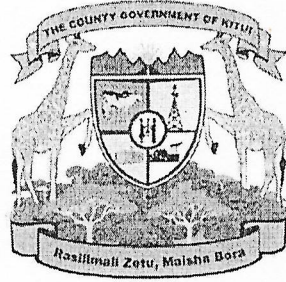


**COUNTY GOVERNMENT OF KITUI**



**THE COUNTY ASSEMBLY  
THIRD ASSEMBLY- THIRD SESSION (2024)**

**COMMITTEE ON LABOUR AND SOCIAL WELFARE**

**RESPONSE TO STATEMENT REQUEST BY HON. M. NDAGARA – M.C.A FOR  
THARAKA WARD ON THE NON-INCLUSIVITY OF  
MINORITY/MARGINALIZED COMMUNITIES WITHIN KITUI COUNTY  
PUBLIC SERVICE.**

**The Clerk's Chambers,  
County Assembly of Kitui,  
Assembly Buildings,  
Kitui, Kenya**

**OCTOBER, 2024**

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## **ABBREVIATIONS & ACRONYMS**

<b>CASB</b>	County Assembly Service Board
<b>CECM</b>	County Executive Committee Member
<b>CGA</b>	County Governments Act
<b>CO</b>	Chief Officer
<b>CPSB</b>	County Public Service Board
<b>HR</b>	Human Resource
<b>KSG</b>	Kenya School of Government
<b>MCA</b>	Member of County Assembly
<b>SRC</b>	Salaries and Remunerations Commission

## **1.0 PREFACE**

### **1.1 Introduction**

**Mr. Speaker,**

As you are aware, Hon. Muthengi Ndagara, M.C.A for Tharaka Ward requested for a statement from the Chairperson Committee on Labour and Social Welfare, on non-inclusivity of minority/marginalized communities within kitui county public service, pursuant to the provisions of Standing Order No. 41 (2c).

The committee on Labour and Social Welfare deliberated on the issues raised in the Statement and prepared this brief report on its consideration of the same pursuant to the provisions of Standing Order No. 41 (2C) (C).

### **1.2 Mandate of the Committee**

**Mr. Speaker,**

The Committee on Labour and Social Welfare is established under Standing Order No. 190(5) and is mandated to:

- i. Investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operation and estimates of the assigned department;
- ii. Study programs and policy objectives of departments and the effectiveness of the implementation;
- iii. Study and review all county legislation referred to it;
- iv. Study, assess and analyse the relative success of departments as measured by the results obtained as compared with their stated objectives;
- v. Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;

- vi. To vet and report on all appointments where the constitution or any law requires the County Assembly to approve, except those under Standing Order No.185(Committee on Appointments); and
- vii. **Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.**

The Second Schedule of the Standing Orders stipulates that the Committee is mandated to oversight all matters relating to Labour trade union relations, employment, man power or human resource planning and social welfare;

### **1.3 Committee Membership.**

#### **Mr. Speaker,**

The Committee was constituted by the House on 23<sup>rd</sup> November, 2022 and as currently constituted, comprises the following Members;

- |                                   |                  |
|-----------------------------------|------------------|
| 1. Hon. Joseph Kasungi Kavula     | Chairperson      |
| 2. Hon Charity Kathathi Musyoka   | Vice Chairperson |
| 3. Hon. Frida M. Mutinda          | Member           |
| 4. Hon. Cornelius Ngumbau Muthami | "                |
| 5. Hon. Mary P. Ndumbu            | "                |
| 6. Hon. Antony M. Musyoka         | "                |
| 7. Hon. Zacchaeus I. Syengo       | "                |
| 8. Hon. Mary M. Musili            | "                |
| 9. Hon. Elizabeth N. Peter        | "                |
| 10.Hon. Pricilla Martha Makumi    | "                |
| 11.Hon. Jeremiah M. Mutua         | "                |

### **1.4 Committee Secretariat**

- 1. Onesmus M. Mbwang'a-Clerk Assistant
- 2. Patrick K. Mutua-Clerk Assistant

## 1.5 Acknowledgement

### Hon. Speaker;

On behalf of the Committee on Labour and Social Welfare, I extend my gratitude to the Hon. Speaker, Members of the Committee, office of the Clerk of Assembly and the staff attached to the Committee for their continuous support, assistance, and commitment in executing their duties.

On behalf of the Committee on Labour and Social Welfare, and pursuant to the provisions of Standing Order No.41 (2C) (C), it is my pleasant duty and pleasure to present this report of the Committee on the response to statement for consideration and adoption.

SIGNED:  \_\_\_\_\_ DATE: 9/10/2024

**HON. JOSEPH KASUNGI KAVULA**  
**CHAIRPERSON, COMMITTEE ON LABOUR AND SOCIAL WELFARE**

## 2.0 BACKGROUND

**Mr. Speaker,**

During the afternoon Sitting of 26<sup>th</sup> June, 2024, Hon. Godfrey Muthengi Ndagara - M.C.A for Tharaka Ward requested for a Statement response from the Chairperson, Committee on Labour and Social Welfare on non-inclusivity of minority/marginalized communities within kitui county public service (*see Annexure 2*). In his statement request, the Honourable Member requested the Committee to avail the following details;

- i. List of all employees in the Kitui County Public Service under permanent and pensionable terms, noting their names, designation. Current job group, tribe and ward;
- ii. Comparative analysis of the total number/percentage of the employees above who are of Kamba descent compared to employees from other ethnic communities;
- iii. Why the County Public Service Board and the County Assembly have continuously disregarded the provisions of Section 65 and 67 of the County Governments Act on equality of treatment and employment of individuals from marginalized communities.
- iv. Measures the County Public Service Board and the County Assembly Service Board intend to adopt to ensure that marginalized Communities within Kitui County are well represented in employment opportunities.

**Mr. Speaker,**

Upon receipt of the statement request, and Pursuant to the provisions of Standing Order No. 41 2C(B), the committee on Labour and Social Welfare through the office of the Clerk forwarded the statement request to the Chairperson, CPSB in order to respond to the issues raised.

**Mr. Speaker,**

The Chairperson to the CPSB responded to the issues raised in the statement on 5<sup>th</sup> August, 2024 as annexed to this report.

### **3.0. RESPONSE TO THE QUERIES RAISED IN THE STATEMENT REQUEST**

#### **3.1. QUERY ONE:**

**List of all employees in the Kitui County Public Service under permanent and pensionable terms, noting their names, designation. Current job group, tribe and ward;** (See annexure 3 and annexure 4 for staff per ward and corresponding percentages)

#### **3.2. QUERY TWO:**

**A Comparative analysis of the total number/percentage of the employees above who are of Kamba descent compared to employees from other ethnic communities.**

#### **RESPONSE;**

1. The Kitui County public service currently stands at 5321 staff comprising of 4418 Kambas from kitui county, 336 Kambas from other counties and 537 other ethnic communities.
2. 5321 kitui public service employees comprise of the staff from the defunct local authority, devolved employees from the national government and the kitui county public service board. Therefore, employment of kitui county public service employees is a shared responsibility among the National government, the defunct local authorities and the kitui County Public Service Board.
3. In response to the concerns raised, Section 65(1)(e) of the County Governments Act 2012 provides that in selecting candidates for appointment, the County Public Service Board shall consider need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.
4. In light of the foregoing, the Kitui County Public Service Board has always endeavored to attract candidates for employment from the entire republic. This is by ensuring that vacancies declared within kitui County Public Service are



advertised in major dailies with a nationwide circulation/coverage. Despite all efforts, various factors have made it impossible to have a county public service with a national outlook in terms of employee representation. This can be attributed to;

5. High turnover being witnessed following devolution; employees continued requests for transfer back to their home counties to join their families. Further, those newly recruited from other counties have also been seeking for inter county transfer back to their home counties.
6. The county is perceived by many as a hardship region with no hardship allowances hence many applicants would prefer to secure employment elsewhere with more favorable working conditions and conducive environment.
7. It has also come to the attention of the kitui county public service board as an employer that in most instances the marginalized and people with disabilities have always recorded low or non-response to the advertised opportunities. In regard to this, the Board has adhered to the affirmative action as stipulated in the Constitution of Kenya 2010 Article 56(c) and always encourage these groups to apply during job advertisement as follows;

***The County Government of Kitui is an equal opportunity employer and does not charge commission for its recruitment services. Qualified youth, women, persons with disabilities and those from the marginalized groups are encouraged to apply.***

8. It is also important to note that, in some circumstance the few marginalized groups who apply may fail to meet the minimum job requirements especially in technical areas.

### **3.3. QUERY THREE:**

**Why the County Public Service Board and the County Assembly have continuously disregarded the provisions of Section 65 and 67 of the County Governments Act 2012 on equality of treatment and employment of individuals from marginalized communities.**

#### **3.3.1. RESPONSE BY THE CHAIRPERSON, CPSB**

County Public service Board promotes equality of opportunity in employment and does not discriminate directly or indirectly against any employee on any grounds including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

In Analysis of the newly recruited five hundred and twenty-two (522) staff in 2021/2022 FY based on: representation of Kenya's diverse communities, adequate and equal opportunities to all gender, youth, members of all ethnic groups, persons with disabilities and minorities.

##### **i) Representation of Kenya's diverse communities**

A total of forty-nine (49) employee recruited in FY 2021/2022 were from other counties. This translates to 9.4% of the total number of staff recruited (522).

##### **ii) Gender Representation**

Analysis of recruited five hundred and twenty-two (522) in FY 2021/2022 shows that, two hundred and sixty-seven (267) were Female and two hundred and fifty-five (255) were male. This translates to 51.15% and 48.85 % respectively.

In addition, 2022/2023 FY the Board converted into Permanent and Pensionable terms of service a total of 1688 ECDE teachers of whom 94 % were female and 6% male.

##### **iii) Youth representation**

Analysis of recruited five hundred and twenty-two (522) in FY 2021/2022 shows that, four hundred and forty-eight (488) were youth (age 18-35 years), which translates to 85.82% of the total recruits.

#### **iv) Persons with Disabilities representation**

Analysis of recruited five hundred and twenty-two (522) in FY 2021/2022 shows that, four (4) were persons with disabilities, this translates to 1.15%.

### **3.3.2. RESPONSE BY THE CASB**

#### **RESPONSE TO STATEMENT REQUEST BY HON. GODFREY MUTHENGI NDAGARA ON DISREGARD OF PROVISIONS OF SECTION 65 AND 97 OF THE COUNTY GOVERNMENTS ACT ON EQUALITY OF TREATMENT AND EMPLOYMENT OF INDIVIDUALS FROM MARGINALIZED COMMUNITIES BY THE KITUI COUNTY ASSEMBLY SERVICE BOARD.**

The Kitui County Assembly Service had eighty (80) employees as at 1<sup>st</sup> October, 2024. Out of the eighty (80) employees twenty-two (22) were inherited from the defunct local authorities, one (1) from the National Government on transfer of services and fifty-seven (57) employed by the Kitui county Assembly Service Board. The employment of the employees is spread through the county/country as shown in the attached list. Currently 5% (4/80) of the employees come from other counties and the Board will endeavor to employ more based-on applications and meeting of the required qualifications (*see annex 5 for list of CASB employees*).

### **3.4. QUERY FOUR:**

**Measures CPSB intends to adopt to ensure that marginalized communities within Kitui County are well represented in employment opportunities.**

#### **Responses**

- i. In future KCPSB plan to digitize recruitment processes in order to ensure wider reach, less cost, accountability, transparency and ease of job applications

- ii. The Board will strive to advertise all vacant posts in a manner that reaches the widest pool of potential applicants including marginalized communities and allow sufficient days before closing the advert.
- iii. The Board shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups have access to special opportunities for employment as provided for in Article 56, (C).
- iv. The County Public Service Board shall invite applications through advertisement and other modes of communication so as to reach as wide a population of potential applicants as possible and especially persons who for any reason have been or may be disadvantaged as provided for in Section 66 of the County Governments Act, 2012.
- v. KCPB will encourage marginalized communities to apply by highlighting in job applications that CPSB is an equal opportunity employer. **Youth, Women and Persons Living with Disabilities, Marginalized and Minority communities** will be encouraged to apply.
- vi. Consideration for use of local vernacular radio stations in addition to daily newspaper to advertise for jobs as may be required.
- vii. Use of the lowest administrative units in sharing information on employment opportunities in order to expand the scope for dissemination.

#### **4.0. COMMITTEE OBSERVATIONS**

**Mr. Speaker,**

The committee having considered the responses by both the County Public Service Board and the County Assembly Service Board observes as follows;

1. That the provisions of section 65 and 97 of the County Governments Act 2012 on equality of treatment and employment of individuals from marginalized communities have not been complied with.
2. No meaningful proactive measures have been undertaken by the two boards to ensure compliance with the provisions of Section 65 and 97 of the County Governments Act on equality of treatment and employment of individuals from marginalized communities.

#### **5.0. COMMITTEE RECOMMENDATIONS**

**Mr. Speaker,**

Owing to the above observations, the Committee recommends as follows;

The County Public Service Board as well as the County Assembly Service Board should put in place strategies to ensure strict adherence to the provisions of section 65 and 97 of the county governments act on equality of treatment and employment of individuals from marginalized communities.

#### **CONCLUSION**

**Mr. Speaker Sir,**

In conclusion, the committee appreciates Hon. Godfrey Muthengi Ndagara for coming up with the Statement on non-inclusivity of the minority/marginalized communities in Kitui County Public Service which assisted to committee to get to the bottom of the subject matter. The Committee appreciates the CPSB as well as the CASB for the satisfactory responses. The Committee shall remain steadfast in providing proper oversight in all matters under her mandate as provided under the County Assembly Standing Order No. 190(5) and the Second Schedule.



# ANNEXTURE 1

## ADOPTION PAGE

We the members of the Committee on Labour and Social Welfare hereby append our signatures as proof of the authenticity, accuracy and correctness of the report on the Consideration of the Response to the Statement Request by Hon. Godfrey Muthengi Ndagara, M.C.A for Tharaka ward on the non-inclusivity of the Minorities/marginalized communities in Kitui County Public Service.

NAME	DESIGNATION	SIGNATURE
1. Hon. Joseph Kasungi Kavula	Chairperson	
2. Hon Charity Kathathi Musyoka	Vice Chairperson	
3. Hon. Frida M. Mutinda	Member	
4. Hon. Pricilla M. Makumi	Member	
5. Hon. Mary P. Ndumbu	Member	
6. Hon. Antony M. Musyoka	Member	
7. Hon. Zacchaeus I. Syengo	Member	
8. Hon. Mary M. Musili	Member	
9. Hon. Elizabeth N. Peter	Member	
10. Hon. Cornelius K. Muthami	Member	
11. Hon. Jeremiah M. Mutua	Member	





STATEMENT REQUEST ON NON-INCLUSIVITY OF MINORITY/MARGINALISED COMMUNITIES WITHIN KITUI COUNTY PUBLIC SERVICE

Pursuant to the provisions of Standing Order No. 41 (2) (C), I would like to request for a statement from the Chairperson, Committee on Labour and Social Welfare on Non inclusivity of Minority/Marginalized Communities Within Kitui County Public Service.

**AWARE** that the Committee on Labour and Social Welfare is mandated under Standing Order No. 190(5) as read together with the Second Schedule to oversight all matters relating to Labour, trade union relation, employment, man power or human resource planning and Social Welfare.

**FURTHER AWARE** that Article 27(1) of the Constitution provides that every person is equal before the law and has the right to equal protection and equal benefit of the law.

**NOTING** that Article 21(3) of the Constitution obligates all State organs and all public officers to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities, and members of particular ethnic, religious or cultural communities.

**FURTHER NOTING** that Article 260 of the Constitution defines Marginalized communities as those with relatively small populations, traditional and indigenous communities seeking to preserve their unique culture, and pastoral communities with limited integration due to geographic isolation, facing significant barriers that hinder their full participation in social, political, and economic life of Kenya as a whole;

**COGNIZANT** that the marginalized communities in Kitui County, specifically the Tharaka and Swahili/Arabs, have for decades been overlooked and poorly represented in governance and all other spheres such as education, economic activities, and employment.

**FURTHER COGNIZANT** that Section 97 of the County Government Act provides that a county government, shall observe the principles of protection of marginalized and minority groups from discrimination and from treatment of distinction of any kind and equality of treatment in all

*14/12/24  
NOC  
19/12/24*

*17/12/24  
PCA  
Have this allocated  
time by H.OC  
19/12/24*

*Mr. Speaker  
For your consideration  
and direction  
12/12/24*

*7/12/24  
Clerk  
Approved. Forward the  
same to House Business  
Committee for scheduling.  
12/12/24*



areas of economic, educational, social, religious, political and cultural life of the marginalized and minority groups.

**CONCERNED** that despite the Constitution of Kenya providing a framework for ensuring the promotion, participation, and representation of marginalized communities in governance, education, employment, cultural, and other spheres of development and the existence of various policies and legislative and programmatic interventions that directly address the issues affecting marginalized communities in Kenya, these two communities within Kitui County continue to face discrimination, exclusion, and limited access to opportunities, which hinder their development and perpetuate cycles of poverty and marginalization.

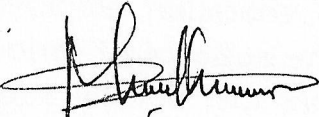
**FURTHER CONCERNED** that despite Section 65 (1)(e) of the County Government Act providing a mandatory directive that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county, there persists a troubling disregard for qualified and suitable candidates from the two marginalized communities in Kitui County

**CONSCIOUS** that if the matter is not urgently addressed, the Tharaka and Swahili Arab Communities will continue being neglected in upcoming County public Service Employment opportunities and all other spheres.

Therefore, the Committee on Labour and Social Welfare should provide a comprehensive report to the House within 21 days detailing the following:

- i. List of all employees in the Kitui County Public Service under permanent and pensionable terms, noting their names, designation, current job group, tribe and ward;
- ii. Comparative analysis of the total number/percentage of the employees above who are of Kamba descent compared to employees from other ethnic communities;
- iii. Why the County Public Service Board and the County Assembly Service Board have continuously disregarded the provisions of Section 65 and 97 of the County Governments Act on equality of treatment and employment of individuals from marginalized communities.

- iv. Measures the County Public Service Board and the County Assembly Service Board intend to adopt to ensure that marginalized Communities within Kitui County are well represented in employment opportunities.

SIGNED:  .....

DATE: 18/06/2024 .....

HON. GODFREY MUTHENGI NDAGARA – (M.C.A)  
COUNTY ASSEMBLY OF KITUI.