



OFFICE OF THE SENATE
MACHAKOS COUNTY

18th
OCTOBER, 2023

**A SPEECH GIVEN BY HON. AGNES
KAVINDU MUTHAMA, SENATOR MACHAKOS
COUNTY TO THE THIRD EDITION OF THE COUNTY
ASSEMBLY OF MACHAKOS COUNTY 2023**

Madam Speaker Hon. Ann Mwikali,

Hon. Clerk Joseph Mutisya

Hon. Members of County Assembly

Madam Speaker and members of this honorable house, am profoundly humbled and overwhelmed by the great honor and privilege you have bestowed upon me to address this 3rd edition of the county assembly of Machakos County.

Allow me with great pleasure, to congratulate all honorable members here present for being elected, re-elected and nominated in this third edition of Machakos County Assembly. Like many of you, I am equally humbled and honored to be part of this third setting of the Assembly as your County Senator.

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Let me congratulate our Governor H. E Wavinya Ndeti, her Deputy H. E Francis Mwangangi' and other elected leaders of parliament in absentia for emerging victorious in the last election. Allow me Madam Speaker, to thank all honourable members of County Assembly and their supportive staff for attending this function and thus giving the occasion the decorum it deserves.

Devolution signifies the handing over of power back to the people of Kenya and thereby acknowledging the sovereignty of the people as enshrined in our constitution. We should, therefore consider ourselves privileged to be part of this great moment in the history of our country. I can submit without fear of contradiction that, so far it is working.

Madam Speaker, I welcome and associate myself with the positive spirit exhibited and pronouncements made by our Governor where she had decided to change her strategy of engagement and decided to work more closely with The Senate, The National Assembly and The National Government.

Madam Speaker, the concept of devolution adopted in Kenya involves the creation of two levels of Government (National and County Government) that are coordinate but not subordinate to each other. Both levels are created and protected by the constitution. The functions and resources for discharging the functions assigned to each level are

clearly defined in the constitution and none of the level is an agent of the other.

The essence of this is that at the local level, the people through their county assemblies have the constitutional mandate to make decisions that are unique to themselves and their locality without interference from the national Government. However, at the national level, decision making is shared since such decisions affect the whole Country. Through the Senate, each county will have one vote ensuring that the voice of each county is heard at the national level.

Madam Speaker, it's important to note that devolution is one of the celebrated and most spoken milestones of our 2010 constitution. Some of the objectives of devolved governments that encompass Legislation, Oversight and Representation include but are not limited to;

- Giving powers of self-governance to the people and enhancing the participation of the people in the exercise of the power of the state and in making decisions affecting them.**
- Promoting social and economic development and the provision of proximate, easily accessible services throughout Kenya**
- Facilitating the decentralization of state organs, their functions and services from the capital city of Kenya to the grassroots.**

These objectives, as much as they are noble they cannot be achieved if the two arms of the county government do not work together in harmony. The Great people of Machakos County have elected us to lead them as a demonstration of their confidence in our leadership. Our people have only one purpose in allowing us to lead them and that is, we nurture and protect the well-being of the individual, the family, communities and finally the nation.

Indeed, Madam Speaker, the executive chapter puts emphasis on this concept of service for the welfare of the people and declares in article 129(2) that “executive authority shall be exercised in compatible with the principle of service to the people of Kenya and for their wellbeing and benefit.” This the executive must uphold

It is important that honorable members of the assembly also subscribe to the same concept while discharging their duties.

Madam Speaker, in the spirit of the separation of powers, the constitution of Kenya has vested legislative authority in the county assembly to make laws that are necessary for the effective performance of the functions and exercise of the powers of The County Government. However, once the assembly has debated and agreed on any legislation, such legislation must be passed on the Governor for assent before the legislation can become law.

Madam speaker, article 183(1) bestows upon the executive as the only arm in the County Government responsible for implementing both County and National legislation within the County as well as the management and coordination of the functions of the County administration and its departments.

This is an important paradigm shift in Governance at the grass root level. In the past MCAs would directly be involved in the actual implementation of projects and programs henceforth, Honorable Members of the Assembly will be involved in monitoring and evaluating and exercising oversight over the executive organs. The significance of this shift is to ensure that those implementing Government agenda are not at the same time monitoring and evaluating themselves

It is important to realize from the outset that for the county to effectively discharge its functions, there must exist a mutual and symbiotic relationship between the executive and the assembly. If we allow confrontational politics to prevail, then neither the executive nor the assembly will be able to carry out its functions, and the people of Machakos County will be the end losers.

Madam Speaker, the pledge and commitment by our Governor and other leaders to intensify the fight against corruption in their respective roles is highly commendable. Kenyans are looking forward to a new dawn and expect our MCAs to aggressively defend devolution and county governments better. We

must ensure devolution works for the people and more accountability is exercised.

Madam Speaker, the primary mandate of the Senate is to represent the counties and their governments and protect the interests of the counties and hence the successful implementation of devolution. Our core role involves law-making by considering, debating and approving bills concerning counties and determining the allocation of revenue among counties, exercise oversight over the national revenue allocated to the counties and participate in the oversight of state officers by considering and determining any resolution to remove, Governors, The President and Deputy President from office.

Madam Speaker, The Senate is the bastion of devolution which is a game changer and has significantly transformed our Country Kenya. The county governments are currently receiving billions of shillings courtesy of the Senate's intervention to finance various development programs and provide essential services that are aimed at improving the well-being and welfare of the Kenyan people.

Madam Speaker, Massive infrastructural projects have been built throughout the country, including roads, educational and health facilities as well as housing projects. Local entrepreneurs, youths and women have additionally benefitted by securing business and employment opportunities

Madam Speaker I call upon and encourage members of this honorable house to address emerging contentious legislative challenges and resolve them within stipulated mediation frameworks while adopting collegiate approaches noting that these processes are intended to serve the best interest of the people. This is how tangible and progressive milestones will be realized by this honorable assembly.

Madam Speaker, elections come and go. We concluded the electoral phase and must now proceed to the critical transitional and development phases after the delicate ballet of dance of politics. We have to overcome and begin to heal from challenges borne out of divisive political alignments. I urge and call upon our people to refocus, embrace unity and move forward.

To honorable members of the County Assembly, some of the loopholes of corruption in County funds include; tender allocations, contractors, ghost workers and faulty revenue collection systems. I therefore urge you to audit both Machakos County revenue collections and National allocations to Machakos County, creating necessary county legislations to help the assembly monitor both human resource and development programs in the county. You are the eyes of wananchi and therefore you have a responsibility to ensure county revenue allocations to Machakos County are properly utilized.

Madam Speaker, the financial position of the County Executive of Machakos as at 30 June, 2020 and its financial performance and its cash flows for the year that ended, in accordance with International Public Sector Accounting Standards (Cash Basis), the Public Finance Management Act, 2012, and the County Governments Act, 2012 the following cannot be ignored.

Madam Speaker, on the Matters of Pending Bills, the financial statements reflected pending accounts payables, staff payables and other payables totaling Kshs. 3.0 Billion. Examination of account payables records indicated that some of the bills had been outstanding for significantly long durations with some dating as far back as 2013/2014 financial year. Failure to pay pending bills in the year, they relate to adversely affects funding for programs and operations in subsequent years when the bills are paid. In addition, it denies local businesses capital to fund their operations and investments and may discourage them from trading with public entities.

Madam speaker, it should be noted that County Governments which had eligible pending bills paid that were higher than the amounts reported by OAG special report as at 30th June 2018 had verified some ineligible bills through the Ineligible Pending Bills Resolution Committee and have prioritized and paid them.

Madam Speaker, upon my research and survey, my office established that there are stalled projects within Machakos County, some has been completed

by new county administration and others not. Madam speaker, here with below is a table exposing some of the Stalled County projects per Sub County, which I urge the assembly to swing into action and ensure their satisfactory completion and this will enhance service delivery to our people.

MASINGA SUB COUNTY	NUMBER
Boreholes	18
Health Facilities	9
Roads	9
ECD Classes	7
Weirs	2
Polytechnics	2
Markets	1
Shades	10
Dams	4
Drifts	7
Toilets	3
Culverts	4
YATTA SUB COUNTY	
Boreholes	27
Health Facilities	0
Roads	8
ECD Classes	21
Weirs	7
Polytechnics	0
Market Shades	2
Boda boda Shades	4

Dams	2
Drifts	7
Cattle dips	3
Ikombe Stadium	1
KANGUNDO SUB COUNTY	
Bore holes	33
Health Facilities	11
Roads	9
ECDE Classes	5
Kinyui Stadium	1
MACHAKOS TOWN SUB COUNTY	
Bore holes	12
Health Facilities	10
Roads	12
ECD Classes	27
Weirs	8
Polytechnics	1
Boda boda Shades	3
Dams	5
Drifts	5
Grading and Culverts	3
Mumbuni Stadium	1
MATUNGULU SUB COUNTY	
Bore holes	22
Health Facilities	7

Roads	1
ECD Classes	17
Polytechnics	1
Boda boda shades	3
Drifts	4
Stadiums	1
KATHIANI SUB COUNTY	
Bore holes	17
Health Facilities	10
Roads	12
ECD Classes	9
Weirs	5
Polytechnics	2
Market Shades	7
MWALA SUB COUNTY	
Bore Holes	23
Health Facilities	1
Roads	3
ECD Classes	17
Polytechnics	1
Drifts	11
Masii Stadium	1
MAVOKO SUB COUNTY	
Bore holes	9
Health Facilities	0
Roads	4
ECD Classes	4
Polytechnics	2

Drifts	0
Mavoko Stadium	1

Madam Speaker, the above stalled projects in different sub-counties, among others which are captured in the Auditor Report, should be completed so as the public can get value for their money.

Madam Speaker, the issue of the NGAAF, I wish to draw your attention and that of the members of this honorable assembly to the National Government Affirmative Action Fund (NGAAF) that is usually given by the National Government to all the 47 Counties through their respective County MPs. NGAAF is a semi-autonomous Government Agency (SAGA) under the ministry of public service, Youth and Gender affairs. Pursuant to section (11) of the public finance management act, 2012; the regulations provide for the establishment, management, operation or winding up of national public funds. Since its inception in 2014 till 2022, Machakos County has received the following amounts.

2014/ 2015 Financial Year	36,413,792
2015 / 2016 Financial Year	51,462,069
2016 / 2017 Financial Year	53,470,344
1, 2 & 3rd Quarter of 2017 / 2018	39,485,093
Total Fund Disbursement	180,831,299

This money is distributed as follows;

Bursary (Most Needy)	15%
Value Addition (Women Development, Table banking, Tents, Tanks, Equipments)	50%
Youth Development	10%
Girl Child (Sanitary)	12%
People Living with Disability (PLWDs)	13%

Madam Speaker, since this money is used to transform the lives of Kenyans directly in one way or the other, I urge the assembly to look into it for the benefits of our people.

Madam Speaker, on the issue of Unsatisfactory Implementation of projects, The County Government in January, 2019 awarded contracts for construction of Masii and Mavoko Stadiums to a local firm at contract sums of Kshs.49, 045,478 and Kshs.44, 616,635 respectively. However, audit verification carried out in November, 2020 indicated that construction works at both stadiums had stalled and the contractor had abandoned the respective sites. Further, although notices for default and termination of the contracts were issued to the contractor on 15 July, 2019 and 27 August, 2019 respectively, the contractor was thereafter on 14 May, 2020 paid Kshs.4, 705,280 and Kshs.4, 873,680 for work done

under the respective contracts. The payments were made contrary to the expectation that the contractor would be penalized for breach of contract. In addition, there were no records to indicate whether the two contracts were indeed terminated; and how Management intends to complete the stadia. In the circumstance, Masii and Mavoko residents' expectations for improved sporting facilities have not been realized and no value for money has been obtained on expenditure totaling Kshs.9, 578,960 incurred under the contract.

Madam speaker, as Senate it's our sole responsibility to conduct audit of cash spent by the county governments and also summoning the respective Governors to explain how those funds were used. Its therefore crystal clear that Governors' are mandated to report all sources of County revenue, including tax money and any additional cash acquired through donations. Documentations regarding the transfer of funds from the National Governments to various County Governments will be used as evidence.

Madam speaker, for the record and for the future reference, I would like to comment the report of Office of the Controller of Budget for the financial year 2021/22.

The following were noted in regards to Annual County Budget Implementation;-

1. Key observations

Madam Speaker, In the course of overseeing and reporting on the implementation of the County budget, the OCOB identified the following challenges which hampered effective budget implementation;

- 1. Low absorption of development funds as indicated by the expenditure of Kshs.1.36 billion in FY 2021/22 from the annual development budget allocation of Kshs.4.04 billion. The development expenditure represented 13.2 per cent of the annual development budget.**
- 2. A high wage bill, which accounted was 61.9 per cent of the annual realised revenue of Kshs.10.34 billion in FY 2021/22, thus constraining funding to other programmes.**
- 3. The underperformance of own-source revenue at Kshs.1.12 billion against an annual projection of Kshs. 1.68 billion, representing 66.5 per cent of the annual target.**
- 4. Failure by Fund Administrators to submit quarterly financial and non-financial reports to the COB, which is against the requirement of Section 168 of the PFM Act, 2012. The reports for the Staff Car loans, MCA Car loans, Staff Mortgages and Emergency Fund were not submitted to the Controller of Budget.**
- 5. High level of pending bills which amounted to Kshs.809.52 million as of 30th June 2022.**
- 6. Late submission of financial reports by the County Treasury to the Controller of Budget,**

which affected the timely preparation of the budget implementation report.

Further, the submitted report was incomplete as it excluded a report on Budget Execution by Programmes and Sub-programmes for recurrent expenditure. The report was submitted on 29th July 2022.

2. Recommendations

Madam Speaker, the County should implement the following recommendations to improve budget execution;

- 1. The County should identify and address issues causing delays in implementing development projects.**
- 2. The County Public Service Board should establish an optimal staffing structure to ensure expenditure on personnel emoluments complies with Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.**
- 3. The County should address its revenue performance to ensure the approved budget is fully financed.**
- 4. The CECMF should follow up to ensure Fund Administrators prepare and submit statutory reports in line with the PFM Act, 2012.**
- 5. The County leadership should take charge of the worsening pending bills situation to ensure genuine bills are paid without delay in the coming financial year.**

6. **The County Treasury should ensure timely preparation and submission of financial reports to the Office of the Controller of Budget in line with Section 166 of the PFM Act, 2012. The County Treasury should ensure that complete reports are submitted in line with recommended templates.**

Madam Speaker, for the above challenges and recommendation to be solved I would like the Machakos County Assembly and more so the Honorable members of County Assembly to be proactive and take the role of the oversight with seriousness it deserves. Madam speaker, I would like to remind or share my knowledge with honorable members as far as the role of oversight is concerned as follows;-

OVERSIGHT BY MCAs:

Madam Speaker, MCAs are supposed to oversee all programs and projects in the county according to article 185 of the Kenyan Constitution which states their roles and responsibilities. This will ensure anything approved in the assembly through the CIDP is translated into the annual development Plans, budgeted for and is actually done.

The steps of oversight can be summarized as follows:

1. **The development of the CIDP.**

At this stage, MCAs should attend the public Participation forum to oversee that the desires and needs of the people are included in the 5yrs plan.

After the CIDP is done, MCAs are supposed to read and know what is in the plan for their people.

MCAs approve the Annual Development Plan every year. At this point, they ensure what the people put in the CIDP is put in the plan.

2. Budgeting stage.

Madam Speaker, during the budget preparation MCAs should ensure the budget has captured the desires of the people in the CIDP and Annual Plan.

This is also oversight as you oversee proper budgeting as you legislate. Ensure budgets are fair to all and enough money is allocated to projects and programs.

3. Project and Program implementation:

Madam speaker, MCA's oversight is heaviest at this stage. You must oversee all projects that have been approved and budgeted for.

The executive must be monitored to ensure projects are done on a timely basis and to the right quality. You should question any delays and poor quality. You have a right, to demand the appearance of a CEC responsible for any docket to come and explain any shortcomings.

Madam speaker, as I conclude, I want to talk about the issue of demolitions of houses at Portland, Athiriver. Madam speaker, Article 43 (b) of our constitution is very clear and states that, "each person is entitled to have access to adequate housing and reasonable standard of sanitation". Madam speaker, What happened at Athiriver was inhuman.

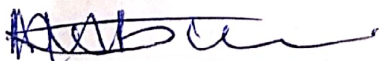
I want condemn it with strongest words ever. Having said that, I wish to call up the national government to rise up to the occasion and see how these squatters will be compensated and resettled again.

Madam Speaker, in conclusion, I wish to remind us all that the people of Machakos County have very high expectations from us. They need services delivered to them urgently. They cannot wait to start enjoying the fruits of devolution. The time has come when we must roll up our sleeves and start working for our people.

Madam speaker, May I again congratulate you and our Governor in absentia and honorable members for your election victories and wish you well as you carry out the business of this honorable assembly and the Great County of Machakos.

God bless you, God bless Machakos County and May God bless KENYA!

Thank you



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**HON. AGNES KAVINDU MUTHAMA, SENATOR
MACHAKOS COUNTY**