

Annex 4:

Submissions made by Hon. Thaddeus Nyabaro

THE COUNTY ASSEMBLY OF NYAMIRA



Contents

RE: THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER COUNTY ASSEMBLY OF NYAMIRA	1
PART A: THE DISPUTE IN THE COUNTY ASSEMBLY OF NYAMIRA	3
A.1 Accountability/Oversight Mechanism over the County Executive	3
A.2 Speaker of the County Assembly of Nyamira	3
A.3 Official Location/Precincts of County Assembly of Nyamira	4
A.4 Instruments of Authority (Mace, Official Seal and Stamps)	4
A.5 Clerk of the County Assembly of Nyamira	5
A.6 County Assembly Leadership and Committees	6
A.7 The County Assembly Service Board	6
PART B: THE CAUSE OF THE DISPUTE IN THE COUNTY ASSEMBLY OF NYAMIRA.	8
B.1 The Role of the Governor in the dispute	8
B.2 The role of the Controller of Budget in the Dispute	10
B.3 The role of Court Orders in the Dispute	11
B.4 The role of the Impeached Speaker Enock Ogori Okero in the Dispute	12
B.5 The role of Gazette Notices by the Impeached Speaker Enock Ogori Okero in the Dispute ..	15
PART C: THE EXTENT TO WHICH THE DISPUTE HAS AFFECTED THE OPERATIONS OF COUNTY ASSEMBLY.	17
C.1 Accountability/Oversight Mechanism over the County Executive	17
C.2 Speaker of the County Assembly of Nyamira	17
C.3 Official County Assembly Precincts	17
C.4 Instruments of Authority (Mace, Official Seal and Stamps)	18
C.5 Clerk of the County Assembly of Nyamira	18
C.6 County Assembly Leadership and Committees	19
C.7 The County Assembly Service Board	19
PART D: THE STEPS TAKEN TO RESOLVE THE DISPUTE	20
PART E: OTHER INFORMATION TO AID THE COMMITTEE IN ITS INVESTIGATION.	23
PART F: CONCLUSION	26
ANNEXURE: 01 TO 67 – VOL 1	
ANNEXURE: 68 TO 85 – VOL 2	

THE COUNTY ASSEMBLY OF NYAMIRA

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THIRD ASSEMBLY – FOURTH SESSION

When replying please quote our reference

Our Ref: CAN/SPK/SEN/2025/04(01)

Date: 7th APRIL 2025

THE CLERK OF THE SENATE,
PARLIAMENT BUILDINGS,
P.O. BOX 41842-00100.
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**RE: THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA**

Introduction

First, we acknowledge receipt of the letter **REF: SEN/DGAC/DEVIR/2025/056** dated **1st April, 2025** subject being invitation to a meeting of the standing Committee on Devolution & Intergovernmental Relations concerning reported long standing dispute in the County Assembly of Nyamira.

We take the earliest opportunity to appreciate the step taken by the Leadership of the Upper House, the standing Committee on Devolution & Intergovernmental Relations and the entire Honorable Senators to consider the reported dispute in the County Government of Nyamira in order to safeguard it from the brink of collapse.

Your bold action has rekindled hope of the residents of Nyamira, who for a while had lost hope. The residents of Nyamira strongly believe that as the custodian of Devolution you are uniquely positively empowered to defend their plight. You have the mandate of the people to demand accountability, you can call into order those who act in a manner inconsistent with what the Constitution requires them to do.

The County Assemblies are charged with the responsibility of making laws, exercising oversight and approvals of budgets among others.

Nyamira County has a total of 20 Electoral Wards, currently we have a total of 33 members of County Assembly, 18 elected Members of County Assembly and 15 nominated Members.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

Jurisdiction

Hon. Senators,

Pursuant to the Constituion of Kenya, 2010 Article 93, establishes the Senate to wit;

93. (1) There is established a Parliament of Kenya, which shall consist of the National Assembly and the Senate.

(2) The National Assembly and the Senate shall perform their respective functions in accordance with this Constitution.

Article 96 (1) provides that the Senate represents the counties, and serves to protect the interests of the counties and their governments.

Standing Order 228 read together with the Fourth Schedule of the Senate Standing Orders establishes and provides for the roles and function of the Senate Standing Committee on Devolution and Intergovernmental Relations, *Interalia*; **to consider all matters relating to devolution, intergovernmental and inter- county relations, governance and management of county governments, cities, towns and urban areas.**

Hon. Senators,

We are properly in the right forum to address this long standing dispute.

We draw your attention that this submission will appraise the Committee on the following thematic areas:

- A. The dispute in the County Assembly of Nyamira.
- B. The cause of the dispute in the County Assembly of Nyamira.
- C. The extent to which the dispute has affected the operations of County Assembly.
- D. The Steps taken to resolve the dispute.
- E. Other information to aid the Committee in its investigation.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

PART A: THE DISPUTE IN THE COUNTY ASSEMBLY OF NYAMIRA

A.1 Accountability/Oversight Mechanism over the County Executive

The County Assembly of Nyamira which has first primary oversight over the Governor has been deliberately made dysfunctional by the Governor who has sponsored a splinter faction of MCAs and a former impeached speaker to frustrate oversight and get away with wanton theft of resources.

The splinter faction is comprised of twelve (12) members of the County Assembly who voted against the impeachment of the Governor and later eleven of them registered an abstention during the impeachment of the Speaker.

Seven (7) out of the twelve members of the splinter faction and the former impeached speaker are sponsored by the United Progressive Alliance (UPA) Party whose Party Leader is Governor Amos Kimwomi Nyaribo. Eight (8) of the twelve members are special elect members leaving only four (4) elected MCAs who draw their mandate directly from the people. This leaves out a total of sixteen (16) wards not represented in the conduct of business by the splinter faction.

The Governor is actively poaching other members to join the splinter faction by making personal calls and buying their support and loyalty to further weaken the resolve of MCAs in their quest for accountability.

With the splinter faction, the Governor is guaranteed of complacency in oversight and has therefore frustrated any attempts for accountability by ensuring that this crisis does not come to an end. It is in the Governor's interests that this crisis persists to allow him evade scrutiny and/or disable efforts to have him impeached.

The Governor has since November 2024 to date presented statutory documents and nominees for appointments to the Splinter faction for their processing and approval without meeting the Constitutional requirements. These approvals were done with exclusion of majority of Members of County Assembly who conduct business at the official precincts.

Annex 01: Video of Governor Amos Nyaribo in support of splinter faction and a former impeached speaker

Annex 02: List of MCAs and their sponsoring parties

A.2 Speaker of the County Assembly of Nyamira

We have a Speaker officially elected running the official county Assembly and an impeached former Speaker conducting illegal meetings of a splinter faction in the name of "Bunge Mashinani" from ad hoc premises not published in the Kenya Gazette and/or appointed by the County

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

Assembly contrary to Sections 6A(1); 7B(2) and the third schedule of the County Governments Act, 2012.

The impeached former speaker Enock Ogori Okero proceeded to court vide ELRC-Kisii Pet. E001 of 2024 where he is challenging his impeachment. The Court has to date neither invalidated the decision of the County Assembly to impeach Enock Ogori Okero nor reinstated him to office. While the impeached former speaker is expected to await the outcome of the petition from Court, he has continued to conduct himself as a Speaker and convinced a few MCAs to join him and have formed a splinter faction purporting to be a parallel County Assembly of Nyamira.

Currently, I am equally constrained by Court from performing the duties of Speaker of the County Assembly vide a court order which I am abiding though I have appealed against the Orders.

Annex 03: Motion for impeachment of Hon. Enock Ogori Okero

Annex 04: ELRC Petition E001 of 2024 by Enock Ogori Okero challenging his impeachment

Annex 05: Hansard Report on election of Hon. Thaddeus Nyabaro Momanyi

Annex 06: Nyamira High Court Petition E001 of 2024 by Edwin Onchoko challenging election of Thaddeus Nyabaro as Speaker

A.3 Official Location/Precincts of County Assembly of Nyamira

Two factions comprising of Members of the County Assemblies are conducting their business from parallel locations. The legitimate County Assembly holds its sittings at the official gazetted physical location while the splinter faction holds its sittings anywhere and in places not gazetted without prior notice to the public contrary to Sections 6A(1); 7B(2) and the third schedule of the County Governments Act, 2012.

The Splinter faction is currently illegally conducting business on account of a fake gazette notice from ad hoc locations a blatant violation of section 6A(1) of the County Governments Act, 2012 and Gazette Notice No.7653 of 2017 which expressly provide for Nyamira urban area as the location of the County Assembly. The splinter faction, with the support of the Governor, have transferred the headquarters/location of the county Assembly from Nyamira Urban area to other distant ad hoc locations contrary to section 6A(2) and (3) which require such decision to be approved by two-thirds of Members of the County Assembly and with the approval of parliament.

Annex 07: Gazette Notice No.7653 of 2017 on Location of Nyamira County Assembly

A.4 Instruments of Authority (Mace, Official Seal and Stamps)

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

The legitimate County Assembly which has the majority of members is in custody of the official mace which is a symbol of authority representing the power of the Speaker to transact formal Business while the splinter faction transacts Business without the official mace. The caricature of a mace with the splinter group is under custody of David Kengere, a Procurement officer who is masquerading as a serjeant-at-arms.

The legitimate Assembly is also in custody of the Official County Assembly Seal and Stamps, the splinter faction has created a fake mace, a fake seal and fake stamps.

Annex 08: Letter of Redeployment of Mr. David Kengere

Annex 09: Affidavit of George Angwenyi the Chief Serjeant-at-arms

Annex 10: Affidavit of Duke Simeon Onyari the Clerk of the County Assembly of Nyamira

Annex 11: Correspondences embossed with the fake seal and stamp

A.5 Clerk of the County Assembly of Nyamira

The legitimate County Assembly of Nyamira appointed Mr. Duke Simeon Onyari as Clerk of the County Assembly on 19th December, 2024 who had acted in the same office prior to his appointment while the splinter faction has an Ag. Clerk, Mr. Silvanus Ndemo Nyamora, who was appointed by an impeached Speaker two days after his impeachment.

The existence of an illegitimate Clerk has culminated in the introduction of strangers as Signatories to the Nyamira County Assembly Bank Accounts at the Central Bank of Kenya with the sole purpose of illegally accessing and stealing of public funds. The change of Signatories was illegally effected by officers of the Central Bank of Kenya in total disregard of Standard Operating Procedures for Change of Signatories.

Ever since this illegal change was effected, Silvanus Ndemo Nyamora has not paid salaries and other allowances, medical cover and office operations as he does not have the structures, physical office nor the staff to process payments. This illegal change of signatories has occasioned a delay in payment of salaries and other allowances to staff and Members of the County Assembly for the last four months, crucial operations of the county Assembly have been grounded. This has negatively impacted on the operations of the county assembly.

On account of his illegal activities, the County Assembly Service Board dismissed Silvanus Ndemo Nyamora from the County Assembly Service effective the 5th of February 2025. Silvanus Ndemo Nyamora ceased from being an employee of the County Assembly of Nyamira.

Annex 12: Appointment Letters for Duke Simeon Onyari

Annex 13: Hansard Report on the appointment of Duke Simeon Onyari as Clerk

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

Annex 14: Appointment and Redeployment letters of Silvanus Ndemo Nyamora

Annex 15: Suspension letter of Silvanus Ndemo Nyamora

Annex 15: Dismissal letter of Silvanus Ndemo Nyamora

A.6 County Assembly Leadership and Committees

The legitimate County Assembly has a fully constituted House Leadership and committees comprised of all members of the County Assembly including those in the splinter faction as provided for by the County Assembly Standing Orders while the Splinter faction has leadership and committees with unknown membership but only comprised of the splinter members.

Annex 16: List of County Assembly Committee Chairpersons and Vice Chairpersons

Annex 17: List of County Assembly Committee Membership

A.7 The County Assembly Service Board

The legitimate County Assembly has a fully constituted County Assembly Service Board while the splinter faction has individuals who were former members of the County Assembly Service Board and who contested their removal from the Board in Court and lost.

The status of the **former** Nyamira County Assembly Service Board is **extinct** as highlighted below:

Member	Remarks
Enock Okero	Impeached on 24th October 2024
Joel Ombongi	Recalled by majority coalition on 20/9/2024
Lameck Sikweya	Recalled by minority coalition on 20/9/2024
Leonard Mogaru	Removed by the Assembly on 21/11/2024
Edith Nyaboke omari	Removed by the Assembly on 21/11/2024
Duke Onyari	Secretary and Clerk to date

*Joel Ombongi and Lameck Sikweya did challenge their removal as member of the Board vide PPDTC/E004/2024 Lameck Sikweya and Joel Nyangau Ombongi Vs Majority Whip County Assembly of Nyamira AND Minority Whip County Assembly of Nyamira AND 1 Others. **Their case was struck out.***

The current Nyamira County Assembly Service Board as published vide gazette Notice number 13376 of 2024 comprises of

Member	Position	Remarks
Thaddeus Nyabaro	Chairperson	
Josiah Obegi Mang'era	Vice Chair	
Reuben Miinda Riechi	Member	

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

*Leonard Mogaru	Member	Revoked on 21 st November 2024
*Edith Omari	Member	Revoked on 21 st November 2024
Duke Simon Onyari	Secretary and Clerk	

Annex 18 A: Ruling in PPDTC/E004/2024

Annex 18 B: Judgement of Leonard Mogaru VS County Assembly – E002 OF 2024

Annex 19: Kenya Gazette Notice number 13376 of 2024

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

PART B: THE CAUSE OF THE DISPUTE IN THE COUNTY ASSEMBLY OF NYAMIRA.

It's a pleasure and humble privilege to present to you the main causes of the longstanding dispute in the County Assembly of Nyamira under the following headings:

B.1 The Role of the Governor in the dispute

There is instigated total paralysis in Nyamira County Government by none other than **H.E Amos Nyaribo**, the Governor of Nyamira to defeat scrutiny and oversight in the management of Public resources.

There has been two attempts to impeach the Governor on account of misuse of Public finances among others grounds.

To avoid any meaningful oversight and/or impeachment, the Governor assisted the impeached former speaker Hon. Enock Ogori Okero to start a splinter "Bunge Mashinani" purporting to perform the functions of the County Assembly of Nyamira. This has impaired, among other issues, the discussion of FYs: 2022/23 and 2023/2024 audit reports which reveal massive loss of public funds under the leadership of **Governor Amos Nyaribo**.

A number of incidents below will demonstrate the Governor's hand in impairing the operations of the County Assembly of Nyamira.

On 15th October 2024; under the direction of the Governor, the county government enforcement officers and in the company of hired goons, stormed the precincts of the County Assembly and caused mayhem and chaos. (*Annex 20: Video footage showing enforcement officers in the company of goons at the County Assembly precincts*)

The Governor has enabled and sponsored a parallel legislative authority outside the law therefore a direct violation of the Constitution as there is no single provision in law that allows for the existence of parallel assemblies.

The Governor, through the Head of County Treasury, controls financial resources meant for the County Assembly. It is through this role that the Governor has deliberately frustrated execution of the County Assembly Budget and thus frustrating the operations of the County Assembly. The Members of the County Assembly and Staff of the County Assembly are at the mercy of the Governor. On account of his influence on county assembly resources, the governor has used his position as a bargaining tool to influence decisions made by the County Assembly of Nyamira and has attempted to force the return of Enock Ogori Okero after his impeachment. The Governor is equally imposing Silvanus Ndemo Nyamora as a Clerk, a person he can manipulate to access funds from the County Assembly.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

In November 2024, the Governor presented the Supplementary Budget FY.2024/25 for the County Government of Nyamira to the Splinter faction which was approved without interrogation by the Budget & Appropriations Committee of the County Assembly of Nyamira and to the exclusion of the majority of Members of the County Assembly and the public. (*Annex 21: The Nyamira County Supplementary Appropriation Act, 2024*)

In November 2024, the Governor presented nominees for appointment to Members of Nyamira and Keroka Municipalities' Boards to the splinter faction which proceeded to approve the said nominees devoid of procedures laid down in the Public appointments (County Assemblies) Approval Act, 2017. This was done to the exclusion of the majority of Members of the County Assembly and in total disregard of the tenets of public participation. (*Annex 22: Gazette Notice No.1965 of 2025*)

On 28th February 2025, the Governor presented the County Fiscal Strategy Paper (2025) to the Splinter faction. The said document was processed and approved to the exclusion of the majority of Members of the County Assembly and in total disregard of public participation as there was no activity at the said venue of public participation on the material day.

Annex 23: Advertisement for Public Participation by Silvanus Ndemo Nyamora

Annex 24: Correspondences showing the County Fiscal Strategy Paper (2025) was presented to the Splinter faction

Annex 25: Affidavit of Jeremiah Chebana, Budget Officer in support of photos taken on the material day of Public Participation

In March 2025, the Governor presented to the splinter faction, nominees to the Selection Panel for recruitment of County Public Service Board Members. The Splinter faction has since processed and approved the nominees to the exclusion of the majority of Members of the County Assembly. (*Annex 26: Advertisement by Silvanus Ndemo Nyamora on vetting of Selection Panel*)

In March 2025, the Governor presented a nominee for appointment as Member of County Executive Committee for Gender, Sports, Youth, Culture and Social Services to the splinter group. The nomination has been approved by the splinter faction to the exclusion of the majority of Members of the County Assembly. This vetting was conducted by the splinter faction on 2nd April 2025 a few days after the Senate had taken note of and condemned the illegal operations of the "Bunge Mashinani" outfit. (*Annex 27: Advertisement by Silvanus Ndemo Nyamora on vetting of Ms. Peris Nyaboke Oroko*)

Under the direction of the Governor and without authority from County Assembly of Nyamira, Richard Nixon Onyinkwa - the County Chief Officer, Economic Planning, ICT, and Resource Mobilization attempted to open and host a portal/website for the splinter faction masquerading it as the official site for County Assembly of Nyamira.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

In addition, the Governor, without any authority from the County Assembly of Nyamira, caused the creation of email accounts under the domain of the County Executive and issued credentials to (Silvanus Ndemo Nyamora and others) who are acting at the behest of Governor and the splinter faction with an intention to use the official emails to fraudulently access County Assembly of Nyamira funds at the Central Bank Kenya. (*Annex 28: Advert showing email address “snyamora@nyamira.go.ke” for Silvanus Ndemo Nyamora*)

In a number of public functions, the Governor has not only been seen in the company of members belonging to the Splinter faction, but also proclaims who he prefers as Speaker and Clerk of County Assembly. In the circumstances, this splinter faction has been compromised by the Governor and cannot be expected to perform their oversight role as provided for in the Constitution. (*Annex: 29 Video of Governor Amos Nyaribo in support of splinter faction and a former impeached speaker*)

B.2 The role of the Controller of Budget in the Dispute

Despite the fact that the County Assembly of Nyamira did not consider and/or approve of any Supplementary Budget for the County Government of Nyamira in FY: 2024/25; the Controller of Budget allowed the implementation of an illegal supplementary budget FY: 2024/25 amounting to **Kshs.8,102,897,542**. (*Annex 30 A: The Nyamira County Supplementary Appropriation Act, 2024*)

The controlling function of the Controller of Budget involves authorizing withdrawals from public funds. Before authorizing any withdrawal from Public funds, the Controller of Budget must first be satisfied that the said withdrawal is authorized by law, as per Article 228(5) of the Constitution.

The Controller of Budget shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorized by law.

Under Article 252 (1) (a) of the Constitution, the Office of the Controller of Budget (as an independent office) has the power to conduct investigations on its own initiative or following a complaint made by a member of the public on budget implementation matters.

252(1) Each commission, and each holder of an independent office–

(a) may conduct investigations on its own initiative or on a complaint made by a member of the public;

The County Assembly of Nyamira made an official complaint to the Controller of Budget reporting this illegality on 11th February 2025 and a reminder on 18th March 2025. To this date, the Controller of Budget has never responded to the Complaint while implementation of the said illegal Supplementary Budget FY:2024/25 is ongoing.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

Annex 30 B: Complaint to the Controller of Budget by County Assembly of Nyamira on illegal processing of County Supplementary Budget FY: 2024/25

Annex 30 C: Letter to the Controller of Budget by County Assembly of Nyamira on illegal processing of County Supplementary Budget FY: 2024/25 dated 4th December, 2024

Annex 31: Reminder to the Controller of Budget on Complaint by County Assembly of Nyamira on illegal processing of County Supplementary Budget FY: 2024/25

The Controller of Budget has continued to approve withdrawal of funds when accountability structures in Nyamira County have been deliberately disabled.

Other issues that have been brought to the attention of the Controller of Budget include the processing of the County Fiscal Strategy Paper, 2025 by the splinter group.

B.3 The role of Court Orders in the Dispute

There are a number of Court Orders believed to be restraining the County Assembly of Nyamira from undertaking its Constitutional, statutory and legislative duties thus affecting several operations.

In Petition No. E008 of 2024, the Judge ignored a preliminary objection on jurisdiction and proceeded to grant orders in the matter that, later, she found the court had no jurisdiction over. (*Annex 32: Court Ruling in Petition No. E008 of 2024*)

In Judicial Review E007 of 2024, the Judge vacated orders that were granted staying the gazette notices issued by the impeached speaker Enock Ogori Okero. The said gazette notices had earlier on been stayed by another Judge on account of being issued by an impeached speaker.

Annex 33: Court Order staying the implementation of Gazette Notices in JR E007 of 2024

Annex 34: Court Order vacating Orders in JR E007 of 2024

In Nyamira High Court Petition No.E004 of 2025, filed by an extinct County Assembly Service Board of Nyamira wherein the Judge granted orders for change of signatories to an illegal Ag. Clerk in the name of Silvanus Ndemo Nyamora. (*Annex 35: Court Order in Petition No.E004 of 2025*)

These, among other incidences of bias from the judge, prompted the County Assembly to file a petition for the removal of the particular judge before the Judicial Service Commission. (*Annex 36: County Assembly of Nyamira Petition to the Judicial Service Commission for Removal of Justice Wilfrida Okwany*)

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

B.4 The role of the Impeached Speaker Enock Ogori Okero in the Dispute

Prior to his impeachment, Enock Ogori Okero had been suspended on 8th October 2024. He did obtain temporary orders in Nyamira Petition No. E008 of 2024 Enock Ogori Okero v County Assembly of Nyamira & 7 others stopping his suspension. **However, he did not obtain any court orders stopping his impeachment.**

Annex 37: Motion for Suspension of Enock Ogori Okero

Annex 38: Petition No.E008 of 2024 and Court Order

Enock Ogori Okero, the former Speaker of Nyamira County Assembly was formally removed from office by way of impeachment on 24th October 2024. His impeachment was published vide Gazette Notice Number 14050 of 2024. Following his impeachment, Enock Ogori Okero ceased being the Speaker of Nyamira County Assembly and the Chair of the Nyamira County Assembly Service Board on 24th October 2024.

Annex 39: Motion for Impeachment

Annex 40: Gazette Notice No. 14050

On **16th December 2024**, Nyamira High Court Judge ruled that she did not have jurisdiction to entertain the Petition. She transferred the Petition to Kisumu Employment and Labour Relations Court without extending the interim Orders.

Annex 41: Rulings of the Court

On 25th October 2024, Enock Ogori Okero did file in the Kisii Employment and Labour Relations Court Petition Number E001 of 2024 Enock Ogori Okero & 12 Others v The County Assembly of Nyamira & Another **challenging his impeachment.**

It is noteworthy that Enock Ogori Okero has never obtained any Court Order suspending his impeachment neither has he ever obtained any Court Order suspending and/or staying gazette Notice Number 14050 of 2024 which published his impeachment. In addition, he has to date never been reinstated as the Speaker of the Nyamira County Assembly by any court.

Annex 42: ELRC Petition Number E001 of 2024

Subsequent to his impeachment on 24th October 2024, Enock Ogori Okero wrote to the then acting Clerk and the current Substantive Clerk of the Nyamira County Assembly Mr. Duke Onyari purporting to suspend Mr. Duke Onyari on account of facilitating an illegal impeachment yet the said **Enock Ogori Okero appeared in person during his impeachment** hearings at the Nyamira County Assembly on 24th October 2024 to respond to the charges. Having been impeached on 24th

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

October 2024, Enock Ogori Okero did not have the capacity to suspend Mr. Duke Onyari on 25th October 2024.

Annex 43: Video showing Enock Ogori Okero making presentations in the County Assembly Chambers and responding to impeachment charges

Annex 44: Letter Suspending Duke Onyari as Clerk

On **31st October 2024**, **Enock Ogori Okero** purported to gazette 4 areas as places for *bunge mashinani* sittings, one **Silvanus Ndemo Nyamora** as the acting Clerk of the Nyamira County Assembly vide gazette Notice Number **14229 of 2024** and **14230 of 2024**. Similarly, on **30th October 2024** he purported to gazette new members of the Nyamira County Assembly Service Board vide gazette notice number **14273 of 2024**.

Annex 45: Gazette Notice No.14229 of 2024

Annex 46: Gazette Notice No.14230 of 2024

Annex 47: Gazette Notice No.14273 of 2024

The three gazette notices by **Enock Ogori Okero** are illegal as they were published by himself subsequent to his impeachment. He did not have the authority to publish the said gazette notices as he had ceased being the Speaker of Nyamira County Assembly and the Chairperson of the Nyamira County Assembly Service Board on **24th October 2024**.

Let it be noted that **NO MOTION WAS PASSED** in the County Assembly plenary to appoint alternative areas for County Assembly Sittings (*Bunge Mashinani*) to take place as required under Section 7B(2) of the County Governments Act, 2012.

(2) Except for a sitting of a new county assembly under subsection (1), a sitting of a county assembly may be held at any place within the county and may commence at any time as the county assembly may appoint.

Standing Order No.28 of the County Assembly of Nyamira Standing Orders which provides for Special Sittings of the County Assembly **was equally not observed**.

*(1) Whenever a Session of the County Assembly stands adjourned, whether or not a day has been appointed for the next meeting, the Speaker may, on the request of the **Leader of the Majority Party** or the **Leader of the Minority Party** with the support of **at least a third of the Members**, appoint a day for a special sitting of the County Assembly.*

(2) The Speaker may allow a request under paragraph (1) if the Speaker is satisfied that the business proposed to be transacted relates to any urgent and exceptional business as the Speaker may allow.

*(3) The Speaker shall, by notice in the Kenya Gazette and or County Gazette, notify the Members of the **place, date and time** appointed for the special sitting of the County Assembly.*

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

*(4) Whenever the County Assembly meets for a special sitting under paragraph (1), the Speaker shall **specify the business to be transacted on the day or days appointed and the business so specified shall be the only business** before the County Assembly during the special sitting, following which the County Assembly shall stand adjourned until the day appointed in the County Assembly calendar.*

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

B.5 The role of Gazette Notices by the Impeached Speaker Enock Ogori Okero in the Dispute

There are three illegal gazette notices issued by **Enock Ogori Okero** (Gazette Notice Number **14229, 14230 and 14273 of 2024**) vide Kenya Gazette dated **31st October 2024** long after his impeachment.

Gazette Notice No.14229 of 2024 wherein alternative areas of county assembly sittings are spelt, did not meet the requirements of Section 7B(2) of the County Governments Act, 2012 and Standing Order No. 28 of the County Assembly of Nyamira Standing Orders. The County Assembly did not consider and/or approve a motion to appoint the alternative areas of County Assembly Sittings; in addition the gazette notice is open ended and does not specify a specific venue, date and time of the sittings. The said gazette notice indicates that “*Nyamira County Assembly sittings will ALSO be done at*” other premises and goes on to list Sub-county Offices as the Premises. This was the genesis of parallel Assemblies contrary to what the law provides.

Gazette Notice No.14230 of 2024 wherein Silvanus Ndemo Nyamora was appointed as Ag. Clerk of the County Assembly was issued by the impeached Speaker Enock Ogori Okero who did not have authority to cause such appointment and/or publication. In any case, the office of the Clerk was not vacant and the purported appointment was made by an extinct Board. This gazette notice created a parallel command structure away from the norm and has since caused confusion, conflict and threatened order within the County Assembly service.

Gazette Notice No.14273 of 2024 wherein the impeached Speaker Enock Ogori Okero purported to appoint himself and 5 others as Members of the County Assembly Service Board despite having been impeached and despite two of the listed members having been recalled and replaced by their Coalitions/parties. This gazette notice has created a parallel administrative structure away from the legitimate County Assembly Service Board and has since caused confusion, conflict and threatened order within the County Assembly service.

The three gazette notices are the subject of ongoing litigation in Nyamira High Court Judicial Review Case Number E007 of 2024 **County Assembly of Nyamira v Enock Ogori Okero** wherein the County Assembly of Nyamira was granted leave to commence judicial review proceedings against the said **Enock Ogori Okero**. The Judicial Review Case has since been transferred to the High Court at Bomet. The County Assembly of Nyamira is seeking to quash the three impugned gazette notices.

Additionally, Enock Ogori Okero caused the publication of Gazette Notice No. 15844 dated 28th November 2024 and published on 29th November 2024; wherein the impeached former Speaker Enock Ogori Okero published an adjournment of the Assembly Business “*Sine Die*”. Having been impeached on 24th October 2024, Enock Ogori Okero did not have authority to cause such adjournment. (*Annex 48: Gazette Notice No. 15844 dated 28th November 2024*)

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

The impeached former Speaker Enock Ogori Okero recently circulated Notice No. 2203 dated 20th February 2025 purportedly published by the Kenya Gazette on 26th February 2025 on “**Resumption of County Assembly Business**”. The said **notice has been confirmed to be FAKE** by the Government Printer. On account of this fake notice, the impeached Speaker Enock Ogori Okero together with the splinter faction, have continued to conduct illegal meetings disguised as County Assembly Sittings from ad hoc premises wherein and under the direction and sponsorship of the Governor, the splinter faction has processed the following statutory documents appointments and on behalf of the County Government of Nyamira.

- (i) The County Fiscal Strategy Paper, 2025
- (ii) Approval of the Selection Panel for the Recruitment of Members of the County Public Service Board
- (iii) Approval of a Nominee for appointment as a Member of the County Executive Committee for Gender, Youth, Sports, Culture and Social Services

Annex 49: Fake “Gazette Notice” No. 2203 of 2025

Annex 50: Letter from Government Printer Confirming that Gazette Notice No.2203 of 2025 by Enock Ogori Okero is fake and a forgery. The Number of the Notice is of a totally different Gazette Notice

Hon. Senators

As can be gleaned from the above, the tribulations of the Nyamira County Assembly have been occasioned by **Enock Ogori Okero** who despite having been impeached on **24th October 2024**, despite challenging his impeachment in court and despite the fact that he does not have any court orders reinstating him back to Office, he has been publishing illegal and fake gazette notices and he now wants to interfere with the mandate of the Nyamira County Assembly bank accounts held at the Central Bank. All actions by **Enock Ogori Okero** for and on behalf of the Nyamira County Assembly and Nyamira County Assembly Service Board as from **24th October 2024** when he was impeached are illegalities which should not be countenanced.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

PART C: THE EXTENT TO WHICH THE DISPUTE HAS AFFECTED THE OPERATIONS OF COUNTY ASSEMBLY.

C.1 Accountability/Oversight Mechanism over the County Executive

The people have continued suffering under the patronage of the Governor who has blatantly failed and neglected to offer direction and services to the public.

The existence of parallel County Assembly committees has hindered/impaired the oversight roles. Members of the County Assembly have not been provided with documents to interrogate the County Budgets and expenditure performance.

Camaraderie between the splinter group and the Governor violates the principle of Separation of powers in Articles 174 & 175 of the Constitution and does not guarantee oversight. The system of checks and balances has been eroded.

The interference of activities of the County Assembly of Nyamira by the Governor offends the principle of transparency, accountability and good governance under Article 10 of the Constitution.

Executive Committee Members have failed to honor summonses to County Assembly Oversight Committees

Budget making process has been impaired. Lack of public participation in the splinter “bunge mashinani” activities offends the principles of Public Finance. The role of the Budget and appropriation Committee has been diminished.

C.2 Speaker of the County Assembly of Nyamira

The courts have constrained the County Assembly in carrying out its constitutional mandate by issuing Court Orders upholding illegal gazette notices by the impeached Speaker and prevention of a duly elected Speaker from discharging duties.

C.3 Official County Assembly Precincts

Publishing of alternative areas of County Assembly Sittings has led to a conflict between the different factions, potentially threatening the public order.

Creation of parallel legislative authority outside the law therefore is a direct violation of the Constitution. There is no single provision in law that allows for the existence of parallel assembly.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

The illegal Bunge Mashinani has no prior notice to the members of County Assembly of Nyamira where sittings are held No notices to the members of the Public hence limiting public participation in matters that affect them.

On 15th October 2024, a mob of goons believed to be sponsored by Enock Ogori Okero stormed the County Assembly precincts and attempted to gain access but were restrained by police officers. The following morning on 16th October 2024, there was an attempt to burn down the County Assembly Chambers and offices through a petrol bomb by arsonists suspected to be linked to the Splinter group to paralyze the operations of the County Assembly

Annex 51: Video Showing Goons attempting to force entry into the County Assembly precincts

Annex 52: Photos showing the extent of damage and injury caused by the Petrol Bomb

C.4 Instruments of Authority (Mace, Official Seal and Stamps)

Duplication of instruments of authority has caused confusion to the public and other entities on the legitimate Assembly.

The Impeached Speaker and the illegal Clerk have continued to communicate to the public and various bodies or entities passing misleading information which may not be necessarily the official position of the County Assembly of Nyamira.

The Public has been left to second guess on which faction to present their issues and/or grievances to, as there appears to be two parallel assemblies.

C.5 Clerk of the County Assembly of Nyamira

This dispute has led to the withholding of Salaries to County Assembly Members and Staff, office operations and Medical Insurance Cover for a straight five (5) months;

The County Executive has taken advantage of the situation and hence introduced Silvanus Ndemo Nyamora and another staff of the splinter faction as signatories to the County Assembly accounts held at the Central Bank of Kenya. There now exists two parties who are fighting for the accounts to become signatories of the Assembly Bank Accounts. Further, should the County Executive be allowed to succeed, a loss of public funds is highly possible in this situation.

The County Assembly Website has been disabled since two parties have laid claim to rights of administering the website. This has crippled the operations of County Assembly especially on

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

access to official mails. Consequently, the County Assembly is unable to receive correspondences from the public and other organizations.

C.6 County Assembly Leadership and Committees

Existence of parallel leadership structures and parallel committees has led to disruption of governance as a result of confusion which has undermined the rule of law. The County Executive has been misled by the illegal Ag. Clerk not to honour County Assembly Committee Summons thus frustrating efforts by the County Assembly to hold the County Executive to account. (*Annex 53: Letter by Silvanus Ndemo Nyamora purporting to instruct County Executive Officers from honouring Invitations/Summons to appear before County Assembly Committees*)

C.7 The County Assembly Service Board

The Splinter Group operates with an extinct service Board and has duped a handful members of staff to join their splinter activities putting their career on the line.

The extinct Board comprised of former Members of the Board has created a parallel administrative structure that has caused confusion and brought disrepute to the County Assembly governance.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

PART D: THE STEPS TAKEN TO RESOLVE THE DISPUTE

1. On several occasions, I have asked Enock Ogori Okero to serve the County Assembly with any orders reinstating him back to the Office after Impeachment, which he has failed to do to date.
2. We wrote a complaint to the Controller of Budget to notify her office of an illegal Supplementary budget and followed up with a reminder. We have equally notified the Controller of Budget of the unlawful processing of the County Fiscal Strategy Paper (2025). We are waiting for her response on these matters.
3. We wrote a petition to the Senate seeking financial autonomy for the County Assembly of Nyamira after it was evidently clear that the Governor was frustrating county assembly requisitions for funds to force the county assembly to play ball. However, the Senate wrote a response back to the County assembly declining to process the petition on account of leadership disputes that are pending before court.

Annex 54: County Assembly of Nyamira petition to Senate seeking temporary financial autonomy

Annex 55: Senate Letter to Hon. Leader of the Majority

4. We have held a meeting with the local leaders (Members of parliament) with the Governor and the County Commissioner but the Governor has remained obstinate. (*Annex 56: Video footage of a presser by the Local Leadership*)
5. On several occasions, Members of the County Assembly led by the Speaker have held meetings with the Governor in his office with a view to find amicable solutions only for the Governor to backtrack on the gentleman's agreements. The last attempt to have a discussion with the Governor was unsuccessful as we were arrogantly chased from his office by the Governor himself.
6. On the disabling of the County Assembly Website, we have officially communicated and made a complaint to the ICT Authority to enable access and activate the website as a major communication channel.

Annex 57 A: County Assembly of Nyamira Letter to the ICT Authority

Annex 57 B: Affidavit by Mr. Stephen Egoha

Annex 58: Correspondence from the ICT Authority

7. On illegal change of Signatories by officers of the Central Bank of Kenya, we have officially registered a complaint to the Director Banking Services and the DCI Banking Fraud Unit.

Annex 59 A: County Assembly of Nyamira official complaint to the DCI Banking Fraud Unit

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

Annex 59 B: Complaint letter to Director Banking Services Central Bank of Kenya

8. On illegal grant of official government emails to strangers, opening of an illegal portal masquerading as county assembly website, with an intention to gain illegal access to the Central Bank of Kenya Internet Banking System and make illegal payments; we have written to the County Secretary Nyamira and cautioned them of such malpractices.

Annex 60: Letters to the County Secretary

9. On illegal and fake gazette notices, we have written to the Government Printer and the Attorney General and gotten an advisory that Gazette Notices from the County Assembly shall forthwith be requested through the Attorney General to avoid contradictory notices.

Annex 61 A: County Assembly Letter to the Government Printer

Annex 61 B: County Assembly Letter to the Government Printer

Annex 61 C: County Assembly Letter to the Government Printer

Annex 62: County Assembly Letter to the Attorney General

Annex 63: Refer to Annex 50

10. The County Assembly of Nyamira Staff Welfare Association has written a petition to various government entities protesting the recognition of Silvanus Ndemo Nyamora as Clerk and Signatory of County Assembly, an individual who is already dismissed from the County Assembly Service.

Annex 64: Petition by the County Assembly of Nyamira Staff Welfare Association

11. On illegal allocation of user rights on the IFMIS platform, we have written an official complaint to the National Treasury, Director – IFMIS to delete and/or deactivate such rights.

Annex 65: County Assembly Letter to the National Treasury

12. On impersonation, forgeries, illegal acquisition of a fake “mace”, fake stamp and fake official seal of the County Assembly, we have notified the DCI on several occasions but no action has been taken so far.

Annex 66 A: Letter to DCI

Annex 66 B: Letter to DCI on illegal notices

13. On leadership wrangles, we have written to the Commission on Administrative Justice, reported administrative malpractices by various government entities and proposed for their intervention. The Commission has wrote back and proposed for a meeting which is yet to materialize.

Annex 67: Letter to the Ombudsman

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

14. We have petitioned the Courts to resolve contentious issues and are equally responding to matters filed against the County Assembly.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

PART E: OTHER INFORMATION TO AID THE COMMITTEE IN ITS INVESTIGATION.

There is instigated total paralysis in Nyamira County Government by none other than H.E Governor Nyamira to defeat scrutiny and oversight in the management of Public resources.

The major issue of concern to the residents of Nyamira is the witnessed blatant plunder of public resources under the leadership of **H.E Amos Nyaribo Kimwomi**, Governor Nyamira.

Misappropriation and diversion of public funds is the order of the day thus denying the people the services and development that they yearn for, while the responsible investigative agencies remain inactive.

A few examples of systematic impropriety, corruption, diversion, looting and loss of public funds at the County Government of Nyamira will demonstrate how bad the situation is:

In the **2021/22** budget the County Government spent more than **1.2 billion** which was not appropriated or budgeted. In the same financial year the County Executive failed to disclose a total of **kshs 548,268,664**, which was part of unspent balance of **ksh 1,098,268,664** but was expended in the financial year **2022/23** without appropriation and approval of the County Assembly. In the **2022/23** **ksh 3,926,760,880** representing 63.5% of the budget cannot be accounted for.

Repayment of old projects of **2013-2020** disguised and duplicated as new projects or pending bills in the years 2021 to date leading to a loss more than **Kshs 2 billion**.

Recruited staff without any provision of budget, costing the County an additional **Ksh 325 Million** annually in personnel emoluments. The County wage bill is becoming increasingly unsustainable as it beyond the threshold of 35% of the total revenue and is reducing the budget for development.

Voiding or cancellation of approved payments by the controller of budget and making “**other payments**” otherwise not approved by the Controller of Budget leading to loss of **Ksh 600,000,000**.

In January, 2024 **ksh 200 million** inclusivity grant under the National Agricultural Value Chain Development Project (**NAVCDP**) cannot be accounted for.

In **2021-2024**, more than **Ksh 80 Million** meant for Education Support of needy and vulnerable Children by way of bursaries has been misappropriated from the Nyamira County **Education Support Fund**.

There are several instances where goods procured from the Facility Improvement Fund are not delivered to the health facilities, a case in point is only half of the beds that were procured were delivered but full payment was made, leading to a loss of **kshs 20 million**.

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

The Governor directed payment of ex gratia of **ksh 10 Million** to his own account without disclosure that the comprehensive medical cover with **NHIF** had paid for the same medical expenses. He also influenced payment of **ksh 13 Million** as reimbursement of rent cost of his residential lease.

The Governor initiated change of medical drug supplies from **KEMSA** to Mission for Essential Drugs & Supplies (**MEDS**), faith based supplier. He started by condemning **KEMSA** to find reason to change to **MEDS** and then directed that his Officers to buy medical supplies from **MEDS**. He directed payment of **ksh 37,000,000** to **MEDS**, before delivery of medical supplies and it was within his knowledge that **MEDS** was not to deliver the paid for medical supplies.

On **11th July 2023**, and in his own admission, flagged-off empty containers concealed as medical drugs to various health facilities across the county, procured at the tune of **Kshs.22 Million** without the involvement of the County Inspection and Acceptance Committee Report during the delivery of consignment only to “discover later” that the consignment was incomplete, missing more than half of the quantities he had purportedly flagged-off.

The Governor procured a new revenue system in 2022 but interfered with the procurement process, breaching the requirements of the tender and awarded a new contract to a proxy company at a cost of **kshs 20 Million** whereas in **May, 2019** the County government of Nyamira had procured Revenue Automation system from River Bank at a cost of **Kshs 39,500,000**. The contract was to run for three years while the system infrastructure was a property of the County Government of Nyamira to be maintained or upgraded to reflect emerging trends and needs.

In September, 2021 the Governor irregularly paid himself **kshs 5.6 million** While **Ms. Rose Bosibori Guto** of **PF. No. 20160093881** with Basic Salaries of **Kshs.4, 770** was irregularly paid Special House Allowance of **Kshs.25, 018,852** vide Pay slip **March-2023**; **Ms. Gladys Moraa Nyambane** of **PF. No.20140155228** with Rental Allowance of **Kshs.1, 200** was irregularly paid Special Salary of **Kshs.1, 100,467** vide Pay-slip **January-2023** and **Mr.Isaac Kerongo Onchiri** was paid **ksh 680,000**. **Ksh1, 200,000** paid to Mr.Fred Nyakango as salary and **Ksh750, 000** paid to Mr. Joshua Kipkoech as salary.

The cases of alleged corruption have been reported to the relevant state agencies but unfortunately are slow or compromised. The delay is of great concern as more economic crimes and improprieties continue to be committed at the County Government of Nyamira. The audit reports of 2022/23 and 2023/24 by the office of the Auditor General indicate glaring loss of Public Funds.

H.E Amos Nyaribo Kimwomi from 2021 when he assumed office on the demise of the first Governor has acquired and accumulated prime property estimated at **Ksh2 billion** across the Country with unexplained source of financing and not in tandem with his known income. He purchased property in Karen near County Club worth millions. He purchased land in Kifili, Isinya worth millions. Purchased eight plots and put up buildings at Athi-River. He acquired a petrol station in Nakuru County worth Millions. He is currently putting up a multimillion mall in Ruai

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

Nairobi. He is constructing a multimillion hotel at Mombasa County. He is constructing a multimillion building in Kisii town. He purchased TWO pieces of land in Kisii town. He purchased land at Asumbi in Homabay County. He is putting up a building at Kisii Town next to Kenya Power. He is putting up a building at Kisii Town next to slaughter house. He is putting up a building at Kisii Town next to Kisii University. He putting up a commercial building at Kebirigo in Nyamira and has bought prime land bordering Boflos Enterprises in Nyamira town at a cost of Ksh 15 Million in cash.

We have reported the all the corruption with the relevant state agencies but unfortunately are slow or compromised. The delay is of great concern as the Governor continues with impunity to commit more economic crimes and improprieties at the County Government of Nyamira.

County Executive has continued to recruit staff without approved budgets despite clear communication to stop any recruitment.

Annex 68: Audit reports for the Nyamira County Executive for FY: 2022/23

Annex 69: Audit reports for the Nyamira County Executive for FY: 2023/24

Annex 70: Analysis of Audit Report for the Nyamira County Executive for FY: 2021/22

Annex 71: Analysis of Audit Report for the Nyamira County Executive for FY: 2022/23

Annex 72: Complaint on Implementation of the Approved Budget FY:2021/22 to the Controller of Budget

Annex 73: Response from Controller of Budget on recruitment of staff without a budget.

Annex 74: Complaint on Violation of the Constitution and Law in regard to the 1st Supplementary Budget FY: 2023/24

Annex 75: Complaint on Corrupt Practices and impropriety to the DCI

Annex 76: Request to decline approval and authorization of withdrawals and expenditure on personnel emoluments to Controller of Budget

Annex 77: Complaint on the Second Supplementary Budget Fy:2023/24 to the Controller of Budget

Annex 78: Rebuttal on response to a complaint to Controller of Budget

Annex 79: Investigation of the Controller of Budget on unauthorized withdrawals and expenditure to DCI

Annex 80: Complaint on corrupt practices on recruitment of Staff without approved Budget

Annex 81: Gross violation of the Constitution and the Law by the County Executive Committee Member for Finance

Annex 82: Restriction of Transfer of Suspected Proceeds of Economic Crime

Annex 83: Provision of Information Relevant to Investigations of Economic Crimes

Annex 84: Petition to the Senate by Robert Nyakundi

Annex 85: Sample Payslips

PART F: CONCLUSION

HEREFORE, it is my humble submission that the Senate Standing Committee on Devolution & Intergovernmental Relations considers our prayers

PRAYERS

1. An order to Enock Ogori Okero to cease from impersonating as Speaker of County Assembly of Nyamira until his petition challenging his impeachment is heard and determined.
2. A declaration that the alleged appointment of one Silvanus Ndemo Nyamora as Ag. Clerk of County Assembly is null and void
3. A declaration that Enock Ogori Okero whether acting singularly or jointly with an extinct Board had no authority to suspend Duke Simeon Onyari days after he had been impeached.
4. An order to the Central Bank of Kenya to restore Mr. Duke Simeon Onyari and Mr. Leonard Kevin Nyamasege, the rightful and mandatory Signatories to County Assembly Accounts so that the Staff and Members of the County Assembly are paid their salaries which has been pending for the last four months.
5. Declare the activities of the Splinter "Bunge Mashinani" Unconstitutional, Null and Void
6. An order to the Controller of Budget to halt the withdrawal of monies from the County Revenue Fund save for Salaries and Medical Drugs
7. Order a recovery of all public funds expended by the Splinter "Bunge Mashinani"
8. Declare the following decisions of the Splinter "Bunge Mashinani" Null and Void
 - a. Supplementary Budget FY.2024/25 of **Kshs.8.1 Billion** for the County Government of Nyamira
 - b. Approval and subsequent appointment of Members of Nyamira and Keroka Municipalities' Boards
 - c. Approval of the County Fiscal Strategy Paper (2025)
 - d. Approval and subsequent appointment of Selection Panel for recruitment of County Public Service Board Members.
 - e. Approval and subsequent appointment of Member of County Executive Committee for Gender, Sports, Culture & Social Services
9. FastTrack financial autonomy to County Assemblies
10. Make a pronouncement on the extent to which the court may interfere in legislative processes

THE HUMBLE SUBMISSIONS OF HON. THADDEUS NYABARO, SPEAKER
COUNTY ASSEMBLY OF NYAMIRA

11. Order Special Audit

We wish then, to take this early opportunity to thank this Hon. Committee for according us the chance to appear before it and ventilate on this very pertinent matter on wrangles that has bedeviled our Nyamira County Assembly and with a view of resolving the wrangles.

It is our considered view that with your urgent intervention we shall be back on track and remain steadfast and loyal to the development agenda for the people, it is only then that the expectations and hope for the people will remain a life.

Dated this 7th Day of April, 2025.



Hon. Thaddeus Nyabaro Momanyi, Speaker County Assembly of Nyamira

P.O BOX 590 - 40500

NYAMIRA



Annex 2
REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY



LIST OF HONORABLE MEMBERS OF THE COUNTY ASSEMBLY – 2022-2027

No.	Name	Political Party	Ward
1.	Hon. Ndubi Thaddeus Nyabaro		Speaker
2.	Hon. Abuga George Morara	ODM	Bogichora
3.	Hon. Masira Duke Oyagi	ODM	Township
4.	Hon. Nyangana Julius Obonyo	FORD Kenya	Bomwagamo
5.	Hon. Minda Reuben Riechi	FORD Kenya	Magombo
6.	Hon. Mang'era Josiah Obegi	ODM	Esise
7.	Hon. Keganda Charles Nyarang'o	Jubilee	Bosamaro
8.	Hon. Mabera Alfayo Ngeresa	UPA	Mekenene
9.	Hon. Mose Abel Mokaya	UPA	Magwagwa
10.	Hon. Gisesa Emanuel Nyambega	UPA	Rigoma
11.	Hon. Benecha Thomas Vincent	ODM	Kiabonyuru
12.	Hon. Matwere Julius Kimwomi	Independent	Bonyamatuta
13.	Hon. Ogeto Samwel G.	PPOK	Manga
14.	Hon. Onyancha Beatrice Kerubo	UPA	Special Elect
15.	Hon. Nyakang'i Jeriah Kerubo	UPA	Special-Elect
16.	Hon. Obara Ednah Moraa	UPA	Special Elect
17.	Hon. Abere Elijah Sagwe	UPA	Special Elect
18.	Hon. Nyaribo Dennis Kebaso	Wiper	Nyansiongo
19.	Hon. Nyachaki James Mating'a	Wiper	Kemera
20.	Hon. Obwaya Henry Onsinyo	KNC	Gachuba
21.	Hon. Nyameino Kenneth Atuti	UDA	Gesima
22.	Hon. Sikweya Lameck Nyakianga	ANC	Itibo
23.	Hon. Nyang'au Joel Ombongi	UPA	Bokeira
24.	Hon. Mogaka Dickson Machungo	ODM	Special Elect
25.	Hon. Nyakundi Jenrose Nafula	ODM	Special Elect
26.	Hon. Josephine Atunga	ODM	Special Elect
27.	Hon. Matundura Zipporah Kerubo	Wiper	Special Elect
28.	Hon. Matunda Evans Juma	Wiper	Special Elect
29.	Hon. Michelle K Omwoyo	Jubilee	Special Elect
30.	Hon. Nyamanga Doris Magoma	UDA	Special-Elect
31.	Hon. Marwa Martha Kerubo	ANC	Special Elect
32.	Hon. Mosiere Lydia Nyaboke	FORD Kenya	Special Elect
33.	Hon. Nyanduko Abigael Matini	FORD Kenya	Special-Elect
34.	Hon. Mokora Priscillah Nyatichi	PPOK	Special Elect



Annex 3

**THE COUNTY ASSEMBLY OF NYAMIRA
THIRD ASSEMBLY (THIRD SESSION)**

**The Clerk
County Assembly of Nyamira**

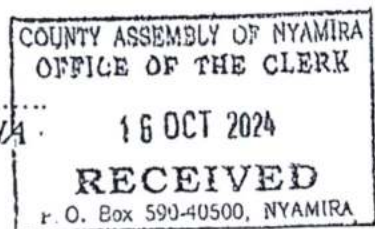
RE: NOTICE OF PROPOSED MOTION

TAKE NOTICE that under the provisions of Order No.60 of Nyamira County Assembly Standing Orders as read together with Sections 11(1)(c) and 11(2-8) of the County Governments Act, 2012 (Rev.2022), I, THOMAS VINCENT BENECHA, a duly elected Member of the County Assembly of Nyamira representing Kiabonyoru Ward, propose to move a MOTION FOR THE REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. ENOCK OGORI OKERO, THE SPEAKER OF THE COUNTY ASSEMBLY OF NYAMIRA in the County Assembly of Nyamira on the following grounds:

- (a) gross violation of the Constitution or any other law;
- (b) gross misconduct;

DATED at NYAMIRA this.....16th.....day of October 2024


.....
HON. THOMAS VINCENT BENECHA
MCA – KIABONYORU WARD



THE MOTION, THE GROUNDS AND THE PARTICULARS

Mr. Speaker,

PURSUANT TO the provisions **Section 11 of the County Governments Act, 2012** and **Standing Order No.60** of Nyamira County Assembly Standing Orders; **THIS HOUSE RESOLVES** to Remove from Office, by Impeachment, **HON. ENOCK OGORI OKERO**, the Speaker of the County Assembly of Nyamira on **THE FOLLOWING GROUNDS:**

PART A: GROSS VIOLATION OF THE CONSTITUTION OR ANY OTHER LAW

Ground 1: Gross Violation of Section 36 of the County Assembly Services Act, 2017 by failing to prepare and lay before the County Assembly, a report of the Board's Operations

Mr. Speaker, Sir

Whereas Section 36(1) of the County Assembly Services Act, 2017, requires the County Assembly Service Board to, within three months after the end of each calendar year, prepare and lay before the County Assembly, a report of the Board's Operations during that year; under the stewardship of Hon. Enock O. Okero, the County Assembly Service Board failed to lay a report of its operations for the years 2022 and 2023 before the County Assembly contrary to Section 36(1) of the County Assembly Services Act, 2017.

Hon. Okero has therefore presided over a board that lacks transparency and accountability. For example, Hon. Okero has made two unofficial foreign trips and influenced the defraying of the expenses of the said trips from the County Assembly Kitty.

Ground 2: Gross Violation of Article 27 (4) and (5) of the Constitution of Kenya, 2010, by discriminating against Special-Elect Members of the County Assembly

Mr. Speaker, Sir

Whereas the Commission on Revenue Allocation provides that each MCA (elected and nominated) shall be provided with three partisan/support staff, the County Assembly Service Board under the Chairmanship of Hon. Enock Okero refused, failed or neglected to comply with this provision and denied the nominated Members of the County Assembly one partisan staff contrary to Commission on Revenue Allocation Circular Ref. No. CRA/CSO/CMG/9/Vol V/59 dated 21st October 2020. (Annex 1)

This is discriminatory contrary to Article 27 (4) and (5) of the Constitution of Kenya, 2010, which state as follows:

(4) The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

(5) A person shall not discriminate directly or indirectly against another person on any of the grounds specified or contemplated in clause (4)

This act of discrimination has frustrated the Nominated MCAs in the discharge of their mandate and service delivery to the people of Nyamira.

Ground 3: Gross Violation of Article 216 (2) of the Constitution of Kenya, 2010, by disobeying and/or ignoring the recommendations of the Commission on Revenue Allocation vide Circular Ref. No. CRA/CSO/CMG/9/Vol V/59 dated 21st October 2020

Mr. Speaker, Sir

Article 216 (2) of the Constitution of Kenya, 2010, which provides for the mandate of the Commission on Revenue Allocation, to among others:

The Commission shall also make recommendations on other matters concerning the financing of, and financial management by, county governments, as required by this Constitution and national legislation.

Mr. Speaker, Sir

Whereas the Commission on Revenue Allocation provides that Ward Offices shall be provided with funds for operations, the County Assembly Service Board under the Chairmanship of Hon. Enock Okero failed to facilitate Ward Offices with funds for their Monthly Operations and Maintenance contrary to Commission on Revenue Allocation Circular Ref. No. CRA/CSO/CMG/9/Vol V/59 dated 21st October 2020. (Annex 1)

This has hampered and grounded Ward Office Operations thus frustrating Hon. Members from discharging their constitutional mandate.

Ground 4: Gross Violation of Section 12(3)(c) of The County Assemblies Service Act 2017 by retaining two Members of the County Assembly Service Board despite having been recalled by their nominating/appointing political parties/coalitions

Mr. Speaker, Sir

The County Assemblies Service Act 2017, the County Governments Act, 2012 Section 12(3)(c) provides for the appointment of the County Assembly Service Board Members as follows:

(c) two members of the county assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly;

It therefore follows that the same members are recalled in the same manner they are nominated and/or appointed.

Consequently, the nominating Political Parties in the Assembly withdrew the said Members from the County Assembly Service Board and communicated the same to the Speaker/Chairperson County Assembly Board together with the Minutes. (Annex 2)

None-the-less, the Hon. Enock Okero refused, neglected and or failed to communicate and/or proceeded to retain them as Board Members contrary to the Law.

Ground 5: Gross Violation of Standing Order No 154 of Nyamira County Assembly Standing Orders by arbitrarily usurping the functions and mandate of the House Business Committee.

Mr. Speaker, Sir

Hon. Enock Okero usurped the functions of the House Business Committee as mandated by Standing Order No.154 (5) to among others:

- (a) monitor and oversee the implementation of the County Assembly business and programmes.*
- (b) implement the Standing Orders respecting the scheduling or programming of the business of the County Assembly and the functioning of the Committees of the County Assembly;*
- (c) determine the order in which the reports of Committees shall be debated in the County Assembly*

The Hon. Enock Okero arbitrarily conducted the functions of the Committee contrary to the Standing Orders to the exclusion of the Committee Members. Under his watch, the Committee did not meet to prioritize business and to approve County Assembly Order Papers. He singlehandedly dictated the type of business to appear in the Notice Papers and Order Papers of the County Assembly.

Ground 6: Gross Violation of Section 12 of the Public Officer Ethics Act, 2003 (Revised Edition 2012) and Section 16 of the Leadership and Integrity Act 2012 (Revised Edition 2023) by trading with the County Government through proxies and by influencing the appointment of his relative to the County Assembly Service Board

Mr. Speaker, Sir

Hon. Enock Ogori Okero has traded with the County Government of Nyamira by seeking for tenders by way of proxy through his close associates.

Under the watch of Hon. Enock Ogori Okero as Chairperson of the County Assembly Service Board; Hon. Okero influenced the appointment of his relative by the name Edith Nyaboke Omari to be a member of the County Assembly Service Board contrary to Public Officers Ethics Act and the Leadership and Integrity Act.

PART B: GROSS MISCONDUCT

Ground 7: Gross Misconduct by abetting and orchestrating hooliganism in the County Assembly by hiring goons to visit mayhem and violence, causing harm and endangering the lives of Honourable Members and Staff of the County Assembly while on Suspension

Mr. Speaker, Sir

On Tuesday the 15th of October 2024, Hon. Okero, while on Suspension from Office of the Speaker of County Assembly, attempted to gain forceful entry to the County Assembly in the company of goons who were not only rowdy but armed with stones and other crude weapons. The goons pelted stones towards the County Assembly causing damage to county Assembly infrastructure and injury to Honourable Members and Staff of the County Assembly. (Annex 3: Video)

DATED at NYAMIRA this.....^{16/10/24}.....day of October 2024

.....
HON. THOMAS VINCENT BENECHA
MCA – KIABONYORU WARD



SIGNATURES IN SUPPORT OF A MOTION FOR REMOVAL OF HON. ENOCK OGORI OKERO, THE SPEAKER OF NYAMIRA COUNTY ASSEMBLY PURSUANT TO SECTION 11(1)(c) and 11(2-8) OF THE COUNTY GOVERNMENTS ACT, 2012

MOTION BY HON. THOMAS VINCENT BENECHA

We, the undersigned Members, do hereby append our signatures to confirm our support for the above captioned Motion.

S.No.	NAME OF M.C.A	Ward/Special Elect	Signature
1.	DISCILLAH HATHIHI	SPECIAL ELECT	<i>[Signature]</i>
2.	GEORGE M. ABUGA	BOLICHORA	<i>[Signature]</i>
3.	JULIUS K. MATWERE	BONYAMATA	<i>[Signature]</i>
4.	James Mating'a	Kemereu	<i>[Signature]</i>
5.	Thomas Vincent Benecha	Kiaboryom	<i>[Signature]</i>
6.	ELIJAH S. ABERE	SPECIAL ELECT	<i>[Signature]</i>
7.	JOSIAH O. MANGERA	ESISE	<i>[Signature]</i>
8.	Hon. NAINDA RIECHI	NAHUMBO	<i>[Signature]</i>
9.	MICHELE KONWOTO	SPECIAL ELECT	<i>[Signature]</i>
10.	CHARLES KEGANDA	BOSMARD	<i>[Signature]</i>
11.	KENNETH NYAMEIND	GESIMA	<i>[Signature]</i>
12.	JOSEPH O. MAMBA	TOWNSHIP	<i>[Signature]</i>
13.	SAMUEL OGITU	MANGA	<i>[Signature]</i>
14.	ABIGAIL W. MATINI	NOMIHO	<i>[Signature]</i>
15.	JOSEPHINE ATUMBA	NOMIHO	<i>[Signature]</i>
16.	Dennis Kibara Nyamb	Nyasiungu	<i>[Signature]</i>
17.	HENRY O. Bwanya	GACHUUSA	<i>[Signature]</i>

COUNTY ASSEMBLY OF NYAMIRA
OFFICE OF THE CLERK

16 OCT 2024
RECEIVED
P. O. Box 590-40500, NYAMIRA



SIGNATURES IN SUPPORT OF A MOTION FOR REMOVAL OF HON. ENOCK OGORI OKERO, THE SPEAKER OF NYAMIRA COUNTY ASSEMBLY PURSUANT TO SECTION 11(1)(c) and 11(2-8) OF THE COUNTY GOVERNMENTS ACT, 2012

MOTION BY HON. THOMAS VINCENT BENECHA

18.	JULIUS NJAMITWA	Democrat 24371718	
19.	EVANS Juma Mwangi	10784103	
20.	Muchingo in Dickson	25566490	
21.	DORIS NYAMANGA	24172199	
22.	ALFAYO Ngeresa	2761515	
23.			
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COUNTY ASSEMBLY OF NYAMIRA
OFFICE OF THE CLERK
16 OCT 2024
RECEIVED
P. O. Box 590-40500, NYAMIRA

Annex 4

THE REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISHI
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. E001 OF 2024

IN THE MATTER OF: ARTICLE 1, 2, 3, 10, 21, 22, 23, 24, 32, 33 38, 47, 48, 50, 73, 75, 94,95(5) (a), 118, 159 AND 259 OF THE CONSTITUTION OF KENYA, 2010

-AND-

IN THE MATTER OF: SECTIONS 3,4,6,7 AND 11 OF THE FAIR ADMINISTRATIVE ACTION ACT CAP 7L OF THE LAWS OF KENYA

-AND-

IN THE MATTER OF: THE UNLAWFUL AND UNCONSTITUTIONAL IMPEACHMENT OF THE SPEAKER OF THE COUNTY ASSEMBLY OF NYAMIRA

-AND-

IN THE MATTER OF: ALLEGED INFRINGEMENT AND CONTRAVENTION OF ARTICLE 1, 10, 32, 33 38, 47, 48, 50, 94, 118 AND 159 OF THE CONSTITUTION OF KENYA, 2010

-AND-

IN THE MATTER OF: INFRINGEMENT AND CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER CHAPTER FOUR OF THE CONSTITUTION OF KENYA, 2010

-BETWEEN-

- ENOCK O. OKERO.....1ST PETITIONER
- JOEL OMBONGI NYANG'AU.....2ND PETITIONER
- MARTHA MARWA.....3RD PETITIONER
- ELIJAH SAGWE ABERE.....4TH PETITIONER
- LAMECK SIKWEYA.....5TH PETITIONER
- EDNAH OBARA.....6TH PETITIONER
- JELIAH NYAKANGI.....7TH PETITIONER
- JANEROSE NYAKUNDI.....8TH PETITIONER
- ZIPPORAH MATUNDURA.....9TH PETITIONER
- LYDIAH NYABOKE MOSIERE.....10TH PETITIONER
- ABEL MOKAYA MOSE.....11TH PETITIONER
- BEATRICE ONYANCHA.....12TH PETITIONER
- EMMANUEL NYAMBEGA GISESA.....13TH PETITIONER

-AND-

- THE COUNTY ASSEMBLY OF NYAMIRA.....1ST RESPONDENT
- AG. CLERK, COUNTY ASSEMBLY OF NYAMIRA.....2ND RESPONDENT

TO:

THE EMPLOYMENT AND LABOUR RELATIONS COURT

PETITION

The Petitioners humbly petition this Honourable Court as follows: -

A. DESCRIPTION OF THE PARTIES

1. The 1st Petitioner is an adult Kenyan citizen and resident of Nyamira County who, until his unlawful ouster, served as the Speaker of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
2. The 2nd Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
3. The 3rd Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
4. The 4th Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
5. The 5th Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
6. The 6th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
7. The 7th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
8. The 8th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
9. The 9th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.

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10. The 10th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
11. The 11th Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
12. The 12th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
13. The 13th Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
14. The 1st Respondent is the County Assembly of Nyamira County established pursuant to article 176 and 177 of the Constitution of Kenya, 2010. (Service of this Petition upon the 1st Respondent shall be effected through the Petitioners' Advocates' office.)
15. The 2nd Respondent is the acting Clerk of the County Assembly of Nyamira. (Service of this Petition upon the 2nd Respondent shall be effected through the Petitioners' Advocates' office.)

B. FACTS OF THE PETITION

16. On October 08, 2024, the 1st Respondent passed a resolution suspending the 1st Petitioner as its Speaker. As a result, the 1st Petitioner filed an application seeking conservatory orders to suspend and stay the implementation of the said resolution. Hon. Lady Justice Wilfrida A. Okwany issued various orders including:
 - a) THAT, pending hearing and determination of the application herein, this Honourable Court be pleased to issue interim conservatory orders staying the effect and implementation of the purported resolution of the 1st Respondent passed on 8th October 2024 purporting to suspend the Petitioner/Applicant from discharging his functions and duties as speaker of the 1st Respondent; and
 - b) THAT, Pending the hearing and determination of the application herein, the Honourable Court be pleased to, issue interim temporary injunctive orders restraining the Respondents and the interested party or any other person acting on their behalf or otherwise, from stopping, barring or otherwise interfering with the Petitioner/Applicant discharge of his functions and duties as speaker of the 1st Respondent.

17. In utter disregard and contempt of the said orders, on October 24, 2024, the 1st Respondent went ahead to impeach the 1st Petitioner. The Petitioners state that the impeachment of the 1st Petitioner was marred by a number of illegalities, irregularities and/or anomalies as follows:

- a) There was no public participation at all which is in clear contravention of the national value and principle of participation of the people;
- b) The Standing Orders of the County Assembly of Nyamira were amended to change the threshold for impeachment from $\frac{3}{4}$ to $\frac{2}{3}$ of all the members of the Assembly. The said amendments were not gazetted as required by the law;
- c) The 1st Petitioner only had 6 days to respond to the motion for his impeachment instead of the required 7 days;
- d) The particulars of each count were not provided and as such, the 1st Petitioner could not defend himself satisfactorily. In fact, the 1st Petitioner avers that the Respondents denied him access to his office which means he could not obtain any county records to support his defence;
- e) During the voting, the members were not able to see the opening and the sealing of the ballot boxes and agents were not allowed to witness the voting and counting of ballots. In addition, members who raised points of order were completely ignored in contravention of the Standing Orders of the 1st Respondent and members such as the 11th Petitioner herein abstained but their abstention was counted as a 'yes' vote;
- f) It is also critical to note that the members of the County Assembly of Nyamira failed to vote on each count in the motion to impeach the 1st Petitioner. Therefore, it is impossible to tell on which count the 1st Petitioner was impeached;
- g) The Deputy Speaker is the one who presided over the impeachment proceedings but he still voted which brings into light the fact that he was biased; and
- h) The threshold required to impeach the 1st Petitioner was not met. The required votes for impeachment were 24 but instead they considered the vote by 23 members in support of the impeachment to be sufficient.

C. CONSTITUTIONAL AND STATUTORY FOUNDATIONS OF THE PETITION

18. Article 1 of the Constitution of Kenya, 2010 states that sovereign power belongs to the people of Kenya and is to be exercised only in accordance with the Constitution directly or through the entities to whom the power is delegated.
19. Article 2(1) of the Constitution provides that the Constitution binds all persons and all State organs at both levels of Government including the Respondents. Article 2(2) of the Constitution provides that no

person may claim or exercise State authority except as authorized under the Constitution. Further, article 2(4) of the Constitution provides that any law, including customary law that is inconsistent with the Constitution is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid.

20. Article 3 provides that every person has an obligation to respect, uphold and defend the Constitution of Kenya, 2010.
21. Under Article 10 of the Constitution of Kenya, 2010, the national values and principles of governance are set out to include *inter alia* rule of law, democracy and participation of the people, human dignity, equity, inclusiveness, equality, human rights and non-discrimination. The national values and principles bind all state organs, state officers and all persons whenever any of them *inter-alia* makes or implements public policy decisions.
22. Article 21 of the Constitution of Kenya, 2010 places the duty of implementing rights and fundamental freedoms on the state and all state organs.
23. Article 22 of the Constitution of Kenya, 2010 gives every Kenyan, including the Petitioner herein, the right to institute court proceedings whenever a right or fundamental freedom has been denied, violated, infringed and/or threatened. Under Article 22 as read together with Article 258 of the Constitution, the High Court has jurisdiction to entertain this petition under the provisions of Article 165 (2) (d) (ii) of the Constitution which gives the power and authority to determine "the question whether anything said to be done under the authority of this Constitution or of any law is inconsistent with, or in contravention of, this Constitution".
24. Article 23 of the Constitution of Kenya, 2010 gives this Honourable Court the authority to uphold and enforce the Bill of Rights.
25. Article 24(1) prohibits the limiting of a right or fundamental freedom in the Bill of Rights except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.
26. Article 32 provides that every person has the right to freedom of conscience, religion, thought, belief and opinion.
27. Article 33 provides that every person has the right to freedom of expression.
28. Article 38 (1) endows every citizen with the freedom to make political choices. Under clause (2) every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors. Clause (3) provides that every adult citizen has the right, without unreasonable restrictions to be registered as a voter; and to vote by secret ballot in any election or referendum.

29. Article 47(1) grants every person the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
30. Article 48 mandates the State to ensure access to justice for all persons.
31. Article 50(1) states that every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before an impartial tribunal or body. Article 50(2) provides that the rights of accused persons include *inter alia* the right to be presumed innocent until the contrary is proved. Article 50(2)(b) and (c) of the Constitution also provides that every person has the right to be informed of the charge with sufficient detail to answer it and to have adequate time and facilities to prepare a defence.
32. Article 94(1) & (2) of the Constitution provides that the legislative authority of the Republic is derived from the people and that Parliament manifests the diversity of the nation, represents the will of the people and exercises their sovereignty.
33. Article 159 provides that alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause (3);
34. Article 259 provides that the Constitution shall be interpreted in a manner that— promotes its purposes, values and principles; advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights; permits the development of the law; and contributes to good governance.
35. Section 3 of the Fair Administrative Action Act provides that it applies to both state and non-state agencies exercising administrative authority, performing a judicial or quasi-judicial function under the Constitution or any written law or whose action, omission or decision affects the legal rights and interests of any person to whom such action, omission or decision relates.
36. Section 4 and 6 of the Fair Administrative Action Act provides for the principles that guide how administrative actions should be taken and the right to have reasons for the said actions.
37. Section 11 of the Fair Administrative Action Act provides for the reliefs available to a person challenging administrative actions.
38. Section 20(1) of the County Governments Act Cap 265 of the laws of Kenya provides that except as otherwise provided in the Constitution, in this Act or in other legislation, any question proposed for decision by the county assembly shall be determined by a majority of the members of the county assembly present and voting.
39. Section 11(5)(c) of the County Governments Act Cap 265 of the laws of Kenya provides that the speaker has 7 days to respond to the motion for his impeachment.

D. PARTICULARS OF THE VIOLATION OF 1ST PETITIONER'S RIGHTS BY THE RESPONDENTS

40. The 1st Respondent violated article 1,10, 94 and 118 of the Constitution of Kenya, 2010 by failing to conduct public participation; and to act in an accountable and transparent manner so as to uphold the rule of law, transparency, accountability and good governance in the handling the Impeachment Motion that was tabled before the County Assembly of Nyamira. Legislative authority is derived from the people of Kenya. That being the case, any acts and/or omissions by members of the county assembly must be a representation of the will of the people. There is no evidence of meaningful public participation within his constituency before tabling his Impeachment Motion.
41. In addition, there is no evidence to show that the members alleged to have appended their signatures in support of the Impeachment Motion got the approval of the Kenyan citizens they represent beforehand.
42. The 1st Respondent violated the 1st Petitioner's right under article 47(1) of the Constitution which grants every person the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair. The 1st Petitioner was suspended irregularly. When the impeachment proceedings took place, the presiding deputy speaker was biased because he also participated in the voting process.
43. The 1st Respondent violated the 1st Petitioner's right under article 48 of the Constitution of Kenya, 2010 that mandates the State to ensure access to justice for all persons. This is due to the fact that the Impeachment Motion was politically motivated. This is evident from the fact that the 1st Respondent impeached the 1st Petitioner despite the existence of conservatory orders stopping his unlawful removal from office.
44. Additionally, the 1st Respondent violated the 1st Petitioner's right under article 50 of the Constitution of Kenya as the presiding deputy speaker also participated in the voting process. The presiding deputy speaker was expected to be a neutral arbiter as the moderator of the Impeachment Motion. The biasness demonstrated by the said office holder is an antithesis of an impartial tribunal pursuant to article 50 of the Constitution, 2010.
45. The Respondents also violated the 1st Petitioner's rights under article 50 (2) (b) and (c) of the Constitution by failing to give him the full particulars of the charges against him and failing to give him enough time to respond to the said allegations. The 1st Petitioner was also denied the required facilities to prepare his defence. To reiterate and illustrate, the 1st Petitioner only had 6 days to respond to the motion for his impeachment instead of the required 7 days. The particulars of each count were not provided and as such, the 1st Petitioner could not defend himself satisfactorily. In fact, the 1st Petitioner avers that the Respondents denied him access to his office which means he could not obtain any county records to support his defence.


E. RELIEFS

46. Your Petitioners therefore pray for the following orders and any other orders that this Honourable Court may deem fit to grant:

- a. A declaration that the Impeachment of the 1st Petitioner was unconstitutional.
- b. A declaration that the Deputy Speaker of the County Assembly of Nyamira was biased and ought to have disqualified himself from voting during the Impeachment process.
- c. A declaration that the Impeachment Motion violated 1st Petitioner's rights under article 47, 48 and 50 of the Constitution of Kenya, 2010.
- d. A declaration that the Impeachment Motion against the 1st Petitioner was tabled in a manner that violates article 1, 10, 94 and 118 of the Constitution as no public participation was conducted before the said impeachment.
- e. The County Police Commandant Nyamira; OCPD Nyamira; OCS Nyamira police station; and Critical Infrastructure Police Unit Commandant Nyamira be ordered to ensure compliance with the orders of this Honourable Court.
- f. That each party bears its own costs.

AND WHICH PETITION is grounded on the annexed affidavits of **EACH OF THE PETITIONERS** and such further reasons to be adduced at the hearing thereof.

DATED this 25th day of **October, 2024** at **NAIROBI**



MORARA OMOKE
ADVOCATES FOR THE PETITIONERS

DRAWN & FILED BY:

Morara Omoke Advocates,
P.O Box 26172-00100, Nairobi, Kenya 0100,
Loita Street, Finance House, Fifth Floor,
254-732-959-607.
moraraomokeadvocates@gmail.com

TO BE SERVED UPON:

1. THE COUNTY ASSEMBLY OF NYAMIRA
2. ACTING CLERK, COUNTY ASSEMBLY OF NYAMIRA

THE REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISII
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. _____ OF 2024

IN THE MATTER OF: ARTICLE 1, 2, 3, 10, 21, 22, 23, 24, 32, 33 38, 47, 48, 50, 73, 75, 94,95(5) (a),
118, 159 AND 259 OF THE CONSTITUTION OF KENYA, 2010

-AND-

IN THE MATTER OF: SECTIONS 3,4,6,7 AND 11 OF THE FAIR ADMINISTRATIVE ACTION ACT
CAP 7L OF THE LAWS OF KENYA

-AND-

IN THE MATTER OF: THE UNLAWFUL AND UNCONSTITUTIONAL IMPEACHMENT OF THE
SPEAKER OF THE COUNTY ASSEMBLY OF NYAMIRA

-AND-

IN THE MATTER OF: ALLEGED INFRINGEMENT AND CONTRAVENTION OF ARTICLE 1, 10, 32,
33 38, 47, 48, 50, 94, 118 AND 159 OF THE CONSTITUTION OF KENYA, 2010

-AND-

IN THE MATTER OF: INFRINGEMENT AND CONTRAVENTION OF FUNDAMENTAL RIGHTS
AND FREEDOMS UNDER CHAPTER FOUR OF THE CONSTITUTION OF
KENYA, 2010

-BETWEEN-

ENOCK O. OKERO.....	1 ST PETITIONER
JOEL OMBONGI NYANG'AU.....	2 ND PETITIONER
MARTHA MARWA.....	3 RD PETITIONER
ELIJAH SAGWE ABERE.....	4 TH PETITIONER
LAMECK SIKWEYA.....	5 TH PETITIONER
EDNAH OBARA.....	6 TH PETITIONER
JELIAH NYAKANGI.....	7 TH PETITIONER
JANEROSE NYAKUNDI.....	8 TH PETITIONER
ZIPPORAH MATUNDURA.....	9 TH PETITIONER
LYDIAH NYABOKE MOSIERE.....	10 TH PETITIONER
ABEL MOKAYA MOSE.....	11 TH PETITIONER
BEATRICE ONYANCHA.....	12 TH PETITIONER
EMMANUEL NYAMBEGA GISESA.....	13 TH PETITIONER

-AND-

THE COUNTY ASSEMBLY OF NYAMIRA.....	1 ST RESPONDENT
AG. CLERK, COUNTY ASSEMBLY OF NYAMIRA.....	2 ND RESPONDENT

AFFIDAVIT IN SUPPORT OF PETITION

I, **ENOCK O. OKERO**, Speaker of the County Assembly of Nyamira in the Republic of Kenya, do hereby make oath and state as follows: -

1. **THAT** I am the 1st Petitioner herein and as such, I am competent to swear this Affidavit.
2. **THAT** I adopt the contents of my petition herein and further wish to state as follows:
3. **THAT** on October 24, 2024, I was present during the vote to impeach me as the Speaker of the County Assembly of Nyamira.
4. **THAT** my impeachment process was marred by several illegalities, irregularities and/or anomalies as follows:
 - a) The impeachment process took place notwithstanding the conservatory orders in *HCCHRPET/Eoo8/ 2024 Enock Okero vs Nyamira County Assembly and Clerk Nyamira County Assembly and 7 others* stopping my suspension from office. I confirm that I have instituted contempt of court proceedings against the Respondents therein. Annexed hereto and marked 'Eoo-1' and 'Eoo-2' are copies of my Notice of Motion Application and Conservatory Orders issued by Hon. Lady Justice Wilfrida Okwany respectively.
 - b) There was no public participation at all which is in clear contravention of the national value and principle of participation of the people;
 - c) The Standing Orders of the County Assembly of Nyamira were amended to change the threshold for impeachment from $\frac{3}{4}$ to $\frac{2}{3}$ of all the members of the Assembly. The said amendments were not gazetted as required by the law. In addition, members who raised points of order were completely ignored in contravention of the Standing Orders of the 1st Respondent and members such as the 11th Petitioner herein abstained but their abstention was counted as a 'yes' vote. Annexed hereto and marked 'Eoo-3' is a copy of the Hansard in evidence thereof;
 - d) I only had 6 days to respond to the motion for my impeachment instead of the required 7 days;
 - e) The particulars of each count were not provided and as such, I could not defend myself satisfactorily. In fact, the Respondents denied me access to my office which means I could not obtain any county records to support my defence. Annexed hereto and marked 'Eoo-4' is a copy of the motion for my impeachment;
 - f) During the voting, I was not able to see the opening and the sealing of the ballot boxes and agents were not allowed to witness the voting and counting of ballots;

- g) It is also critical to note that the members of the County Assembly of Nyamira failed to vote on each count in the motion to impeach me. Therefore, it is impossible to tell on which count I was impeached;
- h) The Deputy Speaker is the one who presided over the impeachment proceedings but he still voted which brings into light the fact that he was biased; and
- i) The threshold required to impeach me was not met. The required votes for impeachment were 24 but instead they considered the vote by 23 members in support of the impeachment to be sufficient.

5. **THAT** I wish to inform this Honourable Court that the Respondents have already put up an advertisement seeking applications to fill the office of the Speaker of the County Assembly of Nyamira. Annexed hereto and marked 'EOO-5' is a true copy of the Advertisement for the position of Speaker of the County Assembly of Nyamira.

6. **THAT** therefore, it is in the interest of justice and fairness that this Honourable Court grants the orders sought in my petition.

7. **THAT** what is deponed herein is true to the best of my knowledge, information and belief.

SWORN by the said)
 ENOCK O. OKERO)
 At Nairobi this 25th day of October, 2024)


 DEPONENT

BEFORE ME:)

 COMMISSIONER FOR OATHS)

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TO BE SERVED UPON:
 1. THE COUNTY ASSEMBLY OF NYAMIRA
 2. ACTING CLERK, COUNTY ASSEMBLY OF NYAMIRA

Annex 5

THE HANSARD

Thursday, December 19, 2024

The House met at the County Assembly Chamber at 10:30 A.M.

[The Temporary Speaker (Hon. Benecha) in the Chair]

PRAYER

ELECTION OF THE SPEAKER

THE AG. CLERK OF THE ASSEMBLY (MR. ONYARI): HON. MEMBERS, PURSUANT TO THE PROVISIONS OF STANDING ORDER NO. 4, I HAVE LAID ON THE TABLE THE...

The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): Honorable Order

(The Bar was drawn)

Clerk, it is to call out the names of those who applied and the candidates we have today.

(The Ag. Clerk called out the names)

The candidates of the day are Honorable Thaddeus Nyabaro Momanyi, And Chrisantus, and Nyabera Mongare.

The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): We can have each one agent representing the candidates. Order Members! Clerks continue. Let there be silence. Clerk will continue.

(The ballot papers were issued to the hon. Members)

(Hon. Members, proceeded to vote)

(Hon. Keganda stood at his place)

Charles Keganda. Resume your seat.

Honorable Duke, as an agent, you may be disqualified and your candidate May be disqualified too. You are found canvassing during the voting.

(Applause)

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21



December 19, 2024, COUNTY ASSEMBLY OF NYAMIRA DEBATES 2

Honorable Members and the House before I proceed to vote, I want to draw your attention to standing orders number 68(6)

6. says where the presiding officer has an original vote. The presiding Officer shall cast his or her vote from the chair.

Now that I'm on the chair, I'm going to vote from the Chair today because I won an original vote from Kiabonyoru Ward to avoid any Doubts.

(The Temporary Speaker casted his vote)

The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): Honorable Members and the general public. I have received a communication from one honorable Miinda Riech was delegated Power of Attorney to honorable Nyameino to vote on his behalf, so proceed honorable Nyameino.

(Loud consultations)

Order! Order Members order! Let there be dead sirens in their room during the voting process.

(Hon. Nyangana stood at his place)

Honorable Nangana resume your seat. There is no moving in and out during the voting process.

(Applause)

Honorable Members I have received the communication from Honorable Nyambega Gisesa, and he has donated the powers of attorney to honorable Nangana Julius.

(Consultations)

Silence, Members. I hope honorable Clerk all Members have been called out to vote.

Chief Serjeant -At -Arms Take the roll call in the House of Members who is physically present.

(The Clerk unlocked the ballot box)

The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): Honorable Members I'll be notified that the accounting and summing up is over. Now let's listen to the Clerk to announce the results.

(The Clerk unlocked the ballot box and proceeded to count the votes)

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THE CLERK ANNOUNCED THE RESULTS OF THE FIRST BALLOT AS FOLLOWS: -

NAME	VOTES
THADDEUS NYABARO	...19
CHRISANTUS, NYABERA MOGERE	...3
SPOILED PAPERS	... 0
ABSTAIN	...
TOTAL	...22



The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): Honorable Members. I congratulate you for the process well done. However, the threshold as it stands in the County Assembly of Nyamira has not been reached. I want to draw your attention to standing order number 71 and 2.

That a person shall not be elected as a Speaker unless supported in a ballot by the votes of 2/3 of all the Members.

As it stands, Honorable Members, County Assembly has 33 Members of County Assembly, having lost one; Honorable Osiemo and Honorable Nyabaro resigned from being an MCA of Ekerenyo Ward to contest before the Speaker. So, we have 33 Members, the threshold could have been 22 for one to be elected as a Speaker in that scenario, I draw your attention to standing order number 7(2): -

If no candidate is supported by the votes of 2/3 of all Members, the candidate or candidates who received the highest number of votes in the ballot referred to in paragraph one, and the candidate or candidates win That Ballot received the next highest number Of votes shall alone stand for election in a further ballot, and the candidate who receives highest number of votes in the Further ballot shall be elected the Speaker.

Therefore, Honorable Members, we are compelled to go to the. And. The two people who received the first and second highest votes will be the candidates and therefore we have. Honorable Thaddeus Nyabaro and Mr. Chrisantus. More, what's the name? Nyaberra. So, Clerk, take us to the next phase again.

(The ballot papers were issued to the Hon. Members)

(Hon. Members, proceeded to vote)

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The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): I again take the ballot from the seat.

For record purposes, Clerk, let us have a pronunciation of that name properly.

(Hon. Josiah Manger MCA Esise Ward called again)

(Hon. Gisesa stood at his place)

The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): Order Honorable Gisesa, Resume your seats. It is not proper to be moving from your seat during the voting process.

Honorable Members. I am in receipt of a communication from Honorable. Abel Mokaya. Order! Members order. Who is going out? I'm in communication over. I'm in the city of communication from Honorable Abel Mokaya Mosew ho has delegated the power of attorney to honorable Alfayo Ngeresa to vote on his behalf.

But Using---

(The Clerk unlocked the ballot box and proceeded to count the votes)

THE CLERK ANNOUNCED THE RESULTS OF THE FIRST BALLOT AS FOLLOWS: -

<i>NAME</i>	<i>VOTES</i>
<i>THADDEUS NYABARO</i>	<i>...22</i>
<i>CHRISANTUS, NYABERA MOGERE</i>	<i>...0</i>
<i>SPOILED PAPERS</i>	<i>... 0</i>
<i>ABSTAIN</i>	<i>...</i>
<i>TOTAL</i>	<i>...22</i>

(Applause)

(Loud consultations)

The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): Honorable Members. Order! Honorable Members order consultations in low tones.

I want to take this opportunity to thank you Members for conducting the exercise of

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electing the Speaker peacefully and honorably. I also want to thank you because you elected me to the seat of the Speaker today to oversee the exercise. I don't take it for granted.

Honorable Members is your mandate to elect a Speaker of quality to lead the House in the remaining part of the term. It has been a long journey following the impeachment of the Speaker. I. And you also know that you have the mandate to elect a new Speaker because it is in an Assembly. There should be no vacuum. You have done it today. And. We, on behalf of the Assembly, I want to wish the candidates well for the winner. Successful journey as a Speaker of Nyamira County Assembly and for the losers of today Want to say that he has not lost it is only that the seat was one both of them could have won, but always we must have number 1. For the college to appear in the ballot paper, we also want to congratulate him for that bold step. And for those who could have wanted the seat and failed through the vetting process. I also want to wish them well. There is always tomorrow. Now allow me honorable Members to declare the winner. You have heard from the Clerk who is official the presiding officer. In his count, he has given us Chrisantus Nyabera Mong'are, garnered zero in the second round. Honorable Thaddeus Nyabaro Momanyi garnered 22 votes in the second round, and therefore emerged the winner of the seat of the Speaker of the County Assembly of Nyamira.

I therefore officially declare Honorable Thaddeus Nyabaro Momanyi the Speaker Elect of the County Assembly of Nyamira.

(Applause)

Honorable Members, I want to draw your attention to. Standing order number 12 about the swearing in of the Speaker.

It says immediately follow the direction of the Speaker. The Clerk shall administer the oath of affirmation of office to the Speaker in the presence of the assembled count Assembly. So therefore, Clerk it is your duty.

I direct that the Serjeant-At-Arms, look for the Speaker elect as quickly as possible, and bring him forth to the House for swearing in.

Clerk, prepare the process of swearing in the Speaker.

(The Clerk accordingly declared hon. Thaddeus Nyabaro Momanyi elected

Speaker of County Assembly of Nyamira

The Temporary speaker directed the Serjeant-at-Arms to search for the

Said Thaddeus Nyabaro and bring him to the Chamber)

(Applause)

The Temporary Speaker Hon. Benechia (Kiabonyoru Ward): Order Members honorable. Honorable Majority Leader. What do you have?

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POINT OF ORDER

Leader of Majority (Hon. Abuga/Bogichora Ward): Thank you Hon. Speaker, stand on a point of order. And this is. Order No.29 (3) Hours of meeting. Honorable Speaker, that states that: Unless for the, unless the Speaker for the convenience of the Council otherwise directs the County Assembly shall meet on Tuesday and Thursday, 9:30 and adjourn at 12:30 and at 2:00 PM on Tuesday and Thursday. Further, notwithstanding paragraph one and the County Assembly may resolve to extend its sitting time. Hon. Speaker, this is 30 minutes too. To 12:30. I move a motion. No Speaker that we extend our morning sessions time. Beyond 12 feet, I move and call upon Honorable Kenneth. Nyameino to second.

Hon. Nyameino (Gesima Ward): Thank you, Mr. Speaker, as a requirement of this Honorable House and has been moved by the Honorable Majority Leader for extension of time, I stand to second. Thank you, Mr. Speaker.

The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): I find it in order and therefore the motion for extension of time is open for debate.

(Question proposed)

(Question put and agreed to)

Honorable Members preparation of the oath for the elected Speaker is on, we ask for your patience. Serjeant-At-Arms For the interest of time Take the Clerk and the team to allow in the preparation and Administering oath to the elected Speaker. Honorable Matwere the House is in session Come back the bow. All the Members we have the Mess in the House and the House is in session. You can resume your seats honorable Members. Now the ceremony of giving oath to the Speaker of the County Assembly can commence.

(On arrival of hon. Nyabaro in the Chamber, was escorted by Hon. Duke Masira and Hon. Abuga)

(Applause)

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members: -

1. Hon. Thaddeus Nyabaro Momanyi

(On arrival at the Chair, the Ag. Clerk thereupon administered the Oath of Allegiance to the Speaker-elect, hon. Nyabaro)

(The Speaker, Hon. Nyabaro, then took the Chair)

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(Applause)
(Loud consultations)

The Temporary Speaker Hon. Benecha (Kiabonyoru Ward): Are you through Clerk? Certain patterns are now in order, but you're caught the Speaker to his office. He dresses under, assumes them. Seat and continue with the session of the Assembly. Resume your seats, Honorable Members, the House is in session. We wait to usher in our new Speaker to the seat, and I remember there is business to be conducted in this morning session which is extended AND therefore the Speaker will continue. Honorable Ogeto, the *HANSARD* is on.

(The Speaker, Hon. Nyabaro, then took the Chair)

(Applause)

COMMUNICATION FROM THE CHAIR

Submission of Hon. Speaker to the
Will of the House

The Speaker (Hon. Nyabaro): Honorable Members of the County Assembly, distinguished guests, friends and good people of Nyamira. I'm deeply honored and humbled to be elected as a Speaker. This is a momentous occasion, not just for me but for our entire County? Accept this responsibility with a profound sense of duty and a commitment to serve our constituents with integrity, transparency and dedication. Honorable Members as you are all aware. It's only just three days ago that. The Almighty God rescued me from an accident. I want to express my sincere gratitude to all of you who have placed your trust in me. Your support has been unwavering, and I promise to uphold it with the highest standards. You expect from this office. I also extend my heartfelt thanks to my fellow candidates. Your participation in this democratic process has enraged our country, our country.

Honorable Members, as your Speaker, I pledge to uphold the Constitution and the laws of the land. I will ensure that our County Assembly operates within the confines of the law and that the rights of every citizen are protected. Remember. I will promote good governance and accountability. I will foster unity and the cooperation I will empower our communities as I will champion the needs and aspirations of our people.

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27



A handwritten signature in black ink, appearing to be "S. Ogeto".

Honorable Members, we look forward to strengthening the oversight. I will ensure that the account government is held accountable for its actions that public resources are utilized effectively.

Honorable Members I Rise to inform the House of House of Affairs in the position of the Deputy Speaker. The seat is vacant following the elevation and election of the position of the Speaker. In accordance with the provisions of the County Government Act and the Standing Orders of this County Assembly are hereby declared the seat of the Deputy Speaker, Vacant. Personally, I now invite Nominations for the position of Deputy Speaker. I urge all Honorable Members to participate in this important process and elect a suitable candidate who will uphold the dignity and integrity of this House.

Honorable Members, I wish to welcome our visitors who have joined us today and mostly the sisters from Commission on revenue allocation, Vice chairperson. Koitamet Olekina, please stand and salute Feel most welcome, Doctor David Shikumo, Welcome. Judith Morley, Asante. Isabella Wambui. Thank you. Feel most welcome.

Next order.

ELECTION OF THE DEPUTY SPEAKER

The Speaker (Hon. Nyabaro): Honored Members this declaration is made possible to provisions of the County Government Act 2012. Under the Nyamira Count Assembly standing order number 14, (1) which states that as soon as practicable following the election of the Speaker, a declaration shall be made for vacancy. Of the deputy Speaker and the deputy Speaker shall be elected thereof I have informed I have information from the Office of the Clerk that one candidate expressed interest in the seat for the said position. I call upon the Clerk to confirm.

(The Clerk explained the procedure required for the election of the Deputy Speaker Pursuant to the provisions of Standing Order No.14 (1). He stated that he had issued and received back nomination papers for the Office of the Deputy Speaker from hon. James Mating 'a who is duly qualified to be elected as Deputy Speaker)

The Speaker (Hon. Nyabaro): Therefore, Honorable Members, the position not having been contested, Honorable James Mating 'a Nyataki stands selected as the Deputy Speaker of the County Assembly In accordance with the provisions of the said Act, Standing Orders, I now propose that the Clerk of the Assembly to bring in the successful candidate for the position of the Deputy Speaker for swearing in.

(Applause)

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ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members: -

1. Hon. James Mating 'a Nyataki

(Applause)

(Loud Consultations)

The Speaker (Hon. Nyabaro): The honorable James Mating 'a. I wish you walk out and then you get escorted in and then you take Oath. The Deputy Speaker to be properly escorted by two Honorable Members. Get Outside out of the chambers and then you come, you walk in.

Order! Office of the Clerk. Ensure that everything is done in a proper way.

(On arrival of hon. Mating 'a in the Chamber, was escorted by Hon. Nyangana and Hon. Ahuga)

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members: -

1. Hon. James Mating 'a Nyataki

(Applause)

(Loud Consultations)

The Speaker (Hon. Nyabaro): Thank you. Order! Order! Order. Order! Thank you. Now in invite the Deputy Speaker to give his maiden speech. Honorable James Mating 'a, the Deputy Speaker. Proceed.

MAIDEN SPEECH

The Deputy Speaker (Hon. Mating 'a/Kemera Ward): Thank you. Honorable Speaker. Honorable Members I want to thank you for bestowing upon me, the honor of being your Deputy Speaker. I am grateful for your confidence in me. I pledge to serve this Assembly with diligence. Impartiality and integrity, I will always serve to uphold and defend the dignity of this honorable House and ensure the smooth conduct of it is business or its proceedings. I commit to working collaboratively with the all-Honorable Members in respect of their political affiliation to advance the interest of our constituents.

I commit to working collaboratively with all Honorable Members, irrespective of their political affiliation, as I said, to advance the interests of our constituents, let us work together to

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29



A handwritten signature in black ink, appearing to be "J. Mating 'a".

build a prosperous and equitable future for our County Assembly. Thank you, Honorable Members and Honorable Speaker.

The Speaker (Hon. Nyabaro): Thank you. And on that note I also recognized the presence in the Speakers Gallery of my loving wife Sarah Nyabaro and my sister, Str. Mary Stella. Thank you.

NOTICE OF MOTION

**APPROVAL OF APPOINTMENT OF MR. DUKE SIMON ONYARI AS CLERK
OF COUNTY ASSEMBLY OF NYAMIRA**

Hon. Mang'era (Esise Ward): Thank you, Mr. Speaker; I rise to give notice of motion for approval of appointment of Mr. Duke Simon Onyari as Clerk of County Assembly of Nyamira.

PROCEDURAL MOTION

**APPROVAL OF APPOINTMENT OF MR. DUKE SIMON ONYARI AS CLERK
OF COUNTY ASSEMBLY OF NYAMIRA**

Leader of Majority (Hon. Abuga/Bogichora Ward): Thank you. Hon. Speaker. I wish to move a Procedural Motion to this House to allow the debate of the approval of appointment of Mr. Duke Simon Onyari as the Clerk of the County Assembly of Nyamira. Honorable Speaker As you are aware Our Assembly. Has been having an acting Clerk for so long time. And as we finish this session, Honorable Speaker, today being our last day for this session, it's important that we start the New Year with a substantive Clerk. Aware that this is our last day that we will be doing business before we break for the Christmas holiday. I request that this House allows us to depend on the appointment of Mr. Duke Simon Onyari as Clerk of the County Assembly of Nyamira; I move the motion and ask. The Leader of Minority honorable Julius Nyangana to second.

The Leader of Minority (Hon. Nyangana / Bomwagamo Ward): Speaker I stand to second.

(Question proposed)

(Question put and agreed to)

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MOTION

APPROVAL OF APPOINTMENT OF MR. DUKE SIMON ONYARI
AS CLERK OF COUNTY ASSEMBLY OF NYAMIRA

Hon. Mang'era (Esise Ward): Thank you, Mr. Speaker, I want to move a motion that this County Assembly debates and approves the appointment of Mr. Duke Simon Onyari as Clerk of County Assembly of Nyamira. Mr. Speaker, Sir, aware that one of the functions of the County Assembly Service Board has spelled out under Sec. 11(1)(b) of the County Assembly Service Act 2017. Is to determine and reviewed the terms and conditions of service of persons holding or acting in the office of the service, further aware that, the County Assembly Service Board, in fulfillment of these mandates has reviewed the terms and conditions of the office of the Clerk and nominated Mr. Duke Simon Onyari, the current acting Clerk for appointment as the Clerk of the County Assembly of Nyamira. Cognizant of their duties and functions of the clock of the County Assembly are spelt out in the County Government Act 2012. And the County Assembly Service Act 2017 reviewed 2022. To mention section 12(4) Of the County Government Act 2012 review 2022 provides as follows.

The County Assembly Clerk shall be secretary to the County Assembly service. Section 17(1) (2) (3) of the County Assembly Service Act, 2017. Review 2022 spells the functions of a secretary of County Assembly Service Board as follows.

17. Functions of the Secretary

- (1) The Secretary shall be—
- (a) the chief executive officer of the Board;
 - (b) the accounting officer of the Board;
 - (c) the administrative head of the Service;
 - (d) the custodian of the Board's records;
 - (e) responsible for—
 - (i) the execution of the decisions of the Board; and
 - (ii) assignment of duties and supervision of the staff of the Board;
 - (f) the preparation and submission of the programmes necessary for the achievement of the Board's mandate for approval by the Board;
 - (g) causing to be kept records of the proceedings and minutes of the meetings of the Board and such other records as the Board may direct;
 - (h) ensuring staff compliance with public service values, principles and ethics; and
 - (i) the performance of such other duties as may be assigned by the Board or any other written law.
- (2) The Secretary shall be responsible to the chairperson of the Board and the Board for the general working and efficient conduct of business of the Service.

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Honorable Speaker, Sec.19 of the County Assembly Service Act spells the functions of the Clerk of the County Assembly as follows.

Functions of the Clerk

In addition to the functions conferred under section 16 as Secretary to the Board, the Clerk shall be—

- (a) the chief administrative officer of the county assembly; and
- (b) responsible for the day-to-day management and functioning of the county assembly.

Sec.20. Speaker of the County Assembly Service Act provides for the procedural functions of the Clerk as follows.

20. Procedural Functions of the Clerk

(1) The procedural functions of the Clerk shall include—

- (a) the rendering of expert, non-partisan and impartial advice to the members of the county assembly on the legislative process, and parliamentary procedure and practice; and
- (b) the carrying out such other duties and exercising powers as may be conferred on him or her by law or by the Standing Orders and practices of the County assembly.

Honorable Speaker, further cognizant of Fair labor principles that require that an officer discharging such heavy responsibilities as error related above should receive commensurate. Compensation and or remuneration. Whereas Mr. Speaker, the former holder of the office, Mr. Daniel Oginda Orina exited from the service by way of retirement. Thus, rendering the position vacant. And whereas section 18 of the County Assembly Service Act 2017, which was reviewed 2022, requires the process of appointing the Clerk to be competitive.

Speaker, whereas the County Assembly Service Board is constrained by advisory from the Commission on revenue allocation that has capped the ceiling of our staff establishment at 100. Through a circular reference number, CRA FA01vol.11/22 dated 28 June 2018. Annexure ones given their mindful of that, Honorable Speaker, that the County Assembly staff establishment currently Offends this advisory and the same has been the subject of audit queries. The current staff assessment has an import of 112 Members of staff, way above the recommended the recommended ceiling of 100. Further mindful Speaker that the course. Of personnel employments for County Assembly staff is higher than their location provided for by the Commission of Revenue allocation, and that the County Assembly will only be able to comply with this advisory in future Through staff exits and or natural attrition a situation that is obtained. Will allow for open and competitive recruitment exercises Conscious,

Mr. Speaker, considering our resource concentrates The County Assembly Service Board is left with no option than to manage the County Assembly, wage bill and contain. Contain it within the recommended limits and consequently the board has restrained itself from adding more Members, more numbers to the establishment to avoid an increase in the personnel emoluments, which will put a strain on the funds for County Assembly. Operations.

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Further, Honorable Speaker, conscious that the nominee being the acting Clerk of the County Assembly holds various responsibilities that are assigned to an accounting officer, such as signatory to County Assembly, Fund accounts, and therefore confirming the nominee to a substantive appointment, will ensure seamless transition for the County Assembly that will be devoid of any hiccups.

Honorable Speaker, acknowledging the challenges that come with the lack of substantive office holder for this crucial position, including but not limited to disturbances of the County Assembly service through acts such as illegal appointments of an acting Clerk, glares in County Assembly service board programs, and the litigation that could be well handled by a substantive Office holder. Appreciating the royalty and persistence of the nominee to stick to parliamentary process and obedience of County Assembly resolutions, for instance, the nominee recently ensured a smooth transition after the former Speaker was impeached by establishing the Office of the Acting Speaker After the process of electing new Speaker was halted by the court.

Further, appreciating that the nominee, Mr. Duke Simon, Onyari has acted for a long period without taking to Court action against the employer, a virtue only demonstrated by a few Mr. Onyari, has acted in the position of Clerk of County Assembly cumulatively For more than 65 months, which is almost five years and five months As for us, and it can be seen in the table whereby in January 2014 to April 2014 When the presiding Speaker was Mr. King'oina . April 2014 to May 2014. The Speaker was honorable Nyamoko Joash, then April 2018 to January 2023, when we had the Speaker, Honorable Moffat, Teya. Then from July 2024 to October 2024 When we are the former Speaker Honorable Enock Okero and then October 2024 to date, he's been acting and we have the Speaker, Honorable Thaddeus Momanyi.

Aware that, Mr. Onyari is a holder of Bachelor of Law degree and the Bachelor of Commerce BCOM degree and therefore satisfies the requirements of section 13(2)(a) and (b) of the County Government Act 2012 which was revealed in 2022.

Further aware, our honorable Speaker that, the nominee has post graduate Diploma in Law and is an advocate of the High Court of Kenya, of good standing.

Also, Cognizant that the nominee has over 10 years of relevant professional experience, having been appointed as Deputy Clerk of the County Assembly in December 2013, becoming the first substantive deputy Clerk of the County. Simply under the Constitution of Kenya, 2010 and in January 2023, the nominee was promoted to senior Deputy Clerk that satisfies requirements of section 13, (C) of the County Government Act 2012 which was reviewed in 2022.

Further, Honorable Speaker, Cognizant that the nominee has undergone 2 high level training programs, namely senior management course and strategic leadership development program at the Kenya School of Government. Requisite for appointment to this level of management.

In addition, the nominee has attended various workshops and seminars for accounting officers organized by public finance institutions in the span of his career, a testament that the nominee has not only accumulated the necessary knowledge and experience, but equally demonstrated that he is qualified to be appointed substantively in the office.

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Honorable Speaker, I now, therefore, move to the Motion that this County Assembly approves Mr. Duke Simon Onyari for appointment as the Clerk of the County Assembly of Nyamira. There are annexure which we said before.

I now call upon. I beg to move, and I now call upon Honorable Members to second.

The Deputy Speaker (Hon. Mating 'a/Keimera Ward): Thank you Speaker. I rise to second thank.

(Question proposed)

Hon. Matwere (Bonyamatuta Ward): months. What---And allow me say, that it's never too late for honorable. Duke Onyari to be Clerk of this County Assembly of Nyamira. I therefore support, thank you so much.

The Speaker (Hon. Nyabaro): The honorable I'm going to give you one minute. One minute each for the interest of time. The honorable Mitchell Kemuma.

Special Elect (Hon. Kemuma). Thank you, Honorable Speaker, and first of all, kindly allow me to pass my congratulations to our newly elected Honorable Members. That is our new Speaker, together with our deputy Speaker Honorable Mating 'a, congratulations for that. And since I have been given one minute, allow me to add to the ongoing discussion and I would wish first to say that. I support the motion. For the following reason. It is quite unfortunate that we've had someone who is overqualified working as an acting Clerk for more than six months. Let me first thank our Clerk for acting for more than five years. First, let me thank our Clerk, our now. The duly appointed Clerk is Hon. Duke Onyari. Kindly let me thank him for having been very patient with this Honorable House for all that while and then No.2.

The Speaker (Hon. Nyabaro): Notable. The motion has carried the day.

Special Elect (Hon. Kemuma): Sorry and I will. Thank you. But from the ongoing discussion, I can tell that it's going to carry heading. Yes, Mr. Speaker, I stand guided, but let me proceed Honorable. Thank you very much that you did not to this House, because you are an advocate of the High Court of Kenya. And you've been in that acting capacity for more than five years? If we all look at our human resource manual, you'll realize that it gives an employee who has been employed or who is acting in an acting capacity for. At least six months to be in that position when it exceeds six months. Ideally the employer should automatically. Confirm this person and more so if the person has satisfactorily performed. Exemplary, I wish to confirm that I have worked with only for quite a while. I can confidently say. He has all the qualifications, all the qualifications. He deserves to be appointed as a substantive Clerk. Mr. Speaker, with your kind permission, if you can kindly ask honorable Nyangana.

(Hon. Nyangana consults loudly)

The Speaker (Hon. Nyabaro): Order! Order! Hon. Nyangana.

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Special Elect (Hon. Kemuma): To maintain order because he's distracting me. Thank you. I would kindly urge all the Honorable Members who are before this Honorable House today. To allow us or to unanimously agree with the motion that is before us, we support it fully and we allow our Clerk Onyari to become our substantive Clerk so that we can all work together. Since he has all the qualifications that we all deserve. Thank you.

Hon. Benecha (Kiabonyoru Ward): Thank you, Mr. Speaker. As I rise to support this motion, first allow me to congratulate you. For the new position. I know you are diligent enough to discharge your duties and the Members have bestowed unto your aunts the power of this House to lead the House. Honorable Martina also congratulates you the same way. You are a man of integrity, and I know the House will achieve more.

Honorable Speaker Mr. Onyari, as a lot of academic achievements. And experience in working in this Assembly. He also can serve as an institutional memory because. He has been here longest and therefore I know together as a team; you are going to steer the House into greater heights.

Honorable Speaker, I want to repeat what Honorable Matwere said that in the last few days the House has been deferred and the devils are known. So, I know the team will prevent the Devils from bedeviling The House and the Assembly. So therefore, honorable Speaker, because of the interest of time, I want to support this motion and congratulate the Vice chairperson of our board on having realized this that it was necessary for Onyari to be confirmed as the substantive Speaker. Other, sorry. Sorry substantive Clerk and Honorable Manger board Member from the Assembly. The first year the board Members from this Assembly look at the other staff Members who have stagnated in their grades for long go through the files and make sure every staff Member who has worked here. Enough and it sounds promotion going to be. Thank you, Mr. Speaker. I'm saying that Members of staff of the County Assembly who have been stagnating because of injustice from the previous regime can also be considered for promotion, can also be considered to higher levels so that they rise in their career. As we are confirming Onyari today, we know there are those who are also suffering peruse through this the files and get the right Steps so that as a team we can serve this the people of Nyamira with integrity and with motivation. Thank you, Mr. Speaker.

Special Elect (Hon. Nyamanga): Thank you, Mr. Allow me to thank God for bringing us this far. I want to congratulate you for growing that seat as a substantive Speaker of the Nyamira County. Also to congratulate Honorable Mating 'a for being elected as the Deputy Speaker. I don't want to be too bored of you with a lot of words and repetition. I want to say this for Nyamora to come back to his senses Onyari must be confirmed. For the executive to respect the County Assembly of Nyamira, Onyari must be confirmed. For us to end the shenanigans and the hooliganism in this Assembly, Onyari must be confirmed. Thank you and God bless each and one of you.

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Hon. Nyameino (Gesima Ward): Thank you, Madam Speaker. First and foremost, before I even give you congratulations, I want to first to thank our almighty God For reserving your life and my life because we are the. Casualties of accidents. We thank God for having saved us and this fire has brought us

I want to give my congratulations to you, Honorable Speaker, for having elected to serve in this position. I know you are among the first Members that served in the first session of this County Assembly. I, Honorable Nyangana, yourself and Honorable Mating 'a who are And Honorable Ngeresa quite a few of us who started this Assembly.

There is time and decision for. Honorable Speaker, now that session and time it's now your time to serve as you have taken the oath, I hope it is well to be well.

Finally, I know they have talked about honorable Clerk Onyari. Onyari was my high schools here while in high school at the same here myself honorable, Evans Juma the advocate now. And myself at the honorable Mating 'a given all of that, I want to say that I understand Onyari in college you are doing BCOM with him and honorable Juma. After BCOM with them, they left law and then myself Left for masters Then I became a lecturer now that. Now that. Now that we know Onyari even before here and he has served with us in the First Assembly I think he has an outstanding experience as one of us that we have not made any error to confirm him. Want to appreciate that. All, all is well and given the circumstances that have been surrounding this Honorable House, I think now it's very clear and as each time has come, there is no potential to complain that he has acted for long. God, us time and season for everything. This is the time, and we are not going to oppose God appointed time with these few remarks. Honorable Speaker, even my colleagues I do not want you to not even to speak that we put to this into question so that we move to the next level. Thank You, Honorable Speaker.

Hon. Masira (Township Ward): Thank you, Mr. Speaker it's very procedural when minority whip has spoken, majority whip should also be the first. First, allow me to thank the Almighty God for giving you a second chance in life. And now, maybe the chance that you are given for life is the position that you've inherited the perfect one, the coveted one to be the Speaker of the Nyamira County Assembly. I also want to remember the other brother that you are with, the Honorable Charles, who is in hospital. Also, wish him a quick recovery and not forgetting about Honorable Nyameino Was Involved in a very terrible accident, Mr. Speaker. Mr. Speaker, allow me to congratulate you as the deputy Speaker. For the position that you've held now, and I want to thank that God has given us mature and reasonable people to read this honorable House. Mr. Speaker. On the motion much has been spoken with the mover of the motion. The credibility and most of us, not even forgetting Honorable Nyang'ana that we may not be talking much on the credentials of the academics because we may not know much.

Allow me to thank the move of the motion that he compiled everything very well and With Onyari I want to believe that this House will move from this state of dramas to a stable County Assembly. The man before us, the motion before us of the great man Duke Onyari Is one cool guy very brilliant, ready to work and who does not Know the clan tribe and even religion in terms of working with everybody from all quarters on this. Mr. Speaker, I want to thank you and

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thank your family for standing with you in time of need. I support the motion; I want to ask that you put the question and where and this so as we see this guy take oath office. Thank you, Mr. Speaker.

(Question put and agreed to)

(Applause)

As we are waiting for the Clerk to walk in I recognize the chairperson Sanganyi Tea Factory And we are also the chief Tea director Ekerenyo Zone, he stands and wave, Honorable the Andrew Ntere, thank you. Feel most welcome.

The legal team escorted the Clerk forward.

(Mr. Duke Onyari walks in the Chamber)

Wonderful. And the other one.. I request. The advocates in the House--- Members of the County Assembly to join in the swearing in. Proceed.

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Members: -

1. Mr. Duke Onyari

The Speaker (Hon. Nyabaro): Thank you. Honorable Members. Clerk, one of your team to choose--- and then you take the seat as a Clerk. In the County Assembly-- Take your right seat. Thank you Assume your seats honorable Members. Order honorable Keganda! Resume your seat.

Honorable Members Today, being a special day, I wish to congratulate every one of you for having participated for the success of this day, today and for the Honorable Members and the Members who have been elected to various positions, we should the best and may the grace of God be with you all. As you all know days ago God rescued me from the chores of death not because I was so clean, but it is by the grace it has remained faithful and do not forget to thank God for every occasion. Members we have an afternoon session. So, I thank you and I wish to inform you that you will remain calm as we conclude the afternoon session a few minutes after. This morning session and then we will precede to a luncheon somewhere as it may be organized.

ADJOURNMENT

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December 19, 2024, COUNTY ASSEMBLY OF NYAMIRA DEBATES 18

The Speaker (Hon. Nyabaro): Honorable Members the House stands adjourned until Thursday 19th December 2024 at exactly 2:30 PM.

The House rose at 01:10PM

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38



Annex 6

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
PETITION NO. E001 OF 2025

IN THE MATTER OF: -

ARTICLES: 1(1), 3, 10, 22, 23, 27, 28, 41(1), 47, 48, 50, 124, 159, 165, 178(1), 178(3),
194(1) AND 258 OF THE CONSTITUTION OF KENYA, 2010;

AND

SECTION: 14 OF THE POLITICAL PARTIES ACT CAP. 7D LAWS OF KENYA

AND

SECTIONS: 19 & 21 OF THE ELECTIONS ACT CAP. 7 LAWS OF KENYA

AND

SECTIONS: 9A AND 14 OF THE COUNTY GOVERNMENTS ACT CAP 265 LAWS
OF KENYA

AND

STANDING ORDERS NO. 3, 4, 5, 6, 7, 9, 12 AND 13 OF THE NYAMIRA COUNTY
ASSEMBLY STANDING ORDERS

AND

ILLEGAL, UNLAWFUL, AND UNCONSTITUTIONAL ELECTION OF A SPEAKER
IN THE NYAMIRA COUNTY ASSEMBLY

~ BETWEEN ~

EDWIN ONCHOKO.....PETITIONER

'VERSUS'

NYAMIRA COUNTY ASSEMBLY.....1ST RESPONDENT

DUKE ONYARI.....2ND RESPONDENT

AND

THADDEUS NYABARO1ST INTERESTED PARTY
THE INDEPENDENT ELECTORAL

AND BOUNDARIES COMMISSION.....2ND INTERESTED PARTY

CERTIFICATE OF URGENCY

I, **OMBUI RATEMO**, an Advocate of the High Court of Kenya practicing as such in the firm
of **OMBUI RATEMO & ASSOCIATES ADVOCATES** which firm has the conduct of this

matter on behalf of the Petitioner/Applicant do hereby certify the Application filed herewith to be extremely urgent for the following reasons: -

1. **THAT**, on 19th December 2024, the Respondent unlawfully proceeded to elect and swear in the 1st Interested Party as Speaker of the 1st Respondent in a manner that is unconstitutional and in direct disregard of multiple electoral laws relating to the election of a Speaker of County Assembly including the Nyamira County Assembly Standing Orders.
2. **THAT**, it is deeply concerning and wholly objectionable that the Respondents proceeded with this process in flagrant disregard of the law, as outlined below;
 - a) **There was no vacancy in the office of the Speaker**
 - b) **The 1st Interested Party was not qualified to contest for the position of speaker pursuant to the provisions of Article 178 (1)**
 - c) **The 2nd Respondent was bereft of presiding over the conduct of the said elections having already been suspended from office.**
3. **THAT**, Article 178 (1) provides that each county assembly shall have **a speaker elected by the county assembly from among persons who are not members of the assembly.** The 1st Interested Party, being an active member of the County Assembly specifically Ekerenyo Ward, did not resign prior to being purportedly elected as Speaker, thus breaching the constitutional requirements.
4. **THAT**, it is also clear under Article 193 (2) (a) that a person is disqualified from being elected a member of a county assembly if the person is a State Officer or other public officer, other than a member of the county assembly. By assuming the office of Speaker without resigning as a member of the assembly, the 1st Interested Party is in direct violation of this constitutional provision and cannot hold both positions simultaneously.
5. **THAT**, in any event there was a vacancy, Article 194 of the Constitution streamlines firstly, the procedure under which the 1st Interested Party's seat as MCA Ekerenyo would have fallen vacant. He thus neither resigned from officer nor did he tender any resignation from his political party.
6. **THAT**, the illegal process was also done in absence of a vacancy notice been tendered to the 2nd Interested party as required under the Elections Act.
7. **THAT** the current position of the 1st Interested Party remains unclear, yet he continues to unlawfully benefit from both the office of Speaker and that of the member of County Assembly for Ekerenyo Ward, which is in itself an illegal act in furtherance to misleading the unsuspecting electorate of Nyamira County in the complete detriment of delivery of services in the County and Checking actions of the County Government.

8. **THAT**, it is of utmost urgency that this application be heard on a priority basis, as the actions of the Respondents pose a significant threat to the administration of justice within the County Assembly, thereby adversely affecting the residents of Nyamira County.
9. **THAT**, the Honourable Court thus remains the last resort to stop a direct aberration, charade and sham that continues to infuse activities of the 1st Respondent in the clear prejudice of the tenor, spirit and soul of the Constitutional order, rule of law and a direct subterfuge of the will of the people of Nyamira.
10. **THAT**, the Petitioner/Applicant brings this Petition in the public interest, as guaranteed under the Constitution, in light of the ongoing violation of the rights of the residents of Nyamira County due to the Respondents' illegal actions. It is, therefore, imperative that the application be heard and determined expeditiously in the interests of justice.

DATED AT KISII THIS 20TH **DAY OF** JANUARY **2025**

OMBUI RATEMO & ASSOCIATES
ADVOCATES FOR THE PETITIONER/APPLICANT

DRAWN & FILED BY:-

OMBUI RATEMO & ASSOCIATES
ADVOCATES
MOCHA PLACE 3RD FLOOR,
LEFT WING

P.O BOX 668-40200

KISII-KENYA

TEL: 0722-613-411; Email; oratemolaw@gmail.com

TO BE SERVED UPON:-

NYAMIRA COUNTY ASSEMBLY

CLERK – NYAMIRA COUNTY ASSEMBLY

THADEUS NYABARO

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
PETITION NO. E001 OF 2025

IN THE MATTER OF: -

ARTICLES: 1(1), 3, 10, 22, 23, 27, 28, 41(1), 47, 48, 50, 124, 159, 165, 178(1), 178(3),
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AND

SECTION: 14 OF THE POLITICAL PARTIES ACT CAP. 7D LAWS OF KENYA

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STANDING ORDERS NO. 3, 4, 5, 6, 7, 9, 12 AND 13 OF THE NYAMIRA COUNTY
ASSEMBLY STANDING ORDERS

AND

ILLEGAL, UNLAWFUL, AND UNCONSTITUTIONAL ELECTION OF A SPEAKER
IN THE NYAMIRA COUNTY ASSEMBLY

~ BETWEEN ~

EDWIN ONCHOKO.....PETITIONER

'VERSUS'

NYAMIRA COUNTY ASSEMBLY.....1ST RESPONDENT

DUKE ONYARI.....2ND RESPONDENT

AND

THADDEUS NYABARO1ST INTERESTED PARTY

THE INDEPENDENT ELECTORAL

AND BOUNDARIES COMMISSION.....2ND INTERESTED PARTY

NOTICE OF MOTION

*(Pursuant to Sections 1a, 3, 3a, And 63 of The Civil Procedure Act (Cap. 21 – Laws Of
Kenya), Order 40 Rule 2(2) And Order 51 Rule 1 Of The Civil Procedure Rules, 2010, Rules
19 And 23 of The Constitution Of Kenya (Protection Of Rights And Fundamental
Freedoms) Practice And Procedure Rules, Articles 23 And 159(2) of The Constitution of
Kenya, 2010)*

42

TAKE NOTICE that this Honorable Court shall be moved on the day of2025 at **9.00 O’CLOCK** in the forenoon or so soon thereafter as the matter may be called for hearing of an application by counsel for the applicant for **ORDERS THAT:-**

1. ***THAT***, the instant application be certified as urgent and the same be heard *ex parte* in the first instance and service be dispensed with.
2. ***THAT***, pending the inter partes hearing and determination of the instant Application, the Honourable Court be pleased to issue conservatory order staying the effect and implementation including gazetting of the purported election of the 1st interested Party as Speaker of the 1st Respondent.
3. ***THAT***, Pending the hearing and determination of the application herein, the Honourable Court be pleased to, issue interim temporary injunctive orders restraining the 1st Interested Party, from purporting to act and or discharge of duties as speaker of the 1st Respondent;
4. ***THAT***, pending the inter partes hearing and determination of the instant Petition, the Honourable Court be pleased to issue conservatory order staying the effect and implementation including gazetting of the purported election of the 1st interested Party as Speaker of the 1st Respondent.
5. ***THAT***, Pending the hearing and determination of the Petition herein, the Honourable Court be pleased to, issue interim temporary injunctive orders restraining the 1st Interested Party, from purporting to act and or discharge of duties as speaker of the 1st Respondent;
6. ***THAT***, the Honourable Court be pleased issue such other Orders as are just and expedient to preserve the substratum of and secure the ultimate just determination of the instant application and petition;
7. Costs of this Application be borne by the Respondents;

WHICH APPLICATION is based on the annexed affidavit of the Petitioner/Applicant) **EDWIN NYARIBO ONCHOKO**, filed herewith and upon such other grounds as shall be adduced at the hearing hereof;

1. ***THAT***, on **19th December 2024**, the Respondent unlawfully proceeded to elect and swear in the 1st Interested Party as Speaker of the 1st Respondent in a manner that is unconstitutional and in direct disregard of multiple electoral laws relating to the election of a Speaker of County Assembly including the Nyamira County Assembly Standing Orders.
2. ***THAT***, it is deeply concerning and wholly objectionable that the Respondents proceeded with this process in flagrant disregard of the law, as outlined below;
 - a) **There was no vacancy in the office of the Speaker**

- b) The 1st Interested Party was not qualified to contest for the position of speaker pursuant to the provisions of Article 178 (1)
- c) The 2nd Respondent was bereft of presiding over the conduct of the said elections having already been suspended from office.
3. **THAT**, Article 178 (1) provides that each county assembly shall have a speaker elected by the county assembly from among persons who are not members of the assembly. The 1st Interested Party, being an active member of the County Assembly specifically Ekerenyo Ward, did not resign prior to being purportedly elected as Speaker, thus breaching the constitutional requirements.
4. **THAT**, it is also clear under Article 193 (2) (a) that a person is disqualified from being elected a member of a county assembly if the person is a State Officer or other public officer, other than a member of the county assembly. By assuming the office of Speaker without resigning as a member of the assembly, the Interested Party is in direct violation of this constitutional provision and cannot hold both positions simultaneously.
5. **THAT**, in any event there was a vacancy, Article 194 of the Constitution streamlines firstly, the procedure under which the 1st Interested Party's seat as MCA Ekerenyo would have fallen vacant. He thus neither resigned from officer nor did he tender any resignation from his political party.
6. **THAT**, the illegal process was also done in absence of a vacancy notice been tendered to the 2nd Interested party as required under the Elections Act.
7. **THAT** the current position of the 1st Interested Party remains unclear, yet he continues to unlawfully benefit from both the office of Speaker and that of the member of County Assembly for Ekerenyo Ward, which is in itself an illegal act in furtherance to misleading the unsuspecting electorate of Nyamira County in the complete detriment of delivery of services in the County and Checking actions of the County Government.
8. **THAT** it is also a predominant fact that there was no vacancy in the position of Speaker in Nyamira County Assembly by the time the 1st Interested Party was being elected. This is because Hon. Enock Okero the current Speaker had obtained conservatory orders in formerly Nyamira HCCPET E008 of 2024 now Kisumu ELRC E052 of 2024.
9. **THAT** the said conservatory orders had stopped the interference of discharge of functions of Hon. Enock Okero as speaker of the County Assembly of Nyamira. It is important to note that those orders have never been vacated, set aside and/or appealed against to date as the time of filing the instant Petition
10. **THAT**, it is of utmost urgency that this application be heard on a priority basis, as the actions of the Respondents pose a significant threat to the administration of justice within the County Assembly, thereby adversely affecting the residents of Nyamira County.

11. **THAT**, the Honourable Court thus remains the last resort to stop a direct aberration, charade and sham that continues to infuse activities of the 1st Respondent in the clear prejudice of the tenor, spirit and soul of the Constitutional order, rule of law and a direct subterfuge of the will of the people of Nyamira.
12. **THAT**, the Petitioner/Applicant brings this Petition in the public interest, as guaranteed under the Constitution, in light of the ongoing violation of the rights of the residents of Nyamira County due to the Respondents' illegal actions. It is, therefore, imperative that the application be heard and determined expeditiously in the interests of justice.

DATED AT KISII THIS 20TH DAY OF JANUARY 2025

OMBUI RATEMO & ASSOCIATES
ADVOCATES FOR THE PETITIONER/APPLICANT

DRAWN & FILED BY:-

OMBUI RATEMO & ASSOCIATES
ADVOCATES
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TEL: 0722-613-411; Email; oratemolaw@gmail.com

TO BE SERVED UPON:-

NYAMIRA COUNTY ASSEMBLY
CLERK – NYAMIRA COUNTY ASSEMBLY
THADEUS NYABARO

NOTE: *"IF ANY PARTY SERVED DOES NOT ATTEND COURT AT THE TIME AND PLACE ABOVE-MENTIONED, SUCH ORDERS SHALL MADE AND PROCEEDINGS TAKEN OUT AS THE COURT MAY DEEM FIT AND EXPEDIENT".*

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
PETITION NO. E001 OF 2025

IN THE MATTER OF: -

ARTICLES: 1(1), 3, 10, 22, 23, 27, 28, 41(1), 47, 48, 50, 124, 159, 165, 178(1), 178(3),
194(1) AND 258 OF THE CONSTITUTION OF KENYA, 2010;

AND

SECTION: 14 OF THE POLITICAL PARTIES ACT CAP. 7D LAWS OF KENYA

AND

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AND

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STANDING ORDERS NO. 3, 4, 5, 6, 7, 9, 12 AND 13 OF THE NYAMIRA COUNTY
ASSEMBLY STANDING ORDERS

AND

ILLEGAL, UNLAWFUL, AND UNCONSTITUTIONAL ELECTION OF A SPEAKER
IN THE NYAMIRA COUNTY ASSEMBLY

~ BETWEEN ~

EDWIN ONCHOKO.....PETITIONER

`VERSUS`

NYAMIRA COUNTY ASSEMBLY.....1ST RESPONDENT

DUKE ONYARI.....2ND RESPONDENT

AND

THADDEUS NYABARO1ST INTERESTED PARTY

THE INDEPENDENT ELECTORAL
AND BOUNDARIES COMMISSION.....2ND INTERESTED PARTY

PETITION

To:

The Honourable Judge,
High Court of Kenya
Nyamira

The humble petition of EDWIN NYARIBO ONCHOKO whose address of service shall be C/o Ombui Ratemo & Associates Advocates; Mocha Place, 3rd Floor, Left Wing, P.O. Box 668-40200; E-mail: oratemolaw@gmail.com, Kisii-Kenya, is as follows: -

1. **PARTIES**

1. Your Petitioner is Kenyan citizen and resident of Nyamira County within the Republic of Kenya. his address of service for the purpose of this Petition shall be care of C/o **Ombui Ratemo & Associates Advocates; Mocha Place, 3rd Floor, Left Wing, P.O. Box 668-40200; E-mail: oratemolaw@gmail.com, Kisii-Kenya.**
2. The 1st Respondents is the County Assembly, which is the legislative arm of Nyamira County Government that exercises legislative and oversight role over all the functions of the county executive arm and other corporate institutions created within the County Government Act. It has powers to sue and be sued;
3. The 2nd Respondent is a male adult of sound mind and purported Clerk of the 1st Respondent County Assembly;
4. The 1st Interested Party is a male adult of sound mind, currently a member of the 1st Respondent elected to represent the people of Ekerenyo Ward in Nyamira County.
5. The 2nd Interested Party is an Independent Commission created under **Article 88** of the Constitution of Kenya and Independent Electoral and Boundaries Commission Act Cap. 7C having functions inter alia; the Conduct of election and referenda.

LEGAL PROVISIONS FOUNDING THE PETITION

6. The Petitioner avers that Kenya is constitutional dispensation founded on the **rule of law** and **fundamental** to that is that **constitutional and attendant statutory legal provisions be strictly adhered to;**
7. Equal benefit and protection of the law is a right of constitutional dictate guaranteed to every person under **Article 27** of the **Constitution of Kenya, 2010**;
8. The Office of the County Assembly Speaker, is a **constitutional office in public service whose manner and procedure for election is strictly, expressly and forthrightly set and articulated in law** – pursuant to the provisions of **Article 178** of the **Constitution** of Kenya, 2010 read in conjunction with **Standing Orders No. 3 to 13**; of the **Nyamira County Assembly Standing Orders**;
9. **Article 1(1)** read in conjunction with **Article 1(3)(a)** of the **Constitution of Kenya, 2010** dictates that that the power of the County Assembly **be exercised only in accordance with Constitution principles and provisions**;
10. **Article 2(3)** of the **Constitution of Kenya, 2010** provides that the validity or legality of the Constitution is not subject to challenge by or before any court or other State organ;

11. **Article 2(6)** of the **Constitution of Kenya, 2010** provides that any **treaty or convention** ratified by Kenya shall form part of the law of Kenya under the Constitution;
12. **Article 3** of the **Constitution of Kenya, 2010** provides that every person has an obligation to respect, uphold and *defend* the Constitution;
13. **Article 10** of the **Constitution of Kenya, 2010** articulates the national values and principles of governance;
14. **Article 22** of the **Constitution of Kenya, 2010** provides that every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.
15. **Article 23** of the **Constitution of Kenya, 2010** provides for the authority of courts to uphold and enforce the Bill of Rights.
16. **Article 159** of the **Constitution of Kenya, 2010** articulates principles governing exercise of judicial function;
17. **Article 162(2)** of the **Constitution of Kenya, 2010** provides for the jurisdiction of this Honourable Court;
18. **Article 178(1)** of the **Constitution** of Kenya, 2010 together with **Section 14** of the **County Governments Act [Cap. 265 – Laws of Kenya]** provides that each county assembly shall have a speaker elected by the county assembly from among persons who are not members of the assembly.;
19. **Article 193 (2) (a)** provides that a person is disqualified from being elected a member of a county assembly if the person is a State officer or other public officer, other than a member of the county assembly
20. **Section 14** of the **County Governments Act [Cap. 265 – Laws of Kenya]** empowers the County Assembly to make standing orders consistent with the Constitution and this Act regulating the procedure of the county assembly including, in particular, orders for the proper conduct of proceedings;
21. **Section 21** and the **4th Schedule** to the **Elections Act Cap. 7 Laws of Kenya** read together with **Standing Orders No. 3 to 13 and the 4th Schedule** of the **Nyamira County Assembly Standing Orders** re-articulate the procedure for election to office of speakers of the county assemblies
22. **Section 19** of the **Elections Act Cap. 7 Laws of Kenya** articulates as to when and how a County Assembly seat is deemed vacant together with the mode of communication of this vacancy to the 2nd Interested Party.

23. Section 14 of the Political Parties Act Cap. 7D Laws of Kenya lays down the strict procedure of resigning as a member of a Political Party.

FACTS, NEXUS AND PARTICULARS OF BREACH

24. On **19th December 2024**, the Respondent unlawfully proceeded to elect and swear in the 1st Interested Party as Speaker of the 1st Respondent in a manner that is unconstitutional and in direct disregard of multiple electoral laws relating to the election of a Speaker of County Assembly including the Nyamira County Assembly Standing Orders.
25. It is deeply concerning and wholly objectionable that the Respondents proceeded with this process in flagrant disregard of the law, as outlined below;
- d) There was no vacancy in the office of the Speaker
 - e) The 1st Interested Party was not qualified to contest for the position of speaker pursuant to the provisions of Article 178 (1)
 - f) The 2nd Respondent was bereft of presiding over the conduct of the said elections having already been suspended from office.
26. Article 178 (1) provides that each county assembly shall have a speaker elected by the county assembly from among persons who are not members of the assembly. The 1st Interested Party, being an active member of the County Assembly specifically Ekerenyo Ward, did not resign prior to being purportedly elected as Speaker, thus breaching the constitutional requirements.
27. It is also clear under Article 193 (2) (a) that a person is disqualified from being elected a member of a county assembly if the person is a State Officer or other public officer, other than a member of the county assembly. By assuming the office of Speaker without resigning as a member of the assembly, the 1st Interested Party is in direct violation of this constitutional provision and cannot hold both positions simultaneously.
28. In any event there was a vacancy, Article 194 of the Constitution streamlines firstly, the procedure under which the 1st Interested Party's seat as MCA Ekerenyo would have fallen vacant. He thus neither resigned from officer nor did he tender any resignation from his political party.
29. The illegal process was also done in absence of a vacancy notice been tendered to the 2nd Interested party as required under the Elections Act.
30. The current position of the 1st Interested Party remains unclear, yet he continues to unlawfully benefit from both the office of Speaker and that of the member of County Assembly for Ekerenyo Ward, which is in itself an illegal act in furtherance to

misleading the unsuspecting electorate of Nyamira County in the complete detriment of delivery of services in the County and Checking actions of the County Government.

31. It is also a predominant fact that there was no vacancy in the position of Speaker in Nyamira County Assembly by the time the 1st Interested Party was being elected. This is because Hon. Enock Okero the current Speaker had obtained conservatory orders in formerly **Nyamira HCCPET E008 of 2024** now **Kisumu ELRC E052 of 2024**.
32. The said conservatory orders had stopped the interference of discharge of functions of Hon. Enock Okero as speaker of the County Assembly of Nyamira. It is important to note that those orders have never been vacated, set aside and/or appealed against to date as the time of filing the instant Petition. Which then will automatically imply that there was no vacancy in the office of Speaker Nyamira County Assembly.
33. It is further noteworthy that the 2nd Respondent had no capacity to preside over the purported election of Speaker since he had been suspended from office as the Clerk of the 1st Respondent.
34. The Honourable Court thus remains the last resort to stop a direct aberration, charade and sham that continues to infuse activities of the 1st Respondent in the clear prejudice of the tenor, spirit and soul of the Constitutional order, rule of law and a direct subterfuge of the will of the people of Nyamira.
35. The Petitioner brings this Petition in the public interest, as guaranteed under the Constitution, in light of the ongoing violation of the rights of the residents of Nyamira County due to the Respondents' illegal actions. It is, therefore, imperative that the application be heard and determined expeditiously in the interests of justice.
36. The Petitioner avers the purported election of the 1st Interested Party, is **UNLAWFUL, EXTRA- LEGAL AND UNCONSTITUTIONAL;**

PARTICULARS OF ILLEGALITY, UNCONSTITUTIONALITY AND CONSTITUTIONAL VIOLATIONS ON THE PART OF THE RESPONDENTS:

37. Purporting to *elect* and, ipso facto, **constructively** swear in the 1st Interested Party as County Assembly Speaker of Nyamira a person who is currently a Member of the County Assembly **contrary to the provisions** of **Article 178 (1)** of the **Constitution** of Kenya, 2010 read in conjunction with **section 9A** of the **County Governments Act [Cap. 265 – Laws of Kenya]**, **Section 21** of the **Elections Act Cap. 7 Laws of Kenya** and **Standing Orders No. 4** of the **Nyamira County Assembly Standing Orders;**
38. Purporting to exercise County Assembly powers and function in a manner that is **ultra vires of and in gross contravention of the constitutional principles on the rule of law** as articulated and contemplated under **Articles: 1(1); 3; 10; 22; 23; 27; 28; 178(3) and 258** of the **Constitution of Kenya**, 2010; since Purporting to *elect* and, ipso facto, **constructively** swear in the 1st Interested Party as County Assembly Speaker of Nyamira a person who is currently a Member of the County Assembly **contrary to the**

provisions of Article 178 (1) as required in law, *the Respondents acted ultra vires of and in substantial contravention of Articles: 22(1); and 47; of the Constitution of Kenya, 2010;*

39. Purporting to elect and, ipso facto, constructively swear in the Interested Party as County Assembly Speaker of Nyamira a person who is currently a Member of the County Assembly contrary to **Article 193 (2) (a)** which provides **that a person is disqualified from being elected a member of a county assembly if the person is a State officer or other public officer, other than a member of the county assembly.** By assuming the office of Speaker without resigning as a member of the assembly, the Interested Party directly violated this constitutional provision and cannot hold both positions simultaneously. A fact the Respondents knew very well and did otherwise.
40. Proceeding to purportedly impose the 1st Interested Party as a Speaker of the 1st Respondent whilst entirely disregarding the vital role played by the 2nd Respondent herein more so bearing in mind that the 1st Interested party is a sitting member of County Assembly.
41. The 1st Respondent transacting business of elections based on the presiding powers of the 2nd Respondent whom had already been suspended from office by the appointing authority under section 22 of County Assembly Services Act **Cap. 265D** Laws of Kenya thus of no valid effect.
42. Purporting to conduct the election of a speaker which culminated to electing the 1st Interested Party while knowing very well that there was no vacancy in that office as per the conservatory orders in formerly **Nyamira HCCPET E008 of 2024** now **Kisumu ELRC E052 of 2024.**
43. In the totality of the foregoing, it is clear the Respondents have contravened several constitutional provisions as pleaded and demonstrated hereinabove. They have done so by overstepping their constitutional and respective statutory mandates by deliberately illegally and unlawfully undertaking and performing their functions outside the parameters set out in the constitution and statute.

REASONS WHEREFORE your Petitioner humbly pray for following reliefs and orders **THAT:** -

- a) **A DECLARATION** that the Respondents in purporting to elect the 1st Interested Party to office of the County Assembly Speaker in the manner pleaded herein acted in contravention of **Articles: 1(1); 3; 10; 178(1), 193 (2) (a) and 194** of the **Constitution of Kenya, 2010; Standing Orders No.4 of the Nyamira County Assembly Standing Orders.**
- b) **A DECLARATION** that actions by the 1st Respondent made on **19th December 2024** purporting to elect and, ipso facto, swear in the 1st Interested Party to the office of

County Assembly Speaker is **unconstitutional, unlawful, null and void** and thus of no consequence and the same be and is hereby quashed.

- c) **A DECLARATION** that the purported election of the 1st Interested Party as Speaker of the 1st Respondent is **unconstitutional, unlawful, null and void** as there was no vacancy in that office.
- d) **AN OREDER** that Respondents be condemned to pay costs of this petition.
- e) Such other further, appropriate and consequential orders and reliefs as this Honourable court may lawfully make.

DATED AT KISII THIS _____ **20TH** _____ **DAY OF** _____ **JANUARY** _____ **2025**

OMBUI RATEMO & ASSOCIATES
ADVOCATES FOR THE PETITIONER

DRAWN & FILED BY:-

OMBUI RATEMO & ASSOCIATES
ADVOCATES
MOCHA PLACE, 3RD FLOOR,
LEFT WING
P.O BOX 668-40200

KISII-KENYA

TEL: 0722-613-411; Email; oratemolaw@gmail.com

TO BE SERVED UPON:-

NYAMIRA COUNTY ASSEMBLY
CLERK – NYAMIRA COUNTY ASSEMBLY
THADEUS NYABARO

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
PETITION NO. E001 OF 2025

IN THE MATTER OF: -

ARTICLES: 1(1), 3, 10, 22, 23, 27, 28, 41(1), 47, 48, 50, 124, 159, 165, 178(1), 178(3),
194(1) AND 258 OF THE CONSTITUTION OF KENYA, 2010;

AND

SECTION: 14 OF THE POLITICAL PARTIES ACT CAP. 7D LAWS OF KENYA

AND

SECTIONS: 19 & 21 OF THE ELECTIONS ACT CAP. 7 LAWS OF KENYA

AND

SECTIONS: 9A AND 14 OF THE COUNTY GOVERNMENTS ACT CAP 265 LAWS
OF KENYA

AND

STANDING ORDERS NO. 3, 4, 5, 6, 7, 9, 12 AND 13 OF THE NYAMIRA COUNTY
ASSEMBLY STANDING ORDERS

AND

ILLEGAL, UNLAWFUL, AND UNCONSTITUTIONAL ELECTION OF A SPEAKER
IN THE NYAMIRA COUNTY ASSEMBLY

~ BETWEEN ~

EDWIN ONCHOKO.....PETITIONER

'VERSUS'

NYAMIRA COUNTY ASSEMBLY.....1ST RESPONDENT

DUKE ONYARI.....2ND RESPONDENT

AND

THADDEUS NYABARO1ST INTERESTED PARTY

THE INDEPENDENT ELECTORAL
AND BOUNDARIES COMMISSION.....2ND INTERESTED PARTY

SUPPORTING AFFIDAVIT

I, EDWIN ONCHOKO, a resident of Nyamira County and of P.O. Box 3211-40202, Oyugis-Kenya do hereby make and under solemn oath state as follows: -

53

1. **THAT**, I am a male adult Kenyan of sound mind and the Petitioner herein personally seized of the facts herein hence competent to swear this affidavit in Support of both the Petition and Application herein both dated 19th January 2025.
2. **THAT**, I also make this Affidavit based on the advise of my advocates on record which advise I have relied on in paragraphs 4, 5, 6, 7 and 8 herein and verily believe to be true.
3. **THAT**, on 19th December 2024, the Respondent unlawfully proceeded to elect and swear in the Interested Party as Speaker of the 1st Respondent in a manner that is unconstitutional and in direct disregard of multiple electoral laws relating to the election of a Speaker of County Assembly including the Nyamira County Assembly Standing Orders. *Annexed and Marked EO-1 is a copy of letters dated 19th December 2024 by the 2nd respondent confirming the election.*
4. **THAT**, it is deeply concerning and wholly objectionable that the Respondents proceeded with this process in flagrant disregard of the law, as outlined below;
 - a) There was no vacancy in the office of the Speaker
 - b) The 1st Interested Party was not qualified to contest for the position of speaker pursuant to the provisions of Article 178 (1)
 - c) The 2nd Respondent was bereft of presiding over the conduct of the said elections having already been suspended from office.
5. **THAT**, Article 178 (1) provides that each county assembly shall have a speaker elected by the county assembly from among persons who are not members of the assembly. The 1st Interested Party, being an active member of the County Assembly specifically Ekerenyo Ward, did not resign prior to being purportedly elected as Speaker, thus breaching the constitutional requirements. *Annexed and Marked EO-2 is a copy of gazette notice no. 9956 wherein the 1st Interested Party was gazetted as a Member of the County Assembly.*
6. **THAT**, it is also clear under Article 193 (2) (a) that a person is disqualified from being elected a member of a county assembly if the person is a State Officer or other public officer, other than a member of the county assembly. By assuming the office of Speaker without resigning as a member of the assembly, the Interested Party is in direct violation of this constitutional provision and cannot hold both positions simultaneously.
7. **THAT**, in any event there was a vacancy, Article 194 of the Constitution streamlines firstly, the procedure under which the 1st Interested Party's prior seat as MCA Ekerenyo would have fallen vacant. He thus neither resigned from officer nor did he tender any resignation from his political party. *Annexed and Marked EO-3 the County Assembly of Nyamira website confirming that the 1st Interested Party is both the Speaker and MCA.*
8. **THAT**, the illegal process was also done in absence of a vacancy notice been tendered to the 2nd Interested party as required under the Elections Act.

9. **THAT**, I am equally aware that there was no vacancy in the position of Speaker in Nyamira County Assembly by the time the 1st Interested Party was being elected. This is because Hon. Enock Okero the current Speaker had obtained conservatory orders in formerly Nyamira HCCPET E008 of 2024 now Kisumu ELRC E052 of 2024. *Annexed and Marked EO-4 is copies of the orders of 11th October 2024.*
10. **THAT**, the said conservatory orders had stopped the interference of discharge of functions of Hon. Enock Okero as speaker of the County Assembly of Nyamira. It is important to note that those orders have never been vacated, set aside and/or appealed against to date as the time of filing the instant Petition. Which then will automatically imply that there was no vacancy in the office of Speaker Nyamira County Assembly.
11. **THAT** the current position of the 1st Interested Party remains unclear, yet he continues to unlawfully benefit from both the office of Speaker and that of the member of County Assembly for Ekerenyo Ward, which is in itself an illegal act in furtherance to misleading the unsuspecting electorate of Nyamira County in the complete detriment of delivery of services in the County and Checking actions of the County Government.
12. **THAT** it is further noteworthy that the 2nd Respondent had no capacity to preside over the purported election of Speaker since he had been suspended from office as the Clerk of the 1st Respondent. *Annexed and Marked EO-5A, 5B & 5C are copies of Show cause letter, Suspension letter and Handover letter issued to the 2nd Respondent.*
13. **THAT**, it is of utmost urgency that the application and Petition be heard on a priority basis, as the actions of the Respondents pose a significant threat to the administration of justice within the County Assembly, thereby adversely affecting the residents of Nyamira County.
14. **THAT**, the Honourable Court thus remains the last resort to stop a direct aberration, charade and sham that continues to infuse activities of the 1st Respondent in the clear prejudice of the tenor, spirit and soul of the Constitutional order, rule of law and a direct subterfuge of the will of the people of Nyamira.
15. **THAT**, the Petitioner brings this Petition in the public interest, as guaranteed under the Constitution, in light of the ongoing violation of the rights of the residents of Nyamira County due to the Respondents' illegal actions. It is, therefore, imperative that the application be heard and determined expeditiously in the interests of justice.
16. **THAT**, what is deponed hereinabove is true and within my knowledge, save for where otherwise stated, in which event, same is true and correct to the best of my information and belief, sources thereof being disclosed.

Sworn at Kisii by the Said

EDWIN ONCHOKO

This 20th Day of JANUARY 2024

**BEFORE ME
ADVOCATE
COMMISSIONER FOR OATHS**




DEPONENT

55

DRAWN & FILED BY:-

OMBUI RATEMO & ASSOCIATES
ADVOCATES
MOCHA PLACE, 3RD FLOOR,
LEFT WING
P.O BOX 668-40200

KISII-KENYA

TEL: 0722-613-411; Email; oratemolaw@gmail.com

TO BE SERVED UPON:-

NYAMIRA COUNTY ASSEMBLY
CLERK – NYAMIRA COUNTY ASSEMBLY
THADEUS NYABARO

56

Name and Address of Applicant	Type of Service Applied for	Decisions
P.O. Box 233000-00100, Nairobi.	Using aircraft types, FK50, C208, B737 and DC9 based at JKIA, Wilson Airport and Moi International Airport	July, 2017
Royal Balloon Limited, P.O. Box 012-00100 Nairobi.	Non-scheduled air services for passengers within Masai Mara. Using aircraft (hot air balloon) type BB85Z based at Talek.	Licence granted for one (1) year with effect from 14th July, 2017

Dated the 1st August, 2017.

PTG/002035

GILBERT M KIBE,
Director-General.

GAZETTE NOTICE NO. 7651

THE CONSTITUTION OF KENYA

REMUNERATION AND BENEFITS FOR STATE OFFICERS IN THE EXECUTIVE OF THE NATIONAL GOVERNMENT

CORRIGENDUM

IN Gazette Notice No. 6519 of 2017, in Remuneration and Benefits for State Officers in the Full time Constitutional Commissions and Independent Offices, on page 3988, delete the Schedule for Remuneration for State Officers in the Full time Constitutional Commissions and Independent Offices and insert in its place the following new Schedule as specified herein below:

1. Remuneration for State Officers in the Full time Constitutional Commissions and Independent Offices

Delete

State Officer	Monthly Gross Remuneration Package (KSh.)
Auditor General	924,000
Chairperson- Independent Electoral and Boundaries Commission	
Controller of Budget	765,188
Vice Chairperson-Independent Electoral and Boundaries Commission	
Chairperson-All other Full Time Constitutional Commissions	
Director of Public Prosecution	
Members- Independent Electoral and Boundaries Commission	
Registrar of Political Parties	650,000
Vice Chairperson-All other Full Time Constitutional Commissions	
Members-All other Full Time Constitutional Commissions	
Secretary, Full Time Constitutional Commissions	621,250

Insert

1. Remuneration for State Officers in the Full time Constitutional Commissions and Independent Offices

State Officer	Monthly Gross Remuneration Package (KSh.)
Auditor General	924,000
Chairperson- Independent Electoral and Boundaries Commission	
Controller of Budget	765,188
Vice Chairperson-Independent Electoral and Boundaries Commission	
Chairperson-All other Full Time Constitutional Commissions	
Director of Public Prosecution	747,461
Members- Independent Electoral and Boundaries Commission	
Registrar of Political Parties	621,250
Vice Chairperson-All other Full Time Constitutional Commissions	
Members-All other Full Time Constitutional Commissions	

SARAH J. SEREM,
Chairperson.

GAZETTE NOTICE NO. 7652

THE COUNTY GOVERNMENTS ACT

(No. 17 of 2012)

THE LAIKIPIA COUNTY PUBLIC SERVICE BOARD

REPORT FOR THE YEAR 2016

IN EXERCISE of the powers conferred to by section 59 of the County Governments Act (No. 17 of 2012) which sets out the functions and powers of a county public service Board, one of such functions being preparation of regular reports for submission to the County Assembly on the execution of the functions of the board, the Board announces the completion and submission of the year 2016 Report to the County Assembly of Laikipia.

Further, in compliance to section 59 (b) of the County Governments Act, publishes a statement on the completion and

notification to all the stakeholders and interested parties to read the said 2016 Annual Report in the County Government of Laikipia website: www.laikipiacounty.go.ke.

Comments, reactions to be forwarded to the Secretary, Laikipia County Public Service Board, P.O. Box 52-20300, Nyahururu or through E-mail address: cpsb@laikipiacounty.go.ke or hand delivered to the Board's Office at Town Hall, Nyahururu, Room No. 14 or call the undersigned on cellphone: 0715052052 during working hours.

By order of the Laikipia County Public Service Board

Dated the 31st December, 2016.

G. M. MWANGI,
Secretary C/EO.

MR/3583152

Laikipia County Public Service Board.

GAZETTE NOTICE NO. 7653

THE COUNTY GOVERNMENTS ACT

(No. 17 of 2012)

NYAMIRA COUNTY GOVERNMENT
THE COUNTY ASSEMBLY OF NYAMIRA
LOCATION OF COUNTY ASSEMBLY BUILDING

NOTICE is given to all members of the public that the County Assembly premises are situated at the Nyamira Assembly Building, opposite Kenya Industrial Estates, Nyamira.

Dated the 27th July, 2017.

MR/3583327

JOHN OBIERO NYANGARAMA,
Governor, Nyamira County.

GAZETTE NOTICE No. 7654

THE PHYSICAL PLANNING ACT

(Cap. 286)

DECLARATION OF MUKURU KWA NJENGA, MUKURU KWA REUBEN AND VIWANDANI AS A SPECIAL PLANNING AREA

NOTICE is given that the County Executive Member for Lands and Urban Planning pursuant to section 23(1), (2), and (3) of the Physical Planning Act, declares all that area of land measuring approximately 550 acres covering the informal settlements of Mukuru Kwa Njenga, Mukuru Kwa Reuben and Viwandani within Imara Daima, Kwa Njenga, Kwa Reuben, Nairobi South and Viwandani Wards, all within Starehe, Makadara and Embakasi South sub-counties as a Special Planning Area.

Consequently, there shall be no more developments (approved or otherwise) in the aforementioned areas.

Developments are hereby suspended for a period of not more than two (2) years from the date of this notice.

The declaration of the special planning area shall not affect development permission if the development in respect of which the permission is granted has been commenced not less than six months before the suspension of development in the special planning area.

This declaration is also intended to notify the public of the intention of the Nairobi County Government to initiate a participatory process to develop a Physical Development Plan for the area.

The developments referred to in this notice include—

- the making of any material change in the use or density of any buildings or land or the subdivision of any land which for the purpose of the Physical Planning Act is classified as Class "A" development;
- the erection of such buildings or works and the carrying out of such building operations as the County Executive Member may from time to time determine which for purposes of the Physical Planning Act is classified as class "B" development.

The following shall not constitute development under this notice:

- The carrying out of works for the maintenance or improvement or other alteration, of or addition to, any building where such alteration or addition does not exceed 10 per cent of the floor area of the building measured.
- The carrying out by a competent authority of any works required for the construction, maintenance or improvement of a road, if the works are carried out on land within the road reserves.
- The carrying out by the Nairobi City County Government or any statutory body of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including breaking-open of any street for that purpose and the installation of services by the Nairobi City County Government or any statutory body.

A map of the affected area will be posted at the precincts of the county government offices at City Hall, the offices of the Ward

Administrators of the respective wards and on the Nairobi City County official website

For further clarification on this matter, interested persons may consult the office of the Chief Officer, Urban Planning at City Hall, 5th Floor during official working hours.

Dated the 1st August, 2017

MR/3583320

CHRISTOPHER KHAEMBA,
County Executive Committee Member,
Lands and Urban Planning.

GAZETTE NOTICE No. 7655

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(Cap. 411A)

CORRIGENDUM

IN Gazette Notice No. 4480 of 2017 on page 2119, delete the heading "REVOCATION OF LICENCES" and the paragraph that follows stating that "NOTICE is hereby given for the general information of the public that the Communications Authority of Kenya has revoked the licences granted to the following entities due to non-compliance of the applicable licence conditions" and insert the following respectively:

"NOTICE OF INTENTION TO REVOKE LICENCES"

"NOTICE is hereby given pursuant to the provisions of the Kenya Information and Communications Act, the Regulations made thereunder and the licence conditions that the Communications Authority of Kenya intends to revoke the licences granted to the following licencees due to non-compliance of the applicable licence conditions:"

Dated the 2nd August, 2017.

JOHN OMO,
for Director-General.

GAZETTE NOTICE No. 7656

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(Cap. 411A)

APPLICATIONS FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, made applications to the Communications Authority of Kenya for the grant of the licences as below.

Applicant	Licence Category
GreyHound Holdings Limited, P.O. Box 14017-00800, Nairobi	National Courier Licence
Northern City Coaches Limited, P.O. Box 32009-00600, Nairobi	National Courier Licence
Sense Telecommunications Limited, P.O. Box 23536-00100, Nairobi	NFP-T2 Licence
Frontier Optical Networks Limited, P.O. Box 2115-00606, Nairobi	Internet Protocol Television Broadcasting Licence
Noor Al-Huda Limited, P.O. Box 17955-00500, Nairobi	Commercial Free-to-Air Television Broadcasting Licence
Moyale Liner Bus Services, P.O. Box 173-60700, Moyale	National Courier Licence
Homeland Media Group Limited, P.O. Box 8490-00200, Nairobi	IGS Licence

The licences, if granted, will enable the applicants to operate and provide services as indicated against their names. The grant of these licences may affect public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications herein, to do so vide a letter addressed to the Director-General,



Annex

REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD

P.O Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke

E-mail: info@nyamiraassembly.go

REF: CAN/CASB/STAFF/JUL/RES/7

19th JULY, 2018

TO: MR. DAVID KENGERE,

Dear *Kengere*,

RE: **REDEPLOYMENT**

The above matter refers.

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The County Assembly Service Board has reviewed the terms and conditions of service of persons holding or acting in various offices with a view to maximize potential, harness competencies and improve service delivery so as to promote the ideals espoused by the County Assembly.

The purpose of this letter therefore, is to convey the decision of the Board to redeploy you as follows;

Position: Procurement Officer
Directorate: Supply & Chain Management
Effective: 1st August 2018.

Kindly note that your remuneration and all other terms and conditions of employment remain unchanged.

We look forward to your enhanced contribution in your new assignment.

Sincerely,


DUKE ONYARI
Ag. CLERK,
COUNTY ASSEMBLY OF NYAMIRA.



cc Director, Human Resource and Administration

59 Received by
David Kengere

Annex 9

AFFIDAVIT OF GEORGE BOSIRE ANGWENYI – CHIEF SERJEANT-AT-ARMS OF COUNTY ASSEMBLY OF NYAMIRA

I, GEORGE BOSIRE ANGWENYI, of ID No. 22035517 of P.O. Box 590 – 40500, Nyamira, do hereby make solemn oath and state as follows:

1. THAT, I am a male adult of sound mind and the Chief Serjeant-at-Arms of the County Assembly of Nyamira, well versed with the security protocols and handling of the mace of the County Assembly of Nyamira, and competent to swear this Affidavit.
2. THAT I was appointed the position of Chief Serjeant-at-Arms of the County Assembly of Nyamira on 1st December, 2015.
3. THAT my duties and responsibilities include among others:
 - a) Maintaining custody of the mace of the County Assembly of Nyamira;
 - b) Ensuring protective security for all personnel and property;
 - c) Performing chamber and ceremonial duties;
 - d) Providing interdepartmental and chamber support services;
 - e) Enforcing and implementing the Speaker's orders and other directives;
 - f) Allocation of office accommodation and conference rooms;
 - g) Ensuring fire prevention and the safety of the facilities;
 - h) Ensuring compliance with occupational health requirements/standards;
 - i) Accessing control management;
 - j) Crowd management;
 - k) Ensuring desirable housekeeping standards;
 - l) Maintaining decorum within the precincts of the County Assembly;
 - m) Advising the Speaker and the Clerk on matters pertaining to security;
 - n) Identifying security threats and provide counter-intelligence measures;
 - o) Disaster preparedness and mitigation;
 - p) Investigating incidents;
 - q) Coordinating incidents;
 - r) Coordinating County Assembly police;
 - s) Dissemination of relevant information to members through the official notice boards.

60

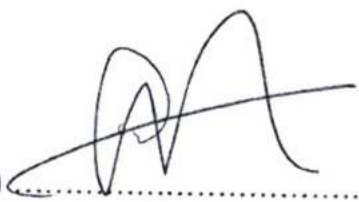
Handwritten scribble at the top left of the page.

4. THAT I am in custody of the official mace of the County Assembly of Nyamira and that the mace has only been used to transact official business of the county assembly in the gazetted precincts of the County Assembly.
5. THAT I confirm that they have been instigated incidences that have threatened to breach security in the County Assembly of Nyamira.
6. THAT on 15th October, 2024, ENOCK OGORI OKERO in the company of goons attempted to forcefully access the precincts of the County Assembly of Nyamira.
7. THAT ENOCK OGORI OKERO, in company of goons armed with crude weapons gained entry into the precincts of the County Assembly of Nyamira and attempted to steal the mace.
8. THAT the attempt to steal the mace was repulsed. ENOCK OGORI OKERO then sought intervention of forceful police action, and upon the learning that ENOCK OGORI OKERO was impeached, the police withdrew their mission.
9. THAT I am apprised of a splinter group dubbed "Bunge Mashinani" that purports to hold an official mace and conducting business with a fake mace.
10. THAT what is deponed herein is true to the best of our knowledge, information and belief

DATED AT NYAMIRA THIS 3rd day of April, 2025

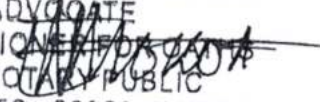
BY THE SAID:

GEORGE BOSIRE ANGWENYI



BEFORE ME:

ELIKANA MOKUA NDUBI
 ADVOCATE
 COMMISSIONER FOR OATHS
 AND NOTARY PUBLIC
 P. O. Box 269 - 00100, NAIROBI



COMMISSIONER FOR OATHS

DRAWN & FILED BY: -

B. BOCHABERI ADVOCATES,
 7B PLAZA, 2ND FLOOR, NEXT TO KCB KEROKA BRANCH
 P.O BOX 162, NYANSIONGO

Annexio

AFFIDAVIT OF DUKE SIMEON ONYARI-CLERK OF COUNTY ASSEMBLY OF NYAMIRA

I, DUKE SIMEON ONYARI, of ID No. 10785461 of P.O. Box 590 – 40500, Nyamira, do hereby make solemn oath and state as follows:

1. THAT, I am a male adult of sound mind and the Clerk of the County Assembly of Nyamira and Secretary of the County Assembly Service Board, well versed with the administrative issues of the County Assembly of Nyamira and competent to swear this Affidavit.
2. THAT I was appointed the position of Clerk of the County Assembly of Nyamira and Secretary of the County Assembly Service Board on 19th December, 2024.
3. THAT my duties and responsibilities include among others:
 - a) Day-to-day administration and functioning of the County Assembly of Nyamira;
 - b) Secretary to the County Assembly Service Board (CASB);
 - c) Custodian of the Board's records;
 - d) Convey the decisions made by the Board;
 - e) Advise the County Assembly Service Board on administrative and operational issues in the Assembly;
 - f) Chairing the Management Committee meetings;
 - g) An authorized officer of the Service/Authority to incur expenditure (AIE) and final financial approver of the county assembly;
 - h) Ensuring proper management and control of, and accounting for, county assembly finances to promote the efficient and effective use of budgetary resources;
 - i) Principal advisor in the provision of expert, non-partisan and impartial advice to the Speaker of the County Assembly, other presiding officers and to all MCAs on practices, conventions and traditions of the legislature.
 - j) Any other duty or responsibility bestowed upon the Office of the Clerk of the County Assembly by any statute.

01. 10/10/24
4. THAT I am in custody of the official seal and stamp of the County Assembly and the custodian of assets of the County Assembly.
 5. THAT I make correspondence for and on behalf of the County Assembly embossed with the official stamp and/or seal.
 6. THAT in the recent few months, I have come across several correspondences purporting to be from the Office of the Clerk of the County Assembly of Nyamira.
 7. THAT I affirm that the said correspondences have not emanated from the Office the Clerk of the County Assembly of Nyamira nor do they represent the position of the County Assembly of Nyamira.
 8. THAT the said correspondences were embossed with fake stamp and/or seal.
 9. THAT I aware of several attempts to impersonate and misrepresent offices of the County Assembly of Nyamira with an objective to mislead the public and shape public opinion in favour of the splinter faction.
 10. THAT I am aware that the splinter group is disparaging, threatening, intimidating, harassing, inducing, and issuing dismissal letters to members of the including myself.
 11. I am aware that ENOCK OKERO OGORI was removed from the Office of Speaker Nyamira County on 24th October, 2024 by way of impeachment thereby ceasing to carrying out function /duty/obligation as the Speaker of Nyamira County Assembly.
 12. THAT I received a suspension letter from Hon. Enock Okero on 25th October, 2025 on account that I facilitated his impeachment, while it is clear that I was performing my official duties as the Acting Clerk of the County Assembly of Nyamira.
 13. THAT on 31st October 2024, without any legal justification, Hon. ENOCK OKERO OGORI purporting to act as chair of the County Assembly Service Board together with his newly appointed board members appointed the Mr. Sylvanus Ndemo Nyamora as the Acting Clerk of the County Assembly with approval of the parallel county Assembly vide a Gazette Notices No. 14230 ,14273.
 14. THAT the appointment of the Mr. Sylvanus Ndemo Nyamora as acting clerk of the parallel county assembly was improper and an illegality.

15. THAT on 19th November 2024, the Mr. Sylvanus Ndemo Nyamora was suspended from the County Assembly Service pending finalization of the disciplinary process and thus not an authorized officer.
16. THAT on 6th March 2025, I wrote to the County Secretary and head of Public Service of Nyamira County seeking for submission to the County Assembly, of the COUNTY FISCAL STRATEGY PAPER(CFSP) approved by the County Executive Committee.
17. THAT the County Secretary and head of Public Service of Nyamira County vide their letters dated 27th February 2025 and 7th March 2025 indicated to have submitted the CFSP to the Clerk of the County Assembly
18. THAT the County Assembly has not received the CFSP, and the Budget and Appropriation Committee formed under the County Assembly of Nyamira Standing Orders has not tabled its report to the assembly.
19. THAT on 10th March 2025, Mr. Silvanus Ndemo Nyamora published an advert at the Daily Nation Newspaper purporting that the County Budget and Appropriation Committee had invited public members and all stakeholders to a public participation Forum on The COUNTY FISCAL STRATEGY PAPER 2025/2026 on 12th March 2025 at Nyansiongo Ward, Christ the King Hall from 9.00 a.m. to 12 noon without the knowledge of County Assembly.
20. THAT the COUNTY FISCAL STRATEGY PAPER(CFSP) is a crucial budget policy document and the County Executive Committee Member for Finance and Economic Planning never presented and or submitted it to the County Assembly for consideration and approval therefore, it is a product of flawed process, irregular and its implementation and inviting the public and stakeholders for public participation will be contrary to the law.
21. THAT the County Budget and Appropriation Committee is mandated with examining the CFSP which is presented to the county Assembly. The CFSP has never been submitted to the 2nd PETITIONER despite reminders to do so within the stipulated timelines in the Public Finance Management Act, 2012.

22. THAT the County Budget and Appropriation Committee as constituted by the County Assembly immediately following the general election for a period of 3 years still exist and the purported Budget and Appropriation Committee referred in the Daily Nation advert of 10/3/2025 is unlawfully structured.
23. THAT the County Executive has infringed on the objects and principles of the Devolved Government, which require the state to give powers of self-governance to the people, and to enhance the participation of the people in the exercise of their powers and in making decisions affecting them.
24. THAT the Committee on Budget and Appropriation of the County Assembly of Nyamira County has neither received any recommendation from the Sectoral Committee nor tabled its report with recommendation on the COUNTY FISCAL STRATEGY PAPER(CFSP) to the County Assembly for consideration as per the County Assembly of Nyamira Standing Orders.
25. THAT the irregular advert calling for public participation on 12th March, 2025 is region-discriminative as the four (4) sub counties i.e. Manga, Nyamira South, Nyamira North and Masaba North have been intentionally sidelined and thus the advert as it is, is selective, null and void.
26. THAT the exercise of public participation on 12/3/2025 on the CFSP at Nyansiongo was procedurally flawed, improper and a nullity.
27. THAT the said exercise was allowed to proceed despite the fact that it was flawed and marred by irregularities as the elected members of the County Assembly did not participate in the process on behalf of their people.
28. THAT vide a gazette Notice No.1965 dated 30th January 2025, the Governor appointed the Nyamira and Keroka Municipality Board Members without the involvement of the County Assembly who did not subject the candidates to vetting neither approve their appointment hence the process and procedure of their appointment was flawed with irregularities
29. I am aware that the County Executive forwarded a number of requests for processing and approval by the Bunge Mashinani group including request for vetting and approval of nominee for the position of the County Executive Committee

Member for Gender, Youth Sports, Culture and Social Services, and Selection Committee on Recruitment of Members of the County Public service Board.

30. THAT attempts have been made to change official signatories to the County Assembly of Nyamira with the Central Bank of Kenya.

31. THAT the County Executive Made attempts to open and host e-mail accounts and domains for unauthorized personnel for the purpose of gaining access to County Assembly Service Board.

32. THAT the activities carried out by the impeached speaker of the Nyamira County Assembly are a nugatory, illegal and all appointments presided by him as the Chairperson of the County Assembly Service Board are unlawful and unfounded.

33. THAT what is deponed herein is true to the best of our knowledge, information and belief

DATED AT NYAMIRA THIS 6th day of March, 2025

BY THE SAID:

DUKE SIMEON ONYARI)

BEFORE ME: ELIKANA MOKUA NDUBI
ADVOCATE
COMMISSIONER FOR OATHS
AND NOTARY PUBLIC
P. O. Box 269 - 00100, NAIROBI

COMMISSIONER FOR OATHS

DRAWN & FILED BY: -

B. BOCHABERI ADVOCATES,

7B PLAZA, 2ND FLOOR, NEXT TO KCB KEROKA BRANCH

P.O BOX 162, NYANSIONGO

66

Annex 1

REPUBLIC OF KENYA

Mobile: 0738727272/ 0735232323
Email: info@nyamira.go.ke
Website: <http://www.nyamira.go.ke>



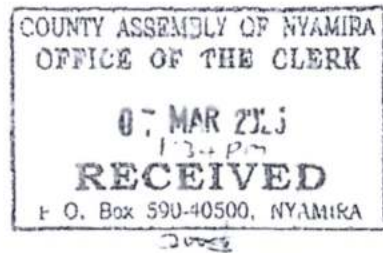
P.O. Box 434 -40500
NYAMIRA, KENYA

COUNTY GOVERNMENT OF NYAMIRA
DEPARTMENT OF FINANCE, ICT AND ECONOMIC PLANNING

Ref: NCG/F & P/CECM/BUDGET/FY2224/25 (112)

Date: 07/03/ 2025

The Clerk
County Assembly of Nyamira
P o Box 590 - 40500
NYAMIRA



RE: THE COUNTY FISCAL STRATEGY PAPER, 2025

We acknowledge receipt of your letter Ref. CAN/CLK/ECM/2025/03(2) dated 6th March, 2025 on the above subject.

As per attached, please find the acknowledged copy of the submitted approved County Fiscal Strategy Paper,2025 which was submitted to the County Assembly and was received on 27th February.

Thank you.

Richard Onyinkwa

For County Executive Committee Member
Department Of Finance, ICT and Economic Planning



67

REPUBLIC OF KENYA



Mobile: 0738727272/ 0735232323

Email: info@nyamira.go.ke

Website: <http://www.nyamira.go.ke>

When replying please quote our reference:

P.O. Box 434 -40500
NYAMIRA, KENYA

COUNTY GOVERNMENT OF NYAMIRA
DEPARTMENT OF FINANCE, ICT & ECONOMIC PLANNING

REF: NCG/F&P/CECM/BUDGET/FY 2024/25

27th February, 2025

The Clerk
County Assembly of Nyamira
P. O Box 590-40500
NYAMIRA.

RE: SUBMISSION OF COUNTY FISCAL STRATEGY PAPER AND DEBT
MANAGEMENT STRATEGY PAPER 2025.

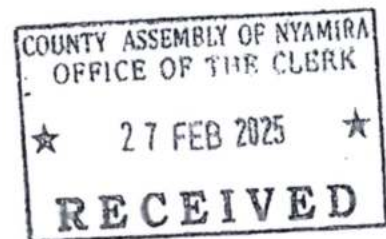
The above subject matter refers.

In accordance with section, 166 of the Public Finance Management (PFM) Act 2012, forwarded herewith, please find County Fiscal Strategy Paper and Debt Management Strategy Paper 2025.

Jones Moko Omwenga
County Executive Committee Member
Finance ICT and Economic Planning
NYAMIRA COUNTY



Copy to; H.E Governor
Controller of Budget
The National Treasury
Commission on Revenue Revenue



68

Annex 2(a)

COUNTY ASSEMBLY OF NYAMIRA

P.O BOX 590, NYAMIRA

Your Ref:

Our Ref:

E-Mail: nyamirac@yahoo.com

Website: cenyamira@localgovernment.com



TEL: 058-6144288

Date: 19th November 2013

Please address all correspondence to the Interim Clerk, County Assembly of Nyamira.

TO MR/MRS/M/S: DUKE SIMEON ONYARI

ADDRESS:

RE: OFFER OF APPOINTMENT FOR THE POSITION OF DEPUTY CLERK

This is to convey the decision of the County Assembly Service Board (CASB) of Nyamira that you have been offered Appointment to the position of Deputy Clerk with effect from 1st December 2013. You will be answerable to the clerk of the County Assembly for the following duties and responsibilities,

- i. General supervision of all Departments
- ii. External relations including international, inter-country Assemblies relations, conferences and protocol affairs
- iii. Enhancing public understanding and knowledge of the work of county assembly, increasing public accessibility and awareness and the operations
- iv. Offering procedural advice to the Speaker, other presiding officers and member of county assembly as required and overseeing the proceedings of the house.
- v. Preparation and presentation of orientation programmes for newly elected members of County Assembly;
- vi. Introduction and management of Legislative internship programme.

You will serve on probation for six (6) months before confirmation. During probation period your service may be terminated by a notice of one month if your service will be below expectation or in case of gross misconduct.

You will be entitled to monthly remunerations and benefits as follows,

Job group "R"

Terms of Service: Permanent

Basic salary: Kshs 109,089-Kshs 144,928

In the scale: 109,089×5,454-114,543×5,747-120,270×5,902-126,172×6,077-132,249×6,226-138,501×6,427-144,928 p.m.

69

Your entry point to this grade will be Kshs 109,089 per month

House allowance of Kshs 40,000 per month and,

Other allowance of Kshs 16,000 per month

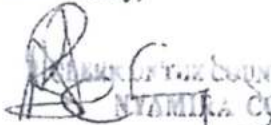
Annual leave entitlement: **Thirty (30) days** excluding weekends and Public Holidays.

Other terms of employment will be issued to you upon assumption of duty.

Please signify your acceptance of this offer of appointment in writing within seven (7) days from the date of this letter.

I wish therefore, on behalf of Nyamira County Assembly Service Board, to congratulate you on your appointment and wish you the best in your new assignment.

Yours faithfully,


COUNTY ASSEMBLY
NYAMIRA COUNTY

CS. P.N. BUCHUNJU

INTERIM CLERK,

COUNTY ASSEMBLY OF NYAMIRA.



**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD**



P.O. Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke

E-mail: info@nyamiraassembly.go

3rd JULY, 2020

REF: CAN/CASB/CLERK/JULY-1

TO: MR. DUKE ONYARI,

Dear Mr. Onyari,

RE: **EXTENSION OF ACTING CAPACITY**

The above matter refers.

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The purpose of this letter is to convey the decision of the Board to extend your appointment on Acting Capacity for a further three (3) months as hereunder;

Position: Ag. Clerk
Effective: 7th July 2020.

Your remuneration and all other terms and conditions of employment remain unchanged.

Kindly sign the duplicate copy of this letter as a token of acceptance of the same.

Sincerely,

**HON. MOFFAT TEYA
CHAIRPERSON
COUNTY ASSEMBLY SERVICE BOARD.**



cc Ag. Director, Human Resource Management and Administration

Forwarded to HRM

71



**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD**



P.O. Box 590-40500, Nyamira Website: www.nyamiraassembly.go.ke E-mail: [info@nyamiraassembly.go](mailto:info@nyamiraassembly.go.ke)

1st OCTOBER, 2020

REF: CAN/CASB/CLERK/OCTOBER-1

TO: MR. DUKE ONYARI,

Dear Mr. Onyari,

RE: EXTENSION OF ACTING CAPACITY

The above matter refers.

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The purpose of this letter is to convey the decision of the Board to extend your appointment on Acting Capacity for a further three (3) months as hereunder;

Position: Ag. Clerk
Effective: 1st October 2020

Your remuneration and all other terms and conditions of employment remain unchanged.

Kindly sign the duplicate copy of this letter as a token of acceptance of the same.

Sincerely,

**HON. MOFFAT TEYA
CHAIRPERSON
COUNTY ASSEMBLY SERVICE BOARD.**



cc Ag. Director, Human Resource Management and Administration

Received with acknowledgement

72



**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD**



P.O Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke

E-mail: info@nyamiraassembly.go

5th JANUARY, 2021

REF: CAN/CASB/CLERK/JAN-1

TO: MR. DUKE ONYARI,

Dear *Mr. Onyari,*

RE: EXTENSION OF ACTING CAPACITY

The above matter refers.

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The purpose of this letter is to convey the decision of the Board to extend your appointment on Acting Capacity for a further three (3) months as hereunder;

**Position: Ag. Clerk
Effective: 6th January 2021.**

Your remuneration and all other terms and conditions of employment remain unchanged.

Kindly sign the duplicate copy of this letter as a token of acceptance of the same.

Sincerely,

**HON. MOFFAT TEYA
CHAIRPERSON
COUNTY ASSEMBLY SERVICE BOARD.**



*Received with
acknowledgment
me*

cc Ag. Director, Human Resource Management and Administration

73



**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD**



P.O Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke

E-mail: info@nyamiraassembly.go.ke

5th APRIL, 2021

REF: CAN/CASB/CLERK/APRIL-1

TO: MR. DUKE ONYARI,

Dear Mr. Onyari,

RE: EXTENSION OF ACTING CAPACITY

The above matter refers.

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The purpose of this letter is to convey the decision of the Board to extend your appointment on Acting Capacity for a further three (3) months as hereunder;

Position: Ag. Clerk
Effective: 5th April 2021.

Your remuneration and all other terms and conditions of employment remain unchanged.

Kindly sign the duplicate copy of this letter as a token of acceptance of the same.

Sincerely,

**HON. MOFFAT TEYA
CHAIRPERSON
COUNTY ASSEMBLY SERVICE BOARD.**

cc Ag. Director, Human Resource Management and Administration

74



**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD**



P.O Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke

E-mail: info@nyamiraassembly.go

5th JULY, 2021

REF: CAN/CASB/CLERK/JULY-1

TO: **MR. DUKE ONYARI,**

Received with acknowledgment

Dear *Mr. Onyari,*

me

RE: **EXTENSION OF ACTING CAPACITY**

The above matter refers.

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

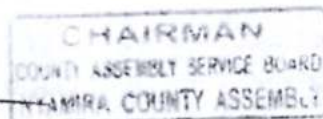
The purpose of this letter is to convey the decision of the Board to extend your appointment on Acting Capacity for a further three (3) months as hereunder;

Position: Ag. Clerk
Effective: 5th July 2021.

Your remuneration and all other terms and conditions of employment remain unchanged.

Kindly sign the duplicate copy of this letter as a token of acceptance of the same.

Sincerely,



**HON. MOFFAT TEYA
CHAIRPERSON
COUNTY ASSEMBLY SERVICE BOARD.**

cc Ag. Director, Human Resource Management and Administration

75



**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD**



P.O Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke

E-mail: [info@nyamiraassembly.go](mailto:info@nyamiraassembly.go.ke)

1st OCTOBER, 2021

REF: CAN/CASB/CLERK/OCTOBER-1

TO: MR. DUKE ONYARI,

Dear *Mr. Onyari,*

RE: EXTENSION OF ACTING CAPACITY

The above matter refers.

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

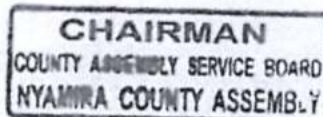
The purpose of this letter is to convey the decision of the Board to extend your appointment on Acting Capacity for a further three (3) months as hereunder;

**Position: Ag. Clerk
Effective: 1st October 2021.**

Your remuneration and all other terms and conditions of employment remain unchanged.

Kindly sign the duplicate copy of this letter as a token of acceptance of the same.

Sincerely,



**HON. MOFFAT TEYA
CHAIRPERSON
COUNTY ASSEMBLY SERVICE BOARD.**

cc Ag. Director, Human Resource Management and Administration

*Received with acknowledgement
me*

76



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD



P.O Box 590-40500, Nyamira

Website: nyamiraassembly.go.ke

E-mail: [info@nyamiraassembly.go](mailto:info@nyamiraassembly.go.ke)

REF: CAN/CASB/STAFF/DEC/RES/1

29th December, 2022

MR. DUKE SIMEON ONYARI
(PF. NO: 20140013556)
P.O BOX 590 – 40500, NYAMIRA

15 FEB 2023

Dear *Mr. Onyari*,

RE: PROMOTION TO SENIOR DEPUTY CLERK OF COUNTY ASSEMBLY

Received & filed

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The County Assembly Service Board has reviewed your terms and conditions of service to the County Assembly with a view to maximize potential, harness competencies and improve service delivery so as to promote the ideals espoused by the County Assembly.

The purpose of this letter therefore, is to convey the decision of the Board to offer you a promotion to **Senior Deputy Clerk of the County Assembly of Nyamira** at Job Group: **S (CASB 02)** with the following terms:

Basic Salary:	Kshs. 197,800
House Allowance:	Kshs. 60,000
Commuter:	Kshs. 20,000
Effective:	1 st January, 2023.

Other Allowances shall be as per the applicable Salaries & Remuneration Commission Circulars.

Managerial/Supervisory Responsibilities

- (i) Deputizing the Clerk of the Assembly/Secretary to the County Assembly Service Board;
- (ii) General supervision of all Directorates;
- (iii) Coordination of external relations including international relations, inter-parliamentary relations, conferences and protocol affairs;
- (iv) Coordination of programs for enhancing public understanding and knowledge of the work of the Assembly, increasing public accessibility, awareness and its operations;
- (v) Vice Chair of the Management Committee;

77

- (vi) Oversee the implementation of the County Assembly's strategic plan and annual work plans to ensure the progressive realization of the County Assembly objectives to enhance service delivery;
- (vii) Coordinate the implementation of policies for achieving strategic administrative functioning of the Assembly;
- (viii) Supervise the management of County Assembly resources to enhance accountability, transparency and prudence utilization of allocated resources in accordance with PFM Act, 2012;
- (ix) Promote staff compliance with national values, (Art.10 CoK, Values and Principles of Public Service (Art. 232 CoK), Principles of leadership and integrity, POE 2003;
- (x) Coordinate the development and implementation of the County Assembly Annual Plans and budget;
- (xi) Coordinate all human resource, employee relations, equal opportunity employment function of the County Assembly;
- (xii) Oversee all administrative functions as well as facilities to ensure consistent operations in the County Assembly;

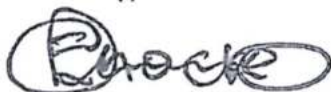
Financial Responsibilities

- (i) Deputize the Accounting/Authorized Officer of a County Assembly in monitoring, evaluating and overseeing the management of the County Assembly public finances;
- (ii) Alternate financial approver/A.I.E Holder;
- (iii) Oversee the preparations and implementation of County Assembly Annual budget;
- (iv) Promote adherence to PFM Act 2012 on utilization of the Resources allocated to the Assembly;
- (v) Coordinate preparation and implementation of the annual procurement plan.

The County Assembly Service Board congratulates you on your Promotion and expresses utmost appreciation for your services as Acting Clerk of the County Assembly.

Kindly signify your acceptance of this offer by signing and returning a copy of this letter thereof.

Sincerely,



**HON. ENOCK OGORI OKERO
THE CHAIRPERSON
COUNTY ASSEMBLY SERVICE BOARD**



Received
[Signature]

30.12.2022

- Copy To:
- 1. Director, Human Resource and Administration (To Personal File)
 - 2. Payroll Manager (To Effect)

78

THE COUNTY ASSEMBLY OF NYAMIRA

✉ info@nyamiraassembly.go.ke
🌐 www.nyamiraassembly.go.ke



📍 County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

COUNTY ASSEMBLY SERVICE BOARD OFFICE OF THE CHAIRPERSON

When replying please quote our Reference

REF: CAN/CASB/CLK/2024/10(1)

18th OCTOBER 2024

MR. DUKE S. ONYARI
(PF. NO: 20140013556)

Dear *Mr. Onyari*,

RE: EXTENSION OF APPOINTMENT AS CLERK OF COUNTY ASSEMBLY ON ACTING CAPACITY

The above matter refers.

Section 11(1)(b) of the County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The purpose of this letter is to convey the decision of the County Assembly Service Board to extend your appointment as **Clerk of County Assembly on Acting Capacity effective 3rd October 2024 for a period of 3 Months.**

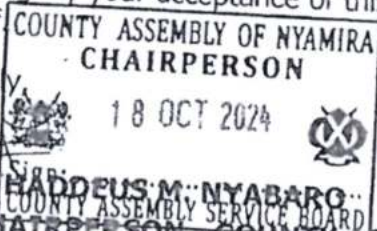
Your duties and responsibilities remain as spelt out in the letter of appointment *Ref: CAN/CASB/CLK/2024/JULY(2)* and as per applicable laws and policies.

You shall be paid an Acting Allowance during the period of this appointment. Your remunerative Allowances remain the same. Other facilitative allowances shall apply as prescribed by SRC Circulars for the position of Clerk of County Assembly.

Kindly signify your acceptance of this offer by signing and returning a copy of this letter thereof.

Sincerely,

M. Nyabaro



HON. THADDEUS M. NYABARO
THE CHAIRPERSON - COUNTY ASSEMBLY SERVICE BOARD

Copy To: Director - Human Resource and Administration

Received with acknowledgement

me

79

THE COUNTY ASSEMBLY OF NYAMIRA

✉ info@nyamiraassembly.go.ke
🌐 www.nyamiraassembly.go.ke



REPUBLIC OF KENYA



📍 County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

COUNTY ASSEMBLY SERVICE BOARD OFFICE OF THE CHAIRPERSON

P.O Box 590-40500, Nyamira

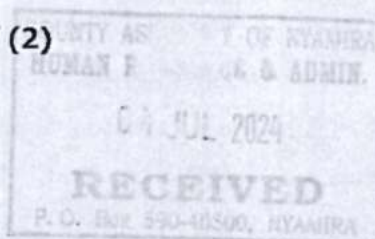
Website: www.nyamiraassembly.go.ke

E-mail: info@nyamiraassembly.go.ke

REF: CAN/CASB/CLK/2024/JULY (2)

4th JULY 2024

MR. DUKE S. ONYARI
(PF. NO: 20140013556)



Dear Mr. Onyari,

RE: APPOINTMENT AS CLERK OF COUNTY ASSEMBLY ON ACTING CAPACITY

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

You are hereby appointed as the **Clerk of County Assembly on Acting Capacity effective 4th July, 2024 for a period of 3 Months.**

Your duties and responsibilities will be as follows:

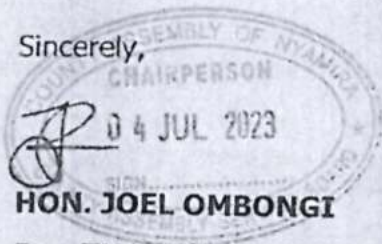
- 1) Responsible for the day to day administration and functioning of the County Assembly;
- 2) Secretary to the County Assembly Service Board;
- 3) The custodian of the Board's records;
- 4) Convey all the decisions made by the Board;
- 5) Advise the County Assembly Service Board (CASB) on administrative and operational issues;
- 6) Chairing the Management committee meetings;
- 7) An authorized officer of the service/Authority to incur expenditure (AIE) and final financial approver at the County Assembly;

- 8) Ensuring proper management and control of, and accounting for, County Assembly finances to promote the efficient and effective use of budgetary resources;
- 9) Principal adviser in the provision of expert, non-partisan and impartial advice to the Speaker of the County Assembly, other presiding officers and to all Honorable Members on the parliamentary procedures, practices, conventions and traditions; and
- 10) Any other duty or responsibility bestowed upon the office of the Clerk of County Assembly by any statute.

You shall be paid an Acting Allowance as prescribed during the period of this appointment. Your remunerative Allowances remain the same. Other facilitative allowances shall apply as prescribed by SRC Circulars for the position of Clerk of County Assembly.

Kindly signify your acceptance of this offer by signing and returning a copy of this letter thereof.

Sincerely,



04 JUL 2023

HON. JOEL OMBONGI

For: THE CHAIRPERSON

COUNTY ASSEMBLY SERVICE BOARD

Copy To: Director - Human Resource and Administration

Annex 12(5)

AFFIDAVIT OF LEONARD KEVIN NYAMASEGE – DIRECTOR, FINANCE AND ACCOUNTS
OF COUNTY ASSEMBLY OF NYAMIRA

I, LEONARD KEVIN NYAMASEGE, of ID No. 20841648 of P.O. Box 590 – 40500, Nyamira, do hereby make solemn oath and state as follows:

1. THAT, I am a male adult of sound mind and the **DEPUTY CLERK, FINANCE AND ACCOUNTS** of the County Assembly of Nyamira, well versed with the ICT protocols, handling of electronic mail, website maintenance, hardware and software maintenance among other IT related issues in the County Assembly of Nyamira, and competent to swear this Affidavit.
2. THAT I was appointed the position of **DIRECTOR, FINANCE AND ACCOUNTS** of the County Assembly of Nyamira effective 1st December, 2018 and **DEPUTY CLERK** of the same office effective 3rd February 2025.
3. THAT my duties and responsibilities include:
 - a) Deputizing the Clerk of the County Assembly;
 - b) Supervise the following Directorates: Finance, Accounts, Budget and Internal Audit; Monitoring & Evaluation; and Supply Chain Management
 - c) Oversee the implementation of the County Assembly's strategic plan and annual work plans to ensure the progressive realization of the County Assembly objectives to enhance service delivery;
 - d) Supervise the management of County Assembly resources to enhance accountability, transparency and prudence utilization of allocated resources in accordance with PFM Act, 2012;
 - e) Promote staff compliance with national values, (Article 10 of the Constitution of Kenya, 2010 (COK, 2010) Values and Principles of Public Service (Article 232 COK, 2010), Principles of Leadership and Integrity, Public Officer Ethics Act, 2003;
 - f) Coordinate the development and implementation of the County Assembly Annual Plans and Budget;

21.51.19001

- g) Deputize the Accounting/Authorized Officer of a County Assembly in monitoring, evaluating and overseeing the management of the County Assembly public finances;
- h) Alternate financial approver/A.I.E Holder;
- i) Oversee the preparations and implementation of County Assembly annual budget;
- j) Promote adherence to PFM Act, 2012 on utilization of the Resources allocated to the Assembly;
- k) Coordinate preparation and implementation of the annual procurement plan;
- l) Any other duty or responsibility as may be assigned by the Clerk of County Assembly.
- m) Any other duties as may be assigned from time-to-time.

- 4. THAT I am the legitimate office holder of the said office.
- 5. THAT have neither been suspended nor dismissed from service to the County Assembly of Nyamira.
- 6. THAT I am discharging my duties as the Deputy Clerk, Finance and Accounts in the County Assembly of Nyamira from the gazetted precincts of the County Assembly of Nyamira.
- 7. THAT on 20th February, 2025, my mandate as an approver was illegally withdrawn from the IFMIS system by parties whose intentions in cannot confirm.
- 8. THAT I was replaced by unqualified and unauthorized personnel, who is nor registered as a member of Institute of Certified Public Accountants of Kenya (ICPAK).
- 9. THAT I reported to the Clerk who escalated the issue with the Director, Internet Banking System at the Central Bank of Kenya.
- 10. THAT what is deponed herein is true to the best of our knowledge, information and belief.

DATED AT NYAMIRA THIS 2nd day of April, 2025

BY THE SAID:

LEONARD KEVIN NYAMASEGE)



83

ELIKANA MOKUA NDUBI
ADVOCATE
BEFORE ME, COMMISSIONER FOR OATHS
AND NOTARY PUBLIC
P. O. Box 269 - 00100, NAIROBI

COMMISSIONER FOR OATHS

DRAWN & FILED BY: -

B. BOCHABERI ADVOCATES

7B PLAZA, 2ND FLOOR, NEXT TO KCB KEROKA BRANCH

P.O BOX 162, NYANSIONGO

COUNTY ASSEMBLY OF NYAMIRA

P.O BOX 590, NYAMIRA

Your Ref:

Our Ref:

E-Mail: nyamirac@yahoo.com

Website: cnvamira@localgovernment.com



TEL: 058-6144288

Date: 19TH November 2013

Please address all correspondence to the Interim Clerk, County Assembly of Nyamira.

TO MR/MRS/M/S: LEONARD KEVIN NYAMASEGE

ADDRESS:

RE: OFFER OF APPOINTMENT FOR THE POSITION OF PRINCIPAL FINANCE OFFICER

This is to convey the decision of the County Assembly Service Board (CASB) of Nyamira that you have been offered Appointment to the position of **Principal Finance Officer** with effect from 1st December 2013. You will be answerable to the clerk of the County Assembly for the following duties and responsibilities,

- i. Head of budget department in the county assembly
- ii. Efficient administration of budget department
- iii. Preparation of Budget for the Recurrent and Development Votes for the County Assembly
- iv. Initiate and effect budget preparation calendar
- v. Control budget implementation in liaison with other departments
- vi. Monitoring and evaluation of county assembly budget implementation process
- vii. Initiation of proposals seeking funds for additional expenditure reallocation of voted funds during the year.

You will serve on probation for six (6) months before confirmation. During probation period your service may be terminated by a notice of one month if your service will be below expectation or in case of gross misconduct.

You will be entitled to monthly remunerations and benefits as follows,

Job group "Q"

Terms of Service: Permanent

Basic salary: Kshs 89,748-Kshs 120,270

In the scale: 89,748×4,487-94,235×4,712-98,947×4,947-103,894×5,195-109,089×5,454-114,543×5,727-120,270 p.m.

85

Your entry point to this grade will be **Kshs 48,190** per month

House allowance of **Kshs 24,000** per month and,

Other allowance of **Kshs 8,000** per month

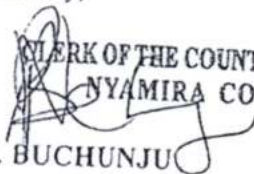
Annual leave entitlement: **Thirty (30) days** excluding weekends and Public Holidays.

Other terms of employment will be issued to you upon assumption of duty.

Please signify your acceptance of this offer of appointment in writing within seven (7) days from the date of this letter.

I wish therefore, on behalf of Nyamira County Assembly Service Board, to congratulate you on your appointment and wish you the best in your new assignment.

Yours faithfully,


CLERK OF THE COUNTY ASSEMBLY
NYAMIRA COUNTY

CS. P.N. BUCHUNJU

INTERIM CLERK,

COUNTY ASSEMBLY OF NYAMIRA.



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
COUNTY ASSEMBLY SERVICE BOARD



P.O Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke

E-mail: info@nyamiraassembly.go

29th NOVEMBER, 2018

REF: CAN/CASB/STAFF/NOV/RES/1

TO: MR. LEONARD NYAMASEGE,

Dear *Nyamasege*,

RE: PROMOTION TO THE POSITION OF DIRECTOR FINANCE AND ACCOUNTS

The above matter refers.

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The County Assembly Service Board has reviewed the terms and conditions of service of persons holding or acting in various offices with a view to maximize potential, harness competencies and improve service delivery so as to promote the ideals espoused by the County Assembly.

The purpose of this letter therefore, is to convey the decision of the Board to promote you substantively as the **Director Finance & Accounts**, effective 1st December 2018.

Your remuneration and other terms of employment shall be as hereunder:

Basic Salary:	The Next Progressive/Incremental Point (Job Group R)
House Allowance:	Kshs. 40,000
Commuter Allowance:	Kshs. 16,000

Kindly sign the duplicate copy of this letter as a token of acceptance of the same.

We look forward to your enhanced contribution in your assigned role.

Sincerely,

DUKE ONYARI
Ag. CLERK,
COUNTY ASSEMBLY OF NYAMIRA.



Received on 30th NOV 2018.

cc Director, Human Resource and Administration

87

"THIRD ASSEMBLY"



Annex 13

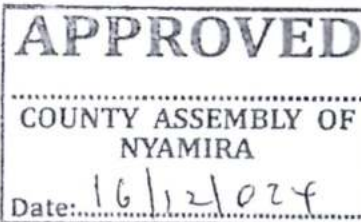
"THIRD SESSION"

COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY

THE HON. SPEAKER,
COUNTY ASSEMBLY OF NYAMIRA

THRO'

THE CLERK
COUNTY ASSEMBLY OF NYAMIRA



RE: NOTICE OF MOTION FOR APPROVAL OF MR. DUKE SIMEON ONYARI FOR APPOINTMENT AS CLERK OF COUNTY ASSEMBLY OF NYAMIRA

TAKE NOTICE that under the provisions of Standing Order No.46 of the County Assembly of Nyamira as read together with Section 18(2) of the County Assembly Services Act, 2017[Rev.2022], I, HON. JOSIAH MANGERA, a duly elected Member of County Assembly and the Vice Chairperson of the County Assembly Service Board, propose to move a MOTION FOR APPROVAL OF MR. DUKE SIMEON ONYARI FOR APPOINTMENT AS CLERK OF COUNTY ASSEMBLY OF NYAMIRA.

DATED at NYAMIRA this 16th day of December 2024

HON. JOSIAH MANGERA, MCA
VICE CHAIR - COUNTY ASSEMBLY SERVICE BOARD



**MOTION FOR APPROVAL OF MR. DUKE SIMEON ONYARI FOR APPOINTMENT
AS CLERK OF COUNTY ASSEMBLY OF NYAMIRA**

Mr. Speaker, Sir

AWARE that One of the functions of the County Assembly Service Board as spelt out under Section 11(1)(b) of the County Assembly Services Act, 2017, is to **determine and review the terms and conditions of service of persons holding or acting in the offices of the Service;**

FURTHER AWARE that the County Assembly Service Board in fulfillment of this mandate has reviewed the terms and conditions of the office of the Clerk and nominated Mr. Duke Simeon Onyari, the current Acting Clerk for appointment as the Clerk of the County Assembly of Nyamira;

COGNIZANT of the duties and functions of the Clerk of the County Assembly as spelt out in the County Governments Act, 2012 and the County Assembly Services Act, 2017[Rev.2022], to mention:

Section 12(4) of the County Governments Act, 2012 [Rev.2022] provides as follows:

The county assembly clerk shall be the secretary to the county assembly service board.

Section 17 (1)-(3) of the County Assembly Services Act, 2017[Rev.2022] spells the functions of a Secretary of a County Assembly Service Board as follows

(1) The Secretary shall be—

- (a) the chief executive officer of the Board;*
- (b) the accounting officer of the Board;*
- (c) the administrative head of the Service;*
- (d) the custodian of the Board's records;*
- (e) responsible for—*
 - (i) the execution of the decisions of the Board; and*
 - (ii) assignment of duties and supervision of the staff of the Board;*

(f) the preparation and submission of the programmes necessary for the achievement of the Board's mandate for approval by the Board;

(g) causing to be kept records of the proceedings and minutes of the meetings of the Board and such other records as the Board may direct;

(h) ensuring staff compliance with public service values, principles and ethics; and

(i) the performance of such other duties as may be assigned by the Board or any other written law.

(2) The Secretary shall be responsible to the chairperson of the Board and the Board for the general working and efficient conduct of business of the Service.

(3) The Board may delegate to the Secretary such of its functions as are necessary to carry out the day to day management of the Service, and subject to such directions as may be given by the Board.

Sections 19 of the County Assembly Services Act spells the functions of a Clerk of a County Assembly as follows:

- a) The chief administrative officer of the county assembly; and*
- b) Responsible for the day-to-day management and functioning of the county assembly.*

Sections 20 of the County Assembly Services Act provides for the procedural functions of the Clerk as follows:

- a) the rendering of expert, non-partisan and impartial advice to the members of the county assembly on the legislative process, and parliamentary procedure and practice; and*
- b) the carrying out such other duties and exercising powers as may be conferred on him or her by law or by the Standing Orders and practices of the county assembly.*

FURTHER COGNIZANT of fair labour principles that require that an officer discharging such heavy responsibilities as elaborated above should receive commensurate compensation and/or remuneration;

WHEREAS the former holder of the office [Mr. Daniel Oginda Orina] exited from the Service by way of Early Retirement thus rendering the position vacant AND WHEREAS Section 18 of the County Assembly Services Act, 2017 [Rev.2022] requires the process of appointing the Clerk to be competitive;

FURTHER WHEREAS the County Assembly Service Board is constrained by an Advisory from the Commission on Revenue Allocation that has capped the ceiling of our Staff establishment at One Hundred (100) through Circular Ref. CRA/FA/01 VOL 11(22) dated 28th June 2018; (Annex 1)

MINDFUL that the County Assembly Staff establishment currently offends this advisory and the same has been the subject of Audit queries;

The current staff establishment has an In-post of One Hundred and Twelve (112) Members of Staff way above the recommended Ceiling of One Hundred (100).

FURTHER MINDFUL that the cost of personnel emoluments for County Assembly staff is higher than the allocation provided for by the Commission on Revenue Allocation and that the County Assembly will only be able to comply with this Advisory in future through staff exits and/or natural attrition, a situation that if obtained will allow for open and competitive recruitment exercises;

CONSCIOUS that in light of our resource constraints the County Assembly Service Board is left with no option than to manage the County Assembly Wage-bill and contain it within the recommended limits and as a consequence, the Board has restrained itself from adding more numbers to the staff establishment to avoid an increase in the personnel emoluments which will put a strain on the funds for County Assembly Operations;

FURTHER CONSCIOUS that the nominee being the Acting Clerk of the County Assembly holds various responsibilities that are assigned to an Accounting Officer such as signatory to County Assembly Fund Accounts and therefore confirming the nominee to a substantive appointment will ensure seamless transition for the County Assembly that will be devoid of any hiccups;

ACKNOWLEDGING the challenges that come with the lack of a substantive office holder for this crucial position including but not limited to destabilization of the County Assembly Service through acts such as illegal appointments of an acting clerk, delays in County Assembly Service Board Programs and litigations that could be well handled by a substantive office holder;

APPRECIATING the loyalty and persistence of the Nominee to stick to parliamentary processes and obedience of County Assembly Resolutions, for instance, the Nominee recently ensured a smooth transition after the former Speaker was impeached by establishing the office of the Acting Speaker after the process of electing a new Speaker was halted by the Court.

FURTHER APPRECIATING that the Nominee, Mr. Duke Simeon Onyari, has Acted for a long period without taking court action against the employer a virtue only demonstrated by a few. Mr. Onyari has Acted in the position of Clerk of County Assembly cumulatively for more than 65 months (5 Years and 5 months) as follows:

S.No	Period	Presiding Speaker
1.	January 2014 to April 2014	Hon. Peter M. King'oina
2.	April 2014 to May 2014	Hon. Joash N. Nyamoko
3.	April 2018 to January 2023	Hon. Moffat M. M. Teya
4.	July 2024 to October 2024	Hon. Enock O. Okero
5.	October 2024 to date	Hon. Thaddeus N. Momanyi

AWARE that Mr. Onyari is a holder of Bachelor of Laws (LLB) Degree and a Bachelor of Commerce (B.Com) Degree and therefore satisfies the requirements of Section 13(2)(a) and (b) of the County Governments Act 2012[Rev.2022].

FURTHER AWARE that the nominee has a Post-Graduate Diploma in Law and is an Advocate of the High Court of Kenya, of good standing.

COGNIZANT that the nominee has over 10 years of relevant professional experience having been appointed as Deputy Clerk of the County Assembly in December 2013 becoming the first Substantive Deputy Clerk of the County Assembly under the Constitution of Kenya, 2010, and in January 2023, the nominee was promoted to Senior Deputy Clerk thus satisfies the requirements of Section 13(2)(c) of the County Governments Act 2012[Rev.2022]

FURTHER COGNIZANT that the nominee has undergone two high level training programmes namely **Senior Management Course** and **Strategic Leadership Development Programme** both at the Kenya School of Government, a requisite for appointment to this level of Management. In addition, the nominee has attended various workshops and seminars for Accounting Officers organized by public finance institutions in the span of his career a testament that the nominee has not only accumulated the necessary knowledge and experience but equally demonstrated that he is qualified to be appointed substantively in that office.

I NOW THEREFORE move the Motion

THAT;

This County Assembly approves Mr. Duke Simeon Onyari for appointment as the Clerk of the County Assembly of Nyamira.

Signed this 16th day of December 2024



.....
HON. JOSIAH MANGERA, MCA
VICE CHAIR - COUNTY ASSEMBLY SERVICE BOARD

Annexure

Annex 1: Commission on Revenue Allocation Circular Ref. CRA/FA/01 VOL 11(22) dated 28th June 2018

Annex 2: Curriculum Vitae and Testimonials of Mr. Duke Simeon Onyari

Annex 14

COUNTY ASSEMBLY OF NYAMIRA

P.O BOX 590, NYAMIRA

Your Ref:

Our Ref:

E-Mail: nyamirac@yahoo.com

Website: ccnyamira@localgovernment.com



TEL: 058-6144288

Date: 19TH November 2013

Please address all correspondence to the Interim Clerk, County Assembly of Nyamira.

TO MR/MRS/M/S: SILVANUS NDEMO NYAMORA

ADDRESS:

RE: OFFER OF APPOINTMENT FOR THE POSITION OF HANSARD EDITOR

This is to convey the decision of the County Assembly Service Board (CASB) of Nyamira that you have been offered Appointment to the position of **Hansard Editor** with effect from 1st December 2013. You will be answerable to the clerk of the County Assembly for the following duties and responsibilities,

- (i) Direction, co-ordination and control of the operations of the Department;
- (ii) Development and maintenance of policies, rules, standards and procedures governing Hansard production;
- (iii) Maintaining links with the public media.
- (iv) Functional responsibility for the hansard recording, translation, and transcribing;
- (v) Editing;
- (vi) Documentation; and,
- (vii) Coordination of hansard research.

You will serve on probation for six (6) months before confirmation. During probation period your service may be terminated by a notice of one month if your service will be below expectation or in case of gross misconduct.

You will be entitled to monthly remunerations and benefits as follows,

Job group "P"

Terms of Service: Permanent

Basic salary: Kshs 77,527-Kshs 103,893

In the scale: 77,527×3,877-81,404×4,070-85,474×4,274-89,748×4,487-94,235×4,712-98,947×4,946-103,893 p.m.

93

Your entry point to this grade will be Kshs 89,748 per month

House allowance of Kshs 40,000 per month and,

Other allowance of Kshs 12,000 per month

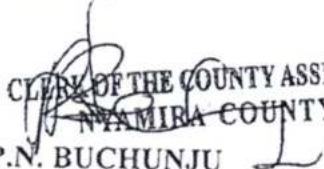
Annual leave entitlement: **Thirty (30) days** excluding weekends and Public Holidays.

Other terms of employment will be issued to you upon assumption of duty.

Please signify your acceptance of this offer of appointment in writing within seven (7) days from the date of this letter.

I wish therefore, on behalf of Nyamira County Assembly Service Board, to congratulate you on your appointment and wish you the best in your new assignment.

Yours faithfully,


CLERK OF THE COUNTY ASSEMBLY
NYAMIRA COUNTY

CS. P.N. BUCHUNJU

INTERIM CLERK,

COUNTY ASSEMBLY OF NYAMIRA.

Annex 14

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

COUNTY ASSEMBLY SERVICE BOARD

When replying please quote our Reference

REF: CAN/CASB/CLK/STAFF/2024/JULY(3)

24th July 2024

MR. SILVANUS NDEMO NYAMORA
(PF. NO: 2011011878)

Dear *Mr. Nyamora*,

RE: APPOINTMENT AS ACTING DEPUTY CLERK

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

In order to address administrative gaps in the Service, the County Assembly Service Board has resolved vide **Min 04/CAN/CASB/15/7/2024** to appoint you as **Acting Deputy Clerk (Administration)** for a period of **three (3) months** effective the date of this letter.

You will be reporting to the Ag. Clerk of the County Assembly.

You will be entitled to an Acting Allowance and other facilitative allowances for the said position during the period of Acting. All other remuneration and benefits remain the same.

The County Assembly Service Board congratulates you on your Appointment.

Kindly signify your acceptance of this offer by signing and returning a copy of this letter thereof.

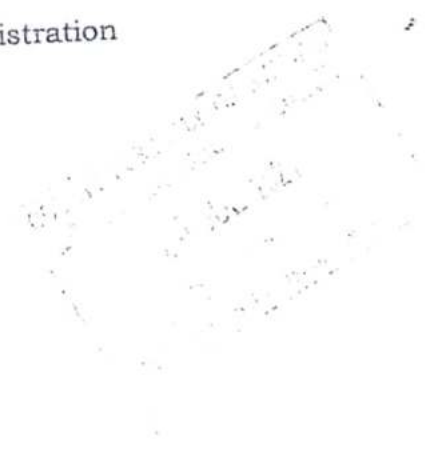
Sincerely,

[Signature]
DUKE S. ONYARI
24 JUL 2024

DUKE S. ONYARI
Ag. CLERK & SECRETARY TO THE COUNTY ASSEMBLY SERVICE BOARD
COUNTY ASSEMBLY OF NYAMIRA.

Copy To: Director, Human Resource and Administration

Received
Silvanus Ndemo Nyamora
[Signature]
24/7/2024



95

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamirassembly.go.ke
www.nyamirassembly.go.ke



County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

COUNTY ASSEMBLY SERVICE BOARD

When replying please quote our Reference

REF: CAN/CASB/CLK/STAFF/2024/NOV(1)

11th November, 2024

MR. SILVANUS NDEMO NYAMORA
(PF. NO: 2011011878)

Dear *Mr. Nyamora*.

RE: REDEPLOYMENT

The County Assembly Services Act, 2017 mandates the County Assembly Service Board to determine and review the terms and conditions of service of persons holding or acting in the offices of the Service, among other functions.

The County Assembly Service Board has resolved, vide **MIN 02/CAN/CASB/10/11/2024**, to redeploy you to **Library, Research and Communication Directorate** effective the date of this letter.

You will be reporting to the Clerk of the County Assembly through the Director - Library, Research and Communication Directorate.

Your remuneration and benefits remain the same.

You are required to handover all official records and office stores currently under your care or in your office to the Director Legislative Procedure and Committee Services.

Sincerely,

[Signature] 11 NOV 2024

DUKE S. ONYARI
Ag. CLERK & SECRETARY TO THE COUNTY ASSEMBLY SERVICE BOARD
COUNTY ASSEMBLY OF NYAMIRA.

Copy To: Director, Human Resource Management
Director – Legislative Procedure and Committee Services

Dr. Pajani Manager
11 NOV 2024
11 NOV 2024
96

THE COUNTY ASSEMBLY OF NYAMIRA

Annex 159

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O. Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/HRM/STAFF/2024/11(5)

Date: 19th NOVEMBER 2024

SILVANUS NDEMO NYAMORA
(PF. NO. 2011011878)

RE: SUSPENSION

The above matter refers.

The County Assembly Services Act, 2017 [Revised 2022] mandates the County Assembly Service Board to exercise disciplinary control over the officers of the Service.

On 13th November 2024, you were served with a Show Cause Letter Ref: CAN/CLK/HRM/STAFF/2024/11(3) detailing your misconduct and requiring you to explain in writing as to why disciplinary action cannot be taken against you within 48 hours in light your conduct as follows:

1. You have **participated and or involved yourself in partisan politics** of the County Assembly contrary to Section 5(c) of the County Assembly Services Act, 2017 [Revised 2022] which requires officers of the County Assembly Service to have regard to the principles of **political neutrality**, by accepting instructions from and purported appointment by a persona non-grata who was removed from office by impeachment, facts which are within your knowledge.
2. On 7th November 2024 you **disobeyed a directive** issued by the Ag. Clerk through a Memo that directed all staff to be at work including those on various leaves.
3. You have **deserted duty and absented yourself from work** without proper authorization as required by the County Assembly Human Resource Policies Manual;

In addition to this:

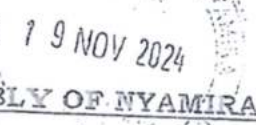
4. You have refused to hand over from your previous post as Hansard Editor as per your redeployment Letter Ref. No. CAN/CASB/CLK/STAFF/2024/NOV(1) dated 11th November 2024.

As at the date of this letter, the Board has not received any explanation from you on why disciplinary action cannot be taken against you. Consequently, the County Assembly Service Board has, vide Minute No.

97

02/MORN/CASB/2024/11/19, suspended you from the County Assembly Service effective the 19th of November 2024 pending the finalization of the disciplinary process. You are hereby required to handover as earlier directed before close of business today the 19th of November 2024.

During the period of your suspension, you shall be subject to the applicable Human Resource Policies as spelt out in the County Assembly Human Resource Policies and Procedures Manual.


DUKE S. ONYARI 19 NOV 2024
THE AG. CLERK
COUNTY ASSEMBLY OF NYAMIRA.

Copy To: Director, Human Resource and Administration

Annex 15(b)

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/CS/2025/03(3)

Date: 19th MARCH 2025

**The County Secretary and Head of County Public Service
County Government of Nyamira**

RE: DISMISSAL OF SILVANUS NDEMO NYAMORA FROM THE COUNTY ASSEMBLY SERVICE

The above matter refers.

The County Assembly Services Act, 2017 [Revised 2022] mandates the County Assembly Service Board to exercise disciplinary control over the officers of the Service.

The purpose of this letter is to inform your office that the County Assembly Service Board passed a resolution and **dismissed Mr. Silvanus Ndemo Nyamora of ID No: 11322085 and PF. No: 2011011878** from the County Assembly Service with effect from the 5th of February 2025. Mr. Nyamora is therefore not an employee of the County Assembly and is not authorized to transact on its behalf.

N.B: It has been noted that the County Executive Arm has illegally facilitated Mr. Nyamora with an official government email account under the domain of the County Executive: WWW.NYAMIRA.GO.KE with the address: SNYAMORA@NYAMIRA.GO.KE as though he is an employee of the County Executive. Take note that the same is an illegality, and an **affront to the principle of separation of powers** and contrary to Section 4(3) of the County Assembly Services Act, 2017 (Rev. Ed.2022) which requires **employees of the County Assembly Service not to seek and/or receive directions from any source external to the Service**. Be advised that the illegal account should be closed forthwith.

Attached hereto, please find copy of the dismissal letter for your reference.

DUKE S. ONYARI
THE CLERK
COUNTY ASSEMBLY OF NYAMIRA.



19 MAR 2025

Copy To: Office of the Speaker, County Assembly of Nyamira



99

THE COUNTY ASSEMBLY OF NYAMIRA

Annex 16



REPUBLIC OF KENYA



OFFICE OF THE CLERK

COMMITTEE CHAIRPERSONS AND VICE – CHAIRPERSONS

No.	COMMITTEE	CHAIRPERSON	VICE CHAIRPERSONS
1.	Delegated Legislation	Hon. Julius Obonyo Nyangana	Hon. Martha Marwa
2.	Implementation	Hon. Henry Onsinyo Obwaya	Hon. Josiah Obegi Mang'era
3.	Justice and Legal Affairs	Hon. Abel Mokaya Mose	Hon. Joel Nyang'au Ombongi
4.	Budget and Appropriations	Hon. Duke Oyagi Masira	Hon. Michelle Kemuma Omwoyo
5.	Public Investments and Accounts	Hon. Kenneth Nyameino	Hon. Doris Magoma Nyamanga
6.	Agriculture, Livestock and Fisheries	Hon. Julius Kimwomi Matwere	Hon. Thomas Vincent Bebecha
7.	Education and Vocational Training	Hon. Samuel G. Ogeto	Hon. Edna Moraa Obara
8.	Environment, Energy, Climate Change and Natural Resources	Hon. Dennis Nyaribo Kebaso	Hon. Zipporah Kerubo Matundura
9.	Health Services	Hon. Charles Nyarang'o Keganda	Hon. Abigail Nyanduko Matini
10.	Lands, Housing and Urban Planning	Hon. Dickson Mogaka Machungo	Hon. Michelle Kemuma Omwoyo
11.	Public Service Management	Hon. Lameck Nyakianga Sikweya	Hon. Beatrice Kerubo Onyanha
12.	Transport, Roads, Public Works and Disaster Management	Hon. Thomas Vincent Benecha	Hon. Emmanuel Nyambega Gisesa
13.	Trade, Tourism and Co-operative Development	Hon. Alfayo Mabera Ngeresa	Hon. Jeriah Kerubo Nyakang'i
14.	Finance, ICT and Economic Planning	Hon. Evans Juma Matunda	Hon. Josephine Atunga

100

15.	Gender, Sports, Culture and Community Services	Hon. Priscillah Nyatichi Mokora	Hon. Elijah Sagwe Abere
-----	------------------------------------------------	---------------------------------	-------------------------

Annex 17



THE COUNTY ASSEMBLY

THIRD ASSEMBLY- THIRD SESSION

REPORT OF THE SELECTION COMMITTEE

ON

RECONSTITUTION OF COUNTY ASSEMBLY
COMMITTEES



OFFICE OF THE CLERK
COUNTY ASSEMBLY OF NYAMIRA
DECEMBER, 2024

102

Contents

1.0 ESTABLISHMENT, MANDATE AND COMPOSITION OF THE COMMITTEE	3
1.1 Committee Establishment	3
1.2 Committee Mandate	3
1.3 Committee Composition	3
2.0 ACKNOWLEDGEMENT	4
3.0 LEGAL FRAMEWORK	5
4.0 RECONSTITUTION OF COMMITTEES	7
5.0 COMMITTEE RECOMMENDATIONS	12
6.0 CONFIRMATION	13

103

1.0 ESTABLISHMENT, MANDATE AND COMPOSITION OF THE COMMITTEE

1.1 Committee Establishment

Mr. Speaker, Sir

The Committee on Selection is established pursuant to **Standing Order No. 155(1)** of the County Assembly of Nyamira Standing Orders which states as follows:

There shall be a select committee, to be designated Selection Committee, consisting the Leader of the Majority party who shall be the Chairperson, the Leader of the Minority party, the majority party Whip and the minority party Whip, not less than seven and not more than nine members, who shall be nominated by County Assembly parties and approved by the County Assembly;

1.2 Committee Mandate

Mr. Speaker, Sir

The Committee on Selection draws its mandate from **Standing Order No. 155(2)** of the County Assembly of Nyamira Standing Orders which states as follows:

The Committee on Selection shall nominate members to serve in Committees, save for the membership of the House Business Committee, Committee on Appointments and the Powers and Privileges Committee.

1.3 Committee Composition

Mr. Speaker, Sir

The Committee on Selection is comprised of the following Honorable Members:

1. Hon. George Morara Abuga - Chairperson
2. Hon. Julius Obonyo Nyangana - Vice Chairperson
3. Hon. Duke Masira Oyagi - Majority Whip
4. Hon. Kenneth Atuti Nyameino - Minority Whip
5. Hon. Charles Nyarango Keganda - Member
6. Hon. Abigael Nyanduko Matini - Member
7. Hon. Josiah Obegi Mang'era - Member
8. Hon. Henry Onsinyo Obwaya - Member
9. Hon. Dickson Mogaka Machungo - Member
10. Hon. Doris Magoma Nyamanga - Member
11. Hon. Josephine Atunga - Member

2.0 ACKNOWLEDGEMENT

Mr. Speaker, Sir

On behalf of the Committee on Selection, I extend our sincere gratitude to the Office of the Speaker and the Office of the Clerk for their support as we undertook this noble task.

I also wish to express my gratitude to the Members of the Committee for their unwavering commitment during the committee deliberations.

Mr. Speaker, Sir,

Similarly, I extend gratitude to the Secretariat for their exemplary services and support that ensured the successful compilation of this report.

Mr. Speaker, Sir,

It is therefore, my utmost privilege and distinct honor, on behalf of the Committee on Selection to table this Report on the Reconstitution of County Assembly Committees and recommend it to the County Assembly for adoption.

Date: 3rd December, 2024



**HON. CPA GEORGE MORARA ABUGA, MCA
CHAIRPERSON – COMMITTEE ON SELECTION**

105

3.0 LEGAL FRAMEWORK

Mr. Speaker, Sir

Standing Orders 156, 157, 158 and 160 of County Assembly of Nyamira Standing Orders provide for **General Provisions** that guide the Committee on Selection on how to conduct its business as follows:

Nomination of members of select committees

156. (1) *Unless otherwise provided by any written law or these Standing Orders, the **Committee on Selection shall**, in consultation with County Assembly parties, **nominate Members who shall serve on a select committee.***

(2) *The Committee on Selection shall give consideration to the need for **gender balance** and shall, so far as may be practicable, ensure that no more than two-thirds of members of a committee of the County Assembly, including a committee established through a resolution of the County Assembly, shall be of the same gender.*

(3) *A vacancy occasioned by resignation or removal of a Member from a select committee shall be filled within fourteen days of the vacancy.*

(4) *A Member against whom an adverse recommendation has been made in a report of a select committee that has been adopted by the County Assembly shall be ineligible for nomination as member of that committee.*

Criteria for nomination

157. (1) *In nominating Members to serve on a select committee, the Selection Committee shall ensure that the membership of each committee reflects the relative majorities of the seats held by each of the County Assembly parties in the County Assembly.*

(2) *Despite paragraph (1), a member belonging to a party other than a County Assembly party or independent Member may be nominated to serve in select committee and the allocation of membership of select committees shall be as nearly as practicable proportional to the number of members belonging to such parties and independent Members.*

(3) *Except as the County Assembly may otherwise resolve, on the recommendation of the Committee on Selection for reasons to be stated, no member shall be appointed to serve in more than three Sectoral committees so far as may be practicable.*

Approval of nomination

158. (1) *The Selection Committee shall, within seven days upon nomination of members to serve in any committee of the County Assembly, present the list to the County Assembly for approval.*

(2) *Whenever a Motion for approval of a list under paragraph (1) is moved in the County Assembly, no objection against the proposed membership of a Member in a select committee shall be **permitted and objections, if any, shall be formulated against the proposed membership as a whole.***

(3) *A Member shall not be a member of a committee of the County Assembly, unless the nomination of such Member into the committee is approved by the County Assembly.*

Composition of select committees

160. *Subject to any written law, these Standing Orders or a resolution of the County Assembly, a select committee shall consist of an odd number of members.*

Mr. Speaker, Sir

Standing Order No. 196 (1), (2) and (3) provide for the establishment and appointment of Members to Sectoral Committees as follows:

Appointment of Sectoral Committees

196. (1) *There shall be select committees to be known as Sectoral Committees the members of which shall be nominated by the County Assembly Committee on Selection in consultation with County Assembly parties at the commencement of every County Assembly.*

(2) *The Committee shall consist of a Chairperson, and **not more than ten** other members*

(3) *A member appointed to a Sectoral committee at the commencement of a County Assembly or at any other time during the term of a County Assembly shall, **unless the County Assembly otherwise resolves**, serve for the term of that County Assembly.*

107

4.0 RECONSTITUTION OF COMMITTEES

Mr. Speaker, Sir

Upon careful considerations, the Committee on Selection nominated Honourable Members to various County Assembly Committees as hereunder:

PART A: SELECT COMMITTEES

I. COMMITTEE ON DELEGATED LEGISLATION

1. Hon. Nyangana Julius Obonyo
2. Hon. Gisesa Emmanuel Nyambega
3. Hon. Mang'era Josiah Obegi
4. Hon. Mokora Priscillah Nyatichi
5. Hon. Omwoyo Michelle Kemuma
6. Hon. Nyakang'i Jeriah Kerubo
7. Hon. Sikweya Lameck Nyakianga
8. Hon. Abere Elijah Sagwe
9. Hon. Marwa Martha Kerubo
10. Hon. Keganda Charles Nyarang'o
11. Hon. Benecha Vincent Thomas

II. COMMITTEE ON IMPLEMENTATION

1. Hon. Obwaya Henry Onsinyo
2. Hon. Miinda Reuben Riechi
3. Hon. Matundura Zipporah Kerubo
4. Hon. Mabera Alfayo Ngeresa
5. Hon. Nyanduko Abigael Matini
6. Hon. Benecha Thomas Vincent
7. Hon. Juma Evans Matunda
8. Hon. Momanyi Thaddeus Nyabaro
9. Hon. Omwoyo Michelle Kemuma
10. Hon. Nyaribo Dennis Kebaso
11. Hon. Atunga Josephine

III. COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

1. Hon. Mose Abel Mokaya
2. Hon. Nyang'au Joel Ombongi
3. Hon. Mosiere Lydia Nyaboke
4. Hon. Nyakundi Jenrose Nafula
5. Hon. Onyancha Beatrice Kerubo

6. Hon. Obara Ednah Moraa
7. Hon. Oyagi Duke Masira
8. Hon. Nyameino Kenneth Atuti
9. Hon. Miinda Reuben Riechi
10. Hon. Mating'a James Nyachaki
11. Hon. Nyamanga Doris Magoma

IV. COUNTY BUDGET AND APPROPRIATIONS COMMITTEE

1. Hon. Masira Duke Oyagi
2. Hon. Abuga George Morara
3. Hon. Mabera Alfayo Ngeresa
4. Hon. Obwaya Henry Onsinyo
5. Hon. Nyangana Julius Obonyo
6. Hon. Nyaribo Dennis Kebaso
7. Hon. Juma Evans Matunda
8. Hon. Ogeto Samuel G.
9. Hon. Mokora Priscilla Nyatichi
10. Hon. Omwoyo Michelle Kemuma
11. Hon. Atunga Josephine

V. COUNTY PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE

1. Hon. Nyameino Kenneth Atuti
2. Hon. Nyamanga Doris Magoma
3. Hon. Nyarang'o Charles Keganda
4. Hon. Masira Duke Oyagi
5. Hon. Nyachaki James Mating'a

PART B: SECTORAL COMMITTEES

VI. AGRICULTURE, LIVESTOCK AND FISHERIES

1. Hon. Obwaya Henry Sydney
2. Hon. Abuga George Morara
3. Hon. Ndubi Thaddeus Nyabaro
4. Hon. Mating'a James Nyachaki
5. Hon. Mang'era Josiah Obegi
6. Hon. Matunda Evans Juma
7. Hon. Matundura Zipporah Kerubo
8. Hon. Mokora Priscilla Nyatichi
9. Hon. Nyanduko Abigael Matini
10. Hon. Nyaribo Dennis Kebaso
11. Hon. Mose Abel Mokaya

VII. EDUCATION AND VOCATIONAL TRAINING

1. Hon. Benecha Thomas Vincent
2. Hon. Matwere Julius Kimwomi
3. Hon. Ndubi Thaddeus Nyabaro
4. Hon. Nyachaki James Mating'a
5. Hon. Nyanduko Abigael Matini
6. Hon. Obara Ednah Moraa
7. Hon. Ogeto Samwel G.
8. Hon. Nyamanga Doris Magoma
9. Hon. Nyameino Kenneth Atuti
10. Hon. Onyancha Beatrice Kerubo
11. Hon. Sikweya Lameck Nyakianga

VIII. ENVIRONMENT, WATER, ENERGY, CLIMATE CHANGE AND NATURAL RESOURCES

1. Hon. Nyaribo Dennis Kebaso
2. Hon. Mang'era Josiah Obegi
3. Hon. Masira Duke Oyagi
4. Hon. Ndubi Thaddeus Nyabaro
5. Hon. Nyamanga Doris Magoma
6. Hon. Nyangana Julius Obonyo
7. Hon. Matundura Zipporah Kerubo
8. Hon. Nyang'au Joel Ombongi
9. Hon. Mogaka Dickson Machungo
10. Hon. Nyameino Kenneth Atuti

IX. FINANCE, ICT AND ECONOMIC PLANNING

1. Hon. Matunda Evans Juma
2. Hon. Keganda Charles Nyarang'o
3. Hon. Omwoyo Michelle Kemuma
4. Hon. Mogaka Dickson Machungo
5. Hon. Nyaribo Dennis Kebaso
6. Hon. Obwaya Henry Onsinyo
7. Hon. Ogeto Samwel G.
8. Hon. Atunga Josephine
9. Hon. Marwa Martha Kerubo
10. Hon. Minda Reuben Riechi
11. Hon. Abere Elijah Sagwe

X. SPORTS, GENDER, CULTURE AND SOCIAL SERVICES

1. Hon. Mokora Priscillah Nyatichi
2. Hon. Abere Elijah Sagwe
3. Hon. Benecha Thomas Vincent
4. Hon. Miinda Reuben Riechi
5. Hon. Michelle Kemuma Omwoyo
6. Hon. Mogaka Dickson Machungo
7. Hon. Mose Abel Mokaya
8. Hon. Nyachaki James Mating'a
9. Hon. Nyakang'i Jeriah Kerubo
10. Hon. Obwaya Henry Onsinyo
11. Hon. Ogeto Samwel G.

XI. HEALTH SERVICES

1. Hon. Keganda Charles Nyarang'o
2. Hon. George Morara Abuga
3. Hon. Atunga Josephine
4. Hon. Masira Duke Oyagi
5. Hon. Mokora Priscillah Nyatichi
6. Hon. Nyameino Kenneth Atuti
7. Hon. Nyanduko Abigael Matini
8. Hon. Nyangana Julius Obonyo
9. Hon. Nyaribo Dennis Kebaso
10. Hon. Mang'era Josiah Obegi
11. Hon. Obwaya Henry Onsinyo

XII. LANDS, PHYSICAL PLANNING & URBAN DEVELOPMENT

1. Hon. Machungo Dickson Mogaka
2. Hon. Nyangana Julius Obonyo
3. Hon. Abuga George Morara
4. Hon. Ndubi Thaddeus Nyabaro
5. Hon. Atunga Josephine
6. Hon. Keganda Charles Nyarang'o
7. Hon. Mabera Alfayo Ngeresa
8. Hon. Masira Duke Oyagi
9. Hon. Matwere Julius Kimwomi
10. Hon. Omwoyo Michelle Kemuma
11. Hon. Mokora Priscillah Nyatichi

111

XIII. PUBLIC SERVICE MANAGEMENT

1. Hon. Gisesa Emmanuel Nyambega
2. Hon. Maberera Alfayo Ngeresa
3. Hon. Matunda Evans Juma
4. Hon. Matwere Julius Kimwomi
5. Hon. Nyachaki James Mating'a
6. Hon. Ogeto Samwel G.
7. Hon. Mose Abel Mokaya
8. Hon. Nyakang'i Jeriah Kerubo
9. Hon. Nyakundi Jenrose Nafula
10. Hon. Onyantha Beatrice Kerubo
11. Hon. Sikweya Lameck Nyakianga

XIV. TRANSPORT, ROADS AND PUBLIC WORKS

1. Hon. Benecha Thomas Vincent
2. Hon. Abuga George Morara
3. Hon. Gisesa Emanuel Nyambega
4. Hon. Atunga Josephine
5. Hon. Keganda Charles Nyarang'o
6. Hon. Masira Duke Oyagi
7. Hon. Nyamanga Doris Magoma
8. Hon. Nyameino Kenneth Atuti
9. Hon. Nyangana Julius Obonyo
10. Hon. Miinda Reuben Riechi
11. Hon. Omwoyo Michelle Kemuma

XV. TRADE, INVESTMENTS, TOURISM AND COOPERATIVES DEVELOPMENT

1. Hon. Maberera Alfayo Ngeresa
2. Hon. Benecha Thomas Vincent
3. Hon. Gisesa Emanuel Nyambega
4. Hon. Mang'era Josiah Obegi
5. Hon. Matundura Zipporah Kerubo
6. Hon. Miinda Reuben Riechi
7. Hon. Mosiere Lydia Nyaboke
8. Hon. Nyakang'i Jeriah Kerubo
9. Hon. Nyamanga Doris Magoma
10. Hon. Nyanduko Abigael Matini
11. Hon. Nyang'au Joel Ombongi

5.0 COMMITTEE RECOMMENDATIONS

Mr. Speaker, Sir

The Committee recommends;

That: -

The House considers and adopts the report of the Selection Committee on Reconstitution of County Assembly Committees.

113

Annex 18@

REPUBLIC OF KENYA
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL AT KISUMU
PPDTC NO. E004 OF 2024

LAMECK SIKWEYA ONYANCHA.....1ST PLAINTIFF
JOEL NYANGAU OMBONGI.....2ND PLAINTIFF

-VERSUS-

MAJORITY WHIP COUNTY ASSEMBLY OF NYAMIRA.....1ST DEFENDANT
MINORITY WHIP COUNTY ASSEMBLY OF NYAMIRA2ND DEFENDANT
COUNTY ASSEMBLY OF NYAMIRA.....3RD DEFENDANT

RULING

Introduction

1. The Plaintiffs herein approached this Honourable Court vide a notice of motion application dated 20th September, 2024 seeking orders inter-alia:

- a) Spent.
- b) *The Honourable court do issue a temporary injunction pending the inter parties hearing and determination of this Application against the Respondents their agents, servants, employees from removing the Applicants from the offices as members of County Assembly Service Board, Nyamira County.*
- c) *The Honourable court do issue a temporary injunction pending the inter parties hearing and determination of this Application ordering the Respondents their agents, servants, employees to reinstate the Applicants back to the offices as members of County Assembly Service Board, Nyamira County.*
- d) *The Honourable court do issue a temporary injunction pending the inter parties hearing and determination of this Application against the Respondents their agents, servants, employees barring them from assuming the offices held by the Applicants as member of County Assembly Service Board, Nyamira County.*
- e) *The Honourable court do issue a temporary injunction pending the inter parties hearing and determination of this Application against the Respondents their agents, servants, employees to cease from interfering with the affairs of offices held by the Applicants as members of County Assembly Service Board, Nyamira County.*
- f) *The costs of this Application be provided for.*

114

2. On 24th September, 2024, this Honourable Court certified the matter urgent and issued orders 2, 3 and 4 and proceeded to set the matter for further directions on 3rd October, 2024.
3. The 1st and 2nd Defendants filed a Notice of Preliminary Objection dated 2nd Defendant, 2024. The same was canvassed by way of oral submissions on 15th October, 2024.

Analysis and Determination

4. The following issues crystallize for determination:
 - i. *Whether this Tribunal has jurisdiction to hear and determine the Complaint;*
 - ii. *Who bears the costs of the Application.*
1. *Whether this Tribunal has jurisdiction to hear and determine the Complaint*
5. The primary issue for determination before this Tribunal is whether it has the jurisdiction to hear and determine the present matter. The 1st and 2nd Defendants have raised a preliminary objection challenging this Tribunal's jurisdiction on two grounds:
 - a. *This matter does not fall within the provisions of Section 40(1)(a), (b), (c), (d), (e), (f) and/or (fa) of the Political Parties Act; and*
 - b. *(b) The Plaintiffs/Applicants have not complied with the Provisions of Section 40(2) of the Political Parties Act.*
6. It is a well-established principle that jurisdiction is everything and without it, a court or tribunal cannot take a single step. As held in the *Owners of Motor Vessel "Lillian S" v Caltex Oil (Kenya) Ltd [1989] KLR 1*, a court must first satisfy itself that it has jurisdiction before proceeding to hear any matter.
7. It is thus imperative that before any other determination/action is taken the Political Parties Dispute Tribunal confirms that it is properly seized of the matter.
8. We shall proceed to analyse the grounds raised by the Respondents as hereunder.

9. The first limb of the Preliminary Objection challenges this Tribunal's jurisdiction under Section 40(1) of the Political Parties Act.

10. We note that Section 40 of the Political Parties Act (PPA) provides for the jurisdiction of the Tribunal as follows;

"(1) The Tribunal shall determine—

- (a) disputes between the members of a political party;*
- (b) disputes between a member of a political party and a political party;*
- (c) disputes between political parties;*
- (d) disputes between an independent candidate and a political party;*
- (e) disputes between coalition partners; and*
- (f) appeals from decisions of the Registrar under this Act;*
- (g) disputes arising out of party primaries.*

11. The Act, further in subsection (2) of section 40, gives a condition for the jurisdiction of the Tribunal with regard to disputes covered in (a), (b), (c), and (e), to have them first subjected to internal political party dispute resolution mechanisms.

12. The dispute before us is between the members of the County Assembly Service Board, the Majority and Minority Whips of the County Assembly, and the County Assembly itself. These parties are not listed under Section 40(1) of the PPA as falling within the Tribunal's jurisdiction.

13. To buttress this, we reiterate the Supreme Court's decision in Samuel Kamau Macharia & Another v Kenya Commercial Bank Limited & 2 Others [2012] eKLR, where the Court held:

"A court's jurisdiction flows from either the Constitution or legislation or both. Thus, a court of law can only exercise jurisdiction as conferred by the constitution or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law." (emphasis ours)

14. We cannot arrogate ourselves jurisdiction where clearly there is none. The issue of jurisdiction is key as it is everything. Indeed, the learned court did in R v. Karisa Chengo [2017] eKLR, determine that;

"By jurisdiction is meant the authority which a Court has to decide matters that are litigated before it or take cognizance of matters presented in a formal way for its decision. The limits of this authority are imposed by the statute, charter or commission under which the Court is constituted, and may be extended or restricted by like means.

If no restriction or limit is imposed, the jurisdiction is said to be unlimited. A limitation may be either as to the kind and nature of the actions and matters of which the particular Court has cognizance or as to the area over which the jurisdiction shall extend, or it may partake both these characteristics...where a Court takes upon itself to exercise a jurisdiction which it does not possess, its decision amounts to nothing. Jurisdiction must be acquired before judgment is given."

15. The Complainants have sued the Respondents who are in themselves not political parties. In any event, if at all the alleged actions were taken by the Respondents by their capacities as officials of their respective political parties, then the correct cause of action ought to first lie against the respective political parties.
16. Furthermore, the membership and removal of members from the County Assembly Service Board is provided for under the County Governments Act, not the Political Parties Act. The actions complained of, namely the removal from the County Assembly Service Board, is not a dispute between members of a political party.
17. It is not in dispute that the membership and removal thereof of the County Assembly Service Board is provided for under the County Governments Act. In fact, the Complainants cited the provisions of the Act under Section 12 to state the removal procedure of a member of the said Board.
18. Further, to the foregoing, we therefore reach the inescapable finding that the dispute before us is not one contemplated within Section 40 of the Political Parties Act. It is clear to us that the appointing procedure and the removal of the Members of the County Assembly Service Board resides with the County Assembly and the parties thereunder. The actions complained of in this, that is, removal from the County Assembly Service Board, is not a dispute between members of a political party.

19. Therefore, flowing therefrom, that dispute would be one ideal to be dealt with the IDRMs set out under the respective parties' coalition under their respective constitutions or coalition agreements in line with Section 40 (2).

20. Consequently, it is our finding that we are bereft of jurisdiction, and as per Nyarangi J, we must down our tools and make no step further.

Findings

From the foregoing, we make the following findings;

- a) We find that this Tribunal is not properly seized of jurisdiction and we accordingly uphold the Preliminary Objection.
- b) Consequentially, the Complaint be and is hereby struck out for want of jurisdiction.
- c) As for the costs, we order that each of the parties herein bears their own costs.
- d) Having found that we have no jurisdiction, consequently we had no jurisdiction to issue the interim orders issued on 24th September, 2024, we thus proceed to discharge them.
- e) Further, this Tribunal notes that the Complainants had filed an application for Contempt dated 9th October, 2024. Consequently, having found that this Tribunal has no Jurisdiction to hear and determine the matter, we proceed to dismiss the same with no orders as to costs.

Disposition

21. In light of the foregoing, we the following orders issue;
- a) *The Preliminary Objection is upheld, and the Complaint is hereby struck out for want of jurisdiction.*
 - b) *The interim orders issued by the Tribunal on 24th September, 2024, are hereby discharged.*
 - c) *The Complainants' application for Contempt dated 9th October, 2024, is dismissed with no orders as to costs.*
 - d) *Each party shall bear their own costs.*

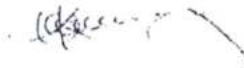
118

22. It is so ordered.

Dated at Nairobi and delivered virtually this 7th day of November, 2024



Hon. Dr. Wilfred Mutubwa OGW CI Arb
Vice Chairperson - Presiding



Hon. Gad Gathu
Member



Hon. Theresa Chepkwony
Member

119

Annex 18(b)



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT KISUMU

PETITION NO. E002 OF 2024

LEONARD OKARI MOGARU.....1ST PETITIONER

EDITH NYABOKE.....2ND PETITIONER

VERSUS

SPEAKER COUNTY ASSEMBLY OF NYAMIRA.....1ST RESPONDENT

NYAMIRA COUNTY ASSEMBLY.....2ND RESPONDENT

DUKE SIMEON ONYARI.....3RD RESPONDENT

AND

NYAMIRA COUNTY ASSEMBLY SERVICE
BOARD.....1ST INTERESTED PARTY

AG. CLERK COUNTY
ASSEMBLY NYAMIRA.....2ND INTERESTED PARTY

JUDGMENT

1. The Petitioners herein were appointed as members of the Nyamira County Assembly Board through Gazette Notice No. 14017 on 1st

November 2022. However, their tenure faced a challenge when, on 21st November 2024, Hon. Doris Nyamanga, a member of the Nyamira County Assembly, introduced a motion seeking the revocation of their appointments. The motion was based on alleged violations of the Constitution and the Petitioners' inability to discharge their duties. Following this motion, the 3rd Respondent issued summons dated 26th November 2024, requiring the Petitioners to appear before the County Assembly to respond to the allegations.

2. At the same time, the Petitioners received communication from the 2nd Interested Party, stating that the 3rd Respondent lacked the authority to issue such summons as he was under suspension. Despite this, on 28th November 2024, the 2nd and 3rd Respondents conducted a plenary hearing that resulted in the removal of the Petitioners from office. Subsequently, the Petitioners' positions were advertised. Feeling aggrieved by their removal and believing it to be unlawful and unconstitutional, the Petitioners filed this petition seeking the following reliefs:

- a) A declaration that the Respondents in purporting to summon and, *ipso facto*, constructively purport to revoke the appointment of the

petitioners as Members of the County Assembly Service Board in the absence of any Petition in the manner pleaded herein acted in contravention of Articles 1(1), 3, 10, 22, 23, 27, 28, 41(1), 47, 48, 50, 124, 159, 165, 178(3) and 258 of the Constitution of Kenya, 2010; sections 3, 4, 6, 7 and 11 of the Fair Administrative Action Act [Cap.7 Laws of Kenya], sections 10(2) of the County Governments Act [Cap. 265 Laws of Kenya] and in contravention of fundamental rules of natural justice and fairness;

- b) A declaration that the 3rd Respondents' acts purporting to summon with intention to revoke the Petitioners appointment in the manner pleaded herein violated the Petitioners' rights to due process, fair hearing and fair administrative action;
- c) A declaration that the letter dated 26th November 2024 by the 3rd Respondent herein is illegal, unlawful, null and void and thus of no consequence and the same be and is hereby quashed as the 3rd Respondent had no capacity to issue the said notice.
- d) A declaration that the sitting and resolution of 28th November 2024 by 2nd Respondent culminating to the purported removal of the Petitioners herein from office as the external County Assembly

Service Board Members is illegal, unlawful and violates the Petitioners' rights thus void.

- e) Orders of permanent injunction restraining the Respondents from attempting to revoke the appointment of the Petitioners from office as the County Assembly Service Board Members in a manner and procedure other than the one articulated under section 10 of the County Assembly Service Act.
- f) An order that Respondents be condemned to pay costs of this petition.
- g) Such other further, appropriate and consequential orders and reliefs as this Honourable court may lawfully make.

3. The Petitioners argued that the 3rd Respondent had no mandate to summon them, as he had been suspended. They also contended that Gazette Notice No. 14273 of 30th October 2024 affirmed their positions as board members. Furthermore, they maintained that the 2nd Interested Party was duly appointed as the Acting Clerk of the Assembly and as Secretary to the board via Gazette Notices Nos. 14230 of 26th October 2024 and 14273 of 30th October 2024, respectively.

4. In response, the 2nd and 3rd Respondents filed a replying affidavit dated 13th December 2024, sworn by the 3rd Respondent. He asserted that he was the Acting Clerk of the Nyamira County Assembly and Secretary to the County Assembly Service Board by virtue of Gazette Notice No. 13376 of 9th October 2024. He further asserted that Gazette Notices Nos. 14273 and 14230, appointing the Petitioners and the 2nd Interested Party, published by Hon. Enock Okero Ogori, the impeached former speaker, were subsequently stayed by the High Court in Nyamira through Judicial Review Case No. E007 of 2024 on 29th November 2024. The 3rd Respondent maintained that the removal process followed the law and that instead of appearing before the 2nd Respondent to respond to the motion, the Petitioners opted to file a petition before the Nyamira High Court, which was struck out *in limine*. It was the 3rd Respondent's contention that since there was no court order barring the debate, the motion proceeded, and the Petitioners' removal was approved. He concluded by asserting that no constitutional rights of the Petitioners were infringed upon.
5. As for the 1st Respondent, the 1st Interested Party and the 2nd Interested Party a replying affidavit sworn by the 2nd Interested Party dated 23rd

January 2025 was filed in support of the Petition. The 2nd Interested Party reaffirmed that he was the Acting Clerk of the Nyamira County Assembly as per Gazette Notice No. 14230 of 20th October 2024. He deponed that conservatory orders issued through **Nyamira HC Pet. E008 of 2024** allowed Hon. Enock Okero Ogori to continue discharging his duties as speaker. The 1st Interested Party further deponed that the 2nd and 3rd Respondents' action of tabling and passing the motion to impeach Hon. Enock Okero Ogori as speaker was deemed contempt of court via a ruling of the High Court on 4th November 2024 in **Nyamira HC PET E008 of 2024**. Moreover, he argued that all proceedings related to the revocation of the Petitioners' appointments were null and void. The 2nd Interested Party maintained that the County Assembly had adjourned *sine die* on 28th November 2024, rendering any subsequent business, including the Petitioners' removal, unlawful. He also asserted that the 3rd Respondent was not authorized to issue summons to the Petitioners as he was suspended on 25th October 2024. The petition was canvassed by way of written submissions.

Petitioners' Submissions

6. The Petitioners submit that the 2nd and 3rd Respondents violated their right to a fair trial and unlawfully removed them from office in contravention of the Constitution, the Fair Administrative Actions Act, the County Governments Act, and the County Assembly Service Act. They submit that Article 10 of the Constitution requires the Respondents to uphold the rule of law in the removal process. Additionally, they invoke section 7 of the Fair Administrative Actions Act, which allows for the review of administrative action if it was carried out by an unauthorized person, if the affected party was denied an opportunity to present their case, or if the requisite lawful procedure was not followed.

7. They submitted that there were irregularities in their removal and that the County Assembly Services Act stipulates that removal must be initiated through a petition from a member of the public, not a motion by a Member of the County Assembly. They assert that the 2nd and 3rd Respondents improperly used a motion, in violation of the Standing Orders of the County Assembly. They cite Standing Order 199 which defines a petition as a written request from a member of the public asking the County Assembly to consider a matter within its authority.

Additionally, the Petitioners submit that the 2nd and 3rd Respondents were barred from proceeding with the 1st Respondent's impeachment due to conservatory orders from the High Court that had halted impeachment proceedings. They refer to Standing Order 87, which prohibits the Assembly from deliberating on matters that are actively before the courts.

8. On the issue of a fair hearing, the Petitioners submit that the 1st and 2nd Respondents disregarded standing order 65(1)(a) on appearance before the County Assembly and their entitlement to legal representation. Furthermore, they assert that the 3rd Respondent's action of inviting them to appear before the 2nd Respondent while he was on suspension was ultra vires. As for Gazette Notice 13376 dated 9th October 2024, which the Respondents relied upon, the Petitioners submit that it was flawed and inconsistent with the law. They assert that it was inconceivable the Gazette Notice could be published yet the Respondents themselves admitted that the speaker was officially removed on 24th October 2024. Additionally, they draw attention to Gazette Notice 14051 of 2024 which indicated that an election for the Speaker was scheduled for 31st October 2024.

9. In further support of their case the Petitioners submit that the removal process – whether by petition or motion – requires the participation of the Speaker. They rely on Standing Order 4(2) of the Nyamira County Standing Orders, which bars the County Assembly from conducting business in the absence of a Speaker. They emphasize that the purported election of the Speaker on 31st October 2024 never took place. To support this position, they cite the case of **Michael Sistu Mwaura Kamau v Ethics & Anti-Corruption Commission & 4 others** [2017] eKLR, where it was held that a body not properly constituted cannot lawfully carry out its mandate. They further submit that any entity exceeding its legally delegated powers is subject to the court's supervisory jurisdiction, relying on the decisions in **Republic v Non-Governmental Organizations Coordination Board Ex-parte Evans Kidero Foundation** [2017] eKLR and **Law Society of Kenya v Centre for Human Rights and Democracy & 13 others** [2013] KECA 172 (KLR).

10. The Petitioners submit that their removal contravened Article 41 of the Constitution and sections 5(3), 35, 43, and 45 of the Employment Act, which safeguard against unfair dismissal. They also cite Article 236(b)

of the Constitution, which mandates adherence to due process in the removal of public officers from office. Accordingly, they assert that they have sufficiently demonstrated the unlawfulness of their removal and, therefore, urge the court to grant the petition as prayed.

1st Respondent, 1st & 2nd Interested Parties' Submissions

11. The 1st Respondent and the 1st and 2nd Interested Parties submit that the Petitioners' removal process was fundamentally flawed and legally defective. They assert that the 3rd Respondent lacked the authority to act on behalf of the 2nd Respondent or the 1st Interested Party. To support this position, they reference key documents, including the 3rd Respondent's suspension letter dated 25th October 2024, the show cause notice issued on 4th November 2024, and the handover letter of the same date. Furthermore, they cite section 7 of the Fair Administrative Actions Act, which highlights the grounds on which administrative actions may be reviewed. They submit that the Petitioners' stance is the correct one and submit that the Petitioners' removal could not lawfully occur in the absence of a speaker. They further stress that since the County Assembly had been adjourned *sine die* on 28th November 2024, it lacked the authority to conduct any

official business. Consequently, they assert that the removal process was *ultra vires* and violated the Petitioners' rights. Granted the foregoing, they urge the Court to grant the amended petition as prayed.

2nd & 3rd Respondents' Submissions

12. On their part the 2nd and 3rd Respondents identify the following issues for determination:

- a) Whether the Petitioners were validly removed as members of the Nyamira County Assembly
- b) Who should bear the costs of the Petition.

13. On the first issue the 2nd and 3rd Respondents submit that the Petitioners were given an opportunity to present their case. They assert that by choosing to ignore the invitation and instead filing suit at the High Court in Nyamira, the Petitioners forfeited their right to claim that they were denied a fair hearing. Additionally, they assert that no court orders were in place to prevent debate on the removal motion. They submit further that in the Amended Petition, the Petitioners did not cite any specific standing orders that were allegedly violated. As

such, introducing these claims at the submission stage amounted to trial by ambush and sharp practice – conduct they assert should not be condoned by the Court. Regarding the mode of removal, the 2nd and 3rd Respondents maintain that whether the Petitioners were removed through a petition or a motion is inconsequential. They emphasize that the focus should be on the substance of the document rather than its title. They assert that the notice of proposed motion presented by Doris Nyamanga was, in substance, a petition. To support this, they reference the definition of a petition from **Black's Law Dictionary, 2nd Edition** as follows:

"A written address, embodying an application or prayer from the person or persons preferring it, to the power, body, or person to whom it is presented, for the exercise of his or their authority in the redress of some wrong,"

14. Concerning the status of the 3rd Respondent, the 2nd and 3rd Respondents maintain that he was the Acting Clerk of the Nyamira County Assembly. They refer to Gazette Notices 14017 of 2022 and 13376 of 2024, the latter of which retained him as Secretary of the Board. Furthermore, they submit that he was formally confirmed as

Clerk on 19th December 2024. Conversely, they affirm that Enock Ogori was impeached on 24th October 2024 hence lacked the authority to suspend the 3rd Respondent after that date. Additionally, they assert that the 2nd Respondent's actions carry a presumption of legality unless proven otherwise, meaning the impeachment remains valid unless overturned by a court. To buttress this argument, they highlight Enock Ogori's attempt to run parallel County Assembly proceedings, including publishing Gazette Notices 14229, 14230, and 14273 of 2024, all of which were stayed by the Nyamira High Court.

15. On the issue of the 2nd Respondent's sittings being adjourned *sine die* the 2nd and 3rd Respondents submit that the adjournment was unlawful. They assert that the Gazette Notice 15844 of 2024, which purported to suspend the sittings, was issued by the impeached former Speaker, Hon. Enock Ogori. Moreover, they affirm that the notice was backdated from 29th November 2024 to 28th November 2024 in an attempt to create the false impression that the sittings had already been adjourned before the debate on the Petitioners' removal took place.

16. To substantiate their position that Hon. Enock Ogori was indeed impeached, they point out that he filed Kisii ELRC Pet No. E001 of 2024 on 25th October 2024, challenging his impeachment- a case that remains pending. Consequently, they submit that the sitting of the 28th November 2024 approving the Petitioners' removal was regular. On the issue of costs, the 2nd and 3rd Respondents urge the court to award them costs to recover expenses incurred in defending this suit. They further rely on the precedent set in *Jasbir Singh Rai & 3 others v Tarlochan Singh Rai & others* [2014] eKLR, which establishes that costs follow the event. In conclusion they urge the court to dismiss the petition with costs.

17. The Court has considered the law, the pleadings filed and the submissions made herein to come to this decision. The issues for determination are twin:

- a. Whether this Court has jurisdiction to handle the Petition
- b. If the answer to the above is in the affirmative:
 - i. Whether the Petitioners were validly removed as members of the Nyamira County Assembly.
- c. Who should bear the costs of the Petition.

18. Jurisdiction is everything. Without it, a court has no power or authority to take one more step. See the celebrated case of Owners of Motor Vessel "Lilian S" v Caltex Oil Kenya Limited [1989] KLR 1. In the case of Lemita Ole Lemein v Attorney General & 2 others [2020] eKLR, Karanja JA stated that:

"In my view, jurisdiction is primordial and must exist right from the filing of a case to determination. The issue of jurisdiction need to be raised by the parties to a suit for the court to address its mind to it. It is incumbent upon every judicial or quasi-judicial tribunal or court to satisfy itself that it has jurisdiction to entertain a matter before settling down to hear it. In essence, therefore, a court or tribunal should not wait for a party to move it on the issue of jurisdiction for it to determine the issue. The court can suo mottu determine the issue even without being prompted by a party. Just like you cannot confer jurisdiction even by consent of the parties, you cannot confer jurisdiction even by consent of the parties, you cannot confer jurisdiction by ignoring the issue or sidestepping it. It is omnipresent and cannot be wished away. Moreover, it being a point of law, the issue of jurisdiction can also be raised at any stage; in the trial court, first appeal, or even on second or third appeal." [Emphasis supplied]

19. From the decision of the Learned Judge of Appeal, the matter of jurisdiction is very fundamental to a suit. It can be raised even by the Court itself. The issue of removal of removal of County Assembly Service Board Members is provided for in Article 252 of the Constitution of Kenya. The Court of Appeal HM Okwengu, HA Omondi, JM Ngugi JJA held on 7th February 2025 in the case of **Governor, County Government of Kakamega & 4 others v Omweno & 12 others [2025] KECA 190 (KLR)** held that

26. *We have keenly looked at the record of the superior court, the pleadings by the parties and their submissions before us. It is impossible to deny that this is not a plain vanilla employment dispute between the members of the County Service Board and the County Assembly of Kakamega. Indeed, there is a real question whether the members of the County Service Board can, strictu sensu, be said to be employees for purposes of the ELRC Act. What is readily obvious is that the dispute is about the appropriate constitutional and statutory procedures and thresholds for the removal of members of a County Service Board. Implicated in that inquiry, is the question whether, for example, the Evidence Act has application to proceedings for the removal of members of the County*

Assembly Board or any constitutional body whose removal is regulated by Article 251 of the Constitution. It seems obvious to us that what the Constitution and the Statute envisaged is not an employment disciplinary hearing in order to remove the Chair or a member of the County Assembly Board.

By making reference to Article 251 of the Constitution, the Statute is making clear that a constitutional process is intended. Such a constitutional process is not subject to the rules of employment law and disciplinary procedures but to rules attending to constitutional processes. Any person aggrieved by such a process – whether a participant or a public spirited individual – can seek redress – not at the Employment and Labour Relations Court but at the High Court. Differently put, the law envisages that any matters related to the appointment and removal of constitutional office holders – including holders of offices which are derivative of constitutional provisions such as County Service Board members – are to be ventilated as constitutional questions before the High Court and not as labour and employment issues before the ELRC.

Later in the same decision

136

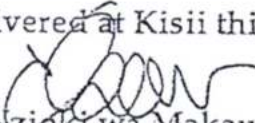
30. We are of the view that by parity of reasoning, the questions presented in the consolidated appeals before us do not fall within the meaning of disputes related to employment and labour relations and that, therefore, the ELRC did not have jurisdiction to deal with the petition before it and should have allowed the preliminary objection pursued by the respondents before it. The matter should have been appropriately before the High Court which has unlimited subject matter jurisdiction. [underline for emphasis]

20. The above clearly demonstrates that the Court herein is divested of jurisdiction to handle the dispute as to do so would fly in the face of the Court of Appeal decisions which have a direct connection with this matter. The removal procedure implicated in the subject matter precipitating the appeals before the Court of Appeal were extremely similar to the one before me. My sister Keli J. held she had jurisdiction to handle the Petitions on removal of Kakamega County Assembly Chair and Members in the case of **Omweno & 3 others v Governor, County Government of Kakamega & 4 others; Wanyama & another (Interested Parties) (Petition E008 of 2023) [2024] KEELRC 1384 (KLR) (6 June 2024) (Judgment)** prompting the determination of the Court of

Appeal extensively reproduced above. As I have no jurisdiction I down my tools and will not examine any other aspects of the case including the orders previously obtained in Nyamira High Court, their import and the reliefs the Petitioners could have been entitled to. The Petition is dismissed with an order that each party bears their own costs.

It is so ordered.

Dated and delivered at Kisii this 25th day of March 2025


Nzioki wa Makau, MCI Arb.

JUDGE

Annex 19

Facility Improvement Fund Board for a period of three years with effect from the date herein.

SCHEDULE

	Position
Dikunju	Chairperson
Secretary	Secretary
	Ex-officio Member
Director of Medical Services	Ex-officio Member
Wanjau	Youth Representative
Wachira	PWDs Representative
Wambui	Professional Body Representative
Njagi	Gender Representative
Wakori's	Representative from Health Care

10th September, 2024

GEORGE KAROKI,
CECM for Medical Services,
Public Health and Sanitation.

Notice No. 13374

COUNTY GOVERNMENT'S ACT
(No. 17 of 2012)

THE COUNTY GOVERNMENT OF VIHIGA
ALCOHOLIC DRINKS REGULATIONS
ADMINISTRATIVE REVIEW COMMITTEE

APPOINTMENT

Notified for information of the general public that in the exercise of powers conferred upon me by Article 183 (c) of the Constitution, sections 36 of the County Governments Act, 2012 and sections 10 (2) (a)-(g) of the Vihiga County Alcoholic Drinks Regulations, 2014, the County Executive Committee Member for Health Management and ICT, appoints the persons whose names are specified in the First Column of the table below to be members of the Vihiga County Alcoholic Drinks Regulations Administrative Review Committee pursuant to the provision of the Act. The names specified in the Second Column under the category specified in the Third Column for a period of three (3) years, effective from the date of appointment. The Committee shall be responsible for the functions specified in section 10 of the Act. The appointment, shall remain valid as long as the officer remains in the service of the organization or authority from which the appointment was made and or is renewed in accordance with the prescribed procedure.

Member	Provision	The Category
	under paragraph (a)	Chief Officer-The Chairperson
	under paragraph (b)	County Public Health Officer
	under paragraph (c)	Director of Alcoholic Drinks control Directorate- ex-officio member
	under paragraph (d)	Deputy County Commissioner
	under paragraph (e)	County Physical planner
	under paragraph (f)	Advocate of the High Court
	under paragraph (g)	A resident of the County
	under paragraph (g)	A resident of the County
	under paragraph (g)	A resident of the County

10th October, 2024.

NICHOLAS MWANDIHI (DR.),
CECM, Public Service Management and ICT.

GAZETTE NOTICE NO. 13375

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
THE NYERI COUNTY HEALTH SERVICES FUND ACT
(No. 1 of 2021)
COUNTY GOVERNMENT OF NYERI
NYERI COUNTY HEALTH SERVICES FUND BOARD

APPOINTMENT

PURSUANT to the Fourth Schedule Part 2 (2), (a) and (c) of the Constitution, section 36 (1) (a) and (c) of the County Governments Act as read together with section 6 of the Nyeri County Health Services Fund Act, 2021, the County Executive Committee Member for Health Services appoints—

Moses Gachanja Githinji	Secretary
Adan Edin Ibrahim	Member
Dr. Nelson Mwangi Muriu	Member
John Ngugi Mungai	Member
Anthony Maina Mithanga	Member
Maryann Njoki Gikunju	Member
Joseph Mathenge Kareru	Member
Peter Kiama Maina	Member

to be Members of the Nyeri County Health Services Fund Board, for a period of three (3) years, with effect from the date herein.

Dated the 7th October, 2024.

JOSEPH M KIRAGU,
CECM, Health Services.

MR/6533326

GAZETTE NOTICE NO. 13376

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
THE COUNTY ASSEMBLY SERVICE ACT
(No. 24 of 2017)
NYAMIRA COUNTY ASSEMBLY SERVICE BOARD

APPOINTMENT

IT IS notified for the information of the general public that pursuant to sections 12 (3) of the County Governments Act, 2012 and 9 (1) of the County Assemblies Services Act, 2017 that:

Thaddeus Nyabaro	- Chairperson
Duke Simon Onyari	- Secretary
Josiah Obegi Mang'era	- Member
Reuben Minda Riechi	- Member
Leonard Mogaru	- Member
Edith Omani	- Member

have been duly appointed to the County Assembly Service Board. Consequently, earlier appointment via Gazette Notice No. 14017 of 2022 is revoked.

Dated the 9th October, 2024.

THADDEUS NYABARO,
Chairperson, County Assembly Service Board.

GAZETTE NOTICE NO. 13377

THE COMPANIES ACT
(Cap. 486)
INTENDED DISSOLUTION

PURSUANT to section 897(3) of the Companies Act, the Registrar of Companies gives notice that the names of the companies specified hereunder shall be struck off from the Register of Companies at the

I hereby certify that this is a true and correct copy of the Original

ELIZABETH WOKUA NDUBI
ADVOCATE.

SION

BY
NTY

KERO-

Annex
21

SPECIAL ISSUE

Kenya Gazette Supplement No. 9 (Nyamira County Acts No. 3)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NYAMIRA COUNTY ACTS, 2024

NAIROBI, 27th November, 2024

CONTENT

Act—	PAGE
The Nyamira County Supplementary Appropriation Act, 2024	1

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

140

**THE NYAMIRA COUNTY SUPPLEMENTARY APPROPRIATION
ACT, 2024**

No. 3 of 2024

Date of Assent: 26th November, 2024

Date of Commencement: 27th November, 2024

AN ACT of the County Assembly of Nyamira County to authorize the issue of a sum of money out of the County Revenue Fund and its application towards the services of the year ending on the 30th June, 2025 and to appropriate that sum for public services and purposes

ENACTED by the County Assembly of Nyamira, as follows—

Short title

1. This Act may be cited as the Nyamira County Supplementary Appropriation Act, 2024.

Issue of the sum of KSh. 7,702,897,542 out of the County Revenue Fund for service of the financial year ending 30th June, 2025 and appropriation of the money granted

2. (1) The Nyamira County Treasury may issue out of the County Revenue Fund and apply towards the supply granted for the service of the financial year ending 30th June, 2025 the sum of **Kenya Shillings Seven Billion, Seven Hundred and Two Million, Eight Hundred and Ninety Seven Thousand, Five Hundred and Forty-Two only**, and the sum shall be deemed to have been appropriated as from 1st July, 2024, for the services and purposes specified in the Schedule.

(2) The sum granted out of the County Revenue Fund by sub-section (1) as authorized by the Nyamira County Assembly in accordance with Article 224 of the Constitution.

Appropriation in Aid

3. The sum granted out of Appropriation in Aid as explained in both Schedule 1 & 2 under column 4 of this Act and as authorized by the Nyamira County Assembly in accordance with Article 224 of the Constitution.

14)

SCHEDULE

(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	ALA
	Recurrent Expenditure	KSh.	KSh.
R5261000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Nyamira County Assembly.....	699,762,663	0
101005261	General administration, Policy planning and support services	373,374,036	0
708005261	Oversight and management services	43,506,030	0
709005261	Legislative and representation services	282,882,597	0
R5262000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the County Executive.	497,833,891	0
701005262	General administration, Policy planning and support services	398,155,657	0
701002562	County results and delivery support services	33,721,880	0
701075262	Advisory, Liaison, Communication Support Services	24,640,000	0
706005262	Coordination and Management of County Executive Affairs and Support Services.....	41,316,354	0
R5263000000	The amount required in the year ending 30th June, 2025 for salaries and expenses of the Finance, ICT and Economic Planning (Finance & Accounting Services)	116,792,265	0
701005263	General administration, Policy planning and support services	84,042,265	0
701035263	Supply chain management support services	8,600,000	0
704015263	Accounting services.....	17,150,000	0
704025263	Audit services	7,000,000	0
R5264000000	The amount required in the year ending 30th June, 2025 for salaries and expenses of the County Executive Agriculture, Livestock and Fisheries Development (Crop Development).....	66,606,333	0
101005264	General administration policy and planning support services	64,606,333	0
102005264	Crop, Agribusiness and land development services	2,000,000	0
R5265000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Environment, Energy, Natural Resources and Mining.....	60,779,448	0
100105265	General administration policy planning support services	39,779,448	0
100405265	Environment and natural resources	3,500,000	0

1.42

2024

Nyamira County Supplementary Appropriation

No. 3

(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	AIA
	Recurrent Expenditure	KSh.	KSh.
100505265	Climate change mitigation and adaptation measures	11,000,000	0
100205265	Energy and Mineral Resources Services	6,500,000	0
R5266000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Education and Vocational Training.....	438,966,219	0
501005266	General administration policy planning support services	405,447,178	0
502005266	ECDE and CCC management support services	20,500,000	0
503005266	Vocational development education training management services	13,019,041	0
R5267000000	The amount required in the year ending 30th June, 2025 for salaries and expenses of the Health Services (Medical Services)	687,426,355	0
401005267	General administration policy planning support services	522,776,355	0
402005267	Medical support services	158,650,000	0
403005267	Health products and technologies support services	6,000,000	0
R5268000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Lands, Housing, Physical Planning & Urban Development.....	80,745,805	0
101005268	General administration policy planning support services	75,745,805	0
105005268	Physical planning and surveying support services	3,000,000	0
106005268	Urban development and housing support services	1,000,000	0
107015268	Land management and administration services	1,000,000	0
R5269000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Water, Irrigation and Sanitation.....	48,297,623	0
100105269	General administration policy planning support services	38,297,623	0
100305269	Water supplies and management services ..	9,000,000	0
103005264	Irrigation, Drainage And Water Storage Development Support Services	1,000,000	0
R5270000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Roads, Transport and Public Works.....	118,621,356	0

143

No. 3 Nyamira County Supplementary Appropriation 2024

(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	AIA
	Recurrent Expenditure	KSh.	KSh.
201005270	General administration policy planning support services	95,821,356	0
202005270	Road's development and management support Programme	4,800,000	0
202005270	Public works and disaster management support services	2,000,000	0
202035270	Transport and mechanical support services .	16,000,000	0
R5271000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Trade, Tourism, Industrialization and Cooperatives development	65,908,147	0
301005271	General administration policy planning support services	42,158,147	0
302015271	Cooperative promotion	2,750,000	0
303015271	Industrialization and small and macro enterprises support services	2,500,000	0
302005271	Trade development and promotion.....	14,000,000	0
304005271	Weights and Measures Support Services ...	1,500,000	0
303005271	Tourism development, promotion and management.....	3,000,000	0
R5272000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Sports, Gender, Culture and Social Services	67,675,667	0
701005272	General administration and policy planning	49,675,667	0
903005272	Cultural development and promotion heritage	1,000,000	0
904005272	Gender and Social support services.....	2,000,000	0
905005272	Youth affairs development and promotion support services	1,000,000	0
902005272	Promotion and development of Sports	14,000,000	0
R5273000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the County public service Board	61,123,925	0
100105273	General administration policy planning support services	61,123,925	0
R5274000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Public Service Management.....	473,310,145	0
101005274	General Administration, County administration and field co-ordination support services	276,310,145	0
710005274	Human resource development management support services	165,500,000	0
101005260	Security enforcement and compliance support services	1,000,000	0
710005260	Special Programmes	28,500,000	0
702005274	Corporate communication	1,000,000	0

2024

5
Nyamira County Supplementary Appropriation

No. 3

(1) Vote Head	(2) Service or Purpose Recurrent Expenditure	(3) Amount KSh.	(4) AIA KSh.
702015274	Public Participation and Civic education support services	1,000,000	0
R5275000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Nyamira Municipality Board	91,876,030	0
101005275	General administration and support services ..	53,876,030	0
106005275	Municipal infrastructure and disaster management supports services	36,500,000	0
100405275	Environment and social support services ...	1,500,000	0
R5276000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the County Attorney	25,148,539	0
701005276	General administration, Policy planning and support services	22,436,539	0
702005276	Legal, Governance, Legal Training and integrity Affairs Management & Support services	2,712,000	0
R5277000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for Economic Planning, Resources Mobilization and ICT	230,389,016	0
701005277	General administration policy planning support services	158,990,616	0
702015277	Economic Planning, Budget Formulation and Coordination support services	64,698,400	0
702025277	Reporting, Monitoring and Evaluation Support Services	1,500,000	0
504005277	Information, communication and technology	5,200,000	0
R5278000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Livestock and Fisheries Services..	100,644,517	0
101005278	General administration policy and planning support services	97,644,517	0
103005278	Fisheries development and promotion support services	1,000,000	0
104005278	Coordination and Management of Livestock Policies and Programmes.....	1,000,000	0
104025278	Animal health diseases and meat inspection support services	1,000,000	0
R5279000000	The amount required in the year ending 30th June, 2025 for salaries and expenses for the Primary Healthcare	1,226,102,127	0
401005279	General administration policy planning support services	1,107,780,663	0
401095279	Promotive and Preventive health services ..	116,821,464	0
401015279	Health administration & policy planning:	1,500,000	

145

No. 3 *Nyamira County Supplementary Appropriation* 2024

(1)	(2)	(3)	(4)
<i>Vote Head</i>	<i>Service or Purpose</i>	<i>Amount</i>	<i>ALA</i>
	<i>Recurrent Expenditure</i>	<i>KSh.</i>	<i>KSh.</i>
	monitoring and evaluation and support services.....		0
R528000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Keroka Municipality Board.....	17,112,809	0
1010052780	General administration and support services	15,212,809	0
106005280	Municipal infrastructure and disaster management supports services	200,000	0
100405280	Environment and social support services ...	1,400,000	0
R5281000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Revenue Board.....	7,722,500	0
701005281	General administration policy planning support services	3,622,500	0
705005281	Resource mobilization.....	4,100,000	0
R5282000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Disability Board.....	6,222,500	0
701005282	General administration policy planning support services	6,222,500	0
R5283000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Investment Co-operation	8,222,500	0
701005283	General administration policy planning support services	8,222,500	0
R5284000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Water and Sanitation Company.....	35,000,000	
701005284	General administration policy planning support services	35,000,000	
	Sub-Total (Recurrent Expenditure).....	5,232,290,380	

146

SECOND SCHEDULE			
(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	A.I.A.
	Development Expenditure	KSh.	KSh.
D5261000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira County Assembly.....	98,000,000	0
101005261	General administration, Policy planning and support services.....	98,000,000	0
708005261	Oversight and management services	0	0
709005261	Legislative and representation services	0	0
D5262000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the County Executive.	0	0
701005262	General administration, Policy planning and support services.....	0	0
701002560	County results and delivery support services	0	0
701075260	Advisory, Liaison, Communication Support Services	0	0
706005262	Coordination and Management of County Executive Affairs and Support Services	0	0
D5263000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Finance, ICT and Economic Planning (Finance and Accounting Services)	425,551,340	0
701005260	General administration, Policy planning and support services.....	0	0
701035260	Supply chain management support services	0	0
704015260	Accounting services.....	425,551,340	0
704025260	Audit services	0	0
D5264000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for Agriculture, Livestock and Fisheries Development (Crop Development).....	195,434,071	0
101005264	General administration policy and planning support services	0	0
102005264	Crop, Agribusiness and land development services	195,434,071	0
D5265000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Environment, Energy, Natural Resources and Mining	389,457,757	0

147

No. 3 Nyamira County Supplementary Appropriation 2024

SECOND SCHEDULE			
(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	A.I.A.
	Development Expenditure	KSh.	KSh.
100105265	General administration policy planning support services	0	0
100305265	Water supplies and management services ..	0	0
100405265	Environment and natural resources	1,000,000	0
100505265	Climate change mitigation and adaptation measures	379,957,757	0
100205265	Energy and Mineral Resources Services	8,500,000	0
D5266000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Education and Vocational Training.....	24,200,000	0
501005266	General administration policy planning support services	0	0
502005266	ECDE and CCC management support services	14,200,000	0
503005266	Vocational development education training management services	10,000,000	0
D5267000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Health Services (Medical Services)	47,500,000	400,000,000
401005267	General administration policy planning support services	0	0
402005267	Medical support services	47,500,000	400,000,000
404005267	Health products and technologies support services	0	0
D5268000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Lands, Housing, Physical Planning & Urban Development.....	346,205,536	0
101005268	General administration policy planning support services	0	0
105005268	Physical planning and surveying support services	7,000,000	0
106005268	Urban development and housing support services	329,205,536	0
107015260	Land management and administration services	10,000,000	0
D5269000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Water, Irrigation and Sanitation	31,200,000	0

148

SECOND SCHEDULE			
(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	A.I.A.
	Development Expenditure	KSh.	KSh.
100105265	General administration policy planning support services	0	0
100305265	Water supplies and management services ..	31,200,000	0
103005264	Irrigation, Drainage and Water Storage Development Support Services	0	0
D527000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Roads, Transport and Public Works ...	472,026,602	0
201005270	General administration policy planning support services	0	0
202005270	Road's development and management support Programme.....	126,008,787	0
202005270	Public works and disaster management support services	0	0
202035260	Transport and mechanical support services.....	5,000,000	0
203005270	Integrated road construction and maintenance services.....	341,017,815	
D5271000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Trade, Tourism, Industrialization and Cooperatives development	200,472,054	0
301005271	General administration policy planning support services	0	0
302015271	Cooperative promotion	1,500,000	0
304015271	Industrialization and small and macro enterprises support services	0	0
302005271	Trade development and promotion	198,972,054	0
305005271	Weights and Measures Support Services....	0	0
303005271	Tourism development, promotion and management.....	0	0
D5272000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Sports, Gender, Culture and Social Services	12,500,000	0
701005272	General administration and policy planning	0	0

No. 3 Nyamira County Supplementary Appropriation 2024

SECOND SCHEDULE			
(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	A.I.A.
	Development Expenditure	KSh.	KSh.
903005272	Cultural development and promotion heritage	0	0
904005272	Gender and Social support services	0	0
905005272	Youth affairs development and promotion support services	0	0
902005272	Promotion and development of Sports	9,500,000	0
D5273000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure the County Public Service Board	0	0
100105273	General administration policy planning support services ..	0	0
D5274000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Public Service Management	42,500,000	0
101005274	General Administration, County administration and field co-ordination support services	0	0
710005274	Human resource development management support services	5,000,000	0
101005260	Security enforcement and compliance support services	0	0
710005260	Special Programmes	37,500,000	0
702005274	Corporate communication	0	0
702015274	Public Participation and Civic education support services	0	0
D5275000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Municipality Board	90,025,768	0
101005275	General administration and support services	0	0
106005275	Municipal infrastructure and disaster management supports services	90,025,768	0
100405275	Environment and social support services ...	0	0
R5276000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the County Attorney	4,987,040	0

150

SECOND SCHEDULE			
(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	A.I.A.
	Development Expenditure	KSh.	KSh.
701005276	General administration, Policy planning and support services.....	0	0
702005276	Legal, Governance, Legal Training and integrity Affairs Management & Support Services	4,987,040	0
D527700000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Economic Planning, Resources Mobilization and ICT	31,546,994	0
701005277	General administration policy planning support services	0	0
702015277	Economic Planning, Budget Formulation and Coordination support services	18,546,994	0
702025277	Reporting, Monitoring and Evaluation Support Services	0	0
705005277	Resource mobilization	0	0
504005277	Information, communication and technology	13,000,000	0
D527800000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Livestock and Fisheries Services	11,000,000	0
101005278	General Administration policy and planning support services	0	0
103005278	Fisheries development and promotion support services	0	0
104005278	Coordination and Management of Livestock Policies and Programmes.....	6,000,000	0
104025278	Animal Health diseases and meat inspection support services	5,000,000	0
D527900000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Primary Healthcare	35,000,000	0
401005279	General administration policy planning support services	0	0
401095279	Promotive and Preventive health services ..	35,000,000	0
401015279	Health administration & policy planning; monitoring and evaluation and support services	0	0

151

No. 3 Nyamira County Supplementary Appropriation 2024

SECOND SCHEDULE			
(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	A.I.A.
	Development Expenditure	KSh.	KSh.
D528000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Keroka Municipality Board.....	13,000,000	0
1010052780	General administration and support services	0	0
106005280	Municipal infrastructure and disaster management supports services	8,000,000	0
100405280	Environment and social support services	5,000,000	0
D5281000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Revenue Board	0	0
701005281	General administration policy planning support services	0	0
705005281	Resource mobilization	0	0
D5282000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Disability Board	0	0
701005282	General administration policy planning support services	0	0
D5283000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Investment Co-operation ...	0	0
701005283	General administration policy planning support services	0	0
D5284000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Water and Sanitation Company.....	0	0
701005284	General administration policy planning support services	0	0
	Sub-Total (Development Expenditure)	2,470,607,162	400,000,000
	GRAND TOTAL	7,702,897,542	400,000,000

152

Name	Position
Robert Obegi	Member
James Ocharo	Member
Jane Matara (Ms.)	Member
David Seremani	Member
Zablon Ayiera	Member
Jackline Onseti	Member
Nyambeki Isabella Ong'era	Member

as Members of the County Budget and Economic Forum for a period of Three (3) years, with effect from the 18th February, 2025.

Dated the 18th February, 2025.

AMOS KIMWOMI NYARIBO,
Governor, Nyamira County.

MR/6508918

GAZETTE NOTICE NO. 1965

THE CONSTITUTION OF KENYA
THE URBAN AREAS AND CITIES (AMENDMENT) ACT
(No. 3 of 2019)

COUNTY GOVERNMENT OF NYAMIRA
APPOINTMENT

PURSUANT to Article 184 of the Constitution of Kenya as read with Section 14 of the Urban Areas and Cities Act (Amendment) Act, 2019 and all other enabling provisions of the law and upon approval by the County Assembly of Nyamira on 19th November, 2024, I, Amos Kimwomi Nyaribo, Governor, Nyamira County, appoint-

NYAMIRA MUNICIPALITY

Name
Nyamira County Executive Committee Member for Lands, Physical Planning and Urban Development
Nyamira County Chief Officer for Lands, Physical Planning and Urban Development
James Boera Onyancha- Chairperson
Becky Nyanchama Onyancha
Jackson Nyamumba Okero
Charles Ombati Nyamboga
Bonface Ombori Orina
Rebecca Moraa Onyinkwa
Linnet Kwamboka Ayora

KEROKA MUNICIPALITY

Name
Nyamira County Executive Committee Member for Lands, Physical Planning and Urban Development
Nyamira County Chief Officer for Lands, Physical Planning and Urban Development
Michieka Barnabas Makario-Chairperson
Angela Cheroni Mulwet
John Mathias Mogere
Jane Kerubo Nyamongo
Shem Nyakundi
Naom Nyaboke Mosomi
Dominic Aroko Babu

as Members of the Nyamira and Keroka Municipality Boards, respectively, for a period of five (5) years, with effect from the 19th of November, 2024.

Dated the 30th January, 2025.

AMOS KIMWOMI NYARIBO,
Governor, Nyamira County.

MR/6508918

GAZETTE NOTICE NO. 1966

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)

COUNTY GOVERNMENT OF NYAMIRA

APPOINTMENT

PURSUANT to provisions of Article 179 (4) of the Constitution of Kenya as read with Section 31(d) of the County Governments Act 2012 (as amended) and the Nyamira Integrated Roads Construction and Maintenance Program Guidelines, I, Amos Kimwomi Nyaribo, the Governor of Nyamira County, appoint:

Name	Position
Robin Achoki	Chairperson
Rindley Nyambane	Secretary
Hezron Otworu	Member
Jemimah Abuga	Member
Dennis Oichoe	Member
Joash Onyonka	Member
Shem Onchiri	Member
Lameck Nyariki	Member
Jared Mogeni	Member
Julias Moriasi	Member
Robert Tai	Member

as Members of the Nyamira Integrated Roads Construction and Maintenance Program, Project Management Committee of the for a period of Three (3) years.

Dated the 5th February, 2025.

AMOS KIMWOMI NYARIBO,
Governor, Nyamira County.

MR/6508918

GAZETTE NOTICE NO. 1967

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
COUNTY GOVERNMENT OF NYAMIRA

APPOINTMENT

PURSUANT to provisions of Article 179 (4) of the Constitution of Kenya as read with Section 31 (d) of the County Governments Act 2012 (as amended) and the Nyamira Integrated Roads Construction and Maintenance Program Guidelines, I, Amos Kimwomi Nyaribo, the Governor of Nyamira County, appoint-

Name	Position
Grace Nyamongo (Dr.)	Chairperson
Eng. Josephat Oruru	Secretary
Jack Magara (Dr.)	Member
Erastus Orina	Member
Jones Omwenga	Member
Stephen Oboso	Member
Kennedy Angwenyi	Member

as Members of the Nyamira Integrated Roads Construction and Maintenance Program Steering Committee for a period of Three (3) years.

Dated the 5th February, 2025.

AMOS KIMWOMI NYARIBO,
Governor, Nyamira County.

MR/6508918

GAZETTE NOTICE NO. 1968

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
COUNTY GOVERNMENT OF NYAMIRA
APPOINTMENT

IN EXERCISE of the powers conferred by Section 5 of the Nyamira County Climate Change Act, 2021, I, Amos Kimwomi Nyaribo, the Governor, Nyamira County, appoint the following persons to be members of the Nyamira County Climate Change Steering Committee for a period of Two (2) years, with effect from 30th January, 2025;

National News

Private hospitals lobby had directed members to stop accepting patients under SHA but rescinded

Civil servants reject SHA, warn

Workers enjoyed comprehensive medical cover under the now defunct National Health Insurance Fund

DAVID MWERE

Civil servants have warned of a strike beginning March 18 if the government fails to address their grievances on the new health insurance scheme (SHA). Representatives of civil servants' medical societies have told MPs their members in national and county governments are now being forced to raise to meet their medical bills because the state-run scheme is not working, despite having their monthly deductions twice to finance the new Health Insurance Fund (HIF) for the forfeiture of their medical allowance to the Public Officers Medical Fund (POMF). It comes as hospitals across the country decided not to treat patients under the POMF scheme over non-payment of bills incurred by servants running into billions of shillings. The decision by the hospitals to drop the state-run scheme has seen the Kenya Medical Practitioners, Dentists and Nurses Association (KMPDA) and the Kenya Civil Servants Union (KCSU) table a bill for a resolution to be presented to the

Health committee of the National Assembly last week. KMPDA Secretary General David Mwangi and his UKCS counterpart Tom Odingo warned that public servants will boycott work unless the matter is addressed.

"We are giving the government two weeks to resolve this issue once and for all. Failure to do so, we will call on all civil servants in both national and county governments to join a series of demonstrations starting March 18, 2025," states the March 4 document.

"Civil servants across the country are wasting valuable time chasing medical services while simultaneously being subjected to cash payment demands for the same," said Mr

We are giving the government two weeks to resolve this issue once and for all. Failure to do so, we will call on all civil servants in both national and county governments to join a series of demonstrations starting March 18

KMPDA and UKCS

Odingo. KMPDA and UKCS are planning to escalate the matter to a national strike within 30 days "to demand a functional comprehensive medical insurance scheme".

"Frustrating civil servants by denying them their entitlements will not be tolerated," the unions said.

A notice issued by Dr Brian Lushenga, the Chairman, Rural and Urban Private Hospitals Association of Kenya (Rupha), towards the end of last month stated that "patients seeking care under SHA will need to make cash payments at private and faith-based hospitals".

"This is not a decision we wanted to make but it has become unavoidable to safeguard patient care and hospital sustainability," Dr Lushenga said.

However, Rupha last week lifted the suspension of SHA after President Ruto directed partial payment of debts owed by government to the facilities.

But faith-based healthcare providers also issued a 14-day ultimatum to the government to settle the \$10 billion of outstanding debts and require patients to pay cash for services.

The government has been providing a comprehensive insurance cover for public officers that includes medical (Sh1.4 billion), group life (sh2.6 billion), group personal accident (Sh1.2 billion) and Work Injury Benefit Act (WIBA) of Sh1.1 billion.

The cover was under the National Health Insurance Fund (NHIF), jointly with private insurance companies, but expired on April 11, 2024. NHIF



has suspended operations and remained with SHA.

This has left civil servants exposed and on their own. This means that civil servants who get sick, injured from occupational exposure or die while in the course of duty are not being paid their benefits.

The Public Service Superannuation Scheme Act of 2012 states that death in service and disability for all pensionable public servants should be paid at five years basic pay—pensionable emolument—and WIBA.

The comprehensive medical cover

for the public servants was established in 2012 when the government employees forfeited their medical allowance for a medical insurance scheme, which was captured in the collective bargaining agreement for all civil servants.

The scheme would later evolve from co-payment and capitation to a fee-for-service model and was widely accepted by civil servants and their dependants.

However, the policy was terminated with the enactment of the Social Health Act.

COUNTY ASSEMBLY OF NYAMIRA

OFFICE OF THE CLERK

PUBLIC PARTICIPATION ON THE NYAMIRA COUNTY FISCAL STRATEGY PAPER, 2025/2026

Pursuant to Article 196(1) and 201(a) of the constitution of Kenya and together with Section 117 of the Public Finance Management Act, 2012, the County Assembly of Nyamira is considering the draft Fiscal Strategy Paper (FSP), 2025.

The Committee on Budget and Appropriations of the County Assembly of Nyamira invites members of the public and all stakeholders to the public participation forum and submission of remarks to be held on Wednesday, 12th March 2025 as indicated below.

PUBLIC PARTICIPATION FORUM	
Venue	Date and Time
Assembly of Christ The King Hall	12th March 2025 9:00 a.m. - 12:00 noon

Remarks should be submitted by email by 5:00 p.m. on March 2025 to Snyamora@nyamira.go.ke

VANUS NDEMO NYAMORA,
CLERK OF THE COUNTY ASSEMBLY,
COUNTY GOVERNMENT OF NYAMIRA.

MAKANJAWA COMPANY LIMITED

NOTIFICATION FOR APPROVAL OF APPLICATION NUMBER PLUPA-COU-00533N (CHANGE OF USE) AND PLUPA-BPM-00968Q (BUILDING PLAN) KITUSURU ROAD ON L.R. NO. 12/261 (NAIROBI BLOCK 218/770)

PUBLIC NOTICE

PURSUANT TO THE NOTICE PUBLISHED ON THE DAILY NATION ON FRIDAY, 7TH MARCH 2025 A NOTICE IS HEREBY issued reminding the below concerned parties to attend a meeting at KITUSURU ROAD NO 1.2B (CONSTRUCTION SITE) AT 11:00AM regarding the registration of a Notice of Approval issued by the Urban Development and Planning office on the 14TH of March 2025.

- representative of the Nairobi City County, Office of Urban Development and planning Department.
- representative from Northern Block Residents Association.
- Kitusuru Residents Association.

The meeting is AN OFFICIAL REMINDER in compliance with the directions of the Urban Development and Planning Department and as per order of the court issued in MILIMANI ENVIRONMENT AND LAND COURT CASE NO ELC 1/JR L001 OF 2023.

PLEASE NOTICE THAT ATTENDANCE OF ALL PARTIES IS REQUIRED to ensure compliance and smooth execution of the matter.

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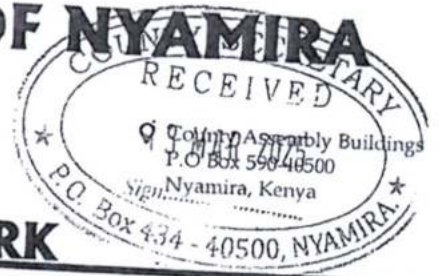
For all enquiries please call
3288461 2 3 4 5

Nation Media Group

154

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/ECM/FIEP/2025/03(3)
Your Ref: NCG/F&P/CECM/BUDGET/FY2224/25(112)

Date: 13TH MARCH 2025

**The Executive Committee Member
Finance, ICT & Economic Planning
County Government of Nyamira**

Annex 24

Thro'

**The County Secretary
County Government of Nyamira**

Dear Sir,

RE: NYAMIRA COUNTY FISCAL STRATEGY PAPER, 2025

We refer to your letter Ref. No: NCG/F&P/CECM/BUDGET/FY2224/25(112) dated 7th March 2025 in which you have claimed that the County Treasury did submit the County Fiscal Strategy Paper (CFSP) 2025 to the County Assembly and that the same was received on 27th February 2025. From the onset we state that this is not true.

In your letter above, a document in support of your claim was annexed, however, the receipt stamp on the said document is a **forgery** of the official receipt stamp of the Office of the Clerk of the County Assembly of Nyamira. Equally, the signature and/or details of the Officer who purportedly acknowledged receipt are missing.

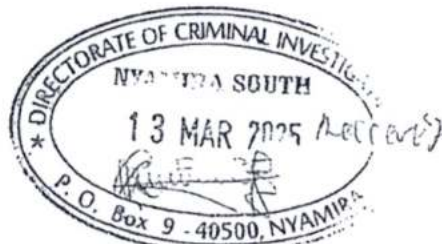
As of today, the County Assembly has not received the 15 physical copies and a soft copy of the CFSP 2025 as demanded in our earlier letter, the same are expected by hand delivery at the County Assembly Buildings as per Kenya Gazette Notice No 7653. Additionally, kindly submit to this office the details of the person who purported to acknowledge receipt of the document before close of business today 13th March 2025.

We have annexed the received letter Ref. NCG/F&P/CECM/BUDGET/FY2224/25(112) to reiterate our official receipt stamp for your reference.

Sincerely,

**DUKE S. ONYARI
THE CLERK
COUNTY ASSEMBLY OF NYAMIRA**

- Copy to:
1. Hon. FCPA Margaret Nyakang'o (Controller of Budget)
 2. DCIO - Nyamira South



155

REPUBLIC OF KENYA

Mobile: 0738727272/ 0735232323
Email: info@nyamira.go.ke
Website: <http://www.nyamira.go.ke>



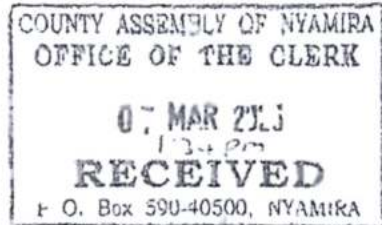
P.O. Box 434 -40500
NYAMIRA, KENYA

COUNTY GOVERNMENT OF NYAMIRA
DEPARTMENT OF FINANCE, ICT AND ECONOMIC PLANNING

Ref: NCG/F & P/CECM/BUDGET/FY2224/25 (112)

Date: 07/03/ 2025

The Clerk
County Assembly of Nyamira
P o Box 590 - 40500
NYAMIRA



RE: THE COUNTY FISCAL STRATEGY PAPER, 2025

We acknowledge receipt of your letter Ref. CAN/CLK/ECM/2025/03(2) dated 6th March, 2025 on the above subject.

As per attached, please find the acknowledged copy of the submitted approved County Fiscal Strategy Paper,2025 which was submitted to the County Assembly and was received on 27th February.

Thank you.

Richard Onyinkwa

For County Executive Committee Member
Department Of Finance, ICT and Economic Planning



156

REPUBLIC OF KENYA



Mobile: 0738727272/ 0735232323
Email: info@nyamira.go.ke
Website: <http://www.nyamira.go.ke>

P.O. Box 434 -40500
NYAMIRA, KENYA

When replying please quote our reference:

COUNTY GOVERNMENT OF NYAMIRA
DEPARTMENT OF FINANCE, ICT & ECONOMIC PLANNING

REF: NCG/F&P/CECM/BUDGET/FY 2024/25

27th February, 2025

The Clerk
County Assembly of Nyamira
P. O Box 590-40500
NYAMIRA.

RE: SUBMISSION OF COUNTY FISCAL STRATEGY PAPER AND DEBT
MANAGEMENT STRATEGY PAPER 2025.

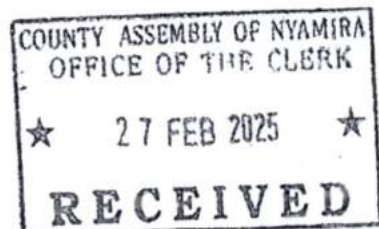
The above subject matter refers.

In accordance with section, 166 of the Public Finance Management (PFM) Act 2012, forwarded herewith, please find County Fiscal Strategy Paper and Debt Management Strategy Paper 2025.

Jones Moko Omwenga
County Executive Committee Member
Finance ICT and Economic Planning
NYAMIRA COUNTY



Copy to; H.E Governor
Controller of Budget
The National Treasury
Commission on Revenue Revenue



157

Annex 25

AFFIDAVIT OF JEREMIAH OMWOYO CHEBANA – PRINCIPAL BUDGET OFFICER OF COUNTY ASSEMBLY OF NYAMIRA

I, JEREMIAH OMWOYO CHEBANA, of ID No. 24226392 of P.O. Box 590 – 40500, Nyamira, do hereby make solemn oath and state as follows:

1. THAT, I am a male adult of sound mind and the **PRINCIPAL BUDGET AND ASSET MANAGEMENT OFFICER** of the County Assembly of Nyamira, well apprised with the fiscal, management, budget making, monitoring and evaluation, and public participation processes in the County, and competent to swear this Affidavit.
2. THAT I was appointed the position of **PRINCIPAL BUDGET AND ASSET MANAGEMENT OFFICER** of the County Assembly of Nyamira on 1st December, 2015.
3. THAT my duties and responsibilities include among others:
 - a) Providing technical advice on the Nyamira County Government policy option;
 - b) Providing technical input on County Planning processes particularly on documents such as Annual Development Plan, Sectoral Plans, County Integrated Plans and aligning county legislations with national policies and laws;
 - c) Providing advice on budget implementation and monitoring process;
 - d) Providing technical input in the county budgetary process and legislations especially on crucial financial documents such as Budget, County Fiscal Strategy Paper, Appropriations and Finance Bills, Budget Outlook and Review Paper among other financial documents;
 - e) Management of the asset register.
4. THAT I am actively involved in the county planning and budget making process as a technical officer of the County Assembly.
5. THAT I coordinate public participation on policy issues in the County Assembly of Nyamira as provided for in the Constitution of Kenya, 2010.
6. THAT a splinter group dubbed "*Bunge Mashinani*" advertised a public participation exercise on the County Fiscal Strategy Paper that was scheduled for 26th March, 2025 at Nyansiongo Ward, Christ the King Hall as from 9:00 a.m. to 12:00 p.m.

158

7. THAT I happen to come from Nyansiongo ward, next to proposed venue for public participation on County Fiscal Strategy Paper 2025 and on the said date, I happened to be at home;
8. THAT I purposed to attend the exercise to get first-hand experience of the activities of the said splinter group;
9. THAT the venue remained under lock and key for the entire period the exercise was said to take place;
10. THAT I took pictorial evidence using my TECNO Spark 7, Serial No. 069833716G106042 phone;
11. THAT there was no single officer from the county assembly and the county executive at the venue to facilitate the exercise;
12. THAT there was no single member of the public at the venue for the entire period the exercise was to take place;
13. THAT I affirm that the public participation never took place at the said venue at the date and time it was supposed to take place;
14. THAT what is deponed herein is true to the best of our knowledge, information and belief.

DATED AT NYAMIRA THIS 4th day of April, 2025

BY THE SAID:

JEREMIAH OMWOYO CHEBANA) 

BEFORE ME:

ELIKANA MOKUA NDUBI
 ADVOCATE
 COMMISSIONER FOR OATHS
 AND NOTARY PUBLIC
 P. O. Box 269 - 00100, NAIROBI

COMMISSIONER FOR OATHS

DRAWN & FILED BY: -

B. BOCHABERI ADVOCATES,
 7B PLAZA, 2ND FLOOR, NEXT TO KCB KEROKA BRANCH
 P.O BOX 162, NYANSIONGO

159

The purported public participation venue for CFSP which no member of the public turned up and yet they passed the paper.



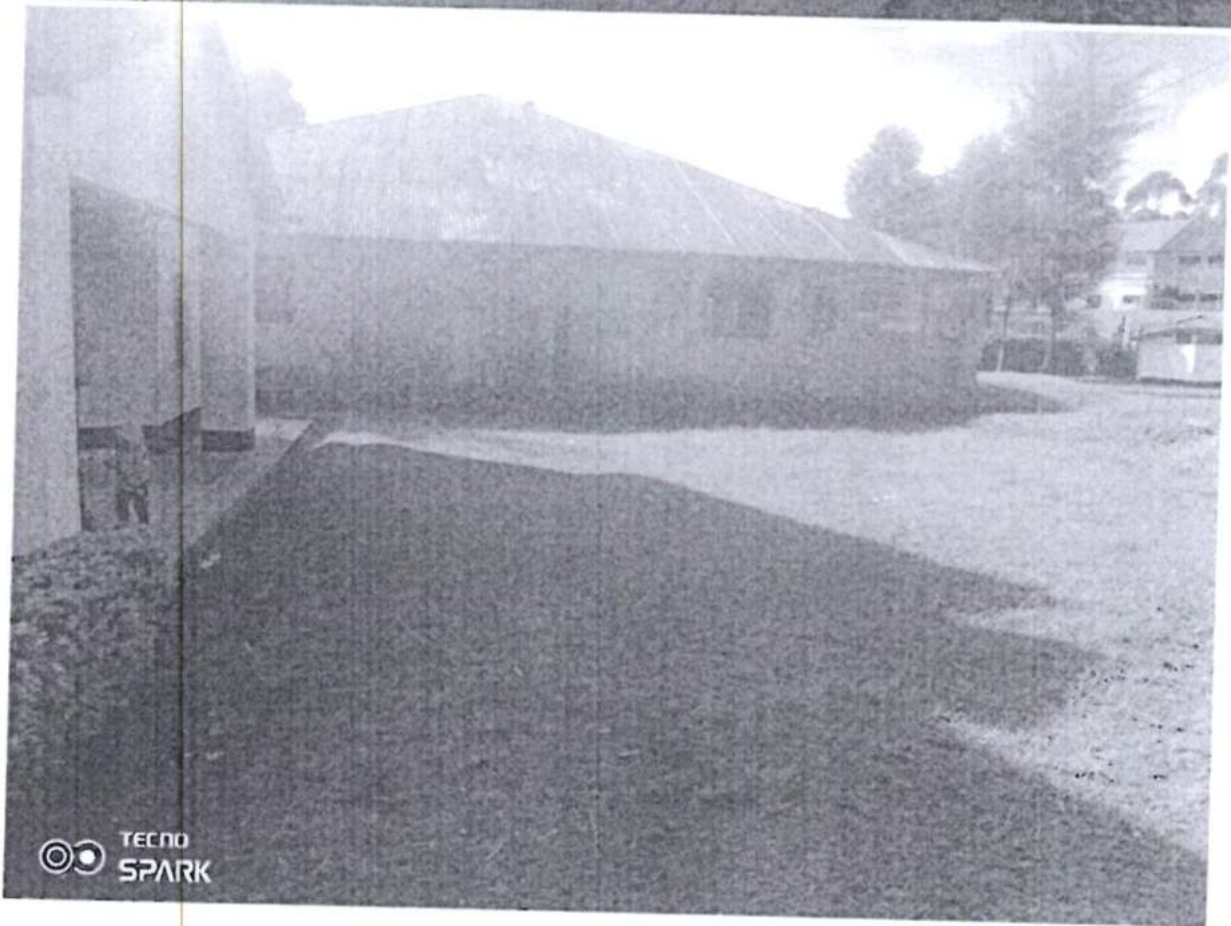
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TECNO SPARK



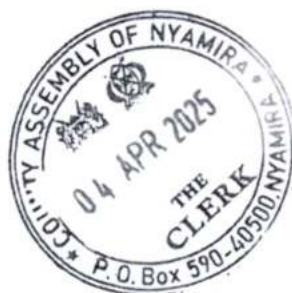
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162



Annex 26

COUNTY ASSEMBLY OF NYAMIRA

www.nyamiracounty.go.ke

Email: info@nyamiracounty.go.ke

TEL No: 0722392510



P.O. Box 590 – 40500
Nyamira

OFFICE OF THE CLERK

PUBLIC NOTICE

NOTICE ON VETTING OF MEMBERS TO THE SELECTION PANEL FOR THE RECRUITMENT OF THE CHAIRPERSON AND MEMBERS OF NYAMIRA COUNTY PUBLIC SERVICE BOARD

Pursuant to Section 58A of the County Governments Act, 2012 as amended in 2020, Section 5 of the Public Appointments (County Assemblies) Approval Act, 2017 and the Nyamira County Assembly Standing Orders, the Governor, H.E. Amos Nyaricho has nominated the following persons to the Selection Panel for the recruitment of the Chairperson and Members of the Nyamira County Public Service Board.

The nominees are hereby notified to appear before the County Assembly Committee on Appointments at **Masaba North Sub-County Headquarters Boardroom, on Wednesday, March 26, 2025** as follows:

S. NO.	NAME	ID NO.	POSITION/REPRESENTATION	TIME
1	FCPA Edwin Makori	113664786	Chairperson	9:00 a.m.
2	Barnabas Oug'ondo	5843521	Member - Private Sector Representative	10:00 a.m.
3	Alice Nyakerario Korubo	13327812	Member - Accountant	11:00 a.m.
4	Kepta Bwana OGW	10783249	Member - Workers' Representative	12:00 p.m.
5	Duke Onwenga Gichana	13566105	Member - Advocate	2:00 p.m.

The nominees are required to download and fill the Vetting Form (First Schedule) of the Public Appointments (County Assemblies) Approval Act, 2017 and come with it on the vetting day along with the original and copies of certificates and testimonials, ID Card and they should comply with Chapter Six of the Constitution.

Members of the public are invited to attend and/or submit information on the suitability or otherwise on the nominees by way of written memoranda or petition under oath by 8:00 a.m. on the vetting day or earlier by email to: Secretary@nyamira.go.ke

S. N. Nyamora,
Ag. CLERK,
COUNTY ASSEMBLY OF NYAMIRA.

163

Annex 27

The Bunge Mashinani vet Dr. Peris Nyaboke Orok, PhD for the position of CECM for Gender, Youth, Sports, Culture, and Social Services on Wednesday, April 2, 2025, at Masaba North Sub-County Headquarters Boardroom.

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COUNTY ASSEMBLY OF NYAMIRA

P.O. Box 500 - 40500
Nyamira

OFFICE OF THE CLERK

PUBLIC NOTICE

NOTICE ON VETTING OF THE COUNTY EXECUTIVE COMMITTEE MEMBER, DEPARTMENT OF GENDER, YOUTH, SPORTS, CULTURE AND SOCIAL SERVICES

Pursuant to Section 36A of the County Governments Act, 2012 as amended in 2020, Section 3 of the Public Appointments (County Assemblies Approval) Act, 2017 and the Nyamira County Assembly Standing Orders, the Governor, H.E. Amos Nynbo has nominated the following person to the Department of Gender, Youth, Sports, Culture and Social Services.

The nominee is hereby notified to appear before the County Assembly Committee on Appointments at Masaba North Sub-County Headquarters Boardroom, on Wednesday, April 2, 2025 as follows:

S. NO.	NAME	ID NO.	POSITION REPRESENTATION	TIME
1	Peris Nyaboke Orok P.L.C	9795762	County Executive Committee Member Department of Gender, Youth, Sports, Culture and Social Services	9:10 a.m.

The nominee is required to demarcate and fill the Vetting Form (First Schedule) of the Public Appointments (County Assemblies Approval) Act, 2017 and bring with it on the vetting day.

Silviana Nyamira
Ag. CLERK,
COUNTY ASSEMBLY OF NYAMIRA

This was done way after the senate had pronounced itself that all business done in Bunge Mashinani in Nyamira County was illegal since no formal motion had been passed in the House for the same

164

Access to services Private hospitals lobby had directed members to stop accepting patients under SHA but rescinded

Civil servants reject SHA, warn

Workers enjoyed comprehensive medical cover under the now defunct National Health Insurance Fund

BY DAVID MWERE

Civil servants have warned of a strike beginning March 18 if the government fails to address grievances on the new health insurance scheme run by the Social Health Authority (SHA).

Representatives of civil servants' medical unions have told MPs their members in national and county governments are now being forced to raise to meet their medical needs because the state-run scheme is not working.

Despite having their monthly pay deducted twice to finance the National Health Insurance Fund (NHIF), the forfeiture of their medical allowance to the Public Officers Medical Fund (POMF).

As centres as hospitals across the country decided not to treat patients under the POMF scheme over non-payment of bills incurred by civil servants running into billions of shillings. The decision by the hospitals to stop the public servants' medical cover has led to the Kenya Nurses' Union (KNUU) and the Kenya Civil Servants' Union (KCSU) to go on strike.

The unions have warned that a strike will be called before the

Health committee of the National Assembly last week. KMPDU Secretary-General David Atellah and his UKCS counterpart Tom Odeh warned that public servants will boycott work unless the matter is addressed.

"We are giving the government two weeks to resolve this issue once and for all. Failure to do so, we will call on all civil servants in both national and county governments to join a series of demonstrations starting March 18, 2025," states the March 4 document.

"Civil servants across the country are wasting valuable time chasing medical services while simultaneously being subjected to cash payment demands for the same," said Mr.

We are giving the government two weeks to resolve this issue once and for all. Failure to do so, we will call on all civil servants in both national and county governments to join a series of demonstrations starting March 18

KMPDU and UKCS

Odeh. KMPDU and UKCS are planning to escalate the matter to a national strike within 30 days "to demand a functional comprehensive medical insurance scheme".

"Frustrating civil servants by denying them their entitlements will not be tolerated," the unions said.

A notice issued by Dr Brian Lushenga, the Chairman, Rural and Urban Private Hospitals Association of Kenya (Rupha), towards the end of last month stated that "patients seeking care under SHA will need to make cash payments at private and faith-based hospitals".

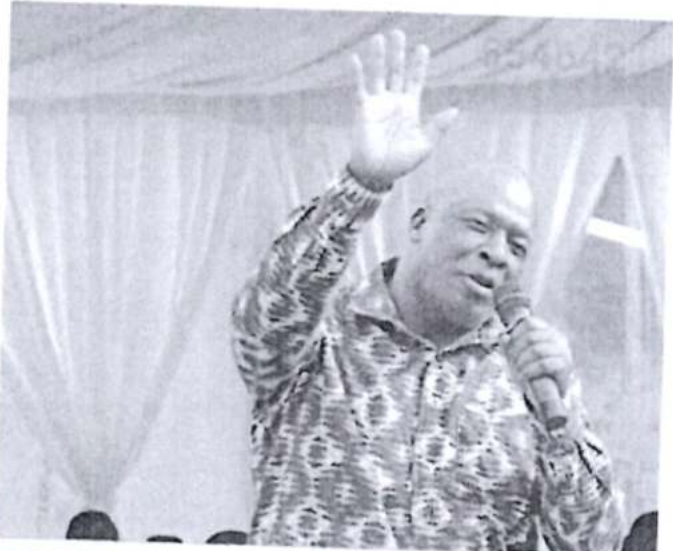
"This is not a decision we wanted to make but it has become unavoidable to safeguard patient care and hospital sustainability," Dr Lushenga said.

However, Rupha last week lifted the suspension of SHA after President Ruto directed partial payment of debts owed by government to the facilities.

But faith-based healthcare providers also issued a 14-day ultimatum to the government to settle the \$10-billion debt owed to them. Failure to do so will require patients to pay cash for services.

The government has been providing a comprehensive insurance cover for public officers that includes medical (Sh1.4 billion), group life (Sh3.6 billion), group personal accident (Sh1.1 billion) and Work Injury Benefit Act (Wiba) at Sh1.1 billion.

The cover was under the National Health Insurance Fund (NHIF), jointly with private insurance companies, but expired on April 31, 2024. NHIF



has increased operations and re-

This has left civil servants exposed and on their own. This means that civil servants who get sick, injured from occupational exposure or die while in the course of duty are not being paid their benefits.

The Public Service Superannuation Scheme Act of 2012 states that death in service and disability for all pensionable public servants should be paid at five years basic pay—pensionable emoluments—and Wiba.

Kenya Union of Civil Servants Secretary-General Tom Odeh at a past event.

or for the public servants was established in 2012 when the government employees forfeited their medical allowance for a medical insurance scheme, which was captured in the collective bargaining agreement for all civil servants.

The scheme would later evolve from co-payment and capitation to a fee-for-service model and was widely accepted by civil servants and their dependants.

However, the policy was terminated with the enactment of the Social Health Act.

COUNTY ASSEMBLY OF NYAMIRA
OFFICE OF THE CLERK

PUBLIC PARTICIPATION ON THE NYAMIRA COUNTY FISCAL STRATEGY PAPER, 2025/2026

Want to Article 190(1) and 201(a) of the constitution of Kenya together with Section 117 of the Public Finance Management Act 2012, the County Assembly of Nyamira is considering the Fiscal Strategy Paper (FSP), 2025.

Committee on Budget and Appropriations of the County Assembly of Nyamira invites members of the public and all holders to the public participation forum and submission of comments to be held on Wednesday, 12th March 2025 as indicated below.

Venue	Date and Time
Wangari at Christ The King Hall	12th March 2025 9:00 a.m. - 12:00 noon

Comments should be submitted by email by 5:00 p.m. on March 2025 to: nyamira@nyamira.go.ke

MUSNDEMO NYAMORA, CLERK OF THE COUNTY ASSEMBLY, GOVERNMENT OF NYAMIRA.

MAKANJAWA COMPANY LIMITED
NOTIFICATION FOR APPROVAL OF APPLICATION NUMBER PLUPA-COU-00533N (CHANGE OF USE) AND PLUPA-BPM-00968Q (BUILDING PLAN) KITUSURU ROAD ON L.R NO. 12/261 (NAIROBI BLOCK 218/770)

PUBLIC NOTICE

PURSUANT TO THE NOTICE PUBLISHED ON THE DAILY NATION ON FRIDAY, 7th MARCH 2025, A NOTICE IS HEREBY issued reminding the below concerned parties to attend a meeting at KITUSURU ROAD NO 12B (CONSTRUCTION SITE) AT 11:00AM regarding the registration of a Notice of Approval issued by the Urban Development and Planning office on the 14th of March 2025.

1. Representative of the Nairobi City County, Office of Urban Development and planning Department.
2. Representative from Northern Block Residents Limited.
3. Nairobi Residents Association.

This serves as AN OFFICIAL REMINDER in compliance with the directions of the Urban Development and Planning Department and an order of the court issued at MILIMANI ENVIRONMENT AND LAND COURT CASE NO ELC 1001 OF 2021.

PLEASE TAKE NOTICE THAT ATTENDANCE OF ALL PARTIES IS REQUIRED TO PREVENT PROSECUTION AND SMOOTH RESOLUTION OF THE MATTER.

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Nation Media Group

165

Annex 30d

SPECIAL ISSUE

Kenya Gazette Supplement No. 9 (Nyamira County Acts No. 3)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NYAMIRA COUNTY ACTS, 2024

NAIROBI, 27th November, 2024

CONTENT

Act—

	PAGE
The Nyamira County Supplementary Appropriation Act, 2024	1

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

166

SECOND SCHEDULE			
(1)	(2)	(3)	(4)
Vote Head	Service or Purpose	Amount	A.I.A.
	Development Expenditure	KSh.	KSh.
D528000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Keroka Municipality Board.....	13,000,000	0
1010052780	General administration and support services	0	0
106005280	Municipal infrastructure and disaster management supports services	8,000,000	0
100405280	Environment and social support services	5,000,000	0
D5281000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Revenue Board.....	0	0
701005281	General administration policy planning support services	0	0
705005281	Resource mobilization	0	0
D5282000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Disability Board	0	0
701005282	General administration policy planning support services	0	0
D5283000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Investment Co-operation ...	0	0
701005283	General administration policy planning support services	0	0
D5284000000	The amount required in the year ending 30th June, 2025 for capital and development expenditure for the Nyamira Water and Sanitation Company.....	0	0
701005284	General administration policy planning support services	0	0
	Sub-Total (Development Expenditure)	2,470,607,162	400,000,000
	GRAND TOTAL	7,702,897,542	400,000,000

167

THE COUNTY ASSEMBLY OF NYAMIRA

Annex 305

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O. Box 590-40500
Nyamira, Kenya

THIRD ASSEMBLY – FOURTH SESSION

When replying please quote our reference

Our Ref: CAN/CLK/OCOB/2025/02(1)

Date: 11th FEBRUARY 2025

THE CONTROLLER OF BUDGET - OFFICE OF THE CONTROLLER OF BUDGET
P.O BOX 35616- 00100, NAIROBI

Hon. FCPA Margaret.

RE: ILLEGAL ALTERATIONS IN NYAMIRA COUNTY GOVERNMENT BUDGET FOR FY: 2024/25

The above matter refers.

It has come to our attention that the County Assembly Budget for the FY: 2024/25 was altered and or amended by the County Executive without the concurrence and/or approval of the County Assembly as envisaged in Section 135(2) of the Public Finance Management Act 2012:

(2) A county government shall submit a supplementary budget in support of the additional expenditure for authority for spending under subsection (1).

As per the current County Assembly Vote-books; the County Executive **unilaterally** moved a sum of **Kshs.10Million** out of the County Assembly Recurrent Estimates and **Kshs.88Million** from the County Assembly Development Estimates as demonstrated in the tables below:

Recurrent

Item	Approved Budget Amount	Illegal Supplementary	Effect of Illegal Supplementary
Medical Insurance (2210910)	35,000,000	4,000,000	39,000,000
Accommodation -Domestic Travel (2210302)	32,610,000	-14,000,000	18,610,000
Net Effect of Illegal Supplementary		-10,000,000	

Development

Item	Approved Budget Amount	Illegal Supplementary	Effect of Illegal Supplementary
Other Infrastructure and Civil Works (3110504)	126,000,000	28,000,000	98,000,000
Other Infrastructure and Civil Works (3110599)	60,000,000	60,000,000	0
Net Effect of Illegal Supplementary		-88,000,000	

Refer attached Vote-books dated 9th January 2025 marked "CAN-1"

The purpose of this letter is to inform your office that the County Assembly of Nyamira has neither received nor approved a supplementary Budget for the County Government of Nyamira (both Assembly and Executive) in the FY: 2024/25. The original budget, as approved at the beginning of the financial year,

168

still stands, and any alteration and/or amendment by the County Executive is not only illegal but also a violation of the principle of "separation of powers". Refer attached Nyamira County Appropriation Act, 2024 marked as "CAN-II" being our last known and valid Appropriation Act.

Consequently and as of the date of this letter, any purported supplementary budget for the County Government of Nyamira for the FY: 2024/25 is therefore a nullity and as such the office of the Controller of Budget is bound by Article 228 (5) of the Constitution to decline withdrawals from Nyamira County Public Fund as the Supplementary was not duly authorized.

Article 228 (5) of the Constitution

The Controller shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorised by law.



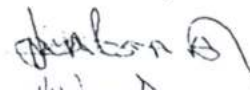
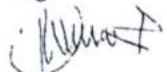
On 2nd December 2024, the County Assembly sought information as to the circumstances under which such Supplementary Budget was processed through a letter addressed to the County Executive Committee Member - Finance, ICT & Economic Planning. Refer our letter: CAN/CLK/FIEP/2024-12(1) marked "CAN-III"

To-date, the County Executive Department on Finance, ICT and Economic Planning has failed to clarify the above anomaly and/or illegality. In the absence of this clarification, we fear that the Budget for the County Executive Departments has been similarly and illegally altered since approval of the County Assembly was not sought.

The County Assembly therefore seeks your intervention to withhold any further authorizations for withdrawals, except for salaries, for the County Government of Nyamira until such a time that this illegality has been cured.

We look forward to your intervention and expeditious settlement of this matter.

Jointly signed by the following MCAs of Nyamira County:

<u>S.No.</u>	<u>NAME OF MCA</u>	<u>ID NO</u>	<u>Ward</u>	<u>SIGNATURE</u>
1.	Hon NYACHAKI James Matinga	91272619	Kemera	
2.	Hon. ABUGA George Morara	13568464	Bogichora	
3.	Hon MASIRA Duke Oyagi	24398026	Township	
4.	Hon NYANGANA Julius Obonyo	24371718	Bomwagamo	

5.	Hon KEGANDA Charles Nyarango	1656991	Bosamano — <i>P. G. G. G.</i>
6.	Hon NYARIBO Dennis Kibeso	22042828	Nyanstongo
7.	Hon MABERA Alfayo Nectera	2761515	Mkenene
8.	Hon NYAMENYO Kenneth Atutt	8551105	Gesimv
9.	Hon JOSIAH Mancia	13787871	Esire <i>(Signature)</i>
10.	Hon BENICTIA Thomas Vincent	9148286	Elaboriyoni <i>(Signature)</i>
11.	Hon OMWOYO Michelle Kemuma	31425146	Special-Elect <i>(Signature)</i>
12.	Hon MATWRE Julius Kimwoni	0305121	Bonyamatuta <i>(Signature)</i>
13.	Hon MATUNDA Evans Juma	10784103	Special-Elect
14.	Hon RIFCHI Reuben Miinda	12598406	Magombo <i>(Signature)</i>
15.	Hon OGETO Samuel Gichana	3946925	Manga <i>(Signature)</i>
16.	Hon OBWAYA Henry Sidney Onsinyo	0666163	Gachuba
17.	Hon MACHUNGO Dickson Mogaka	25566490	Special-Elect <i>(Signature)</i>
18.	Hon MATINI Abigail Nyanduko	0303940	Special-Elect <i>(Signature)</i>
19.	Hon NYAMANGA Doris Magoma	24172199	Special-Elect <i>(Signature)</i>
20.	Hon ATUNGA Josephine	10467392	Special-Elect <i>(Signature)</i>
21.	Hon MOKORA Priscilla Nyatichi	21042317	Special-Elect <i>(Signature)</i>

THE COUNTY ASSEMBLY OF NYAMIRA

✉ info@nyamiraassembly.go.ke
🌐 www.nyamiraassembly.go.ke



📍 County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

Annex 306

When replying please quote our reference

Our Ref: CAN/CLK/OCOB/2024-12(1)

Date: 4th DECEMBER 2024

**THE CONTROLLER OF BUDGET
OFFICE OF THE CONTOLLER OF BUDGET
P.O BOX 35616- 00100, NAIROBI**



Hon. FCPA Margaret,

RE: NYAMIRA COUNTY GOVERNMENT BUDGET FOR FY: 2024/25


The above matter refers.

On 2nd December 2024, the County Assembly of Nyamira wrote to the County Executive Committee Member for Finance, ICT and Economic Planning Vide Letter Ref. No. CAN/CLK/FIEP/2024-12(1) seeking a clarification on allegations that the County Government of Nyamira had sought the approval of a Supplementary Budget for FY: 2024/25 from a non-descript entity impersonating the County Assembly of Nyamira. The clarification was expected to be received on or before 4:00PM Tuesday 3rd December 2024.

This is to bring to your attention that as at the time of writing this letter, the County Assembly has not received any clarification on the above subject from the County Executive Committee Member for Finance, ICT and Economic Planning. This confirms our fear that the allegations could be true.

The purpose of this letter is to alert you of any document purporting to be an approval of a Supplementary Budget for the County Government of Nyamira for FY: 2024/25. Should the same be addressed to you kindly treat it with the contempt it deserves.

As you are aware, the Order of the High Court of Kenya in Nyamira in Judicial Review No. E007 of 2024 (attached) quashed Gazette Notices No.14229 of 2024, 14230 of 2024 and 14273 of 2024 effectively rendering the appointment of Silvanus Ndemo Nyamora and all his actions thereafter and the activities of the outfit promoted as "Bunge Mashinani" of no legal consequence.


DUKE S. ONYARI 04 DEC 2024
THE AG. CLERK
COUNTY ASSEMBLY OF NYAMIRA.

Copy To: Hon. Speaker, County Assembly of Nyamira
CECM-Finance, ICT and Economic Planning, CGN
County Budget Coordinator-Office of the Controller of Budget

171

Annex 31

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

THIRD ASSEMBLY – FOURTH SESSION

When replying please quote our reference

Our Ref: CAN/CLK/OCOB/2025/03(1)

Date: 18th MARCH 2025

**THE CONTROLLER OF BUDGET - OFFICE OF THE CONTROLLER OF BUDGET
P.O BOX 35616- 00100, NAIROBI**

Hon. FCPA Margaret,

**RE: REMINDER (ILLEGAL ALTERATIONS IN NYAMIRA COUNTY
GOVERNMENT BUDGET FOR FY: 2024/25)**

We refer to our Letter Ref. No. CAN/CLK/OCOB/2025/02(1) dated 11th February 2025 with the above captioned matter.

The gist of the complaint was that the County Assembly Budget for the FY: 2024/25 was altered and or amended by the County Executive without the concurrence and/or approval of the County Assembly as envisaged in Section 135(2) of the Public Finance Management Act 2012:

(2) A county government shall submit a supplementary budget in support of the additional expenditure for authority for spending under subsection (1).

As per the current County Assembly Vote-books; the County Executive **unilaterally** moved a sum of **Kshs.10Million** out of the County Assembly Recurrent Estimates and **Kshs.88Million** from the County Assembly Development Estimates as demonstrated in the tables below:

Recurrent

Item	Approved Budget Amount	Illegal Supplementary	Effect of Illegal Supplementary
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Development

Item	Approved Budget Amount	Illegal Supplementary	Effect of Illegal Supplementary
Other Infrastructure and Civil Works (3110504)	126,000,000	-28,000,000	98,000,000
Other Infrastructure and Civil Works (3110599)	60,000,000	-60,000,000	0
Net Effect of Illegal Supplementary		-88,000,000	

Refer attached Vote-books dated 9th January 2025 marked "CAN-I"

The purpose of this letter is to inform your office that the County Assembly of Nyamira has neither received nor approved a supplementary Budget for the County Government of Nyamira (both Assembly and Executive) in the FY:

172

2024/25. The original budget, as approved at the beginning of the financial year, still stands, and any alteration and/or amendment by the County Executive is not only **illegal** but also a violation of the principle of "separation of powers". Refer attached Nyamira County Appropriation Act, 2024 marked as "CAN-II" being our last known and valid Appropriation Act.

Consequently and as of the date of this letter, any purported supplementary budget for the County Government of Nyamira for the FY: 2024/25 is therefore a nullity and as such the office of the Controller of Budget is bound by Article 228 (5) of the Constitution to decline withdrawals from Nyamira County Public Fund as the Supplementary was not duly authorized.

Article 228 (5) of the Constitution

The Controller shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorised by law.


On 2nd December 2024, the County Assembly sought information as to the circumstances under which such Supplementary Budget was processed through a letter addressed to the County Executive Committee Member – Finance, ICT & Economic Planning. Refer our letter: CAN/CLK/FIEP/2024-12(1) marked "CAN-III"

To-date, the County Executive Department on Finance, ICT and Economic Planning has failed to clarify the above anomaly and/or illegality. In the absence of this clarification, we fear that the Budget for the County Executive Departments has been similarly and illegally altered since approval of the County Assembly was not sought.

The County Assembly therefore seeks your intervention to withhold any further authorizations for withdrawals, except for salaries, for the County Government of Nyamira until such a time that this illegality has been cured.

We look forward to your intervention and expeditious settlement of this matter.

Sincerely,


HON. GEORGE MORARA ABUGA, MCA
THE LEADER OF THE MAJORITY
FOR AND ON BEHALF OF THE MEMBERS OF THE COUNTY ASSEMBLY OF NYAMIRA.

173

REPUBLIC OF KENYA

Annex
32

COUNTY ASSEMBLY OF NYAMIRA
OFFICE OF THE CLERK
23 DEC 2024
RECEIVED
P.O. Box 590-400 NYAMIRA

IN THE HIGH COURT OF KENYA AT NYAMIRA
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. E008 OF 2024

ENOCK OKERO OGORI-----PETITIONER/APPLICANT

=VRS=

NYAMIRA COUNTY ASSEMBLY-----	1 ST RESPONDENT
CLERK – NYAMIRA COUNTY ASSEMBLY-----	2 ND RESPONDENT
KENNEDY ATUTI-----	3 RD RESPONDENT
DUKE MASIRA-----	4 TH RESPONDENT
GEORGE ABUGA-----	5 TH RESPONDENT
JULIUS NYANGENA-----	6 TH RESPONDENT
SAMUEL OGETO-----	7 TH RESPONDENT
JOSIA MANGERA-----	8 TH RESPONDENT

AND

NYAMIRA COUNTY ASSEMBLY
SERVICE BOARD-----INTERESTED PARTY

RULING

1. The background of this ruling is contained in the ruling that this court delivered on 4th November 2024 (the “earlier ruling”). Suffice is to say that this ruling will also apply in a subsequent and related Petition, filed by the Petitioner herein, being Nyamira HCCHR PET. No. E011 of 2024. In the said earlier ruling, this court indicated that it would deliver the ruling on the Contempt Application first before delving into determining the Respondents’ Preliminary Objection (PO).
2. The Respondents herein objected to this court’s jurisdiction to hear and determine this suit/Petition for want of jurisdiction. The Respondents’ case was that this court lacks the jurisdiction to entertain this case as the

174

proper forum, by dint of Article 162(2)(a) of the Constitution, is the Employment and Labour Relations Court (ELRC).

3. According to the Respondents, the suspension of the Petitioner from office is a disciplinary process that may lead to his removal from office which is a human resource function thus falling squarely under the ELRC.
4. The Petitioner, on the other hand, argued that this court as a constitutional court has jurisdiction, by dint of Article 165 of the Constitution, to hear and determine matters revolving around violation of constitutional rights.
5. It is trite that a court's jurisdiction flows from either the Constitution or Statute. In the *Matter of Interim Independent Electoral Commission* [2011] eKLR, Constitutional Application No. 2 of 2011 the Supreme Court held as follows: -

(30)...a Court may not arrogate to itself jurisdiction through the craft of interpretation, or by way of endeavours to discern or interpret the intentions of Parliament, where the wording of Legislation is clear and there is no ambiguity.....

(68). A Court's jurisdiction flows from either the Constitution or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by the Constitution or other written law.

It cannot arrogate itself jurisdiction exceeding that which is conferred upon it by law.

6. The scope of the High Court's jurisdiction is codified in Article 165 of the Constitution as: -

(3) Subject to clause (5), the High Court shall have—

(a) unlimited original jurisdiction in criminal and civil matters;

(b) jurisdiction to determine the question whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened;

(c) jurisdiction to hear an appeal from a decision of a tribunal appointed under this Constitution to consider the removal of a person from office, other than a tribunal appointed under Article 144;

(d) jurisdiction to hear any question respecting the interpretation of this Constitution including the determination of—

(i) the question whether any law is inconsistent with or in contravention of this Constitution;

(ii) the question whether anything said to be done under the authority of this Constitution or of any law is inconsistent with, or in contravention of, this Constitution;

(iii) any matter relating to constitutional powers of State organs in respect of county governments and any matter relating to the constitutional relationship between the levels of government; and

(iv) a question relating to conflict of laws under Article 191; and

(e) any other jurisdiction, original or appellate, conferred on it by legislation.

(4) Any matter certified by the court as raising a substantial question of law under clause (3)(b) or (d) shall be heard by an uneven number of judges, being not less than three, assigned by the Chief Justice.

(5) The High Court shall not have jurisdiction in respect of matters—

(a) reserved for the exclusive jurisdiction of the Supreme Court under this Constitution; or

(b) falling within the jurisdiction of the courts contemplated in Article 162(2).

7. Article 162 provides for specialized courts of equal status to the High Court as follows: -

(2) Parliament shall establish courts with the status of the High Court to hear and determine disputes relating to—

(a) employment and labour relations; and

(b) the environment and the use and occupation of, and title to, land.

8. The instant Petition relates to the suspension, from office, and the eventual impeachment of the Petitioner/Applicant as Speaker of the County Assembly. The question therefore is whether the issues raised by the Petitioner/Applicant both in his Petition and the subsequent Applications fall under the scope of constitutional violations or are the subject of an employer-employee relationship.

9. Following the promulgation of the 2010 Constitution and the establishment of specialised courts; the Environment and Land Court (ELC) and the ELRC, two schools of thought have emerged over which court is seized with jurisdiction to handle disputes around the removal of the speaker from office. While some courts have held the view that such cases fall under the purview of the High Court other courts tend to favour the ELRC as the proper forum for such disputes.

10. In *Daniel N. Mugendi vs. Kenyatta University & 3 Others* CACA No. 6/2012[2013] eKLR, it was held as follows: -

"In the same token we venture to put forth the position that as we have concluded that the Industrial Court can determine industrial and labour relations matters alongside claims of fundamental rights ancillary and incident to those matters, the same should go for the

Environment & Land Court, when dealing with disputes involving environment and land with any claims of breaches of fundamentals rights associated with two subjects”

11. In *United States International University vs. Attorney General* HCCP 170 of 2012 [2012] eKLR it was held thus:-

“The Industrial Court is a specialist court to deal with employment and labour relations matters. By virtue of Article 162(3) Section 12 of the Industrial Court Act 2011 has set out matters within the exclusive domain of that court. Since the court is of the same status of the High Court, it must have the jurisdiction to enforce labour rights in Article 41 and the jurisdiction to interpret the constitution and fundamental rights and freedoms, is incidental to the exercise of jurisdiction over matters within its exclusive domain. In any matter falling within the provisions of Section 12 of the Industrial Court Act, then the Industrial Court has jurisdiction to enforce not only Article 41 rights but also all fundamental rights ancillary and incidental to the employment and labour relations including interpretation of the constitution within the matter before it”. (emphasis ours)

12. In *County Assembly of Kisumu & 2 others vs. Kisumu County Assembly Service Board & 6 others* [2015] eKLR, the Court of Appeal explained the relationship between a Speaker and the County Assembly as follows: -

“42. Article 178 (3) of the Constitution as read with Section 11 of the County Governments Act, provide an unequivocal procedure to be followed in proceedings for the impeachment of the Speaker of a County Assembly. Article 181 of the Constitution and Section 33 of the County Governments Act provide for more or less the same procedure for the impeachment of a Governor of a County

Assembly. We concur with the High Court decision in the case of Hon. Martin Nyaga Wambora v. The Speaker, County Assembly of Embu, that under that procedure, the impeachment of a Governor of a County Assembly is quasi-judicial in nature. It follows that the removal of a Speaker of a County Assembly is equally quasi-judicial in nature.

43. According to Article 162 of the Constitution, the ELRC has the status of the High Court. This being the case, it follows that in matters falling within its jurisdiction, the ELRC has supervisory powers over "any person, body or authority exercising judicial or quasi-judicial functions." We have already found that the removal of a Speaker of a County Assembly is a quasi-judicial function. As we shall shortly demonstrate, the issues raised in the petition fell within the jurisdiction of the ELRC. We therefore find that the challenge of the impeachment of the 2nd respondent was a matter that fell squarely within the ELRC's supervisory mandate.

44.

48. The third point on the issue of jurisdiction is that there is no employer/employee relationship between the Speaker of any County Assembly and the County Assembly itself to warrant the invocation of the ELRC's jurisdiction to entertain the petition.....

51. As is clear from these submissions, both sides of the divide in this appeal agree that pursuant to the provisions of Article 162 (2) (a) of the Constitution as read with Section 12 (1) of the Industrial Court Act, the jurisdiction of the ELRC stems from the existence of employment and labour relations. The main issue in this appeal therefore is whether or not such relationship exists between a Speaker and a County Assembly. The appellants contended that

employer/employee relationship arises on appointment and not on election and since the position of a Speaker is elective, such relationship does not exist. The respondents contended otherwise arguing that the determinant factor is remuneration.

52. The position of the Speakers of the National and County Assemblies should be distinguished from those of the Members of the National and County Assemblies. The Members of National and the County Assemblies are elected by the public at large to represent them and urge their interests in their respective assemblies. The Speakers, on the other hand, are not elected to represent any constituency. They are elected by their respective Assemblies to assist the Assemblies conduct their businesses in an orderly and lawful manner. Their responsibilities include managing House business and facilitating the operations of the National or County Assemblies. To provide for seamless support for the workings of the County Assembly, the Speakers of the County Assemblies also chair the County Assembly Service Boards which are responsible for the provision of services and facilities, including the appointment of office holders such as the Clerks and the Deputy Clerks of the County Assemblies to ensure the effective and efficient operations of the County Assemblies. In a sense therefore, the Speakers' roles are akin to those of managing directors of body corporates answerable to their Boards of Directors on the day-to-day operations of the companies. The Speakers' elections are therefore akin to appointments which create employer/employee relationships.

53. As Nduma J. correctly observed in *Nick Githinji Ndichu v. Clerk Kiambu County Assembly & Another*, a decision followed by

Sitati J. in Peter Kingoina v. County Assembly of Nyamira, employer/employee relationship exists when there is a "contract of service" as defined by Section 2 of the Employment Act, 2007. We concur with the learned Judge that the law is not concerned with the manner of engagement or assumption of the position of employee. What is important is the existence of a contract of service "whether oral or in writing, and whether expressed or implied to employ or to serve as an employee for a period of time...for wages or a salary." On this additional criterion, we once again concur with the learned Judge that there exists a contract of service between a Speaker of a County Assembly and the County Assembly concerned.

54. On the basis of these points, we therefore uphold Wasilwa, J's finding that the ELRC had jurisdiction to determine the petition. We accordingly dismiss the ground on jurisdiction."

13. In the case of *David Sifuna vs. Clerk, County Assembly of Trans Nzoia & Another* [2014] eKLR, the court dismissed the arguments by the Respondents that the Court lacked the Jurisdiction to hear and determine a Petition that had been lodged by the Petitioner challenging his removal from office by way of impeachment and held that: -

"Where the Constitution has been violated or is threatened with violation, the Court cannot exercise restraint and therefore, any intended and blatant violation of any provision of the constitution by any state organ or person would definitely attract judicial scrutiny through the High Court.

In the upshot, it is this Court and not the Employment and Labour Relations (Industrial) Court which is possessed of the actual jurisdiction to hear and determine this petition.

36. Indeed, the role of the High Court for purposes of removal of a Governor or Speaker from office is supervisory in nature to ensure that the procedure and threshold provided for in the Constitution and the County Government Act are followed so that if the process is unconstitutional, wrong, un-procedural or illegal, it cannot be said that the Court has no jurisdiction to address the grievance arising therefrom (see, Martin N. Wambora & Other vs. the Speaker of the Senate (supra) and (Mumo Matemu vs. Trusted Society of Human Rights Alliance & Others NBI Civil Appeal No. 290 of 2012.))

37. This jurisdictional role is embedded in Article 165 (6) of the Constitution. Thus, in the exercise of its supervisory role, the High Court does not attempt to replace the decision of the competent organ with its own decision, it only finds fault with it as it has to determine if the action taken was Constitutional, rational and examine if there had been any procedural impropriety. The Court merely examines the constitutionality of any action and does not seat in appeal over the opinion of the relevant organ. It examines whether relevant material and vital aspects having a nexus to the Constitutional and legislative purposes were taken into account in the actual process.

38. Impeachment is defined in Black's Law Dictionary 8th Edition, as the act by a legislature of calling for the removal from office of a public official accompanied by presenting a written charge of the officials' alleged misconduct. Therefore, proceedings of impeachment are

quasi-judicial in nature and thus subject to the jurisdiction of the High Court under Article 165 (3) (a) and (6) of the Constitution of Kenya, 2010. The High Court being that which is set up under Article 165 of the Constitution and not Article 162 (2) of the Constitution."

14. The above decision was appreciated and applied by the High Court, sitting at Kisii, in its recent decision in the case of *David Ondimu Kombo vs County Assembly of Kisii and Others*, Petition 10 of 2021, where the court dismissed a Preliminary Objection challenging the Jurisdiction of the High Court to hear and determine the Petition over the removal, from office by way of impeachment, of the Petitioner therein.
15. Having regard to the varied opinions and decisions on the proper forum to hear this kind of dispute and having noted that it was not disputed that the Petitioner herein has filed an identical Petition before the ELRC in Kisumu, I find that the Petitioner cannot be seen to hop back and forth between the two courts or blow hot and cold over the subject of jurisdiction. I am persuaded that the Petitioner was cognizant of the fact that the proper court to handle his case was the ELRC thus informing his decision to file another case before the ELRC at Kisumu soon after filing this Petition. To my mind, the filing of the Petition in ELRC at Kisumu is a clear demonstration that the Petitioner appreciates that the issues he has raised herein are predominantly issues on labour and employment between him and the County Assembly of Nyamira.
16. I will therefore direct that this matter be sent to ELRC at Kisumu for hearing and determination. I am guided by the persuasive decision of Otieno J. in *Allan Mupe Bakari vs Diani Sea Lodge* (2020) eKLR, where it was held thus:-

"However study of what actually happens when a court finds that it has no jurisdiction in a matter, has not been a dismissal or striking

out. The courts have taken the purposive approach to let the matter be heard where it belongs. That is achieved by regular transfer of suits between the courts of equal status almost on a daily basis. Suits have not been routinely defeated merely on the basis that it was filed in a court which lack jurisdiction. I am persuaded and fully convinced that this is the proportionate and robustly just approach to the administration of justice so that, ultimately, parties have their day in court.”

17. In the final analysis, I make the following final orders: -

- (i) Petitions Nos. E008 and E011 of 2024 be consolidated and transferred to the Employment and Labour Relations Court in Kisumu for hearing and determination.
- (ii) The parties shall bear their own costs in the Applications.

18. It is so ordered.

Ruling dated, signed and delivered virtually at Nyamira via Microsoft Teams this 16th day of December 2024.


W. A. OKWANY

JUDGE

In the Presence of: -

Ms. Omwoyo, Mr. Ndegwa, Mr. Ndumbi, Mr. Miinda Riechi for 2nd to 8th Respondents

Mr. Ratemo for the Petitioner

C/A – Anita



Annex 33

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

COURT NAME: NYAMIRA LAW COURT

CASE NUMBER: HCJR/E007/2024

CITATION: COUNTY ASSEMBLY OF NYAMIRA VS ENOCK OKERO OGORI

RULING

1. The application dated 28.11.24 is considered .
2. The seeks leave to file Judicial review in the nature of certiorari to bring into this court and to quash gazette Notices Numbers 14229 of 2024,
14239 of 2024 and 14273 of 2024 dated 29.20.23, 26.10.23 and 30.10.24 respectively .
3. The applicant also seeks that the said leave do operate stay of the said gazette Notices Numbers 14229 of 2024, 14239 of 2024 and 14273 of
2024 dated 29.20.23, 26.10.23 and 30.10.24 respectively .
4. I have perused the said motion and I find that the applicant has established that he has an arguable case against the respondents .
6. I allow the application in terms of prayer 2 and 3 of the said application .
7. The substantive Notice of motion be filed and served within 14 days from today.
8. Mention on 16.12.24 at 10.00am .

SIGNED BY: HON. LADY JUSTICE ODERA TERESA ACHIENG



THE JUDICIARY OF KENYA.

NYAMIRA HIGH COURT

HIGH COURT CIVIL

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185



Annex 34

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

COURT NAME: NYAMIRA LAW COURT

CASE NUMBER: HCJR/E007/2024

CITATION: COUNTY ASSEMBLY OF NYAMIRA VS ENOCK OKERO OGORI

RULING

1. This ruling is in respect to the Application dated 1st December 2024 wherein the Respondent/Applicant, **Enock Okero Ogori**, seeks the following orders: -
2. **SPENT**
3. **SPENT**
4. **THAT the Honourable Court be pleased to set aside, vacate, vary and discharge the Orders granted ex-parte on 29th November 2024.**
5. **THAT costs of and incidental to this Application be in the cause.**

1. The Application is brought under Section 80 of the Civil Procedure Act, Order 45 of the Civil Procedure Rules as read with Articles 19, 23, 47, 48, 50 and 159 of the Constitution. It is predicated on the grounds of the face of the Application and is supported by the Respondent's affidavit wherein he avers that; he was the current legitimate and lawful Speaker of the Nyamira County Assembly, having obtained conservatory orders on 11th October 2024 restraining anyone from interfering with the discharge of his duties; that the Applicant filed JR E005 of 2024 seeking to quash Gazette Notices Nos. 14229, 14230 and 14273 of 2024 and the present Application with the full knowledge that they addressed the same subject matter; that substantive orders were made against him contrary to the rules of natural justice on the right to be heard; that there is potential risk of conflicting court orders being issued by different courts and that the filing of the present Application constitutes an abuse of judicial processes since it amounts forum shopping through multiplicity of suits.
2. The Applicant further avers that the granting of leave to institute JR proceedings against him through the Court orders of 29th November 2024 automatically ousted the Court's orders issued on 11th October 2024 and that had the Court been made aware of the existence of JR E005 of 2024, it would not have issued the impugned orders at the *ex-parte* stage because of the *sub-judice* rule. He states that there is an error apparent on the face of the record as the Court issued substantive *ex-parte* orders without hearing the Respondent's case.
3. The *ex-parte* Applicant filed the Respondent's Affidavit of its Acting Clerk, **Mr. Duke Onyari** in

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186

response to the Application. The said deponent avers that the Application is incurably defective for failure to annex the Orders sought to be stayed, varied or vacated. He further states that judicial review proceedings are *sui generis* in nature and that the court therefore lacks the jurisdiction to entertain the present Application and that there is no court order or subsequent gazette notice revoking Gazette Notice No. 14050 of 2024 that gazetted the Respondent's impeachment.

4. He faults the Respondent for abusing the court processes by filing multiple petitions in three different courts but adds that there is no risk of conflicting orders because JR E005 of 2024 has since been withdrawn.
5. The Respondent/Applicant filed a further affidavit dated 14th December 2024 in which he avers that this court is clothed with the jurisdiction to hear the Application as there is no provision requiring that the Order sought to be vacated be annexed to the Application. He further avers that the Notice of Withdrawal of suit filed in JR E005 was cleverly filed on 29th November 2024 at 11.11 a.m. in bad faith without the leave of court. He also states that any issues relating to competence of the appointees listed under Gazette Notice 14273 could only be dealt with in a different forum because Judicial Review proceedings deals with the procedure of administrative decisions and not their merits.
6. The Application was canvassed by way of written submissions which I have considered.

Analysis and Determination.

1. I have considered the pleadings filed herein and the parties' rival submissions. I find that the main issue for my determination is the Application is merited.
2. The court's power to review its own decisions is provided for under **Section 80 of the Civil Procedure Act** and **Order 45 Rule 1 of the Civil Procedure Rules** which stipulate as follows:-

80. Any person who considers himself aggrieved-

1. **by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or**
2. **by a decree or order from which no appeal is allowed by this Act,**

May apply for a review of judgement to the court, which passed the decree or made the order, and the court may make such order thereon as it thinks fit.

Order 45 Rule 1 (1) Any person considering himself aggrieved-

1. **By a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or**
2. **By a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for review of judgement to the court which passed the decree or made the order without unreasonable delay.**
3. I note that impugned orders granted the exparte Applicant leave to institute Judicial Review proceedings against the Respondent which leave was also to operate as stay of the impugned Gazette Notices.
4. In **Judicial Commission of Inquiry to the Goldenberg Affair vs. Job Kilach Civil Appeal No.77 of 2003** the Court of Appeal rendered itself as follows:-



187

"The next point to make is that although appeal does lie to this court against an ex-parte order made by a judge of High Court.....nevertheless in his judgment in that case, Sir Donalds on MR [1983] 3 All E.R. 589 at page 593 said:

"I have said ex-parte orders are essentially provisional in nature. They are made by the judge on the basis of evidence and submissions emanating from one side only. Despite the fact that the Applicant is under duty to make full disclosure of all relevant information in his possession whether or not it assists his application this is no basis for making a definite order and every judge knows this. He expects, at a later stage, to be given opportunity to review his provisional order in the light of evidence and argument adduced by the other side and in so doing he is not hearing an appeal from himself and in no way feels inhibited from discharging or varying his original order. This being the case it is difficult if not impossible to think of circumstances in which it would be proper to appeal to this court against an ex-parte order without just giving the High Court judge an opportunity of reviewing it in light of argument from the defendant and reaching a decision." [emphasis added]

1. Similarly, in **Republic vs. Vice Chancellor Moi University & 3 others Ex-Parte Benjamin J. Gikenyi Magare [2018] eKLR** H. Omondi J. (as she then was) held as follows when faced with a similar Application to vacate stay orders issued in a judicial review application: -

"To request the court to re-look at the background leading to the issuance of stay, is in my view, not asking the court to sit on appeal on orders of a court of equal status. It is simply telling the court to reconsider the orders issued in light of the fact that the beneficiary of those orders concealed or did not disclose all the material facts prevailing. All the other issues raised will be better addressed at the hearing of the main motion."

1. My understanding of the above decisions is that the court's hands are not tied when it comes to reviewing *ex-parte* orders made in Judicial Review proceedings. This is to say that the law permits the court to vary its decisions particularly where the circumstances warrant review/variation, such as where the *ex-parte* Applicant has concealed some facts which may have been relevant in making a decision at that preliminary *ex-parte* stage. I find that this court has the jurisdiction to hear and determine the Application for review and to grant any appropriate orders even if the Applicant may have already filed a substantive motion.
2. It was not disputed that on 11th October 2024 this court issued conservatory orders directing the parties to maintain status quo pending the hearing and determination of an Application filed in Nyamira Petition No. E008 of 2024 wherein the *ex-parte* Applicant is also a party. To my mind, the effect of the said conservatory orders was to stop any subsequent actions against the holder of the office of the Speaker of the County Assembly including, removing from office by way of impeachment.
3. Flowing from the above position, it is clear that the Applicant/Respondent did not disclose the existence of conservatory orders in Petition No. E008 of 2024 when it appeared before the Court at Kisii on 29th November 2024. It is also clear that the *ex-parte* Applicant did not disclose the existence of the earlier Judicial Review that they filed in JR E005 of 2024 over the same subject matter, being the impugned gazette notices.
4. It is therefore clear that the Court granted the orders of 29th November 2024 without the benefit of the full set of facts and background of the case. The effect of the leave granted herein operating as a stay of the impugned Gazette Notices automatically had the effect of conflicting with the said existing conservatory orders. It is on this basis that I find that it would have been prudent for the Applicants to disclose all material facts to the Court to enable it make a proper decision. Failure to disclose all the material fact paint the *ex-parte* applicant in bad light and portray it as a party who was driven by mischief with the intention of



188

circumventing the judicial process that was already in motion.

5. The ripple effect of the impugned orders, as has been seen, is the potential embarrassment that may be caused to the Court with the ensuing confusion arising from conflicting orders. A very untidy scenario has thus been created where on one hand the Speaker has conservatory orders to remain in office and conduct his duties which include issuance of gazette notices and on the other hand, the said gazette notices are put on hold following the non-disclosure of material facts.
6. I find the Supreme Court decision of ***Kaluma vs. NGO Co-ordination Board & 5 others (Application E011 of 2023) [2023] KESC 72 (KLR) (Civ) (12 September 2023) (Ruling)***, relevant in this regard, where the apex court outlined the circumstances under which it could review its own decisions as follows: -

“(a) The judgment, ruling or order is obtained through fraud, deceit or misrepresentation of facts;

(b) The judgment, ruling or order is a nullity by virtue of being made by a court which was not competent;

(c) The court was misled into giving judgment, ruling or order under the belief that the parties have consented; and

(d) The judgment, ruling or order was rendered on the basis of repealed law or as a result of a deliberate concealment of a statutory provision.”

1. It is my finding that the circumstances in the present case fall under the first scenario, where the Court issued the ex-parte orders based on a misrepresentation of facts or lack of full disclosure. This therefore calls for this Court to review its previous orders.
2. Turning to the claim that the instant JR Application offends the *subjudice* doctrine, I note that it was not disputed that the Applicants had previously filed a Judicial Review Application No. E005 of 2024 wherein they sought to quash the Gazette Notices No. 14229 and 14230 of 2024 on the basis that the Respondent had issued them after he had been impeached from office. I find that even though the Applicants/Respondents (County Assembly) argued that the said Judicial Review Application did not challenge the third Gazette Notice No. 14273 of 2024, such an argument does not vitiate the fact that they filed two similar Applications at different times in respect to the same subject matter.
3. It is my view that the substratum of the Application in JR E005 of 2024 speaks to the same issue in the present Application JR E007 of 2024 which is primarily to nullify any gazette notices issued by the Respondent/Applicant (Speaker) after his alleged impeachment. I find that JR E007 of 2024 was filed after JR E005 of 2024 in contravention with the Res Sub-Judice Rule.
4. The *Res Subjudice* rule is codified under **Section 6 of the Civil Procedure Act** as follows: -

“No court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit or proceeding is pending in the same or any other court having jurisdiction in Kenya to grant the relief claimed.”

1. The Supreme Court further expounded on this rule in the case of ***Kenya National Commission on Human Rights vs. Attorney General; Independent Electoral & Boundaries Commission & 16 others (Interested Parties)***, as follows: -



"[67] The term 'sub-judice' is defined in Black's Law Dictionary 9th Edition as: "Before the Court or Judge for determination." The purpose of the sub-judice rule is to stop the filing of a multiplicity of suits between the same parties or those claiming under them over the same subject matter so as to avoid abuse of the Court process and diminish the chances of courts, with competent jurisdiction, issuing conflicting decisions over the same subject matter. This means that when two or more cases are filed between the same parties on the same subject matter before courts with jurisdiction, the matter that is filed later ought to be stayed in order to await the determination to be made in the earlier suit. A party that seeks to invoke the doctrine of res sub-judice must, therefore, establish that there is more than one suit over the same subject matter, that one suit was instituted before the other, that both suits are pending before courts of competent jurisdiction, and lastly; that the suits are between the same parties or their representatives."

1. I have considered the Applicant/Respondents claim that they had withdrawn the Application in JR E005 of 2024. I find that this claim was not proved as the exparte applicant did not demonstrate that it obtained the of the court to withdraw the said JR. It is my finding that the filing a multiple suits with the intention of obtaining a favourable outcome not only amounted to the undesirable act of forum shopping but also constituted outright abuse and mockery of the judicial processes and systems. (See **Purity Moraa Kirere vs. The Senate and 8 Others Petition No. 4 of 2024**).
2. For the reasons that I have stated in this ruling, I find that the Respondent/Applicant has made out a case for the setting aside of the Orders issued on 29th November 2024. Consequently, I allow the Application dated 1st December 2024 in the following terms:
3. ***That the ex-parte orders granted on 29th November 2024, specifically in respect to the stay of the gazette notices, are hereby set aside.***
4. ***Since this is a Public Interest matter where there are other pending matters, I make no orders as to costs.***
5. It is so ordered.

Ruling dated, signed and delivered virtually at Nyamira via Microsoft Teams this 30th day of January 2025.

SIGNED BY: HON. LADY JUSTICE WILFRIDA A. OKWANY



THE JUDICIARY OF KENYA.
NYAMIRA HIGH COURT
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190

Annex 36



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
OFFICE OF THE CLERK



P.O Box 590-40500, Nyamira Website: www.nyamiraassembly.go.ke

E-mail:

info@nyamiraassembly.go.ke

THE JUDICIAL SERVICE COMMISSION,
P.O. BOX 40048-00100 NAIROBI,
KENYA CBK PENSION TOWERS 13TH FLOOR,
HARAMBEE AVENUE, NAIROBI CBD
Email: complaints@jsc.go.ke

**PETITION TO THE JUDICIAL SERVICE COMMISSION FOR REMOVAL
FROM OFFICE OF LADY JUSTICE WINFRIDA OKWANY – HIGH
COURT JUDGE NYAMIRA HIGH COURT**

**THE COUNTY ASSEMBLY OF NYAMIRA PETITIONER
VS
LADY JUSTICE WINFRIDAH OKWANYI.....RESPONDENT**

1. The Petitioner is the Legislative arm of the County Government of Nyamira established pursuant to Article 176 (1) of the Constitution of Kenya, 2010 and Sections 2, 6A and 7A (1) of the County Governments Act, 2012 (Rev.2020) whose address for the purpose of this Petition is P.O BOX 590 – 40500 Nyamira, E-mail: info@nyamiraassembly.go.ke, Website: www.nyamiraassembly.go.ke c/o Clerk to the County Assembly telephone No. 0724037120.
2. The Respondent is a High Court Judge appointed pursuant to the Constitution of Kenya 2010 Article 166 (1) (b), the Judicial Service Commission Act whose address for the purpose service of this Petition is High Court at Nyamira P.O Box Nyamira , Email: complaints@jsc.go.ke Telephone Number
3. Your Humble Petitioner brings up this Petition pursuant to Article 37 which provides that; *Every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities.*

4. **Article 1** of the Constitution of Kenya provides for sovereignty of the people of Kenya; 1.(1) All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

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

(3) Sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution—

(a) Parliament and the legislative assemblies in the county governments;
(b) the national executive and the executive structures in the county governments; and (c) the Judiciary and independent tribunals.

(4) The sovereign power of the people is exercised at—

(a) the national level; and
(b) the county level.

5. **Article 248** of the Constitution provides for the Hon. Judicial Service Commission to *wit*;

248. (1) This Chapter applies to the commissions specified in clause (2) and the independent offices specified in clause (3), except to the extent that this Constitution provides otherwise.

(2) The commissions are—

(a) the Kenya National Human Rights and Equality Commission;
(b) the National Land Commission;
(c) the Independent Electoral and Boundaries Commission;
(d) the Parliamentary Service Commission;
(e) the Judicial Service Commission;
(f) the Commission on Revenue Allocation;
(g) the Public Service Commission;
(h) the Salaries and Remuneration Commission;
(i) the Teachers Service Commission; and
(j) the National Police Service Commission.

(3) The independent offices are—

(a) the Auditor-General; and
(b) the Controller of Budget.

6. The objects and authority of the Commission are captured in Article 249 as hereunder;

249. (1) The objects of the commissions and the independent offices are to—

(a) protect the sovereignty of the people;

(b) secure the observance by all State organs of democratic values and principles; and

(c) promote constitutionalism.

(2) The commissions and the holders of independent offices—

(a) are subject only to this Constitution and the law; and

(b) are independent and not subject to direction or control by any person or authority.

7. **Article 47** of the Constitution articulates on fair administrative action – that every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

That if a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

8. **Article 50** of the Constitution provides that every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.

9. **Article 159** provides for Judicial authority and that Judicial authority is derived from the people and vests in, and shall be exercised by, the courts and tribunals established by or under this Constitution. That in exercising judicial authority, the courts and tribunals shall be guided by the following principles—

(a) justice shall be done to all, irrespective of status;

(b) justice shall not be delayed;

(c) alternative forms of dispute resolution including reconciliation.

Hon. JSC Members,

10. The Petition is brought before the Hon. Judicial Service Commission hereinafter “JSC” on the basis of the following grounds and particulars thereof;

1. Violation of the Constitution

2. Incompetence

11. The Hon. Learned Judge, in presiding, handling and conducting THE HIGH COURT OF KENYA AT NYAMIRA PETITION NO. E008 OF 2024 - ENOCK OKERO OGORI 'VERSUS' NYAMIRA COUNTY ASSEMBLY & 8 OTHERS (Annex marked "CAN – 01") mismanaged and botched the matter to the detriment of the Respondents.

Hon. JSC Members,

12. The following is a brief chronology of events/facts

CHRONOLOGY OF EVENTS

13. Hon. Enock Okero, the impeached Speaker of the County Assembly of Nyamira was suspended from office by the County Assembly Speaker on 8th October 2024.
14. On 10th October 2024 the Hon. Speaker Enock Okero moved to Court challenging his suspension from office.
15. On 11th October 2024 the County Assembly of Nyamira issued a Gazette Notice No. 13376 appointing the Hon. Thaddeus Nyabaro (*Chairperson*), Duke Onyari (*Secretary*), Hon. Josiah Obegi Mang'era, Hon. Reuben Minda Riechi, Leonard Mogaru and Edith Omari as *Members* of the Nyamira County Assembly Service Board.
16. On 11th October 2024 the court issued orders and directed that the Application of Hon. Enock Okero be served on the Respondents for Mention on 14th October 2024, and that *prayers No. 2 and 3 (conservatory) of the said Application granted in order to preserve the substratum of the application* (copy attached).
17. On 13th October 2024 the Respondents filed a Preliminary Objection challenging Jurisdiction of the Court to hear the Hon. Enock Okero Petition/Application of 10th October 2024.
18. On 24th October 2024 at 10.15am the **Hon. Speaker Enock Okero appeared before the County Assembly** to respond to the allegations on his suspension. The doctrine of natural justice fair hearing was observed thereto (Art.47 and 50 of Constitution of Kenya).

19. On 24th October, 2024 Hon. Enock Ogori Okero, Speaker to the County Assembly of Nyamira was, **removed from office by Impeachment** by the County Assembly of Nyamira.
20. On 25th October 2024 a Gazette Notice No. 14050 was issued on the removal of the Speaker from office, declaring the position of the Speaker County Assembly of Nyamira Vacant (copy attached).
21. Vide Gazette Notice 14050 dated 25th October 2024 the County Assembly of Nyamira gazetted Thursday 31st October 2024 at 2.30pm for Special Sitting of the County Assembly for the election of the Speaker (copy attached).
22. On 25th October 2024 the Hon. Enock Ogori Okero wrote a letter purporting to suspend from office Mr. Duke Onyari then Ag. Clerk of the County Assembly (copy attached).
23. On 7th November 2024 the Hon. Enock Okero issued a Gazette Notice No. 14273 gazetting Enock Okero (*Chairperson*), Joel Ombongi (*Vice - Chairperson*), Lameck Sikweya, Leonard Mogaru, Edith Nyaboke Omari (*Members*) and Silvanus Nyamora as *Secretary* of the Nyamira County Assembly Service Board.
24. All these gazette notices by Hon. Enock Okero were done after his impeachment from office on 24th October 2024. The said Hon. Enock Okero did file Kisii Employment & Labour Relations Petition E001 of 2025 challenging his impeachment.
25. Despite the active case in Kisii by Hon. Enock Okero challenging his impeachment, Lady Justice Wilfrida Okwany has through various rulings insisted that Hon. Enock Okero is the Speaker of Nyamira County Assembly and that he can publish gazette notices despite his impeachment. See the ruling delivered on 30th January 2025 in Nyamira High Court Judicial Review Case No.E007 of 2024 County Assembly of Nyamira v Enock Okero where Justice Wilfrida Okwany vacated stay orders which had stayed 3 gazette Notices that had been illegally published by Enock Okero subsequent to his impeachment.
26. The Kisii and Kisumu Employment and Labour Relations Courts on the other hand have on numerous occasions rightfully declined to grant any conservatory orders in favour of Hon. Enock Okero as he stood impeached as from 24th October 2024. See Kisii Employment and Labour Relations Petition

No. E001 of 2024 as well as Kisumu Employment and Labour Relations Petition No. E047 of 2024, E052 of 2024 and E001 of 2025 wherein in all these cases, the other Employment Court Judges have declined to grant any conservatory Orders in favour of Hon. Enock Okero.

27. Due to the absence of a Court order stopping the impeachment of Hon. Enock Okero, the Respondents proceeded to transact County Assembly business of impeaching Hon. Enock Okero which prompted the Petitioner to file an Application of Contempt against the Respondents.
28. The back drop of the matter is that the Learned Judge ought to have handled and considered the Preliminary Objection on Jurisdiction by the Respondents before embarking on issuing Conservatory Orders on the Petitioner's Application.

COURT PROCEEDINGS

29. On 16th December 2016, the Learned Judge delivered two Rulings in the **THE HIGH COURT OF KENYA AT NYAMIRA PETITION NO. E008 OF 2024 - ENOCK OKERO OGORI 'VERSUS' NYAMIRA COUNTY ASSEMBLY & 8 OTHERS.**
30. On 16th December 2024 the Court delivered a Ruling on Contempt against the Contemnors pardoning all the 7 contemnors with a stern warning on the obedience and compliance of the court orders her interpretation and procedure notwithstanding.
31. On the Preliminary Objection by the Respondents, the Court found that it had no jurisdiction to handle the Petition and transferred the case to the Kisumu Employment and Labour Relations Court, again without vacating the Conservatory Orders instant.
32. It is an elementary matter of law that where a court returns a finding that it does not have jurisdiction, it should down its tools. A case filed in a wrong jurisdiction is a nullity ab initio. Its previous orders cease being in force. The Judge could not purport to transfer the case to Kisumu Employment Court on the basis that the Kisumu Employment Court was the correct forum.
33. The habit of transferring cases to the right courts was allowed for a limited period of time subsequent to the promulgation of the 2010 Constitution so as to enable litigants familiarize themselves with the new courts.

34. It is out rightly evident that Lady Justice Wilfrida Okwany is incompetent and unfit to continue holding the Office of a High Court Judge as she allowed the transfer of Nyamira High Court Petition E008 of 2024 instead of striking it out. This is an elementary matter in which any Judicial Officer ought to be conversant with.

**NYAMIRA PETITION NO. E001 OF 2025 EDWIN ONCHOKO
PETITIONER 'VERSUS' NYAMIRA COUNTY ASSEMBLY & 4
OTHERS;**

35. In this particular case, the Petitioner filed his Petition together with a Notice of Motion Application under Certificate of Urgency on 21st January 2025. **No Conservatory Orders were issued ex parte.**

36. The Respondents filed a Notice of Preliminary Objection dated 22nd January 2025.

37. When the matter came up for directions on 23rd January 2025, the Respondents never sought for any conservatory orders. 23rd January 2025 was the second time the learned judge was interacting with this file. **No Conservatory Orders were issued on 23rd January 2025.** The Court directed the Preliminary Objection to be disposed off by way of written submissions. Highlighting of the submissions was slated for 29th January 2025.

38. Parties highlighted submissions on 29th January 2025. This was the third time the Judge was interacting with this matter. **No Conservatory Orders were issued on 29th January 2025.**

39. Ruling was slated for 6th February 2025. On 6th February 2025, the court informed other litigants that the Court's diary was full. They were therefore issued with further mention dates in April 2025 when the Court diary would be open. However, for this particular case, the Judge was able to deliver its ruling in a record 8 days after parties highlighted their submissions. This clearly demonstrated that the Judge had an interest in this matter.

40. To further demonstrated her partiality in this matter, the Judge declined to grant the Respondents stay pending Appeal. Further, the Judge granted the Petitioner conservatory orders on the premise that she wanted to preserve the substratum of the Petition. One wonders : where did the need to preserve the

petition arise on 6th February 2025 yet the Judge had not granted the same conservatory orders on 21st January 2025, 23rd January 2025 and 29th January 2025.

41. The effect of the conservatory orders issued on 6th February 2025 were that the newly elected Speaker Hon. Thaddeus Ndubi Nyabaro could not be gazetted neither could he assume the position of Speaker of Nyamira County Assembly. These orders have created a problematic situation at the Nyamira County Assembly as on one hand, Hon. Enock Okero was impeached on 24th October 2024 and on the other hand Hon. Thaddeus Ndubi Nyabaro is restrained from assuming the Office of Speaker Nyamira County Assembly.
42. In essence, the learned Judge through her orders of 6th February 2025 had made the office of the Speaker Nyamira County Assembly to be vacant.
43. This is a dangerous scenario that has been created by the learned Judge as there are time bound bills and motions to be passed at the Assembly. Some motions have to be presided over by a substantive Speaker.
44. Lady Justice Wilfrida Okwany's conduct of being biased in favour of the Petitioner is in breach of the Bangalore principles of judicial conduct in that it has portrayed the learned Judge as not being independent in her decision making process, being impartial, not treating parties appearing before her equally and not being competent and diligent.

Hon. JSC Members,

45. **NOTING THAT:** noting that the Learned Judge not only erred in her findings on the 2 cases, the deliberate and intent of exhibiting incompetence and bias that bungled up the 2 cases has befuddled and thrown the County Assembly of Nyamira into confusion;
46. **AWARE THAT:** the County Assembly of Nyamira is now operating in limbo and indeterminate state;
47. **FURTHER AWARE THAT:** that Judicial officers derive authority from the people and vests in, and shall be exercised by, the courts;
48. **WHEREAS:** the County Assembly of Nyamira is a constitutional and statutory institution of government with elected Members of the County Assembly and County Assembly Staff;



Annex 38

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA

COURT NAME: NYAMIRA LAW COURT

CASE NUMBER: HCCHRPET/E008/2024

CITATION: ENOCK OKERO OGORI VS NYAMIRA COUNTY ASSEMBLY AND CLERK NYAMIRA
COUNTY ASSEMBLY AND 7 OTHERS

ORDERS(COURT DOCUMENT)

THIS MATTER coming up on 11th October 2024 for directions on the Notice of Motion dated 10th October 2024 before Honourable Justice W. A. Okwany. UPON Perusing the Certificate of Urgency, the Application and the supporting affidavit;

IT IS HEREBY ORDERED:

1. THAT the application be served on the Respondents and the Interested Party and be mentioned on 14th October 2024 for directions.
2. THAT prayers No. 2 and 3 of the said Application are hereby granted in order to preserve the substratum of the Application.

GIVEN under my hand and seal of the Honourable court this 11th October 2024.

Penal Notice: Take notice that any disobedience or non-observance of the order of the court served herewith will result in penal consequences to you and any other person(s) disobeying and not observing the same

SIGNED BY: HON. LADY JUSTICE WILFRIDA A. OKWANY



THE JUDICIARY OF KENYA.
NYAMIRA HIGH COURT
HIGH COURT CIVIL
DATE: 2024-10-11 16:09:47+03

The Judiciary of Kenya



Doc IDENTITY: 3341326160049151548017688405 Tracking
Number: JJU7VH2024

1/1

199

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
PETITION NO. E00.8 OF 2024

IN THE MATTER OF: -

ARTICLES: 1(1), 3, 10, 22, 23, 27, 28, 41(1), 47, 48, 50, 124, 159, 165, 178(3) AND 258 OF
THE CONSTITUTION OF KENYA, 2010;

AND

SECTIONS: 3, 4, 6, 7 AND 11 OF THE FAIR ADMINISTRATIVE ACTION ACT [CAP.
7L – LAWS OF KENYA];

AND

SECTIONS: 8, 9 AND 11 OF THE COUNTY GOVERNMENTS ACT [CAP. 265 – LAWS
OF KENYA]

AND

STANDING ORDERS NO. 33, 60 AND 65 OF THE NYAMIRA COUNTY ASSEMBLY
STANDING ORDERS

AND

ILLEGAL, UNLAWFUL, AND UNCONSTITUTIONAL INTERFERENCE WITH THE
FUNCTIONS OF AND PURPORTED SUSPENSION OF THE SPEAKER OF THE
NYAMIRA COUNTY ASSEMBLY

~ BETWEEN ~

ENOCK OKERO OGORI.....PETITIONER/APPLICANT

'VERSUS'

NYAMIRA COUNTY ASSEMBLY.....1ST RESPONDENT

CLERK – NYAMIRA COUNTY ASSEMBLY.....2ND RESPONDENT

KENNEDY ATUTI.....3RD RESPONDENT

DUKE MASIRA.....4TH RESPONDENT

GEORGE ABUGA.....5TH RESPONDENT

JULIUS NYANGENA.....6TH RESPONDENT

SAMUEL OGETO.....7TH RESPONDENT

JOSIA MANGERA.....8TH RESPONDENT

AND

NYAMIRA COUNTY ASSEMBLY SERVICE BOARD..... INTERESTED PARTY

200

CERTIFICATE OF URGENCY

I, **OMBUI RATEMO**, an Advocate of the High Court of Kenya practicing as such in the firm of **OMBUI RATEMO & ASSOCIATES ADVOCATES** which firm has the conduct of this matter on behalf of the Petitioner/Applicant do hereby certify the application filed herewith to be extremely urgent for the following reasons:

- a) **THAT**, on **8th October 2024**, the 3rd to 8th Respondents herein being members of the County Assembly of Nyamira, purported to pass a resolution suspending the Petitioner/Applicant from office as the Speaker of the 1st Respondent.
- b) **THAT**, the said actions characterised only as "*hostile takeover*" resulted to destruction of the House installations, confiscation and forced disappearance of the House Mace and personal assaults against the Petitioner/Applicant and as against other members of the 1st Respondent.
- c) **THAT**, illegal and unlawful ouster of the Petitioner/Applicant and related actions of the **8th October 2024** have made the legislative, oversight and resource allocation and approval processes within the Nyamira County Government come to an *extra-legal halt* and the same are set to suffer *indefinite paralysis* unless judicial intervention is sought in the earliest opportune time.
- d) **THAT**, further, the lawful and legitimate tenure of Petitioner/Applicant herein as the current Speaker of the 1st Respondent, risks being extra-legally, unlawfully and unconstitutionally indefinitely interfered with, irreparably prejudiced and brought to an unlawful and unconstitutional end through **means that are unknown in law, illegal and archaic** in the current jurisprudential tenure.
- e) **THAT**, it is therefore in **great and substantial public interest** that the instant petition and application be heard on **priority basis** as the **legislative, oversight and resource allocation and approval processes within the County Government which have been brought to a halt are critical to the constitutional competencies and functions of the County Government in as far as government, the rule of law and public service are concerned;**
- f) **THAT**, further, the rights of the Petitioner/Applicant as enshrined under the Constitution stands threatened and violated without him being granted a fair hearing. It is thus in the interest of justice that the application is heard and determined expeditiously.

DATED AT KISII THIS 10TH DAY OF OCTOBER 2024

OMBUI RATEMO & ASSOCIATES
ADVOCATES FOR THE PETITIONER/APPLICANT

201

DRAWN & FILED BY:-

OMBUI RATEMO & ASSOCIATES
ADVOCATES
MOCHA PLACE, 3RD FLOOR,
LEFT WING
P.O BOX 668-40200

KISII-KENYA (OUR REF: O/061/001/L)
TEL: 0722-613-411; Email: oratemolaw@gmail.com

TO BE SERVED UPON:-

NYAMIRA COUNTY ASSEMBLY
CLERK – NYAMIRA COUNTY ASSEMBLY
KENNEDY ATUTI
DUKE MASIRA
GEORGE ABUGA
JULIUS NYANGENA
SAMUEL OGETO
JOSIA MANGERA
NYAMIRA COUNTY ASSEMBLY SERVICE BOARD

202

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
PETITION NO. E09 OF 2024

IN THE MATTER OF: -

ARTICLES: 1(1), 3, 10, 22, 23, 27, 28, 41(1), 47, 48, 50, 124, 159, 165, 178(3) AND 258 OF
THE CONSTITUTION OF KENYA, 2010;

AND

SECTIONS: 3, 4, 6, 7 AND 11 OF THE FAIR ADMINISTRATIVE ACTION ACT [CAP.
7L – LAWS OF KENYA];

AND

SECTIONS: 8, 9 AND 11 OF THE COUNTY GOVERNMENTS ACT [CAP. 265 – LAWS
OF KENYA]

AND

STANDING ORDERS NO. 33, 60 AND 65 OF THE NYAMIRA COUNTY ASSEMBLY
STANDING ORDERS

AND

ILLEGAL, UNLAWFUL, AND UNCONSTITUTIONAL INTERFERENCE WITH THE
FUNCTIONS OF AND PURPORTED SUSPENSION OF THE SPEAKER OF THE
NYAMIRA COUNTY ASSEMBLY

~ BETWEEN ~

ENOCK OKERO OGORI.....PETITIONER/APPLICANT

'VERSUS'

NYAMIRA COUNTY ASSEMBLY.....1ST RESPONDENT

CLERK – NYAMIRA COUNTY ASSEMBLY.....2ND RESPONDENT

KENNEDY ATUTI.....3RD RESPONDENT

DUKE MASIRA.....4TH RESPONDENT

GEORGE ABUGA.....5TH RESPONDENT

JULIUS NYANGENA.....6TH RESPONDENT

SAMUEL OGETO.....7TH RESPONDENT

JOSIA MANGERA.....8TH RESPONDENT

AND

NYAMIRA COUNTY ASSEMBLY SERVICE BOARD..... INTERESTED PARTY

203

NOTICE OF MOTION

(Pursuant to Sections 1a, 3, 3a, And 63 of The Civil Procedure Act (Cap. 21 – Laws Of Kenya), Order 40 Rule 2(2) And Order 51 Rule 1 Of The Civil Procedure Rules, 2010, Sections 4 And 12 of The Fair Administrative Action Act [Cap. 71 – Laws Of Kenya], Rules 19 And 23 of The Constitution Of Kenya (Protection Of Rights And Fundamental Freedoms) Practice And Procedure Rules, Articles 23 And 159(2) of The Constitution of Kenya, 2010)

TAKE NOTICE that this Honorable Court shall be moved on the day of2024 at **9.00 O’CLOCK** in the forenoon or so soon thereafter as the matter may be called for hearing of an application by counsel for the applicant for **ORDERS THAT:-**

1. **THAT**, the instant application be certified as urgent and the same be heard *ex parte* in the first instance and service be dispensed with.
2. **THAT**, pending hearing and determination of the application herein, this Honourable Court be pleased to issue interim conservatory orders staying the effect and implementation of the purported resolution of the 1st Respondent passed on **8th October 2024** purporting to suspend the Petitioner/Applicant from discharging his functions and duties as speaker of the 1st Respondent;
3. **THAT**, Pending the hearing and determination of the application herein, the Honourable Court be pleased to, issue interim temporary injunctive orders restraining the Respondents and the interested party or any other person acting on their behalf or otherwise, from stopping, barring or otherwise interfering with the Petitioner/Applicant discharge of his functions and duties as speaker of the 1st Respondent;
4. **THAT**, Pending the hearing and determination of the instant Application, the Honourable Court be pleased to issue interim conservatory orders staying any steps, resolutions and decisions of the Respondents and the interested party, from removing or replacing the Petitioner/Applicant as County Assembly speaker of the 1st Respondent;
5. **THAT**, pending hearing and determination of the Petition herein, this Honourable Court be pleased to issue interim conservatory orders staying the effect and implementation of the purported resolution of the 1st Respondent passed on **8th October 2024** purporting to suspend

the Petitioner/Applicant from discharging his functions and duties as speaker of the 1st Respondent;

6. **THAT**, *Pending the hearing and determination of the Petition herein, the Honourable Court be pleased to, issue interim temporary injunctive orders restraining the Respondents and the interested party or any other person acting on their behalf or otherwise, from stopping, barring or otherwise interfering with the Petitioner/Applicant discharge of his functions and duties as speaker of the 1st Respondent;*
7. **THAT**, *Pending the hearing and determination of the instant Petition, the Honourable Court be pleased to issue interim conservatory orders staying any steps, resolutions and decisions of the Respondents and the interested party, from removing or replacing the Petitioner/Applicant as County Assembly speaker of the 1st Respondent;*
8. **THAT**, *the Honourable Court be pleased issue such other Orders as are just and expedient to preserve the substratum of and secure the ultimate just determination of the instant application and petition;*
9. *Costs of this Application be borne by the Respondents;*

WHICH APPLICATION is based on the annexed affidavit of the Petitioner/Applicant) **ENOCK OKERO OGORI**, filed herewith and upon such other grounds as shall be adduced at the hearing hereof;

GROUNDS: -

1. **THAT**, we are a constitutional dispensation founded on the rule of law and fundamental to that is that **constitutional and attendant statutory legal provisions be strictly adhered to;**
2. **THAT**, equal benefit and protection of the law is a right of constitutional dictate guaranteed to every person;
3. **THAT**, the Petitioner/Applicant is the **legitimate, valid and hitherto lawful substantive office holder of County Assembly Speaker of the 1st Respondent;**

4. **THAT**, the Petitioner/Applicant's office i.e., Office of the County Assembly Speaker, is a **constitutional office in public service whose manner and procedure for removal is strictly, expressly and forthrightly set and articulated in law** – pursuant to the provisions of **Article 178** of the **Constitution** of Kenya, 2010 read in conjunction with **section 11** of the **County Governments Act [Cap. 265 – Laws of Kenya]** and **Standing Orders No. 33; 45; 60 and 65** of the **Nyamira County Assembly Standing Orders**;
5. **THAT**, in utter disregard, derision and contravention of provisions of, inter alia, **Article 178** of the **Constitution** of Kenya, 2010 read in conjunction with **Section 11** of the **County Governments Act [Cap. 265 – Laws of Kenya]** and **Standing Orders No. 33; 45; 60 and 65** of the **Nyamira County Assembly Standing Orders**;
 - 5.1. An assorted click of members (3rd to 8th Respondents herein) of the county assembly in the 1st Respondent have, on 08.10.2024, in an extra-legal and non-constitutive session marred with violence, destruction of House installations – including confiscation and forced disappearance of the House Mace, and personal assaults against the petitioner (applicant), purported to pass a resolution purportedly 'suspending' the petitioner from discharging his functions as speaker of the 1st Respondent;
 - 5.2. The purported resolution and decision to 'suspend' the Petitioner (Applicant) is one alien and unknown in law as there is no such thing as 'suspension' of county assembly speaker;
 - 5.3. The procedure for removal of a person from office as speaker of county assembly is as articulated expressly under **Article 178** of the **Constitution** of Kenya, 2010 read in conjunction with **Section 11** of the **County Governments Act [Cap. 265 – Laws of Kenya]** and **Standing Orders No. 33; 45; 60 and 65** of the **Nyamira County Assembly Standing Orders**;
 - 5.4. The purported resolution of 8th October 2024 by an assorted click of members (3rd to 8th Respondents herein) of the county assembly in the 1st Respondent **was done in the complete absence of any formal motion for removal of the Petitioner/Applicant as required under Article 178 of the Constitution** of Kenya, 2010 read in conjunction with

Section 11 of the County Governments Act [Cap. 265 – Laws of Kenya] and Standing Orders No. 33; 45; 60 and 65 of the Nyamira County Assembly Standing Orders;

6. **THAT, in the legislative, oversight and resource allocation and approval processes within the Nyamira County Government have, in light of the foregoing, been brought to an extra-legal halt and the same are set to suffer indefinite paralysis unless judicial intervention is sought in the earliest time opportune;**

7. **THAT, it is clear from the conduct of some members of the 1st Respondent, that the lawful and legitimate tenure of Petitioner/Applicant herein as the current Hon. Speaker of the 1st Respondent, is in imminent risk of being extra-legally, unlawfully and unconstitutionally indefinitely interfered with, irreparably prejudiced and brought to an unlawful and unconstitutional end through means that are unknown to law, illegal and archaic;**

8. **THAT, it is in great and substantial public interest that the instant petition and application be heard on priority basis as the legislative, oversight and resource allocation and approval processes within the County Government which have been brought to a halt are critical to the constitutional competencies and functions of the County Government in as far as government, the rule of law and public service are concerned;**

9. **THAT, the Orders sought herein only seek to preserve the juristic essence, substance and substratum of the instant proceedings, and, ipso facto, ensure that there is no miscarriage of the Petitioner/Applicant's constitutional right of access to justice as: -**
 - 9.1. **the substratum of the instant proceedings consists in the Petitioner's lawful tenure as County Assembly Speaker of the 1st Respondent vis a vis adjudicating the legal merits of the impugned decision of some members of the 1st Respondent to purport to suspend the Petitioner from office;**

 - 9.2. **the instant proceedings will be greatly prejudiced and ultimately be denied of any essence if the Respondents' resolution, acts and decisions whose merits and legality are in question herein, are enforced and implemented to the extent of being spent;**

10. **THAT**, the instant matter concerns public office and due legal process and no prejudice or other irreparable harm whatsoever risks being suffered by any of the Respondents if the orders sought herein are granted;

11. **THAT**, the Orders sought herein only seek to preserve the juristic essence, substance and substratum of the instant proceedings in the spirit of the rule of law, access to and fair administration of justice as between all concerned parties. The instant Application therefore merits the orders it seeks *ex debito justitiae*;

12. **THAT**, this Honourable Court, as a matter of principle, has constitutional, statutory as well as inherent powers and jurisdiction to grant the orders sought herein;

DATED AT KISII THIS 10TH DAY OF OCTOBER 2024

OMBUI RATEMO & ASSOCIATES
ADVOCATES FOR THE PETITIONER/APPLICANT

DRAWN & FILED BY:-

OMBUI RATEMO & ASSOCIATES

ADVOCATES

MOCHA PLACE, 3RD FLOOR,

LEFT WING

P.O BOX 668-40200

KISII-KENYA

(OUR REF: O/061/001/L)

TEL: 0722-613-411; Email; oratemolaw@gmail.com

TO BE SERVED UPON:-

NYAMIRA COUNTY ASSEMBLY

CLERK – NYAMIRA COUNTY ASSEMBLY

KENNEDY ATUTI

DUKE MASIRA

GEORGE ABUGA

JULIUS NYANGENA

SAMUEL OGETO

JOSIA MANGERA

NYAMIRA COUNTY ASSEMBLY SERVICE BOARD

208

NOTE: "IF ANY PARTY SERVED DOES NOT ATTEND COURT AT THE TIME AND PLACE ABOVE-MENTIONED, SUCH ORDERS SHALL MADE AND PROCEEDINGS TAKEN OUT AS THE COURT MAY DEEM FIT AND EXPEDIENT".

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
PETITION NO. E008 OF 2024

IN THE MATTER OF: -

ARTICLES: 1(1), 3, 10, 22, 23, 27, 28, 41(1), 47, 48, 50, 124, 159, 165, 178(3) AND 258 OF
THE CONSTITUTION OF KENYA, 2010;

AND

SECTIONS: 3, 4, 6, 7 AND 11 OF THE FAIR ADMINISTRATIVE ACTION ACT [CAP.
7L – LAWS OF KENYA];

AND

SECTIONS: 8, 9 AND 11 OF THE COUNTY GOVERNMENTS ACT [CAP. 265 – LAWS
OF KENYA]

AND

STANDING ORDERS NO. 33, 60 AND 65 OF THE NYAMIRA COUNTY ASSEMBLY
STANDING ORDERS

AND

ILLEGAL, UNLAWFUL, AND UNCONSTITUTIONAL INTERFERENCE WITH THE
FUNCTIONS OF AND PURPORTED SUSPENSION OF THE SPEAKER OF THE
NYAMIRA COUNTY ASSEMBLY

~ BETWEEN ~

ENOCK OKERO OGORI.....PETITIONER/APPLICANT

‘VERSUS’

NYAMIRA COUNTY ASSEMBLY.....1ST RESPONDENT

CLERK – NYAMIRA COUNTY ASSEMBLY.....2ND RESPONDENT

KENNEDY ATUTI.....3RD RESPONDENT

DUKE MASIRA.....4TH RESPONDENT

GEORGE ABUGA.....5TH RESPONDENT

JULIUS NYANGENA.....6TH RESPONDENT

SAMUEL OGETO.....7TH RESPONDENT

JOSIA MANGERA.....8TH RESPONDENT

AND

NYAMIRA COUNTY ASSEMBLY SERVICE BOARD..... INTERESTED PARTY

SUPPORTING AFFIDAVIT

I, **ENOCK OKERO OGORI**, a resident of Kisii County and of P.O. Box 297-40202, Oyugis-Kenya do hereby make and under solemn oath state as follows: -

1. **THAT**, I am a male adult Kenyan of sound mind and the Petitioner/Applicant in this Application, personally seized of the facts herein hence competent to swear this affidavit;
2. **THAT**, I am the current legitimate, valid and hitherto lawful substantive office holder of County Assembly Speaker of the 1st Respondent;
3. **THAT**, I know that the Office of the County Assembly Speaker, is a **constitutional office in public service whose manner and procedure for removal is strictly, expressly and forthrightly set and articulated in law** – pursuant to the provisions of **Article 178** of the **Constitution** of Kenya, 2010 read in conjunction with **section 11** of the **County Governments Act [Cap. 265 – Laws of Kenya]** and **Standing Orders No. 33; 45; 60 and 65** of the **Nyamira County Assembly Standing Orders**;
(See in a bundle annexed hereto marked as 'E00-001' true copy of Nyamira County Assembly Standing Orders)
4. **THAT**, in utter disregard, derision and contravention of provisions of, inter alia, **Article 178** of the **Constitution** of Kenya, 2010 read in conjunction with **Section 11** of the **County Governments Act [Cap. 265 – Laws of Kenya]** and **Standing Orders No. 33; 45; 60 and 65** of the **Nyamira County Assembly Standing Orders**;
 - 4.1. An assorted clik of members (3rd to 8th Respondents herein) of the county assembly in the 1st Respondent have, on 08.10.2024, in an extra-legal and non-constitutive session marred with violence, destruction of House installations – including confiscation and forced disappearance of the House Mace, and personal assaults against me and other members of the County Assembly, purported to pass a resolution purportedly 'suspending' me from discharging my functions as speaker of the 1st Respondent;
(See in a bundle annexed hereto marked as 'E00-002^{A-C}' true copies of Police Abstracts, Police Statements, P3s and medical reports)

- 4.2. The purported resolution and decision to 'suspend' me is one alien and unknown in law as there is no such thing as 'suspension' of county assembly speaker;
- 4.3. The procedure for removal of a person from office as speaker of county assembly is as articulated under Article 178 of the Constitution of Kenya, 2010 read in conjunction with section 11 of the County Governments Act [Cap. 265 – Laws of Kenya] and Standing Orders No. 33; 45; 60 and 65 of the Nyamira County Assembly Standing Orders;
- 4.4. The purported resolution of 08.10.2024 by an assorted click of members (3rd to 8th Respondents herein) of the county assembly in the 1st Respondent was done in the complete absence of any formal motion for my removal as required under Article 178 of the Constitution of Kenya, 2010 read in conjunction with section 11 of the County Governments Act [Cap. 265 – Laws of Kenya] and Standing Orders No. 33; 45; 60 and 65 of the Nyamira County Assembly Standing Orders;
5. THAT, the legislative, oversight and resource allocation and approval processes within the Nyamira County Government have, in light of the foregoing, been brought to an extra-legal halt and the same are set to suffer indefinite paralysis unless judicial intervention is sought in the earliest time opportune;
6. THAT, it is clear from the conduct of some members of the 1st Respondent, that my lawful and legitimate tenure as the current Hon. Speaker of the 1st Respondent, is in imminent risk of being extra-legally, unlawfully and unconstitutionally indefinitely interfered with, irreparably prejudiced and brought to an unlawful and unconstitutional end through means that are unknown to law;
7. THAT, it is in great and substantial public interest that the instant petition and application be heard on priority basis as the legislative, oversight and resource allocation and approval processes within the County Government which have been brought to a halt are critical to the constitutional competencies and functions of the County Government in as far as government, the rule of law and public service are concerned;

8. **THAT**, I am advised by Advocates on record, which advice I verily believe to be correct, that the Orders sought herein only seek to preserve the juristic essence, substance and substratum of the instant proceedings, and, ipso facto, ensure that there is no miscarriage of the petitioner (applicant)'s constitutional right of access to justice as: -

8.1. the substratum of the instant proceedings consists in the Petitioner's lawful tenure as County Assembly Speaker of the 1st Respondent vis a vis adjudicating the legal merits of the impugned decision of some members of the 1st Respondent to purport to suspend the Petitioner from office;

8.2. the instant proceedings will be greatly prejudiced and ultimately be denied of any essence if the Respondents' resolution, acts and decisions whose merits and legality are in question herein, are enforced and implemented to the extent of being spent;

9. **THAT**, I am advised by Advocates on record, which advice I verily believe to be correct, that the instant matter concerns public office and due legal process and no prejudice or other irreparable harm whatsoever risks being suffered by any of the Respondents if the orders sought herein are granted;

10. **THAT**, I am advised by Advocates on record, which advice I verily believe to be correct, that the Orders sought herein only seek to preserve the juristic essence, substance and substratum of the instant proceedings in the spirit of the rule of law, access to and fair administration of justice as between all concerned parties. The instant Application therefore merits the orders it seeks *ex debito justitiae*;

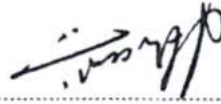
11. **THAT**, I am advised by Advocates on record, which advice I verily believe to be correct, that this Honourable Court, as a matter of principle, has constitutional, statutory as well as inherent powers and jurisdiction to grant the orders sought herein;

12. **THAT**, what is deponed hereinabove is true and within my knowledge, save for where otherwise stated, in which event, same is true and correct to the best of my information and belief, sources thereof being disclosed.

Sworn at Kisii by the Said

ENOCK OKERO OGORI

This 10TH Day of OCTOBER 2024



DEPONENT

BEFORE **BRUNDA NYAMWAYA**
ADVOCATE
&
COMMISSIONER
COMMISSIONER FOR OATHS



DRAWN & FILED BY:-

OMBUI RATEMO & ASSOCIATES
ADVOCATES
MOCHA PLACE, 3RD FLOOR,
LEFT WING
P.O BOX 668-40200

KISII-KENYA

(OUR REF: O/061/001/L)

TEL: 0722-613-411; Email: oratemolaw@gmail.com

TO BE SERVED UPON:-

NYAMIRA COUNTY ASSEMBLY
CLERK – NYAMIRA COUNTY ASSEMBLY
KENNEDY ATUTI
DUKE MASIRA
GEORGE ABUGA
JULIUS NYANGENA
SAMUEL OGETO
JOSIA MANGERA
NYAMIRA COUNTY ASSEMBLY SERVICE BOARD

214



Annex 39

**THE COUNTY ASSEMBLY OF NYAMIRA
THIRD ASSEMBLY (THIRD SESSION)**

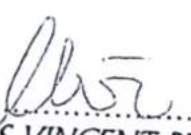
**The Clerk
County Assembly of Nyamira**

RE: NOTICE OF PROPOSED MOTION

TAKE NOTICE that under the provisions of Order No.60 of Nyamira County Assembly Standing Orders as read together with Sections 11(1)(c) and 11(2-8) of the County Governments Act, 2012 (Rev.2022), I, THOMAS VINCENT BENECHA, a duly elected Member of the County Assembly of Nyamira representing Kiabonyoru Ward, propose to move a MOTION FOR THE REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. ENOCK OGORI OKERO, THE SPEAKER OF THE COUNTY ASSEMBLY OF NYAMIRA in the County Assembly of Nyamira on the following grounds:

- (a) gross violation of the Constitution or any other law;
- (b) gross misconduct;

DATED at NYAMIRA this.....16TH.....day of October 2024


.....
HON. THOMAS VINCENT BENECHA
MCA – KIABONYORU WARD

COUNTY ASSEMBLY OF NYAMIRA
OFFICE OF THE CLERK
16 OCT 2024
RECEIVED
P. O. Box 590-40500, NYAMIRA

215

THE MOTION, THE GROUNDS AND THE PARTICULARS

Mr. Speaker,

PURSUANT TO the provisions **Section 11 of the County Governments Act, 2012** and **Standing Order No.60** of Nyamira County Assembly Standing Orders; **THIS HOUSE RESOLVES** to Remove from Office, by Impeachment, **HON. ENOCK OGORI OKERO**, the Speaker of the County Assembly of Nyamira on **THE FOLLOWING GROUNDS:**

PART A: GROSS VIOLATION OF THE CONSTITUTION OR ANY OTHER LAW

Ground 1: Gross Violation of Section 36 of the County Assembly Services Act, 2017 by failing to prepare and lay before the County Assembly, a report of the Board's Operations

Mr. Speaker, Sir

Whereas Section 36(1) of the County Assembly Services Act, 2017, requires the County Assembly Service Board to, within three months after the end of each calendar year, prepare and lay before the County Assembly, a report of the Board's Operations during that year; under the stewardship of Hon. Enock O. Okero, the County Assembly Service Board failed to lay a report of its operations for the years 2022 and 2023 before the County Assembly contrary to Section 36(1) of the County Assembly Services Act, 2017.

Hon. Okero has therefore presided over a board that lacks transparency and accountability. For example, Hon. Okero has made two unofficial foreign trips and influenced the defraying of the expenses of the said trips from the County Assembly Kitty.

Ground 2: Gross Violation of Article 27 (4) and (5) of the Constitution of Kenya, 2010, by discriminating against Special-Elect Members of the County Assembly

Mr. Speaker, Sir

Whereas the Commission on Revenue Allocation provides that each MCA (elected and nominated) shall be provided with three partisan/support staff, the County Assembly Service Board under the Chairmanship of Hon. Enock Okero refused, failed or neglected to comply with this provision and denied the nominated Members of the County Assembly one partisan staff contrary to Commission on Revenue Allocation Circular Ref. No. CRA/CSO/CMG/9/Vol V/59 dated 21st October 2020. (Annex 1)

This is discriminatory contrary to Article 27 (4) and (5) of the Constitution of Kenya, 2010, which state as follows:

(4) The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

(5) A person shall not discriminate directly or indirectly against another person on any of the grounds specified or contemplated in clause (4)

This act of discrimination has frustrated the Nominated MCAs in the discharge of their mandate and service delivery to the people of Nyamira.

Ground 3: Gross Violation of Article 216 (2) of the Constitution of Kenya, 2010, by disobeying and/or ignoring the recommendations of the Commission on Revenue Allocation vide Circular Ref. No. CRA/CSO/CMG/9/Vol V/59 dated 21st October 2020

Mr. Speaker, Sir

Article 216 (2) of the Constitution of Kenya, 2010, which provides for the mandate of the Commission on Revenue Allocation, to among others:

The Commission shall also make recommendations on other matters concerning the financing of, and financial management by, county governments, as required by this Constitution and national legislation.

217

Mr. Speaker, Sir

Whereas the Commission on Revenue Allocation provides that Ward Offices shall be provided with funds for operations, the County Assembly Service Board under the Chairmanship of Hon. Enock Okero failed to facilitate Ward Offices with funds for their Monthly Operations and Maintenance contrary to Commission on Revenue Allocation Circular Ref. No. CRA/CSO/CMG/9/Vol V/59 dated 21st October 2020. (Annex 1)

This has hampered and grounded Ward Office Operations thus frustrating Hon. Members from discharging their constitutional mandate.

Ground 4: Gross Violation of Section 12(3)(c) of The County Assemblies Service Act 2017 by retaining two Members of the County Assembly Service Board despite having been recalled by their nominating/appointing political parties/coalitions

Mr. Speaker, Sir

The County Assemblies Service Act 2017, the County Governments Act, 2012 Section 12(3)(c) provides for the appointment of the County Assembly Service Board Members as follows:

(c) two members of the county assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly;

It therefore follows that the same members are recalled in the same manner they are nominated and/or appointed.

Consequently, the nominating Political Parties in the Assembly withdrew the said Members from the County Assembly Service Board and communicated the same to the Speaker/Chairperson County Assembly Board together with the Minutes. (Annex 2)

None-the-less, the Hon. Enock Okero refused, neglected and or failed to communicate and/or proceeded to retain them as Board Members contrary to the Law.

Ground 5: Gross Violation of Standing Order No 154 of Nyamira County Assembly Standing Orders by arbitrarily usurping the functions and mandate of the House Business Committee.

Mr. Speaker, Sir

Hon. Enock Okero usurped the functions of the House Business Committee as mandated by Standing Order No.154 (5) to among others:

- (a) monitor and oversee the implementation of the County Assembly business and programmes.*
- (b) implement the Standing Orders respecting the scheduling or programming of the business of the County Assembly and the functioning of the Committees of the County Assembly;*
- (c) determine the order in which the reports of Committees shall be debated in the County Assembly*

The Hon. Enock Okero arbitrarily conducted the functions of the Committee contrary to the Standing Orders to the exclusion of the Committee Members. Under his watch, the Committee did not meet to prioritize business and to approve County Assembly Order Papers. He singlehandedly dictated the type of business to appear in the Notice Papers and Order Papers of the County Assembly.

Ground 6: Gross Violation of Section 12 of the Public Officer Ethics Act, 2003 (Revised Edition 2012) and Section 16 of the Leadership and Integrity Act 2012 (Revised Edition 2023) by trading with the County Government through proxies and by influencing the appointment of his relative to the County Assembly Service Board

Mr. Speaker, Sir

Hon. Enock Ogori Okero has traded with the County Government of Nyamira by seeking for tenders by way of proxy through his close associates.

Under the watch of Hon. Enock Ogori Okero as Chairperson of the County Assembly Service Board; Hon. Okero influenced the appointment of his relative by the name Edith Nyaboke Omari to be a member of the County Assembly Service Board contrary to Public Officers Ethics Act and the Leadership and Integrity Act.

PART B: GROSS MISCONDUCT

Ground 7: Gross Misconduct by abetting and orchestrating hooliganism in the County Assembly by hiring goons to visit mayhem and violence, causing harm and endangering the lives of Honourable Members and Staff of the County Assembly while on Suspension

Mr. Speaker, Sir

On Tuesday the 15th of October 2024, Hon. Okero, while on Suspension from Office of the Speaker of County Assembly, attempted to gain forceful entry to the County Assembly in the company of goons who were not only rowdy but armed with stones and other crude weapons. The goons pelted stones towards the County Assembly causing damage to county Assembly infrastructure and injury to Honourable Members and Staff of the County Assembly. (Annex 3: Video)

DATED at NYAMIRA this.....^{16/10/24}.....day of October 2024

.....
HON. THOMAS VINCENT BENECHA
MCA – KIABONYORU WARD



**SIGNATURES IN SUPPORT OF A MOTION FOR REMOVAL OF HON. ENOCK OGORI
OKERO, THE SPEAKER OF NYAMIRA COUNTY ASSEMBLY PURSUANT TO SECTION
11(1)(c) and 11(2-8) OF THE COUNTY GOVERNMENTS ACT, 2012**

MOTION BY HON. THOMAS VINCENT BENECHA

We, the undersigned Members, do hereby append our signatures to confirm our support for the above captioned Motion.

S.No.	NAME OF M.C.A	Ward/Special Elect	Signature
1.	PRISCILLA HATHI	SPECIAL ELECT	<i>[Signature]</i>
2.	GEORGE M. ARUGA	BOKICHORA	<i>[Signature]</i>
3.	JULIUS K. MATWERE	BONYAMATA	<i>[Signature]</i>
4.	James Matingia	Kemereu	<i>[Signature]</i>
5.	Thomas Vincent Benecha	Kiabonyom	<i>[Signature]</i>
6.	ELIZAH S. ABERE	SPECIAL ELECT	<i>[Signature]</i>
7.	JOSIAH O. MANGERA	ESISE	<i>[Signature]</i>
8.	HON. NAUNDA RIECHI	NIAMBO	<i>[Signature]</i>
9.	MICHELE KOMWOTO	SPECIAL ELECT	<i>[Signature]</i>
10.	CHARLES KEGANDA	BOSMARD	<i>[Signature]</i>
11.	KENNETH NAMEIND	GESIM A	<i>[Signature]</i>
12.	JOSEPH O. MANGA	TOWNSHIP	<i>[Signature]</i>
13.	SAMUEL OGETO	MANGA	<i>[Signature]</i>
14.	ARIGAILIN. MATINI	NOMIHO	<i>[Signature]</i>
15.	JOSEPHINE ATURIA	NOMIHO	<i>[Signature]</i>
16.	Dennis Kibaso Nyaru	Nyasianga	<i>[Signature]</i>
17.	HENRY O. BUNYU	GACHUSA	<i>[Signature]</i>

COUNTY ASSEMBLY OF NYAMIRA
OFFICE OF THE CLERK

16 OCT 2024
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P. O. Box 590-40500, NYAMIRA



SIGNATURES IN SUPPORT OF A MOTION FOR REMOVAL OF HON. ENOCK OGORI OKERO, THE SPEAKER OF NYAMIRA COUNTY ASSEMBLY PURSUANT TO SECTION 11(1)(c) and 11(2-8) OF THE COUNTY GOVERNMENTS ACT, 2012

MOTION BY HON. THOMAS VINCENT BENECHA

18.	JULIUS NYAMITWA	24371718	
19.	EVANS Juma Mathira	10784103	
20.	Muchingo in Dickson	25366490	
21.	DORIS NYAMANGA	24172195	
22.	ALFAYO Ngeresa	2761515	
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222

Annex 90

GAZETTE NOTICE No. 14048

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)

COUNTY ASSEMBLY OF NAROK
THE NAROK COUNTY ASSEMBLY STANDING ORDERS
THIRD ASSEMBLY - SECOND SESSION
CALENDAR OF THE COUNTY ASSEMBLY (2023)

Regular Sittings of the County Assembly (February to December)

IT IS notified for general information of the general public that, pursuant to Standing Order No. 25 of the County Assembly Standing Orders, by a resolution made on the 18th September, 2024, the County Assembly approved the Calendar of the Assembly (*Regular Sessions*) for 2024 as set out in the Schedule:

SCHEDULE

Period	24th September 2024 – 5th December 2024
<i>Third Part</i>	<i>Days</i>
I: Sitting Days Tuesday, 3rd September – Wednesday, 16th October, 2024	Tuesdays (Afternoon) Wednesdays (Morning and afternoon)
J: Short Recess Thursday, 17th October – Monday, 28th October, 2024	
K: Sitting Days Tuesday, 29th October – Wednesday, 4th December, 2024	Tuesdays (Afternoon) Wednesdays (Morning and afternoon)
L: Long Recess Thursday, 5th December, 2024 – Monday, 10th February, 2024	

(a) Committees shall meet on Tuesday (mornings), Mondays, Thursdays and Fridays.

(b) Special sittings shall be notified through the *Kenya Gazette*, per Standing Order No. 26 of the Narok County Assembly Standing Orders.

Dated the 18th September, 2024.

JOSEPH KASAINI LENGENY,
Clerk, Narok County Assembly.

MR/6539683

GAZETTE NOTICE No. 14049

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)

COUNTY GOVERNMENT OF MOMBASA
THE MOMBASA COUNTY WATER AND SEWERAGE
SERVICES ACT

(No. 2 of 2016)

APPOINTMENT

IN EXERCISE of the powers conferred by section 11 (1) (b) of the Mombasa County Water and Sewerage Services Act, 2016, the County Executive Committee Member for Water, Natural Resources and Climate Change Resilience, appoints—

AISHA MAYOYO MAGANGA

to be a member of the Board of Mombasa Water and Sewerage Company Limited (MOWASCO), for a period of three (3) years, with effect from the 20th September, 2024.

Dated the 20th September, 2024.

EMMILY A. OKELLO,
CECM, Department of Water,
Natural Resources and Climate Change Resilience.

MR/6539786

GAZETTE NOTICE No. 14050

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT, 2012 (REV. 2022)
COUNTY ASSEMBLY OF NYAMIRA STANDING ORDERS

REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. ENOCK OGORI OKERO, SPEAKER OF THE COUNTY ASSEMBLY OF NYAMIRA

IT IS notified for the information of the general public:

THAT pursuant to section 11 (2), (3) and (4) of the County Governments Act, 2012 (Rev. 2022), on Wednesday, 16th October 2024, a notice of a motion for the removal, by Impeachment, of Enock Ogori Okero, Speaker of the County Assembly of Nyamira was received in the Office of Clerk.

AND that the notice of motion was given on the floor of the County Assembly on Thursday, 17th October, 2024.

AND further that pursuant to sections 5, 6, 7 and 8 of the County Governments Act, 2012 (Rev. 2022) and Standing Orders 60 (5), (6), (7) and (8) of the County Assembly of Nyamira Standing Orders, on Thursday, 24th October, 2024, the County Assembly of Nyamira resolved to remove from office, by Impeachment, Enock Ogori Okero, the Speaker of the County Assembly.

NOW therefore pursuant to Standing Order 4 (2) of the County Assembly of Nyamira Standing Orders, the position of Speaker of the County Assembly of Nyamira is hereby declared vacant.

Dated the 24th October, 2024.

MR/6539755
DUKE ONYARI,
Ag. Clerk, County Assembly of Nyamira.

GAZETTE NOTICE No. 14051

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)

(Revised 2022)

THE PUBLIC FINANCE MANAGEMENT ACT, 2012
COUNTY ASSEMBLY OF NYAMIRA STANDING ORDERS
SPECIAL SITTING OF THE COUNTY ASSEMBLY

PURSUANT to Standing Order No. 28 (1), (2), (3) and (4) of the County Assembly of Nyamira Standing Orders, it is notified for the general information of the Members of County Assembly of Nyamira and the general public that there shall be a special sitting of the County Assembly to be held on Thursday, 31st October, 2024 at 2.30 p.m., at the County Assembly Chambers. The business to be transacted shall be election of a Speaker.

Dated the 24th October, 2024.

MR/6539787
THADDEUS M. NYABARO,
Deputy Speaker, County Assembly of Nyamira.

GAZETTE NOTICE No. 14052

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)

COUNTY GOVERNMENT OF KITUI
KITUI COUNTY HEALTH FACILITIES

IN EXERCISE of the powers conferred by section 30 (2) (f) of the County Governments Act, 2012, the following health facilities have been operationalized and are functional:

Facility	County Village	Ward	Sub-County
Mulutu Dispensary	Mulutu/Unyaa	Kyangwithya West	Kitui Central

223

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Annex 41

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAMIRA
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. E008 OF 2024

ENOCK OKERO OGORI-----PETITIONER/APPLICANT

=VRS=

NYAMIRA COUNTY ASSEMBLY-----1ST RESPONDENT
CLERK – NYAMIRA COUNTY ASSEMBLY-----2ND RESPONDENT
KENNEDY ATUTI-----3RD RESPONDENT
DUKE MASIRA-----4TH RESPONDENT
GEORGE ABUGA-----5TH RESPONDENT
JULIUS NYANGENA-----6TH RESPONDENT
SAMUEL OGETO-----7TH RESPONDENT
JOSIA MANGERA-----8TH RESPONDENT

AND

NYAMIRA COUNTY ASSEMBLY
SERVICE BOARD-----INTERESTED PARTY

RULING

1. The background of this ruling is contained in the ruling that this court delivered on 4th November 2024 (the “earlier ruling”). Suffice is to say that this ruling will also apply in a subsequent and related Petition, filed by the Petitioner herein, being Nyamira HCCHR PET. No. E011 of 2024. In the said earlier ruling, this court indicated that it would deliver the ruling on the Contempt Application first before delving into determining the Respondents’ Preliminary Objection (PO).
2. The Respondents herein objected to this court’s jurisdiction to hear and determine this suit/Petition for want of jurisdiction. The Respondents’ case was that this court lacks the jurisdiction to entertain this case as the

224

- proper forum, by dint of Article 162(2)(a) of the Constitution, is the Employment and Labour Relations Court (ELRC).
3. According to the Respondents, the suspension of the Petitioner from office is a disciplinary process that may lead to his removal from office which is a human resource function thus falling squarely under the ELRC.
 4. The Petitioner, on the other hand, argued that this court as a constitutional court has jurisdiction, by dint of Article 165 of the Constitution, to hear and determine matters revolving around violation of constitutional rights.
 5. It is trite that a court's jurisdiction flows from either the Constitution or Statute. In the *Matter of Interim Independent Electoral Commission* [2011] eKLR, Constitutional Application No. 2 of 2011 the Supreme Court held as follows: -

(30)...a Court may not arrogate to itself jurisdiction through the craft of interpretation, or by way of endeavours to discern or interpret the intentions of Parliament, where the wording of Legislation is clear and there is no ambiguity.....

(68). A Court's jurisdiction flows from either the Constitution or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by the Constitution or other written law.

It cannot arrogate itself jurisdiction exceeding that which is conferred upon it by law.

6. The scope of the High Court's jurisdiction is codified in Article 165 of the Constitution as: -
 - (3) Subject to clause (5), the High Court shall have—
 - (a) unlimited original jurisdiction in criminal and civil matters;

(b) jurisdiction to determine the question whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed or threatened;

(c) jurisdiction to hear an appeal from a decision of a tribunal appointed under this Constitution to consider the removal of a person from office, other than a tribunal appointed under Article 144;

(d) jurisdiction to hear any question respecting the interpretation of this Constitution including the determination of—

(i) the question whether any law is inconsistent with or in contravention of this Constitution;

(ii) the question whether anything said to be done under the authority of this Constitution or of any law is inconsistent with, or in contravention of, this Constitution;

(iii) any matter relating to constitutional powers of State organs in respect of county governments and any matter relating to the constitutional relationship between the levels of government; and

(iv) a question relating to conflict of laws under Article 191; and

(e) any other jurisdiction, original or appellate, conferred on it by legislation.

(4) Any matter certified by the court as raising a substantial question of law under clause (3)(b) or (d) shall be heard by an uneven number of judges, being not less than three, assigned by the Chief Justice.

(5) The High Court shall not have jurisdiction in respect of matters—

(a) reserved for the exclusive jurisdiction of the Supreme Court under this Constitution; or

(b) falling within the jurisdiction of the courts contemplated in Article 162(2).

7. Article 162 provides for specialized courts of equal status to the High Court as follows: -

(2) Parliament shall establish courts with the status of the High Court to hear and determine disputes relating to—

(a) employment and labour relations; and

(b) the environment and the use and occupation of, and title to, land.

8. The instant Petition relates to the suspension, from office, and the eventual impeachment of the Petitioner/Applicant as Speaker of the County Assembly. The question therefore is whether the issues raised by the Petitioner/Applicant both in his Petition and the subsequent Applications fall under the scope of constitutional violations or are the subject of an employer-employee relationship.

9. Following the promulgation of the 2010 Constitution and the establishment of specialised courts; the Environment and Land Court (ELC) and the ELRC, two schools of thought have emerged over which court is seized with jurisdiction to handle disputes around the removal of the speaker from office. While some courts have held the view that such cases fall under the purview of the High Court other courts tend to favour the ELRC as the proper forum for such disputes.

10. In *Daniel N. Mugendi vs. Kenyatta University & 3 Others* CACA No. 6/2012[2013] eKLR, it was held as follows: -

"In the same token we venture to put forth the position that as we have concluded that the Industrial Court can determine industrial and labour relations matters alongside claims of fundamental rights ancillary and incident to those matters, the same should go for the

Environment & Land Court, when dealing with disputes involving environment and land with any claims of breaches of fundamentals rights associated with two subjects”

11. In *United States International University vs. Attorney General* HCCP 170 of 2012 [2012] eKLR it was held thus:-

“The Industrial Court is a specialist court to deal with employment and labour relations matters. By virtue of Article 162(3) Section 12 of the Industrial Court Act 2011 has set out matters within the exclusive domain of that court. Since the court is of the same status of the High Court, it must have the jurisdiction to enforce labour rights in Article 41 and the jurisdiction to interpret the constitution and fundamental rights and freedoms, is incidental to the exercise of jurisdiction over matters within its exclusive domain. In any matter falling within the provisions of Section 12 of the Industrial Court Act, then the Industrial Court has jurisdiction to enforce not only Article 41 rights but also all fundamental rights ancillary and incidental to the employment and labour relations including interpretation of the constitution within the matter before it”. (emphasis ours)

12. In *County Assembly of Kisumu & 2 others vs. Kisumu County Assembly Service Board & 6 others* [2015] eKLR, the Court of Appeal explained the relationship between a Speaker and the County Assembly as follows: -

“42. Article 178 (3) of the Constitution as read with Section 11 of the County Governments Act, provide an unequivocal procedure to be followed in proceedings for the impeachment of the Speaker of a County Assembly. Article 181 of the Constitution and Section 33 of the County Governments Act provide for more or less the same procedure for the impeachment of a Governor of a County

Assembly. We concur with the High Court decision in the case of Hon. Martin Nyaga Wambora v. The Speaker, County Assembly of Embu, that under that procedure, the impeachment of a Governor of a County Assembly is quasi-judicial in nature. It follows that the removal of a Speaker of a County Assembly is equally quasi-judicial in nature.

43. According to Article 162 of the Constitution, the ELRC has the status of the High Court. This being the case, it follows that in matters falling within its jurisdiction, the ELRC has supervisory powers over "any person, body or authority exercising judicial or quasi-judicial functions." We have already found that the removal of a Speaker of a County Assembly is a quasi-judicial function. As we shall shortly demonstrate, the issues raised in the petition fell within the jurisdiction of the ELRC. We therefore find that the challenge of the impeachment of the 2nd respondent was a matter that fell squarely within the ELRC's supervisory mandate.

44.

48. The third point on the issue of jurisdiction is that there is no employer/employee relationship between the Speaker of any County Assembly and the County Assembly itself to warrant the invocation of the ELRC's jurisdiction to entertain the petition.....

51. As is clear from these submissions, both sides of the divide in this appeal agree that pursuant to the provisions of Article 162 (2) (a) of the Constitution as read with Section 12 (1) of the Industrial Court Act, the jurisdiction of the ELRC stems from the existence of employment and labour relations. The main issue in this appeal therefore is whether or not such relationship exists between a Speaker and a County Assembly. The appellants contended that

employer/employee relationship arises on appointment and not on election and since the position of a Speaker is elective, such relationship does not exist. The respondents contended otherwise arguing that the determinant factor is remuneration.

52. The position of the Speakers of the National and County Assemblies should be distinguished from those of the Members of the National and County Assemblies. The Members of National and the County Assemblies are elected by the public at large to represent them and urge their interests in their respective assemblies. The Speakers, on the other hand, are not elected to represent any constituency. They are elected by their respective Assemblies to assist the Assemblies conduct their businesses in an orderly and lawful manner. Their responsibilities include managing House business and facilitating the operations of the National or County Assemblies. To provide for seamless support for the workings of the County Assembly, the Speakers of the County Assemblies also chair the County Assembly Service Boards which are responsible for the provision of services and facilities, including the appointment of office holders such as the Clerks and the Deputy Clerks of the County Assemblies to ensure the effective and efficient operations of the County Assemblies. In a sense therefore, the Speakers' roles are akin to those of managing directors of body corporates answerable to their Boards of Directors on the day-to-day operations of the companies. The Speakers' elections are therefore akin to appointments which create employer/employee relationships.

*53. As Nduma J. correctly observed in *Nick Githinji Ndichu v. Clerk Kiambu County Assembly & Another*, a decision followed by*

Sitati J. in Peter Kingoina v. County Assembly of Nyamira, employer/employee relationship exists when there is a "contract of service" as defined by Section 2 of the Employment Act, 2007. We concur with the learned Judge that the law is not concerned with the manner of engagement or assumption of the position of employee. What is important is the existence of a contract of service "whether oral or in writing, and whether expressed or implied to employ or to serve as an employee for a period of time...for wages or a salary." On this additional criterion, we once again concur with the learned Judge that there exists a contract of service between a Speaker of a County Assembly and the County Assembly concerned.

54. On the basis of these points, we therefore uphold Wasilwa, J's finding that the ELRC had jurisdiction to determine the petition. We accordingly dismiss the ground on jurisdiction."

13. In the case of *David Sifuna vs. Clerk, County Assembly of Trans Nzoia & Another* [2014] eKLR, the court dismissed the arguments by the Respondents that the Court lacked the Jurisdiction to hear and determine a Petition that had been lodged by the Petitioner challenging his removal from office by way of impeachment and held that: -

"Where the Constitution has been violated or is threatened with violation, the Court cannot exercise restraint and therefore, any intended and blatant violation of any provision of the constitution by any state organ or person would definitely attract judicial scrutiny through the High Court.

In the upshot, it is this Court and not the Employment and Labour Relations (Industrial) Court which is possessed of the actual jurisdiction to hear and determine this petition.

36. Indeed, the role of the High Court for purposes of removal of a Governor or Speaker from office is supervisory in nature to ensure that the procedure and threshold provided for in the Constitution and the County Government Act are followed so that if the process is unconstitutional, wrong, un-procedural or illegal, it cannot be said that the Court has no jurisdiction to address the grievance arising therefrom (see, Martin N. Wambora & Other vs. the Speaker of the Senate (supra) and (Mumo Matemu vs. Trusted Society of Human Rights Alliance & Others NBI Civil Appeal No. 290 of 2012.))

37. This jurisdictional role is embedded in Article 165 (6) of the Constitution. Thus, in the exercise of its supervisory role, the High Court does not attempt to replace the decision of the competent organ with its own decision, it only finds fault with it as it has to determine if the action taken was Constitutional, rational and examine if there had been any procedural impropriety. The Court merely examines the constitutionality of any action and does not seat in appeal over the opinion of the relevant organ. It examines whether relevant material and vital aspects having a nexus to the Constitutional and legislative purposes were taken into account in the actual process.

38. Impeachment is defined in Black's Law Dictionary 8th Edition, as the act by a legislature of calling for the removal from office of a public official accompanied by presenting a written charge of the officials' alleged misconduct. Therefore, proceedings of impeachment are

quasi-judicial in nature and thus subject to the jurisdiction of the High Court under Article 165 (3) (a) and (6) of the Constitution of Kenya, 2010. The High Court being that which is set up under Article 165 of the Constitution and not Article 162 (2) of the Constitution.”

14. The above decision was appreciated and applied by the High Court, sitting at Kisii, in its recent decision in the case of *David Ondimu Kombo vs County Assembly of Kisii and Others*, Petition 10 of 2021, where the court dismissed a Preliminary Objection challenging the Jurisdiction of the High Court to hear and determine the Petition over the removal, from office by way of impeachment, of the Petitioner therein.
15. Having regard to the varied opinions and decisions on the proper forum to hear this kind of dispute and having noted that it was not disputed that the Petitioner herein has filed an identical Petition before the ELRC in Kisumu, I find that the Petitioner cannot be seen to hop back and forth between the two courts or blow hot and cold over the subject of jurisdiction. I am persuaded that the Petitioner was cognizant of the fact that the proper court to handle his case was the ELRC thus informing his decision to file another case before the ELRC at Kisumu soon after filing this Petition. To my mind, the filing of the Petition in ELRC at Kisumu is a clear demonstration that the Petitioner appreciates that the issues he has raised herein are predominantly issues on labour and employment between him and the County Assembly of Nyamira.
16. I will therefore direct that this matter be sent to ELRC at Kisumu for hearing and determination. I am guided by the persuasive decision of Otieno J. in *Allan Mupe Bakari vs Diani Sea Lodge* (2020) eKLR, where it was held thus:-

“However study of what actually happens when a court finds that it has no jurisdiction in a matter, has not been a dismissal or striking

out. The courts have taken the purposive approach to let the matter be heard where it belongs. That is achieved by regular transfer of suits between the courts of equal status almost on a daily basis. Suits have not been routinely defeated merely on the basis that it was filed in a court which lack jurisdiction. I am persuaded and fully convinced that this is the proportionate and robustly just approach to the administration of justice so that, ultimately, parties have their day in court.”

17. In the final analysis, I make the following final orders: -

(i) Petitions Nos. E008 and E011 of 2024 be consolidated and transferred to the Employment and Labour Relations Court in Kisumu for hearing and determination.

(ii) The parties shall bear their own costs in the Applications.

18. It is so ordered.

Ruling dated, signed and delivered virtually at Nyamira via Microsoft Teams this 16th day of December 2024.


W. A. OKWANY

JUDGE

In the Presence of: -

Ms. Omwoyo, Mr. Ndegwa, Mr. Ndumbi, Mr. Miinda Riechi for 2nd to 8th Respondents

Mr. Ratemo for the Petitioner

C/A – Anita

Annex 42

THE REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISII
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. F001 OF 2024

IN THE MATTER OF: ARTICLE 1, 2, 3, 10, 21, 22, 23, 24, 32, 33 38, 47, 48, 50, 73, 75, 94,95(5) (a),
118, 159 AND 259 OF THE CONSTITUTION OF KENYA, 2010

-AND-

IN THE MATTER OF: SECTIONS 3,4,6,7 AND 11 OF THE FAIR ADMINISTRATIVE ACTION ACT
CAP 7L OF THE LAWS OF KENYA

-AND-

IN THE MATTER OF: THE UNLAWFUL AND UNCONSTITUTIONAL IMPEACHMENT OF THE
SPEAKER OF THE COUNTY ASSEMBLY OF NYAMIRA

-AND-

IN THE MATTER OF: ALLEGED INFRINGEMENT AND CONTRAVENTION OF ARTICLE 1, 10, 32,
33 38, 47, 48, 50, 94, 118 AND 159 OF THE CONSTITUTION OF KENYA, 2010

-AND-

IN THE MATTER OF: INFRINGEMENT AND CONTRAVENTION OF FUNDAMENTAL RIGHTS
AND FREEDOMS UNDER CHAPTER FOUR OF THE CONSTITUTION OF
KENYA, 2010

-BETWEEN-

ENOCK O. OKERO.....1ST PETITIONER
JOEL OMBONGI NYANG'AU.....2ND PETITIONER
MARTHA MARWA.....3RD PETITIONER
ELIJAH SAGWE ABERE.....4TH PETITIONER
LAMECK SIKWEYA.....5TH PETITIONER
EDNAH OBARA.....6TH PETITIONER
JELIAH NYAKANGI.....7TH PETITIONER
JANEROSE NYAKUNDI.....8TH PETITIONER
ZIPPORAH MATUNDURA.....9TH PETITIONER
LYDIAH NYABOKE MOSIERE.....10TH PETITIONER
ABEL MOKAYA MOSE.....11TH PETITIONER
BEATRICE ONYANCHA.....12TH PETITIONER
EMMANUEL NYAMBEGA GISESA.....13TH PETITIONER

-AND-

THE COUNTY ASSEMBLY OF NYAMIRA.....1ST RESPONDENT
AG. CLERK, COUNTY ASSEMBLY OF NYAMIRA.....2ND RESPONDENT

235

TO:

THE EMPLOYMENT AND LABOUR RELATIONS COURT

PETITION

The Petitioners humbly petition this Honourable Court as follows: -

A. DESCRIPTION OF THE PARTIES

1. The 1st Petitioner is an adult Kenyan citizen and resident of Nyamira County who, until his unlawful ouster, served as the Speaker of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
2. The 2nd Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
3. The 3rd Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
4. The 4th Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
5. The 5th Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
6. The 6th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
7. The 7th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
8. The 8th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
9. The 9th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.

2²36

10. The 10th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
11. The 11th Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
12. The 12th Petitioner is a member of the County Assembly of Nyamira. Her address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
13. The 13th Petitioner is a member of the County Assembly of Nyamira. His address of service for purposes of this petition shall be care of Morara Omoke Advocates, P.O Box 26172, Nairobi, Kenya 00100 Loita Street, Finance House, Fifth Floor 254-732-959-607.
14. The 1st Respondent is the County Assembly of Nyamira County established pursuant to article 176 and 177 of the Constitution of Kenya, 2010. (Service of this Petition upon the 1st Respondent shall be effected through the Petitioners' Advocates' office.)
15. The 2nd Respondent is the acting Clerk of the County Assembly of Nyamira. (Service of this Petition upon the 2nd Respondent shall be effected through the Petitioners' Advocates' office.)

B. FACTS OF THE PETITION

16. On October 08, 2024, the 1st Respondent passed a resolution suspending the 1st Petitioner as its Speaker. As a result, the 1st Petitioner filed an application seeking conservatory orders to suspend and stay the implementation of the said resolution. Hon. Lady Justice Wilfrida A. Okwany issued various orders including:
 - a) THAT, pending hearing and determination of the application herein, this Honourable Court be pleased to issue interim conservatory orders staying the effect and implementation of the purported resolution of the 1st Respondent passed on 8th October 2024 purporting to suspend the Petitioner/Applicant from discharging his functions and duties as speaker of the 1st Respondent; and
 - b) THAT, Pending the hearing and determination of the application herein, the Honourable Court be pleased to, issue interim temporary injunctive orders restraining the Respondents and the interested party or any other person acting on their behalf or otherwise, from stopping, barring or otherwise interfering with the Petitioner/Applicant discharge of his functions and duties as speaker of the 1st Respondent.

17. In utter disregard and contempt of the said orders, on October 24, 2024, the 1st Respondent went ahead to impeach the 1st Petitioner. The Petitioners state that the impeachment of the 1st Petitioner was marred by a number of illegalities, irregularities and/or anomalies as follows:

- a) There was no public participation at all which is in clear contravention of the national value and principle of participation of the people;
- b) The Standing Orders of the County Assembly of Nyamira were amended to change the threshold for impeachment from $\frac{3}{4}$ to $\frac{2}{3}$ of all the members of the Assembly. The said amendments were not gazetted as required by the law;
- c) The 1st Petitioner only had 6 days to respond to the motion for his impeachment instead of the required 7 days;
- d) The particulars of each count were not provided and as such, the 1st Petitioner could not defend himself satisfactorily. In fact, the 1st Petitioner avers that the Respondents denied him access to his office which means he could not obtain any county records to support his defence;
- e) During the voting, the members were not able to see the opening and the sealing of the ballot boxes and agents were not allowed to witness the voting and counting of ballots. In addition, members who raised points of order were completely ignored in contravention of the Standing Orders of the 1st Respondent and members such as the 11th Petitioner herein abstained but their abstention was counted as a 'yes' vote;
- f) It is also critical to note that the members of the County Assembly of Nyamira failed to vote on each count in the motion to impeach the 1st Petitioner. Therefore, it is impossible to tell on which count the 1st Petitioner was impeached;
- g) The Deputy Speaker is the one who presided over the impeachment proceedings but he still voted which brings into light the fact that he was biased; and
- h) The threshold required to impeach the 1st Petitioner was not met. The required votes for impeachment were 24 but instead they considered the vote by 23 members in support of the impeachment to be sufficient.

C. CONSTITUTIONAL AND STATUTORY FOUNDATIONS OF THE PETITION

18. Article 1 of the Constitution of Kenya, 2010 states that sovereign power belongs to the people of Kenya and is to be exercised only in accordance with the Constitution directly or through the entities to whom the power is delegated.

19. Article 2(1) of the Constitution provides that the Constitution binds all persons and all State organs at both levels of Government including the Respondents. Article 2(2) of the Constitution provides that no

person may claim or exercise State authority except as authorized under the Constitution. Further, article 2(4) of the Constitution provides that any law, including customary law that is inconsistent with the Constitution is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid.

20. Article 3 provides that every person has an obligation to respect, uphold and defend the Constitution of Kenya, 2010.
21. Under Article 10 of the Constitution of Kenya, 2010, the national values and principles of governance are set out to include *inter alia* rule of law, democracy and participation of the people, human dignity, equity, inclusiveness, equality, human rights and non-discrimination. The national values and principles bind all state organs, state officers and all persons whenever any of them *inter-alia* makes or implements public policy decisions.
22. Article 21 of the Constitution of Kenya, 2010 places the duty of implementing rights and fundamental freedoms on the state and all state organs.
23. Article 22 of the Constitution of Kenya, 2010 gives every Kenyan, including the Petitioner herein, the right to institute court proceedings whenever a right or fundamental freedom has been denied, violated, infringed and/or threatened. Under Article 22 as read together with Article 258 of the Constitution, the High Court has jurisdiction to entertain this petition under the provisions of Article 165 (2) (d) (ii) of the Constitution which gives the power and authority to determine “the question whether anything said to be done under the authority of this Constitution or of any law is inconsistent with, or in contravention of, this Constitution”.
24. Article 23 of the Constitution of Kenya, 2010 gives this Honourable Court the authority to uphold and enforce the Bill of Rights.
25. Article 24(1) prohibits the limiting of a right or fundamental freedom in the Bill of Rights except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.
26. Article 32 provides that every person has the right to freedom of conscience, religion, thought, belief and opinion.
27. Article 33 provides that every person has the right to freedom of expression.
28. Article 38 (1) endows every citizen with the freedom to make political choices. Under clause (2) every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors. Clause (3) provides that every adult citizen has the right, without unreasonable restrictions to be registered as a voter; and to vote by secret ballot in any election or referendum.

29. Article 47(1) grants every person the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
30. Article 48 mandates the State to ensure access to justice for all persons.
31. Article 50(1) states that every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before an impartial tribunal or body. Article 50(2) provides that the rights of accused persons include *inter alia* the right to be presumed innocent until the contrary is proved. Article 50(2)(b) and (c) of the Constitution also provides that every person has the right to be informed of the charge with sufficient detail to answer it and to have adequate time and facilities to prepare a defence.
32. Article 94(1) & (2) of the Constitution provides that the legislative authority of the Republic is derived from the people and that Parliament manifests the diversity of the nation, represents the will of the people and exercises their sovereignty.
33. Article 159 provides that alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause (3);
34. Article 259 provides that the Constitution shall be interpreted in a manner that— promotes its purposes, values and principles; advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights; permits the development of the law; and contributes to good governance.
35. Section 3 of the Fair Administrative Action Act provides that it applies to both state and non-state agencies exercising administrative authority, performing a judicial or quasi-judicial function under the Constitution or any written law or whose action, omission or decision affects the legal rights and interests of any person to whom such action, omission or decision relates.
36. Section 4 and 6 of the Fair Administrative Action Act provides for the principles that guide how administrative actions should be taken and the right to have reasons for the said actions.
37. Section 11 of the Fair Administrative Action Act provides for the reliefs available to a person challenging administrative actions.
38. Section 20(1) of the County Governments Act Cap 265 of the laws of Kenya provides that except as otherwise provided in the Constitution, in this Act or in other legislation, any question proposed for decision by the county assembly shall be determined by a majority of the members of the county assembly present and voting.
39. Section 11(5)(c) of the County Governments Act Cap 265 of the laws of Kenya provides that the speaker has 7 days to respond to the motion for his impeachment.

D. PARTICULARS OF THE VIOLATION OF 1ST PETITIONER'S RIGHTS BY THE RESPONDENTS

40. The 1st Respondent violated article 1,10, 94 and 118 of the Constitution of Kenya, 2010 by failing to conduct public participation; and to act in an accountable and transparent manner so as to uphold the rule of law, transparency, accountability and good governance in the handling the Impeachment Motion that was tabled before the County Assembly of Nyamira. Legislative authority is derived from the people of Kenya. That being the case, any acts and/or omissions by members of the county assembly must be a representation of the will of the people. There is no evidence of meaningful public participation within his constituency before tabling his Impeachment Motion.
41. In addition, there is no evidence to show that the members alleged to have appended their signatures in support of the Impeachment Motion got the approval of the Kenyan citizens they represent beforehand.
42. The 1st Respondent violated the 1st Petitioner's right under article 47(1) of the Constitution which grants every person the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair. The 1st Petitioner was suspended irregularly. When the impeachment proceedings took place, the presiding deputy speaker was biased because he also participated in the voting process.
43. The 1st Respondent violated the 1st Petitioner's right under article 48 of the Constitution of Kenya, 2010 that mandates the State to ensure access to justice for all persons. This is due to the fact that the Impeachment Motion was politically motivated. This is evident from the fact that the 1st Respondent impeached the 1st Petitioner despite the existence of conservatory orders stopping his unlawful removal from office.
44. Additionally, the 1st Respondent violated the 1st Petitioner's right under article 50 of the Constitution of Kenya as the presiding deputy speaker also participated in the voting process. The presiding deputy speaker was expected to be a neutral arbiter as the moderator of the Impeachment Motion. The biasness demonstrated by the said office holder is an antithesis of an impartial tribunal pursuant to article 50 of the Constitution, 2010.
45. The Respondents also violated the 1st Petitioner's rights under article 50 (2) (b) and (c) of the Constitution by failing to give him the full particulars of the charges against him and failing to give him enough time to respond to the said allegations. The 1st Petitioner was also denied the required facilities to prepare his defence. To reiterate and illustrate, the 1st Petitioner only had 6 days to respond to the motion for his impeachment instead of the required 7 days. The particulars of each count were not provided and as such, the 1st Petitioner could not defend himself satisfactorily. In fact, the 1st Petitioner avers that the Respondents denied him access to his office which means he could not obtain any county records to support his defence.

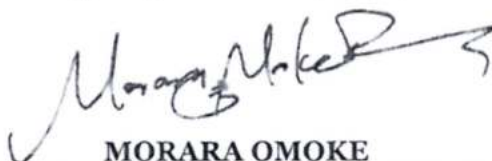
E. RELIEFS

46. Your Petitioners therefore pray for the following orders and any other orders that this Honourable Court may deem fit to grant:

- a. A declaration that the Impeachment of the 1st Petitioner was unconstitutional.
- b. A declaration that the Deputy Speaker of the County Assembly of Nyamira was biased and ought to have disqualified himself from voting during the Impeachment process.
- c. A declaration that the Impeachment Motion violated 1st Petitioner's rights under article 47, 48 and 50 of the Constitution of Kenya, 2010.
- d. A declaration that the Impeachment Motion against the 1st Petitioner was tabled in a manner that violates article 1, 10, 94 and 118 of the Constitution as no public participation was conducted before the said impeachment.
- e. The County Police Commandant Nyamira; OCPD Nyamira; OCS Nyamira police station; and Critical Infrastructure Police Unit Commandant Nyamira be ordered to ensure compliance with the orders of this Honourable Court.
- f. That each party bears its own costs.

AND WHICH PETITION is grounded on the annexed affidavits of **EACH OF THE PETITIONERS** and such further reasons to be adduced at the hearing thereof.

DATED this 25th day of **October, 2024** at **NAIROBI**



MORARA OMOKE
ADVOCATES FOR THE PETITIONERS

DRAWN & FILED BY:

Morara Omoke Advocates,
P.O Box 26172-00100, Nairobi, Kenya 0100,
Loita Street, Finance House, Fifth Floor,
254-732-959-607.
moraraomokeadvocates@gmail.com

TO BE SERVED UPON:

1. THE COUNTY ASSEMBLY OF NYAMIRA
2. ACTING CLERK, COUNTY ASSEMBLY OF NYAMIRA

THE REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISII
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. OF 2024

IN THE MATTER OF: ARTICLE 1, 2, 3, 10, 21, 22, 23, 24, 32, 33 38, 47, 48, 50, 73, 75, 94,95(5) (a),
118, 159 AND 259 OF THE CONSTITUTION OF KENYA, 2010

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SPEAKER OF THE COUNTY ASSEMBLY OF NYAMIRA

-AND-

IN THE MATTER OF: ALLEGED INFRINGEMENT AND CONTRAVENTION OF ARTICLE 1, 10, 32,
33 38, 47, 48, 50, 94, 118 AND 159 OF THE CONSTITUTION OF KENYA, 2010

-AND-

IN THE MATTER OF: INFRINGEMENT AND CONTRAVENTION OF FUNDAMENTAL RIGHTS
AND FREEDOMS UNDER CHAPTER FOUR OF THE CONSTITUTION OF
KENYA, 2010

-BETWEEN-

ENOCK O. OKERO.....	1 ST PETITIONER
JOEL OMBONGI NYANG'AU.....	2 ND PETITIONER
MARTHA MARWA.....	3 RD PETITIONER
ELIJAH SAGWE ABERE.....	4 TH PETITIONER
LAMECK SIKWEYA.....	5 TH PETITIONER
EDNAH OBARA.....	6 TH PETITIONER
JELIAH NYAKANGI.....	7 TH PETITIONER
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ABEL MOKAYA MOSE.....	11 TH PETITIONER
BEATRICE ONYANCHA.....	12 TH PETITIONER
EMMANUEL NYAMBEGA GISESA.....	13 TH PETITIONER

-AND-

THE COUNTY ASSEMBLY OF NYAMIRA.....	1 ST RESPONDENT
AG. CLERK, COUNTY ASSEMBLY OF NYAMIRA.....	2 ND RESPONDENT

AFFIDAVIT IN SUPPORT OF PETITION

I, **ENOCK O. OKERO**, Speaker of the County Assembly of Nyamira in the Republic of Kenya, do hereby make oath and state as follows: -

1. **THAT** I am the 1st Petitioner herein and as such, I am competent to swear this Affidavit.
2. **THAT** I adopt the contents of my petition herein and further wish to state as follows:
3. **THAT** on October 24, 2024, I was present during the vote to impeach me as the Speaker of the County Assembly of Nyamira.
4. **THAT** my impeachment process was marred by several illegalities, irregularities and/or anomalies as follows:
 - a) The impeachment process took place notwithstanding the conservatory orders in *HCCHRPET/Eoo8/ 2024 Enock Okero vs Nyamira County Assembly and Clerk Nyamira County Assembly and 7 others* stopping my suspension from office. I confirm that I have instituted contempt of court proceedings against the Respondents therein. Annexed hereto and marked 'Eoo-1' and 'Eoo-2' are copies of my Notice of Motion Application and Conservatory Orders issued by Hon. Lady Justice Wilfrida Okwany respectively.
 - b) There was no public participation at all which is in clear contravention of the national value and principle of participation of the people;
 - c) The Standing Orders of the County Assembly of Nyamira were amended to change the threshold for impeachment from $\frac{3}{4}$ to $\frac{2}{3}$ of all the members of the Assembly. The said amendments were not gazetted as required by the law. In addition, members who raised points of order were completely ignored in contravention of the Standing Orders of the 1st Respondent and members such as the 11th Petitioner herein abstained but their abstention was counted as a 'yes' vote. Annexed hereto and marked 'Eoo-3' is a copy of the Hansard in evidence thereof;
 - d) I only had 6 days to respond to the motion for my impeachment instead of the required 7 days;
 - e) The particulars of each count were not provided and as such, I could not defend myself satisfactorily. In fact, the Respondents denied me access to my office which means I could not obtain any county records to support my defence. Annexed hereto and marked 'Eoo-4' is a copy of the motion for my impeachment;
 - f) During the voting, I was not able to see the opening and the sealing of the ballot boxes and agents were not allowed to witness the voting and counting of ballots;


- g) It is also critical to note that the members of the County Assembly of Nyamira failed to vote on each count in the motion to impeach me. Therefore, it is impossible to tell on which count I was impeached;
- h) The Deputy Speaker is the one who presided over the impeachment proceedings but he still voted which brings into light the fact that he was biased; and
- i) The threshold required to impeach me was not met. The required votes for impeachment were 24 but instead they considered the vote by 23 members in support of the impeachment to be sufficient.

- 5. **THAT** I wish to inform this Honourable Court that the Respondents have already put up an advertisement seeking applications to fill the office of the Speaker of the County Assembly of Nyamira. Annexed hereto and marked 'E00-5' is a true copy of the Advertisement for the position of Speaker of the County Assembly of Nyamira.
- 6. **THAT** therefore, it is in the interest of justice and fairness that this Honourable Court grants the orders sought in my petition.
- 7. **THAT** what is deponed herein is true to the best of my knowledge, information and belief.

SWORN by the said)
 ENOCK O. OKERO)
 At Nairobi this 25th day of October, 2024)



DEPONENT

BEFORE ME:)
)
)
)
)
)
COMMISSIONER FOR OATHS)

DRAWN & FILED BY:
 Morara Omoke Advocates,
 P.O Box 26172-00100, Nairobi, Kenya 0100,
 Loita Street, Finance House, Fifth Floor,
 254-732-959-607.
 moraraomokeadvocates@gmail.com

TO BE SERVED UPON:
 1. THE COUNTY ASSEMBLY OF NYAMIRA
 2. ACTING CLERK, COUNTY ASSEMBLY OF NYAMIRA

Annex 44

THE COUNTY ASSEMBLY OF NYAMIRA
www.nyamiraassembly.go.ke
Email: info@nyamiraassembly.go.ke
TEL No.0724334406



County Assembly Buildings
P.O Box 590-40500
Nyamira

COUNTY ASSEMBLY SERVICE BOARD
OFFICE OF THE CHAIRPERSON

Our Ref: CAN/CASB/ CLK/2024/OCT (1)

Date: 25th OCTOBER, 2024.

MR. DUKE S. ONYARI

COUNTY ASSEMBLY OF NYAMIRA.

Dear Mr. Onyari,

RE: SUSPENSION

Pursuant to Sections 22 and 23 of the County Assembly Services Act (2017), the County Assembly Service Board resolved, vide *MIN 07/CAN/CASB/25/10/2024* to suspend you from your position as the Deputy Clerk and Ag Clerk of the County Assembly of Nyamira effective from the date of this letter.

The Board has taken issue with your inability to perform the functions of the office you hold and is convinced that your conduct as the Deputy Clerk and Ag Clerk of the County Assembly has pointed towards insubordination. The Board hereby suspends you based on following allegations:

VIOLATION OF THE CONSTITUTION AND THE COUNTY ASSEMBLY SERVICE ACT 2017

You deliberately disobeyed two court orders that were directly served to you as the office holder charged with responsibility of implementing such orders despite the fact that you are the CEO of the institution. The two court orders included those quashing the illegal suspension of the speaker from office until after determination of the petition filed and those reinstating the two Board Members from the Majority and Minority sides.

You deliberately decided to Work in isolation contrary to Section 20(3) of the County Assembly Service Act 2017 that requires you to receive directions from the Speaker.

The Board has taken issue with your decision of receiving directions from unauthorized sources only Known by you.

ABUSE OF OFFICE

The Board having keenly observed your conduct is convinced that you deliberately abused the very office bestowed on you based on the following grounds:

246

- I. Illegally swearing in and carrying out a gazette notice of new Board Members even after receiving restraining orders of the High court of Nyamira and the Political Parties Tribunal.
- II. Facilitating an illegal impeachment Motion of the Speaker on the floor of the house.
- III. Illegally advertising the Office of the Speaker as vacant in the local newspapers of wide circulation aware of the court directions.
- IV. Facilitating insecurity in the Assembly by allowing goons to occupy the Assembly premises both day and night for more than one week contrary to your administrative responsibilities stipulated by the law - An act grossly endangered the lives of official occupants of the Assembly premises and the safety of property in the County Assembly premises

CONDUCTING UNPROCEDURAL ACTIVITIES IN THE COUNTY ASSEMBLY

- I. You deliberately Prepared and cleared un-procedural activities that were conducted on the floor of the House using unauthorized staff and Members of the County Assembly on Thursday the 24th October 2024 that resulted to the illegal impeachment of the Speaker.
- II. You deliberately failed to advice on the legislative processes and associated activities that preceded an impeachment Motion - a duty directly bestowed on you through the County Assembly's Services Act sec 20(1)

GOING CONTRARY TO THE ADVISORY OF CAF IN PAYMENT OF PERDIEMS

You went contrary to the advisory of the CAF and went ahead to pay more days for non-participating members and otherwise making skewed payments with bias.

The Board therefore resolves as follows

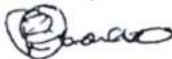
That you are suspended for a period of 45days pending investigations and further communication from the Board. During your suspension, you are required to refrain from accessing the County Assembly precincts and conducting any official duties.

That you are required to hand over any official documents, keys, stamp, official seal and other office items in your possession to the Office of the Ag. To the Acting Deputy Clerk Mr. Silvanus Nyamora immediately.

That the Board will give you an opportunity to respond and grant you a fair hearing on a date to be communicated in due course.

Thank you.

Sincerely,




HON. ENOCK O. OKERO
THE CHAIRPERSON
COUNTY ASSEMBLY SERVICE BOARD

Copy To: Director-Human Resource Management
County Assembly of Nyamira.

247

Annex 45

GAZETTE NOTICE NO. 14229

THE CONSTITUTION OF KENYA
COUNTY ASSEMBLY OF NYAMIRA

ALTERNATIVE AREAS OF COUNTY ASSEMBLY SITTINGS

PURSUANT to Article 126 (1) the general public is hereby notified that in the quest to promote Bunge Mashinani, effective from the 31st October, 2024, the Nyamira County Assembly sittings will also be done at the following premises adhering to the existing County Assembly Calendar:

1. Masaba North Sub-county offices
2. Nyamira North Sub-County office
3. Manga Sub-County Offices
4. Borabu Sub-County Offices

Dated the 29th October, 2024.

ENOCK OKERO,

PTG 873/24-25

Speaker, County Assembly of Nyamira.

GAZETTE NOTICE NO. 14230

Annex 46

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT

(No. 17 of 2012)

THE COUNTY ASSEMBLY SERVICES ACT

(No. 24 of 2017)

APPOINTMENT

IN EXERCISE of the powers conferred by section 12 (7) (b) of the County Governments Act and section 21 of the County Assembly Services Act, 2017 Nyamira County Assembly Service Board, *vide* minute MIN 6/CAN/CASB/26/10/2024 has appointed --

SILVANUS NDEMO NYAMORA

to be the Ag. Clerk of the County Assembly of Nyamira and consequently the Secretary of the Nyamira County Assembly Services Board, effective the 28th of October, 2024.

Dated the 26th October, 2024.

ENOCK OKERO,

PTG 873/24-25

Chairperson, County Assembly Service Board.

248

Annex 47

SPECIAL ISSUE



Stamp: RECEIVED
OFFICE OF THE ATTORNEY GENERAL
Date: 2024/10/31

THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Replaces the Newspaper of the P.O.)

Vol. CXXVI—No. 187

NAIROBI, 31st October, 2024

Price Sh. 60

GAZETTE NOTICE NO. 14275

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
THE COUNTY ASSEMBLY SERVICES ACT
(No. 14 of 2017)
COUNTY ASSEMBLY OF NYANDUA
NYANDUA COUNTY ASSEMBLY SERVICE BOARD
MEMBERS

IN PURSUANCE of section 121 of the Constitution of Kenya (2010) and section 21 of the County Assembly Services Act (No. 14 of 2017) and section 3(1) of the County Governments Act (No. 17 of 2012), the members of the Nyandua County Assembly Service Board are as follows:

- Mr. Peter O. O. Ochieng'o
Mr. Charles Njiru
Mr. Charles Njiru
Mr. Charles Njiru
Mr. Charles Njiru
Mr. Charles Njiru
Mr. Charles Njiru

Date: 31st October, 2024

ENOCK OGIRO

Chief Executive Officer, Office of the Attorney General

For the State, No. 14275 of 2024 and Gazette Notice No. 14275 of 2024.

GAZETTE NOTICE NO. 14274

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
THE COUNTY ASSEMBLY POWERS AND PRIVILEGES ACT
(No. 19 of 2017)
COUNTY ASSEMBLY OF INDIU
MEMBERS OF THE COUNTY ASSEMBLY OF INDIU (REPUBLIC OF KENYA)

IN PURSUANCE of section 121 of the Constitution of Kenya (2010) and sections 19(1) and 20 of the County Governments Act (No. 17 of 2012) and Part II section 3(2) of the County Assembly Powers and Privileges Act (No. 19 of 2017), the members of the County Assembly of Indiu are as follows:

MOHAMMAD KHALID
Member, County Assembly of Indiu

Annex 48

GAZETTE NOTICE NO. 15844

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)

THE NYAMIRA COUNTY ASSEMBLY STANDING ORDERS
ADJOURNMENT OF THE ASSEMBLY BUSINESS

IN EXERCISE of the powers conferred by Standing Orders of Nyamira County Assembly No. 1 read together with 110 (1), I have today the 28th November, 2024 adjourned the County Assembly Business *Sine Die* until further communication is given from the Office of the Speaker.

The Honorable Members, the Staff and general public are therefore notified that the County Assembly is closed and only authorized access is granted for the purposes of investigations by Law Enforcement Agencies and essential services only.

Dated the 28th November, 2024.

MR/6485724

ENOCK OGORI OKERO,
Speaker, County Assembly of Nyamira.

SPECIAL ISSUE

Annex 49



FAKE

THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXXXVIII-No. 43

NAIROBI, 26th February, 2025

Price Sh.60

GAZETTE NOTICE NO. 2203

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
THE NYAMIRA COUNTY ASSEMBLY STANDING ORDERS
COUNTY ASSEMBLY OF NYAMIRA
RESUMPTION OF COUNTY ASSEMBLY BUSINESS

Notice is hereby given to the Members of County Assembly, Staff and the General public that:
following the unrest after the events of 8th October, 2024 and subsequent
adjournment of the House *Sine Die*, in exercise of the powers conferred to the office of the Speaker,
the County Assembly will resume its normal activities on the 27th FEBRUARY, 2025.

All activities will run as per the Assembly's Normal schedules and programs
as will be guided by the office of the Speaker

HON. ENOCK OGORI OKERO,
Speaker, County Assembly of Nyamira

Dated the 20TH FEBRUARY, 2025

GN 3745/2025

251

Annex
50



EXECUTIVE OFFICE OF THE PRESIDENT

GOVERNMENT PRESS DEPARTMENT

Telephone: "GAZETTE", Nairobi
Telephone: +254-20-2227411/2225117
E-mail: governmentpress@interior.go.ke
When replying please quote

The Government Printer
P.O. Box 30128-0010
NAIROBI

GP/GPS VOL.XI 25 22

12th March, 2025

County Assembly of Nyamira
Office of the County Clerk
P. O. Box 590-40500
Nairobi

(Attn: Duke S. Onyari)

GAZETTE NOTICE NO. 14723 OF 31ST OCTOBER 2024 AND GAZETTE NOTICE NO. 2203 OF 24TH FEBRUARY 2025

* Reference is made to your letter Ref. No. CAN/C LK GP 2025 03 (1) dated 11th March, 2025.

The Department published Gazette Notice No.14723 on Appointment of Members of the Nyamira County Assembly Service Board from the Chairperson, Nyamira County Assembly Service Board on 31st October 2024. Gazette Notice No. 2203 was published on 24th February, 2025 from the Chief Magistrate Court in Kikuyu by the District Registrar Kikuyu.

In light of the frequent challenges encountered regarding the gazetting of Nyamira County notices, we kindly request that all future correspondence related to this matter be directed through the Office of the Attorney General. This will ensure a more streamlined and efficient process for addressing any concerns or procedural matters.

We appreciate your understanding and cooperation in this regard. Attached please find certified copies of the published County Gazettes. We hope this will be of assistance to you in your investigations.

252

Yours Sincerely,



E. N. KIMEIWO
FOR GOVERNMENT PRINTER

Copy to: Government Printer – For Records

253

SPECIAL ISSUE



[Handwritten mark]

THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered Newspapers under the Press Act)

Vol. CXXVII—No. 38

NAIROBI, 24th February, 2025

Price Sh. 60

C.O. No. 1009 of 2024

THE HIGH COURT OF KENYA AT NAIROBI PROBATE AND ADMINISTRATION

In re: the estate of the late Mr. James Ogega Omondi, deceased.
C.O. No. 1009 of 2024

By Mr. Peter Omondi, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of probate of written will to the estate of Dhanraj Mulani and Shanti Dhanraj Mulani, his wife, both of whom are deceased, Nairobi, who died at Central M.H. Hospital, Durgam Chaudhary, on 29th November, 2024.

C.O. No. 1009 of 2024

By Mr. W. O. Ombaka, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of letters of administration to the estate of the late Mr. William W. W. Ombaka, Esq., Barrister-at-Law, who died at M.P. Shah Hospital, Nairobi, on 17th August, 2024.

C.O. No. 1010 of 2024

By Mr. J. J. Wangari, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of letters of administration to the estate of the late Mr. Wangari Mariani, Esq., Barrister-at-Law, who died at M.P. Shah Hospital, Nairobi, on 15th June, 2024.

C.O. No. 1011 of 2024

By Mr. M. M. Mwangi, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of letters of administration to the estate of the late Mr. M. M. Mwangi, Esq., Barrister-at-Law, who died at M.P. Shah Hospital, Nairobi, on 5th November, 2024.

C.O. No. 1012 of 2024

By Mr. C. O. Ombaka, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of letters of administration to the estate of the late Mr. C. O. Ombaka, Esq., Barrister-at-Law, who died at M.P. Shah Hospital, Nairobi, on 24th August, 2024.

C.O. No. 1013 of 2024

By Mr. J. J. Wangari, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of probate of written will to the estate of Dhanraj Mulani and Shanti Dhanraj Mulani, his wife, both of whom are deceased, Nairobi, who died at Central M.H. Hospital, Durgam Chaudhary, on 29th November, 2024.

C.O. No. 1014 of 2024

By Mr. John Antony Muma Ngechu, Esq., Barrister-at-Law, of P.O. Box 8622-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. Ngechu & Odeni, Advocates of Nairobi, for a grant of probate of written will to the estate of Kitenge A. Ombaka, Esq., Barrister-at-Law, who died at M.P. Shah Hospital, Nairobi, on 16th June, 2024.

C.O. No. 1015 of 2024

By Mr. H. J. W. Ombaka, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of letters of administration to the estate of Nathaniel G. Ombaka, Esq., Barrister-at-Law, who died at M.P. Shah Hospital, Nairobi, on 16th November, 2024.

C.O. No. 1016 of 2024

By Mr. J. J. Wangari, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of letters of administration to the estate of the late Mr. J. J. Wangari, Esq., Barrister-at-Law, who died at M.P. Shah Hospital, Nairobi, on 15th June, 2024.

C.O. No. 1017 of 2024

By Mr. C. O. Ombaka, Esq., Barrister-at-Law, of P.O. Box 42220-00100, Nairobi, Kenya, the executor named in the deceased's last will, through Messrs. H. J. W. & Co., Advocates of Nairobi, for a grant of letters of administration to the estate of the late Mr. C. O. Ombaka, Esq., Barrister-at-Law, who died at M.P. Shah Hospital, Nairobi, on 24th August, 2024.

254

GAZETTE No. 61 No. 2202

IN THE CHIEF MAGISTRATE'S COURT AT KIKUYU
PROBATE AND ADMINISTRATION

TAKE NOTICE that applications having been made in this court in

Case No. 3385 of 2019

By (1) Estima Kibwana Gachuh and (2) George Wang'ani'a Gichu, both of P.O. Box 1956/00902, Kiambu in Kenya, the deceased's children, for a grant of letters of administration intestate to the estate of Hilda Margaret Gachuh, who died on 29th August, 2019.

Case No. 1310 of 2024

By John M. M. Ndumu, the deceased's son, for a grant of letters of administration intestate to the estate of Ndumu M. Ndumu, who died on 13th December, 2015.

The Court will proceed to issue the same unless cause be shown to the contrary and appearance in this respect entered within thirty days from the date of publication of this notice in the Kenya Gazette.

Dated this 29th December, 2024.

S. KAYIIRI
District Registrar, Kikuyu

GAZETTE No. 61 No. 2203

IN THE CHIEF MAGISTRATE'S COURT AT KIKUYU
PROBATE AND ADMINISTRATION

TAKE NOTICE that applications having been made in this court in

Case No. 1900 of 2024

By Samuel Mwangi M. Mwangi, of P.O. Box 871/20100, Nairobi in Kenya, the deceased's son, for a grant of letters of administration intestate to the estate of Esau Kioko Wachacha, who died on 29th September, 2022.

Case No. 1323 of 2024

By (1) George Ochieng' Ochieng' and (2) Jane Ochieng' Ochieng', of P.O. Box 172/001, Nairobi in Kenya, the deceased's sons, and (3) Rose Ochieng' Ochieng', for a grant of letters of administration intestate to the estate of George Ochieng' Ochieng', who died on 30th September, 2021.

Case No. 1342 of 2024

By (1) Joseph Ochieng' Ochieng', of P.O. Box 100, 00100, Nairobi in Kenya, the deceased's son, for a grant of letters of administration intestate to the estate of Daniel Wanjau Kihubi, who died on 29th November, 2021.

Case No. 1348 of 2024

By (1) Joseph Ngunjiri Wanjau, (2) Ruth Wanjau Wanjau, (3) Sarah Wanjau Wanjau, and (4) Joseph Njoroge Wandamea, all of P.O. Box 56/001, Nairobi in Kenya, the deceased's daughters, for a grant of letters of administration intestate to the estate of Esaka Wanjau Mwangi, who died on 5th March, 2024.

Case No. 1389 of 2024

By (1) K. M. Mwangi, the son, of P.O. Box 13/001, Nairobi in Kenya, the deceased's son, for a grant of letters of administration intestate to the estate of Mwangi Githu ya Ngunjiri, a deceased person, who died on 19th March, 2021.

Case No. 1343 of 2024

By (1) Wanjau Ngunjiri Mwangi, of P.O. Box 133/002, Nairobi in Kenya, the deceased's daughter, for a grant of letters of administration intestate to the estate of Wanjau Ngunjiri Mwangi, who died on 19th March, 2021.

The Court will proceed to issue the same unless cause be shown to the contrary and appearance in this respect entered within thirty days from the date of publication of this notice in the Kenya Gazette.

Dated this 9th December, 2024.

I. KWAMBOKA,
District Registrar, Kiambu

GAZETTE No. 61 No. 2204

IN THE CHIEF MAGISTRATE'S COURT AT RURU
PROBATE AND ADMINISTRATION

TAKE NOTICE that applications having been made in this court in

Case No. 1110 of 2024

By Etoeta Nyambura Muma, for a grant of letters of administration intestate to the estate of Henry Muma Karuka, who died at P.O. Box 17/11 Hospital in Kenya on 15th April, 2017.

Case No. 1121 of 2024

By Lezo Wanjau Mugo, for a grant of letters of administration intestate to the estate of Rosemary Wanjau Mugo, who died at District of 29th July, 2021.

The Court will proceed to issue the same unless cause be shown to the contrary and appearance in this respect entered within thirty days from the date of publication of this notice in the Kenya Gazette.

Dated this 25th November, 2024.

E. A. OKELLO,
District Registrar, Ruru

GAZETTE No. 61 No. 2205

IN THE CHIEF MAGISTRATE'S COURT AT RURU
PROBATE AND ADMINISTRATION

TAKE NOTICE that applications having been made in this court in

Case No. 1172 of 2024

By Joel Mwangi Wachira, for a grant of letters of administration intestate to the estate of D. Ben Wachira Mwangi, who died at Kenyatta University Teaching, Research and Referral Hospital in Kenya on 19th May, 2022.

Case No. 1184 of 2024

By (1) Martha Njeri Wanjau, (2) Joseph Njoroge Mwangi, for a grant of letters of administration intestate to the estate of Daniel Mwangi Kioko, who died at Garuung'ona on 12th April, 2024.

Case No. 1111 of 2024

By (1) Sister Wanjau Kihubi and (2) Peter Ochieng' Kihubi, for a grant of letters of administration intestate to the estate of Peter Wanjau Ngunjiri, who died at Ruru Level IV Hospital in Kenya on 16th August, 2024.

Case No. 1174 of 2024

By (1) Alex George Mwangi, (2) Humphrey Mwangi Mwangi, for a grant of letters of administration intestate to the estate of Esther Wanjau Mwangi, who died at Kenya National Hospital in Kenya on 19th October, 2021.

Case No. 1106 of 2024

By (1) Joseph Wanjau Ngunjiri and (2) Gilbert Ochieng' Mwangi, for a grant of letters of administration intestate to the estate of Esaka Ngunjiri, who died at Hospital in Kenya on 19th January, 2021.

The Court will proceed to issue the same unless cause be shown to the contrary and appearance in this respect entered within thirty days from the date of publication of this notice in the Kenya Gazette.

Dated this 25th November, 2024.

E. A. OKELLO,
District Registrar, Ruru

255

SPECIAL ISSUE



[Handwritten mark]

THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

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Vol. CXXVI—No. 187

NAIROBI, 31st October, 2024

Price Sh. 60

GAZETTE NOTICE NO. 14273

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
THE COUNTY ASSEMBLIES SERVICE ACT
(No. 17 of 2012)
COUNTY ASSEMBLY OF NYAMIRA
NYAMIRA COUNTY ASSEMBLY SERVICE BOARD
(No. 17 of 2012)

IN PURSUANCE of section 121(1) of the County Governments Act (No. 17 of 2012) and section 27 of the County Assembly Service Act (No. 17 of 2012) having regard to the fact that on the 29th October 2024 the next meeting of the Nyamira County Assembly Service Board is to be held on:

Time: 10:00 AM
Venue: Nyamira County Assembly Service Board
County Office, Nyamira
County Office, Malindi
County Office, Kisumu
County Office, Nakuru

For copies: 011-2542000 (2024)

ENOCK OKELLO

Chairman, County Assembly Service Board

For the Secretary: 011-2542000 (2024) or 011-2542000 (2024) (fax)

GAZETTE NOTICE NO. 14274

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
THE COUNTY ASSEMBLIES POWERS AND PRIVILEGES ACT
(No. 6 of 2012)
COUNTY ASSEMBLY OF ISIOLE

MEMBERS OF THE COUNTY ASSEMBLY OF ISIOLE
FOR THE SESSION BOARD 2024/2025

PURSUANT to the provision of Article 190(1) of the Constitution of Kenya (section 11(2) of the County Governments Act, 2012 and Part II section 3(2) of the County Assemblies Powers and Privileges Act, it is notified for the nomination of Members of the County Assembly and the general meeting of the County Assembly shall hold its first general meeting on the 29th October 2024 at the County Office, Isiolo.

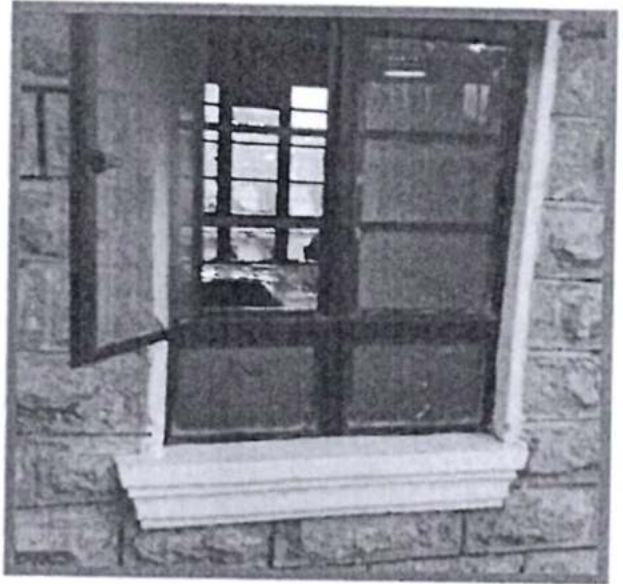
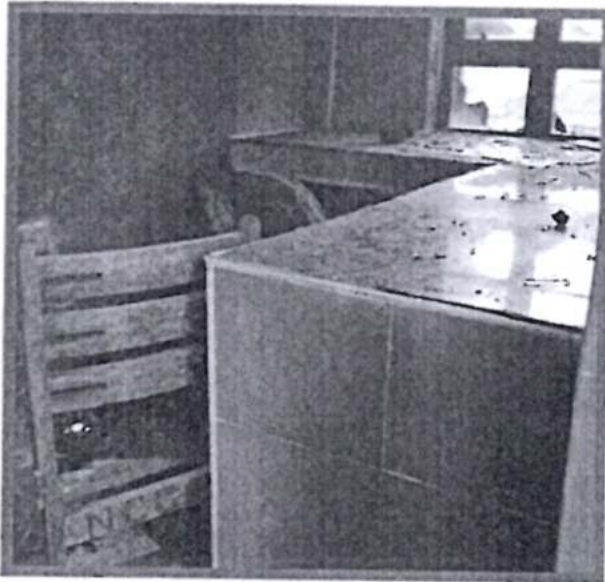
MOHAMMAD RORAY KOTO

Speaker, County Assembly

256

Annex 52

Photo showing the extent of damage and injury caused by the petrol bomb



257

County Assembly Buildings
P.O Box 590-40500
Nyamira



Annex 53

www.nyamiraassembly.go.ke
Email: info@nyamiraassembly.go.ke
TEL No.0724334406

THE COUNTY ASSEMBLY OF NYAMIRA
OFFICE OF THE CLERK

REF: CAN/CLK/LT/2024/NOV (3)

20th NOVEMBER 2024

Dr. Jack Magara
The County Secretary
Nyamira

Hon. C.A.

20 NOV 2024
my 9.22am

for advisory

Dear Sir,

RE: SUMMONS TO ASSEMBLY COMMITTEES

Fr 20/11/24

The above subject matter refers. It has come to the attention of the office of the clerk and that of the speaker that CECMs are getting request for documents, information and summons of appearance before committees purportedly by Mr. Onyari Duke who is currently on suspension and therefore not allowed to transact on behalf of the County Assembly.

Kindly note that I have no such instructions to write summons of appearance whatsoever and on that regard treat any invite as invalid unless it comes from my office.

The County Assembly Management shall not be liable to any eventualities resulting from such unrecognized summons and transactions. Kindly communicate to all your departments regarding the same.

Please treat this matter with the attention it deserves.

Sincerely,

Silvanus N. Nyamora
SILVANUS N. NYAMORA
THE AG. CLERK
COUNTY ASSEMBLY OF NYAMIRA



Copy to: H.E The Governor

The County Attorney
All CECMs

258

Annex 54

THIRD ASSEMBLY



THIRD



SESSION

REPUBLIC OF KENYA

COUNTY ASSEMBLY OF NYAMIRA

THE SPEAKER,

SENATE.

PARLIAMENT BUILDINGS

NAIROBI.

THRO' THE CLERK,

SENATE.

PARLIAMENT BUILDINGS

NAIROBI.

PETITION FOR FINANCIAL AND ADMINISTRATIVE AUTONOMY OF THE COUNTY ASSEMBLY OF NYAMIRA FOR SIX (6) MONTHS FROM 1ST DECEMBER 2024.
(PURSUANT TO STANDING ORDER 235 OF THE SENATE STANDING ORDERS)

We the undersigned being Members of the County Assembly of Nyamira in Nyamira County of the Republic of Kenya duly elected and nominated to the County Assembly representing the People of Nyamira County;

PETITION FOR FINANCIAL AND ADMINISTRATIVE AUTONOMY OF THE COUNTY ASSEMBLY OF NYAMIRA FOR SIX (6) MONTHS FROM 1ST DECEMBER 2024

259

DRAW the attention of the Senate to the following;

That your humble Petitioners, petition this honorable House to be granted temporally **Financial and Administrative Autonomy**, independent from the County Executive arm of the County Government of Nyamira owing to the protracted wrangles triggered by the Executive Committee and more particularly from H.E the Governor, Nyamira County.

On 17th September, 2024, the County assembly of Nyamira tabled and debated an Impeachment Motion against H.E Amos Nyaribo, the Governor of the County Government of Nyamira.

Hon. Senators,

The County Assembly of Nyamira successfully removed from office by Impeachment Motion, the Hon. Enock Okero, Speaker of the County Assembly of Nyamira on **16th October, 2024**.

The Impeachment Motions triggered acrimony, spite, rancor and hostility from the Governor and the entire Executive Committee whose resultant effect has denied the County Assembly access to the disbursed funds from the National Treasury.

Hon. Senators,

The Financial situation in the County Assembly has literally grounded operations and activities leaving the entire leadership as currently constituted, staring into horror and despair, unable to execute its constitutional mandate as provided in Article 185 (1) (2) (3) (4) (a) (b) of the Constitution of Kenya, 2010.

Hon. Senators,

the County Executive has now resorted to blatantly ignoring and disregarding County Assembly invitations and Summons (contrary to the provisions of the Constitution of Kenya Article 195 and the County Governments Act, 2012 and the County Assembly Standing Orders) to respond to pertinent Financial, Human Resource and Administrative issues raised by the Office of the Auditor General and the County Assembly Committees.

THAT WE CONFIRM,

That, tremendous and numerous efforts have been made by the current House Leadership County Assembly of Nyamira in holding meetings with H.E the Governor to resolve the dispute and have the operations of the return to normalcy in vain.

THAT,

WE, confirm that the issues in respect of which this petition is made are not pending before any court of law, or constitutional or legal body.

WHEREFORE, your humble petitioners, pray that the Honorable Senate—

That, the County Assembly of Nyamira be granted and/or be given temporally Financial and Administrative Autonomy for a period of six (6) months to enable the Assembly meet the pressing Financial obligations in general operations, Medical Cover, Committee sittings, Salaries to Members and Staff while the situation is mitigated.

2.61

Annex 55

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: clerk.senate@parliament.go.ke



The Senate
Parliament Buildings
P. O. Box 41842 00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

Ref. SUN. /133/PETITIONS/No.112/2024

25th February, 2025

Members of the County Assembly of Nyamira,
C/o Mr. George Abuga,
P. O. Box 590 - 00100,
NYAMIRA.

Dear Sir,

RE: PETITION TO THE SENATE BY MEMBERS OF THE
COUNTY ASSEMBLY OF NYAMIRA REGARDING
INTERVENTION IN THE LEADERSHIP IMPASSE IN THE
COUNTY ASSEMBLY OF NYAMIRA


This is to acknowledge, with thanks, receipt of your Petition on the above subject matter.

Upon reviewing the Petition in terms of Section 3 of the Petition to Parliament (Procedure) Act and Standing Order 235 of the Senate, it is noted that though the Petition raises an important matter for consideration by the Senate, it is not admissible in its present form.

This is for the reason that although paragraph 7 of the Petition indicates that the issues in respect of which the Petition are made are not pending before any court of law or constitutional or legal body, the subject matter forms the substratum of High Court Petition No. E001 of 2025 (*Edwin Onchoko vs Nyamira County Assembly & Duke Onyari; Thaddeus Nyabaro & The Independent Electoral and Boundaries Commission as Interested parties*) which is currently active before the High Court in Nyamira.

In light of the above, we advise that you await the determination of the court on the matter.

Yours Sincerely,


J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

262

Annex 57@

THE COUNTY ASSEMBLY OF NYAMIRA

✉ info@nyamiraassembly.go.ke
🌐 www.nyamiraassembly.go.ke



📍 County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/ICTA/2025-02(1)

Date: 25th FEBRUARY 2025

The Director
ICT Authority,
TelePosta Towers 12th/23rd Floor, Kenyatta Avenue,
P.O. Box 27150-000100,
Nairobi Kenya.

RE: COUNTY ASSEMBLY WEBSITE AND DOMAIN RIGHTS

The above matter refers.

Our attention has been drawn to illegal activities of Mr. Enock Ogori Okero and his accomplice Mr. Silvanus Ndemo Nyamora. The two are masquerading in Government offices purporting to, directly or through their advocate Bonuke & Co. Advocates, introduce Mr. Sylvanus Ndemo Nyamora as the Clerk of the County Assembly and Mr. Enock Ogori Okero as Speaker of the County Assembly of Nyamira and that Mr. Duke S. Onyari, Clerk of the County Assembly of Nyamira was suspended. This is misleading, unfounded and not true.

The true and exact position currently obtaining is that Mr. Duke S. Onyari is and still remains the Clerk of the County Assembly of Nyamira and no other changes have been made whatsoever.

Needless to say, Mr. Enock Ogori Okero was removed from office on 24th October, 2024 by way of Impeachment. Mr. Okero purported to write and suspend from office Clerk Duke Onyari on 25th October 2024 long after he ceased to hold office. Mr. Silvanus N. Nyamora is the subject of a disciplinary process and is currently suspended from the County Assembly service awaiting conclusion of the disciplinary process.

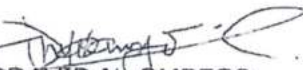
The Assembly is aware and cognizant that this matter among many others is still active and pending in court for hearing and determination. Mr. Enock Okero is equally fully aware and it is within his knowledge that he has filed fourteen (14) cases against the County Assembly wherein one of the cases "**HIGH COURT IN KISII ELRC E001 of 2024**" he is challenging his Impeachment, a case he is yet to prosecute. This position does not change the status of Mr. Duke S. Onyari as the duly appointed Accounting Officer of the County Assembly since 2018.

263

The gist of the matter is that unless and until the County Assembly through the Clerk - Mr. Duke Simeon Onyari makes changes in writing to the ICT Authority, you are at liberty to treat as outlandish any purported material, information and/or record to that effect.

Continued closure of the County Assembly Website has seriously hampered the participation of the public and other stakeholders in County Assembly activities as it is the major gateway for communication to and from the County Assembly. Kindly restore domain rights to our Administrator Mr. Stephene Egoha to enable the County Assembly discharge its Constitutional mandate.

We are most sincerely thankful to your continued support to our institution.



DAVID N. OMBEGO

DEPUTY CLERK - LEGAL & LEGISLATIVE SERVICES
FOR: THE CLERK

COUNTY ASSEMBLY OF NYAMIRA

Encl.

1. Publication on removal from Office of Mr. Enock Ogori Okero as Speaker of the County Assembly Vide Gazette Notice No: 14050
2. Letter of Suspension served to Mr. Silvanus Ndemo Nyamora

Annex 576

AFFIDAVIT OF STEPHENE ERONDE EGOHA – ICT OFFICER II OF COUNTY ASSEMBLY OF NYAMIRA

I, STEPHENE ERONDE EGOHA, of ID No. 13644872 of P.O. Box 590 – 40500, Nyamira, do hereby make solemn oath and state as follows:

1. THAT, I am a male adult of sound mind and the ICT OFFICER II of the County Assembly of Nyamira, well versed with the ICT protocols, handling of electronic mail, website maintenance, hardware and software maintenance among other IT related issues in the County Assembly of Nyamira, and competent to swear this Affidavit.
2. THAT I was appointed the position of ICT OFFICER II of the County Assembly of Nyamira with effect from 1st July, 2015.
3. THAT my duties and responsibilities include among others:
 - a) Provide first line technical support to ICT users in the assembly;
 - b) Administration of website and email infrastructure of the assembly;
 - c) Hardware and software installation;
 - d) Oversee network and server;
 - e) Trouble-shooting of IT problems and resolving them where possible.
 - f) Any other duties as may be assigned from time-to-time.
4. THAT I am the administrator of the official website and email infrastructure of the County Assembly of Nyamira, www.nyamiraassembly.go.ke.
5. THAT on 20th November, 2025, I noticed that the County Assembly of Nyamira website, www.nyamiraassembly.go.ke, had been brought down.
6. THAT upon noticing that the website and the official e-mail infrastructure have been brought down, I reported to the Clerk of County Assembly of Nyamira for administrative action.
7. THAT I am was apprised that, under the direction of the Governor and without authority from County Assembly of Nyamira, Mr. Richard Nixon Onyinkwa - the County Chief Officer, Economic Planning, ICT, and Resource Mobilization attempted to open and host a portal/website for the splinter faction dubbed "*Bunge Mashinani*" masquerading it as the official site for County Assembly of Nyamira. I immediately reported to the Clerk for remedial action.

265

8. THAT I was apprised that the Governor, without any authority from the County Assembly of Nyamira, was causing the creation of email accounts under the domain of the County Executive and issuing credentials to (Silvanus Ndemo Nyamora and others) who are acting at the behest of Governor and the splinter faction dubbed "*Bunge Mashinani*" with an intention to use the emails to fraudulently access County Assembly of Nyamira funds at the Central Bank Kenya. I reported to the Clerk of County Assembly of Nyamira for administrative action.
9. THAT am aware that the Clerk officially communicated and made a complaint to the ICT Authority on 20th November, 2024 warning against granting access to unauthorized access to the assembly website and email infrastructure, and to activate and enable access the website as a major communication channel to legitimate officers vide Ticket Nos. 968170, 198501.
10. THAT regarding the illegal grant of official government emails to strangers, opening of an illegal portal masquerading as county assembly website, with an intention to gain illegal access to the Central Bank of Kenya Internet Banking System and make illegal payments; the county assembly wrote to the County Secretary Nyamira and cautioned them of such malpractices.
11. THAT regarding the illegal allocation of user rights on the IFMIS platform, the assembly wrote an official complaint to the National Treasury, Director – IFMIS to delete and/or deactivate such rights.
12. THAT what is deponed herein is true to the best of our knowledge, information and belief.

DATED AT NYAMIRA THIS 3rd day of April, 2025

BY THE SAID:

STEPHENE ERONDE EGOHA) 

ELIKANA MOKUA NDUBI
ADVOCATE
COMMISSIONER FOR
AND NOTARY PUBLIC
P. O. Box 269 - 00100, NAIROBI

BEFORE ME:

266

COMMISSIONER FOR OATHS

DRAWN & FILED BY: -

B. BOCHABERI ADVOCATES

7B PLAZA, 2ND FLOOR, NEXT TO KCB KEROKA BRANCH

P.O BOX 162, NYANSIONGO

267

REPUBLIC OF KENYA



P.O BOX 590 - 40500, NYAMIRA

Your Ref.....

Our Ref: CASB/CA/2015

TEL: 0714 077 302

E-Mail: canyamira@gmail.com

Date: 1ST July, 2015.

COUNTY ASSEMBLY OF NYAMIRA OFFICE OF THE CLERK

Mr. Egoha Stephene Eronde

CONFIRMATION OF APPOINTMENT AS ICT OFFICER II

This is to convey the decision of the County Assembly Service Board that you be confirmed to the position of **ICT OFFICER II** at **SCALE 'CASB 6'** in the County Assembly with effect from **1ST July, 2015**.

You will serve on Permanent and Pensionable terms

Duties and Responsibilities

Specifically, duties and responsibilities entail:-

- To provide first line technical support to all ICT users throughout the association
- To deliver ICT administration functions
- To be an effective member of the ICT team in the delivery of high quality, widely respected and customer-influenced ICT service.
- Administration of web and email filtering software.
- To assist the ICT team in hardware and software installation.
- Monitoring usage of systems to ensure appropriate use and security is adhered to.
- Monitoring the county's system backups, analyzing and backup issues and reporting findings to ICT manager.
- To assist the ICT team in ensuring that faults, issues and breakdowns for ICT hardware and software are rectified, making recommendations where appropriate, on users' current working practices/procedures.
- To oversee network and server.
- Carrying out computer security and ant-virus updates.
- Carrying out computer housekeeping tasks.
- Provide IT support to computer users within the office.
- First point of call and initial troubleshooting of IT problems and resolving if possible.
- Ensuring all software is properly licensed.
- Keep a breast of IT technology, maintain library of information

268

- Provide timely responses to all ICT enquiries or concerns

SCALE: CASB 6

Basic Salary 43, 660

House Allowance 20,000

Commuter Allowance 8,000

You will be entitled to an annual leave of thirty (30) days excluding weekends and public holidays.

Kindly acknowledge receipt of this letter.

Name: STEPHENE EGOTIA


ID No: 13644872

Mobile No: 0701554707

Signature: [Signature]

Date: 10/8/2015

On behalf of Nyamira County Assembly Service Board, I take this opportunity to congratulate you on the appointment and wish you well in your duties.

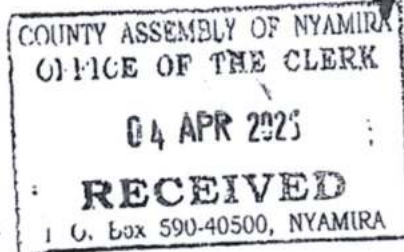


Daniel Orina

Clerk / Secretary County Assembly Service Board



ICT Authority Telposta Towers
12th Floor, Kenyatta Avenue
PO Box 27150 - 00100
Nairobi Kenya Tel:0206676000
www.icta.go.ke Info@ict.go.ke



Our Ref: ICTA/LGL/2025/004

Your Ref: CAN/CLK/ICTA/2025-02(1)

24th March 2025

Mr. Duke S. Onyari
The Clerk
County Assembly of Nyamira
P.O. Box 434-40500
Nyamira.

Dear

**RE: RESPONSE ON COMPLAINT IN ALLEGED WITHDRAWAL OF RIGHTS AND
INTRODUCTION OF NEW RIGHTS**

We acknowledge receipt of your letter dated 25th February 2025, regarding a complaint about the alleged withdrawal of rights and the introduction of new rights. Additionally, we confirm receipt of the attached documents for our review. Upon analyzing the correspondence, we have identified the following:

1. **Dispute Over the Speaker's Office;**

There is an ongoing dispute concerning the office of the Speaker of the County Assembly. Notably, Mr. Enock Okero Ogori was impeached on 24th October 2024. Furthermore, through Petition HCCHRPEP/E01/2025, conservatory orders have been issued, restraining the 1st Interested Party from assuming the duties of the Speaker until the matter is heard and determined. Consequently, we conclude that the office of the Speaker remains vacant.

2. **Dispute Over the Composition of the County Assembly Board;**

Following the impeachment of the Speaker, the County Assembly Board ceased its operations, and a new board was appointed via Gazette Notice 13376, issued by Thaddeus Nyabaro.

3. **Conflicting Claims Over Domain Rights,**

We have received multiple correspondences from various parties expressing interest in the domain rights of the County website. A letter from the County Assembly of Nyamira, dated 21st November 2024, states that Mr. Duke S. Onyari was suspended as Clerk and replaced by Mr. Silvanus Ndemo, who was appointed by the Board. The letter also requested the transfer of domain rights. Additionally, a separate letter from Bonuke & Company Advocates, acting on behalf of the County Service Board, requested another transfer of domain rights from Mr. Stephen Egoha to Ms. Winnie Kerubo.

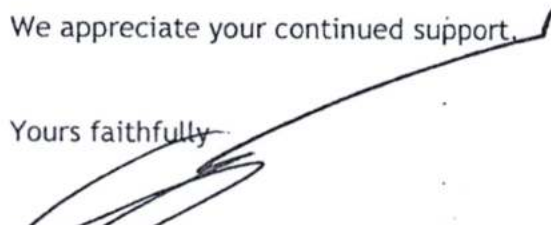
270

Based on the above information, it is evident that there are significant internal disputes. We emphasize that the Authority is not a party to these conflicts and, therefore, cannot act on instructions from individual parties. To safeguard the interests of the people of Nyamira County, we have determined that the domain rights should remain under the custody of a neutral party until the internal disputes are resolved.

Furthermore, unless we receive formal communication or direct instructions from the court, the domain rights will remain in our custody. Please note that we are only holding these rights and are not engaged in any transactions involving the website.

We appreciate your continued support.

Yours faithfully,



Stanley Kamanguya, OGW
CHIEF EXECUTIVE OFFICER

THE COUNTY ASSEMBLY OF NYAMIRA

Annex 59
(9)

✉ info@nyamiraassembly.go.ke
🌐 www.nyamiraassembly.go.ke



📍 County Assembly Buildings
P.O. Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/BFI/2025/03(1)

Date: 10TH MARCH 2025

The Director
Banking Fraud Investigation
P.O. Box 60000
Extelecoms Building, 6th Floor
NAIROBI

"EXTREMELY URGENT"

Dear Sir/Madam,

RE: ILLEGAL GRANT OF OFFICIAL GOVERNMENT E-MAIL ACCOUNT

The above matter refers.

Further to our earlier correspondences, we wish to bring to your attention that the County Executive Arm of the County Government of Nyamira has illegally granted one Silvanus Ndemo Nyamora, a staff of the County Assembly, with an official government e-mail account (SNYAMORA@NYAMIRA.GO.KE) hosted on the County Executive Domain: WWW.NYAMIRA.GO.KE.

Mr. Nyamora is currently suspended from the County Assembly Service and the subject of a disciplinary process.

We believe that the County Executive Arm is deliberately facilitating the said staff with an official email account so as to illegally and fraudulently access the County Assembly Bank Accounts held at the Central Bank of Kenya.

The official web domain for the County Assembly of Nyamira is: WWW.NYAMIRAASSEMBLY.GO.KE.

Sincerely,

DUKE S. ONYARI
THE CLERK
COUNTY ASSEMBLY OF NYAMIRA



Copy to: The Director, DCI
Mazingira House
P.O. BOX 30036 – 00100, Nairobi

The DCIO – Nyamira South

272

Annex 59(6)



**REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
OFFICE OF THE CLERK**



P.O Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke

E-mail: info@nyamiraassembly.go.ke

When replying please quote our reference

Our Ref: CAN/CBK/20/02/2025(2)

Date: 20th February, 2025

**The Director
Banking Division
Central Bank of Kenya
P. O. BOX 6000-00100
NAIROBI**

Dear Sir,

RE: COMPLAINT OF ALLEGED WITHDRAWAL OF MANDATES AND INTRODUCTION OF OTHER MANDATES

The above matter refers.

There are allegations of persons being introduced to the accounts for the Nyamira County Assembly without the knowledge of the authorized officers.

We wish to inform you that the County Assembly of Nyamira, a separate and independent arm of the County Government, has the following as the mandatory Signatories and to-date no changes have ever been made:

1. Mr. Duke Simeon Onyari - Clerk of the County Assembly and Signatory since 2018 for the below stated Accounts
2. Mr. Leonard Kevin Nyamasege – Head of Finance & Accounts and Signatory since 2018 for the below stated Accounts

Name	Account Number
(i) Nyamira County Assembly Recurrent Account:	1000239751
(ii) Nyamira County Assembly Development Account:	1000326905
(iii) Nyamira County Assembly Retention Account:	1000343559

Yours faithfully,

**Duke Simeon Onyari
Signatory
County Assembly of Nyamira.**

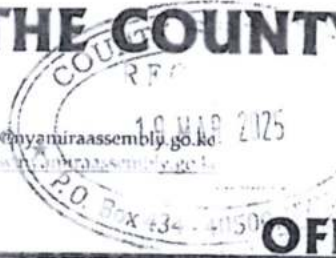
**Leonard Kevin Nyamasege
Signatory
County Assembly of Nyamira**

273

Annex 60

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O. Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/CS/2025/03(3)

Date: 19th MARCH 2025

**The County Secretary and Head of County Public Service
County Government of Nyamira**

RE: DISMISSAL OF SILVANUS NDEMO NYAMORA FROM THE COUNTY ASSEMBLY SERVICE

The above matter refers.

The County Assembly Services Act, 2017 [Revised 2022] mandates the County Assembly Service Board to exercise disciplinary control over the officers of the Service.

The purpose of this letter is to inform your office that the County Assembly Service Board passed a resolution and **dismissed Mr. Silvanus Ndemo Nyamora of ID No: 11322085 and PF. No: 2011011878** from the County Assembly Service with effect from the 5th of February 2025. Mr. Nyamora is therefore not an employee of the County Assembly and is not authorized to transact on its behalf.

N.B: It has been noted that the County Executive Arm has illegally facilitated Mr. Nyamora with an official government email account under the domain of the County Executive: WWW.NYAMIRA.GO.KE with the address: SNYAMORA@NYAMIRA.GO.KE as though he is an employee of the County Executive. Take note that the same is an illegality, and an **affront to the principle of separation of powers** and contrary to Section 4(3) of the County Assembly Services Act, 2017 (Rev. Ed.2022) which requires **employees of the County Assembly Service not to seek and/or receive directions from any source external to the Service**. Be advised that the illegal account should be closed forthwith.

Attached hereto, please find copy of the dismissal letter for your reference.

DUKE S. ONYARI
THE CLERK
COUNTY ASSEMBLY OF NYAMIRA.



19 MAR 2025

Copy To: Office of the Speaker, County Assembly of Nyamira



274



REPUBLIC OF KENYA
COUNTY GOVERNMENT OF NYAMIRA
THE COUNTY ASSEMBLY
OFFICE OF THE CLERK
DIRECTORATE OF LEGAL SERVICES

P.O Box 590-40500, Nyamira

Website: www.nyamiraassembly.go.ke Email: info@nyamiraassembly.go.ke

Annex 6 (a)



24TH DECEMBER 2024

OUR REF: CAN/DIR/LEG/011/24

THE GOVERNMENT PRINTER.

RE: PUBICATION AND GAZETTE NOTICES

Reference is made to the above captioned subject matter.

On 2nd day of December, 2024 IN THE HIGH COURT AT NYAMIRA JUDICIAL JR. NO. E007 OF 2024, NYAMIRA COUNTY ASSEMBLY VS. ENOCK OGORI OKERO the court issued Orders, wherein Lady Justice Odera Teresa Achieng Ruled that:

- (a) Leave be and is hereby granted to the Applicant to apply for Judicial Review of Certiorari bringing into this court for purposes of quashing and to quash Gazette Notices Number 14229 of 2024, 1430 of 2024 and 1473 of 2024 dated 29th October 2024, 26th October, 2024 and 30th October 2024 respectively.
- (b) The leave so granted does operate as a stay staying the implementation of Gazette Notices Number 14229 of 2024, 14230 of 2024 and 14273 of 2024 dated 29th October 2024, 26th October 2024 and 30th October 2024 respectively.
- (c) The Substantive Notice of Motion be filed and Served within 14 days from today
- (d) Mention on 16.12.2024 at 10.00am.

On 16th December 2024 the above matter came up for mention before W.A Okwany J. wherein parties were granted 14 days each to file and serve written submissions for Ruling on 30th January, 2025.

Then on 16th December 2024 the High Court at Nyamira in the Constitutional and Human Rights Petition No. E008 of 2024, **Enock Ogori Okero Vs. The County**

275



Assembly of Nyamira, Clerk County Assembly of Nyamira & 6 Others, delivered two Rulings as hereunder:

1. Contempt of the conservatory Orders issued on 11th October 2024 against the County Assembly of Nyamira, the Clerk County Assembly of Nyamira and six (6) Members of the County Assembly. The Hon. Lady Justice W. A Okwany ordered thus;

"..... I am satisfied that the Contemnors have adequately purged the contempt and are deserving of the mercy of this Court. This Court hereby fully pardons the Contemnors but with stern warning that the Court will not hesitate to mete out severe punishment for any further disobedience of its Orders."

2. On preliminary Objection Application on jurisdiction of the court by the Respondents, the Court ruled that;

"..... In the final analysis, I make the following orders:- (i) Petitions Nos. E008 and E011 be consolidated and be transferred to the Employment and Labour Relations Court in Kisumu for hearing and determination;

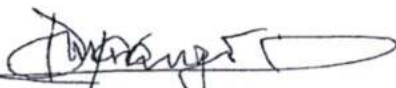
(ii) The parties shall bear their own costs in the Applications."

The backdrop of the said Court Orders is that, the Court downed its tools for want of Jurisdiction and any other legal remedies and/or orders may be issued by ELRC in Kisumu.

Attached please find copies of the Court Orders dated 2nd day of December 2024 and the Rulings dated 16th day of December 2024 for your ease of reference.

It is now our conviction that the court writs now set the record straight and narrow, to allow the County Assembly of Nyamira appreciate the Services of Government Printer.

We thank you for your continued support.



DAVID N. OMBEGO

FOR, CLERK

COUNTY ASSEMBLY OF NYAMIRA

CC: THE SOLICITOR GENERAL – LEGAL DIVISION.

Annex 61 (b)

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamira-county.go.ke
www.nyamira-county.go.ke



County Assembly
Buildings

OFFICE OF THE CLERK

THE GOVERNMENT PRINTERS
BOX 30128-00100
HAILE SELASSIE AVENUE
NAIROBI KENYA

REF: BANNED BUNGE MASHINANI BY THE NYAMIRA COUNTY ASSEMBLY


The above subject matters

The county assembly of Nyamira sitting on the 11th of February 2025 in the afternoon session, made a resolution to ban and/or stop the Bunge Mashinani activities across the entire County of Nyamira.

Therefore, this is to ask your good office not to gazette any purported Bunge ya Mashinani in Nyamira county so as to avert unnecessary litigations.

We are always indebted and most sincerely thankful for your continued support.

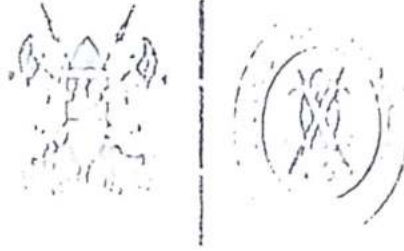
A copy of the motion/House resolution is herewith attached for your ease of reference.


Duke S. Onyari
Clerk
County Assembly of Nyamira

CC:
Deputy Speaker
County Assembly of Nyamira

277

THIRD ASSEMBLY



THIRD SESSION

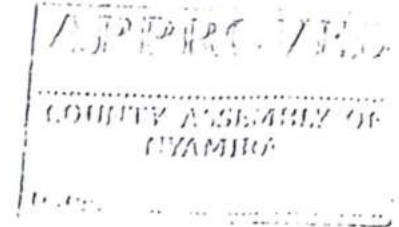
REPUBLIC OF KENYA
COUNTY ASSEMBLY OF NYAMIRA

THIRD ASSEMBLY - THIRD SESSION

11th FEBRUARY 2025 AT 9:30AM

The Hon. Speaker
County Assembly of Nyamira

Thro'
The Clerk
County Assembly of Nyamira



NOTICE OF PROPOSED MOTION

DECLARATION OF ILLEGAL ACTIVITIES OF BUNGE MASHINANI IN NYAMIRA
COUNTY

(UNDER STANDING ORDER NO. 46 OF NYAMIRA COUNTY ASSEMBLY STANDING ORDERS)

TAKE NOTICE that I, HON. VINCENT BENECHA a Member of the County Assembly of Nyamira propose to move a Motion on declaration of illegal activities of Bunge Mashinani in the County Government of Nyamira on the basis of Constitutional, legal, statutory provisions, procedures, practice, traditions and precedents.

The Motion, Grounds and Particulars are provided for hereunder, and particularly in the Motion thereof.

DATED at NYAMIRA this 6th day of February, 2025.

VINCENT BENECHA
HON. VINCENT BENECHA
MCA - COUNTY ASSEMBLY OF NYAMIRA

278

MOTION

DECLARATION OF ILLEGAL ACTIVITIES OF BUJIGE MASHIHANI

Hon. Speaker,

The Constitution of Kenya, 2010 Part 2 provides for County Governments.

Article 6 (1) (2) provides for Devolution and access to services to wit:

6. (1) The territory of Kenya is divided into the counties specified in the First Schedule.

(2) The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

Article 176 declares that:

176 (1) There shall be a county government for each county, consisting of a county assembly and a county executive.

Pursuant to the provisions of County Government Act, 2012 (Rev. 2022) Section 6A provides for the location of the County Government.

6A. (1) Each of the county governments shall be located in the respective physical location set out in the Third Schedule.

(2) A County Assembly may, by a resolution supported by at least two-thirds of the members of the County Assembly and with the approval of Parliament, transfer the headquarters of the county government from the physical location specified in the Third Schedule to such other physical location as it may consider appropriate.

(3) A County Assembly shall, before passing a resolution under subsection (2), facilitate public participation. (4) The county Governor shall confer the status of an urban area to the seat of the physical location of the county government in accordance with the provisions set out in the Urban Areas and Cities Act (Cap. 275).

Hon. Speaker,

The County Assembly of Nyamira Standing Order No. 3 (1) provides for the proceedings of Assembly of a new County Assembly;

(1) Whenever a new County Assembly is elected, the Governor, by notice in the Gazette and or in the County Gazette, shall appoint the place and date of the first sitting of the new County Assembly, which date shall not be

later than fourteen days after the announcement of the final results of an election subject to section 7A of the County Governments Act

Hon. Speaker,

NOTING THAT: there is in place only one distinct County Government of Nyamira known as 046 with the Assembly and Executive Arms of Government with its known headquarters within the precincts of Nyamira Municipality;

AWARE THAT: the County Government of Nyamira and particularly the County Assembly of Nyamira has not been relocated to any other place within or outside the boundaries of Nyamira County;

FURTHER AWARE THAT: Each of the county governments shall be located in the respective physical location set out in the Third Schedule of the Constitution of Kenya, 2010;

ACKNOWLEDGING THAT: Public Participation has not been conducted and brought to the attention of the County Assembly of Nyamira through a resolution of the House to consider holding Sittings outside the known County Assembly of Nyamira Chambers;

RECOGNIZING THAT: It is unlawful and against the Constitution and statute law, rules, precedent, practice and traditions to conduct Assembly sittings outside unknown places and location;

WHEREAS: The Hon. Enock Okero was impeached by the County Assembly of Nyamira and that he has continuously held unlawful sittings branded as Bunge Mashinani, purporting to transact County Assembly business including but not limited to passage of the Supplementary Budget and causing confusion thereof;

AWARE THAT: Public funds through the purported Bunge Mashinani have been wantonly wasted and blundered by the Executive arm of the County Government of Nyamira;

AWARE THAT: The County Assembly has not passed any resolution to allocate funds and plan/organize for Bunge Mashinani, if any, Venue, safety and security of the participants and indeed no public participation conducted;

IT IS NOW APPARENT THAT: the Hon. Enock Okero is hellbent to continue committing unlawful acts in the name of holding sittings outside the usual known place of the County Assembly of Nyamira and without the sanctions the County Assembly;

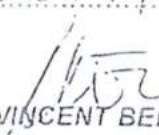
Hon. Speaker; the current situation is extremely untenable considering that the hon. Okero has filed in court fourteen (14) cases to cause confusion, delay to public service delivery, hampering operations of the County Government particularly the County Assembly;

I move this noble motion that:

280

1. The Bunge Mashinani be declared unlawful and stopped forthwith;
2. The County Government of Nyamira be stopped and/or banned from funding, planning and organizing the Bunge Mashinani using public funds and vehicles;
3. Appeal to the public that Bunge Mashinani should be stopped;
4. That the Hon. Members of the County Assembly, especially the elected should sensitize the public to desist from giving support to the Bunge Mashinani whatsoever and henceforth;
5. That I urge the Hon. House to pass this Motion with or without amendments .

I beg to move and call upon Hon. ~~Vincent D. Benecha~~ to second.


HON. VINCENT BENECHA

MCA - COUNTY ASSEMBLY OF NYAMIRA

281

Annex 61 (C)

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/GP/2025/03(2)

Date: 13TH MARCH 2025

**THE GOVERNMENT PRINTER
P.O BOX 30128
NAIROBI**

"EXTREMELY URGENT"

Dear Sir,

RE: VERIFICATION OF KENYA GAZETTE NOTICE IN CIRCULATION

The above matter refers.

We wish to bring to your attention the following Notice circulated in late February 2025 purportedly issued by the impeached former Speaker of Nyamira Mr. Enock Ogori Okero:

Gazette Notice No.2203 titled "RESUMPTION OF COUNTY ASSEMBLY BUSINESS"

Notice annexed as CAN 001

Kindly confirm if the Notice is authentic and/or published by the Government Printer.

Sincerely,



**DUKE S. ONYARI
THE CLERK
COUNTY ASSEMBLY OF NYAMIRA**

SPECIAL ISSUE



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol .CXXXVIII-No. 43

NAIROBI, 26th February, 2025

Price Sh.60

GAZETTE NOTICE No. 3703

**THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT
(No. 17 of 2012)
THE NYAMIRA COUNTY ASSEMBLY STANDING ORDERS
COUNTY ASSEMBLY OF NYAMIRA
RESUMPTION OF COUNTY ASSEMBLY BUSINESS**

Notice is hereby given to the Members of County Assembly, Staff and the General public that:
Following the unrest after the events of 8th October, 2024 and subsequent
adjournment of the House *Sine Die*, in exercise of the powers conferred to the office of the Speaker
the County Assembly will resume its normal activities on the 27th FEBRUARY, 2025
All activities will run as per the Assembly's Normal schedule and programs
as will be guided by the office of the Speaker

HON. ENOCK OGORI OKERO,
Speaker, County Assembly of Nyamira

Dated the 20TH FEBRUARY, 2025

IGN 3745/2025

283

Annex 62

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O. Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/AG/2025/03(1)

Date: 11TH MARCH 2025

The Hon. Attorney General
Sheria House, Harambee Avenue
P.O. Box 40112-00100
Nairobi, Kenya

"EXTREMELY URGENT"

Dear Sir/Madam,

RE: ILLEGAL NOTICES AND ACTS TO UNDERMINE THE COUNTY ASSEMBLY OF NYAMIRA

The above matter refers.

Further to our earlier correspondences, we wish to bring to your attention of the following illegal Notices and/or acts by the impeached former Speaker Mr. Enock Ogori Okero and his accomplice Mr. Silvanus Ndemo Nyamora:

1. The duo caused and/or circulated a fake and illegal Gazette Notice titled "RESUMPTION OF COUNTY ASSEMBLY BUSINESS" ostensibly to notify the public that the County Assembly of Nyamira will resume normal activities on 27th February 2025. On account of this fake and illegal Notice the duo proceeded to hold an illegal meeting in Magwagwa Ward Office within Nyamira County on 27th February 2025.
Fake/Illegal Notice annexed as CAN 001
2. The duo caused and/or circulated a fake and illegal Gazette Notice titled "NYAMIRA COUNTY ASSEMBLY SERVICE BOARD" in which they purported to appoint themselves and four others as members of Nyamira County Assembly Service Board. A casual look at notice points to the possibility that the same was illegally procured from the Government Printer besides the fact that it was never published. On account of this fake and illegal Notice, the duo have been making illegal communications and/or appointment of staff of the County Assembly by illegally assuming the authority of the County Assembly Service Board. Mr. E. O. Okero who is listed as Chairperson was removed from office by Impeachment, Mr. J O. Nyang'au and Mr. L. S. Onyancha were recalled and replaced by their appointing parties/coalitions; the appointments of Mr. L. O. Mogaru and Ms. E. N. Omari were revoked by the County Assembly and Mr. S.N. Nyamora is currently suspended from the County Assembly and the subject of a disciplinary process.

284

Fake/Illegal Notice annexed as CAN 002

3. On 11th March 2025, Mr. Nyamora caused to be published an illegal advertisement in the Daily Nation purporting to invite members of the public to participate and submit memoranda on the Nyamira County Fiscal Strategy Paper 2025/2026. In the illegal advert, Mr. Nyamora has been assigned an illegal email account by the County Executive arm (snvamora@nyamira.go.ke) hosted on the web domain of the County Executive arm: www.nyamira.go.ke. The web domain for the County Assembly of Nyamira is: www.nyamiraassembly.go.ke.

Illegal Advert annexed as CAN 003

Further, we wish to bring to your attention that the County Executive Arm of the County Government of Nyamira under the direction of the Governor H.E Amos Nyaribo is responsible for the creation of a parallel County Assembly. On 27th February 2025, the County Executive Committee Member for Finance submitted the County Fiscal Strategy Paper (CFSP) 2025 to a non-existent Office of the Clerk of the County Assembly of Nyamira. This office learnt of this illegality upon inquiry on why the County Treasury had failed to submit the County Fiscal Strategy Paper 2025 by the 28th of February as required by the Public Finance Management Act (2012).

Correspondences showing 2 letters addressed to the Clerk of the County Assembly of Nyamira from the Department of Finance, ICT and Economic Planning with two different receipt Stamps marked as CAN 004

Sincerely



DUKE S. NYARIBERO
THE CLERK
COUNTY ASSEMBLY OF NYAMIRA

285



Original Copy

Annex 64

COUNTY ASSEMBLY OF NYAMIRA STAFF WELFARE ASSOCIATION
(CANSWA)



OFFICE OF THE SECRETARY GENERAL

P.O Box 590-40500, Nyamira



DATE: 3rd APRIL 2025

TO:

1. THE CONTROLLER OF BUDGET
OFFICE OF THE CONTROLLER OF BUDGET
2. THE DIRECTOR BANKING SERVICES
CENTRAL BANK OF KENYA
3. THE CLERK – SENATE
4. THE SENATOR - NYAMIRA COUNTY
5. THE GOVERNOR – NYAMIRA COUNTY
6. THE COUNTY SECRETARY & HEAD OF COUNTY PUBLIC SERVICE – NYAMIRA COUNTY
7. THE COUNTY EXECUTIVE COMMITTEE MEMBER/HEAD OF COUNTY TREASURY
COUNTY GOVERNMENT OF NYAMIRA



ARTICLE 37 OF THE CONSTITUTION OF KENYA (2010)

IN THE MATTER OF "OBTAINING COURT ORDERS BY FALSE PRETENSE"

**PETITION AGAINST THE RECOGNITION OF SILVANUS NDEMO NYAMORA AS
SIGNATORY AND/OR Ag. CLERK OF THE COUNTY ASSEMBLY OF NYAMIRA**

The County Assembly of Nyamira staff Welfare Association is a registered Association in the Republic of Kenya by the Registrar of Societies;

PURSUANT TO Article 37 of the Constitution of Kenya (2010):

*Every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to **present petitions to public authorities.***

WE, the Members of the County Assembly of Nyamira staff Welfare Association strongly resist any attempt by any person or state organ to illegally impose the above referenced person and confer on him illegitimate authority as Ag. Clerk of the County Assembly and as Signatory to County Assembly Accounts held at the Central Bank of Kenya, or as approver or authorizer of requisitions/expenditure on behalf of the County Assembly, with the following reasons:

1. **Silvanus Ndemo Nyamora** was until October 2024 the Hansard Editor of the County Assembly of Nyamira.

286

2. The County Assembly of Nyamira removed **Enock Ogori Okero** from office of the Speaker of the County Assembly on **24th October 2024** by way of Impeachment. The Impeachment was published in the Kenya Gazette Vide **Gazette Notice No: 14050** dated **24th October 2024**. To date, the decision of the County Assembly to impeach Enock Ogori Okero has not been overturned or stayed by any court of law. (Gazette Notice annexed as "CANSWA 001")
3. Subsequent to his impeachment, the former Speaker **Enock Ogori Okero** illegally appointed **Silvanus Ndemo Nyamora** as Ag. Clerk of the County Assembly effective the **28th of October 2024** vide gazette notice No: **14230** dated the **26th of October 2024**. It should be noted that this is a decision that can only be made by the **County Assembly Service Board** and not just an individual and most certainly not by an individual that had ceased to hold office. (Gazette Notice annexed as "CANSWA 002")
4. Consequently, **Silvanus Ndemo Nyamora** proceeded to facilitate the formation of a breakaway parallel and illegal assembly together with **Enock Ogori Okero** after the removal of the latter from the office of Speaker of the County Assembly of Nyamira by Impeachment on **24th October 2024**. As already underscored above, the said impeachment is the subject of a Court matter in **ELRC Kisii Petition No.E001 of 2024** and to date it has not been invalidated by the Court. **Silvanus Ndemo Nyamora's** engagement in such partisan politics went against the provisions of Section 5(c) of the County Assembly Services Act, 2017 [Revised 2022] which requires officers of the County Assembly Service to have regard to the principles of political neutrality.
5. On account of his engagement in partisan politics and his treasonous activities; the **County Assembly of Nyamira staff Welfare Association** met on a Special General Meeting on **25th November 2024** and **unanimously resolved to remove Silvanus Ndemo Nyamora from the Membership of the Association**. As it stands, **Silvanus Ndemo Nyamora lost the confidence of Members of Staff** and **CANNOT** in any whatsoever **pretend to be championing for our rights**.
6. While the duo conducted an illegal breakaway Assembly complete with a **fake "mace", forged Seal and forged office Stamp; they operate from no known office**. They have so far been **freelancing from ad hoc premises** including hotels, pubs and private residences. The two can therefore not be traceable as their **operations are clandestine**. We fear that should the two succeed in their conspiracy, public funds will be lost much to the suffering of the staff of the County Assembly.
7. **Silvanus Ndemo Nyamora** was **SUSPENDED** from the County Assembly on **19th November 2024** and subsequently **DISMISSED** from the County Assembly Service on **5th March 2025**. He has neither challenged his suspension nor his dismissal before any authority or court of law. **How then can a dismissed individual be granted authority over the management of County Assembly Finances?**
8. Prior to his dismissal, **Silvanus Ndemo Nyamora** made his **last and brave act of impersonation**, by **impersonating the Nyamira County Assembly Service Board** and succeeded to **obtain court orders "by false pretense"** in Petition E004 OF 2025 of Nyamira High Court. These orders gave him access to County Assembly Accounts held at the Central Bank of Kenya. To our dismay, the sweeping orders were given **ex-parte**

287

and in **Nyamira** as opposed to a location where the Central Bank and/or any of its branches are located, pointing to the possibility of connivance with the Judge, **a total miscarriage of justice**.

9. The **County Assembly Service Board of Nyamira** as currently constituted has the following members:

- (i) Hon. Josiah Mangera, MCA - Vice Chairperson
- (ii) Hon. Reuben Miinda Riechi, MCA - Member
- (iii) Ms. Ms. Gladys Nyoteyo Ogendo - External Member
- (iv) Mr. John Kingsley Ondigoh - External Member

❖ *The Chairperson has a matter in court challenging his election as Speaker whose outcome is pending.*

This is the same Board that **suspended** and subsequently **dismissed Silvanus Ndemo Nyamora** from the County Assembly Service. **Petition E004 OF 2025** that was filed before the Nyamira Judge (**Nyamira County Assembly Service Board VS CBK and others**) **did not emanate from the Board as constituted above**. The matter was supported by the affidavit of **Silvanus Ndemo Nyamora** who was already suspended from the County Assembly Service by the same Board.

*It is not logical that the Board that had suspended **Silvanus Ndemo Nyamora** would make an application before court seeking the grant of financial authority to the same **Silvanus Ndemo Nyamora** while serving a suspension.*

This was indeed a travesty of justice. By dint of these orders obtained by false pretense, the County Assembly staff have suffered a prolonged tussle over who is the legitimate Clerk of the County Assembly. This tussle has brought upon suffering as three months' salaries and allowances remain unpaid (January, February and March 2025). Equally, due to non-payment, the officers' medical cover was discontinued by the service provider further exposing the employees to huge medical bills.

10. Before **Silvanus Ndemo Nyamora** was granted the orders above, another **injustice** was going on at the **Central Bank of Kenya**. Officers of the Bank blatantly, and under undue influence, flouted the standard operating procedures for Change of Signatories of the Central Bank and **clandestinely** effected a change of Signatories on account of an illegal gazette notice issued on **26th October 2024** by **Enock Ogori Okero** two days after he was removed from the office of Speaker/Chairperson County Assembly Service Board.

11. The Governor of Nyamira **Hon. Amos Kimwomi Nyaribo** and his County Executive Committee Member Finance have facilitated both **Enock Ogori Okero** and **Silvanus Ndemo Nyamora** to conduct a mockery of an Assembly outside the gazetted location of the Assembly and in the absence of an approved motion for the conduct of sittings outside the location of the Assembly. This charade of an assembly has processed statutory appointments and documents. The two have equally, and against the principle of separation of powers, attempted and/or created **illegal government email accounts** for county Assembly employees under the domain of the County Executive in a **well-orchestrated scheme to swindle county Assembly funds held at the Central Bank of Kenya**.

288

12. The **Substantive Clerk** of the County Assembly of Nyamira remains **Mr. Duke Simeon Onyari** as appointed by the County Assembly on **19th December 2024**. He is the only authorized officer and mandatory signatory until and unless the County Assembly of Nyamira so resolves.

This petition has been endorsed by Members of the County Assembly Staff Welfare Association whose signatures are hereto affixed.

Signed.



GEOFFREY ONCHARI
SECRETARY GENERAL

For and on Behalf of the County Assembly of Nyamira staff Welfare Association

**PETITION AGAINST THE RECOGNITION OF SILVANUS NDEMO NYAMORA AS
SIGNATORY AND/OR Ag. CLERK OF THE COUNTY ASSEMBLY OF NYAMIRA**

1	2014*****791	Mr Evans Onyancha Omwega	20***86	Chairperson	
2	2014*****988	Mrs Jackline Kerubo Nyamboga	24****94	Vice Chairperson	
3	2014*****010	Mr Geoffrey Obare Onchari	25****86	Secretary General	
4	2013*****915	Mr Gilbert Atunga Onduko	28****80	Vice Secretary General	
5	2015*****102	Mrs Dorcas Kerubo Nyakungu	28****19	Treasurer	
6	2014*****853	Mr George Orutwa Omiti	21****81	Sports Co-ordinator	
7	2017*****096	Mr Lameck Nyamache Matoke	22****41	Member representative	
8	2014*****942	Mr Joshua Ongwano Morara	24****93	Member representative	
9	2015*****945	Mr Zablion Ainda Ombaki	27****38	Member representative	
10	1999*****647	Mr George Bosire Angwenyi	22****17	Member	
11	2005*****362	Mr George Makori Nyakundi	13****30	Member	
12	2011*****534	Mr Stephene Eronde Egoha	13****72	Member	
13	2013*****773	Mr David Nyarang'o Ombego	10****01	Member	
14	2013*****808	Mr Leonard Kevin Nyamasege	20****48	Member	
15	2013*****826	Mrs Elinah Moraa B Osiemo	22****41	Member	
16	2013*****853	Mr Haron Mosomi Nyangwara	23****30	Member	
17	2013*****862	Mrs Linet Morangi Mokaya	24****01	Member	
18	2013*****871	Mrs Stella Mose Moraa	25****65	Member	L.M
19	2013*****880	Mrs Joyce Mokeira Onyiego	25****29	Member	Stella
20	2013*****899	Mrs Millicent Moraa Misati	25****79	Member	
21	2013*****924	Mrs Edinah Otengo Bonareri	28****16	Member	
22	2013*****933	Mr Alloice King'ala Ngerenza	24****28	Member	
23	2013*****979	Mr Shem Mongare Isoe	28***25	Member	
24	2013*****988	Mrs Maurine Mochere Nyamusi	25****10	Member	
25	2013*****469	Mr Joash Mokaya Mwamba	26****41	Member	
26	2014*****719	Mr Joseph Hillary Magangi	59**07	Member	
27	2014*****737	Mr Shem Nyanumba Mikae	96**68	Member	
28	2014*****746	Mr Robinson Moonwa Maosa	13****50	Member	
29	2014*****755	Mr Zacharia Magare Arieha	13****17	Member	
30	2014*****773	Mr Robert Omwenga Nyasato	14****05	Member	
31	2014*****862	Mrs Gladys Nyotera Obara	22****62	Member	
32	2014*****871	Mrs Janet Moraa Onchagwa	22**96	Member	
33	2014*****915	Mr Arnold Ageta Omayio	23****92	Member	
34	2014*****924	Mrs Janet Motaroki Kerubo	23**92	Member	
35	2014*****933	Mr Erick Ong'uti Ayuka	24**96	Member	

PETITION AGAINST THE RECOGNITION OF SILVANUS NDEMO NYAMORA AS SIGNATORY AND/OR Ag. CLERK OF THE COUNTY ASSEMBLY OF NYAMIRA

36	2014*****960	Mrs Agnes Omambia Kwamboka	24****61	Member	
37	2014*****997	Ms Valarie Moraa Ogachi	25****68	Member	
38	2014*****001	Mr Michael Ongoro Ocharo	25****14	Member	
39	2014*****056	Mr Dennis Anyega Mobe	26****41	Member	
40	2014*****074	Mr Evans Osoro Nyakoe	27****33	Member	
41	2014*****083	Mrs Gladys Sorobi Bosibori	28****87	Member	G-5
42	2014*****092	Mrs Sheillah Obare Kerubo	28****79	Member	
43	2014*****109	Mr David Nyaberi Nyaosa	29****12	Member	
44	2014*****118	Mrs Merey Okerio Moraa	29****18	Member	
45	2014*****556	Mr Simcon Onyari Duke	10****61	Member	
46	2014*****707	Mr Brian Moriasi Ondieki	27****91	Member	
47	2014*****044	Mrs Peninah Kerama Kerubo	24****24	Member	
48	2014*****053	Mrs Evaline Nyaboke Mongare	28****21	Member	
49	2014*****116	Mr Kepha Onyiego Nyakundi	22****47	Member	
50	2014*****125	Mr Zachenus Nyachiro Anyota Ondieki	14****41	Member	
51	2014*****134	Ms Linet Moraa Nyangau	22****93	Member	
52	2014*****161	Mrs Nevenee Rudiah Moriasi	91****28	Member	
53	2014*****355	Mr Kennedy Mochi Arani	13****62	Member	
54	2015*****046	Ms Scholastica Kerubo Ombati	28****19	Member	
55	2015*****776	Ms Kemuma Ann Ondieki	28****14	Member	
56	2015*****785	Mr Simon Ondari Ogecha	25****31	Member	
57	2015*****794	Ms Mary Kerubo Nyamboga	28****04	Member	
58	2015*****801	Mr Felex Michira Bitange	26****72	Member	
59	2015*****810	Mr Joshua Ndubi Kerandi	22****81	Member	
60	2015*****829	Ms Asanath Kemunto Atuya	29****93	Member	
61	2015*****838	Mr Stephen Nyaenya Atambo	25****63	Member	
62	2015*****847	Mr Jeremiah Omwoyo Chebana	24****92	Member	
63	2015*****865	Mrs Felis Kemunto Osoro	28****78	Member	
64	2015*****874	Mr Boaz Okari Asoti	28****96	Member	
65	2015*****883	Mr Erick Koroba Makori	27****85	Member	
66	2015*****892	Ms Stella Kwamboka Nyamete	26****57	Member	
67	2015*****909	Mr Duke Ombati Maroro	27****14	Member	
68	2015*****927	Mr Sammy Alex Agwata	26****45	Member	
69	2015*****936	Mr Christopher Nyauma Kinanga	24****36	Member	
70	2015*****972	Mrs Dorah Kemunto Siro	14****19	Member	
71	2015*****981	Mr Hassan Nyang'au Mokaya	24****01	Member	

**PETITION AGAINST THE RECOGNITION OF SILVANUS NDEMO NYAMORA AS
SIGNATORY AND/OR Ag. CLERK OF THE COUNTY ASSEMBLY OF NYAMIRA**

72	2015*****990	Mr Bonface Mokua Ondieki	24****16	Member	
73	2015*****004	Ms Evarline Kemunto Kiage	25****81	Member	
74	2015*****013	Ms Patience Moraa Orina	28****15	Member	
75	2015*****022	Mrs Sheila Moraa Ongeru	23****27	Member	
76	2015*****031	Mr Samwel Mogaka Aluti	10****55	Member	
77	2015*****059	Mr Daniel Nyamache Bundi	22****54	Member	
78	2015*****068	Mr Dominic Mogaka Momanyi	28****46	Member	
79	2015*****086	Mr James Michael Gisesa	23****98	Member	
80	2015*****095	Mr Duke Nyakundi Mokua	24****84	Member	
81	2015*****111	Ms Lydia Mokeira Ondieki	25****19	Member	
82	2015*****120	Mr Kennedy Arasa Nyaberi	86****70	Member	
83	2015*****579	Mr Eric Nyambati Ondigo	24****22	Member	
84	2016*****446	Mr Justus Obwoye Onkundi	21****16	Member	
85	2016*****128	Mr Elijah Okemwa Omwoyo	21****57	Member	
86	2016*****620	Mr Enoch Migosi Mageto	87****88	Member	
87	2016*****639	Mr Enoch Okara Mayoyo	14****16	Member	
88	2016*****728	Mr Jeremiah Mokua Bosire	23****59	Member	
89	2016*****737	Mr Bonfance Ongayo Keranda	25****99	Member	
90	2016*****494	Mr Jones Nyaburi Ondicho	20****73	Member	
91	2016*****936	Mr George Nyangau Manani	20****16	Member	
92	2016*****963	Mr Duncan Bundi Okinyi	34****82	Member	
93	2016*****644	Mr Evans Mwebi Osinde	27****99	Member	
94	2016*****831	Mr George Nyakundi Mayaba	21****56	Member	
95	2016*****840	Mr Charles Jones Maoga	10****02	Member	
96	2016*****996	Mr Wycliffe Maoga Bikundo	27****06	Member	
97	2017****786	Mr Kevin Osoro Ongaga	28****81	Member	
98	2017****087	Ms Verah Kerubo Orina	30****77	Member	
99	2017****103	Mr Eric Machoka Ondari	22****39	Member	
100	2017****112	Mr Kepha Mweresa Onkoba	25****48	Member	
101	2017****910	Mr Rogers Ngota Sese	21****35	Member	
102	2017****270	Mrs Maureen Moraa Abaya	26****79	Member	
103	2017****289	Mrs Janet Mokeira Gisenba	22****20	Member	
104	2017****461	Mrs Jeliah Nyaitondi Nyaribari	27****07	Member	

Annex 65

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings

REPUBLIC OF KENYA

OFFICE OF THE CLERK

4th April, 2025

THE DIRECTOR IFMIS
NATIONAL TREASURY, KENYA


RE: DELETION OF PROCUREMENT IFMIS RIGHTS IN YOUR SYSTEM

It has come to our attention that the County Assembly of Nyamira IFMIS system has been infiltrated with unauthorized individuals some of whom are former and suspended employees working with a cabal of politicians whose intentions are not known to the Assembly of Nyamira.

We are writing to inform you that the users currently on the IFMIS system attached to the County Assembly of Nyamira are no longer working on behalf of the County Assembly.

With this letter, we are requesting you to expunge all of them from the system to avoid fraudulent activities that may be carried out through omission or commission. In due cause, we will provide you with authorized users to be.

Thank you.


DUKE S. ONYARI
CLERK
COUNTY ASSEMBLY OF NYAMIRA



Copy to: The Office of the Speaker and the Chairperson, County Assembly Service Board

293

THE COUNTY ASSEMBLY OF NYAMIRA

Annex 66(a)

info@nyamiraassembly.go.ke
www.nyamiraassembly.go.ke



County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/AG/2025-02(1)

Date: 26th FEBRUARY 2025

The Directorate of Criminal Investigations
Mazingira House,
Kiambu Road, opp Kenya Forest Service Headquarters, Karura
P.O. BOX 30036 – 00100
NAIROBI

EXTREMELY URGENT

Dear Sir,

RE: COMPLAINT AGAINST ILLEGAL ACTIVITIES OF MR. ENOCK OKERO OKERO AND HIS ACCOMPLICES

The above matter refers.

We write to inform you that one Enock Okero Ogori, the former Speaker of Nyamira County Assembly was formally removed from office by way of impeachment on 24th October 2024. His impeachment was gazetted vide Gazette Notice Number 14050 of 2024. Following his impeachment, Enock Okero Ogori ceased being the Speaker of Nyamira County Assembly and the Chair of the Nyamira County Assembly Service Board on 24th October 2024.

Prior to his impeachment, he had been suspended on 8th October 2024. He did obtain temporary orders in Nyamira Petition No.E008 of 2024 Enock Okero Ogori v County Assembly of Nyamira & 7 Others stopping his suspension. However, he did not obtain any court orders stopping his impeachment. On 16th December 2024, Nyamira High Court Judge ruled that she did not have jurisdiction to entertain the Petition. She transferred the Petition to Kisumu Employment and Labour Relations Court without extending the interim Orders.

On 25th October 2024, Enock Okero Ogori did file Kisii Employment and Labour Relations Court Petition Number E001 of 2024 Enock Okero Ogori & 12 Others v The County Assembly of Nyamira & Another challenging his impeachment. It is noteworthy that Enock Okero Ogori has never obtained any Court Order suspending his impeachment neither has he ever obtained any Court Order suspending and/or staying gazette Notice Number 14050 of 2024 which published his impeachment. In addition, he has hitherto never been reinstated as the Speaker of the Nyamira County Assembly.

Subsequent to his impeachment on 24th October 2024, Enock Okero Ogori wrote to the then acting Clerk and the current Substantive Clerk of the Nyamira County Assembly Mr. Duke Onyari purporting to suspend Mr. Duke Onyari accusing Mr. Duke Onyari of *inter alia* facilitating illegal impeachment of Enock Okero Ogori yet the said Enock Okero Ogori appeared in person during his impeachment hearings at the Nyamira County Assembly on 24th October 2024. Having been impeached on 24th October 2024, Enock Okero Ogori did not have the capacity to suspend Mr. Duke Onyari on 25th October 2024.



294

On 31st October 2024, **Enock Okero Ogori** purported to gazette 4 areas as places for *bunge mashinani* sittings, one **Silvanus Ndemo Nyamora** as the acting Clerk of the Nyamira County Assembly vide gazette Notice Number **14229 of 2024** and **14230 of 2024**. Similarly, on 30th October 2024 he purported to gazette new members of the Nyamira County Assembly Service Board vide gazette notice number **14273 of 2024**.

The 3 gazette notices by **Enock Okero Ogori** are illegal as they were published by himself subsequent to his impeachment. He did not have the authority to publish the said gazette notices as he had ceased being the Speaker of Nyamira County Assembly and the Chairperson of the Nyamira County Assembly Service Board on 24th October 2024.

The 3 illegal gazette notices by **Enock Okero Ogori** are the subject of ongoing litigation in Nyamira High Court Judicial Review Case Number E007 of 2024 **County Assembly of Nyamira v Enock Okero Ogori** wherein the County Assembly of Nyamira was granted leave to commence judicial review proceedings against the said **Enock Okero Ogori**. The County Assembly of Nyamira is seeking to quash the 3 impugned gazette notices.

As can be gleaned from the above, the tribulations of the Nyamira County Assembly have been occasioned by **Enock Okero Ogori** who despite having been impeached on 24th October 2024, despite challenging his impeachment in court and despite the fact that he does not have any court orders reinstating him back to Office, he has been publishing illegal gazette notices and he now wants to interfere with the mandate of the Nyamira County Assembly bank accounts held at the Central Bank. All actions by **Enock Okero Ogori** for and on behalf of the Nyamira County Assembly and Nyamira County Assembly Service Board as from 24th October 2024 when he was impeached are illegalities which should not be countenanced.

We also wish to bring to your attention that **Mr. Duke Onyari** was confirmed as the substantive clerk of the Nyamira County Assembly on 19th December 2024.

Enclosed herewith kindly find the following documents for your ease of reference.

1. Gazette Notice Number **14050 of 2024 publishing the impeachment of Enock Okero Ogori**.
2. Pleadings filed on 25th October 2024 by **Enock Okero Ogori** in Kisii Employment and Labour Relations Court Petition Number E001 of 2024 **Enock Okero Ogori & 12 Others v The County Assembly of Nyamira & Another** wherein **Enock Okero Ogori** is challenging his impeachment
3. Pleadings in Nyamira High Court Judicial Review Case Number E007 of 2024 **County Assembly of Nyamira v Enock Okero Ogori** challenging the illegal gazette Notices Number **14229 of 2024, 14230 of 2024, and 14273 of 2024 published by Enock Okero Ogori**.
4. Gazette Notice Number **13376 of 2024** evidencing the current membership of the Nyamira County Assembly Service Board.
5. Nyamira County Assembly Service Board letter dated 19th December 2024 confirming **Mr. Duke Onyari** as the substantive Clerk.
6. Pleadings in Nyamira Petition E008 of 2024.
7. Order in Nyamira Petition E008 of 2024.
8. Ruling in Nyamira Petition E008 of 2024.



9. Ruling in PPDTC/E004/2024 Lameck Sikweya and Joel Nyangau Ombongi VS Majority Whip County Assembly of Nyamira and Minority Whip County Assembly Of Nyamira AND 1 Others

The status of the former Nyamira County Assembly Service Board is extinct as highlighted below :

Member	Remarks
Enock Okero	Impeached on 24 th October 2024
Joel Ombongi	Recalled by majority coalition on 20/9/2024
Lameck Sikweya	Recalled by minority coalition on 20 th 2024
Leonard Mogaru	Removed by the Assembly on 21/11/2024
Edith Nyaboke omari	Removed by the Assembly on 21/11/2024
Duke Onyari	Secretary and Clerk to date

Joel Ombongi and Lameck Sikweya did challenge their removal as member of the Board vide PPDTC/E004/2024 **Lameck Sikweya and Joel Nyangau Ombongi VS Majority Whip County Assembly Of Nyamira AND Minority Whip County Assembly Of Nyamira AND 1 Others**. Their case was struck out.

The current Nyamira County Assembly Service Board as gazette vide gazette Notice number 13376 of 2024 comprises of

Member	Remarks
Thaddeus Nyabaro	Chairperson
Josiah Mang'era	Vice Chair
Miinda Riechi	Member
Duke Onyari	Secretary and Clerk

A. ILLEGAL ACTS DONE BY MR. ENOCK OKERO

County Assembly External communication is done by the secretary of the board who is the Clerk Mr. Duke Onyari, However, Hon. Enock Okero illegally made the following communications: -

1. On 28th October, 2024 on the Nation Newspaper Enock Okero did a publication in the Newspaper cancelling the advertisement for filling the vacancy of the Speaker that had been advertised on 25th October, 2024.
2. Gazette Notice No. 14229 – Gazettement of Bunge Mashinani effective from 31st October, 2024.
3. Gazette Notice No. 14230 – Appointment of Silvanus Ndemo Nyamora as the Acting Clerk of the Nyamira County Assembly
4. Gazette Notice No. 14273 – Gazettement of the Board Members who had been removed previously by their coalitions.
5. Letter Ref: CAN/CASB/2024/OCT (1) dated 25th October, 2024, suspending the current Acting Clerk – Mr. Duke Onyari.
6. Refusal to release the Government vehicle despite having been asked to do so via several Letters.
7. Illegal usage of the County Assembly Letter Heads while drafting letters to various institutions for instance:

296



expeditious forum seeking, an out right abuse of court process contrary to the doctrine of res sub judice .

7. Illegally Causing the withholding of funds by the County Executive Committee Member Finance - funds for County Assembly meant for Recurrent, Office Operations and Medical Insurance Cover.
8. Violation of the Constitution, contravening the law and/or irregularly signing – on behalf of the Assembly, the Supplementally Budget without the consideration and approval by the County Assembly of Nyamira.
9. Violation of the Constitution, contravening the law and/or irregularly signing – on behalf of the Assembly the Supplementally Budget without the consideration and approval by the County Assembly of Nyamira.
10. Continued withholding, utilizing and operating of the County Assembly Motor Vehicle Reg. No. 46CG 066A long after being impeached from office.
11. Operating the purported County Assembly Sitzings at Manga Ward away from the known and Gazetted Nyamira County Assembly premises in Nyamira Municipality Headquarters.

Your prompt response will be highly appreciated.
Yours Faithfully



David N. Ombego
DAVID N. OMBEGO
DEPUTY CLERK – LEGAL, PROCEDURE & COMMITTEE SERVICES
FOR: THE CLERK
COUNTY ASSEMBLY OF NYAMIRA

297

Annex 66 (b)

THE COUNTY ASSEMBLY OF NYAMIRA

✉ info@nyamiraassembly.go.ke
🌐 www.nyamiraassembly.go.ke



📍 County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/DCI/2025/03(2)

Date: 11TH MARCH 2025

The Directorate of Criminal Investigations
Mazingira House
P.O. BOX 30036 – 00100
NAIROBI

“EXTREMELY URGENT”

Dear Sir/Madam,

RE: ILLEGAL NOTICES AND ACTS TO UNDERMINE THE COUNTY ASSEMBLY OF NYAMIRA

The above matter refers.

Further to our earlier correspondences, we wish to bring to your attention of the following illegal Notices and/or acts by the impeached former Speaker Mr. Enock Ogori Okero and his accomplice Mr. Silvanus Ndemo Nyamora:

1. The duo caused and/or circulated a fake and illegal Gazette Notice titled “RESUMPTION OF COUNTY ASSEMBLY BUSINESS” ostensibly to notify the public that the County Assembly of Nyamira will resume normal activities on 27th February 2025. On account of this fake and illegal Notice the duo proceeded to hold an illegal meeting in Magwagwa Ward Office within Nyamira County on 27th February 2025.
Fake/Illegal Notice annexed as CAN 001
2. The duo caused and/or circulated a fake and illegal Gazette Notice titled “NYAMIRA COUNTY ASSEMBLY SERVICE BOARD” in which they purported to appoint themselves and four others as members of Nyamira County Assembly Service Board. A casual look at notice points to the possibility that the same was illegally procured from the Government Printer besides the fact that it was never published. On account of this fake and illegal Notice, the duo have been making illegal communications and/or appointment of staff of the County Assembly by illegally assuming the authority of the County Assembly Service Board. Mr. E. O. Okero who is listed as Chairperson was removed from office by Impeachment, Mr. J O. Nyang’au and Mr. L. S. Onyancha were recalled and replaced by their appointing parties/coalitions; the appointments of Mr. L. O. Mogaru and Ms. E. N. Omari were revoked by the County Assembly and Mr. S.N. Nyamora is currently suspended from the County Assembly and the subject of a disciplinary process.

298

Fake/Illegal Notice annexed as CAN 002

3. On 11th March 2025, Mr. Nyamora caused to be published an illegal advertisement in the Daily Nation purporting to invite members of the public to participate and submit memoranda on the Nyamira County Fiscal Strategy Paper 2025/2026. In the illegal advert, Mr. Nyamora has been assigned an illegal email account by the County Executive arm (snvamora@nyamira.go.ke) hosted on the web domain of the County Executive arm: www.nyamira.go.ke. The web domain for the County Assembly of Nyamira is: www.nyamiraassembly.go.ke.
Illegal Advert annexed as CAN 003

Further, we wish to bring to your attention that the County Executive Arm of the County Government of Nyamira under the direction of the Governor H.E Amos Nyaribo is responsible for the creation of a parallel County Assembly. On 27th February 2025, the County Executive Committee Member for Finance submitted the County Fiscal Strategy Paper (CFSP) 2025 to a non-existent Office of the Clerk of the County Assembly of Nyamira. This office learnt of this illegality upon inquiry on why the County Treasury had failed to submit the County Fiscal Strategy Paper 2025 by the 28th of February as required by the Public Finance Management Act (2012).

Correspondences showing 2 letters addressed to the Clerk of the County Assembly of Nyamira from the Department of Finance, ICT and Economic Planning with two different receipt Stamps marked as CAN 004

Sincerely,


DUKE S. ONYARLERK
THE CLERK
COUNTY ASSEMBLY OF NYAMIRA

Copy to: Hon. FCPA Margaret Nyakang'o
The Controller of Budget
Office of the Controller of Budget

Annex 67

THE COUNTY ASSEMBLY OF NYAMIRA

info@nyamiraassembly.go.ke

www.nyamiraassembly.go.ke



County Assembly Buildings
P.O Box 590-40500
Nyamira, Kenya

OFFICE OF THE CLERK

When replying please quote our reference

Our Ref: CAN/CLK/AG/2025-02(1)

Date: 26th FEBRUARY 2025

Office Of The Ombudsman
The Commission On Administrative Justice
West End Towers, 2nd Floor, Waiyaki way
P.O. Box 20414 – 00200
NAIROBI

EXTREMELY URGENT

Dear Sir/Madam,

RE: PUBLICATION OF GAZETTE NOTICES BY THE COUNTY ASSEMBLY OF NYAMIRA

The above matter refers.

The County Assembly has presented a number requests for publication by the Government Printer in the Kenya Gazette and the requests have not been honoured due to frustrations arising from the removal of Mr. Enock Ogori Okero as Speaker of the County Assembly of Nyamira. These requests include the following:

1. Gazettement of Appointment of the Clerk
2. Gazettement of Adjusted County Assembly Calendar
3. Gazettement of Election of the Speaker (this is currently subject of determination of Court in the Court of Appeal)

We write to inform you that one Enock Okero Ogori, the former Speaker of Nyamira County Assembly was formally removed from office by way of impeachment on 24th October 2024. His impeachment was gazetted vide Gazette Notice Number 14050 of 2024. Following his impeachment, Enock Okero Ogori ceased being the Speaker of Nyamira County Assembly and the Chair of the Nyamira County Assembly Service Board on 24th October 2024.

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300

Subsequent to his impeachment on 24th October 2024, Enock Okero Ogori wrote to the then acting Clerk and the current Substantive Clerk of the Nyamira County Assembly Mr. Duke Onyari purporting to suspend Mr. Duke Onyari accusing Mr. Duke Onyari of *inter alia* facilitating illegal impeachment of Enock Okero Ogori yet the said Enock Okero Ogori appeared in person during his impeachment hearings at the Nyamira County Assembly on 24th October 2024. Having been impeached on 24th October 2024, Enock Okero Ogori did not have the capacity to suspend Mr. Duke Onyari on 25th October 2024.

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301

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Josiah Mang'era	Vice Chair
Miinda Riechi	Member
Duke Onyari	Secretary and Clerk

A. ILLEGAL ACTS DONE BY MR. ENOCK OKERO

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6. Refusal to release the Government vehicle despite having been asked to do so via several Letters.
7. Illegal usage of the County Assembly Letter Heads while drafting letters to various institutions for instance:
 - a) Banks
 - b) Government printers
 - c) Controller of Budget
 - d) Media Houses
8. Invading the County Assembly with armed goons.
9. The Impeached Speaker issuing Gazette Notice No. 15844 of 28th November 2024 purporting to adjourn the County Assembly *Sine Die* thus closing the County Assembly indefinitely.
10. Illegal Passage and/or approval of the Supplementary Budget to cause the Publication of the Nyamira County Supplementary Act (Amendment), 2024 through the illegal Bunge Mashinani initiative.
11. Publication of Kenya Gazette Notice No. 1965 dated 30th January, 2025 by H. E Amos Kimwomi Nyaribo, Governor Nyamira County without the Approval of the County Assembly of Nyamira.
12. Conniving and scheming to defraud the County Assembly of Nyamira Public Funds by frequently changing and/or altering the known county assembly signatories Central Bank of Kenya signatories to the Central Bank of Kenya to strangers.

N/B The above communications were made by the former speaker after being impeached.

B. EFFECTS OF THE ILLEGAL ACTIONS OF THE IMPEACHED SPEAKER

1. Non funding/delay in funding Assembly requisition. The confusion created by the Impeached Speaker has led to delay in funding County Assembly requests.
2. Poor Relations with the County Budget Officer (COB Nyamira). Because of the confusion, Nyamira has not been working professionally, in most cases he is evading the Assembly officers without giving concrete reasons.
3. The Impeached Speaker issuing Gazette Notice No. 15844 of 28th November 2024 purporting to adjourn the County Assembly *Sine Die* thus closing the County Assembly indefinitely causing confusion and illegal invasion of County Assembly premises by a contingent of heavily armed police officers, inflicting fear despondence and anxiety, ignoring and disregarding existing and valid court orders, disrupting county assembly sessions without any justification whatsoever.
4. The Hon. Enock Okero has caused sabotage in the Kenya Gazette having compromised – through his illegal gazette Notices, the Government Printer purporting to serve them with unknown court orders stopping, barring, excluding and /or restricting the County Assembly from GAZETTING official publications in the Kenya Gazette/Government.
5. Through the illegal Gazette Notices (gazetting Silvanus Nyamora as Clerk County Assembly) Hon. Enock Okero has sabotaged the official County Assembly of Nyamira Website by deliberately changing the codes and/or password and diverting all official mails and correspondents to suit his ill motives on collapsing the Assembly operations and activities.
6. The Hon. Enock Okero has caused the filing of numerous court cases against the County Assembly on the same subject matter, with similar parties and facts thus being on

expeditious forum seeking, an out right abuse of court process contrary to the doctrine of res sub judice .

7. Illegally Causing the withholding of funds by the County Executive Committee Member Finance - funds for County Assembly meant for Recurrent, Office Operations and Medical Insurance Cover.
8. Violation of the Constitution, contravening the law and/or irregularly signing – on behalf of the Assembly, the Supplementally Budget without the consideration and approval by the County Assembly of Nyamira.
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Your prompt response will be highly appreciated.

Yours Faithfully



DUKE S. ONYARI
THE CLERK
COUNTY ASSEMBLY OF NYAMIRA

3:04