



COUNTY ASSEMBLY OF MOMBASA

OFFICIAL REPORT

Tuesday, 17th September, 2019
The House met at 2:58p.m.

(The Deputy Speaker (Hon. Fadhili Mwalimu) in the Chair)

PRAYERS

The Deputy Speaker (Hon. Mwalimu): Have your seats. Yes Clerk.

STATEMENT

RESPONSE TO STATEMENT BY CHAIRPERSON COMMITTEE ON TRANSPORT, INFRASTRUCTURE
AND PUBLIC WORKS HON. MUMBA ON CONCERNS IN THE DEPARTMENT

Yes Hon. Prischillah, Chairperson Committee on Transport, Infrastructure and Public works.

Hon. Mumba: Ahsante Bwana Spika. Taarifa hii ilikuwa ije katika Nyumba hii siku ya leo lakini nimeombwa na Wizara husika kuwa ni wapewe mda kidogo kwa sababu wote wahusika wawili walifiliwa na wameondoka na hawako na hakuna ambaye anayeweza kupeana Ripoti kikamilifu kuliko *Engineer* na *Engineer* Migosi ambao walikuwa wanataka jambo hili walichukulie wao wenyewe kwa sababu walisema hawataki wapeane wajibu huu na Ripoti ije katika Nyumba hii ikiwa haiko sawa.

The Deputy Speaker (Hon. Mwalimu): What is it Hon. Murfad?

Hon. Murfad Amur: Mr. Speaker I think this may be is the hundredth time when we request for that Statement, we are not saying that it is an individual should, it is a Department, there is a Department. This job does not belong to somebody Mr. Speaker, it is a Department so being told that the two people have lost their families or what, they did not go with the office, this is my fifth time on this floor the Department has an office, if they die today, does the mandate of that office also die? No, of course not so we should not be told that if a Departmental head is not there then there is no response to that issue Mr. Speaker Sir.

With all due respect Mr. Speaker we should not be taken for granted, it is becoming a day in day out problem to be told he has gone overseas, whenever they go, they don't go with these offices, they still have these offices intact there...

(Interruption)

The Deputy Speaker (Hon. Mwalimu): There is a Point of order, yes use your microphone.

Hon. Mohamed Hatimy: Mheshimiwa Spika nafikiri kidogo nimechanganyikiwa, Mheshimiwa anayezungumza ndie mwenye Taarifa alieleta, ndie mwenye hiyo Taarifa alioileta Kwa hiyo Mheshimiwa Spika nafikiri tufuate sheria vile zinavyotakikana.

The Deputy Speaker (Hon. Mwalimu): Hon. Murfad Amur you are the one who requested for this Statement? Mheshimiwa Chief Whip.

The Chief Whip (Hon. Kitula): Mheshimiwa Mwenyekiti mimi ndio nilieleta Taarifa hii lakini Mheshimiwa Amur ameweza kuleta amepatia taarifa kwa Nyumba hii na ni kwa kweli kwamba si mara ya kwanza kuleta maono yake kwamba Taarifa inapokuja, haijalishi kwamba mtu amefiliwa au mtu ana harusi au mtu amesafiri ndio iwe chanzo cha mtu kutoleta majibu katika Jumba hili. Mheshimiwa Mwenyekiti, kwamba ilikuwa ni Taarifa anatufahamisha sisi kama Jumba ili tuweze kufahamu hilo na sio mara ya kwanza ni dhahiri shahiri kwamba iko katika kumbukumbu kwamba Mheshimiwa Amur amekuwa akiongelea kuhusu swala hili kila mara kwa mara Mheshimiwa Mwenyekiti. Mimi nimeleta Taarifa lakini hadi kufikia sasa sijaridhika na majibu hayo kwa sababu huo sio muafaka wa kibunge Mheshimiwa Mwenyekiti.

The Deputy Speaker (Hon. Mwalimu): Thank you Hon. Chief Whip. Yes Hon. Milka.

Hon. Moraa: Thank you Mr. Speaker Sir, if the Hon. Member went to seek for information and that is the kind of response she was given that there is no information coming up because the boss is not around, she actually has just brought what she got from the office so we need to give her time to get the proper response. Thank you Mr. Speaker.

The Deputy Speaker (Hon. Mwalimu): Order Hon. Members! Yes Chief Whip.

The Chief Whip (Hon. Kitula): Mheshimiwa Mwenyekiti hili ni Bunge na vile tunavyoenda hatuendi sawa kama Bunge ni lazima tuweze kuambiana ukweli. Waziri asipokuwa Mheshimiwa Mwenyekiti haijalishi kwamba utaathiri utenda kazi wa Idara Mheshimiwa Mwenyekiti. Kwanza hili swali niliwahi kuuliza hata kama Waziri hayuko kuna *Chief Officer*, *Chief Officer* hayuko kuna *Director* wa *Roads* pia nae anahusika na hivi tayari yuko katika ofisi Mheshimiwa Mwenyekiti lakini swala kama hili tunaambiwa kwamba watu hawako ofisini ni chanzo cha majibu kutokuwa mahala kama hapa Mheshimiwa Mwenyekiti sio sawa kama Bunge na sisi Waheshimiwa sote tunao husika na swala kama hili, ahsante sana.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Amriya Juma.

Hon. Amriya Juma: Thank you Mr. Speaker. Mr. Speaker I wish there are some loud consultations I am unable to address the House Mr. Speaker.

The Deputy Speaker (Hon. Mwalimu): Hon. Amur consult on a low tone, yes Hon Amriya proceed.

Hon. Amriya Juma: Mr. Speaker I wish to state that when you look at the nature of the Statement from Hon. Kitula it actually requires a comprehensive response because it talks about..., am on the floor and am distracted, but my point is, when you look at the nature of that Statement it requires a response from the year 2016/2017, 2017/2018, 2018/2019.

Mr. Speaker yes the law does not apply in a vacuum, when one is not in an office the office should be operational but in every Department alive to the fact, in every Department there are office holders in every Department and in law we recognize there is an element of force (??), force (??) Mr. Speaker it is a principle in law that where in situation where unforeseen circumstances happen that substantiate that one person is unable to perform their part of the bargain so this is my fellow Hon. Sheila has just stated that here the owner of the office was bereaved and it was unforeseen that is why this comprehensive report cannot come to the House. I think Mr. Speaker it is reasonable to give it a benefit of doubt based on that principle of law that in circumstances there are force (??) can enable a contract not be performed Thank you.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Ibrahim Omondi.

Hon. Omondi: Thank you Mr. Speaker Sir. My fellow Chairman for Health was actually trying to give a joke here. I have keenly looked at the arguments especially how the Chair has argued Mr. Speaker Sir and sometimes it is very important to listen carefully, because if I look at what Hon. Chief Whip, this Statement actually if I look at it, it is a very serious and comprehensive and it actually requires a lot of knowhow. It is not a matter that can just be joked around with Mr. Speaker Sir and am sure when this particular information comes to this House, am 100 per cent sure that it is going to affect this House, it is going to affect almost all the Members in this House and therefore I will actually join my fellow Member here who has said that let us for give them a benefit of doubt and let them give us a very comprehensive report on this. Thank you Mr. Speaker Sir.

The Deputy Speaker (Hon. Mwalimu): Thank you.

(Interruption)

Hon. Murfad Amur, I think you have already reacted to this Statement, so let us follow procedures of the House. Hon. Amur let us proceed, Hon. Mwamwiri?

Hon. Athman Mwamwiri: Ahsante Mheshimiwa Spika. Mheshimiwa Spika nadhani ingekuwa mwafaka kwa Mheshimiwa Mwenyekiti kuepukana na changamoto zinazomkabili kama idara ingenukuu majibu yale kirasmi na yeye akawakilisha kwa Bunge kama rasmi ni ili isionekane kwamba anayotamka na kuyasema ni yake yeye wala hayatoki kule. Angeandikiwa angalau mistari mbili; kutoka kwa Idara ya kwamba mazingira ya taarifa inaonekana Bungeni yako hivi, tunaomba angaa mda fulani kuyatekeleza inavyostahiki, yeye asome tu na awe na nukuu ya kwamba haya ameyachukua kwa Idara ili kusiwe na kigegezi ya kushurutishwa kusema yale ambayo yeye hayajui wala hayawezi na jibu alilopewa kule liko tofauti, kwende wako Mheshimiwa Mwenyekiti ni mwafaka, kwa Wenye Viti wakipewa kauli za mdomo wazikatae waje na kauli zikiwa zimeandikwa kwa sababu taarifa hii iliyoko ikiwa imeandikwa. Mheshimiwa Spika ahsante.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Sumba Bwire?

Hon. Bwire: Thank you Mr. Speaker. Mr. Speaker indeed am aware that Engineer Migosi lost his dad and whichever way, we do not have response with us so even if you take the whole day debating it, it may be not be able to bring the response. What I would wish to ask the Chairperson is to tell this House when will the response be ready, maybe? That is all thank you.

The Deputy Speaker (Hon. Mwalimu): Thank you Hon. Raphael Bwire. Hon. Chair of Transport, when should we expect a comprehensive Report from the Department?

Hon. Mumba: Ahsante Mheshimiwa Spika. Nafikiri nikipewa wiki ijayo Jumatano wakati wa saa nane itakuwa ni wakati mwafaka niweze kujibu haya maswali, ikiwa nimeomba hio wiki moja nafikiri itakuwa nimeweza kupata kama itakuwa nimepata majibu.

The Deputy Speaker (Hon. Mwalimu): It is well noted that next week Wednesday afternoon, we will expect a comprehensive response concerning this Statement and the Assembly Hon. Members and Chairs, the Assembly will not tolerate on a verbal responses in future coming, so make sure whenever you bring back a response make sure it is a written response to this Honourable House. Yes, Clerk?

RESPONSE TO STATEMENT BY CHAIRPERSON COMMITTEE ON TRANSPORT, INFRASTRUCTURE
AND PUBLIC WORKS HON. MUMBA ON THE STATUS OF STREET LIGHTING IN THE COUNTY

Yes Hon. Chair Committee on Transport, Infrastructure and Public Works? Prischillah Mumba.

Hon. Mumba: Ahsante Mheshimiwa Spika hata hii nilipata majibu hayo ambayo niliyo yazungumza kuwa nitapewa pamoja na hii ambayo ni ya kwanza.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Thoya?

Hon. Thoya: Mheshimiwa Spika nashukuru umenipa wakati huu. Nikiangalia karatasi iliyoko hapa akisimama akizungumza ni yeye tena asimame azungumze kwa kifupi na habari ni hizo hizo kusema wamefiliwa, mimi hekima yangu ilikuwa naona utuambie twende nyumbani, manake hata huyo unayetufuata ni yeye na tayari tumeambiwa hawa watu wamefiliwa sasa tutaambiwa lipi lengine?

The Deputy Speaker (Hon. Mwalimu): Hon. Thoya you are out of order! So Hon. Prischillah Mumba we will give you also, Hon. Amur anything to say?

Hon. Murfad Amur: Mr. Speaker I arise again to say we are being taken for granted, I will repeat it today and the day after tomorrow, this House is being taken for granted nothing is serious because again this is the same Department we are being accused of things that are not being done fairly. The questions that were brought in this Honourable House we went for recess for a whole month, their offices never went for recess Hon. Speaker, let a spade be called a spade, we want the truth whether we perform or we do not perform in this Honourable House. Thank you Mr. Speaker.

The Deputy Speaker (Hon. Mwalimu): Thank you Hon. Amur. Yes Hon. Prischillah the House will give you a weeks' time for you to respond on this issue raised concerning the status of street lighting in the County.

If am not wrong the person who rose wanted to know the cost of maintenance that has been going round in all the Wards and bring a comprehensive Report that will be detailed enough for the Honourable House to understand better.

Hon. Mumba: *(Off microphone)*

The Deputy Speaker (Hon. Mwalimu): Okay in a weeks' time we will need the response. Yes Clerk next order?

RESPONSE TO STATEMENT BY CHAIRPERSON COMMITTEE ON TRANSPORTS, INFRASTRUCTURE AND
PUBLIC WORKS HON. MUMBA ON THE STATUS OF STORM WATER DRAINAGE SYSTEM AT BOMU
CATHOLIC CHURCH IN AIRPORT WARD

Yes Hon. Prischillah Mumba, Statement on Status of Storm Water Drainage System at Bomu Catholic Church in Airport Ward?

Hon. Mumba: Ahsante Mheshimiwa Spika. Mheshimiwa Spika...

(Hon. Mumba read her response)

Mr. Speaker Sir, I wish to give the following Statement response on the status of storm water drainage system at Bomu Catholic Church.

Mr. Speaker Sir, the referred storm water system was constructed by the defunct Municipal Council using World Bank funds under the Kenya Municipal Programme. The project was implemented by the then Ministry of Local Government.

Mr. Speaker Sir, the contractor left the last branch of the drainage open with depths ranging between 600mm to 1200mm, which poses crossing challenges especially to school going children.

Mr. Speaker Sir, the Department of Transport, Infrastructure and Public Works is planning to have the drainage covered using concrete paving slabs to enhance safety for the pedestrians and also protect the drainage from solid waste dumping. The works will begin in the next two weeks.

Thank you Mr. Speaker Sir.

The Deputy Speaker (Hon. Mwalimu): Yes the Chief Whip is up?

The Chief Whip (Hon. Kitula): Ahsante Mheshimiwa Mwenyekiti. Mheshimiwa Mwenyekiti nitasema vile Mheshimiwa Amur alivyosema kwamba Bunge hili linachukuliwa kimzaha kabisa na lazima tuweze kuongea ukweli ili tuweze kujua panapovuja ni wapi? Mheshimiwa Mwenyekiti saa hizi Taarifa hii nambari tisa imetoka kwenye idara hiyo hiyo lakini Taarifa nambari saba na nane pia hazijajibiwa. Sasa hii Hoja kutoka kwa idara hiyo hiyo ijibiwe lakini saba, nane isijibiwe! Tusemeni kweli sisi ni Waheshimiwa tukienda kwa njia hii tutakuwa hatuendi tukireshimika.

Tusidanganyane Taarifa nambari saba, Taarifa nambari nane sisi sote tunahusika lakini nambari tisa pia inatoka katika idara hiyo hiyo imeweza kuwajibika. Mheshimiwa Mwenyekiti hatuendi sawa na idara inachukulia Bunge la Mombasa sio sawa na iheshimu Bunge letu...

(Interruption)

Hon. Kibwana Swaleh: Point of Order Mr. Speaker! Mr. Speaker you know you are the Chair you have made a ruling and now if a Member is rising again revisiting the issues Hon. Speaker I think is very unfair...

(Consultations)

What I was trying to say Hon. Speaker I think you should be respected as much as we may differ on what you have made the ruling so I was just telling my colleague that is very unfair since the Speaker has made a ruling now he is revisiting the same issue that you have made a ruling. So it means until now he is talking about that so Mr. Speaker I think this is incorrect and I think they should respect your ruling. Thank you.

(Applause)

The Deputy Speaker (Hon. Mwalimu): Yes well Hon. Amur?

Hon. Murfad Amur: Mr. Speaker on the issue of Statement Number nine you had not made any ruling, the Chair just read the Statement that we do not have copies; I neither have a copy nor Members but maybe one or two. Mr. Speaker we do not have copies...

(Loud consultations)

The Deputy Speaker (Hon. Mwalimu): Order! Order! Order Hon. Members, Order! Order! Hon. Members!

Hon. Murfad Amur: Mr. Speaker you had not made any ruling, the Hon. Member just read a Statement from the Executive and this is the same thing am saying this House is being taken for granted how can number seven, eight not be responded and number responded to? No Mr. Speaker we are saying no to this.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Chief Whip I think you had already reacted on this.

The Chief Whip (Hon. Kitula): Mheshimiwa Mwenyekiti ni taarifa Mheshimiwa Mwenyekiti saa hizi wanatupatia hii lakini chunguza Waheshimiwa wa jinsia ya kike pekee yao katika Bunge hili ndio wana majibu haya Mheshimiwa Mwenyekiti katika Nyumba hii,

(Loud consultations)

Saa hii ndio wananipatia hii...

(Consultations)

The Deputy Speaker (Hon. Mwalimu): Order! Order! Hon. Members

The Chief Whip (Hon. Kitula): Hii sio haki Mheshimiwa Mwenyekiti, hii sio haki...

(Interruption)

The Deputy Speaker (Hon. Mwalimu): Order! Order! Hon. Members Order!

The Chief Whip (Hon. Kitula): Sio katika Bunge hili tusidanganyane...

(Loud consultations)

The Deputy Speaker (Hon. Mwalimu): Order! Order! Hon. Members Order!

The Chief Whip (Hon. Kitula): Tusidanganyane hakuna hii Waheshimiwa wa jinsia ya kike pekee yake ndio wana majibu katika Jumba hili, hakuna Mheshimiwa Mwenyekiti usikubali kutumia Kiti chako vibaya...

(Interruption)

The Deputy Speaker (Hon. Mwalimu): Order! Order! Hon. Members Order

The Chief Whip (Hon. Kitula): Mheshimiwa Faith ndio ananipatia saa hii katika meza yangu hakuna Memba yoyote aliyekuwa na haya majibu Mheshimiwa Mwenyekiti; tusipelekane hivyo hiyo ni picha mbaya katika Bunge letu, ni picha mbaya kabisa katika Bunge letu tusikubali kabisa hiyo.

(Loud consultations)

The Deputy Speaker (Hon. Mwalimu): Order! Order! Hon. Members Order!

(Loud consultations)

Hon. Members Order! Hon. Members you are out of order! Hon. Members have your seats! Hon. Members have your seats! Hon. Members have your seats!

(Loud Consultations)

Hon. Ibrahim have your seat! Hon. Hamida have your seat! Hon. Members there is a response before this House and let the Hon. Member who brought this Statement respond first if he is satisfied with the response for the Honourable House to proceed. Yes Hon. Ibrahim?

(Loud Consultations)

Hon. Omondi: Okay thank you Mr. Speaker Sir. Mr. Speaker Sir...

(Loud Consultations)

Am being interrupted...

(Loud Consultations)

Mr. Speaker Sir am being interrupted I need your protection!

The Deputy Speaker (Hon. Mwalimu): Proceed.

Hon. Omondi: Okay am going to react; am the one Mr. Speaker who indeed requested for this particular Statement and indeed this situation is in my Ward and before I react to this particular Statement I would just like to say that it is very wrong to purport...

(Loud Consultations)

Mr. Speaker Sir it is very wrong to purport that these Reports were only given to ladies because again it is not the Speaker or not even the Chair who gives these Reports, these Reports are given at the entrance. So I fail to understand ...

(Applause)

If it happened that all these Reports are only given to the ladies then again maybe it is just a coincidence or something might have happened that is number one; number two Mr. Speaker I would like to say that I am very much contented with this response only that what I wanted let it only be on the Paper. Mr. Speaker, I hope that the way the Department through the Chair have communicated it will be so, because you have heard that in two weeks time they will be working on that particular Project....

(Applause)

Mr. Speaker I am very sorry the reason that I am emphasizing on this is because this issue or this drainage has already caused deaths. As I said last time we have already lost at least two young children on the same drainage. So I do not have any problem with this response but...

(Applause)

But what I only want that let us have implementation, let it be implemented the way it has been put. Thank you.

(Applause)

The Deputy Speaker (Hon. Mwalimu): Thank you Hon. Ibrahim. Hon. Members I think the Member who brought this Statement does not oppose what has been responded, but what he wants to see is the implementation of the response. So in two weeks time Hon. Ibrahim will be waiting for a Statement in this Honourable House showing if whatever the Department has responded is being implemented. Yes Clerk? Yes Hon. Mohamed Hatimy?

Hon. Mohamed Hatimy: Mheshimiwa Spika sheria ni sheria. Sheria imekuja umeulizwa swali, Taarifa na kujibiwa Taarifa; ikiwa Taarifa imejibiwa ni aidha uwe na swala mbadala ama kuwe kuna hatua itachukuliwa. Lakini swali Mheshimiwa Spika lishajibiwa nafikiri itakua ni makosa kuweka sharti ya kusema baada ya wiki mbili tena inafuatiliwa tena. Nafikiri Mheshimiwa Spika hapa nataka tufanyeni mambo ambayo yanakwenda kwa mujibu wa sheria...

(Interruption)

The Deputy Speaker (Hon. Mwalimu): Hon. Mohamed Hatimy I think I was clear enough that the Hon. Member did not oppose the response but what he said is he wants to see the implementation of the response in two weeks time. And that is why I advised the Hon. Member if in case or in the next weeks he might come to this Honourable House and question the implementation of this response, but I did not tell him to ask another Statement or another question.

It will depend on the Hon. Member from Airport Ward if whatever that he has raised has been implemented; it will depend on the Hon. Member to appreciate or ask a question as to why or to show the Honourable House whatever that is transpiring in his Ward.

Hon. Mohamed Hatimy: Nakubaliana lakini hio itakua ni marudio, na marudio tukiangalia Kanuni za Bunge ziko wazi kabisa nafikiri nambari 46 iko wazi kabisa, swali lishaingia kwenye kikao hiki halafu ukawa utakua unalipeleka na kulipeleka na yeye asharihdika na lile jibu alilopatiwa, useme baada ya wiki mbili arudi tena nafikiri itakua ni kinyume cha sheria Mheshimiwa Spika. Angalia Kanuni za Bunge nambari 46 inasema nini....

(Interruption)

The Deputy Speaker (Hon. Mwalimu): Ok Hon. Hatimy we have heard you but what I have directed in this Honourable House will stand. I said the Hon. Member has accepted the response and it is up to the Hon. Member to question the implementation if he will, if he will not question then they will be no repetition of anything. Yes Clerk?

(Interruption)

Yes Hon. Thoya, what is it?

Hon. Thoya: Mr. Speaker I want your guidance and a way forward on how we will move in the near future; if somebody requests for a Statement from either Committee, is he the one to show the satisfaction or should there be interjection from other Members who did not request that Statement? Because the same will repeat itself and whatever you are seeing are the signs of the near future. It is just very sad whereby Hon. Omondi did a request and if you look it is related to his Ward; then Mr. Omondi is not given the opportunity and other people get in, just take the total show the same will repeat itself and we need your Solomonic guidance in this. I do not want the same to happen to me tomorrow if at all Hon. Omondi has requested for a Statement, is he the one to show the satisfaction or other Hon. Members maul that kick on his behalf. Thank you.

The Deputy Speaker (Hon. Mwalimu): Thank you Hon. Thoya. On the same note, the Speaker of the sitting of tomorrow morning will respond on what you have raised. It will be a written response to this Honourable House on how we are going to manage our Statements and orderly in this House. Yes Hon. Hatimy.

Hon. Mohamed Hatimy: Ndio nizungumze juu ya *Statement*, sheria za *Statement* ni nini? Wakati huo huo Mheshimiwa Spika tukiangalia hii *Order Paper* ya leo imeuliza *Statement* ujenzi wa barabara 2016/2017, 2017/2018, 2018/2019 ndani ya Nyumba hii.

Hapa mimi kama Mwenyekiti wa Kamati ya Fedha niliuliza swali nikaleta orodha za Miradi ya Kaunti, tukaziweka Mheshimiwa Spika zikaja hapa tena ni kuregelea chini ya Kanuni za Bunge nambari 46 *at the same time Statement* Nambari nane pia ni vile vile utaona kuwa ni marudio tena ambayo yote ni kinyume cha sheria Mheshimiwa Spika. Kwa hivyo twataka uamuzi ukifanywa Mheshimiwa iwe itachukua vitu vyote hivi Mheshimiwa Spika. Ahsante.

The Deputy Speaker (Hon. Mwalimu): Yes Hon. Faith?

Hon. Mwende: Thank you Mr. Speaker. If the Report of Statement No.7 was brought in the House, the question which was asked in Order No. 8 was totally different; so it is good if the Hon. Member can go in the reference and see how the question was. Thank you Mr. Speaker.

The Deputy Speaker (Hon. Mwalimu): Ok thank you. I think I have already ruled that from what has transpired and what Hon. Renson Thoya the Speaker of tomorrow's sitting will respond on how we are going to manage the Statements of the day of this Honourable House. Yes Clerk?

ADJOURNMENT

Having there being no other Business the House stands adjourned until Wednesday, 18th September, 2019 at 10:00 a.m.

The House rose at 3:34p.m.