

REPUBLIC OF KENYA



COUNTY ASSEMBLY OF SIAYA

SECOND ASSEMBLY

(SECOND SESSION)

COMMUNICATION FROM THE CHAIR

**ON THREATS AND INTIMIDATION DIRECTED AT MEMBERS OF THE
HONORABLE HOUSE**

Hon. Members, on Tuesday, 6th November, 2018 during the Afternoon Sitting of this Honorable House, the Honorable Member representing Central Alego Ward, the Hon. Leonard Otieno Oriaro brought to the attention of the House that his life was threatened by his Excellency the Governor, Siaya County.

The Hon. Member stated, and I quote;

“Mr. Speaker, Sir, while attending to the cause of my representative mandate on behalf of this House as a County Assembly Forum member in Mombasa on Wednesday, 31st October, 2018, I want to report that the County Government of Siaya Governor, Mr. Cornel Rasanga, made a phone call to me and through that phone call he threatened my lifeMr. Speaker, Sir, on Tuesday of that week, before 8:00am via radio Mayienga, his usual public political entertainer, Mr. Makamu, did a phone call to radio Mayienga and made a threat and I quote “we are prepared to deal with Oriaro perpendicularly” adding that “it’s no laughing matter”So, I want to report to this Honorable House of which I am a member, that my life is in danger.....”

I directed the Honorable Member to report officially to my Office and he did so on 6th November, 2018. Honorable Members will recall that similar actions, aimed at coercing, intimidating and threatening to cause harm to Members of this House have occurred in the past. For instances, the House, while holding its Sitting at Bondo Sub-County Hall on 4th March, 2015 was attacked and Members insulted by goons. Consequently, this House, while debating the

Report on Vetting of the CEC Members by the Committee on Appointments, on 4th October, 2017 was attacked and Honorable Members pelted with stones in a bid to intimidate, coerce and threaten them with the intention of directing Members' opinions in considering the report.

Hon Members, the legislative authority of the County Assembly is clearly espoused in Article 185 of the Constitution of Kenya, 2010, read together with Section 8 of the County Government Act, 2012. These roles and responsibilities have been bestowed on Honorable Members by the electorate guided by Article 1 (1) and (2) of the Constitution of Kenya, 2010 which states as follows;

(1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

(2) The people may exercise their sovereign power either directly or through their democratically elected representatives.

While discharging these roles, Hon Members enjoy certain powers, privileges and immunities which are clearly entrenched in parliamentary traditions and backed by several legislations. Key among these is Article 117 of the Constitution of Kenya, 2010; Section 17 of the County Governments Act, 2012 and Section 26(1) and (2) of the County Assemblies Powers and Privileges Act, 2017 which fervently protects Members from instances of intimidation, coercion and threats to cause harm and state as follows:

26. (1) A person shall not-

(a) assault, threaten, use abusive language, obstruct, molest or insult any member proceeding to, being within or leaving the precincts of a county assembly, or endeavor to compel any member by force, insult or menace to declare himself or herself in favor of or against any proposition or matter pending or expected to be brought before a county assembly or any committee;

(b) Assault, threaten, use abusive language, interfere with, molest, resist or obstruct any member of staff while in the execution of his or her duty;

(c) Assault or threaten a member or unlawfully deprive a member of any benefit on account of the member's conduct in a county assembly;

(d) while a county assembly or a committee is sitting, create or take part in any unlawful disturbance which interrupts or is likely to interrupt the proceedings of a county assembly or any committee while a county assembly or the committee is sitting;

(2) A person, including a member who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding two years or to both.

Hon Members, I wish to bring to your attention that matters of intimidation and threats to Hon. Members as the case of Hon. Oriaro, amount to contempt of the House and are considered to be breaches of privilege. This argument is buttressed by the ruling of Speaker Lamoureux in 1973 when he stated that he had, ***“no hesitation in reaffirming the principle that parliamentary privilege includes the right of a member to discharge his responsibilities as a member of the house free from threats or attempts at intimidation”***;

This perspective is also shared with Speaker Bosley through his ruling in 1986 where he stated that; ***“If a Hon. Member is impeded or obstructed in the performance of his or her parliamentary duties through threats, intimidation, bribery attempts or other improper behavior, such a case would fall within the limits of parliamentary privilege. Should a member be able to say that something has happened which prevented him or her from performing functions, that he or she has been threatened, intimidated, or in any way unduly influenced, there would be a case for the chair to consider”***.

Hon Members, it is in this regard that I wish to reiterate that this House shall go to all heights in protecting its powers, privileges, immunities and integrity and that of its Members. This Honorable House shall not allow any form of intimidation, coercion and threat to dissuade it from undertaking its legal mandates and upholding the supreme law of the land which it swore by.

It is in lieu of the aforementioned, that I therefore invite the Director of Public Prosecution (DPP), the Ethics and Anti – Corruption Commission (EACC) and other investigative agencies to speedily conduct investigation into this matter with a view of holding to account perpetrators who seem not to respect not only the sanctity of this Honorable House and its Members, but also the law of the land.

Thank you!

**THE HON. GEORGE OKODE,
SPEAKER
THE COUNTY ASSEMBLY OF SIAYA
Tuesday, 13th November, 2018**