

**REPUBLIC OF KENYA**  
**COUNTY ASSEMBLY OF KILIFI**

**THE HANSARD**

**Wednesday, 3<sup>rd</sup> October, 2018**

*The House met at the County Assembly Chamber,  
Malindi Town, at 2:30 p.m.*

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

**PRAYERS**

**COMMUNICATION FROM THE CHAIR**

VISITING STUDENTS FROM MAJAONI SECONDARY SCHOOL

**The Speaker** (Hon. Kahindi):Hon. Members, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of students from Majaoni Secondary School. The students are here for a study visit to appreciate the Legislative practices, procedures and traditions. I request each student to stand when called out so that they may be acknowledged in the Parliamentary tradition.

Names of the Students:

1. Faith Mwarabu
2. Dama Wanje
3. Jimmy Ponda
4. Evaline Gambo
5. Salama Mshele
6. Kazungu M. Mackson
7. Kalango Eunice
8. Saidi N. Kahindi
9. Jackson R. Ziro
10. Emmanuel Amani
11. James Walter
12. Moses Chulah
13. Evans Safari
14. Michael Sifa
15. Khamis Ryan
16. Deche Nicholas
17. Moses Mvera

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18. Thomas Ngonyo
19. Isaac Mjimba Kahindi
20. Ngowa George Nyale
21. Masha Charo
22. Salim Vidzo
23. Erick Kahindi
24. Kazungu Amos
25. Hamis Sulubu
26. Anderson Fikiri
27. Halima Kazungu
28. Sylvia Kafadzi
29. Joyce Kazungu
30. Jacob Mwambire
31. Jerald Mbaruk
32. Geoffrey Katana
33. Zablon Mwamunda
34. Nawaz Ramadhan
35. Erick Mjomba
36. Makanjira Yohana
37. Kwicha Harrison
38. Malcas Khonde
39. George Baya
40. Onyango Fredrick
41. Danson Kiyeye
42. Erick Suileman
43. Tsofwa Alex
44. Chenda Charo
45. Amina Ngoro
46. Evelyn Sada
47. Humphrey Charo
48. Grace Charo
49. Gift Kahindi
50. Gideon Mwamure
51. Erick Kahindi

The Students are accompanied by;

1. Mr. Maina M. Charles- History Teacher
2. Madam Halima Aziz- Head teacher

I hope that they have a fruitful programme. On behalf of County Assembly of Kilifi and on my own behalf, I welcome them to Assembly and I wish them well. Thank you.

#### SYSTEM FAILURE IN THE CHAMBER

Hon. Members, the other Communication is that I am told we will be using the two microphones, so if you have to make any contributions, please come forward. I will also give an

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opportunity for us to welcome the students as a matter of practice and I will call upon hon. Baya who is the area MCA; please move forward to give your address.

**Hon. Baya:** Thank you Mr. Speaker Sir. Allow me to take this opportunity and welcome these students from Joy of Learning Centre in Watamu. You are most welcomed here. Take this opportunity to learn all the aspects of this County Assembly so that for those who wish to become political leaders, you can learn all the aspects. Today we have a Motion which we are going to discuss; you can follow up all the steps.

Mr. Speaker, House of Joy Learning Center is one of the best schools in Watamu. It is among the schools that have students with intelligence and talents. I do not have much to say but I will conclude by saying you are most welcome. For those who want to be political leaders, you can start with my example as your leader.

## MOTION

### ESTABLISHMENT OF A COUNTY INSPECTORATE UNIT

**Hon. (Ms.) Sidi:** Thank you Mr. Speaker. I beg to move the following Motion:-

THAT, aware that the County Assembly of Kilifi has enacted county laws that operationalized the functions of the County Government as enshrined in the Fourth Schedule Second Part of the Constitution of Kenya, 2010.

Aware that there exists an Inspectorate Unit within Kilifi County without any policy or legislative framework to guide its operations.

Further aware that there is no established County Court to arbitrate and prosecute offenders that breach the County Laws.

This House urges the County Secretary to come up with a policy and/or legislative proposal to establish the Kilifi County Inspectorate Unit and provide a mechanism for the establishment of a County Court in consultation with the Judiciary and the Office of the Director of Public Prosecution to ensure compliance of all County Laws.

Once again, before I call on my seconder hon. Mwarandu, allow me to give my few submissions on the Motion. Article 185 of the Constitution of Kenya mandates the County Assembly on matters of county legislation. For the purpose of implementation and enforcement, we need a unit which has decisional framework that will be able to make the institution work.

Aware that we are in the fifth year of devolution without a proper instructional frame work where the county laws can be enforced, it is high time that this Assembly sees this Motion to be important because we need an enforcement that will be institutional and be able to run the county in the right direction.

Right now, we also do not have a proper frame work where the offenders of the county by-laws can be taken to court and be charged so this Motion will make the CECM (County Executive Committee Member) in charge to be able to come up with a Bill that will make the institution run in a proper manner.

Mr. Speaker, when this Assembly adopts the Motion, we will have a lot of benefits. Our youth will get jobs, there will be an increase in revenue collection in matters of fees and penalties and we will also see an establishment of an institution where our local youth will be trained within the County.

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This Motion will help this County because we understand since devolution came in, it is only a number of counties that have been able to come up with the Inspectorate Unit and we have seen the benefit in these counties, examples are Mombasa and Nairobi Counties. The Inspectorate Unit has more powers even the police officers cannot go against it. The units in Mombasa and Nairobi are able to take a person to court where the fines and penalties are directly channeled to the county revenue fund of the specific county. In Kilifi when an offender is caught, the revenue that we get from the fines and penalties first have to hit the National Treasury then channeled back to our County which is very difficult and we cannot even ascertain if the same is being channeled back. So this county court will create an opportunity where those fines will directly come to our county revenue bucket.

On matters discipline and maintenance of the cities, as we know right now that the County *askaris* try to do it but they don't even have a legal back up of taking you to court. You can actually even decide not to go with them when they catch you in an act because they don't have that framework which they will institute against that person. So, I am asking my fellow hon. Members that we unanimously adopt this Motion so that we can see our county grow especially this being the fifth year since devolution came in. We needed this institute to be operationalized like some years ago. With those remarks, let me call upon my seconder hon. Humphrey Mwarandu.

*(Applause)*

**Hon. Mwarandu:** Thank you very much for giving me this opportunity. I stand to second the Motion on the establishment of an Inspectorate Unit here in Kilifi County. Since the inception of devolution and the County Assemblies, you will realize that this Assembly has enacted very important laws that need an organ of the County Government to enforce them. You will realize that because we have a vacuum of the Inspectorate Unit, you will realize that at one point, the County Government has been forced to contract some of its services like the collection of revenue and by doing so, the County Government has not met its projection of revenue collection and the Chairperson for Budget Committee can attest to this. Not only the creation and establishment of the Inspectorate Unit but we are also giving an opportunity to our youths to be professionals on matters of inspectorate. For example, it is stipulated in the Constitution of Kenya, 2010 in Part two of the Fourth Schedule, Section 13 that the County Government has been given the mandate to control drugs and pornography.

We need professionals to establish which substance can be termed as drugs and which content can be termed as pornography. So, with those few remarks, I second the Motion. Thank you, Mr. Speaker.

*(Question proposed)*

**Hon. Kenga:** Thank you Mr. Speaker, for according me this opportunity to make my contribution. Let me take this opportunity to congratulate the Member hon. (Ms.) Saumu Sidi for coming up with this Motion. Hon. (Ms.) Saumu Sidi is proving to be one of the brightest minds in the County Assembly and this is manifested in the contributions that we have all been able to witness for the past one year that we have been able to be together.

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On the establishment of an Inspectorate Unit in the County Government, you will realize that the County Assemblies are the legislative arms of the County Governments and in that way we have an obligation of legislation. The County Assembly of Kilifi in the First Assembly is known to have enacted various laws. These laws are supposed to give a conducive environment for the citizens of this great County of Kilifi to be able to operate in the various exercises and activities that they undertake. For us to be able to see the people enjoying these services through the legislative framework that we have been able to enact, we need to observe compliance and compliance can only be enhanced once there is an institution that is mandated to even enforce this and this is what has been lacking within the County Government of Kilifi.

I was going through the Constitution of Kenya, 2010 and if you go Chapter 12 which is on issues of Public Finance; Article 203 (1) (e), and I want to quote from the Constitution of Kenya that the following criteria talks about the issues of equitable shares and other financial laws;

“That the following criteria shall be taken into account in determining the equitable shares provided for under Article 202 and in all national legislation concerning county government enacted in terms of this Chapter.”

Now that is 203(1). Now (e) states that;

“(e) the fiscal capacity and efficiency of county governments;”

That for us to be able as a County to attract more funding from the National Government through the equitable share, then one of the factors that are taken into consideration is the fiscal capacity and the efficiency of County Governments. In the absence of an Inspectorate Unit, it becomes very difficult for us to gauge our fiscal capacity and our efficiency as a County Government and therefore we may be losing a lot of funds that could have been gotten once our capacity is enhanced and our efficiency is up to the levels that are required by the Government.

Therefore, I want to believe that once this County Government is able to establish a proper legal framework with all legislation on the issues of an Inspectorate Unit, then this is going to enhance the county revenue fund because those who will not be complying will be forced to comply. We have already seen and from the Mover of the Motion, this should even translate into County courts where fines are charged to those who do not comply. This is very instant unlike in the courts which we have in the country where the process takes a lot of time and sometimes we do not gain as a County Government. This is very instant such that fines are directed to the County Revenue Fund and it enhances our fiscal capacity and therefore the local revenue is enhanced and we can also attract a bigger share from the Local Government.

My point of concern is, without this fund, then we are not in a position to offer and deliver services to our people. We need more resources for us to offer and deliver services to our people. So, I want to support this and even call upon the hon. Members of this County Assembly that we support this Motion and once this Motion is adopted by this Assembly and I am glad that as we do this the Chairperson of the Implementation Committee is seated next to the Mover of the Motion.

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Mr. Speaker, Sir, one of the issues that you need to realize and Members can attest to it is that the Chairperson of the Implementation Committee came to this Assembly through the Devolution Party of Kenya and it is through that position that the Mover of the Motion was able to get nomination to this Assembly. I want to believe that while seated, they are trying to see how best this Motion is going to be implemented once adopted by this honourable House. Thank you very much Mr. Speaker. I beg to support.

**The Speaker** (Hon. Kahindi): Hon. Thomas Chengo Mumba.

**Hon. Mumba:** Thank you Mr. Speaker, Sir, First I am very happy that is why I am laughing; so do not be surprised. I am always someone who likes making fun. I want first to take this opportunity to applaud the *Queen* of this Assembly for thinking hard and coming up with this Motion. Hon. Saumu Sidi indeed has proved to be a *Queen*, not to everyone but to me alone.

This is a very important Motion before this House and it has really shocked me. This is the sixth year down the line and I expected our County to have moved with speed to have such structures in place earlier than today but who knows it was an opportunity for my *Queen* to do it. It is very ridiculous to have a body without a soul; that body will never function and this is what we have been having all along. That is why the Assembly has been doing a great job of coming up with laws but enforcement has been lacking. Why am I saying so? It is just the other day I witnessed a directive from the County Secretary that there is no *disco matanga*; yes there is no *disco matanga*, but who are there to enforce that?

There has been a tug of war between the police and *askaris* who are there now to enforce the law. I have been encountering these challenges in my ward and I think it is high time that we put these structures in place so that our laws can now have proper enforcement. So I am very happy today and I must say that it is very much in order for me to be happy because I can see the body is going to have its own soul and it is going to function by putting this Motion in place. So, I take this opportunity to say to all hon. Members that without any hesitation let us agree unanimously and give the body the soul it deserves so that we can move as a County and improve our revenue at large. Thank you Mr. Speaker, I beg to support.

**The Speaker** (Hon. Kahindi): Hon. Peter Ziro.

**Hon. Ziro:** Thank you Mr. Speaker, Sir. There is something I want to talk about in the Bible. There is a verse I will quote, but first of all I want to give thanks to my Almighty creator for a chance to talk or contribute to this wonderful Motion that has been brought before the House by the *Queen* of this House as referred to by hon. Thomas Mumba. I think when devolution came in, we accepted or those who were there accepted these *askaris* because they were borrowed from the other system of Government. They were brought in without proper policies or legislative framework so that their operations can be guided. Doing that is like getting married to somebody's wife who died of HIV/AIDS without not going to the hospital and knowing the status of that person. You are likely to die and we are killing our County...

(Applause)

Mr. Speaker, Sir, what is happening out there is not very good for this county because we are training thieves. Those people who are there are just collecting money and this money is not being remitted to the proper accounts so that the County can earn revenue. I am happy because we are going out of a course right now if you read the Bible in Isaiah Chapter 10 from Verse 1

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and I want to read. I want to be very specific because I do not want to be under a curse. I am a Pastor and when I go to church...

*(Laughter)*

Mr. Speaker, I have to preach the word because the Bible says that you will know the truth and the truth will set you free; I have known the truth and I want to be free...

*(Hon. Kenga stood on a Point of Order)*

**The Speaker** (Hon. Kahindi): Yes hon. Kenga, what is your Point of Order?

**Hon. Kenga:** Thank you very much Mr. Speaker. I am getting worried for the Member who is claiming to be a Pastor yet I remember in this Assembly one time when he was contributing he came dressed in a *kanzu*, a *walahi* and he told us that he was a Sheikh and today he is saying he is a Pastor. I do not know whether he is somebody who is confused or he just became a Pastor just the other day. Thank you.

*(Laughter)*

**The Speaker** (Hon. Kahindi): I am also advised but I do not want to go into that. You know even the former Chief Justice said that he is a man of many faiths. He was a Muslim and a Christian at the same time, so I want to presume that you fall in the same... any way, let us proceed hon. Member.

**Hon. Ziro:** Thank you Mr. Speaker, Sir, for protecting me. He knows very well I am a Pastor but I do not know why he was challenging me. So, I said I want to be very specific. I want to read from the Book of Isaiah Chapter 10 Verses 1 and 2. I wish I had an English Bible; this is a Swahili Bible but it is going to teach us something here. It says and I want to quote;

*“Ole wao wawekao amri zisizo na haki na waandishi waandikao maneno ya ushupavu ili kumpotosha mhitaji asipate haki yake na kuwanyang’anya maskini wa watu wangu haki yao ili wajane wawe mateka wao na kuwafanya yatima waliofiwa na baba zao kuwa mawindo yao.”*

Mr. Speaker, if you go to the English version it says; “Woe unto those who make laws of oppression...”. I just want to liken this situation to somebody who is making a law of oppression. If we have people who are working out there without the proper laws to guide them, then they are oppressing our people when they collect money from our people.

This money is not being remitted into the proper accounts. We are having people who are becoming rich without sweating. This is what we want to abolish Mr. Speaker. If we have proper laws which will guide them on how they are going to do their duties, we are going to have a beautiful County. I do not want to hesitate in supporting this Motion. I want to urge all Members to stand up on their feet with this Bible quote. Let this be your guidance in life. We are going to be under a curse if we do not enact proper laws to guide our County. I am happy because as a Pastor, I have washed my hands right now even before God I am clean. I have used the Word

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and as I go to sit Mr. Speaker, I want to be convinced that all Members are going to support this Motion. Thank you.

**The Speaker** (Hon. Kahindi): Hon. Kiraga.

**Hon. Kiraga:** Thank you very much Mr. Speaker. Let me first of all thank the Mover of the Motion hon. (Ms.) Sidi. This is one of the brightest ideas being moved in this County Assembly. I remember very well by the time we were doing the County Fiscal Paper 2017/2018; one of the recommendations was the idea of improving revenue collection in this County.

Mr. Speaker, we are also aware that our 2018/2019 resource envelop is around Kshs13.6 billion and within this resource envelop Kshs1.3 billion is the local revenue target and we cannot achieve this without coming up with such proposals. I therefore fully support this Motion.

Mr. Speaker, if you look at the prayer of the Motion, the Kilifi County Inspectorate Unit will provide a mechanism for the establishment of a County Court in consultation with Judiciary.

Mr. Speaker, you will realize the officers who are currently mandated to enforce the various legislations are working without any policies and this is now giving a window for bribes because if you cannot prosecute, what remains is just asking for a bribe so that you do away with the case there and then. This is now denying this County some revenue. The establishment of the County courts as has been said by the Motion Mover is going to boost the revenue of this county at a high percentage. Currently as it has been said by the Mover, we do not know whether the funds are being remitted to the County Government or they stay with the National Government which I believe we are not getting even a penny from the National Government because whatever goes in the Government coffers cannot go out and if it goes out, then with a lot of sweat.

I therefore stand here to highly praise the Mover of the Motion and I believe this Motion will see the light of the day. Mr. Speaker, this County has got some brains to manage this unit. I just want to give one of the brightest brains within us at the County Assembly of Kilifi; the likes of the Senior Sergeant and others. With those few remarks, I say thank you and let this Motion see the light of the day. Thank you.

**The Speaker** (Hon. Kahindi): Thank you. Hon. Pascal.

**Hon. Pascal:** Thank you Mr. Speaker for giving me this opportunity to add weight to the many points which have been contributed by my fellow hon. Members. Let me take this opportunity to actually support and applaud the hon. Member who came with this very noble and bright idea. Mr. Speaker, besides the many contributions, the introduction of the Inspectorate Unit will address many problems that we have had as a County Government.

Mr. Speaker, we have seen many of the laws that we did for the last five years. They have not been implemented because we have lacked the force that would actually assist this County Government in implementing these laws. I remember for those hon. Members who are serving more than one term, there are some laws which we passed especially in the Traffic Department where we had suggested that those *Boda Boda* riders should always dress in their full dress code so that they can avoid the many accidents that have been there. If you go outside, you will find it is business as usual. These guys move recklessly and cause a lot of accidents and when we install this Inspectorate Unit, then we will have addressed that problem because we know the Traffic Department will actual be dealing with this small but very critical laws that we pass here.

Mr. Speaker, it has become very expensive for this County Government and hon. Members here will actually agree with me that almost every weekend we bury many of our

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youths especially the boda boda riders who lose their lives every time. We always visit survivors in hospitals. They have broken limbs, hands and heads just because of this problem. If we have a proper law on the Traffic Laws that we pass here, then we will address a problem which is eating into our youth.

Again, we have over-dependended on the National Police Service for long. We have always wanted them to implement or rather to support our laws but remember these guys are very busy taking care of your security out there. So burdening them with another duty of now covering our responsibility is also becoming a problem that is why we are seeing the National Police Service have actually failed because it is also becoming a problem having our own Inspectorate Unit. We will be distinguishing between the duties of the two forces. We will be having a force which will be critically mandated with the implementation of the County Laws and I believe we will be in the right direction in solving our problems.

We have seen a lot of problems on our roads when you get to Kilifi and Mtwapa for those of us who cross over to Mombasa. There are some hours that it becomes very problematic for one to cross over to Mombasa, because of the traffic jam that we experience and the few Traffic Marshalls that we have employed have tried to help. So if we install an Inspectorate Unit, that will take care of matters of traffic jam then traveling will be well and there will be sanity along those towns in terms of traffic jam management.

Again, the establishment of the County court will be a positive gesture. We have seen those who commit petty offences lining up in courts for almost five six hours because of very simple mistake that can be addressed at the county level. If we establish our own courts, time will be well managed. Those petty offenders will be addressed at the county level and the revenue as my fellow Members have put it will be taken to our own accounts. This will be a plus to revenue enhancement.

To finalize my contribution, there is the issue of cleanness and beauty of our towns. We have seen that garbage is thrown everywhere in the towns and roads. We have laws that have actually been enacted to caution all these things but because we lack an Inspectorate Unit that would push the implementations of these laws, we are seeing that there is a lot of dirt everywhere. So this unit will actually give a boost to the proper management of the environment and other good things that we envisage as a County. Thank you. I stand to support.

**Hon. Masha:** Thank you Mr. Speaker, for giving me this opportunity. I stand to support the Motion. We need this unit because we have laws which are not enforced. We have the forest guards. I witness an issue where the forest guards impounded charcoal deals and the police officers in Ganze Sub-County intervened and interfered with the work of the forest guards. So if we have the Inspectorate Unit, such an issue could not have happened.

Another issue happened when we were in Bamba and one of the *boda bodas* was transporting three sacks of charcoal and the police officers were asking for a bribe of Kshs20,000 for three sacks of charcoal. What if we had the unit and the court whereby the forest guards could make an arrest and take the offenders to the County court?

The Traffic Marshalls are seen on the roads as it has already been said by my fellow Members that they are doing their work well, but where is the end point? What next after arresting? We have seen drivers going against the traffic laws. We have been receiving calls from our voters that “I have been arrested and a kangaroo court is asking for bribes.” Let me inform this honourable House that the Implementation Committee has been energized and it is

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now effectively working. We had a meeting today and we have ironed out all the stumbling blocks and I believe when this is passed, we shall work on it very well. Thank you Mr. Speaker. I stand to support this Motion.

**Hon. Haddad:** Thank you Mr. Speaker. I being a representative of the youth in this Assembly am happy to see such a Motion being brought forward. This will be a form in which most of the youth in the county will be able to get job opportunities. We are saying that there are some inspectors who are working at the moment but they have not been trained properly. So through passing such a Motion and creating this Inspectorate Unit they will be trained to make their work much easier and better. This will also improve the tax collection part. As legislators, we make laws and we love to see them implemented and this is the forum that will make us see the implementation of the laws that we have passed.

**Hon. Baya:** Thank you Mr. Speaker Sir. First, I want to appreciate the hon. *Queen* of this House hon. Sidi for bringing this Motion to this House. Apart from being a nominated Member of County Assembly, she is also a Member of the Committee on Public Investment and Accounts where I sit as the Chairperson. This Motion is important. If it is passed and implemented, the County Government of Kilifi will change and more revenue will be collected. This Motion can make this County Government reduce or if possible, stop corruption and by that, this county will be rich.

I being the Chairperson of the Public Investments and Accounts Committee have scrutinized part of the Audit Reports we have. If all the recommendations of the Auditor General are implemented through this Unit, we are going to recover a lot of revenue which can change the status of this County. I stand to support this Motion. Thank you.

**The Leader of Minority (Hon. Matsaki):** Thank you Mr. Speaker Sir. Before I make my contribution, let me take this opportunity to congratulate the Member who brought this Motion. We are moving in the right direction because we do not have this Policy in the County and we are losing so much especially when we talk about the County courts. This will improve our local revenue. We have been budgeting for local revenue; about Kshs1.3 billion in our budget but normally, we do not reach that amount. Now is the time. If this Motion is passed, it will give the County Secretary (CS) time to make sure that he brings a proposal whereby we are going to debate about it and make sure we come up with a good law because reinforcement is very important.

Much has been said by Members in this House. Mine is to urge the hon. Members who have not spoken, please let us pass this Motion because after passing this Motion that is when the CS can bring a proposal and after debating it here, we come up with a good law to make sure we increase the revenue collection. With those few remarks, I say lets vote for this Motion.

*(Question put and agreed to)*

## ADJOURNMENT

**The Speaker (Hon. Kahindi):** There being no other Business in the Order Paper, this House stands adjourned.

**The House rose at 3:20p.m.**

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