27(4) and (5) say 'a person shall not discriminate directly or indirectly against another person.' It is very clear. That is not good for our Governor, a leader who is aiming to go for the highest seat in this country. One would wonder.

So as many of the members have said; I don't want to be associated with such a leader because it is demeaning and shameful. I thank the pastor of Mbaikini last Sunday; in his sermon, he talked something about the words used by our Governor. Mbaikini is in Wamunyu, Mwala Sub-County among other pastors and it was discussed all over. Maybe in this country, I don't know the television station but it was also there. So, Members thank you for supporting my motion and God bless you.

*(Applause)*

**Hon. Deputy Speaker:** Thank you, Hon. Peter Mutiso.

*(Question put and agreed to)*

The Chair therefore directs that the office of the Clerk takes the resolutions passed by this House and forwards them to the bodies as they have been said; EACC, DCI, DPP, Senate with the attachment of the HANSARD Report of this Assembly for action to be taken.

I would like to point two things from what Hon. King'ori has said and what I have to say.

Article 27(3) on equality and freedom from discrimination and it states that 'women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.'

That is a very strong Article in the constitution that women and men have the right to equal treatment including the right to equal opportunities in political, economic, cultural and social spheres. Just to put another note, Chapter 1(3) of the constitution; sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution:

- (a) Parliament and the legislative assemblies in the county governments;
- (b) The national executive and the executive structures in the county governments;

So, when you look at the constitution itself when it comes to vesting of power invest power on the legislative assembly first before it even vests power on the Executive. So undermining the head of the legislative arm of the government is something which is not right even based on the Kenyan law. Those are my personal feelings after you have already taken your vote.

## ADJOURNMENT

**Hon. Deputy Speaker:** This House stands adjourned to Wednesday, 21st November, 2018 at 3.30 p.m.

The House rose at 2.12 p.m.