

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 8th November, 2023

Afternoon Sitting

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Speaker (Hon. Kingi) in the Chair]

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?

(The Clerk-at-the-Table consulted with the Speaker)

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Serjeant-at-Arms, you may stop the bell. We have a quorum now.

Order! Hon. Senators, kindly take your seats. Clerk, please, call the first Order.

HEARING AND DETERMINATION OF THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. KAWIRA MWANGAZA, THE GOVERNOR OF MERU COUNTY

The Speaker (Hon. Kingi): I am informed that when we took the lunch break, witness Dickson Munene was on the stand and he was being cross-examined by the County Assembly team and that they had 30 minutes to conclude. So, kindly, let the witness take the stand.

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PRESENTATION OF THE CASE OF THE
MERU COUNTY GOVERNOR

Counsel for the County Assembly may now proceed with the cross-examination. You have 30 minutes.

(Dr. Muthomi Thiankolu spoke off record)

Mr. Dickson Munene: Like you read me, there is an Authority to Incur Expenditure (AIE) holder under that office.

Dr. Muthomi Thiankolu: Of course, there is an AIE holder, but the document indicates that these are transactions in the office of?

Mr. Dickson Munene: Of the Governor.

Dr. Muthomi Thiankolu: Good. Mr. Munene, please, confirm that the Governor's explanation for all these prepayments is that they were imprest. Is that what the record shows?

Mr. Dickson Munene: That is not what the Governor's explanation is.

The Speaker (Hon. Kingi): Serjeant-at-Arms, is there a problem with the witness's microphone? Mr. Munene, when responding, get closer to the microphone so that we can hear your response.

Mr. Dickson Munene: Thank you, Mr. Speaker, Sir. I think it is now clearer.

Dr. Muthomi Thiankolu: Mr. Munene, you know this is a matter on record. Are you saying the Governor's explanation is not that the prepayments on IFMIS were imprests that her sister Rose Kinya and the other officers were holding?

Mr. Dickson Munene: The explanation is that it is a recurrent expenditure.

Dr. Muthomi Thiankolu: Can I refer you to page eight of the Governor's response? Are you there, Mr. Munene?

Mr. Dickson Munene: No. I am not.

An Hon. Member: Page No.8 of?

Dr. Muthomi Thiankolu: Page No.8 of the Governor's response.

On page No.8, paragraph 1.1.12. What is the explanation that the Governor offers?

Mr. Dickson Munene: As late as 15th August, 2023, the Mover of the Motion at the County Assembly, publicly through his *Facebook* page, stated that the Personal Assistant (PA), driver and protocol people were entitled to facilitation. That is a statement of fact.

Dr. Muthomi Thiankolu: What does she say at paragraph 1.1.7 of her defence?

Mr. Dickson Munene: Which page?

Dr. Muthomi Thiankolu: Page seven.

Mr. Dickson Munene: However, no embezzlement of funds has been established. Rose receives money as an imprest holder from time to time as *per diems*.

Dr. Muthomi Thiankolu: Good. So, you agree with me, Sir, that the Governor's explanation for this prepayment, specifically the ones to her sister, is imprest. It is there in black and white, Mr. Munene?

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Mr. Dickson Munene: Yes, I agree it is imprest.

Dr. Muthomi Thiankolu: Good. To the best of your knowledge of the law, can a public officer hold two imprests at the same time?

Mr. Dickson Munene: What do you mean by two imprests?

Dr. Muthomi Thiankolu: Exactly that. Two imprests. Can an officer hold two concurrent imprests?

Mr. Dickson Munene: Yes.

Dr. Muthomi Thiankolu: Sir, are you familiar with the Public Finance Management (County Government) Regulations, 2015?

Mr. Dickson Munene: Yes, I am.

Dr. Muthomi Thiankolu: Can you read Regulation 93(4)(b)?

Mr. Dickson Munene: Regulation 93 is on classes of imprest.

Dr. Muthomi Thiankolu: Yes.

Mr. Dickson Munene: It says-

“An imprest shall be issued for a specific purpose, and any payment made from it, shall be only for the purposes specified in the imprest warrant.”

There are two types of imprests, namely: temporary or Safari imprest and standing imprest.

Dr. Muthomi Thiankolu: If you pause there, the imprest alluded to in the Governor’s response is the temporary or safari imprest. Correct or incorrect?

Mr. Dickson Munene: I do not get the allusion.

Dr. Muthomi Thiankolu: You just read for us that there are two types of imprests. One is standing and the other one is temporary, also known as safari.

Now, let us get back to the defense that you read for the Governor. Did she not say these were imprests for *per diems*?

Mr. Dickson Munene: Yes.

Dr. Muthomi Thiankolu: Therefore, you would agree with me that the Governor’s explanation refers to temporary or safari imprests. Is that correct or incorrect?

Mr. Dickson Munene: Correct.

Dr. Muthomi Thiankolu: In fact, we are told in sub-paragraph three that these are meant for official journeys. Is that so from the regulation?

Mr. Dickson Munene: Where?

Dr. Muthomi Thiankolu: The same page you are looking at, Regulation 93(3).

Mr. Dickson Munene: It says that-

“Temporary imprests shall be issued mainly in respect of official journeys, and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.”

Dr. Muthomi Thiankolu: Sir, is it possible for an officer to be on several safaris on the same day, so that they would have several imprests on the same day?

Mr. Dickson Munene: I do not think there is a place where we have got several imprests on the same day.

Dr. Muthomi Thiankolu: Just answer my question, Sir. We will get there. Is it possible for a human being to be on five safaris on the same day?

Mr. Dickson Munene: It depends.

Dr. Muthomi Thiankolu: That takes me to paragraph 4(b). Can you read it for the Senate?

Mr. Dickson Munene: Still on Regulation 93?

Dr. Muthomi Thiankolu: Yes.

Mr. Dickson Munene: It says-

“Before issuing temporary imprests under paragraph two, the Accounting Officer shall ensure that the main objective of the journey cannot be achieved by other cheaper means.

(b) the applicant has no outstanding imprests.”

Dr. Muthomi Thiankolu: Good. We are done, Sir. The Accounting Officer is to ensure the person has no outstanding imprest. Which means before a public officer can get a new imprest, they must surrender the previous one or account for it. Is that so?

Mr. Dickson Munene: Correct.

Dr. Muthomi Thiankolu: It would therefore follow, it is not possible, at least not permissible. I withdraw the word “possible”. It is possible in Meru but it is not permissible under the law for an officer to hold two temporary imprests at the same time by that regulation. Is that correct or incorrect?

Mr. Dickson Munene: That is correct.

Dr. Muthomi Thiankolu: It must therefore follow it from the IFMIS extract, we find the Governor's relatives were paid several times on the same day, it would mean they were holding several imprests at the same time. Is that not so?

Mr. Dickson Munene: No, that is where you get it wrong.

Dr. Muthomi Thiankolu: Even if her defense, as you read it, is that these transactions were imprests?

Mr. Dickson Munene: Yes.

Dr. Muthomi Thiankolu: Okay. Let us go to page 22 of our volume two. You will agree, Sir, at the top is a prepayment to the Governor's sister by the name Rose Kinya Guantai and the date is 15th February. Is that so?

Mr. Dickson Munene: Correct.

Dr. Muthomi Thiankolu: That is on the first line, right?

Mr. Dickson Munene: Yes.

Dr. Muthomi Thiankolu: On the third line is another prepayment to the Governor's sister. Correct or incorrect?

Mr. Dickson Munene: Correct.

Dr. Muthomi Thiankolu: The same day of 15th February?

Mr. Dickson Munene: Yes.

Dr. Muthomi Thiankolu: If you go down again, you find yet another and another; as a matter of fact, six of them. Correct or incorrect?

Mr. Dickson Munene: Correct.

Dr. Muthomi Thiankolu: All of them on the 15th?

Mr. Dickson Munene: Yes.

Dr. Muthomi Thiankolu: Now that you read for us a rule that says an officer must surrender the previous imprest before they can get a new one, is this not indicative of an officer who was holding six imprests when the law permits only one at a time?

Mr. Dickson Munene: No, it is not indicative. It is indicative that this is the day that these payments were made, because ordinarily, the county government does not always hold money. When the money is released to the county government all the imprests that had been incurred, or all the travels, accommodation or anything that had been done when there was no money, they are actually surrendered on that day when there are funds and they are paid on the same day.

Dr. Muthomi Thiankolu: I put it to you, Sir, that is not correct.

Mr. Dickson Munene: I put it to you that is correct.

(Laughter)

Dr. Muthomi Thiankolu: Fair enough.

Mr. Dickson Munene: Thank you, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: Sir, are you familiar with the procedures for accounting for an imprest? Are you familiar with those procedures?

Mr. Dickson Munene: Which ones?

Dr. Muthomi Thiankolu: For surrendering an imprest and accounting for it?

Mr. Dickson Munene: Which ones are you referring me to?

Dr. Muthomi Thiankolu: I am asking a general question, Sir. Are you familiar with the process of accounting for an imprest?

Mr. Dickson Munene: Yes, I am.

Dr. Muthomi Thiankolu: It involves preparing the surrender voucher, is that not so?

Mr. Dickson Munene: Yes, it does.

Dr. Muthomi Thiankolu: That surrender voucher must be authenticated by the examiner. Is that correct or incorrect? Must it be authenticated by relevant officers in the finance department, Sir?

Mr. Dickson Munene: Yes.

Dr. Muthomi Thiankolu: Should it be accompanied by documents to show that, indeed, the safari was undertaken? We just read safari in the regulations. Should they be supported by documents showing that, indeed, the journey for which the imprest was issued was undertaken?

Mr. Dickson Munene: Not necessarily. There are other documents that can accompany that, for instance, there is an invitation for a certain safari.

Dr. Muthomi Thiankolu: If the imprests we have read, cites it is to meet travelling accommodation and incidental expenses, is it your evidence that in accounting for the imprests no documents are to be submitted by way of receipts, boarding passes and related documents to show that indeed the money was spent for these purposes? Is that your testimony, Mr. Munene?

Mr. Dickson Munene: No, that is not my testimony.

Dr. Muthomi Thiankolu: Good. In the surrender forms and vouchers that the Governor has presented to the Senate, have you seen any supporting documents other than the work ticket? The same work ticket used for four months, 17 times?

Mr. Dickson Munene: Which one is that?

Dr. Muthomi Thiankolu: I will read the number for you because we went through it yesterday. It is Work Ticket No.824574 and it appears for the record, in pages 104, 118, 129, 138, 150, 189, 204, 244, 245, 262, 269, 276, 284, 292, 300, 312 and 327 of the Governor's bundle.

Mr. Dickson Munene: The documents that you are referring me to are different.

Dr. Muthomi Thiankolu: Have you read their serial numbers, Sir?

Mr. Dickson Munene: I have read their contents.

Dr. Muthomi Thiankolu: The content is, of course, different because it is a forgery, but is the serial number not the same for all of them?

Mr. Dickson Munene: It is not a forgery, it is a photocopy.

Dr. Muthomi Thiankolu: Any evidence to show that it is a photocopy before this Senate?

Mr. Dickson Munene: Yes, there is.

Dr. Muthomi Thiankolu: Can you point it to us? As you are assisted to look for the evidence, are these work tickets not pulled from a serialized book? Would photocopying not be antithetical to the very reason for them having serial numbers? Mr. Munene, even if we were to take it that these are photocopies, which they are not, the photocopying would itself be an act of fraud. Would it not? It would defeat the purpose of having a serial number. It is still fraudulent accounting, is it not? Would you agree, Sir?

Mr. Dickson Munene: I have not seen any evidence of serial number that you are referring to.

Dr. Muthomi Thiankolu: It is your case. Okay. You can be shown because it is in black and white, Mr. Munene. You cannot deny that the sun rises in the east and sets in the west. It is in black and white. You will agree the reason work tickets have a serial number is to facilitate accounting, is it not?

Mr. Dickson Munene: I may not entirely be in a position to respond to that.

Dr. Muthomi Thiankolu: You are not in a position?

Mr. Dickson Munene: Yes. What I know is that this is a blank form that has been photocopied by the driver.

Dr. Muthomi Thiankolu: Has the driver come to testify here and to say that he photocopied this form?

Mr. Dickson Munene: I am giving that explanation.

Dr. Muthomi Thiankolu: Yes, but you are not the person who can tell us it was a photocopy. It is the driver, who can say that. You are a lawyer, and you know. Correct or incorrect?

Mr. Dickson Munene: Yes, I am a lawyer.

Dr. Muthomi Thiankolu: You are aware, as a lawyer, the only person who can tell the Senate that form was photocopied is the one who photocopied it. Correct or incorrect? Is that the law, Mr. Munene?

Mr. Dickson Munene: Sorry.

Dr. Muthomi Thiankolu: Is it the law that you are speaking to hearsay when you say it is a photocopy? Did you witness the photocopying?

Mr. Dickson Munene: I know it has been photocopied.

Dr. Muthomi Thiankolu: Did you witness photocopying with your two eyes, Mr. Munene?

Mr. Dickson Munene: No.

Dr. Muthomi Thiankolu: Good. So, you cannot testify that it is a photocopy.

Mr. Speaker, Sir, I lend my remaining minutes to Mr. Maranya to do the remainder of our cross-examination.

Mr. Maranya Domisiano Mari: Thank you, Hon. Speaker. Just before I begin, I must admit that the witness is my classmate. Nevertheless, I will proceed to do the cross-examination.

Mr. Munene?

Mr. Dickson Munene: Yes.

Mr. Maranya Domisiano Mari: Mr. Munene, please, confirm to this House that you are not in charge of County Public Service Board.

Mr. Dickson Munene: The County Public Service Board is an autonomous body at the County Government.

Mr. Maranya Domisiano Mari: Very good. It is an autonomous body in the County Government?

Mr. Dickson Munene: Yes, established under the County Government Act?

Mr. Maranya Domisiano Mari: Meaning, it is an independent organ of a county government?

Mr. Dickson Munene: Yes.

Mr. Maranya Domisiano Mari: Please, confirm that matters employment in the County Government of Meru fall within the realm of the County Public Service Board.

Mr. Dickson Munene: Matters employment in terms of employees fall under the Public Service, and the County Public Service Board when it comes to recruitment.

Mr. Maranya Domisiano Mari: Please, confirm again that there is a specific spokesperson of the County Public Service Board other than yourself.

Mr. Dickson Munene: The County Public Service Board as established has a secretary, who is also the spokesperson ---

Mr. Maranya Domisiano Mari: Who is also the spokesperson, Chief Executive Officer (CEO) and the Secretary of the Board?

Mr. Dickson Munene: The Act does not say that he is the spokesperson, but I know he is the secretary and the CEO.

Mr. Maranya Domisiano Mari: In other words, can you speak on behalf of the Board?

Mr. Dickson Munene: No.

Mr. Maranya Domisiano Mari: You have made an allegation that the payment of Dr. Ntoiti, Mr. Kenneth Kimathi and Mr. Paul Mwaki was done in accordance with the court order. Is that so? You are still making the same averment.

Mr. Dickson Munene: Yes, I do.

Mr. Maranya Domisiano Mari: I want to refer you to the letters that sent the stated persons on compulsory leave. Are you there?

Mr. Dickson Munene: Which page are you referring?

Mr. Maranya Domisiano Mari: It is Page No.336 of the County Assembly's volume two.

Are you there? Kindly, be mindful of time.

Mr. Dickson Munene: Yes, I am.

Mr. Maranya Domisiano Mari: Please, read the second sentence, beginning with "while on compulsory leave."

Mr. Dickson Munene: "While on compulsory leave, you will be entitled to your full salary and other benefits that go with your contract."

Mr. Maranya Domisiano Mari: Very well. That means, this letter is dated when?

Mr. Dickson Munene: It is dated 6th September, 2022.

Mr. Maranya Domisiano Mari: Written by who? Is it the County Secretary?

Mr. Dickson Munene: It is signed by Dr. Rufus Miriti.

Mr. Maranya Domisiano Mari: What is the designation of that particular person?

Mr. Dickson Munene: He used to be the County Secretary and Head of Public Service.

Mr. Maranya Domisiano Mari: While on compulsory leave, you will be entitled to your full salary and other benefits that goes with your contract. That is all.

Please, confirm that that particular court order dated 7th October, 2022 did not order the County Government to pay salaries.

Mr. Dickson Munene: Which page?

Mr. Maranya Domisiano Mari: You can refer to it on Page No.416. Does it make reference to salaries?

Mr. Dickson Munene: Which volume?

Mr. Maranya Domisiano Mari: You can be shown by my colleague. It is on Page No.416 of the County Assembly's bundle. Does it order the County Secretary as well as the County Governor to pay the petitioners their salaries? Please, be mindful of time.

Mr. Dickson Munene: Okay. The order issues conservatory orders---

Mr. Maranya Domisiano Mari: Does it order the Governor to pay salaries? Does it speak of a salary?

Mr. Dickson Munene: The interpretation of that order indicates that salaries should be paid.

Mr. Maranya Domisiano Mari: Where specifically?

Mr. Dickson Munene: By restraining the respondents, whether by themselves, their officers, their servants or agents, from implementing the impugned decisions contained in the letters.

Mr. Maranya Domisiano Mari: The letter that you have read is so express on payment of salaries? This particular one, does it speak of salaries payment?

Mr. Dickson Munene: This particular order freezes the letter on compulsory leave.

Mr. Maranya Domisiano Mari: It does not talk of salaries. It is a factual.

Mr. Dickson Munene: No, a subsequent one talks on salary.

Mr. Maranya Domisiano Mari: No, not this one. We are going to the subsequent one.

Mr. Dickson Munene: Not this one that you are talking about.

Mr. Maranya Domisiano Mari: This one does not order you to pay the salaries.

Mr. Dickson Munene: There is a subsequent one in the same matter, which you appear for the petitioners.

Mr. Maranya Domisiano Mari: Do you still want to maintain your averment that you were ordered by the court to pay salaries?

Mr. Dickson Munene: Yes, I still maintain that.

Mr. Maranya Domisiano Mari: In accordance to?

Mr. Dickson Munene: In accordance to the court order.

Mr. Maranya Domisiano Mari: Court Order, dated?

Mr. Dickson Munene: Let me take you there.

Mr. Maranya Domisiano Mari: Kindly, be mindful of time.

(Loud Consultations)

Mr. Dickson Munene: Yes. Court order dated---

Mr. Maranya Domisiano Mari: I am only interested with the date. When is the court order dated?

Mr. Dickson Munene: You are interested with the payment of salaries.

Mr. Maranya Domisiano Mari: What is the date of that court order?

Mr. Dickson Munene: It is dated, 19th October, 2023.

Mr. Maranya Domisiano Mari: 19th October, 2023, is a year later. Confirm that it is a year later. The other one is dated 7th October, 2022. That is a Court Order that came a year later. True or false?

Mr. Dickson Munene: It wanted to confirm whether they are being paid their salaries.

Mr. Maranya Domisiano Mari: Just, please, confirm whether it is a year later. I want to refer you to page No.34 of the County Assembly bundle, Volume 2. It is a copy of the payslip. Are you there?

Mr. Dickson Munene: Page?

Mr. Maranya Domisiano Mari: Page 34 of our bundle.

Mr. Dickson Munene: Yes.

Mr. Maranya Domisiano Mari: The payslip is dated March 2023.

Mr. Dickson Munene: Yes, it is for the salary of March, 2023.

Mr. Maranya Domisiano Mari: My final question is: Whose responsibility is it to employ staff in acting capacity?

Mr. Dickson Munene: Sorry?

Mr. Maranya Domisiano Mari: Whose responsibility is it to employ staff in acting capacity? Is it the County Public Service Board (CPSB)?

Mr. Dickson Munene: No. CPSB does not have the responsibility to employ staff in acting capacity.

Mr. Maranya Domisiano Mari: Who has that responsibility?

Mr. Dickson Munene: The CPSB can only employ in an acting capacity where it has the responsibility of filling that position in a substantive.

Mr. Maranya Domisiano Mari: I am asking a simple question. Who has the responsibility on matters employment whether in acting or substantive capacity? In other words, I can refer you to Section 59 (1) (b) of the County Government Act.

Mr. Dickson Munene: Section 64 also explains further that a public officer can be employed in acting capacity: Deployment or designation.

Mr. Maranya Domisiano Mari: Mr. Speaker, Sir, could I have just two minutes to wind up? My apologies. I do not want to act outside time, but I could have just---

The Speaker (Hon. Kingi): Okay. You have two minutes to conclude.

Mr. Maranya Domisiano Mari: Very well. Thank you. I want to refer you to your letter signed by yourself on page 347 of your index dated 9th March 2023.

Mr. Dickson Munene: Yes, I am there.

Mr. Maranya Domisiano Mari: Who is that individual you are appointing to act in an acting capacity as director of external partnership?

Mr. Dickson Munene: I am deploying.

Mr. Maranya Domisiano Mari: To act from where to where?

Mr. Dickson Munene: I am deploying at the Directorate of External Partnership still within---

Mr. Maranya Domisiano Mari: From where to where?

Mr. Dickson Munene: Not from where to where because it is still within that department.

Mr. Maranya Domisiano Mari: It is very clear. From Office Administrator, Office of the Deputy Governor to Director, Directorate of External Partnership Affairs. Is that true?

Mr. Dickson Munene: Yes.

Mr. Maranya Domisiano Mari: Did you have the powers to do that in accordance with Section 59 (1) (b) of the CPSB?

Mr. Dickson Munene: In accordance with Section 64, I had the powers.

Mr. Maranya Domisiano Mari: When you are doing this responsibility, were you not acting under the directions of the Governor?

Mr. Dickson Munene: I was acting as the Acting County Secretary and Head of Public Service when that position had not been filled.

Mr. Maranya Domisiano Mari: You were deploying this person specifically to the Office of the Governor. Is that true or not true?

Mr. Dickson Munene: That person was still in the Office of the Governor as an administrator to the Deputy Governor.

Mr. Maranya Domisiano Mari: I will make reference to Edwin Murangiri, Kenneth Mwiti Riungu, and Gitobu Kanata who are acting Chief Officers. Were these

persons Chief Officers of substantive departments before they were deployed to act in those respective capacities?

Mr. Dickson Munene: Which one, Sir?

Mr. Maranya Domisiano Mari: I will refer you to page 295 of volume two. Are you there?

Mr. Dickson Munene: The County Assembly's document?

Mr. Maranya Domisiano Mari: Yes, page 295.

Mr. Dickson Munene: Yes, I am.

Mr. Maranya Domisiano Mari: Please, read item No.6 on Elijah Kimathi Ntonjira. Just after the word food security, read the next.

Mr. Dickson Munene: To move from the Department of Trade, Tourism and Cooperatives to the Department of Agriculture and Food Security as the Acting Chief Officer.

Mr. Maranya Domisiano Mari: Please, also read No.3. Kobia Faith Kathure.

Mr. Dickson Munene: To move to the Department of Economic Planning and ICT to perform the functions.

Mr. Maranya Domisiano Mari: Now the very last in acting capacity, read No.12 of Kenneth Mwiti Riungu.

Mr. Dickson Munene: To move from the Department of Legal Affairs, Public Service Management and Administration to the Department of Trade and Cooperative to perform the functions of the Chief Officer, Trade.

Mr. Maranya Domisiano Mari: In No.12, is there a reference to the officer in acting capacity?

Mr. Dickson Munene: No because it is a deployment?

Mr. Maranya Domisiano Mari: Is there a reference to acting capacity?

Mr. Dickson Munene: There is no because it is a deployment.

Mr. Maranya Domisiano Mari: Did this person go through---

The Speaker (Hon. Kingi): Counsel, your time is up.

Mr. Maranya Domisiano Mari: Thank you, Mr. Speaker, Sir. I appreciate you.

The Speaker (Hon. Kingi): Counsel for Governor, would you wish to re-examine the witness? How much time?

Mr. Duncan Okubasu: I will take five minutes or less. I have a few questions for you, Mr. Dickson Munene. One of the questions is about your status in the County Government. You have told this House in cross-examination that you were the Acting County Secretary, holding on to more than one docket. Can you explain that in detail and the circumstances under which that happened?

Mr. Dickson Munene: On 30th September 2022, the Governor nominated me together with nine others for appointment as CECs. The list was forwarded to the Assembly. Only three of us were approved. On 2nd of November, 2022, when we assumed office as the CECM Legal Affairs and Public Service Management and Administration, it effectively meant that the term of the other CECMs had lapsed.

The Governor had to reorganise the Executive in such a way that I had to hold some position in acting capacity. When we came here for the impeachment Motion last year in

December, there was an issue that arose that the position of the County Secretary had not been properly filled.

There was a recommendation that the position of the County Secretary should be properly filled, through advertisement and recruitment and approval by the County Assembly. So, the process began and thereafter, I was given the position of acting as the Acting County Secretary and Head of Public Service while still holding my substantive position of the CECM Legal Affairs and Public Service Management.

Mr. Duncan Okubasu: So, it is in that context that you have given this testimony?

Mr. Dickson Munene: Yes.

Mr. Duncan Okubasu: Now, who is said to have embezzled funds from the county? Are they county officials or other citizens?

Mr. Dickson Munene: Sorry?

Mr. Duncan Okubasu: Who is said to have embezzled the funds in terms of designation or is it correct to say that these are public officials who are attached to the county? Is that allegation, correct?

Mr. Dickson Munene: Yes.

Mr. Duncan Okubasu: These are people under your docket. Is that correct?

Mr. Dickson Munene: Yes, it is.

Mr. Duncan Okubasu: So that it is in that capacity that you are giving your testimony today?

Mr. Dickson Munene: Yes, because these are officers that are under the Public Service.

Mr. Duncan Okubasu: My good friend, Dr. Thiankolu, made reference to the Public Procurement and Asset Disposal Act and the issues of incurring expenditure prior. What is your explanation about that or go directly, is it unlawful for a prepayment to be made?

Mr. Dickson Munene: On the regulations that he referred to. If you go to Regulation 91 of the Public Finance Management Regulations, 2015, Regulation 91 (1), states that -

“For the purposes of this sub part, an imprest is a form of cash advance, which is a pre-payment or a float, which the accounting officer may authorize to be issued to officers who in the course of duty, are required to make payments, which cannot conveniently be made through the cash office of a Government entity or bank account.”

So, this is where pre-payment comes in.

Mr. Duncan Okubasu: Okay, so that there is a legal basis for pre-payments,

Mr. Dickson Munene: Yes.

Mr. Duncan Okubasu: Who is the accounting officer or the Authority to Incur Expenditure (AIE) holder in the Office of the Governor?

Mr. Dickson Munene: I indicated there is Chief Officer. Initially, there used to be a Chief of Staff.

Mr. Duncan Okubasu: Are there mechanisms of accountability in respect to those office holders?

Mr. Dickson Munene: Yes, there are.

Mr. Duncan Okubasu: Is there a distinction between Integrated Financial Management Information System (IFMIS) and imprest?

Mr. Dickson Munene: Yes, there is.

Mr. Duncan Okubasu: Just give a brief summary to the best of your understanding.

Mr. Dickson Munene: The imprest is those pre-payments and advances. IFMIS is actually a generated document from the IFMIS, which indicates the payments that have been made.

Mr. Duncan Okubasu: It indicates payments that have been made?

Mr. Dickson Munene: Yes.

Mr. Duncan Okubasu: Okay. There was reference to payments that were made during the tenure of the Hon. Gov. Kiraitu Murungi.

Mr. Dickson Munene: Yes.

Mr. Duncan Okubasu: Can you confirm if it is true or not that those payments were actually made on the same date? Is that something you are able to confirm?

Mr. Dickson Munene: Yes, I can confirm.

Mr. Duncan Okubasu: Is that the position?

Mr. Dickson Munene: It is the position.

Mr. Duncan Okubasu: The fact that a payment is made on a single day does not mean that becomes an impeachable offence.

Mr. Dickson Munene: Yes. Actually, they indicated the reasons why these payments are made on a single day. It is because at times, the county can take two to three months or so before the funds are released to the county.

During this period, officers are sent to places and the activities are going on. The county is still running. Nonetheless, on the basis that when these funds land to the county account, then those people who have incurred expenses are going to claim those expenses. The expenses might be paid in a day, for instance, five of them, when the money is available.

Mr. Duncan Okubasu: So that is very regular?

Mr. Dickson Munene: Yes, it is very regular.

Mr. Duncan Okubasu: There was an issue, I will clarify about the court order. I saw the Stay Order. What did you understand by a Stay Order and what it meant?

Mr. Dickson Munene: What I meant is that, after these particular officers were given letters or sent on compulsory leave, the court order froze those letters sending them on compulsory leave. It means that they are entitled to their benefit and salaries, as a consequence of that court order.

Mr. Duncan Okubasu: Okay. You can then answer the last question, which was very difficult with its simple answer. Mr. Muthomi asked you about a worksheet, and he put you to task whether it was a photocopy or not. Do you remember that question?

Mr. Dickson Munene: Yes, I remember.

Mr. Duncan Okubasu: Okay. Was that document the original?

Mr. Dickson Munene: It was not the original.

Mr. Duncan Okubasu: So, it must have been a copy?

Mr. Dickson Munene: It must have been a copy.

Mr. Duncan Okubasu: Thank you very much.

The Speaker (Hon. Kingi): Thank you. Hon. Senators, we will have 10 minutes for questions and verifications, starting with Sen. Tabitha Mutinda.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. My question will go to the counsel for the Governor.

Let me start by saying that Article 195 of the Constitution is very clear in regards to the powers of the County Assembly with regards to being able to summon, for any person to appear for purposes of giving evidence or information.

Part (b) of that compels for the production of documents. In volume two at Page 31 and 32, we have letters that the County Executive Committee Member (CECM) had been requested to be able to issue audited reports for Financial Year 2022/2023, knowing very well we are currently in the Financial Year 2023/2024.

Apparently, the response to the letter indicated that still the Auditor-General was in the process of auditing the financial statements, which forms part of the response that they had requested and yet we have already close Financial Year 2022/2023.

I would like to get a clarification as to why the CECM Finance was not in a position to be able to submit the audited reports as required as per the Public Finance Management (PFM) Act.

On the same PFM Act, Section 91 states very clearly that the County Assembly should be able to set the capping for the imprest amount. Did the County Assembly have the opportunity to cap the amount of imprest that is supposed to be used as required?

We have seen the Kshs78 million imprest, but what we have in the records as per what has been tabled is amounting to a lesser amount. We would want to know the levels of the amounts of the imprest.

Finally, because I do not think I will get another opportunity, I will be very curious to know, today, which is a key day for this decision for the Meru County, knowing that this is the second impeachment process.

Hon. Governor, you realize that all the MCAs in the first round agreed to your impeachment, knowing very well that the County Assembly is responsible for passing your budgets. If you go back to the same county, how do you then plan on ensuring that these same MCAs, who still impeached you for the second time are still going to ensure that they pass your budget, so that you can continue with the developments required in Meru and offer the Meru people quality services that they deserve?

Those are my simple questions, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, counsel.

Mr. Duncan Okubasu: I did not get that question, but they have some questions to the witness. Perhaps, he can start with those.

Mr. Dickson Munene: Thank you. Probably the question that was posed to me is on what response the CECM Finance gave to the County Assembly when requested to submit an extract on the IFMIS, as per the letter dated 9th October, 2023.

The response that the CECM Finance gave is that the PFM Act, under Section 164, makes provision for the County Treasury of the County Government to prepare and submit

the audit to the Auditor-General and the annual financial statements in respect of county governments.

The CECM Finance further says that, it is upon the completion of the audit that a report is submitted to the County Assembly, where within three months after receiving the audit report, the County Assembly can take appropriate action.

So, the audit process is ongoing, while this process finalizes, then the audit report would be tabled to the Assembly and the Assembly can take appropriate action on the same.

Sen. Tabitha Mutinda: Talking of Financial Year 2023/2024 ---

The Speaker (Hon. Kingi): Sen. Tabitha Mutinda, you certainly cannot do that. Proceed, Counsel.

Mr. Duncan Okubasu: I will let the witness also answer the second question which was on why we accounted for less than what was set out there.

Mr. Dickson Munene: Thank you, Mr. Speaker, Sir. Where we accounted for only Kshs2 million as opposed to Kshs78 million, that has been alleged here because of the manner in which that count was framed was that the Governor has misappropriated funds through specific named persons who are indicated and collectively referred to as 'the Governor's relatives.' It is on this breadth that we endeavoured to account for payment that has been made to these particular persons amounting to Kshs2 million.

Mr. Duncan Okubasu: On the last question, which was overlapping, we have said that there are consequences for disobeying summons by the County Assembly. That is set out in statutes, so that if someone is summoned and they do not appear, the County Assembly like this House, has something it can do to command the enforcement of the orders. That is there. It does not mean that someone has to be impeached.

There are cases where we have seen this House summoning someone who does not appear, but it does not mean that those people become a subject of an impeachment. That is what we are responding to in the context of this discussion.

The Speaker (Hon. Kingi): Sen. Mwaruma.

Sen. Mwaruma: Thank you, Mr. Speaker, Sir. Mine is a clarification from Mr. Munene. We have some invoices that are not signed by the authorizing officers. He has indicated that they are not signed because the original documents, which have all the signatures, are with the external auditors.

Mr. Speaker, my knowledge of accounting is that the documents that are taken to auditors are original copies and you are left with photocopies. I do not know how they were able to get these documents that they put in the annexures. Where did they fish them from because the ones with all signatures are with external auditors?

Mr. Dickson Munene: Mr. Speaker, Sir, I indicated that we got these documents from the file of the Chief of Staff. Before the Chief of Staff forwards the original documents to the department of finance, he makes a copy. We were given these directives that we need to respond within three days and I requested the Chief of Staff to give me a copy of the file where all these documents are.

The Speaker (Hon. Kingi): Sen. Miraj.

Sen. Miraj: Thank you, Mr. Speaker, Sir. My question goes to the County Assembly. Are the IFMIS transactions that form the basis of the impeachment of the

Governor the same ones under investigation under the Ethics and Anti-Corruption Commission (EACC)?

The Speaker (Hon. Kingi): Respond.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, we do not know that, but this complaint was also sent to the EACC and many other agencies. We do not know whether EACC is investigating them and there is no evidence either from the Governor or anyone that the EACC is investigating these complaints.

The Speaker (Hon. Kingi): Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I have two clarifications. One is from the lawyer. I was listening to---

The Speaker (Hon. Kingi): Which lawyer? There are many lawyers here.

Sen. Olekina: The lawyer for the Assembly - Dr. Muthomi Thiankolu, it is a very good name. We are looking at Section 45 Protection of Public Property and Revenue. He referred to Section 45(2)(a)(ii) and (iii). He specifically said goods not supplied or not supplied in full. Secondly, services not rendered or not adequately rendered.

The clarity I need to get from him is whether he is relying 100 per cent on the IFMIS extracts or he has received audited financial statements as per Section 31 of the Public Audit Act. I remind him that Section 31(5) stipulates that after the audit process, they shall be tabled in Parliament and also at the Assembly. I would appreciate if he clarified this.

Secondly, I asked this question, but I did not get a proper clarification and it has come back again today on the issue of the accounting officer. Section 103 of the Public Finance Management (PFM) Act establishes the County Treasury and it puts the County Executive Committee Member (CECM) in charge of Finance as the head of the County Treasury. Section 199 of the PFM Act, which is the penalty clause, stipulates penalties which are going to befall any public officer who is in charge of resources and does not account for them.

Can he kindly clarify whether the documents he has supplied in the case have been audited by the Office of the Auditor-General and an opinion rendered by them on the actual position of those funds?

The Speaker (Hon. Kingi): Counsel, proceed to respond.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, we answered yesterday that the oversight function of the County Assembly and of the Senate is not conditional upon or dependent on whether there is a report by the OAG. It is no requirement that we have a report from the OAG as a pre-condition for tracing the issues and picking out the problems that the Assembly has picked in this matter.

It is true that under the PFM Act, the accounting officer will either be the CECM Finance or any other person designated. However, what we have found strange and one Senator pointed it out, is that the CECM Finance refused – and it is on record – to submit the documents to the Assembly in our submissions on completely outrageous frivolous grounds.

The second matter we found strange is the documents presented by the Governor in answer to the charges are not authenticated by the CECM Finance, the Chief Officer or other people.

Mr. Speaker, Sir, we also found it strange that when this matter arose, the Governor chose to call her head of legal to explain as opposed to the CECM Finance. There is a question of good supplied and services not rendered. We cited Section 45 of the Anti-Corruption Act because it is one of the many sections that address this question of pre-payments. The specific reason we cited it was that in our humble submissions, imprests cannot explain the pre-payments of Kshs78 million. For argument's sake even if it were accepted that imprests are the answer, that would be an admission to abuse of imprests by the very definition of the same because the law specifies what type of expenses can be defrayed by way of imprests.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Chimera.

Sen. Chimera: Thank you, Mr. Speaker, Sir, for this opportunity. I have two questions directed to the witness or the counsel to the Governor.

The response that you have filed before us on page 105 to 112 on the Integrated Financial Management Information System (IFMIS) payments relates to just three individuals yet, what we have been given by the County Assembly has many other recipients. Perhaps, you can clarify on that.

The other question is on IFMIS payments. They are payments made to one Ms. Jane Karimi Kaitha. On 20th September, 2022, she received payments totalling to about Kshs3.9 million in one single day. Are these also IFMIS payments or they related to other services?

If they are not imprest payments, how comes the county government was paying these particular individual IFMIS payments as imprest and not in any other form of payment such as Real Time Gross Settlement (RTGS)?

The Speaker (Hon. Kingi): Counsel for the Governor, proceed.

Mr. Dickson Munene: Thank you, Mr. Speaker, Sir. The question has been directed to either the counsel or the witness---

The Speaker (Hon. Kingi): Proceed to respond then.

Mr. Dickson Munene: The answer as to why we have given documents in relation to the three persons mentioned is in the Motion itself and the manner in which it was framed. It was indicated the allegation was that the Governor has grossly violated the law in the following-

(a) Through embezzlement of county funds through the Governor's sisters and the nephew to the Governor's husband, all of whom are collectively referred to as the Governor's relatives.

(b) Withdrawal of county funds under the guise of payment for various supplies by the Governor's relatives.

The money in this particular count was framed; we were required to respond to the issues of the persons and collectively referred to in the Motion as the Governor's relatives. They were enumerated there.

If the Motion indicated that the claim was that the Governor has embezzled funds through Ms. Jane Karimi or any other person who appears in the IFMIS, then we would have substantively responded to that.

The Speaker (Hon. Kingi): Thank you. Lastly, Sen. Sifuna.

Sen. Sifuna: Thank you, Mr. Speaker, Sir. To the counsel for the Assembly. There have been repeated references to alleged forgeries. This is specifically with regards to a work ticket whose serial number has appeared severally.

I want the Assembly to clarify whether those documents have been subjected to any verification process which the counsel is aware and whether there is a document examiner's report to back the allegation or assertion by the Assembly that, in fact, those documents are forgeries.

I thank you.

The Speaker (Hon. Kingi): Proceed, counsel for the County Assembly.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, we only received those documents on Saturday evening. So, we have not had the opportunity to subject them to forensic examination. However, you do not need to be an expert in forensics to point out that the dates in that work ticket do not follow the natural chronology of events.

You do not have to be an expert in document analysis if you are familiar with the frequency of use of motor vehicles. The same work ticket cannot apply to different motor vehicles or even the same for a period of four months.

It is on that *prima facie* discrepancies and irregularities that we concluded they were forgeries. Secondly, we concluded they were forgeries because these documents should be easily available in the Governor's office. They were not availed to the Assembly when requested and also for the impeachment Motion. We are being slapped with them at the tail end.

I thank you.

The Speaker (Hon. Kingi): Counsel for the Governor, you had indicated that you have four witnesses. You may now proceed to call your fourth witness.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir. Our next and last witness is Hon. Kawira Mwangaza the Governor of Meru County.

The Speaker (Hon. Kingi): By way of time indication counsel, how much time do you think you will need with this witness?

Mr. Elias Mutuma: Mr. Speaker, Sir, in one and half hours, I will be through with the witness.

The Speaker (Hon. Kingi): Swear in the witness kindly.

(The Governor of Meru County (Hon. Kawira Mwangaza) took the Oath)

Mr. Elias Mutuma: Thank you, your Excellency. Kindly introduce yourself with your full names and the capacity you hold for record purposes.

Gov. Kawira Mwangaza: Thank you, Mr. Speaker, Sir and hon. Senators. I am Bishop Kawira Mwangaza, the Governor of Meru County.

Mr. Elias Mutuma: Thank you. You have received the notice of impeachment and subsequently the County Assembly of Meru resolved to remove you from office through impeachment. Is that the reason why you are before the Senate today?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: You have had an occasion to look at all the materials presented by the County Assembly in support of the impeachment and to file a response to that Motion?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Is that the response before the Senate dated 3rd November, 2023, together with your affidavit in support of your response?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Governor, would you wish to first affirm that the contents there in form part of your response?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Thank you. You were also present in the Senate yesterday when Counsel for the County Assembly described you in a certain manner through comparison with a certain criminal in Europe?

Gov. Kawira Mwangaza: Yes, I was.

Mr. Elias Mutuma: Is that a true description of your personality?

Gov. Kawira Mwangaza: Not at all.

Mr. Elias Mutuma: Specifically, the counsel for the County Assembly accused you of demeaning this House by making a mockery of the impeachment process that found you not guilty in December, 2022. Did you at any time make a mockery of the proceedings?

Gov. Kawira Mwangaza: No.

The Speaker (Hon. Kingi): Counsel for the Governor, the counsel for the County Assembly apologized and sought to have that record expunged. As we are concerned, that particular record does not form part of the record of the Senate.

Mr. Elias Mutuma: Mr. Speaker, Sir, I am most obliged. I withdraw that line of examination in chief and proceed.

Governor, you have been accused of not being capable of working with leaders in Meru County, particularly MCAs. The particular allegation was that you were only able to work for a few weeks after you reconciled with the MCAs. Is that true?

Gov. Kawira Mwangaza: That is not true.

Mr. Elias Mutuma: To the best of your knowledge, for how long have you been having a harmonious working relationship with MCAs?

Gov. Kawira Mwangaza: We have been working together with MCAs until the last two months.

Mr. Elias Mutuma: Are you talking about August and September?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: It is your evidence that throughout the year, save for the two months you have been in a perfect working relationship with MCAs?

Gov. Kawira Mwangaza: Extra perfect working relationship with MCAs.

Mr. Elias Mutuma: What made it possible for you to have this harmonious working relationship with the MCAs? Did you have any intentional efforts to mend the fallout that you had with MCAs? Did you make any efforts after the impeachment?

Gov. Kawira Mwangaza: The first resolution was made by this Senate; the last time we were here. I followed the advice of the Senators. We sat down with the MCAs and had a long discussion with other leaders. From there, we have been working together.

Mr. Elias Mutuma: For lack of a better word, there was the issue of the Ward Development Fund. Were you able to facilitate development projects in all the wards of Meru County?

Gov. Kawira Mwangaza: Immediately after we left the Senate, I facilitated the Ward Development Fund to every MCA to the tune of Kshs10 million. This year it amounts to Kshs15 million for every ward.

Mr. Elias Mutuma: Thank you. You have produced a video, KMV1, which I ask the technical team to play so that we see the kind of efforts and the fruits that were borne by those efforts.

(A video clip was played)

Mr. Elias Mutuma: Mr. Speaker, Sir, we are having the same challenges.

The Speaker (Hon. Kingi): Secretariat, stop the video. Technical team, work on it, we will get back to it once the system has been worked on. Counsel, proceed. Once we are ready with the video we can come back to it.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir. Hon. Governor, we have watched a video that is not clear. However, could you explain to the Senate where you were in the meeting recorded? Who were the members present and what was the purpose?

Gov. Kawira Mwangaza: We were on the premises of the County Assembly of Meru with all the 69 MCAs and the County Woman Representative. We agreed that the past was over we started working together for the sake of Meru County.

Mr. Elias Mutuma: Thank you. Can you remember the date of---

The Speaker (Hon. Kingi): Counsel, I am informed the video is ready.

(A video clip was played)

Mr. Elias Mutuma: We can stop the clip there. Governor, are you able to identify the people in that clip? Are they Members of the County Assembly of Meru (CAM)?

Gov. Kawira Mwangaza: They are all Members of the CAM led by the Speaker Mr. Ayub Bundi.

Mr. Elias Mutuma: Have we seen the Mover of this Motion in that clip?

Gov. Kawira Mwangaza: Yes, the Leader of the Majority.

Mr. Elias Mutuma: In that clip, is there any indication that you bragged about the fact that you went scott-free?

Gov. Kawira Mwangaza: No.

Mr. Elias Mutuma: You have also used a certain slogan that you are accused of using. “*Kabati Kabati, Kaende kaende.*” Did you use those two slogans in your speech with the MCAs present?

Gov. Kawira Mwangaza: I used it because it is a slogan for development. The speed of development in Meru County. That is “*Kaende kaende, kabati kabati*”.

Mr. Elias Mutuma: For us to understand, what does the slogan mean? What is *Kabati*? What is *kaende*?

Gov. Kawira Mwangaza: “*Kabati*” means accelerating to the fullness of everything that is at the highest speed possible. Then “*kaende kaende*” is nonstop. It means that the development will be nonstop and at a very high speed.

Mr. Elias Mutuma: When the Mover of the Motion tells the Senate that “*Kaende kaende, kabati kabati*” is a do not care slogan, that says you do not care about anything. Is this a misinformation and distortion of facts?

Gov. Kawira Mwangaza: It is.

Mr. Elias Mutuma: Thank you. In many instances, you are seen using the slogan “*Kaende kaende, kabati kabati*”.

Gov. Kawira Mwangaza: The MCAs have also embraced the same slogan and they also use it.

Mr. Elias Mutuma: Thank you. Let us proceed and watch the next video. You have alluded to the fact that you agreed to give at least Kshs15 million for ward development projects. Was that done?

Gov. Kawira Mwangaza: It was done.

Mr. Elias Mutuma: Can we watch video KMV2.

(A video clip was played)

We can stop there. The video is quite long. Thank you.

Madam Governor, who is the person speaking in that video?

Gov. Kawira Mwangaza: The Majority Leader; the person who was the Mover of the Impeachment Motion.

Mr. Elias Mutuma: That is, Hon. Evans Mawira?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: You are also seen in that video. Do you recall the date and where that event took place?

Gov. Kawira Mwangaza: I cannot recall the date, but the event took place in his Ward.

Mr. Elias Mutuma: Which month was that?

Gov. Kawira Mwangaza: I do not remember the month.

Mr. Elias Mutuma: Is it recent?

Gov. Kawira Mwangaza: It is very recent.

Mr. Elias Mutuma: Thank you. Hon. Mawira seems to be making certain remarks about your performance. What he is saying?

Gov. Kawira Mwangaza: He is very right because he is praising the work that we do in Meru County. One, for the Kshs10 million that we usually give forward development and the flagship projects.

As the Governor, I go round all the wards and then give the list of all the development projects to the area MCA to read to the people and understand. Also, for us to be accountable for the funds. We do a visit to every ward with the area MCA. I usually carry a booklet of the ward and flagship projects for the area MCA to read to the people for them to understand what we are doing. That is what exactly the Majority Leader is doing in his own ward.

Mr. Elias Mutuma: Can you recall the number of projects that he is mentioning by name, that have been done in his particular Ward?

Gov. Kawira Mwangaza: That particular day, we were opening a bridge. He was talking about the roads done, the boreholes and so many other things that we did with more than Kshs15 million.

Mr. Elias Mutuma: Thank you. I have actually retrieved the date of that event. It was 2nd August, 2023. Was it not?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Thank you. When you are accused of not being able to work with leaders by the same Mover of the Motion, do you find some form of hypocrisy?

Gov. Kawira Mwangaza: Yes, and also maybe being misled.

Mr. Elias Mutuma: Thank you. As of 2nd August, 2023, the Mover of the Motion thought that you were perfect and in good working relation with at least all the MCAs?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Thank you. Let us move to video KM3.

(A video clip was played)

Thank you. Again, you are seen launching a dam. Which ward is that?

Gov. Kawira Mwangaza: That is Muthara Ward. The one with the document is the area MCA, Hon. Aurelio Murangiri. He is reading the developments, including the dam that cost us Kshs39 million in his own ward.

Mr. Elias Mutuma: Do you recall the date you launched this particular dam at Muthara Ward?

Gov. Kawira Mwangaza: It is less than three months ago.

Mr. Elias Mutuma: Less than three months ago?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Thank you. I will move on to the second issue, which still touches on your relationship with MCAs in respect to projects and Okolea. Please, play video KMV20.

(A video clip was played)

Pause the video. You are making certain remarks. Before we go to the remarks, we have also seen the Majority Leader in that video again. Where were you with him on that particular day?

Gov. Kawira Mwangaza: That is an *Okolea* programme, run by my family and church. We usually go to do the *Okolea* every Sunday afternoon. I always invite them if they wish to come and join me. With me is Hon. Mawira, the Mover of the Motion of Impeachment, who was also involved in that operation, *Okolea Kaana Ka Meru*.

Mr. Elias Mutuma: This was 13th August, 2023?

Gov. Kawira Mwangaza: 13th August, this year.

Mr. Elias Mutuma: You were making certain remarks about the capacity in which you were in that event.

Gov. Kawira Mwangaza: Yes, I always tell them that in operation *Okolea* events, they should not see the Governor, but a mother and also a Bishop who is coming to assist not in form of a government, but as a church and their mother.

Mr. Elias Mutuma: Did you explain the source of the resources that you were giving, including the microphone that you were holding? I heard you talk about that.

Gov. Kawira Mwangaza: I always do that in every meeting. For everything that I use in *Okolea*, there is nothing that comes from Meru County Government. I have been doing that for the last 12 years.

Mr. Elias Mutuma: Thank you, may we proceed with that video?

(A Video clip was played)

Thank you. I think we have heard enough of that video.

Hon. Governor, again you are heard using the same slogan, "*Kabati kabati, kaende kaende*"

Gov. Kawira Mwangaza: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: The Members of the County Assembly were again present.

Gov. Kawira Mwangaza: Yes,

Mr. Elias Mutuma: Did they join you in that slogan?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, they joined me in that slogan.

Mr. Elias Mutuma: Did they understand the meaning of your slogan?

Gov. Kawira Mwangaza: Yes, they understood the meaning of my slogan.

Mr. Elias Mutuma: Hon. Mawira is also making certain remarks about the funders of the *Okolea* programme. What is he saying about who funds the *Okolea* programme?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, he is saying that as the County Assembly of Meru, they are the ones that pass the budget and they have never passed any coin to be utilized in the *Okolea* programme. It is purely my project to assist the disadvantaged people in our community and as a well-wisher. That very early morning, he gave me Kshs100,000 to fuel my vehicles.

Mr. Elias Mutuma: So, he contributed to your charity project?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Let us now move to the next video No.1C and see another Member of the County Assembly. I think it is the same event, but you will confirm.

(A video clip was played)

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Mr. Elias Mutuma: You can pause there for a moment. Thank you. Who is the person making those remarks?

Gov. Kawira Mwangaza: He is an MCA who was the Mover of the first Impeachment Motion.

Mr. Elias Mutuma: He was the Mover of the previous Impeachment Motion?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: This again is on the 13th of August this year?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Do you in any way seem to have any disagreement with the Mover of the previous Impeachment Motion?

Gov. Kawira Mwangaza: No. He is even telling the public that he is now a changed man; that they used to disturb "Mama" but he has now changed from "Saul" to "Paul."

Mr. Elias Mutuma: That is about the Biblical "Paul" who was once "Saul?"

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: He is also talking about them being forced to join the opposition. What was he talking about?

Gov. Kawira Mwangaza: He was talking about the pressure mounted to them by external forces or by external people that do not belong to the County Assembly to fight the Government. He has vowed not to repeat, but to support the Government.

Mr. Elias Mutuma: Thank you. Let us proceed to watch that video.

(A video clip was played)

Mr. Elias Mutuma: You can stop there for that video, thank you.

Hon. DMK Kiogora says "*Mimi sitatishwa, sitawekwa uwoga*" What was he making reference to?

Gov. Kawira Mwangaza: He was referring to the national leaders and also the party leaders who were telling them to keep off from supporting the Government.

He is also talking about the "*Kumi bila breaks*" because the people of Meru have started another slogan "*Kumi bila breaks*" and they were warned as MCAs not to continue saying "*Kumi bila breaks*."

So, he is telling the people who come from Nairobi to keep off; they want development.

Mr. Elias Mutuma: Thank you. We will be moving on to the source of that pressure shortly, but finally, in support of your *Okolea* programme, let us watch video 1E. It is a very short video.

(A video clip was played)

Mr. Elias Mutuma: You can stop it at that. Hon. Governor, who is the person making the remarks in that video?

Gov. Kawira Mwangaza: This is the Speaker of the County Assembly of Meru.

Mr. Elias Mutuma: Do you confirm that this was an *Okolea* programme meeting?

Gov. Kawira Mwangaza: Yes. It was in Mwangathia Ward, Mojwa.

Mr. Elias Mutuma: Who is the MCA of Mwanganthia Ward?

Gov. Kawira Mwangaza: It is Hon. Njuki. He was present.

Mr. Elias Mutuma: It is Hon. Njuki. You are also in the company of other people in that video.

Gov. Kawira Mwangaza: Those are all MCAs

Mr. Elias Mutuma: They are all MCAs.

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: What has the Speaker just done?

Gov. Kawira Mwangaza: The Speaker has donated a goat because I usually give single mothers and widows cows. He said that because you have donated a cow and you are more senior than me, let me donate a goat and he has done it.

Mr. Elias Mutuma: Thank you. Again, what date was this?

Gov. Kawira Mwangaza: It was barely three months ago.

Mr. Elias Mutuma: Three months ago. Now, you have alluded to some forces that were not happy with this unity between you and the MCAs. I want you to identify and tell us what is happening in the next Video 1D. Kindly, may we play Video 1D?

(A video clip was played)

We can pose there. We have seen the second speaker, the one in the black jacket. Are you able to identify him?

Gov. Kawira Mwangaza: He is the mover of the first Motion of impeachment, D.M. Kiogora

Mr. Elias Mutuma: He is heard making certain remarks about *kibiri* and forces from Nairobi City County. What is he talking about?

Gov. Kawira Mwangaza: He is referring to the Meru County Members of Parliament (MPs) and the Senator; that they should keep off Meru County because they have their own leader; maybe referring to the Head of State, then the Members of County Assembly (MCAs) have their own leader. He also says that last weekend they were in a certain town named Maua, where they had the *kibiri*. They are saying they will not be part and parcel of what the MPs are doing.

Mr. Elias Mutuma: So, the Hon. MCA for Abogeta West talks about a force that is being advanced using the *kibiri* tool, that is what he is saying and he is telling them to keep off?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Let us move to video KMV14.

(A video clip was played)

Thank you. We can pause that video there. Governor, do you confirm that was on 27th August this year?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Are you able to tell who the people speaking in that video are?

Gov. Kawira Mwangaza: Those are all MCAs from Igembe, apart from one who comes from Central Imenti.

Mr. Elias Mutuma: They are making a specific grievance about *siasa za kibiri*. What are they talking about?

Gov. Kawira Mwangaza: They are talking about the MPs who had just begun a movement by the name *kibiri*, coming all the way from Nairobi City County to Meru County. They are warning them that they have been given work to do in Nairobi City County and they should continue with the work there and leave them alone because they have only one *mama* who can assist them to do development.

Mr. Elias Mutuma: This was 27th August, 2023. Governor, if then someone comes here and says that you were only able to work with MCAs for few weeks, are they lying or telling the truth?

Gov. Kawira Mwangaza: That is a pure lie.

Mr. Elias Mutuma: This *siasa za kibiri* movement, I want you to listen carefully to Video 3(a) and see the genesis of the *kibiri* movement.

(A video clip was played)

Are you able to explain what he is saying?

Gov. Kawira Mwangaza: He is talking about how they will use that thing to--- I am not able to explain. It has been done by so many men and now they are ready as MPs, him being the leader, to do that to me. He has recruited so many young men for the purpose of that *kibiri* movement, together with the Deputy Speaker of this House.

Mr. Elias Mutuma: Can we watch KMV12?

(A video clip was played)

Madam Governor, I hope you are able to explain again or perhaps, the message has sunk. What are these hon. Members of Parliament telling members of the public?

Gov. Kawira Mwangaza: The hon. Members of Parliament (MPs) and the Deputy Speaker of this honourable House are telling the public that I defeated men, and in this case, they are going to use that steering stick---

(Silence)

They recruited so many young men for that purpose and have been holding rallies almost in all towns in Meru, doing the same over the weekends.

Hon. Speaker, I want to say that this is purely politics, purely politics.

Mr. Elias Mutuma: Thank you. There is another video that will be my last. Kindly play Video clip 3C on the gender profiling and harassment.

(A video clip was played)

Thank you.

The hon. Member is making certain remarks about your husband. What is he saying?

Gov. Kawira Mwangaza: He is saying that he has given me nine months to be pregnant. If that is not done, he will do it via what he is holding.

Mr. Elias Mutuma: Hon. Governor, your Deputy eventually joined the movement and made similar attacks on you and on your *Okolea* programme. Can we watch KMV4?

(A video clip was played)

Mr. Elias Mutuma: You can stop there.

Thank you.

Hon. Governor, that was the Deputy Governor. He is making certain remarks about your *Okolea* programme. What is he saying?

Gov. Kawira Mwangaza: He is saying that the *Okolea* Programme is a poverty programme; they have refused it in their area.

Mr. Elias Mutuma: Which area is that?

Gov. Kawira Mwangaza: That is Igembe South where he comes from.

Mr. Elias Mutuma: So, he is telling members of his ward to reject the---

Gov. Kawira Mwangaza: The Deputy Governor is telling people to reject the poverty programme, which is *Okolea*; that they should not be ready to receive anything in terms of *Okolea*.

Mr. Speaker, Sir, to add to this, I have been doing the *Okolea* for the past 12 years. My Deputy Governor was formerly just a prison *askari*, but *Okolea* gave him and I favour before God together. Out of the programme that raised him from being an *askari* to His Excellency the Deputy Governor of Meru, is the same person he is seen on the video demeaning the same programme that God used to give us favour before men and women.

Mr. Elias Mutuma: He continued. Let us watch KMV15

(A video clip was played)

That video was played yesterday, but for your sake, can you explain what the youth are chanting, led by your Deputy Governor?

Gov. Kawira Mwangaza: That is my Deputy Governor with some youths from his area saying that Kawira does not have a home, she only does prostitution in the County. They praise him and warm him up to be the Governor or take over the position of the Governor of Meru. That is exactly what has been happening to our Members of Parliament

(MPs), including the Deputy Speaker of this House. They have started warming him up to be the Governor and take charge because I am just a woman before them.

Mr. Elias Mutuma: Thank you. It got worse by slaughtering a cow that you had donated. Can we watch KMV 16? Confirm that is the same cow that you had donated and to whom you donated it to.

(A video clip was played)

You can stop there. Forgive me if I am wrong, but I see that the cow is still alive as it is being slaughtered.

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Was that the cow you had donated?

Gov. Kawira Mwangaza: Yes, we were in the area of Igembe South and then we identified an old woman who was to be given the cow. As it was entering the field, they took the cow, slaughtered it just before us.

Mr. Elias Mutuma: They were singing the same song, but also making other remarks. What are the remarks?

Gov. Kawira Mwangaza: Before I talk about the other remarks, *hiyo ng'ombe ilikuwa imebeba ndama ya miezi sita*. They were saying that the same way they had slaughtered or killed the cow, is the same way they were going to do to Kawira Mwangaza.

Mr. Elias Mutuma: Thank you, we can have the video removed from the screen. That has not been the only thing. You have also been accused of not being a proper Meru. Are you aware of that fact?

Gov. Kawira Mwangaza: What?

Mr. Elias Mutuma: That you have been accused of not being a proper original Meru, therefore, unfit to lead?

Gov. Kawira Mwangaza: Yes, they have been accusing me of not being a *Merian* but a Kikuyu--

Mr. Elias Mutuma: Thank you. Let us first watch KMV 5. You will make those explanations.

(A video clip was played)

What is the hon. Member saying in respect your ethnicity?

Gov. Kawira Mwangaza: He says that the father of Kawira Mwangaza is a Kikuyu from Kiarathaini, by the name Njuguna, and the mother is Mugure from Kikuyu, and they do not want to be ruled by a Kikuyu in Meru. That is why they want to change to get a real *Merian*, who is Peter Munya, the first Governor.

Mr. Elias Mutuma: Thank you. Madam Kawira, is it in your evidence before this Senate that pressure has been asserted on Members of the County Assembly (MCAs) to ensure that your removal from office on charges that do not hold any water?

Gov. Kawira Mwangaza: Pressure has been mounted to MCAs of Meru by the same leaders as we have seen. They had no option apart from adopting an Impeachment Motion, where they were forced to sign and impeach.

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Mr. Elias Mutuma: Can we watch KMV 11 and find out whether the MCAs, indeed, succumbed to the pressure?

(A video clip was played)

Is that the same song turned on?

Gov. Kawira Mwangaza: What DMK Kiogora is telling the public is that because I was elected as an Independent Governor, I have been operating with hired guns. Now, Mithika Linturi has taken his own and Kiraitu has taken his own. So, I am left without any weapon to fight and I should be very careful because they have withdrawn the support as the leaders of political parties or as the senior people in their parties.

Mr. Elias Mutuma: That is barely three weeks after DMK Kiogora was seen dancing, praising you and saying that he will defend you and will reject any influence from above.

Gov. Kawira Mwangaza: It was like two weeks.

Mr Elias Mutuma: Let us then watch 3E.

(A video clip was played)

Who is the person speaking in that video and what is he saying?

Gov. Kawira Mwangaza: He is the Hon. Senator and Deputy Speaker of this honourable House. He is saying that he might withdraw or he intends to withdraw the support of United Democratic Alliance (UDA) Members from being part and parcel of my agenda of development in Meru County.

Mr. Elias Mutuma: Was that withdrawal or threat to withdraw made a reality?

Gov. Kawira Mwangaza: Indeed, after he spoke that, after three to four days, it was made a reality.

(A video clip was played)

Mr. Elias Mutuma: Thank you. The video clip KMV8, is self-explanatory. Can the KMV8 video clip be played?

(A video clip was played)

Those are Members of County Assembly (MCAs) and with them is one Member of the National Assembly. I think he has spoken in Kiswahili and English. There is no need to emphasize.

Was there a press conference formerly by other parties to withdraw their support, and I am looking at KMV10? I think that is my last video on this issue of withdrawal. Can the KMV10 video clip be played?

(A video clip was played)

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Thank you. We can stop there.

Hon. Governor, you have seen a series of press conferences by various leaders of the County Assembly, all seeking to withdraw their support. Were the timings of this press conference within the same period of time?

Gov. Kawira Mwangaza: It was within the same period of time.

Mr. Elias Mutuma: Can you remember the month?

Gov. Kawira Mwangaza: I think it is not more than two months ago.

Mr. Elias Mutuma: That is the month of September?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: What do you attribute towards the sudden change of heart from you being their darling, a performer and a mother, to now castigating you in the manner they are doing to the extent of them withdrawing their support? Is there anything gross you did to provoke them to the best of your knowledge?

Gov. Kawira Mwangaza: I did totally nothing and from the last clip, you can hear the mover of the Motion saying that around 27 of them have already signed an impeachment that they are proposing to have. So, they signed way back even before. That is what he has said.

Secondly, the pressure from the Members of the national Government, some few elites, leaders of political parties and the Deputy Speaker of this Senate; before God, I want to say they are misleading our MCAs.

Mr. Elias Mutuma: Thank you. Governor, it got to the extent that even in the performance of your official duties, you were threatened and barred from performing that which you are allowed to do under the Constitution. Is that true?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Can we watch KMV6 and tell us where you were, what you were doing and what happened?

(A video clip was played)

We clearly see you there, hon. Governor, and there is a young gentleman speaking. Tell us what he is saying, what you were doing in that event and exactly where you were.

Gov. Kawira Mwangaza: That is an event done by the County Government of Meru. The County Assembly passed a budget for us to take care of the disadvantaged *mamas* in our community and that programme is dubbed as ‘one cow per one poor family.’

We go round the villages. We have a committee to vet and see the most vulnerable person in that certain area. We take account of the area and give our donation as Government to that particular person that has been vetted by a committee, and that includes the area chief.

Mr. Elias Mutuma: Thank you. So, this is not part of your *Okolea* Programme, for clarity purposes?

Gov. Kawira Mwangaza: This is not part of my *Okolea* Programme. My *Okolea* Programme is usually done on Sunday afternoon. This is an official duty; a programme

that has county government employees and done purely by the County Government of Meru - one cow per one poor family.

Mr. Elias Mutuma: Was there any commotion or violence in that event?

Gov. Kawira Mwangaza: There was no commotion. We started with prayers as you can see and we went there silently without even advertising. Those are just the neighbours that saw what was happening and came just to see.

Mr. Elias Mutuma: You confirm this was in the homestead of one of the poor Meru women?

Gov. Kawira Mwangaza: It is in the homestead of the beneficiary.

Mr. Elias Mutuma: Thank you. Can we watch that clip again from the begin, all through to the end?

(A video clip was played)

Hon. Governor, this is an official function of the head of the county. Why are the police disrupting your function?

Gov. Kawira Mwangaza: The same leaders do not specifically mention the leader who sent them, but now the influence of national leaders, led to this.

Mr. Elias Mutuma: Were you able to complete your donation on that day?

Gov. Kawira Mwangaza: I was not able to complete because it was stopped and then when they said we leave, we tried to explain for three good hours in that vehicle. When people came and surrounded the vehicles, that is the time the officer said it was a mistaken identity.

Mr. Elias Mutuma: Is the officer calling you by your title when he comes?

Gov. Kawira Mwangaza: Yes, Mr. Speaker, Sir. He is calling me, Governor *kuja*, Governor *kuja*.

Mr. Elias Mutuma: You pleaded with him to allow you to finish.

Gov. Kawira Mwangaza: *Nikamwambia ngoja nimalize, akasema hapana.* You have 10 minutes here, *kuja*.

Mr. Elias Mutuma: Then everyone was dispersed. If I am not wrong, that was a day or two before the impeachment. Can you remember the actual dates?

Gov. Kawira Mwangaza: It was a day before the impeachment. That clip is not complete. We have not heard the officer saying why he had come to arrest me.

Mr. Elias Mutuma: You can tell us because you were present. We may not have the benefit of the full video. It is a first-hand experience, tell us the explanation you got from the officer as to why he was seeking to interrupt your official event.

Gov. Kawira Mwangaza: The officer was the area Officer Commanding Station (OCS) and when people came in large numbers, the other bosses came too, and he was asked to allow me to go. He also apologized before everyone that it was a mistaken identity and I forgave him.

Mr. Elias Mutuma: You have been accused of vilifying leaders. We have seen *WhatsApp* messages of you making certain utterances on *WhatsApp* groups and in even in one or two political rallies, through the videos that were produced.

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Firstly, have you in any way vilified or demeaned the leaders in Meru?

Gov. Kawira Mwangaza: I have not vilified any leader in Meru.

Mr. Elias Mutuma: There was a particular comment you made on a *WhatsApp* group regarding the Deputy Governor. You said-

“Huu ujinga sitakubali.” What were you talking about?

Gov. Kawira Mwangaza: I was talking about him gathering young men and going around demeaning the Governor and calling me a prostitute.

Mr. Elias Mutuma: Was that a fair reaction considering what we have seen? Was it expected of any human being to react and defend herself in the wake of such attacks?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, I am not an angel. You must have feelings.

Mr. Elias Mutuma: Thank you. Let us go briefly to the responses, and I believe you have answered to all the allegations in your response that you first alluded to. Confirm that you have answered satisfactorily to all the charges.

Gov. Kawira Mwangaza: I have answered.

Mr. Elias Mutuma: Let us look at the first count – misappropriation and misuse of county resources. You came here and you were also invited to the County Assembly to answer to specific allegations. Correct?

Gov. Kawira Mwangaza: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: Those specific allegations in respect to embezzlement and misuse of funds are found at 10(a) and (b). Please, confirm that embezzlement is (a) and withdrawal of County funds is (b).

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Were those were the only particulars of the allegations that you were invited to respond to?

Gov. Kawira Mwangaza: These are the only particulars.

Mr. Elias Mutuma: So, then you could not have responded to anything that was outside.

Gov. Kawira Mwangaza: I responded to the particulars of the charges.

Mr. Elias Mutuma: Let me read to you the embezzlement of County funds through the Governor’s sisters, Rose Kenya, Miriam Guantai, Kenneth Guantai, Nephath Kinyua and Edwin Murangiri. We will not go into whether they are your relatives or not because we did that in another forum.

Was there any table of particulars to indicate how much money Rose Kenya received, when she received them and how she has not accounted in (a) and (b) because that is the only place we see those particulars? Do you see in any particular place where you are told that Rose, Miriam, Nephath, Kenneth and Edwin received this much?

Gov. Kawira Mwangaza: There is no specific way or amount of money that is allocated to each person whose name appears in this accusation.

Mr. Elias Mutuma: What they did instead was to throw a bush of IFMIS extracts and told you to look at them and identify where Rose, Miriam, Kenneth, Nephath and Edwin are. Is that what they did?

Gov. Kawira Mwangaza: Just an IFMIS extract so that I do it myself and extract the amount of money for Miriam, Rose, Kenneth and Nephath.

Mr. Elias Mutuma: Is there any Motion in (a) and (b) where the amount of Kshs78 million is mentioned to have been embezzled, so that you are able to respond specifically to what you are facing?

Gov. Kawira Mwangaza: There is nowhere a figure of Kshs78 million is indicated for Miriam, Rose, Guantai and the rest.

Mr. Elias Mutuma: Apart from the IFMIS extract?

Gov. Kawira Mwangaza: It is only in the IFMIS extract, nowhere else.

Mr. Elias Mutuma: You have also said that the basis of the complaint is another complaint by Salesio Mutuma, who tables his own computation and files it with the EACC. Is that correct?

Gov. Kawira Mwangaza: Salesio Mutuma is an activist. He files a report to the EACC and the County Assembly uses the same report that has been taken to the EACC by Salesio to accuse me of embezzlement of County funds. There is nothing else apart from the report by Salesio Mutuma.

Mr. Elias Mutuma: Even as you are making this response, it is only out of abundance of portion that you supplied the Senate with what you thought was necessary.

Gov. Kawira Mwangaza: Yes, Mr. Speaker, Sir.

Mr. Elias Mutuma: Did you have the guide to lead you to where you are supposed to get materials in support of any claim?

Gov. Kawira Mwangaza: No, Mr. Speaker, Sir.

Mr. Elias Mutuma: To the best of your knowledge, was there any audit query or report that was generated by a competent body touching on embezzlement of County funds?

Gov. Kawira Mwangaza: No audit report or any other report apart from an IFMIS report by Salesio Mutuma, an activist to EACC.

Mr. Elias Mutuma: You have also taken time to explain what you thought the complainants might have been looking for. You have created a schedule that appears in your response. Let us go to Page 105 of the small booklet.

Is the computation you did there conclusive or is it based on what you understood to be the case from the County Assembly because there were no particulars?

Gov. Kawira Mwangaza: It is not conclusive.

Mr. Elias Mutuma: Was there any particular order to the documents that you attached as you were preparing them or you were basically looking at the IFMIS extract and giving what you thought was a suitable answer because there was no particular charge or request for you to look at any specific issue?

Gov. Kawira Mwangaza: I tried my best to look at it, so that I can give a feedback.

Mr. Elias Mutuma: Had you been properly guided by the Motion you would have done a better job in giving them very specific answers to specific queries?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Thank you. Let us proceed to the other charge of Nepotism. First of all, let me ask you about this gentleman called Nephath Kinyua, who has been said to be your brother-in-law. Do you know him?

Gov. Kawira Mwangaza: No. He is an employee of Meru County Government.

Mr. Elias Mutuma: Is he married to your sister?

Gov. Kawira Mwangaza: None of my sisters are married.

Mr. Elias Mutuma: Your sisters are single? Mr. Nephath Kinyua cannot then be your brother-in-law.

Gov. Kawira Mwangaza: No.

Mr. Elias Mutuma: Is Mr. Edwin Mutuma a nephew to your husband?

Gov. Kawira Mwangaza: No.

Mr. Elias Mutuma: You know very well the relatives or other siblings to your husband?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, I met him around four or five months ago.

Mr. Elias Mutuma: That is Edwin. So, he is not again--

Gov. Kawira Mwangaza: Yes. He is not a relative.

Mr. Elias Mutuma: Your husband - now that I am at it- has been accused of vilifying other leaders through a musical performance. There was a video that was played. For the sake of time, I will not ask for it to be played, but you are also present. I want you to look at the lyrics of that song. Even before you look at the them, were you present?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: The song was sung in the Kiswahili dialect. True?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: So, there was no need for it to be interpreted.

Gov. Kawira Mwangaza: Counsel, it is my prayer that we see the song so that I clear myself from that allegation.

Mr. Elias Mutuma: Very well. Can we play the video clip? I could be guided where that clip is. That was a clip by---

(Loud Consultations)

As we wait for the song Governor, did your husband make reference to any elected leader?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, he did not.

Mr. Elias Mutuma: Did he make any reference to any other leader by name?

Gov. Kawira Mwangaza: He did not.

Mr. Elias Mutuma: What was the first gentleman saying in his song to the best of your recollection? We have it in Kiswahili. Just read a few at page 251, volume two of the County Assembly's documents. Very quickly, Governor, I urge you to read. We are pressed for time

Gov. Kawira Mwangaza: It is this one, yes?

Mr. Elias Mutuma: Yes, just read it in Kiswahili.

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Gov. Kawira Mwangaza: They want Kawira to come and help them steal. Kawira is against it. When Kawira refuses, they dig---

Mr. Elias Mutuma: I would love you to read the Kiswahili version. The song was sung in Kiswahili version. That is the translation. Kindly read the version. This is also a Kiswahili speaking House.

Gov. Kawira Mwangaza: “Kila siku wanamtafutia makosa wanataka Kawira awasaidie kuiba. Kawira akakataa na akasema yeye hataki wizi. Wakati alipokataa walianza kumchimbua mashimo. Wanataka Kawira akule pesa nao. Wanataka Kawira akule pesa za barabara. Wanataka Kawira akubali wakule pesa ya dawa hospitalini. Wanataka Kawira awasaidie kula mali yetu.

Igembe nawaeleza kweli kabisa, mpaka sasa sikilizeni kwa makini. Wanapanga pia kuyachukua maisha ya Kawira. Wanapanga sasa kumuua Kawira. Lakini najua kwa maombi yenu huyo shetani ameshindwa katika jina la yesu. Ati walikuwa wanasema tangu ile wakati wa impeachment ya kwanza kuwa Kawira hajawai kunywa chai katika mikahawa ya Kaunti ya Jiji la Nairobi.

Mara ya mwisho ya kunywa chai katika mikahawa ya mji wa Nairobi ni ule wakati wa *impeachment*. Hiyo ndiyo inafanya maadui wake wakasirike kabisa. Eti wanamtaka Kawira asiende Okolea aende kule Nairobi wakunywe naye chai kwa pesa zenu.

Kawira naye amekataa kata, akasema kazi yake ni mashinani. Wenye wivu wajinyonge. Wenye wivu wajinyonge”

Mr. Elias Mutuma: Is there anything demeaning or targeting any leader in those lyrics?

Gov. Kawira Mwangaza: Nothing. No leader is being targeted or mentioned by name.

Mr. Elias Mutuma: Is it true that you are facing a threat to your life, that the first gentleman in a musical performance passed that information?

Gov. Kawira Mwangaza: Yes, it is.

Mr. Elias Mutuma: Is there anything wrong with your husband coming to your defence when your life is in danger?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, he should come and defend the wife.

Mr. Elias Mutuma: Thank you. You have been accused of assigning diplomatic duties to your two unqualified sisters.

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: You have made an explanation to that allegation. Can you point out where that response is?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, it is on Page 10.

Mr. Elias Mutuma: Mr. Speaker, Sir, as we peruse through---

Gov. Kawira Mwangaza: It is Page 15.

Mr. Elias Mutuma: Mr. Speaker, Sir, I note that my time is up. I am seeking your indulgence for just 30 minutes more for me to wind up.

The Speaker (Hon. Kingi): You need an extra 30 minutes?

Mr. Elias Mutuma: Yes, Mr. Speaker, Sir. Most humbly.

The Speaker (Hon. Kingi): Proceed, for the next 30 minutes.

Mr. Elias Mutuma: Thank you. Governor, tell us the response you have offered to the allegation that you assigned your two sisters diplomatic duties.

Gov. Kawira Mwangaza: Mr. Speaker, Sir, I was invited to the Slovakian Embassy through a courtesy call in Nairobi City County. While on my way, I was diverted to attend a state function at State House. I can explain without reading through it.

Mr. Elias Mutuma: Kindly proceed.

Gov. Kawira Mwangaza: On my way, I was accompanied by the Meru County Secretary, my Personal assistants (PA), bodyguard and driver. However, there was an urgent meeting. I decided to attend the meeting first so that I can join the other team later. The County Secretary went to the embassy.

As I was finishing from State House, they were already done with the meeting. I did not assign my sister any duty. It is because I had travelled with my PA and also the bodyguard to attend the meeting.

Mr. Elias Mutuma: Did you later offer an explanation as to who attended that meeting and what was discussed in your *Facebook* page at page 94?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Can you confirm the person who attended the meeting and presided was the County Secretary?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Thank you. Let us proceed to the China trip that you have been accused of sending your sisters and relatives to tour. Did you get an invitation from a company?

Gov. Kawira Mwangaza: Yes, to China.

Mr. Elias Mutuma: Did that company represent itself as having affiliations with the Chinese Government to the best of your understanding?

Gov. Kawira Mwangaza: Yes. At first, it associated itself with the state of China.

Mr. Elias Mutuma: Initially, you had planned to attend the trip. Is that the position?

Gov. Kawira Mwangaza: Yes, I had planned to attend.

Mr. Elias Mutuma: Before that, tell us how often you travel outside the country as the Governor of Meru. How many trips have you had outside the country from the date you were sworn in as Governor?

Gov. Kawira Mwangaza: I have only travelled once.

Mr. Elias Mutuma: To which country?

Gov. Kawira Mwangaza: South Korea.

Mr. Elias Mutuma: When was that?

Gov. Kawira Mwangaza: Around six months ago.

Mr. Elias Mutuma: What is the practice when you travel? Do you travel together with your team or do they travel in advance? What happened during your last trip to South Korea?

Gov. Kawira Mwangaza: For this specific one, I sent my assistant, and my bodyguard as an advance team. I met them there later.

Mr. Elias Mutuma: Why did you send them in advance?

Gov. Kawira Mwangaza: For preparations and to know what I am supposed to do. Arrange everything before I get there.

Mr. Elias Mutuma: Was that the case with the trip to China?

Gov. Kawira Mwangaza: Yes, it was the case.

Mr. Elias Mutuma: Who travelled to China and for what purpose did they travel?

Gov. Kawira Mwangaza: Those who travelled to China are four. One is the *Waziri* for health, the external linkages acting director, my assistant and my bodyguard.

Mr. Elias Mutuma: Did you eventually travel to China?

Gov. Kawira Mwangaza: No, I did not.

Mr. Elias Mutuma: Why did you not travel to China?

Gov. Kawira Mwangaza: When my advance team arrived in China it was contrary to what the Chinese people and the brokers had said. The message that was given to our office was different because the private company or the people who came to visit Meru associated themselves with the Chinese Government. Upon arrival of my team, it was contrary to what they said. It was a private business company interested in investing in Meru.

Mr. Elias Mutuma: The assertion that this was an opportunity for a cancer center to be established in Meru by well-wishers through a public-private partnership, is that the position?

Gov. Kawira Mwangaza: This is not the position. If at all it was a donor donating a single item, I could be the first one to get there. It was purely a business company interested in doing business in Meru County

Mr. Elias Mutuma: You have read the affidavit of your County Executive Committee Member (CECM) George Gikunda. He explains clearly that they discovered that the people who had invited you did not have a physical office in China.

Gov. Kawira Mwangaza: I have read it.

Mr. Elias Mutuma: They took them through various companies that manufacture items and could not prove that they had any affiliations with any of those companies.

Gov. Kawira Mwangaza: They did not have any.

Mr. Elias Mutuma: Was it safe for you to proceed to China with that information having been availed to you?

Gov. Kawira Mwangaza: It was a waste of time even though the company was offering full sponsorship. Going to China to assist some people to come to do business in Meru County was not a priority.

Mr. Elias Mutuma: Thank you. You have been questioned why the CECM or yourself did not seek any visa clearance to China. Do you have a Chinese visa?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: There was no need for the CECM to ask for a visa to be provided?

Gov. Kawira Mwangaza: No.

Mr. Elias Mutuma: Thank you. The Deputy Governor has accused you of arbitrarily relocating his office from next to your office to another block and changing the locks. Also, he is accusing you of arbitrary reduction, suspension and withdrawal of

budgetary facilitation. Were you in any way involved in the reduction and withdrawal of his budgetary facilitation?

Gov. Kawira Mwangaza: No and I cannot do that. In our office, we have an Authority to Incur Expenses (AIE) holder who used to be the chief of staff? He processes other officers' facilitation to travel and offices, and it has been done.

Mr. Elias Mutuma: Yesterday during cross-examination, it was discovered that Nephath Kinyua received facilitation on behalf of the Deputy Governor. Is Nephath Kinyua an administrator in the office of the Deputy Governor?

Gov. Kawira Mwangaza: Yes. It is the Deputy Governor who suggested that Nephath Kinyua be the administrator in his office.

Mr. Elias Mutuma: Thank you. You have been accused of threatening the Deputy Governor to inflict bodily harm against the governor. This is about one of the *WhatsApp* groups that you said, "*nitafinya kieleweke*" Do you remember this *WhatsApp* post?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: What were you talking about when you said, "*nitafinya kieleweke*". You are also accused of mobilizing "*jeshi ya kumaliza*" Deputy Governor. What were you referring to when you said, "*choma jeshi*"?

Gov. Kawira Mwangaza: Counsel, I would like to see where I have referred the "*kufinya kieleweke*" or "*jeshi*" to my Deputy Governor.

Mr. Elias Mutuma: You deny making that particular comment---

Gov. Kawira Mwangaza: The allegation is that it is to the Deputy Governor, where exactly have I referred to the Deputy Governor?

Mr. Elias Mutuma: Thank you. Who then were you referring to? What was the context?

Gov. Kawira Mwangaza: I was referring to the kind of things and the type of bullying going around Meru County. As a leader, you have to respond to some of the issues going around. What is wrong with "*Kufinya kieleweke*"?

Mr. Elias Mutuma: You were not making any reference to the Deputy Governor?

Gov. Kawira Mwangaza: I was not referring to any particular person.

Mr. Elias Mutuma: You have also been accused of forcefully breaking, entering and ransacking the Deputy Governor's office.

Gov. Kawira Mwangaza: This is a criminal offense. If I had done that, I could have been summoned by the relevant authorities for doing such an act. I have never done that.

Mr. Elias Mutuma: Thank you. On arbitrary relocation of the Deputy Governor's office, is it true that there were reorganizational issues in the office of the Governor that saw certain offices moved from one location to the other?

Gov. Kawira Mwangaza: There was reorganization after we had a big team of acting Chief Officers. In Meru County, we have two blocks. The old and the new one. The old block that has been used by the first governor Hon. Peter Munya and partly by Hon. Kiraitu Murungi. This is where the Deputy Governor was relocated to.

Mr. Elias Mutuma: Thank you. Let us move on to the issue of accusing other leaders of being the 10 cartels in Meru County. In an event where the head of State was in attendance, were you referring to Members of Parliament? This is what was said yesterday.

Gov. Kawira Mwangaza: Counsel, why would one suggest that I was referring to anyone when I have not mentioned anyone?

Mr. Elias Mutuma: Who were you talking about when you said; “*Kuna macartel zaidi ya 10*”?

Gov. Kawira Mwangaza: There is a certain story in Kimeru, which I will take one minute to explain. Thieves broke into the home of one person and stole his goat. Then, there was a chief’s meeting with everyone in that village. That old man *akaenda akiwa amebeba mkuki. Akasema ya kwamba, “Kati yenu ninaona kuna mtu ambaye ameiba mbuzi yangu. Just in one minute, I will kill that person”. Hakujua ni nani. Mtu mmoja akachomoka mara moja akaenda.* That is when the man realised who the person was.

In my case, when I talked about *marcartel*, I did not mention anyone. I said; this county will not be micromanaged by 10 cartels and few rich people to assume that Meru County is the way they want to paint it bad. I did not mention anyone.

Mr. Elias Mutuma: You did not mention anyone. That is quite important. There are these *WhatsApp* groups in Meru; County Admin Services and Third Government 012. Are you the administrator of these groups?

Gov. Kawira Mwangaza: I am not. I was added in that group.

Mr. Elias Mutuma: Is it an official *WhatsApp* group in Meru?

Gov. Kawira Mwangaza: No, we do not have an official *WhatsApp* group in Meru County.

Mr. Elias Mutuma: Did you at any moment incite or encourage any admin to remove the Deputy Governor from---

Gov. Kawira Mwangaza: I do not even know the administrator. I was just added.

Mr. Elias Mutuma: Did you encourage anyone to demean the Deputy Governor?

Gov. Kawira Mwangaza: No.

Mr. Elias Mutuma: Thank you. Let me ask you this quite important question. It is the issue of sending certain employees of the County on compulsory leave. Do you remember that issue?

Gov. Kawira Mwangaza: Yes, I remember.

Mr. Elias Mutuma: Are you the one who sent these people on compulsory leave?

Gov. Kawira Mwangaza: I am not the one.

Mr. Elias Mutuma: Who did that?

Gov. Kawira Mwangaza: The County Secretary.

Mr. Elias Mutuma: Are you aware that they were sent on compulsory leave?

Gov. Kawira Mwangaza: I was notified after the County Secretary sent them on compulsory leave, due to some allegations that were reported to EACC.

Mr. Elias Mutuma: You were not part of the decision to send these people on compulsory leave?

Gov. Kawira Mwangaza: No.

Mr. Elias Mutuma: You made a comment of *Facebook* about that issue.

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: You confirmed that you have appointed certain people to take charge of the Revenue Board?

Gov. Kawira Mwangaza: Again, the appointment was done, same as sending of the same people on compulsory leave. Mine was for people to know that these people are no longer acting on behalf of Meru County and this is the new team that is on board.

Mr. Elias Mutuma: Later on, you were subject of court proceedings in a case where these people cited you as a respondent. Subsequently, contempt of court orders were issued. Why were you cited as a respondent in that matter?

Gov. Kawira Mwangaza: By virtue of my office and not even that single matter. In almost all matters, I am the third, fourth or seventh respondent.

Mr. Elias Mutuma: Does it point out to any personal responsibility or it is normal and ordinary for parties to file cases against the Office of the governor.

Gov. Kawira Mwangaza: It is normal especially when it touches the Meru county government.

Mr. Elias Mutuma: Indeed, Madam Governor, when you came to office, you continued defending cases that were filed against the Office of the governor for actions that took place even before you got to office?

Gov. Kawira Mwangaza: When I got into office, I met over 800 cases in court.

Mr. Elias Mutuma: Were those cases citing the governor as a respondent?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Did they in any way communicate that you, personally, had a responsibility to the action that offended the person who went to court or it is by virtue of the office?

Gov. Kawira Mwangaza: In all those cases, I was not directly responsible.

Mr. Elias Mutuma: Let us talk about the traffic marshals in Meru County. You have been accused of creating this office called traffic marshals without following due process. Did you commit that offence?

Gov. Kawira Mwangaza: I did not appoint anyone for the traffic marshals. That was a pilot project from the Department of Public Service. Just like any other governor or leader, you are supposed to launch a project. I did not participate in employing any of the traffic marshals.

Mr. Elias Mutuma: Did you later seek the approval of CPSB to create this office?

Gov. Kawira Mwangaza: The County Secretary did it.

Mr. Elias Mutuma: Are those discussions ongoing?

Gov. Kawira Mwangaza: The discussions are ongoing.

Mr. Elias Mutuma: Thank you.

Gov. Kawira Mwangaza: Counsel, one may ask; who then were the drivers of the *boda boda*? We have the enforcement team and some few others that were used to pilot the project. We have never employed any single person for that duty.

Mr. Elias Mutuma: Thank you. You have been told that you bear the ultimate responsibility even for actions of your CECMs, COs, Chief of Staff, directors and drivers. What is your understanding of your role as the governor of Meru County?

Gov. Kawira Mwangaza: Of course, to provide leadership. In some way, I may be involved where by directly giving a direction maybe via a memorandum because a government has a way of communication. In this case, in all these allegations before me today, I have not alluded my signature in any of them, neither have I been given a memorandum for the accusations that are before me.

Mr. Elias Mutuma: The very last one. We have seen – and I do not wish to go deep into it – the County Assembly trying to make a big deal of some payments that were done to Rose on one day and other members of county government. Is it that these people were being paid for forged imprest or why is it that there is an indication of many payments done on one day? To the best of your understanding, though you may not have the technical bit.

Gov. Kawira Mwangaza: Mr. Speaker, Sir, in county governments, we do not receive funds in one bunch. At times, funds are delayed and some functions such as travelling and meetings have to continue. In most cases, they do using their own money. They are then paid when money lands into our accounts. The issue of 10 payments in a day might have been a delay of payments which had not been done for a month or two.

Mr. Elias Mutuma: When you travel, is money put into your account or it is deposited in the account of your PA?

Gov. Kawira Mwangaza: Since I became a Governor, no single coin has ever been deposited to my account.

Mr. Elias Mutuma: How do you travel? Who then receives that money for your facilitation?

Gov. Kawira Mwangaza: It is the PA and the administrators.

Mr. Elias Mutuma: Thank you very much.

Mr. Speaker, Sir, that is all for this witness. I wish to hand her over for cross-examination.

I thank you.

The Speaker (Hon. Kingi): County Assembly, you may proceed to do your cross-examination. By way of indication, counsel for the County Assembly, how much time do you need?

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, if it finds favour with you, we request for two and a half hours. We only make this request based on the scope of the issues covered by the witness. They are not issues we can address in a short time. Our main witness was cross-examined for a similar amount of time. It is only fair for purposes of equality of arms.

The Speaker (Hon. Kingi): Let us try one and a half hours and then we will get it from there.

Dr. Muthomi Thiankolu: Governor, Hon. Kawira Mwangaza good afternoon?

Gov. Kawira Mwangaza: Good afternoon, counsel.

Dr. Muthomi Thiankolu: Would you agree that the cultural structure, values and attitudes of the Mt. Kenya community are substantially similar, even though there may be small details of variation?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: So it is your case that the cultures of Ameru, Embu, and Agikuyu are vastly different?

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: Are their languages also vastly different or are they substantially mutually intelligible?

Gov. Kawira Mwangaza: They are different.

Dr. Muthomi Thiankolu: Are they mutually intelligible?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: I put it to you Hon. Kawira Mwangaza that anyone who lives in this country knows there is not much difference in the cultures, values and attitudes of those three communities. What do you say to that?

Gov. Kawira Mwangaza: There are differences because, for example in Meru, we have *Njuri Ncheke*. Do the Agikuyus have *Njuri Ncheke*?

Dr. Muthomi Thiankolu: They have *Kiamas* and I am sure you know even the *Njuri Ncheke* is also called *Kiama*. It is just a difference of names.

Anyway, is the governor of Embu a man or a woman?

Gov. Kawira Mwangaza: She is a woman.

Dr. Muthomi Thiankolu: To the best of your knowledge, is this woman governor being hounded out by some misogynistic male leadership?

Gov. Kawira Mwangaza: I cannot testify to that.

Dr. Muthomi Thiankolu: To the best of your knowledge, has the woman governor of Embu been impeached three times? Has she faced three impeachment Motions in the last one year?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, I know of one, Hon. Anne Waiguru, who was impeached twice.

Dr. Muthomi Thiankolu: No. Let us stick to Embu for now. Has the Governor of Embu faced three impeachment Motions in the last year?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: Nakuru equally has a woman governor, right?

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: It has a huge population of Mount Kenya diaspora, true or untrue?

Gov. Kawira Mwangaza: True.

Dr. Muthomi Thiankolu: Has that woman governor in Nakuru faced three impeachment Motions in the last one year?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: Kwale has a woman governor. True or false?

Gov. Kawira Mwangaza: True.

Dr. Muthomi Thiankolu: The people of Kwale are Bantus, just like the people of Mount Kenya. Is it correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: Has that woman governor faced three impeachment Motions in the last one year?

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Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: Homa Bay County, which is a different cultural area, has a woman Governor. Is it correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: Has she faced any impeachment Motion in the last one year?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: As a matter of fact, Meru itself has an elected woman MCA, correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: To the best of your knowledge, has that woman MCA in Meru encountered any backlash from toxic masculinity to hound her out of office?

Gov. Kawira Mwangaza: Several times.

Dr. Muthomi Thiankolu: Have you adduced that evidence in your response?

Gov. Kawira Mwangaza: No, because it was not part and parcel of my response.

Dr. Muthomi Thiankolu: Meru has a Woman Representative, correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: In fact, you were a Woman Representative of Meru for a whole five years.

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: Did anyone try to recall you because you are a woman?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: Good. Tell me whether you know of this story, which is also very common in Meru of a woman who would beat her husband then scream. Because society is socialized to think that it is a man who beats a woman and she has locked the house, people think it is the man who was beating the woman while the truth was the other way around. Have you ever heard of that story?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: Of course, you have never heard of it because it is not convenient. For argument's sake without conceding, let us agree that the MCAs are indeed acting under the influence of external people. Would that mean your sisters never received the monies we allege?

Gov. Kawira Mwangaza: Pardon!

Dr. Muthomi Thiankolu: If we temporarily agree for argument's sake that the reason the MCAs have impeached you all these times is because of toxic masculinity, evil motives, malice and whatnot.

We want for argument's sake in my next series of questions to work on the assumption that that is true. If the MCAs are malicious, would that be an answer to why your sisters were receiving money irregularly from the county?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: If the MCAs are intimidated or influenced, would that be an answer to the count on the usurpation of statutory functions of the County Public Service Board?

Gov. Kawira Mwangaza: No, Mr. Speaker, Sir.

Dr. Muthomi Thiankolu: Indeed, the motivations of the MCAs, you will agree, are therefore irrelevant as long as there is evidence in support of the charge.

Gov. Kawira Mwangaza: There is no support in the charge.

Dr. Muthomi Thiankolu: That is for the Senate to decide, but assuming there is evidence in support of the charge, is it your position the charge would fail even though there is evidence the MCAs are driven by an ulterior motive?

Is that what you are inviting the Senate to do, assuming the Senate believes you are an innocent victim of evil machinations? Does that undo the evidence against you on the charges?

Gov. Kawira Mwangaza: Mr. Speaker, Sir, the charges should have evidence.

Dr. Muthomi Thiankolu: If they have the evidence, my question is; would the evil intentions on the part of the MCAs undo that evidence? Would the evidence cease to exist because the MCAs are acting maliciously?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: The answer is?

Gov. Kawira Mwangaza: No.

Dr. Muthomi Thiankolu: So you will agree with me, therefore, that the case against you should be decided on the evidence and not on the motivations of the MCAs.

Gov. Kawira Mwangaza: Yes, on the evidence

Dr. Muthomi Thiankolu: That is a very useful answer. Let us go to the complaint by Salesyo. That would be from Page one of volume two. You just told the Senate that the reason you did not account for the entire Kshs78 million is because the Motion only related to your assistants. Is that still your position?

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: Did you read volume two as you read the impeachment Motion? Did you read the bundle that contains the Assembly's evidence?

Gov. Kawira Mwangaza: The evidence is the Integrated Financial Management Information Systems (IFMIS) extract by Salesyo.

Dr. Muthomi Thiankolu: Correct. In fact, the impeachment Motion says the evidence is in the complaint by Salesyo. Correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: It would, therefore, mean the impeachment Motion must be read together with the complaint by Salesyo. Correct or incorrect?

Gov. Kawira Mwangaza: Incorrect.

Dr. Muthomi Thiankolu: Can you refer to Paragraph 11 (a) of the Motion. Please read it to the Senate.

Gov. Kawira Mwangaza: Evidence of the Governor engagement convenience and complicity in the proceeding. Two, gross misconduct. Three, gross abuse of office complaint by Salesyo Mutuma to Ethics and Anti-Corruption Commission (EACC) on 11th August, 2023.

Dr. Muthomi Thiankolu: So, you agree you were given sufficient notice that the Assembly will be relying on the complaint by Salesyo by the Motion itself. Correct or incorrect?

Gov. Kawira Mwangaza: Incorrect.

Dr. Muthomi Thiankolu: Let us go to the complaint by Salesyo. Can you go to Page four volume two? What does it say at 2.5? It refers to Kathure Rukaria Catherine. Is it not?

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: It is, therefore, correct that you had prior notice, there is a complaint by Salesyo regarding payments to this particular person. Did you or did you not receive this Page four of volume two?

Gov. Kawira Mwangaza: I want to see the charge first because the charge talks about embezzlement of funds by relatives.

Dr. Muthomi Thiankolu: We move from the charge to the evidence where you were already referred to the complaint by Salesyo. The complaint needs to be read in its entirety.

[The Speaker (Hon. Kingi) left the Chair]

[The Temporary Speaker (Sen. Mumma) in the Chair]

Gov. Kawira Mwangaza: In the IFMIS report we have more than 100 people who have received funds.

Dr. Muthomi Thiankolu: All the 100 people are people working in your office. Correct or incorrect?

Gov. Kawira Mwangaza: These 100 people are not mentioned in the impeachment Motion.

Dr. Muthomi Thiankolu: Fair enough. Do these 100 people work in your office?

Gov. Kawira Mwangaza: I am not aware of everyone who works in my office.

Dr. Muthomi Thiankolu: Does Page 17 indicate these are transactions by persons who work in your office. At the top of Page 17.

Gov. Kawira Mwangaza: County Government of Meru has 6,000 employees. I cannot know every person by name.

Dr. Muthomi Thiankolu: Governor, unfortunately, you do not have the luxury of ducking my questions. My question is, does this IFMIS indicate in black and white that these are transactions by persons working in your office?

Gov. Kawira Mwangaza: I do not think so.

Dr. Muthomi Thiankolu: Can you read the first item on that Page 17.

Gov. Kawira Mwangaza: Votes 3552 Meru Office of the Governor.

Dr. Muthomi Thiankolu: You will agree the document itself indicates it is about transactions in your office not another office.

Gov. Kawira Mwangaza: In my office from July, 2022 when I was not the Governor of Meru County.

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Dr. Muthomi Thiankolu: While you were seated here, we pointed out only 12 transactions lie in the previous regime. All the others have happened when you were the Governor. Correct or incorrect?

Gov. Kawira Mwangaza: That is why you want me to know everyone, including those who worked in the previous regime, from these documents.

Dr. Muthomi Thiankolu: You will not get away from this by being clever. Can you see Page 17? You confirmed the transactions begun on 1st July when Mr. Kiraitu Murungi was the governor. Right?

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: It follows like that and when July ends, the next entries are for 20th September, 2022. Correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: You were the Governor as at September 2022.

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: It must, therefore, follow that for all these hundreds of transactions, all of them, except the first 12, happened during your tenure as governor of Meru County.

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: Let us go back to the complaint by Salesyo. On Page 4, Salesyo talks of withdrawals by Kathure Rukaria Catherine. Correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: He has analysed them and most of them are indicated the payment description is not applicable. Correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: In your understanding of government accounting and Public Finance Management (PFM), should public money be expended and the accounting description is not applicable?

Gov. Kawira Mwangaza: I am not an accountant.

Dr. Muthomi Thiankolu: Unfortunately, you are the Governor. So, answer my question.

Gov. Kawira Mwangaza: As the Governor of Meru County, the way I understand is that after this IFMIS report, if it is a genuine one, of which I doubt, it follows an audited report. Before me, if it was an audited report which rectifies any mess that is in IFMIS report, then it could be a question that I could easily be able to answer.

Dr. Muthomi Thiankolu: Does the county government have access to IFMIS?

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: In fact, your junior officials have credentials to IFMIS.

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: Therefore, they could easily have logged in and printed the correct IFMIS if you doubt the authenticity of this one. Correct or incorrect?

Gov. Kawira Mwangaza: I repeat that the IFMIS extract is not the final document.

Dr. Muthomi Thiankolu: Madam Governor, that is not my question. The question is: Would your County Executive Committee Member (CECM) Finance, Chief Officer

(CO) Finance and your own Chief of Staff who is the accounting officer in your office have login credentials to IFMIS?

Gov. Kawira Mwangaza: They have.

Dr. Muthomi Thiankolu: Good. Therefore, when the Meru County Assembly asked you to present the IFMIS extract, all your officials needed was to log in, print and submit. Correct or incorrect?

Gov. Kawira Mwangaza: There was a reply by the ---

Dr. Muthomi Thiankolu: Answer my question. All they needed to do if there was any reason to doubt the authenticity of this IFMIS was to log in and print.

Gov. Kawira Mwangaza: Counsel, does the Assembly rely on IFMIS to make their determination or the audited account?

Dr. Muthomi Thiankolu: Madam Temporary Speaker, I ask that the witness to answer my question. I do not want to have an altercation with her. I need your protection.

The Temporary Speaker (Sen. Mumma): Madam Governor, just answer the question, please.

Gov. Kawira Mwangaza: They have the right to print the---

Dr. Muthomi Thiankolu: Yes, therefore, you will acknowledge that all they needed to put this matter to rest if there was no embezzlement was to log in and print. Correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: However, instead of doing that very simple task, your CEC and your officials did is manually typed their figures instead of those in the system. Refer to Page 105 of your response. Correct or incorrect?

Gov. Kawira Mwangaza: Incorrect.

Dr. Muthomi Thiankolu: Are you saying the document on page 105 of your response is a system-generated report?

Gov. Kawira Mwangaza: Is this generated from my office or the Salesio?

Dr. Muthomi Thiankolu: It is from your office. It is in your response, Madam Governor.

Gov. Kawira Mwangaza: In my response, we are dealing with the IFMIS report by Salesio, the activist or a report from my office?

Dr. Muthomi Thiankolu: If I unpack your defense for you to answer the question-- Madam Temporary Speaker, I do not know who is answering questions.

In your defence, you rely on the report by Salesio and in addition, you have brought something that you have manually typed which is a parallel document not the one from IFMIS---

The Temporary Speaker (Sen. Mumma): Counsel, you are insisting that she has typed and she is saying that they did not. Can you re-ask the question so that she can answer directly?

Dr. Muthomi Thiankolu: On its face, the document in your defense, is it generated from IFMIS or manually typed? That should be clear from the face of the document.

Gov. Kawira Mwangaza: This is the summary of the IFMIS payment.

Dr. Muthomi Thiankolu: It is not an extract from IFMIS. Is it or is it not?

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Gov. Kawira Mwangaza: It is an extract of the IFMIS.

Dr. Muthomi Thiankolu: Does it have a time stamp?

Gov. Kawira Mwangaza: Time what?

Dr. Muthomi Thiankolu: Time stamp.

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: Where is the time stamp? Show it to us.

Gov. Kawira Mwangaza: It has the voucher number, the pay extract---

Dr. Muthomi Thiankolu: I am not talking about the voucher number, but the time stamps. System-generated report from IFMIS indicates when they were printed and downloaded. They leave a footprint of who keyed them and when.

You will agree, Madam Governor, so that we save time, your document is not system generated. That is why I said you typed it. If you refuse to answer the question, I will proceed and invite the Senate to make whatever conclusions they would want to conclude from that refusal.

The Temporary Speaker (Sen. Mumma): Counsel, you can put it to her and proceed.

Dr. Muthomi Thiankolu: Madam Governor, I put it to you that you are refusing to answer this question.

Gov. Kawira Mwangaza: I am not refusing to answer any question.

Dr. Muthomi Thiankolu: I put it to you that you are dodging my questions.

Gov. Kawira Mwangaza: Which one particularly?

Dr. Muthomi Thiankolu: Whether the report on page 105 of your defense is a system-generated document or a document typed on a desk by someone.

Gov. Kawira Mwangaza: It is a system of a summary of IFMIS payment.

Dr. Muthomi Thiankolu: We will leave it to the Senate to see whom to believe on that so that we do not spend all the time on one issue.

On page 10 of our volume two, how much money does Salesio say Catherine Lukaria irregularly withdrew from the vote of the office of the Governor? There is a total there. How much is it? Can you read it for the Senate?

Gov. Kawira Mwangaza: Grant total payment made by Catherine M'Lukaria is Kshs29,018,714.

Dr. Muthomi Thiankolu: How much does he give as the total that was withdrawn from your office during this period covered by the IFMIS?

Gov. Kawira Mwangaza: Grant total paid to the County Government of Meru?

Dr. Muthomi Thiankolu: Yes.

Gov. Kawira Mwangaza: That is Kshs188 million. That is the grant total paid to the County Government ---

Dr. Muthomi Thiankolu: Read the exact figure. What is the exact figure?

Gov. Kawira Mwangaza: Kshs88,609,373.

Dr. Muthomi Thiankolu: It says the amount withdrawn by just one Catherine Lukaria is what percentage of the total? It is indicated there in black and white.

Gov. Kawira Mwangaza: 15 per cent.

Dr. Muthomi Thiankolu: Let us go to Lidya Nkatha same page No.10. Again, Salesio has outlined many payments where the description is not applicable. Correct or incorrect in the face of it?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: Let us go to page 12, which involves your sister. Salesio has again listed all the specific payments to your sister. Correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: Again, for most of them, the item description is not applicable and on the IFMIS, the description is prepayment. Correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: What is the total amount to this sister of yours? Is it Kshs2,769,000?

Dr. Muthomi Thiankolu: Is this amount smaller or bigger than the total amount for the imprest you have submitted to the Senate?

Is this amount you have indicated here of Kshs2,769,000 smaller or bigger than the amount you have accounted for?

Gov. Kawira Mwangaza: Let me see the booklet that I have accounted for.

Dr. Muthomi Thiankolu: You have only accounted for Kshs2.6 million, Madam Governor, for all the relatives and yet for just one of them, the amount irregularly disbursed is Kshs2.7 million. I am putting it to you that the sum of the amounts of money you have accounted for, for all your relatives, is smaller than the amount paid to just one of them as per this document.

Gov. Kawira Mwangaza: As per this document, which is an IFMIS report, the audited report clears any error that is in this report. We have cases in this same report that you are referring to. Some of the payments are named as hospital supplies rather than hospitality payments. Who will rectify the mess that is still in your evidence booklet named hospital supplies rather than hospitality supplies?

Dr. Muthomi Thiankolu: Governor Kawira, who is responsible for inputting transactions on IFMIS at Meru County?

Gov. Kawira Mwangaza: Section 103 of the Public Finance Management (PFM) Act gives the responsible person to correct the measures.

The CECM Finance is the Head and he makes all decisions. Public Audit Act 31 spells out the audit process for documents to be tabled before Parliament and the Assembly.

Dr. Muthomi Thiankolu: So, you will agree with me---

Gov. Kawira Mwangaza: So, this IFMIS report must go through the audit for us to get a final copy that can be relied on by this honourable House.

Dr. Muthomi Thiankolu: That is not the question I asked you though I agree with you. However, you agree with me that the answer to my question is that it is your officials who enter the data in this IFMIS.

Gov. Kawira Mwangaza: Who is right now? Is it our officials or the activist?

Dr. Muthomi Thiankolu: Answer my question.

The Temporary Speaker (Sen. Mumma): Counsel, what is your question?

Dr. Muthomi Thiankolu: Is it the county officials in Meru who keyed in the data on IFMIS?

The Temporary Speaker (Sen. Mumma): Governor?

Gov. Kawira Mwangaza: Yes, it is the county officials for our case.

Dr. Muthomi Thiankolu: Therefore, you will agree with me that if there is any misrepresentation of hospitals as hospitality in IFMIS, the person that should take responsibility for that is your own officials. Correct or incorrect?

Gov. Kawira Mwangaza: Correct and that is why we have another process.

Dr. Muthomi Thiankolu: I have received my answer, Madam Governor. You have said it correctly. You have given an explanation that the reason your officials and relatives receive all these payments is by way of imprest. That is why IFMIS is captured as prepayment. Is that true?

Gov. Kawira Mwangaza: Yes.

Dr. Muthomi Thiankolu: Are you aware an imprest is to be surrendered within seven days?

Gov. Kawira Mwangaza: Prepayment, Counsel, is money requested for activities not done and after the activities have been done, the accounting person accounts for every coin before receiving any other money.

Dr. Muthomi Thiankolu: Again, you are dodging my question.

Gov. Kawira Mwangaza: Repeat the question.

Dr. Muthomi Thiankolu: The question is, is an imprest surrendered and accounted for within seven days?

Gov. Kawira Mwangaza: Imprest is surrendered within specific dates.

Dr. Muthomi Thiankolu: My question is very easy. By law, should an imprest be surrendered within seven days? It is either a yes or no. Should an imprest be surrendered and accounted for within seven days? What is your answer, Madam Governor?

Gov. Kawira Mwangaza: I am not sure if it is within seven days.

Dr. Muthomi Thiankolu: Fair enough. You will also agree with me this report covers an entire financial year, July to the last date there. Correct or incorrect?

Gov. Kawira Mwangaza: Correct.

Dr. Muthomi Thiankolu: Therefore, if payments made in September last year by way of imprest still appear as prepayment, the only conclusion that arises is that those imprests were never surrendered and accounted for. It is the only accounting conclusion that ensues Madam Governor. Correct or incorrect?

Gov. Kawira Mwangaza: Incorrect. The reason is that you cannot receive funds from the Treasury before surrendering everything that you received earlier on.

Dr. Muthomi Thiankolu: As a matter of fact, so that I show that you are a liar, can an officer be given an imprest without accompanying hard cash?

Gov. Kawira Mwangaza: Repeat.

The Temporary Speaker (Sen. Mumma): Can you be clearer in your question?

Dr. Muthomi Thiankolu: When an officer takes an imprest, are they not given cash. Is that not why it is indicated as prepayment because they have been given cash to expend and later account?

Gov. Kawira Mwangaza: It depends on whether---

Dr. Muthomi Thiankolu: It is yes or no, Madam Governor. Can one be given an imprest without a cash disbursement to them? Would you call that an imprest?

Gov. Kawira Mwangaza: It is a prepayment.

Dr. Muthomi Thiankolu: Madam Governor, I put it to you, you cannot have it both ways. It is your case that the reason these items appear as imprest on IFMIS is because they were by way of imprest. Is that not your defence, Madam Governor?

The Temporary Speaker (Sen. Mumma): Counsel, can you ask clearly? What question do you want her to answer?

Dr. Muthomi Thiankolu: The question, Madam Governor, that I am putting to you is that your answer is that officers take imprest and then later on when money is disbursed from the Treasury they are paid, that is why they are paid several---

The Temporary Speaker (Sen. Mumma): What is the question? Are you putting it to her or you are asking her?

Dr. Muthomi Thiankolu: I am putting it to her. Your answer which you gave in chief cannot hold that the reason your relatives have several payments on the same day is that money is paid after the event and after there has been an accumulation. That cannot be correct because an imprest is always supported by hard cash. So, it is given on a cash basis. So, the question of waiting for money does not hold.

Gov. Kawira Mwangaza: These are prepayments and these are monies requested for activities. Not paid before. When the money arrives at the county government, they are paid. For example, if I am travelling today from here to a certain destination, we will use our own resources and later surrender the documents for the person concerned to receive the payment.

Dr. Muthomi Thiankolu: Let us use your example, Madam Governor. Pause it there. If you travel today using your own money, which will be refunded later, would you be given an imprest for spending your own money?

Gov. Kawira Mwangaza: You will be paid for spending---

Dr. Muthomi Thiankolu: That is not my question, Madam Governor. You are going on a trip and we all agree it happens every day. Will use your own money to be refunded later? Are you given an imprest on that occasion when you are travelling from your own pocket to claim later?

Gov. Kawira Mwangaza: You will be given imprest if there are some goods you are required to buy in cash. The amount of money that, Counsel, we are discussing is the Office of the Governor where there are no projects apart from the usage of money by way of travels and other things like the purchase of items in the Office of the Governor.

No project is done in the Office of the Governor. How else do you expect the Office of the Governor to work or to receive money if not through this form?

Dr. Muthomi Thiankolu: I did not ask you another question about projects.

The Temporary Speaker (Sen. Mumma): Counsel, can you wrap up on that question? I think the Senate might be able to appreciate the issue of imprest. I request you move to the next question.

Mr. Boniface Mawira: Madam Temporary Speaker, my name is Boniface Mawira and I have a few questions for the Governor. Madam Governor, we were told by your witness, the CECM for Legal and Public Service Management that the originals of the surrendered documents are with the auditors. Is that your position?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: He told us that the originals that are with the auditors are signed. Is that your position?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: So, if the originals are with the auditors and they are signed, where did you get these surrendered documents that are not signed?

Gov. Kawira Mwangaza: Counsel, after you surrender the imprest, you will have a voucher that is in your documents attached to your files, signed, verified and examined by an examiner. I think those are the documents you have. Are they examined and verified?

Mr. Boniface Mawira: No, the documents we have are not examined or signed by the Director of Accounts or by the Chief Officer Finance. If your testimony or your evidence is that the originals are signed and they are with the auditors, where did you get these copies that are not signed? Can you have two documents, one which is signed, the original and another document that is not signed with respect to the same transaction.

Gov. Kawira Mwangaza: Of course, every person has to keep a record of what maybe you might be asked to give it out.

Mr. Boniface Mawira: So, you would agree with me then that the documents you provided here are not a proper record or representation of the documents that are with the auditors?

Gov. Kawira Mwangaza: That is why we have---

Mr. Boniface Mawira: No. It is a yes or no question. Would you agree with me then that the documents you have provided here, because they are not signed and the original ones which are with the auditors are signed then these documents obviously are not a proper representation of copies of the documents you submitted to the auditors?

Gov. Kawira Mwangaza: They are the same documents submitted to the auditors.

Mr. Boniface Mawira: Madam Temporary Speaker, I think at this point I will invite the Senate to make a necessary conclusion.

Governor, you can turn with me to Page 295 of our volume two. My first question, Governor is, whose responsibility is it, by law, to appoint chief officers? Is it your responsibility to appoint chief officers?

Gov. Kawira Mwangaza: No.

Mr. Boniface Mawira: By law, whose responsibility is it to appoint chief officers?

Gov. Kawira Mwangaza: The County Public Service Board.

Mr. Boniface Mawira: Governor, maybe I can clarify there. The position of the law if you check Section 45 of the County Governments Act, is that the Governor appoints chief officers on recommendation of the County Public Service Board (CPSB).

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: The CPSB advertises, shortlists, interview and then submit names.

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: In fact, in your case, they submitted three names for every department to the Governor for formal appointments. Correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: So, who does the actual appointment? Is it the Governor?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: So, let us go to the document at Page 295, now that you agree that it is a governor who formally appoints Chief of Staff as by law. You will then agree with me, Governor, that the document at Page 295 emanates from your office.

It is signed by the County Secretary for H.E the Governor and it communicates your decision as Governor to appoint certain individuals as Chief of Staff, some in acting capacity and some in substantive positions. Correct?

Gov. Kawira Mwangaza: Counsel, I would like you to ---

Mr. Boniface Mawira: It is a yes or no question, Governor, so that we move.

Gov. Kawira Mwangaza: It is not.

Mr. Boniface Mawira: So, you have not appointed these persons?

Gov. Kawira Mwangaza: I have not appointed them.

Mr. Boniface Mawira: Okay. I will refer you then to officer No. 1 - Naomi Kamunde, that is appearing--- Can you read aloud what the document states at No.1?

Gov. Kawira Mwangaza: I want to read from slightly above No.1

Mr. Boniface Mawira: Okay, you can start there then.

Gov. Kawira Mwangaza: Redeployment.

Mr. Boniface Mawira: Okay. Redeployment, go ahead or maybe your assistant can read for you.

Gov. Kawira Mwangaza: In order to improve on efficiency and effectiveness in the service delivery, the following changes have been agreed upon –

“Naomi Kamunde, to move from the Office of the Governor, Directorate of Protocol, to perform functions of Chief Officer in the Office of the Governor, awaiting substantive Chief Officer.”

Mr. Boniface Mawira: So, by this letter, Naomi Kamunde is to move from the Office of the Governor, correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: And perform the functions of a chief officer, awaiting a substantive chief officer, correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: We have agreed that the power to appoint chief officers resides in you as a Governor.

Gov. Kawira Mwangaza: Is that appointment?

Mr. Boniface Mawira: No. We have agreed that the power to appoint resides in you as the Governor, correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: Is it your position that in appointing Chief Officers in acting capacity, the Governor need to consult the County Public Service Board (CPSB)?

Gov. Kawira Mwangaza: In this case---

Mr. Boniface Mawira: No, it is a yes or no question, Governor. Is it your position that in appointing Chief Officers in acting capacity, the Governor need not to consult the CPSB? Is that your evidence?

Gov. Kawira Mwangaza: Who has signed this document?

Mr. Boniface Mawira: Madam Temporary Speaker, I think at this point, I will seek your protection, may the witness answer the question.

The Temporary Speaker (Sen. Mumma): Hon. Governor, just answer the questions.

Mr. Boniface Mawira: Is it a yes?

Gov. Kawira Mwangaza: Repeat it.

Mr. Boniface Mawira: Is it your evidence that in appointing chief officers, in whatever capacity whether substantive or acting, the Governor need not to consult the CPSB? Is that your evidence?

Gov. Kawira Mwangaza: When appointing a new Chief Officer.

Mr. Boniface Mawira: It is your evidence that when appointing a chief officer in acting capacity, the Governor need not to consult the CPSB? That is your evidence.

Gov. Kawira Mwangaza: The County Secretary also has the powers.

Mr. Boniface Mawira: By which law? Show me the law. I am willing to be persuaded, Madam Governor. What law allows the County Secretary to appoint Chief Officers in whatever capacity?

Gov. Kawira Mwangaza: Not to appoint but to redeploy.

Mr. Boniface Mawira: The question is not on the deployment but on appointment. Turn with me to Page 335. What document is on Page 335?

Gov. Kawira Mwangaza: Advisories on transfers and appointments. This is an advisory.

Mr. Boniface Mawira: An advisory by the CPSB.

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: At paragraph two, just read aloud what the CPSB has advised all Chief Officers, because this is an internal memorandum, through the County Secretary, who is the Head of Public Service.

Gov. Kawira Mwangaza: The CPSB have advised the County Secretary and the Head of Public Service but not the Governor of Meru.

Mr. Boniface Mawira: Okay, but we agreed that it is the function of Governors to appoint Chief Officers at Section 45?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: Okay. Go ahead and read it.

Gov. Kawira Mwangaza: There is no advisory by the county Government or the CPSB to the Governor.

Mr. Boniface Mawira: I agree with you on that. However, I am asking you to read paragraph two, or do I read it aloud for you to agree?

Gov. Kawira Mwangaza: No, I should read it.

Mr. Boniface Mawira: Okay.

Gov. Kawira Mwangaza: It reads-

“This is advisory to the County Secretary and the Head of Public Service with respect to the establishment of offices appointment, including acting appointments to all levels of staff. Please, note that it is the sole statutory responsibility of the CPSB as guided by Sections 59 (1) (a) and (b), 63 and 64 of the County Governments Act, 2012, read together with Section 34, Act, 2017 and Section 16 and 23 of the Public Service Commission (PSC) Regulations, 2020. Any other appointments done outside this is deemed null and void.”

Mr. Boniface Mawira: The CPSB says that, all appointments including acting appointments at all levels of staff is by law and the laws are quoted there. It is the sole statutory responsibility of the Board. Correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: Could you or your county secretary in the document on page 295 and 296 purport to appoint chief officers in acting capacity or substantive capacity? Were you within the law in purporting to do so? That is my question.

Gov. Kawira Mwangaza: I am not the one that did this. The letter is clearly signed by the County Secretary.

Mr. Boniface Mawira: Governor, the letter is signed by the County Secretary for who? For the Governor. The appointment is issued on the letterhead of the Office of the Governor at page 295. The top of the page indicates the Office of the Governor.

Gov. Kawira Mwangaza: The letterhead for all the offices in my office have Office of the Governor and not this specific one.

Mr. Boniface Mawira: No problem but this one specifically is the Office of the Governor.

Gov. Kawira Mwangaza: Yes, Madam Temporary Speaker.

Mr. Boniface Mawira: Is the County Secretary---

The Temporary Speaker (Sen. Mumma): Counsel, sorry to interrupt. I would like to alert all parties of the timelines that we are going to follow and we are going to strictly adhere to this-

The cross-examination will end at 7.10 p.m. without any extra minute.

The re-examination will start from 7.10 to 7.30 p.m.

The clarification by Senators will start from 7.30 to 7.50 p.m.

Then we will have the closing statement on behalf of the County Assembly for 60 minutes from 7.50 p.m. to 8.50 p.m.

Then the closing statement on behalf of the Governor for 60 minutes from 8.50 p.m. to 9.50 p.m.

From 9.50 p.m. to 10.00 p.m., we will have an in-camera session and the Senate will then have debate on the Motion and Division between 10.00 p.m. and 11.50 p.m.

This is to alert you that you bear that in mind. Thank you.

Mr. Boniface Mawira: Very well, Madam Temporary Speaker. We are guided accordingly.

Governor, back to the question. The specific letter on page 295 is issued on the letterhead of the Office of the Governor and we have agreed that the Governor is the

appointing authority for chief officers. Is the County Secretary a staff in the Office of the Governor?

Gov. Kawira Mwangaza: The County Secretary is a member of staff in the County Government of Meru.

Mr. Boniface Mawira: You will agree with me that the County Secretary is the Head of the Public Service and is therefore not a staffer in the Office of the Governor.

Gov. Kawira Mwangaza: Yes, Madam Temporary Speaker.

Mr. Boniface Mawira: In as much as you may want to say that the County Secretary was signing on your behalf, he is not a staffer in your office?

Gov. Kawira Mwangaza: The County Secretary has signed the letter for the Governor.

Mr. Boniface Mawira: Though he is not a staffer in your office. Governor, turn with me to page 384 of our Volume 2, under paragraph 4 – the response by the County Public Service Board (CPSB) to the Clerk of the County Assembly. You will agree with me that in that response, the CPSB states:

“The Board is the appointing authority according to Section 64 of the County Governments Act.”

Gov. Kawira Mwangaza: That is not disputed.

Mr. Boniface Mawira: The Board however was not involved in the appointment of the acting chief officers as per the Act. That is apparent on the face of the documents. Do you agree?

Gov. Kawira Mwangaza: I am not the one that was writing to them.

Mr. Boniface Mawira: However, you agree that what is what the Board says. That is obvious.

Gov. Kawira Mwangaza: That is according to the letter.

Mr. Boniface Mawira: The CPSB disowns your appointment and says that the appointment of the 17 chief officers, whom you have appointed on the 23rd of August, most in acting capacity, was done without its involvement. Correct? Governor, it is a yes or no question so that we move.

Gov. Kawira Mwangaza: Counsel, the role of the Board is to give advisory to the Head of the CPSB.

Mr. Boniface Mawira: The role of the Board is to recommend appointments to you so that you appoint. The powers reside in you and not the County Secretary. Governor, we agree on that. The Board disowns those appointments and says that you did not consult them in making the appointments, you, specifically because you are the appointing authority.

Gov. Kawira Mwangaza: I specifically did not appoint any person.

Dr. Muthomi Thiankolu: Madam Temporary Speaker, we are constrained to seek your directions because the rules of cross-examination are that, a witness answers questions and does not tell stories. The reason we seek your direction and perhaps, invocation of your powers and relevant Standing Orders is that we believe this witness is engaging in an altercation knowing very well our time is limited, so that we do not have the opportunity to put to her all the relevant questions that we need to put.

The Temporary Speaker (Sen. Mumma): Hon. Governor, please answer the questions as asked.

Gov. Kawira Mwangaza: Counsel, I have never appointed any of these---

The Temporary Speaker (Sen. Mumma): Hon. Governor, just hold on. Counsel, can you ask the question and can she answer it?

Mr. Boniface Mawira: My question is, the CPSB has disowned your appointments.

Gov. Kawira Mwangaza: Not my appointments.

Mr. Boniface Mawira: Who is the appointing authority?

Gov. Kawira Mwangaza: The person who has signed here.

Mr. Boniface Mawira: Governor, are you saying that you have abdicated your roles as governor and delegated your authority to appoint to the County Secretary?

Gov. Kawira Mwangaza: I have not delegated.

Mr. Boniface Mawira: So, who appointed these officers? Is it you or the County Secretary?

Gov. Kawira Mwangaza: The County Secretary.

Mr. Boniface Mawira: Governor, you are telling this honourable House that as Governor, you can delegate your statutory authority to appoint the chief officers. Madam Temporary Speaker, just a moment.

Turn to our volume two, the small bundle with a green cover. I want to show you the appointment of county chief officers. Governor, Section 45 reads as follows-

“45. Appointment of county chief officers

(1) Whenever a vacancy arises in the office of a county chief officer, the respective governor shall within fourteen days -

(a) nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board; and,

(b) with the approval of the county assembly, appoint county chief officers.”

Governor, that is the law. Do you agree with that?

Gov. Kawira Mwangaza: Counsel, I agree.

Mr. Boniface Mawira: Very well. Have you presented a valid authority before this House to show that you could validly delegate your authority to your County Secretary to appoint the chief officers on your behalf? Is there an authority from your documents? Just point to the authority.

Gov. Kawira Mwangaza: Madam Temporary Speaker, let me explain.

Mr. Boniface Mawira: Is there an authority, yes or not?

Gov. Kawira Mwangaza: These acting chief officers are directors in the same office---

The Temporary Speaker (Sen. Mumma): Madam Governor, they want a yes or no answer. Just answer whether you delegated or not.

Gov. Kawira Mwangaza: No one has been sourced from outside. These are directors at acting capacity awaiting substantive recruitment.

Mr. Boniface Mawira: Madam Temporary Speaker, I will leave the Senate to draw a conclusion on that question.

Governor, turn with me to page 68 of our volume two. For purposes of clarity, in examination in chief, you stated that you did not travel to China.

Gov. Kawira Mwangaza: I never travelled to China.

Mr. Boniface Mawira: Did you seek clearance to travel to China?

Gov. Kawira Mwangaza: Yes, I did.

Mr. Boniface Mawira: However, you did not travel?

Gov. Kawira Mwangaza: Yes, Madam Temporary Speaker.

Mr. Boniface Mawira: The question is the persons in the letter signed by the County Secretary makes reference to 'following the invitation to the Governor of Meru County, the following technical team'. The wording is technical team, correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: Turn to page 86. We can see your name listed in that letter as part of the persons who were supposed to travel to China though you never did. Correct?

Gov. Kawira Mwangaza: Yes, I never did.

Mr. Boniface Mawira: Governor, in your defense, your relatives travelled as part of an advance team, yet in the letter on 5th June, 2023, we see that you tried to obtain clearance on the same day.

Were they travelling as part of an advance team of another team that was supposed to come if you are in the same letter with them seeking clearance? Is that defense consistent with what we see in page 86?

Gov. Kawira Mwangaza: Yes. Madam Temporary Speaker. It is.

Mr. Boniface Mawira: Fair enough. Governor, on page 87, we see Mr. Nephath Kinyua Meme whose title is designated as the Director Internal for Linkages. Correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: In your testimony, you said that he was an office administrator in the office of the Governor.

Gov. Kawira Mwangaza: Yes. He later moved to act as a Director Internal Linkages.

Mr. Boniface Mawira: Later moved to?

Gov. Kawira Mwangaza: Acting Director External Linkages.

Mr. Boniface Mawira: Was he competitively recruited by the Board in order for him to act?

Madam Temporary Speaker, let me rephrase that. Was he formally appointed by the County Public Service Board (CPSB) in order for him to act as the Director Internal Linkages? Yes, or No.

Gov. Kawira Mwangaza: He was an employee of the county government---

Mr. Boniface Mawira: Was he formally appointed by the CPSB in that acting capacity?

Gov. Kawira Mwangaza: By the CPSB?

Mr. Boniface Mawira: Yes

Gov. Kawira Mwangaza: No.

Mr. Boniface Mawira: He was not?

Gov. Kawira Mwangaza: By the County Secretary.

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Mr. Boniface Mawira: The advisory by the CPSB that I have just shown you in our bundle, it says that all appointments whether acting or substantive in all levels of the County Public Service are the exclusive statutory responsibility of the CPSB. Is that not a violation of the law, Governor?

Gov. Kawira Mwangaza: It depends on the County Secretary---

Mr. Boniface Mawira: Does it depend on the County Secretary or what the law says? Is it a matter of discretion or compliance with what the law says?

Gov. Kawira Mwangaza: The County Secretary cannot do this minus any law guiding them to do this.

Mr. Boniface Mawira: What is the law that supports your position?

Gov. Kawira Mwangaza: That is why I want one to two minutes to get exactly why the County Secretary has power to have a director act for some few months awaiting substantive recruitment of a Chief Officer (CO).

Mr. Boniface Mawira: Madam Temporary Speaker, I leave the Senate to draw the necessary conclusion in the interest of time. Governor, I refer you to the screenshots from pages 149, Volume 2. In your defense, you state that you are the foremost peacemaker in Meru County. Correct?

Gov. Kawira Mwangaza: Yes. I am.

Mr. Boniface Mawira: The foremost peacemaker?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: The time stamp appearing on the screen grab at page 149 is on 20th May, 2023. Correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: It was long before the impeachment Motion was tabled?

Gov. Kawira Mwangaza: It depends.

Mr. Boniface Mawira: Between May and 16th October, 2023, its roughly four months. Correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: 20th May, 2023 is before the videos you played here of parties withdrawing their support from you. Correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: In this page, Governor, we see your Chief of Staff removing the Deputy Governor from this *Whatsapp* Group. The screenshots have been provided by the Deputy Governor for your information. Do you agree? At least, you are a member of that group and you saw that, correct?

Gov. Kawira Mwangaza: I am a member.

Mr. Boniface Mawira: Who are the other members of that group?

Gov. Kawira Mwangaza: They are so many members. I do not know the number.

Mr. Boniface Mawira: Does it include members of the public?

Gov. Kawira Mwangaza: Yes. Madam Temporary Speaker.

Mr. Boniface Mawira: As per your defense, at page 155, in the other group, we saw Mr. Mutia, the Chief of Staff remove the Deputy Governor from this group, which was on May 27th. Correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: In the interest of time, I will refer you to page 160. This is a screen grab of your message about “*Kuchoma jeshi la jua*” referred to you by your counsel. Correct?

Gov. Kawira Mwangaza: Yes.

Mr. Boniface Mawira: The most disturbing message on page 163, a transcript which is on page 446, volume two. Governor, when you said that the Deputy Governor mobilized “few *walevi*”. Can you read that message aloud?

Gov. Kawira Mwangaza: Yes, I can see the message.

Mr. Boniface Mawira: I want you to read it out loud.

Gov. Kawira Mwangaza: I can see that it is Mr. Gitobu Nkanata, who has copy pasted again---

Mr. Boniface Mawira: Kindly turn to page 163 where it is Gov. Mwangaza.

Gov. Kawira Mwangaza: Page 163. Where is Gov. Mwangaza here?

Mr. Boniface Mawira: At the top. That is your message, Governor.

Gov. Kawira Mwangaza: Okay “The Deputy Governor mobilized few *walevi*” --
- should I continue?

Mr. Boniface Mawira: Kindly, continue.

Gov. Kawira Mwangaza: *Bamwe bagachua uria bakamia mbira ya bokando, ukabaigwa.*

Mr. Boniface Mawira: Okay. What did you mean by those words?

Gov. Kawira Mwangaza: I meant that the Deputy Governor mobilized few *walevi* as you saw in the video clip---

Mr. Boniface Mawira: I did not see but go on. Kindly, proceed Governor. I am not the witness.

Gov. Kawira Mwangaza: I said that some will try to see things easy according to the proverb and they will get hard way---

Mr. Boniface Mawira: Pardon?

Gov. Kawira Mwangaza: They will get it the hard way.

Mr. Boniface Mawira: Madam Temporary Speaker, the correct translation is on page 446. I will not spend much time on it. It seems the Governor will not---

Gov. Kawira Mwangaza: It is a proverb. In the real sense, how do you have *mbira*---

Mr. Boniface Mawira: There is no harm, Governor. This was before that video by the Deputy Governor---

Gov. Kawira Mwangaza: No.

Mr. Boniface Mawira: When was the message written?

Gov. Kawira Mwangaza: It was after.

Mr. Boniface Mawira: Governor, we can follow through all the way from May 20th to 27th when the Deputy Governor was removed from the group. The video we played here by the Deputy Governor was from 20th September, 2023.

Gov. Kawira Mwangaza: In this *WhatsApp* Group, you get a message and you repost again using the same message.

Mr. Boniface Mawira: Are you saying you reposted this message after 20th September, 2023?

Gov. Kawira Mwangaza: No, not myself but Mr. Gitobu Nkanata.

Mr. Boniface Mawira: Governor, it is your message. I am not concerned with the message from Mr. Gitobu Nkanata. I am talking about your message. After 20th September, 2023, you still reposted this message despite having posted it before.

Gov. Kawira Mwangaza: This was after the verification by the Deputy Governor.

Mr. Boniface Mawira: You are saying you have posted this message twice?

Gov. Kawira Mwangaza: Not after the verification.

Mr. Boniface Mawira: You cannot have it both ways, Governor. Governor, turn to page 170 where you refer to the Deputy Governor. Read the message aloud.

Gov. Kawira Mwangaza: “They want him to recover what? Ntochiu invested every – *kuweka jina kwa* ballot paper is an investment worth CECM Finance. Ungratefulness is a curse. Results come in after.”

Mr. Boniface Mawira: Governor, so that I move away from that issue, the message on page 174 where you malign your deputy and the message on page 176---

Gov. Kawira Mwangaza: What about this one I have just read?

Mr. Boniface Mawira: The messages on page 179 are all inconsistent with the theme that you are the foremost peacemaker in Meru County. True or false?

Gov. Kawira Mwangaza: False.

Mr. Boniface Mawira: Madam Temporary Speaker, at this point, I request the secretariat to play a video in support of count three. Video number 3A.

The Temporary Speaker (Sen. Mumma): Counsel, which video?

Mr. Boniface Mawira: Video number 3A. I request that my time be stopped as they prepare.

The Temporary Speaker (Sen. Mumma): Technical staff, what is happening? Did you say 3A?

Mr. Boniface Mawira: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Is there a problem with 3A? Counsel, proceed to another question as they prepare.

Mr. Boniface Mawira: Madam Temporary Speaker, on this point, I wanted the videos to be played in quick succession in the interest of time so that I ask questions after all four videos have been played.

The Temporary Speaker (Sen. Mumma): Who submitted the videos? Is it in a flash disc?

Mr. Boniface Mawira: Madam Temporary Speaker, we submitted three flash discs.

The Temporary Speaker (Sen. Mumma): Technical staff, this is a clip from the County Assembly. Which flash disc is it in?

Mr. Boniface Mawira: Madam Temporary Speaker, I do not remember the model.

The Temporary Speaker (Sen. Mumma): The team from the County Assembly, kindly assist.

Mr. Boniface Mawira: Madam Temporary Speaker, it is in a folder labelled as ‘videos in support of count three’. Inside the folder, is video 3A.

The Temporary Speaker (Sen. Mumma): Technical team, are you able to get that?
(A video clip was played)

Mr. Boniface Mawira: Madam Temporary Speaker, I request that video number 3B be played.

The Temporary Speaker (Sen. Mumma): Is that the video?

Mr. Boniface Mawira: Yes, I want all the videos to be played, then I can pose the questions.

(A video clip was played)

The Temporary Speaker (Sen. Mumma): Proceed to play video clip 3B.

Mr. Boniface Mawira: Madam Temporary Speaker, I request that video number 3C be played. I am strained for time.

The Temporary Speaker (Sen. Mumma): Okay, proceed to play video clip 3C.

(A video clip was played)

Mr. Boniface Mawira: Madam Temporary Speaker, I request that video number 3D be played. This is the final video.

The Temporary Speaker (Sen. Mumma): Okay, proceed.

(A video clip was played)

Mr. Boniface Mawira: You can pause at that. The relevant transcripts for the first video are at page 446. For the last video, which is in Meru language, it is at page 448 to 449.

Madam Governor, is the Governor that we see on that video as meek, calm and the victimized Governor we see here today?

(Laughter)

What is your answer?

Gov. Kawira Mwangaza: She is meek.

Mr. Boniface Mawira: The Governor you see on that video is not bullish, she is very meek. That is your evidence?

Gov. Kawira Mwangaza: How do you term bullish?

Mr. Boniface Mawira: Very well. I think I will just leave it at that. In the last video, who is *Kakobia*? Whom do you refer to when you say *Kakobia*? Is it not the Deputy Speaker of this Hon. House?

Gov. Kawira Mwangaza: I have not mentioned anyone.

Mr. Boniface Mawira: I am asking whom you referred to. Not his name but whom were you referring to?

Gov. Kawira Mwangaza: We have so many *tukofias* in Meru.

Mr. Boniface Mawira: Very well. Madam Governor, there is a work ticket that has been used 17 times. I do not have time to show you the work ticket. I will just refer you to the page numbers. Work ticket No.874 was used 17 times in total in January, February, March and April. This work ticket has been used on pages 104, 118, 129, 138 all the way to page 327.

Governor, may I remind you that you told us that you do not have the original surrender documents. Is it possible that a work ticket can be used for a trip in January; and money, which you call imprest, was paid? It was used in February, March and April over a span of four months. Logically, is it possible?

Gov. Kawira Mwangaza: Counsel, as I answer your question---

Mr. Boniface Mawira: Is it possible? It is a yes or no answer question.

Gov. Kawira Mwangaza: Out of the 600 vehicles we have in Meru County, is the Governor supposed to verify work tickets for every vehicle?

Mr. Boniface Mawira: Madam Governor, you provided these documents in your own bundle of documents, to justify the payments that have been made to your sisters, yet you seem unable to explain. You have used one work ticket 17 times. My question is; do you intend that work ticket be used to justify the payments that you made to your sisters? Yes or no?

Gov. Kawira Mwangaza: I am not aware of the work ticket. It has been photocopied for the purpose of this impeachment.

Mr. Boniface Mawira: Very well. Madam Temporary Speaker, I believe I have six minutes left. I will yield them to my colleague, Mr. Muriuki.

Mr. Eric Muriuki: Madam Temporary Speaker and Hon. Senators, my name is Muriuki. I shall continue from where my colleague left.

To save time, I will refer to page 409 of our volume two. Are you there?

Gov. Kawira Mwangaza: Yes.

Mr. Eric Muriuki: Confirm that, that is the official County *Facebook* page.

Gov. Kawira Mwangaza: Yes.

Mr. Eric Muriuki: Confirm that the post made therein is dated 4th March.

Gov. Kawira Mwangaza: Yes.

Mr. Eric Muriuki: Confirm that it is a post regarding the traffic marshalls.

Gov. Kawira Mwangaza: Yes.

Mr. Eric Muriuki: I will also ask you to look at page 411 of Volume 2. Confirm that that is your *Facebook* page.

Gov. Kawira Mwangaza: Yes.

Mr. Eric Muriuki: You are talking about the traffic marshalls?

Gov. Kawira Mwangaza: Yes.

Mr. Eric Muriuki: Still on page 392 of Volume 2, are you there? The CPSB---

(Governor Kawira flipped the pages of the document)

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Please, save my time. I do not have much of it. Are you there?

Gov. Kawira Mwangaza: Yes.

Mr. Eric Muriuki: The Board has not employed any traffic marshalls in the County Public Service. That is item No.1.

Gov. Kawira Mwangaza: It has not employed traffic marshalls.

Mr. Eric Muriuki: That is page 392. Can you see Item No.1?

Gov. Kawira Mwangaza: Yes.

Mr. Eric Muriuki: On pages 409 and 411, we see you appointing traffic marshalls and the Board denying that appointment on page 392. That is correct. Right?

Gov. Kawira Mwangaza: Yes, but we have not---

Mr. Eric Muriuki: Thank you. Now, I will refer you to our Volume 4, page 150.

The Temporary Speaker (Sen. Mumma): Counsel, you will have to hurry up. You hardly have any minute.

Mr. Eric Muriuki: Madam Temporary Speaker, I would like to beg your indulgence, remembering that the secretariat took quite a number of minutes trying to get the videos. I humbly request that you accord me just five more minutes and I will be done.

The Temporary Speaker (Sen. Mumma): Counsel, I will accord you three minutes to make up. You might also want to expedite when you are guiding.

Mr. Eric Muriuki: Page 150, Volume 4, on the third paragraph, you will confirm that that is an extract of the HANSARD of Meru County Assembly. Hon. Senators can also confirm.

Governor, you will confirm that your advocate, on record for that day, admitted that you appointed the traffic marshalls since they were in your manifesto? That is the third paragraph. I have underlined the relevant part. Can you please read for us the underlined part?

Gov. Kawira Mwangaza: The voters in Meru accepted the manifesto of boda bodas and the marshalls were part of the manifesto that swayed the voters in Meru. They elected the Governor based on that manifesto. They did not elect the others who did not mention boda bodas.

A mandate is derived from the manifesto. That is why a manifesto as an independent candidate---

Mr. Eric Muriuki: Thank you. That makes my point.

The next page at page 52, please, confirm that on that page, through your counsel on record on that day you admit that you have not assigned any duties to your Deputy and therefore your Deputy should not be paying any bills or asking for any budgetary allocation.

Gov. Kawira Mwangaza: The Deputy Governor is paying his bills. He has not been assigned duties by the Governor. Why is he paying; to do which duties? Which bills is he paying because we have four types of bills?

Mr. Eric Muriuki: Thank you. Which duties has he been assigned? That is what your counsel asked on record asked.

My final question, I will refer you to page 339 of our Volume 2---

The Temporary Speaker (Sen. Mumma): Counsel, please, wind up.

Mr. Eric Muriuki: Madam Temporary Speaker, this is the final question. Page 339, volume two.

The Temporary Speaker (Sen. Mumma): Counsel, your time is up.

Mr. Eric Muriuki: My final question. I was waiting for the Governor to get the page.

On that page, who has made that post?

Gov. Kawira Mwangaza: It is me.

Mr. Eric Muriuki: Owning the changes in the saga that is the Liquor Board and the Revenue Board more specifically. Is that correct?

Gov. Kawira Mwangaza: Press release.

Mr. Eric Muriuki: It was from you. Therefore, Madam Governor, you cannot run away from the letters on pages 336, 337 and 338, on the same volume, which send these officers on compulsory leave with full payment that you have already owned in your own press release. Am I right?

Gov. Kawira Mwangaza: You are not right.

Mr. Eric Muriuki: Thank you, Madam Temporary Speaker. I am done.

The Temporary Speaker (Sen. Mumma): As the team for the County Assembly prepares for re-examination, we will be strict with time.

*(Interruption of presentation of the case of
the Meru County Governor)*

COMMUNICATION FROM THE CHAIR

STATE OF THE NATION ADDRESS TO PARLIAMENT
BY HIS EXCELLENCY THE PRESIDENT

The Temporary Speaker (Sen. Mumma): Hon. Senators, I have a Communication to make on the address to Parliament by His Excellency the President, pursuant to Article 132(1)(b) and (c) of the Constitution.

Hon. Senators, as you may recall on a sitting of the Senate held on Thursday, 2nd November, 2023, I communicated the request by His Excellency the President to deliver his inaugural Address to Parliament in accordance with Article 132(1)(b) and (c) of the Constitution.

This is therefore to remind you that His Excellency the President will deliver his inaugural State of the Nation Address to Parliament during a Joint Sitting of the Houses of Parliament tomorrow, Thursday, 9th November, 2023 at 2.30 p.m. in the National Assembly Chamber.

Hon. Members, to ensure a smooth flow of motor traffic and to ensure that preparations towards facilitation of this event are well carried out; parking for Members of Parliament has been reserved at the COMESA parking lot in KICC and the parking lot next to the County House on Parliament Road.

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All vehicles parked around main Parliament Buildings, that is the rear gate, canteen area, parliamentary courtyard and the Senate Parking should be removed by close of business today, Wednesday, 8th November, 2023. Your cooperation on this matter is highly appreciated.

I thank you.

Now, to the County Assembly team, you have 20 minutes for re-examination. If you take 15 minutes, we will be grateful.

*(Resumption of presentation of the case of
the Meru County Governor)*

Mr. Elias Mutuma: Thank you, Madam Temporary Speaker. I will do it in less than 15 minutes.

Let us begin with where you have left off on the Facebook post regarding the changes in the Liquor Board. You have been told that you bear the responsibility of sending those individuals on compulsory leave because of your Facebook post--- Are you looking at your Facebook post? Do you have the page with you?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Madam Governor, why did you make that post? Is it because you had been part and parcel of the process of sending the employees on compulsory leave?

Gov. Kawira Mwangaza: No.

Mr. Elias Mutuma: Why did you make that post confirming the changes that had occurred?

Gov. Kawira Mwangaza: I was notified that pending investigation by EACC, the County Secretary had sent on compulsory leave the people mentioned here. Upon receiving the communication, we also said that we had appointed some people to hold the office pending investigations.

So, I posted it and you can see clearly that it is a press release that was given by the County Secretary for me to release.

Mr. Elias Mutuma: So your simple answer is that you communicated that which had been done by the County Secretary?

Gov. Kawira Mwangaza: Yes, and this is the former County Secretary who was there in the second regime.

Mr. Elias Mutuma: Confirm to us that this was barely a week after you were sworn in office.

Gov. Kawira Mwangaza: Yes, barely a week.

Mr. Elias Mutuma: Did you have any particular reason or any grudges to send these individuals for compulsory leave?

Gov. Kawira Mwangaza: No. According to the County Secretary, they had issues to do with the investigation.

Mr. Elias Mutuma: Thank you. A lot of hullabaloo has been advanced in respect of what you say to be the appointment of officers in an acting capacity. To the best of your knowledge, the letter that you have been shown on page 335, is it a letter of appointment?

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Gov. Kawira Mwangaza: No,

Mr. Elias Mutuma: What is it?

Gov. Kawira Mwangaza: Advisory on transfers and appointments.

Mr. Elias Mutuma: Confirm to us that advisory is from the County Public Service Board (CPSB) to Chief Officers not to the Governor.

Gov. Kawira Mwangaza: It is from CPSB to Ag. Chief Officer Meru Public Service Board and to Chief Officers.

Mr. Elias Mutuma: So, the advisory is targeting Chief Officers?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: I want you to read the first paragraph of that letter so that we understand the import of your---

Gov. Kawira Mwangaza: Reference is made to a memo Ref CGM/CS/IM/3/3 286 of 6th December, 2022. This advisory is to emphasize the message by the County Secretary that the arbitrary transfers without due consultation with the County Secretary office is discouraged at all times.

Mr. Elias Mutuma: So, then, it is pursuant to a previous advisory by the County Secretary targeting Chief Officers?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Proceed.

Gov. Kawira Mwangaza: Transfers and redeployment should not be done as a form of reprimand. Staff transfer should address issues such as staff service balance, leave and staff development among other positive reasons as guided by Section 43---

Mr. Elias Mutuma: So then, it cannot be said that that advisory was targeting the Governor or the County Secretary because the advisory was from the County Secretary himself.

Gov. Kawira Mwangaza: Yes, I can see it is from the Ag. County Executive Committee Member (CECM), Meru CPSB acting. as County Secretary to all Chief Officers.

Mr. Elias Mutuma: So it is Chief Officers who are discouraged from those kinds of deployments without consultation with the County Secretary. That cannot bar the County Secretary from exercising his right.

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: We have also been told that the letter appearing at Page 295 is a letter of employment. To the best of your understanding, what is the title of that letter?

Gov. Kawira Mwangaza: Redeployment.

Mr. Elias Mutuma: What is your understanding of redeployment?

Gov. Kawira Mwangaza: Taking one person from one department to another or from one duty to another.

Mr. Elias Mutuma: Is employment done for many persons in one letter or it is done individually if it were really unemployment?

Gov. Kawira Mwangaza: This is done for so many people in one letter.

Mr. Elias Mutuma: Is any of those people a new person that is not yet working with the County Government of Meru?

Gov. Kawira Mwangaza: All of them have been working since 2015, 2016 as Directors and other senior officers in the County Government of Meru.

Mr. Elias Mutuma: Is there anywhere the salaries or remuneration of those persons is mentioned?

Gov. Kawira Mwangaza: No.

Mr. Elias Mutuma: Normally, a letter of employment would have their salaries and the terms of reference?

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: Does that appear anywhere in that?

Gov. Kawira Mwangaza: It does not appear.

Mr. Elias Mutuma: In your evidence, does that amount to employment?

Gov. Kawira Mwangaza: It does not.

Mr. Elias Mutuma: Is there anything that bars the County Secretary from making changes within interdepartments within the county government?

Gov. Kawira Mwangaza: Nothing bars the County Secretary from doing redeployment.

Mr. Elias Mutuma: You have been referred to what is now being said to be monies that were not accounted for. Counsel took you to Page 13 of their documents to indicate that monies appearing in the IFMIS were not accounted for. The total amount is said to be Kshs2.7 million that were allegedly paid to Rose Kinyua Guantai.

Gov. Kawira Mwangaza: Yes.

Mr. Elias Mutuma: That is the line of cross-examination. Confirm to us that this document that appears from page 1 all through to page 16 does not portray the IFMIS extract but a mere complaint by one Salesio Mutuma.

Gov. Kawira Mwangaza: This is a mere complaint by Thurania Salesio Mutuma.

Mr. Elias Mutuma: The table that bears the total of Kshs2.7 million is not from the IFMIS extract. Is that not it?

Gov. Kawira Mwangaza: It is not from the IFMIS extract.

Mr. Elias Mutuma: Thank you. When you look at the charges that you faced, was there anywhere where any specific amount was mentioned that was received by any of the people termed as your relatives that you were supposed to explain why they received such money? Specifically figures.

Gov. Kawira Mwangaza: No specific figure.

Mr. Elias Mutuma: Thank you. That will be all for this witness, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Thank you so much.

Mr. Elias Mutuma: Perhaps, I can ask just one question with your leave Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Okay.

Mr. Elias Mutuma: Thank you. Governor, what would you plead the Senate to do having heard the case from the County Assembly having given your evidence? What is it that you ask this Hon. House to do for you?

Gov. Kawira Mwangaza: Madam Temporary Speaker, I humbly request this Honourable House, a constitutional house, to see as you have heard all the allegations tabled before me. I am appearing as a third, fourth and fifth party in all these accusations.

It is my humble request that as you sit as judges, I am forced to answer allegations that are done or some issues that do not directly involve the Governor of Meru. In these allegations, there is nowhere that I have signed any document or delegated anywhere to any person via the allegations tabled today before this honourable Senate.

Madam Temporary Speaker, today, I do not count it as an unfortunate day for me because at least the whole world has known the truth. I urge this honourable Senate and Members that as you sit today to consider this matter and give justice.

Thank you.

Mr. Elias Mutuma: Thank you so much. That will be the close of our case.

The Temporary Speaker (Sen. Mumma): Thank you, Counsel. We now move on to clarifications by Senators. I request that we strictly adhere to the 2 minutes so that we give as many Senators an opportunity. We will begin with Sen. Wakili Sigei.

This session will end at 7:50 p.m. as I had said earlier. It is about 20 minutes.

Sen. Wakili Sigei, when done, please, approach the Chair.

Sen. Wakili Sigei: Thank you, Madam Temporary Speaker. Three things trouble me. I will seek three clarifications from the Counsel for the Governor, Mr. Elias Mutuma.

One, I want to get your response, in particular to the allegation with regards to a gentleman by the name of Nephath whose employment history dates back to 2016, employed at Job Group H and in 2023 acted in Job Group R; and the document that we have been given, appearing at page 384 of the County Assembly's bundle from the County Public Service Board (CPSB).

Two, Witness No.3, Mr. Munene Nganata, in paragraph 13 of his affidavit, referred to employees whose position at the time of employment was cleaners. The document which has been submitted as evidence before the House appears on pages 407 and 374. The responses that will clear my mind will probably be the ones coming from you. Based on what Mr. Nganata was asked, his response is not clear to me.

Lastly, your position on a number of videos which entertained this House on oath-taking. On one hand, there was an element of some---

[The Temporary Speaker (Sen. Mumma) left the Chair]

[The Speaker (Hon. Kingi) resumed the Chair]

(Sen. Wakili Sigei's microphone was switched off)

The Speaker (Hon. Kingi): Sen. Osotsi?

Sen. Osotsi: Mr. Speaker, Sir, I direct this clarification to the Counsel for the County Assembly. There seem to be disparities in the document submitted by the County Assembly in relation to the invitation letter to China. The document submitted by the

County Assembly on Page 60 differs in content from the document submitted by the Governor on page 425 of the bigger document of evidence.

However, when you look at the two documents keenly, the document for the County Assembly does not refer to the other assignment the County Government went to do in China, that is, housing and agriculture. However, another document attached on page 68 of the County Assembly bundle confirms that housing and agriculture was one of the functions.

So, my concern, which I want clarification from the Counsel for the County Assembly, is to explain the deviation in the two letters; the letter by the Governor and the letter by the County Assembly and explain to this House which letter is the correct letter to go with.

The Speaker (Hon. Kingi): Counsel for the Governor, proceed to respond to the question that was asked by Sen. Wakili Sigei and then the Counsel for the County Assembly, you will respond to the question raised by Sen. Osotsi.

Mr. Elias Mutuma: In response to Sen. Wakili Sigei's question, my understanding of job grouping is that the position to which a person is appointed then dictates the job group they will fall into. So, one would rise from one job group based on the new position that they have been given.

My understanding is that we have Chief Officers appointed as CECMs, therefore, necessitating the change of their job groups. That would be the simple answer to that question.

I will invite my friend Mr. Mutembei to answer the other question about the cleaners.

Mr. Robert Mutembei: Mr. Speaker, Sir, I want to respond to the question from Sen. Wakili Sigei. The question was asking why some cleaners appear to be categorised as Senior Support Staff in the payslips that have been produced in the bundle of documents by the County Assembly. Notwithstanding the fact that the witness confirmed that their payslips cannot be authenticated, it is the position that cleaners are support staff.

The support staff and cleaners would be categorized as senior support staff based on their salary. If you look at the payslip that has been produced, the one that appears as senior support staff is earning a basic salary of Kshs18,000. That is in tandem with the role of a senior support staff. That would be the simple answer. Thank you.

The Speaker (Hon. Kingi): Proceed, Counsel for County Assembly.

Dr. Muthomi Thiankolu: Mr. Speaker, Sir, the question was as to discrepancies between the letter at page 425 of the Governor's bundle and the letter at page 60 of the County Assembly's bundle.

It is indeed true that there are discrepancies. That is why we have kept telling you that the Governor has forged the documents she has presented to you and here is why –

If you check the document at page 60 of the Assembly's bundle, you will note that it bears the stamp of the County Government and received by the County Government on 25th April. The one that the Governor has produced is not stamped by her own County Government. That is one indication of what we call forging of documents.

Mr. Speaker, Sir, if there is any other doubt, when you go to page 68 of our bundle, the County Secretary when they wrote to the Ministry, attached the letter inviting them to China. The letter that the County Secretary attached is the version that the County Assembly has produced and it is attached at page 69 of our bundle with the same stamp.

It is our submission therefore that the Governor must have forged these documents as we have been saying all along at page 425 of our bundle.

The Speaker (Hon. Kingi): Proceed, Sen. Joe Nyutu.

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir. My question goes to the Governor in relation to Okolea Programme. So, Governor, who funds the *Okolea* Programme? It is in the public domain that the activities of *Okolea* Programme were once banned by the Cabinet Secretary for Interior and National Administration. In your own view, was it banned?

Two, the image that has been portrayed of the relationship between the Governor and the County Assembly Members has been very rosy, especially after the past impeachment proceedings. Governor, where and why did the rain start beating you, as in the relationship between you and the MCA?

Thank you, Mr Speaker, Sir. Those are my questions.

The Speaker (Hon. Kingi): Governor, proceed to respond.

Gov. Kawira Mwangaza: Thank you, Mr Speaker, Sir. The *Okolea* Programme, as I said before, has been there for the last 12 years. It is purely funded by the Baite Family Fellowship, where I am the Bishop. All the offerings we get from the church, the pastors and the members of the church take all the money to buy blankets and mattresses.

I also donate 50 per cent of my salary towards the *Okolea* Programme. It is purely a programme by the church and my family. It is funded by the donation made in our church and my 50 per cent contribution from my salary.

The issue of banning the *Okolea* Programme, just came the other day when we had one at Igembe, where my Deputy Governor incited the youths as you saw in the video. They slaughtered the cow that was supposed to be donated to a poor woman. There were chaos. From that event, the Cabinet Secretary came and said that because of the unrest in Meru, he had to ban the *Okolea* Programme until there is rest in Meru. It was not banned permanently.

Mr. Speaker, Sir, in his own wisdom, he decided and acted, so that we get peace and continue as a church. It is purely a church programme. From the day I left this Senate during the first impeachment, we worked well with the MCAs until the last two months, when external forces were trying to interfere with the leadership because of 2027 politics.

That is the whole truth. As I stand here, I know that the MCAs have no issues with the Governor, apart from the external forces. This is forcing them to cause a lot of confusion in Meru, for those who have decided that they will run for the position of county governor, for them to have space and a route via the deputy governor or showing that Meru does not work.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Kibwana.

Sen. Kibwana: Thank you, Mr. Speaker, Sir. Governor, in the event that the Senate finds, for the second time, that none of the allegations made against you have been substantiated what will happen to Meru County? How do you plan to work with the Deputy Governor because you have stated and accused him of having planned to impeach you and also plotted all the current activities?

Gov. Kawira Mwangaza: Thank you, Mr. Speaker, Sir. I believe prayer works. I will continue to pray for those with a big appetite to become governor for God to lower their appetite so that we have time to work for the people of Meru. Secondly, when we left this place, it took us just a month for us to come together and start working.

It is very possible and doable that we can mend all our differences and put Meru first rather than our own interests. As a woman of God, I will forgive everyone.

The Speaker (Hon. Kingi): Thank you.

Sen. Nyamu.

Sen. Nyamu: Thank you, Mr. Speaker, Sir. I wish to seek clarification from the hon. Governor regarding allegations raised by the counsel for the County Assembly on appointment of chief officers.

Section 42(2) of the County Governments Act states clearly that the office of the chief officer shall be an office in the county public service and at the same time, Section 44(3)(a) of the same Act indicates that the county secretary shall be head of that county public service.

In consideration of these two provisions, do you feel that your mandate about the operations of the chief officer goes only up to nominating and appointing the chief officers on approval by the county assembly?

I thank you.

Gov. Kawira Mwangaza: Thank you, Mr. Speaker, Sir. I would not like to interfere with any office. I believe that is why there is a structure in the Government. The CPSB has its own mandate. The Meru County Secretary has his own mandate provided by the law. It is prudent enough for them to act according to the law.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Oburu.

Sen. (Dr.) Oburu: Mr. Speaker, Sir, I withdraw my question because it is exactly the same as the one Sen. Kibwana has asked about the reconciliation between the governor and her deputy. If she is saved, would she be able to reconcile with her deputy?

The Speaker (Hon. Kingi): Proceed, Sen. Mbugua.

Sen. Mbugua: Thank you, Mr. Speaker, Sir. Governor, having listened to you for two days and the other party and having watched many videos, I would invite you as a Chief Executive Officer (CEO) of the county to Section 192 of the supreme laws of the land. I will read it for you. Article 192(1),

“The President may suspend a county government-

(a) in an emergency arising out of internal conflict, or war”

As a CEO of Meru County, do you think it has reached there, or there is a chance of reconciliation?

I thank you.

Gov. Kawira Mwangaza: Thank you, Mr. Speaker, Sir. I think we have not reached there. By doing that, we will have killed the dreams of young men that are MCAs today. We still have a chance to unite and work together.

The Speaker (Hon. Kingi): Hon. Senators, that wraps up as far as this witness is concerned. Unless I gazette tomorrow as a sitting day, we will certainly overrun the runway.

Looking at the time allocated here, if we lose just a minute, I will have to gazette tomorrow to be a date for us to sit to continue to hear this matter. It is about the time factor. We only have up to midnight.

If I give you an extra 10 minutes, we will have messed it up. That is why I was giving opportunity to Senators who have not spoken a word since we started.

At this juncture, you can have a seat your Excellency, Gov. Kawira Mwangaza.

Gov. Kawira Mwangaza: Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Now we are moving to a different session where we are going to have the closing statements from both sides. Now, each party will be given one hour to make their closing statement. You do not have to utilize the whole one hour. The maximum is one hour.

If you can do less than that, the better, so that we can meet the midnight deadline. Counsel for the Meru County Assembly, the Floor is yours.

CLOSING STATEMENT ON BEHALF OF
MERU COUNTY ASSEMBLY

Dr. Muthomi Thiankolu: Thank you, Mr. Speaker, Sir. As communicated yesterday in my opening remarks, this is the third time we have an impeachment Motion against the Governor of Meru County.

As I kept telling you all through from the time of the first impeachment Motion to date, the Governor's position has been that the problem is everybody's else.

I will use her own words that she is the foremost peacemaker in Meru County even though I recall Sen. Sifuna asking her last year, how do we reconcile the aggressive governor we see in the videos with the meek, humble, vulnerable governor that appears before the Senate?

I heard Sen. Sifuna ask yesterday, how long can we, in good conscience, allow Meru County to be in a perpetual circus of a crisis in which their governor on average, every four months has fallen out with the MCAs and all the elected leaders. This is the same problem now. That time she had also fallen out with the church, now it is with her deputy.

The point I am trying to make is that it cannot be said honestly, that Governor Kawira Mwangaza is being falsely accused, harassed, intimidated and what-not.

I have said many allegories some of which have put me in trouble with the Senate. I will tell you a few more and hope this time I will not fall into trouble.

There is a famous book by Robert Greene, which I am sure many of us here have read called *The 48 Laws of Power*. It describes many world events, leaders, their successes,

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failures, mistakes and whatnot. One of the stories I love in the book and it is relevant to the matter before you, is the event it describes and how it changed world history.

The world would be different today. There would not be a Republic of Kenya. Perhaps Britain and France would not have emerged as superpowers in the 18th and 19th centuries. Perhaps the United States would never have emerged. However, the failure of a leader in antiquity called Cyrus the Great to observe the simple rule of life called, ‘knowing when to stop’.

It is our humble submission that if there was an impeachment Motion in October last year highlighting misconduct of the category before you, the Motion failed because the High Court stopped the Assembly from debating it. The point I am making is, issues were flagged about how the Governor was running Meru County in that Motion. She persisted, as a result of which, a second Motion was tabled and it reached this House.

She was given kind lessons. I recall yesterday citing lessons from Sen. Tobiko, Sen. Thang’wa, and many other Senators.

When we came again, just like today, the look was that of a humble, meek, polite and vulnerable governor. She promised, just as she has promised now – if I recall her words – that Meru will be a shining example in terms of good governance, calmness and everything good.

In the medical world, sometimes they use the word ‘relapsing’ for people with conditions. The Governor, after making that promise and admittedly after the county enjoying a brief moment of honeymoon, relapsed yet again to the very things that were in the first impeachment Motion, the second impeachment Motion and hence the reason we are before you for the third impeachment Motion.

Cyrus the Great, our lesson on leaders - leaders should know when to stop, change tact or turn a new leaf. Of course, we all know Cyrus the Great. He is called “the Great” because he was the great conqueror. He conquered the known world then from Babylon to Median Empire, Achaemenid Empire to Lydian Empire. He was the ruler of the world as it was known then.

He discovered one small country that did not seem to be part of the known world of the people called the Massagetae. Instead of being content, he declared war on this country. For the record, this country was actually led by a woman called Tomyris.

Persia was the super power then. Cyrus assembled his mighty army and led it on the river separating the borderlines of his empire with this small kingdom. He was sent a message telling him; be content with your victory, so far and the fact that you have conquered the world. Please, stand attempt to tolerate seeing me rule my small miserable country with its little resources and small army. Do not attack. He was warned in that letter that if he attacked, nothing good would come from it.

Instead of learning when to stop, Cyrus insisted on a war. Tomyris then told him if you insist on a war, I want peace. I will allow your forces to cross the river without any resistance and we will fight from my side of the border on one condition; that we will fight a conventional war. Cyrus agreed, but because he could not stand another leader enjoying any form of glory, just like our Governor cannot stand an MP, MCA or anyone anywhere else in leadership, she must bring them down.

Cyrus was obsessed with bringing down this little kingdom for no good reason, other than his own vanity and his failure to know when to stop. He pulls a trick. We have seen many tricks on this podium; of a meek, humble and honourable looking Governor. A victim of very many things and whose defense is, “it was not me, it was someone else”.

Cyrus’s trick involved throwing a lavish party and setting up the soldiers of this small kingdom to a drink. While they were inebriated, he massacred them, leaving only a few and took the prince of that other small country as a prisoner of war.

Even after this, the leader of the small country still offered him peace and told him, you broke the rule that it will be a conventional warfare and won by a trick. However, I will still give you another chance to return my son and will still declare peace. Cyrus refused and the son of Queen Tomyris, unable to live with the indignity of being a prisoner of war, committed suicide.

When the people of this small country heard that the Crown Prince had committed suicide, as small, weak and vulnerable as they were, they organized a violent battle in which their army, which was about a hundredth of Cyrus's army, actually won the violent battle and Cyrus himself was killed.

Due to Cyrus's inability to know when to stop, Persia ended up as a superpower and that is how Rome became a dominant country and the world and human civilization as we know it today is based on the Roman civilization. That is why I said that there would have been no Britain, no France, no America, but for the mistake of one leader not knowing when to stop.

Our greatest fear is that the history of Meru may take an irreversible, tragic path. We saw very violent slaughters of animals, threats of slaughtering people and whatnot. As I was telling you, as long as our Governor keeps relapsing to these confrontations, we do not know when things will take a turn for the worst in a manner that is irreversible. Is it fair that the people of Meru live in this state of anxiety? For how long can we subject them to the situation that has now prevailed?

Gov. Kawira Mwangaza will tell you that she knows when to stop. The record is clear. You have seen the videos from our side. You have seen the videos from her side. It is clear that she will not stop. Right now, she will tell you that she will stop because her career is on the line, but we know better; she will not.

Mr. Speaker, Sir, a story is told about a frog and a scorpion and the swollen river. The scorpion could not swim and thus the frog, who is an amphibian and, therefore, capable of crossing the swollen river, decided to assist the frog to cross the river.

The frog tells the scorpion in the story that he will sting me before we are done with crossing and we will both die and drown. The scorpion promised, no, I cannot do that. If I were to sting you while you are carrying me on your back to cross this swollen river, we will both die because it will be mutual destruction. As the Americans and the Russians called it during the Cold War, I have no incentive. There is no rational reason why I would sting you.

The poor frog bought this story just like you are being invited to buy the story – “I will pray for them. I will forgive them. We only need a month.” So, frog took scorpion on his back and started swimming across the river and right in the middle, scorpion hoisted its

tail and stung the frog. Of course, that poison disables the nervous system and the frog could not swim and they both started drowning. Frog asks, ‘why did you sting? You promised that you would not sting and you are also aware by you stinging, we would both be extinguished.’ Scorpion gave frog a simple answer. I stung because it is in my nature to sting.

Mr. Speaker, Sir, we are submitting to you, with all the humility, Kawira Mwangaza keeps relapsing to these violations of the law, Constitution and the vilification. We can call whatever the specifics we want. The reason she keeps relapsing to the same thing is because, like that scorpion in the story, it is in the nature of Kawira to sting.

So, even if you give her another chance, whether it is on account of pity or sympathy, whatever the reason, she will sting again. There are no prophets in my family, but I can tell you, if you forgive her, she will sting again and we will be back in this assembly. Therefore, the question asked by Hon. Sen. Sifuna is, for how long can we endure this embarrassment? Is it fair?

I had a Senator ask if words have consequences. Of course, words have consequences. Wars have been fought because someone said words that they should not have said. That is why there is an adage that says speech is silver, silence is golden.

Mr. Speaker, Sir, you were told *kaende kaende* means development and other nice things. I invite any of you, because it is an open country. *Kaende kaende* is neither an English, Swahili nor native word from any of our native languages. It is sheng; street slang in Nairobi City County. I told you yesterday all you need to do is pick your phone, call a young person and ask them what is the meaning of *kaende kaende*. I told you the meaning is I do not care *na liwe liwalo*.

I recall telling you, because it is in the nature of Kawira to do these types of things - when I mean it is in her nature - I mean she cannot help it. It is part of our chemistry. Unfortunately, we have human beings like those and they are our beloved mothers, brothers and sisters. We cannot get rid of them, but we cannot allow them to be governor.

The very reason Chapter Six of our Constitution and all these laws we have cited, is an acknowledgment that not all of us can be a state officer. Some of us may be very intelligent, eloquent, have very good mobilization skills, as a matter of fact, they may be loved by the people. Barabbas was so loved that the people chose him over the Son of God. However, it does not mean are the right holders of certain offices.

Mr. Speaker, Sir, if by what I called in the last impeachment, that seemed to bring me into trouble with the Senate, an aberration of democracy. Article 181 exists because the drafters of our Constitution in their wisdom realized democracy can produce aberration of counter-intuitive product and governors like the one before you. I very humbly submit they are an aberration; they are not the type of product our democratic system of government designed. The makers of our Constitution knew this sort of problem can arise from time to time; this august Senate and the County Assembly were given a counter-majoritarian power to remove state officers for violations such as those before you.

I told you about Shaggy yesterday and the song “*It wasn’t me.*” True to my prediction, even though there are no prophets in my clan, the governor came here and the common denominator was, “It was not me, I have not done a single thing”.

Luckily, today while cross-examining her own legal man Dickson Munene Nkanata, we showed the Senate through Section 30 of the County Government Act that it is immaterial that the governor did not personally commit the acts in question because that section says the governor is irresponsible for those acts. Those are not my words. The section we read says, “The governor shall be accountable.” The words used in the statutes are “The Governor shall be accountable”. Why this defence cannot hold is you will be setting a very dangerous precedent.

In fact, you will have guillotined and killed Chapter Six and Article 181 of the Constitution. Not anyone who walks in our villages and streets of our cities needs to be very knowledgeable to know senior state officers invariably act by instructing someone else. You rarely ever find a Governor or a President directly doing something personally yet our Constitution says they are accountable to Parliament. In the case of the national Government, they are accountable to the county assembly. Those are the words of the law.

Mr. Speaker, Sir, if you were to uphold this defence, it would mean no one would ever be impeached because all you need to do is Act through others. Luckily, we also cited another law for you that expressively speaks to acting through others.

In short, all we are trying to tell you is that there is no valid defence to the charges against Governor Kawira Mwangaza. What she has done, which is what she has done all along is to tell you, “It was not me”. Even if she was caught on camera “*It wasn’t me.*” Even if she was caught in various places, “*It wasn’t me*” In Shaggy’s song, the man engaging in hunky punky is caught in the bathroom, on the sofa and in other places and is all recorded, but his persistent reply was “*It wasn’t me.*”

We have shown you that defence is not available as a matter of plain law, but it is not also available as a matter of principle.

I propose to leave it at that point and share the remaining minutes with my learned colleague, Mr. Jacob Muvengei Ngwele, who will take you to the specifics of what is the case we brought before you, the response to that case, what the admissions the Governor made and the County Assembly. When all that is done, we shall beseech you in the name of God, whether it is the Christian God or the God of the Nyambene and Mt. Kenya Hills that the Ameru worshipped before the current civilization, that the time to stop this madness in Meru has come.

If we have not proved or satisfied you, the Governor is a bishop in the Holy Book. In the event that we have not persuaded you on the evidence, and I hope we have done so, wherever the truth lies, there is an unsustainable crisis in Meru. Even if you must jettison one person to save the ship called Meru County with one million inhabitants, your act is still justifiable even in the Holy Book.

I now cede the Floor to Mr. Jacob Ngwele.

The Speaker (Hon. Kingi): Just to remind you counsel, your time terminates at exactly 8.50 p.m.

Mr. Jacob Ngwele: Thank you, Mr. Speaker, Sir. My name is Jacob Ngwele. I am an Advocate of the High Court. I have been given this wondrous responsibility of taking the House through the evidence, which has been submitted before the august House.

The Senate is sitting here pursuant to Article 181 of the Constitution, which provides for removal of a governor from office. The question that arises and which begs this House to look at is what is the standard, which this House should apply on the evidence, which has been submitted by the County Assembly of Meru?

My learned Senior, Elisha Ogoya when we started, informed the Senate that this House is sitting in quasi-judicial proceedings. I beg to differ. The test applicable when we are evaluating the evidence, which has been submitted here, has already been established by the Supreme Court in two cases.

The first one is the case of Wambora and the other one is Mike Mbuvi's case whereby the court was clear that impeachments are a tool of political accountability. Impeachments are neither criminal nor civil proceedings. Therefore, the applicable standard before this House has already been established that the burden of proof, the standard of proof is slightly above that of civil cases on a balance of probability and beyond the reasonable doubt.

So, this House is not evaluating the Governor's criminal culpability. It is subjecting the Governor to political accountability for the actions of the office which she occupies and the deeds which she has undertaken throughout that period of time.

It is our submission that the County Assembly of Meru has demonstrated and proved its case in accordance with the standards and tests which have been laid out by the Supreme Court in its decision. I will proceed to take this House through the specific violations which have been submitted.

The charge sheet before you has seven counts. Out of the seven counts, 39 consists of specific violations.

The Speaker (Hon. Kingi): You have 30 minutes.

Mr. Jacob Ngwele: Thank you. Article 181 of the Constitution provides the grounds which the governor can be impeached on. That is gross violation of the Constitution, gross violation of the laws; that is criminal conviction on breach of the national law.

We do submit that count number one, that is misappropriation and misuse of county resources, has been substantiated and proved. I will proceed to demonstrate to this House how this charge has been substantiated.

We have drafted the charges that the Governor has engaged, connivance or complicity. So, she is implicated either directly or indirectly. What my learned colleague Dr. Muthomi has said, is that it is not about the governor's direct action so that, if the Senate finds there is no direct or individual responsibility on the part of the governor, then the governor is going to be acquitted. No. There are instances when the governor is complicit or connivance or part of that violation and that is what we are going to prove.

This first charge is about embezzlement and withdrawal of county funds. A lot of energy has been dispensed here to demonstrate how a total of Kshs78 million was looted, swindled, plundered or carted away from the Meru County Treasury.

This swindling involved a scheme, which comprised a clique of two groups. One was a clique made up of the Governor's relatives and all of you have heard names such as Miriam, Rose, Kenneth, Guantai, and also, Meme. This was an inner circle clique of the

Governor, which was used to pilferage money from the county treasury in the name of imprest or prepayments.

The other clique was a group of officers working under the office of the chief of staff. Collectively, this group of people swindled an amount of Kshs78 million over a period of one financial year.

The Integrated Financial Information Systems (IFMIS) data has been produced. If you do a total computation - and this amount of money has not been disputed - none of the witness from the Governor's side has disputed the totality of this amount.

They have only submitted evidence to justify an amount or to account for an amount of Kshs2 million only. They have not brought evidence to justify the balance of the Kshs70 million.

The first clique was responsible for Kshs6.5 million. The other group, that is the chief of staff and his officers, were responsible for the balance of the amount. In that group, you will find a person and I will just single out the individual by the name Kathure Rukaria.

Individually, over a period of one year, she was paid in form of prepayments an amount of Kshs21 .8 million. We have sat here for two days; no document is in front of you justifying that payment. Nobody has disputed whether this payment was withdrawn from the country treasury. Nobody.

No documents in form of a payment vouchers and imprest warrant has been submitted to justify. There has been a deliberate attempt to distort the story and to focus the attention of the Senate to the imprests. The narrative is that this amount of money was being paid as a form of facilitative imprest for the Governor's entourage. Can a Governor's entourage collect a total of Kshs78 million?

The amount of money which has been accounted for is only Kshs2 million. Where are the documents? Where are the vouchers? When the Assembly requested for the documents through their summoning powers, they were told that the documents were with the Auditor-General.

The letter which is in the bundle of document, indicates that the documents are being used for preparation of financial statements. Everybody who has got elementary accounting knows very well that you do not generate financial statement using vouchers.

Financial statements are generated using cash books and ledgers. Even if these documents were taken to the Office of Auditor-General (OAG), where is the delivery book? No evidence has been submitted to support that expenditure.

In absence of such documents to controvert this allegation, we do humbly submit that this allegation of embezzlement of funds has been proved. What they attempted to do in their defence is that they submitted a bundle of documents, which we have raised issues about its authenticity. We do submit that these documents were an afterthought. They were generated and were ex-post creations to justify.

In their attempts to justify, they only justified only Kshs2 million when they had an onerous obligation of justifying Kshs78 million. Those documents were not signed, not examined and did not comply to elementary accounting standards applicable to any accounts department in a public institution. So, we do ask the Senate to disregard that

defence which have been put forward and know that, as we sit here today, Kshs70 million has not been accounted for.

Mr. Speaker, Sir, they had the obligation and responsibility of calling in the Chief Officer, Finance. They had the opportunity to call in the CECM Finance. They had at their disposal the entire county treasury to come and explain those amounts of money. They have not and for that reason, we do submit that count 1 has been proved.

I will swiftly move to the other parts of the count. Count two is on nepotism and related unethical practices. We do submit that this count has been substantiated and proved. This count involved two violations. I will just pick two violations because of the interest of time. One was fraudulent misrepresentation of the Governor's relatives as a technical team.

When the Governor received an invitation to visit China and do a benchmarking on a cancer machine, instead of the Governor sending a technical team - top-notch oncologists or other technical persons, she decided to send a member of the same clique made up of her relatives. Two sisters and one brother. This is the inner team which was sent to China.

Mr. Speaker, Sir, if you look at the documents which were presented to the Ministry of Devolution, there was apparent misrepresentation by the county secretary that these are technical officers and the document is there. You have been shown the documents. We do submit that an argument has been raised here that no public funds were lost, but the county assembly states that an opportunity was lost.

Those who have done accounting or economics know there is something called opportunity cost – the cost of not doing something. That is the cost which was incurred by the County of Meru and there was that violation of misrepresentation. The letter was addressed to the Governor. The Governor cannot run away, as my colleague, Dr. Muthomi has said and say, "*It wasn't me*". The letter was addressed to her. She minuted it to the officers and officers went ahead and misrepresented those members of the clique as county technical officials.

The other violation in this count is the designation of Nephath Kinyua, who is a member of the clique. This is a clique, which had access, power and influence. The clique involved the two sisters and the brothers. It is the one that runs Meru today. In order to reward Nephath Kinyua when he was in a small job group and without a competitive process; and the Governor also admitted in cross-examination that his appointment was not sanctioned by the CPSB, he was appointed as a director, external linkages without a transparent and competitive recruitment process. We do submit that count 2 has also been substantiated and proved.

I will move quickly because of the time we have been given. It is so difficult to condense all the evidence which we have been given within the short period of time I have, but I shall try my best.

The third count is bullying, vilification and demeaning other leaders. Chapter Six of the Constitution was not made in vain. It operates with other laws. Key principles among them are the Public Officers Ethics Act and the Leadership and Integrity Act. These are the provisions of the law, which the governor violated.

I direct the Senate to Section 9(b) of the Public Officers Ethics Act, which states that a state officer shall not bully any person. There is also a call for professionalism within the Leadership and Integrity Act. Professionalism also means that a state officer shall treat the public and his fellow public officers with courtesy and respect.

The aspect of acting through others has also been brought forward within those laws. It makes it an offence for causing everything to be done through other persons.

My colleague Dr. Muthomi Thiankolu has mentioned that the Governor is now hiding that it was not her, but the county secretary. The county secretary has become the bogeyman.

The drafters of the law knew very well that state and public officers who hold positions of power will shift responsibility to their juniors. That is why the law says that you cannot run away from that responsibility.

One of the violations under this particular count was actions against the Deputy Governor. I will just bundle them as that.

We have put several violations against the Deputy Governor key among them is that the Governor made her deputy the bogeyman; a symbol of hatred in Meru County. By that, she orchestrated a well-organized campaign to vilify the Deputy Governor and excluded him from performance and discharge of public duties, which include attending CECM meetings and other functions.

Sufficient evidence has been adduced demonstrating how these actions were perpetrated. There is the HANSARD of the County Assembly and letters by the Deputy Governor beseeching the Deputy President of this Republic, the Chairperson of the Council of Governors (CoGs) and the Speaker of the Senate to facilitate a reconciliation between him and the Governor.

There are memos, which we have submitted demonstrating the Deputy Governor asking for simple facilitations such as repairs and fuel for his car, staff and the like.

We submit that this specific violation has been demonstrated. The Governor has turned the battle to the Deputy Governor. Instead of justifying or explaining, the Deputy Governor has become the author of these impeachment proceedings. They have created a narrative around the Deputy Governor.

Evidence has been adduced to support the vilification of the Deputy Governor in form of *WhatsApp* messages; where the Governor proceeded to engage in cyber bullying.

She has not disputed those screenshots, their authenticity or context. You can see the Governor posting and talking about the deputy governor mobilizing few *walevis* and people finding a way of defecating avocado seeds. It is there. She has admitted that.

Another post states that “he thinks I am the type of person who can be scared”. This is on a *WhatsApp* group, which consist members of the public, senior and junior officers of the county. The Governor is vilifying another state officer, which is in clear breach and violation of the provisions of the Leadership and Integrity Act, Chapter Six of the Constitution and the Public Officers Ethics Act.

The other violation that falls under this account was before the House in the previous impeachment proceedings. The Governor has persistently made demeaning public utterances against other elected leaders. Apart from the Deputy Governor, who was the

bogeyman and was at the centre of attack by the Governor. She had other leaders at a close hair. These are all the elected leaders of Meru County. The 12 of them include the Senator, Women Representative and other elected Members. This was done by falsely accusing them of cartelism. The governor has grouped these leaders into one and refers to them as a cartel.

The evidence has been adduced before this House in the form of videos. I will take you through one of the videos, which have been played here about, “*Wenye wivu wajinyonge*”. You can see the spouse of the Governor playing guitar and the Governor behind dancing. When the spouse talks about *wenye wivu wajinyonge* she dances to it, mocking the leaders and telling them that they can do nothing. This is the kind of evidence that has been produced here.

We have submitted that the issue of the Governor’s spouse has been a hot issue in Meru County. The Governor provides the spouse with the platform. The spouse is used as the attack dog. Instead of the Governor attacking these leaders directly sometimes, she uses the spouse to attack them through music and innuendos.

The other video, which was submitted was during the presidential function in Rari. The Governor singled out the 10 leaders called them names and falsely accused them of being members of a cartel who were trying to blackmail her regime. We do submit that this count three on bullying, vilification and demeaning of other leaders have been proved.

We brought a witness, who is a Member of Parliament, that is Hon. Mugambi Thindikiri, he is the Chairperson of the Meru Members of Parliament Caucus. He explained in detail the pain and suffering they have undergone, as leaders, of the actions of the Governor vilifying them. What he felt together with other Members when they were vilified during the presidential meeting. He felt insulted, demeaned, and humiliated; when they had not provoked the governor. We submit that this allegation has been substantiated. I am moving quickly to my fourth count.

The other count which was brought before this House. We believe it is something this House needs to look at deeply. It includes the violation of the law. Count four is on illegal appointments and usurpation of statutory powers. The violations are there in the charge sheet. The specific laws that have been violated. I will mention a few violations which are there.

One is the illegal appointment of the chief officers. A name has been brought and evidence has been adduced. This is on page 296 of our document on volume two. The appointment of Kenneth Riungu as Chief Officer without the approval of the County Assembly.

Hon. Senators, Section 45 of the County Governments Act provides for the appointment of chief officers and the method. The governor nominates from a list that has competitively been sourced by the County Public Service Board (CPSB). Once the nomination has been undertaken, the name is forwarded to the assembly for vetting under the provisions of the County Assembly Public Approval Act.

Nobody has disputed the appointment of this particular chief officer, including the Governor and the witnesses. Nobody has said that Kenneth Mwiki Riungu has not been

appointed or does not discharge the functions of chief officer. This evidence has been produced.

We submit that that evidence of the appointment has been produced in form of the letter dated 23rd August, 2023. It contains a list of appointments which the Governor made. In that list, you will see the name of Kenneth Riungu being appointed as a chief officer. Meru County Assembly has never vetted this individual and he still discharges the functions of a chief officer in Meru County. This is a violation of Section 45 of the County Governments Act.

Mr. Speaker Sir, the other appointment was that of the acting chief officers. The same letter contains the names of several chief officers who were appointed. That is Edwin Mutuma Murangiri and Kenneth Gitobu Nkatha. They were appointed as acting chief officers, without the requisite competitive recruitment and recommendations by CPSB.

The CPSB has produced evidence in form of a memorandum, warning the chief officers against making acting appointments without the authority of CPSB. In the same memorandum, CPSB says that any appointments made without the authority of the CPSB, shall be null and void.

The Governor has admitted that these individuals were directors. We found them there as directors and she appointed them as acting chief officers. In my brief history in life, I have never seen a director being appointed a Principal Secretary (PS). In case there is a vacancy in the office of a PS, one of the PSs doubles in that particular officer. This is because the appointment for that particular office is special and specific. You cannot plug in an individual from the ground and make them an acting chief officer. This is a demonstration that the governor usurped the powers of CPSB and made this illegal and irregular appointments.

Mr. Speaker, Sir, there was the issue of appointment of traffic marshals. That violation has been demonstrated. The CPSB are very clear in their letters, that they have not approved such appointment. They have demonstrated the same. However, in the bundle of documents, you can see the same traffic marshals wearing uniforms and riding motorcycles. The Governor posted on *WhatsApp* that these are going to be her frontline officers to make Meru the next city. Who appointed them? The Governor circumvented the powers and functions of CPSB and by herself, appointed these particular individuals.

The other violation was in regard to sending the four CEOs of the parastatals in Meru County. That is Dr. Ntoiti, the CEO of the County Revenue Board, Paul Mwaki – who testified here – the CEO of Liquor Board and Kenneth Kiamathi, the Managing Director. These as CEOs of statutory corporations. They are employees of the Board and not of the Governor. The Governor, through the county secretary, sent them on compulsory leave with pay. It only took the intervention of the court, after one year, and that is when they have resumed their duties.

The boards are the ones that recruit. They are the ones with statutory powers to suspend or exercise disciplinary control over their CEOs. It is not the Governor crossing over. I have never seen in this country the CEO of a parastatal being sent home by State House, when there is a dully constituted board. Maybe this one is new. We submit that this

is the second time the Governor is still being accused of usurping the powers and functions of the Board.

With respect to count four, we do submit that the count has been proved. The last two counts which I am going to move quickly is contempt of court. Evidence has been submitted here how despite the existence of court orders from the Nyeri Employment and Labor Relations Court, the Governor for one year disregarded those orders. As a result, the court has convicted the Governor.

As we sit here today, the Governor of Meru County is a convict. She has already been convicted of contempt of court. That is a violation of Article 181(1)(b) of the Constitution which provides that where there is a serious reason to believe that a county governor has committed a crime under the national law---

The Governor has already been convicted by the High Court in Meru. She is only awaiting sentence. She has not discharged the conviction. She has not appealed the conviction. That ground has already been proved. That is contempt of court.

The other one is the illegal naming of the road. That one is okay. We have said it is there and the evidence has been produced. The Governor has been shown the *Facebook* posting whereby she is naming a road in the name of her husband.

The last one is contempt of the county assembly. Section 22 of the County Assembly Powers and Privileges Act provides an impeachable ground for anybody who is a public officer who violates or dishonors the summons of the assembly.

The Governor was invited to appear before the committee of the county assembly. When she was invited, she wrote back a letter and said that there was no provision of the law, which requires a governor to appear before a committee of the assembly.

Article 195 of the Constitution is very clear that a county assembly or any of its committees can summon anybody to appear before the committee to provide the evidence or to give information.

Section 18 of the County Assembly Powers and Privileges Act enacts the same provision and uses the word "any person". When the Governor was invited, her defense was that the county assembly should go to the high court, file a constitutional case and seek a constitutional interpretation on whether the Governor can be summoned to appear before the assembly yet the Constitution uses the word "any person".

Section 22 says that where the assembly passes a resolution against an individual for violating that particular provision, that shall constitute a ground for removal from office. That is why you see this ground and Sen. Sifuna does it. What is contempt of a county assembly, whether it constitutes a violation that is the only violation I have ever seen in law whereby by it makes it an impeachable ground for failing to honour the summons of the county assembly.

The assembly can pass a resolution and impeach you. That is what the County Assembly of Meru has done. We submit that this count, together with the other six counts, have been substantiated; the Assembly has demonstrated the same.

Finally, my colleague, Dr. Muthomi Thiankolu has asked: Is the Governor individually liable for that particular violation? She has said all these things were done by

the county secretary. He has mentioned about the provisions of Section 30(3) of the County Governments Act, which will be my last.

Section 30 talks about how the governor shall be accountable for the management and use of county resources. The governor cannot run away and say, I was not the one; it was done by this officer; it was done by the county secretary. The law places the accountability in the hands of the governor.

So, the Governor of Meru County cannot run away from these allegations and say that they were done by others, that it was not her.

Mr. Speaker, Sir, with that, I rest my case.

The Speaker (Hon. Kingi): The counsel for the Governor, you may now proceed to make your closing statements. You have exactly one hour, starting now.

CLOSING STATEMENT ON BEHALF OF
MERU COUNTY GOVERNOR

Mr. Elisha Ongoya: Thank you, Mr. Speaker, Sir and distinguished Senators. For the record, my name is Elisha Ongoya. I will be making the Governors' final submissions. Before I delve into the substantive part of my submissions and looking at the programme of this House, this may be the last time I am standing here to address on this matter.

Allow me, with great humility, to begin by thanking you, Mr. Speaker and the distinguished Senators who have given us audience despite the great time constraints that we have had to go through in making this case.

I will be failing in my responsibility for courtesy if I did not thank the secretariat staff of this Senate who have given us significant support both within this House and in the corridors of these precincts as we found our way around.

At this juncture, allow me to proceed to the more substantive parts of the Governor's closing submissions. Allow me to begin by pointing out that as a young Christian fellowshipping at Esirave Church of God deep in Vihiga County and as a middle-aged Christian fellowshipping somewhere in Amalemba Church of God in Kakamega County, I have gathered some enduring lessons from scripture. I will start by drawing inspiration from those lessons.

The wise man who authored the Book of Proverbs 18:17, guides us as follows when we are confronted with matters such as this. In a lawsuit, the first to speak seems right until someone comes forward to cross-examine him. That ecclesiastical wisdom has found pragmatic rendition in these proceedings, as I will demonstrate shortly.

Mr. Speaker, Sir, the Governor was presented in the opening remarks by the County Assembly's counsel to this Assembly, for lack of a better word, as some form of scoundrel. Fortunately, in this august House, both parties have had an opportunity to present documentary and electronic evidence. When the history of this attempted impeachment of the Governor of Meru County, Her Excellency Hon. Kawira Mwangaza shall be authored, one word will be repeated in that historical text. That word is a Meru word, *Kibiri*. I am told in its innocence; it is a stick that is used to stir porridge.

Sadly, in that historical text that I have alluded to, that word will have no aura of innocence. I beg to pose the following questions to the hearts, minds and the conscience of these distinguished Senators. Are we, in making a decision this evening, going to dignify the *Kibiri* movement that we have seen today by impeaching this Governor? Are we going to dignify the acts of Hon. Mpuru Aburi that you had occasion to watch today live by impeaching this Governor?

Hon. Senators, are we today going to dignify the act of the Hon. Member for Buuri Constituency that we have seen today supporting the other acts of Hon. Mpuru Aburi that you had observed by impeaching this Governor?

Are we going to dignify the act of the Deputy Governor for Meru County openly and in the company of the young people of this country that we ought to give proper moral guidance, calling a Governor a prostitute? Are we going to dignify that person by impeaching this Governor?

The Governor has been accused of being a leader who disrespects other leaders. Video clips of alleged disrespect have allegedly been played here, including the song *wenye wivu wajinyonge*. On the other hand, the Governor has demonstrated to you the sins that have been committed against her by those very leaders she has accused of disrespecting. Distinguished Senators, in good conscience, are you going to vote that this Governor is a greater sinner than she has been sinned against in good conscience?

How many of us can reconcile our conscience with the fact that it is the men you sought today uttering the words you saw then utter and projecting the actions that you saw them project against the Governor, that have come to this House to complain against that Governor. I have heard of the claim of pots calling the kettle black. I never knew in my living history that I would come across a pragmatic rendition of what that means. Today was my answer. I invite you to have that reflection, distinguished Senators.

I have asked myself to invite these distinguished Senators to ask themselves where these leaders got the moral high ground to invite this House in view of the sins that they have committed against the Governor to find that the Governor has sinned against them.

Distinguished Senators, technology has been deployed in these proceedings. We are beaming these proceedings live to the whole world by a medium that will preserve them to eternity. How shall the Members of this House individually and collectively account to their children and children's children that they ever dignified the act of these people who have levelled a war against the Governor by confirming the impeachment of the Governor?

We owe it to ourselves and the peace of our conscience to make a decision that takes that into account. Choices have consequences or so, it is a truism. By impeaching this Governor, if you so decide, the logical consequence is that the person you saw chanting with the young men of Meru, calling the Governor a prostitute will rise to the office of Governor. Is that the desirable outcome you want out of your decision this evening distinguished Senators?

MCAs have brought the Governor here. I speak the Governor's heart. We will begrudge them. They have the power to do that. They have exercised that power. Have they rightfully exercised that power Mr. Speaker, Sir? Distinguished Senators that decision lies in your hand. You were told that the Governor did not present the evidence that she

had given before you to the county assembly. Fortunately, this House is a House of records. Fortunately, you have fantastic rules of procedure that we can make better as we have seen. I will recommend and I hope time will permit, that we relook at the timelines for the impeachment of governors if we have to do absolute justice on filings and arguments of the case. These are reform issues because we are in continuous improvement as a society. However, putting all factors on the scale, we have done well in presenting some records before this House.

When you retire and before you vote tonight, I invite every Senator to open volume four of the County Assembly's documents and turn specifically to page 146 and look at the conversation that is taking place there. This is the HANSARD of the County Assembly of Meru on 25th October 2023.

If you turn with me on page 146, you will see this conversation. Elias Mutuma Advocate for the Governor says: "Mine will be brief, but I will not proceed until we are given a ruling on the two issues raised by my seniors. We seek direction on how to table the evidence that we have and how we will get a ruling on the public on public participation. The Governor is pleading to be given a chance to table her evidence."

Hon. Ayub Bundi says: 'When your brother Omari was speaking, he mentioned a difference between Hon. Members and your team.' He stated that he knows the division in this House and he cannot step on the other side. Anything you would like to table in this House must go to the House Business Committee (HBC). You cannot do it when you are on that side. You must be on the side where the Members are.

I was wondering, Mr. Speaker, Sir, how was Mr. Mutuma possibly supposed to get to the side where the Members are? Was he supposed to organise a mini-election in Meru County, and become elected as the Senator for the temporary purpose of participating in these proceedings? I do not know. I am a career learner and I learn every day.

It is only allowed for Hon. Members. We are being told that only hon. Members are allowed to table evidence. You are not allowed to table evidence. We are going to make a reference to the HANSARD system because everything that you talk about is being captured. You can proceed as the Speaker. We do not begrudge him. He had the power to make a ruling just as you have powers to make rulings here.

Did he use that power correctly? That is the question I pose to the conscience of the men and women bestowed with the arduous responsibility of protecting devolved governance in this country, sitting in this House as distinguished Senators.

The conversation continues with Elias Mutuma, an Advocate for the Governor making an argument-

"My understanding, therefore, is that we will not lay the evidence that we have.'

The Speaker answers him-

"How will you table it Mr. Mutuma?"

Mutuma is asking him, you are the presiding officer in this House, guide me on how to table. Mr. Mutuma is being challenged, 'How will you do it? You are not an MCA'.

That is why MCAs entered through the main door and you entered through the back door. This was no longer differentiation, but apartheid. It was discrimination on the basis of the door you entered through.

Whoever entered through the main door had a chance to table evidence. Whoever entered through any other door was denied a right to table evidence. Mr. Mutuma, exercising the persistence of a lawyer that we teach in law schools continuously-

“My hope is that you will guide me on how we will lay the evidence that we have, because I am a stranger in this House.”

The Speaker answers him-

“We are going to rely on the HANSARD system. As you talk, be aware that you are giving your evidence.”

He says In desperation-

“Well guided.”

A very well-trained lawyer, whether you agree or disagree with the judge, you say, “most obliged, well guided, may we then have a ruling before we proceed.”

Mr. Speaker, Sir, and distinguished Senators, believe me or not, it is this Assembly that has come here to ask you, why did they not table their evidence before the Assembly? We may agree or disagree with the Governor on many things. However, we owe her a moral duty to be fair to her.

The Governor has been unfairly treated by the County Assembly of Meru as demonstrated by the County Assembly’s own records and that is why we are here.

You have been told in cross-examination, there are other women out there serving as governors in Embu, Homa Bay, Nakuru and Kirinyaga. Are they also facing discrimination? Do not throw the gender card here. That is what the Governor has been told in your hearing.

Mr. Speaker, Sir and distinguished Senators, those things were said to the person you saw with your own eyes and felt with all your other senses, including the sense of hearing, being told what was going to be done to her by the *Kibiri*. Those things and questions. One day I will teach about the moral obligation of counsel in cross-examination, particular when a particular evidence is now available.

Will this Senate, in good conscience, completely overlook the evidence of Hon. Mpuru Aburi, in the presence of the Senator of Meru County, the Deputy Governor of Meru County and Hon. Mugambi Murwithania Rindikiri demonstrating what they did with their hands holding the *Kibiri* against the Governor? Shall we ignore that and say, she is simply throwing a gender card?

Shall we ignore the overwhelming evidence of the Deputy Governor chanting with the youths in Meru, saying how the Governor is a prostitute? Is that not the *locus classicus* of a sexist remark?

With this hon. Senate, ignore the video clip that was played regarding that purported tree planting event, at which no single seedling was seen being planted, but in which clear sexist remarks were made against the Governor of Meru County.

Mr. Speaker, Sir, and distinguished Senators, before you, is a fellow citizen, sinned in the matter you have experienced with your own senses, and presence being brought to trial before you.

Allow me now to proceed and highlight the contradictions in the case of the County Assembly. Distinguished Senators, when you retire in your private sessions, have these

conversations among yourselves. Ask yourself first, the Governor before you faces a charge of usurping the roles of other agencies in the county and doing the work of other functionaries in the county. The same Governor then faces other charges that require her to take responsibility for the acts and omissions of other functionaries in the county.

Mr. Speaker, Sir, how will you reconcile your sense of logic to that case? When you retire in your private Chamber, kindly reconcile this for me because I am a career learner. The Governor is accused of making payments to county employees who are four in number. One of those county employees steps here and complains that he was paid. He told you that yesterday. Then you will be confronted with evidence that he is the one who went to court to obtain an order to compel the county government to pay him. That same person complaining.

I have been struggling with whether I am a slow learner. However, I want you in good conscience to tell me whether if you sat in the shoes of this governor, how would you learn a lesson from that because she is a human being. She is not a perfect person. She can make mistakes, but she must be confronted by logical claims from which she can draw logical lessons to become a better leader. That is what we do in oversight institutions such as this.

However, if you confront this Governor with these kinds of contradictions, how does she sit with her team and tell them that this is the programme of action on how we can become better. The same Governor is accused of disobeying a court order because that payment was delayed. The act of purging was the payment must be made.

While at that, I am glad that in front of me, including you, Mr. Speaker, Sir, are hon. Members of the Senate of Kenya who have served as governors. I have a plea to them to please convey a message to other Members in your deliberations on how many cases the governor of a county, being them, was named as respondent. If for each of those cases, the governor was to be brought here and be impeached, how many governors would survive in this country? Is that even a sustainable way of oversighting counties?

The office of governor is a standard respondent, so to speak in virtually all claims made against the county government. At the end of it all, as was the case in the case of the four petitioners in Meru, a specific officer of the county government was singled out and was told that it was his duty as the county secretary to ensure that these things are done. That he should go back and comply and then go to court again and inform them that he had complied. Shall we ignore that direction of the court?

Mr. Speaker, Sir, my learned colleague, Dr. Muthomi Thiankolu has a legal philosophy called legal sophistry. According to him, this is a process where people make technical, legal arguments that technically make sense, but when you look at them substantively, they are unjust arguments. Sadly, he has advanced those arguments here today. We do not begrudge him. He is acting on his clients' instructions.

The Senate should act on instructions of the Constitution. Shall you buy into that legal sophistry or into the Constitution?

Mr. Speaker, Sir, my sight is not very good. When my 30 minutes reach and it is shown, I beseech that my attention be drawn to it so that I manage my time better. I know I still have some time.

The Speaker (Hon. Kingi): You have 35 minutes to go.

Mr. Elisha Ongoya: Thank you, that is consistent to what my chronometer is telling me. Let me deal with the Assembly's witnesses one by one. Mr. Paul Arimi Mwaki, the person who came before you denying the obvious fact that his salary was paid pursuant to a court order even when he is told to read the court order saying the salary be paid.

He complained that he was in fact paid. That is his grievance, which is "why did you pay me?" You will find him with the person who went to court to get an order to be paid. He said although he complained that he was paid he did not return that money to the county government. You will be told to impeach this Governor on the strength of that evidence.

He then plays a video clip of the county's first gentleman apparently saying that some people will not be returned to work. His name is not mentioned in that clip. The Governor is not present in that meeting. The person present in that meeting and not condemning those utterances is the deputy governor. The person whose case has been argued here more than that of the county assembly.

I sat here shocked at how the county assembly's lawyers spent copious minutes arguing the case of the Deputy Governor than the case of the Assembly. That is the person who was in that meeting. Mr. Paul Arimi, for the sake of this impeachment, is prepared to forgive the Deputy Governor who was present there. He is prepared to crucify the Governor who is not seen in that clip.

Allow me to engage my views on Hon. Evans Mawira, the person who moved this impeachment Motion. He has come here to tell you how *Okolea katoto kaa Meru* is such a bad thing. You have seen his active role in *Okolea* up to August, 2023. You will be told to impeach this Governor on the strength of the testimony of that person.

At some point, I asked my colleagues what kind of people do these assembly members think Senators are? Do they not have some residual respect for Senators? Does there not come a time where you say, I brought a very big case here, but I was misled, now I withdrawing limb one, two and three because I am embarrassed by my own evidence. Let us focus on the following two issues so that we save time. They did not do that and we do not begrudge them.

We take confidence in the fact that this distinguished House is answerable to the Constitution and shall be faithful to it. Think about this distinguished Senators. *Mheshimiwa*, Evans Mawira, tells you that Mr. Nephath Kinyua is the Governor's brother-in-law. He then invites you to take judicial notice of that fact. It is in the public domain. If I had a chance to engage Senators one by one, Sen. (Dr.) Khalwale, do you know that fact in the public domain?

However, I have no chance to get an answer to that. Good people, in legal practice we take judicial notice of notorious facts. Facts like the sun rises from the East and setting to the West. Only a fool can counter argue it. The fact that elections in this country were held on 9th August, 2022, is a notorious fact. No one can counter argue it.

To your utter consternation - at least to mine - Hon. Evans Mawira is asking you to elevate the marital status of Mr. Nephath Kinyua to that and take judicial notice of it.

Who do they take Senators for? Distinguished Senators, will you buy into this? Even when confronted with evidence of a formal marriage certificate, he proceeds with his theory that his public domain hypothesis of the marriage of Nephath Kinyua outweighs the marriage certificate. I would have hoped that as people who have a duty to this Senate, the Counsel who presented Evans Mawira would have withdrawn that part of their claim, to save us time. Think about the minutes I am spending arguing this fact. We have to do it because they have put it to us. They disrespect the Senate, this is why they are saying they must preoccupy your precious time with this issue to the wire.

The star witness, Hon. Mawira Evans, introduces an alleged relationship between the first gentleman and Edwin Muragiri. He calls Edwin a nephew to the first gentleman. Somebody's nephew ordinarily is the sister's son. What is the name of the mother of Edwin, so that we can see if he is a sibling? He says he does not know the name.

Hon. Senators, let me put it this way. This country inherited a common law tradition at the beginning of the legal system. We have shifted significantly from the common law tradition because of our transformative written Constitution. In the old common law, there was the doctrine of Parliamentary supremacy. In the new order, we have the doctrine of Constitutional supremacy. Even in the traditions where Parliament enjoyed supremacy, it had no power by fiat to impose relationships upon people. Tell somebody that this is your brother from today.

You have been told to make that finding as the Senate, that Edwin Muragiri is the nephew to the first gentleman. What do you do when this man begins claiming inheritance from this family by your decision? These things have consequences, people will present this HANSARD to courts in the future to prove relationships. Shall we manage the aftermath?

These people did not respect this House. This witness insisted that county vehicles were destroyed in an *Okolea* event. Some Senators asked him that since vehicles in this country are identified by their registration numbers, there is no other method of identifying vehicles. He said he had another method, which is the affidavit of No.113748PC, Kevin Wafula, is a method of recognizing or attributing ownership to vehicles. That was novel.

The county assembly's star witness elevated jokes to legendary heights. The witness tried to introduce a theory that the Governor had employed Edwin Muragiri and Nephath Kinyua, who he claimed were the Governor's relatives. We have shown that there is no evidence they were. They were not. It then turned out that these people were employed in 2017 and 2016 respectively; that the Governor employed them in the county in advance of her election as governor. I am wondering what they take this Senate to be. Can somebody in good conscience sustain this case to the wire as the Counsel for the Assembly has done?

Dr. Gitonga Jeremiah came to this House. I will invite you to look at the affidavit of that witness, but I will not read it because of time.

From the very first paragraph of the affidavit of that witness, when his memory is still clearest, he told the advocate drafting his affidavit, that he is a director of Ivy Health Care. When he stood here and told to introduce himself, he took an oath before this Senate and from his mouth, perjured himself on oath, saying he is the Director of Ivy Health Care.

Learned Counsel, Dr. Okubasu, exercising that power in the book of Proverbs 17, confronted him in cross-examination. He asked him, if this Senate were to take the liberty and call a Form CR12 from the company's registry, would he appear as a director of Ivy Health Care? He stuttered and in that moment, spoke about three other companies completely not mentioned in that affidavit. It turned out he was not a director of Ivy Health Care.

At paragraph eight of his affidavit, which was read to him, he says that he was surprised upon arrival in China that the delegation that the Governor had recommend to Ivy Health Care, was not a technical team. He learned that when he arrived in China, it turned out the man never went to China. He stuttered.

Hon. Mugambi Rindikiri Murwithania will be remembered by this House as the leader who was captured on video supporting the most sexually offensive remarks against a woman in the 21st Century, before the country's Senate, asserted by another leader, Mpuru Aburi, an Hon. Member.

These are the people that we have been told have mounted a convincing case. Let us face it. I used to be taught that no one makes good deals with bad guys. Can you get credible evidence from these most incredible fellow citizens? Is it possible?

Mr. Speaker, Sir, allow me to now deal with the charges presented before this House by the County Assembly. From the onset, allow me to very humbly invite the hon. Senators to administer a caution to themselves individually, as you consider this matter. Individual Senators, please, caution yourself that the case of the County Assembly cannot be permitted to mutate from the charges that were prosecuted at the County Assembly. It cannot be allowed.

Rule 19 of the Fifth Schedule of the Standing Orders provides for the procedure of the impeachment process before the whole House, as we are doing now. It prescribes that in presenting its evidence, the Assembly shall not introduce any new evidence that was not a part of the allegations against the Governor by the County Assembly, as forwarded by the Speaker of the County to the Speaker of the Senate. This case cannot be allowed to mutate. There must be logic behind this. The logic is, there must be definitiveness on what the Governor is responding to.

Allow me to deal with Counts one and five together. These counts are found in the Assembly's documents Volume 1. Count 1 has four specific allegations.

Allegation No.1; that the Governor has violated certain provisions of the Constitution and the law - they have specified it there, I will not read them - by engagement, connivance and/or complicity in the following:-

First, allow me to tell you that this charge is duplex. It is a defective charge. If not for anything else, you must discourage this form of drafting; it is poor drafting. The Governor has to elect whether she is going to defend herself against engaging in those acts, against conniving in those acts, or against complicity in those acts. In law, that is an impossible task.

What the County Assembly has done is to cast a wide net in the words of the fishing vocabulary, in the hope that it may catch crabs, fish and perhaps some snakes, so that you

say, ‘anyway, we may have grabbed a lot of snakes, but there is one fish, so vote for this fish.’ It is a poor way of dealing with a case of this nature.

A case of this nature requires military precision in the charges. Be that as it may, the Governor is accused of doing those things in the form of embezzlement of county funds through the Governor's sisters; Rose Kinya Guantai and Ms. Miriam Guantai; brother, Kenneth Guantai Murangiri; brother-in-law Neffat Kinyua and nephew to the Governor's husband, Edwin Mutuma Murangiri, all of whom are now collectively referred to as the Governor's relatives, period.

The Governor comes to this court and says, ‘I want to give you evidence to show that I have not embezzled any funds through these people. How will I do this? I will give you vouchers to show what each of these people is being paid for.’ That is a sufficient answer to this charge. You are then told, no, he has not accounted for Kshs70 million. Hon. Senators, where is the charge for failure to account for Kshs70 million that the Governor is supposed to respond to in that form?

Secondly, where is the charge of failure to account for Kshs78 million? If that charge came as such, then the Governor would have been under an obligation to secure her finance people to give her material in respect of all the Kshs78 million and then, we can interrogate the material one by one. Is this credible? Is this not credible, and so forth? Once we have supplied that, we must show a causal connection between that money and the person of the Governor.

The Governor was taken through a fairly humiliating exercise. She was reduced to a clerical officer. You, as Senators and State officers get imprest. You know the clerical process of dealing with one single imprest at a time.

Mr. Speaker, Sir, if you are personally to be held responsible for the imprest process in this House, would you possibly transact the business of this House? That is a matter this House must reflect on in your private moment before you take a vote.

Even the Clerk, who is the administrative head of this House, if he was told to personally explain each of the individual signatures in every signature of 100 vouchers, would that be possible?

Allow me to tell you why this charge is premature. An audit process presents a different environment. In an audit process, the auditor comes, receives documents; reviews them, asks questions; people go back to the drawing board, review their material and come back.

The whole process takes time until we have a report. Now, here is where you file documents, and you are bound by those documents; there is no feedback. So, in this case, we have no audit report.

The County Assembly should have been patient for the auditor to audit these accounts and raise specific audit queries. If they failed to get answers to those audit queries, then they should have mounted a case based on the specific audit queries that were not answered.

What has happened by the Counsel for the County Assembly before you is a sad commentary on how not to prosecute an Impeachment Motion.

The Speaker (Hon. Kingi): Counsel, you have 15 minutes.

Mr. Elisha Ongoya: That is okay, thank you. The Governor is accused of withdrawing county funds under the guise of payment for various supplies by the Governor's relatives, yet, they, the Governor's relatives, are ineligible to tender for or supply any goods or services to the county.

Counsel for the Assembly, in cross-examining the Governor, completely misled this House. I was saddened because Counsel has a duty of candour despite our sectarian interests. When you retire, Hon. Senators, look at Volume 2 of the County Assembly documents. When you look at Volume 2 of the County Assembly's documents, you will discover that from Page 1 to Page 29 is a letter by Thurania Salesyo Mutuma to the Ethics and Anti-Corruption Commission (EACC) and some attachments. That is crucial.

Among those attachments is a table prepared by the said Salesyo, running from Page 4 to Page 14. Page four to Page 14 is not an Integrated Financial Management Information System (IFMIS) extract. It is a table prepared in Microsoft Word format by Salesyo. That is important because that question was posed as if this is an IFMIS extract. It is in this table that at Page 6 in row no. 4, you will find an entry called 'hospital supplies.' This is Salesyo writing those words. It is not IFMIS in which this is entered. It is Salesyo; a person who was not brought here. We were wondering whether he is a real human being, or he could just be taking care of his goat somewhere.

At Page 11, in row three, you will find hospital supplies; another entered record by Salesyo, not from the IFMIS. The Governor's case before you is that if you proceed to Page 17 to 29, where the IFMIS extract is, and you look at the corresponding voucher numbers to these things Salesyo has written, you will find in the IFMIS extract, these are hospitality supplies. That is the Governor's case before you.

So, the impression created by my colleague, Dr. Muthomi Thiankolu, that this entry 'hospital supplies' is an entry made by the county staff in IFMIS is a pure lie; sadly, from Counsel. When you continue looking at those charges, I am more interested in Count 1, because the other counts are the kind of counts that I can say fall on their own weight. This one here, somebody tried to point at invoices in a manner that was rather frustrating for anyone who understands this process.

In fact, when I sat where I was sitting preparing my submissions -because I was not in this House- I presumed that Counsel for the Assembly did not understand the imprest system of Government. Fortunately, for us, this Senate works on imprest systems.

So, the charge here is making various supplies, that is why we supply only vouchers that show you what these payments are for. They are not for supplies; they are for particular recurrent expenses. That is all. So, we are not accounting for Kshs78 million. We are just responding to this allegation.

Thirdly, we are accused of paying full salary and benefits. In fact, those vouchers and those Integrated Financial Management and Information System (IFMIS) entries are only relevant in respect to allegations (a) and (b). When it comes to (c), I have already mentioned to you that these payments were made pursuant to a court order. The less I say about that, the better.

Count (d) says 'diversion or misuse of county resources including funds or motor vehicles to run the Governor's private entity.' You ask yourself which motor vehicle and

you are told, ‘no, go to the affidavit of a police constable and you will get it there;’ a very strange way of identifying a motor vehicle. I am open to learning, but I was not willing to learn that one.

Mr. Speaker, Sir, I understand that I have 10 minutes?

(The Speaker (Hon. Kingi) spoke off record)

Thank you so much.

The Governor was accused of nepotism and related unethical practices. Before I argue that, when Counsel for the County Assembly, Mr. Ngwele, stood here and told you that they have proved that Kathure Rukania is among those who were paid money that is not accounted for--- I ask you to look at the 39 allegations before you and point out to me where the name ‘Kathure Rukania’ appears, so that the Governor can now take the task of explaining to him. The County Assembly has taken a strange stand before this House. I am saddened if this is the trajectory of impeachment.

Charge two is about nepotism and related charges. One of the claims here is that the Governor sent an unqualified technical team to China. Even when the County Assembly witnesses are given their own documents, say, the purpose of this trip or this request for clearance was to prepare and guide on the visit; the express words. They insisted that ‘no, ignore those words,’ in their own documents.

They were shown the invitation letter to China at Page 79 of volume two of the Assembly documents. They were asked, “show us which part of this invitation is inviting technical Cancer experts?” They were unable to show it, but they have come here in closing submissions to insist that was the nature of the invitation. It is a rule of ethics in trial advocacy that an advocate must never submit outside the evidence. Counsels for the Assembly have breached that rule of ethics.

They have said that the Governor misrepresented to the Ministry of Devolution that these were technical staff. They are told, ‘okay, these people are said in a letter dated 29th May 2023 to be technical staff.’ Who is a technical staff? Is the Governor’s security not a technical security staff? Is the Governor’s Personal Assistant (PA) not a technical administrative staff? Where was the word ‘technical staff’ defined as a term? They cannot show you? Then we asked them, okay--- The next week the same County Government writes to the Ministry of Devolution specifying these people’s names and their designation, which we confirm is correct. If they intended to mislead, why are they now clearly spelling out these people’s designation before these people travel? The County Assembly cannot answer, but in their final submission, they still insist that there was a misrepresentation, a poor way of advancing the jurisprudence on impeachment.

You will be told that nepotism is in the engagement and in employment of Edwin Mutuma Murangiri, a nephew to the Governor. I have spoken about that. The lesser I say about it, the better. Nephath Kinyua, the Governor’s brother-in-law, in public knowledge. What kind of behaviour is this? On assigning diplomatic duties to her relatives, you will be told the evidence that diplomatic duties were signed is in a *Facebook* post. You are told ‘read a *Facebook* post.’ Where does it assign diplomatic duties to the Governor’s relatives?

It is not there. If you look carefully at those pictures you see there, they are speaking about diplomatic duties. Surely, I was a little embarrassed as the Senate was engaged in that.

Bullying, vilification and demeaning other leaders. We have shown what they have done to the Governor. The less I say about it, the better. They actually dared and threw the first stone when they had sinned more.

On illegal appointments, I will talk about this because this is Statutory and I have an obligation to guide this Senate on the law.

I will refer this Senate to Section 64 of the County Governments Act. It says-
“Acting appointments shall be made only by the lawful appointing authority and for a specified period.”

It then says, nothing in this Section, nothing that previous section has said shall prevent a Public Officer like the Governor here or the County Secretary, those are public officers, from deploying another officer to perform the duties vested in another office during a temporary absence or a vacancy in that office.

If you listen to the case of the County Assembly, they will keep quiet on Section 64 (4), as if it does not exist. However, let us move further Senators.

Section 64(5) says-
“If it comes to the attention of the County Public Service Board (CPSB), that a public officer has purportedly made an acting appointment, delegation or deployment as the case may be contrary to the provision of this section, the CPSB shall take necessary corrective action.”

This is something that the law prescribes its own procedures for remedying. Why would you use a sledgehammer of an impeachment when the law prescribes a lesser restrictive measure that can solve the problem? That is what the County Assembly has engaged in.

Naming a public road after the husband: Show us the road. ‘Oh! Let us go to *Facebook*. You will find it.’ Surely, the Senate has been engaged in that argument? I thought they would drop it in their final argument. Counsel stood here and insisted they have produced compelling evidence in a *Facebook* post. That is elevating jokes to new heights.

On the contempt of the Assembly, the task is to explain where that offence is found in statutes. The witness stuttered. The Governor has contextualised all her responses to the County Assembly. May I just inform this Senate that you have summoned Governors here, who have said ‘let us go to court and interpret the scope of your powers, as Senate, to invite us and interrogate us.’ You have engaged them in court. That is the development of our law. That is not contempt of the Assembly. The Governor ought to be praised.

Is this Governor a peacemaker? You saw her with MCAs launching projects in their wards, giving them the opportunity to shine by being the ones who read those projects. You are politicians. You know what it means in terms of dignifying and improving the stature of those MCAs.

I say, true to her word, this Governor is a foremost peacemaker. It matters not whether she shall be brought here 100 times. You cannot victimise her because those who torment her are tireless in their torments against her.

I beseech you, Senators, to vote against each of these charges overwhelmingly in the interest of your individual and collective conscience.

I rest the Governor's case.

The Speaker (Hon. Kingi): Sen. Okiya Omtatah, kindly take your seat. Take your seat, Sen. Mumma.

Hon. Senators, ladies and gentlemen, following the conclusion of the closing remarks by the Counsel for the County Assembly and that of the Governor, Rule 27 of the Rules of Procedure, while considering the proposed removal of the Governor in Plenary, provide as follows-

“That the Senate shall proceed into a camera session to deliberate on the issues raised.”

I, now, therefore, direct that all members of public, including the media to withdraw from the Galleries and any form of broadcast from the Chamber to cease forth with.

*(All the Parties, members of the public and the media
withdrew from the Galleries)*

(The House went into an in-camera session)

(End of in-camera session)

*(All the parties, Members of the public and the media
were allowed into the Galleries)*

(The House resumed at 10.03 p.m.)

The Speaker (Hon. Kingi): Sen. Abdul Haji.

[The Speaker (Hon. Kingi) left the Chair]

[The Temporary Speaker (Sen. Abdul Haji) in the Chair]

The Temporary Speaker (Sen. Abdul Haji): Order, Hon. Senators. Kindly, take your seats.

Next Order!

NOTICE OF MOTION

RESOLUTION TO REMOVE FROM OFFICE, BY IMPEACHMENT,
THE GOVERNOR OF MERU COUNTY

The Temporary Speaker (Sen. Abdul Haji): Senate Majority Leader, proceed.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Director, Hansard and Audio Services, Senate.*

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, I beg to give Notice of the following Motion-

THAT WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Wednesday, 25th October, 2023, the Meru County Assembly approved a Motion to remove from office, by impeachment, Hon. Kawira Mwangaza, the Governor of Meru County;

WHEREAS, by a letter Ref. M/CARES/VOL.IV/43, dated 26th October, 2023, and received in the Office of the Speaker of the Senate on Friday, 27th October, 2023, the Speaker of the Meru County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

FURTHER WHEREAS, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order No. 80 of the Senate, the Senate heard the County Assembly on the grounds for removal from office by impeachment of Hon. Kawira Mwangaza, the Governor of Meru County;

[The Temporary Speaker (Sen. Abdul Haji) left the Chair]

[The Speaker (Hon. Kingi) resumed the Chair]

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators. Kindly, take your seats. May the Senate Majority Leader be heard in silence.

The Senate Majority Leader (Sen. Cheruiyot): AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order No.80, the Senate also heard the Honourable Kawira Mwangaza on the grounds for her proposed removal from office by impeachment as the Governor of Meru County;

NOW THEREFORE, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate resolves to remove from office by impeachment, the Honourable Kawira Mwangaza, the Governor of Meru County, on the following charges -

Charge 1: Misappropriation and Misuse of County Resources

Charge 2: Nepotism and related unethical practices

Charge 3: Bullying, Vilification and Demeaning other Leaders

Charge 4: Illegal Appointments and Usurpation of Statutory Powers

Charge 5: Contempt of Court

Charge 6: Illegally naming a public road after her Husband

Charge 7: Contempt of the Assembly.

I beg to give notice.

The Speaker (Hon. Kingi): Clerk, next Order.

MOTION**RESOLUTION TO REMOVE FROM OFFICE, BY IMPEACHMENT,
THE GOVERNOR OF MERU COUNTY**

The Speaker (Hon. Kingi): Senate Majority Leader, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir.

I beg to move the following Motion -

THAT WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Wednesday, 25th October, 2023, the Meru County Assembly approved a Motion to remove from office, by impeachment, Honourable Kawira Mwangaza, the Governor of Meru County.

WHEREAS, by a letter Ref. M/CARES/VOL.IV/43, dated 26th October, 2023, and received in the Office of the Speaker of the Senate on Friday, 27th October, 2023, the Speaker of the Meru County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly.

FURTHER WHEREAS, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80 of the Senate, the Senate heard the County Assembly on the grounds for removal from office by impeachment of Honourable Kawira Mwangaza, the Governor of Meru County.

AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order No. 80, the Senate also heard the Honourable Kawira Mwangaza on the grounds for her proposed removal from office by impeachment as the Governor of Meru County.

NOW THEREFORE, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate resolves to remove from office by impeachment, the Honourable Kawira Mwangaza, the Governor of Meru County, on the following charges -

Charge 1: Misappropriation and Misuse of County Resources.

Charge 2: Nepotism and related unethical practices.

Charge 3: Bullying, Vilification and Demeaning other Leaders.

Charge 4: Illegal Appointments and Usurpation of Statutory Powers.

Charge 5: Contempt of Court.

Charge 6: Illegally naming a public road after her Husband.

Charge 7: Contempt of the Assembly.

Mr. Speaker, Sir, we have had an interesting two days. On such moments, having sat through the Motions of an impeachment hearing, this is the 14th one and this august House has the enormous duty of having to decide.

Listening to the proceedings from the beginning, I have been reminded of the words of Proverbs 18:7, which guides us that the first to speak in a contest seems innocent until the cross-examiner takes to stage.

Mr. Speaker, Sir, listening to the conversation has not been an easy duty. We have listened to accusations, counter accusations, further accusation and so on. The enormous duty before this august House this evening is to make a very serious determination.

Hon. Members, the 1.5 million citizens of Meru County, occupying a space of 7,000 square kilometers of this Republic of Kenya, have their fate in your hands. They are looking up to you, the 47 delegations of this House, to guide their County towards prosperity. Lead them in a way that they can enjoy the fruits of devolution, like the rest of the citizens of the Republic. Perhaps, arguably, devolution is one of the best gifts that Kenyans have bequeathed unto themselves since Independence.

Having sat here the last two days and listened to everything that was said and seen the videos that were played, there is no doubt that there is trouble in Meru County. There are difficulties. That County needs the assistance of this House. How you chose to assist the people of Meru County, my good friends and colleagues, is in your hands. It is you to make a wise decision.

When we went through the Motion of an impeachment hearing trying by Plenary yesterday morning, we were reminded to, in the next 48 hours, convert yourself from being just an ordinary Senator and be a neutral arbiter. Be a sober judge and deliver wise ruling and judgement that will leave the people of Meru County happy.

I do not envy you. In fact, after the conclusion of the trial presented so ably by both lead counsels for the Assembly and the Governor, people that I know so well and have had an opportunity to work with both in different forums--- Actually, I had to seek solace in the Bible again, something that I do when I find myself at crossroads.

I have had to read the story found in 1st Kings 3:16-28. Two women, who I intentionally avoid to characterise them as the Bible does because of certain connotations that have been issued in the process of moving this Motion. The two women had a disagreement, both claiming that a dead child belongs to the other, while the live child belongs to them. When they appeared before King Solomon, the wise judge made a decision that many of us agree up to date was incredibly wise. He made the right decision in awarding the correct baby to the correct mother.

Mr. Speaker, Sir, that is the duty that all the 47 delegations have today; to decide the mother that Meru County will be given to. This is because there is a part of Meru County that is dead and another that is alive. The duty that is before you, colleague Senators, is to determine who has killed their baby and which mother should be left with which baby.

Colleagues, I do not intend to be long on this process because you all understand the constraints of time that we have and the very difficult decisions that we have to make tonight. You also know that by the stroke of midnight, we need to have made certain conclusions or at least converted into the exercise of voting. Otherwise, we will be forced to adjourn and wait until you, Mr. Speaker, *gazette* another sitting.

Since it is not my intention to get us to that phase, I want to humbly request my colleagues to take time and think about the citizens of Meru County as you make your final determination on how this matter should continue. Like we have listened, we have been

properly advised that there are no easy decisions; whether to impeach or not to impeach, each leaves us with a very difficult situation.

In fact, in the course of consultations, many Senators have walked up to me and suggested that, Majority Leader, why do we not, as a House, invoke Article 192 of the Constitution and just ask the people of Meru that they have a fresh start; that you send all these people packing and have the county government dissolved. Perhaps after that realization, then the people of Meru can enjoy the fruits of devolution. It is not an easy decision; it is not an easy task that is ahead of us.

To save or not to save is not just about whether you have been convinced or not convinced because every decision that you make when you eventually press the button to vote, either 'yes', 'no,' or even I am afraid even 'abstain' has consequences today, unlike in other occasions.

Colleague Senators, this is the moment. I know that each of you pensively sat down, listened and has reached a decision. However, I am willing to be convinced and I guess that is the exercise that you are about to make in the next one hour. Listen to whatever points you have picked out from the trial that has gone on here and hope that on any of the seven charges that have been presented, it would be good to hear from you.

Do you agree that all charges have either not been substantiated, or some of them have been? The eventual point that I make is that eventually, Meru will still need us, even after this vote, dear Senators. When we conclude on this exercise and the vote tonight, it is my humble submission, that we will still need to retreat and think through options that are available for that particular county.

I am particularly troubled because, to be sincere, I never knew of all those happenings until I saw the videos today. We must speak and condemn some of the things that we have seen in that particular video.

Mr. Speaker, Sir, I am a father of two girls and I would wish to leave a safe and a better haven for my daughters, eventually, when I am out of leadership. Some of the things that we have seen either leaders say or do, I am afraid, that is not the kind of world that we want for our sisters, mothers, daughters or wives.

I hope that because these videos have been brought to the fore, it should not just end here in the Senate. I strongly believe that it is within the mandate of the Ethics and Anti-Corruption Commission (EACC) because these are ethics issues. When leaders say certain things about each other, EACC needs to take the cue and begin to question us so that we behave better and move from this kind of corruption of our moral fibre of our society.

Mr. Speaker, Sir, with those many remarks, I beg to move and request the Senate Leader of Minority, Sen. Madzayo to second this Motion.

I thank you.

The Senate Minority Leader (Sen. Madzayo): Asante Bw. Spika. Kwanza ninawashukuru Maseneta kwa utulivu wao katika hizi siku mbili ambazo wameweza kusikiliza Mjadala huu.

Mjadala huu ambao uko mbele ya Senate ni Mjadala ambao tunatajikana tuusikilize halafu tufanye uamuzi. Ikiwa kuna ushahidi wa kutosha kufurusha kutoka kwa ofisi ama ikiwa hakuna, tuweze kumpatia nafasi ingine aweze kuendelea.

Bw. Spika, kama kuna wakati wowote ambao Seneti inatajikana kujitambua na kuweza kuonekana iko kazini na inafanya kazi, ni wakati huu ambao inahusikana na serikali zetu za mashinani. Wakati huu ni wa kujitambua ya kwamba mtu ambaye amefanya makosa anaweza kuchukuliwa hatua ama ambaye amefanya makosa isiyo ya kiwango cha juu, anaweza kupewa nafasi kuendelea.

Cha muhimu katika mjadala huu wetu ambao umeletwa katika Kipengele cha 181 cha Katiba na vile vile, katika Kipengele cha 33 katika *County Governments Act*. Vile vile, kulinganishana na Kanuni zetu za Kudumu za Bunge la Seneti, Kipengele cha 80. Kibarua kilichokuwa hapa jana na leo ni kikubwa sana. Tumeweza kukaa katika hili Bunge letu la Seneti kuanzia mapema na tumefika Saa Sita usiku. Hivi leo, tumeanza asubuhi na mpaka sasa bado tuko hapa. Hili ni jambo ambalo nawapatia kongole Maseneta wote walioko hapa kwa kazi yao nzuri waliyoweza kuifanya kusikiza mjadala huu.

Wakenya wote hivi sasa macho yako katika Seneti. Na wanaangalia. Wameweza kujionea katika wale mawakili wazuri na majabali wa sheria kwa upande wa Gavana Mwangaza na wa *County Assembly* ya Meru. Tumeweza kuwasikiza na tunahakika kwamba Maseneta wataamua mashtaka haya kwa njia inayotajikana kisheria na kulinganishana na Kanuni zetu za Bunge.

Bw. Spika, cha muhimu ni kwamba sisi sote ni wazazi. Pengine ningejunga pamoja na ndugu yangu hapa, Sen. Cheruiyot, aliyesema yeye pia yuko na watoto. Pia mimi niko na watoto wawili wa kike. Cha kwanza sikuweza kufahamu kabisa kwamba kuna picha ambazo zinaweza kuonyeshwa na ukajitafakari wewe mwenyewe. Kama ni mke wako, mama yako, ndugu wako wa kike au mtoto wako wa kike.

(Applause)

Hayo yakijiri, kuna aina mbali mbali ambazo tunaweza kuangalia na kuona kama kulikuwa na kosa au la. Njia muhimu ya sisi kufuata ni kuangalia Kanuni zetu za Bunge na Katiba inasema nini. Ndugu zangu Maseneta mlio hapa, mko na wajibu mkubwa sana.

Ikifika wakati kama huu, hakuna cha hawa wako *party* hii hawa hii. Tunaangalia ukweli umesimama wapi na Bunge la Seneti linasimama na ukweli.

(Applause)

Naambia Wakenya wasiwe na wasiwasi. Tumesikiza na kila mtu atatoa wajibu wake. Kila mtu ataamua kutoka Kosa la Kwanza mpaka la Saba kama wamekubaliana ama wamekataa. Ukweli utazidika wazi na uamuzi utafanyika hivi leo hapa hapa ndani ya Bunge la Seneti.

Langu ni kuwatajia kila la heri katika uamuzi wenu. Nina imani Wakenya wote kuanzia leo watakuwa na imani na Seneti.

The Speaker (Hon. Kingi): Thank you, Hon. Senators. I will now proceed to propose the question.

(Question proposed)

The Speaker (Hon. Kingi): Hon. Senators, we may now proceed to debate. What is your point of order, Sen. Cherarkey?

(Interruption of debate on Motion)

PROCEDURAL MOTION

LIMITATION OF DEBATE ON MOTION

Sen. Cherarkey: Mr. Speaker, Sir, pursuant to Standing Order No.111, I propose that we move the limitation of debate and allow each and every Senator to speak for three minutes. If you can push that one up to around 11.25 p.m., then between 11:25, we give the Governor the chance to reply. We can move to vote at around 11:0 p.m., so that we do not run a fail of the gazette noticed that we issued and we be able to finish today, so that we do not need to gazette another day.

I propose and request Sen. Wambua to second.

(Loud consultations)

Sen. Wambua: Mr. Speaker, Sir, why am I getting directions on what to do from all over? I am a ranking Member of this House.

Mr. Speaker, Sir, I second the Motion by Sen. Cherarkey.

The Speaker (Hon. Kingi): Hon. Senators, I do not need to subject that Motion to debate. I will proceed to put the question.

(Question put and agreed to)

(Resumption of debate on Motion)

Each Senator will have three minutes to contribute.

Proceed, Sen. Wambua.

Sen. Wambua: Mr. Speaker, Sir, I will try to say a lot of things in three minutes. First of all, I want to go on record on this impeachment Motion.

It is clear to this House, to this country and to the world that the relationship between the Governor and the Members of the County Assembly (MCAs) of Meru is almost irreparably broken.

In the words of one of the lawyers, there is a stint of madness in Meru. The parties before the Senate to process this impeachment Motion have come to us seeking justice and that is what they must expect; justice to the parties and justice to the people of Meru.

This Senate must decline the invitation by any party to take sides and move in the direction for whatever reason. This Senate was available to the parties, they had an opportunity to approach the Senate Standing Committee on Devolution to settle their issues. They passed those opportunities. Both parties have treated this House, its members and millions of Kenyans that we represent to a charade of accusations and counter-accusations, all aimed at self-preservation and serving certain political interests.

I will give two examples. The County Assembly of Meru has come to this House with relatives of the Governor being used to embezzle county funds. When that matter was put to test, the evidence on record by the County Assembly is that, one, it is in the public domain that these are relatives of the Governor.

Secondly, they said that we have seen them take photos and from those photos, there is a display of public affection. How are we, in Kitui, supposed to make a decision on the relationship between the Governor and her sisters on account of a photo that I do not even know where it has come from?

The Assembly failed a basic test to just draw a family tree and just show us the relationships.

The Governor herself---

(Sen. Wambua's microphone went off)

The Speaker (Hon. Kingi): Your time is up.

Proceed, Sen. Boni.

Sen. (Dr) Khalwale: Thank you, Mr. Speaker, Sir.

(Loud consultations)

The Speaker (Hon. Kingi): Order, Senators!

Sen. Boni, you have the Floor.

Sen. (Dr) Khalwale: Thank you, Mr. Speaker, Sir. The violence and the inability of leaders to work in Meru is not new. What is new will be how we shall manage it. It happened in Makueni. Prof. Kivutha Kibwana was treated in exactly the same way Gov. Kawira Mwangaza is being treated. He ended up being the best-performing Governor in the Republic of Kenya.

The only thing we got from the impeachment of Nairobi was to be settled with a debt of Kshs.250 million for the Green Park Terminal that has never been used and will never be used. Impeaching Governors is not always the best solution. Kiambu, the second richest County in this Republic, lost five years because this Senate was in a hurry to respond to political feelings outside the Senate, and they brought problems in Kiambu for five years.

Finally, I want to appeal to the lawyers of the Republic of Kenya. When you are a lawyer, it does not mean you are everything. I have listened to the presentation of Dr. Thiankolu, my own friend, about the evidence of IFMIS.

I am shocked, completely. As the longest-serving Chairman of Public Accounts in the Republic of Kenya, I can confirm that I know IFMIS.

Mr. Speaker, Sir, if you indulge me, no Integrated Financial Management Information System (IFMIS) report, comes out with one transaction; imprest, imprest, imprest, up to the end. No.

IFMIS report comes out with what was spent on imprest and what was spent on other expenses. Not everything that comes out on IFMIS turns out to be genuine. There is something at the end of IFMIS, where the IFMIS report rejects.

Mr. Speaker, Sir, if we go by that report without subjecting this to an audit report--

(Sen. (Dr.) Khalwale's microphone went off)

The Speaker (Hon. Kingi): Your time is up, Sen. (Dr.) Khalwale.

(Sen. (Dr.) Khalwale spoke off record)

Sen. (Dr.) Khalwale, you are off record.

(Loud consultations)

Order, Members! Order, Sen. (Dr.) Khalwale.

(Sen. (Dr.) Khalwale stood up in his place)

Sen. (Dr.) Khalwale, kindly take your seat.

(Sen. (Dr.) Khalwale and Sen. Munyi Mundigi consulted loudly)

Order, hon. Senators. Sen. (Dr.) Khalwale and Sen. Munyi Mundigi, you will be watching this session from your Lounge, if you proceed that way.

Sen. Kavindu Muthama, proceed.

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for this opportunity. It has been a good time to listen to both parties, the County Assembly and the Governor's side.

However, if I may be very honest, if there is a day in this House I was disappointed, it is today. This is because when I listened, these are issues that would have been solved at Meru level. Those are not issues to be brought to the Senate.

(Applause)

There are no weighty issues that cannot be solved at Meru. The only issue that was very heavy for me is the abusive words that those men used on the Governor.

(Applause)

I cried and did not know what to do. I wanted to walk out and go because I could not bear watching the abusive words that were being used on the Governor. We are women and educated, just like the men.

(An hon. Member's phone rung)

The Speaker (Hon. Kingi): Who is that who set an alarm, to wake up to go where?

(Laughter)

Can you hold that time for Sen. Kavindu Muthama?

Sen. Kavindu Muthama: Yes, please, hold the time for me.

The Speaker (Hon. Kingi): Hon. Senators, put your phones on silent mode.

Sen. Kavindu Muthama: Mr. Speaker, Sir, we are women. We have daughters and we need to be given space in political arenas, that we may also portray our potential like any other person. We are leaders and we can lead, but we do not need this kind of bullying.

If we are given space, we can work. The people of Machakos today, because of what I do, ask me, "was this potential within you all those years?" I am sure from the way I have seen the MCAs working with the Governor, if they are given ample time and no incitement from anywhere, they can work and deliver.

Mr. Speaker, Sir, I am very disappointed and I do not see anything that can make anyone go.

I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Ali Roba.

Sen. Ali Roba: Thank you very much, Mr. Speaker, Sir. We have listened for the last two days to issues that have been raised by the County Assembly of Meru and the Governor's team. As an experienced Governor, I have listened very keenly on issues that touch on the running of the office.

Mr. Speaker, Sir, I have picked three critical issues that came to light. As I watched the pre-meditated position of leaders within Meru, what came out clearly was that the Governor has become an unwanted person and at whatever cost, they needed to get rid of her. That came out extremely clearly. I listened keenly to the examination and cross-examination and because we used the Plenary format, the Senators were at the mercy of trying to internalize what was being shared; and the cross-examination and time to cross-examine was not sufficient for us to get out the information that was required.

However, in the last one year and few months, we have handled three impeachments in this Senate. By far, this will be the most difficult and most testing in terms

of conscience and decision for the Senators in this House. However, what is in question is a weighty matter, regardless of which direction we are going to take as Senators. I do not see a solution ahead as a governor who has served for 10 years; whether the Governor is impeached or the impeachment is not approved by this House.

Mr. Speaker, Sir, I see sadness moving forward regardless of whichever way we are going to vote. That has been consciously the most disturbing position for me, as a leader who has served as a governor for 10 years. I have asked, if we go this way, what will be the result, if we go the other way, what will be the result? I do not see any light at the end of the tunnel. Let---

(Sen. Ali Roba's microphone went off)

The Speaker (Hon. Kingi): Sen. Olekina.

Sen. Olekina: Mr. Speaker, Sir, I speak here today as a father of two lovely daughters, whom I would like to see grow, become leaders like the way God has blessed me. What I witnessed today is something that negates that dream if we do not stand and be counted. What I have witnessed today is this Senate being reduced to an internal audit. The lawyers presented something that negates the Public Audit Act Section 31, which is clear on the process of audit. Article 228, Section 5 is very clear. It says that the Controller of Budget (COB) shall not authorize any withdrawal of funds from the County Revenue Fund, unless she is satisfied that, that withdrawal is authorized by law.

Mr. Speaker, Sir, we have been entertained by a charade of just innuendos. There was nothing to prove that. I am a ranking Member of the Senate Public Accounts Committee (PAC) and I know the process. I know what IFMIS is. I know that the PFM Act, Section 103, establishes the County Treasury and it puts in the treasurer of the CECM as the head of that fund. I sat down here and to be honest, when I watched those videos, something came to my mind and I said, you know what, that 1885 Berlin Conference was ill advised. The British should have just left us with our uncouth and uncivilized behaviours. To see an hon. Member, someone who calls himself a hon. Member, walking across the streets of our civilized nation and saying that certain tools should be used to punish a woman, is uncouth and uncivilized, and shame on them!

(Applause)

Mr. Speaker, Sir, I have gone through the seven allegations and none of them has been unsubstantiated.

(Several Senators consulted loudly)

We are being invited to get into a conflict of manhood and womanhood.

(Applause)

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I second the sentiments of the Senate Majority Leader. It is about time. If these leaders in Meru County cannot get their act together, we might as well call a commission of enquiry to suspend that county. It is ridiculous and we cannot allow this Senate to be reduced to that. We should know better.

The Speaker (Hon. Kingi): Proceed, Sen. Nyamu.

Sen. Nyamu: Thank you, Mr. Speaker, Sir. I have listened very carefully to the submissions from both sides since the beginning of this matter. The million-dollar question for this House and my colleagues is, does this matter before us meet the threshold for impeachment?

I want to quote the guidelines given by the Supreme Court on the threshold of conduct of what the Counsel for the County Assembly alluded to as gross misconduct. Is the conduct of the Governor of Meru County grave? Is it disgusting, heinous or audacious and all that appertains to gross misconduct? The answer is “no”.

We must not, as a House, drown in the murky waters that is Meru County politics. We must be very careful. The Members of County Assembly (MCA)s of Meru have failed to demonstrate that they can be independent and make decisions that are not influenced from outside. We must not join them. Tonight, the matter before us should not have gotten here. I do not see how this matter got here. This is pure politics that should be handled at the ground in Meru County.

(Applause)

I am very saddened and disappointed. Let it be known by those I am disappointing tonight that, as Sen. Nyamu, I am not going to be part of ending a young career of a woman Governor of Meru County, simply because she did not take a tea invitation from so-and-so or she does not get along with whomever. We are experiencing that in Nairobi City County---

(Sen. Nyamu’s microphone went off)

The Speaker (Hon. Kingi): Your time is up, Sen. Nyamu. Proceed, Sen. M. Kajwang.’

(Applause)

Order, Senators! Can Sen. M. Kajwang’ be heard in silence. Proceed.

Sen. M. Kajwang’: Mr. Speaker, Sir, I first want to congratulate the County Assembly of Meru. They have done their constitutional mandate. If this Parliament did half of what the County Assembly has done over the last one year, the cost of living would be much lower and some people would not be living in the houses they are living in on hills.

I congratulate the County Assembly. Whatever the outcome of today, they should not go home feeling they did the wrong thing. They undertook their constitutional mandate.

Today, we are damned if we do, or if we do not. Let me make it clear. The misogyny that has been demonstrated in some of the videos, the chauvinism and the incitement to tribal hatred, has no place in a modern Kenya.

Mr. Speaker, Sir, those are things we should not be massaging. Those are criminal actions. Gender based violence is such a grave criminal action.

(Applause)

That if I had an option to ask the Governor a question, I would have asked whether she reported those matters to the police. Impunity breeds in silence.

From the submissions, it appears as if everybody in Meru County is mad. We are in a season of madness in Meru. The only sane person in Meru today is the governor and the spouse. This is what has come out of the submissions. Could that be true; that all the great men and women of Meru, including the Deputy Speaker of this House, are in a season of madness and the only lucid person can be the governor? This presupposes and indicates there is a big problem that an impeachment cannot solve.

We have a patient with two damaged kidneys. If we take out one kidney, the patient will not survive. You take out the governor and leave the assembly, you have a problem. If you reinstate the kidney, which is the governor, you still have a problem. Article 192 of the Constitution states that where a county governor has irretrievably broken down, that county should be suspended and sent to a fresh election. Even though we do not have the original jurisdiction on this, I want to encourage the citizens of Meru to call for a suspension of the county government; to send Gov. Kawira Mwangaza and the MCAs back to the people. We have been told stories about who is popular and who is not. Finally, let us not forget that in 2010, Nancy Baraza, in her role as the Deputy Chief Justice of the Supreme Court of Kenya, on spurious allegations, set a precedent that has been part of our jurisprudence. If we were to go with that threshold, then Hon. Kawira Mwangaza should go home.

The Speaker (Hon. Kingi): Sen. Wafula, proceed.

Sen. Wafula: Asante Bw. Spika. Nashukuru kwa nafasi hii ambayo nimepewa kujadili Hoja nzito za usawa, haki na ukweli. Ukipewa nafasi kutafuta amani kati ya wendawazimu wawili, unashidwa utanza vipi. Iwapo wewe ni mhubiri na unamuomba mwendawazimu, utafumba macho ukiomba ama utayakodoa macho pima ukiomba?

Hii ndio hali tumo sasa. Tunakashifu matamshi mabaya dhidi ya wanawake. Lakini pia lazima tukashifu matendo mabaya yanayotendwa na wanawake. Iwapo kuna ubadhirifu wa pesa lazima tuseme. Iwapo kuna matusi dhidi ya wanawake na jinsia zao lazima tukashifu. Iwapo viongozi hawawezi kaa pamoja na kujadiliana lazima tuseme ukweli. Katika jamii yetu tunasema 'maji yasipotifuliwa hayawezi tulia'. Haya maji ya Meru yametifuliwa na lazima tuwache yatokote na yatulie. Yamefika hapa yakitokota lazima tuamue yatulie na watu wa Meru wasonge mbele.

Haiwezekani viongozi hawa kusema yale wanayosema pasipo shinikizo ama kunyoshewa vidole na viongozi wengine. Iwapo wewe ni *bishop* na unasema 'wenye wivu wajinyonge,' ni mahubiri yepi tunaendeleza katika nchi ya Kenya? Lazima tuseme ukweli.

Tumejadili mambo ya wahubiri na lazima wawe wa ukweli. Viongozi pia wawe wa ukweli. Fisi aliambia mawe, 'hata tukinyamaza vipi, mmesikia' na lazima tupige kura turekebishe mambo ya Meru.

Asante, Bw. Spika.

The Speaker (Hon. Kingi): Sen. Omogeni, proceed.

Sen. Omogeni: Mr. Speaker, Sir, if there is an image that has stuck with me ever since this impeachment trial started, it is the image I saw of some acts against the governor of Meru. I can be rough in politics and make mistakes, but I have never descended to the level I saw in the videos that were displayed before this House.

(Applause)

Mr. Speaker, Sir, however much you hate a human being, if you are a Christian or you believe in the Almighty God, there are some utterances you cannot make against another human being, when you are a leader. Despite the wrong doings we have seen against the Governor of Meru County, we must ask ourselves; when history is written and the 47 of us sat here, how did our conscience respond to the videos that were played before us?

(Applause)

How will the people of Kenya judge us? It is not just the Governor who is on trial, it is the Senate of the Republic of Kenya that is on trial tonight.

Mr. Speaker, Sir, I state that at 11.45 p.m., without fear of any contradiction, I owe my vote to the great women of Kenya. It is the one vote of the Nyamira County Delegation that I have.

(Applause)

I owe my vote to the women of Nyamira County, who have faith in me. I owe my vote to the great woman who raised me, Mama Nyamokami. Tonight, I give confidence to the woman who will receive me when I go home, my wife, Jackline, that I have respect for the women of this Republic.

(Applause)

When I cast my vote, it is to give assurance to my two lovely daughters, Nyamokami and Aliero, that we must treat the women of Kenya with honour and respect. That is the vote that I carry tonight.

I rest my case.

The Speaker (Hon. Kingi): Sen. Tobiko, you may have the Floor.

Sen. Tobiko: Thank you, Mr. Speaker, Sir. Throughout this impeachment Motion, I took my time to listen to both sides without trying to give my advice to my sister. This is against what was expected by many Kenyans and many people in Meru County.

The Counsel for County Assembly, Dr. Thiankolu, has said that quite a number of charges were repetitions of the same charges that were in the first impeachment. I do not know when this was just an appeal of what this House had already decided on. They could be allowed by law, but I do not think they should have then wasted the time of this House.

This evening, I submit that there could be administrative omissions and commissions. However, do they meet the threshold of impeachment? As far as I am concerned, these are non-impeachable offences.

(Applause)

Mr. Speaker, Sir, what we have seen throughout these two days is hounding of a woman out of office through emotional abuse, intimidation, slander and threats on her life. We have also seen tribal and ethnic profiling. These are issues that I think the National Cohesion and Integration Commission (NCIC) should pick up.

I advise the Governor of Meru County that whatever happens to you this evening, there are cases here that you should take to court. This is very scary to aspiring women of this country. I kept asking myself; is this what is awaiting the women governors in this county, those who will try to get into the political positions that are the domain of men in this country?

The County has continued to pursue what Dr. Thiankolu mentioned the other time, that the election brought undesired consequences. They must live with their choice. As far as I am concerned, the Meru elected Gov. Kawira Mwangaza and the will of the people is supreme. They must live with their choice for the next five years.

Thank you.

The Speaker (Hon. Kingi): Sen. Sifuna, you may have the Floor.

The Speaker (Hon. Kingi): Sen. Sifuna, you have the Floor.

Sen. Sifuna: Mr. Speaker, Sir, on my first day in this House, I took an oath to protect this Constitution. I am sure the people of Meru will appreciate because they also know about oaths; the reason why I would insist on defending this document on every occasion.

Under Article 94 of Constitution, I am enjoined to be a protector of counties and the interest of their governments, and that is exactly what I am going to do, whether I know anything about any of your counties, whether I have ever been there, whether I know anyone from there or not, because that is the oath that I took.

It has set a very high threshold for the removal of a governor under Article 181 on gross violation of the Constitution and the law, gross misconduct and abuse of office, or where there are serious reasons to believe that the county governor has committed a crime under national or international law.

Mr. Speaker, Sir, my expectation from the County Assembly was to meet a case that demonstrates this particular standard that has been set by the Constitution. Now, there

is one telling thing that came from the submissions of counsel, my good friend, Dr. Muthomi Thiankolu that, in fact, the motivation of the MCAs does not matter.

I want to try and persuade this House that motivation is everything. The reason why human beings do things is absolutely critical to the doing of those things. This is because motivation sets a goal for you and then you look for a means to get to that particular goal.

We have seen the evidence that has been led here, demonstrate clearly that a decision was made that Hon. Kawira Mwangaza had to go as the Governor of Meru County and then steps and plans were put in place to meet that particular goal. That is something that I cannot abide by as a Senator sworn to protect the interests of counties.

Mr. Speaker, Sir, I want to speak to two analogies that have been used quite extensively by the team from the County Assembly. One is the analogy of the scorpion and the frog. I do not think anyone can ascribe the innocence of a frog in that particular analogy to the County Assembly of Meru. At the very minimum, it is a scorpion being carried by a crocodile on its back because both animals are extremely dangerous from the evidence that we have seen here.

Secondly, it is this much repeated song by Shaggy called: “*It wasn’t me.*” In fact, in that particular song, the counsel forgot that there was a collabo; there is another gentleman who is singing in that song as well. That gentleman says that I was caught live; there are photos and there is evidence. That is what we expected from the County Assembly. In the evidence of the photos of this gentleman on the counter in the shower, as the counsel sung, it is difficult for me to get behind the case by the County Assembly.

I rest my case.

The Speaker (Hon. Kingi): Sen. Tabitha Keroche, you have the Floor

Sen. Tabitha Keroche: Thank you, Mr. Speaker, Sir, for giving me this opportunity. For me, I agree that there is something wrong in Meru County. However, there is a saying that when two elephants fight, the grass is the one that suffers and in this case, the grass is the people of Meru. We must ensure that we make the right decision in a very sober manner.

The representation of both parties was not convincing. Whatever they brought in here is something I believe, as Sen. Kavindu Muthama has said, that could have been solved at the County Assembly.

The videos that we have seen have portrayed the Meru men to be sex abusers. However, I can bear witness that in Nakuru County, we have over 5,000 Meru men and they respect women. In that video, please, I ask Kenyans just to know that it is only those Meru men that were in those videos that were---

(Laughter)

It is not all the Meru men.

I take this opportunity to advise my sister, Her Excellency Gov. Mwangaza; in the world we are living in, for women to rise to the top, you must work five times harder. However, when you reach there, ensure you become a role model where women want to become like you and men want their girls to be like you, but not their wives because they

only admire the power in you, but they do not like it. Exercise the power that has been bestowed by the Meru people very responsibly, so that the men can support and walk with you. I have walked that journey, so I know.

Going forward, ensure you go and unite all the leaders of Meru County. Believe me, in case of any---

The Speaker (Hon. Kingi): Sen. (Prof.) Tom Odhiambo Ojienda, SC, please proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Thank you, Mr. Speaker, Sir, for according me the opportunity to make a contribution to the debate before the House on the impeachment of Governor Mwangaza under Article 181 of the Constitution.

It is clear that the seven charges levelled against the Governor of Meru County have a set threshold that must be established on how we settled decisions of the Supreme Court on the impeachment of Governor Sonko and set by the Court of Appeal on the impeachment of Governor Wambora.

Mr. Speaker, Sir, I participated in both cases. I have also had the advantage of participating in the impeachment of the Governor of Wajir County, Mr. Mohamud, who successfully returned to office after impeachment. The threshold question is therefore important. I just want to address myself to that question.

The charges included; misappropriation and misuse of county resources, nepotism and related unethical practices, bullying, vilification and demeaning of other leaders as set out under Article 75(2) and (3), illegal appointments and usurpation of statutory powers, contempt of court, illegally naming a public road after her husband and lastly, contempt of the county assembly.

It is imperative that the threshold set or that should be set and as properly defined in the Sonko case, should be somewhere above the doubt and somewhere below the threshold required for criminal trials. Turn to the effect of impeachment and this is what should guide this assembly in voting. The effect of an impeachment is to permanently bar an individual from holding any public office. So, whatever you do today, you would be barring Governor Mwangaza from holding any public office in the Republic. Is this a fair act that this Senate should sit back and undertake when voting? I think that is the six million dollar question. I do not want to talk about scorpions, crocodiles and frogs, but in my understanding of what is before this Senate, the levels that have been---

The Speaker (Hon. Kingi): Your time is up. Sen. Cherarkey, please proceed.

Sen. Cherarkey: Mr. Speaker, Sir, one, I congratulate Members of County Assembly. I predicted in December that we will come back where we are today during the first impeachment. It is their constitutional right. Impeachment is a political process. I am happy gender is not on trial. It is about the competency, ability and discharge of the work of the governor. The county assembly has gone beyond to prove that the governor could not account for Kshs78 million. It has been proven that the governor could not account for Kshs78 million. That charge has been proved.

Number two, on the appointment, I was shocked under Article 183, Article 65, Article Section 30 and Section 45 of the County Governments Act. You have been a

governor. It is very clear that the governor abdicated her duties on record. The governor said that she had delegated her roles to the county secretary.

Number three, it goes to the point, where are the 1.5 million people of Meru County? It cannot be that the governor does not agree with Members of County Assembly (MCAs), the church, *Njuri Ncheke* and the 10 or 11 elected leaders. It is not that all others are wrong until you disenfranchise, humiliate, vilify and bully elected leaders in front of the President.

Mr. Speaker, Sir, the President and the Deputy President have on several occasions tried to reconcile. Why is it hard for the governor to work with the rest? Whenever a problem comes, they only come up with a gender card. I tell you there is a popular saying that, "What a man can do, a woman can do more." There were insults from the men, but did you not see on record and on *WhatsApp* the governor herself telling the Deputy Governor that he will defecate avocado seeds? Which insult is better than the other? We cannot hide, we must lift the veil. For Meru to move forward, we must stand with MCAs and give them the confidence to ensure oversight.

Mr. Speaker, Sir, I can assure you that if today Governor Kawira Mwangaza is shown the door, Meru will heal and will be better going into the future.

I submit.

The Speaker (Hon. Kingi): Proceed, Sen. Osotsi.

Sen. Osotsi: Thank you Mr. Speaker, Sir. Since I have a short time, I will start by saying that from the onset, this Senate agreed that we are going to listen to the merits and demerits of the case and decide.

I have spent hours sitting here and listening to the presentation by the two parties. I was shocked as an IT expert in my other life that the County Assembly presented to this House an extract from the Integrated Financial Management and Information Systems (IFMIS)---

(Loud Consultations)

The Speaker (Hon. Kingi): Hon. Senators, may the Senator be heard in silence.

Sen. Osotsi: The County Assembly presented an alleged extract from IFMIS that is not verified.

Mr. Speaker, Sir, this House has passed a law called the Computer Misuse and Cyber Crime Act, 2018, and I participated in processing that law. Under Section 14(2), it is very clear that any data from a computer system, especially, a computer system, is categorized under Section 9 of the same Act as a critical information infrastructure. That access must be based on consent.

Mr. Speaker, Sir, we have been presented with an extract from IFMIS which has no consent. Yes, they tried to get consent, but there are other offices that could have provided the consent like the Controller of Budget officer, the National Treasury, even the IFMIS directorate itself. They never made that effort.

This particular extract was provided by an anonymous person called Salesio. This man has not been brought to this House to testify. This man is not known whether he exists or not.

(Laughter)

Parliament is a House of record. We cannot be made to sit here for hours listening to submissions based on a document that is not verified. A document that is unlawful. This House has to be respected. In addition to that, there were some submissions given as evidence of *WhatsApp*. This matter was questioned by Sen. Orwoba and the counsel on the other side brushed over the issue. However, if you go to another law that was passed by this House called the Data Protection Act, Section 26 of that Act talks about the Data Subject Rights---

The Speaker (Hon. Kingi): Sen. Tabitha Mutinda?

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I start by appreciating the County Assembly of Meru for this far they have come. It has been challenging. It has been evident out there. It has been tough. They have walked a journey like any other journey that you can walk. Every journey has turbulence and ups and downs.

I note that we have very few women governors. We have only seven and Kawira is one of them. Governor Kawira, this is the second time that you have been returned to this House. I do not agree in any capacity on the videos that we have seen especially with some of the Meru male leaders. I speak as a married woman in the Meru community. Meru men are respectful. What we have seen is among the few. It is sad and should not have happened. I speak as a mother of a girl child. It is sad. As women, we are very few in this House, only 21. Our positions in this Government are few.

I urge that in the event that Madam Governor, you get a chance to go and work for the people of Meru, I challenge you and request you bring your house in order. As a leader, it is not the Members of Parliament (MPs) you will work with, it is these MCAs who have to pass your budget. It worries if you cannot work with them, your budgets will not be passed and development will not be done and services will not be rendered. It will be unfair to the people.

If this House decides that the worst happens, it will be sad because it will have reduced lady governors from seven to six. I request and urge you that with whatever results that shall be there, we try as leaders to work together. Without working with these MCAs, there is no opportunity. I walked with you last time up there. That is why all the time you will find that the newspapers will always have my----

The Speaker (Hon. Kingi): Sen. Faki.

Sen. Faki: Asante Bw. Spika kwa kunipa fursa hii kuchangia Hoja hii muhimu iliyo mbele yetu. Kwanza nazipongeza pande zote mbili; upande wa Bunge la Kaunti na upande wa gavana kwa kuleta matatizo yao katika Seneti, ili yatatuliwe.

Hakuna upande ambao utakaokuwa umeshinda uamuzi utakaotolewa. Uamuzi utakaotoka hapa utakuwa ni uamuzi wa Bunge ambao lazima tuukubali na pia utekelezwe kama itakavyokubalika. Sisi kama Waislamu twasema, kosa moja haliachi mke. Vile vile,

tunasema talaka ni mara tatu. Unaweza kumpa mke talaka akaenda akarudi. Ukampa ya pili, akaenda akarudi. Ya tatu ndio huwa ya mwisho. Kwa hivyo, Gavana Kawira alikuja hapa mara ya kwanza mwaka jana na talaka haikuweza kupita. Kwa hivyo, ako na fursa nyingine kuja hapa kuangalia ni vipi atatatia matatizo yake.

Ni masikitiko kwamba ushahidi uliotolewa haukuweza kuthibitisha makosa yaliyodaiwa kufanyika na Gavana Kawira. Ukiangalia makosa yote yaliyozungumziwa hapa na ushahidi ulioletwa haukuweza kufikia kiwango kilichowekwa na Mahakama ya Upeo katika kuangalia maswala kama haya.

Itakuwa ni dhuluma kubwa kuweza kumpeleka nyumbani Gavana Kawira Mwangaza kwa ushahidi ambao haukufikia kiwango kinachohitajika na mahakama.

Bw. Spika, uamuzi utakaofanywa usiku wa leo, hautasaidia yale matatizo ambayo yako Meru. Ni jukumu la viongozi ambao walichaguliwa wote, kuhakikisha kwamba tatizo hili wameweza kulitatia wao kama viongozi wa Meru. Hii ni kwa sababu matatizo ya Meru haiwezi kutatuliwa na viongozi wa kutoka Isiolo, Mombasa wala viongozi kutoka sehemu yoyote isipokuwa watu wa Meru wenyewe. Ni, waketi chini, waangalie matatizo haya ili waweze kuamua, ili waweze kupata maendeleo kama ilivyotarajiwa na Katiba yetu ya Mwaka 2010. Kwa hivyo, kwa kumalizia ni kwamba tumepata fursa ya kujua matatizo ya Meru. Fursa hii iko katika kaunti zetu zote tulizonazo katika nchi yetu ya Kenya.

Isiwe kwamba, wakitoka hapa mmoja aseme ameshinda. La. Watakaokuwa wameshinda ni watu wa Meru kupata uongozi na viongozi ambao watasaidia kupeleka Kaunti ya Meru mbele.

Asante.

The Speaker (Hon. Kingi): Proceed, Sen. Methu.

Sen. Methu: Thank you very much, Mr. Speaker, Sir, for giving me an opportunity to speak to this Motion.

This evening I have been called upon to make a very difficult decision, a decision that if we sent Governor Kawira Mwangaza home, then her career comes to a grinding halt.

Mr. Speaker, Sir, as it has been said, the threshold of an impeachment has been set in Article 181 of the Constitution of Kenya. It has also been well spelt out in the precedents that have been set in the decisions of the High Court and the Court of Appeal in the Wambora's Case. I thank the County Assembly, of course, it is within their functions to process an impeachment. I look at the charges that have been placed against the Governor of Meru, as a person who sits in the Public Accounts Committee. I looked at the evidence that was adduced in Charge No.1 on Misappropriation and Misuse of County Resources. As a Member who sits in that Committee, we all agree that an Integrated Financial Management Information Systems (IFMIS) extract cannot become evidence as to why and how the Governor of Meru is corrupt on this particular charge.

On the Charge No.2, on Nepotism and Related Unethical Practices, when the Counsel and the team from the County Assembly was called upon to come and give evidence-in-chief as to how the Governor of Meru is nepotistic, they told us that it is public knowledge that the people that are in those photos are her relatives.

How am I supposed to know that a person who appears in a photo is a relative of Sen. Olekina or is my own relative? Many people have said that the person who was playing the guitar on this video looks like me.

(Laughter)

Finally, on Charge No.3 - Bullying, Vilification and Demeaning of other Leaders, the evidence that was brought by the County Assembly was of a man playing guitar here, singing *wenye wivu wajinyonge*. That was the accusation that Governor Kawira Mwangaza demeans the other leaders. On the contrary, the videos as was played by the defence of the governor, printed an image of a patriarchal community, deep, painful images that I would never want my own children and wife--- That is not a society that we would want for our daughters. It is not a mistake for any woman to become a leader. This is not the way in which we can encourage our girls to become leaders. That when you are a leader, if you disagree with the other people, they use sexuality to harass you.

The Speaker (Hon. Kingi): Hon. Senators, at this juncture, I will call the governor. Governor Kawira Mwangaza, you have 10 minutes to address the Senate.

(Loud consultations)

Order, Hon. Senators. Hon. Kawira Mwangaza you can take the stand. You have 10 minutes.

(Loud consultations)

Order, Hon. Senators, order.

(Sen. Orwoba stood up in her place and spoke off the record)

Sen. Orwoba, leave the Chamber immediately.

(Sen. Orwoba walked out of the Chamber)

Hasten please or the Serjeant-at-Arms will help you.

Proceed, Governor Kawira Mwangaza.

Gov. Kawira Mwangaza: Mr. Speaker, Sir---

The Speaker (Hon. Kingi): Hon. Senators, let us hear the Governor in silence.

Gov. Kawira Mwangaza: Mr. Speaker, Sir, and Senators of this House. I take this opportunity to thank you for your time. I know it has not been easy for you. God bless you for your time. I am here today pleading with this House. I will say it in Swahili. *Mateso ni mengi lakini Mungu atusaidie*. If I have wronged any person in this House, in Meru and Kenya, I pray for forgiveness.

(The Governor broke down in tears)

As a mother and a leader, it is my duty to unite Meru people and I pray for more grace that God will give me power to bring all the leaders together. I pray unto our Father to give me more energy. *Mungu anipe kuvumilia kwingi* in order to see Meru people happy.

Mr. Speaker, Sir, to the Members of Parliament (MPs), our dear Deputy Speaker and Senator of this House, the MCAs and Deputy Speaker, forgive me if I have wronged any one of you.

(Applause)

I was elected as an independent governor and I know I need MCAs. I have tried my best and I will still continue trying my best to see that I work with everyone.

Mr. Speaker, Sir and this honourable House, no one is an angel. I am not an angel and each and every one of us has his or her own weaknesses. It is my prayer to God that the weaknesses I might have, God will help me so that we work together as a team, I will make Meru people happy.

I take this opportunity again to say thank you and I pray that you give me a second chance. God bless you.

(Applause)

The Speaker (Hon. Kingi): Hon. Senators, I will allow the Senator for Meru County five minutes to address the House.

Sen. Kathuri: Thank you, Mr. Speaker, Sir, for this opportunity to also make my contribution to the Motion. From the onset, I challenge the procedure because I wish we would be making these comments after we did the voting.

If you hear the comments of many Senators here, even from the Governor, it is like we have concluded business and we are yet to cast our votes. Nevertheless, Article 96(1) of the Constitution states that the Senate represents counties and serves to protect the interests of the counties and their governments.

Mr. Speaker, Sir, I wish that before any governor is brought before this House to prosecute any impeachment process, this House can go to that particular county and understand the issues that have been raised by the Members of County Assembly (MCAs) of the county. I live in Meru County and even tomorrow, I will be travelling there. All the 47 of the 67 Senators who are here do not live in Meru County. I wish that during this process, at some point, before the governor is brought to this House; there could be an intermediary process in a way that the issues can be canvased.

I thank Sen. Okiya Omtatah for what he is trying to do in his Petition. I wish a tribunal can be set up to sit with the MCAs, governor and leaders of the particular county so that they can be heard. When any governor is impeached and brought to the Senate immediately and directly, members of that county lose the opportunity to prosecute their issues. On this case, Meru County has a big problem. We have heard the Governor confess

that she will pray to the Lord to help her overcome. This tells us there is a problem in Meru County. It is not the way we put our steps, shout or clap but Meru has issues that need to be addressed. Meru county is not living in a vacuum. I want to address the Head of State, His Excellency the President, to take charge and understand what is ailing Meru County.

I thank the MCAs for doing their work excellently. There is no way 59 MCAs can be wrong or mad to impeach the governor for the third time. The MCAs have issues that they have raised in their Petition.

Mr. Speaker, Sir, unless these ladies and gentlemen are heard, then we can never solve the issues of Meru. As we speak here, I want to tell this House and convince them that Meru County has issues and problems. We have seen video clips played in vernacular. I challenge that process of executing these witnesses. Some of the clips are not audible. What is translated might not be what was said. How do we determine that a clip is articulate?

I request my colleagues that as they make the decision to look at all the counts. Let us not bring it down to only one issue about women. The *kibiri* is an instrument used to stir porridge or *maziwa lala*.

(Several Senators spoke off record)

An hon. Member: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi) Overruled.

Sen. Kathuri: As a leader of the Meru community, that clip was a misrepresentation of the actual meaning. As we make our decision, I hope the Senate can still review those clips.

The Speaker (Hon. Kingi): Hon. Deputy Speaker, your time is up. At this juncture, I will call upon the Mover to reply.

The Senate Leader of Majority (Sen. Cheruiyot): Mr. Speaker, Sir, I have had the opportunity to listen to colleague Senators. The views are far and wide as you would imagine. Many agree while others disagree with what has been spoken to. I plead with the House that immediately after this procedure we conclude the Impeachment Procedure Bill. We cannot be the House that is castigating county assemblies for not having lived up to the dictates of our Constitution, yet as a Senate for three terms, we have not guided our county assemblies on how to properly carry out an impeachment.

It is my humble submission that the County Assembly of Meru did their job exceptionally well. There are certain charges amongst the seven that the county assembly has proved beyond a reasonable doubt. Unfortunately, we find ourselves in such a situation. One senator has said, damned if you do, damned if you do not. I want to reiterate as I conclude, what I prescribed earlier in my moving notes. Either way, whether we save Governor Kawira or impeach her, the Meru people will still need the guidance of this House. There is no easy way out of the current situation.

The failure that exists in Meru County is far and beyond either saving or impeaching a particular governor. Therefore, I request our colleagues to conclude this exercise and cast their votes with their conscience. Listen to what the people of Meru are

saying. You cannot openly side and say that certain leaders have spoken about things that do not impress you while we have seen that it appears to be a culture in Meru where every leader, including Governor Kawira who is here with us, says foul things to each other. This is a bad culture that we need not encourage in our politics.

My final words to Governor Kawira, I do not know whether you will survive or fall. However, take time to read the Bible. Do not just preach. If you read the Bible you will find answers to some of the questions that continue to follow you. It cannot be that all the 59 MCAs are saying in less than a year on two occasions that you are unfit to hold office and be thoroughly wrong. You need to soul search and find it deep within yourself to reflect. If God grants you grace and you continue to serve this people, please change your ways and find it in your heart to work with other leaders. This is not to say that I know how this vote will go. It is now the opportunity of the 47 delegations – I am being told to talk to the Members of Parliament, but they are our colleagues. Many of them – I am pressed for time and I want Senators to vote before midnight. I have said everything that I needed to say. If the glove does not fit, you must acquit it.

Thank you.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No.84(1), I determine that this matter, indeed, affects counties. Therefore, voting shall be by Delegations.

I direct the Serjeant-at-Arms to ring the Bell for 10 minutes.

(Loud consultations)

The Bell needs to be rung for 10 minutes because the system needs to reboot. It has been overstretched beyond its limits. If we start voting now, it will collapse. For those 10 minutes, the system will reboot and then voting shall be done electronically.

Senators, do not leave the Chamber.

Thank you.

(The Division Bell was rung)

Hon. Senators, kindly take your seats.

(Sen. Mandago stood up in his place)

Sen. Mandago, why are you standing?

Serjeant-at-Arms, kindly proceed to close the Doors and draw the Bars.

(The Bars were drawn and Doors closed)

Hon. Senators, before we proceed to vote, allow me to bring clarity to this process, so that there are no mistakes as we proceed to vote. We are voting seven times because the charges are seven.

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We will call one Charge at a time as you vote until we come to the very last Charge. I would like to clarify that there are seven charges. If one of them is substantiated, Her Excellency Governor Kawira ceases being the governor of Meru County, even if it is just one charge that has been substantiated.

If I call the charge, and you vote 'Yes', it means you are saying that the charge has been substantiated. If you vote, "no", you are saying that charge has not been substantiated. That clarity is important so that we do not make mistakes as we proceed.

Now, hon. Senators, voting shall be done electronically. At this juncture, therefore, I will call upon the delegates to log out. Serjeant-at-Arms, I want you to go around and pull out any delegate card that is inside the delegate unit.

Once you have done so, kindly confirm so that we move to the next stage. At this juncture, hon. Senators, you must be holding your delegate cards in your hands.

Serjeant-at-Arms, we are waiting for your signal. Now, hon. Senators, proceed to log back into the delegate unit.

Before you proceed to vote, I will now put the question-

THAT WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Wednesday, 25th October, 2023, the Meru County Assembly approved a Motion to remove from office, by impeachment, Hon. Kawira Mwangaza, the Governor of Meru County;

WHEREAS, by a letter Ref. M/CARES/VOL.IV/43, dated 26th October, 2023, and received in the Office of the Speaker of the Senate on Friday, 27th October, 2023, the Speaker of the Meru County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

FURTHER WHEREAS, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80 of the Senate, the Senate heard the County Assembly on the grounds for removal from office by impeachment of Hon. Kawira Mwangaza, the Governor of Meru County;

AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order No. 80, the Senate also heard the Hon. Kawira Mwangaza on the grounds for her proposed removal from office by impeachment as the Governor of Meru County;

NOW THEREFORE, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate resolves to remove from office by impeachment, the Hon. Kawira Mwangaza, the Governor of Meru County, on the following charges-

Charge 1: Misappropriation and Misuse of County Resources

Charge 2: Nepotism and related unethical practices

Charge 3: Bullying, Vilification and Demeaning other Leaders

Charge 4: Illegal Appointments and Usurpation of Statutory Powers

Charge 5: Contempt of Court

Charge 6: Illegally naming a public road after her Husband

Charge 7: Contempt of the Assembly

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(Question put)

Hon. Senators, I further guide that we shall have a separate vote for each charge. There will therefore be seven separate votes. We shall now proceed to vote.

You may proceed to vote.

(Hon. Senators proceeded to vote)

(Voting in progress)

Hon. Senators, after you have voted, you sit in silence.

Now, Hon. Senators, we shall move to Charge No.2 - Nepotism and Related Unethical Practices. You may proceed to vote.

(Hon. Senators proceeded to vote)

(Voting in progress)

Hon. Senators, we shall now proceed to Charge No. 3 – Bullying, Vilification and Demeaning of Other Leaders. You may proceed to vote.

(Hon. Senators proceeded to vote)

(Voting in progress)

Hon. Senators, we now move to Charge No. 4 – Illegal Appointments and Usurpation of Statutory Powers. You may now proceed to vote.

(Hon. Senators proceeded to vote)

(Voting in progress)

(Loud consultations)

Hon. Gataya Mo Fire, you are out of order and I call you to order.

Sen. (Prof.) Tom Odhiambo Ojienda, proceed to the Dispatch Box and cast your vote.

(Sen. (Prof.) Ojienda, moved to the Dispatch Box)

Hon. Senators, we shall now move to vote on Charge No. 5, contempt of court. You may proceed to vote.

(Hon. Senators proceeded to vote)

(Voting in progress)

Hon. Senators, we shall now move to vote on Charge No. 6, illegally naming of a public road after her husband.

You may proceed to vote.

(Hon. Senators proceeded to vote)

(Voting in progress)

Hon. Senators, we shall proceed to the last charge. Members of the public – depending on which side you are on – when the voting will be done in this last charge, you must be silent. The parties must also note that – it matters not the outcome of the vote on the last charge – you must be seated in silence.

Members seated in the Speaker’s Gallery, it matters not the outcome of the vote on the last charge. You must sit in silence.

Charge No. 7, is on contempt of the Assembly.

Senators, you may proceed to vote.

(Hon. Senators proceeded to vote)

(Voting in progress)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate resolves to remove from office, by impeachment, the Hon. Kawira Mwangaza, the Governor of Meru County, for Misappropriation and Misuse of County Resources, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass Sheikh Mohamed, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Lelegwe Ltumbesi, Sen. Mandago, Uasin Gishu County; Sen. Munyi Mundigi, Embu County; Sen.(Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Seki, Kajiado County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County and Sen. Wamatinga, Nyeri County.

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NOES: Sen. Boy, Kwale County; Sen. Chesang, Trans Nzoia County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Joe Nyutu, Murang'a County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Markwet; Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC, Kisumu County and Sen. Wambua, Kitui County.

The Speaker (Hon. Kingi): Hon. Senators, the results of the Division are as follows:

Charge No.1 on misappropriation and misuse of county resources,

AYES: 19

NOES: 28

ABSTENTIONS: Nil.

“The Nays have it”

(Question negated by 28 votes to 19)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate resolves to remove from office, by impeachment, the Hon. Kawira Mwangaza, the Governor of Meru County, for Nepotism and related unethical practices, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass Sheikh Mohamed, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Dullo, Isiolo County; Sen. Cherarkey, Nandi County and, Sen. Kathuri, Meru County.

NOES: Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Chesang, Trans Nzoia County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Markwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen.(Dr.) Murango, Kirinyaga County; Sen.

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Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC Kisumu County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County and Sen. Wambua, Kitui County.

The Speaker (Hon. Kingi): Hon. Senators, the results of the division on Charge number two, nepotism and related unethical practices.

AYES: 5

NOES: 42

ABSTENTIONS: Nil.

“The Nays have it”

(Question negated by 42 votes to 5)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate resolves to remove from office, by impeachment, the Hon. Kawira Mwangaza, the Governor of Meru County, for Bullying, vilification and demeaning other leaders, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Cherarkey, Nandi County; Sen. Chute, Marsabit County; and, Sen. Kathuri, Meru County.

NOES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC

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Kisumu County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

AYES: 3

NOES: 44

ABSENTIONS: Nil

The “Nays” have it.

(Question negatived by 44 votes to 3)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate resolves to remove from office, by impeachment, the Hon. Kawira Mwangaza, the Governor of Meru County, for Illegal appointments and usurpation of statutory powers, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Githuku, Lamu County; Sen. Kathuri, Meru County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Mandago, Uasin Gishu County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Seki, Kajiado County; Sen. Tabitha Keroche, Nakuru County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and, Sen. Wafula, Bungoma County.

NOES: Sen. Boy, Kwale County; Sen. Chesang, Trans Nzoia County; Sen. Faki, Mombasa County; Sen. Gataya, Tharaka Nithi County; Sen. Joe Nyutu, Murang’a County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. Lomenen, Turkana County; Sen. M. Kajwang’, Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Sifuna, Nairobi City County; Sen. Thang’wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC Kisumu County; Sen. Wambua, Kitui County.

AYES: 20

NOES: 27

ABSENTIONS: Nil

The “Nays” have it.

(Question negatived by 27 votes to 20)

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DIVISION**ELECTRONIC VOTING**

(Question, that the Senate resolves to remove from office, by impeachment, the Hon. Kawira Mwangaza, the Governor of Meru County, for Contempt of court, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Cherarkey, Nandi County; Sen. Kathuri, Meru County; and Sen. Mandago, Uasin Gishu County.

NOES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang', Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Methu, Nyandarua County; Sen. Mungatana, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. (Prof.) Tom Ojienda, Kisumu County; Sen. Olekina, Narok County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and Sen. Wambua, Kitui County.

AYES: 3

NOES: 44

ABSENTIONS: Nil.

The "Nays" have it.

(Question negated by 44 votes to 3)

DIVISION**ELECTRONIC VOTING**

(Question, that the Senate resolves to remove from office, by impeachment, the Hon. Kawira Mwangaza, the Governor of Meru County, for illegally naming a public road after her husband, put and the Senate proceeded to vote by County Delegations)

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AYES: Sen. Abass, Wajir County; Sen. Cherarkey, Nandi County; Sen. Chute, Marsabit County; and, Sen. Kathuri, Meru County.

NOES: Sen. Abdul Haji, Garissa County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC Kisumu County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; and, Sen. Wambua, Kitui County.

AYES: 4

NOES: 43

ABSENTIONS: Nil.

The "Nays" have it.

(Question negated by 43 votes to 4)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate resolves to remove from office, by impeachment, the Hon. Kawira Mwangaza, the Governor of Meru County, for Contempt of the Assembly, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Abdul Haji, Garissa County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Kathuri, Meru County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Wamatinga, Nyeri County; and, Sen. Wafula, Bungoma County.

NOES: Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Chesang, Trans Nzoia County; Sen. Dullo, Isiolo County; Sen. Faki, Mombasa County; Sen. Gataya, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.)

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Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC Kisumu County; Sen. Wakili Sigei, Bomet County; and, Sen. Wambua, Kitui County.

AYES: 4

NOES: 43

ABSENTIONS: Nil.

The "Nays" have it.

(Question negated by 43 votes to 4)

Now, Hon. Senators, Section 33(7) of the County Governments Act, provide as follows-

"If a majority of all members of the Senate vote to uphold any impeachment charge, the governor shall cease to hold office."

Hon. Senators, the result of the Division indicates that the Senate has not upheld any of the impeachment charges. Pursuant to Article 181 of the Constitution, Section 33(8) of the County Governments Act and Standing Order No.80(7) of the Senate Standing Orders, the Senate has failed to remove from office, by impeachment, Hon. Kawira Mwangaza, the Governor of Meru County. The governor, accordingly, continues to hold office.

(Applause)

You may now draw the Bar and open the Doors.

(The Bar was drawn and Doors opened)

Now, to the parties, you shall stay seated as the Senators exit the Chamber. Likewise, the people who are in the Public Gallery, you will stay seated as Senators leave the Chamber.

Hon. Senators, you may now rise.

ADJOURNMENT

Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until Tuesday, 14th November, 2023 at 2.30 p.m.

(Loud consultations)

(An Hon. Senator spoke off record)

That was communicated here by Sen. Mumma. Those who attend sessions know.

(Laughter)

The Senate rose at 12.29 a.m.