

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**  
**OFFICIAL REPORT**

**Wednesday, 31st May, 2017**

The House met at 10.07 a.m.

*[The Speaker (Hon. Mung'ata) in the Chair]*

PRAYERS

**COMMUNICATION FROM THE CHAIR**  
**FRESH RECRUITMENT OF DISMISSED INSPECTORATE OFFICERS**

**Hon. Speaker:** I have this brief communication in the matter of a motion by Hon. Katela yesterday. A motion was tabled this week by Hon. Katela requiring the House to resolve that inspectorate officers dismissed while on strike demanding their appointment letters be recruited afresh and paid their outstanding dues.

Hon. Members, I have ruled that I will issue further instructions and directions on the matter this morning. After due consideration of the issues raised by Hon. Members and noting that there is an *ad hoc* committee handling the matter of inspectorate officers, I direct that the matter be referred to that committee and that the committee should table its report on Wednesday, next week.

**PAPER LAID**

**PUBLIC COMPLAINTS ON POOR SERVICE DELIVERY AND HARASSMENT BY  
COUNTY INSPECTORATE OFFICERS**

**Hon. Itumo:** Mr. Speaker, Sir, I wish to lay the following paper on the table of the Assembly, today, May, 2017; report of Justice and Legal Affairs committee on public complaints about poor service delivery and harassment by County Inspectorate Officers.

**Hon. Speaker:** Thank you. Paper is laid.

**NOTICE OF MOTION**

**PUBLIC COMPLAINTS ON POOR SERVICE DELIVERY AND HARASSMENT BY  
COUNTY INSPECTORATE OFFICERS**

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**Hon Itumo:** Mr. Speaker, Sir, I wish to give notice of the following motion;

THAT this Hon. House discusses and approves the report of Justice and legal affairs committee on public complaints about poor service delivery and harassment by County Inspectorate Officers.

**Hon. Speaker:** Thank you, the notice is issued. Proceed.

### MOTION

PUBLIC COMPLAINTS ON POOR SERVICE DELIVERY AND HARASSMENT BY COUNTY

INSPECTORATE OFFICERS

*(Hon. Katela on 30.05.2017)*

*(Resumption of Debate on the Motion tabled on 30.05.2017)*

**Hon. Itumo:** Mr. Speaker, Sir;

THAT aware that Standing Order 190(5)(b) provides for the functions of Sectoral Committees which include among other things to investigate, inquire into and report on all matters relating to the mandate, Management activities, Administration, operations and estimates of the assigned department;

Aware THAT, justice and legal affairs committee is mandated under the Second Schedule of the standing order to deal with matters related to ethics, integrity and anti-corruption and human rights;

Aware THAT, the committee received comments from the Hon. Members that the County Inspectorate Officers were harassing citizens in the ward, in the name of enforcing County laws and aware THAT, the public also complained of poor services delivery;

Noting that the committee discussed the issues raised by the Hon. Members and resolved to visit some selected sub County to establish the extent of the complaints and aware that the committee had compiled the report;

Mr. Speaker, Sir, I wish to move the motion, that this Hon. House discusses and approves the report on the Justice, Legal and affairs committee on public complaints about poor service delivery and harassment by Inspectorate Officers.

I now call the Hon. Member for Mwala, a good friend of mine to come and second this motion. Thank you, Mr. Speaker.

**Hon. Kimata:** Thank you, Mr. Speaker, for granting me this chance for seconding this motion. It is a very important report and committee and I appeal to all the Members to support this important document.

(Applause)

**Hon. Speaker:** Thank you. The motion is appropriately seconded and you may proceed to give us the report.

**Hon. Itumo:** Mr. Speaker, Sir, Article 1(1) of the Constitution of Kenya states that that all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution and (2) that the people may exercise their sovereign power either directly or through their democratically elected representatives.

Further, section 9(1) (b) of the County Governments Act (CGA) states that 'a member of a county assembly shall present views, opinions and proposals of the electorate to the county assembly.' Several Hon. Members invoked section 9(1)(b) and presented complaints that the County inspectorate officers were harassing their electorate in the name of enforcing county laws to the Committee on Justice and Legal Affairs.

In addition, section 9(1)(d) of the County Government Act states that 'a member of a county assembly shall provide a linkage between the county assembly and the electorate on public service delivery.' Pursuant to this section, Hon. Members informed the committee that service delivery in some parts of the County was wanting. The Committee discussed the issues raised by the Hon. Members and resolved to visit some selected sub-counties to establish the extent of the complaints. The committee visited Masinga, Matungulu, Kangundo and Machakos sub-counties.

Mr. Speaker, Sir, the Justice and Legal Affairs committee is established as per Standing Order 190 and the Second Schedule that underlines the functions of the committee to include all matters related to constitutional affairs, the administration of law and justice including the elections, ethics, integrity and anti-corruption; human rights and intergovernmental relations.

Mr. Speaker, Sir, the Committee on Justice and Legal Affairs is comprised of the following members;

- |                               |                   |
|-------------------------------|-------------------|
| 1. Hon. Joseph Itumo          | -Chairperson      |
| 2. Hon. Justus Kimata         | -Vice Chairperson |
| 3. Hon. Alex Kamitu           | -Member           |
| 4. Hon. Alphonse Wambua       | “                 |
| 5. Hon. Festus Ndeto          | “                 |
| 6. Hon. Raphael Mutuku        | “                 |
| 7. Hon. Justus Katumo         | “                 |
| 8. Hon. Winston Kanui         | “                 |
| 9. Hon. (Ms.) Magdalene Ndawa | “                 |
| 10. Hon. Felix Ngui           | “                 |

11. Hon. (Ms.) Ann Musyoki

“

12. Hon. (Ms.) Mary Ndinda

“

Mr. Speaker, Sir, the Committee visited Masinga, Matungulu, Kangundo and Machakos sub-counties on 19<sup>th</sup> September, 2016 and the following were the findings from the four sub-counties.

#### *Masinga Sub-County*

Mr. Speaker, Sir, the Committee visited Ndithini ward and met with bodaboda operators operating from Kwa Samaki stage on Thika-Embu road to Tumutumu market and also those operating on the route from Thika-Embu road at Kitini stage to Mananja market. The bodaboda operators informed the committee that they lacked a designated parking area and a shed to operate from while their counterparts in Murang'a County, across the road, had a designated area of operation with a shed and a toilet.

This gave bodaboda operators from Murang'a County a competitive edge in attracting customers. The operators were forced to cross over to Murang'a side to get customers. In the effort of getting customers, the operators were facing harassment by Murang'a County Government officers who demanded parking fee from them. The operators disclosed that some of their colleagues had been arrested and fined heavily by Murang'a County Government.

Mr. Speaker, Sir, the operators lamented that the area was busy as it was the outlet of vegetables and fruits grown around Masinga dam and lack of toilets was a health hazard as people were relieving themselves in the nearby bushes as they waited for vehicles at the stages. The operators called on the County Government to construct a bodaboda shed and toilets at Kwa Samaki and Kitini stages along Thika-Embu road.

The operators also requested for installation of flood lights, *Mulika Mwizi*, for security reasons and enable them to operate at night. They also requested for the County Government to talk to the national government on how to deal with the threat of hippos from Masinga dam which where a threat to them.

Further, Mr. Speaker, Sir, the operators complained of poor roads. During the visit, the committee found a man working on the road from Kwa Samaki to Tumutumu market using a jembe, a shovel and a wheelbarrow on one of the spots that was impassable. The operators informed the committee that they had engaged him and he had put a toll station where they would give him Kshs. 5. The operators had resorted to this method of road construction to ease their movement after the contractor engaged by the County had abandoned the work.

The operators plying the route to Mananja market complained that the road was too dusty as a result of road construction that was on-going. The dust had led to an accident whereby one of their own had been crushed by an oncoming sand lorry and also contributed to respiratory diseases. They called on the contractor to water the road and to do shorter sections of the road to completion instead doing a whole stretch of the road.

Mr. Speaker, Sir, the bodaboda operators shared other problems that were affecting them as residents of Ndithini Ward. They informed the committee that the area had been marginalized and they were not receiving any services from the county government. They said that they had been promised that they would be assisted get title deeds but nothing was happening.

They also noted that the area was being sidelined in the county jobs and no resident from the area had been employed. They called on opening up of the Kwa Samaki area through construction of a market shed.

#### *Kangundo and Matungulu sub-counties*

The committee was able to talk with the public and was informed that inspectorate officers were soliciting money from the public whenever they were doing minor repairs like fencing their own compounds, renovating their own houses and digging latrines. The inspectorate officers were also collecting money from business owners even after they have paid permits for their businesses.

Some traders operating video shows halls informed members that they were forced to pay money daily even after having a proof of permit payment. Bar owners complained the officers were demanding for money on daily basis failure to which they were arrested and charged with non-existent offences. They confided to the committee that they were paying the money to avoid loss of working hours if they were to be put in custody and taken to court.

Mr. Speaker, Sir, money was solicited from people constructing residential homes without proper explanation failure to which their building materials were carried by the inspectorate officers. Members of the public informed the committee that they were not able to differentiate the actual inspectorate officers and the ones who were fake.

The committee was informed of a case at Kantafu market where two officers and one civilian were caught soliciting money from a person who was constructing a house in his home. The officers had taken Ksh. 20,000.00 from him and did not issue receipt. The matter was taken to Matungulu Sub-County Administrator, a Mr. Onesmus, and the case still under investigations.

Mr. Speaker, Sir, members of the committee, after talking to the public, proceeded to the Matungulu Sub-County Administrator's office for more information. The Administrator informed the Committee that the County Government had employed 35 permanent Inspectorate officers in Matungulu and Kangundo Sub-counties. The Administrator further added that 136 casual inspectorate officers were employed also to help since the 35 officers were few. The Administrator informed members that the casual officers were too many to be controlled or monitored effectively.

Mr. Speaker, Sir, the Committee sought to know from Administrator how the problem of soliciting funds had been resolved. The Committee was informed that the case had been forwarded to the Chief Officer, decentralized units and County Administration Mr. Mbai, but nothing was done.

#### *Machakos Sub-county (Muumandu and Kola)*

Mr. Speaker, Sir, the committee was informed that incidents of harassment of the public by the inspectorate officers were rampant in Katuaa market, Kivandini market and its environs. The officers were going to people's homes who were renovating houses and demanding money from them in the name fining them for not acquiring permits for renovations.

Mr. Speaker, Sir, there was a complaint from the public of Machakos town at Miwani area where the officers solicit money from bar owners, wines and spirits shops. The officers were not issuing the traders with receipts and in cases whereby they failed to give money; they were arrested and taken to the police station.

The bar owners informed members that they had paid business licenses and in cases of small offences, they should be enlightened on where to pay their fines and issued with receipts. Owners of video shops claimed that they are arrested at night and forced to pay Ksh. 1,000 by the police which is also not receipted.

#### *Committee's General Observations*

Mr. Speaker, Sir, in the discussion of site visit findings and compilation of this report on 18<sup>th</sup> and 19<sup>th</sup> May, 2017 in Naivasha, the committee invited some Hon. Members who shared a lot on what the public were going through in the hands of inspectorate officers. The committee was informed that inspectorate officers who had been dismissed had refused to return uniform and badges.

The committee was told of a case in Kyumbi Junction where a female inspectorate officer who had been dismissed has been seen collecting money from matatus to allow them pick passengers from un-designated areas. The committee also heard of a case in Mavoko sub-county where an inspectorate officer had been transferred to Masinga sub-county and refused report to their duty station. This officer has been seen collecting money in Mlolongo town.

Mr. Speaker, Sir, the committee observed poor coordination in the administration of inspectorate officers. They observed that employment of the many officers on casual basis and underpaying them had worsened the situation and was the root cause of harassment of the public. The Committee observed over-employment of the officers yet their work was not to protect life and property like the police do.

The officer's work was to enforce and whenever they faced resistance they were supposed to seek assistance of the police who were allowed to make arrest by the law. The ratio of inspectorate officers to Matungulu and Kangundo residents is about 1:1360, that is one officer serving 1360 residents, while that of police to civilians is 1:1000 (*National Population Census, 2009; Economic Survey, 2015*). Given the resources at national level and the tasks which the police perform, the county has over-employed inspectorate officers.

Mr. Speaker, Sir, the committee heard that developers had to identify some inspectorate officers and befriend them to oversee that people working on the construction sites were not

harassed by other officers. The inspectorate offices usually claim to be enforcing county by-laws and the committee noted that by-laws became redundant when local authorities ceased to be.

Mr. Speaker, Sir, the committee observed lack of proper awareness of public on one hand and abetting corruption on the other hand. The committee noted that section 114 to 142 of Machakos County Finance Act, 2015 provide for development control and have been abused by inspectorate officers. Section 117 of the Act specifies exemptions to plan approvals and the inspectorate officers did not consider them. Section 128 of the Act outlines the process to be followed in case of a development that is not approved and requires the County Planner to give notice of illegal construction.

Section 142 of the Act states that any person in violation of the part on development control commits an offence and is liable to a fine of Ksh. 150,000 or imprisonment not exceeding seven months or both. The clauses do not provide for arrest of the public. The inspectorate officers were taking advantage of the ignorance of the public and do not follow the laid down procedures in enforcing compliance such as giving notice to provide documentation.

The officers harass and terrorize the public by arresting the people working on the construction site as well as carting away materials and equipment claiming they will be used as exhibits in court. On sensing arrest, the public pay whatever money they are asked to secure freedom which amounted to corruption.

Mr. Speaker, Sir, the committee on Justice and legal affairs recommends the following;

1. That, the operations of inspectorate officers should be streamlined whereby the officers are trained on their roles, issued with uniform and badges, the dismissed officers directed to return uniform and warned not to act for the County Government or else face prosecution for impersonation, officers who have stayed in one area for long to be transferred and if they refuse be sacked. A law governing inspectorate officers should also be enacted.
2. That employment of inspectorate officers should be regularized, their pay enhanced to motivate them and those employed on casual basis laid off or employed permanently.
3. That, the department of Decentralized Units and County Administration should carry out frequent supervision checks on how the inspectorate officers were working to help reduce corruption.
4. That the County Government should rationalize inspectorate officers and have a lean force that is well trained, motivated, easy to identify, easy to manage and efficient in its roles.
5. The County government should enhance corruption reporting through provision of a toll free line to report corruption or short message code platform which they can use to confirm whether the officer was a county government employee or an impostor.

6. That the public should be sensitized that paying the recommended revenue was for their own good, that whenever they make any payment they should demand for a receipt and that they should ask for identification documents and law requiring the officers to enter their premises. The public should also be sensitized that it was criminal to give bribes.
7. That provision should be made in the Finance Act to have zoning and exempt rural areas from paying building plan approval fees when constructing their house.
8. That the County Government should collaborate with County Government of Murang'a to ensure that citizens living at the border points work without harassment and paid required fees to their respective counties.
9. That the County Government should consider construction bodaboda sheds and toilets at Kwa Samaki and Kitini stages along Thika-Embu roads. The County Government should also install flood lights in these areas and develop the regions through construction of roads. The county government should ensure road construction contractors follow the laid down procedures of environmental protection such as watering roads when undertaking construction.
10. The department of Decentralized Units and County Administration should ensure all administrative units as enshrined in sections 51 and 52 County Government Act were operational. This will ensure ward administrators and villager administrators coordinate government activities and also residents will have an officer nearby to register compliant in case of dissatisfaction.

Mr. Speaker, Sir, the committee on justice and legal affairs is grateful to the office of the Speaker and that of the Clerk to the County Assembly for the support accorded during the committee sittings and visits. I wish to express my appreciation to the members of the committee who sacrificed their time to participate in this exercise and in the preparation of this report.

Mr. Speaker, Sir, it is therefore my humble duty, on behalf of the justice and legal affairs committee to table this report for adoption by this honorable House. Thank you, Mr. Speaker, Sir.

**Hon. Speaker:** Thank you very much, chairman. The report is now with us. I will invite contributions. Yes, Hon. Ngunzi.

**Hon. Ngunzi:** Thank you, Mr. Speaker. I want to congratulate the committee for exhausting the work that they have done on the report and wish to ask the House to adopt the report as presented by the chairman. Thank you.

**Hon. Speaker:** Thank you.



**Hon. Nzoka:** Thank you Mr. Speaker, Sir. I want to say 'thank you' to the chairman for coming up with this report. Actually, on the ground, this is what is actually going on and our people are not aware of these laws. When they go and start making a kiosk adjacent to the homestead, they are harassed very much. So, I ask the House to pass this one as it is and we see how we can sensitize our people. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you very much.

**Hon. Muli:** Thank you very much, Mr. Speaker. I would like to applaud the chairman of the committee for the good work they have done and also I am happy that the committee met my bodaboda operators in Ndithini ward and what they have indicated here is what is on the ground. Mr. Speaker, I would also like to emphasize on the issue of inspectorates; it has become a burning issue even in this House.

I can recall that yesterday we had debated on issues of inspectorate officers where we have not known what is happening with this department. I would like to request the committees which are concerned or which are relevant to the issue of inspectorate officers to exhaust the issue so that the problem emanating from the department can be solved. Thank you, Mr. Speaker.

**Hon. Speaker:** Thank you.

*(Question put and agreed to)*

#### **ADJOURNMENT**

**Hon. Speaker:** That is the business we have for the morning. The house adjourns.

House rose at 11.20 a.m.