

MOMBASA COUNTY ASSEMBLY**HANSARD REPORT**

Tuesday, 4th October, 2016

The House met at 2.37pm.

(The Deputy Speaker (Hon. Mswabah Rashid) in the Chair)

PRAYERS

The Deputy Speaker (Hon. Mswabah Rashid): Hon. Members you may sit, yes Clerk.

PETITION

Hon. there is a petition which is coming from civil societies.

(The Deputy Speaker (Hon. Mswabah Rashid) read)

"Re: people's open letter to the letter to the County Assembly, we, the undersigned, Residents of Mombasa County, residents of Jomvu, Changamwe, Nyali, Kisauni, Mvita and Likoni, residents Matopeni, Dunga Unuse, Jomvu, Kwa-Punda, Kibarani, Tudor-Moroto, Bangladesh, Mnazi Moja, Kisumu Ndogo, Dongo Kundu, Bombolulu Mbuyuni, Shauri yako, Burukenge, Mishomoroni Moroto, and Bombolulu Moroto, Members of various Civil Society organizations and individual stakeholders in Housing and Evictions wish to formally present this People's open letter in the public interest concerning the impact of and plight of victims of forced evictions in the above mentioned slums.

We also want to note that the upcoming infrastructure and development projects earmarked to take place in Mombasa namely: The Mombasa Gate City Master plan that proposes to overhaul the design of the city, Mombasa Housing Renewal Project, Kenya informal Settlement Improvement Project, Mombasa Vision 2035, Vision 2030 some of which have already started like the Dongo Kundu By Pass, The Mombasa Mariakani Dual Carriage way, Moi International Airport Expansion Project, Kenya Ports Decongestion Project, The Standard Gauge Railway and LAPSET project; all these have already affected residents of some of these slums through forced evictions that have made residents experience high level police brutality.

We seek the House indulgency to ensure you undertake your constitutional duty to protect the welfare of the people who voted for you. We ask you to urgently enact eviction and resettlement law for Mombasa County.

We humbly draw the attention of the House to the following:

- 1. We draw the attention of the County Assembly that human rights violations that have occurred in the process of evictions that have been taking place without human rights compliant legal framework to guide the process of evictions.*
- 2. The Bill of Rights in The Constitution of Kenya 2010 is an integral part of Kenya's democratic state and the framework for social, economic and cultural policies.*

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3. *Rapid Response Team Mombasa and in collaboration with Amnesty International Kenya presents the People's Open Letter based on the experience of working with several slums in Mombasa including as earlier Dunga Unuse, Jomvu Kwa - Punda, Kibarani, Tudor-Moroto, Bangladesh, Mnazi moja, Kisumu Ndogo, Shauri yako,, Burukenge, Mishomoroni, Matopeni, Dongo Kundu, Moroto and Bombolulu Moroto.*
4. *RRT and Amnesty International whom we partner with in our work had documented many incidences of forced evictions in slums and informal settlements of Mombasa for the last four years. The research show that thousands of people in Kenya have been left homeless, and vulnerable to other human rights violations including rights to security, privacy, health, water, sanitation, education, safe and clean environment. As a result of forced evictions.*
5. *The forced evictions constitute to gross violations of human rights, in particular right to adequate housing. The absence of a legal framework that explicitly prohibits forced evictions and absence of guidelines that spell out how evictions should be conducted exposes people living in slums/informal settlements to arrangement of human rights violations*

We therefore demand that:

- i. *The County Assembly of Mombasa legislate an evictions and resettlement procedures Act. This will govern the eviction regime and contribute significantly to the realization of the right to adequate housing for thousands of residents in this County of Mombasa.*
- ii. *That the County Assembly of Mombasa takes measures to put in place a temporary suspension on mass evictions in this County until we have an evictions and resettlement procures act.*
- iii. *That the County Assembly of Mombasa upholds rights to adequate housing for all persons through creations of strategies to achieve low cost housing units, budgetary allocation for the same and involvement of public in the process.*
- iv. *Demand for accountability for use excessive force during evictions by government officials.*

This People's Open Letter is hereby presented to the Assembly by Rapid Response Team and CSOs involved on behalf of the undersigned.

Thank you.

Yours sincerely,

1. Andrew Mativo

RRT Coordinator – Mombasa

2. Jared Oget

RRT Secretary – Mombasa

3. Jerusa Wangare

RRT Member

(The Deputy Speaker (Hon. Mswabah Rashid) ended reading the Petition)

Well Members, Pursuant to Standing Order 194 (50), the Clerk forwarded the petition to the Speaker for tabling in the County Assembly.

The petition thus stands committed to the Committee on Physical Planning and Lands and Committee on Justice and Legal Affairs since the matters raised touch on human rights which are within the mandate of the Committee on Justice and Legal Affairs and Land matters which are within the mandate of Committee on Physical Planning and Lands.

Standing Order 183 allows two Committees to hold joint sittings and to present a report within 60 days I.e, not later than 2nd December in accordance with Standing Order 202. Yes Clerk.

NOTICE OF MOTION

The Deputy Speaker (Hon. Mswabah Rashid): Hon. Zainab Kithinzi

Hon. (Ms.) Zainab Kithinzi: Thank you Mr. Speaker Sir. Mr. Speaker Sir I seek to give Notice of the following Motion.

(Hon. (Ms.) Zainab Kithinzi read the Notice of Motion)

"That aware that the County Assembly annually incurs tremendous expenditure on transport and travelling expenses for Members and staff;

Mr. Speaker further aware that Members and staff of the County Assembly travel frequently officially within and outside the County in discharge of their duties and responsibilities;

Mr. Speaker concerned that these expenses could be significantly reduced if the County Assembly had welfare buses for transport and travel;

Mr. Speaker sir I urge this County Assembly to resolve that;

The County Assembly Service Board to plan, budget and purchase welfare buses for official travel and transport of Members and staff of the County Assembly in order to minimize expenditure on the same and for prudent use of financial resources, thank you Mr. Speaker.

(Hon. (Ms.) Zainab Kithinzi ended reading Notice of Motion)

The Deputy Speaker (Hon. Mswabah Rashid): Thank you Hon. Clerk?

STATEMENT

Yes Hon. Mary Akinyi.

Hon. (Ms.) Akinyi: Thank you Mr. Speaker Sir I have a statement on status of gratuity remittances for Members.

Mr. Speaker I wish to bring to the attention of this Hon. House about the status of gratuity of Members of County Assembly.

Mr. Speaker during our team building with County Executive at Swahili Beach Hotel in Kwale County it was brought to our attention by the County Executive Committee Members of Finance confirmed to us that the gratuity funds for the past three years will be disbursed to the respective institution.

Mr. Speaker I humbly request the department concerned to bring before this Hon. House a detailed statement on the disbursement of the funds in question, thank you Mr. Speaker.

The Deputy Speaker (Hon. Mswabah Rashid): Hon. Fadhili what is it?

Hon. Mwalimu: Ahsante Mheshimiwa Spika, mimi nimesimama na *statement*, tumeona Bwana Marwa akiingilia kazi ambazo si zake Mheshimiwa Spika...

(Interruption)

The Deputy Speaker (Hon. Mswabah Rashid): Hon. Fadhili please wait first, yes Hon. Mary just brought a statement and I want to..., in this statement she wants to know the status of gratuity.

So I think this is a matter concerning finance so I call the Finance Chair to bring a detailed report on the status of gratuity so am giving two weeks to bring the Report.

I know the Finance is not around so am giving two weeks to the Finance Chair to bring before this House and tell us the position of gratuity, yes what is it?

Hon. Amur: Yes Mr. Speaker Sir.

The Deputy Speaker (Hon. Mswabah Rashid): Go on.

Hon. Amur: Mr. Speaker I want to believe that if the Executive Member is not around it doesn't mean the office is not around, the information can be obtained from the department...

(Applause)

because Mr. Speaker if we wait for the Executive Member I always say that God forbid if he dies today this Assembly or the department should not work Mr. Speaker?

We need answers for questions; as such Mr. Speaker we have only nine months here, after nine months our fate will be known, we need to know the issue has been brought to this House several times and it is high time people be answerable to the questions that are brought to this House.

Mr. Speaker we cannot be taken for granted for issues that are pertaining to our welfare, thank you.

The Deputy Speaker (Hon. Mswabah Rashid): Yes I understand but there is a procedure they have to summon their officers and we have to give them enough time to prepare, so I think two weeks is the standard in this House, we give them two weeks it is enough he can arrange himself.

Hon. Amur: Mr. Speaker with all due respect he has given a statement, what we are crying about is the timeline that she gave when we had that meeting, until today nothing has taken place.

Mr. Speaker the Members have only nine months, after nine months we do not want to come here at the corridors only to beg for our money, this concerns our welfare Mr. Speaker...

(Technical hitch)

Mr. Speaker we are not begging but the promise that was given that things will be finalized; now we are becoming beggars, begging people; this is our right.

So we need to be given a final date that if the person cannot deliver Mr. Speaker then they do not need to be there. Thank you.

The Deputy Speaker (Hon. Mswabah Rashid): Hon. Amur I think you have heard the Chair, you know all the process, you know the procedure how we give these officers two weeks, we will wait for the response they have been summoned, you have been a Chair at one time you know how this works.

Hon. Amur: Mr. Speaker I am not saying no, the reality is this issue was deliberated and she was supposed to respond to it and it has more than two months and we are waiting for that reply.

The Deputy Speaker (Hon. Mswabah Rashid): I am repeating as the Chairman I am not siding with the officer, I am pitting with Chairman Finance so if the Chair Finance cannot get those people today it is upon him to put these people on the table, I want to give him enough time. Clerk?

(Loud consultations)

Members just one minute, yes what is it? Yes Hon. Siminyu.

Hon. Siminyu: Mr. Speaker this is a burning issue and Members are concerned...Mr. Speaker I think two weeks is a long time by Wednesday we can have this process going on because this issue we have discussed for days and we don't have answers and as Hon. Amur said an office is not a person.

Mr. Speaker there are people who are working and so we need this report as soon as possible Mr. Speaker. Thank you.

The Deputy Speaker (Hon. Mswabah Rashid): Hon. Siminyu our concern is the Chairman; our concern is not the people, can the Chair ok, is the Chair if he can give the report in one week?

Hon. Chairman there is a problem here and we want know how long you are the Chair, I give you two weeks but Members say the two weeks is too long, no they say you are too fast you can do it in two days. They say you are too fast.

Hon. Mohamed Hatimy: No sir it's not okay Mr. Speaker because we know the Executive Member is not around, so Mr. Speaker we need time to seek finance directive then I will report.

The Deputy Speaker (Hon. Mswabah Rashid): Okay am giving you two weeks, is that okay.

Hon. Mohamed Hatimy: Yes Mr. Speaker that will be okay.

STATEMENT

The Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Maimuna?

Leader of Minority Hon. Maimuna Salim: Mheshimiwa Spika nimesimama hapa kwa jambo la kusikitisha; sisi kama binadamu na Waheshimiwa tunatumia maji lakini leo nasikia kwamba kuna maji tayari yalikuwa yana kitu katika maji.

Kwa hiyo nilikuwa naomba Kamati ya Biashara iweze kuita hawa wafanyi biashara wa kampuni hii ya Coca-Cola waweze kutuambia kile kitu kilichoko ndani kwa sababu ni madhara kwetu sisi Mheshimiwa Spika.

Kwa hivyo nilikuwa naomba ya kwamba kupitia kwa Bunge lako kuangalia hali.....

(Interruption)

The Deputy Speaker (Hon. Mswabah Rashid): Order! Order! Members Order Members!

Leader of Minority Hon. Maimuna Salim: Kupitia kwa heshima yako...

(Interruption)

The Deputy Speaker (Hon. Mswabah Rashid): Mheshimiwa Fadhili what is it? Mheshimiwa Fadhili sit down don't interrupt a statement.

Leader of Minority Hon. Maimuna Salim: Mheshimiwa Spika kupitia kwa kiti chako afya za binadamu ni muhimu na maji ndio kitengo muhimu cha afya; ikiwa leo tumenunua maji kwa kampuni kubwa kama ya Coca-Cola na tumeweza kupata kitu ambacho kinaweza kutatatiza kimaisha.

Kwa hivyo ni vizuri ya kwamba Kamati husika na hao wafanyi biashara wachukue hiyo chupa ya maji na wawaite hao wahusika ili waweze kutuambia kwa sababu haya ni madhara kwa watu wa Bungeni.

The Deputy Speaker (Hon. Mswabah Rashid): Thank you. She has presented her statement but we are not discussing that...

(Interruption)

Hon. Mohamed Hatimy: Point of Information.

The Deputy Speaker (Hon. Mswabah Rashid): We are not discussing a Statement.

Hon. Mohamed Hatimy: Mr. Speaker Point of Information.

The Deputy Speaker (Hon. Mswabah Rashid): Yes Hon. Hatimy, Order Members!

Hon. Mohamed Hatimy: Mheshimiwa Spika mimi sipingi lakini hii *statement* inatafikana iingie kwenye *Public Health* na sio kwa *Trade*.

(Applause)

The Deputy Speaker (Hon. Mswabah Rashid): Hon. Mary just one minute.

Hon. (Ms.) Akinyi: Ahsante sana Mheshimiwa Spika. Mheshimiwa Spika hata wiki iliopita pia Mheshimiwa Onje alipata kitu kama hicho ambacho kimepatikana kwa maji, tukaenda mpaka ofisi ya *Public Health* tukawapatia hiyo chupa na hicho kitu ambacho kiko ndani ya chupa, wakasema watatupa ripoti mpaka leo mpaka kesho hawajapatia ripoti...

(Loud Consultations)

The Deputy Speaker (Hon. Mswabah Rashid): Members one meeting, thank you. Yes what is it Hon. Fadhili?

Hon. Mwalimu: Mheshimiwa Spika mimi ningependa huyu Mheshimiwa aliyetoka kuongea atueleze yeye alipoenda kwa hiyo kampuni, alienda kwa ruhusa ya nani haswa? Kwa sababu njia inayohitajika ni ipi?

The Deputy Speaker (Hon. Mswabah Rashid): Members let's put this to rest, let's have one sitting I put this matter to the right procedure, I take this matter to the Committee on Health and bring the report in two weeks, Committee on health?

(Noise)

Hon. Amur: Mr. Speaker last week when such things happened one of our Members reported it to the Health department.

It is now the mandate of the Health Committee to go and seek how far the matter has taken place because it was reported, and again Mr. Speaker KEBS (Kenya Bureau of Standards) what are they doing for such things to appear in masses Mr. Speaker? It is a concern Mr. Speaker to our health; this water can kill somebody.

The Deputy Speaker (Hon. Mswabah Rashid): Members I have already ruled on this matter, yes Hon. Kondo.

Hon. Ibrahim Kondo: Point of Information.

Hon. Kibwana Swaleh: Mheshimiwa Spika kwanza kabisa nasikitika ikiwa jambo hili kipindi cha kwanza lilitokezea na likapelekwa kwa Wizara ya afya na halijaonekana lolote.

Hon. Mwalimu: Point of order Mr. Speaker.

The Deputy Speaker (Hon. Mswabah Rashid): Order Members, yes Hon. Fadhili what is it?

Hon. Mwalimu: Mheshimiwa Spika Kamati hii ya Afya isihujumiwe kwenye Bunge hili; hii leo umetoa taarifa ya kuwa Kamati iwajibike kiasi cha wiki mbili.

Mheshimiwa Spika nimetangulia kusema kuwa wakati ambao kilipatikana jambo kama hili nimesema wale watu ambao walifanya au waliofuatilia jambo hili hawakulifuatilia kibunge.

Kibunge Mheshimiwa Spika ni kama hivi ulivyotoa uamuzi wako Kamati ifuatilize lakini mtu asisimame kusema Kamati ya Afya haikuwajibika.

Mheshimiwa twajali afya za wananchi wetu; twajali maslahi ya wananchi wetu na hio Mheshimiwa Spika yaweze kudhuru wananchi wetu; hapa kuna chupa moja ambayo imeonekana na pamba ndani yake na imefungwa na ni kampuni kubwa kama kampuni ya Dasani.

Mheshimiwa Spika wiki iliyopita pia imesemekana kumekuwa na jambo kama hili, mimi nasema Kamati hii isihujumiwe lazima Kamati isihujumiwe...

The Deputy Speaker (Hon. Mswabah Rashid): Members I have put this matter to rest.

(Loud consultations)

I have said the Committee on Health to take the matter and report within two weeks, yes Clerk.

(Loud consultations)

Members Order! Members Order!

(Loud consultations)

Members this House stands adjourned until tomorrow morning.

The House rose at 3.07pm.