

# COUNTY GOVERNMENT OF NAIROBI CITY



SECOND ASSEMBLY

THE NAIROBI CITY COUNTY ASSEMBLY

(THIRD SESSION)

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COMMUNICATION FROM THE CHAIR

*No. 20 of 2019*

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## GROSS AND GRAVE DISORDERLY CONDUCT IN THE ASSEMBLY.

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**Hon. Members,** I wish to make a communication relating to caution on gross and grave disorderly conduct in the Assembly.

**Hon. Members,** I have no doubt that you are all aware that it is the duty of the Speaker to maintain order in the Assembly Pursuant to provision of Standing Order No. 104 which states as follows, and I quote;- *“Order shall be maintained in the County Assembly by the Speaker and in a Committee of the whole County Assembly by the Chairperson of such Committee but disorder in Committee may be censured only by the County Assembly on receiving a report thereof.”*

**Hon. Members,** you are aware that in the recent sittings, debate in the Assembly have not been decorous and rules of debate have largely been breached. Hon. Member, I am certain that as leaders, you are aware of the requirements of Chapter Six of the Constitution of Kenya 2010, the mechanism provided by the Nairobi City County Assembly Standing Orders and the County Assemblies Powers and Privileges Act, 2017 on how to deal with misconduct or disorder within the Assembly.

**For avoidance of doubt or speculations, Hon. Members,** Standing Order No. 113 (1)(g) inter alias provides that conduct is grossly disorderly if the Member concerned abuses his or her privileges and (j) *“commits any other breach of these Standing Orders that in the opinion of the Speaker constitutes gross disorderly conduct.”*

**Further to that, Hon. Members,** I remind you the provision of Standing Order No. 114 on Grave Disorderly Conduct, and In particular, 114 (1) (d) which also inter alias state that conduct is gravely disorderly if a Member; *“persistently and willfully causes actual disorder that obstructs the Assembly from transacting business.”*

Having said that Hon. Members, you may vividly recall, that on Tuesday, 29<sup>th</sup> October 2019, the Minority Whip – Hon. Peter Imwatok, MCA, while seeking a Statement in the Assembly, drew the Speaker’s attention to the Provision of Standing Order No. 115 (1) which states as follows, and I quote; *“Any Member may at any time, on a point of order, invite the Speaker or the Chairperson of Committees to*

*name another Member for grossly disorderly conduct, but the decision whether or not to do so shall remain with the Speaker or Chairperson.”*

The Hon. Minority Whip, proceeded by mentioning one **Hon. Anthony Ng’ang’a Gatune, MCA, Member for Kahawa West Ward** for interrupting the Assembly’s proceeding, defying the Speaker’s Orders and behaving in a most-undignified and despicable manner.

Upon careful examination of the matter, I wish to convey as follows:-

**Hon. Members**, while the greatest majority of House Membership conducts themselves honorably, a few have continued with attempts of disrupting Assembly proceeding. It is indeed disturbing, Hon. Members, cognizant to the Provision of Article 1, Sub-article (1) and (2) of the Constitution of Kenya, 2010 which dictates that;- *“All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.”* And that; *“The people may exercise their sovereign power either directly or through their democratically elected representatives.”* In this case, it is disturbing, very unfortunate, quite dishonorable and total misrepresentation of the sovereign interest of the residents of Kahawa West by their democratic elected Member.

**Hon. Members**, Standing Order No. 115 (2) provides that, and I quote; *“Whenever a Member shall have been named by the Speaker or by the Chairperson, then – (a) if the breach has been committed by such Member in the County Assembly, a Motion shall be made by any other Member present “That, such Member (naming the Member) be suspended from the service of the County Assembly,” and the Speaker shall forthwith put the question thereon, no amendment, adjournment, or debate being allowed;”*

**Further, Hon. Members**, Standing Order No. 116 (1), (2) and (3) provides that;

(1) *“Whenever a member has been named in accordance with Standing Order 115 (Member may be suspended after being named), the Speaker shall order the Member to withdraw from the Chamber and the precincts of the County Assembly.”*

(2) *“Any Member who is ordered to withdraw under Standing Order 113 (Gross Disorderly conduct) and Standing Order 114 (Grave Disorderly conduct) or who is suspended from the service of the County Assembly under Standing Order 115 (Member may be suspended after being named) shall forthwith withdraw from the precincts of County Assembly and shall during the period of such withdrawal or suspension forfeit the right of access thereto and shall forfeit all allowances payable during the period of such suspension.”*

(3) *Any Member who demonstrates or makes disruptive utterances against the suspension of a named Member shall be deemed to be disorderly in accordance with Standing Order 113 (Gross Disorderly conduct).*

**On the foregoing Hon. Members, the Office of the Speaker wishes to caution such behavior and issue a last warning to the said Hon. Member.**

Lastly, Hon. Members, I wish to instruct the Office of the Clerk, with facilitation from the Serajeant-At-Arms Office, to furnish the Office of the Speaker with the Incident report of the unfortunate incident that occurred in the Tuesday, 29<sup>th</sup> October 2019 sitting alongside the CCTV recordings of the same before Monday, 4<sup>th</sup> November 2019 for further examination.

**It is so directed!**

I thank you Hon. Members.

**The Hon. Beatrice Elachi, CBS**  
**SPEAKER OF THE NAIROBI CITY COUNTY**

**Wednesday, 31<sup>st</sup> October 2019**